

# Meeting of the Virginia Board of Medicine



February 20, 2025  
8:30 a.m.



**Board of Medicine**  
**Thursday, February 20, 2025 @ 8:30 a.m.**  
**Perimeter Center**  
**9960 Mayland Drive, Suite 201 Board Room 2**  
**Henrico, VA 23233**

**Call to Order and Roll Call for Full Board Meeting**

**Emergency Egress Procedures..... i**

**Approval of Minutes from October 25, 2024 ..... 1**

**Adoption of Agenda .....--**

**Public Comment on Agenda Items .....--**

**DHP Director’s Report ..... 11**

**Reports of Officers and Executive Director .....12**

- ♦ President..... ----
- ♦ Vice-President..... ----
- ♦ Secretary-Treasurer ..... ----
- ♦ Executive Director ..... 13
  - ♦ Finances ..... 14
  - ♦ Ambraviewer Update .....--
  - ♦ Opioid Overdose Deaths .....18
  - ♦ Members with Expiring Terms .....20
  - ♦ Members Attending FSMB.....--
  - ♦ Restructuring of the Licensing Section.....--

**Committee and Advisory Board Reports .....21**

- ♦ List of Committee Appointments..... 22
- ♦ Legislative Committee ..... 23

**Other Reports.....26**

- ♦ Board Counsel..... ----
- ♦ Board of Health Professions ..... ----
- ♦ Podiatry Report ..... ----





- ◆ Chiropractic Report..... ----
- ◆ Committee of the Joint Boards of Nursing and Medicine ..... ----

**New Business:**

1. Current Regulatory Actions as of January 31, 2025 – Ms. Barrett .....27
2. Report from the 2025 Session of the General Assembly – Ms. Barrett .....---
3. Revision of Guidance Document 85-16 based on regulatory changes – Mr. Novak .....35
4. Adoption of a Noticed of Intended Regulatory Action to implement the PA Licensure Compact – Ms. Barrett .....41
5. Licensing Report – Mr. Sobowale .....53
6. Discipline Report – Ms. Deschenes .....54
7. Revised Sanctioning Reference Points Instructions Manual and Worksheet.....55
8. Appointment of the Nominating Committee.....69
9. Announcements/Reminders ..... 70
10. Adjournment



**PERIMETER CENTER CONFERENCE CENTER**  
**EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS**  
(Script to be read at the beginning of each meeting.)

**PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.**

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

**Board Room 2**

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door (**Point**), turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

**Agenda Item: Approval of Minutes of the October 25, 2024**

**Staff Note:** Draft minutes that have been posted on Regulatory Townhall and the Board's website are presented. Review and revise if necessary.

**Action:** Review and approve with or without corrections.

**VIRGINIA BOARD OF MEDICINE  
FULL BOARD MINUTES**

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October 25, 2024

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Dr. Clements called the meeting to order at 8:35 a.m.
- ROLL CALL:** Ms. Brown called the roll; a quorum was established.
- MEMBERS PRESENT:** John R. Clements, DPM – President & Chair  
Peter J. Apel, MD – Vice-President  
Thomas Corry – Secretary-Treasurer  
Hazem Elariny, MD  
Krishna P. Madiraju, MD  
L. Blanton Marchese  
Pradeep Pradhan, MD  
Jennifer Rathmann, DC  
William Hutchens, MD  
Oliver Kim, JD, LLM  
Deborah DeMoss Fonseca  
Patrick McManus, MD  
Kamlesh Dave, MD  
Ken McDowell, DO  
Michele Nedelka, MD  
Leroy Brown Vaughan, Jr., MD  
Mark Simcox, MD
- MEMBERS ABSENT:** Elliott Lucas, MD
- COUNSEL PRESENT:** M. Brent Saunders, JD – Senior Assistant Attorney General
- STAFF PRESENT:** William L. Harp, MD - Executive Director  
Jennifer Deschenes, JD - Deputy Exec. Director for Discipline  
Michael Sobowale, LLM - Deputy Exec. Director for Licensure  
Colanithia Morton Opher - Deputy Exec. Director for Administration  
Barbara Matusiak, MD - Medical Review Coordinator  
Leslie Knachel – DHP Chief Operating Officer  
Erin Barrett - Director of DHP Legislative and Regulatory Affairs  
Deirdre Brown - Executive Assistant
- OTHERS PRESENT:** W. Scott Johnson – Hancock, Daniel and Johnson, P.C.  
Clark Barrineau – Medical Society of Virginia  
Ben Traynham – Hancock, Daniel and Johnson, P.C.

Tamika Hines – Discipline and Compliance Case Manager  
Sean Nealon – Discipline Reinstatement Case Manager  
Coralyn Powell – Discipline Administrative Assistant  
Roslyn Nickens – Licensing Supervisor  
Shannon Decriscio – Licensing Specialist  
Matt Novak – DHP Policy and Economic Analyst

## **EMERGENCY EGRESS INSTRUCTIONS**

Dr. Apel provided the emergency egress instructions for Board Room 2.

## **INTRODUCTIONS**

Dr. Clements asked all Board members and staff to introduce themselves.

## **SUMMARY SUSPENSION PRESENTATIONS**

The Board received information from Sean Murphy, Senior Assistant Attorney General, regarding Steven Brewer, P.A., License No. 0110-004973, in order to determine whether his ability to practice as a physician assistant constituted a substantial danger to the public health and safety. Mr. Murphy provided details of the case for the Board's consideration.

On a motion by Mr. Marchese, and duly seconded by Dr. Pradhan, the Board determined that Mr. Brewer's ability to practice constituted a substantial danger to the public health and safety and voted to summarily suspend his license simultaneous with the institution of proceedings for a formal administrative hearing pursuant to Section 54.1-2408.1 of the Code of Virginia. The vote was unanimous.

The Board received information from Sean Murphy, Senior Assistant Attorney General, regarding Zhe Lin, D.O., License No. 0102-073370, in order to determine whether his ability to practice osteopathic medicine constituted a substantial danger to the public health and safety. Mr. Murphy provided details of the case for the Board's consideration.

On a motion by Mr. Corry, and duly seconded by Dr. Apel, the Board determined that Dr. Lin's ability to practice constituted a substantial danger to the public health and safety and voted to summarily suspend his license simultaneous with the institution of proceedings for a formal administrative hearing pursuant to Section 54.1-2408.1 of the Code of Virginia. The vote was unanimous.

The Board received information from Mandy Wilson, Assistant Attorney General, regarding Paul Spector, D.O., License No. 0102-023076, in order to determine whether Dr. Spector's ability to practice osteopathic medicine constituted a substantial danger to the public health and safety. Ms. Wilson provided details of the case for the Board's consideration.

On a motion by Mr. Corry, and duly seconded by Ms. DeMoss Fonseca, the Board determined that Dr. Spector's ability to practice constituted a substantial danger to the public health and safety and voted to summarily suspend his license simultaneous with the institution of proceedings for a formal administrative hearing pursuant to Section 54.1-2408.1 of the Code of Virginia. The vote was unanimous.

The Board received information from David Robinson, Assistant Attorney General, regarding Rae'Nika Niles, R.T., License No. 0117-009836, in order to determine whether her ability to practice as a respiratory therapist constituted a substantial danger to the public health and safety. Mr. Robinson provided details of the case for the Board's consideration.

On a motion by Dr. Rathmann, and duly seconded by Mr. Marchese, the Board determined that Ms. Niles' ability to practice constituted a substantial danger to the public health and safety and voted to summarily suspend her license simultaneous with the institution of proceedings for a formal administrative hearing pursuant to Section 54.1-2408.1 of the Code of Virginia. The vote was unanimous.

#### **APPROVAL OF MINUTES OF June 13, 2024**

Dr. Apel moved to approve the minutes of June 13, 2024. The motion was properly seconded by Mr. Corry and carried unanimously.

#### **ADOPTION OF AGENDA**

Dr. Apel moved to approve the agenda as presented. The motion was properly seconded by Mr. Corry and carried unanimously.

#### **PUBLIC COMMENT**

None.

#### **DHP DIRECTOR'S REPORT**

Leslie Knachel, DHP Chief Operating Officer, reported in Mr. Owens' absence. Ms. Knachel reviewed the new security measures that have been implemented by the agency since the Board's last meeting. The new measures include walk-through metal detectors and x-ray scanning of items at the building's two entrance points. Ms. Knachel stated that a further security enhancement will be new badges for staff and Board members which should be available soon.

Ms. Knachel updated the Board on the Governor's, "Right Help, Right Now" with the Virginia Department of Behavioral Health and Developmental Services (DBHDS). Lastly, Ms. Knachel stated that DHP is currently gearing up for the 2025 General Assembly.

**REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR**

**PRESIDENT**

None.

**VICE-PRESIDENT**

None.

**SECRETARY-TREASURER**

None.

**EXECUTIVE DIRECTOR**

Budget Numbers as of June 30, 2024

Dr. Harp shared the Board's revenue and expenditures as of June 30, 2024. He reminded the Board that the fiscal year runs July 1<sup>st</sup> through June 30<sup>th</sup>. He noted that DHP is a special-funded agency, meaning that it gets no General Fund monies but rather relies on its fee revenue. Fees are set accordingly to fund the operations of the Board. He pointed out that calendar year 2025 will bring in less revenue than 2024 since the allied professions renew in the odd years. The cash balance as of June 20, 2024, was \$13,975,213, which puts the Board in a solid position for FY2025.

Dr. Harp noted that in FY2021, Medicine was 27.2% of Enforcement's budget. In FY2024, it was down to 23.8%. The Board of Nursing now pays a greater percentage than does Medicine to both Enforcement and the Administrative Proceedings Division.

Update on the Ambra Viewer

Dr. Harp said that the Ambra Viewer, which is an "add-on" used to view imaging studies, has been approved and will soon be available to Board members viewing cases in BOX.

Update on Opioid Statistics

Dr. Harp shared an update on prescription opioid overdose deaths in the Commonwealth, stating that in 2017 there were 507 such deaths. In 2022, deaths were down to 340. The estimated number for 2024 is 246. In the past several years, the great majority of opioid deaths have been due to fentanyl. The recent quarterly reports indicate that deaths from fentanyl are decreasing as well, probably due to the increased availability of Narcan in the community.

## **COMMITTEE AND ADVISORY BOARD REPORTS**

Ms. DeMoss Fonseca moved to accept all reports since June 13, 2024 en bloc. The motion was properly seconded by Dr. Hutchens and carried unanimously.

## **OTHER REPORTS**

**Board Counsel** – Brent Saunders, JD – Senior Assistant Attorney General

Mr. Saunders provided an update on 6 legal cases.

## **Board of Health Professions**

Dr. Madiraju shared that “Right Help, Right Now” is addressing the mental health crisis and has implemented the new 988 number for the Suicide and Crisis Lifeline. It is accessible by phone, text or chat.

## **Podiatry Report**

None.

## **Chiropractic Report**

None.

## **Committee of the Joint Boards of Nursing and Medicine**

Dr. Clements reported that the Committee of the Joint Boards of Nursing and Medicine met earlier this week to hear agency subordinate recommendations. There was no business meeting on October 23, 2024, so there were no items to report to the Board.

## **NEW BUSINESS**

### **1. Current Regulatory Actions**

Ms. Barrett presented the chart of regulatory actions as of October 1, 2024, stating that that there are currently 15 regulatory actions in the Secretary’s Office. She noted that a number will be moving to the Office of the Governor in the near future.

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

2. Consideration of Fast-Track Amendment Regarding Attestation of CE Compliance on Licensure Applications

Ms. Barrett reviewed with the Board the draft changes to 18VAC85-20-240 that were recommended by the Credentials Committee at their meeting on September 20, 2024. The proposed amendment will remove the requirement of submitting CE documentation to the Board when reactivating an inactive license or reinstating an expired license. Rather, attestation that the applicant has obtained the required number of continued competency hours will mirror the renewal process.

**MOTION:** Dr. Hutchens moved to amend 18VAC85-20-240 by Fast-Track action as presented. Dr. Apel seconded, and the motion passed unanimously.

3. Consideration of Language for Physician Assistant Reinstatement

Ms. Barrett reviewed the draft changes to 18VAC85-50 to reinstate physician assistant (PA) licenses. Currently, when a PA license has lapsed for more than 2 year, the individual must apply for a new license. The draft language will bring the PA reinstatement process into alignment with all the other professions at the Board.

**MOTION:** Mr. Marchese moved to adopt a fast-track regulatory action regarding PA reinstatement as presented. Dr. Pradhan seconded, and the motion passed unanimously.

4. Notice of Intended Regulatory Action to Implement HB995

Ms. Barrett noted the requirement for regulations to implement HB995. This matter was discussed with the Legislative Committee at its meeting on September 13, 2024. At that time, the Committee recommended that the Board adopt a NOIRA to begin the regulatory process.

