

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

October 6, 2022

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Mr. Marchese called the meeting to order at 8:33 a.m.
- ROLL CALL:** Ms. Brown called the roll; a quorum was established.
- MEMBERS PRESENT:** Blanton Marchese – President, Chair
David Archer, MD – Vice-President
John R. Clements, DPM
Manjit Dhillon, MD
Alvin Edwards, MDiv, PhD – Secretary-Treasurer
Hazem Elariny, MD
Madge Ellis, MD
Jane Hickey, JD
Williams Hutchens, MD
Oliver Kim, JD, LLM
Krishna Madiraju, MD
Jacob Miller, DO
Pradeep Pradhan, MD
Karen Ransone, MD
Jennifer Rathmann, DC
Joel Silverman, MD
Ryan Williams, MD
- MEMBERS ABSENT:** Peter Apel, MD
- STAFF PRESENT:** William L. Harp, MD - Executive Director
Jennifer Deschenes, JD - Deputy Exec. Director for Discipline
Colanthia Morton Opher - Deputy Exec. Director for Administration
Michael Sobowale, LLM - Deputy Exec. Director for Licensure
David E. Brown, DC – DHP Director
Barbara Matusiak, MD, Medical Review Coordinator
Deirdre Brown - Executive Assistant
Danielle Sanguiliano – Administrative Assistant
Erin Barrett – DHP Senior Policy Analyst
M. Brent Saunders, JD – OAG Board Counsel
Charis Mitchell, JD – OAG Interim Board Counsel

OTHERS PRESENT: Jennie Wood – Board Staff
Tamika Hines- Board Staff
Sue Bartos– Board Staff
Brenda Wilkins – Board Staff
Kim Small – Visual Research
W. Scott Johnson – Hancock Daniel & Johnson, PC
Christopher Fleasy – MSV
Andrew Densmae – MSV
Todd Lacksonen - Opiant

EMERGENCY EGRESS INSTRUCTIONS

Dr. Archer provided the emergency egress instructions for Boardroom 2.

INTRODUCTION OF NEW BOARD MEMBERS

Mr. Marchese asked each new Board member present to introduce themselves to their colleagues on the Board. Dr. Hutchens began the introductions stating that he is a pulmonologist and critical care physician currently practicing in Winchester. Next, Dr. Clements introduced himself, stating that he practices podiatry in Roanoke, Virginia and that this is his second time on the Virginia Board of Medicine. Dr. Madiraju then introduced himself stating that he was a pediatrician practicing in the Northern Virginia area. Mr. Marchese noted that Dr. Elariny and Dr. Apel, both newly appointed, were not present today. (Dr. Elariny arrived late and introduced himself,)

INTRODUCTION OF NEW BOARD COUNSEL

Mr. Marchese introduced the Board’s new Counsel, M. Brent Saunders, JD - Senior Assistant Attorney General. He will assume the duties that Charis Mitchell, JD has been performing as the Board’s interim Counsel.

APPROVAL OF MINUTES OF JUNE 16, 2022

Dr. Harp addressed a revision that needed to be made on page 7 of the agenda packet concerning the action for the “Consideration of Response to Petition for Rule-Making – QBAB”. Rather than referral to the Legislative Committee, the minutes should reflect that the Board voted to adopt a NOIRA.

Dr. Miller moved to approve the minutes with the amendment to “Consideration of Response to Petition for Rule-Making – QBAB” from June 16, 2022. The motion was properly seconded by Dr. Ransone and carried unanimously.

ADOPTION OF AGENDA

Dr. Silverman moved to approve the agenda as presented. The motion was properly seconded by Dr. Ransone and carried unanimously.

PUBLIC COMMENT

W. Scott Johnson of Hancock Daniel and Johnson, PC and General Counsel for the Medical Society of Virginia (MSV) said that MSV supports the proposed regulatory updates to Chapter 20. He said that they are modernized and are good updates.

SANCTION REFERENCE POINTS PRESENTATION

Kim Small from Visual Research gave a PowerPoint presentation on “Revising the Sanctioning Reference Points.”

DHP DIRECTOR’S REPORT

Dr. Brown began with welcoming the new Board members. He shared that he was on the Board in the 1990’s and that serving was important and meaningful. He told the new members that the Board was a working board and that he appreciated their willingness to serve. Lastly, he reminded the new members that the purpose of the Board is to protect the public, so it is important to attend and participate in all required meetings. Dr. Brown then offered thanks to Kim Small for her presentation. He stated that most states do not have “Sanctioning Reference Points”, and the work of Visual Research has helped make Virginia a leader.

