

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

Department of Health Professions
Henrico, Virginia 23233

BUSINESS MEETING AGENDA

April 20, 2022 at 9:00 A.M.

***DHP Mission** – the mission of the Department of Health Professions is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.*

Call To Order – Marie Gerardo, MS, RN, ANP-BC; Chair

Establishment of Quorum

Announcement

New Advisory Committee Members

- **Olivia Mansilla, MD**'s nomination to the Advisory Committee of the Joint Boards of Nursing and Medicine was accepted on February 16, 2022 serving the first term ends through December 2026.
- **Jean Snyder, DNaP, CRNA**'s nomination to the Advisory Committee of the Joint Boards of Nursing and Medicine was accepted on February 16, 2022 serving the first term ends through December 2026.

A. Review of Minutes

A1 February 16, 2022	Business Meeting*
A2 February 16, 2022	Informal Conferences*
A3 March 31, 2022	Regulatory Advisory Workgroup Meeting --Licensed Certified Midwife*

Dialogue with Agency Director – Dr. Brown

Public Comment

B. Legislation/Regulations – Ms. Barrett

- B1** Chart of Regulatory Actions
- B2** Report of the 2022 General Assembly

C. New Business

C1 Licensed Certified Midwife DRAFT Regulations (4/14/2022 VERSION)** – Ms. Barrett

- Attachments:** 1) ACNM Standards for the Practice of Midwifery
2) Va. Code §54.1-2957.04

NCSBN APRN Roundtable on April 12, 2022 (verbal report) – Dr. Hills

APRN Compact Update (**verbal report**) - **Dr. Hills**
C2 Nurse Practitioners – CY2021 Statistics** - FYI

Environmental Scan – Advisory Committee Members (**verbal report**)

11:00 A.M – Consideration of Agency Subordinate Recommendations
Joint Boards Members ONLY

- Amy Austin Dickenson, LNP
- Amy Elizabeth Kubler, LNP
- Ann Marie Smoot, LNP

Next Meeting – Wednesday, June 15, 2022, at 9:00 A.M in Board Room 4

Adjourn

1:00 P.M. – Administrative Proceeding – Joint Boards Members ONLY

(* mailed 4/6) (** mailed 4/15)

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
BUSINESS MEETING MINUTES
February 16, 2022**

- TIME AND PLACE:** The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 9:00 A.M., February 16, 2022 in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- MEMBERS PRESENT:** Marie Gerardo, MS, RN, ANP-BC; Board of Nursing - Chair
Laurie Buchwald, MSN, WHNP, FNP; Board of Nursing
Ann Tucker Gleason, PhD; Board of Nursing
Blanton Marchese, Board of Medicine
David Archer, MD; Board of Medicine
Ryan Williams, MD; Board of Medicine
- MEMBERS ABSENT:** None
- ADVISORY COMMITTEE MEMBERS PRESENT:** Kevin E. Brigle, RN, NP
Mark Coles, RN, BA, MSN, NP-C
Komkwuan P. Parachabutr, DNP, FNP-BC, WHNP-BC, CNM
- STAFF PRESENT:** Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director; Board of Nursing
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice; Board of Nursing
Huong Vu, Operations Manager; Board of Nursing
Breana Renick, Administrative Support Specialist
- OTHERS PRESENT:** Charis Mitchell, Assistant Attorney General; Board Counsel
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy
William L. Harp, MD, Executive Director; Board of Medicine
Elaine Yeatts, DHP Policy Analyst
Erin Barrett, DHP Policy Analyst
- IN THE AUDIENCE:** None
- INTRODUCTIONS:** Committee members, Advisory Committee members and staff members introduced themselves.
- ESTABLISHMENT OF A QUORUM:** Ms. Gerardo called the meeting to order and established that a quorum was present.
- ANNOUNCEMENT:** Ms. Gerardo noted the announcement as presented on the Agenda:
Laurie Buchwald, MSN, WHNP, FNP, was appointed to the Board of Nursing on September 17, 2021 to replace Louise Hershkowitz. Ms.

Buchwald’s first term will expire on June 30, 2025. Ms. Buchwald was appointed by Ms. Gerardo, Board of Nursing President, to the Committee of the Joint Boards of Nursing and Medicine as a nurse practitioner Committee Member on September 20, 2021.

Ms. Buchwald shared her professional background and stated her appreciation to serve on the Committee.

REVIEW OF MINUTES: The minutes of the June 16, 2021 Business Meeting, August 6, 2021 Summary Suspension Telephone Conference Call, and the October 13, 2021 Formal Hearing were reviewed. Dr. Archer moved to accept the minutes as presented. The motion was seconded by Dr. Williams and passed unanimously.

DIALOGUE WITH AGENCY DIRECTOR: Dr. Allison-Bryan noted that Dr. Brown is at the General Assembly and then reported the following:

COVID Update

- Cases fell 42% nationwide and 30% in Virginia past week.
- Cases fell 70% in Virginia over the past month
- Hybrid immunity seems to be more beneficial than natural immunity or vaccine alone
- The positive testing rate was at 38% and has now decreased to 11%
- 90% of adults are fully vaccinated of which 50% are boosted
- 60% of 5-17 year olds have been vaccinated

General Assembly

- So far it has been a dynamic session with many bills that affect DHP being considered
- Delegate Adams presented two (2) opposing bills:
 - ❖ **HB243** – increasing duration of physician postgraduate training from 12 months to 36 months AND requiring physicians to obtain professional liability insurance
 - ❖ **HB896** – giving autonomous NPs to serve as a patient care team provider allowing them to enter into a practice agreement with new grads AND eliminating professional liability insurance requirement for autonomous NPs.

Transition within DHP

Both Drs. Brown and Allison-Bryan received 120 days letter from the new Administration requesting that they both continue serving at DHP while the new Administration makes its decision.

Dr. Allison-Bryan noted that Dr. Brown has expressed his interest in remaining in the DHP Director position.

Dr. Allison-Bryan stated that she started at DHP on March 1, 2018 and will retire as of March 1, 2022.

Dr. Allison-Bryan added that the new sound system will be replaced by summer of 2022.

Ms. Gerardo thanked Dr. Allison-Bryan for her service to DHP.

PUBLIC COMMENT: No public comments were received.

LEGISLATION/
REGULATIONS:

B1 Chart of Regulatory Actions:

Ms. Yeatts reviewed the Chart provided in the agenda noting that the new certified midwife profession will be regulated by the Committee of the Joint Boards. Ms. Yeatts added that the proposed regulations will be considered by the Committee of the Joint Boards at its April 20, 2022 meeting, by the Board of Nursing at its May 17, 2022 meeting, and by the Board of Medicine at its June 16, 2022 meeting.

Yetty Shobo, PhD, Deputy Executive Director, Healthcare Workforce Data Center, joined the meeting at 9:30 AM

B2 Report of the 2022 General Assembly (GA):

Ms. Yeatts reviewed the 2021 GA report provided in the agenda.

Ms. Yeatts stated that she will be retiring as of April 1, 2022 and Ms. Barrett has been hired as her replacement.

Dr. Archer thanked Ms. Yeatts for the report and asked if she perceived an increase in regulatory actions regarding healthcare professionals.

Ms. Yeatts replied that she did not think so and added that members of the GA are more receptive to allow practitioners to practice to the full extent of the education and training.

Ms. Gerardo thanked Ms. Yeatts for her services to the Boards.

NEW BUSINESS:

Healthcare Workforce Data Center (HWDC) Reports

Dr. Yetty Shobo presented on the nurse practitioner survey reports. She stated that the Virginia Department of Health Professions' Healthcare Workforce Data Center (HWDC) administers the survey during the license renewal process, which takes place during a two-year renewal cycle on the birth month of each licensee.

