

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

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Friday, December 2, 2016

Department of Health Professions

Henrico, VA

**CALL TO ORDER:**

The meeting convened at 8:34 a.m.

**ROLL CALL:**

Ms. Opher called the roll; a quorum was established.

**MEMBERS PRESENT:**

Barbara Allison-Bryan, MD, President, Chair  
Randy Clements, DPM  
Lori Conklin, MD  
Alvin Edwards, PhD  
Jane Hickey, JD  
Maxine Lee, MD  
Kevin O'Connor, MD, Vice-President  
Ray Tuck, DC, Secretary-Treasurer

**MEMBERS ABSENT:**

None

**STAFF PRESENT:**

William L. Harp, MD, Executive Director  
Jennifer Deschenes, JD, Deputy Director, Discipline  
Alan Heaberlin, Deputy Director, Licensure  
Barbara Matusiak, MD, Medical Review Coordinator  
Colanthia Morton Opher, Operations Manager  
Sherry Gibson, Administrative Assistant  
David Brown, DC, DHP Director  
Lisa Hahn, DHP Deputy Director  
Elaine Yeatts, DHP Senior Policy Analyst  
Erin Barrett, JD, Assistant Attorney General

**OTHERS PRESENT:**

The Honorable Todd Pillion, DDS, Delegate-4<sup>th</sup> District  
Tyler Cox, MSV  
Lauren Bates-Rowe, MSV  
Janice Craft, NARAL Pro-Choice Virginia  
Jerry Canaan, JD, HDJN  
Ralston King, MSV  
S. Hughes Melton, MD, Deputy Commissioner, VDH

**EMERGENCY EGRESS INSTRUCTIONS**

Dr. O'Connor provided the emergency egress instructions.

## **ADOPTION OF AGENDA**

Dr. Edwards moved to adopt the amended agenda which added item #6 under New Business, *Review and Discussion of Regulations on Mixing, Diluting, or Reconstituting*. The motion was seconded and carried unanimously.

## **APPROVAL OF MINUTES OF AUGUST 5, 2016**

Dr. Edwards moved to approve the meeting minutes of August 5, 2016 as presented. The motion was seconded and carried unanimously.

## **PUBLIC COMMENT**

Dr. Hughes Melton spoke in favor of proper prescribing regulations for opioids. He noted that he had not seen captured in any discussion to date the most recent black box warning on prescribing other opioids with suboxone.

Delegate Pillion expressed his concern about the opioid epidemic. He said the overdose problem leaves children to be raised by grandparents. It also has an economic impact when skilled citizens cannot be hired because they are unable to pass a drug test. Delegate Pillion stated that Suboxone may be the most abused opioid in his area and registered his concern that "we are trading one addiction for another". There should be more focus on collateral therapies, but he is also aware of the thinking that less than appropriate treatment may be better than no treatment at all. He mentioned that the recently published Center for Disease Control guidelines recommend that emergency departments prescribe no more than 3 days of opioids, and under no circumstances more than 7 days. Delegate Pillion stated that he supports controlled substances continuing education for all prescribers. The blame can no longer be placed just on those who abuse substances.

Dr. Conklin moved to accept the letter from the Medical Society of Virginia (MSV) as written comment. MSV also supports continuing education for all prescribers but has concerns about the unintended consequence of creating further barriers to access for those seeking addiction treatment services.

## **DHP DIRECTOR'S REPORT**

Dr. Brown thanked Delegate Pillion for his attendance and focus on the opioid crisis.

Dr. Brown advised that Commissioner Levine is also seeking help on this issue. The number of opioid overdose deaths has climbed dramatically. There were 800 reported opioid deaths last year, and the number is expected to hit 1,200 by the end of this year.

Dr. Brown informed the Committee that legislation was passed earlier this year to allow DHP to docket investigations on licensees that demonstrate unusual patterns or prescribing. The Prescription Monitoring Program (PMP) Regulatory Advisory Panel was able to settle on several parameters to identify opioid prescribers with unusual patterns. These should be

adapted to criteria for buprenorphine prescribing which would allow the PMP to quickly recognize excessive prescribers. Secondly, Dr. Brown asked the members to consider initiating emergency regulations on the proper use of buprenorphine as well as regulations on pain management and proper prescribing.

Dr. Brown acknowledged the concern about placing restrictions on opioids when addressing addiction and said that DMAS has developed, as part of their Addiction and Recovery Treatment Services (ARTS) benefits program, their own guidelines for outpatient opioid treatment. He said that the ARTS benefit is the first step in addressing addiction, In another step forward, the General Assembly is allowing the Department of Behavioral Health to begin certifying peer counselors in substance misuse/abuse.

