

# Advisory Board on Athletic Training

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Virginia Board of Medicine

June 6, 2024

10:00 a.m.

**Advisory Board on Athletic Training**

Board of Medicine

Thursday, June 6, 2024 @ 10:00 a.m.

9960 Mayland Drive, Suite 201, Henrico, VA

**Training Room 2**

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Call to Order – David Pawlowski, AT, Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Janice Martin	
Introduction of Members – David Pawlowski, AT	
Approval of Minutes of June 15, 2023	1 - 3
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
<b>New Business</b>	
1. Regulatory Update ..... Matthew Novak	4
2. Legislative Update ..... Matthew Novak	5 - 9
3. Discuss Athletic Trainers Working in Inpatient and Outpatient Settings ..... David Pawlowski, AT	10 - 21
4. Orientation to the Board of Medicine and Advisory Board ..... Dr. Harp	22 - 53

Announcements:

Next Scheduled Meeting: October 10, 2024 @ 10:00 a.m.

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.**

**Training Room 2**

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

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, turn **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.

<< DRAFT >>

ADVISORY BOARD ON ATHLETIC TRAINING  
**Minutes**  
June 15, 2023

The Advisory Board on Athletic Training met on Thursday, June 15, 2023 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

**MEMBERS PRESENT:** William “Scott” Powers, AT  
Michael Goforth, AT

**MEMBERS ABSENT:** David Pawlowski, AT – Chair  
Trilizsa Trent, Citizen – Vice-Chair  
Jeffrey Roberts, MD

**STAFF PRESENT:** William L. Harp, MD - Executive Director  
Michael Sobowale, LLM – Deputy Executive Director, Licensure  
Erin Barrett, JD – Director of Legislative and Regulatory Affairs  
Jennifer Deschenes, JD - Deputy Executive Director, Discipline  
Roslyn Nickens – Licensing Supervisor  
Delores Cousins - Licensing Specialist  
Keiara Chambers – Contract Staff

**GUESTS PRESENT:** Becky Bowers-Lanier - VATA

**CALL TO ORDER**

In the absence of the Advisory Board officers, Michael Sobowale called the meeting to order at 10:06 am.

**EMERGENCY EGRESS PROCEDURES**

Dr. Harp announced the emergency egress instructions.

**ROLL CALL**

Roll was called; no quorum was declared.

## **APPROVAL OF MINUTES**

The minutes of the September 22, 2022 meeting were not approved as no quorum was present.

## **ADOPTION OF AGENDA**

The meeting agenda was not adopted as no quorum was present.

## **PUBLIC COMMENT**

Becky Bowers-Lanier spoke in support of the Advisory Board's consideration of the agenda topic pertaining to athletic trainers working with physicians in the operating room environment. She stated that athletic trainers, who have been suitably trained, can safely work with physicians on surgical procedures in the operating room.

## **NEW BUSINESS**

### 1. Report on Status of Regulatory/Policy Actions

Erin Barrett presented on the status of the regulatory actions for the Advisory. She said the changes made during the periodic review of the AT regulations at the last meeting were voted on at the October Board of Medicine meeting.

### 2. Athletic Trainers Working with Physicians in Operating Room Environments

Scott Powers introduced the topic. He said that athletic trainers have been working with physicians in the operating room as an extension of their working relationship developed with the physician beyond the sideline setting. He asked if the Board could issue a guidance document that addresses this issue. Erin Barrett advised that although health professions can have overlapping scopes of practice, it appears that there is no statutory foundation in the AT scope to support performing as a surgical assistant in the operative setting. Jennifer Deschenes stated that additional language would have to be added to the scope to clearly allow OR assisting. Prior to the establishment of the profession of surgical assisting, the hospital and the physician were able to determine who could competently work in the operating room. Dr. Harp said that hospitals could try to develop a job description for an AT that legally respects the AT scope, the surgical assisting law, and the needs of the facility. The best approach would be for the profession to work with the General Assembly to put surgical assisting into their scope of practice.

## **Announcements:**

## **License Statistics:**

Delores Cousins provided the license statistics report. The Board has licensed a total of 1,757 athletic trainers with 1, 448 current active in Virginia and 302 current active out-of-state. 3 are current inactive in the state while 4 are current inactive out-of-state.

Next Scheduled Meeting:

The next scheduled meeting is October 5, 2023 at 10:00 am.

**Adjournment**

With no other business to conduct, the meeting adjourned at 10:58 am.

**Board of Medicine – Advisory Board on Athletic Training**  
**Current Regulatory Actions**  
**As of May 2024**

**In the Governor’s Office**

None.

**In the Secretary’s Office**

None.

**At DPB or OAG**

None.

**Recently effective**

<b>VAC</b>	<b>Stage</b>	<b>Subject Matter</b>	<b>Publication date</b>	<b>Effective date</b>
18VAC85-120	Fast-track	Implementation of changes following 2022 periodic review of Chapter	2/12/2024	3/28/2024

Legislative Report  
Board of Medicine – Advisory Board on Athletic Training  
June 6, 2024

**HB 1389 Practice of athletic training; amends definition.**

*Chief patron:* Maldonado

**Practice of athletic training; definition.** Amends the definition of "practice of athletic training" to allow the practice of athletic training to be conducted in an inpatient or outpatient setting.

