

Meeting of the Virginia Board of Medicine



October 14, 2021
8:30 a.m.

PLEASE NOTE

MASKS MUST BE WORN TO ENTER THE PERIMETER CENTER AND WHILE IN THE BUILDING, INCLUDING MEETINGS.

PUBLIC SEATING IS LIMITED AND WILL BE AVAILABLE ON A FIRST-COME, FIRST-SERVED BASIS.



Board of Medicine
Thursday, October 14, 2021 @ 8:30 a.m.
Perimeter Center
9960 Mayland Drive, Suite 201
Board Room 4
Henrico, VA 23233

Call to Order and Roll Call

Emergency Egress Procedures..... i

Disciplinary Matters for the Board’s Consideration

Introduction of New Board Members

Approval of Minutes from June 24, 20211

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====No motion needed to adjourn if all business has been conducted====



Agenda Item: Approval of the minutes from June 24, 2021

Staff Note: Draft minutes that have been posted on Regulatory Townhall and the Board's website are presented. Review and revise if necessary.

Action: Motion to approve minutes.

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

June 24, 2021

Department of Health Professions

Henrico, VA 23233

CALL TO ORDER: Mr. Marchese called the meeting to order at 8:32 a.m.

ROLL CALL: Ms. Opher called the roll; a quorum was established.

MEMBERS PRESENT: L. Blanton Marchese, Vice-President
David Archer, MD, Secretary-Treasurer
James Arnold, DPM
Amanda Barner, MD
Manjit Dhillon, MD
Alvin Edwards, MDiv, PhD
Jane Hickey, JD
Jacob Miller, DO
Karen Ransone, MD
Brenda Stokes, MD
Joel Silverman, MD
Ryan Williams, MD
Martha Wingfield
Khalique Zahir, MD

MEMBERS ABSENT: Lori Conklin, MD, President
Madge Ellis, MD
Milly Rambhia, MD
Ray Tuck, DC

STAFF PRESENT: William L. Harp, MD - Executive Director
Jennifer L. Deschenes, JD - Deputy Executive Director for Discipline
Colanthia M. Opher - Deputy Executive Director for Administration
Michael Sobowale, LLM – Deputy Executive Director for Licensure
Barbara Matusiak, MD - Medical Review Coordinator
David Brown, DC – DHP Director
Elaine Yeatts – DHP Senior Policy Analyst
Erin Barrett, JD - Assistant Attorney General & Board Counsel

OTHERS PRESENT: Dora Muhammad, Virginia Interfaith Center

EMERGENCY EGRESS: Mr. Marchese provided the emergency egress procedures for Board Room 2.

INTRODUCTION OF NEW BOARD MEMBER

In her absence, Dr. Harp presented a brief bio on Madge Ellis, MD, the new MD from the 9th Congressional District.

APPROVAL OF THE OCTOBER 22, 2020 MINUTES

Dr. Edwards moved to approve the October 22, 2020 minutes as presented. The motion was properly seconded and carried unanimously.

ADOPTION OF THE AGENDA

Dr. Edwards moved to accept the agenda as presented. The motion was properly seconded and carried unanimously.

PUBLIC COMMENT

Dora Muhammad, Congregation Engagement Director with the Virginia Interfaith Center for Public Policy, spoke in favor of the Board pursuing legislation to require continuing education in implicit bias.

REPORT OF THE DHP DIRECTOR -- David Brown, DC

Dr. Brown informed the participants that on June 30, 2021, when the declared state of emergency expires, the Board's authority to hold virtual meetings will cease along with any exceptions and exemptions to the licensing process. He advised that staff will be returning to the office in September, most likely with a hybrid schedule that allows teleworking and optional mask-wearing.

Dr. Brown also provided an overview of the Agency's efforts on diversity, equity and inclusion to include how an identified lack of diversity in leadership at DHP is being addressed. Dr. Brown also noted that DEI training will be included in future Board member orientations.

On behalf of Dr. Allison-Bryan, Dr. Brown presented a quick update on COVID-19 vaccinations in Virginia.

REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT

No report.

VICE-PRESIDENT

Mr. Marchese had no report

SECRETARY-TREASURER

Dr. Archer had no report.

EXECUTIVE DIRECTOR

Dr. Harp provided an update on the following items:

- 1- Board Cash Balance as of April 30, 2021 – Dr. Harp reminded the members that this is the third cycle of reduced renewal fees intended to bring the cash reserves into line with the law.
- 2- YTD Revenue and Expenditures – Dr. Harp stated that spending is within expectations for the year to date.
- 3- Electronic Meetings – 33 virtual meetings have been held so far. In-person meetings will resume in July.
- 4- Update on Opioid Waiver Requests – To date, the Board has received over 2,100 requests. The law allows a one-time waiver of 12 months for a prescriber; there is no extension past 12 months. The Board has the authority to grant waivers past the July 1, 2021, as long as it is a first waiver.
- 5- Letter to FSMB re: Physician Assistant Interstate Compact – The letter to FSMB included comments on the definition of “current significant investigative information”, criminal background checks, joint investigations, and as yet unknown fees for boards and licensees.
- 6- FSMB John H. Clark, MD Leadership Award – Dr. O’Connor was nominated for the award based on his leadership at the state board level, including his work with telemedicine, licensure, and the opioid regulations. He was awarded this honor at the FSMB Annual Meeting in April.
- 7- Board Members with Terms Expiring – The terms of Dr. Conklin, Dr. Tuck, Mr. Marchese, and Martha Wingfield expire June 30, 2021. Ms. Wingfield will not be seeking a second term.

COMMITTEE AND ADVISORY BOARD REPORTS

Dr. Edwards moved to accept all the minutes en bloc. The motion was properly seconded and carried unanimously.

OTHER REPORTS

Board Counsel

Ms. Barrett provided an update to the members on the following litigation:

Merchia v. Board of Medicine et al.
Moustafa v. Board of Medicine

Hill v. Board of Medicine

Garada v. Board of Medicine

Zackrison v. Ali et al.

Board of Health Professions (BHP)

This report was for informational purposes only.

Podiatry Report

Dr. Arnold had no report.

Chiropractic Report

No report.

Committee of the Joint Boards of Nursing and Medicine

Dr. Ransone mentioned the work being done by the Joint Boards, including HB1737, which reduces the number of years of clinical experience to qualify for autonomous practice from 5 to 2.

Report of the 2020 Physician Workforce Survey

Dr. Shobo presented the trends in the physician workforce including age, gender, the shifting gender and age distribution, median debt, income and retirement intentions. Several Board members asked questions that Dr. Shobo will research and provide responses to at the next meeting of the full Board.

Break

Mr. Marchese called for a recess at 9:41 a.m.; the meeting reconvened at 9:53 a.m.

NEW BUSINESS:

1. Regulatory and Legislative Issues

Chart of Regulatory Actions

Ms. Yeatts provided an update on the status of regulatory actions as of June 14, 2021. This report was for informational purposes only and did not require action.

Regulatory/Policy Actions – 2021 General Assembly

Ms. Yeatts did a quick review of legislation from the 2021 Session and the actions that the Board needs to take.

2. Regulatory Action – Final Rules for Prohibition on Practice of Conversion Therapy

Ms. Yeatts advised that the final regulations are identical to the proposed regulations, and that identical regulations for Nurse Practitioners were adopted by the Board of Nursing on May 18th.

MOTION: Dr. Edwards moved to adopt the final regulations to amend 18VAC85-20 (Medicine) and 18VAC90-30 (Nurse Practitioners) as presented. The motion was properly seconded and passed unanimously.

3. Adoption of Proposed Regulations for Surgical Assistant/Surgical Technologist Regulations

Ms. Yeatts referred to the Notice of Intended Regulatory Action (NOIRA) posted on Town Hall and the proposed regulations as recommended by the Advisory Board on Surgical Assisting. She noted no comments had been received on the NOIRA.

MOTION: After a brief discussion, Dr. Miller moved to adopt the proposed regulations as recommended by the Advisory Board. The motion was properly seconded and carried unanimously.

4. Exempt Regulatory Action – Genetic Counselors

Ms. Yeatts explained that in promulgating the regulations for the licensure of genetic counselors in 2014, the Board adopted 18VAC85-150-170(B) to implement the “conscience clause” that was included in the original legislation. Now that the Code Section containing the conscience clause has been repealed, this regulation can be repealed.

MOTION: After a brief discussion, Dr. Williams moved to delete 18VAC85-150-170(B). The motion was properly seconded and carried unanimously.

5. Exempt Regulatory Action – Certification of Surgical Technologists

Ms. Yeatts advised that this exemption was being presented as an exempt action to conform the regulations to changes in the statute.

MOTION: Dr. Dhillon moved to amend the regulations for surgical technologists to reflect the change from registration to certification. The motion was properly seconded and carried unanimously.

Dr. Archer asked if the training received as a surgical technologist was comparable to a formal training program. Ms. Yeatts stated that individuals who have practiced as a surgical technologist for at least six (6) months prior to July 1, 2021 can be grandfathered into licensure.

6. Exempt Regulatory Action – Physician Assistants

Ms. Yeatts advised the draft amendments are to conform 18VAC85-50 et seq. to changes in the Code. It was noted that a physician assistant can now have a practice agreement with one or more patient care team physicians. Further, she stated that new language in the Code reduces the level of vicarious liability for patient care team physicians and podiatrists. *“Service as part of a patient care team by a patient care team physician or patient care team podiatrist shall not by the existence of such service alone, establish or create vicarious liability for the actions or inactions of other team members.”*

MOTION: Dr. Arnold moved to adopt the amended regulation as an exempt action. The motion was properly seconded and carried unanimously.