Dr. Conklin stated that another issue not being addressed is patient satisfaction scores and how they affect physician reimbursement. The Commonwealth has the opportunity to set the example for physicians who have the courage to say “no” and deny a patient the drug sought. The patient may then write a negative comment about the physician. Dr. Conklin stated that, on the other hand, patients who legitimately need longer than 7 days of medication are being punished, so how is it right to limit access with legislation?

Delegate Pillion said that patient scores are directly associated with federal guidelines, so they fall outside the purview of the Commonwealth.

Dr. Clements asked Dr. Brown what he would like the emergency regulations to say, and could the Board use the DMAS ARTS in the development of emergency regulations?

Dr. Brown said it was not for him to say, but he would like to see the work already completed by the Buprenorphine Work Group and DMAS incorporated into the regulations. For a Regulatory Advisory Panel on these issues, he suggested a smaller one rather than a large group of individuals with many different opinions.

Ms. Yeatts then explained the process for adopting emergency regulations.

## **PRESIDENT’S REPORT**

Dr. Allison-Bryan announced that, although Virginia has put their participation in the Compact on hold, she is scheduled to attend The Council of State Governments’ National Center for Interstate Compacts meeting on Dec. 12-13, 2016 in Williamsburg, This is the first Summit of the States on Interstate Collaboration, and she will provide a report at the February Board meeting.

Dr. Allison-Bryan also commented on the usefulness of VAAWARE.com, which offers resources for combating prescription drug and heroin abuse at no cost to the practitioner.

## **NEW BUSINESS**

### Chart of Regulatory Actions

Ms. Yeatts reviewed the status of 12 pending regulatory matters.

This report was for informational purposes only.

### Adoption of Final Regulations for Licensure of Genetic Counselors

Ms. Yeatts advised that, when the proposed regulations were first published for comment, they had strong support. However, some stakeholders had concern about the “conscience clause”. The proposed regulations were returned to the Advisory Board for further discussion and possible revision. Following that process, the regulations now have support from all groups, and the Advisory Board of Genetic Counselors is recommending final adoption to the Board.

Ms. Yeatts noted that the law for grandfathering without a Master’s degree required application for a license prior to July 1, 2016. Since there was no license to be issued by July 1, 2016, potential applicants and the associations have been encouraged to speak to their legislators about having the grandfathering date changed to 2017 or 2018. The Board does not have the authority to make that change.

Dr. Conklin moved to adopt the final regulations as presented. The motion was seconded and carried unanimously.

### Adoption of Fast-Track Action on Certification to the Board for Invasive Procedures by Physician Assistants

Ms. Yeatts said the Advisory Board on Physician Assistants recommended in June 2016 that the requirement to submit the invasive procedure form for approval to the Board be eliminated. The form attests to the physician assistant being competent to perform an invasive procedure without direct supervision. This proposal is consistent with the supervising physician and physician assistant no longer having to submit the practice agreement to the Board for approval. The supervising physician will still need to keep a record that the PA has been observed performing the invasive procedure with skill and competence at least 3 times. The physician assistant should keep a copy of this document as well.

To date there have not been any comments for or against this amendment.

Dr. O’Connor moved to accept the recommended amendment as presented. The motion was seconded and carried unanimously.

### Recommendation from the Ad Hoc Committee on Controlled Substances CE

Dr. Conklin gave a brief, informative presentation that provided the number of fatal overdoses involving benzodiazepines, fentanyl and prescription opioids from 2007-2016 along with information on patient utilization management.

Dr. Conklin summarized the discussion by the Ad Hoc Committee on Controlled Substances Continuing Education and advised that, after weighing all the options available, the recommendation is for all Board of Medicine licensees with prescriptive authority to obtain 2 hours of continuing education on pain management, the responsible prescribing of controlled substances, and the diagnosis and management of addiction in the next biennium.

After some discussion, Dr. Edwards moved to mandate 2 hours of continuing education for all prescribers on the above topics. The motion was seconded.

Dr. O'Connor stated that if it is important enough to recommend that practitioners obtain these hours, then the hours should be CAT I (Type 1).

Dr. Conklin offered an amendment to say, prescribers licensed by the Board of Medicine are required to obtain 2 hours of CAT I (Type 1) continuing education on the topics in the motion. It was seconded and carried unanimously.

### Buprenorphine Guidance Document and Discussion of Buprenorphine Regulations

Dr. Walker provided a brief history of this topic from the pushback by practitioners in Southwest Virginia on the use of the PMP to the formation of the 2016 Buprenorphine Work Group. He said the Work Group decided not to attempt a document de novo, but rather chose the Federation of State Medical Boards 2013 Model Policy on the treatment of opioid addiction in the medical office. The wide-ranging discussion by the Group addressed the use and misuse of buprenorphine and other opioids.

