

DRAFT
VIRGINIA BOARD OF HEALTH PROFESSIONS
DEPARTMENT OF HEALTH PROFESSIONS
FULL BOARD MEETING
May 3, 2011

TIME AND PLACE: The meeting was called to order at 1:00 p.m. on Tuesday, May 3, 2011 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, VA, 23233

PRESIDING OFFICER: Damien Howell, MS, PT, OCS Chair

MEMBERS PRESENT: Mary Lou Argow, Counseling
Damien Howell, Physical Therapy
David Kozera, Pharmacy
Patricia Lane, Nursing
Juan Montero, Medicine
Jonathan Noble, Optometry
Michael Stutts, Psychology
John Wise, Veterinary Medicine

MEMBERS NOT PRESENT: Maureen Clancy, Citizen Member
Paul T. Conway, Citizen Member
Yvonne Haynes, Social Work
Billie Watson Hughes, Funeral Directors & Embalmers
Fernando Martinez, Citizen Member
Mary Smith, Long Term Care Administrators
Paul Zimmet, Dentistry

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director for the Board
Dr. Dianne Reynolds-Cane, MD, DHP Director
Arne Owens, DHP Chief Deputy Directory
Elaine Yeatts, Senior Policy Analyst
Diane Powers, DHP Director of Communications
Justin Crow, Research Assistant
Laura Chapman, Operations Manager

BOARD COUNSEL: Howard Casway, Senior Assistant Attorney General

OTHERS PRESENT: Tyler Cox, HDJN
Scott Johnson, HDJN
Susan Ward, VHHA
Cal Whitehead, Whitehead Consulting, Inc.
Michael Jergensen, MSV
Becky Perdue, VSCLS
Emy Morris, VCU-Clinical Lab. Sciences
Becky Bowers-Lanier, Legislative Consultant
W. Scott Johnson, Esquire, HDJN

QUORUM: With 8 members present a quorum was established.

AGENDA: No changes or additions were made to the agenda.

BOARD COUNSEL:**Attorney General's Office**

Eric Gregory, former Assistant Attorney General and Counsel for the Board, has left his position to serve as Assistant Commonwealth's Attorney in Powhatan County. It was noted by Mr. Casway that this position will be filled in August 2011. Until this position is filled, Mr. Casway will be the Board's legal counsel.

PUBLIC COMMENT:

Becky Bowers-Lanier, Legislative Consultant

Ms. Bowers-Lanier spoke on behalf of the Virginia Chapter of the American College of Nurse Midwives, Virginia Athletic Trainers Association and the Virginia Counselors Association in support of the Secretary of Health and Human Resources request to study the scope of practice laws of health professionals. Mr. Bowers-Lanier encourages the Board to work collaboratively with the Virginia Department of Health which is currently engaged in a planning project to increase access to care in rural and underserved areas of the Commonwealth.

W. Scott Johnson, General Counsel, Medical Society of VA
The leadership of the Medical Society of Virginia (MSV) and of the Virginia Council of Nurse Practitioners (VCNP) have begun working together to pursue an agreement that outlines a team-based health care model in which all members of the health care team can utilize their full education, skills and talents in the best interests of efficient, quality patient care. Both organizations have been participants in the Virginia Health Reform Initiative (VHRI) Capacity Task Force. The MSV is currently preparing a workplan and would like to be a resource for the Board.

APPROVAL OF MINUTES:

Meeting minutes from February 15, 2011 were approved by motion of Ms. Lane and properly seconded by Dr. Wise.

DEPARTMENT DIRECTOR'S REPORT:

Dr. Reynolds-Cane is a Senior Advisor on the Virginia Health Reform Initiative Advisory Council as well as a member of the Lyme Disease Taskforce.

All five (5) bills submitted to the General Assembly relating to the Department passed.

The Department of Health Professions has signed a MOU with the VCU Department of Psychiatry to continue the Health Practitioners Monitoring Program.

The Department's Strategic Plan has been completed.

The Healthcare Workforce Data Center has implemented several workforce surveys. Dr. Carter, the Center's Director, assisted the Department of Health in obtaining an implementation grant of \$1.93 million from the Health Resources Services Administration. This grant will allow the collection, dissemination, and coordination of health workforce

information with the new VHWDA which will be housed on the first floor of the Perimeter Center.

**LEGISLATIVE/REGULATORY
UPDATE:**

Ms. Yeatts-Senior Policy Analyst
Ms. Yeatts provided handouts of the 2011 General Assembly and current regulatory actions. The Attachment provides a summary. (Attachment 1)

SANCTION REFERENCE:

Mr. Kauder reviewed the progress of the Sanctions Reference Points (SRP) evaluation research and reported on current changes being made to the Board of Nursing and Board of Medicine's SRP worksheets and manuals. Mr. Kauder stated that SRP worksheets are not set in stone, they are meant to evolve to reflect the sanctioning culture of respective boards. The evaluation work will continue with the Board of Pharmacy, Board of Optometry, and Board of Dentistry next.

Mr. Kauder also stated that he has discovered that there is inconsistency among the boards as to the distribution of the completed SRP worksheet and cover sheets. Mr. Casway recalled the advice originally proffered, that the respondent is entitled to the fact basis for disciplinary decisions affecting him. Mr. Casway recommended that the Department establish a policy or directive regarding this.

The Board discussed how best to encourage continued staff and Board member training. Mr. Kauder asked the Board if they felt that additional "public" training was also necessary. This would involve offering training for continuing education credits through the Virginia Bar Association (as was done when SRPs were launched for the Board of Medicine in 2003) and could also include other members of the general public as resources could accommodate.

