

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

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Friday, December 2, 2011    Department of Health Professions    Richmond, VA

**CALL TO ORDER:**            The meeting convened at 8:39 a.m.

**MEMBERS PRESENT:**    Claudette Dalton, MD, President  
Valerie Hoffman, DC, Vice-President  
Stuart Mackler, MD, Secretary-Treasurer  
Stephen Heretick, JD  
Jane Piness, MD  
Karen Ransone, MD  
Wayne Reynolds, DO

**MEMBERS ABSENT:**    Jane Maddux

**STAFF PRESENT:**        William L. Harp, MD, Executive Director  
Ola Powers, Deputy Executive Director for Licensing  
Jennifer Deschenes, Deputy Executive Director for Discipline  
Barbara Matusiak, MD, Medical Review Coordinator  
Colanthia Morton Opher, Operations Manager  
Amy Marschean, Assistant Attorney General  
Elaine Yeatts, DHP Senior Policy Analyst

**OTHERS PRESENT:**    Michael Jurgensen, MSV  
Katie Payne, Virginia Society of Anesthesiologists  
Clay Landa, HDJN  
Michele Satterlund, VANA  
Hunter Jamerson, VAFP

**Call to Order**

Dr. Dalton called the meeting to order.

**Roll Call**

A quorum was declared.

**Emergency Egress Procedures**

Dr. Hoffman read the emergency egress procedures.

## **Adoption of Agenda**

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

## **Public Comment on Agenda Items**

Dr. Dalton invited the public to introduce themselves to the Board. The floor was then opened for public comment on the agenda.

Katie Payne, representative for the Virginia Society of Anesthesiologists (VSA), referred to a letter sent to the Board requesting that it reject the petition for rulemaking regarding CRNA's and advanced practice nursing standards submitted by the Virginia Association of Nurse Anesthetists (VANA). Ms. Payne stated that VSA does not believe that the current regulations are outdated or create inefficiencies relative to the practice of CRNA's.

Michele Satterlund, representative for the Virginia Association of Nurse Anesthetists (VANA) asked the Board to support the petition for rulemaking regarding CRNA's and advanced practice nursing standards. Ms. Satterlund pointed out that the petition asked for two specific things, 1) that the regulations be revised to highlight and differentiate the scopes of CRNAs and NPs, and 2) update language to reflect the terminology used at the national level for advanced practice nursing. Ms. Satterlund emphasized that this is not an attempt to change the law, but rather a clarification of the distinctions between the two groups. She suggested that these changes will make the Board of Nursing more efficient, particularly relative to audit requirements for nurse practitioners.

## **Approval of the August 5, 2011 Minutes**

Dr. Ransone moved to accept the minutes of August 5, 2011. The motion was seconded and carried unanimously.

## **Report of the President – Claudette Dalton, MD**

Dr. Dalton provided a brief report on the progress of the maintenance of licensure (MOL) efforts at the Federation of State Medical Boards (FSMB). Dr. Dalton noted that she is the chair of the non-clinical licensure committee. After meeting with several other entities within FSMB, the committee has developed a draft report, but it may not be in final form by FSMB's April 2012 meeting. Dr. Dalton advised that two issues being discussed are how to define "non-clinical" and "self-assessment".

Dr. Dalton asked the Committee to consider what steps should be taken to modernize the Board and to make it more efficient. She suggested that a strategic planning workgroup be formed that would identify necessary changes to law, regulation and policy. She would prefer that changes require as little statutory and regulatory change as possible, rather using policy to define new efficiencies within the current law and regulations.

**---FINAL APPROVED---**

Ms. Marschean, Board Counsel, noted that since this is a policy board, the members can propose changes. If law and regulation are involved, suggested changes will become subject to the political will of other entities and individuals.

The Committee briefly discussed the study by the Board of Health Professions that looked at the feasibility of creating an allied health board.

The idea of a retreat/work session of the full Board for strategic planning was raised. Dr. Harp pointed out that it should be held in the near future since a tremendous amount of talent, experience and brainpower would be rotating off the Board in June 2012. Mr. Heretick stated that all of the concerns mentioned by Dr. Dalton have a collective impact and agreed that they should be discussed. In concert with Dr. Dalton's idea, he agreed that a small group of individuals get together to discuss the main concerns and then present these issues at the retreat, most likely at the February Board meeting. An ad hoc committee could arise from the February discussion if necessary.

