

VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES

Friday, December 1, 2017

Department of Health Professions

Henrico, VA

PUBLIC HEARING

Dr. O'Connor opened the floor at 8:34 a.m. for comments on the Proposed Regulations on the Prescribing of Opioids. Dr. O'Connor stated that the final regulations will be adopted by the Full Board on February 15, 2018.

Dr. O'Connor acknowledged the written comment submission from William O'Keefe. In his letter, Mr. O'Keefe urges the Board not to treat all classes of opioids the same and to place greater reliance on the existing monitoring system to track potential overprescribing.

George Carter, Administrator of the Statewide Sickle Cell Chapters of Virginia, Inc. addressed the Committee and expressed his concerns about the adverse effects the opioid laws could have on sickle cell patients. Mr. Carter asked that consideration be given to adding an amendment at the beginning of the documentation that states the dosing limits on the use of long-acting opioids should not be applied to patients with sickle cell disease.

The floor closed at 8:46 a.m.

CALL TO ORDER: Dr. O'Connor called the Executive Committee meeting to order at 8:46 a.m.

ROLL CALL: Ms. Opher called the roll; a quorum was established.

MEMBERS PRESENT: Kevin O'Connor, MD, President & Chair
Syed Salman Ali, MD
Lori Conklin, MD, Secretary-Treasurer
Alvin Edwards, MDiv, PhD
Jane Hickey, JD
Nathaniel Tuck, Jr., DC, Vice-President

MEMBERS ABSENT: Randy Clements, DPM
Maxine Lee, MD

STAFF PRESENT: 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
Elaine Yeatts, Sr. Policy Analyst

--- FINAL APPROVED ---

Erin Barrett, JD, Assistant Attorney General

OTHERS PRESENT:

George H. Carter, Statewide Sickle Cell Chapters of Virginia
Floyd Herdrich, Acupuncture, LAc
W. Scott Johnson, Medical Society of Virginia
James Pickral, VSPS
Chris Nolen, International Aesthetic & Laser Association
Julie Galloway, Medical Society of Virginia

EMERGENCY EGRESS INSTRUCTIONS

Dr. Tuck provided the emergency egress instructions.

APPROVAL OF MINUTES OF AUGUST 4, 2017

Dr. Edwards moved to approve the meeting minutes of August 4, 2017 as presented. The motion was seconded and carried unanimously.

ADOPTION OF AGENDA

Dr. Edwards moved to adopt the agenda as presented. The motion was seconded and carried unanimously.

PUBLIC COMMENT

There was no public comment.

DHP DIRECTOR'S REPORT

Dr. Brown began by thanking Dr. Hazel for his 8 years of service with the Commonwealth. Dr. Brown noted that the workgroup convened to develop core competencies on prescribing and pain management has submitted their report to Secretary Hazel's office and will be provided to the Governor. Secretary Hazel asked that the document be used by non-prescribers and from its use, see how to derive a tool that can be useful in the schools.

Dr. Brown noted that a probable cause video designed to assist board members in their appointment duties is in the works. Additionally, a video library is being built that will cover topics such as FOIA, confidentiality, etc.; the Board's input is welcomed.

PRESIDENT'S REPORT

No report.

EXECUTIVE DIRECTOR'S REPORT

No report.

NEW BUSINESS

Chart of Regulatory Actions

Ms. Yeatts reviewed the status of regulations for the Board as of November 20, 2017 and noted that there were no additional updates.

This report was for informational purposes only.

Proposed Regulations for Performance of and for Supervision and Direction of Laser Hair Removal AND Repeal of Guidance Document on Laser Hair Removal

Ms. Yeatts went over the legislation, the proposed regulations that the Regulatory Advisory Panel (RAP) on Laser Hair developed, and the public comment received on the subject. She said that the consensus was that the supervising licensee should be on-site to oversee the procedures performed by non-licensed personnel. She also advised that an identical set of regulations will be presented to the Joint Boards of Nursing and Medicine before coming back to the Full Board of Medicine in February 2018.