Motion: Dr. Zimmet moved that the Board of Health Professions train/retrain legal professionals and others to be determined on Sanction Reference and relevant updates, thereto. The motion was properly seconded by Dr. Kozera and passed unanimously.

**AGENCY COMMUNICATIONS &
EDUCATION:**

Ms. Diane Powers
Ms. Powers stated that external growth is a big focus for the Department. A new "Did You Know" section will be added to the DHP website along with other proposed items for the 2011 calendar year.

DHP works in collaboration with many other state agencies and is being more and more reflected in communications.

The one year anniversary of the *Director's Newsletter* is

approaching. This has been a great communication tool used to inform DHP employees of what has been going on within and outside the Agency. (Attachment 2)

COMMITTEE REPORT:

Regulatory Research Committee

Mr. Howell presented a report of the Committee's activities and actions. The Committee's recommendations are listed as follows:

Clinical Laboratory Scientists and Technicians

Information on Virginia laboratory inspections from the Centers for Medicare and Medicaid Services was received April 21, 2011 not permitting enough time for review at this meeting, but the Committee plans to make recommendation at its next scheduled meeting.

Genetic Counselors

The Committee reviewed policy options for recommendations ranging from no action to licensure. They concluded that regulation was warranted at the licensure level and that Genetic Counselors should be regulated through the Board of Medicine.

Motion: Mr. Howell moved that Genetic Counselors should be licensed. The motion was properly seconded by Dr. Wise and passed unanimously.

Motion: Mr. Howell moved that the Genetic Counselors be housed under the Board of Medicine and regulated through an Advisory Committee. The motion was properly seconded by Mr. Kozera and passed unanimously.

BOARD REPORTS:

Physical Therapy Board

Mr. Howell advised the Board that they presented Sanction Reference information at the annual meeting of the Federation of State Boards of Physical Therapy, and it was very well received.

Pharmacy Board

Mr. Kozera informed the Board that the implementation of inspection "ticketing" is going very well. He stated that compliance in addressing deficiencies has increased dramatically since its implementation. He noted that hospital pharmacy ticketing is slated to begin in September 2011.

Board of Counseling

Ms. Argow noted that the Board of Counseling has concerns regarding training of Counselors. There are questions regarding supervision and training of supervisors relating to recent changes to Medicaid reimbursement regulations which provide for "licensure eligible" persons to receive reimbursement.

Nursing

Ms. Lane reported that the National Council of State Boards of Nursing mid-year meeting was informative and that there is much activity and discussion pursuant to the Institute of Medicine's fall report on the *Future of Nursing*.

Audiology & Speech Language Pathology

Dr. Carter reported on behalf of the ASLP Board that a final draft of the proposed regulations for SLPs performing endoscopic procedures will be presented at the May 26, 2011 ASLP full Board meeting.

Medicine

Dr. Montero stated that the regulation governing the practice of licensed midwives has been in the U. S. Senate for over 200 days and that he would continue to monitor this significant issue.

EXECUTIVE DIRECTOR'S REPORT:

Scope of Practice

In response to the Secretary's request for assistance and following on the findings and recommendations of the VHRI Capacity Task Force, the full Board will be considering a research project designed to identify barriers to safe healthcare access and effective team practice that may exist due to current scope of practice limits. Further it will determine the changes, if any, that should be made to scope of practice and regulatory policies to best enable effective team approaches for the care of Virginia's patients. The overall goal of the project is to determine recommended changes to best enable medical home or other patient centered team approaches in Virginia. If the Board accepts, the project will be assigned to the Regulatory Research Committee to develop a detailed study work plan, and it is envisioned that Nurse Practitioners will be the initial profession examined during the remainder of CY2011, followed next by Pharmacists.

Motion: On properly seconded motion by Dr. Montero and upon unanimous vote in favor, staff and the Regulatory Research Committee are to study barriers to effective health team practice that may be posed by scope of practice limitations for non physician professions. The review will begin with Nurse Practitioners to be followed next year by Pharmacists.

Key Performance Measures

Dr. Carter noted that the agency is maintaining excellent performance and is continuing its efforts to achieve even greater efficiencies, without sacrificing quality. Overall and Board-level performance relating to the disciplinary Key Measures of Clearance Rate, Age of Pending Caseload, and Time to Disposition are posted to the DHP website under "DHP Performs."

BHP Budget

Dr. Carter reported that the Board of Health Professions' expenditures, to date, have remained well within FY2011 budget and are expected to do so for the remainder of the year.

Dr. Carter also thanked the Board members for their tireless diligence in the Board's work that has been in the very best spirit of public service. She noted the members whose terms would be ending soon and said that they will all be greatly missed.

ADJOURNMENT:

The meeting adjourned at 2:32 p.m.