7. Guidance Document – Revision of 85-10

Ms. Yeatts stated that in 2013-2014, a workgroup comprised of physicians and licensed midwives developed the original guidance document listing the high-risk conditions for which disclosure by a midwife is required. Guidance Document 85-10 was reviewed on May 17, 2021 by a newly established workgroup comprised of three Advisory Board on Midwifery members and three Board of Medicine members. Agreed-upon revisions are being presented for adoption.

Dr. Archer thanked the Advisory Board members for their contributions, noting that most of the work was accomplished by them prior to the May 17th meeting. He said that this document covers the risks to the mother and fetus and presents recommendations for continuing care by the midwife, or for referral to another practitioner.

MOTION: Dr. Miller moved to approve the revisions to Guidance Document 85-10 as recommended by the workgroup and the Advisory Board on Midwifery. The motion was properly seconded and carried unanimously.

8. Request from Virginia Society of Eye Physicians and Surgeons (VSEPS) & Virginia Ambulatory Surgery Association (VASA)

Dr. Harp led the members through the communications received from representatives of both entities. He explained the reasoning behind the Legislative Committee’s recommendation to decline the formation of a workgroup.

After a brief discussion, the members were in agreement that enough authority exists in the current law and regulations to hold practitioners to an appropriate standard of care in any setting.

MOTION: Dr. Miller moved to accept the recommendation of the Legislative Committee not to establish a workgroup to set a single standard of care for ophthalmologic and other surgeries. The motion was properly seconded and carried unanimously.

9. Request for a Guidance Document on Benzodiazepines

Dr. Silverman provided an overview of this topic as discussed at the May 21, 2021 Legislative Committee meeting. He stated that Dr. Granoff was a proponent for the use of benzodiazepines and had voiced concern that physicians have become reluctant to prescribe them. The Legislative Committee members established that there are no restrictions in the current law and regulations that prohibit practitioners from prescribing benzodiazepines based on a patient's need. Therefore, the determination by the Committee was not to recommend the development of a guidance document.

MOTION: Dr. Miller moved to accept the recommendation of the Legislative Committee not to develop a guidance document on benzodiazepines. The motion was properly seconded and carried unanimously.

10. Request from the Virginia Interfaith Center for Public Policy

Mr. Marchese reminded the members of public comment from Ms. Muhammad received at the top of the meeting and then provided an overview of the discussion at the Legislative Committee meeting. He also reminded the members that the Board is limited in its authority to require continuing education requirements.

MOTION: Dr. Brown suggested the Board consider legislation that would authorize the Board of Medicine to require 2 hours of education on a topic each biennium for renewal. The first required topic could be implicit bias. After further discussion, Dr. Miller moved to have a concise and objective packet on implicit bias placed in the Board Briefs. The motion was properly seconded and carried unanimously.

MOTION: Dr. Stokes then moved for the staff to seek statutory authority similar to that of the Board of Pharmacy, whereby the Board of Medicine could designate 2 hours of CE in place of the current opioid CE requirement. The Board acknowledged Dr. Archer's concern about mandating specific educational hours. With no additional discussion, the motion was seconded and passed with one member opposing.

MOTION: After discussing how to incentivize practitioners to take advantage of educational courses, Dr. Arnold moved to grant Type 1 hours for certain implicit bias training courses identified in the Board briefs. The motion was properly seconded and carried.

BREAK: Mr. Marchese called for a break at 11:24 a.m.; the meeting reconvened at 11:37 a.m.

11. Impacting Continuity of Care by Additions to Guidance Document 85-12 on Telemedicine

Dr. Harp reminded the Board that the patient's location is considered to be the site of practice. Virginia has always required that an out-of-state practitioner hold a full license in order to treat Virginia residents via telemedicine. During the pandemic, out-of-state practitioners were authorized to follow Virginia residents by telemedicine with whom there was already an established practitioner-patient relationship. With the upcoming expiration of Executive Order 57, the Board is fielding questions as to what happens in regards to telemedicine follow-up with Virginia patients.

Dr. Harp then presented a draft copy of a new **Section Five: Electronic Medical Services That Do Not Require License** for incorporation into Guidance Document 85-12 on Telemedicine.

During the discussion, the members agreed that clarification would be beneficial and accepted the recommended changes with the exception of the COVID-19 language. With no further dialogue, Dr. Ransone moved to accept the draft language as amended. The motion was seconded and passed unanimously.

12. Licensing Report

Mr. Sobowale provided an update on the licensing trends and asked the Board to consider updating Guidance Document 85-9, Policy on the allowed number of USMLE Attempts. FSMB and NBME have decreased the number of attempts at each Step from six to four.

MOTION: Dr. Miller moved to refer this to the Credentials Committee. The motion was properly seconded and passed unanimously.

13. Discipline Report

Ms. Deschenes provided a brief report on the status of cases. She noted that the rate of the Board's disciplinary activity has remained consistent in spite of limitations brought on by COVID-19.

14. Meetings for 2022

Mr. Marchese encouraged everyone to check their calendars to ensure their availability for the 2022 meetings and to forward any questions or concerns to Ms. Opher.

15. Presentation of Plaques

Mr. Marchese read the inscriptions for the service plaques of Dr. Conklin, Dr. Tuck and Ms. Wingfield. By a round of applause, the members and staff thanked them for their service to the Board and the Commonwealth.

16. Report of the Nominating Committee

Dr. Ransone, Chair of the Nominating Committee, presented the slate of officers:

- Blanton Marchese – President
- David Archer, MD – Vice-President
- Alvin Edwards, MDiv, PhD – Secretary-Treasurer

From the floor, Dr. Williams nominated Amanda Barner, MD for the office of Secretary-Treasurer. Dr. Edwards graciously withdrew his name, and the Board unanimously accepted the amended slate.

17. Passing of the Gavel

18. Adjournment

With no other business to discuss, the meeting adjourned at approximately 12:34 p.m.

Blanton Marchese
Vice-President, Chair

William L. Harp, MD
Executive Director

Colanthia Morton Opher
Recording Secretary

Agenda Item: Director's Report

Staff Note: None.

Action: Informational presentation. No action required.

Agenda Item: Report of Officers

- Staff Note:**
- ♦ President
 - ♦ Vice-President
 - ♦ Secretary-Treasurer
 - ♦ Executive Director

Action: Informational presentation. No action required.

Agenda Item: **Executive Director's Report**

Staff Note: All items for information only

Action: None.

Virginia Department of Health Professions
Cash Balance
As of June 30, 2021

102- Medicine

Board Cash Balance as June 30, 2020	\$ 9,298,608
YTD FY21 Revenue	8,032,801
Less: YTD FY21 Direct and Allocated Expenditures	<u>8,419,421</u>
Board Cash Balance as June 30, 2021	<u><u>\$ 8,911,989</u></u>

Virginia Department of Health Professions
 Revenue and Expenditures Summary
 Department 10200 - Medicine
 For the Period Beginning July 1, 2020 and Ending June 30, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	1,655,262.00	1,414,774.00	(240,488.00)	117.00%
4002406	License & Renewal Fee	6,344,386.00	6,273,362.00	(71,024.00)	101.13%
4002407	Dup. License Certificate Fee	8,035.00	3,375.00	(4,660.00)	238.07%
4002408	Board Endorsement - In	-	-	-	0.00%
4002409	Board Endorsement - Out	800.00	49,820.00	49,020.00	1.61%
4002421	Monetary Penalty & Late Fees	15,440.00	94,179.00	78,739.00	16.39%
4002432	Misc. Fee (Bad Check Fee)	535.00	175.00	(360.00)	305.71%
4002660	Administrative Fees	-	-	-	0.00%
	Total Fee Revenue	<u>8,031,727.00</u>	<u>7,835,685.00</u>	<u>(196,042.00)</u>	<u>102.50%</u>
4003000	Sales of Prop. & Commodities				
4003020	Misc. Sales-Dishonored Payments	824.00	-	(824.00)	0.00%
	Total Sales of Prop. & Commodities	<u>1,074.00</u>	<u>-</u>	<u>(1,074.00)</u>	<u>0.00%</u>
	Total Revenue	<u>8,032,801.00</u>	<u>7,835,685.00</u>	<u>(197,116.00)</u>	<u>102.52%</u>
5011110	Employer Retirement Contrib.	180,588.26	189,919.65	9,331.39	95.09%
5011120	Fed Old-Age Ins- Sal St Emp	91,307.35	93,721.45	2,414.10	97.42%
5011140	Group Insurance	17,195.85	17,599.75	403.90	97.71%
5011150	Medical/Hospitalization Ins.	198,163.64	222,548.88	24,385.24	89.04%
5011160	Retiree Medical/Hospitalizatn	14,413.98	14,710.24	296.26	97.99%
5011170	Long term Disability Ins	7,043.10	8,011.82	968.72	87.91%
	Total Employee Benefits	<u>508,712.18</u>	<u>546,511.79</u>	<u>37,799.61</u>	<u>93.08%</u>
5011200	Salaries				
5011230	Salaries, Classified	1,256,303.64	1,313,413.93	57,110.29	95.65%
5011250	Salaries, Overtime	7,216.10	-	(7,216.10)	0.00%
	Total Salaries	<u>1,263,519.74</u>	<u>1,313,413.93</u>	<u>49,894.19</u>	<u>96.20%</u>
5011300	Special Payments				
5011310	Bonuses and Incentives	212.32	-	(212.32)	0.00%
5011340	Specified Per Diem Payment	5,500.00	-	(5,500.00)	0.00%
5011380	Deferred Compnstrn Match Pmts	5,257.60	8,817.60	3,560.00	59.63%
	Total Special Payments	<u>10,969.92</u>	<u>8,817.60</u>	<u>(2,152.32)</u>	<u>124.41%</u>
5011400	Wages				
5011410	Wages, General	62,615.70	102,000.00	39,384.30	61.39%
5011430	Wages, Overtime	102.00	-	(102.00)	0.00%
	Total Wages	<u>62,717.70</u>	<u>102,000.00</u>	<u>39,282.30</u>	<u>61.49%</u>
5011530	Short-trm Disability Benefits	28,432.51	-	(28,432.51)	0.00%
	Total Disability Benefits	<u>28,432.51</u>	<u>-</u>	<u>(28,432.51)</u>	<u>0.00%</u>
5011600	Terminatn Personal Svce Costs				
5011660	Defined Contribution Match - Hy	4,640.58	-	(4,640.58)	0.00%
	Total Terminatn Personal Svce Costs	<u>8,521.12</u>	<u>-</u>	<u>(8,521.12)</u>	<u>0.00%</u>
5011930	Turnover/Vacancy Benefits				
	Total Personal Services	<u>1,882,873.17</u>	<u>1,970,743.32</u>	<u>87,870.15</u>	<u>95.54%</u>