03/27/24 House: Enrolled Bill communicated to Governor on March 27, 2024

03/27/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024

03/28/24 Governor: Approved by Governor-Chapter 222 (effective 7/1/24)



## VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

### CHAPTER 222

*An Act to amend and reenact § 54.1-2900 of the Code of Virginia, relating to practice of athletic training; definition.*

[H 1389]

Approved March 28, 2024

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

**1. That § 54.1-2900 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Advanced practice registered nurse" means a certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957, has completed an advanced graduate-level education program in a specialty category of nursing, and has passed a national certifying examination for that specialty.

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"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.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that

should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse, other than an advanced practice registered nurse licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist, who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions, *including in an inpatient or outpatient setting*, under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health

care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; 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.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the

Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

**Athletic Training Statutes – Chapter 29, Title 54.1**

**§ 54.1-2900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

§ 54.1-2957.4. Licensure as athletic trainer required; requisite training and educational requirements; powers of the Board concerning athletic training.

A. It shall be unlawful for any person to practice or to hold himself out as practicing as an athletic trainer unless he holds a license as an athletic trainer issued by the Board. The Board shall issue licenses to practice athletic training to applicants for such licensure who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for the licensure of athletic trainers to ensure the appropriate training and educational credentials for the practice of athletic training. Such criteria may include experiential requirements and shall include one of the following: (i) a Virginia testing program to determine the quality of the training and educational credentials for and competence of athletic trainers, (ii) successful completion of a training program and passage of the certifying examination administered by the National Athletic Training Association Board of Certification resulting in certification as an athletic trainer by such national association, or (iii) completion of another Board-approved training program and examination.

D. The Board shall promulgate such regulations as may be necessary for the licensure of athletic trainers and the issuance of licenses to athletic trainers to practice in the Commonwealth. The Board's regulations shall assure the competence and integrity of any person claiming to be an athletic trainer or who engages in the practice of athletic training.

**Surgical Assisting Statutes – Chapter 29, Title 54.1**

**§ 54.1-2900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

**§ 54.1-2956.13. Licensure of surgical assistant; practice of surgical assisting; use of title.**

A. No person shall engage in the practice of surgical assisting or use or assume the title "surgical assistant" unless such person holds a license as a surgical assistant issued by the Board. Nothing in this section shall be construed as prohibiting any professional licensed, certified, or registered by a health regulatory board from acting within the scope of his practice.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

**§ 54.1-2956.12. Registered surgical technologist; use of title; registration.**

A. No person shall hold himself out to be a surgical technologist or use or assume the title of "surgical technologist" or "certified surgical technologist," or use the designation "S.T." or any variation thereof, unless such person is certified by the Board. No person shall use the designation "C.S.T." or any variation thereof unless such person (i) is certified by the Board and (ii) has successfully completed an accredited surgical technologist training program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor.

*Commonwealth of Virginia*



# REGULATIONS

## GOVERNING THE LICENSURE OF ATHLETIC TRAINERS

### VIRGINIA BOARD OF MEDICINE

**Title of Regulations: 18 VAC 85-120-10 et seq.**

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

**Revised date: March 28, 2024**

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

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

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## **Part I. General Provisions.**

### **18VAC85-120-10. Definitions.**

In addition to words and terms defined in §54.1-2900 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Athletic trainer" means a person licensed by the Virginia Board of Medicine to engage in the practice of athletic training as defined in §54.1-2900 of the Code of Virginia.

"Board" means the Virginia Board of Medicine.

"Direction" means authorization by a doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry for care and treatment by a verbal order if the doctor or dentist is present or by written order, telecommunication, plans of care, protocols, or standing orders if the doctor or dentist is not present.

"NATABOC" means the National Athletic Trainers' Association Board of Certification.

"Student athletic trainer" means a person enrolled in an accredited bachelor's or master's level educational program in athletic training.

### **18VAC85-120-20. (Repealed.)**

### **18VAC85-120-30. Current name and address.**

Each licensee shall furnish the board his current name and address of record. All notices required by law or by these regulations to be given by the board to any such licensee shall be validly given when sent to the latest address of record given to the board. Any change of name or address of record or the public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

### **18VAC85-120-35. Fees.**

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. The following fees have been adopted by the board:

1. The application fee shall be \$130.

2. The fee for renewal of licensure shall be \$135 and shall be due in the licensee's birth month, in each odd-numbered year.

3. A fee of \$50 for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.

4. The fee for reinstatement of a license that has expired for two or more years shall be \$180 and shall be submitted with an application for reinstatement.
5. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate renewal license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
7. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.
8. The fee for a letter of verification to another jurisdiction shall be \$10.
9. The fee for an inactive license shall be \$70, and the fee for a late renewal shall be \$25.

