

**VIRGINIA BOARD OF HEALTH PROFESSIONS
DEPARTMENT OF HEALTH PROFESSIONS
FULL BOARD MEETING
OCTOBER 21, 2004**

TIME AND PLACE: The meeting was called to order at 12:30 p.m. on Thursday, October 21, 2004, Department of Health Professions, 6603 W. Broad St., 5th Floor, Room 1, Richmond, VA.

PRESIDING OFFICER: Alan Mayer, Chair

MEMBERS PRESENT: David R. Boehm, LCSW
Lynne M. Cooper, Citizen Member, Board of Nursing
Michelle R. Easton, R. Ph.
David H. Hettler, O.D.
Damien Howell, P.T.
Joseph Jenkins, Jr., F.S.L.
Juan M. Montero, II, M.D.
Michael W. Ridenhour, Au.D.
Harry S. Seigel, D.D.S.
Mary M. Smith, L.N.H.A.
Demis L. Stewart, Citizen Member
Lucia Anna Trigiani, Esq., Citizen Member
Natale A. Ward, L.P.C.
John T. Wise, D.V.M.

MEMBERS NOT PRESENT: Nadia B. Kuley, Ph.D.
Janet Payne, Citizen Member
Joanne Taylor, Citizen Member

STAFF PRESENT: Robert A. Nebiker, Agency Director
Emily Wingfield, Assistant Attorney General
Elizabeth A. Carter, Ph.D., Executive Director for the Board
Elaine Yeatts, Senior Regulatory Analyst
Susan Stanbach, Senior Management Analyst
Faye Lemon, Enforcement Division Director
Carol Stamey, Administrative Assistant

OTHERS PRESENT: Beverley Soble, Virginia Health Care Association (VHCA)
Diane Steger, VANHA
Carolyn Stevens, DSS
Judy McGreal, DSS
Carter Harrison, Alzheimer's Association

QUORUM: With fifteen (15) members present, a quorum was established.

REVIEW OF AGENDA: The agenda was revised to include comments from Ms. Wingfield, reports from the Practitioner Self-Referral and Nominating Committees.

PUBLIC COMMENT: No public comment was presented.

APPROVAL OF MINUTES: On properly seconded motion by Ms. Cooper, the Board voted unanimously to approve the minutes of the July 15, 2004 meeting.

DEPARTMENT DIRECTOR'S REPORT: Mr. Nebiker apprised the Board of the activities of the Prescription Drug Monitoring Conference. It was recommended that the prescription monitoring program be continued with expansion and submitted to the next meeting of the General Assembly for consideration. Further, that the Board would have legislation for review at its next meeting.

Mr. Nebiker informed the Board that Gail Jaspen, Deputy Director, had been temporarily reassigned to the Governor's office.

Mr. Nebiker reported that the Department continues to track the resolution of disciplinary cases. He noted that in the past quarter, the Department closed sixty (60) percent of its disciplinary cases within standards.

REPORT FROM THE ATTORNEY GENERAL'S OFFICE: Emily Wingfield, Assistant Attorney General, Board Counsel, informed the Board that the mandatory conflict of interest training would be held following the conclusion of the Board meeting.

EXECUTIVE DIRECTOR'S REPORT: **Board Budget and Workplan for 2005**
Dr. Carter reported that \$151,000 remained in the 2004 budget and the 2005 workplan is scheduled for presentation at the January 2005 meeting. She noted that the Board will continue the sanction reference study, assist the Board of Nursing Home Administrators with the new role of long term care administrators, review emerging professions and review continuing education compliance across all boards. Further, Dr. Carter requested that the board members inform her of new healthcare related issues that they think should be addressed in the 2005 workplan.

REVIEW OF REGULATORY PROPOSALS: Ms. Yeatts updated the Board on the current board regulatory actions. The summary is incorporated into the minutes as Attachment 1. She noted that all the boards had adopted the emergency regulations for the delegation of informal fact finding to an agency subordinate. Further, each board will be considering the adoption of permanent regulations and the adoption of a

guidance document that provides a flow chart and narrative of the process of conducting an informal conference by an agency subordinate.

REGULATORY

RESEARCH COMMITTEE:

Dialysis Patient Care Technicians

Dr. Ridenhour reported that the Committee had approved the final regulations governing dialysis patient care technicians.

On properly seconded motion by Dr. Ridenhour, the Board voted unanimously to adopt the final regulations governing dialysis patient care technicians.

Assisted Living Directors

Dr. Ridenhour and Ms. Yeatts reported that the Committee had revised and approved draft legislation requiring licensure for administrators of assisted living facilities. Further, the legislation included the expansion and renaming of the Board from Nursing Home Administrators to the Board of Long Term Care Administrators.

On properly seconded motion by Dr. Ridenhour, the Board voted unanimously to approve the amended draft legislation requiring licensure of assisted living administrators as presented by the Regulatory Research Committee and incorporated into the minutes as Attachment 2.

**REPORT FROM THE
PRACTITIONER SELF-
REFERRAL COMMITTEE:**

Dr. Montero and Ms. Wingfield reported that the Committee had met to consider a request for an advisory opinion from InVision Healthcare, Inc. The Committee's opinion is incorporated into the minutes as Attachment 3.

The adoption of the advisory opinion report was delayed to allow Board members the opportunity to review the report in more detail.