Virginia Department of Health Professions
 Revenue and Expenditures Summary
 Department 10200 - Medicine
 For the Period Beginning July 1, 2020 and Ending June 30, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012000	Contractual Svcs				
5012100	Communication Services				
5012110	Express Services	-	5,997.00	5,997.00	0.00%
5012120	Outbound Freight Services	4,815.65	-	(4,815.65)	0.00%
5012140	Postal Services	78,368.96	66,802.00	(11,566.96)	117.32%
5012150	Printing Services	49.51	3,026.00	2,976.49	1.64%
5012160	Telecommunications Svcs (VITA)	10,467.44	10,500.00	32.56	99.69%
5012170	Telecomm. Svcs (Non-State)	1,080.00	-	(1,080.00)	0.00%
5012190	Inbound Freight Services	175.99	35.00	(140.99)	502.83%
	Total Communication Services	94,957.55	86,360.00	(8,597.55)	109.96%
5012200	Employee Development Services				
5012210	Organization Memberships	6,829.00	7,228.00	399.00	94.48%
5012240	Employee Training/Workshop/Conf	2,415.00	4,283.00	1,868.00	56.39%
5012270	Emp Trning- Trns, Ldng & Meals	-	-	-	0.00%
	Total Employee Development Services	9,244.00	11,511.00	2,267.00	80.31%
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	2,298.00	2,298.00	0.00%
	Total Health Services	-	2,298.00	2,298.00	0.00%
5012400	Mgmt and Informational Svcs				
5012420	Fiscal Services	133,721.87	119,963.00	(13,758.87)	111.47%
5012440	Management Services	1,275.35	1,797.00	521.65	70.97%
5012470	Legal Services	2,829.85	5,579.00	2,749.15	50.72%
	Total Mgmt and Informational Svcs	150,708.28	127,339.00	(23,369.28)	118.35%
5012500	Repair and Maintenance Svcs				
5012510	Custodial Services	3,282.70	-	(3,282.70)	0.00%
5012530	Equipment Repair & Maint Srvc	11,592.40	1,705.00	(9,887.40)	679.91%
	Total Repair and Maintenance Svcs	14,875.10	1,705.00	(13,170.10)	872.44%
5012600	Support Services				
5012630	Clerical Services	95,411.74	160,729.00	65,317.26	59.36%
5012640	Food & Dietary Services	4,487.01	12,698.00	8,210.99	35.34%
5012660	Manual Labor Services	18,443.65	24,912.00	6,468.35	74.04%
5012670	Production Services	116,513.17	153,625.00	37,111.83	75.84%
5012680	Skilled Services	407,083.21	531,779.00	124,695.79	76.55%
	Total Support Services	641,938.78	883,743.00	241,804.22	72.64%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	8,638.00	25,626.00	16,988.00	33.71%
5012830	Travel, Public Carriers	439.49	4,170.00	3,730.51	10.54%
5012850	Travel, Subsistence & Lodging	4,695.33	21,524.00	16,828.67	21.81%
5012880	Trvl, Meal Reimb- Not Rprtble	2,629.50	7,407.00	4,777.50	35.50%
	Total Transportation Services	16,402.32	58,727.00	42,324.68	27.93%
	Total Contractual Svcs	928,126.03	1,171,683.00	243,556.97	79.21%
5013000	Supplies And Materials				

Virginia Department of Health Professions
 Revenue and Expenditures Summary
 Department 10200 - Medicine
 For the Period Beginning July 1, 2020 and Ending June 30, 2021

Account Number	Account Description	Amount	Budget	Amount	% of Budget
				Under/(Over) Budget	
5013100 Administrative Supplies					
5013110	Apparel Supplies	113.32	-	(113.32)	0.00%
5013120	Office Supplies	20,664.86	14,609.00	(6,055.86)	141.45%
5013130	Stationery and Forms	-	3,614.00	3,614.00	0.00%
	Total Administrative Supplies	20,778.18	18,223.00	(2,555.18)	114.02%
5013300 Manufctrng and Merch Supplies					
5013350	Packaging & Shipping Supplies	-	94.00	94.00	0.00%
	Total Manufctrng and Merch Supplies	-	94.00	94.00	0.00%
5013400 Medical and Laboratory Supp.					
5013420	Medical and Dental Supplies	16.26	-	(16.26)	0.00%
	Total Medical and Laboratory Supp.	16.26	-	(16.26)	0.00%
5013500 Repair and Maint. Supplies					
5013510	Building Repair & Maint Materl	42.85	-	(42.85)	0.00%
5013520	Custodial Repair & Maint MatrI	5.91	-	(5.91)	0.00%
	Total Repair and Maint. Supplies	48.76	-	(48.76)	0.00%
5013600 Residential Supplies					
5013620	Food and Dietary Supplies	-	528.00	528.00	0.00%
5013630	Food Service Supplies	-	1,129.00	1,129.00	0.00%
	Total Residential Supplies	-	1,657.00	1,657.00	0.00%
5013700 Specific Use Supplies					
5013730	Computer Operating Supplies	142.58	166.00	23.42	85.89%
	Total Specific Use Supplies	142.58	166.00	23.42	85.89%
	Total Supplies And Materials	20,985.78	20,140.00	(845.78)	104.20%
5014000 Transfer Payments					
5014100 Awards, Contrib., and Claims					
5014130	Premiums	-	-	-	0.00%
	Total Awards, Contrib., and Claims	-	-	-	0.00%
	Total Transfer Payments	-	-	-	0.00%
5015000 Continuous Charges					
5015100 Insurance-Fixed Assets					
5015160	Property Insurance	-	485.00	485.00	0.00%
	Total Insurance-Fixed Assets	-	485.00	485.00	0.00%
5015300 Operating Lease Payments					
5015340	Equipment Rentals	8,412.63	7,200.00	(1,212.63)	116.84%
5015350	Building Rentals	641.60	-	(641.60)	0.00%
5015360	Land Rentals	-	100.00	100.00	0.00%
5015390	Building Rentals - Non State	152,897.16	144,636.00	(8,261.16)	105.71%
	Total Operating Lease Payments	161,951.39	151,936.00	(10,015.39)	106.59%
5015400 Service Charges					
5015470	Private Vendor Service Charges:	(0.00)	-	0.00	0.00%
	Total Service Charges	(0.00)	-	0.00	0.00%

Virginia Department of Health Professions
 Revenue and Expenditures Summary
 Department 10200 - Medicine
 For the Period Beginning July 1, 2020 and Ending June 30, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5015500	Insurance-Operations				
5015510	General Liability Insurance	-	1,828.00	1,828.00	0.00%
5015540	Surety Bonds	-	108.00	108.00	0.00%
	Total Insurance-Operations	<u>-</u>	<u>1,936.00</u>	<u>1,936.00</u>	<u>0.00%</u>
	Total Continuous Charges	161,951.39	154,357.00	(7,594.39)	104.92%
5022000	Equipment				
5022100	Computer Hrdware & Sftware				
5022170	Other Computer Equipment	11,598.07	-	(11,598.07)	0.00%
	Total Computer Hrdware & Sftware	<u>11,613.07</u>	<u>-</u>	<u>(11,613.07)</u>	<u>0.00%</u>
5022600	Office Equipment				
5022630	Office Incidentals	-	-	-	0.00%
5022640	Office Machines	-	1,250.00	1,250.00	0.00%
	Total Office Equipment	<u>1,767.92</u>	<u>1,392.00</u>	<u>(375.92)</u>	<u>127.01%</u>
5022700	Specific Use Equipment				
5022710	Household Equipment	130.61	-	(130.61)	0.00%
5022740	Non Power Rep & Maint- Equip	9.62	-	(9.62)	0.00%
	Total Specific Use Equipment	<u>140.23</u>	<u>-</u>	<u>(140.23)</u>	<u>0.00%</u>
	Total Equipment	<u>13,521.22</u>	<u>2,221.00</u>	<u>(11,300.22)</u>	<u>608.79%</u>
	Total Expenditures	<u>3,007,457.59</u>	<u>3,319,144.32</u>	<u>311,686.73</u>	<u>90.61%</u>
	Allocated Expenditures				
30100	Data Center	843,480.62	1,126,420.08	282,939.46	74.88%
30200	Human Resources	81,909.32	84,716.17	2,806.85	96.69%
30300	Finance	416,961.00	435,541.60	18,580.60	95.73%
30400	Director's Office	140,687.94	156,493.77	15,805.83	89.90%
30500	Enforcement	2,339,720.42	2,522,862.12	183,141.69	92.74%
30600	Administrative Proceedings	1,046,679.85	1,278,297.24	231,617.39	81.88%
30700	Impaired Practitioners	29,234.94	48,292.08	19,057.14	60.54%
30800	Attorney General	335,937.87	350,592.62	14,654.75	95.82%
30900	Board of Health Professions	112,731.04	117,795.97	5,064.93	95.70%
31100	Maintenance and Repairs	1,746.68	10,911.33	9,164.65	16.01%
31300	Emp. Recognition Program	1,162.18	5,693.26	4,531.08	20.41%
31400	Conference Center	7,656.72	1,580.92	(6,075.80)	484.32%
31500	Pgm Devlpmnt & Implmentn	54,054.57	70,163.00	16,108.44	77.04%
	Total Allocated Expenditures	<u>5,411,963.15</u>	<u>6,209,360.17</u>	<u>797,397.02</u>	<u>87.16%</u>
	Net Revenue in Excess (Shortfall) of Expenditures	<u>\$ (386,619.74)</u>	<u>\$ (1,692,819.49)</u>	<u>\$ (1,306,199.75)</u>	<u>22.84%</u>

UDATE ON WAIVERS FOR ELECTRONIC PRESCRIBING OF OPIOIDS

The Board of Medicine began issuing waivers for the electronic transmission of opioid prescriptions in April 2020. The law governing this matter allows the Board to issue 1 waiver for up to a year. There is no allowance for an extension of the waiver or the issuance of a second waiver. If you have been issued a waiver by the Board, it expires 1 year from the date of your being notified that you were issued the waiver. Going forward, those that have not been issued a waiver may make a request to the Board by using the following electronic form.