In regards to our most valuable resource, e.g. Board members, Dr. Harp noted that a change in composition of the Board could only occur if the public, legislators and media believed that the public would in some way be better protected.

**Report of the Executive Director – William L. Harp, MD**

MOL and Reentry

Dr. Harp acknowledged Dr. Dalton's involvement with MOL and reentry of practitioners at the national level and her work with the Ad Hoc Committee on Competency with the Virginia Board. He told the Committee that FSMB had provided the Virginia Board with options for pilot projects within FSMB's MOL effort. Dr. Harp noted that the Ad Hoc Committee on Competency will be meeting in January to discuss the options and make a recommendation to the full Board in February. Obviously, participation will hinge on feasibility and funding.

Board Briefs

Dr. Harp said that the Data Section had sent the link to the new Board Briefs to 36,000 e-mail addresses on file with the Board. The Board has approximately 58,000 licensees. Board staff will ask Data if it can determine how many addresses were good, and also to track the number of hits to the newsletter

The Committee suggested that specialty societies be forwarded the link and that at least one reminder be sent to the licensees that the newsletter was available for viewing.

Mike Jurgensen, representing the Medical Society of Virginia, stated that MSV had received the link and that through placement in the MSV electronic newsletter, the Board Briefs will reach approximately 10,000 members. Mr. Jurgensen stated that although it

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may not remain on MSV's homepage, it will be archived and accessible in their knowledge base.

Revenue and Expenditures

Dr. Harp briefly reviewed the financial health of the Board and noted 2012 will be a big revenue-generating year.

Virginia Department of Health and Medical Examiners

Dr. Harp informed the Committee that he had accompanied Dr. Cane to a meeting with Leah Bush, MD, the Chief Medical Examiner for the Virginia Department of Health, on November 16, 2011 to brainstorm about ways to recruit local medical examiners (LME). The Board of Medicine has already placed VDH's article on being an LME in the Board Briefs. Dr. Harp noted that since the publication of the Board Briefs, the Office of the Chief Medical Examiner (OCME) has been contacted by 20 practitioners wanting more information about becoming an LME. Also, in support of the OCME, a question about interest in being an LME is being integrated into Medicine's online license renewal process for 2012.

Ad Hoc Committee on Office-Based Surgery

Dr. Harp reminded the Committee that the Ad Hoc last met in January 2011. In February 2011, the Board asked the Ad Hoc to continue with its study and provide more data on what would dictate the need for stricter guidelines for practitioners providing office-based surgery procedures. Dr. Harp informed the Committee that the Ad Hoc was being reconstituted with representatives from the specialty societies. It is anticipated that a physician assistant and a nurse practitioner will be added.

Dr. Harp noted that the Ad Hoc is waiting on several critical pieces of data in order to move forward. The first is an article from Brett Coldiron, MD, who reviewed the office-based deaths in Florida that led to stringent regulations in 2000. He has since studied the decade after the implementation of the regulations. His analysis of the data from the 2000's will be published soon in a peer-reviewed journal. The second set of data is from Virginia Health Information which will provide statistics for breast, facelifts, liposuction procedures and reported deaths. Board staff is also awaiting statistics from a plastic surgery residency on the number of cosmetic procedures that residents perform in training.

Board staff is planning for a meeting in January 2012.

Ad Hoc on Competency

Dr. Harp mentioned the work being done by Dr. Dalton on this front and advised that FSMB recently distributed an outline of their proposed maintenance of licensure pilot

projects. Virginia's options for participation will be looked at by the Competency Ad Hoc in January 2012, with a recommendation to the Full Board in February 2012.

### **Report of the Office of the Attorney General**

Ms. Marschean briefly discussed the official advisory opinion issued by Attorney General Kenneth Cuccinelli, II regarding what constitutes a public meeting and when a meeting must be noticed. Ms. Marschean pointed out this opinion was issued specifically for the Goochland Electoral Board which has only three members. Ms. Marschean reminded the Board members that when more than two of them are together, there should be no discussion of Board business.

Ms. Marschean then provided an update on the matters in litigation with Dr. Madden, Dr. Vuyuru, Dr. Amarasinghe, and Dr. Wade.

### **NEW BUSINESS**

#### **Regulatory Matters**

##### Chart of Regulatory Actions

Ms. Yeatts briefly reviewed the chart of regulatory actions. This report was provided for information only; no action was required.

