

Advisory Board on Occupational Therapy

Board of Medicine
Tuesday, February 5, 2013, 10:00 a.m.
9960 Mayland Drive, Suite 201
Richmond, Virginia
Board Room 1

Call to Order – Eugenio Monasterio, MD, Chair

Emergency Egress Procedures - Eugenio Monasterio, MD 1

Roll Call- Bradley Verry

Approval of Minutes of October 2, 2012 2-4

Adoption of the Agenda

Public Comment on Agenda Items (15 minutes)

New Business

1. Legislative Report – Elaine Yeatts 5-12

2. Review of Regulatory Revisions – Elaine Yeatts 13-27

Announcements

Next meeting date: June 4, 10:00 a.m.

Adjournment

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EGRESS 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 1

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.

ADVISORY BOARD ON OCCUPATIONAL THERAPY

Minutes

October 2, 2012

The Advisory Board on Occupational Therapy met on October 2, 2012 at 10:00 a.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Eugenio Monasterio, MD, Chair
Jean A. Hearst, O.T., Vice-Chair
Mitch Lovinger, OT

MEMBERS ABSENT: Kathleen Smith, OT

STAFF PRESENT: William L. Harp, MD, Executive Director
Alan Heaberlin, Licensing Supervisor
Elaine Yeatts, Senior Regulatory Analyst
Bradley Verry, Licensing Specialist

GUESTS PRESENT: Hunter Jamerson, Esquire

CALL TO ORDER

Dr. Monasterio called the meeting to order at 10:05 a.m.

EMERGENCY EGRESS PROCEDURES

Dr. Harp announced the Emergency Egress Instructions.

ROLL CALL

Roll was called and a quorum declared. Dr. Harp reminded the Advisory Board that Elanor Levi has resigned from her position.

APPROVAL OF MINUTES OF JUNE 5, 2012

Jean Hearst moved to adopt the Minutes of June 5, 2012. The motion was seconded and carried.

000002

ADOPTION OF AGENDA

The agenda was adopted by acclamation.

PUBLIC COMMENT ON AGENDA ITEMS

Hunter Jamerson, Esquire, representative of VOTA, informed the Advisory Board that the regulatory changes published by the Board of Medicine have been published in the register. Additionally, Mr. Jamerson informed the Advisory Board that certain insurance providers do not cover habilitation and rehabilitation. It is a goal of VOTAs to have this language added to benefits. VOTA is appreciative of the continued support of the members of the Advisory Board.

NEW BUSINESS

#1. Health Practitioners Survey – Dr. Elizabeth Carter

Dr. Elizabeth Carter informed the Advisory Board members that the Department of Health Professions will be conducting a survey upon renewal for Occupational Therapy. Dr. Carter asked for participation by the Advisory Board members to help craft questions and develop a survey relating to the profession. Jean Hearst and Mitch Lovinger offered to help create the survey.

#2. Regulatory/Legislative Report – Elaine Yeatts

Ms. Yeatts informed the Advisory Board of legislative changes made during the 2012 session of the General Assembly. No action was required. Additionally, Ms. Yeatts explained that a comprehensive review of the regulations for Occupational Therapy should be conducted to determine if any regulations may be repealed. There will be a period for public comment.

#3. Review of Applications – Alan Heaberlin

Mr. Heaberlin conducted a review of the current applications for Occupational Therapy and Occupational Therapy Assistant with the Advisory Board in an attempt to update the applications.

#4. Meeting Calendar for 2013 – Dr. Harp

Dr. Harp reviewed the meeting calendar for 2013 with the Advisory Board. No action was required.

5. Election of Officers

000003

Jean Hearst moved to nominate Dr. Monasterio to continue to serve as Chair. The motion was seconded and carried. Jean Hearst moved to nominate Mitch Lovinger to serve as Vice-Chair. The motion was seconded and carried.

6. Conflict of Interest Training

Mr. Heaberlin provided instructions to the Advisory Board members regarding completion of the Conflict of Interest training.

ANNOUNCEMENTS

Dr. Harp introduced Alan Heaberlin, Licensing Supervisor, to the Advisory Board.

Mr. Heaberlin informed the Advisory Board that there are currently 3094 licensed Occupational Therapists, and 954 licensed Occupational Therapy Assistants.

NEXT MEETING DATE

February 5, 2013

ADJOURNMENT

The meeting of the Advisory board was adjourned at 11:35 a.m.

Eugenio Monasterio, MD, Chair

William L. Harp, M.D.
Executive Director

Bradley Verry, Licensing Specialist

000004

Report of the 2013 General Assembly

Board of Medicine - Advisory Boards

HB 1352 Health care records; increases maximum copying fee that a health provider may charge.

Chief patron: Habeeb

Summary as introduced:

Health care records; copying fees. Increases the maximum fee that a health care provider may charge for retrieving, reviewing, and preparing copies of patient records in response to a subpoena duces tecum or a request by the patient, his attorney, or his executor or administrator. The maximum fee is raised from \$0.50 to \$0.75 per page for up to 50 pages and from \$0.25 to \$0.50 per page for documents in excess of 50 pages. The bill also raises the maximum search and handling fee from \$10 to \$20.