<https://www.dhp.virginia.gov/forms/OpioidWaiverRequest/default.asp>

IMPLICIT BIAS

Several months ago, the Virginia Interfaith Center approached the Board of Medicine with the suggestion that the quality of minority maternal-infant care could be improved by requiring training in implicit bias for the Board's licensees. The Board thoughtfully considered this request and decided to take two steps. The first was to include some resources for licensees in the Board Briefs. A short list is below. The Board has determined that these activities qualify for Type 1 Continuing Education for the purposes of renewal of your license. You can claim up to 2 hours of Type 1 CE for these activities. The first item below is a 30-minute video that provides a good overview of the issue of bias in healthcare. The others are written materials that address their title topics. The second step that the Board of Medicine took was to send a legislative proposal forward to that will grant the Board the authority to require 2 hours of continuing education on a selected topic each biennium in anticipation of license renewal.

- AAMC: Exploring Unconscious Bias in Academic Medicine (Video)

<https://www.youtube.com/watch?v=eadpfj3Br4c>

- APHA: Patient Race/Ethnicity and Quality of Patient-Physician Communication During Medical Visits

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1448596/pdf/0942084.pdf>

- American Psychological Association: CE – How Does Implicit Bias by Physicians Affect Patients' Health Care?

<https://www.apa.org/monitor/2019/03/ce-corner>

- HHS Office of Minority Health "Think Cultural Health Initiative": Culturally and Linguistically Appropriate Services in Maternal Health Care

<https://www.aafp.org/news/education-professional-development/20210415mhccme.html>

- Oregon Medical Board: Cultural Competency – A Practical Guide for Medical Professionals (Although this guide is written for Oregon practitioners, much of its content is applicable to healthcare providers in all states.)

<https://www.oregon.gov/omb/Topics-of-Interest/Documents/CulturalCompetencyBooklet.pdf>

VIRGINIA BOARD OF MEDICINE

Committee Appointments

2021-2022

EXECUTIVE COMMITTEE (8)

L. Blanton Marchese, President, Chair
David Archer, MD, **Vice-President**
Amanda Barner, MD, **Secretary/Treasurer**
Alvin Edwards, PhD
Jane Hickey, JD
Karen Ransone, MD
Joel Silverman, MD
Brenda Stokes, MD

LEGISLATIVE COMMITTEE (7)

David Archer, MD, Vice-President, Chair
James Arnold, DPM
Jane Hickey, JD
Oliver Kim, LLM
Jacob Miller, DO
Joel Silverman, MD
Ryan Williams, MD

CREDENTIALS COMMITTEE (9)

Jacob Miller, DO, Chair
Manjit Dhillon, MD
Alvin Edwards, PhD
Madge Ellis, MD
Jane Hickey, JD
Pradeep Pradhan, MD
Milly Rambhia, MD
Jennifer Rathmann, DC
Khalique Zahir, MD

FINANCE COMMITTEE

L. Blanton Marchese, **President**
David Archer, MD, **Vice-President**
Amanda Barner, MD, **Secretary/Treasurer**

BOARD BRIEFS COMMITTEE

William L. Harp, M.D., Ex Officio

CHIROPRACTIC COMMITTEE

Jennifer Rathmann, DC

BOARD OF HEALTH PROFESSIONS

Brenda Stokes, MD

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

David Archer, MD, **Vice-President**
Blanton Marchese, **President**
Ryan Williams, MD

Agenda Item: Committee Reports

Staff Note: Please note Committee assignments and minutes of meetings since June 24, 2021.

Action: Motion to accept minutes as reports to the Board.

**VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES**

Friday, August 6, 2021

Department of Health Professions

Henrico, VA

CALL TO ORDER: Mr. Marchese called the meeting of the Executive Committee to order at 8:36 a.m.

ROLL CALL: Ms. Opher called the roll; a quorum was established.

MEMBERS PRESENT: Blanton Marchese – President, Chair
David Archer, MD – Vice-President
Amanda Barner, MD - Secretary-Treasurer
Alvin Edwards, MDiv, PhD
Jane Hickey, JD
Joel Silverman, MD
Brenda Stokes, MD

MEMBERS ABSENT: Karen Ransone, MD

STAFF PRESENT: William L. Harp, MD - Executive Director
Jennifer Deschenes, JD - Deputy Exec. Director for Discipline
Colanthia Morton Opher - Deputy Exec. Director for Administration
Michael Sobowale, LLM - Deputy Exec. Director for Licensure
Barbara Matusiak, MD, Medical Review Coordinator
Barbara Allison-Bryan, MD - DHP Deputy Director
Elaine Yeatts - DHP Senior Policy Analyst
Erin Barrett, JD – Assistant Attorney General

OTHERS PRESENT: Clark Barrineau - MSV
Scott Johnson, JD – MSV & Hancock Daniel

EMERGENCY EGRESS INSTRUCTIONS

Dr. Archer provided the emergency egress instructions for Conference Room 4.

APPROVAL OF MINUTES OF APRIL 9, 2021

Dr. Edwards moved to approve the minutes from April 9, 2021 virtual meeting as presented. The motion was seconded by Dr. Stokes and carried unanimously.

~~---DRAFT UNAPPROVED---~~

ADOPTION OF AGENDA

Dr. Edwards moved to adopt the agenda as presented. The motion was seconded by Dr. Stokes and carried unanimously.

PUBLIC COMMENT

The Committee heard comment from Clark Barrineau, Assistant Vice-President for Government Affairs and Health Policy with the Medical Society of Virginia (MSV), on HB 793 and HB 1737. He stated that, upon review of the preliminary report, there was no data to support that autonomous practice by Nurse Practitioners (NP's) with 5 years of clinical experience provided more access to care for patients. Additionally, he pointed out that there was no Virginia-specific evidence to suggest that a further reduction from 5 years to 2 years will increase access. In closing, Mr. Barrineau urged the Committee to recommend to the Full Board that 5 years of clinical experience for autonomous practice remain a requirement for NP's.

DHP DIRECTOR'S REPORT

Dr. Allison-Bryan provided an update on:

- 1- Virginia's vaccination efforts emphasizing the message being directed at unvaccinated people.
- 2- The mandate for Commonwealth of Virginia employees to show evidence of vaccination or be tested weekly.
- 3- EO77 that reduces Virginia's reliance on single-use plastic products and reduces waste sent to landfills. The Board of Medicine is already looking into biodegradable utensils and will not be providing bottled water for Board and staff after the Board's current supply is gone.
- 4- Leslie Knachel has assumed leadership of the Board of Health Professions to allow Dr. Elizabeth Carter to devote more time to the Healthcare Workforce Data Center.

PRESIDENT'S REPORT

Mr. Marchese reported that he, Dr. Harp, Ms. Opher, Mr. Sobowale and Dr. Allison-Bryan met with Jeff Lunardi, Executive Director for the Joint Commission on Health Care, and Ashely Williams, Virginia Management Fellow and Assistant Health Policy Analyst. The meeting was to discuss the Board of Medicine's decision not to join the Interstate Medical Licensure Compact and the Board's current process to expedite licenses.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp provided a brief report on the Board's finances and said that the FY2023-2024 budget request includes another FTE to handle the increase in workload for endorsement, compact,

~~---DRAFT UNAPPROVED---~~

and reinstatement licensing. He also mentioned the Board members whose terms have expired and gave an overview of the appointment process. He noted that the Office of the Secretary of the Commonwealth is working diligently to appointment new members as quickly as possible.

NEW BUSINESS

1. Regulatory and Legislative Issues – Elaine Yeatts

Ms. Yeatts presented the chart of regulatory actions as of July 28, 2021. She noted that 18VAC85-160 Regulations Governing the Licensure of Surgical Assistants and Registration of Surgical Technologists were currently at the Department of Planning and Budget.

She also highlighted several 2021 General Assembly Regulatory/Policy Actions including SB1189, which requires emergency regulations for the Occupational Therapy Compact.

Both of these items were for informational purposes only and did not require any action.

2. Regulatory Action – Adoption of Emergency Regulations

Ms. Yeatts advised that SB1189 of the 2021 General Assembly adopted the Occupational Therapy Compact, thereby making Virginia its first member state. She said that the regulations to implement the Compact must include a fee for the initial Compact privilege and a biennial renewal fee to continue the privilege to practice. A Compact privilege in Virginia will hold OT's and OTA's privileged to practice in Virginia to the laws and regulations of the Board of Medicine. She also advised that the regulations presented for consideration were discussed with the members of the Advisory Board on Occupational Therapy on May 25th.

