---FINAL APPROVED--

VIRGINIA BOARD OF MEDICINE
Ad Hoc Committee on Competency

Tuesday, May 24, 2011 Department of Health Professions Richmond, VA

CALL TO ORDER: The meeting convened at 10:11 a.m.

MEMBERS PRESENT: Claudette Dalton, MD, Chair
Madeline Stark, JD
Richard Hoffman, MD
Roderick Mathews, JD

MEMBERS ABSENT: Wayne Reynolds, DO
David Swankin, JD

STAFF PRESENT: William L. Harp, MD, Executive Director
Ola Powers, Deputy Executive Director, Licensing
Barbara Matusiak, MD, Medical Review Coordinator
Colanthia Morton Opher, Operations Manager

OTHERS PRESENT:

EMERGENCY EGRESS INSTRUCTIONS

Dr. Dalton gave verbal emergency egress instructions.

ROLL CALL

A quorum was declared.

REVIEW OF MINUTES FROM NOVEMBER 23, 2009 and NOVEMBER 19, 2010

Ms. Stark moved to approve the minutes as presented. The motion was seconded and carried.

APPROVAL OF AGENDA

Mr. Mathews moved to approve the agenda as presented. The motion was seconded and carried.

PUBLIC COMMENT

There was no public comment.

Dr. Dalton began by reporting that the Federation of State Medical Board's MOL Implementation Report is the last installment of a 5-8 year plan for medical boards to consider as they take on the task of developing structures to assess continuing competency. She advised that FSMB has been very prudent in their process and has worked hard to create a framework for continuing competency that will be very easy for the practitioner. The proposed recommendations incorporate activities that licensees are currently required to perform in order to keep their hospital privileges, board certification, etc. She said that embedding the processes for measuring continuing competency in a practitioner's daily routine would make the maintenance and tracking of such activity less onerous. She also advised the Committee that Dr. Harp had relayed Virginia's interest in being part of the FSMB pilot program.

Jerry Canaan advised that the Medical Society of Virginia is not taking a position at this time but rather monitoring the direction the Board is interesting in going. Commenting as an attorney that represents physicians before the Board, he said he understands the concerns of all parties in this matter. Licensees called before the Board at times feel overregulated, including in the CME realm. On the other hand, when hiring an expert to assist with a case, a question that often arises is "what has this physician been doing to keep up with the changes in his profession?"

Dr. Matusiak stated that she shares some of the same concerns regarding the effects of regulation on attracting and maintaining good practitioners; too many requirements may have a discouraging effect. She said that standard of care issues may not always be a question of competency, but rather one of not utilizing one's full knowledge to deliver competent care. She also noted that many practitioners may not fare well with a requirement to recertify every 10 years.

Dr. Hoffman said that the Federation and the Board seem to be in contrasting positions. He suggested that any final recommendations for a continuing competency framework be supported by evidence.

Dr. Harp asked Ms. Powers to brief the committee on the current renewal process. Ms. Powers advised the Committee that a licensee only need attest to obtaining 60 hours of CME at the time of renewal, and if the licensee checks "no", there is no provision in the law to prevent renewal. The Committee discussed the "holes" in the renewal process, (e.g., no requirement to report malpractice, actions by hospitals or other state boards, etc.) however, Dr. Harp advised that most of these items come to the Board via the monthly FSMB report that captures actions by other boards and may include convictions or issues of impairment.

Dr. Harp advised that the structure of the physician profile provides a foundation for a CME tracking system that would be beneficial to all. DATA could be asked to attach the CME form to each profile for each licensee's recording of his/her CME. Not only would this simplify record-keeping for the licensee, it would be a window on the physician's continuing education choices for the public, and it would facilitate a 100% audit, rather than the 1-2% currently performed.

The Committee agreed that one of the first steps that should be taken is to update the renewal process. The questions should, at a minimum, address interim malpractice, actions by other

entities and active practice. There was also the suggestion that questions to capture convictions and impairment be asked if allowed by law and by the Americans with Disabilities Act.

Dr. Harp advised that these questions could be added to the renewal workforce survey, which is currently voluntary, but pointed out that compliance would be significantly less than 100%. He stated that it would take either a change in law or regulation to make providing the answers to such questions mandatory in the renewal process.

The Committee reviewed the recommendations from the Federation of State Medical Boards MOL Implementation Group. After discussion, their suggestions were as follows:

MOL #1 – Reflective Self-assessment

The Committee agreed that the 60 hours currently in regulations was satisfactory but that it should be practice-relevant. The Board should communicate with DHP DATA to ascertain the necessary steps to have the resurrected CME form available on each practitioner's profile for recording and auditing. The form would be modified to capture the course topic, number of hours obtained, and the activity's relevance to the practitioner's practice. The requirement for this information would be every two years with renewal. Dr. Harp stated that this change may be as simple as having a sentence inserted in §54.1-2910.1 that requires the practitioner to post CME activities. Board staff will seek direction from Ms. Yeatts on the approach required to make these changes.

MOL #2 Assessment of Knowledge and Skills

The Committee unanimously agreed that for those licensees that had hospital privileges, the credentialing process and the review of patient care that staff membership provides would be sufficient for meeting this requirement. However, the concern about the 50% of practitioners that do not have hospital affiliations was raised. Through discussion, the Committee separated these individuals into two groups: 1) those in an ABMS or OCC recertification track (acceptable), and 2) those that were grandfathered into ABMS or OCC with no recertification requirements and those that were never certified, for whatever reason. After discussion, the final suggestion was that for the latter two, MSV be consulted for the development of surrogate markers for competency. The Committee also agreed that this requirement be on a six year frequency.

MOL #3 Performance in Practice

The Committee expressed the same comments as in MOL #2 regarding seeking guidance from MSV with those that did not have hospital privileges or were not in an MOC or OCC track. This requirement would also be on a six year frequency.

In addition, the Committee suggested that as a resource for licensees, an educational module about the Board's laws and regulations be posted on our website for Type I credit. Dr. Harp mentioned the availability of two recent video presentations (EVMS and MCV) that may be readily available for posting. Board staff will follow up on this as an immediate possibility.

Also, it was suggested that any educational module that is mission-essential, such as Dr. Yanni's pain management course, the VDH module on how to fill out a death certificate, and others that might come along, be posted on the website. Additionally, the committee suggested that the listing of such courses be included in the online renewal process for tracking purposes. The final suggestion was that the Board approach MSV and ask if it might serve as a clearinghouse for electronic links to sites that practitioners could utilize in locating performance-in-practice activities.

Dr. Dalton posed the possibility of coordinating with the North Carolina Board, and perhaps others, in the development and implementation of a this project. Dr. Harp stated that FSMB would probably encourage and applaud the efforts of those boards that worked together on MOL initiatives.

In closing, the Committee requested that the above proposed recommendations be presented to the Full Board, June 23, 2011, and that a working group comprised of board members be assigned to supplement the Ad Hoc Committee in the development of this plan.

This Committee's next meeting will be scheduled in late fall, by which time the FSMB may have identified the states for the pilot.

With no other business to conduct, the meeting adjourned at 1:15 p.m.

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Claudette Dalton, M.D.
Chair

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William L. Harp, M.D.
Executive Director

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Colanthia M. Opher
Recording Secretary