11/29/12 House: Referred to Committee for Courts of Justice

01/10/13 House: Assigned Courts sub: #2 Civil

01/21/13 House: Subcommittee failed to recommend reporting (3-Y 4-N)

01/23/13 House: Subcommittee recommends reporting with amendment(s) (5-Y 1-N)

HB 1422 Interchangeable biosimilar biological products; permits pharmacists to dispense.

Chief patron: O'Bannon

Summary as introduced:

Dispensing of interchangeable biosimilar biological products. Permits pharmacists to dispense a biosimilar that has been licensed by the U.S. Food and Drug Administration as interchangeable with a prescribed biological product unless the prescriber indicates such substitution is not authorized or the patient insists on dispensing of the prescribed biological product. The bill requires any pharmacist who dispenses an interchangeable biosimilar to inform the patient prior to dispensing the biosimilar, provide notification of the substitution to the prescriber, and record the brand name or the product name and name of the manufacturer of the biosimilar on the record of dispensing and the prescription label.

01/21/13 House: Engrossed by House - floor substitute HB1422H1

01/22/13 House: Read third time and passed House (91-Y 6-N 1-A)

01/22/13 House: VOTE: PASSAGE (91-Y 6-N 1-A)

01/23/13 Senate: Referred to Committee on Education and Health

HB 1444 Medications; administration by certain employees or contract service providers.

Chief patron: O'Bannon

Summary as introduced:

Administration of medications by employees or contract service providers of providers licensed by the Department of Behavioral Health and Developmental Services. Provides that employees of or persons providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may administer insulin, glucagon, and epinephrine in certain circumstances; provides protection from liability for certain acts related to such administration; and requires the Board of Nursing to promulgate regulations governing training in the administration of epinephrine by persons authorized to administer epinephrine.

01/22/13 House: Impact statement from DPB (HB1444E)
01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/23/13 Senate: Referred to Committee on Education and Health

HB 1463 Tramadol; adds to list of Schedule IV controlled substances.

Chief patron: Yost

Summary as introduced:

Schedule IV controlled substances; tramadol. Adds tramadol, an opiate painkiller, to the list of Schedule IV controlled substances.

12/28/12 House: Referred to Committee on Health, Welfare and Institutions
01/07/13 House: Impact statement from VCSC (HB1463)
01/11/13 House: Assigned HWI sub: #2
01/24/13 House: Subcommittee recommends reporting with amendment(s) (7-Y 0-N)

HB 1468 Public schools; possession & administration of epinephrine by employees of local governing bodies.

Chief patron: Greason

Summary as introduced:

Public schools; possession and administration of epinephrine. Adds employees of local governing bodies and employees of local health departments to the lists of individuals who are permitted to possess and administer epinephrine and not be held liable for civil damages when certain conditions are met. The bill also requires local school boards to include in policies for the possession and administration of epinephrine a provision adding any employee of a local governing body or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to administer the drug to any student believed to be having an anaphylactic reaction.

EMERGENCY

01/23/13 House: Emergency clause added
01/23/13 House: Engrossed by House as amended HB1468E
01/24/13 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)

HB 1499 Emergency medical services personnel; administration of medications.

Chief patron: Stolle

Summary as introduced:

Administration of medications. Clarifies the circumstances under which emergency medical services personnel may administer medications and provides that emergency medical services personnel may administer medications pursuant to an oral or written order or standing protocol.

01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/23/13 Senate: Referred to Committee on Education and Health

HB 1501 Pharmacy; collaborative agreements.

Chief patron: O'Bannon

Summary as introduced:

Pharmacy; collaborative agreements. Clarifies parties with whom a pharmacist may enter into a collaborative

agreement; provides that a patient who does not wish to participate in a collaborative procedure must notify the prescriber of his decision; and provides that a prescriber may elect to have a patient not participate in a collaborative agreement by contacting the pharmacist or his designated alternative pharmacist or by documenting his decision on the patient's prescription. The bill also clarifies that collaborative agreements may be in writing or in electronic form.

01/24/13 House: Committee amendments agreed to
01/24/13 House: Engrossed by House as amended HB1501E
01/24/13 House: Printed as engrossed 13100522D-E
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

HB 1516 Pharmacies; access to the Prescription Monitoring Program.

Chief patron: Lewis

Summary as introduced:

Pharmacies; access to the Prescription Monitoring Program. Requires every pharmacy permitted by the Board of Pharmacy to ensure that at least one pharmacist who is physically present at the pharmacy shall have access to the Prescription Monitoring Program at all times.

01/03/13 House: Prefiled and ordered printed; offered 01/09/13 13102118D
01/03/13 House: Referred to Committee on Health, Welfare and Institutions
01/15/13 House: Assigned HWI sub: #1

HB 1564 Drugs; administration by a person to a child in private school.

Chief patron: Orrock

Summary as introduced:

Administration of drugs; private schools, private nursery schools, and private preschools. Provides that nothing shall prevent the administration of drugs by a person to a child in a private nursery school or preschool that is accredited by the Virginia Council for Private Education and exempt from licensure by the Board of Social Services, or in a private school that is accredited by the Virginia Council for Private Education in accordance with standards prescribed by the Board of Education, provided such person has completed an approved training program, obtained written authorization of the parent, and administers drugs dispensed from a pharmacy and maintained in the original labeled container only to the child identified on the prescription label and in accordance with the prescriber's instructions.