Dr. Apel explained to the Board members that the law describes 3 phases in the licensing process. He noted that the pathway does not involve a standard training license. Once the licensee is in the 3<sup>rd</sup> phase of the process, s/he will be able to practice across the Commonwealth.

**MOTION:** Mr. Marchese moved to adopt a Notice of Intended Regulatory Action (NOIRA) to implement the provisions of HB995 as recommended by the Legislative Committee. Dr. Apel seconded, and the motion carried with 15 yeas and 2 abstentions.

5. Consideration of American Allied Health as an Approved Provider for Surgical Technician Certification

Ms. Barrett stated that the Advisory Board on Surgical Assistants met on October 15, 2024 and discussed its concerns about the qualifications required for certification through American Allied Health (AAH). A main concern of the Advisory was that AAH only provides training online. Ms. Barrett also emphasized that the program certifies surgical technicians,

not surgical technologists, which are two different professional designations. The Advisory Board on Surgical Assistants recommended that the Board deny the approval of the AAH credential for certification as a surgical technologist.

Mr. Marchese stated that AAH names a third entity whose credential will qualify for licensure, which will help those who have been trained in the military or elsewhere, therefore adding a new pathway for licensure.

**MOTION:** Dr. Apel moved to approve the AAH credential of Surgical Technician for surgical technologist certification by the Board. Mr. Marchese seconded, and the motion carried with 16 yeas and 1 abstention.

6. Re-Entry to Practice

Dr. Harp shared that the Board had asked the Credentials Committee to review the Federation of State Medical Boards report on “Reentry to Practice.” The Committee did so at its September 20, 2024, meeting and recommended no changes to the Board’s current process for re-entry. The current process was deemed to meet the Board’s mission of protecting the public due to its individualized approach.

The Board’s discussion was favorable for the recommendation of the Credentials Committee; therefore, no action was needed.

7. Expiration of Applications

Dr. Harp noted that the Board’s current policy for expiring applications allows the applicant to keep an application pending for 1 year. In some circumstances, an additional grace period of up to 1 month may be added. Therefore, an application may remain pending for up to 395 days. Dr. Harp stated that 100% of the endorsement applicants and reciprocity applicants from Maryland and DC are licensed quickly. A physician was licensed through endorsement in 1 day. The Maryland Board of Physicians’ policy is to allow the applicant 90 days to complete an application. Dr. Harp explained that with the current 1-year expiration, an accurate picture of the work of the licensing specialists is difficult to ascertain. Dr. Harp then asked Ms. Opher to share more detail about the expiration of licenses.

Ms. Opher said that the Board used to receive the majority of supporting documentation for applications by snail mail. Since COVID-19, the Board has streamlined the required supporting documents for applicants and now receives most documents via email. It stands to reason that an applicant does not need a year to complete an application.

Dr. Harp noted that on September 20, 2024, the Credentials Committee suggested applications should remain open for 180 days. The majority of applicants are licensed within 180 days from the submission of an application. A shorter timeframe would encourage applicants to submit their supporting documentation in a timely manner. Dr. Harp suggested that the change be made on January 1, 2025, and allow those who apply through December

31, 2024, to have the 365 days. The manual process to expire applications can be met within the 180-day timeframe.

**MOTION:** Mr. Marchese moved to accept the recommendation of the Credentials Committee to expire pending applications after 180 days beginning on January 1, 2025. Dr. Pradhan seconded, and the motion passed unanimously.

8. Licensing Report

Mr. Sobowale stated that the number of Medicine's licensees is currently 92,713 plus an additional 21,696 individuals jointly licensed with the Board of Nursing. He said the Board has received 9,913 applications so far this year, and 9,483 have been issued. This gives the Board a 96% clearance rate. The average time to licensure is 46 days across all 20 professions.

Mr. Sobowale noted that on March 13, 2023, the Board initiated the reciprocity pathway with Maryland and DC. Virginia has issued 1,087 licensees through reciprocity to Maryland and DC physicians. A smaller number of Virginia physicians have been issued licenses from Maryland and DC.

Lastly, Mr. Sobowale introduced his new licensing specialist, Shannon Decriscio, to the Board. Ms. Decriscio will be processing MD applications. Mr. Sobowale said the Licensing Section currently has 2 vacancies, which puts a strain on the licensing specialists when they pitch in to help with other professions.

9. Discipline Report

Ms. Deschenes thanked Brent Saunders for his work and welcomed Ms. DeMoss Fonseca back to the Board. She brought the handout with Discipline's numbers to the attention of the Board members. She then reviewed the protocol/conduct expected of Board members during disciplinary hearings. Ms. Deschenes noted that Mr. Saunders should not be asked legal questions in open session, but to save those and comments/discussion with other Board members for closed session.

**ANNOUNCEMENTS**

Dr. Clements announced that the next Board meeting will be held on February 20, 2025, at 8:30 a.m.

**ADJOURNMENT**

With no additional business, the meeting adjourned at 10:54 a.m.

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William L. Harp, MD  
Executive Director

**Agenda Item:**     **DHP Agency Director's Report**

**Staff Note:**     All items for information only

**Action:**         None.

**Agenda Item: Report of Officers**

- Staff Note:**
- ♦ President
  - ♦ Vice-President
  - ♦ Secretary-Treasurer
  - ♦ Executive Director

**Action:** Informational presentation. No action required.

**Agenda Item:** Executive Director's Report

**Staff Note:** All items for information only.

**Action:** None.

FY 2025 Budget / Actual through December 2024

Virginia Department of Health Professions

Includes: (base budget, salary/benefit budget, and other budget accounts)

Period Ending: 12/31/2024

% of the Year Complet 50%

Department ID: 10200

Department Name: Board of Medicine

Fund 09223

TYPE	Account Number	Description	FY2025 Budget	July	August	September	October	November	December	Grand Total	(Over)		% of the Budget
											Under Budget	Remaining Budget	
	4002401	Application Fee	2,117,938.08	169,404.00	159,080.00	141,438.00	128,973.00	115,337.00	119,671.00	833,903.00	1,338,035.08	-	62%
	4002402	Examination Fee	5,128.04	554.00	-	277.00	1,108.00	831.00	-	2,770.00	2,358.04	-	46%
	4002406	License & Renewal Fee	9,430,572.44	1,405,499.00	1,423,633.00	1,363,233.00	1,373,914.00	1,283,037.00	742,967.00	7,592,283.00	1,838,289.44	-	19%
	4002407	Dup. License Certificate Fee	7,117.68	740.00	805.00	805.00	685.00	595.00	615.00	4,245.00	2,872.68	-	40%
	4002408	Board Endorsement - In	-	-	-	-	-	-	-	-	-	-	0%
	4002409	Board Endorsement - Out	1,130.25	80.00	160.00	130.00	180.00	100.00	200.00	850.00	280.25	-	25%
	4002421	Monetary Penalty & Late Fees	94,541.83	12,410.00	11,595.00	13,940.00	12,855.00	11,120.00	15,200.00	77,120.00	17,421.83	-	18%
	4002430	Board Changes Fee	-	-	-	-	-	-	-	-	-	-	0%
	4002432	Misc. Fee (Bad Check Fee)	779.49	-	-	-	50.00	100.00	50.00	200.00	579.49	-	74%
	4003002	Overpayments	-	-	-	-	-	-	-	-	-	-	0%
	4003007	Sales of Goods/Svces to State	-	-	-	-	-	-	-	-	-	-	0%
	4003020	Misc. Sales-Dishonored Payments	328.36	-	-	-	-	-	-	-	328.36	-	100%
	4007108	Interest From Other Sources	-	-	-	-	-	-	-	-	-	-	0%
	4009060	Miscellaneous Revenue	974.36	-	-	-	-	-	-	-	974.36	-	100%
	4009084	Exp & Misc Disb Made Prior Yrs.	-	-	-	-	-	-	-	-	-	-	0%
<b>Revenue Total</b>			<b>11,712,510.52</b>	<b>1,588,687.00</b>	<b>1,595,273.00</b>	<b>1,519,823.00</b>	<b>1,517,765.00</b>	<b>1,411,120.00</b>	<b>878,703.00</b>	<b>8,511,371.00</b>	<b>3,201,139.52</b>	<b>-</b>	<b>27%</b>
	5011250	Salaries, Overtime	5,000.00	1,151.82	660.25	-	-	184.96	-	1,997.03	3,002.97	-	60%
	5011340	Specified Per Diem Payments	12,000.00	1,150.00	300.00	200.00	650.00	850.00	250.00	3,400.00	8,600.00	-	72%
	5012110	Express Services	10,000.00	3,689.28	-	1,842.84	-	505.86	(505.86)	5,532.12	4,467.88	-	45%
	5012120	Outbound Freight Services	12,000.00	721.10	829.92	555.29	350.87	931.55	912.39	4,301.12	7,698.88	-	64%
	5012130	Messenger Services	200.00	-	-	-	-	-	-	-	200.00	-	100%
	5012140	Postal Services	80,000.00	3,368.23	1,385.65	1,549.39	-	1,705.52	3,281.04	11,289.83	68,710.17	-	86%
	5012150	Printing Services	2,300.00	-	-	1,816.31	-	-	-	1,816.31	483.69	-	21%
	5012190	Inbound Freight Services	150.00	4.75	9.50	-	19.00	-	-	33.25	116.75	-	78%
	5012210	Organization Memberships	10,000.00	-	305.00	-	3,227.00	2,400.00	-	5,932.00	4,068.00	-	41%
	5012220	Publication Subscriptions	-	-	-	-	-	-	-	-	-	-	0%
	5012240	Employee Training Courses, Workshops, and Conferences:	4,000.00	199.00	-	-	-	-	-	199.00	3,801.00	-	95%
	5012270	Employee Training- Transportation, Lodging, Meals, and Incidentals:	3,500.00	-	-	-	-	-	-	-	3,500.00	-	100%



Telecommunications Services (provided by Non-State vendor)	1,080.00	90.00	135.00	90.00	45.00	135.00	90.00	585.00	495.00	46%
Employee Tuition Reimbursement:	-	-	-	-	-	-	-	-	-	0%
Employee Training Consulting Services:	-	-	-	-	-	-	-	-	-	0%
Fiscal Services	125,000.00	10,404.97	10,292.80	15,297.83	15,994.43	3,577.27	2,266.60	57,833.90	67,166.10	54%
Attorney Services	-	-	-	-	-	-	-	-	-	0%
Management Services	-	-	-	-	-	-	-	-	-	0%
Recruitment Advertising	-	-	-	-	-	-	-	-	-	0%
Equipment Repair and Maintenance	-	-	-	-	-	-	-	-	-	0%
Services	5,000.00	-	-	-	-	-	-	-	5,000.00	100%
Clerical Services	86,820.00	2,745.23	11,487.74	1,444.60	6,456.00	-	-	22,133.57	64,686.43	75%
Laundry and Linen Services	-	-	-	-	-	-	-	-	-	0%
Manual Labor Services	14,124.00	648.87	567.77	380.82	1,008.64	-	1,758.67	4,364.77	9,759.23	69%
Production Services	97,412.00	9,879.63	3,571.94	3,721.07	8,084.01	474.00	7,562.24	33,292.89	64,119.11	66%
Skilled Services	450,000.00	52,621.08	36,763.74	-	35,192.64	36,135.30	70,071.06	230,783.82	219,216.18	49%
Medical and Dental Supplies	-	-	41.53	-	-	-	-	41.53	(41.53)	0%
Building Repair and Maintenance	-	-	-	-	-	-	-	-	-	0%
Materials	-	-	-	-	-	-	-	-	-	0%
Automobile Liability	-	-	-	-	-	-	-	-	-	0%
Property Insurance	158.00	-	-	-	-	-	-	-	158.00	100%
Equipment Rentals	6,536.00	517.22	517.22	517.22	517.22	873.59	-	2,942.47	3,593.53	55%
Building Rentals	1,176.00	-	301.58	-	-	-	289.05	590.63	585.37	50%
Building Rentals – Non-State Owned	-	-	-	-	-	-	-	-	-	0%
Facilities - New	177,453.00	14,049.58	13,667.54	17,439.28	15,407.71	-	25,652.72	86,216.83	91,236.17	51%
Agency Service Charges	2,000.00	-	321.66	-	737.80	-	-	1,059.46	940.54	47%
DGS Parking Charges	-	-	-	-	-	-	-	-	-	0%
Private Vendor Service Charges	-	-	-	-	-	-	-	-	-	0%
General Liability Insurance	4,416.00	-	-	-	-	-	-	-	4,416.00	100%
Surety Bonds	80.00	-	-	-	-	-	-	-	80.00	100%
Workers' Compensation	-	-	-	-	-	-	-	-	-	0%
<b>Other Budget Total</b>	<b>984,255.00</b>	<b>91,838.20</b>	<b>78,531.88</b>	<b>39,736.11</b>	<b>84,230.03</b>	<b>41,980.82</b>	<b>108,475.12</b>	<b>444,792.16</b>	<b>539,462.84</b>	<b>55%</b>
Employer Retirement Contributions – VRS	-	-	-	-	-	-	-	-	-	0%
Defined Benefits program	249,888.00	18,515.00	26,121.67	17,653.66	8,892.09	25,281.09	16,894.72	113,358.23	136,529.77	55%
Federal Old-Age Insurance for Salaried State Employees (Salaried Social Security and Medicare)	158,860.00	11,564.17	14,778.80	9,278.15	4,764.87	12,384.44	8,357.94	61,128.37	97,731.63	62%
Group Life Insurance	22,682.00	1,769.80	2,461.98	1,663.86	829.89	2,390.95	1,592.34	10,708.82	11,973.18	53%
Medical/Hospitalization Insurance (Annual Employer Health Insurance Premium)	327,060.00	20,345.50	30,123.00	20,397.00	10,678.50	29,575.50	19,776.00	130,895.50	196,164.50	60%
Retiree Health (Medical/Hospitalization) Insurance Credit Premium	21,529.00	1,574.85	2,336.76	1,579.24	787.68	2,269.33	1,511.34	10,059.20	11,469.80	53%
VSDP and Long-term Disability Insurance	9,611.00	732.26	977.53	661.24	329.75	947.42	630.92	4,279.12	5,331.88	55%