MOTION: Dr. Edwards moved to approve the emergency regulations for implementation of the Occupational Therapy Compact and to adopt a Notice of Intended Regulatory Action to replace the emergency regulations. The motion was seconded by Dr. Stokes and carried unanimously.

3. Adoption of Exempt Regulations Pursuant to 2021 Legislation

Ms. Yeatts provided a summary of the following:

1. HB1737 – Practice of Nurse Practitioners without practice agreements (reduction of years in clinical practice to qualify for autonomous practice from 5 years to 2 years).
2. HB1747 – Practice of Clinical Nurse Specialists (CNS) as Nurse Practitioners (elimination of registration of CNS's under the Board of Nursing and initiation of licensure under the Joint Boards; requirement for a practice agreement; prescriptive authority for CNS's who qualify)

---DRAFT UNAPPROVED---

3. HB1817 – Practice of Certified Nurse Midwives (CNM) without a practice agreement (1,000 hours of clinical practice under a practice agreement with a patient care team physician OR with a certified nurse midwife who has at least 2 years of experience required for autonomous practice).

Ms. Yeatts noted that the amendments may be adopted as an exempt action because they have been reviewed by the Assistant Attorney General and determined to conform the regulations to the changes in the Code. The draft regulations were reviewed by the Committee of the Joint Boards and recommended for adoption in June, and the Board of Nursing adopted the changes to Title 54.1-Chapters 30 and 40 on July 20th.

MOTION: Dr. Edwards moved to adopt changes to Chapters 30 (Nurse Practitioners) and 40 (Prescriptive Authority for NP's) to conform the regulations to the changes in the Code of Virginia. The motion was seconded by Dr. Stokes and carried unanimously.

4. Adoption of Proposed Regulations for Clinical Nurse Specialist Registration as a Fast-Track Action

Ms. Yeatts highlighted the necessary changes for renewal of licenses for CNS's (HB1747). She stated that the changes are not simply to conform to the Code, so they cannot be deemed exempt regulatory actions. She also advised that the Board of Nursing adopted these changes on July 20th.

MOTION: Dr. Edwards moved to adopt the amendments as proposed regulations by a fast-track action. The motion was seconded by Dr. Stokes and carried unanimously.

5. Board Action – Adoption of Notice of Intended Regulatory Action (NOIRA) – Licensed Certified Midwives

Ms. Yeatts stated that the NOIRA will identify the general requirements for licensure, renewal, and practice of Licensed Certified Midwives (LCM) under the joint regulation of the Boards of Nursing and Medicine. She also noted that the Board of Nursing adopted the NOIRA on July 20th.

MOTION: Dr. Edwards moved to approve the issuance of a Notice of Intended Regulatory Action to promulgate a new chapter in the Administrative Code for the licensure of LCM's. The motion was seconded by Dr. Stokes and carried unanimously.

6. Adoption of Final Regulations for Waiver of Electronic Prescribing

Ms. Yeatts reviewed the proposed amendments to 18VAC90-40, Regulations Governing Prescriptive Authority for Nurse Practitioners. She advised that the amendments were identical to the emergency regulations that became effective on December 23, 2019. No comment has been received on these proposed final regulations.

MOTION: Dr. Edwards moved to adopt the final regulations for nurse practitioners to replace the emergency regulations for a temporary waiver for e-prescribing of opioids. The motion was seconded by Dr. Stokes and carried unanimously.

---DRAFT UNAPPROVED---

7. Guidance Document – Revision of 90-56 – Practice Agreements for Nurse Practitioners

Ms. Yeatts advised that Guidance Document 90-56 on practice agreements has been substantially revised to conform the guidance to statutory revisions from the 2021 Session of the General Assembly. She noted that the Board of Nursing adopted the revised document on July 20th, and it must be jointly adopted by the Board of Medicine.

MOTION: Dr. Edwards moved to adopt the revised Guidance Document 90-56 as presented. The motion was seconded by Dr. Stokes and carried unanimously.

8. Report on the Implementation of HB 793 (2018)

Mr. Marchese led the discussion on this report. He reminded the Committee that in 2018, HB793 established a pathway to autonomous practice for nurse practitioners. The Enactment Clause in the bill requires the Boards of Nursing and Medicine to report certain data to the Chairmen of the House Committee on Health, Welfare and Institutions, the Senate Committee on Education and Health, and the Joint Commission on Health Care by November 1, 2021.

Board members reviewed the Enactment Clause and the Draft Report, as well as comment from the Medical Society of Virginia, Virginia Academy of Family Physicians, Virginia Orthopedic Society, Virginia Society of Eye Physicians and Surgeons, Virginia College of Emergency Physicians, Virginia Society of Anesthesiologists, Psychiatric Society of Virginia, Virginia Chapter of the American Academy of Pediatrics, Virginia Chapter of the American College of Surgeons, and the Richmond Academy of Medicine.

Dr. Archer said the one area that was categorically difficult was if sufficient evidence existed to distinguish the impact of 2 years and 5 years of clinical experience. In 2018, the argument was that autonomous practice would provide greater access to care in rural areas of the state. However, the data presented does not support that. This data is observational and not statistical, so the Board's interpretation of the data is just as valid as any other interpretation.

Recommended Modifications of Act to Amend and Reenact Select Sections of the Code of Virginia Relating to Nurse Practitioners; Practice Agreements

1. Apply existing national data and data to be collected during the DHP study (Budget Amendment – SB1100) on Advanced Practice Registered Nurses ("APRNs") to decisions regarding amending of this Act.

BOM recommendation – Change "apply" to "consider". The existing national data may help inform the General Assembly's perspective, but the Virginia data will be most crucial to its decision.

2. Adopt the criteria for APRN practice as outlined in the National Council of State Boards of Nursing APRN Compact in order to better respond to healthcare needs by increasing

---DRAFT UNAPPROVED---

access to nurse practitioners across state lines through standardizing APRN scope of practice.

BOM recommendation – Accept as presented. The APRN practice criteria may or may not increase access to care. However, they will facilitate practice across state lines.

3. Amend the Act to enable nurse practitioners who hold licenses in both Virginia and another jurisdiction to use attestation of clinical experience in the other jurisdiction for the requisite years to practice without a practice agreement.

BOM recommendation – Accept as presented. Many nurses hold a license in more than one state. It is reasonable that **any** clinical experience under a practice agreement can be used to fulfill the requisite years of experience.

4. Follow the precedent that was set in 2021 legislation regarding licensed nurse practitioners in the category of certified nurse midwives (see §54.1-2957(H)) by providing the option for experienced nurse practitioners to enter into a practice agreement with less experienced nurse practitioners.

BOM recommendation – Strike this amendment. A less experienced nurse practitioner should establish a practice agreement with a physician, not an autonomous NP. There is value in the collaborative team model.

5. Permit a licensed nurse practitioner to provide documentary evidence of completion of two years of clinical experience directly to the Boards in lieu of the patient care team physician attestation in order to practice without a practice agreement.

BOM recommendation – Accept with the recommendation of “two” being removed and replaced with “the” years of service.

6. Collect data on nurse practitioners who have completed two years of clinical experience prior to being permitted to practice without a practice agreement for comparison to the data on those who have completed five years of experience.

BOM recommendation – Accept as presented.

7. Permanently modify the Act to require two years of clinical experience prior to practicing without a practice agreement.

BOM recommendation – Continue with the 2018 legislation and require 5 years of clinical experience prior to practicing without a practice agreement.

---DRAFT UNAPPROVED---

8. Eliminate the practice agreement requirement from the Act because 1) a core competency of nurse practitioner education includes collaboration with the patient care team to achieve optimal care outcomes, and 2) disciplinary actions against nurse practitioners who have practiced without a practice agreement identified in this Report did not reveal a greater safety risk to the public.

BOM recommendation - Strike this amendment.

MOTION: Dr. Stokes moved to accept the Committee's recommendations on the proposed modifications of the Act to amend and reenact select sections of the Code of Virginia, relating to nurse practitioners; practice agreement. The motion was seconded by Dr. Edwards and carried unanimously.

ANNOUNCEMENTS

There were no announcements.

The next meeting of the Executive Committee will be December 3, 2021 @ 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 10:24 a.m.

Blanton Marchese
President

William L. Harp, MD
Executive Director

Colanthia M. Opher
Recording Secretary

--- DRAFT UNAPPROVED ---

VIRGINIA BOARD OF MEDICINE

CREDENTIALS COMMITTEE BUSINESS MEETING

Monday, September 20, 2021

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Miller called the meeting to order at 9:00 a.m.

MEMBERS PRESENT: Jacob Miller, DO - Chair
Joel Silverman, MD
Janet Hickey, JD
Blanton Marchese
Alvin Edwards, PhD

STAFF PRESENT: William L. Harp, MD - Executive Director
Michael Sobowale, LLM - Deputy Executive Director, Licensing
Colanthia M. Opher - Deputy Executive Director, Administration
Elaine Yeatts - DHP Senior Policy Analyst

GUESTS PRESENT: W. Scott Johnson, Esq. – Medical Society of Virginia
Clark Barrineau – Medical Society of Virginia
Christy Evanko - Virginia Association for Behavior Analysis

Dr. Miller read the emergency egress instructions.

Mr. Sobowale called the roll; a quorum was declared.

Approval of the Agenda

Dr. Silverman moved approval of the agenda as presented with Dr. Edwards seconding. The agenda was approved unanimously.

