

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

October 22, 2020

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Dr. Tuck called the meeting to order at 8:35 a.m.
- ROLL CALL:** Ms. Opher called the roll; a quorum was established.
- MEMBERS PRESENT:** Lori Conklin, MD, President
L. Blanton Marchese, Vice-President
David Archer, MD, Secretary-Treasurer
James Arnold, DPM
Amanda Barner, MD
Manjit Dhillon, MD
Alvin Edwards, MDiv, PhD
Jane Hickey, JD
Jacob Miller, DO
Milly Rambhia, MD
Karen Ransone, MD
Brenda Stokes, MD
Ray Tuck, DC
Kenneth Walker, MD
Ryan Williams, MD
- MEMBERS ABSENT:** Joel Silverman, MD
Martha Wingfield
- STAFF PRESENT:** William L. Harp, MD - Executive Director
Jennifer L. Deschenes, JD - Deputy Executive Director for Discipline
Colanthia M. Opher - Deputy Executive Director for Administration
Michael Sobowale, LLM – Deputy Executive Director for Licensure
Barbara Matusiak, MD - Medical Review Coordinator
Barbara Allison-Bryan, MD – DHP Chief Deputy
Elaine Yeatts – DHP Senior Policy Analyst
Erin Barrett, JD - Assistant Attorney General & Board Counsel
- OTHERS PRESENT:** W. Scott Johnson, JD – Medical Society of Virginia
Ben Traynham, JD – Medical Society of Virginia

EMERGENCY EGRESS

Dr. Conklin provided the emergency egress procedures for Board Room 2.

INTRODUCTION OF NEW BOARD MEMBERS AND STAFF

For the benefit of the new members, Dr. Tuck asked all Board members and staff to introduce themselves. Dr. Harp provided very brief bios for Ms. Wingfield and Dr. Silverman.

APPROVAL OF THE FEBRUARY 20, 2020 MINUTES

Dr. Edwards moved to approve the February 20, 2020 minutes as presented. The motion was properly seconded and carried unanimously.

ADOPTION OF THE AGENDA

Ms. Yeatts requested an amendment to the agenda to include consideration of a NOIRA for the surgical assistant/surgical technologist regulations. Dr. Edwards moved to accept the agenda as amended. The motion was properly seconded and carried unanimously.

PUBLIC COMMENT

Scott Johnson, JD, representing the Medical Society of Virginia, addressed the members and provided a summary of the successful launch of MSV's SafeHaven™ program. Mr. Johnson stressed that the program is a resource for physicians and physician assistants seeking professional support to address burnout, career fatigue, and mental health issues without fear of repercussion to their license.

NOMINATING COMMITTEE REPORT

Dr. Walker, Chair of the Nominating Committee, presented the recommended slate of officers for 2020-2021: President-Lori Conklin; Vice-President-Blanton Marchese; Secretary/Treasurer-David Archer. No nominations arose from the floor. The vote to approve the slate of officers was unanimous. Dr. Tuck ceremoniously passed the gavel to Dr. Conklin who graciously accepted it and all responsibilities of the Presidency.

DHP DIRECTOR'S REPORT- Barbara Allison-Bryan, MD, DHP Chief Deputy

Dr. Allison-Bryan provided the members with an overview of the DHP's approach to the pandemic, the status of activities relative to cannabis oils, and the Commonwealth's plan for COVID-19 vaccines. She also acknowledged the installation of Sterling Ransone, MD as President-Elect of the American Academy of Family Medicine and extended her congratulations to the "First Lady of Family Practice", Karen Ransone, MD.

REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT

Dr. Tuck commended Board staff on its work under these unusual circumstances.

VICE-PRESIDENT'S REPORT

Dr. Conklin expressed thanks to her colleagues for the opportunity to serve as President of the Board.