Dr. O'Connor asked if the RAP discussed the number of cases a supervisor should oversee before considering the non-licensed individual "properly trained".

Ms. Yeatts advised that there was discussion but no recommendation.

Dr. Ali noted that in other regulated disciplines there are stringent continuing education requirements in the regulations (e.g., AMA accredited), and asked if the RAP had considered specifying formalized training that can be pointed to or to capture the user's participation.

Ms. Deschenes stated there does not appear to be a nationally recognized accrediting body for the practice of laser hair removal, as is seen with other accrediting organizations that offer training for certain specialties. Ms. Deschenes also noted that this law requires specific licensees to oversee this practice and ensure competence of themselves and those they supervise, and the licensees will be held accountable to ensure public protection. Ms. Deschenes commented that this practice has been going on for years and the Board has received very few complaints in this area.

Ms. Barrett reminded the members that the Board still has the discretion to ascertain whether training is appropriate.

Dr. Ali asked if the supervisor is required to be licensed in Virginia as the law does not indicate so.

Ms. Deschenes confirmed that the MD, PA or NP would be required to hold an active license in Virginia in order to supervise this practice in Virginia.

MOTION: Dr. Conklin moved to adopt the proposed regulations to implement HB2119 in 18VAC85-20 (Regulations for Doctors of Medicine, Osteopathic Medicine, Podiatry and

Chiropractic) and 18VAC85-50 (Regulations for Physicians as recommended by the Regulatory Advisory Panel. The motion was seconded and carried unanimously.

MOTION: After adoption of the above proposed regulations, Dr. Tuck moved to repeal Guidance Document 85-7. The motion was seconded and carried unanimously.

Guidance Document on the completion of FORM B

Mr. Heaberlin stated that the Guidance Document was developed to address reoccurring issues some applicants face with completion of FORM B as required for licensure.

MOTION: Dr. Conklin moved to adopt Guidance Document 85-3 as presented. The motion was seconded and carried unanimously.

Dr. Edwards asked the Committee to revisit the matter regarding the unintended consequences of the opioid laws and how they may affect sickle cell patients.

Dr. Ali said that the comments presented by Mr. Carter were well presented and received. However, the opioid guidelines do not apply to inpatient hospital admissions, i.e., dosages are not restricted in the treatment of acute or chronic pain during an inpatient hospital admission. Additionally, a practitioner may exceed 120 mg as long as they document the reason for doing so (for example, sickle cell crisis). A physician being fearful to prescribe is understood, but the Board has no ability to change that mindset.

Ms. Deschenes stated that the Board is aware of the levels of medication that are prescribed to sickle cell patients and she could not recall the Board ever receiving a complaint about a physician prescribing high doses of opioids to sickle cell patients. She also explained that in compliance with the law, the Board and Enforcement have recently begun receiving reports from the Prescription Monitoring Program on prescribers that exceed specified parameters, and noted a sickle cell provider appeared in that audit and the Board recognized the pain issues inherent in sickle cell patients and closed the matter. However, Ms. Deschenes stated the Board could consider carving out this condition.

Dr. O'Connor agreed but noted that if the Board begins carving out specific conditions, it could be endless. The physician has the latitude to prescribe as long as it is well documented.

Dr. Conklin agreed that the list of carve outs for conditions such as sickle cell, pancreatitis, Crohn's, etc. could require endless modification to the Regulations, when the Regulations permit prescribing the necessary dosage for these conditions with "reasonable justification" for such doses documented in the record.

Dr. Tuck noted that some places in the regulations say "should be documented" and in other places it says "should be considered". Is there a hole?

Dr. O'Connor noted it is very difficult for a practitioner to prove something occurred or was considered, if such has not been documented in the record.

ANNOUNCEMENTS

The next meeting of the Committee will be April 13, 2018 at 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 9:20 a.m.

Kevin O'Connor, MD
President, Chair

Jennifer Deschenes, JD
Deputy Executive Director, Discipline

Colanthia M. Opher
Recording Secretary