01/17/13 House: Read second time and engrossed
01/18/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/21/13 Senate: Referred to Committee on Education and Health

HB 1644 Birth control; definition.

Chief patron: Watts

Summary as introduced:

Birth control; definition. Adds a definition of birth control. "Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. Birth control shall not be considered abortion for the purposes of Title 18.2.

01/07/13 House: Prefiled and ordered printed; offered 01/09/13 13101037D
01/07/13 House: Referred to Committee for Courts of Justice

HB 1666 Professional counselors; establishes minimum education requirements for licensure.

Chief patron: Yost

Summary as introduced:

Licensure of professional counselors. Establishes minimum education requirements for licensure as a professional counselor and provides that an applicant must have received a master's degree from a program in which the primary emphasis is on preparation for the practice of counseling. The bill exempts individuals who meet all other requirements for licensure as a professional counselor related to coursework and completion of a supervised residency by July 1, 2017, from provisions related to completion of a graduate degree.

01/07/13 House: Referred to Committee on Health, Welfare and Institutions

01/11/13 House: Assigned HWI sub: #2

01/24/13 House: Subcommittee recommends reporting with amendment(s) (7-Y 0-N)

HB 1672 Naloxone; administration by unlicensed individual in cases of opiate overdose.

Chief patron: O'Bannon

Summary as introduced:

Naloxone; administration in cases of opiate overdose. Provides that nothing shall prohibit an unlicensed individual from administering naloxone to a person who is experiencing or is about to experience a life-threatening opiate overdose, provided the unlicensed individual has completed a training program approved by the Board of Health. The bill also requires the Board of Health and the Board of Pharmacy to work together with law-enforcement agencies to develop a pilot program for the training of law-enforcement personnel and provision of nasally administered naloxone to law-enforcement personnel for the purpose of enabling law-enforcement personnel to administer naloxone to persons experiencing opiate overdose and to work together with recovery support organizations and other stakeholders to develop a pilot program for the training of members of the public and provision of nasally administered naloxone to members of the public for the purpose of enabling members of the public who have received such training to administer naloxone to persons experiencing opiate overdose.

01/07/13 House: Referred to Committee on Health, Welfare and Institutions

01/11/13 House: Assigned HWI sub: #1

HB 1702 Counseling, Board of; confirmation of appointments by General Assembly.

Chief patron: Carr

Summary as introduced:

Board of Counseling; confirmation of appointments by General Assembly. Provides that all appointments to the Board of Counseling that are made by the Governor shall be subject to confirmation by the General Assembly.

01/08/13 House: Referred to Committee on Privileges and Elections

01/11/13 House: Assigned P & E sub: Appointments

01/11/13 House: Impact statement from DPB (HB1702)

01/24/13 House: Subcommittee recommends reporting (7-Y 0-N)

01/25/13 House: Reported from Privileges and Elections (22-Y 0-N)

HB 1704 Prescription Monitoring Program; disclosure of information to local chief law enforcement officer.

Chief patron: Stolle

Summary as introduced:

Prescription Monitoring Program; disclosure of information to local law enforcement. Adds an agent designated by the chief law-enforcement officer of any county or city to the list of individuals to whom the Department of Health

Professions must disclose information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber upon request.

01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/22/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
01/23/13 Senate: Constitutional reading dispensed
01/23/13 Senate: Referred to Committee on Education and Health
01/24/13 House: Impact statement from DPB (HB1704E)

HB 1778 Mammography; provider must notify patient about dense breast tissue.

Chief patron: Filler-Corn

Summary as introduced:

Mammography results; information about dense breast tissue. Clarifies the conditions under which a mammography services provider must notify a patient of dense breast tissue and adds language to the notice that must be sent to patients under the existing law.

01/24/13 House: Read second time
01/24/13 House: Committee substitute agreed to 13104024D-H1
01/24/13 House: Engrossed by House - committee substitute HB1778H1
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 1791 Practitioners; suspension of license, etc., by health regulatory agency.

Chief patron: Garrett

Summary as introduced:

Suspension of license, registration or certificate by a health regulatory agency; practice pending appeal. Prohibits a practitioner of the healing arts whose license, certificate, registration, or permit has been suspended or revoked by a health regulatory board from engaging in practice pending appeal of the board's order.

01/15/13 House: Referred to Committee for Courts of Justice
01/21/13 House: Subcommittee recommends reporting (8-Y 0-N)
01/22/13 House: Assigned Courts sub: #2 Civil
01/23/13 House: Reported from Courts of Justice (17-Y 0-N)
01/25/13 House: Read first time

HB 1876 Sterilization operations; for persons capable of informed consent.

Chief patron: McClellan

Summary as introduced:

Sterilization operations for persons capable of informed consent. Eliminates the requirement for a 30-day waiting period prior to a sterilization operation for persons who are over the age of 18 and capable of giving informed consent who have not previously become the natural or adoptive parent of a child.

01/08/13 House: Referred to Committee on Health, Welfare and Institutions
01/17/13 House: Reported from Health, Welfare and Institutions (21-Y 1-N)
01/17/13 House: Impact statement from DPB (HB1876)
01/18/13 House: Motion to rerefer to committee agreed to
01/18/13 House: Rereferred to Health, Welfare and Institutions

HB 1933 Lyme disease; disclosure of information to patients.

