

## VIRGINIA BOARD OF MEDICINE MINUTES

Friday, September 16, 2005

Department of Health Professions

Richmond, VA

**CALL TO ORDER:** The meeting of the Board convened at 8:25 a.m.

**MEMBERS PRESENT:** Thomas Leecost, DPM, President  
Gen. Clara Adams-Ender  
John Armstrong, MD  
Sandra Anderson Bell, MD  
Christine Ober Bridge  
Patrick Clougherty, MD  
Carol Comstock, RN  
Malcolm Cothran, MD, Vice President  
Claudette Dalton, MD  
Suzanne Everhart, DO  
Valerie Hoffman, DC  
Gopinath Jadhav, MD  
Brent Lambert, MD  
Juan Montero, MD  
Robert Mosby, MD  
Jane Piness, MD  
Karen Ransone, MD

**MEMBERS ABSENT:** Stephen Heretick, JD

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Barbara Matusiak, MD, Medical Review Coordinator  
Ola Powers, Deputy Executive Director of Licensure  
Karen Perrine, Deputy Executive Director of Discipline  
Gail Jaspen, Deputy Director, DHP  
Elaine Yeatts, DHP Senior Policy Analyst  
Emily Wingfield, Assistant Attorney General  
Colanthia Morton Opher, Recording Secretary

**OTHERS PRESENT:** Leslie Herdegan  
Becky Bowers  
Susan Ward, VHHA  
Tyler Cox, HDJN/MSV  
Mike Jurgensen, MSV  
Trinlie Wood, Commonwealth Midwives Alliance  
Emily Scott, McCandish  
Scott Johnson, MSV  
Leslie Payne, Advisory Board on Midwifery  
Peggy Franklin, Advisory Board on Midwifery

## **ADOPTION OF AGENDA**

Dr. Everhart moved to adopt the amended agenda. The motion was seconded and carried unanimously.

## **PUBLIC COMMENT**

There was no public comment.

## **APPROVAL OF THE JULY 14, 2005 MINUTES**

Dr. Dalton moved to approve the minutes of the Board dated July 14, 2005. The motion was seconded and carried.

## **NOMINATING COMMITTEE**

Dr. Bell reported the suggested slate of officers as follows: Thomas Leecost, DPM, President, Malcolm Cothran, MD, Vice-President and Gopinath Jadhav, MD, Secretary-Treasurer.

Dr. Mosby moved to accept the slate of officers. The motion was seconded and carried unanimously. Dr. Leecost graciously accepted his re-election to the office of President.

## **RULES REGARDING MEETING MEALS**

Mark Monson, Deputy Director for Administration, addressed the issue of reimbursement expenses and the individual's responsibility for expenses above and beyond the state guideline as outlined for meals when conducting Board business.

## **REVIEW OF REGULATORY ACTIONS**

Ms. Yeatts reviewed the updated chart noting the status of regulatory actions taken within the last couple of months. Ms. Yeatts advised that the fee increase proposal has a 30-day comment period beginning September 19<sup>th</sup> on the NOIRA. Ms. Yeatts also advised that there has not been any profession(s) identified as having a fee increase at this point. Ms. Yeatts stated that the regulations for ethical standards of professional practice have been approved and will be published on September 19<sup>th</sup>, and effective October 19<sup>th</sup>. Ms. Yeatts noted that these regulations were now available on the agency's website.

Dr. Harp advised that in response to the Board's vote in July, 2005, a letter was sent to Secretary Woods regarding the annual transfer of \$560,000 to the Department of Health. A letter was also sent to Dr. Stroube asking for an update on the use of the funds. Dr. Harp pointed out Dr. Stroube's previous letter was very detailed regarding the disbursement of funds.

## PROPOSED REGULATIONS

### Adoption of Final Regulations for Acceptance of Category I CME in respiratory care for renewal of licensure by respiratory care practitioners.

Dr. Ransone moved to adopt final amended regulations on acceptance of Category I CME for respiratory care practitioners. The motion was seconded and carried.

### Adoption of Proposed Regulations for Post-graduate training for graduates of non-accredited medical schools

Dr. Bell moved to adopt proposed amended regulations to require at least one year in an internship or residency for graduates of non-accredited medical schools who seek to be licensed in Virginia. The motion was seconded and carried.

