

Welcome to the Advisory Board on Behavioral Analysis

The Virginia Board of Medicine will hold an electronic meeting of the Advisory Board on Behavioral Analysis on **October 5, 2020 at 10:00 A.M.** This meeting will be supported by Cisco WebEx Meetings application.

For the best WebEx experience, you may wish to download the Cisco WebEx Meeting application on your mobile device, tablet or laptop in advance of the meeting. Please note that WebEx will make an audio recording of the meeting for posting.

This electronic meeting is deemed warranted under Amendment 28 to HB29 based on that requiring in-person attendance by the Advisory Board members is impracticable or unsafe to assemble in a single location.

Comments will be received during the public hearings and during the board meeting from those persons who have submitted an email to william.harp@dhp.virginia.gov no later than 8:00 a.m. on October 5, 2020 indicating that they wish to offer comment. Comment may be offered by these individuals when their names are announced by the chairman.

Whether you are a member of the Advisory Board or a member of the public, you can join the meeting in the following ways.

- **JOIN by WEBEX**

<https://covaconf.webex.com/covaconf/j.php?MTID=m78a542b24354765ba347793b3d30fff7>
Meeting number (access code): 171 152 7897

- **JOIN BY PHONE**

+1-517-466-2023 US Toll
+1-866-692-4530 US Toll Free
Meeting number (access code): 171 152 7897

TECHNICAL DIFFICULTIES: Should you experience technical difficulties, you may call the following number: (804) 367-4558 for assistance. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

The Board of Medicine and the Freedom of Information Act Council are interested in your evaluation of the electronic experience of this meeting. You can provide comment via the following form **HERE**.



Advisory on Behavior Analysis

**Virginia Board of Medicine
October 5, 2020
10:00 a.m.**

Advisory Board on Behavior Analysis

Board of Medicine

Monday, October 5, 2020 @ 10:00 a.m.

9960 Mayland Drive, Suite 300, Henrico, VA

Electronic Meeting

	Page
Call to Order – Amanda Kusterer, BCaBA, Vice-Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Pamela Smith	
Introduction of Members – Amanda Kusterer, BCaBA	
Approval of Minutes of May 20, 2019	1 - 2
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
New Business	
1. Report of Regulatory Actions and 2020 General Assembly Elaine Yeatts	3 - 9
2. Approval of 2021 Meeting Calendar Amanda Kusterer, BCaBA	10-11
3. Election of Officers Amanda Kusterer, BCaBA	

Announcements:

Next Scheduled Meeting: January 25, 2021 @ 10:00 a.m.

Adjournment

---DRAFT UNAPPROVED---**ADVISORY BOARD ON BEHAVIOR ANALYSIS****Minutes****May 20, 2019**

The Advisory Board on Behavior Analysis met on Monday, May 20, 2019 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Kate Lewis, MS, BCBA, LBA, Chair
 Amanda Kusterer, BCaBA
 Asha Patton Smith, MD
 Gary Fletcher, Citizen Member

MEMBERS ABSENT: Christina Giuliano, BCBA

STAFF PRESENT: Jennifer L. Deschenes, Deputy for Discipline
 Colanitha Morton Opher, Deputy for Administration
 Pamela Y. Smith, Licensing Specialist
 David Brown, DC, DHP Director

GUESTS PRESENT: Christy Evanko, BCBA, VABA
 Kelsey Toney

CALL TO ORDER

Ms. Lewis called the meeting to order at 10:06 a.m.

EMERGENCY EGRESS PROCEDURES

Ms. Deschenes announced the emergency egress procedures.

ROLL CALL

Ms. Smith called the roll, and a quorum was declared.

APPROVAL OF THE MINUTES OF OCTOBER 1, 2018

Dr. Smith moved to approve the minutes from the October 1, 2018 meeting. The motion was seconded and carried

ADOPTION OF THE AGENDA

Mr. Fletcher moved to adopt the agenda. The motion was seconded and carried.