Chief patron: Comstock

Summary as introduced:

Lyme disease; disclosure of information to patients. Requires physicians to provide each patient for whom a test for the presence of Lyme disease is ordered with a notice about Lyme disease, about testing for Lyme disease, and about the need to contact his physician with questions or concerns about Lyme disease.

01/09/13 House: Prefiled and ordered printed; offered 01/09/13 13102771D

01/09/13 House: Referred to Committee on Health, Welfare and Institutions

01/14/13 House: Impact statement from DPB (HB1933)

01/15/13 House: Assigned HWI sub: #1

HB 2120 Health care practitioner, licensed; procedure for physical evidence recovery kit examination.

Chief patron: Herring

Summary as introduced:

Individual incapable of making an informed decision; procedure for physical evidence recovery kit examination.

Provides that a licensed health care provider may perform a physical evidence recovery kit examination for a person who is believed to be the victim of a sexual assault and who is incapable of making an informed decision regarding consent to such examination when there is an immediate need to conduct the examination, no legally authorized representative is available to provide consent, and a capacity reviewer provides written certification that the person is incapable of providing informed consent and that the examination should be performed.

01/09/13 House: Referred to Committee on Health, Welfare and Institutions

01/15/13 House: Referred from Health, Welfare and Institutions

01/15/13 House: Referred to Committee for Courts of Justice

01/18/13 House: Impact statement from DPB (HB2120)

01/25/13 House: Assigned Courts sub: #1 Criminal

HB 2136 Methasterone and prostanazol; added to list of Schedule III controlled substances.

Chief patron: Hodges

Summary as introduced:

Adding methasterone and prostanazol to Schedule III. Adds methasterone and prostanazol to Schedule III.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)

01/23/13 House: Read first time

01/24/13 House: Read second time and engrossed

01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 2161 Nurses; authority to possess and administer oxygen to treat emergency medical conditions.

Chief patron: O'Bannon

Summary as introduced:

Nurses; authority to possess and administer oxygen to treat emergency medical conditions. Provides that a prescriber may authorize registered nurses and licensed practical nurses to possess oxygen for administration in treatment of emergency medical conditions.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)
01/23/13 House: Read first time
01/24/13 House: Read second time and engrossed
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 2181 Medical equipment suppliers; delivery of sterile water and saline.

Chief patron: Hodges

Summary as introduced:

Medical equipment suppliers; delivery of sterile water and saline. Adds sterile water and saline to the list of prescription drugs and devices that a permitted medical equipment supplier may receive, store, and distribute to a consumer.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)
01/23/13 House: Read first time
01/24/13 House: Read second time and engrossed
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 2312 Pharmacies; clarifies definition of compounding, etc.

Chief patron: Jones

Summary as introduced:

Compounding pharmacies. Clarifies the definition of "compounding" and adds a requirement for a current inspection report for registration or renewal of a registration for a nonresident pharmacy.

01/18/13 House: Presented and ordered printed 13103613D
01/18/13 House: Referred to Committee on Health, Welfare and Institutions
01/25/13 House: Impact statement from DPB (HB2312)

HJ 571 JCHC; study of feasibility of developing program of trained primary care personnel.

Chief patron: Hope

Summary as introduced:

JCHC; study of the feasibility of developing a program of trained primary care personnel to extend the reach of primary care services and reduce health care costs in the Commonwealth; report. Directs the Joint Commission on Health Care to study (i) the feasibility of developing and (ii) the potential impacts on access to and the quality and cost of health care resulting from implementation of a program whereby individuals are trained to provide primary health care services through telephone contacts and home visits, in accordance with standardized protocols and under the supervision of a licensed nurse or physician, using the Grande-Aides model or a similar program.

12/18/12 House: Prefiled and ordered printed; offered 01/09/13 13100760D
12/18/12 House: Referred to Committee on Rules
01/16/13 House: Assigned Rules sub: Studies

SB 858 Surgical assistants and surgical technologists; licensure and certification by Board of Medicine.

Chief patron: Blevins

Summary as introduced:

Surgical technologists and surgical assistants. Requires certification for surgical technologists and licensure for surgical assistants, and provides requirements for such certification and licensure. The bill creates the Advisory Board of Surgical Technology and Surgical Assisting to assist the Board of Medicine in the regulation of surgical technologists and surgical assistants.

01/03/13 Senate: Prefiled and ordered printed; offered 01/09/13 13101106D

01/03/13 Senate: Referred to Committee on Education and Health

01/09/13 Senate: Assigned Education sub: Health Professions

01/09/13 Senate: Impact statement from DPB (SB858)

SB 898 Practitioners; Board of Medicine to revoke license of certain (Twomey bill).

Chief patron: Reeves

Summary as introduced:

Board of Medicine; license revocation (Twomey bill). Makes it mandatory for the Board to revoke a license of a practitioner who engages in sexual contact with a patient under certain circumstances and provides that the person whose license has been revoked may not apply for reinstatement for five years. Under current law, revocation is at the Board's discretion and the person may apply for reinstatement after three years.

01/09/13 Senate: Assigned Education sub: Health Professions

01/24/13 Senate: Reported from Education and Health with substitute (15-Y 0-N)

01/24/13 Senate: Committee substitute printed 13103765D-S1

01/25/13 Senate: Constitutional reading dispensed (40-Y 0-N)

SB 950 Practitioners of medicine, etc.; updates terminology in sections governing licensure, etc.