SECRETARY-TREASURER'S REPORT

Mr. Marchese had no report.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp provided an update on:

- 1- Board Cash Balance as of August 31 – Dr. Harp commented that for the last 3 biennia, there have been reductions in renewal fees by approximately 20% in order to bring the Board into compliance with the law governing its cash reserves.
- 2- Electronic Advisory Board Meetings – 10 virtual meetings were held the week of October 5-9. The Advisory Board on Midwifery asked that its wish to continue with the virtual format in the future be expressed to Dr. Brown
- 3- Reciprocal Licensing Agreements – SB757 and HB1701 required the Board to assess the possibilities of reciprocal licensing agreements with Virginia's contiguous states. At this time, only Maryland and the District of Columbia are amenable to a reciprocal licensing agreement. The information and options will be presented to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1.
- 4- HB42 Article on Depression in Women – the 2020 General Assembly session tasked the Board with disseminating annually communication to every practitioner who provides primary, maternity, obstetrical or gynecological health care services reiterating the standard of care pertaining to prenatal or postnatal depression or other depression in women. This article will be included in the next edition of the Board Briefs.
- 5- Waiver requests for Opioid Prescribing – 4 communications to licensees have been sent out since December 2019. To date, the Board has received over 2,000 requests, most of which have been granted.
- 6- Ad Hoc on Opioid Continuing Education – in 2018, the Ad Hoc Committee approved a packet to satisfy the mandatory 2-hour requirement of CE for opioids. Since notification to the licensees is required to be sent out by January 1 of the odd years, an ad hoc committee will need to be established for a virtual meeting. Those interested in serving should contact Dr. Conklin or Dr. Harp.
- 7- FSMB John H. Clark, MD Leadership Award – with the Board's approval, Dr. Harp will be nominating Kevin O'Connor, MD for this award for his efforts with the spearheading of the telemedicine guidance document, the opioid regulations, his work with the Joint Boards of Nursing and Medicine, and his commitment to the Board's licensing and discipline processes.
- 8- Annual Report to MSV and VCA – a report providing a snapshot of the Board's licensing, discipline, legislative, and workgroup activity over the last year was provided to both MSV and VCA.
- 9- American Oncology Network Response – Dr. Harp reviewed his response to Ms. Freeman who requested clarification in regards to the practice "physician compounding of sterile drug products

---DRAFT UNAPPROVED---

without a pharmacist present in the office.” Additionally, he announced that revision to USP Chapter 797 has been postponed until further notice. An ad hoc committee to discuss USP Chapter 800 may need to be scheduled.

- 10- Council on State Governments Response – Dr. Harp noted this email demonstrates the types of organizations that the Board converses with regularly. The Council on State Governments wanted to know what steps the Board had taken during COVID-19, how they were helpful, and if any will be continued post-COVID.
- 11- Federation of State Medical Boards (FSMB) – Virginia’s Board Data Survey was provided to the Board members for informational purposes only.
- 12- Board Member and Board Staff participation in Interagency Projects – Dr. Harp gave a quick run-down of the projects:
 - Jennifer Deschenes, JD – worked with the Board of Pharmacy to revise Chapters 33 and 34 to make them more user-friendly and handled several high-profile discipline cases
 - Michael Sobowale, LLM – worked with the VCU Performance Management and prepared for and implemented 10 virtual Advisory Board meetings
 - Colanthia Opher – Opioid Waiver Notifications, staff training for electronic meetings, and managing the Licensure by Endorsement process
 - Karen Ransone, MD – worked with the behavioral boards on mental health for children
 - Jacob Miller, DO and Brenda Stokes, MD – worked with the Board of Pharmacy on the HB1506 protocols for dispensing and treatment by pharmacists
 - Board staff served on and interacted with some of the VDH State Telehealth Plan subgroups - remote patient monitoring, criteria for use, and delivery
 - Drs. Tuck, Ransone and Walker for their work on the Committee of the Joint Boards of Nursing and Medicine
 - Board staff coordination with the Supreme Court to update the certification form for cannabis oils and the list of professionals for malpractice panels

COMMITTEE and ADVISORY BOARD REPORTS

Dr. Tuck moved to accept all the minutes en bloc. The motion was properly seconded and carried unanimously.

OTHER REPORTS

Board Counsel

For the new Board members, Erin Barrett, AAG briefly explained her role at the Board and generally how discipline cases are handled. She also addressed the steps taken when a Board member is named in a lawsuit. She then provided an update on the status of several ongoing court cases.