---DRAFT UNAPPROVED---**PUBLIC COMMENT**

Ms. Evanko commented that there were discrepancies with the online information concerning BA's and ABA's. She said the information needs to be clarified, particularly the NPDB query. She also pointed out that the employment activity section of the application should be much clearer as to when the chronology of activities should begin. Ms. Evanko also spoke of finding a way for BA's and ABA's to continue working while waiting for their license. She said that there can be a gap of about 30 days that applicant BA's cannot work, which leaves patients without service. Dr. Brown suggested that a provisional license might be a solution to the issue.

NEW BUSINESS**1. Report of the 2019 General Assembly**

Dr. Brown gave the Board of Medicine report from the 2019 General Assembly, emphasizing those bills of interest to the Advisory Board. He explained the bills about telemedicine.

2. Follow-up on Initiative to Require Active BACB Certification for Renewal

Ms. Deschenes provided comment about action not being taken by the Board of Medicine on this issue. Dr. Brown asked if there was problem to be solved, and how would requiring current certification fix it?

3. Regulations Governing the Practice of Behavior Analysis (for reference only)**Announcements**

Pam Smith informed the Advisory Board that there are currently 1,190 Behavior Analysts and 171 Assistant Behavior Analysts licensed by the Board.

Next Scheduled Meeting

Mr. Opher pointed out that the next Advisory Board meeting will be scheduled for September 30, 2019.

Adjournment

The meeting was adjourned at 11:38 p.m.

Kate Lewis, MS, BCBA, LBA,
Chair

Jennifer Deschenes, JD
Deputy Executive Director, Discipline

Pamela Y. Smith, Licensing Specialist

Report of Regulatory Actions

Board of Medicine

Board		Board of Medicine
Chapter	Action / Stage Information	
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	<p><u>Conversion therapy</u> [Action 5412]</p> <p>NOIRA - Register Date: 8/31/20 Comment closes: 9/30/20</p>
[18 VAC 85 - 21]	Regulations Governing Prescribing of Opioids and Buprenorphine	<p><u>Waiver for e-prescribing of an opioid</u> [Action 5355]</p> <p>Proposed - Register Date: 9/14/20 Comment closes: 11/13/20</p>
[18 VAC 85 - 40]	Regulations Governing the Practice of Respiratory Therapists	<p><u>CE credit for specialty examination</u> [Action 5486]</p> <p>Fast-Track - Register Date: 8/31/20 Comment closes: 9/30/20 Effective: 10/15/20</p>
[18 VAC 85 - 50]	Regulations Governing the Practice of Physician Assistants	<p><u>Practice with patient care team physician</u> [Action 5357]</p> <p>Proposed - Register Date: 8/31/20 Comment closes: 10/30/20 Public hearing: 10/8/20</p>
[18 VAC 85 - 160]	Regulations Governing the Registration of Surgical Assistants and Surgical Technologists	<p>Ⓢ <u>Licensure of surgical assistants</u> [Action 5580]</p> <p>Final - Register Date: 9/14/20 Effective: 10/14/20</p>

Report of the 2020 General Assembly

Board of Medicine

HB 42 Prenatal and postnatal depression, etc.; importance of screening patients.

Chief patron: Samirah

Summary as passed:

Health care providers; screening of patients for prenatal and postpartum depression; training. Directs the Board of Medicine to annually issue a communication to every practitioner licensed by the Board who provides primary, maternity, obstetrical, or gynecological health care services reiterating the standard of care pertaining to prenatal or postnatal depression or other depression and encouraging practitioners to screen every patient who is pregnant or who has been pregnant within the previous five years for prenatal or postnatal depression or other depression, as clinically appropriate. The bill requires the Board to include in such communication information about the factors that may increase susceptibility of certain patients to prenatal or postnatal depression or other depression, including racial and economic disparities, and to encourage providers to remain cognizant of the increased risk of depression for such patients.