Chief patron: Garrett

Summary as introduced:

Practice of medicine and other healing arts. Updates terminology in sections governing licensure of practitioners of the healing arts, provides for use of electronic communication, and eliminates the Psychiatric Advisory Board.

01/07/13 Senate: Referred to Committee on Education and Health

01/15/13 Senate: Assigned Education sub: Health Professions

01/24/13 Senate: Reported from Education and Health (15-Y 0-N)

01/25/13 Senate: Constitutional reading dispensed (40-Y 0-N)

SB 1250 Prescription Monitoring Program; Board of Pharmacy to identify "drugs of concern".

Chief patron: Puckett

Summary as introduced:

Designation and reporting of drugs of concern. Authorizes the Board of Pharmacy to identify "drugs of concern" and requires prescribers to report prescription drugs of concern to the Prescription Monitoring Program.

01/09/13 Senate: Presented and ordered printed 13103116D

01/09/13 Senate: Referred to Committee on Education and Health

01/15/13 Senate: Assigned Education sub: Health Care

Notice of Periodic Review

Board of Medicine

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine is conducting a periodic review of:

18VAC85-15	Regulations Governing Delegation to an Agency Subordinate
18VAC85-40	Regulations Governing the Practice of Respiratory Care
18VAC85-50	Regulations Governing the Practice of Physician Assistants
18VAC85-80	Regulations Governing the Licensure of Occupational Therapists
18VAC85-101	Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited
18VAC85-110	Regulations for Licensed Acupuncturists
18VAC85-120	Regulations Governing the Licensure of Athletic Trainers
18VAC85-130	Regulations Governing the Practice of Licensed Midwives

The review is part of the **Governor's Regulatory Reform Project with the goal of:**

- a. Repealing regulations that are unnecessary or no longer in use;
- b. Reducing unnecessary regulatory burdens on individuals, businesses, and other regulated groups; and
- c. Identifying statutes that require unnecessary or overly burdensome regulations.

Further, the Board is seeking comment on whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins November 5, 2012 and ends on December 5, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at:
<http://www.townhall.virginia.gov/L/Forums.cfm>.

Comments may also be sent to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233 or faxed to (804) 527-4434 or emailed to elaine.yeatts@dhp.virginia.gov.

Following the close of the public comment period, a report of the periodic review will be posted on the Town Hall and published in the Virginia Register of Regulations.

Commonwealth of Virginia



REGULATIONS

GOVERNING THE PRACTICE OF OCCUPATIONAL THERAPISTS

VIRGINIA BOARD OF MEDICINE

Title of Regulations: 18 VAC 85-80-10 et seq.

**Statutory Authority: § 54.1-2400 and Chapter 29
of Title 54.1 of the *Code of Virginia***

highlighted language for discussion

9960 Mayland Drive, Suite 300
Henrico, VA 23233-1463

(804) 367-4600 (TEL)
(804) 527-4426 (FAX)
email: medbd@dhp.virginia.gov

TABLE OF CONTENTS

Part I. General Provisions.....	3
18VAC85-80-10. Definitions.....	3
18VAC85-80-20. Public participation.....	3
18VAC85-80-25. Current name and address.....	3
18VAC85-80-26. Fees.....	4
Part II. Requirements of Licensure as an Occupational Therapist.....	4
18VAC85-80-30. (Repealed).....	4
18VAC85-80-35. Application requirements.....	4
18VAC85-80-40. Educational requirements.....	5
18VAC85-80-45. Practice by a graduate awaiting examination results.....	5
18VAC85-80-50. Examination requirements.....	5
18VAC85-80-60. Practice requirements.....	6
18VAC85-80-61. (Repealed.).....	6
18VAC85-80-65. Registration for voluntary practice by out-of-state licensees.....	6
Part III. Renewal of Licensure; Reinstatement.....	6
18VAC85-80-70. Biennial renewal of licensure.....	6
18VAC85-80-71. Continued competency requirements for renewal of an active license.....	7
18VAC85-80-72. Inactive licensure.....	7
18VAC85-80-73. Restricted volunteer license.....	8
18VAC85-80-80. Reinstatement.....	9
Part IV. Practice of Occupational Therapy.....	9
18VAC85-80-90. General responsibilities.....	9
18VAC85-80-100. Individual responsibilities.....	9
18VAC85-80-110. Supervisory responsibilities of an occupational therapist.....	10
18VAC85-80-111. Supervision of unlicensed occupational therapy personnel.....	11
Part V. Standards of Professional Conduct.....	11
18VAC85-80-120. Confidentiality.....	11
18VAC85-80-121. Patient records.....	12
18VAC85-80-122. Practitioner-patient communication; termination of relationship.....	12
18VAC85-80-123. Practitioner responsibility.....	13
18VAC85-80-124. Sexual contact.....	13
18VAC85-80-125. Refusal to provide information.....	14

Part I. General Provisions.

18VAC85-80-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

"Board"

"Occupational therapy assistant"

"Practice of occupational therapy"

B. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"ACOTE" means the Accreditation Council for Occupational Therapy Education.

"Active practice" means a minimum of 160 hours of professional practice as an occupational therapist or an occupational therapy assistant within the 24-month period immediately preceding renewal or application for licensure, if previously licensed or certified in another jurisdiction. The active practice of occupational therapy may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

"Advisory board" means the Advisory Board of Occupational Therapy.