## **Part II. Requirements for Licensure as an athletic trainer.**

### **18VAC85-120-40. (Repealed.)**

### **18VAC85-120-50. Requirements for licensure.**

An applicant for licensure shall submit evidence of meeting the following requirements for licensure on forms provided by the board:

1. A completed application and fee as prescribed in 18VAC85-130-150;
2. Verification of professional activity as required on the application form;
3. Evidence of current NATABOC certification; and
4. If licensed or certified in any other jurisdiction, documentation of practice as an athletic trainer and verification as to whether there has been any disciplinary action taken or pending in that jurisdiction.

### **18VAC85-120-60. (Repealed)**

### **18VAC85-120-70. (Repealed)**

### **18VAC85-120-75. Temporary authorization to practice.**

Upon written request from an applicant and an applicant's employer and for good cause shown, an applicant who provides documentation of current NATABOC certification may be granted temporary authorization to practice as an athletic trainer for 45 days pending submission of all other required documentation and issuance of a license. At the discretion of the board, additional time, not to exceed 15 days, may be allowed to complete the application process.

**18VAC85-120-80. Provisional licensure.**

A. An applicant who has been approved by NATABOC to sit for the certification examination may be granted a provisional license to practice athletic training under the supervision of an athletic trainer.

B. The graduate shall submit an application for a provisional license to the board for review and approval by the Chair of the Advisory Board on Athletic Training or the chair's designee.

C. The provisional license shall expire six months from issuance or upon receipt of notification of a failing score on the NATABOC certification examination or upon licensure as an athletic trainer by the board, whichever comes first.

**18VAC85-120-85. Registration for voluntary practice by out-of-state athletic trainers.**

Any athletic trainer who does not hold a license to practice in Virginia and who seeks registration to practice 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 an application for registration on a form provided by the board at least five business days prior to engaging in such practice;
2. Provide a complete record of professional certification or licensure in each state in which the athletic trainer has held a certificate or license and a copy of any current certificate or license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services; and
4. 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 and Reinstatement.**

**18VAC85-120-90. Renewal of license.**

A. Every athletic trainer intending to continue licensure shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of licensure;
2. Pay the prescribed renewal fee at the time he files for renewal; and
3. Attest to current NATABOC certification.

B. An athletic trainer whose license has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC85-120-150.

**18VAC85-120-95. Inactive licensure.**

A. An athletic trainer 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.

1. The holder of an inactive license shall not be required to maintain NATABOC certification.
2. An inactive licensee shall not be entitled to practice as an athletic trainer in Virginia.

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

1. The required application;
2. Payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure for the biennium in which the license is being reactivated; and
3. Documentation of having maintained certification or having been recertified by the NATABOC.

C. 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.

**18VAC85-120-100. Reinstatement.**

A. In order to reinstate a license that has been lapsed for more than two years, an athletic trainer shall file an application for reinstatement, pay the fee for reinstatement of his license as prescribed in 18VAC85-120-150, and submit to the board evidence of current certification by NATABOC.

B. An athletic trainer whose license has been revoked by the board and who wishes to be reinstated shall file a new application to the board and pay the fee for reinstatement of his license as prescribed in 18VAC85-120-150 pursuant to §54.1-2408.2 of the Code of Virginia.

**Part IV. Standards of Practice.**

**18VAC85-120-110. Individual responsibilities.**

A. The athletic trainer's responsibilities are to evaluate the individual being treated, plan the treatment program, and administer and document treatment within the limit of his professional knowledge, judgment, and skills and in accordance with the practice of athletic training as set forth in § 54.1-2900 of the Code of Virginia.

B. An athletic trainer practices under the direction of the individual's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry.

**18VAC85-120-120. General responsibilities.**

An athletic trainer shall ensure that unlicensed persons under the athletic trainer's supervision shall not perform those functions that require professional judgment or discretion in the practice of

athletic training. An athletic trainer shall be responsible for the actions of persons acting under the athletic trainer's supervision and direction.

**18VAC85-120-130. Supervisory responsibilities.**

A. The athletic trainer supervising the practice of persons holding a provisional license issued by the board shall develop a written protocol with the provisional licensee to include but not be limited to the following:

1. Provisions for daily, on-site review and evaluation of services being provided, including a review of outcomes for individuals being treated; and
2. Guidelines for availability and ongoing communications proportionate to such factors as practice setting, acuity of population being served, and experience of the provisional licensee.

B. The athletic trainer supervising the practice of student athletic trainers shall:

1. Provide daily, on-site supervision and shall plan, direct, advise and evaluate the performance and experience of the student athletic trainer.
2. Delegate only nondiscretionary tasks that are appropriate to the level of competency and experience of the student athletic trainer, practice setting and acuity of population being served.

