

**VIRGINIA COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
REGULATORY ADVISORY AD HOC COMMITTEE MEETING MINUTES
May 17, 2018**

TIME AND PLACE: The meeting of the Committee of the Joint Boards of Nursing and Medicine Regulatory Advisory Ad Hoc Committee was convened at 9:01 A.M., May 18, 2018 in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

MEMBERS PRESENT: Louise Hershkowitz, CRNA. MSHA; Chair
Marie Gerardo, MS, RN, ANP-BC
Joyce A. Hahn, PhD, RN. NEA-BC, FNAP
Lori Conklin, MD
Kevin O'Connor, MD

MEMBERS ABSENT: Kenneth Walker, MD

ADVISORY COMMITTEE MEMBERS PRESENT: Mark Coles, RN, BA, MSN, NP-C
Wendy Dotson, CNM, MSN
Stuart F. Mackler, MD
Janet L. Setnor, CRNA

ADVISORY COMMITTEE MEMBERS ABSENT: Kevin E. Brigle, RN, NP
David Alan Ellington, MD
Sarah E. Hobgood, MD
Thorkozeni Lipato, MD

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director, Board of Nursing
William L. Harp, MD, Executive Director, Board of Medicine
Robin L. Hills, DNP, RN, WHNP, Deputy Executive Director for Advanced Practice, Board of Nursing
Stephanie Willinger, Deputy Executive Director for Licensing, Board of Nursing
Sylvia Tamayo-Suijk, Discipline Team Coordinator, Board of Nursing

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General, Board Counsel
David Brown, DC, Director, Department of Health Professions
Barbara Allison-Bryant, MD, Chief Deputy, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
Lisa Speller-Davis, BSN, RN, Policy Assistant, Board of Nursing

CALL TO ORDER: Ms. Hershkowitz called the meeting to order at 9:01 A.M.

INTRODUCTIONS: Committee members, Advisory Committee members and staff members introduced themselves.

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COMMENTS FROM THE
DHP DIRECTOR:

Dr. Brown emphasized that having an understanding of the differences between the physician and nurse practitioner professions will aid in drafting and implementing HB 793 regulations.

PUBLIC COMMENT:

Ms. Hershkowitz noted that due to the number of people wishing to make public comment, there would be a 30-minute limit imposed. Public comment was received from the following citizens regarding the draft regulations to implement HB793 (Chapter 776 of 2018 General Assembly) legislation which authorizes nurse practitioners who meet certain qualifications to practice without a practice agreement with a patient care team physician:

Carolyn Rutledge, PhD, FNP, Professor, Old Dominion University
Cynthia Fagan, MSN, RN, FNP-BC, Virginia Council of Nurse Practitioners,
Government Relations
Shelly Smith, DNP, ANP, Clinical Assistant Professor & DNP Program
Director, Virginia Commonwealth University
Andrea Knopp, Associate Professor, NP Program Coordinator, James
Madison University School of Nursing
Rosie Taylor-Lewis, DNP, ANP-BC, GNP
Phyllis Everett, NP-C
Winifred Carson Smith, Esq., Counsel, Virginia Council for Nurse
Practitioners
Kurtis Elward, MD, President, Medical Society of Virginia
Sam Bartle, MD, American Academy of Pediatrics
Scott Hickey, MD, Virginia College of Emergency Physicians
Hunter Jamerson, Esq., Counsel, Virginia Academy of Family Physicians
Lisa Shea Kennedy, MD, Family Physician
Jacqueline Fogarty, MD

REVIEW OF HB 793:

In order to comply with the second enactment on the bill requiring regulations to be in effect within 280 days, the Committee of the Joint Boards of Nursing and Medicine are meeting today to develop recommended amendments to nurse practitioner regulations to implement the provisions of HB 793. Ms. Yeatts' review of the provisions of HB 793 included the following:

- There are nine categories of licensed nurse practitioners seven of which are affected by this bill (certified registered nurse anesthetists and certified nurse midwives remain unaffected)
- The focus of the regulations will be on amendments to Virginia Code 54.1-2957, particularly (I) which focuses on the requirements for autonomous practice and (E) regarding licensure by endorsement

REVIEW OF TIMELINE

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AND TOPICS FOR
CONSIDERATION:

Ms. Yeatts revised the tentative timeline for implementation of HB793 as follows:

04/11/18	Discussion of legislation and plan for promulgation of emergency regulations which must be effective by 1/9/19
05/17/18	Committee of the Joint Boards to receive public comment, consider draft regulations, and make recommendations (30-day Request for Public Comment on draft regulations posted on TownHall as soon as possible after drafting)
06/?/18	Additional meeting of Joint Boards if necessary to complete recommended regulations
07/17/18	Board of Nursing votes to adopt emergency regulations/NOIRA
08/03/18	Board of Medicine votes to adopt emergency regulations/NOIRA

Ms. Yeatts reviewed the following topics for consideration in adoption of regulations and to amend Chapter 30 (NP Licensure) and 40 (Prescriptive Authority):

- Equivalent of at least five years of full-time clinical experience
- Routinely practiced in a practice area included within the category for which NP was certified and licensed
- Requirements for attestation.
- Fee associated with submission of attestation and issuance of autonomous designation
- Acceptance of “other evidence” demonstrating that the applicant met the requirements
- Endorsement of experience in other states

REVIEW OF WRITTEN
PUBLIC COMMENTS:

Ms. Yeatts noted that there was significant public comment with Nurse Practitioners expressing concern regarding the five-year attestation requirement being too burdensome. Other written comments included the need for establishing competencies which are not authorized by the code.

DISCUSSION:

Dr. Conklin expressed concern regarding quality of nurse practitioner online education and training.