"Contact hour" means 60 minutes of time spent in continued learning activity.

"NBCOT" means the National Board for Certification in Occupational Therapy, under which the national examination for certification is developed and implemented.

"National examination" means the examination prescribed by NBCOT for certification as an occupational therapist or an occupational therapy assistant and approved for licensure in Virginia.

"Occupational therapy personnel" means appropriately trained individuals who provide occupational therapy services under the supervision of a licensed occupational therapist.

18VAC85-80-20. Public participation.

A separate regulation, 18VAC85-10-10 et seq., Public Participation Guidelines, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine

18VAC85-80-25. Current name and address.

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter given by the board to any such licensee shall be validly given when mailed to the latest address of record provided or served to the licensee. Any change of name or address of

record or public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

18VAC85-80-26. Fees.

A. The following fees have been established by the board:

1. The initial fee for the occupational therapist license shall be \$130; for the occupational therapy assistant, it shall be \$70.
2. The fee for reinstatement of the occupational therapist license that has been lapsed for two years or more shall be \$180; for the occupational therapy assistant, it shall be \$90.
3. The fee for active license renewal for an occupational therapist shall be \$135; for an occupational therapy assistant, it shall be \$70. The fees for inactive license renewal shall be \$70 for an occupational therapist and \$35 for an occupational therapy assistant. Renewals shall be due in the birth month of the licensee in each even-numbered year.
4. The additional fee for processing a late renewal application within one renewal cycle shall be \$50 for an occupational therapist and \$30 for an occupational therapy assistant.
5. The fee for a letter of good standing or verification to another state for a license shall be \$10.
6. The fee for reinstatement of licensure pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.
7. The fee for a returned check shall be \$35.
8. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
9. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

B. Unless otherwise provided, fees established by the board shall not be refundable.

Part II. Requirements of Licensure as an Occupational Therapist.

18VAC85-80-30. (Repealed)

18VAC85-80-35. Application requirements.

An applicant for licensure shall submit the following on forms provided by the board:

1. A completed application and a fee as prescribed in 18VAC85-80-26.
2. Verification of professional education in occupational therapy as required in 18VAC85-80-40.

3. Verification of practice as required in 18VAC85-80-60 and as specified on the application form.
4. Documentation of passage of the national examination as required in 18VAC85-80-50.
5. If licensed or certified in any other jurisdiction, verification that there has been no disciplinary action taken or pending in that jurisdiction.

18VAC85-80-40. Educational requirements.

- A. An applicant who has received his professional education in the United States, its possessions or territories, shall successfully complete all academic and fieldwork requirements of an accredited educational program as verified by the ACOTE.
- B. An applicant who has received his professional education outside the United States, its possessions or territories, shall successfully complete all academic and clinical fieldwork requirements of a program approved by a member association of the World Federation of Occupational Therapists as verified by the candidate's occupational therapy program director and as required by the NBCOT and submit proof of proficiency in the English language by passing the Test of English as a Foreign Language (TOEFL) with a score acceptable to the board. TOEFL may be waived upon evidence of English proficiency.
- C. An applicant who does not meet the educational requirements as prescribed in subsection A or B of this section but who has received certification by the NBCOT as an occupational therapist or an occupational therapy assistant shall be eligible for licensure in Virginia and shall provide the board verification of his education, training and work experience acceptable to the board.

18VAC85-80-45. Practice by a graduate awaiting examination results.

- A. A graduate of an accredited occupational therapy educational program may practice with the designated title of "Occupational Therapist, License Applicant" or "O.T.L.-Applicant" until he has taken and received the results of the licensure examination from NBCOT or for six months from the date of graduation, whichever occurs sooner. The graduate shall use one of the designated titles on any identification or signature in the course of his practice.
- B. A graduate of an accredited occupational therapy assistant educational program may practice with the designated title of "Occupational Therapy Assistant-License Applicant" or "O.T.A.-Applicant" until he has taken and received the results of the licensure examination from NBCOT or for six months from the date of graduation, whichever occurs sooner. The graduate shall use one of the designated titles on any identification or signature in the course of his practice.

18VAC85-80-50. Examination requirements.

- A. An applicant for licensure to practice as an occupational therapist shall submit evidence to the board that he has passed the certification examination for an occupational therapist and any other examination required for initial certification from the NBCOT.

B. An applicant for licensure to practice as an occupational therapy assistant shall submit evidence to the board that he has passed the certification examination for an occupational therapy assistant and any other examination required for initial certification from the NBCOT.

18VAC85-80-60. Practice requirements.

An applicant who has been practicing occupational therapy in another jurisdiction and has met the requirements for licensure in Virginia shall provide evidence that he has engaged in the active practice of occupational therapy as defined in 18VAC85-80-10. If the applicant has not engaged in active practice as defined in 18VAC85-80-10, he shall serve a board-approved practice of 160 hours, which is to be completed within 60 consecutive days, under the supervision of a licensed occupational therapist. **Consider another time frame – such as: *within a ____ day period***

18VAC85-80-61. (Repealed.)

18VAC85-80-65. Registration for voluntary practice by out-of-state licensees.