**18VAC85-120-140. (Repealed.)**

**Part V. (Repealed.)**

**18VAC85-120-150. (Repealed)**

**Part VI. Standards of Professional Conduct.**

**18VAC85-120-155. 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.

**18VAC85-120-156. Patient records.**

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

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

C. Practitioners who are employed by a health care institution, school system, or other entity in which the individual practitioner does not own or maintain the individual practitioner's own records

shall maintain patient records in accordance with the policies and procedures of the employing entity.

D. Practitioners who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records shall develop policies regarding retention of records and adhere to those policies.

**18VAC85-120-157. Practitioner-patient communication.**

A. 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.

B. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a medication, treatment, or procedure provided or directed by the practitioner in the treatment of any disease or condition.

C. 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.

**18VAC85-120-158. Practitioner responsibility.**

A. 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 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.

**18VAC85-120-159. Vitamins, minerals and food supplements.**

A. The recommendation or direction for the use of vitamins, minerals or food supplements and the rationale for that recommendation shall be documented by the practitioner. The recommendation or direction shall be based upon a reasonable expectation that such use will result in a favorable patient

outcome, including preventive practices, and that a greater benefit will be achieved than that which can be expected without such use.

B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in doses that would be contraindicated based on the individual patient's overall medical condition and medications.

C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.

**18VAC85-120-160 Anabolic steroids.**

An athletic trainer shall not sell, dispense, or administer anabolic steroids to any patient.

**18VAC85-120-161. 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.

D. 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.

**18VAC85-120-162. 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.



Orientation  
to the Board of Medicine &  
Your Advisory Board

June 2024

# Executive Branch

- Governor Glenn Youngkin
- Secretary of Health and Human Resources – John Littel
- DHP Director – Arne Owens
- Board of Medicine President – Randy Clements, DPM
- Board members cannot speak for the Board or anyone in the Executive Branch.

# Department of Health Professions

- Umbrella Agency for 13 Health Regulatory Boards
- Director Owens and Deputy Director Jenkins appointed by the Governor
- Administration, Communications, Finance, Enforcement, Administrative Proceedings, Prescription Monitoring, Health Practitioners' Monitoring, Healthcare Workforce Data Center, IT
- Medicine joined the Department in 1977

# Today's Board of Medicine

18 members  
appointed by  
the Governor

1 MD from each  
Congressional  
District

1 DO

1 DPM

1 DC

4 citizen  
members

# Today's Board

- Pure Board of Medicine
- Composite Board
- Doctors of Medicine, Osteopathy, Podiatry & Chiropractic
- Physician Assistants, Acupuncturists, Athletic Trainers, Licensed Midwives, Licensed Certified Midwives, Occupational Therapists, Occupational Therapy Assistants, Radiologic Technologists, Radiologic Technologists-Limited, Radiologist Assistants, Respiratory Therapists, Polysomnographic Technologists, Behavior Analysts, Assistant Behavior Analysts, Genetic Counselors, Licensed Surgical Assistants, Certified Surgical Technologists & Advanced Practice Registered Nurses

# Today's Advisory Boards

## Today's Advisory Boards

- 11 Advisory Boards
- Similar structure & function
- 5 members
  - 3 of the profession
  - 1 physician
  - 1 citizen member

# Today's Advisory Boards

## Today's Advisory Boards (cont.)

- Chair & Vice-Chair
- Meets at least once a year
- May attend 1 meeting a year  
virtually for good cause
- Advise the Board of Medicine on:
  - Licensing
  - Discipline
  - Regulations