HB 362 Physician assistant; capacity determinations.

Chief patron: Rasoul

Summary as passed House:

Capacity determinations; physician assistant. Expands the class of health care practitioners who can make the determination that a patient is incapable of making informed decisions to include a licensed physician assistant. The bill provides that such determination shall be made in writing following an in-person examination of the person and certified by the physician assistant. This bill is identical to SB 544.

HB 471 Health professionals; unprofessional conduct, reporting.

Chief patron: Collins

Summary as passed House:

Health professionals; unprofessional conduct; reporting. Requires the chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth to report

to the Department of Health Professions any information of which he may become aware in his professional capacity that indicates a reasonable belief that a health care provider is in need of treatment or has been admitted as a patient for treatment of substance abuse or psychiatric illness that may render the health professional a danger to himself, the public, or his patients, or that he determines, following review and any necessary investigation or consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, indicates that there is a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct. Current law requires information to be reported if the information indicates, after reasonable investigation and consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct. This bill is identical to SB 540.

HB 517 Collaborative practice agreements; adds nurse practitioners and physician assistants to list.

Chief patron: Bulova

Summary as passed House:

Collaborative practice agreements; nurse practitioners; physician assistants. Adds nurse practitioners and physician assistants to the list of health care practitioners who shall not be required to participate in a collaborative agreement with a pharmacist and his designated alternate pharmacists, regardless of whether a professional business entity on behalf of which the person is authorized to act enters into a collaborative agreement with a pharmacist and his designated alternate pharmacists. As introduced, this bill is a recommendation of the Joint Commission on Healthcare. This bill is identical to SB 565.

HB 648 Prescription Monitoring Program; information disclosed to Emergency Department Care Coord. Program.

Chief patron: Hurst

Summary as passed:

Prescription Monitoring Program; information disclosed to the Emergency Department Care Coordination Program; redisclosure. Provides for the mutual exchange of information between the Prescription Monitoring Program and the Emergency Department Care Coordination Program and clarifies that nothing shall prohibit the redisclosure of confidential information from the Prescription Monitoring Program or any data or reports produced by the Prescription Monitoring Program disclosed to the Emergency Department Care Coordination Program to a prescriber in an electronic report generated by the Emergency Department Care Coordination Program so long as the electronic report complies with relevant federal law and regulations governing privacy of health information. This bill is identical to SB 575.

HB 908 Naloxone; possession and administration by employee or person acting on behalf of a public place.

Chief patron: Hayes

Summary as passed House:

Naloxone; possession and administration; employee or person acting on behalf of a public place. Authorizes an employee or other person acting on behalf of a public place, as defined in the bill, who has completed a training program on the administration of naloxone or other opioid antagonist to possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. The bill also provides that a person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. The bill provides immunity from civil liability for a person who, in good faith, administers naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose, unless such act or omission was the result of gross negligence or willful and wanton misconduct. This bill incorporates HB 650, HB 1465, and HB 1466.

HB 1040 Naturopathic doctors; Board of Medicine to license and regulate. (Bill not passed; study by the Board of Health Professions)

Chief patron: Rasoul

Summary as introduced:

Naturopathic doctors; license required. Requires the Board of Medicine to license and regulate naturopathic doctors, defined in the bill as an individual, other than a doctor of medicine, osteopathy, chiropractic, or podiatry, who may diagnose, treat, and help prevent diseases using a system of practice that is based on the natural healing capacity of individuals, using physiological, psychological, or physical methods, and who may also use natural medicines, prescriptions, legend drugs, foods, herbs, or other natural remedies, including light and air.

HB 1059 Certified registered nurse anesthetists; prescriptive authority.

Chief patron: Adams, D.M.

Summary as passed House:

Certified registered nurse anesthetists; prescriptive authority. Authorizes certified registered nurse anesthetists to prescribe Schedule II through Schedule VI controlled substances and devices to a patient requiring anesthesia as part of the periprocedural care of the patient, provided that such prescribing is in accordance with requirements for practice by certified registered nurse anesthetists and is done under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry. This bill is identical to SB 264.