Any occupational therapist or an occupational therapy assistant who does not hold a license to practice in Virginia and who seeks registration to practice under subdivision 27 of §54.1-2901 of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. An incomplete application will not be considered;
2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 27 of §54.1-2901 of the Code of Virginia.

Part III. Renewal of Licensure; Reinstatement.

18VAC85-80-70. Biennial renewal of licensure.

A. An occupational therapist shall renew his license biennially during his birth month in each even-numbered year by:

1. Paying to the board the renewal fee prescribed in 18VAC85-80-26;

2. Indicating that he has been engaged in the active practice of occupational therapy as defined in 18VAC85-80-10; and

3. Attesting to completion of continued competency requirements as prescribed in 18VAC85-80-71.

B. An occupational therapist or an occupational therapy assistant whose license has not been renewed by the first day of the month following the month in which renewal is required shall pay an additional fee as prescribed in 18VAC85-80-26.

18VAC85-80-71. Continued competency requirements for renewal of an active license.

A. In order to renew an active license biennially, a practitioner shall complete the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of at least 20 contact hours of continuing learning activities as follows:

1. A minimum of 10 of the 20 hours shall be in Type 1 activities offered by a sponsor or organization recognized by the profession and may include in-service training, self-study courses, continuing education courses, specialty certification or professional workshops.

2. No more than 10 of the 20 hours may be Type 2 activities, which may include consultation with another therapist, independent reading or research, preparation for a presentation or other such experiences that promote continued learning.

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 records the completed form with 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 at least one to two percent of its active licensees to determine compliance. The practitioners selected for the audit shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

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

F. 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. 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.

18VAC85-80-72. Inactive licensure.

A. A licensed occupational therapist or an occupational therapy assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of

the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain hours of active practice or meet the continued competency requirements of 18VAC85-80-71 and shall not be entitled to perform any act requiring a license to practice occupational therapy in Virginia.

B. An inactive licensee may reactivate his license upon submission of the following:

1. An application as required by the board;
2. A payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure;
3. If the license has been inactive for two to six years, documentation of having engaged in the active practice of occupational therapy or having completed a board-approved practice of 160 hours within 60 consecutive days under the supervision of a licensed occupational therapist; and
4. Documentation of completed continued competency hours equal to the requirement for the number of years, not to exceed four years, in which the license has been inactive.

C. An occupational therapist or an occupational therapy assistant who has had an inactive license for six years or more and who has not engaged in active practice, as defined in 18VAC85-80-10, shall serve a board-approved practice of 320 hours to be completed in four consecutive months under the supervision of a licensed occupational therapist.

D. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of §54.1-2915 of the Code of Virginia or any provisions of this chapter.

18VAC85-80-73. Restricted volunteer license.

A. An occupational therapist or an occupational therapy assistant who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with §54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, an occupational therapist or occupational therapy assistant shall submit an application to the board that documents compliance with requirements of §54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18VAC85-80-26.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D of this section, and pay to the board the renewal fee prescribed in 18VAC85-80-26.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall

attest to obtaining 10 hours of continuing education during the biennial renewal period with at least five hours of Type 1 and no more than five hours of Type 2 as specified in 18VAC85-80-71.

18VAC85-80-80. Reinstatement.

- A. An occupational therapist or an occupational therapy assistant who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit a reinstatement application to the board and information on any practice and licensure or certification in other jurisdictions during the period in which the license was lapsed, and shall pay the fee for reinstatement of his licensure as prescribed in 18VAC85-80-26.
- B. An occupational therapist or an occupational therapy assistant who has allowed his license to lapse for two years but less than six years, and who has not engaged in active practice as defined in 18VAC85-80-10, shall serve a board-approved practice of 160 hours to be completed in two consecutive months under the supervision of a licensed occupational therapist.
- C. An occupational therapist or an occupational therapy assistant who has allowed his license to lapse for six years or more, and who has not engaged in active practice, shall serve a board-approved practice of 320 hours to be completed in four consecutive months under the supervision of a licensed occupational therapist.
- D. An applicant for reinstatement shall meet the continuing competency requirements of 18VAC85-80-71 for the number of years the license has been lapsed, not to exceed four years.
- E. An occupational therapist or an occupational therapy assistant whose license has been revoked by the board and who wishes to be reinstated shall make a new application to the board and payment of the fee for reinstatement of his license as prescribed in 18VAC85-80-26 pursuant to §54.1-2408.2 of the Code of Virginia.

Part IV. Practice of Occupational Therapy.

18VAC85-80-90. General responsibilities.

- A. An occupational therapist renders services of assessment, program planning, and therapeutic treatment upon request for such service. The practice of occupational therapy includes therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning. The practice of occupational therapy may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.
- B. An occupational therapy assistant renders services under the supervision of an occupational therapist that do not require the clinical decision or specific knowledge, skills and judgment of a licensed occupational therapist and do not include the discretionary aspects of the initial assessment, evaluation or development of a treatment plan for a patient.

18VAC85-80-100. Individual responsibilities.

A. An occupational therapist provides assessment by determining the need for, the appropriate areas of, and the estimated extent and time of treatment. His responsibilities include an initial screening of the patient to determine need for services and the collection, evaluation and interpretation of data necessary for treatment.