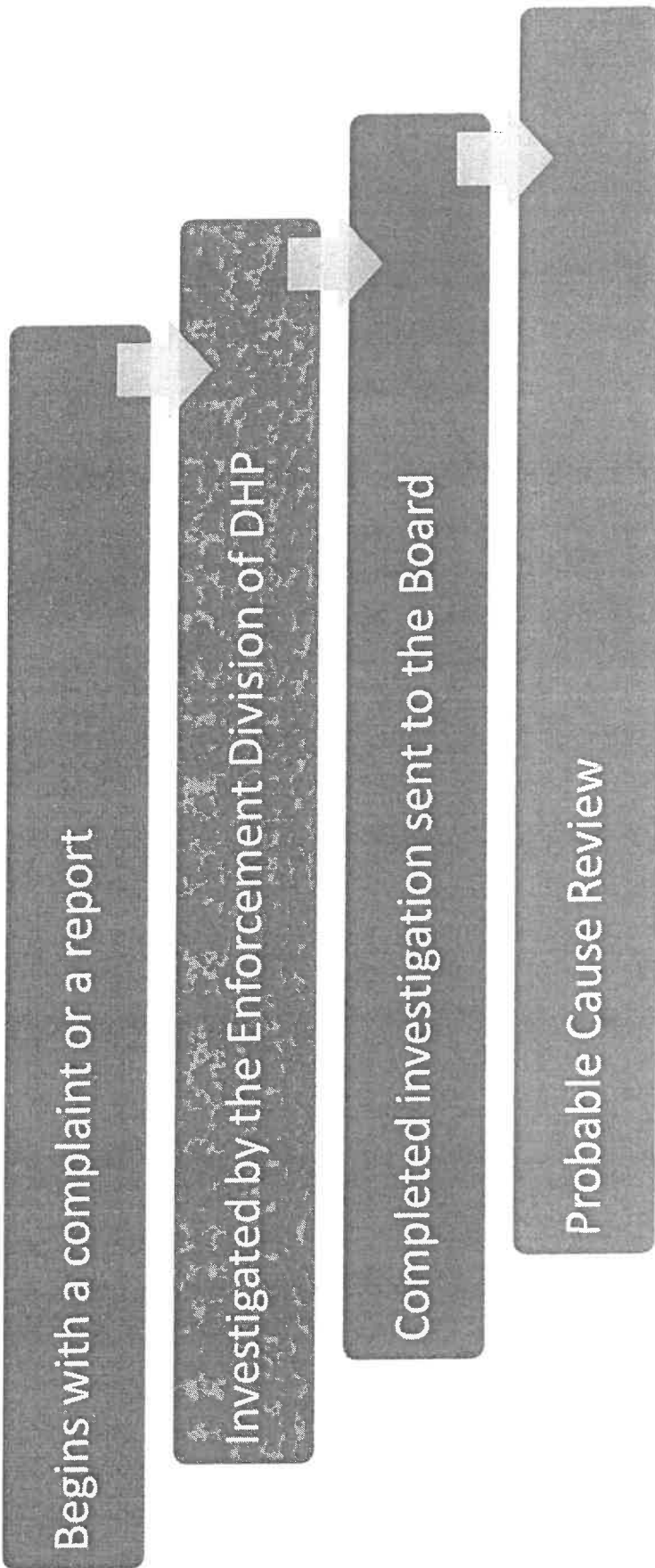
# **THE BOARD'S MISSION**

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- The protection of the public
- License only qualified applicants
- Discipline for unprofessional conduct
- Promulgate regulations to implement law



# THE BOARD'S DISCIPLINARY PROCESS



# PROBABLE CAUSE REVIEW



Board staff and Board members



Review to understand what happened in the case



Apply the law and the regulations to determine if a violation has occurred



Two Board members must agree on standard of care



If specialized review is required, retain an expert reviewer for the standard of care

# OPTIONS FOR RESOLVING THE MATTER

- 85% are closed administratively
- Other options
  - Advisory letters
  - Confidential Consent Agreements
  - Pre-Hearing Consent Orders
  - Informal Conferences
  - Formal Hearings
  - Summary Suspensions

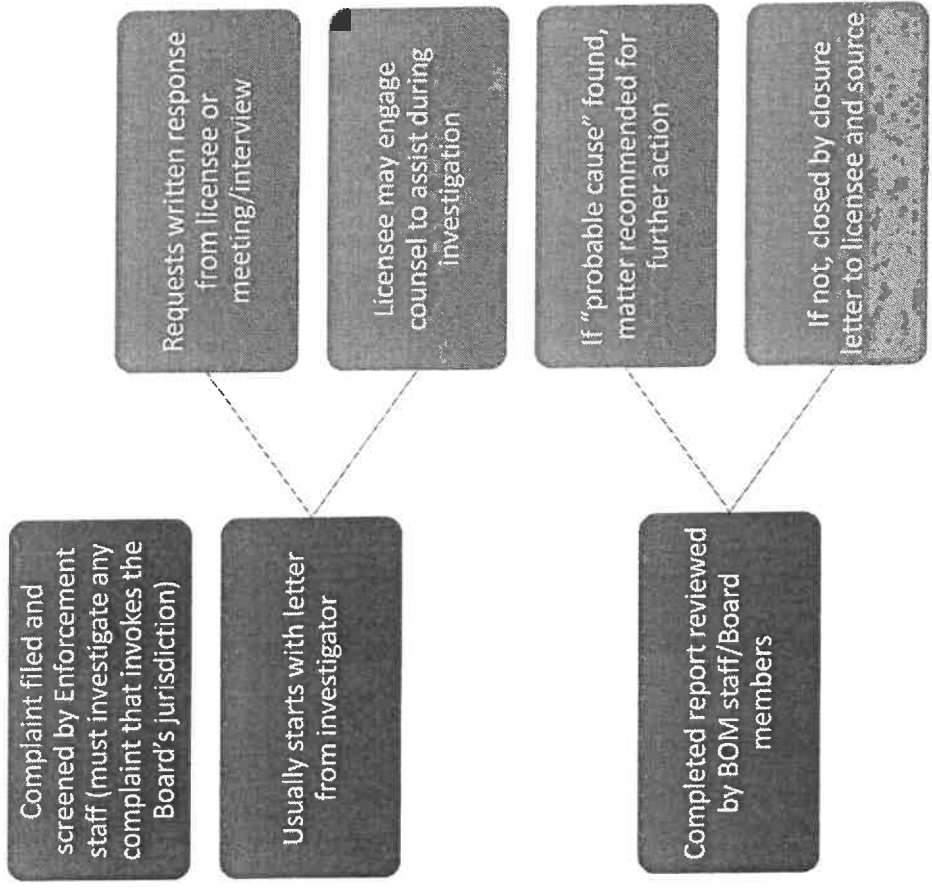
## **PRINCIPLES OF THE DISCIPLINARY PROCESS**