Dr. Harp commended Dr. Walker for work well done with such a diverse group of members. He stated that the special populations were added after the July 22, 2016 meeting and sent back out to the Work Group members for comment. The members were in support of the document, saying that they thought it was 'solid' and should be well-received by the waived physician community and others.

Dr. Walker referred to the Executive Summary of Proposed Guidance Document 85-3 entitled "Office-Based Treatment of Opioid Use Disorder" which was provided as a handout.

### [Proposed Guidance Document 85-3](#)

#### [Office-Based Treatment of Opioid Use Disorder](#)

#### [Executive Summary](#)

#### [Introduction](#)

Gov. McAuliffe established the Governor's Task Force on Prescription Drug and Heroin Abuse in September 2014. In late 2015, the Treatment Work Group of the Task Force made the recommendation that the Board of Medicine convene a work group of physicians with expertise in the treatment of opioid use disorders with buprenorphine to review the literature and make recommendations to the Board of Medicine for consideration of regulations.

### **Work Group on Buprenorphine**

The work group was formed with physicians of different specialties representing a variety of treatment settings from all regions of the Commonwealth. Also included were representatives of state agencies and insurance companies. The work group had its first meeting May 13, 2016 and the second on July 22, 2016. It opted to develop a guidance document for the Board's consideration. To accomplish its mission, it decided to use the Federation of State Medical Boards' "Model Policy on DATA 2000 and Treatment of Opioid Addiction in the Medical Office" as its starting point.

### **Development of the Guidance Document**

With the permission of the Federation of State Medical Boards, the work group set about editing, revising, adding and deleting the language of the Model Policy to fashion a document that was representative of the work group's knowledge and experience of the treatment of opioid use disorders with buprenorphine products in the Commonwealth. It is anticipated that the document will be finalized for review and approval at the February 2017 Board meeting.

### **Salient Points of the Document**

- Treatment of opioid use disorders with buprenorphine requires specialized knowledge
- The course to become a waivered physician provides a foundation which should be further enhanced
- Diligence in all aspects of care is required for safe and competent treatment
- Attention to patients and the processes is paramount
- Special consideration must be given to prevention of abuse and diversion of buprenorphine
- Buprenorphine + naloxone is less likely to be abused or diverted than the mono product
- Buprenorphine treatment is more successful when combined with counseling
- Differential consideration is required for special populations, such as pregnant women, neonates, adolescents, geriatric patients, those with medical and psychiatric comorbidities, chronic pain and recently released individuals

It will be the recommendation of the work group for the Board of Medicine to promulgate regulations from this document. Doing so would provide further guidance for the physicians that treat opioid substance use disorders, better protect the public, and extend the Board's reach in its enforcement of the standards for this specialized care.

Following a brief discussion, Dr. Edwards moved that the Board convene a small regulatory advisory panel to develop proposed regulations for the use of buprenorphine. The motion was seconded and carried unanimously.

### **Discussion of Pain Management and Proper Prescribing Regulations**

The Committee briefly reviewed the Draft Regulations for Pain Management developed in 2007 which did not come to fruition. It was noted that these draft regulations would be a good starting point for 2017 opioid regulations, with a few additional considerations, such as other modalities to treat pain, the CDC guidelines, and universal precautions.

Ms. Yeatts reminded the Committee of the Board's existing guidance document **85-24** [Guidance on the Use of Opioid Analgesics in the Treatment of Chronic Pain, revised October 24, 2013](#)

These regulations will be developed by the aforementioned Regulatory Advisory Panel for the January 2017 Legislative Committee and the full Board in February 2017.

Dr. Lee said that it should be emphasized to non-physicians that pain management is the practice of medicine.

Review and discussion of Regulations on Mixing, Diluting and Reconstituting

Dr. Clements requested that the podiatry profession be added to 18VAC85-20-400.

Dr. Clements also requested that language be added to allow the mixing of local anesthesia and steroids by medical assistants.

Ms. Barrett advised that there would need to be a statutory change in §54.1-3401 to accomplish Dr. Clements proposed revisions.

Ms. Yeatts will follow up on the introduction of legislation.

**ANNOUNCEMENTS**

Next meeting – April 7, 2017

There were no other announcements.

**ADJOURNMENT**

With no further business to conduct, the meeting adjourned at 12:32 p.m.

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Barbara Allison-Bryan, MD  
President, Chair

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William L. Harp, MD  
Executive Director

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Colanthia M. Opher  
Recording Secretary