Damien Howell, MS, PT, OCS
Board Chair

Elizabeth A. Carter, Ph.D.
Executive Director for the Board


Board of Health Professions

Current Regulatory Actions

Board		Board of Audiology and Speech-Language Pathology	
Chapter	Action / Stage Information		
Regulations of the Board of Audiology and Speech-Language Pathology [18 VAC 30 - 20]	<u>Action:</u>	Requirements for practice of fiberoptic endoscopic evaluation by speech-language pathologists	
	<u>Stage:</u>	NOIRA - Register Date: 1/3/11	
Regulations of the Board of Audiology and Speech-Language Pathology [18 VAC 30 - 20]	<u>Action:</u>	Periodic review 11	
	<u>Stage:</u>	NOIRA - Register Date: 4/11/11	
Board		Board of Dentistry	
Chapter	Action / Stage Information		
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	<u>Action:</u>	Periodic review; reorganization of chapter	
	<u>Stage:</u>	NOIRA - Register Date: 8/2/10	
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	<u>Action:</u>	Training in pulp capping for dental assistants II	
	<u>Stage:</u>	Fast-Track - At Secretary's Office	
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	<u>Action:</u>	ⓔ Board-approved courses for radiation certification	
	<u>Stage:</u>	Final - Register Date: 4/11/11	
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	<u>Action:</u>	Recovery of disciplinary costs	
	<u>Stage:</u>	Final - At DPB	
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	<u>Action:</u>	Registration of mobile clinics	
	<u>Stage:</u>	Final - At Secretary's Office	
Board		Board of Funeral Directors and Embalmers	
Chapter	Action / Stage Information		
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u>	Identification of human remains	
	<u>Stage:</u>	Emergency/NOIRA - At Governor's Office	
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u>	Fee increase	
	<u>Stage:</u>	Proposed - At Secretary's Office	
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u>	ⓔ Requirements for cremation	
	<u>Stage:</u>	Final - Register Date: 5/9/11	
Regulations for Preneed Funeral Planning [18 VAC 65 - 30]	<u>Action:</u>	Termination of irrevocable trusts	
	<u>Stage:</u>	Fast-Track - At Governor's Office	

Board of Health Professions

Current Regulatory Actions

Board : Department of Health Professions	
Chapter	Action / Stage Information
Regulations Governing the Prescription Monitoring Program [18 VAC 76 - 20]	<u>Action:</u>  Conformity with federal law <u>Stage:</u> Final - Register Date: 3/14/11
Board : Board of Long-Term Care Administrators	
Chapter	Action / Stage Information
Regulations Governing the Practice of Nursing Home Administrators [18 VAC 95 - 20]	<u>Action:</u> Fee Increase <u>Stage:</u> Proposed - At Secretary's Office
Board : Board of Medicine	
Chapter	Action / Stage Information
Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic [18 VAC 85 - 20]	<u>Action:</u> Periodic review <u>Stage:</u> Proposed - Register Date: 2/14/11
Regulations Governing the Practice of Physician Assistants [18 VAC 85 - 50]	<u>Action:</u> Supervision of physician assistant practice <u>Stage:</u> Proposed - At Secretary's Office
Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited [18 VAC 85 - 101]	<u>Action:</u> Licensure of radiologist assistants <u>Stage:</u> Final - At Secretary's Office
Regulations Governing the Practice of Licensed Midwives [18 VAC 85 - 130]	<u>Action:</u> Disclosure requirements for high-risk pregnancies <u>Stage:</u> Proposed - At Governor's Office
Regulations Governing the Practice of Polysomnographic Technologists [18 VAC 85 - 140]	<u>Action:</u> Initial regulations for licensure <u>Stage:</u> NOIRA - Register Date: 4/11/11
Board : Board of Nursing	
Chapter	Action / Stage Information
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Requirements for approval of nursing education programs <u>Stage:</u> NOIRA - Register Date: 8/2/10
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Continued competency requirements <u>Stage:</u> Proposed - At Secretary's Office
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Consistency with Compact rules on licensure

Board of Health Professions

Current Regulatory Actions

	<u>Stage:</u> Fast-Track - At Governor's Office
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Elimination of prior licensure requirement for foreign-educated applicants <u>Stage:</u> Fast-Track - At Secretary's Office
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Increase in fees <u>Stage:</u> Final - At Governor's Office
Board Board of Optometry	
Chapter	Action / Stage Information
Regulations of the Virginia Board of Optometry [18 VAC 105 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> NOIRA - Register Date: 8/16/10
Board Board of Pharmacy	
Chapter	Action / Stage Information
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Administrative fees for duplicate licenses and verification <u>Stage:</u> NOIRA - Register Date: 4/11/11
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Amendments to address on-hold prescriptions <u>Stage:</u> NOIRA - Register Date: 5/9/11
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Repackaging in CSB's and BHA's <u>Stage:</u> Proposed - At Secretary's Office
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Elimination of alarm system for certain EMS agencies <u>Stage:</u> Fast-Track - At Governor's Office
Board Board of Physical Therapy	
Chapter	Action / Stage Information
Regulations Governing the Practice of Physical Therapy [18 VAC 112 - 20]	<u>Action:</u> Traineeship changes; continuing education <u>Stage:</u> Proposed - Register Date: 2/14/11
Board Board of Psychology	
Chapter	Action / Stage Information
Regulations Governing the Practice of Psychology [18 VAC 125 - 20]	<u>Action:</u> Periodic review recommendations; acceptance of pre-internship hours <u>Stage:</u> Proposed - Register Date: 2/14/11
Board Board of Social Work	

Board of Health Professions

Current Regulatory Actions

Chapter	Action / Stage Information
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Fee increase and renewal cycle <u>Stage:</u> Proposed - <i>At Secretary's Office</i>
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Licensure requirements <u>Stage:</u> Proposed - <i>At Secretary's Office</i>

Board

 Board of Veterinary Medicine

Chapter	Action / Stage Information
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Drug destruction requirements <u>Stage:</u> Fast-Track - <i>At Governor's Office</i>
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Addition to grounds for finding of unprofessional conduct <u>Stage:</u> Fast-Track - <i>At Secretary's Office</i>
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> Final - <i>At Secretary's Office</i>

Board of Health Professions
Report of 2011 General Assembly

HB 1434 Cannabinoids, synthetic; penalties for transport, possession, sale, or distribution, etc.

