

**State of Board of Health
March 18, 2021 – 9:00 a.m.
Virtual Meeting – WebEx**

Due to COVID-19, this meeting was conducted in an all-virtual environment.

Members Present: Faye Prichard, Chair; Gary Critzer, Tommy East; James Edmondson; Elizabeth Harrison; Linda Hines, RN, Vice Chair; Anna Jeng, ScD; Patricia Kinser, PhD; Wendy Klein, MD; Holly Puritz, MD; Jim Shuler, DVM; Stacey Swartz, PharmD; Katherine Waddell; and Mary Margaret Whipple.

Members Absent: Benita Miller, DDS

VDH Staff Present: Rebekah E. Allen, JD, Senior Policy Analyst, Office of Licensure and Certification; Dr. Danny Avula, Vaccine Coordinator and director, Richmond and Henrico Health Districts; Rachel Ellick, Communications Coordinator, Office of Epidemiology; Dr. Laurie Forlano, Deputy Director, Office of Epidemiology; Stephanie Gilliam, Deputy Director for Budget; Julie Henderson, Director of Office of Environmental Health Services; Bob Hicks, Deputy Commissioner for Community Health Services; Joe Hilbert, Deputy Commissioner for Governmental and Regulatory Affairs; Dr. Parham Jaber, Chief Deputy Commissioner for Public Health and Preparedness; Alex Jansson, Policy Analyst; Mylam Ly, Policy Analyst; Dr. Norm Oliver, State Health Commissioner; Mike McMahon, Acting Deputy Commissioner for Administration; Dr. Lilian Peake, Director of Office of Epidemiology; Dr. Carole Pratt, Special Advisor to the Commissioner; Maria Reppas; Director of the Office of Communications; Whitney Rickman, Executive Administrative Assistant for Population Health and Governmental and Regulatory Affairs; John Ringer, Director of Public Health Planning and Evaluation; Michael Sarkissian, Director, Data and Quality, Office of Information Technology; Tammie Smith, Public Relations Coordinator; Richard Watson, Video Conference Engineer;

Other Staff: Robin Kurz, JD, Senior Assistant Attorney General

Call to Order

Ms. Prichard called the meeting to order at 9:05am.

Introductions

Ms. Prichard welcomed those in attendance to the meeting. Ms. Prichard then started the introductions of the Board members and VDH staff present.

Review of Agenda

Ms. Jansson reviewed the agenda and the items contained in the Board's virtual binder.

Approval of December 3, 2020 Minutes

Ms. Whipple made the motion to approve the minutes from the December 3, 2020 meeting with Ms. Hines seconding the motion. The minutes were approved unanimously by roll call vote.

Commissioner's Report

Dr. Oliver and Dr. Avula provided the Commissioner's Report to the Board. They discussed the novel coronavirus (COVID-19) situation and response with respect to:

- Disease Burden and Transmission
- Testing
- Containment
- Long-Term Care Facilities
- Community Mitigation
- Communications
- Vaccination
- Funding Allocation

There was discussion concerning the implementation of the vaccination campaign, including concerns about vaccine distribution and communications. Topics included the role of local government, availability of the vaccine to smaller health care providers, the need for a feedback loop to citizens and Board members, and the role of the Board and how members can advocate for public health with elected officials. A COVID-19 after action report was also briefly discussed and the Board will have the opportunity to provide comments and input into this report.

Regulatory Action Update

Mr. Hilbert reviewed the summary of all pending VDH regulatory actions. Since the December 2020 meeting the Commissioner has approved the two following regulatory actions on behalf of the Board while the Board was not in session:

- Regulations for the Licensure of Hospices (12VAC5-391) - Final Exempt Amendments
- Certification of Doulas (12VAC5-403) - Proposed Regulations

Mr. Hilbert advised the Board that there are 19 periodic reviews in progress:

- Virginia Emergency Medical Services Regulations (12VAC5-66)
- Regulations for the Repacking of Crabmeat (12VAC5-165)
- Regulations Governing Eligibility Standards and Charges for Medical Services to Individuals (12VAC5-200)
- Methodology to Measure Efficiency and Productivity of Health Care Institutions (12VAC5-216)
- Regulations of the Patient Level Data System (12VAC5-217)
- Rules and Regulations Governing Outpatient Data Reporting (12VAC5-218)
- Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (12VAC5-220)
- Regulations for the Submission of Health Maintenance Organization Quality of Care Performance Information (12VAC5-407)
- Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees (12VAC5-408)
- Regulations for the Licensure of Hospitals in Virginia (12VAC5-410)
- Food Regulations (12VAC5-421)

- Regulations for Summer Camps (12VAC5-440)
- Rules and Regulations Governing Campgrounds (12VAC5-450)
- Regulations Governing Tourist Establishment Swimming Pools and Other Public Pools (12VAC5-460)
- Swimming Pool Regulations Governing the Posting of Water Quality Results (12VAC5-462)
- Regulations Governing the Virginia Physician Loan Repayment Program (12VAC5-508)
- Guidelines for Virginia General Assembly Nursing Scholarships (12VAC5-510)
- Regulations for Identification of Medically Underserved Areas in Virginia (12VAC5-540)
- Waterworks Operation Fee (12VAC5-600)

There was a brief discussion about the outcome of the reconsideration of the proposed regulations for Certification of Doulas.