Dr. Shobo provided key findings of the 2021 reports which will be posted on the DHP website upon approval:

Virginia Board of Nursing
Committee of the Joint Boards of Nursing and Medicine – Business Meeting
February 16, 2022

- ❖ Virginia’s Licensed Nurse Practitioner Workforce: 2021
 - Trends in the NP Workforce
 - Trends in Age and Gender
 - Trends in Educational Attainment
 - Trends in Work Locations
 - Trends in Retirement Intentions

- ❖ Virginia’s Licensed Nurse Practitioner Workforce: Comparison by Specialty
 - NP Workforce by Specialty
 - Age and Gender Distribution
 - Education and Debt
 - Median Income
 - Primary Employment Sector
 - Top Establishments
 - Future Plans

Dr. Williams asked if there are data on pre-licensure income and debt level for all the specialties. Dr. Shobo replied that it was not part of the survey.

Mr. Marchese asked how many NP programs started in the last 10 years. Ms. Douglas stated that the Board does not regulate NP programs but estimated that there are 10-15 Schools/Colleges of Nursing that offer NP programs in Virginia.

Dr. Gleason asked if there is plan to increase access to care to rural areas. Dr. Allison-Bryan encouraged Committee members to review the HB793 report available on HWDC website, which includes the distribution of the NP workforce per capita throughout the Commonwealth.

Mr. Marchese asked how mobile the NP workforce is. Dr. Shobo replied the NP workforce is very mobile.

Dr. Williams moved to accept the reports as presented. The motion was seconded by Ms. Buchwald and passed unanimously.

RECESS:

The Committee recessed at 10:35 A.M.

Ms. Yeatts, Ms. Barrett, and Dr. Allison-Bryan left the meeting at 10:35 A.M.

RECONVENTION:

The Committee reconvened at 10:49 A.M.

Members of Advisory Appointment:

- ❖ Thokizeni Lipato, MD (1st term ended 2021)
- ❖ Janet L. Setnor, CRNA (1st term ended 2021)

Ms. Gerardo invited Ms. Douglas to proceed with the recommendations for filling these 2 open advisory committee positions.

Ms. Douglas stated that Dr. Olivia Mansilla's CV is presented for the Committee's consideration and action for the physician position on the Advisory Committee to replace Dr. Lipato.

Ms. Douglas stated that Dr. Jean Snyder's CV is presented for the Committee's consideration and action for the CRNA position on the Advisory Committee to replace Ms. Setnor.

Ms. Douglas noted that the recommendation for Jean Snyder was from Adrienne Hartgerink, DNP, MSN, CRNA, Virginia Association of Nurse Anesthetists (VANA) President. Ms. Douglas added that Dr. Snyder provided expert witness service to the Board of Nursing from time to time.

Mr. Marchese moved to accept the appointment of Dr. Mansilla for the physician position on the Advisory Committee. The motion was seconded by Ms. Buchwald and passed unanimously.

Mr. Marchese moved to accept the appointment of Dr. Snyder for the CRNA position on the Advisory Committee. The motion was seconded by Dr. Archer and passed unanimously.

ENVIRONMENTAL SCAN – ADVISORY COMMITTEE MEMBERS

Ms. Gerardo asked for the updates from the Advisory Committee Members.

Mr. Coles noted that HB1245, which repeals the sunset provision on the bill that was passed in 2021, is hopeful in keeping with the trend.

Mr. Brigle shared that the credentialing process at VCU has been streamlined due to NPs acquiring the autonomous practice designation.

Dr. Archer noted that nurses are leaving hospital at a high speed and asked if that is also going on across the Commonwealth. Mr. Coles noted that at Sentara where he is employed, there has been a high turnover of nurses due in no small part to the recruitment by companies, particularly travel nursing companies, offering significant pay increases.

Ms. Douglas agreed that it is a trend in Virginia and nationally. She also noted that due to this recruitment of seasoned nurses and other factors, the

health systems are experiencing a significant experience gap with the high rate of employment of novice nurses.

Ms. Gerardo thanked Advisory Committee Members for their participation.

The Members of the Advisory Committee and Dr. Harp left the meeting at 11:00 A.M.

AGENCY SUBORDINATE RECOMMENDATION CONSIDERATION

Dr. Hills left the meeting at 11:05 AM

CLOSED MEETING: Dr. Gleason moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:05 A.M., for the purpose of consideration of the agency subordinate recommendations. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Vu, Ms. Renick and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded by Mr. Marchese and carried unanimously.

RECONVENTION: The Board reconvened in open session at 11:23 A.M.

Dr. Gleason moved that the Committee of the Joint Boards of Nursing and Medicine certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

Daphne Carol Jenkins, LNP

0024-164470

Ms. Jenkins did not appear.

Dr. Gleason moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to reprimand **Daphne Carol Jenkins** and to assess a monetary penalty of \$4,000.00 to be paid to the Board within 120 days from the date of entry of the Order. The motion was seconded by Dr. Williams and carried unanimously.

Vickie Lynn Boyd Stevens, LNP

0024-175507

Ms. Stevens did not appear but submitted a written response.

Virginia Board of Nursing
Committee of the Joint Boards of Nursing and Medicine – Business Meeting
February 16, 2022

Dr. Archer moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to reprimand **Vickie Lynn Boyd Stevens**, to require Ms. Stevens to complete approved courses of at least five credit hours each in the subjects of chronic pain management, prescribing of opioids, and medical recordkeeping within 90 days from the date of entry of the Order, and to read and provide a written summary of Drug Laws for Practitioners and Regulations for Prescriptive Authority for Nurse Practitioners: Part VI Management of Chronic Pain (18VAC90-40-180 through -240) within 90 days from the date of entry of the Order. The motion was seconded by Ms. Buchwald and carried unanimously.

Maria Theresa Lee, LNP **0024-174900**
Ms. Lee did not appear.

Mr. Marchese moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to take no sanction against **Maria Theresa Lee**. The motion was seconded by Dr. Williams and carried unanimously.

Oluwakemi Olubunmi Osidele, LNP **0024-172973**
Ms. Osidele did not appear.

Dr. Williams moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to reprimand **Oluwakemi Olubunmi Osidele**. The motion was seconded by Ms. Buchwald and carried unanimously.

Ms. Gerardo noted the next meeting is on Wednesday, April 20, 2022, in Board Room 2.

Ms. Gerardo added that the Committee will conduct informal conferences scheduled at 1:00 pm and the Committee Members are Ms. Gerardo, Ms. Buchwald and Dr. Williams.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 11:26 A.M.

Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director

**COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
SPECIAL CONFERENCE COMMITTEE
February 16, 2022**

TIME AND PLACE: The meeting of the Special Conference Committee of the Committee of the Joint Boards of Nursing and Medicine was convened at 1:02 P.M., on February 16, 2022 in Board Room 2, Suite 201, Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Marie Gerardo, MS, RN, ANP-BC – Chairperson
Laurie Buchwald, MSN, RN, WHNP, FNP
Ryan Williams, MD

STAFF PRESENT: Robin Hills, D.N.P., R.N., W.H.N.P.-B.C.
Deputy Executive Director for Advanced Practice

OTHERS PRESENT: Tammie Jones, Adjudication Consultant for Charles Brown, Jr, LNP
David Kazzie, Adjudication Consultant for Tina Richardson, LNP Applicant
Crystal Miller-Williams, DNP for Charles Brown, Jr, LNP case only

CONFERENCES

SCHEDULED: **Charles Brown, Jr. LNP Reinstatement Applicant 0024-167094**
Mr. Brown appeared, accompanied by his attorney, Harrison Gibbs and Crystal Miller-Williams, DNP.