Public Comment

The Committee received public comment from Christ Evanko, Administrative Director for the Virginia Association for Behavior Analysis (VABA). VABA would like to request that the Committee recommend that Board staff run National Practitioner Data Bank (NPDB) queries on behalf of license applicants. Other issues pertaining to the licensing of Behavior Analysts and Assistant Behavior Analysts will be presented to the Advisory Board on Behavior Analysis at its October 4th meeting.

NEW BUSINESS

Overview

Dr. Harp provided brief comments on the purpose of the meeting. He said that during the pandemic, the Board made accommodations in the licensing processes of 5 professions considered essential to combatting COVID-19. Governor Northam declared the pandemic over June 30th. Given the success of expedited licensing during the pandemic, discussion has occurred about simplifying the process for applicants while still protecting the public. Part of the Committee's task will be to review and recommend which documents required in the licensing process must be primary-source verified, or submitted as copies, and those that may no longer be useful in the licensing process. He reminded the Committee that the Board voted to cease requiring FORM B's (employment verifications) as part of the licensing process. If an applicant has been licensed in multiple states and jurisdictions, the applicant is currently required to ensure a primary-source license verification from each state. It can be challenging for licensing boards to respond in a timely fashion to an applicant's request, producing significant delays in the licensing process. Also, during the pandemic, transcripts were not required to be primary-sourced. So if time permits, the Committee is tasked to review the documents required for licensing applicants in the 22 professions at the Board of Medicine and make recommendations on how the licensing process can be further streamlined.

New Business:

1. Review of Licensure Requirements and Documents required for Submission

The Committee began by reviewing the licensure requirements and documents required of applicants prior to the waivers and accommodations implemented in concert with the Governor's Executive Order 57 on March 12, 2020. The waivers and accommodations enabled the Board to waive verification of certain primary-sourced documents and make certain accommodations in the licensing processes for five (5) expedited professions in order to streamline the licensure of health care providers during COVID-19. The 5 expedited professions were Medical Doctor (MD), Doctor of Osteopathy (DO), Doctor of Podiatric Medicine (DPM), Physician Assistant (PA), and Respiratory Therapy (RT).

MD, DO, DPM

After review and extensive discussion of the licensure requirements for MDs, DOs, and DPMs, and upon a motion by Mr. Marchese, seconded by Dr. Edwards, the Committee unanimously approved that the following recommendation to be made to the Board: that, for MDs, DOs, and DPMs, the Board should continue to require that an applicant submit primary-source verification transcripts, national board examination scores, evidence of completion of postgraduate training, the National Practitioner Data Bank (NPDB) self-query report, and one state license verification. The Committee agreed that a digitally-certified electronic copy of the NPDB report provided by an applicant is acceptable.

For verification of completion of postgraduate training, the Board can accept a copy of the completion certificate issued by the training program or a program director's letter of completion, or other verification submitted by an applicant as proof of completion of postgraduate training when the applicant has finished postgraduate training at least 5 years prior to submitting an application to the Board. An applicant who is within 5 years of completing postgraduate training when an application is submitted to the Board would have to provide primary source verification

of proof of completion directly from the training program.

PA

After review and discussion, and upon a motion by Mr. Marchese, seconded by Dr. Edwards, the Committee voted unanimously to recommend to the full Board to continue to request that applicants submit primary-source verification of passage of the National Commission on Certification of Physician Assistants (NCCPA) certifying examination, proof of completion of education, the NPDB self-query report, and one current state license verification. The Board can accept a digitally-certified electronic copy of the NPDB report provided by an applicant, in lieu of a mailed report. In addition, the Committee recommended that the Board dispense with using "Form L" and place the question about successful completion of 35 hours of pharmacology in the application form.

RT

After review and discussion, and upon a motion by Mr. Marchese, seconded by Dr. Edwards, the Committee voted unanimously to recommend to the full Board for the Board to continue to request that applicants submit primary-source verification of passage of the National Board for Respiratory Care (NBRC) certifying examination, proof of completion of education, NPDB self-query report, and one current state license verification. The Board can accept a digitally-certified electronic copy of the NPDB report provided by an applicant, in lieu of a mailed report.

The Committee decided to defer review and discussion of the licensure requirements for other allied professions, and asked that the various advisory boards for each profession review their licensing requirements and application questions to determine if they are in line with current practice. The Committee asked that the findings be reported back to the Committee at its next meeting.

2. Guidance Document 85-9 on USMLE Attempts Limit

The Committee reviewed guidance document 85-9 and discussed whether a recommendation needed to be made to change the number of attempts written in the Board's guidance document for applicants taking the USMLE in light of the recent change made by FSMB to its policy regarding the total number of attempts that will be allowed a candidate on each Step of the exam. Effective July 1, 2021, FSMB reduced the total number of attempts a candidate may take per Step from six (6) to four (4). Upon a motion by Dr. Silverman, seconded by Dr. Edwards, the Committee voted unanimous approval of recommendation to change the total number of USMLE attempts limit listed in the Board's guidance document to bring it in line with the current FSMB's USMLE attempts limit.

3. Award of Continuing Education Credit for Board Members' Service

Dr. Miller led the discussion. Dr. Miller stated that Board members should be able to claim continuing education (CE) credit for their service on the Board, including attendance at meetings and case review. Mr. Marchese stated that he is aware that other states' licensing board members are able to receive CE credit for their service on the Board, but he is not sure how many credit hours should be claimed and in what category. Ms. Yeatts advised that currently, Board members should be able to claim credit for those types of activities, but they would be Type 2 CE.

Upon a motion by Dr. Edwards, seconded by Dr. Silverman, the Committee voted to recommend to the full Board that Board members be allowed to claim up to thirty (30) hours of Type 2 CE per biennium for time spent on licensing, discipline and policy issues. Two members abstained from the vote. The motion passed.

With no additional business, the meeting adjourned 12:35 p.m.

Jacob Miller, DO
Chair

William L. Harp, MD
Executive Director

Michael Sobowale, LL.M.
Deputy Executive Director, Licensing

Agenda Item: Other Reports

- ◆ Assistant Attorney General*
- ◆ Board of Health Professions
- ◆ Podiatry Report*
- ◆ Chiropractic Report*
- ◆ Committee of the Joint Boards of Nursing and Medicine

Staff Note: *Reports will be given orally at the meeting

Action: These reports are for information only. No action needed unless requested by presenter.



Board of Health Professions
VIRTUAL - Full Board Meeting
May 13, 2021 at 10:00 a.m.

DRAFT

Due to the COVID-19 declared state of emergency and consistent with Amendment 28 to HB29 (Budget Bill for 2018-2020) and the applicable provisions of the Freedom of Information Act including Virginia Code § 2.2-3708.2, and with Executive Order 51 (2020) as issued and amended by the Governor due to the current state of emergency declared in the Commonwealth, the Board convened a virtual meeting to consider such regulatory and business matters as presented on the agenda and as necessary for the board to discharge its lawful purposes, duties, and responsibilities.

CALL TO ORDER

Mr. Wells called the virtual meeting to order at 10:00 a.m. Quorum was established with 16 members in attendance.

EMERGENCY EGRESS

Dr. Carter provided evacuation procedures for members in physical attendance.

ROLL CALL-BOARD MEMBER VIRTUAL ATTENDEES

- Kevin Doyle, EdD, LPC, LSATP - Board of Counseling
- Louis Jones, FSL - Board of Funeral Directors and Embalmers
- Derrick Kendall, NHA - Board of Long-Term Care Administrators
- Brenda Stokes, MD - Board of Medicine, 2nd Vice Chair
- Louise Hershkowitz, CRNA, MSHA - Board of Nursing
- Helene Clayton-Jeter, OD - Board of Optometry
- Ryan Logan, RPh - Board of Pharmacy
- Allen Jones, Jr., DPT, PT - Board of Physical Therapy
- Herbert Stewart, PhD - Board of Psychology
- John Salay, MSW, LCSW - Board of Social Work
- Steve Karras, DVM - Board of Veterinary Medicine
- Sheila Battle, MHS - Citizen Member
- Sahil Chaudhary - Citizen Member, 1st Vice Chair
- Martha Rackets, PhD - Citizen Member
- Carmina Bautista, MSN, FNP-BC, BC-ADM - Citizen Member

BOARD MEMBERS ABSENT:

- Alison King, PhD, CCC-SLP - Board of Audiology & Speech-Language Pathology
- Sandra Catchings, DDS - Board of Dentistry

VIRTUAL ATTENDANCE: DHP STAFF & GUESTS

Barbara Allison-Bryan, MD, Agency Chief Deputy Director
David Brown, DC, Agency Director
Yetty Shobo, PhD, Deputy Executive Director for the Board
Rajana Siva, MBA, Research Analyst for the Board
William Harp, MD, Executive Director for the Board of Medicine
Henry Fisher, Virtual Meeting Technician
Lisa Hahn, Agency Chief Operating Office
Sandra Reen, Executive Director for the Board of Dentistry
Charis Mitchell, Assistant Attorney General, Board Counsel
Charles Giles, Agency Budget Manager
Leslie Knachel, Executive Director for the Boards of Audiology & Speech-Language Pathology, Optometry, Veterinary Medicine
Ralph Orr, Program Director, Virginia's Prescription Monitoring Program
Rebecca Schultz, Law Student
Corie Tillman-Wolf, JD, Executive Director for the Boards of Funeral Directors & Embalmers, Long-Term Care Administrator's, Physical Therapy

PHYSICAL ATTENDANCE AT PERIMETER CENTER

Elizabeth Carter, PhD, Executive Director for the Board
James Wells, RPh, Citizen Member, Board Chairman
Laura Jackson, MSHSA, Operations Manager for the Board

VIRTUAL ATTENDANCE: PUBLIC

Ben Traynham
Cassie Schroth
Richard Grossman
Unknown Caller-x37
Unknown Caller-um16173

ORDERING OF AGENDA

Mr. Wells opened the floor to any edits or corrections regarding the agenda as presented. Ms. Jackson stated that Dr. Allison-Bryan would be presenting the Legislative and Regulatory Report. Dr. Stokes moved to accept the change to the agenda. Ms. Bautista seconded the motion. The motion carried with a unanimous aye vote.