B. An occupational therapist provides program planning by identifying treatment goals and the methods necessary to achieve those goals for the patient. The therapist analyzes the tasks and activities of the program, documents the progress, and coordinates the plan with other health, community or educational services, the family and the patient. The services may include but are not limited to education and training in basic and instrumental activities of daily living (ADL); the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

C. An occupational therapist provides the specific activities or therapeutic methods to improve or restore optimum functioning, to compensate for dysfunction, or to minimize disability of patients impaired by physical illness or injury, emotional, congenital or developmental disorders, or by the aging process.

D. An occupational therapy assistant is responsible for the safe and effective delivery of those services or tasks delegated by and under the direction of the occupational therapist. Individual responsibilities of an occupational therapy assistant may include:

1. Participation in the evaluation or assessment of a patient by gathering data, administering tests, and reporting observations and client capacities to the occupational therapist;
2. Participation in intervention planning, implementation, and review;
3. Implementation of interventions as determined and assigned by the occupational therapist;
4. Documentation of patient responses to interventions and consultation with the occupational therapist about patient functionality;
5. Assistance in the formulation of the discharge summary and follow-up plans; and
6. Implementation of outcome measurements and provision of needed patient discharge resources.

18VAC85-80-110. Supervisory responsibilities of an occupational therapist.

A. Delegation to an occupational therapy assistant.

1. An occupational therapist shall be ultimately responsible and accountable for patient care and occupational therapy outcomes under his clinical supervision.
2. An occupational therapist shall not delegate the discretionary aspects of the initial assessment, evaluation or development of a treatment plan for a patient nor shall he delegate any task requiring a clinical decision or the knowledge, skills, and judgment of a licensed occupational therapist.

3. Delegation shall only be made if, in the judgment of the occupational therapist, the task or procedures do not require the exercise of professional judgment, can be properly and safely performed by an appropriately trained occupational therapy assistant, and the delegation does not jeopardize the health or safety of the patient.

4. Delegated tasks or procedures shall be communicated to an occupational therapy assistant on a patient-specific basis with clear, specific instructions for performance of activities, potential complications, and expected results.

B. The frequency, methods, and content of supervision are dependent on the complexity of patient needs, number and diversity of patients, demonstrated competency and experience of the assistant, and the type and requirements of the practice setting. The occupational therapist providing clinical supervision shall meet with the occupational therapy assistant to review and evaluate treatment and progress of the individual patients at least once every tenth treatment session or 30 calendar days, whichever occurs first. For the purposes of this subsection, group treatment sessions shall be counted the same as individual treatment sessions.

C. An occupational therapist may provide clinical supervision for up to six occupational therapy personnel, to include no more than three occupational therapy assistants at any one time.

D. The occupational therapy assistant shall document in the patient record any aspects of the initial evaluation, treatment plan, discharge summary, or other notes on patient care performed by the assistant. The supervising occupational therapist shall countersign such documentation in the patient record at the time of the review and evaluation required in subsection B of this section.

18VAC85-80-111. Supervision of unlicensed occupational therapy personnel.

A. Unlicensed occupational therapy personnel may be supervised by an occupational therapist or an occupational therapy assistant.

B. Unlicensed occupational therapy personnel may be utilized to perform:

1. Nonclient-related tasks including, but not limited to, clerical and maintenance activities and the preparation of the work area and equipment; and

2. Certain routine patient-related tasks that, in the opinion of and under the supervision of an occupational therapist, have no potential to adversely impact the patient or the patient's treatment plan.

Part V. Standards of Professional Conduct.

18VAC85-80-120. Confidentiality.

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

18VAC85-80-121. Patient records.

A. Practitioners shall comply with provisions of § 32.1-127.1:03 related to the confidentiality and disclosure of patient records.

B. Practitioners shall provide patient records to another practitioner or to the patient or his personal representative in a timely manner in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage and keep timely, accurate, legible and complete patient records;

D. Practitioners who are employed by a health care institution, school system or other entity, in which the individual practitioner does not own or maintain his own records, shall maintain patient records in accordance with the policies and procedures of the employing entity.

E. Practitioners who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records shall:

1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

a. Records of a minor child, including immunizations, shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

2. ~~From October 19, 2005,~~ Post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.

F. When a practitioner is closing, selling or relocating his practice, he shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the patient's choice or provided to the patient.

18VAC85-80-122. Practitioner-patient communication; termination of relationship.

A. Communication with patients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or his legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

2. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a treatment or procedure provided or directed by the practitioner in the treatment of any disease or condition.
3. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

B. Termination of the practitioner/patient relationship.

1. The practitioner or the patient may terminate the relationship. In either case, the practitioner shall make the patient record available, except in situations where denial of access is allowed by law.
2. A practitioner shall not terminate the relationship or make his services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

18VAC85-80-123. Practitioner responsibility.

A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;
2. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or their area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;
3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or
4. Exploit the practitioner/patient relationship for personal gain.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in A 3 of this section.

18VAC85-80-124. Sexual contact.

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, sexual contact includes, but is not limited to, sexual behavior or verbal or physical behavior which:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or
2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former patient.

Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care. For purposes of this section, key third party of a patient shall mean: spouse or partner, parent or child, guardian, or legal representative of the patient.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

18VAC85-80-125. Refusal to provide information.

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

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)

In order for the agency to be in compliance with the state travel regulations, please submit your request for today’s meeting no later than February 15, 2013