Dr. O’Connor stated that the bill would expand access to citizens who are in need and stated that physician training is different from nurse practitioner training.

Ms. Gerardo stated that the nurse practitioner scope of practice is different from the physician scope of practice and suggested that physicians would benefit from becoming more familiar with how nurse practitioners are educated and trained.

Ms. Dotson emphasized that legislation does not do away with collaborative relationship between physicians and nurse practitioners. She reminded the Regulatory Ad Hoc Committee that the attestation will verify clinical experience not nurse practitioner competency and added that all nurse practitioner programs, including online programs, are accredited and require comparable practical clinical experience.

Ms. Yeatts provided a handout of a staff working draft of the regulatory language to the RAP committee and members of the audience.

RECESS: The Committee recessed at 10:12 A.M.

RECONVENE: The Committee reconvened at 10:35 A.M.

DISCUSSION AND
APPROVAL OF DRAFT
REGULATIONS:

18VAC90-30-10

The definition for autonomous practice was added as follows:

“Autonomous practice” means practice in a category in which a nurse practitioner is certified and licensed without a written or electronic practice agreement with a patient care team physician in accordance with 18VAC90-30-86.

18VAC90-30-20 - Delegation of authority

Dr. O’Connor suggested that a Joint Boards credentialing committee may need to be considered for review of applications.

18VAC90-30-20 – Fees

The range of \$75-\$100 for the one-time attestation application fee was presented. Ms. Yeatts reminded the RAP Committee that the Prescriptive Authority license is in the process of being subsumed into the NP license and eliminated. Replacing the biennial Prescriptive Authority license fee with this one-time attestation application fee would result in lower costs to licensees.

Ms. Gerardo stated that it was appropriate and not excessive or burdensome. Ms. Setnor stated that \$100 seemed fair.

18VAC90-30-86 – Autonomous practice

Definition of full-time experience:

Ms. Yeatts stated that the language of 18VAC90-30-86(A)(1) & (2) requires that the number of direct care hours per year which would constitute full-time clinical experience be defined.

- Dr. Conklin stated that 40 hours per week was reasonable in light of the 32-80 hour range of physicians.
- Dr. Hahn was in favor of 32 hours per week in order to be inclusive of all nurse practitioners considered full-time by the employers.
- Ms. Setnor clarified that precepting students are considered “direct patient care” but that classroom teaching is not.
- Dr. Conklin noted that physicians complete 20,000 clinical hours during residency.
- Dr. Brown asked for an example of what constitutes a 32-hour work week.
- Ms. Hershkowitz questioned if full-time experience or breadth of clinical experience was most important.
- Mr. Coles stated that in the business world, full-time is sometimes considered 32 hours.
- Ms. Dotson stated that at the Veterans Administration, 1600 hours per year is considered full-time.

Dr. O’Connor moved to define full-time clinical experience as 1800 hours per year for a total of 9,000 hours over the course of a five-year period. The motion was seconded but died with a vote of 3 in favor and 5 opposed.

Ms. Gerardo moved to define full-time experience as 1600 hours per year for a total of 8,000 hours over a five-year period. The motion was seconded and carried with 6 in favor and 2 opposed.

Content of attestation:

Dr. Hahn moved to adopt the language in 18VAC90-30-86(B) as presented by Ms. Yeatts. The motion was seconded and carried unanimously.

Multiple attestations if certified in more than one category:

Dr. O’Connor moved to adopt the language in 18VAC90-30-86(C) as presented by Ms. Yeatts. The motion was seconded and carried unanimously.

Attestations for more certification in than one category:

Dr. O’Connor moved to adopt the language in 18VAC90-30-86(D) as presented by Ms. Yeatts. The motion was seconded and carried unanimously.

Other evidence of meeting qualifications for autonomous practice:

The last sentence of 18VAC90-30-86(E) was amended to read:

The burden shall be on the nurse practitioner to provide sufficient evidence to support the nurse practitioner's inability to obtain an attestation.

Dr. Mackler moved to adopt the language in 18VAC90-30-86(E) as presented by Ms. Yeatts and amended by the RAP Committee. The motion was seconded and carried unanimously.

License by Endorsement:

Ms. Gerardo moved to adopt the language in 18VAC90-30-86(F) as presented by Ms. Yeatts. The motion was seconded and carried unanimously.

Requirements:

Dr. O'Connor moved to adopt the language in 18VAC90-30-86(G) as presented by Ms. Yeatts. The motion was seconded and carried unanimously.

The Committee reviewed editorial amendments to the following regulations:

- 18VAC90-30-110 Reinstatement of license
- 18VAC90-30-120 (A) & (C) Practice of licensed nurse practitioners other than certified registered nurse anesthetists or certified nurse midwives
- 18VAC90-40-90 Practice agreement requirements

Dr. Hahn moved to adopt the language in 18VAC90-30-110, 18VAC90-30-120, and 18VAC90-40-90 as presented by Ms. Yeatts. The motion was seconded and carried unanimously.

Dr. Hahn moved to present a draft with the adopted amendments to the Board of Medicine and to the Board of Nursing for review and approval. The motion was seconded and carried unanimously.

NEXT STEPS:

Ms. Yeatts will submit draft regulations for autonomous practice for nurse practitioners to TownHall and there will be a 30-day comment period. All comments received will be presented to the Board of Medicine and to the Board of Nursing. The Board of Nursing will consider the draft regulations on July 17, 2018, and the Board of Medicine will consider the draft regulations on August 3, 2018. The Boards plan to adopt emergency regulations by mid-December.

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The Committee of the Joint Boards of Nursing and Medicine will draft a sample attestation for approval. The goal is to have the methodology for issuing the new licenses in place by early 2019.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 11:41 A.M.

Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director