HB 1084 Surgical assistants; definition, licensure.

Chief patron: Hayes

Summary as enacted with Governor's Recommendations:

Surgical assistants; licensure. Defines "surgical assistant" and "practice of surgical assisting" and directs the Board of Medicine to establish criteria for the licensure of surgical assistants. Currently, the Board may issue a registration as a surgical assistant to eligible individuals. The bill clarifies that requiring the licensure of surgical assistants shall not be construed as prohibiting any professional licensed, certified, or registered by a health regulatory board from acting within the scope of his practice. The bill also establishes the Advisory Board on Surgical Assisting to assist the Board of Medicine regarding the establishment of qualifications for and regulation of licensed surgical assistants.

HB 1147 Epinephrine; every public place may make available for administration.

Chief patron: Keam

Summary as passed:

Epinephrine permitted in certain public places. Allows public places to make epinephrine available for administration. The bill allows employees of such public places who are authorized by a prescriber and trained in the administration of epinephrine to possess and administer epinephrine to a person present in such public place believed in good faith to be having an anaphylactic reaction. The bill also provides that an employee of such public place who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person present in the public place believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. The bill directs the Department of Health, in conjunction with the Department of Health Professions, to develop policies and guidelines for the recognition and treatment of anaphylaxis in public places. Such policies and guidelines shall be provided to the Commissioner of Health no later than July 1, 2021.

HB 1260 Athletic Training, Advisory Board on; membership.

Chief patron: Hodges

Summary as introduced:

Advisory Board on Athletic Training; membership. Provides that the one member of the Advisory Board on Athletic Training required to be an athletic trainer who is currently licensed by the Board on Athletic Training and who has practiced in the Commonwealth for not less than three years may be employed in the public or private sector. Currently, the law requires that the member be employed in the private sector.

HB 1261 Athletic trainers; naloxone or other opioid antagonist.

Chief patron: Hodges

Summary as introduced:

Athletic trainers; naloxone or other opioid antagonist. Authorizes licensed athletic trainers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice.

HB 1506 Pharmacists; initiating of treatment with and dispensing and administering of controlled substances.

Chief patron: Sickles

Summary as passed:

Pharmacists; prescribing, dispensing, and administration of controlled substances. Allows a pharmacist to initiate treatment with and dispense and administer certain drugs and devices to persons 18 years of age or older in accordance with a statewide protocol developed by the Board of Pharmacy in collaboration with the Board of Medicine and the Department of Health. The bill directs the Board of Pharmacy to establish such protocols by November 1, 2020, to promulgate emergency regulations to implement the provisions of the bill, and to convene a work group to provide recommendations regarding the development of protocols for the initiating of treatment with and dispensing and administering of additional drugs and devices for persons 18 years of age and older. The bill also clarifies that an accident and sickness insurance policy that provides reimbursement for a service that may be legally performed by a licensed pharmacist shall provide reimbursement for the initiating of treatment with and dispensing and administration of controlled substances by a pharmacist when such initiating of treatment with or dispensing or administration is in accordance with regulations of the Board of Pharmacy.

HB 1683 Diagnostic medical sonography; definition, certification. (Bill not passed; study by Board of Health Professions)

Chief patron: Hope

Summary as introduced:

Diagnostic medical sonography; certification. Defines the practice of "diagnostic medical sonography" as the use of specialized equipment to direct high-frequency sound waves into an area of the human body to generate an image. The bill provides that only a certified and registered sonographer may hold himself out as qualified to perform diagnostic medical sonography. The bill requires any person who fails to maintain current certification and registration or is subject to revocation or suspension of a certification and registration by a sonography certification organization to notify his employer and cease using ultrasound equipment or performing a diagnostic medical sonography or related procedure.