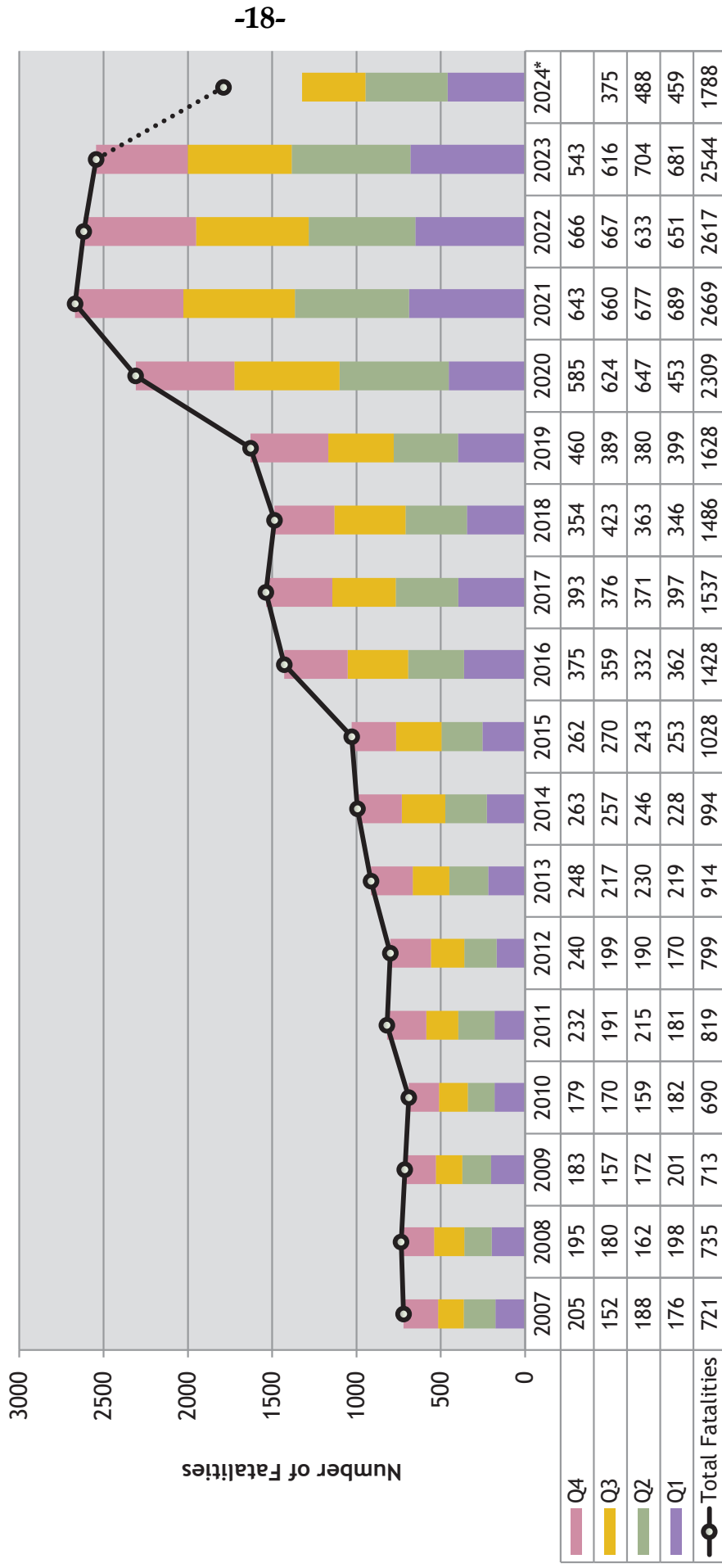
Age/Benefit Budget

5011220	Salaries, Appointed Officials	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%
5011230	Salaries, Classified	1,922,212.00	143,471.80	218,136.14	135,718.52	70,033.70	204,619.89	137,190.09	909,170.14	1,013,041.86	-	-	-	-	-	-	-	53%
5011240	Salaries, Other Officials	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%
5011310	Bonuses and Incentives	3,000.00	3,000.00	-	-	-	-	-	3,000.00	-	-	-	-	-	-	-	-	0%
5011380	Deferred Compensation Match Payments	5,280.00	460.00	690.00	380.00	200.00	520.00	340.00	2,590.00	2,690.00	-	-	-	-	-	-	-	51%
5011410	Wages, General	154,381.00	5,711.56	6,188.95	7,181.54	11,358.78	15,441.48	10,676.07	56,558.38	97,822.62	-	-	-	-	-	-	-	63%
5011530	Short-term Disability Benefits	-	-	452.33	2,693.39	-	-	-	3,145.72	(3,145.72)	-	-	-	-	-	-	-	0%
	Defined Contribution Match - VRS Hybrid																	
5011660	Retirement Plan	9,183.00	879.26	1,238.10	812.78	423.48	1,312.86	897.72	5,564.20	3,618.80	-	-	-	-	-	-	-	39%
	<b>Salary/Wage/Benefit Budget Total</b>	<b>2,883,686.00</b>	<b>208,024.20</b>	<b>303,505.26</b>	<b>198,019.38</b>	<b>108,298.74</b>	<b>294,742.96</b>	<b>197,867.14</b>	<b>1,310,457.68</b>	<b>1,573,228.32</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>55%</b>
	<b>Grand Total - Direct Expenditures</b>	<b>4,144,468.00</b>	<b>317,094.79</b>	<b>389,314.42</b>	<b>245,737.86</b>	<b>204,295.16</b>	<b>351,538.60</b>	<b>314,103.31</b>	<b>1,822,084.14</b>	<b>2,322,383.86</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>56%</b>

# ALL DRUGS

The total number of fatal drug overdoses statewide has increased each year. In 2013, fatal drug overdose became the number one method of unnatural death in the Commonwealth, surpassing both motor vehicle-related fatalities and gun-related fatalities. In 2014, fatal drug overdose became the leading cause of accidental death in Virginia. The number of fatal overdoses, all substance, decreased by 2.8% in 2023 when compared to 2022.

**Total Number of Fatal Drug Overdoses by Quarter and Year of Death, 2007-2024\***  
Data for 2024 is a Predicted Total for the Entire Year

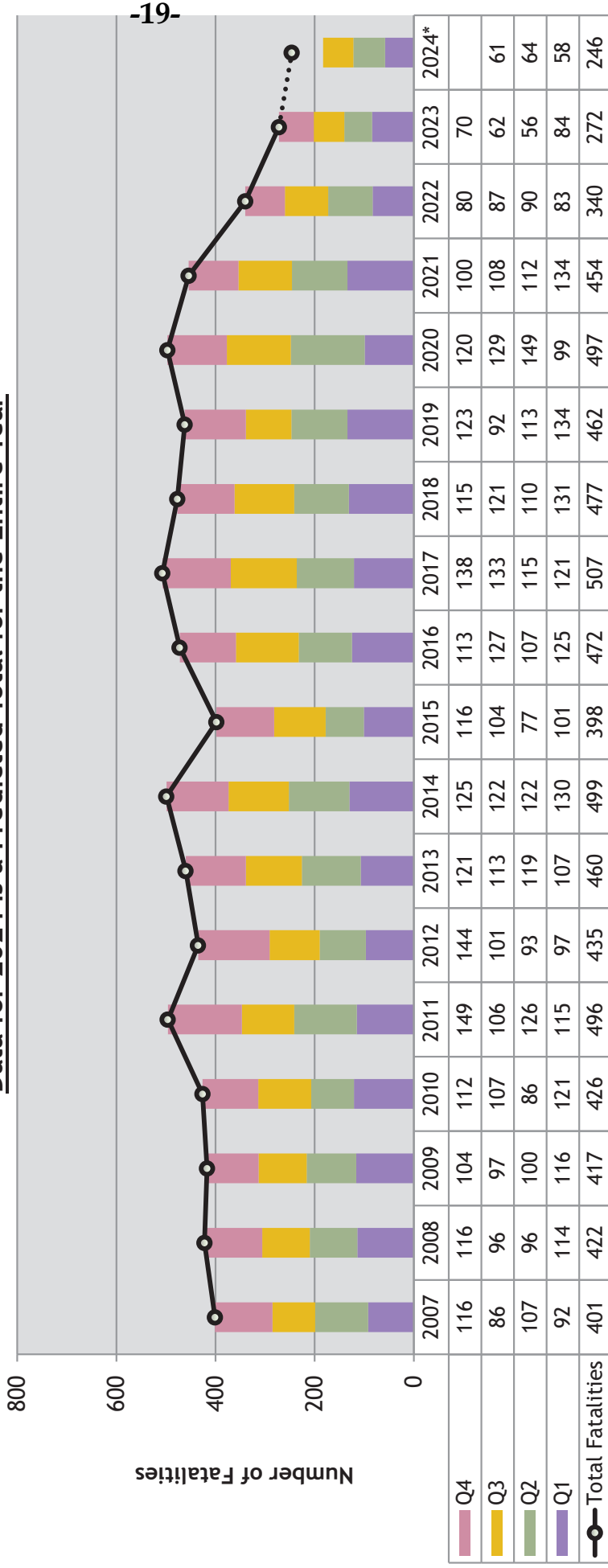


# PRESCRIPTION OPIOIDS (EXCLUDING FENTANYL)

Since 2007, fatal prescription (Rx) opioid overdoses have been the leading category of drugs causing or contributing to death in the Commonwealth, with historically, oxycodone being the most common drug. Given the transition in fatal fentanyl overdoses from pharmaceutically produced fentanyl (2007-2014) to nearly all illicitly produced fentanyl (2015-present), fentanyl needs to be removed from the Rx opioid category and analyzed separately. This allows one to see the significant impact the drug is having on fatal overdose numbers in Virginia. By removing fentanyl from this Rx category, it is to be expected that Rx opioid fatalities from 2007-2013 to be slightly undercounted because true Rx fentanyl overdoses are excluded and combined with all 'fentanyl' to capture recent trends of illicit fentanyl in Virginia.

## Total Number of Fatal Prescription Opioid Overdoses (Excluding Fentanyl) by Quarter and Year of Death, 2007-2024\*

Data for 2024 is a Predicted Total for the Entire Year



\* Prescription Opioids (excluding fentanyl) calculates all deaths in which one or more prescription opioids caused or contributed to death, but excludes fentanyl from the required list of prescription opioid drugs used to calculate the numbers. However, given that some of these deaths have multiple drugs on board, some deaths may have fentanyl in addition to other prescriptions opioids, and are therefore counted in the total number. Analysis must be done this way because by excluding all deaths in which fentanyl caused or contributed to death, the calculation would also exclude other prescription opioid deaths (oxycodone, methadone, etc.) from the analysis and would thereby undercount the actual number of fatalities due to these true prescription opioids.