Chief patron: Garrett

Summary as passed:

Penalties for possession, sale, gift, distribution or possession with intent to sell, give or distribute synthetic cannabinoids; bath salts. Lists those chemicals that comprise synthetic cannabinoids and makes possession a Class 1 misdemeanor. Possession with intent to distribute and manufacturing are felonies. The first offender statute applies as it does to marijuana and controlled substances. The bill criminalizes privately compounding with the specific intent to circumvent the criminal penalties for synthetic cannabinoids. The bill also allows restitution for cleaning up sites where the drug is made. A number of Code sections are amended for the purpose of treating synthetic cannabinoids as marijuana is treated throughout the Code. The bill adds chemicals known as "bath salts" to Schedule I of the Drug Control Act. There is an emergency clause. This bill incorporates HB 1473, HB 1481, HB 1878, HB 1778, HB 1423, and HB 1427. This bill is identical to SB 745.

EMERGENCY

HB 1459 Medical malpractice; increases cap on recovery in actions against health care providers.

Chief patron: Albo

Summary as passed:

Remedies; limitation on recovery in certain medical malpractice actions. Increases from \$2 million to \$2.05 million, on July 1, 2012, the cap on the recovery in actions against health care providers for medical malpractice. Thereafter, the cap is increased by \$50,000 annually with the last increase on July 1, 2031. This bill is identical to SB 771.

HB 1535 Licensure or certification by Board of Medicine, etc.; consideration of military experience.

Chief patron: Merricks

Summary as passed House:

Licensure or certification by the Board of Medicine or Board of Nursing; consideration of military training and experience. Provides that the Boards of Medicine and Nursing shall

consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant for licensure as a respiratory care practitioner; occupational therapist; radiologist assistant; radiologic technologist; radiologic technologist, limited; registered nurse; and practical nurse and for certification as a nurse aide during his service as a member of any branch of the armed forces of the United States as evidence of satisfaction of the educational requirements for licensure or certification, as appropriate.

HB 1559 Audiologists; those with doctoral degree shall not be required to pass exam to obtain a license.

Chief patron: Scott, E.T.

Summary as passed House:

Audiologists; sale of hearing aids. Exempts audiologists with a doctoral degree in audiology licensed to practice in Virginia from the examination requirement for issuance of a license to engage in the practice of fitting or dealing in hearing aids.

HB 1659 Funeral services; prerequisites for cremation.

Chief patron: Alexander

Summary as passed House:

Funeral services; prerequisites for cremation. Allows a sheriff to make visual identification of a body prior to cremation if no next-of-kin or other named representative is available upon court order.

HB 1862 Spouse of member of armed forces; provides extension of expiration of certain licenses, etc.

Chief patron: Cosgrove

Summary as passed House:

Professions and occupations; expiration of certain documents issued to spouses of citizens of Virginia serving in the armed forces of the United States. Provides an extension of the expiration of certain licenses, certifications, registrations or other documents held by the spouse of a member of the armed forces of the United States when the spouse accompanies the citizen for a period of service outside of the country. This bill is identical to SB 1361.

HB 1917 Health professionals; assisted living facility administrator report those with mental health issues.

Chief patron: Merricks

Summary as passed House:

Reporting on health professionals; assisted living facilities. Provides that the administrator of

every licensed assisted living facility shall report to the Department of Health Professions any information indicating that a health professional may have a substance abuse or mental health problem.

HB 1968 Physician assistants; signature to be included when law requires signature, etc., of a physician.

Chief patron: Robinson

Summary as introduced:

Physician assistants; when signature accepted. Provides that whenever any law or regulation requires a signature, certification, stamp, verification, affidavit, or endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification, affidavit, or endorsement by a physician assistant.

HB 2037 Social work; unlawful for person not licensed by Board of Social Work to use title social worker.

Chief patron: Peace

Summary as introduced:

Social work; title protection. Provides that it shall be unlawful for any person not licensed by the Board of Social Work to use the title "Social Worker" in writing or in advertising in connection with his practice unless he simultaneously uses the clarifying initials signifying a degree in social work. The bill provides exceptions for federally required and defined social workers in nursing homes and hospices and has a delayed effective date of July 1, 2013.

HB 2193 Podiatry; expands definition.

Chief patron: Ebbin

Summary as passed House:

Podiatry; expands definition. Expands the definition of podiatry to include the diagnosis and treatment of lower extremity ulcers, provided that the treatment of severe lower extremity ulcers proximal to the foot and ankle only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges. This bill is identical to SB 1396 (Lucas).

HB 2216 Laboratory results; authority to provide directly to insurance carrier, etc.

Chief patron: Stolle

Summary as passed House:

Laboratory results; authority to receive directly. Allows a laboratory, with authorization from patient, to provide a copy of the report of the results directly to the insurance carrier, health

maintenance organization, or self-insured plan that provides health insurance or similar coverage to the patient. This bill is identical to SB 1116.

HB 2218 Health care providers; third-party reimbursement programs.

Chief patron: Stolle

Summary as introduced:

Health care providers; third-party reimbursement programs. Clarifies that physicians shall not be required to participate in any public or private third-party reimbursement program as a condition of licensure.

HB 2220 Pharmacies; implement continuous quality improvement program for analysis of dispensing errors.

Chief patron: Rust

Summary as passed House:

Pharmacies; continuous quality improvement program. Requires pharmacies to implement a continuous quality improvement program to provide for a systematic, ongoing process of analysis of dispensing errors that uses findings to formulate an appropriate response and to develop or improve pharmacy systems and workflow processes designed to prevent or reduce future errors. This bill requires the Board of Pharmacy to work cooperatively with pharmacists representing all areas of pharmacy practice in implementing the requirements of this act.

