

**VIRGINIA BOARD OF MEDICINE
LEGISLATIVE COMMITTEE MINUTES**

Friday, September 18, 2009

Department of Health Professions

Richmond, VA

CALL TO ORDER: The meeting of the Committee convened at 8:36 a.m.

MEMBERS PRESENT: Karen Ransone, MD, Vice-President, Chair
Claudette Dalton, MD
Gopinath Jadhav, MD
Stuart Mackler, MD
Ellen Shapiro, DPM

MEMBERS ABSENT: Juan Montero, MD
Roderick Mathews, JD

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Director, Discipline
Barbara Matusiak, MD, Medical Review Coordinator
Colanthia Morton Opher, Operations Manager
Amy Marschean, Assistant Attorney General
Emily Wingfield, Assistant Director, DHP
Elaine Yeatts, DHP Policy Analyst

OTHERS PRESENT: Michael Jurgensen, Medical Society of Virginia
Karah Jones, HDJN
Tyler Cox, HDJN

ROLL CALL

EMERGENCY EGRESS INSTRUCTIONS

Dr. Ransone provided the Emergency Egress Instructions.

APPROVAL OF MINUTES OF SEPTEMBER 19, 2008

Dr. Mackler moved to approve the minutes of September 19, 2008 as presented. The motion was seconded and carried.

ADOPTION OF AGENDA

Dr. Dalton moved to accept the agenda as presented. The motion was seconded and carried.

PUBLIC COMMENT

Dr. Ransone extended a welcome to the guests.

There was no public comment.

NEW BUSINESS

Regulatory Actions

Chart of Regulatory Actions

Ms. Yeatts gave a brief update on the current status of pending regulatory actions. She mentioned that the Advisory Board on Radiologic Technology had postponed their October meeting to allow for the comment period. Ms. Yeatts stated that any comments received will be reviewed at the Advisory Board's rescheduled November meeting. The comments along with their recommendation will be presented at the Executive Committee meeting, December 4, 2009.

There was a short discussion regarding the disclosure requirements for midwives regarding high-risk pregnancies.

Periodic Review of Chapter 20: Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic

Ms. Yeatts advised the Committee that the comment period closed June 10, 2009, and no comment was received. Ms. Yeatts then referred to Ms. Powers' suggestions, and noted that most had been incorporated into the draft that was being presented.

After explaining the NOIRA, Ms. Yeatts opened the discussion of the issues of performing surgery on family members and the mixing, diluting, and reconstituting of drugs for administration.

The Committee discussed practitioners performing surgery on one's family members. All agreed that consciously or unconsciously, there is less objectivity which might create a less safe circumstance for the patient. However, the patient's choice in the matter should be honored. Dr. Mackler moved that no action be taken on this issue. The motion was seconded and carried.

Dr. Harp addressed the Committee and provided the reasoning behind the development of the mixing, diluting and reconstituting regulations. Dr. Harp stated that with the change in the USP regarding the parameters of "immediate use" – 1 hour to start administration, the

Committee may want to consider a change in our current requirement in regulation of 10 hours.

After discussion, Dr. Shapiro moved to recommend to the Full Board that the 18VAC85-20-400 be amended as follows:

A. For the purposes of this chapter, the mixing, diluting, or reconstituting of sterile manufactured drug products when there is no direct contact contamination and administration begins within 4 ~~40~~ hours of the completion time of preparation shall be considered immediate-use. If manufacturers' instructions or any other accepted standard specifies or indicates an appropriate time between preparation and administration of less than 4 ~~40~~ hours, the mixing, diluting or reconstituting shall be in accordance with the lesser time. No direct contact contamination means that there is no contamination from touch, gloves, bare skin or secretions from the mouth or nose. Emergency drugs used in the practice of anesthesiology and administration of allergens may exceed 4 ~~40~~ hours after completion of the preparation, provided administration does not exceed the specified expiration date of a multiple use vial and there is compliance with all other requirements of this section.

The motion was seconded and carried.

The Committee asked Dr. Harp to follow up with Dr. David Newton and obtain scientific literature to support the change.

The proposed amendments to the regulations are as follows:

18VAC85-20-22. Required fees.

- A. Unless otherwise provided, fees established by the board shall not be refundable.
- B. All examination fees shall be determined by and made payable as designated by the board.
- C. The application fee for licensure in medicine, osteopathic medicine, and podiatry shall be \$302, and the fee for licensure in chiropractic shall be \$277.
- D. The fee for a temporary authorization to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$25.
- E. The application fee for a limited professorial or fellow license issued pursuant to 18VAC85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.
- F. The application fee for a limited license to interns and residents pursuant to 18VAC85-20-220 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of

licensure shall be \$15.