SB 530 Epinephrine; possession and administration by a restaurant employee.

Chief patron: Edwards

Summary as passed:

Possession and administration of epinephrine; restaurant employee. Authorizes any employee of a licensed restaurant to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such employee is authorized by a prescriber and trained in the administration of epinephrine. The bill also requires the Department of Health, in conjunction with the Department of Health Professions, to develop policies and guidelines for the recognition and treatment of anaphylaxis in restaurants.

SB 757 Medical Excellence Zone Program; VDH to determine feasibility of establishment.

Chief patron: Favola

Summary as passed Senate:

Department of Health; Department of Health Professions Medical Excellence Zone Program; telemedicine; reciprocal agreements. Directs the Department of Health to determine the feasibility of establishing a Medical Excellence Zone Program to allow citizens of the Commonwealth living in rural underserved areas to receive medical treatment via telemedicine services from providers licensed or registered in a state that is contiguous with the Commonwealth and directs the Department of Health Professions to pursue reciprocal agreements with such states for licensure for certain primary care practitioners licensed by the Board of Medicine. The bill requires the Department of Health to set out the criteria that would be required for a locality or group of localities in the Commonwealth to be eligible for the designation as a medical excellence zone and report its findings to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020.

The bill states that reciprocal agreements with states that are contiguous with the Commonwealth for the licensure of doctors of medicine, doctors of osteopathic medicine, physician assistants, and nurse practitioners shall only require that a person hold a current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the acts of unprofessional conduct. The Department of Health Professions is required to report on its progress in establishing such agreements to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020. The bill requires the Board of Medicine to prioritize applications for licensure by endorsement as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner from such states through a streamlined process with a final determination regarding qualification to be made within 20 days of the receipt of a completed application. This bill is identical to HB 1701.

Virginia Board of Medicine

PROPOSED - 2021 Board Meeting Dates

Full Board Meetings

February 18-20	DHP/Richmond, VA	Board Rooms TBA
June 24-26	DHP/Richmond, VA	Board Rooms TBA
October 14-16	DHP/Richmond, VA	Board Rooms TBA

Times for the above meetings are 8:30 a.m. to 5:00 p.m.

Executive Committee Meetings

April 9	DHP/Richmond, VA	Board Rooms TBA
August 6	DHP/Richmond, VA	Board Rooms TBA
December 3	DHP/Richmond, VA	Board Rooms TBA

Times for the above meetings are 8:30 a.m. to 5:00 p.m.

Legislative Committee Meetings

January 15	DHP/Richmond, VA	Board Rooms TBA
May 21	DHP/Richmond, VA	Board Rooms TBA
September 3	DHP/Richmond, VA	Board Rooms TBA

Times for the above meetings are 8:30 a.m. to 1:00 p.m.

January 6	May TBA	September 29
February 10	June 9	October 23
March 10	July 21	November (TBA)
April 21	August 18	December (TBA)

Times for the Credentials Committee meetings - TBA

TBA

Advisory Board on:

Behavioral Analysts a.m.			10:00
Mon - January 25	May 24	October 4	
Genetic Counseling			1:00 p.m.
Mon - January 25	May 24	October 4	
Occupational Therapy 10:00 a.m.			
Tues - January 26	May 25	October 5	
Respiratory Care p.m.			1:00
Tues - January 26	May 25	October 5	
Acupuncture a.m.			10:00
Wed - January 27	May 26	October 6	
Radiological Technology			1:00 p.m.
Wed - January 27	May 26	October 6	
Athletic Training			10:00 a.m.
Thurs - January 28	May 27	October 7	
Physician Assistants			1:00 p.m.
Thurs - January 28	May 27	October 7	
Midwifery			10:00 a.m.
Fri - January 29	May 28	October 8	
Polysomnographic Technology			1:00 p.m.
Fri - January 29	May 28	October 8	
Surgical Assisting			TBA
TBA	TBA	TBA	