HB 2229 Practitioners; competency assessments.

Chief patron: O'Bannon

Summary as introduced:

Health professionals; competency assessments. Changes the requirement for assessing physicians who have had three medical malpractice judgments or claims in a 10-year period so that it only affects actively practicing physicians. The bill also changes the amount required to trigger the assessment from \$10,000 to \$75,000 and allows the Board of Medicine to post the number of assessments done on its website, rather than through a report to the General Assembly.

HB 2253 Health professions; reciprocity exemption from licensing.

Chief patron: Nutter

Summary as passed House:

Health professions; reciprocity exemption from licensing. Provides an exemption for the requirement that health professionals be licensed for a practitioner who is in good standing with the applicable regulatory agency in another state and who is treating a patient who is being transported to or from Virginia for care. This bill is identical to SB 828 (Edwards).

HB 2255 Health records; health care providers who prescribe or dispense controlled substances.

Chief patron: Nutter

Summary as introduced:

Disclosure of health records; dispensing of controlled substances. Clarifies that nothing in the Health Records Privacy Act shall prohibit a health care provider who dispenses a controlled substance to a patient from disclosing information obtained from the Prescription Monitoring Program and contained in a patient's health care record to another health care provider when such disclosure is related to the care or treatment of the patient. This bill also provides that nothing shall prevent a person who prescribes or dispenses a controlled substance from redisclosing information obtained from the Prescription Monitoring Program to another prescriber or dispenser who prescribes or dispenses a controlled substance to a recipient. This bill is identical to SB 1029 (Puckett).

HB 2256 Schedule II drugs; identification required for filling prescriptions.

Chief patron: Nutter

Summary as passed House:

Schedule II drugs; identification required in filling prescriptions. Specifies that certain duties imposed upon a pharmacist in the delivery of Schedule II drugs may be undertaken by the agent of the pharmacist. The bill also provides that if the person seeking to take delivery of a drug listed on Schedule II pursuant to a prescription is not the patient for whom the drug is prescribed and the person is not known to the pharmacist or his agent, the pharmacist or his agent shall either make a photocopy or electronic copy of the person's identification or record the full name and address of the person. The bill also reduces the period of time for which the pharmacist must maintain records of the names and addresses or copies of the proof of identification of persons taking delivery of Schedule II drugs when they are not the person for whom the drug is prescribed from one year to one month. This bill is identical to SB 1150.

HB 2373 Medical malpractice; privileged communications of certain committees.

Chief patron: Peace

Summary as passed House:

Medical malpractice; privileged communications of certain committees. Provides that nothing in the statute governing privileged communications of certain health committees shall be construed as providing any privilege to any health care provider, emergency medical services agency, community services board, or behavioral health authority with respect to any factual information regarding specific patient health care or treatment, including patient health care incidents, whether oral, electronic, or written. However, the analysis, findings, conclusions, recommendations, and the deliberative process of any medical staff committee, utilization review committee, or other committee, board, group, commission, or other entity, as well as the proceedings, minutes, records, and reports, including the opinions and reports of experts, of such

entities shall be privileged in their entirety under the aforementioned statute. This bill incorporates HB 2377. This bill is identical to SB 1469.

HB 2464 Drug Control Act; conforms Schedule II to federal drug classification schedule.

Chief patron: Nutter

Summary as introduced:

Drug Control Act; Schedule II. Conforms Schedule II of the Drug Control Act to the federal drug classification schedule.

SB 1014 Dental hygienists; extension of educational and preventive care protocol.

Chief patron: Puckett

Summary as introduced:

Dental hygienists; extension of educational and preventive care protocol. Extends for one year the protocol allowing dental hygienists to provide educational and preventive dental care in the Lenowisco, Cumberland Plateau, and Southside Health Districts, which are designated as Virginia Dental Health Professional Shortage Areas by the Department of Health. The bill also delays the report required until January 1, 2012.

SB 1078 Child care; administration of certain medicines of those regulated by local government.

Chief patron: Barker

Summary as passed:

Local government run child care; administration of certain medicines. Allows the employees of a child day program regulated by a local government to administer medication to a child if such employee (i) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (iv) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be administered by a parent or guardian to the child.

SB 1093 Assisted living facilities; may continue to operate with an acting administrator.

Chief patron: Hanger

Summary as passed:

Administration of assisted living facilities. Provides that in cases in which a licensed assisted living facility administrator dies, resigns, is discharged, or becomes unable to perform his duties, an assisted living facility may continue to operate for up to 150 days with an acting administrator who has applied to an approved administrator-in-training program or has completed such program and is awaiting licensure, or for up to 90 days with an acting administrator who has not applied for licensure. The bill allows for a single 30-day extension for facilities operating with an acting administrator who has applied for licensure, completed the administrator-in-training program, and is awaiting the results of the national examination, and provides that no assisted living facility shall operate under the supervision of an acting administrator for more than one time during any two-year period unless authorized to do so by the Department of Social Services.

SB 1096 Pharmacies; shall have access to Prescription Monitoring Program.

Chief patron: Hanger

Summary as passed:

Pharmacies; access to Prescription Monitoring Program. Provides that the Board of Pharmacy shall include in its regulations a requirement that nothing shall prevent a pharmacist who is eligible to receive information from the Prescription Monitoring Program from requesting and receiving such information. However, no pharmacy shall be required to maintain Internet access to the Prescription Monitoring Program.

SB 1117 Death certificates; allows supervised nurse practitioners and physician assistants to sign.