G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be \$337 for licensure in medicine, osteopathic medicine and podiatry and \$312 for licensure in chiropractic, due in each even-numbered year in the licensee's birth month. An additional fee for processing a late renewal application within one renewal cycle shall be \$115 for licensure in medicine, osteopathic medicine and podiatry and \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure or certification pursuant to § 54.1-2408.2 of the Code of Virginia or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia that has expired for a period of two years or more shall be ~~\$382~~ \$497 for licensure in medicine, osteopathic medicine and podiatry (\$382 for reinstatement application in addition to the late fee of \$115) and ~~\$367~~ \$472 for licensure in chiropractic (\$367 for reinstatement application in addition to the late fee of \$105). The fee shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of verification of licensure to another jurisdiction shall be \$10, and the fee for certification of grades to another jurisdiction by the board shall be \$25. Fees shall be due and payable upon submitting a request for verification or certification to the board.

L. The fee for biennial renewal of an inactive license shall be \$168, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$55 for each renewal cycle.

M. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$75, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

N. The fee for a returned check shall be \$35.

Part III

Licensure: General and Educational Requirements

18VAC85-20-120. Prerequisites to licensure.

A. Every applicant for licensure shall:

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1. Meet the educational requirements specified in 18VAC85-20-121 or 18VAC85-20-122 and the examination requirements as specified for each profession in 18VAC85-20-140;
2. File the complete application and appropriate fee as specified in 18VAC85-20-22 with the executive director of the board; and
3. File the required credentials with the executive director ~~by a date established by the board and~~ as specified below:

a. Graduates of an approved institution shall file:

- (1) Documentary evidence that he received a degree from the institution; and
- (2) A complete chronological record of all professional activities since graduation from professional school, giving location, dates, and types of services performed.

b. Graduates of an institution not approved by an accrediting agency recognized by the board shall file:

- (1) Documentary evidence of education as required by 18VAC85-20-122;
- (2) A translation made and endorsed by a consul or by a professional translating service of all such documents not in the English language; and
- (3) A complete chronological record of all professional activities since graduation from professional school, giving location, dates, and types of services performed.

~~B. Every applicant discharged from the United States military service within the last five years shall in addition file with his application a notarized copy of his discharge papers.~~

18VAC85-20-121. Educational requirements: Graduates of approved institutions.

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A. Such an applicant shall be a graduate of an institution that meets the criteria appropriate to the profession in which he seeks to be licensed, which are as follows:

1. For licensure in medicine. The institution shall be approved or accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association, or by the Committee for the Accreditation of Canadian Medical Schools or its appropriate subsidiary agencies or any other organization approved by the board.
2. For licensure in osteopathic medicine. The institution shall be approved or accredited by the Bureau of Professional Education of the American Osteopathic Association or any other organization approved by the board.
3. For licensure in podiatry. The institution shall be approved and recommended by the Council on ~~Podiatry~~ Podiatric Medical Education of the American ~~Podiatry~~ Podiatric Medical Association or any other organization approved by the board.

B. Such an applicant for licensure in medicine, osteopathic medicine, or podiatry shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

C. For licensure in chiropractic.

1. If the applicant matriculated in a chiropractic college on or after July 1, 1975, he shall be a graduate of a chiropractic college accredited by the Commission on Accreditation of the Council of Chiropractic Education or any other organization approved by the board.
2. If the applicant matriculated in a chiropractic college prior to July 1, 1975, he shall

be a graduate of a chiropractic college accredited by the American Chiropractic Association or the International Chiropractic Association or any other organization approved by the board.

18VAC85-20-131. Requirements to practice acupuncture.

A. To be qualified to practice acupuncture, licensed doctors of medicine, osteopathic medicine, podiatry, and chiropractic shall first have obtained at least 200 hours of instruction in general and basic aspects of the practice of acupuncture, specific uses and techniques of acupuncture, and indications and contraindications for acupuncture administration. ~~After December 5, 2001, at~~ At least 50 hours of the 200 hours of instruction shall be clinical experience supervised by a person legally authorized to practice acupuncture in any jurisdiction of the United States. Persons who held a license as a physician acupuncturist prior to July 1, 2000, shall not be required to obtain the 50 hours of clinical experience.

B. The use of acupuncture as a treatment modality shall be appropriate to the doctor's scope of practice as defined in § 54.1-2900 of the Code of Virginia.

Part IV

Licensure: Examination Requirements

18VAC85-20-140. Examinations, general.

A. The Executive Director of the Board of Medicine or his designee shall review each application for licensure and in no case shall an applicant be licensed unless there is evidence that the applicant has passed an examination equivalent to the Virginia Board of Medicine examination required at the time he was examined and meets all requirements of Part III (18VAC85-20-120 et seq.) of this chapter. If the executive director or his designee is not fully satisfied that the applicant meets all applicable requirements of Part III of this chapter and this part, he shall refer the application to the Credentials Committee for a determination on licensure.