## Full Board - FY 2025

<b>Peter J. Apel, MD, Vice-President</b> 1st Term Expires June 2026 District: 6 - Roanoke	<b>L. Blanton Marchese</b> 1st Term Expires June 2025 Citizen Member – N. Chesterfield
<b>John R. Clements, DPM, President</b> 1st Term Expires June 2026 Podiatrist – Roanoke	<b>Patrick McManus, MD</b> 1st Term Expires June 2027 District: 7 Fredericksburg
<b>Kamlesh Dave, MD</b> 1st Term Expires June 2028 District: 4 - Chester	<b>Ken McDowell, DO</b> 1st Term Expires June 2028 Osteopath – Fredericksburg
<b>Hazem A. Elariny, MD</b> 1st Term Expires June 2026 District: 8 – McLean	<b>Michele Nedelka, MD</b> 1st Term Expires June 30, 2028 District: 2 - Virginia Beach
<b>Deborah DeMoss Fonseca</b> 1st Term Expires June 2027 Citizen Member – Mclean	<b>Pradeep Pradhan, MD</b> 1st Term Expires June 2025 District: 5 – Danville
<b>William Hutchens, MD</b> 1st Term Expires June 2026 District: 11 – Great Falls	<b>Jennifer Rathmann, DC</b> 1st Term Expires June 2025 Chiropractor - Blacksburg
<b>Oliver Kim</b> 1st Term Expires June 2025 Citizen Member - Alexandria	<b>Mark Simcox, MD</b> 1st Term Expires June 2028 District: 9 - Abingdon
<b>Elliott Lucas, MD</b> 1st Term Expires June 2027 District: 3 – Hampton	<b>Leroy Brown Vaughan, Jr., MD</b> <b>Secretary/Treasurer</b> 1st Term Expires June 2028 District 1 – Henrico
<b>Krishna P. Madiraju, MD</b> 1st Term Expires June 2026 District: 10 – Ashburn	<b>VACANT, Citizen</b> Unexpired Term Expires June 2027

**Agenda Item: Committee and Advisory Board Reports**

**Staff Note:** Please note Committee assignments and minutes of meetings.

**Action:** Motion to accept minutes as reports to the Board.

VIRGINIA BOARD OF MEDICINE

Committee Appointments

**FY2025**

**EXECUTIVE COMMITTEE (8)**

**Randy Clements, DPM – President, Chair**  
**Peter Apel, MD – Vice-President**  
**Leroy Vaughan, Jr., MD – Secretary-Treasurer**  
William Hutchens, MD  
Oliver Kim  
L. Blanton Marchese  
Deborah DeMoss Fonseca  
Jennifer Rathmann, DC

**LEGISLATIVE COMMITTEE (7)**

**Peter Apel, MD – Vice-President, Chair**  
**Randy Clements, DPM – President**  
**Leroy Vaughan, Jr., MD – Secretary-Treasurer**  
Krishna Madiraju, MD  
Patrick McManus, MD  
Pradeep Pradhan, MD  
Jennifer Rathmann, DC

**CREDENTIALS COMMITTEE (9)**

**William Hutchens, MD – Chair**  
Kamlesh Dave, MD  
Hazem Elariny, MD  
Elliott Lucas, MD  
Krishna Madiraju, MD  
Ken McDowell, DO  
Patrick McManus, MD  
Michele Nedelka, MD  
Mark Simcox, MD

**FINANCE COMMITTEE**

**J. Randy Clements, DPM – President**  
**Peter Apel, MD – Vice-President**  
**Leroy Vaughan, Jr., MD – Secretary-Treasurer**

**BOARD BRIEFS COMMITTEE**

William L. Harp, M.D., Ex Officio

**CHIROPRACTIC COMMITTEE**

Jennifer Rathmann, DC

**BOARD OF HEALTH PROFESSIONS**

Krishna Madiraju, MD

**COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE**

**Randy Clements, DPM – President**  
Blanton Marchese  
**Leroy Vaughan, Jr, MD – Secretary-Treasurer**

**VIRGINIA BOARD OF MEDICINE  
LEGISLATIVE COMMITTEE MINUTES**

Friday, January 10, 2025

Department of Health Professions

Henrico, VA

- CALL TO ORDER:** Dr. Apel called the meeting of the Legislative Committee to order at 8:36 a.m.
- ROLL CALL:** Ms. Brown called the roll; a quorum was established.
- MEMBERS PRESENT:** Peter Apel, MD, Vice-President, Chair  
Thomas Corry, Secretary-Treasurer  
Pradeep Pradhan, MD  
Jennifer Rathmann, DC  
Leroy Vaughan, Jr., MD
- MEMBERS ABSENT:** J. Randy Clements, DPM, President  
Krishna Madiraju, MD
- STAFF PRESENT:** William L. Harp, MD - Executive Director  
Jennifer Deschenes, JD - Deputy Director, Discipline  
Colanthia Morton Opher - Deputy Director, Administration  
Michael Sobowale, LLM - Deputy Director, Licensing  
Barbara Matusiak, MD - Medical Review Coordinator  
Arne Owens – DHP Director  
Erin Barrett, JD – Director of Legislative and Regulatory Affairs  
Deirdre Brown - Executive Assistant  
Danielle Sangiuliano – Administrative Assistant
- COUNCIL PRESENT:** W. Brent Saunders, JD - Senior Assistant Attorney General
- OTHERS PRESENT:** Tamika Hines - Discipline Case Manager  
Matt Novak – DHP Policy and Economic Analyst  
Dr. Lily Cameron – Refugee Physicians Advocacy Coalition  
Jack Wendorf – International Ministry of Ashland  
Allyson Flinn – Medical Society of Virginia

**EMERGENCY EGRESS INSTRUCTIONS**

Mr. Corry provided the emergency egress instructions for Board Room 4.

## **APPROVAL OF MINUTES OF September 13, 2024**

Dr. Rathmann moved to approve the meeting minutes of September 13, 2024. The motion was seconded by Dr. Pradhan and carried unanimously.

## **ADOPTION OF AGENDA**

The agenda was adopted by unanimous consent.

## **PUBLIC COMMENT**

None.

## **DHP AGENCY DIRECTOR'S REPORT**

None.

## **NEW BUSINESS**

### **1. Legislative and Regulatory Update**

Ms. Barrett stated that on Wednesday, January 8, 2025, due to the water issue in Richmond, the General Assembly gaveled in and then gaveled out. She informed the Board that no position has been taken on any bills at this time. Ms. Barrett then concluded with a brief review of HB1635-Certified Nurse Midwives; Licensed Certified Midwives; Independent Practice; Organized Medical Staff.

### **2. Consideration of Regulatory Requirements for Implementation of HB995**

Ms. Barrett opened by suggesting that the Committee focus primarily on the evaluation program in Section 4 of HB995 for the Provisional license pathway. Dr. Apel suggested that the evaluation guidelines should be parallel to those of ACGME (Accreditation Council for Graduate Medical Education) with milestone reporting, possibly quarterly. The suggestion opened the floor to discussion of whether in-program reporting should be to the Board or remain the responsibility of the Program Manager for the facility by which the foreign physician is employed. Ms. Barrett stated that the quarterly assessments should come from the licensee to the Board and that this agreement should be on the application for a Provisional license. After further discussion, the Committee agreed that the applicant for a Provisional license needed to submit an outline of the facility's program, including the assessment and evaluation process, but the Board would not require submission of interim evaluations. Rather, it would expect a letter of successful completion of the 2-year program at the time the physician applies for a Restricted license.

Dr. Apel requested a timeline on the roll-out of HB995. Ms. Barrett stated that there is no way to know at this time.

Dr. Pradhan asked if the requirement for 5 years of practice in Section (B)(1) would include the physician's training years. It was suggested by Counsel to consider using the language of "5 years after training", in Section (B)(1). This was agreed to by all.

Dr. Harp suggested that Ms. Barrett meet with Board staff prior to the May Legislative Committee meeting to draft regulations for review. Ms. Barrett agreed to the plan.

## **DISCIPLINE REPORT**

Ms. Deschenes presented a Consent Order for the Committee's consideration that would reinstate a physician's license.

**MOTION:** Dr. Pradhan moved to accept the Consent Order. The motion was properly seconded by Dr. Rathmann with a vote of 5-0.

## **ANNOUNCEMENTS**

None.

## **NEXT MEETING**

May 9, 2025

## **ADJOURNMENT**

With no other business to conduct, the meeting adjourned at 10:12 a.m.

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William L. Harp, MD  
Executive Director

**Agenda Item: Other Reports**

- ◆ Assistant Attorney General\*
- ◆ Board of Health Professions
- ◆ Podiatry Report\*
- ◆ Chiropractic Report\*
- ◆ Committee of the Joint Boards of Nursing and Medicine

**Staff Note:** \*Reports will be given orally at the meeting

**Action:** These reports are for information only. No action needed unless requested by presenter.

**Agenda Item: Current Regulatory Actions**

**Staff Note:** Ms. Barrett will speak to the Board of Medicine actions underway.

**Action:** If any action is required, guidance will be provided.

**Board of Medicine**  
**Current Regulatory Actions**  
**As of October 1, 2024**

**In the Governor's Office**

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC85-20	Fast-Track	Implementation of 2022 Periodic Review of Chapter 20	10/6/2022	41 days	Implements changes following 2022 periodic review

**In the Secretary's Office**

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC85-160	Final	Changes consistent with a licensed profession	6/17/2022	819 days (2.3 years)	Proposed regulations consistent with surgical assistants changing from certification to licensure
18VAC85-130	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	490 days	Implements changes following 2022 periodic review
18VAC85-140	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	487 days	Implements changes following 2022 periodic review
18VAC85-150	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	484 days	Implements changes following 2022 periodic review
18VAC85-170	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	484 days	Implements changes following 2022 periodic review

18VAC85-15	Fast-Track	Implementation of Periodic Review	10/6/2022	317 days	Implements changes following 2022 periodic review
18VAC85-40	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	428 days	Implements changes following 2022 periodic review
18VAC85-80	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	419 days	Implements changes following 2022 periodic review
18VAC85-50	NOIRA	Removal of patient care team physician or podiatrist name from prescriptions issued by physician assistants	8/8/2023	417 days	Regulatory action begun in response to a petition for rulemaking
18VAC85-50	Fast-track	Implementation of changes following 2022 periodic review of Chapter	8/15/2023	413 days	Implements changes following 2022 periodic review
18VAC85-110	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	410 days	Implements changes following 2022 periodic review
18VAC85-50	NOIRA	Amendment to requirements for patient care team physician or podiatrist consultation and collaboration	8/8/2023	407 days	Regulatory action begun in response to a petition for rulemaking
18VAC85-21	Fast-track	Amendment of opioid and buprenorphine prescribing regulations	7/14/2023	242 days	Updates opioid and buprenorphine regulations based on updated CDC guidelines
18VAC85-130	Fast-Track	General disclosure	10/23/2023	158 days	Updates requirements for

		requirement consistent with statutory changes			midwife disclosures consistent with 2023 legislative changes
18VAC85-80	Fast-Track	Elimination of active practice for renewal	6/18/2024	11 days	Eliminates requirement of active practice for renewal of OT license

**At the Department of Planning and Budget**

None.

**At the Office of the Attorney General**

None.

**Recently effective/awaiting publication**

VAC	Stage	Subject Matter	Publication date	Effective date
18VAC85-80	Fast-Track	Changes to patient counseling regarding opioid prescriptions pursuant to HB699	10/7/2024	11/6/2024
18VAC85-50	Fast-Track	Amendment to allow physician assistants working for defined employers to practice without a separate practice agreement if certain statutory requirements are met	10/7/2024	11/6/2024
18VAC85-160	Fast-Track	Reinstatement of certification as a surgical technologist	Pending	Pending

**Board of Medicine**  
**Current Regulatory Actions**  
**As of January 31, 2025**

**In the Governor's Office**

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC85-50	NOIRA	Removal of patient care team physician or podiatrist name from prescriptions issued by physician assistants	8/8/2023	1 day	Regulatory action begun in response to a petition for rulemaking
18VAC85-50	NOIRA	Amendment to requirements for patient care team physician or podiatrist consultation and collaboration	8/8/2023	1 day	Regulatory action begun in response to a petition for rulemaking
18VAC85-20	NOIRA	Licensure of foreign physicians through provisional and restricted licenses	10/29/2024	1 day	Promulgated pursuant to 2024 legislation. Legislative committee is in the process of developing regulatory language.

**In the Secretary's Office**

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC85-130	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	612 days	Implements changes following 2022 periodic review

18VAC85-150	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	606 days	Implements changes following 2022 periodic review
18VAC85-170	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	606 days	Implements changes following 2022 periodic review
18VAC85-80	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	541 days	Implements changes following 2022 periodic review
18VAC85-50	Fast-track	Implementation of changes following 2022 periodic review of Chapter	8/15/2023	535 days	Implements changes following 2022 periodic review
18VAC85-110	Fast-track	Implementation of changes following 2022 periodic review of Chapter	10/6/2022	532 days	Implements changes following 2022 periodic review
18VAC85-130	Fast-Track	General disclosure requirement consistent with statutory changes	10/23/2023	280 days	Updates requirements for midwife disclosures consistent with 2023 legislative changes
18VAC85-80	Fast-Track	Elimination of active practice for renewal	6/18/2024	133 days	Eliminates requirement of active practice for renewal of OT license

**At the Department of Planning and Budget**

None.