Chief patron: Northam

Summary as passed:

Death certificates; who may sign. Allows supervised nurse practitioners and physician assistants to determine cause of death and sign death certificates, provided they have access to the decedent's medical history and the death is due to natural causes. In addition, the bill expands the description of which physicians may determine cause of death and sign a death certificate and provides civil immunity for signature and determination of cause of death on a certificate for physicians, physician assistants and nurse practitioners who sign death certificates and determine cause of death, in the absence of gross negligence or willful misconduct.

SB 1146 Dentists; sedation and anesthesia permits.

Chief patron: Quayle

Summary as passed Senate:

Dentists; sedation and anesthesia permits. Requires dentists, with certain exceptions, who use sedation or anesthesia in a dental office to obtain either a conscious/moderate sedation permit or a deep sedation/general anesthesia permit issued by the Board of Dentistry. The bill requires the

Board of Dentistry to promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

SB 1147 Health professions; social security numbers for investigations.

Chief patron: Quayle

Summary as introduced:

Health professions; social security numbers for investigations. Allows the investigative personnel of the Department of Health Professions to request and receive social security numbers from practitioners or federal employee identification numbers from facilities.

SB 1245 Registered nurses; provisional licensure for applicant.

Chief patron: Vogel

Summary as introduced:

Registered nurses; provisional licensure. Allows the Board of Nursing to issue a provisional license to an applicant for licensure as a registered nurse who has met the educational and examination requirements for licensure, in order to allow the applicant to obtain clinical experience. A person practicing under a provisional license shall only practice under the supervision of a licensed registered nurse, in accordance with regulations established by the Board.

Proposed 2011 Editorial Calendar: Director's "Did You Know?" Section of the DHP Home Page

January	February	March	April
		<p>Theme: Announce launch of "Did You Know" segment of DHP homepage. Explain what it will contain each month. Target audience includes licensees, healthcare employers, constituents.</p> <p>Briefs: Overview of 2011 Virginia legislation passed and regulatory mandates to be implemented and their impact on healthcare licensees</p> <ul style="list-style-type: none"> • Topic - i.e. HB2037/Social Work Truth in Title (TBD) • Topic (TBD) • HB2255, SB1029 discussion of PMP reports is allowed <p>DHP Observances: National Dentists Day, March 6; National Dental Hygiene Month; National Doctor's Day, March 30</p> <p>Spotlight on select Guidance Documents, w/ web link for each:</p> <ul style="list-style-type: none"> • Nursing Education • Delegation to Dental Assistants, March 2 <p>Disciplinary Insight: <i>COV provides DHP's Enforcement Division with the power to investigate a complaint against a healthcare provider and select regulated facilities</i></p> <p>Advance April coverage: PMP</p>	<p>Theme: Release top 2011 survey findings of registered users of Virginia's PMP -</p> <p>Briefs:</p> <ul style="list-style-type: none"> • Overview of 2011 PMP survey data • April 30 is National Drug Take Back Day/Flyer • Meet HPMP <p>DHP Observances: National/VA Public Health Week; Women's Eye Health and Safety Month; Alcohol Awareness Month</p> <p>Spotlight on select Guidance Documents, include link:</p> <ul style="list-style-type: none"> • Prescriptive Authority • Pharmacy Guidance Documents (TBD) <p>Disciplinary Insight: <i>The Virginia Board of Medicine has a guidance document that outlines the criteria used when evaluating a physician's treatment of chronic pain, including the appropriate prescribing of controlled substances.</i></p> <p>Advance May coverage: National Nurses Week</p>