Ms. Deschenes reminded the members how advantageous it is to have Board Counsel in closed sessions. Following AG advice, looking at the evidence, and reaching a solid decision strengthens the Board’s position if a case is appealed to a state or federal court.

Board of Health Professions (BHP)

Ms. Yeatts explained the functions of the BHP, one of which is the study of new professions. She stated that the 2020 General Assembly did not pass bills concerning the licensure of diagnostic ultrasonographers and naturopaths. However, the bills were carried over to the 2021 Session with the proviso that BHP would study the professions as to whether they met the criteria for licensure. The Board recommended against licensure for ultrasonographers and naturopaths. Ms. Yeatts noted that there was no discussion about the anesthesia assistant profession.

This report was for informational purposes only.

Podiatry Report

Dr. Arnold advised that the national podiatric meeting was canceled, but anticipates that smaller meetings may be scheduled.

Chiropractic Report

Dr. Tuck advised that NBCE held their annual meeting virtually.

Committee of the Joint Boards of Nursing and Medicine

This report was for informational purposes only.

Break

Dr. Conklin called for a recess at 10:11 a.m.; the meeting reconvened at 10:29 a.m.

New Business:

1) Regulatory and Legislative Issues

- **Chart of Regulatory Actions**

Ms. Yeatts provided an update on the status of regulatory actions as of October 15, 2020. She extended her thanks to Dr. Miller and Dr. Stokes for a job well done representing the Board of Medicine with their work on the HB1506 protocols. This report was for informational purposes only and did not require action.

- **Report from the 2020 General Assembly**

Ms. Yeatts reviewed legislation from the 2020 Session of the General Assembly. She reviewed the bills that directly affect the Board of Medicine and fielded questions from Board members.

- **Regulatory Action – Proposed rules for Prohibition on the Practice of Conversion Therapy**

Ms. Yeatts reviewed the NOIRA's and the supporting documentation. She noted that there was no comment received for either the Nurse Practitioner NOIRA or the Medicine NOIRA.

MOTION: Dr. Ransone moved that the Board adopt the proposed amendments to 18VAC90-30 (Nurse Practitioners) as presented. The motion was properly seconded and passed unanimously.

MOTION: Dr. Miller moved that the Board adopt the proposed amendments to 18VAC85-20 (Medicine) as presented. The motion was properly seconded and passed unanimously.

- **Petition for Rulemaking – Virginia Society of Radiologic Technologists (VSRT)**

Ms. Yeatts informed the Board that VSRT is requesting an amendment to the renewal, reinstatement or reactivation requirements in the regulations for a licensee to hold current ARRT and/or NMTCB credentials in good standing for biennial renewal, reinstatement, or reactivation of a license. She advised that the Advisory Board on Radiologic Technology recommended no action be taken now to allow time for information-gathering and additional study. Ms. Yeatts noted that this petition had been previously presented to the Executive Committee.

MOTION: After a brief discussion, Dr. Edwards moved to accept the recommendation of the Advisory Board to take no action at this time. The motion was properly seconded and carried unanimously.

- **Recommendation on Adoption of a NOIRA for Surgical Assistant/Surgical Technologist regulations**

Ms. Yeatts advised that the Advisory Board on Surgical Assistants met on October 16, 2020 and approved adoption of a NOIRA and identified the proposed amendments to the regulations for licensure of surgical assistants and registration of surgical technologists.

MOTION: After a brief discussion, Dr. Miller moved to adopt the NOIRA as recommended by the Advisory Board. The motion was properly seconded and carried unanimously.

2. Licensing Report - Michael Sobowale

Michael Sobowale provided an update on the licensing trends for the last 2 fiscal years. The Board requested that a breakdown of licenses issued to telehealth practitioners be available at its next meeting.

This report was for informational purposes only and did not require action.

3. Discipline Report – Jennifer Deschenes

Ms. Deschenes provided a quick overview of cases currently open by stage as of October 2, 2020.

4. Proposed 2021 Board Meeting Dates

The proposed dates for 2021 were approved en bloc. Staff was asked to check on alternate dates for the April 9, 2021 Executive Committee meeting.

5. Adjournment

-----FINAL APPROVED-----

With no other business to discuss, the meeting adjourned at approximately 11:05 a.m.

William L. Harp, MD
Executive Director