**At the Office of the Attorney General**

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC85-20	Fast-track	Removal of requirement to provide documentation of continuing competency for reactivation of a license	10/29/2024	94 days	This will make attestation only required, similar to renewal of licenses.
18VAC85-50	Fast-track	Creation of reinstatement process for physician assistants	10/29/2024	94 days	Missing process for PAs

**Recently effective/awaiting publication**

VAC	Stage	Subject Matter	Publication date	Effective date
18VAC85-160	Final	Regulatory changes consistent with a licensed profession	11/18/2024	Changes became effective 12/18/2024.
18VAC85-160	Fast-Track	Reinstatement of certification as a surgical technologist	11/18/2024	Changes became effective 1/2/2025.
18VAC85-21	Fast-track	Amendment of opioid and buprenorphine prescribing regulations	11/18/2024	Changes became effective 1/2/2025.
18VAC85-140	Fast-track	Implements 2022 periodic review changes	11/18/2024	Changes became effective 1/2/2025.
18VAC85-20	Fast-track	Implementation of 2022 Periodic Review of Chapter 20	1/13/2025	Changes will be effective on 2/27/2025
18VAC85-40	Fast-track	Implementation of 2022 Periodic Review of Chapter 40	12/30/2024	Received an objection from a legislator pursuant to Va. Code § 2.2-4012.1. Regulatory process will

				continue as standard rulemaking.
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**Agenda Item: Revision of Guidance Document 85-16 based on regulatory changes**

**Included in your agenda package:**

- Revised copy (mark-up) of Guidance Document 85-16;
- Regulatory changes to 18VAC85-20-235 that will become effective February 27.

**Action needed:**

- Approve or amend Guidance Document 85-16 as presented.

**Board of Medicine  
Questions and Answers on Continuing Competency Requirements**

- 1. When must I have the required number of continuing competency hours completed ~~in order to~~ renew my license?**

In your birth month in even years. You will be required to sign a certification on your renewal form that you have met the continuing competency requirements. Falsification on the renewal form is a violation of law and may subject you to disciplinary action. *See* 18VAC85-20-230.

- 2. Am I required to send in evidence of my continuing competency hours at the time I renew?**

No. ~~The Board will randomly select licensees for a post renewal audit. If selected, you would be notified by mail that documentation is required and given a time frame within which to comply. See 18VAC85-20-235(D).~~

- 3. When do the continuing competency requirements begin?**

Hours must be obtained within the two years immediately preceding renewal. You may not count any hours obtained prior to 24 months preceding renewal nor may you carry over excess hours to the following biennium. *See* 18VAC85-20-235.

- 4. Who maintains the required documents for verification of continuing competency? Hours?**

It is the practitioner's responsibility to maintain the certificates and any other continuing competency forms or records for six years following renewal. Do not send any forms or documents to the Board of Medicine unless requested to do so. *See* 18VAC85-20-235(C).

- 5. What are "Type 1" hours?**

Type 1 hours ~~(at least 30 each biennium)~~ are those that can be documented by an accredited sponsor or organization sanctioned by the profession. If the sponsoring organization does not award a participant with a dated certificate indicating the activity or course taken and the number of hours earned, the practitioner is responsible for obtaining a letter on organizational letterhead verifying the hours and activity. ~~All 60 continuing competency hours each biennium may be Type 1 hours.~~

- ~~**6. What are "Type 2" hours?**~~

~~Type 2 hours (no more than 30 each biennium) are those earned in self-study, attending professionally related meetings, research and writing for a journal, learning a new procedure, sitting with the hospital ethics panel, etc. They are activities chosen by the practitioner based on assessment of his/her practice. They do not have to be sponsored by an accrediting organization, but must be recorded by the practitioner on the form provided by the Board.~~

- ~~**6. Where do I obtain the instructions and forms for continuing competency requirements?**~~

~~Forms and instructions can be downloaded from the Board's website at: [www.dhp.virginia.gov/medicine/medicine\\_forms.htm](http://www.dhp.virginia.gov/medicine/medicine_forms.htm). Records may be maintained electronically, but~~

~~copies of documentation and forms will be necessary if a practitioner is audited following a renewal cycle. Forms may also be copied.~~

**6. Is it possible for a practitioner to earn accredited hours that are sanctioned by the profession but are outside the specialty area in which he/she practices?**

Yes. For example, a pediatrician or a surgeon could receive credit for documented hours sponsored by the American Academy of Family Practice.

**7. What if I have earned the AMA Physician Recognition Award or have been recertified by my specialty board? Would that count for my continuing competency hours?**

Yes. Provided the Board has documented proof that the requirements to obtain the AMA award (or other similar awards) or specialty board certification are equal to or exceed those required for renewal of licensure. It would only be necessary to submit evidence of receiving such an award or certification.

**8. What if I am newly licensed? Do I still have to obtain the full ~~60~~ 30 hours of continued competency?**

No. There is an exemption for those persons newly licensed under 18VAC85-20-235(B). Additionally, there is an exemption for anyone practicing solely without pay in a practice (free clinic, rescue squad, etc.) that is under the direction of a fully licensed physician under 18VAC85-20-235(H).

**9. What if I become ill or incapacitated and unable to complete my continuing competency requirements prior to renewal?**

Prior to the renewal date, upon written request from the practitioner explaining the circumstances, the Board may grant an extension or exemption for all or part of the required hours. See 18VAC85-20-235(~~G~~ F).

**10. What if I am now retired and do not want to obtain continuing competency hours but do not want to give up my license?**

You may request an inactive license from the Board, beginning with your next renewal. It is important to note that **holding an inactive license does not authorize anyone to engage in the practice of medicine, osteopathy, podiatry or chiropractic in Virginia**. If you intend to practice at all in Virginia, even on a part-time or non-compensatory basis, you must retain your active license. See 18VAC85-20-236.

**11. What happens if I take inactive licensure status and later decide to reactivate?**

A practitioner seeking to reactivate a license must pay the active renewal fee and obtain the number of hours which would have been required for the years in which the license was inactive (not to exceed four years). If the practitioner has not been engaged in active practice for more than four years, the practitioner must pass a special purpose examination in his area of licensure. See 18VAC85-20-240.

**12. Are there any specific topics included in the biennial requirement of ~~60~~ 30 hours of CE?**

~~If you perform or supervise anesthesia in your practice, you must obtain four hours of Type I CE in anesthesia topics each biennium. See 18VAC85-20-330(C)(2).~~

The Board will specify a topic as it deems necessary for 1-2 hours. All licensees of the Board will be notified of any such specified requirement.

**18VAC85-20-235. Continued competency requirements for renewal of an active license.**

A. In order to renew an active license biennially, a practitioner shall attest to completion of at least ~~60~~ 30 hours of continuing learning activities within the two years immediately preceding renewal as follows: ~~1. A minimum of 30 of the 60.~~ The hours shall be in Type 1 activities or courses offered by an accredited sponsor or organization sanctioned by the profession.

~~a.~~ 1. Type 1 hours in chiropractic shall be clinical hours that are approved by a college or university accredited by the Council on Chiropractic Education or any other organization approved by the board.

~~b.~~ 2. Type 1 hours in podiatry shall be accredited by the American Podiatric Medical Association, the American Council of Certified Podiatric Physicians and Surgeons or any other organization approved by the board.

~~2. No more than 30 of the 60 hours may be Type 2 activities or courses, which may or may not be approved by an accredited sponsor or organization but which shall be chosen by the licensee to address such areas as ethics, standards of care, patient safety, new medical technology, and patient communication.~~

~~a. Up to 15 of the Type 2 continuing education hours may be satisfied through delivery of services, without compensation, to low income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for one hour of providing such volunteer services. For the purpose of continuing education credit for voluntary service, documentation by the health department or free clinic shall be acceptable.~~

~~b. Type 2 hours may include teaching in a health care profession field.~~

B. A practitioner shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in ~~his~~ the practitioner's records all supporting documentation for a period of six years following the renewal of an active license.

~~D. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.~~

~~E. D.~~ Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

~~F. E.~~ The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

~~G. F.~~ The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

~~H. G.~~ The board may grant an exemption for all or part of the requirements for a licensee who:

1. Is practicing solely in an uncompensated position, provided ~~his~~ the licensee's practice is under the direction of a physician fully licensed by the board; or
2. Is practicing solely as a medical examiner, provided the licensee obtains six hours of medical examiner training per year provided by the Office of the Chief Medical Examiner.

**Agenda Item: Adoption of a noticed of intended regulatory action (NOIRA) to implement the PA Licensure Compact**

**Included in your agenda package:**

- Ch. 439 of the 2024 Acts of Assembly.

**Action needed:**

- Motion to adopt notice of intended regulatory action to implement the PA Licensure Compact and make all regulatory changes required consistent with the Compact.

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 439

An Act to amend the Code of Virginia by adding a section numbered 54.1-2953.1, relating to PA Licensure Compact.

[H 324]

Approved April 4, 2024

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-2953.1 as follows:**

**§ 54.1-2953.1. PA Licensure Compact.**

*The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the PA Licensure Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:*

**PA LICENSURE COMPACT.**

*Article 1. Purpose.*

*In order to strengthen access to medical services, and in recognition of the advances in the delivery of medical services, the participating states of the PA Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing authority of state licensing boards to license and discipline PAs and seeks to enhance the portability of a license to practice as a PA while safeguarding the safety of patients. This Compact allows medical services to be provided by PAs, via the mutual recognition of the licensee's qualifying license by other compact participating states. This Compact also adopts the prevailing standard for PA licensure and affirms that the practice and delivery of medical services by the PA occurs where the patient is located at the time of the patient encounter, and therefore requires the PA to be under the jurisdiction of the state licensing board where the patient is located. State licensing boards that participate in this Compact retain the jurisdiction to impose adverse action against a compact privilege in that state issued to a PA through the procedures of this Compact. The PA Licensure Compact will alleviate burdens for military families by allowing active duty military personnel and their spouses to obtain a compact privilege based on having an unrestricted license in good standing from a participating state.*

*Article 2. Definitions.*

*As used in this Compact, unless the context requires otherwise, the following definitions shall apply:*

*"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a PA license or license application or Compact privilege such as license denial, censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.*

*"Compact privilege" means the authorization granted by a remote state to allow a licensee from another participating state to practice as a PA to provide medical services and other licensed activity to a patient located in the remote state under the remote state's laws and regulations.*

*"Conviction" means a finding by a court that an individual is guilty of a felony or misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender.*

*"Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. § 20.3(d), from the state's criminal history record repository as defined in 28 C.F.R. § 20.3(f).*

*"Data system" means the repository of information about licensees, including but not limited to license status and adverse actions, that is created and administered under the terms of this Compact.*

*"Executive committee" means a group of directors and ex-officio individuals elected or appointed pursuant to subdivision F 2 of Article 7.*

*"Impaired practitioner" means a PA whose practice is adversely affected by health-related condition(s) that impact their ability to practice.*

*"Investigative information" means information, records, or documents received or generated by a licensing board pursuant to an investigation.*

*"Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of a PA in a state.*

*"License" means current authorization by a state, other than authorization pursuant to a Compact privilege, for a PA to provide medical services, which would be unlawful without current authorization.*

*"Licensee" means an individual who holds a license from a state to provide medical services as a PA.*

*"Licensing board" means any state entity authorized to license and otherwise regulate PAs.*

*"Medical services" means health care services provided for the diagnosis, prevention, treatment,*

cure, or relief of a health condition, injury, or disease, as defined by a state's laws and regulations.

"Model compact" means the model for the PA Licensure Compact on file with the Council of State Governments or other entity as designated by the Commission.

"Participating state" means a state that has enacted this Compact.

"PA" means an individual who is licensed as a physician assistant in a state. For purposes of this Compact, any other title or status adopted by a state to replace the term "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the same rights and responsibilities to the licensee under the provisions of this Compact at the time of its enactment.

"PA Licensure Compact Commission," "Compact Commission," or "Commission" mean the national administrative body created pursuant to subsection A of Article 7.

"Qualifying license" means an unrestricted license issued by a participating state to provide medical services as a PA.

"Remote state" means a participating state where a licensee who is not licensed as a PA is exercising or seeking to exercise the compact privilege.

"Rule" means a regulation promulgated by an entity that has the force and effect of law.

"Significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the PA to respond if required by state law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

"State" means any state, commonwealth, district, or territory of the United States.

#### Article 3. State Participation in This Compact.

A. To participate in this Compact, a participating state shall:

1. License PAs.
  2. Participate in the Compact Commission's data system.
  3. Have a mechanism in place for receiving and investigating complaints against licensees and license applicants.
  4. Notify the Commission, in compliance with the terms of this Compact and Commission rules, of any adverse action against a licensee or license applicant and the existence of significant investigative information regarding a licensee or license applicant.
  5. Fully implement a criminal background check requirement, within a time frame established by Commission rule, by its licensing board receiving the results of a criminal background check and reporting to the Commission whether the license applicant has been granted a license.
  6. Comply with the rules of the Compact Commission.
  7. Utilize passage of a recognized national exam such as the NCCPA PANCE as a requirement for PA licensure.
  8. Grant the compact privilege to a holder of a qualifying license in a participating state.
- B. Nothing in this Compact prohibits a participating state from charging a fee for granting the compact privilege.