CLOSED MEETING: Ms. Buchwald moved that the Special Conference Committee of the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to Section 2.2-3711(A)(16) of the *Code of Virginia* at 1:30 P.M. for the purpose of deliberation to reach a decision in the matter of Mr. Brown. Additionally, Ms. Buchwald moved that Dr. Hills and Ms. Jones attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Committee reconvened in open session at 1:40 P.M.

Ms. Buchwald moved that the Special Conference of the Committee of the Joint Boards of Nursing and Medicine certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

ACTION: Dr. Williams moved to issue an issue an Order to Approve the Application of Charles Brown, Jr. for Reinstatement for licensure as a Nurse Practitioner and issue an unrestricted license. The basis of this decision will be set forth in an Order which will be mailed to Charles Brown, Jr. at his address of record with the Committee. The motion was seconded and carried unanimously.

An Order will be entered. As provided by law, this decision shall become a Final Order thirty days after service of such order on Charles Brown, Jr. unless a written request to the Committee for a formal hearing on the allegations made

against him is received from Mr. Brown within such time. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the Order shall be vacated.

CONFERENCES

SCHEDULED:

Tina Richardson, LNP Applicant

Ms. Richardson appeared, accompanied by her attorney, Nathan Mortier.

CLOSED MEETING:

Ms. Buchwald moved that the Special Conference Committee of the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to Section 2.2-3711(A)(16) of the *Code of Virginia* at 2:29 P.M. for the purpose of deliberation to reach a decision in the matter of Ms. Richardson. Additionally, Ms. Buchwald moved that Dr. Hills and Mr. Kazzie attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Committee reconvened in open session at 3:02 P.M.

Ms. Buchwald moved that the Special Conference of the Committee of the Joint Boards of Nursing and Medicine certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

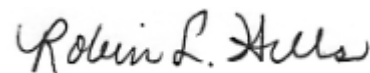
ACTION:

Dr. Williams moved to issue an issue an Order to Approve the Application of Tina Richardson for licensure as a Nurse Practitioner with terms. The basis of this decision will be set forth in an Order which will be mailed to Tina Richardson at his address of record with the Committee. The motion was seconded and carried unanimously.

An Order will be entered. As provided by law, this decision shall become a Final Order thirty days after service of such order on Tina Richardson unless a written request to the Committee for a formal hearing on the allegations made against her is received from Ms. Richardson within such time. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the Order shall be vacated.

ADJOURNMENT:

The Committee of the Joint Boards adjourned at 3:05 P.M.



Robin Hills, D.N.P., R.N., W.H.N.P.-B.C.
Deputy Executive Director
for Advanced Practice

VIRGINIA COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE**Licensed Certified Midwife Regulatory Workgroup Meeting**

The Licensed Certified Midwife Regulatory Workgroup met on Thursday, March 31, 2022 at 10:00 a.m. at the Department of Health Professions, Perimeter Center - 9960 Mayland Drive, Suite 300 – Inspiration Room, Henrico, Virginia.

Workgroup members participating in the meeting were:

Marie Gerardo, BON LNP Member, Chair
Karen Kelly, CM
Arizette Thompson, CM
Komkwuan Paruchabutr, CNM
Katie Page, CNM

Staff participating in the meeting were:

Jay Douglas, Executive Director, Board of Nursing
Robin Hills, Deputy Executive Director for Advanced Practice, Board of Nursing
Erin Barrett, Policy Analyst, Department of Health Professions

Others participating in the meeting was:

Andrew Densmore, Medical Society of Virginia (MSV) – **joined at 10:25 A.M.**

The meeting was called to order by Ms. Gerardo. After introductions by attendees, Ms. Gerardo asked Ms. Barrett to review the charge for the workgroup:

To draft regulations for the licensure of licensed certified midwives, to include criteria for licensure and renewal of a license as a certified midwife.

Staff proposed an initial draft of the regulations.

Public Comment: no public comments received.

Following review of the proposed draft by the workgroup, substantive revisions were recommended for the following:

- Definitions of “Approved Program” and “Practice Agreement”
- 18VAC90-70-90 - continuing competency requirements
- 18VAC90-70-110 - practice of licensed certified midwives
- 18VAC90-70-240 – grounds for disciplinary action

After the review of the draft regulations, Ms. Barrett explained the next steps in the regulatory process, specifically that the revised draft regulations will be on the following agendas for consideration:

April 20, 2022 - Committee of the Joint Boards for Nursing and Medicine

May 17, 2022 - Board of Nursing

June 16, 2022 – Board of Medicine

The meeting adjourned at 11:45a.m.

Board	Board of Nursing	
Chapter	Action / Stage Information	
<u>Regulations Governing the Licensure of Nurse Practitioners</u> [18 VAC 90 - 30]	<u>Action:</u> Changes relating to clinical nurse specialists as nurse practitioners <u>Stage:</u> Fast-Track - <i>Register Date: 1/17/22</i>	
<u>Regulations Governing the Practice of Licensed Certified Midwives</u> [18 VAC 90 - 70]	<u>Action:</u> New regulations for licensed certified midwives <u>Stage:</u> NOIRA - <i>Register Date: 1/17/22</i>	

HB 191 Health Workforce Development; creates position of Special Advisor to the Governor. **PENDING**

Summary as passed House:

Health workforce development; Special Advisor to the Governor for Health Workforce Development; Virginia Health Workforce Development Fund. Creates the position of Special Advisor to the Governor for Health Workforce Development (the Special Advisor) in the Office of the Governor and creates the Virginia Health Workforce Development Fund to (i) provide incentives for the removal of barriers to educating and training health workforce professionals that include increasing eligible faculty, clinical placements, and residencies; (ii) incentivize the production of health workforce credentials, degrees, and licensures based on a rigorous analysis of the need by the Office of Education and Labor Market Alignment; (iii) address regulatory barriers to entering into and staying in health professions; and (iv) provide education and training for health and health science professionals to align education and training initiatives with existing and evolving health workforce needs.

The bill also requires the Special Advisor to review and evaluate the structure and organization of the Virginia Health Workforce Development Authority (the Authority) and make recommendations regarding the long-term administrative structure and funding of the Authority to the Governor and the General Assembly by November 1, 2022.

The bill has an expiration date of July 1, 2026.

03/12/22 House: Continued to 2022 Sp. Sess. 1 pursuant to HJR455

HB 192 Opioids; repeals sunset provisions relating to prescriber requesting information about a patient.

Summary as introduced:

Prescription of opioids; sunset. Repeals sunset provisions for the requirement that a prescriber registered with the Prescription Monitoring Program request information about a patient from the Program upon initiating a new course of treatment that includes the prescribing of opioids anticipated, at the onset of treatment, to last more than seven consecutive days.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 193 Drug Control Act; adds certain chemicals to the Act.

Summary as passed House:

Drug Control Act; Schedule I; Schedule II; Schedule IV; Schedule V. Adds certain chemicals to the Drug Control Act. The Board of Pharmacy has added these substances in an expedited regulatory process. A substance added via this process is removed from the schedule after 18 months unless a general law is enacted adding the substance to the schedule. This bill is identical to SB 759.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 213 Optometrists; allowed to perform laser surgery if certified by Board of Optometry.

Summary as passed House:

Optometrists; laser surgery. Allows an optometrist who has received a certification to perform laser surgery from the Board of Optometry (the Board) to perform certain types of laser surgery of the eye and directs the Board to issue a certification to perform laser surgery to any optometrist who submits evidence satisfactory to the Board that he (i) is certified by the Board to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents pursuant to Code requirements and (ii) has satisfactorily completed such didactic and clinical training programs provided by an accredited school or college of optometry that includes training in the use of lasers for the medically appropriate and recognized treatment of the human eye as the Board may require.