- Confidentiality
- Protection of the public
- Due process
- Proportionate sanctions
- Strive to be fair to all parties

# INVESTIGATIONS

- **Who Complains?**
  - The Public (e.g., patients, family members, anonymous, media)
  - Other licensees of the BOM (mandated reporters)
  - Employers
  - Healthcare institutions (e.g., hospital CEO = mandated reporter)
  - Medical malpractice insurance carriers

# COMPLAINT PROCESS



# ADVICE FOR RESPONDING TO COMPLAINTS

- Take the complaint seriously (even if you believe it to be frivolous)
- Fully cooperate w/the investigator (DHP/BOM is “health oversight agency” under HIPAA)
- You are responsible for ensuring a response and complete records are provided (not your office manager)
- Do NOT contact Board members to discuss your complaint
- Consult with an attorney (familiar with DHP/regulatory boards)

# LAWS AND REGULATIONS TO KNOW

Fraud or Dishonesty

Substance abuse

Negligence in practice – standard of care

Mental or Physical Incapacity

Aiding and Abetting Unlicensed Practice

Ethical lapses – standards of professional conduct



# LAWS AND REGULATIONS TO KNOW

Felony convictions or misdemeanors of moral turpitude

Any provision of the drug law

Failure to timely sign a death certificate

Opioid prescriptions submitted electronically

Surprise billing

Treating self and family

Patient records

# **LAWS AND REGULATIONS TO KNOW**

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Confidentiality

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Communication/Termination

---

Subordinates and Disruptive Behavior

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Sexual Boundary Violations

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Reporting requirements

---

Continuing Medical Education

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# LAWS AND REGULATIONS TO KNOW