<p>May</p> <p>Theme: Virginia recognizes its nurses for their service during National Nurses Week as this sector of the healthcare industry leads the way for online licensure among health regulatory boards</p> <p>Briefs:</p> <ul style="list-style-type: none"> • Workforce statistics on Virginia's nurses • Fast Facts: Nursing Education Data (DHP HWDC) • 2010 Nursing Education Survey <p>DHP Observance: National Nurses Week, Mental Health Month</p> <p>Spotlight on select Guidance Documents, include link:</p> <ul style="list-style-type: none"> • Death Certificates • Standards of Professional Conduct <p>Disciplinary Insight: Leading topics of DHP investigations</p> <p>Advance June coverage: World Vet Year</p>	<p>June</p> <p>Theme: Understanding online licensure and renewal. Board of Vet. Med. leads online licensure renewal model among healthcare professions</p> <p>Briefs:</p> <ul style="list-style-type: none"> • Veterinary education in Virginia • Update on Vet Techs • Equine Dental Techs <p>DHP Observance: 2011 is World Veterinarian Year marking 250 years of veterinarian education World Veterinary Day http://www.worldvet.org/taxonomy/term/11/24</p> <p>Spotlight on select Guidance Documents, include link:</p> <ul style="list-style-type: none"> • Social Work-clinical setting and education • Counseling Board <p>NOTE: There is an increased volume and complexity of requests for clinical supervision towards licensure. Recent changes in Medicaid reimbursement have caused significant job shifting within agencies that provide mental health services, and the need for appropriate clinical training in order to be competent to provide independent clinical services once licensed has snowballed.</p> <p>Disciplinary Insight: <i>Mary Boards have regulators that require a practitioner to attest that they have completed all required continued competency when renewing their license. To ensure compliance, mary Boards randomly audit individual renewals.</i></p> <p>Advance July coverage: Spotlight on ALF</p>	<p>July</p> <p>Theme: Spotlight on Assisted Living Facilities (ALF)</p> <p>Preview anticipated 2011 behavioral health summits</p> <p>Briefs:</p> <ul style="list-style-type: none"> • BHP Study: Medication Aides, not Med Techs • Who should sign a death certificate • Update from Board of Funeral Directors and Embalmers <p>DHP Observance: National Cataract Awareness Month</p> <p>Spotlight on select Guidance Documents, include link:</p> <p>Disciplinary Insight: <i>Assisted Living Facilities are regulated by the Department of Social Services and the Department of Health regulates Nursing Homes. The Department of Health Professions has oversight of the administrators of these facilities.</i></p> <p>Advance August coverage: Required Reporting</p>	<p>August</p> <p>Theme: Background on DHP investigations and board disciplinary process - 54.111 Unlawful acts; refusal to furnish records and failure to cooperate during an investigation</p> <p>Briefs: 25.06 Overview of DHP's authority to investigate</p> <ul style="list-style-type: none"> • What does this authority mean for licensees? • What does this authority mean for employers • Tools used during investigatory process including interviews, records review and electronic registries <p>DHP Observance: Children's Eye Health and Safety Month</p> <p>Spotlight on select Guidance Documents, include link:</p> <ul style="list-style-type: none"> • Sanction Reference Points across the professions <p>Disciplinary Insight: <i>All disciplinary proceedings are open to the public and the final disposition of these proceedings is available on our website.</i></p> <p>Advance Sept. coverage: DEP HWDC survey data coming soon</p>
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<p>September</p> <p>Theme: Healthcare workforce data collection and analysis</p> <p>Briefs:</p> <ul style="list-style-type: none"> • Why VA gathers healthcare workforce data voluntarily from licensees • Background on DHP HWDC and collaboration with VDH • Preview of healthcare workforce survey soon to be launched: Behavioral Health; Dental; Nurse Practitioners <p>DHP Observance: National Alcohol and Drug Addiction Recovery Month</p> <p>Spotlight on select Guidance Documents, include link:</p> <p>Disciplinary cases involving board members</p> <p>Disciplinary Insight: <i>Delegation of duties by practitioners is outlined in the statutes and regulations of most Boards. Please routinely check each Board's statutes and regulations to ensure all duties that a practitioner delegates are authorized.</i></p> <p>Advance Oct. coverage: DHP survey data on VA physicians</p>	<p>October</p> <p>Theme: National observance of Physician Assistance Day, (date) and Pharmacists and pharmacy technician week, October 16 – 22</p> <p>Update on anticipated behavioral health summits</p> <p>Briefs:</p> <ul style="list-style-type: none"> • DHP HWDC survey data on Virginia physicians • Update on VA's healthcare education pipeline • Top issues facing BOP <p>DHP Observance: National Physical Therapy Month; International Stuttering Awareness Day</p> <p>Spotlight on select Guidance Documents, include link:</p> <p>Disciplinary Insight: <i>Most Boards have regulations that specifically outline the requirements for what is adequate record keeping for patients.</i></p> <p>Advance Nov. coverage: How DHP safeguards the public's health through the licensure and regulation of the professions</p>	<p>November</p> <p>Theme: Outline the role of the DHP to safeguard the health of the people of Virginia through its mission</p> <p>Briefs:</p> <p>Definition of terms-</p> <ul style="list-style-type: none"> • Code of Virginia (laws) • Regulation • Administrative Process Act <p>Spotlight on select Guidance Documents, include link:</p> <ul style="list-style-type: none"> • (TBD) <p>Disciplinary Insight: <i>The Director of the Department of Health Professions is required to suspend a practitioner's license, registration or certificate if the individual has been convicted of a felony or has had his license, registration or certificate revoked, suspended or has voluntarily surrendered their license in another state.</i></p> <p>Advance Dec. coverage: Year end review of top 2011 issues of VA's 13 health regulatory boards and the Board of Health Professions</p>	<p>December</p> <p>Theme: 2011 DHP year end review</p> <p>Briefs:</p> <ul style="list-style-type: none"> • Value of Board Advisory Committees • DHP Performance Measures • Clinical Lab Scientists • Behavioral Science's Wounded Warrior Initiatives • Other (TBD) <p>DHP Observance: National Family Caregivers Month</p> <p>Spotlight on select Guidance Documents, include link:</p> <ul style="list-style-type: none"> • (TBD) <p>Disciplinary Insight:</p> <ul style="list-style-type: none"> • <i>The Department of Health Professions updates, on a quarterly basis, all disciplinary statistics relating to the Agency's Key Performance Measures. This data is available online by visiting our website.</i> <p>Advance Jan. 2012 coverage:</p> <ul style="list-style-type: none"> • (TBD)
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March 11, 2011
Proposed Department of Health Professions Talking Points Regarding
Office-Based Surgery

DHP Agency Overview

The Department of Health Professions (DHP) licenses, disciplines and regulates Virginia's 350,000 healthcare workers in 80 professions through 13 health regulatory boards and the Board of Health Professions.

There are 186 board members across health regulatory boards appointed by the Governor. They include citizen members, practitioners from diverse healthcare professions and a range of geographic locations.

DHP operates under section 54.1 (of the Code of Virginia).

The DHP mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

DHP is an agency in the Health and Human Resources Secretariat of the Executive Branch of the Commonwealth of Virginia's government.

Board of Medicine Overview

The Board of Medicine (BOM) grants a general license to practice medicine and surgery. It does not issue a specialty-specific license.

Minutes from the November 2010 Board of Medicine Ad Hoc Committee on Office-Based Surgery are available on the BOM website at --
http://www.dhp.virginia.gov/medicine/medicine_minutes_archive.htm#GENERAL

DHP's Enforcement Process

The Department of Health Professions receives complaints about health care practitioners who may have violated a regulation or law. Complaints for all the licensing and regulatory Boards are received and processed by the Enforcement Division.