B. A Doctor of Medicine or Osteopathic Medicine who has passed the examination of the National Board of Medical Examiners or of the National Board of Osteopathic Medical Examiners, ~~FLEX~~ Federation Licensing Examination, or the United States Medical Licensing Examination, or the examination of the Licensing Medical Council of Canada or other such examinations as prescribed in § 54.1-2913.1 of the Code of Virginia may be accepted for licensure.

C. A Doctor of Podiatry who has passed the National Board of Podiatric Medical Examiners

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examination and has passed a clinical competence examination ~~equivalent to the Virginia Board of Medicine examination~~ may be accepted for licensure acceptable to the board.

D. A Doctor of Chiropractic who has met the requirements of one of the following may be accepted for licensure:

1. An applicant who graduated after January 31, 1996, shall document successful completion of Parts I, II, III, and IV of the National Board of Chiropractic Examiners examination (NBCE).

2. An applicant who graduated from January 31, 1991, to January 31, 1996, shall document successful completion of Parts I, II, and III of the National Board of Chiropractic Examiners examination (NBCE).

3. An applicant who graduated from July 1, 1965, to January 31, 1991, shall document successful completion of Parts I, II, and III of the NBCE, or Parts I and II of the NBCE and the Special Purpose Examination for Chiropractic (SPEC), and document evidence of licensure in another state for at least two years immediately preceding his application.

4. An applicant who graduated prior to July 1, 1965, shall document successful completion of the SPEC, and document evidence of licensure in another state for at least two years immediately preceding his application.

E. The following provisions shall apply for applicants taking Step 3 of the United States Medical Licensing Examination or the Podiatric Medical Licensing Examination:

1. Applicants for licensure in medicine and osteopathic medicine may be eligible to sit for Step 3 of the United States Medical Licensing Examination (USMLE) upon evidence of having passed Steps 1 and 2 of the United States Medical Licensing

Examination (USMLE).

2. Applicants who sat for the United States Medical Licensing Examination (USMLE) shall provide evidence of passing Steps 1, 2, and 3 within a 10-year period unless the applicant is board certified in a specialty approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists of the American Osteopathic Association.

3. Applicants shall have completed the required training or be engaged in their final year of required postgraduate training.

4. Applicants for licensure in podiatry shall provide evidence of having passed the National Board of Podiatric Medical Examiners Examination to be eligible to sit for the Podiatric Medical Licensing Examination (PMLEXIS) in Virginia.

18VAC85-20-220. Temporary licenses to interns and residents.

A. An intern or resident applying for a temporary license to practice in Virginia shall:

1. Successfully complete the preliminary academic education required for admission to examinations given by the board in his particular field of practice, and submit a letter of confirmation from the registrar of the school or college conferring the professional degree, or official transcripts confirming the professional degree and date the degree was received.

2. Submit a recommendation from the applicant's chief or director of graduate medical education of the approved internship or residency program specifying acceptance. The beginning and ending dates of the internship or residency shall be specified.

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3. Submit evidence of a standard Educational Commission for Foreign Medical Graduates (ECFMG) certificate or its equivalent if the candidate graduated from a school not approved by an accrediting agency recognized by the board.

B. The intern or resident license applies only to the practice in the hospital or outpatient clinics where the internship or residency is served. Outpatient clinics in a hospital or other facility must be a recognized part of an internship or residency program.

C. The intern or resident license shall be renewed annually upon the recommendation of the chief or director of graduate medical education of the internship or residency program ~~no more than five times.~~

A residency program transfer request shall be submitted to the board in lieu of a full application.

D. The extent and scope of the duties and professional services rendered by the intern or resident shall be confined to persons who are bona fide patients within the hospital or who receive treatment and advice in an outpatient department of the hospital or outpatient clinic where the internship or residency is served.

E. The intern and resident shall be responsible and accountable at all times to a fully licensed member of the staff where the internship or residency is served. The intern and resident is prohibited from employment outside of the graduate medical educational program where a full license is required.

F. The intern or resident shall abide by the respective accrediting requirements of the internship or residency as approved by the Liaison Council on Graduate Education of the American Medical Association, American Osteopathic Association, American Podiatric Medical Association, or Council on Chiropractic Education.

18VAC85-20-235. Continued competency requirements for renewal of an active license.