##### Petition for rule-making regarding CRNA's and advanced practice nursing standards.

Ms. Yeatts reviewed the petition submitted by Cathy Harrison on behalf of the Virginia Association of Nurse Anesthetists. The petition requests that the Boards of Nursing and Medicine initiate review of the National Council of State Boards of Nursing Model Nursing Practice Act and Model Nursing Administrative Rules which outline the national trend towards uniform state laws and regulations for advanced practice nurses. It further requests that the language of the Virginia Regulations Governing the Licensure of Nurse Practitioners (18 VAC 90-30-10 et. seq.) be updated to be consistent with the language and principles found in the above documents to create greater efficiencies in the practice of CRNA's.

Ms. Yeatts advised that the comment period closed on November 30<sup>th</sup> and that the Board of Nursing has not had an opportunity to review the comments received. Ms. Yeatts suggested that the Committee defer action on this item at this time. This would allow the Board of Nursing to review the comments, hold its scheduled meeting and develop its recommendations for consideration by the Board of Medicine Legislative Committee in January. The Full Board can then consider all recommendations in February. Ms. Yeatts noted that revision of the regulations could be fast-tracked if the changes are minor and non-controversial; otherwise it would have to follow the usual regulatory process beginning with a NOIRA.

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Mr. Heretick moved to defer review of the petition to the Legislative committee in January, giving the Board of Nursing time to develop its recommendations. The motion was seconded.

Ms. Yeatts said the current regulations keep separate the protocol for medical duties and the practice agreement for prescriptive authority. If the national model is followed, these two documents would be merged into one. Mirroring the national recommendations also anticipates that the collaboration/supervision ratio would go from 4 to 6 CRNA's at a time.

Dr. Dalton expressed some concern about merging the two documents. She said that during her time on the Joint Boards of Nursing and Medicine, most of the disciplinary cases have involved prescriptive authority. Dr. Dalton suggested a review of how many cases have been adjudicated that entail prescriptive authority versus other issues. Ms. Yeatts explained that integrating the two documents would not affect current practice vis-à-vis prescriptive authority. Mr. Heretick's original motion was restated for the record, seconded and carried unanimously.

Suggested Questions/Items for Addition to the Biennial Renewal Process

Dr. Harp told the Committee that the Ad Hoc on Continuing Competency did not have an opportunity to discuss this topic at its last meeting and present to the full Board in October. The questions are being presented to this Committee for review and approval by the Board and Board counsel.

Dr. Harp stated that the overarching notion of the Ad Hoc committee is that the Board of Medicine should implement questions in the renewal process to better protect the public. The questions should cover malpractice, actions by other entities, convictions, impairment and active practice.

During the discussion it was pointed out that several of these questions are already required by the physician profile system. The Committee also questioned what could/should be done with information of an adverse nature.

Dr. Dalton suggested that these questions be tied to the profile with no option to renew without completing the questions. Ms. Deschenes noted that in addition to this suggestion, review of the initial licensing application for possible improvements should be considered.

The Committee discussed several theoretical scenarios and after discussion, Ms. Marschean advised that she would need to do some research before she could provide any useful input.

Dr. Ransone moved that the Committee table this issue until Board counsel can provide a legal opinion at the next appropriate meeting. Dr. Piness seconded.

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Dr. Harp suggested that this be considered an issue for the February retreat.

The Committee continued to discuss the lengthiness of the current online renewal process and that additional questions might discourage practitioners from completing any optional survey questions, most notably the physician workforce survey.

Dr. Hoffman called the question.

Dr. Ransone's motion was restated, and the motion passed unanimously.

Board staff was instructed to present the legal limits of what the Board can ask to the Legislative Committee on January 20, 2012. In addition, they were asked to review the current profile questions for any suggested changes.

Consideration of Credentials Committee Recommendations

Dr. Harp advised that there were two informal hearings held on Thursday, December 1, 2011. Since both individuals were granted full and unrestricted licenses, there was nothing to present for consideration.

Dr. Dalton asked that the Committee give thought to any changes to the initial application that might better capture the information necessary for Board staff and the Credentials Committee to determine competency.

**Next scheduled meeting:** April 13, 2012

**Adjournment:** With no other business to conduct, the meeting adjourned at 10:15 a.m.

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Claudette Dalton, MD, President  
President

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William L. Harp, M.D.  
Executive Director

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Colanthia Morton Opher  
Operations Manager