All complaints regarding licensees, pharmacies, funeral homes and veterinary clinics are analyzed on a case by case basis. The Enforcement Division works with the Virginia Department of Health, other agencies in state and federal government, as well as with law enforcement during investigations that merit their attention.

Reported allegations of misconduct by licensees trigger inquiries by the Enforcement Division. In most cases this takes the form of an investigation, inspection, or both. Case findings are prepared for the appropriate health regulatory board for a decision on whether the evidence appears to support a violation of law or regulation governing a profession.

(cont.) March 11, 2011
**Proposed Department of Health Professions Talking Points Regarding
Office-Based Surgery**

There are a variety of ways available to the public, healthcare institutions, healthcare workers and the news media to file a complaint with the DHP Enforcement Division. Complaints may be submitted in writing, by telephone, fax, email or in person.

By US mail: Virginia Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463

Telephone: 1-800-533-1560 or (804) 367-4691

Fax: (804) 527-4424

Email: enfcomplaints@dhp.virginia.gov

DHP Disciplinary Actions

Virginia's health regulatory boards have a range of sanctions they can use to discipline a licensee in violation of the law. The Administrative Proceedings Act (APA) is a process governing health regulatory board dealings with licensees. Sanctions include: monetary penalties; reprimands; probation; suspension and revocation. Boards may summarily suspend a licensee that poses an eminent threat to the public. Boards must mandatorily suspend a licensee that loses their license in another jurisdiction or commits a felony.

All disciplinary actions taken by a health regulatory board are a matter of public record and can be accessed through the board's home page which is listed on the home page of the DHP website, <http://www.dhp.virginia.gov/>

Contacts at other agencies for referral as appropriate

For technical questions regarding the regulation of hospitals contact Joe Hilbert at the Virginia Department of Health (VDH) at jhilbert@vdh.virginia.gov or 804/864-7006.

Virginia Health Information (VHI) collects, analyses and disseminates select outpatient procedures from all ambulatory surgical centers, hospitals and practitioner offices. VHI Executive Director, Michael T. Lundberg can be reached at Michael@vhi.org or 804/644-7026.

For policy questions regarding office-based surgery, including abortion, contact Jeff Caldwell at jcaldwell@virginia.gov or 804/225-4260.

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2011 – 2012 DHP Health Regulatory Board License Renewal Schedule

March

The following licenses types are due for renewal in March.

Funeral Establishment, Funeral Service Provider, Funeral Director, Embalmer, Funeral Service Intern, Courtesy Card, Surface Transport and Removal Service, Crematories, Branch Establishments, Assisted Living Facility Preceptor, Nursing Home Administrator, Nursing Home Preceptor, Assisted Living Administrator, Dental Hygienist, Dentist, Dental Full Time Faculty

April

The following licenses types are due for renewal in April.

Non resident pharmacy, Non-resident Pharmacy

May

The following licenses types are due for renewal in May.

June

The following licenses types are due for renewal in June.

Licensed Professional Counselor, Certified Substance Abuse Counselor, Licensed Marriage and Family Therapist, Substance Abuse Treatment Practitioner, Substance Abuse Counseling Assistant, School psychologist, Clinical Psychologist, Applied Psychologist, Sex Offender Treatment Provider, School Psychologist-Limited, Registered Social Worker, Associate Social Worker, Licensed Social Worker, Licensed Clinical Social Worker, Dental Restricted Volunteer, Dental Teacher, Dental Hygienist Teacher, Dentist Restricted Permit, Interns and Residents

July

The following licenses types are due for renewal in July.

August

The following licenses types are due for renewal in August.

September

The following licenses types are due for renewal in September.

October

The following licenses types are due for renewal in October.

November

The following licenses types are due for renewal in November.

2011 – 2012 DHP Health Regulatory Board License Renewal Schedule

December

The following licenses types are due for renewal in December.

Pharmacist, Pharmacy Technician, Limited Use Pharmacy Technician, Physician Selling Controlled Substances, Veterinarian, Veterinary Technician, Full Service Veterinary Establishment, Mobile Dental Facility, Optometrist, Professional Designation, TPA Certified Optometrist, Cosmetic Procedure Certification, Oral/Maxillofacial Surgeon Registration, Audiologist, Speech Pathologist, School Speech Pathologist. Every two years – Physical Therapist, Physical Therapist Assistant, Direct Access Certification

January

The following licenses types are due for renewal in January.

Rehabilitation provider.

February

The following licenses types are due for renewal in February.

Permitted Physician, Medical Equipment Supplier, Restricted Manufacturer, Non-restricted Manufacturer, Wholesale Distributor, Warehouser, Non-resident Wholesale Distributor, Business CSR

Birth Month Each Even Year (2012)

Medicine & Surgery, Osteopathy & Surgery, Podiatry, Chiropractor, Occupational Therapy Assistant, Occupational Therapy Assistant

Birth Month Every Two Years

Registered Nurse, Licensed Practical Nurse, Clinical Nurse Specialist, Authorize to Prescribe, Certified Massage Therapist, Licensed Nurse Practitioner, Medication Aide, Advanced Certified Nurse Aide

Birth Month Each Odd Year

Physician Assistant, University Limited License, Respiratory Care Practitioner, Occupational Therapist, Radiologic Technologist, Licensed Acupuncturist, Athletic Trainer, Licensed Midwife

Every Two Years Based on Issue Date

Nurse Aide

Annual Based on Issue Date

Volunteer Registration, Pharmacy Technician Training

