

# Meeting Minutes

May 21, 2021 - 8:30am

VIA WEBEX

A full recording of the meeting can be found [here](#).

**Task Force Members Present:** Dr. M. Norman Oliver\*; Delegate Kelly K. Convirs-Fowler; Delegate Karrie K. Delaney; Colonel Gary T. Settle; Ms. Gena Boyle Berger; Dr. Robin L. Foster; Dr. Lindsey N .Caley; Ms. Patricia McComas Hall; Ms. Melissa Ratcliff Harper; Dr. Sara Jennings; Dr. Bonnie Price; Ms. Dawn Scaff; Dr. Scott E. Sparks; Dr. Brooke Burkhart Thomas; Ms. Chatonia “Toni” Zollicoffer

*\*Dr. Oliver joined the meeting at 8:44am.*

**Task Force Members Absent:** Senator Jennifer B. Boysko; Mr. Mark R. Herring; Dr. Jeanne Parrish

**VDH Staff Present:** Ms. Rebekah E. Allen; Ms. Alexandra Jansson

## Call to Order

Ms. Allen called the meeting to order at 8:35am.

## Introductions

Ms. Allen welcomed those in attendance to the meeting. Ms. Allen then conducted a roll call of members present.

## Determination of Quorum

Ms. Allen reviewed what the concept of a quorum is and that since the Task Force’s quorum is not set in statute, its quorum defaults to the majority unless the Task Force chooses another number by vote. Ms. Allen suggested that the Task Force consider setting its quorum to closely mirror that of the State Board of Health (Board), which is 40% of the membership; that would be 7.2 Task Force members, which Ms. Allen suggested rounding up to 8. The Task Force members present voted unanimously to adopt 8 Task Force members as a quorum.

## Review of the Agenda

Ms. Allen reviewed the agenda. No changes were made to the previously distributed agenda.

## Public Comment

No public comment was offered during the meeting.

## Presentations and Discussion

Dr. Oliver joined the meeting. Dr. Oliver offered his comments on the importance of the Task Force and the issues it would be addressing, and that he looked forward to its discussions and work.

## Task Force Overview

Ms. Jansson presented on the topic of the Task Force, covering the underlying legislation that created the Task Force and the statutory responsibilities and deliverables of the Task Force. Ms. Jansson mentioned that the Task

Force may first want to focus its efforts on model documents, since regulations are in development and the two should mirror each other.

Ms. Jansson mentioned that due to the prior lack of quorum prior to the gubernatorial appointments, VDH staff had drafted the 2020 annual report on behalf of the Task Force. Ms. Jansson also stated that VDH staff would be willing to continue to support the Task Force by drafting the 2021 annual report for its consideration. Ms. Allen mentioned that the draft 2020 annual report had been distributed to the Task Force prior to the meeting and asked that Ms. Jansson confirm that approval had been received to publish the report, which she did. Ms. Allen stated that a copy of the final 2020 annual report and a link to its public posting would be distributed to the Task Force after the meeting.

### Regulations

Ms. Allen presented on the topic of the regulatory responsibilities of the State Board of Health in creating regulations addressing the transfer and treatment of survivors of sexual assault by hospitals and pediatric health care facilities. Ms. Allen explained that the legislative act had different enactment dates for different provisions, i.e., the Task Force's existence and the State Board's mandate to promulgate regulations went into effect July 1, 2020, but the requirement that hospitals and pediatric health care facilities have transfer and/or treatment plans did not go into effect until July 1, 2023.

Ms. Allen explained that the regulatory process in Virginia is typically conducted in three stages, and generally described those stages. Ms. Allen further informed the Task Force that the first stage--the Notice of Intended Regulatory Action (NOIRA)--had already taken place on March 1, 2021 and the 30-day public comment period had ended on March 31, 2021; Ms. Allen did clarify that the public can still submit comments though the formal public comment period had ended. Ms. Allen stated that the regulatory text is under development and that she and Ms. Jansson planned on sharing the in-progress draft at a future meeting of the Task Force.

Ms. Allen explained that VDH staff would draft the regulations, present them to the Board for approval, and then the regulations would undergo Executive Branch Review. Ms. Allen stated this review process can be for a variable amount of time, which can be difficult to predict. Ms. Allen stated that once review is complete, the regulatory text would be published as the second stage and be subject to a 60-day public comment period and that she anticipated public comment would be received at that time since the public would have something to react to. Ms. Allen then explained that the third stage is very similar, except that the last stage only has a 30-day public comment period.

Dr. Sparks asked for more specifics about the regulation drafting process. Ms. Allen explained that VDH policy analysts typically wrote the first draft, then shared it with internal subject matter experts for their feedback and revision, and then shared the draft with external stakeholders in advance of the Board meeting to resolve any conflicts or concerns and increase the likelihood the Board would approve the proposal.