Dr. Brown then stated that reduction of regulations not mandated by statute is a priority for Governor Youngkin. Dr. Brown sees this effort proceeding fairly quickly, and it will be helpful to the development of the healthcare workforce by removing any unnecessary barriers to licensure.

Dr. Brown then commented that the Board may need to establish a Regulatory Advisory Panel (RAP) to review and revise the regulations on opioids and buprenorphine. He noted that the CDC was in the process of revising its guidelines. He said when they are issued, it would be an opportune time for a RAP to take a look at the Board’s regulations.

Lastly, Dr. Brown informed the Board that DHP is in the process of upgrading the audio-visual system in the Conference Center, but supply chain issues have delayed the work. Therefore, no completion date has been set. He also shared that the newly erected General Assembly (GA) building downtown is still not complete due to supply chain issues. So the GA will continue to be housed in the Pocohontas Building.

REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT

Mr. Marchese stated that next week he will be in Washington, DC, for the Tri-Regulators meeting with Nursing, Pharmacy, and Medicine. He stated that Virginia will be well-represented with Jay Douglas and Caroline Juran.

VICE-PRESIDENT

None.

SECRETARY-TREASURER

None.

EXECUTIVE DIRECTOR

Dr. Harp briefly reviewed the current estimated cash balance, stating that it is \$11 million. He reminded the Board that the even years are the big revenue years when the doctors and occupational therapists renew. Next year when the rest of the Board's professions renew, the cash balance will decline.

Dr. Harp then gave an update on Reciprocity with DC and Maryland. He said that talks have been in process for about 18 months since the 2020 General Assembly requested that the Board pursue reciprocal licensing with neighboring states. He noted that this was Virginia's initiative, but DC and Maryland have pitched in and shared the tasks relative to getting reciprocal licensing off the ground. A draft Memorandum of Agreement created by DC Counsel was reviewed at the last virtual meeting. Suggestions were made and a final draft is forthcoming. Dr. Harp also stated that the 3 jurisdictions would like to have reciprocal licensing in place by January 2023.

Lastly, Dr. Harp said that the Advisory Board of Midwifery has requested revision of Guidance Document 85-10 to incorporate new practices and new technology. Dr. Harp stated that this will require a work group that most likely could accomplish the update in one sitting. He invited Board members to contact Mr. Marchese if they wished to serve on the work group.

COMMITTEE AND ADVISORY BOARD REPORTS

Dr. Ransone moved to accept all reports since June 16, 2022, en bloc. The motion was properly seconded by Dr. Edwards and carried unanimously.

OTHER REPORTS

Board Counsel

Charis Mitchell, JD provided an update that the Office of the Attorney General was dealing with two pending appeals. One is set for a December 16, 2022, court date, and a second one has not yet been scheduled.

This report was for informational purposes only.

Board of Health Professions

None.

Meeting Minutes for the June 16, 2022 Full Board of Health Professions meeting are provided in the agenda packet on pages 2-10.

Podiatry Report

None.

Chiropractor Report

None.

Committee of Joint Boards of Nursing and Medicine

None.

Meeting Minutes for the July 20, 2022 meeting are provided in the agenda packet on pages 65-66.

NEW BUSINESS

1. Current Legislative and Regulatory Actions/Considerations – Erin Barrett

Current Regulatory Actions

Ms. Barrett presented the chart of regulatory actions as of October 5, 2022.

She then reviewed the following with the Board:

a. Consideration of response to petition for rule-making from Todd Lacksonen.

Ms. Barrett stated that the Board will be looking at all of the opioid and buprenorphine regulations in the near future and that the petition request should be considered at that time. Reviewing all opioid and buprenorphine regulations at one time will allow the Board to consider new recommendations from the Centers for Disease Control and Prevention regarding opioid prescribing.

ACTION: Dr. Miller moved to take no action because the Board intends to consider this issue with the review of the opioid and buprenorphine regulations in 2023. The motion was properly seconded by Dr. Williams and carried unanimously.

b. Issue periodic review decision and adoption of fast-track regulatory changes recommended by Legislative Committee for Chapters 15 and 20

ACTION: Dr. Pradhan moved to retain Chapters 15 and 20 with amendments. The motion was properly seconded by Dr. Miller and carried unanimously.

ACTION: Dr. Ransone moved to adopt the changes recommended by the Legislative Committee for Chapters 15 and 20 as fast-track regulatory changes. The motion was properly seconded by Dr. Williams and carried unanimously.

c. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 40.