A. In order to renew an active license biennially ~~on or after January 1, 2002~~, a practitioner shall ~~complete the Continued Competency Activity and Assessment Form ("Form") which is provided by the board and which shall indicate~~ attest to completion of at least 60 hours of continuing learning activities within the two years immediately preceding renewal as follows:

1. A minimum of 30 of the 60 hours shall be in Type 1 activities or courses offered by an accredited sponsor or organization sanctioned by the profession.

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a. Type 1 hours in chiropractic shall be clinical hours that are approved by a college or university accredited by the Council on Chiropractic Education or any other organization approved by the board.

b. Type 1 hours in podiatry shall be accredited by the American Podiatric Medical Association, the American Council of Certified Podiatric Physicians and Surgeons or any other organization approved by the board.

2. No more than 30 of the 60 hours may be Type 2 activities or courses, which may or may not be approved by an accredited sponsor or organization but which shall be chosen by the licensee to address such areas as ethics, standards of care, patient safety, new medical technology, and patient communication.

B. A practitioner shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed Form with all supporting documentation for a period of six years following the renewal of an active license.

D. The board shall periodically conduct a random audit of at least 1.0% to 2.0% of its active licensees to determine compliance. The practitioners selected for the audit shall provide the completed Form and all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

H. The board may grant an exemption for all or part of the requirements for a licensee who:

1. Is practicing solely in an uncompensated position, provided his practice is under the direction of a physician fully licensed by the board; or
2. Is practicing solely as a medical examiner, provided the licensee obtains six hours of medical examiner training per year provided by the Office of the Chief Medical Examiner.

Part IX

Mixing, Diluting or Reconstituting of Drugs for Administration

18VAC85-20-400. Requirements for immediate-use sterile mixing, diluting or reconstituting.

A. For the purposes of this chapter, the mixing, diluting, or reconstituting of sterile manufactured drug products when there is no direct contact contamination and administration begins within ~~40~~ four hours of the completion time of preparation shall be considered immediate-use. If manufacturers' instructions or any other accepted standard specifies or indicates an appropriate time between preparation and administration of less than ~~40~~ four hours, the mixing, diluting or reconstituting shall be in accordance with the lesser time. No direct contact contamination means that there is no contamination from touch, gloves, bare skin or secretions from the mouth or nose. Emergency drugs used in the practice of anesthesiology and administration of allergens may exceed ~~40~~ four hours after completion of the preparation, provided administration does not exceed the specified expiration date of a multiple use vial and there is compliance with all other requirements of this section.

B. Doctors of medicine or osteopathic medicine who engage in immediate-use mixing, diluting or reconstituting shall:

1. Utilize the practices and principles of disinfection techniques, aseptic manipulations and solution compatibility in immediate-use mixing, diluting or reconstituting;
2. Ensure that all personnel under their supervision who are involved in immediate-use mixing, diluting or reconstituting are appropriately and properly trained in and utilize

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the practices and principles of disinfection techniques, aseptic manipulations and solution compatibility;

3. Establish and implement procedures for verification of the accuracy of the product that has been mixed, diluted, or reconstituted to include a second check performed by a doctor of medicine or osteopathic medicine or a pharmacist, or by a physician

assistant or a registered nurse who has been specifically trained pursuant to subdivision 2 of this subsection in immediate-use mixing, diluting or reconstituting.

Mixing, diluting or reconstituting that is performed by a doctor of medicine or osteopathic medicine, a pharmacist, or by a specifically trained physician assistant or registered nurse or mixing, diluting or reconstituting of vaccines does not require a second check;

4. Provide a designated, sanitary work space and equipment appropriate for aseptic manipulations;

5. Document or ensure that personnel under his supervision documents in the patient record or other readily retrievable record that identifies the patient; the names of drugs mixed, diluted or reconstituted; and the date of administration; and

6. Develop and maintain written policies and procedures to be followed in mixing, diluting or reconstituting of sterile products and for the training of personnel.

C. Any mixing, diluting or reconstituting of drug products that are hazardous to personnel shall be performed consistent with requirements of all applicable federal and state laws and regulations for safety and air quality, to include but not be limited to those of the Occupational Safety and Health Administration (OSHA). For the purposes of this chapter, Appendix A of the National Institute for Occupational Safety and Health publication (NIOSH Publication No. 2004-165), Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings is incorporated by reference for the list of hazardous drug

products and can be found at www.cdc.gov/niosh/docs/2004-165.

Announcements

Emily Wingfield, Deputy Director, Department of Health Professions advised the Committee that the proposed legislation relative to initial competency did not comport with the Governor's requirements that legislation be limited to minor revisions or housekeeping in nature. Therefore, they were not included in the packet for the 2011 session of the General Assembly.

Next meeting – January 22, 2010

Adjournment - With no other business to conduct, the meeting adjourned at 10:05 a.m.

Karen Ransone, M. D., Vice-President
Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Recording Secretary