The bill also requires the Board to adopt regulations (a) establishing criteria for certification of an optometrist to perform permitted laser surgeries and (b) requiring optometrists to register annually with the Board and to report information regarding any disciplinary action, malpractice judgment, or malpractice settlement against the provider and any evidence that indicates the provider may be unable to engage safely in the practice of his profession. The bill also requires optometrists certified to perform laser surgery to report certain information regarding the number and types of laser surgeries performed and the conditions treated, as well as any adverse treatment outcomes associated with the performance of such laser surgeries to the Board, and requires the Board to report such information to the Governor and the Secretary of Health and Human Resources annually. This bill is identical to SB 375.

03/09/22 Governor: Approved by Governor-Chapter 17 (effective 7/1/22)

03/09/22 Governor: Acts of Assembly Chapter text (CHAP0017)

HB 234 Nursing homes, assisted living facilities, etc.; SHHR to study current oversight/regulation.

Summary as passed:

Secretary of Health and Human Resources; study of oversight and regulation of nursing homes, assisted living facilities, and other congregate living settings under a single state agency; report. Directs the Secretary of Health and Human Resources to study the current oversight and regulation of nursing homes, assisted living facilities, and other congregate living settings to improve efficiency and effectiveness of regulation and oversight, provide better transparency for members of the public navigating the process of receiving services from such facilities, and better protect the health and safety of the public and to report his findings and recommendations to the Governor and the Chairmen of the Senate Committees on Education and Health and Finance and Appropriations and the House Committees on Appropriations and Health, Welfare and Institutions by October 1, 2022.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 264 Public health emergency; out-of-state licenses, deemed licensure.

Summary as passed House:

Public health emergency; out-of-state licenses; deemed licensure. Allows a practitioner of a profession regulated by the Board of Medicine who is licensed in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia to engage in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. The bill also provides that when the Board of Health has issued an emergency order, the Boards of Medicine and Nursing may waive (a) the requirement for submission of a fee for renewal or reinstatement of a license to practice medicine or osteopathic medicine or as a physician assistant or nurse practitioner and (b) the requirement for submission of evidence that a practitioner whose license was allowed to lapse for failure to meet professional

activity requirements has satisfied such requirements and is prepared to resume practice in a competent manner for any person who held a valid, unrestricted, active license within the four-year period immediately prior to the application for renewal or reinstatement of such license. This bill is identical to SB 369.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 285 Clinical nurse specialist; practice agreements.

Summary as introduced:

Clinical nurse specialist; practice agreements. Provides that a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist who does not prescribe controlled substances or devices may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement, provided that he (i) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult and collaborate with other health care providers based on the clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers. The bill also provides that a nurse practitioner licensed by the Boards in the category of clinical nurse specialist who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 286 Nurse practitioners; declaration of death and cause of death.

Summary as passed House:

Nurse practitioners; declaration of death and cause of death. Authorizes autonomous nurse practitioners, defined in the bill, to declare death and determine cause of death; allows nurse practitioners who are not autonomous nurse practitioners to pronounce the death of a patient in certain circumstances; and eliminates the requirement for a valid Do Not Resuscitate Order for the deceased patient for declaration of death by a registered nurse, physician assistant, or nurse practitioner who is not an autonomous nurse practitioner.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 444 Virginia Freedom of Information Act; meetings conducted through electronic meetings.

Summary as passed:

Virginia Freedom of Information Act; meetings conducted through electronic communication means. Amends existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing certain public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means. The bill excepts local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and any board with the authority to deny, revoke, or suspend a professional or occupational license from the provisions that allow public bodies to conduct all-virtual public meetings. Definitions, procedural requirements, and limitations for all-virtual public meetings are set forth in the bill, along with technical amendments. The bill has a delayed effective date of September 1, 2022.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 537 Telemedicine; out-of-state providers, behavioral health services provided by practitioner.

Summary as passed House:

Telemedicine; out of state providers; behavioral health services. Allows certain practitioners of professions regulated by the Boards of Medicine, Counseling, Psychology, and Social Work who provide behavioral health services and who are licensed in another state, the District of Columbia, or a United States territory or possession and in good standing with the applicable regulatory agency to engage in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services and (ii) the practitioner has previously established a practitioner-patient relationship with the patient. The bill provides that a practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 555 Health care providers; transfer of patient records in conjunction with closure, etc.

Summary as introduced:

Health care providers; transfer of patient records in conjunction with closure, sale, or relocation of practice; electronic notice permitted. Allows health care providers to notify patients either electronically or by mail prior to the transfer of patient records in conjunction with the closure, sale, or relocation of the health care provider's practice. Current law requires health care providers to provide such notice by mail.

02/23/22 House: Signed by Speaker

02/23/22 Senate: Signed by President

02/24/22 House: Impact statement from DPB (HB555ER)

03/09/22 House: Enrolled Bill communicated to Governor on March 9, 2022

03/09/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 896 Nurse practitioner; patient care team provider.

Summary as passed House:

Nurse practitioner; patient care team provider. Eliminates the authority of a physician on a patient care team to require a nurse practitioner practicing as part of a patient care team to be covered by a professional liability insurance policy and the requirement that a nurse practitioner practicing without a practice agreement obtain and maintain coverage by or be named insured on a professional liability insurance policy.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 916 Health care providers; health records of minors, available via secure website.

Summary as passed House:

Health care providers; health records of minors; available via secure website. Provides that every hospital and health care provider that makes patients' health records available to such patients through a secure website shall make all health records of a patient who is a minor available to such patient's parent through such secure website unless the hospital or health care provider cannot make such health record available in a manner that prevents disclosure of

information, the disclosure of which has been denied by a health care provider or for which required consent has not been provided.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 933 Pharmaceutical processors; amends the definition of "cannabis oil."

Summary as passed House:

Pharmaceutical processors. Amends the definition of "cannabis oil" by removing the requirement that only oil from industrial hemp be used in the formulation of cannabis oil. The bill removes the Board of Pharmacy patient registration requirement for medical cannabis but maintains the requirement that patients obtain written certification from a health care provider for medical cannabis. The bill directs the Board to promulgate numerous regulations related to pharmaceutical processors by September 15, 2022. This bill is identical to SB 671.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 939 Necessary drugs, devices, and vaccines; Comm. of Health to authorize administration and dispensing.

Summary as passed House:

Commissioner of Health; administration and dispensing of necessary drugs, devices, and vaccines during public health emergency; emergency. Allows the Commissioner of Health to authorize persons who are not authorized by law to administer or dispense drugs or devices to do so in accordance with protocols established by the Commissioner when the Board of Health has made an emergency order for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases. Current law limits the Commissioner's ability to make such authorizations to circumstances when the Governor has declared a disaster or a state of emergency or the federal Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency. The bill contains an emergency clause. This bill is identical to SB 647.

EMERGENCY

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

HB 1323 Pharmacists; initiation of treatment with and dispensing and administration of vaccines.

Summary as passed:

Pharmacists and pharmacy technicians; initiation of treatment with and dispensing and administration of vaccines. Allows pharmacists and pharmacy technicians acting under the supervision of a pharmacist to initiate treatment with and dispense and administer vaccines for COVID-19, nicotine replacement and other tobacco cessation therapies, and tests for COVID-19 and other coronaviruses to persons aged 18 years and older and vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention and vaccines for COVID-19 and tests for COVID-19 and other coronaviruses to persons three years of age or older in accordance with a statewide protocol established by the Board of Medicine in collaboration with the Board of Pharmacy and the Department of Health. The bill also directs the Board of Medicine, in collaboration with the Board of Pharmacy and the Department of Health to develop such statewide protocol by November 1, 2022, and directs the Board of Pharmacy to adopt emergency regulations to implement the provisions of the bill. The bill also provides that when services related to the initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern provided for by the state plan for medical assistance services are provided in accordance with the provisions of the bill, the Department of Medical Assistance Services shall provide reimbursement for such services. Finally, the bill provides that provisions related to administration of COVID-19 vaccines to and testing for COVID-19 of minors shall become effective upon the expiration of the provisions of the federal Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19 related to the administration of COVID-19 vaccines to and testing for COVID-19 of minors. This bill is identical to SB 672.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 14 Prescription drug donation program; Bd. of Pharmacy shall convene a work group to evaluate.