### Action Items

Ms. Allen explained that the rest of the meeting was devoted to the Task Force planning its activities and how it wanted to address implementation of its statutory responsibilities. Ms. Allen explained that in addition to developing its work plan, draft bylaws and a draft electronic meetings policy had been distributed for the Task Force's consideration. Ms. Allen clarified that the electronic meetings policy would only apply once the COVID-19 state of emergency had lapsed.

Ms. Boyle Berger suggested that the Task Force first discuss the problems it was trying to solve and the underlying problems that prompted the Task Force's creation. Dr. Price agreed with Ms. Boyle Berger's suggestion, and further stated that she believed the Task Force should meet more frequently at the beginning and as a full group rather than smaller work groups because of the overlapping issues in the deliverables. Colonel Settle agreed with Ms. Boyle Berger and Dr. Price, and was interested in exploring what law enforcement's role would be in regard to the Task Force.

Ms. Boyle Berger stated that there are gaps in sexual assault services across Virginia and the uneven availability of sexual assault forensic examiners (SAFEs). Ms. Boyle Berger further stated that she recalled law enforcement being quite vocal about the need for medical care facilities to be prepared to receive survivors of sexual assault and collect evidence. Ms. Boyle Berger also stated that transportation of survivors was also an issue. Ms. Boyle Berger stated that the legislation was aimed at creating comprehensive trauma-informed services wherever a survivor would present in the community. Ms. Boyle Berger suggested that Dr. Price could likely speak to the lack of SAFEs in Virginia.

Delegate Delaney, the patron of the legislation that resulted in the Task Force, stated that originally patroned a legislative study that had revealed the deficits of forensic nursing and access of care and justice in Virginia, which in turn prompted the creation of the Task Force and placing requirements on hospitals and pediatric health care facilities with regards to services for survivors of sexual assault.

Delegate Convis-Fowler questioned if the Task Force adopted the draft bylaws, whether the current meeting would count as the annual meeting in which the Task Force would need to elect officers. Ms. Allen conceded that because of the timing of the meeting, it would indeed be the annual meeting for State Fiscal Year 2021 and that the very first meeting on or after July 1st would be the annual meeting for State Fiscal Year 2022. Ms. Allen also stated that the draft bylaws were largely modeled on the Board's bylaws and the Task Force could modify the draft bylaws to suit its needs.

Dr. Oliver asked if anyone wanted to make a motion to adopt the bylaws as presented. Delegate Delaney had no objection with moving forward on resolving the procedural issues before the Task Force. Ms. Boyle Berger moved that the Task Force adopt the bylaws as presented. Delegate Convis-Fowler seconded the motion. Delegate Convis-Fowler also pointed out that the bylaws could be amended at any time if needed. Dr. Sparks asked if the Task Force would need to elect officers first. Ms. Allen responded that the language about officers in the draft bylaws had no binding effect until the bylaws were adopted. There was no opposition to the motion, no abstentions, and it passed unanimously.

Ms. Allen suggested the Task Force elect officers. Delegate Convis-Fowler asked who could serve as Chair and Ms. Allen responded that Code of Virginia § 32.1-162.15:11 set the State Health Commissioner (Dr. Oliver) as Chair, but Vice Chair could be any Task Force member. Delegate Convis-Fowler moved that Delegate Delaney be made Vice Chair. Ms. Boyle Berger seconded the motion. There was no opposition to the motion, no abstentions, and it passed unanimously.

Ms. Allen explained that the just adopted bylaws designated staff to serve as Secretary of the Task Force since the Secretary's responsibility is to keep meeting minutes.

Dr. Oliver suggested the Task Force address the electronic meetings policy. Ms. Allen reminded the Task Force that this policy would apply only once the COVID-19 state of emergency ended. Delegate Convis-Fowler asked what process the Task Force should use to accept the policy and Ms. Allen responded that the Freedom of Information Act called for public bodies to "adopt" such a policy, but she would check the statute to see if it

required a formal vote. Delegate Convirs-Fowler said it couldn't hurt to hold a vote. Ms. Boyle Berger moved that the Task Force adopt the electronic meetings policy as presented. Colonel Settle seconded the motion. Delegate Convirs-Fowler questioned portions of Section 7.1 of the policy, specifically that the Chair should ask for a challenge. Ms. Allen stated that the language could be removed since Code of Virginia § 2.2-3708.2 only discusses whether a request to participate electronically is approved or disapproved, so the Task Force could make approval automatic if the requesting member supplied the Chair with the required information. Delegate Convirs-Fowler moved that the original motion be amended so that the electronic meetings policy be adopted as amended to remove the language about asking for a challenge. Ms. Boyle Berger accepted the motion as a friendly amendment. There was no opposition to the motion, no abstentions, and it passed unanimously.

