

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

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Friday, August 2, 2019

Department of Health Professions

Henrico, VA

**CALL TO ORDER:** Dr. Tuck called the meeting of the Executive Committee to order at 8:36 a.m.

**ROLL CALL:** Ms. Opher called the roll; a quorum was established.

**MEMBERS PRESENT:** Ray Tuck, DC - President  
Blanton Marchese - Secretary-Treasurer  
David Archer, MD  
Alvin Edwards, MDiv, PhD  
Karen Ransone, MD

**MEMBERS ABSENT:** Syed Salman Ali, MD  
Lori Conklin, MD - Vice-President  
Kenneth Walker, MD

**STAFF PRESENT:** William L. Harp, MD - Executive Director  
Jennifer Deschenes, JD - Deputy Director for Discipline  
Colanthia Morton Opher - Deputy Director for Administration  
Michael Sobowale, LLM - Deputy Director for Licensure  
Barbara Matusiak, MD - Medical Review Coordinator  
Barbara Allison-Bryan, MD - DHP Chief Deputy Director  
Elaine Yeatts - DHP Senior Policy Analyst  
Erin Barrett, JD - Assistant Attorney General

**OTHERS PRESENT:** W. Scott Johnson, JD - MSV  
Jennie Wood - Board of Medicine

**EMERGENCY EGRESS INSTRUCTIONS**

Mr. Marchese provided the emergency egress instructions.

**APPROVAL OF MINUTES OF DECEMBER 7, 2018**

Dr. Edwards moved to approve the meeting minutes from December 7, 2018 as presented. The motion was seconded and carried unanimously.

**ADOPTION OF AGENDA**

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

## **PUBLIC COMMENT**

There was no public comment.

## **DHP DIRECTOR'S REPORT**

Dr. Allison-Bryan began by informing the Committee of the events surrounding the passing of Dr. Hughes Melton. Dr. Melton was the Commissioner of the Department of Behavioral Health and Developmental Services and was very active in the medical community. He taught and inspired many practitioners and was a big contributor to her interest in substance use disorders. The Committee members observed a moment of silence for Dr. Melton and his family and the young woman who was tragically killed in the crash and her family.

Dr. Allison-Bryan also provided an overview of two workgroups generated by the 2019 General Assembly.

1. Telemedicine - This workgroup is looking at ways to enhance a physician's ability to provide care through telemedicine, thereby creating greater access for patients in need. It is also looking to maintain the principle that the practice of medicine occurs where the patient is located. Dr. Brown will be leading the group, and Dr. O'Connor will be a participant.
2. International Medical Graduates Work Group: Barriers to Licensure and Opportunities for the Commonwealth - Dr. Allison-Bryan said that at least 63 individuals in Virginia were physicians in their home country but have been unable to get a license in the Commonwealth. This workgroup is hoping to level the playing field for international graduates.

Dr. Archer recalled that the current requirement for IMG's is one year of residency.

Dr. Allison-Bryan said that, prior to 2016, the regulations required two years of postgraduate training for IMG's. Then the Board reduced it to one year for both US and Canadian graduates. A significant issue is that there are not a lot of residency slots to go around. Some IMG's have had full residencies overseas and practiced in another country. However, such training and experience does not meet the licensure requirements in Virginia. It is anticipated that the workgroup will have some recommendations regarding how to help IMG's clear some of the hurdles to licensure.

## **PRESIDENT'S REPORT**

Dr. Tuck had no report and invited Dr. Edwards to provide a report on his attendance at FSMB's Education Committee meeting. The Committee is responsible for planning next year's Annual Meeting.

Dr. Edwards stated that he was on the Committee to bring the perspective of a non-physician. He noted that the Virginia Board was well regarded by the members of the Committee. One of his suggestions was a glossary of terms for non-physician fellows. FSMB said such a tool already exists. The 2019 Annual Meeting was evaluated along with discussion of potential speakers for next year's meeting, which will be in San Diego. The Committee is looking for best practices and new ways of doing things in medical regulation.

## **EXECUTIVE DIRECTOR'S REPORT**

Dr. Harp introduced Michael Sobowale, the new Deputy for Licensure, and provided the Committee a little about his experience in health care regulation and supervision of staff.

Mr. Sobowale told the Committee that he was pleased to be a part of Board staff. He noted that he has worked in the regulatory field for over 18 years and brings his experience and understanding of the healthcare regulatory environment.

## **NEW BUSINESS**

### Chart of Regulatory Actions

Ms. Yeatts provided a brief overview of the regulatory actions as of July 19, 2019. She noted that all actions are moving along very well.

### Board Action on Fee Reduction

Ms. Yeatts referred to the financial report showing the Board's current surplus and reviewed the proposed reduction of 20% in renewal fees for all professions in 2020-2021. She noted that the amended regulations fall under an exemption from the Administrative Process Act. The regulations should be in effect prior to the time that renewal notices for January 2020 are sent.

