

**VIRGINIA BOARD OF MEDICINE  
LEGISLATIVE COMMITTEE MINUTES**

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Friday, September 19, 2014

Department of Health Professions

Richmond, VA

**CALL TO ORDER:**

The meeting convened at 8:38 a.m.

**MEMBERS PRESENT:**

Kenneth Walker, MD, Vice-President, Chair  
Barbara Allison-Bryan, MD, Secretary-Treasurer  
Syed Salman Ali, MD  
Deborah DeMoss Fonseca  
Siobhan Dunnavant, MD  
Ray Tuck, DC

**MEMBERS ABSENT:**

J. Randolph Clements, DPM

**STAFF PRESENT:**

Jennifer Deschenes, JD, Sr. Deputy Director, Discipline  
Alan Heaberlin, Deputy Director, Licensure  
Barbara Matusiak, MD, Medical Review Coordinator  
Colanthia Morton Opher, Operations Manager  
David Brown, DC, DHP, Director  
Elaine Yeatts, DHP, Senior Policy Analyst

**OTHERS PRESENT:**

Mike Jurgensen, MSV  
Cal Whitehead, VSEPS  
James Pickral, VSPS  
Victoria Vastine, MD, VSPS  
Jerry Canaan, HDJN  
Lauren Schmitt, Hillbridge Group

**ROLL CALL**

**EMERGENCY EGRESS INSTRUCTIONS**

Dr. Walker provided the emergency egress instructions.

**APPROVAL OF MINUTES OF JANUARY 24, 2014**

Dr. Allison-Bryan moved to approve the minutes of January 24, 2014. The motion was seconded and carried unanimously.

## **ADOPTION OF AGENDA**

Dr. Allison-Bryan moved to adopt the agenda as presented. The motion was seconded and carried.

## **PUBLIC COMMENT**

Mike Jurgensen spoke on behalf of the Medical Society of Virginia and their submission of proposed changes to 18VAC85-20 – specifically requirements of office-based anesthesia. Mr. Jurgensen stated that the rationale for the changes was to extend additional protection for patients in office-based settings from having procedures that could potentially have some complications.

Victoria Vastine spoke on behalf of the Virginia Society of Plastic Surgeons and voiced their support of the proposed changes to the office-based anesthesia regulations. Dr. Vastine advised that the changes were a collaborative effort with the Medical Society and addressed the concerns they have about procedures currently being done in medical offices under local anesthesia.

## **NEW BUSINESS**

### **Status of Regulatory Actions**

Ms. Yeatts provided an update on the status of regulatory actions affecting the Board of Medicine.

This report was provided for informational purposes only and did not require any action.

### **Regulatory Recommendation on NOIRA for Genetic Counselor regulations**

Ms. Yeatts informed the Committee that the recommendation came from the meeting of the Advisory Board on Genetic Counseling August 26, 2014. The NOIRA establishes the qualifications for licensure and renewal, and the standards of practice of the profession.

After a brief discussion, Dr. Dunnivant moved to recommend to the Full Board the Regulatory Recommendation on NOIRA for Genetic Counselor regulations. The motion was seconded and carried unanimously.

### **Petition for Rulemaking on Office-Based Anesthesia**

Ms. Yeatts informed the Committee that because the comment period is still open, they could not recommend, accept or reject the petition.

Dr. Dunnivant voiced a concern about the proposed change to 18VAC85-20-350 (B) Informed Consent – The surgical consent forms shall be executed by the patient or the responsible party and shall contain a statement that the doctor performing the surgery is

board certified or board eligible by one of the ABMS boards and list which board or contain a statement that [the] doctor performing the surgery is not board certified or board eligible. Dr. Dunnavant stated that she is uncomfortable making this a unique consent process, and inquired about the need for this change.. Dr. Dunnavant noted that such a change should have a profound added value to patient safety before the Board implements a unique form of consent.

Mr. Jurgensen and Dr. Vastine addressed the concern and said the disclosure would inform the patient of the credentials and qualifications of the practitioner performing the procedure, but would in no way prevent a qualified practitioner from performing a procedure.

The Committee also briefly discussed 18VAC85-20-340. Procedure/anesthesia selection and patient evaluation A(2) – The procedure or combined procedures shall be of a duration and degree of complexity that shall not exceed eight hours and that will permit the patient to recover and be discharged from the facility in less than 24 hours.

Mr. Jurgensen stated that this change was not intended to apply to a specific type of procedure but rather was intentionally directed at the total length of time of a single procedure, or combination of procedures.

At the conclusion of the discussion, Ms. Yeatts reminded the Committee that the comment period will end on October 8<sup>th</sup> and that this item will be on the Full Board's agenda October 16, 2014.

#### Board of Medicine Timeframe for Immediate Use

Caroline Juran, Executive Director of the Board of Pharmacy informed the Committee members that an enactment clause of HB 1035, passed during the 2014 General Assembly session, required the Board of Pharmacy to convene a workgroup of various stakeholders to explore and clarify issues related to the compounding of drugs for human and animal use. It was noted that in addition to discussing current compounding practices being in compliance with USP standards. Ms. Juran noted that counsel offered clarification on the laws associated with a pharmacist performing compounding in a physician's office.

Dr. Ali stated that the issue boils down to a disconnect between the Board's regulations and the Federal requirements and that the inconsistency does not provide public protection.

After discussion, Dr. Ali moved to recommend that an ad hoc committee be formed to look at the current Mixing, Diluting, and Reconstituting regulations, which would include, Dave Newton, USPS expert, as a resource to bring the Board of Medicine's regulations into compliance with Federal standards. The motion was seconded and carried unanimously.

FSMB Interstate Medical Licensure Compact

Ms. Yeatts advised that in the legislative realm, we are beyond the submission point for this to be presented to the 2015 General Assembly.

During the discussion, the Committee talked about the challenges of adopting a compact license, the need to get in front of the telemedicine push, and whether Virginia should be one of the first in the group.

After the discussion, Dr. Dunnivant moved that staff solicit feedback from FSMB, request board counsel to review existing laws addressing reciprocity, and then have the Board decide if a workgroup is needed. The motion was seconded and carried unanimously.

**ANNOUNCEMENTS**

Dr. Walker informed the members of FSMB's request for board member input and encouraged them to attend the meetings.

Dr. Brown said that he would also like to encourage more board member participation at national conferences/meetings. Although approval is being limited to those that are funded by the sponsor, based on Virginia's history of providing leadership in national organizations, Dr. Brown anticipates approval of more members and staff being able to attend these functions. This item will be addressed again on the Full Board agenda October 16<sup>th</sup>.

Board staff provided the Committee members with an update of the afternoon hearing schedule.

**Next meeting** – January 16, 2015

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

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Kenneth J. Walker, MD  
Chair

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Jennifer Deschenes, JD  
Sr. Deputy Executive Director - Discipline

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Colanthia M. Opher  
Recording Secretary