### Adoption of Proposed Regulations for Reporting of paid claims on the Physician Profile

Ms. Yeatts advised that comments were received on the NOIRA from the Medical Society of Virginia (MSV) and the Virginia Podiatric Medical Association (VPMA). Ms. Yeatts pointed out that both groups were concerned about the requirement that a payment in the form of a refund or waiver of fees would count as a paid claim. Ms. Yeatts stated that in addition, MSV was concerned that a payment made out of a practitioner's personal funds would also be counted as a paid claim.

Dr. Lambert moved to strike 18VAC85-20-290(5) – A payment in the form of refund of fees or waiver of debt. The motion was seconded and carried.

Dr. Ransone moved to strike 18VAC85-20-290 C (2) – A payment made from personal funds. The motion was seconded with an amendment to also strike C (4) A payment made on behalf of a doctor of medicine, osteopathic medicine or podiatry named in the claim where that doctor is dismissed as a condition of, or in consideration of the settlement, judgment or release. If the doctor is dismissed independently of the settlement, judgment or release, then the payment is not reportable. Dr. Ransone withdrew the motion.

Dr. Montero moved to amend the language in 18VAC85-20-290 C (2) to state: A payment made from personal funds out of malpractice suit or settlement of a claim. The motion was seconded but not carried.

Dr. Bell moved to amend 18VAC85-20-290 C (2) to say: Any lump sum payment paid by a physician in an attempt to avoid malpractice.

After a considerable lengthy discussion regarding the intent of the language, what constitutes a paid claim, and what constitutes a written demand, Dr. Bell moved to table the discussion under the next meeting. The motion was seconded and carried.

### Adoption of Proposed Regulations for Use of Major Conductive Block by Physicians in Office-based anesthesia

Dr. Mosby moved to adopt proposed amended regulations to allow doctors of medicine or osteopathic medicine, qualified by training and scope of practice, to perform major

conductive blocks for diagnostic or therapeutic purposes.

### Response in Petition to Rule-making from Dr. Stroube regarding Circulating RNs

Dr. Piness moved to reject the petition and take no action in regards to amending the Board's regulations to require a registered nurse be present as the circulating nurse during surgical procedures. The motion was seconded and carried.

## **EMERGENCY REGULATIONS**

### Adoption of emergency regulations & NOIRA for Mixing, Diluting and Reconstituting Sterile Drug Products in physician offices

Ms. Yeatts advised that once the regulations were adopted by the Board, they would be in effect for one year and a NOIRA would go out simultaneously announcing the Board's intent to promulgate permanent regulations.

Dr. Armstrong, chair of the Ad Hoc Committee on Compounding, reviewed in their entirety the proposed emergency regulations for consideration of the Full Board's adoption.

After discussion the following motions were made:

Dr. Ransone moved to change the wording of 18VAC85-20-400 B (1d) to read: Don ~~sterile~~ clean gloves... The motion was seconded and carried.

Dr. Dalton wanted her concern regarding the practicality of the time restraint on the retention of the reconstitution of emergency drugs to go on record but did not wish to make a motion for a time change.

Dr. Bell moved to change the wording of the last sentence of 18VAC85-20-400 A to read: Emergency drugs used in the practice of anesthesiology or administration of allergens ... The motion was seconded and carried.

Dr. Clougherty moved to include CRNAs to the list of those exempt from second checks to the last sentence of 18VAC85-20-400 B (1). The motion was seconded. After discussion, Dr. Montero called the question. The motion was carried.

Dr. Everhart suggested 18VAC85-20-400 B (4) read: identifies the patient and the following... Dr. Montero moved that the Board adopt B (4) with the change suggested. The motion was seconded and carried.

Dr. Armstrong advised the Board that it holds the responsibility to publish any updates and changes in the USP within one year of the official announcement.

Dr. Ransone moved that the language be changed in 18VAC85-20-410 to read: Beginning July 1, 2007... The motion was seconded and carried.

Dr. Ransone moved to replace the word offices with the word practices in the title of 18VAC85-20-420. The motion was seconded and carried.

Dr. Mosby moved to replace the word offices with the word practices in 18VAC85-20-420 B. The motion was seconded and carried.