**MOTION:** Dr. Edwards moved to approve the amended regulations as presented; the motion was properly seconded. Mr. Marchese stated that, in discussing this matter with Dr. Harp, he understands that Dr. Brown fully supports this action.

The motion carried unanimously.

### DHP-Medicine Regulatory/Policy Actions – 2019 General Assembly

Ms. Yeatts provided a brief overview of the regulatory and policy actions affecting the Board of Medicine. She fielded questions about HB2457 – Retiree license, and advised that this item will be on the Legislative Committee meeting September 6, 2019. This report was for informational purposes only.

### Adoption of exempt action – Physician Assistants

Ms. Yeatts presented the draft proposed amendment to 18 VAC85-50-50 – Regulations Governing the Practice of Physician Assistants, noting that the amendment will authorize the issuance of a license by endorsement to a physician assistant who is the spouse of an active duty military member.

**MOTION:** Dr. Edwards moved to adopt the amended regulation as an exempt action. The motion was properly seconded and carried unanimously.

Adoption of Regulations for Waiver of Electronic Prescribing by Emergency Action

Ms. Yeatts reviewed the amendments to §54.1-3408.02, and 18 VAC85-21-21, which require electronic prescribing of opioids by July 1, 2020. She stated that the General Assembly decided to grant a one-year exemption to those physicians who provided proof of hardship for not being able to meet the deadline. She also noted that the Board will need to delegate authority to Dr. Harp to grant an exemption. She then informed the members that the enactment clause requires adoption of regulations within 280 days, so the Board must accomplish this by an emergency action.

**MOTION:** After a brief discussion, Dr. Edwards moved to adopt the emergency regulations and a Notice of Intended Regulatory Action (NOIRA) to replace the emergency regulations as presented. The motion was properly seconded and carried unanimously.

Adoption of Regulations for Physician Assistants by Emergency Action

Ms. Yeatts reviewed the amendments to §§54.1-2900, 54.1-2951.1 through 54.1-2952.1, 54.1-2957 and 18 VAC85-50-10 et. seq – Regulations Governing the Practice of Physician Assistants

Ms. Yeatts advised that the amendments would change supervision of physician assistants to practice with a patient care team physician.

Ms. Yeatts also stated that the enactment clause on HB1952 requires adoption of regulations within 280 days, so the Board must amend the regulations by an emergency action.

**MOTION:** Dr. Archer moved to adopt the emergency regulations as presented. The motion was properly seconded and carried unanimously.

**MOTION:** Dr. Edwards then moved to adopt a Notice of Intended Regulatory Action (NOIRA) to replace the emergency regulations as presented. The motion was properly seconded and carried unanimously.

2. Licensure by Endorsement

Dr. Harp provided the Committee with the following staff notes:

Since the application for Licensure by Endorsement was posted in December 2018, Board staff has been able to take note of steps in the process that work, don't work, or need further clarification.

At the June Board meeting, Board staff reported that it had provided the option to applicants that had started in the traditional pathway to switch to the endorsement pathway if they qualified, and if it had been less than 30 days since they submitted the traditional application. Over time, this became somewhat burdensome. Board staff asked the Board to make it a policy that such switching would cease as of July 1, 2019. The Board agreed.

In regulation, the first 5 requirements of Licensure by Endorsement are essentially YES or NO. However, the 6th requirement reads:

6. Have no grounds for denial based on provisions of § 54.1-2915 of the Code of Virginia or regulations of the board.

The instructions for the applicant to read prior to submitting an application by Endorsement include:

6) Provide answers to the questions in the online application. NOTE: FOR ANY "YES" ANSWERS FOR QUESTIONS 4-17, you must provide a narrative in the space provided.

Board staff asks that the language above "you must provide a narrative in the space provided" be replaced with "you do not qualify for Licensure by Endorsement and must file through the traditional pathway."

Ms. Barrett spoke in support of this change and stated that the endorsement pathway is meant to be the express train with no stops, so the application should be clean.

Ms. Hickey inquired as to whether question #9 was sufficient for capturing necessary information to deem the applicant eligible for endorsement. She suggested that "or past" be inserted after pending.

**MOTION:** Dr. Edwards moved to accept the changes presented by staff, and the amendment to question #9. The motion was properly seconded and carried unanimously.

### 3. Proposed 2020 Board Meeting Dates

The Committee unanimously agreed to accept the dates as presented with the following changes:

- Full Board – February 20-21 amended to February 20-22
- Legislative – September 4<sup>th</sup> – possibly moving meeting date (Ms. Opher will check room availability)

**ANNOUNCEMENTS**

Dr. Harp announced that Dr. Matusiak would like the Board members to review some disciplinary cases after adjournment.

The next meeting of the Committee will be December 6, 2019 at 8:30 a.m.

**ADJOURNMENT**

With no additional business, the meeting adjourned at 9:36 a.m.

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Ray Tuck, Jr., DC  
President, Chair

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William L. Harp, MD  
Executive Director

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Colanthia M. Opher  
Recording Secretary