Office-Based Anesthesia



Mixing, Diluting or Reconstituting



Prescription Monitoring Program



Health Practitioners' Monitoring Program



Renew License every 2 years

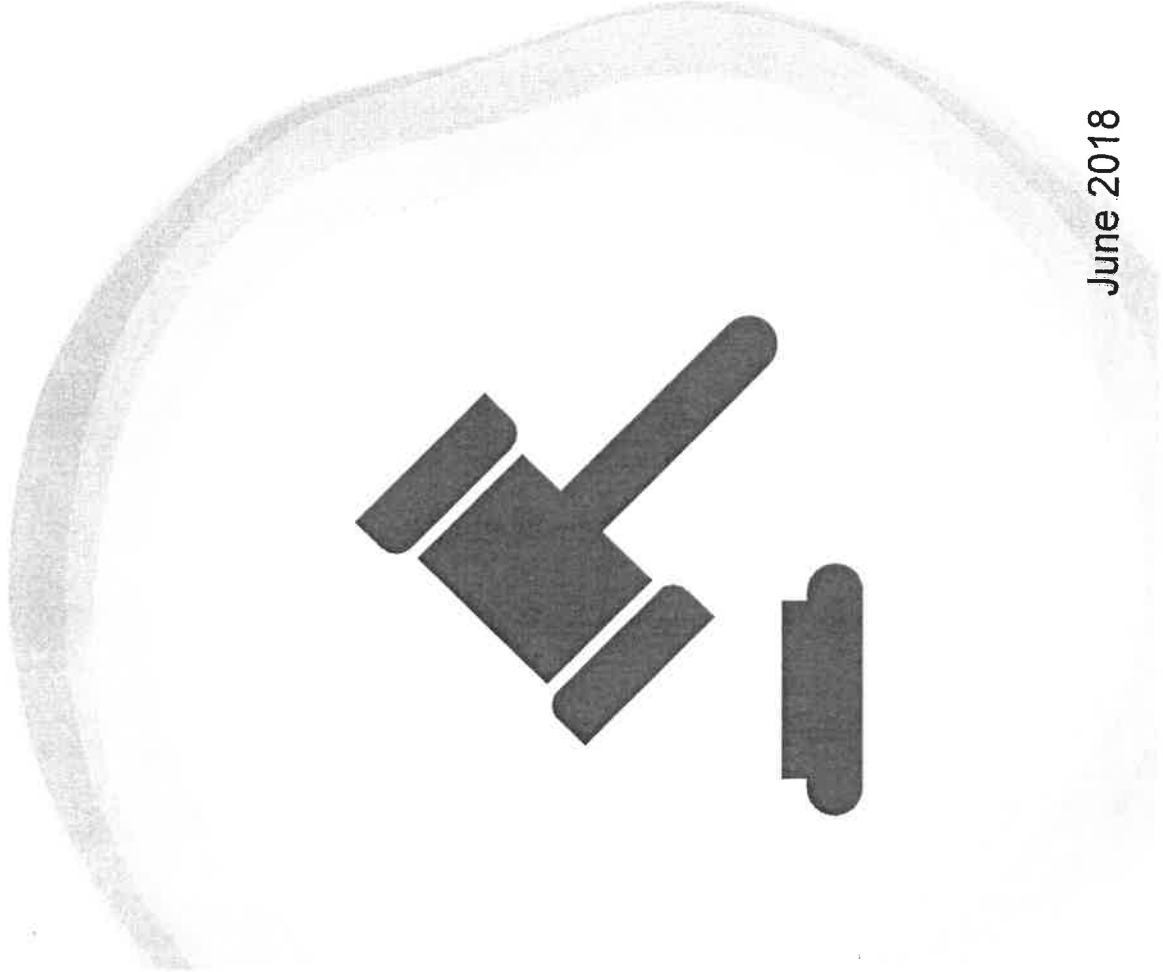
# Hearing Protocol

Virginia Board of Medicine

June 14, 2018

## **Panel Members at Hearings**

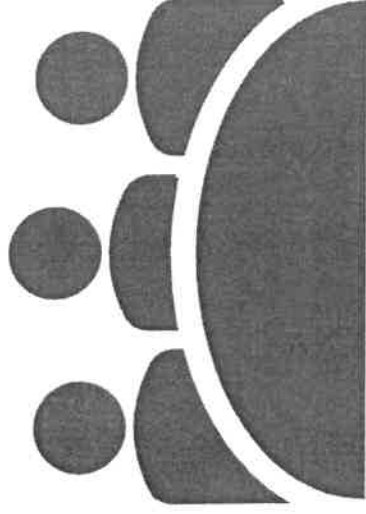
- Purpose of disciplinary proceedings is to protect the public by regulating professional conduct and provide fair and impartial consideration of the matter before the Board
- Panel members should avoid actual conflicts and the appearance of impropriety—if you receive case material and think you have a conflict, call staff! (procedure for potential conflict at hearing)
- Strive to be fair and impartial—goal is fairness to respondent and *also to the public*



June 2018

# Open vs. Closed Sessions

- Board business takes place in open, public forums to foster public accessibility and confidence of the public in the integrity of the regulatory process
- Any meeting of three or more members of the Board at which the members discuss *anything* related to the Board should be considered an open meeting for FOIA purposes (includes group emails).
- Closed meetings: for the Board to deliberate or receive legal advice
- Disciplinary proceedings may also close to deliberate and to protect health information of a respondent



# Formal Hearings – You are on the record!

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A court reporter attends formal hearings



Your words are recorded



The transcript will be reviewed by the Circuit Court if the respondent appeals for evidence of violations of a respondent's constitutional rights, failure of the Board to observe required procedure, indications that the Board may not have had substantial evidence (Erin ex.)

# Hearings (IFC or formal)

- Cannot deviate earlier from noticed start time
- Choose your questions carefully (avoid answering questions from R)
- Hearings can be emotional; avoid engaging on emotional level (try not to be swayed by tears or manipulative behavior)
- Avoid texting board members (e.g., Loudoun meeting; FOIA Council)
- Do not state you have more knowledge than others-- or less-- based on specialty or non-MD status. All board members are experts in the matters before the board. This has been clearly stated by CAV.
- Do not give practice advice—do not want to bind the Board (especially if you are wrong)



# Hearings (IFC or formal)

- Questions should relate to facts of the case and the allegations contained in the Statement of Particulars
- Do not sermonize, do not inject personal, religious, or political beliefs
- Do not express your personal opinion (i.e., "Well, I think your record-keeping was fine.")
- Do not argue with other panel members during hearings, or make statements disparaging other members' statements or questions
- Do not argue with witnesses, respondents, or counsel for respondents – we understand it can be hard with some!

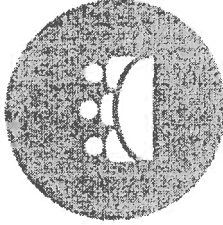
# Hearings (IFC or formal)



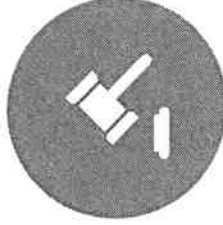
PANEL CHAIR WILL RULE ON ISSUES RELATED TO RELEVANCE OR THE ADMISSION OF EVIDENCE (WITH BOARD COUNSEL GUIDANCE)



AVOID "ATTORNEY TESTIMONY", THIS IS YOUR OPPORTUNITY TO HEAR FROM THE LICENSEE



DELIBERATION HAPPENS IN CLOSED SESSION



DO NOT ENGAGE, INFORM, INSTRUCT ONCE PROCEEDINGS ARE OVER (STAFF WILL HANDLE; E.G. FRIENDLY ATTORNEY AND PATIENT FAMILY IN AUDIENCE)

# Procedural mysteries

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Board counsel records and enters  
evidence

---

Evidence must be formally admitted  
even though Board members  
received evidence prior to hearing

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Must initial and date evidence to  
provide record on appeal.