ACTION: Dr. Edwards moved to retain Chapter 40 with amendments. The motion was properly seconded by Dr. Miller and carried unanimously.

ACTION: Dr. Edwards moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Williams and carried unanimously.

d. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 50.

ACTION: Dr. Edwards moved to retain Chapter 50 with amendments. The motion was properly seconded by Dr. Williams and carried unanimously.

ACTION: Dr. Ransone moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Edwards and carried unanimously.

e. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 80.

ACTION: Dr. Williams moved to retain Chapter 80 with amendments. The motion was properly seconded by Dr. Ransone and carried unanimously.

ACTION: Dr. Ransone moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Pradhan and carried unanimously.

f. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 101.

ACTION: Dr. Williams moved to retain Chapter 101 with amendments. The motion was properly seconded by Dr. Ransone and carried unanimously.

ACTION: Dr. Miller moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Edwards and carried unanimously.

g. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 110.

ACTION: Dr. Archer moved to retain Chapter 110 with amendments. The motion was properly seconded by Dr. Ransone and carried unanimously.

ACTION: Dr. Ransone moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Archer and carried unanimously.

h. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 120.

ACTION: Dr. Williams moved to retain Chapter 120 with amendments. The motion was properly seconded by Dr. Pradhan and carried unanimously.

ACTION: Dr. Edwards moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Ransone and carried unanimously.

i. Issue periodic review and adoption of fast-track regulatory changes for Chapter 130.

ACTION: Dr. Ransone moved to retain Chapter 130 with amendments. The motion was properly seconded by Dr. Williams and carried unanimously.

ACTION: Dr. Ransone moved to adopt the changes reviewed by the Advisory Board and presented to the Board as fast-track regulatory changes. The motion was properly seconded by Dr. Kim and carried unanimously.

j. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 140.

ACTION: Dr. Ransone moved to retain Chapter 140 with amendments. The motion was properly seconded by Dr. Edwards and carried unanimously.

ACTION: Dr. Edwards moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Ransone and carried unanimously.

k. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 150.

ACTION: Dr. Ransone moved to retain Chapter 150 with amendments. The motion was properly seconded by Dr. Pradhan and carried unanimously.

ACTION: Dr. Williams moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Dhillon and carried unanimously.

l. Issue periodic review and adoption of fast-track regulatory changes recommended by advisory board for Chapter 170.

ACTION: Dr. Edwards moved to retain Chapter 170 with amendments. The motion was properly seconded by Dr. Archer and carried unanimously.

ACTION: Dr. Ransone moved to adopt the changes recommended by the Advisory Board as fast-track regulatory changes. The motion was properly seconded by Dr. Edwards and carried unanimously.

m. Reaffirmation of Guidance Documents 85-2, 85-20, and 85-21.

ACTION: Dr. Archer moved to adopt the recommendation of the Legislative Committee to reaffirm Guidance Documents 85-2, 85-20, and 85-21. The motion was properly seconded by Dr. Ransone and carried unanimously.

n. Adopt revisions to Guidance Document 85-1.

ACTION: Dr. Silverman moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-1. The motion was properly seconded by Dr. Williams and carried unanimously.

o. Adopt revisions to Guidance Document 85-4.

ACTION: Dr. Ransone moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-4. The motion was properly seconded by Dr. Archer and carried unanimously.

p. Adopt revisions to Guidance Document 85-6.

ACTION: Dr. Ransone moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-6. The motion was properly seconded by Dr. Pradhan and carried unanimously.

q. Adopt revisions to Guidance Document 85-8.

ACTION: Dr. Williams moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-8. The motion was properly seconded by Dr. Ransone and carried unanimously.

r. Adopt revisions to Guidance Document 85-13.

ACTION: Dr. Ransone moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-13. The motion was properly seconded by Dr. Archer and carried unanimously.

s. Adopt revisions to Guidance Document 85-15.

ACTION: Dr. Ransone moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-15. The motion was properly seconded by Dr. Edwards and carried unanimously.

t. Adopt revisions to Guidance Document 85-16.

ACTION: Dr. Ransone moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-16. The motion was properly seconded by Dr. Archer and carried unanimously.

u. Adopt revisions to Guidance Document 85-19.

ACTION: Dr. Archer moved to adopt the Legislative Committee's recommendation to repeal Guidance Document 85-19. The motion was properly seconded by Dr. Ransone and carried unanimously.

v. Adopt revisions to Guidance Document 85-23.

ACTION: Dr. Ransone moved to accept the recommendation of the Legislative Committee regarding revisions to Guidance Document 85-23. The motion was properly seconded by Dr. Archer and carried unanimously.