Summary as passed Senate:

Board of Pharmacy; prescription drug donation program; work group. Directs the Board of Pharmacy to convene a work group of interested stakeholders to evaluate any challenges and

barriers to participation in the prescription drug donation program and ways to increase program participation, education, and outreach.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 169 Practical nurses, licensed; authority to pronounce death for a patient in hospice, etc.

Summary as passed Senate:

Licensed practical nurses; authority to pronounce death. Extends to licensed practical nurses the authority to pronounce the death of a patient in hospice, provided that certain conditions are met. Current law provides that physicians, registered nurses, and physician assistants may pronounce death.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 317 Out-of-state health care practitioners; temporary authorization to practice.

Summary as passed:

Out-of-state health care practitioners; temporary authorization to practice; licensure by reciprocity for physicians; emergency. Allows a health care practitioner licensed in another state or the District of Columbia who has submitted an application for licensure to the appropriate health regulatory board to temporarily practice for a period of 90 days pending licensure, provided that certain conditions are met. The bill directs the Board of Medicine to pursue reciprocity agreements with jurisdictions that surround the Commonwealth to streamline the application process in order to facilitate the practice of medicine. The bill requires the Department of Health Professions to annually report to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions the number of out-of-state health care practitioners who have utilized the temporary authorization to practice pending licensure and have not subsequently been issued full licensure. The bill contains an emergency clause and is identical to HB 1187.

EMERGENCY

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 408 Sentencing documents; transmission to the DHP and DBHDS.

Summary as passed:

Transmission of sentencing documents to the Department of Health Professions and Department of Behavioral Health and Developmental Services. Provides that after the pronouncement of sentence, if the court is aware that the defendant is registered, certified, or licensed by a health regulatory board or holds a multistate licensure privilege, or is licensed by the Department of Behavioral Health and Developmental Services, and the defendant has been convicted of a felony, crime involving moral turpitude, or crime that occurred during the course of practice for which such practitioner or person is licensed, the court shall order the clerk of the court to transmit certified copies of sentencing documents to the Director of the Department of Health Professions or to the Commissioner of Behavioral Health and Developmental Services.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 414 Nurse practitioners; patient care team physician supervision capacity increased.

Summary as passed:

Nurse practitioners; patient care team physician supervision capacity increased. Allows a physician to serve as a patient care team physician on a patient care team with up to 10 nurse practitioners licensed in the category of psychiatric-mental health nurse practitioner. The bill retains, in all other cases, the existing provision that a physician may serve as a patient care team physician on a patient care team with no more than six nurse practitioners.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 480 Administrative Process Act; final orders, electronic retention.

Summary *as* *introduced:*
Administrative Process Act; final orders; electronic retention. Clarifies that signed originals of final agency case decisions may be retained in an electronic medium. This bill is a recommendation of the Administrative Law Advisory Committee and the Virginia Code Commission.

03/22/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

SB 511 Opioid treatment program pharmacy; medication dispensing, registered/licensed practical nurses.

Summary as passed Senate:

Opioid treatment program pharmacy; medication dispensing; registered nurses and licensed practical nurses. Allows registered nurses and licensed practical nurses practicing at an opioid treatment program pharmacy to perform the duties of a pharmacy technician, provided that all take-home medication doses are verified for accuracy by a pharmacist prior to dispensing.

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022

Project 7056 – Proposed

April 14, 2022 Draft

Board Of Nursing

New regulations for licensed certified midwives

Chapter 70

Regulations Governing the Practice of Licensed Certified Midwives

Part I

GENERAL PROVISIONS

18VAC90-70-10. Definitions.

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

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances containing an opioid may be prescribed for no more than three months.

"Approved program" means a midwifery education program that is accredited by the Accreditation Commission for Midwifery Education or its successor.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances containing an opioid may be prescribed for a period greater than three months.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Conversion therapy" means any practice or treatment as defined in § 54.1-2409.5 A of the Code of Virginia.

"Licensed certified midwife" means an advanced practice midwife who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.04 of the Code of Virginia.

"MME" means morphine milligram equivalent.

"Practice agreement" means a written or electronic statement, jointly developed by the consulting licensed physician and the licensed certified midwife, that describes the availability of the physician for routine and urgent consultation on patient care.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

18VAC90-70-20. Delegation of Authority.

A. The boards hereby delegate to the executive director of the Virginia Board of Nursing the authority to issue the initial licensure and the biennial renewal of such licensure to those persons who meet the requirements set forth in this chapter and to grant extensions or exemptions for compliance with continuing competency requirements as set forth in 18VAC90-70-90(E) and (F). Questions of eligibility shall be referred to the Committee of the Joint Boards of Nursing and Medicine.

B. All records and files related to the licensure of licensed certified midwives shall be maintained in the office of the Virginia Board of Nursing.

18VAC90-70-30. Committee of the Joint Boards of Nursing and Medicine.

A. The Committee of the Joint Boards of Nursing and Medicine, appointed pursuant to 18VAC90-30-30 and consisting of three members appointed from the Board of Medicine and three

members appointed from the Board of Nursing, shall administer the Regulations Governing the Licensure of Certified Midwives, 18VAC90-70-10 et seq.

B. In accordance with 18VAC90-30-30, the committee may, in its discretion, appoint an advisory committee. The advisory committee shall include practitioners specified in 18VAC90-30-30.

18VAC90-70-40. Fees.

Fees required in connection with the licensure of certified midwives are:

<u>1. Application</u>	<u>\$125</u>
<u>2. Biennial licensure renewal</u>	<u>\$80</u>
<u>3. Late renewal</u>	<u>\$25</u>
<u>4. Reinstatement of licensure</u>	<u>\$150</u>
<u>5. Verification of licensure to another jurisdiction</u>	<u>\$35</u>
<u>6. Duplicate license</u>	<u>\$15</u>
<u>7. Duplicate wall certificate</u>	<u>\$25</u>
<u>8. Handling fee for returned check or dishonored credit card or debit card</u>	<u>\$50</u>
<u>9. Reinstatement of suspended or revoked license</u>	<u>\$200</u>

Part II

LICENSURE

18VAC90-70-50. Licensure, general.

A. No person shall perform services as a certified midwife in the Commonwealth of Virginia except as prescribed in this chapter and when licensed by the Boards of Nursing and Medicine.

B. The boards shall license applicants who meet the qualifications for licensure as set forth in 18VAC90-70-60 or 18VAC90-70-70.

18VAC90-70-60. Qualifications for initial licensure.

An applicant for initial licensure as a licensed certified midwife shall:

1. Submit evidence of a graduate degree in midwifery from an approved program;
2. Submit evidence of current certification as a certified midwife by the American Midwifery Certification Board;
3. File the required application; and
4. Pay the application fee prescribed in 18VAC90-70-40.

18VAC90-70-70. Qualifications for licensure by endorsement.

An applicant for licensure by endorsement as a licensed certified midwife shall:

1. Provide verification of a license or certificate as a certified midwife in another United States jurisdiction with a license or certificate in good standing, or, if lapsed, eligible for reinstatement;
2. Submit evidence of current certification as a certified midwife by the American Midwifery Certification Board; and
3. File the required application; and
4. Pay the application fee prescribed in 18VAC90-70-40.