Public Comment Period

There was no one who had signed up to provide public comment at the meeting. There were no public comments.

Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations 12VAC5-220 - (Fast Track Amendments)

Ms. Allen presented the fast track amendments. Chapter 1271 (2020 Acts of Assembly) made extensive revisions to Article 1.1 (§ 32.1-102.1 *et seq.*) of Chapter 4 of Title 32.1 of the Code of Virginia, which governs the Certificate of Public Need (COPN) program. Va. Code § 32.1-102.2(A)(5) previously granted the Board the authority to establish a fee schedule for COPN applications, but the fees were capped at “the lesser of one percent of the proposed expenditure for the project or \$20,000”; this fee cap was created in 1996 and was an increase from the prior fee cap of \$10,000. With the amendments introduced by Chapter 1271 (2020 Acts of Assembly), the authority to establish a fee schedule has been renumbered as Va. Code § 32.1-102.2(A)(5), the Board’s authority has been expanded to include registration applications, and the fee cap has been removed. Chapter 1271 (2020 Acts of Assembly) also reduced the review interval for the SHSP (formerly the State Medical Facilities Plan) from every four years to every two years and placed new requirements on VDH to have a publicly available electronic inventory of COPN-authorized capacity. These changes require an additional two FTEs and the Board is establishing a new fee schedule to support the existing COPN program, the new program obligations, and the new FTEs.

The COPN program should be primarily, if not entirely, supported by fee revenue rather than general funds. The specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens is that the continued financial health of the COPN program ensures that the healthcare marketplace is not flooded with unneeded medical facilities or equipment and that charity care is being provided to indigent patients. There is a minimum patient volume needed to ensure continued competency of staff providing care, which is a consideration of COPN programs staff when evaluating COPN requests; COPNs are also conditioned on the provision of a prescribed amount of charity care to indigent patients, which allows healthcare to be accessible to more patients. The goals of the regulatory change is to ensure that VDH receives sufficient

revenue to support its COPN program and the mandated activities that the COPN program carries out. The problem the regulatory change is intended to solve is to update a fee cap that has not been changed in over 20 years and to create a fee for the registration process that currently lacks one. It is anticipated that this action will be noncontroversial and therefore appropriate for the fast-track process

Ms. Hines made a motion to approve the fast track amendments to the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations with Mr. Critzer seconding the motion.

There was a brief discussion about the scope of the changes to the regulations through this action.

The motion was approved unanimously by roll call vote.

Legislative Update

Mr. Hilbert presented the legislative update from the 2021 General Assembly Session. He highlighted bills that would have an impact on VDH's work. Subject areas included the following:

- Health Workforce
- Environmental Health
- Maternal and Child Health
- Data Reporting
- Medical Care Facilities Regulation
- Other

There was discussion around the difference between SB1436's registry and the Medical Reserve Corps and if any bills were related to preparing for future pandemics.

Budget Update

Ms. Gilliam presented the budget update from the 2021 General Assembly Session. She also discussed that some, though not all, of the funding was partially or fully restored in seven of 16 areas for FY22. Additionally, there are, pending the Governor's approval, 61 new full time equivalent (FTE) positions for VDH in FY22. She also pointed out that Federal funding has provided a lot of support for the COVID-19 vaccine rollout, and was a source of additional funding available to the General Assembly for appropriating resources pending grant budgets approval by the Centers for Disease Control and Prevention, especially for the Epidemiological and Laboratory Capacity grant.

There was a brief discussion about when the increase in FTEs would start and how it would work.

Appointment of the Nominating Committee

Ms. Prichard nominated Dr. Swartz to be the chair of the nominating committee, with the other members being Dr. Miller and Dr. Kinser.

Other Business

There was a discussion regarding advocacy for public health and the role of the Board and how health equity is being addressed through funding. There was also mention that the Board should be considering basic public health work, as well as infrastructure. The Board also asked that the Governor and the Secretary for Health and Human Resources be invited to the June 2021 meeting.

Adjourn

Meeting adjourned at 1:06pm.