#### Article 4. Compact Privilege.

A. To exercise the compact privilege, a licensee shall:

1. Have graduated from a PA program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc., or other programs authorized by Commission rule.
2. Hold current NCCPA certification.
3. Have no felony or misdemeanor conviction.
4. Have never had a controlled substance license, permit, or registration suspended or revoked by a state or by the U.S. Drug Enforcement Administration.
5. Have a unique identifier as determined by Commission rule.
6. Hold a qualifying license.
7. Have had no revocation of a license or limitation or restriction on any license currently held due to an adverse action.
8. If a licensee has had a limitation or restriction on a license or compact privilege due to an adverse action, two years shall have elapsed from the date on which the license or compact privilege is no longer limited or restricted due to the adverse action.
9. If a compact privilege has been revoked or is limited or restricted in a participating state for conduct that would not be a basis for disciplinary action in a participating state in which the licensee is practicing or applying to practice under a compact privilege, that participating state shall have the discretion not to consider such action as an adverse action requiring the denial or removal of a compact privilege in that state.
10. Notify the Compact Commission that the licensee is seeking the compact privilege in a remote state.
11. Meet any jurisprudence requirement of a remote state in which the licensee is seeking to practice under the compact privilege and pay any fees applicable to satisfying the jurisprudence requirement.
12. Report to the Commission any adverse action taken by a nonparticipating state within 30 days after the action is taken.

B. The compact privilege is valid until the expiration or revocation of the qualifying license unless terminated pursuant to an adverse action. The licensee shall also comply with all of the requirements of subsection A to maintain the compact privilege in a remote state. If the participating state takes adverse action against a qualifying license, the licensee shall lose the compact privilege in any remote state in which the licensee has a compact privilege until all of the following occur:

1. The license is no longer limited or restricted; and
2. Two years have elapsed from the date on which the license is no longer limited or restricted due to the adverse action.

C. Once a restricted or limited license satisfies the requirements of subdivisions B 1 and 2, the licensee shall meet the requirements of subsection A to obtain a compact privilege in any remote state.

D. For each remote state in which a PA seeks authority to prescribe controlled substances, the PA shall satisfy all requirements imposed by such state in granting or renewing such authority.

*Article 5. Designation of the State from Which Licensee is Applying for a Compact Privilege.*

Upon a licensee's application for a compact privilege, the licensee shall identify to the Commission the participating state from which the licensee is applying, in accordance with applicable rules adopted by the Commission, and subject to the following requirements:

1. When applying for a compact privilege, the licensee shall provide the Commission with the address of the licensee's primary residence and thereafter shall immediately report to the Commission any change in the address of the licensee's primary residence.

2. When applying for a compact privilege, the licensee is required to consent to accept service of process by mail at the licensee's primary residence on file with the Commission with respect to any action brought against the licensee by the Commission or a participating state, including a subpoena, with respect to any action brought or investigation conducted by the Commission or a participating state.

*Article 6. Adverse Actions.*

A. A participating state in which a licensee is licensed shall have exclusive power to impose adverse action against the qualifying license issued by that participating state.

B. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to do all of the following:

1. Take adverse action against a PA's compact privilege within that state to remove a licensee's compact privilege or take other action necessary under applicable law to protect the health and safety of its citizens.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a participating state for the attendance and testimony of witnesses or the production of evidence from another participating state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

3. Notwithstanding subdivision 2, subpoenas may not be issued by a participating state to gather evidence of conduct in another state that is lawful in that other state for the purpose of taking adverse action against a licensee's compact privilege or application for a compact privilege in that participating state.

4. Nothing in this Compact authorizes a participating state to impose discipline against a PA's compact privilege or to deny an application for a compact privilege in that participating state for the individual's otherwise lawful practice in another state.

C. For purposes of taking adverse action, the participating state that issued the qualifying license shall give the same priority and effect to reported conduct received from any other participating state as it would if the conduct had occurred within the participating state that issued the qualifying license. In so doing, that participating state shall apply its own state laws to determine appropriate action.

D. A participating state, if otherwise permitted by state law, may recover from the affected PA the costs of investigations and disposition of cases resulting from any adverse action taken against that PA.

E. A participating state may take adverse action based on the factual findings of a remote state, provided that the participating state follows its own procedures for taking the adverse action.

F. Joint investigations.

1. In addition to the authority granted to a participating state by its respective state PA laws and regulations or other applicable state law, any participating state may participate with other participating states in joint investigations of licensees.

2. Participating states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

G. If an adverse action is taken against a PA's qualifying license, the PA's compact privilege in all remote states shall be deactivated until two years have elapsed after all restrictions have been removed from the state license. All disciplinary orders by the participating state that issued the qualifying license that impose adverse action against a PA's license shall include a statement that the PA's compact

privilege is deactivated in all participating states during the pendency of the order.

H. If any participating state takes adverse action, it promptly shall notify the administrator of the data system.

*Article 7. Establishment of the PA Licensure Compact Commission.*

A. The participating states hereby create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The Commission shall come into existence on or after the effective date of the Compact as set forth in subsection A of Article 11.

B. Membership, voting, and meetings.

1. Each participating state shall have and be limited to one delegate selected by that participating state's licensing board or, if the state has more than one licensing board, selected collectively by the participating state's licensing boards.

2. The delegate shall be either:

- a. A current PA, physician, or public member of a licensing board or PA council/committee; or
- b. An administrator of a licensing board.

3. Any delegate may be removed or suspended from office as provided by the laws of the state from which the delegate is appointed.

4. The participating state licensing board shall fill any vacancy occurring in the Commission within 60 days.

5. Each delegate shall be entitled to one vote on all matters voted on by the Commission and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in this Compact and the bylaws.

7. The Commission shall establish by rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a code of ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish fees;

4. Establish bylaws;

5. Maintain its financial records in accordance with the bylaws;

6. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

7. Promulgate rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all participating states;

8. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a participating state;

11. Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

13. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

15. Establish a budget and make expenditures;

16. Borrow money;

17. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

18. Provide and receive information from, and cooperate with, law-enforcement agencies;

19. Elect a chair, vice chair, secretary, and treasurer and such other officers of the Commission as provided in the Commission's bylaws;

20. Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the executive committee may not exercise;

21. Approve or disapprove a state's participation in the Compact based upon its determination as to whether the state's compact legislation departs in a material manner from the model compact language;
22. Prepare and provide to the participating states an annual report; and
23. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of PA licensure and practice.

*D. Meetings of the Commission.*

1. All meetings of the Commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least 30 days prior to the public meeting.

2. Notwithstanding subdivision 1, the Commission may convene a public meeting by providing at least 24 hours' prior notice on the Commission's website, and any other means as provided in the Commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under subsection L of Article 9.

3. The Commission may convene in a closed, non-public meeting or non-public part of a public meeting to receive legal advice or to discuss:

a. Noncompliance of a participating state with its obligations under this Compact;

b. The employment, compensation, discipline or other matters, practices, or procedures related to specific employees, or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law-enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact;

j. Legal advice; or

k. Matters specifically exempted from disclosure by federal or participating states' statutes.

4. If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

5. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

*E. Financing of the Commission.*

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each participating state and may impose compact privilege fees on licensees of participating states to whom a compact privilege is granted to cover the cost of the operations and activities of the Commission and its staff, which shall be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on participating states shall be allocated based upon a formula to be determined by Commission rule.

a. A compact privilege expires when the licensee's qualifying license in the participating state from which the licensee applied for the compact privilege expires.

b. If the licensee terminates the qualifying license through which the licensee applied for the compact privilege before its scheduled expiration, and the licensee has a qualifying license in another participating state, the licensee shall inform the Commission that it is changing to that participating state the participating state through which it applies for a compact privilege and pay to the Commission any compact privilege fee required by Commission rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the participating states, except by and with the authority of the participating state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall

be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

*F. The executive committee.*

1. The executive committee shall have the power to act on behalf of the Commission according to the terms of this Compact and Commission rules.

2. The executive committee shall be composed of nine members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from a recognized national PA professional association; and

c. One ex-officio, nonvoting member from a recognized national PA certification organization.

3. The ex-officio members will be selected by their respective organizations.

4. The Commission may remove any member of the executive committee as provided in its bylaws.

5. The executive committee shall meet at least annually.

6. The executive committee shall have the following duties and responsibilities:

a. Recommend to the Commission changes to the Commission's rules or bylaws, changes to this Compact legislation, fees to be paid by compact participating states such as annual dues, and any Commission compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of participating states and provide compliance reports to the Commission;

f. Establish additional committees as necessary;

g. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for issuing proposed rulemaking or adopting Commission rules or bylaws, or exercising any other powers and duties exclusively reserved to the Commission by the Commission's rules; and

h. Perform other duties as provided in the Commission's rules or bylaws.

7. All meeting of the executive committee at which it votes or plans to vote on matters in exercising the powers and duties of the Commission shall be open to the public and public notice of such meetings shall be given as public meetings of the Commission are given.

8. The executive committee may convene in a closed, non-public meeting for the same reasons that the Commission may convene in a non-public meeting as set forth in subdivision D 3 and shall announce the closed meeting as the Commission is required to under subdivision D 4 and keep minutes of the closed meeting as the Commission is required to under subdivision D 5.

*G. Qualified immunity, defense, and indemnification.*

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses in any proceedings as authorized by Commission rules.

5. Nothing herein shall be construed as a limitation on the liability of any licensee for professional

*malpractice or misconduct, which shall be governed solely by any other applicable state laws.*

*6. Nothing herein shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a PA. All such matters shall be determined exclusively by state law other than this Compact.*

*7. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, the Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.*

*8. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the participating states or by the Commission.*

#### *Article 8. Data System.*

*A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated data and reporting system containing licensure, adverse action, and the reporting of the existence of significant investigative information on all licensed PAs and applicants denied a license in participating states.*

*B. Notwithstanding any other state law to the contrary, a participating state shall submit a uniform data set to the data system on all PAs to whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the Commission, including:*

- 1. Identifying information;*
- 2. Licensure data;*
- 3. Adverse actions against a license or compact privilege;*
- 4. Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any criminal history record information where prohibited by law);*
- 5. The existence of significant investigative information; and*
- 6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.*

*C. Significant investigative information pertaining to a licensee in any participating state shall only be available to other participating states.*

*D. The Commission shall promptly notify all participating states of any adverse action taken against a licensee or an individual applying for a license that has been reported to it. This adverse action information shall be available to any other participating state.*

*E. Participating states contributing information to the data system may, in accordance with state or federal law, designate information that may not be shared with the public without the express permission of the contributing state. Notwithstanding any such designation, such information shall be reported to the Commission through the data system.*

*F. Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the participating state contributing the information shall be removed from the data system upon reporting of such by the participating state to the Commission.*

*G. The records and information provided to a participating state pursuant to this Compact or through the data system, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a participating state.*

#### *Article 9. Rulemaking.*

*A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Commission rules shall become binding as of the date specified by the Commission for each rule.*

*B. The Commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer this Compact and achieve its purposes. A Commission rule shall be invalid and have not force or effect only if a court of competent jurisdiction holds that the rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, or based upon another applicable standard of review.*

*C. The rules of the Commission shall have the force of law in each participating state, provided however that where the rules of the Commission conflict with the laws of the participating state that establish the medical services a PA may perform in the participating state, as held by a court of competent jurisdiction, the rules of the Commission shall be ineffective in that state to the extent of the conflict.*

*D. If a majority of the legislatures of the participating states rejects a Commission rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any participating state or to any state applying to participate in the Compact.*

*E. Commission rules shall be adopted at a regular or special meeting of the Commission.*

*F. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30*

days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the website of the Commission or other publicly accessible platform; and
2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and
3. In such other way(s) as the Commission may by rule specify.

G. The notice of proposed rulemaking shall include:

1. The time, date, and location of the public hearing on the proposed rule and the proposed time, date, and location of the meeting in which the proposed rule will be considered and voted upon;
2. The text of the proposed rule and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person and the date by which written comments must be received; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing or provide any written comments.

H. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

1. If the hearing is to be held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall as directed in the notice of proposed rulemaking, not less than five business days before the scheduled date of the hearing, notify the Commission of their desire to appear and testify at the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rulemaking shall be made available to a person upon request.

4. Nothing in this section shall be construed as requiring a separate hearing on each proposed rule. Proposed rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the public hearing, the Commission shall consider all written and oral comments timely received.

K. The Commission shall, by majority vote of all delegates, take final action on the proposed rule and shall determine the effective date of the rule, if adopted, based on the rulemaking record and the full text of the rule.

1. If adopted, the rule shall be posted on the Commission's website.

2. The Commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

3. The Commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

4. The Commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection L, the effective date of the rule shall be no sooner than 30 days after the Commission issued the notice that it adopted the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule with 24 hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. for the purposes of this provision, an emergency rule is one that must be adopted immediately by the Commission in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or participating state funds;

3. Meet a deadline for the promulgation of a Commission rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Commission rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made as set forth in the notice of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No participating state's rulemaking requirements shall apply under this Compact.