18VAC90-70-80. Renewal of licensure.

A. Licensure of a licensed certified midwife shall be renewed biennially.

B. The renewal notice of the license shall be sent to the last known address of record of each licensed certified midwife. Failure to receive the renewal notice shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

C. The licensed certified midwife shall attest to current certification as a certified midwife by the American Midwifery Certification Board and submit the license renewal fee prescribed in 18VAC90-70-40.

D. The license shall automatically lapse if the licensee fails to renew by the expiration date. Any person practicing as a certified midwife during the time a license has lapsed shall be subject to disciplinary actions by the boards.

18VAC90-70-90. Continuing competency requirements.

A. In order to renew a license biennially, a licensed certified midwife shall hold a current certification as a certified midwife by the American Midwifery Certification Board.

B. A licensed certified midwife shall obtain a total of eight hours of continuing education in pharmacology or pharmacotherapeutics for each biennium.

C. The licensed certified midwife shall retain evidence of compliance with this section and all supporting documentation for a period of four years following the renewal period for which the records apply.

D. The boards shall periodically conduct a random audit of at least 1.0% of their licensed certified midwives to determine compliance. The licensed certified midwives selected for the audit shall provide the evidence of compliance and supporting documentation within 30 days of receiving notification of the audit.

E. The boards 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 submitted prior to the renewal date.

F. The boards may delegate to the committee the authority to grant an exemption for all or part of the continuing education requirements in subsection (B) for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

18VAC90-70-100. Reinstatement of license.

A. A licensed certified midwife whose license has lapsed may be reinstated within one renewal period by payment of the current renewal fee and the late renewal fee.

B. An applicant for reinstatement of license lapsed for more than one renewal period shall:

1. File the required application and reinstatement fee; and

2. Provide evidence of current professional competency consisting of:

a. Current certification by the American Midwifery Certification Board;

b. Continuing education hours completed during the period in which the license was lapsed, equal to the number required for licensure renewal during that period, not to exceed 120 hours; or

c. If applicable, a current, unrestricted license or certificate as a certified midwife in another jurisdiction.

C. An applicant for reinstatement of a license following suspension or revocation shall:

1. Petition for reinstatement and pay the reinstatement fee; and

2. Present evidence that he is competent to resume practice as a licensed certified midwife in Virginia, to include:

a. Current certification by the American Midwifery Certification Board; and

b. Continuing education hours taken during the period in which the license was suspended or revoked, equal to the number required for licensure during that period, not to exceed 120 hours.

The committee shall act on the petition pursuant to the Administrative Process Act (§ 2.2-4000, et seq. of the Code of Virginia).

Part III

PRACTICE OF LICENSED CERTIFIED MIDWIVES

18VAC90-70-110. Practice of licensed certified midwives.

A. All licensed certified midwives shall practice in accordance with a written or electronic practice agreement as defined in 18VAC90-70-10.

B. The written or electronic practice agreement shall include provisions for the availability of the physician for routine and urgent consultation on patient care.

C. The practice agreement shall be maintained by the licensed certified midwife and provided to the boards upon request. For licensed certified midwives providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the licensed certified midwife's clinical privileges or the electronic or written delineation of duties and responsibilities; however, the licensed certified midwife shall be responsible for providing a copy to the boards upon request.

D. The practice of licensed certified midwives shall be consistent with the standards of care for the profession and with the applicable laws and regulations.

E. The licensed certified midwife shall include on each prescription issued or dispensed his signature and Drug Enforcement Administration (DEA) number, when applicable.

F. The licensed certified midwife shall disclose to patients at the initial encounter that he is a licensed certified midwife. Such disclosure may be included on a prescription or may be given in writing to the patient.

G. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

H. The licensed certified midwife shall disclose, upon request of a patient or a patient's legal representative, the name of the consulting physician and information regarding how to contact the consulting physician.

Part IV

PRESCRIBING

18VAC90-70-120. Prescribing for self or family.

A. Treating or prescribing shall be based on a bona fide practitioner-patient relationship, and prescribing shall meet the criteria set forth in §54.1-3303 of the Code of Virginia.

B. A licensed certified midwife shall not prescribe a controlled substance to himself or a family member, other than Schedule VI as defined in §54.1-3455 of the Code of Virginia, unless the prescribing occurs in an emergency situation or in isolated settings where there is no other qualified practitioner available to the patient, or it is for a single episode of an acute illness through one prescribed course of medication.

C. When treating or prescribing for self or family, the licensed certified midwife shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.

18VAC90-70-130. Waiver for electronic prescribing.

A. A prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02.

B. Upon written request, the boards may grant a one-time waiver of the requirement of subsection A of this section for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

Part V

MANAGEMENT OF ACUTE PAIN

18VAC90-70-140. Evaluation of the patient for acute pain.

A. The requirements of this part shall not apply to:

1. The treatment of acute pain related to (i) cancer, (ii) sickle cell, (iii) a patient in hospice care, or (iv) a patient in palliative care;
2. The treatment of acute pain during an inpatient hospital admission or in a nursing home or an assisted living facility that uses a sole source pharmacy; or
3. A patient enrolled in a clinical trial as authorized by state or federal law.

B. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. If an opioid is considered necessary for the treatment of acute pain, the practitioner shall give a short-acting opioid in the lowest effective dose for the fewest possible days.

C. Prior to initiating treatment with a controlled substance containing an opioid for a complaint of acute pain, the prescriber shall perform a history and physical examination appropriate to the

complaint, query the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia, and conduct an assessment of the patient's history and risk of substance misuse as a part of the initial evaluation.

18VAC90-70-150. Treatment of acute pain with opioids.

A. Initiation of opioid treatment for patients with acute pain shall be with short-acting opioids.

1. A prescriber providing treatment for a patient with acute pain shall not prescribe a controlled substance containing an opioid in a quantity that exceeds a seven-day supply as determined by the manufacturer's directions for use, unless extenuating circumstances are clearly documented in the medical record. This shall also apply to prescriptions of a controlled substance containing an opioid upon discharge from an emergency department.

2. An opioid prescribed as part of treatment for a surgical procedure shall be for no more than 14 consecutive days in accordance with manufacturer's direction and within the immediate perioperative period, unless extenuating circumstances are clearly documented in the medical record.

B. Initiation of opioid treatment for all patients shall include the following:

1. The practitioner shall carefully consider and document in the medical record the reasons to exceed 50 MME per day.

2. Prior to exceeding 120 MME per day, the practitioner shall document in the medical record the reasonable justification for such doses or refer to or consult with a pain management specialist.

3. Naloxone shall be prescribed for any patient when risk factors of prior overdose, substance misuse, doses in excess of 120 MME per day, or concomitant benzodiazepine are present.

C. Due to a higher risk of fatal overdose when opioids are used with benzodiazepines, sedative hypnotics, carisoprodol, and tramadol (an atypical opioid), the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

D. Buprenorphine is not indicated for acute pain in the outpatient setting, except when a prescriber who has obtained a SAMHSA waiver is treating pain in a patient whose primary diagnosis is the disease of addiction.

18VAC90-70-160. Medical records for acute pain.

The medical record shall include a description of the pain, a presumptive diagnosis for the origin of the pain, an examination appropriate to the complaint, a treatment plan, and the medication prescribed or administered to include the date, type, dosage, and quantity prescribed or administered.

Part VI

MANAGEMENT OF CHRONIC PAIN

18VAC90-70-170. Evaluation of the chronic pain patient.

A. The requirements of this part shall not apply to:

1. The treatment of chronic pain related to (i) cancer, (ii) sickle cell, (iii) a patient in hospice care, or (iv) a patient in palliative care;
2. The treatment of chronic pain during an inpatient hospital admission or in a nursing home or an assisted living facility that uses a sole source pharmacy; or
3. A patient enrolled in a clinical trial as authorized by state or federal law.