Dr. Harp then commented that on page 387 of the agenda packet, number two of the Guidance Document 85-4, the "Virginia Chiropractic Association" should be replaced with "Unified Virginia Chiropractic Association." Then he referred to page 399 of the agenda packet, the last paragraph of Guidance Document 85-8, that "supervising physician" should be replaced with "patient care team physician."

ACTION: Dr. Ransone amended her motion to accept “Unified VCA” in place of “VCA” in Guidance Document 85-4. The motion was properly seconded by Dr. Edwards and carried unanimously.

ACTION: Dr. Ransone amended her motion to accept the replacement of “collaborating patient care team physician” in place of “supervising physician” in Guidance Document 85-8. The motion was properly seconded by Dr. Miller and carried unanimously.

2. Adoption of Statewide Protocols

Dr. Miller provided an overview of the Work Group for the Statewide Protocol meeting held on August 8, 2022. The Work Group included three Board of Medicine members, three Board of Pharmacy members, a physician and a pharmacist from the Department of Health. Dr. Miller shared that pharmacists have the authority to diagnose and prescribe medicines. The Board of Pharmacy has led the Statewide Pharmacy Protocols Work Group the last 2 years. Although the Board of Medicine led the work group this year, the protocols will be implemented by the Board of Pharmacy for pharmacists.

Dr. Miller first reviewed the protocol for COVID vaccines. Currently, pharmacists are only able to vaccinate patients 18 and older. The new protocol will allow pharmacists to vaccinate an individual 3 years of age and older pursuant to the CDC Immunization Schedule. This protocol also allows a pharmacy technician or pharmacy intern to administer the vaccine once they have completed a practical training program of at least 20 hours approved by the Accreditation Council for Pharmacy Education. Robust discussion ensued. Several Board members did not agree with this protocol, but the Board was reminded that the General Assembly dictated that pharmacists shall administer vaccines. Charis Mitchell, JD addressed the Board and asked that this protocol be approved generally, but to allow time for the Office of the Attorney General to formulate language regarding student pharmacy technicians as vaccinators for approval of the Board President to be incorporated into the protocol.

ACTION: Dr. Edwards moved to adopt the recommendation of the Work Group regarding Statewide protocols for COVID vaccines with the proviso mentioned by Charis Mitchell, JD. The motion was properly seconded by Dr. Ransone. Three Board members voted in opposition to the protocol, but it carried with 14 yeas.

Dr. Miller then reviewed the protocol for Tobacco Cessation therapies. He stated that a licensed pharmacist will be able to prescribe to an individual 18 years of age or older Nicotine Replacement Therapy and Non-Nicotine Replacement Therapy for tobacco cessation. The Board members reviewed the protocol and discussed their concerns. One member shared that this protocol was modeled after another state, and that other states were moving in this direction.

ACTION: Dr. Hutchens moved to adopt the recommendation of the Work Group regarding Statewide protocols for Tobacco Cessation therapies. The motion was properly seconded by Dr. Williams and carried with 15 yeas, one nay, and one abstention.

Lastly, Dr. Miller reviewed the protocol for COVID testing. He stated that the testing will be done without the order of a physician. Dr. Miller then stated that the protocol will allow pharmacists to initiate treatment with, dispense, or administer tests for COVID-19. Board members expressed several concerns.

ACTION: Dr. Dhillon moved to adopt the recommendation of the Work Group regarding the protocol for COVID testing. The motion was seconded by Ms. Hickey. The motion carried with 12 yeas and five nays.

3. Licensing Report

Mr. Sobowale presented an update on licensing. He said that as of October 5, 2022, the Board of Medicine has 82,743 licensees. There are 30,595 active MD & DO licenses with 2,048 inactive. Mr. Sobowale shared that the Board sees an increase in licenses issued each year. In the last fiscal year, the Board issued over 10,000 licenses. That is a 30% increase from the previous fiscal year.

4. Discipline Report

Ms. Deschenes reported that there are 874 open cases at this time. 33 informal conferences were held this year, because licensees are coming back in for hearings. Out of the 33 cases, 7 were dismissed.

5. Announcements/Reminders

Mr. Marchese reminded Board members that the next Full Board meeting will be held February 23, 2023. He also reminded the members to submit their travel Expense Reimbursement Vouchers within 30 days after completion of their trips (CAPP Topic 20335, State Travel Regulations, p. 7).

ADJOURNMENT

With no additional business, the meeting adjourned at 10:36 a.m.

William L. Harp, MD
Executive Director