Article 10. Oversight, Dispute Resolution, and Enforcement.

*A. Oversight.*

*1. The executive and judicial branches of state government in each participating state shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.*

*2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.*

*3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact or the Commission's rules and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission with service of process shall render a judgment or order in such proceeding void as to the Commission, this Compact, or Commission rules.*

*B. Default, technical assistance, and termination.*

*1. If the Commission determines that a participating state has defaulted in the performance of its obligations or responsibilities under this Compact or the Commission rules, the Commission shall provide written notice to the defaulting state and other participating states. The notice shall describe the default, the proposed means of curing the default, and any other action that the Commission may take and shall offer remedial training and specific technical assistance regarding the default.*

*2. If a state in default fails to cure the default, the defaulting state may be terminated from this Compact upon an affirmative vote of a majority of the delegates of the participating states, and all rights, privileges, and benefits conferred by this Compact upon such state may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.*

*3. Termination of participation in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and to the licensing board(s) of each of the participating states.*

*4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.*

*5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from this Compact, unless agreed upon in writing between the Commission and the defaulting state.*

*6. The defaulting state may appeal its termination from the Compact by the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.*

*7. Upon the termination of a state's participation in the Compact, the State shall immediately provide notice to all licensees within that state of such termination:*

*a. Licensees who have been granted a compact privilege in that state shall retain the compact privilege for 180 days following the effective date of such termination.*

*b. Licensees who are licensed in that state who have been granted a compact privilege in a participating state shall retain the compact privilege for 180 days unless the licensee also has a qualifying license in a participating state or obtains a qualifying license in a participating state before the 180-day period ends, in which case the compact privilege shall continue.*

*C. Dispute resolution.*

*1. Upon request by a participating state, the Commission shall attempt to resolve disputes related to this Compact that arise among participating states and between participating and nonparticipating states.*

*2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.*

*D. Enforcement.*

*1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and rules of the Commission.*

*2. If compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices, against a participating state in default to enforce compliance with the provisions of this Compact and the Commission's promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or*

state law.

*E. Legal action against the Commission.*

1. A participating state may initiate legal action against the Commission in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

2. No person other than a participating state shall enforce this Compact against the Commission.

*Article 11. Date of Implementation of the PA Licensure Compact Commission.*

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the seventh participating state.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the states that enacted the Compact prior to the Commission convening ("charter participating states") to determine if the statute enacted by each such charter participating state is materially different than the model compact.

a. A charter participating state whose enactment is found to be materially different from the model compact shall be entitled to the default process set forth in subsection B of Article 10.

b. If any participating state later withdraws from the Compact or its participation is terminated, the Commission shall remain in existence and the Compact shall remain in effect even if the number of participating states should be less than seven. Participating states enacting the Compact subsequent to the Commission convening shall be subject to the process set forth in subdivision C 21 of Article 7 to determine if their enactments are materially different from the model compact and whether they qualify for participation in the Compact.

2. Participating states enacting the Compact subsequent to the seven initial charter participating states shall be subject to the process set forth in subdivision C 21 of Article 7 to determine if their enactments are materially different from the model compact and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

B. Any state that joins this Compact shall be subject to the Commission's rules and bylaws as they exist on the date on which this Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that state.

C. Any participating state may withdraw from this Compact by enacting a statute repealing the same.

1. A participating state's withdrawal shall not take effect until 180 days after enactment of the repealing statute. During this 180-day period, all compact privileges that were in effect in the withdrawing state and were granted to licensees licensed in the withdrawing state shall remain in effect. If any licensee licensed in the withdrawing state is also licensed in another participating state or obtains a license in another participating state within the 180 days, the licensee's compact privileges in other participating states shall not be affected by the passage of the 180 days.

2. Withdrawal shall not affect the continuing requirement of the state licensing board(s) of the withdrawing state to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing a state from this Compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Such withdrawing state shall continue to recognize all licenses granted pursuant to this Compact for a minimum of 180 days after the date of such notice of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between participating states and between a participating state and nonparticipating state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the participating states. No amendment to this Compact shall become effective and binding upon any participating state until it is enacted materially in the same manner into the laws of all participating states as determined by the Commission.

*Article 12. Construction and Severability.*

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional

*by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.*

*C. Notwithstanding subsection B or this subsection, the Commission may deny a state's participation in the Compact or, in accordance with the requirements of subsection B of Article 10, terminate a participating state's participation in the Compact, if it determines that a constitutional requirement of a participating state is, or would be with respect to a state seeking to participate in the Compact, a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any participating state, the Compact shall remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.*

*Article 13. Binding Effect of Compact.*

*A. Nothing herein prevents the enforcement of any other law of a participating state that is not inconsistent with this Compact.*

*B. Any laws in a participating state in conflict with this Compact are superseded to the extent of the conflict.*

*C. All agreements between the Commission and the participating states are binding in accordance with their terms.*

**2. That any applicant for a multistate license shall pay the costs of performing any background check required by the PA Licensure Compact, as entered into by this act.**

**Agenda Item:** Licensing Report

**Staff Note:** Mr. Sobowale will provide information on note-worthy licensing matters.

**Action:** None anticipated.

**Agenda Item:** Discipline Report

**Staff Note:** Ms. Deschenes will provide information on discipline matters.

**Action:** None anticipated.

**Agenda Item: Sanctioning Reference Points**

**Staff Note:** Visual Research and discipline staff have coordinated on revisions to increase the accuracy and efficiency of the use of sanctioning reference points.

**Action:** No action anticipated.

# Sanctioning Reference Points Instruction Manual

## Board of Medicine

Guidance Document 85-11  
Adopted July 2004  
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## Table Of Contents

### **General Information**

Overview	2
Background	2
Goals	2
Methodology	2
Qualitative Analysis	3
Quantitative Analysis	3

### **Characteristics of Sanctioning Reference Points (SRP) System**

Wide Sanctioning Ranges	3
Sanctioning Thresholds	3
Voluntary Nature	3

### **Using the SRP System**

Which SRP Worksheet to Use	4
Case Types Covered by the Worksheets	4
Worksheets Not Used in Certain Cases	5
Completing the SRP Worksheet and Coversheet	5
Worksheets	5
Coversheets	5
Determining a Specific Sanction	6

### **Board of Medicine SRP Coversheet, Worksheets, and Instructions**

SRP Coversheet	8
Sanctioning Reference Points Worksheet A	9
Sanctioning Reference Points Worksheet Instructions, Worksheet A	10
Sanctioning Reference Points Worksheet B	11
Sanctioning Reference Points Worksheet Instructions, Worksheet B	12

## General Information

### Overview

The Virginia Board of Health Professions has spent the last 20 years studying sanctioning in disciplinary cases. The study has examined all of the Department of Health Professions' (DHP) health regulatory Boards. Focusing on the Board of Medicine (BOM), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, and two revised offense-based worksheets with sanctioning recommendation thresholds used to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to persons sanctioned by the Virginia Board of Medicine. Moreover, the worksheets have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The current SRP system is comprised of two worksheets which score factors identified using statistical analysis and are built upon the Department's effort to maintain consistent sanctioning practices over time. The original BOM SRP Manual was adopted in June 2004 and has been applied to cases closed in violation for 20 years. This lengthy board history allows for a comprehensive look at sanctioning practices and helps define past historical practices, while also serving as a baseline for changing future sanctioning policy.

These instructions and the use of the SRP system fall within current DHP and BOM policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board and are specified within existing Virginia statutes. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing law or policy supersedes the worksheet recommendation.

### Background

When the Board of Medicine adopted the first SRP manual in 2004, it was understood that a sanctioning system of this type was not intended to be a static document. The culture of the professions regulated by the BOM changes over time as do the case types, the factors related to sanctioning, and the sanctioning decisions themselves. The Board recognizes that ongoing monitoring and updating of the SRP worksheets and manual will be an inherent part of the process of consistency and fairness in sanctioning its licensees with the goal of protecting the public.

This study of the BOM's sanctioning practices relied heavily on a quantitative analysis of the coversheets and worksheets from recent cases ending in violation coupled with a qualitative analysis of Board member and staff input. The analysis resulted in changes to the worksheets and manual for the BOM.

### Goals

Since inception, the Board of Health Professions and the Board of Medicine have continually cited the following purposes and goals for establishing SRPs:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process that is inherently subjective
- Providing a resource for those involved in proceedings
- Neutralizing sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Reducing the influence of undesirable factors - e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for services or terms

### Methodology

The fundamental dilemma when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive

approach). A normative approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments, to achieve a more balanced outcome. The SRP manual, adopted in 2004, was based on a descriptive approach with a limited number of normative adjustments. This newly revised manual continues to make use of the same approach, drawing from historical data to inform worksheet modification.

## **Qualitative Analysis**

Researchers conducted in-depth personal interviews with BOM members and Board staff, as well as holding informal conversations with representatives from the Attorney General's office and the Executive Director of the Board of Health Professions. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further frame the study's analysis. Additionally, interviews helped ensure the factors that Board members consider when sanctioning continued to be included during the quantitative phase of the study. Previous scoring factors were examined for their continued relevance and sanctioning influence.

## **Quantitative Analysis**

In order to update the previous SRP manual, researchers reviewed cases that had closed in violation between November 2021 and October 2022. Over 100 different factors were collected on these cases to describe the attributes interviewees identified as potentially impacting sanctioning decisions. Researchers used data available through the DHP case management system combined with primary data collected from hard copy files. The files contained investigative reports, Board notices, Board orders, and all other documentation made available to Board members when deciding a case sanction.

A comprehensive database was created to analyze the offense and respondent factors which were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a historical portrait of past sanctioning decisions, significant factors along with their relative weights were derived. Those factors and weights were formulated into worksheet factors and sanctioning thresholds. Although a myriad of factors can help explain sanction variation, only those "legal" factors the Board felt should consistently play a role in sanctioning decisions continued to be included on the worksheets. By using this method, the goal was to achieve more neutrality in sanctioning by ensuring the Board considers the same set of "legal" factors for each case that comes before the Board for sanctioning.

## **Characteristics of the SRP System**

### **Wide Sanctioning Ranges**

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Board with a sanctioning model that encompasses roughly 70% of historical practice. This means that approximately 30% of past cases receive sanctions either higher or lower than what the reference points indicate, recognizing that aggravating and mitigating factors play a role in sanctioning. The wide sanctioning ranges allow the Board to customize a particular sanction within the broader SRP recommended range.

### **Sanctioning Thresholds**

The Board indicated early in the SRP study that sanctioning can be influenced by several factors: case type, factors specific to the offense and factors specific to the respondent, all of which are unique in any particular case. The empirical analysis supported this notion and subsequently, the SRPs make use of case type, offense factors and respondent factor to arrive at a "Total Worksheet Score" which is then used to determine the statistically driven sanctioning recommendation. Case Types are determined by the criteria stated on either Worksheet A or Worksheet B, both of which hold a variety of factors the Board will use in scoring to determine a recommended sanction.

### **Voluntary Nature**

The SRP system should be viewed as a decision-aid to be used by the Board of Medicine. Sanctioning within the SRP ranges is "totally voluntary," meaning that the system is viewed strictly as a tool and the Board may choose any sanction outside the recommendation. The Board maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Board is not provided with the appropriate coversheet and worksheet in every case

eligible for scoring. A coversheet and worksheet should be completed in cases resolved by Informal Conferences or Pre-Hearing Consent Orders. The coversheet and worksheets will be referenced by Board members during executive session only after a violation has been determined.

## Using the SRP System

### Which Worksheet to Use

There are two SRP worksheets, Worksheet A and Worksheet B (see table below). Each worksheet is designed to score a certain defined set of case types. This distinction is based on the most recent historical analysis of Board sanctioning. The SRP factors and points found on each worksheet are those which proved important in determining sanctioning outcomes.

When multiple cases have been combined for disposition by the Board into one order, only one coversheet and worksheet are completed that encompass the entire event. If a case has aspects of both Worksheet A and Worksheet B, complete Worksheet A. The table below assigns the various case types brought before the Board to one of the worksheets. If a case has multiple aspects contained on one worksheet, score the case type that appears highest on the following list. If a case type is not listed, find the most analogous offense type listed and then use the appropriate worksheet.