B. Prior to initiating management of chronic pain with a controlled substance containing an opioid, a medical history and physical examination, to include a mental status examination, shall be performed and documented in the medical record, including:

1. The nature and intensity of the pain;
2. Current and past treatments for pain;
3. Underlying or coexisting diseases or conditions;
4. The effect of the pain on physical and psychological function, quality of life, and activities of daily living;
5. Psychiatric, addiction, and substance misuse histories of the patient and any family history of addiction or substance misuse;
6. A urine drug screen or serum medication level;
7. A query of the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia;
8. An assessment of the patient's history and risk of substance misuse; and
9. A request for prior applicable records.

C. Prior to initiating opioid analgesia for chronic pain, the practitioner shall discuss with the patient the known risks and benefits of opioid therapy and the responsibilities of the patient during treatment to include securely storing the drug and properly disposing of any unwanted or unused drugs. The practitioner shall also discuss with the patient an exit strategy for the discontinuation of opioids in the event they are not effective.

18VAC90-70-180. Treatment of chronic pain with opioids.

A. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids.

B. In initiating opioid treatment for all patients, the practitioner shall:

1. Carefully consider and document in the medical record the reasons to exceed 50 MME per day;
2. Prior to exceeding 120 MME per day, the practitioner shall document in the medical record the reasonable justification for such doses or refer to or consult with a pain management specialist;
3. Prescribe naloxone for any patient when risk factors of prior overdose, substance misuse, doses in excess of 120 MME per day, or concomitant benzodiazepine are present; and
4. Document the rationale to continue opioid therapy every three months.

C. Buprenorphine mono-product in tablet form shall not be prescribed for chronic pain.

D. Due to a higher risk of fatal overdose when opioids, including buprenorphine, are given with other opioids, benzodiazepines, sedative hypnotics, carisoprodol, and tramadol (an atypical opioid), the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

E. The practitioner shall regularly evaluate for opioid use disorder and shall initiate specific treatment for opioid use disorder, consult with an appropriate health care provider, or refer the patient for evaluation for treatment if indicated.

18VAC90-70-190. Treatment plan for chronic pain.

A. The medical record shall include a treatment plan that states measures to be used to determine progress in treatment, including pain relief and improved physical and psychosocial function, quality of life, and daily activities.

B. The treatment plan shall include further diagnostic evaluations and other treatment modalities or rehabilitation that may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

C. The prescriber shall record in the medical records the presence or absence of any indicators for medication misuse or diversion and take appropriate action.

18VAC90-70-200. Informed consent and agreement to treatment of chronic pain.

A. The practitioner shall document in the medical record informed consent, to include risks, benefits, and alternative approaches, prior to the initiation of opioids for chronic pain.

B. There shall be a written treatment agreement, signed by the patient, in the medical record that addresses the parameters of treatment, including those behaviors that will result in referral to a higher level of care, cessation of treatment, or dismissal from care.

C. The treatment agreement shall include notice that the practitioner will query and receive reports from the Prescription Monitoring Program and permission for the practitioner to:

1. Obtain urine drug screen or serum medication levels, when requested; and
2. Consult with other prescribers or dispensing pharmacists for the patient.

D. Expected outcomes shall be documented in the medical record including improvement in pain relief and function or simply in pain relief. Limitations and side effects of chronic opioid therapy shall be documented in the medical record.

18VAC90-70-210. Opioid therapy for chronic pain.

A. The practitioner shall review the course of pain treatment and any new information about the etiology of the pain or the patient's state of health at least every three months.

B. Continuation of treatment with opioids shall be supported by documentation of continued benefit from the prescribing. If the patient's progress is unsatisfactory, the practitioner shall assess

the appropriateness of continued use of the current treatment plan and consider the use of other therapeutic modalities.

C. Practitioners shall check the Prescription Monitoring Program at least every three months after the initiation of treatment.

D. The practitioner shall order and review a urine drug screen or serum medication levels at the initiation of chronic pain management and thereafter randomly at the discretion of the practitioner but at least once a year.

E. The practitioner shall regularly evaluate for opioid use disorder and shall initiate specific treatment for opioid use disorder, consult with an appropriate health care provider, or refer the patient for evaluation for treatment if indicated.

18VAC90-70-220. Additional consultation.

A. When necessary to achieve treatment goals, the prescriber shall refer the patient for additional evaluation and treatment.

B. When a practitioner makes the diagnosis of opioid use disorder, treatment for opioid use disorder shall be initiated or the patient shall be referred for evaluation and treatment.

18VAC90-70-230. Medical records.

The prescriber shall keep current, accurate, and complete records in an accessible manner and readily available for review to include:

1. The medical history and physical examination;
2. Past medical history;
3. Applicable records from prior treatment providers or any documentation of attempts to obtain those records;
4. Diagnostic, therapeutic, and laboratory results;

5. Evaluations and consultations;

6. Treatment goals;

7. Discussion of risks and benefits;

8. Informed consent and agreement for treatment;

9. Treatments;

10. Medications, including date, type, dosage and quantity prescribed, and refills;

11. Patient instructions; and

12. Periodic reviews.

Part VII

DISCIPLINARY PROVISIONS

18VAC90-70-240. Grounds for disciplinary action against the license of a certified midwife.

The boards may deny licensure or relicensure, revoke or suspend the license, or place on probation, censure, reprimand, or impose a monetary penalty on a licensed certified midwife for the following unprofessional conduct:

1. Has had his license to practice midwifery in this Commonwealth or in another jurisdiction revoked or suspended or otherwise disciplined;

2. Has directly or indirectly held himself out or represented himself to the public that he is a physician, or is able to, or will practice independently of a physician;

3. Has performed procedures or techniques that are outside the scope of practice as a licensed certified midwife and for which the licensed certified midwife is not trained and individually competent;

4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing, or certified midwifery;

5. Has become unable to practice with reasonable skill and safety as the result of physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals, or any other type of material;

6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration, or distribution of drugs;

7. Has failed to comply with continuing competency requirements as set forth in 18VAC90-70-90;

8. Has willfully or negligently breached 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;

9. Has engaged in unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program;

10. Has practiced as a licensed certified midwife during a time when the practitioner's certification as a certified midwife by the American Midwifery Certification Board has lapsed; or

11. Has engaged in conversion therapy with a person younger than 18 years of age.

18VAC90-70-250. Hearings.

A. The provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern proceedings on questions of violation of 18VAC90-70-120.

B. The Committee of the Joint Boards of Nursing and Medicine shall conduct all proceedings prescribed herein and shall take action on behalf of the boards.

18VAC90-70-260. Delegation of proceedings.

A. Decision to delegate. In accordance with §54.1-2400(10) of the Code of Virginia, the committee may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a licensed certified midwife may be subject to a disciplinary action.

B. Criteria for delegation. Cases that involve intentional or negligent conduct that caused serious injury or harm to a patient may not be delegated to an agency subordinate, except as may be approved by the chair of the committee.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the committee to conduct an informal fact-finding proceeding may include current or past board members, professional staff, or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The Executive Director of the Board of Nursing shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The committee may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

Documents Incorporated by Reference (18VAC90-70)

[Standards for the Practice of Midwifery, revised 2011, American College of Nurse-Midwives](#)



STANDARDS FOR THE PRACTICE OF MIDWIFERY

Midwifery practice as conducted by certified nurse-midwives (CNMs) and certified midwives (CMs) is the independent management of women's health care, focusing particularly on pregnancy, childbirth, the post partum period, care of the newborn, and the family planning and gynecologic needs of women. The CNM and CM practice within a health care system that provides for consultation, collaborative management, or referral, as indicated by the health status of the client. CNMs and CMs practice in accord with the Standards for the Practice of Midwifery, as defined by the American College of Nurse-Midwives (ACNM).