**REPORT FROM THE
NOMINATING
COMMITTEE:**

Ms. Trigiani presented the proposed amendments to the By-Laws and submitted a proposed slate of officers. The Committee also discussed an additional amendment to Article IV.3 to remove the limitation on the terms of office. The proposed language will be submitted to the Board members for review thirty (30) days prior to the January 12, 2005 meeting.

On properly seconded motion by Ms. Trigiani, the Board voted unanimously to adopt the amendments to the By-Laws as presented and discussed.

On properly seconded motion by Ms. Trigiani, the Board voted

unanimously to consider an additional amendment to the By-Laws to remove a limitation on the term of office, the number of terms that an individual member of the board may serve as Chair.

On properly seconded motion by Ms. Cooper, the Board voted unanimously to reconsider the amendment to revise Article IV.2 to read as follows: *The Officers shall be elected by the Board members at the Annual Meeting of the Board each fall.*

On properly seconded motion by Ms. Trigiani, the Board voted unanimously to elect Mr. Mayer as Chair and Dr. Ridenhour as Vice-Chair.

REPORT ON AGENCY PERFORMANCE & REVISIONS TO PRIORITY SYSTEM:

Ms. Susan Stanbach presented a performance report on the agency's case completion standards. The report is incorporated into the minutes as Attachment 4. Dr. Carter suggested that the issue be reviewed again at the January meeting focusing on the higher priority cases.

UPDATE ON SANCTION REFERENCE STUDY:

Neil Kauder reported that four (4) boards were currently under study at this time, Medicine, Pharmacy, Dentistry and Nursing. He noted that public training on the sanction reference points had been held in July for defense attorneys and the Attorney General's Office. Mr. Kauder informed the Board that the results of the Board of Medicine's study had been posted to the Board of Medicine's website and presented at the annual Council on Licensure Enforcement and Regulation (CLEAR) conference. Mr. Kauder further reported that the Board of Pharmacy's final worksheet drafts, instructions and manuals are being developed for consideration and approval at the December 10th Board of Pharmacy meeting. He also reported that the Board of Dentistry is in the analysis stage and the results will be presented to the ad hoc committee and full board in November. With regard to the Board of Nursing, initial statistical analyses and interviews are complete and will be presented to the Disciplinary Committee in January for review.

PRACTITIONER SELF-REFERRAL ACT VOTE:

On properly seconded motion by Dr. Montero, the Board voted unanimously to accept the advisory opinion report submitted by the Practitioner Self-Referral Committee.

BOARD REPORTS:

Board of Nursing Home Administrators

Ms. Smith reported that the Board is looking at credentialing respective administrators and approval of programs. A combined meeting of the regulatory and credentials committees is scheduled to meet at the end of November. Also, the Board is reviewing the draft regulations of the assisted living administrators.

Board of Dentistry

Dr. Seigel reported that the Board currently accepts only the southeast regional clinical examination for licensure. Further, there are four major national examinations and the Board voted to accept all four examinations for licensure and to participate in the creation of one national examination for licensure. Dr. Seigel stated that the Board is reviewing the issue of temporary resident licensing and new officers for the Board had been elected.

Board of Physical Therapy

Mr. Howell presented the Board's written report, and it is incorporated into the minutes as Attachment 5.

Board of Social Work

Mr. Boehm presented the Board's written report, and it is incorporated into the minutes as Attachment 6.

Board of Nursing

Ms. Cooper presented the Board's written report, and it is incorporated into the minutes as Attachment 7.

Board of Counseling

Ms. Ward presented the Board's written report, and it is incorporated into the minutes as Attachment 8.

Board of Pharmacy

Dr. Easton presented the Board's written report, and it is incorporated into the minutes as Attachment 9.

Board of Medicine

Dr. Montero presented the Board's written report, and it is incorporated into the minutes as Attachment 10.

Board of Optometry

Dr. Hettler reported that elections were held at the June 30th meeting, and two (2) new members had been appointed. The Board had held a summary suspension and formal hearing revoking licensure. In addition, the Board is working through the regulatory process in response to legislation this year to revise the TPA Formulary and therapeutic practice guidelines.

Board of Funeral Directors and Embalmers

Mr. Jenkins presented the Board's written report, and it is incorporated into the minutes as Attachment 11.

Board of Veterinary Medicine

Dr. Wise reported that the Board had held elections, and a new board member had been appointed. Further, the Board has been busy with its heavy case load.

Board of Audiology and Speech-Language Pathology

Dr. Ridenhour presented the Board's written report, and it is incorporated into the minutes as Attachment 12.

Mr. Mayer suggested that, with regard to disciplinary case completion, each of the board members request suggestions from their respective boards on how to improve case resolution.

CALENDAR UPDATES:

The 2005 calendar dates were scheduled as follows:

January 12, 2005

April 12, 2005

July 14, 2005

October 11, 2005

NEW BUSINESS:

Dr. Easton reported that the Pharmacy Board had received a communication regarding a stolen prescription pad and as a result a forged prescription for a schedule II narcotic was presented to a Walmart pharmacy. The prescription was not filled and the physician's office was notified. Dr. Easton stated that the physician had requested that the Board of Pharmacy review the issue of mandatory reporting; however, there was no statutory requirement for reporting for these types of activities. The Board of Pharmacy determined that the issue was too broad and also wanted to share the information with all the other boards within the department.

Ms. Wingfield informed the Board that there was a 1983 federal law requiring the reporting of felonies. She will research the law and disseminate the federal law information.

ADJOURNMENT:

On properly seconded motion by Dr. Ridenhour, the meeting adjourned at 2:30 p.m.

Alan E. Mayer
Chair

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