

**VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES**

Friday, August 2, 2013

Department of Health Professions

Henrico, VA

CALL TO ORDER:

The meeting convened at 8:36 a.m.

MEMBERS PRESENT:

Stuart Mackler, MD, President
Wayne Reynolds, DO, Vice-President
Robert Hickman, MD, Secretary-Treasurer
Valerie Hoffman, DC
Kenneth Walker, MD

MEMBERS ABSENT:

Claudette Dalton, MD
Stephen Heretick, JD
Jane Maddux

STAFF PRESENT:

William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Executive Director for Discipline
Barbara Matusiak, MD, Medical Review Coordinator
Colanthia Morton Opher, Operations Manager
Erin Barrett, JD, Assistant Attorney General
Arne Owens, Deputy Director, Department Health Professions

OTHERS PRESENT:

W. Scott Johnson, MSV
Michael Jurgensen, MSV

Call to Order

Dr. Mackler called the meeting to order.

Roll Call

A quorum for conducting business was declared.

Emergency Egress Procedures

Dr. Reynolds provided the emergency egress procedures.

Adoption of Agenda

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

Public Comment on Agenda Items

Dr. Mackler welcomed the public in attendance and opened the floor for comment.

Mr. Jurgensen addressed the members of the Committee and expressed the Medical Society's support for the pending nurse practitioner regulations. He also noted that the Society has some concerns about requiring specific content for continuing medical education, but will review any proposal developed by the Board.

Approval of the April 5, 2013 Minutes

Dr. Reynolds moved to approve the minutes as presented. The motion was seconded and carried unanimously.

New Business

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

Revenue and Expenditures Report

Dr. Harp advised that the Board is still in good fiscal health, and that the cash balance as of May 31, 2013 was \$8.3 million.

Letter from Dr. Reynolds-Cane

Dr. Harp reviewed the letter from Dr. Reynolds-Cane, DHP Director, asking the Board to consider a one-time renewal fee decrease of approximately 14% for all professions at their next renewal.

Key Performance Measures

Dr. Harp reported on the 4th quarter performance measures, noting that 320 cases were received by the Board, and 262 were closed. The pending caseload older than 250 days was 18%, which is well under the 25% threshold. Cases closed within 250 business days was at 94%. Dr. Harp reminded the Committee that the multi-sequence process from initial complaint to resolution plays into the 250 business day clock.

Responding to the Committee's inquiry on how adequately staffed APD is for meeting the established goals, Ms. Deschenes said that Jim Banning, Director for APD, could best address that question. She did say that APD was currently addressing a staffing shortage which could affect how many and how quickly cases get to the Board for scheduling.

HPMP

Dr. Harp provided a quick review of the HPMP report and noted a slight decrease in the numbers for Medicine. He stated that the Virginian-Pilot may be printing a story regarding practitioners in monitoring programs since a reporter had recently requested information related to the topic.

Letter from Medical Society of Virginia (MSV)

Dr. Harp reviewed the letter from MSV confirming its support for the Virginia nurse practitioner regulations for patient care teams. Dr. Harp pointed out that the emergency regulations were effective May 8, 2013 and will need to be replaced by May 7, 2014.

Petition for Rulemaking – Ms. Cartwright

Dr. Harp brought to the Committee's attention a petition for rulemaking from Melody Cartwright who petitions the Board to amend the requirements for practice by chiropractors relating to diagnosis and treatment of curvature of the spine and the use of digital x-rays. Dr. Harp stated that the petition is currently on Townhall for public comment until August 28th, and that any comments received will be presented to the Full Board in October.

Chart of Regulatory Actions

In the absence of Elaine Yeatts, DHP Policy Analyst, Dr. Harp briefly went over the status of the pending regulations as of July 19, 2013. This report was for informational purposes only and did not require any action.

Amendments to Regulations Governing the Practice of Nurse Practitioners and Regulations for Prescriptive Authority for Nurse Practitioners

Dr. Harp led the Committee through the proposed regulations that must replace the emergency regulations currently in effect. The Committee thoroughly reviewed and discussed the suggested amendments to 18VAC90-30-10 et.seq. After clarification that an intern/resident cannot serve as a patient care team physician, Dr. Hickman moved to adopt the proposed regulations with amendments as presented. The motion was seconded and carried unanimously.

After further discussion regarding the proposed regulations for prescriptive authority for nurse practitioners and the suggested amendments, Dr. Reynolds moved to adopt the amended version of 18VAC90-40-10 as proposed regulations to replace the emergency regulations currently in effect. The motion was seconded and carried unanimously.

Request to Extend the Life of Emergency Regulations up to Six Months

Dr. Harp informed the Committee that the emergency regulations for the licensure of behavior analysts and assistant behavior analysts are due to expire September 18, 2013. The request would extend the life of the emergency regulations to April 18, 2014.

Dr. Reynolds moved to accept the request to extend the emergency regulations until the time noted. The motion was seconded and carried unanimously.

Proposal for new Physician Orientation Mini-Course

Dr. Mackler presented an overview of the Maryland Board of Physicians' New Physician Orientation and asked the Committee to consider revamping the Board's webpage. The majority of the members agreed that the current webpage was acceptable and did not need to be re-worked. Ms. Deschenes quoted from an email received earlier that morning from a reporter that commended Virginia for its user-friendly website.