STANDARD I

MIDWIFERY CARE IS PROVIDED BY QUALIFIED PRACTITIONERS

The midwife:

1. Is certified by the ACNM designated certifying agent.
2. Shows evidence of continuing competency as required by the ACNM designated certifying agent.
3. Is in compliance with the legal requirements of the jurisdiction where the midwifery practice occurs.

STANDARD II

MIDWIFERY CARE OCCURS IN A SAFE ENVIRONMENT WITHIN THE CONTEXT OF THE FAMILY, COMMUNITY, AND A SYSTEM OF HEALTH CARE.

The midwife:

1. Demonstrates knowledge of and utilizes federal and state regulations that apply to the practice environment and infection control.
2. Demonstrates a safe mechanism for obtaining medical consultation, collaboration, and referral.
3. Uses community services as needed.
4. Demonstrates knowledge of the medical, psychosocial, economic, cultural, and family factors that affect care.
5. Demonstrates appropriate techniques for emergency management including arrangements for emergency transportation.
6. Promotes involvement of support persons in the practice setting.

STANDARD III

MIDWIFERY CARE SUPPORTS INDIVIDUAL RIGHTS AND SELF-DETERMINATION WITHIN BOUNDARIES OF SAFETY

The midwife:

1. Practices in accord with the Philosophy and the Code of Ethics of the American College of Nurse-Midwives.
2. Provides clients with a description of the scope of midwifery services and information regarding the client's rights and responsibilities.

3. Provides clients with information regarding, and/or referral to, other providers and services when requested or when care required is not within the midwife's scope of practice.
4. Provides clients with information regarding health care decisions and the state of the science regarding these choices to allow for informed decision-making.

STANDARD IV

MIDWIFERY CARE IS COMPRISED OF KNOWLEDGE, SKILLS, AND JUDGMENTS THAT FOSTER THE DELIVERY OF SAFE, SATISFYING, AND CULTURALLY COMPETENT CARE.

The midwife:

1. Collects and assesses client care data, develops and implements an individualized plan of management, and evaluates outcome of care.
2. Demonstrates the clinical skills and judgments described in the ACNM Core Competencies for Basic Midwifery Practice.
3. Practices in accord with the ACNM Standards for the Practice of Midwifery.

STANDARD V

MIDWIFERY CARE IS BASED UPON KNOWLEDGE, SKILLS, AND JUDGMENTS WHICH ARE REFLECTED IN WRITTEN PRACTICE GUIDELINES AND ARE USED TO GUIDE THE SCOPE OF MIDWIFERY CARE AND SERVICES PROVIDED TO CLIENTS.

The midwife:

1. Maintains written documentation of the parameters of service for independent and collaborative midwifery management and transfer of care when needed.
2. Has accessible resources to provide evidence based clinical practice for each specialty area which may include, but is not limited to, primary health care of women, care of the childbearing family, and newborn care.

STANDARD VI

MIDWIFERY CARE IS DOCUMENTED IN A FORMAT THAT IS ACCESSIBLE AND COMPLETE.

The midwife:

1. Uses records that facilitate communication of information to clients, consultants, and institutions.
2. Provides prompt and complete documentation of evaluation, course of management, and outcome of care.
3. Promotes a documentation system that provides for confidentiality and transmissibility of health records.
4. Maintains confidentiality in verbal and written communications.

STANDARD VII

MIDWIFERY CARE IS EVALUATED ACCORDING TO AN ESTABLISHED PROGRAM FOR QUALITY MANAGEMENT THAT INCLUDES A PLAN TO IDENTIFY AND RESOLVE PROBLEMS.

The midwife:

1. Participates in a program of quality management for the evaluation of practice within the setting in which it occurs.

2. Provides for a systematic collection of practice data as part of a program of quality management.
3. Seeks consultation to review problems, including peer review of care.
4. Acts to resolve problems identified.

STANDARD VIII

MIDWIFERY PRACTICE MAY BE EXPANDED BEYOND THE ACNM CORE COMPETENCIES TO INCORPORATE NEW PROCEDURES THAT IMPROVE CARE FOR WOMEN AND THEIR FAMILIES.

The midwife:

1. Identifies the need for a new procedure taking into consideration consumer demand, standards for safe practice, and availability of other qualified personnel.
2. Ensures that there are no institutional, state, or federal statutes, regulations, or bylaws that would constrain the midwife from incorporation of the procedure into practice.
3. Demonstrates knowledge and competency, including:
 - a) Knowledge of risks, benefits, and client selection criteria.
 - b) Process for acquisition of required skills.
 - c) Identification and management of complications.
 - d) Process to evaluate outcomes and maintain competency.
4. Identifies a mechanism for obtaining medical consultation, collaboration, and referral related to this procedure.
5. Maintains documentation of the process used to achieve the necessary knowledge, skills and ongoing competency of the expanded or new procedures.

Source: Division of Standards and Practice

Approved: ACNM Board of Directors, March 8, 2003;

Revised and Approved: ACNM Board of Directors, December 4, 2009

Revised and Approved: ACNM Board of Directors, September 24, 2011

(Supersedes the ACNM's Functions, Standards and Qualifications, 1983 and Standards for the Practice of Nurse-Midwifery 1987, 1993. Standard VIII has been adapted from the ACNM's Guidelines for the Incorporation of New Procedures into Nurse-Midwifery Practice)

Code of Virginia

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards within the Department of Health Professions

Chapter 29. Medicine and Other Healing Arts

Article 4. Licensure and Certification of Other Practitioners of the Healing Arts

§ 54.1-2957.04. Licensure as a licensed certified midwife; practice as a licensed certified midwife; use of title; required disclosures

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license as such issued jointly by the Boards of Medicine and Nursing.

B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current certification as a certified midwife by the American Midwifery Certification Board and that shall be consistent with the requirements for certification as a certified midwife established by the American Midwifery Certification Board.

C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a licensed certified midwife in the Commonwealth.

D. Licensed certified midwives shall practice in consultation with a licensed physician in accordance with a practice agreement between the licensed certified midwife and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by the licensed certified midwife and provided to the Board upon request. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing the practice of midwifery.

E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of Medicine and Nursing.

F. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in § 54.1-2957.03.

G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as

otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) nurse practitioner, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § [32.1-123](#), or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a licensed certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune from liability for acts or omissions constituting ordinary negligence.

2021, Sp. Sess. I, cc. [200](#), [201](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

VA Board of Nursing

Licensure Statistics

January 1 - December 31, 2021

<i>License/Certification/Registration</i>	<i>Application Count¹ :</i>				<i>Issued Count :</i>				
OCCUPATION	INITIAL / EXAM	ENDORSED	REINSTATED²	COMBINED	INITIAL / EXAM	ENDORSED	REINSTATED²	COMBINED	
Nurse Practitioner	1,314	946	77	2,337	1,127	1,224	76	2,427	
¹ : Includes all applications received, but not necessarily completed or withdrawn in CY2021				² : Includes reinstatement after discipline					
LNP Autonomous Practice - Issued CY2021									
Autonomous - Adult/Geriatric Acute			54						
Autonomous - Adult/Geriatric Primary			72						
Autonomous - Family			454						
Autonomous - Neonatal			0						
Autonomous - Pediatric Acute			0						
Autonomous - Pediatric Primary			23						
Autonomous - Psychiatric/Mental			131						
Autonomous - Women's Health			20						
	Total		754						

<i>Cases</i>	<i>Case Counts:</i>	
OCCUPATION	RECEIVED	CLOSED
Nurse Practitioner	317	299