Ms. Boyle Berger asked what had been decided with regard to the frequency of the meetings. Dr. Oliver responded that had not been settled yet and that Dr. Price had suggested more frequent meetings. Dr. Sparks said that since there is approximately 18 months before the requirements go into effect, the Task Force should spend the first 6 months meeting more frequently before potentially moving to a less frequent full-group meeting schedule to utilize work groups instead. Dr. Sparks also suggested allowing for a 6 month information campaign. Ms. Boyle Berger suggested breaking into work groups, who could in turn present work to the full group for approval. Ms. Scaff stated she supported more frequent meetings at the outset. Ms. Boyle Berger suggested looking at other states and localized practices to model from. Ms. Scaff said that for her constituency in Hampton Roads, transfer was a large concern because the Children's Hospital of The King's Daughter served as a major hub for sexual assault services. Ms. Hall stated that southwest Virginia had very few resources and extremely limited SAFE availability.

Dr. Oliver questioned whether there was a way to both meet more frequently and have subject matter experts working between full meetings of the Task Force to pull information, resources, and deliverables together. Dr. Thomas stated she was not familiar with the subject matter expertise and resources of each member and suggested that the Task Force be surveyed before the next meeting so everyone would have a better understanding of what each can contribute, and build work groups from that information. Ms. Boyle Berger agreed and suggested that the survey should ask Task Force members to share existing transfer plans, treatment plans, and rape crisis center agreements, if available. Dr. Caley stated that geographic differences should be taken into consideration when discussing transfer planning and potentially regionalizing some of the deliverables. Dr. Thomas responded that she preferred standardized approaches based on her experiences, though she recognized differentiating based on specialties and services should be considered. Dr. Caley agreed, though she did have concerns about available resources in some geographic areas. Dr. Oliver agreed that a survey should be conducted as suggested, and for VDH staff to collect materials from individual Task Force members.

Dr. Oliver asked whether meeting every 2 to 3 months would be helpful. Dr. Price responded that she felt it should be more frequent and that the survey should distinguish between adult and pediatric survivors. Ms. Scaff said that persons age 0 to 17 should be considered pediatric. Dr. Thomas said that may be a discussion for another time since there was some debate about the pediatric cut-off. Dr. Jennings agreed with Dr. Thomas. Dr. Oliver asked if for the next 6 months, whether the Task Force should meet every month or every 2 months. Dr. Jennings stated that the Task Force should meet bimonthly. Ms. Hall agreed with Dr. Jennings. Dr. Oliver asked if there were any other suggestions, to which no one responded. Delegate Convirs-Fowler asked whether "bimonthly" was intended to mean once every 2 months or twice monthly. Dr. Jennings clarified that she meant twice monthly. Delegate Convirs-Fowler moved that the Task Force meet twice monthly. Dr. Jennings seconded the motion. There was no opposition to the motion, no abstentions, and it passed unanimously.

Ms. Allen suggested that the Task Force pick the next date and time of its meeting before adjourning. Dr. Oliver suggested that the Task Force meet the same time (8:30AM) on June 4th. Delegate Convirs-Fowler suggested that

it may be worth moving it to later in the day on June 7th. Dr. Oliver asked if the Task Force would like to schedule its next meeting at 11:00AM on June 7th. Ms. Scaff wanted to know whether the next meeting would be in-person or virtual. Ms. Allen responded that it depended on whether the COVID-19 state of emergency was still in effect on the selected meeting date; if yes, then it would be wholly remote but if no, then a physical quorum would be required at a single meeting location. Ms. Boyle Berger asked if the electronic meeting policy would allow non-Richmond-based Task Force members to participate remotely. Dr. Oliver said that was his understanding, which Ms. Allen confirmed but clarified there would have to be a physical quorum assembled in one place. Delegate Convis-Fowler asked whether the Task Force members participating remotely would count towards quorum, to which Ms. Allen stated they would not. Ms. Allen stated the Task Force could plan its next meeting as a virtual one, but needed to be aware that if the state of emergency ended before the meeting date, at least 8 members would have to assemble physically to meet the quorum requirement. Dr. Oliver and Ms. Boyle Berger stated they understood the Governor was planning on the state of emergency to end June 30, 2021. Dr. Thomas stated she preferred that a set date and time be selected to occur every other week. Dr. Jennings suggested that instead of settling the date now, a poll should be sent. Dr. Oliver asked Ms. Allen and Ms. Jansson send a meeting date and time poll after the meeting. Colonel Settle stated he may need to send a proxy, depending on the date and time selected.

## Next Steps

Ms. Allen and Ms. Jansson will send Task Force members:

- a poll to establish which date and time has the maximum availability of Task Force members for the next meeting; and
- a survey to determine what Task Force members' subject matter expertise is; what information and resources Task Force members have access to and can share with the group; and what deliverables each Task Force member is interested in contributing to.

## Other Business

No other business was discussed.

## Adjourn

Ms. Boyle Berger moved to adjourn the meeting. Meeting adjourned at 9:57am.