After discussion, Dr. Reynolds moved not to revamp the existing page, but to approve the development an orientation module for new licensees. The motion was seconded and carried unanimously.

Name Designation for License Printing

Ms. Opher explained how the agency's licensing database is set up for the purpose of capturing a licensee's name, and how Board staff was required to populate a "doing business as" field from which the license is actually printed.

Ms. Opher advised that historically the Board's policy has been to populate the "doing business as" field with the licensee's legal first name, middle initial, and last name. However, staff was recently advised that a licensee should be allowed to have any name he/she wished on the license. Ms. Opher provided a scenario in which the licensee's request to use other than the first name, middle initial, last name in the "doing business as" section was honored. Board staff received an email from a hospital credentialing representative advising that the license printed from the "doing business as" line was not acceptable because it did not match the name in the Board's database.

After discussion about what constitutes the legal name of an applicant, the Committee said that the Board should simply stick to the first name, middle initial and last name. The applicant would have to have documentation to support the name he/she wished to use as the legal name.

Dr. Reynolds moved that the traditional process of using the first name, middle initial and last name for the purpose of issuing a license under the Board of Medicine remain unchanged. The motion was seconded and carried unanimously.

The Committee adjourned for a ten minute break and reconvened at 10:00 a.m.

Facility Online Employment Verifications

Ms. Opher advised that with more and more facilities going electronic, Board staff is receiving emails advising that employment/privileges verifications can be accessed from third-party services. Ms. Opher explained that some sites are straight-forward, but some can take up to 30 minutes to set up an account to access the information.

After discussion, the Committee continues to support the Board's current policy of requiring the applicant to have the primary source submit employment verification directly to the Board, whether by email, fax, or mail.

Discipline Report

Ms. Deschenes advised that the discipline unit has issued all available notices through September, but there are approximately 185 pending completion. Ms. Deschenes advised the Committee to expect a decrease in our key performance measures in the next six months because of the aging cases in APD. Ms. Deschenes reiterated that APD is doing its best, given the staffing challenges.

Ms. Deschenes stated that Board staff will do its best to settle as many cases as possible, but the members should expect to have a heavy case load in early 2014.

Petition for Rulemaking to Require CME on the Use of Opioids and Addiction

Dr. Harp provided an overview of how the use of opioids has changed since the mid-1990s. He reminded the Committee that in 1997 FSMB published a Model Policy which was revised in 2004 and has just been revised again. Dr. Harp noted that with the steady climb in overdose deaths, the alarm has been sounded for action nationwide. He commented that a three-pronged approach was needed to combat the drug scourge—education, enforcement, and treatment.

Dr. Harp recounted that in 2006 the PMP and the Board began to hold educational symposia for prescribers of controlled substances around the Commonwealth. In 2007, the Board formed an Ad Hoc Committee on Pain Management that met several times and developed proposed regulations. However, during the regulatory review process, the Executive Branch requested that the Board withdraw the regulations in 2009. It did so reluctantly. In 2008, FSMB gifted the Virginia Board of Medicine 20,000 copies of its *“Responsible Opioid Prescribing”* which were sent to licensed MDs and DOs showing a Virginia address. More recently, the Medical Society of Virginia has held several meetings in conjunction with the PMP and OneCare. Even with these efforts at education, the death toll remains approximately 500 a year from overdose deaths. So, the question is, “Is it time for mandatory CME on addiction and proper prescribing?”

Dr. Harp noted that the Board has always been in favor of practitioners choosing the CME that would best help them in their daily practice. However, there have been bills in the General Assembly in recent years that sought mandatory CME. In light of all the foregoing, it may be the time for the Board to consider regulation to require CME on this topic.

Drs. Walker and Reynolds agreed that while it’s good to have the mandate, what good would it do? There are 5 -6 states that have these mandates, but what analysis is available to support that it does any good? They added that the treatment system in the Commonwealth cannot meet the need.

After discussion, the Committee agreed that this issue would be better addressed in the confines of a workgroup. Mr. Jurgensen restated his support to have any recommendations developed reviewed by MSV. The Committee also agreed that all prescribers should not be mandated to take a prescribing CME course, just those that are prolific prescribers.

Recognizing that there would need to be a statutory change in order for PMP to share information with the Board, the Committee asked Dr. Harp to author a letter to Dr. Reynolds-Cane asking for consideration of a bill that would allow the PMP to identify the most prolific prescribers for the purpose of requiring CME of them.

Credentials Committee Recommendation

The Board was provided with the Credentials Committee’s recommendation in the matter heard on July 19, 2013.

On a motion made by Dr. Hoffman and duly seconded, the Board voted unanimously to accept the Recommendation of the Credentials Committee.

Announcements

The Committee welcomed Erin Barrett, Sr. AAG back from leave.

Next scheduled meeting: December 6, 2013

Adjournment: With no other business to conduct, the meeting adjourned at 11:13 a.m.

Stuart Mackler, MD, President
President

William L. Harp, M.D.
Executive Director

Colanthia Morton Opher
Operations Manager