## **Procedural mysteries, cont.**

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Some cases appear old when they reach the formal hearing stage

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Can be for any number of reasons (continuances prior to IFC or formal, length of investigation, etc.)

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Staff and counsel will answer procedural questions in closed session – NOT open session!

# What happens in closed session?



Decision on sanction



Craft order, including findings of fact  
(refer to helpful notes you made  
during proceeding)



Review conclusions of law alleged;  
determine what stays



**What are  
grounds  
for an  
appeal?**

- (1) Violation of a Constitutional right, power, or privilege;
- (2) Failure to comply with statutory authority;
- (3) Failure to observe required procedure where the failure did not result in harmless error; and
- (4) Substantial evidence did not support Board decision.

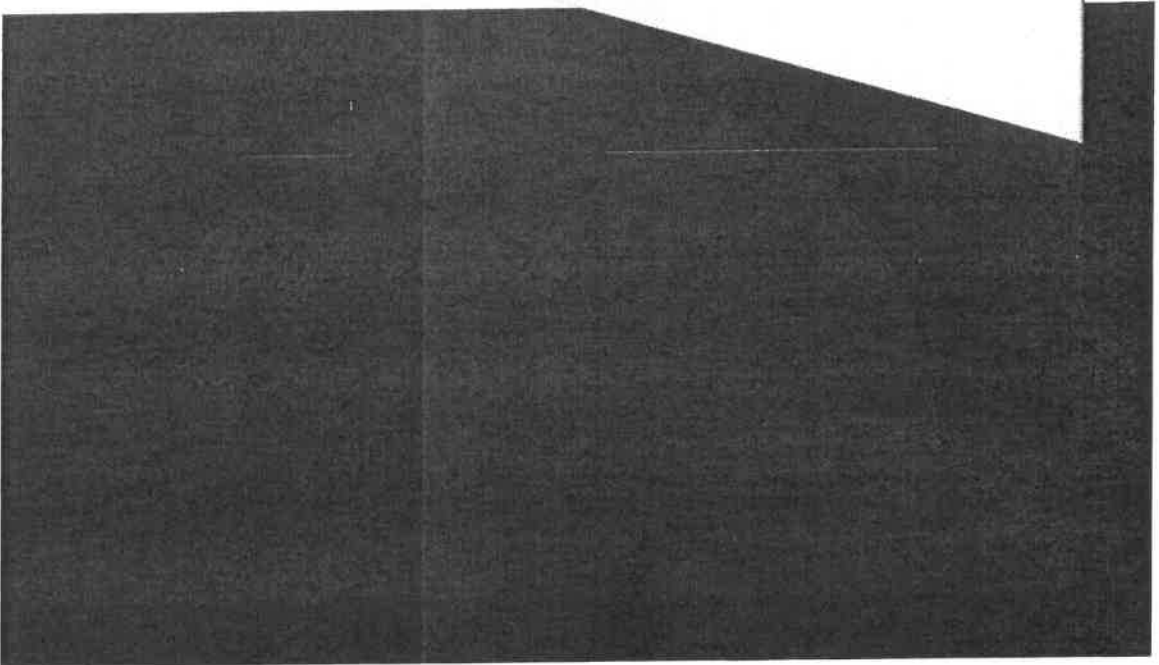
(Va. Code § 2.2-4027.)

**Helping to  
ensure that  
the Board's  
decisions  
do not get  
overturned**

- Follow staff guidelines, procedures, and scripts for hearings.
- Ask legal questions in *closed session*. Do not state specific legal questions for board counsel on the record. This raises privilege issues.
- Only the chair of a panel may rule on motions made at a hearing.
- Avoid stating opinions on the record (i.e., "That does not sound like a standard of care issue to me.")
- Work with your fellow panel members, board counsel, and staff to craft well thought out orders.
- Be aware that any respondent can appeal.

June 2018

Carthage





# 2024 Board Meeting Dates

## Advisory Board on:

<b>Behavioral Analysts</b>			<b>10:00 a.m.</b>
February 5	June 3	October 7	
<b>Genetic Counseling</b>			<b>1:00 p.m.</b>
February 5	June 3	October 7	
<b>Occupational Therapy</b>			<b>10:00 a.m.</b>
February 6	June 4	October 8	
<b>Respiratory Care</b>			<b>1:00 p.m.</b>
February 6	June 4	October 8	
<b>Acupuncture</b>			<b>10:00 a.m.</b>
February 7	June 5	October 9	
<b>Radiological Technology</b>			<b>1:00 p.m.</b>
February 7	June 5	October 9	
<b>Athletic Training</b>			<b>10:00 a.m.</b>
February 8	June 6	October 10	
<b>Physician Assistants</b>			<b>1:00 p.m.</b>
February 8	June 6	October 10	
<b>Midwifery</b>			<b>10:00 a.m.</b>
February 9	June 7	October 11	
<b>Polysomnographic Technology</b>			<b>1:00 p.m.</b>
February 9	June 7	October 11	
<b>Surgical Assisting</b>			
February 12	June 10	October 15	