PUBLIC COMMENT - Mr. Wells

Let the record reflect that there were no requests to provide public comment.

APPROVAL OF MINUTES - JANUARY 21, 2021 FULL BOARD MEETING MINUTES

Mr. Wells opened the floor to any edits or corrections regarding the draft meeting minutes for the Full Board meeting held on January 21, 2021. Ms. Jackson asked that the minutes be amended to include Attachment 6, a presentation given by Mr. Salay with the Board of Social Work. Dr. Stokes moved to accept the change to the meeting minutes. Dr. Jones, Jr. seconded the motion. The motion carried with a unanimous aye vote.

DIRECTOR'S REPORT & LEGISLATIVE REPORT

Dr. Brown provided a review of the legislation this session with impact to the Board of Nursing (nurse practitioners, advanced practice nurse practitioners, midwives and a study on advance practice nursing) and the Board of Pharmacy will be impacted by several marijuana bills, including the legalization of marijuana July 1, 2021. The agency was also very involved in the emergency bill expanding the pool of qualified vaccinators. Dr. Brown also provided that the legislature is paying attention to the sunrise reviews that the board has completed, to include art therapy, music therapy and naturopaths, and determining licensure based on the Board's decision.

Dr. Allison-Bryan reported on COVID-19 vaccine statistics in Virginia. She advised that the rate of infection has slowed down and that the Pfizer vaccine has been approved for children age 12 and older.

REGULATORY REPORT

Dr. Allison-Bryan provided an update on the current regulations affecting DHP. The FOIA Code section on electronic meetings was also discussed.

AGENCY BUDGET REVIEW

Mr. Giles provided an overview of the agencies budget for FY22.

BOARD CHAIR REPORT - Mr. Wells

Mr. Wells advised the Board that there are nine board members with terms expiring June 30, 2021. He thanked the outgoing board members for their many years of service to their respective regulatory board, the Board of Health Professions and the Commonwealth at large.

Break 11:25 a.m. - 11:30 a.m.

EXECUTIVE DIRECTOR'S REPORT

Dr. Carter provided an overview of the Board's budget and a PowerPoint presentation on the agency's statistics and performance measures. Dr. Carter asked that discussion regarding S1365 be moved to the August 19, 2021 Full Board meeting.

HEALTHCARE WORKFORCE DATA CENTER

Dr. Shobo provided an update and PowerPoint presentation on the data centers activities since the last meeting. (Attachment 1)

INDIVIDUAL BOARD REPORTS

Board of Audiology & Speech-Language Pathology

Dr. Carter provided the ASLP report on behalf of Dr. King. (Attachment 2)

Board of Counseling

Dr. Doyle provided an overview of the Board of Counseling's activities. Dr. Doyle's term with the Board of Counseling and the Board of Health Professions is ending June 30, 2021. He thanked staff and stated that he enjoyed his service on BHP. (Attachment 3)

Board of Dentistry - no report provided

Funeral Directors & Embalmers

Mr. Jones provided an overview of the Board of Funeral Directors & Embalmers activities. Mr. Jones stated that he enjoyed his service on both Boards and thanked the agency staff. (Attachment 4)

Long-Term Care Administrators

Mr. Kendall provided an overview of the Board of Long-Term Care Administrators activities. Mr. Kendall's term on both boards is ending June 30, 2021. He thanked board staff and stated that he was honored to be appointed by the Governor to represent the long-term care community, especially during such a trying time. (Attachment 5)

Board of Medicine - Dr. Stokes

Dr. Stokes provide an overview of the activities of the Board of Medicine. She advised that the Board has been holding committee, hearing and board meetings virtually. She noted changes in legislation of surgical technologists and midwives, and that Virginia is the first of ten states to sign on for the occupational therapy compact. Dr. Kevin O'Connor, prior Board of Medicine representative, received the leadership award given by the Federation of State Medical Boards.

Board of Nursing - Ms. Hershkowitz

Ms. Hershkowitz provided an overview of the Board of Nursing's activities. She advised that her term on both Boards ends June 30, 2021 and that she appreciated serving on the BHP and thanked agency staff. (Attachment 6)

Board of Optometry - Dr. Clayton-Jeter

Dr. Clayton-Jeter provided an overview of the Board of Optometry's activities. (Attachment 7)

Board of Pharmacy - Mr. Logan

Mr. Logan provided an overview of the Board of Pharmacy's activities to include cannabis regulation and an amendment to the Boards workforce survey question regarding statewide protocol. His term on both boards ends June 30, 2021, thanking staff and the agency for the opportunity to serve.

Board of Physical Therapy - Dr. Jones, Jr.

Dr. Jones, Jr. provided an overview of the Board of Physical Therapy's activities. (Attachment 8)

Board of Psychology - Dr. Stewart

Dr. Stewart provided an overview of the Board of Psychology's activities. Dr. Stewart's term on both boards ends June 30, 2021 and he thanked staff and fellow board members for their service. (Attachment 9)

Board of Social Work

Mr. Salay provided an overview of the Board of Social Work's activities. Mr. Salay's term on both boards ends June 30, 2021 and he stated it was an honor and pleasure to serve on both boards. (Attachment 10)

Board of Veterinary Medicine

Dr. Karras provided an overview of the Board of Veterinary Medicine's activities. (Attachment 11)

NEW BUSINESS

Mr. Wells stated for the record that there was no new business brought before the board.

NEXT FULL BOARD MEETING

The next Full Board meeting will be held August 19, 2021.

ADJOURNMENT

The meeting adjourned at 1:24 p.m.

SIGNATURE _____

Elizabeth A. Carter, PhD, Executive Director, Board of Health Professions

An audio recording of this meeting may be found at:

<https://www.dhp.virginia.gov/audio/BHP/FullBoardMeeting05132021.mp3>

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
VIRTUAL BUSINESS MEETING
MINUTES
June 16, 2021**

TIME AND PLACE: The virtual meeting of the Committee of the Joint Boards of Nursing and Medicine via Webex was called to order at 9:02 A.M., June 16, 2021.

Due to COVID-19 declared state of emergency and consistent with Amendment 28 to HB29 (Budget Bill for 2018-2020) and the applicable provision of §2.2-3708.2 in the Freedom of Information Act, the Committee convened a virtual meeting to consider such regulatory and business matters as was presented on the agenda for the Committee to discharge its lawful purposes, duties, and responsibilities.

**COMMITTEE MEMBERS
PARTICIPATED**

VIRTUALLY: Marie Gerardo, MS, RN, ANP-BC; Chair
Ann Tucker Gleason, PhD
Louise Hershkowitz, CRNA, MSHA
David Archer, MD
Karen Ransone, MD

MEMBERS ABSENT: Lori Conklin, MD

**ADVISORY COMMITTEE
MEMBERS
PARTICIPATED**

VIRTUALLY: Kevin E. Brigle, RN, NP
Mark Coles, RN, BA, MSN, NP-C
David Alan Ellington, MD
Stuart Mackler, MD
Komkwuan P. Paruchabutr, DNP, FNP-BC, WHNP-BC, CNM
Janet L. Setnor, CRNA

**STAFF PARTICIPATED
VIRTUALLY:**

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
Stephanie Willinger, Deputy Executive Director for Licensing; Board of Nursing
Huong Vu, Executive Assistant; Board of Nursing

**OTHERS PARTICIPATED
VIRTUALLY:**

Charis Mitchell, Assistant Attorney General; Board Counsel
David Brown, DO, Director; Department of Health Professions
Barbara Allison-Bryan, MD; Chief Deputy, Department of Health Professions

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Elaine Yeatts, Policy Analyst; Department of Health Professions
William L. Harp, MD, Executive Director; Board of Medicine
Ann Tiller, Board of Nursing Compliance Manager
Patricia Dewey, RN, BSN; Board of Nursing Case Manager
Randall Mangrum, DNP, RN; Nursing Education Program Manager

**PUBLIC PARTICIPATED
VIRTUALLY:**

W. Scott Johnson, Esquire/Hancock, Daniel & Johnson, PC
Ben Traynham, Hancock, Daniel & Johnson, PC
Kathy Martin, Hancock, Daniel & Johnson, PC
Clark Barrineau, Assistant Vice President of Government Affairs, Medical Society of Virginia (MSV)
Jerry J. Gentile, Department of Planning Budget (DPB)
Gerald C. (Jerry) Canaan, II, Esq. Byrne Legal Group
Julianne Condrey, VP Government and Association Relations, Aegis Association, LLC
Andrew Lamar, Lobbyist, VPAP
Kassie Schroth, Virginia Association of Nurse Anesthetists (VANA)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Becky Bower-Lanier, Virginia Association of Nurse Specialists (VaCNS)
Cynthia Ward, Virginia Association of Nurse Specialists (VaCNS)
Lucy Smith
Marjorie Smith, PMHCNS
Aimee Seibert
K. Wilkinson
Mark Hickman
Kristie Burnette
Brandi Wood
Rebecca Schultz
Missy Wesolowski
18044****82
18044****65
18046****40

**ESTABLISHMENT OF
A QUORUM:**

Ms. Gerardo called the meeting to order and established that a quorum consisting of five members was present.

ANNOUNCEMENT:

Ms. Gerardo noted the announcement as stated in the Agenda:
➤ Appreciation for Louise Hershkowitz' service on the Committee of the Joint Boards of Nursing and Medicine.