### Case Types Covered by the Worksheets

<b>Worksheet A</b>	Inability to Safely Practice	Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.
	Inappropriate Relationship	Dual, sexual or other boundary issues. Includes inappropriate touching and written or oral communications.
	Drug Related – Patient Care	Violations of DCA to include: dispensing for non-medical purposes, excessive prescribing, not in accordance with dosage, or dispensing without a relationship. Prescription forgery, drug adulteration, patient deprivation, stealing drugs from patients, or personal use.
	Standard of Care - Surgery Related	Improper/unnecessary performance of surgery, improper patient management, and other surgery-related issues.
<b>Worksheet B</b>	Abuse/Abandonment/ Neglect	Any sexual assault, mistreatment of a patient, inappropriate termination of provider/patient relationship, leaving a patient unattended in a health-care environment, failure to do what a reasonable person would do in a similar situation.
	Standard of Care - Diagnosis/Treatment	Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues.
	Standard of Care - Medication/Prescription	Prescribing and administration errors. Also includes improper management of patient regimen and failure to provide counseling as well as other medication/prescription related issues.
	Fraud - Patient Care	Performing unwarranted/unjust services or the falsification/alteration of patient records.
	Unlicensed Activity	Practicing a profession or occupation without holding a valid license to include; practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.
	Fraud – Non-Patient Care	Improper patient billing and falsification of licensing/renewal documents.
	Business Practice Issues	Advertising, solicitation, records, inspections, audits, self-referral of patients, required report not filed, prescription blanks, or disclosure. Using a VA protected title such as MD, without a license, but not practicing in VA.

## Worksheets Not Used in Certain Cases

The SRPs are not applied in any of the following circumstances:

- Action by Another Board - When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Medicine, the Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Medicine usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply to cases previously heard and adjudicated by another Board.
- Compliance/Reinstatement - The SRPs should be applied to new cases only.
- Confidential Consent Agreement (CCA) - SRPs will not be used in cases settled by CCA.
- Formal Hearings - SRPs will not be used in cases that reach a Formal Hearing level.
- Mandatory Suspensions - Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction, etc.) the license of a physician must be suspended. The sanction is defined by law and is therefore excluded from the SRP system.
- Pre-Defined Sanctions – The SRP system does not apply to certain cases that have already been assigned pre-determined actions as set by the Board of Medicine.

## Completing the SRP Worksheet & Coversheet

Ultimately, it is the responsibility of the BOM to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the Board and the respondent. It is possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, the manual, including blank coversheets and worksheets, can be found at: [www.dhp.state.va.us](http://www.dhp.state.va.us) (paper copy also available on request).

## Worksheets

Scoring instructions are contained adjacent to each of the worksheets in subsequent sections of this manual. Detailed instructions are provided for each factor and should be referenced to ensure accurate scoring. When scoring, the scoring weights assigned to a factor on the worksheet cannot be adjusted. The scoring weights can only be applied as 'yes or no' with all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board has final authority over how a case is scored.

## Coversheets

The coversheet (shown on page 8) is completed to ensure a uniform record of each case and to facilitate recordation of other pertinent information critical for continued system monitoring, evaluation, and improvement. If the Board feels the sanctioning threshold outcome does not recommend an appropriate sanction, the Board should depart either high or low when handing down a sanction. If the Board disagrees with the sanctioning recommendation and imposes a sanction greater or lesser than the recommended sanction, a short explanation should be recorded on the coversheet. The explanation could identify the factors and reasons for departure (see examples below). This process ensures worksheets are revised to reflect current Board practice and to maintain the dynamic nature of the system. For example, if a particular reason is continually cited, the Board can examine the issue more closely to determine if the worksheets should be modified to better reflect Board practice.

Aggravating and mitigating circumstances that may influence Board decisions can include, but should not be limited to, factors such as:

- Age of prior record
- Dishonesty/Obstruction
- Motivation/Intent
- Remorse
- Extreme patient vulnerability
- Restitution/Self-corrective action
- Multiple offenses/Isolated incident

### **Determining a Specific Sanction**

Each worksheet has its own unique set of scoring thresholds which correspond to a set of sanctioning recommendations. The recommendations can include, on the low end, No Sanction or Reprimand and on the high end, Revocation or Suspension. After considering the sanctioning threshold recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

# **Sanctioning Reference Points Coversheet, Worksheets, and Instructions**

**Board of Medicine**

# Sanctioning Reference Points Coversheet

Board of Medicine  
Adopted June 2024

1. Choose the appropriate worksheet.
2. Complete the Case Type and Offense and Respondent Factor sections.
3. Determine the Sanctioning Recommendation based on the scoring results and sanctioning table.
4. Complete this coversheet, noting the sanctioning outcome and a reason for departure if applicable.

Case  
Number(s): \_\_\_\_\_

Respondent  
Name: \_\_\_\_\_

License  
Number(s): \_\_\_\_\_

Case Resolution Method:  
 Informal Conference  
 Pre-Hearing Consent Order

Worksheet Used:  
 Worksheet A     Worksheet B

Sanctioning Result:  
 No Sanction/Reprimand/Monetary Penalty/Educational Terms  
 Probation/Stayed Suspension/Corrective Terms  
 Formal Hearing/Loss of License

Imposed Sanction(s):  
 No Sanction  
 Reprimand  
 Monetary Penalty, amount, \$ \_\_\_\_\_  
 Probation  
 Stayed Suspension  
 Suspension  
 Revocation  
 Surrender  
 Recommend Formal  
 Other Sanction: \_\_\_\_\_

Terms:  
 Continuing Education  
 Read and Follow Laws and Regulations  
 Update Practitioner Profile  
 HPMP  
 Prescribing/Admin restrictions  
 Practice restriction  
 Prohibited from performing surgeries  
 Clinical Competency Assessment  
 Quarterly reports  
 Worksite monitor  
 Other Terms: \_\_\_\_\_

Was imposed sanction a departure from the recommendation?  No  Yes, give reason below

Reasons for Departure from Sanctioning Recommendation: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Worksheet Preparer's Name: \_\_\_\_\_ Date Worksheet Completed: \_\_\_\_\_

# Sanctioning Reference Points Worksheet A

Board of Medicine  
Adopted June 2024

Case Type (score only one)	Points	Score
a. Inability to Safely Practice	35	_____
b. Inappropriate Relationship	35	_____
c. Drug Related - Patient Care	5	_____
d. Standard of Care - Surgery Related	5	_____

**Offense and Respondent Factors** (score all that apply)

a. License ever taken away	40	_____
b. Impaired while practicing	30	_____
c. Past difficulties (substances, mental/physical)	20	_____
d. Financial or material motivation	10	_____
e. Respondent failed to initiate corrective action	10	_____
f. Patient injury	10	_____
g. Concurrent malpractice, civil, or criminal action	5	_____
h. Any prior board violations	5	_____

**Total Worksheet Score** \_\_\_\_\_

Scoring Ranges	Sanctioning Recommendations
0 - 30	No Sanction Reprimand Monetary Penalty *Educational Terms: Continuing Education Read and Follow Laws and Regulations Update Practitioner Profile
31 - 90	Probation Stayed Suspension *Corrective Terms: HPMP Prescribing/Admin restrictions Practice restriction Prohibited from performing surgeries Clinical Competency Assessment Quarterly reports Worksite monitor
91 and up	Refer to Formal Hearing Revocation Suspension Surrender

\* Terms chosen are not limited to those listed here.

# Sanctioning Reference Points Worksheet Instructions

## Worksheet A

### Step 1: Case Type Score (score only one)

Enter the point value that corresponds to the case type. If a case has multiple aspects, enter the point value for the case type that is highest on the list. A complete list of all case types covered by Worksheet A can be found on page 4. If a case type is not listed on page 4, score the most analogous offense type.

### Step 2: Offense and Respondent Factors (score all that apply)

- a. Enter “40” if the respondent’s license was previously revoked, suspended, or surrendered in lieu of disciplinary action in any state.
- b. Enter “30” if the respondent was impaired while performing the duties of a Department of Health Professions Licensee. This is not limited to the Commonwealth of Virginia or the Board of Medicine.
- c. Enter “20” if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities, or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely.
- d. Enter “10” if there was financial or other material motivation for the offense.
- e. Enter “10” if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- f. Enter “10” if there was any patient injury. This can include: Mental injury that would require psychiatric, psychological or any type of counseling provided by a bona fide health care professional. Physical injury includes requiring medical care ranging from first-aid treatment to hospitalization. Death which resulted from an action, or inaction, by the respondent.
- g. Enter “5” if the respondent has a concurrent malpractice, civil, or criminal action related to the current case. These actions do not need to be resolved to be scored.
- h. Enter “5” if the respondent has any prior board violations.

### Step 3: Combine Case Type Score and Offense and Respondent Factor Scores for a Total Worksheet Score

### Step 4: Identify the Sanctioning Recommendation on the Sanctioning Table

The Total Worksheet Score corresponds to the sanctioning recommendation(s) located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 70 is recommended for “Probation/Stayed Suspension/Corrective Terms.”

### Step 5: Coversheet

Complete the coversheet, including the recommended sanction, imposed sanction, and reason for departure if applicable.

# Sanctioning Reference Points Worksheet B

Board of Medicine  
Adopted June 2024

<b>Case Type Score</b> (score only one)	<b>Points</b>	<b>Score</b>
Abuse/Abandonment/Neglect	20	_____
Standard of Care – Diagnosis/Treatment/Medication/Prescription Related	20	_____
Fraud – Patient Care	20	_____
Unlicensed Activity	10	_____
Fraud – Non-Patient Care	10	_____
Business Practice Issues	10	_____
<b>Offense and Respondent Score</b> (score all that apply)		
a. License ever taken away	30	_____
b. Financial or material motivation	20	_____
c. Past difficulties (substances, mental/physical)	20	_____
d. Concurrent malpractice, civil, or criminal action	10	_____
e. Respondent failed to initiate corrective action	10	_____
f. Multiple patients involved	10	_____
g. Any prior board violations	10	_____
h. Concurrent action by an employer	5	_____
i. Patient injury	5	_____
j. Violations of the Drug Control Act	5	_____
	<b>Total Worksheet Score</b>	_____

Scoring Ranges	Sanctioning Recommendations
0 - 45	No Sanction Reprimand Monetary Penalty *Educational Terms: Continuing Education Read and Follow Laws and Regulations Update Practitioner Profile
46 - 70	Probation Stayed Suspension *Corrective Terms: HPMP Prescribing/Admin restrictions Practice restriction Prohibited from performing surgeries Clinical Competency Assessment Quarterly reports Worksite monitor
71 and up	Refer to Formal Hearing Revocation Suspension Surrender

\* Terms chosen are not limited to those listed here.

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia

# Sanctioning Reference Points Worksheet Instructions

## Worksheet B

### Step 1: Case Type Score (score only one)

Enter the point value that corresponds to the case type. If a case has multiple aspects, enter the point value for the case type that is highest on the list. A complete list of all case types covered by Worksheet B can be found on page 4. If a case type is not listed on page 4, score the most analogous offense type.

### Step 2: Offense and Respondent Factors (score all that apply)

- a. Enter “30” if the respondent’s license was previously revoked, suspended, or surrendered in lieu of disciplinary action in any state.
- b. Enter “20” if there was financial or other material motivation for the offense.
- c. Enter “20” if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities, or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely.
- d. Enter “10” if the respondent has a concurrent malpractice, civil, or criminal action related to the current case. These actions do not need to be resolved to be scored.
- e. Enter “10” if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- f. Enter “10” if the offense involves multiple patients.
- g. Enter “10” if the respondent has any prior board violations.
- h. Enter “5” if there was a concurrent action by the employer in response to the current incident. Action from an employer may include, but is not limited to suspension, termination, or disciplinary counseling notice.
- i. Enter “5” if there was any patient injury. This can include:
  - Mental injury that would require psychiatric, psychological or any type of counseling provided by a bona fide health care professional.
  - Physical injury includes requiring medical care ranging from first-aid treatment to hospitalization.
  - Death which resulted from an action, or inaction, by the respondent.
- j. Enter “5” if the case involved a violation of the Drug Control Act (DCA) which may include dispensing/prescribing for non-medicinal purposes, not in accordance with dosage, without a relationship or prescription forgery.

### Step 3: Combine Case Type Score and Offense and Respondent Factor Scores for a Total Worksheet Score

### Step 4: Identify the Sanctioning Recommendation on the Sanctioning Table

The Total Worksheet Score corresponds to the sanctioning recommendation(s) located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 40 is recommended for “No Sanction/Reprimand/ Monetary Penalty/Educational Terms.”

### Step 5: Coversheet

Complete the coversheet, including the recommended sanction, imposed sanction, and reason for departure if applicable.

**Agenda Item: Appointment of a Nominating Committee**

**Staff Note:** The current officer terms will expire at the time of the June 2025 Board meeting. A new slate of officers will be presented by the Nominating Committee at the June Board meeting for approval.

**Action:** Appointment of the Nominating Committee.



- Next Meeting Date of the Full Board is **June 26-28, 2025**. Please check your calendars and advise staff of any known conflicts that may affect your attendance.
- The travel regulations require that “travelers must submit the Travel Expense Reimbursement Voucher within 30 days after completion of their trip”. (CAPP Topic 20335, State Travel Regulations, p.7). If you submit your reimbursement after the 30-day deadline, please provide a justification for the late submission and be aware that it may not be approved.
- In order for the agency to be in compliance with the travel regulations, please submit your request for today’s meeting no later than

**March 20, 2025**