Dr. Mosby moved to accept the draft regulations as amended and that a NOIRA be issued to replace the emergency regulations. The motion was seconded and carried.

Adoption of emergency regulations & NOIRA for licensure of midwives and practice of midwifery

Ms. Yeatts advised that the 2005 General Assembly passed legislation requiring the Board to promulgate regulations for the licensure of midwives.

After review of the draft regulations, Dr. Piness moved that 18VAC85-130-80 (8) be amended to clearly state that currently midwives are not covered under the Virginia Birth Related Injury Compensation Fund. The motion was seconded and carried.

Dr. Ransone moved that 18VAC85-13-80 (7) be amended to read: A statement as to whether a licensed midwife carries malpractice or liability insurance coverage, and if so, the extent of that coverage. The motion was seconded and carried.

Ms. Leslie Payne, Chair of the Advisory Board of Midwifery addressed the board and gave a brief description of the scope of practice. Ms. Payne advised that there is a list of at least 755 skills that are required of an entry level midwife.

Dr. Everhart moved to adopt the proposed emergency regulations for the licensure of midwives and to issue a Notice of Intended Regulatory Action to promulgate permanent regulations. The motion was seconded and carried.

**ANNOUNCEMENTS**

Ms. Jaspen reminded board members of the New Board Member training scheduled for October 27, 2005.

Dr. Harp advised that the agenda for the November meeting will include on-going training issues pertinent to proceedings along with representatives from FSMB and HPIP.

Next scheduled meeting: November 17, 2005

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Thomas Leecost, DPM, President

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William L. Harp, M.D., Executive Director

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Colanthia Morton Opher, Recording Secretary

**VIRGINIA BOARD OF MEDICINE  
CREDENTIALS COMMITTEE MEETING MINUTES  
Friday, September 16, 2005**

The Credentials Committee of the Virginia Board of Medicine met on Friday, September 16, 2005 at 1:30 p.m. at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, for the purpose of holding two informal fact-finding conferences.

**MEMBERS PRESENT:**

Jane E. Piness, MD  
Robert T. Mosby, Jr., MD  
Sandra Anderson Bell, MD  
Karen Ransone, M.D.  
Brent Lambert, MD  
Gopinath Jadhav, MD  
Gen. Clara Adams-Ender, RN, MSN, USA Ret

**STAFF PRESENT:**

William L. Harp, M.D., Executive Director  
Ola Powers, Deputy Executive Director of Licensing  
Emily Wingfield, Assistant Attorney General  
Leigh Kiczales, APD

**INFORMAL CONFERENCES**

**Grace Hsin-Ying Chiu, M.D.**

Dr. Chiu appeared before the committee in accordance with a Notice of Informal Conference of the Board dated September 2, 2005, seeking initial licensure. She was not represented by counsel. The committee fully discussed the allegations in the notice with Dr. Chiu. Upon a motion by Dr. Bell and duly seconded, the committee voted to convene a closed meeting pursuant to section 2.2-3711.A(28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Dr. Chiu. The committee reconvened in open session and certified that the matters discussed in the preceding closed session met the requirements of section 2.2-3712 of the Code. Upon motion made by Dr. Ransone, and duly seconded, the committee voted to issue a license to practice medicine and surgery to Dr. Chiu.

**Christi J. Fox, P.A.**

Ms. Fox appeared before the committee in accordance with a Notice of Informal Conference of the Board dated September 7, 2005, seeking provisional licensure. She was not represented by counsel. The committee fully discussed the allegations in the notice with Ms. Fox. Upon a motion by Dr. Bell and duly seconded, the committee voted to convene a closed meeting pursuant to section 2.2-3711.A(28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Ms. Fox. The committee reconvened in open session and certified that the matters discussed in the preceding closed session met the requirements of section 2.2-3712 of the Code. Upon motion made by

Dr. Bell, and duly seconded, the committee voted 5 for and 2 against issuing a provisional license to practice as a physician assistant until Ms. Fox takes the next subsequent NCCPA examination and its results are reported.

## **ADJOURNMENT**

The informal conference meeting of the Credentials Committee was adjourned at approximately 3:30pm.

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Jane E. Piness, MD, Chair

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William L. Harp, M.D.  
Executive Director

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Ola Powers,  
Deputy Executive Director, Licensing