Ms. Gerardo recognized that Ms. Hershkowitz has served on the Board of Nursing (BON) for eight (8) years, served as BON President, and served as Chair to the Committee of the Joint Boards of Nursing and Medicine.

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Ms. Gerardo also thanked Ms. Hershkowitz for incorporating the Environmental Scan as well as educational training into the agendas of the Committee of the Joint Boards and to the BON as well as for her invaluable mentorship..

Ms. Hershkowitz commented that it was an honor and privilege to serve on the BON and on the Committee of the Joint Boards.

There were no additional announcements.

REVIEW OF MINUTES: Ms. Gerardo stated that staff provided the following documents electronically:

- A1 April 21, 2021 Business Meeting
- A2 April 21, 2021 Informal Conference

Ms. Gerardo asked if the Committee had any questions regarding the minutes. None was noted.

Ms. Hershkowitz moved to accept the minutes as presented. The motion was properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

DIALOGUE WITH
AGENCY DIRECTOR:

Dr. Brown reported the following:

The Governor announced that the State of Emergency in Virginia due to COVID-19 will end on June 30, 2021, which means virtual meetings will also end. DHP staff have adjusted well to working remotely.

Dr. Allison-Bryan reported on the COVID-19 vaccines as follows:

- 69% of adult Virginians have been vaccinated with the goal to reaching 70% by July 4, 2021. 14 states have met this 70% goal
- Almost 40% of adolescents in Virginia have been vaccinated

Ms. Gerardo inquired about the status of legislation regarding compensation for preceptors of nurse practitioner students. Dr. Brown replied that he has no updates at this time. Ms. Douglas noted that the Virginia Council of Nurse Practitioners (VCNP) and Virginia Nurses Association (VNA) will be the best resources regarding this matter.

PUBLIC COMMENT:

Ms. Gerardo said that as indicated in the meeting notice on Regulatory Townhall and in the agenda package, comments will be received during this public comment period from those persons who submitted an email comment request to Huong Vu no later than 8 am on June 16, 2021.

Ms. Gerardo asked if any email requests had been received. Ms. Vu reported that an email request for public comment from Marjorie Smith, Psychiatric Mental Health Clinical Nurse Specialist (PMHCNS) was received.

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Ms. Gerardo instructed Ms. Smith to limit her comment to 3-5 minutes.

Ms. Smith commented that she has been practicing as a CNS since 1990 and does not prescribe. She and many CNSs are impacted by the recent law passed which requires CNSs to have a practice agreement with a physician. Ms. Smith stated that she would need to discontinue providing care to her caseload of approximately 75 at-risk patients due to this new requirement. Ms. Smith asked for correction to the bill for those CNSs who do not prescribe. Ms. Smith added that if any CNSs who need help with finding a physician, please contact Lucy Smith, who is a PMHCNS and works for the Virginia Board of Nursing.

Ms. Gerardo then offered an opportunity to anyone who did not sign up to speak and reminded everyone to limit their comments to 3-5 minutes.

Katie Page, CNM, MSM, FACNM, President of Virginia Affiliate of American College of Nurse-Midwives, thanked the Board for their work on the autonomous practice for CNMs with 1,000 hours. Ms. Page offered her expertise if the Board needs help.

In the absence of additional requests for public comment, Ms. Gerardo concluded the public comment period.

LEGISLATION/
REGULATIONS:

Ms. Gerardo stated that the following documents were provided electronically by staff:

- **B1** Chart of Regulatory Actions as of June 1, 2021
- **B2** Chart of Post-General Assembly Actions/Studies
- **B3** Regulatory Actions – Adoption of Exempt Regulations Pursuant to **2021 Legislation** Draft Regulations for Licensure of Nurse Practitioners (**Chapter 30**), and Prescriptive Authority for Nurse Practitioners (**Chapter 40**)
- **B4** Fast-Track Changes for the Licensure of Nurse Practitioners(**Chapter 30**) and the Prescriptive Authority for Nurse Practitioners (**Chapter 40**) – verbal report

Ms. Gerardo invited Ms. Yeatts to proceed.

Ms. Yeatts reviewed **B1** and **B2** which were provided in the agenda.

B3 Regulatory Actions – Adoption of Exempt Regulations Pursuant to **2021 Legislation** Draft Regulations for Licensure of Nurse Practitioners (**Chapter 30**), and Prescriptive Authority for Nurse Practitioners (**Chapter 40**)

Ms. Yeatts reviewed **HB1737** (practice of nurse practitioners without practice agreement with at least two years of full-time clinical experience

as a licensed nurse practitioner) noting that the provision of this act will be effective on July 1, 2021 and will expire on July 1, 2022.

Ms. Yeatts reviewed **HB1817** (practice of certified nurse midwives without practice agreement) noting that this provision applies to the certified nurse midwives who have completed 1,000 hours of practice as certified nurse midwives.

Dr. Parachubutr asked if the 1,000-hour requirement has to be completed in Virginia. Ms. Yeatts replied that it does not.

Dr. Ellington asked if certified nurse midwives who enter into a practice agreement are required to have autonomous practice. Ms. Yeatts responded that they must have two years of clinical practice but the law does not specify that they have the autonomous practice designation.

Ms. Yeatts reviewed **HB1747** (practice of clinical nurse specialists as licensed nurse practitioners) noting that the effective date is July 1, 2021. Changes from the registration as clinical nurse specialists to licensure as nurse practitioners in the category of clinical nurse specialists by the Boards of Medicine and Nursing and authorizes prescriptive authority. A Practice Agreement is now required for all CNSs. CNSs who desire to prescribe must apply for prescriptive authority.

Ms. Yeatts then reviewed revisions to the Regulations Governing the Licensure of Nurse Practitioners (Chapter 30) and Regulations for Prescriptive Authority for Nurse Practitioners (Chapter 40). Ms. Yeatts stated that the draft regulations are presented for Committee's consideration to recommend adoption of changes to conform to changes in the Code of Virginia.

Ms. Hershkowitz moved to recommend the adoption of the changes to Regulations Governing the Licensure of Nurse Practitioners (Chapter 30) and Regulations for Prescriptive Authority for Nurse Practitioners (Chapter 40) to conform to changes in the Code of Virginia. The motion was properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

B4 Fast-Track Changes for the Licensure of Nurse Practitioners(**Chapter 30**) and the Prescriptive Authority for Nurse Practitioners (**Chapter 40**) Ms. Yeatts stated that this agenda item was deferred for consideration at the upcoming business meetings of the Board of Nursing and the Board of Medicine.

Dr. Parachubutr inquired about the status of the licensed certified midwives bill (HB1953). Ms. Yeatts responded that, because it is a new category of licensure with no current regulations, it has to go through

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Administrative Process Act (APA). Ms. Yeatts added that the Notice of Intended Regulatory Action (NOIRA) will be considered by Board of Nursing at its July meeting and by Board of Medicine at its August meeting.

Dr. Gleason noted her appreciation for Ms. Yeatts' expertise.

Ms. Douglas stated that with regard to Marjorie Smith's public comment referencing Lucy Smith as a contact person for clinical nurse specialists, board staff is not authorized to identify physicians who can provide consultation to clinical nurse specialists as part of the practice agreement requirement.

RECESS: The Committee recessed at 10:02 A.M.

RECONVENTION: The Committee reconvened at 10:12 A.M.

NEW BUSINESS: **C1 – 2022 Committee of the Joint Boards of Nursing and Medicine Meeting Dates:**

Ms. Douglas reviewed the 2022 Committee meeting dates noting that currently there are no rooms available for December 2022 meeting date. Staff will continue to monitor room availability and notify the Committee.

Revision of Guidance Document (GD) 90-56 – Practice Agreement Requirements for Licensed Nurse Practitioners:

Ms. Gerardo stated that the following documents have been provided:

- ❖ C2a – Current Version of GD 90-56
- ❖ C2b – Proposed Draft Version of GD 90-56
- ❖ C2c – Nurse Practitioner Side-by-Side Comparison Table (FYI)

Ms. Gerardo invited Dr. Hills to proceed.

Dr. Hills stated that she refers to this GD frequently to answer public inquiries regarding practice agreement requirements. Dr. Hills then proceeded to review the proposed changes of the GD 90-56.

Ms. Hershkowitz moved to recommend the adoption of changes to GD 90-56 as presented to the Boards of Nursing and Medicine. The motion was properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

Committee Members suggested posting the Nurse Practitioner Side-by-Side Comparison Table on Townhall and Nursing websites. Ms. Douglas stated that, although it is unlikely that it can be posted to Townhall, staff will explore posting options for easy public access.

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C3 – Communication sent to all CNSs on May 27, 2021:

Ms. Douglas acknowledged Ms. Willinger for taking the lead on this communication and it is provided for information only.

C4 – Sentara Letter:

Ms. Douglas noted that this is provided for information only and that the response to Sentara was that the Board is not authorized to grant a waiver.

HB 793 – Preliminary Report on Nurse Practitioners with Autonomous Practice Designation – Dr. Carter, Healthcare Workforce Data Center (HWDC) Executive Director, and Rajana Siva, HWDC Data Analyst

Ms. Gerardo stated that the following were provided:

- ❖ Bate Stamped Materials from 001 to 017
- ❖ Results in Tableau online interactive map and table with dropdown menus link:
<https://public.tableau.com/profile/rajana.siva#!/vizhome/npspecialtycounts/Story1>

Ms. Gerardo invited Dr. Carter to proceed.

Ms. Douglas commented that this is related to the HB 793 (2018) requirement to collect data on traditional nurse practitioners with autonomous practice.

Dr. Carter reviewed the bate stamped materials from 001 and 017 and results in Tableau online interactive map. Dr. Carter said that she is available for questions.

Ms. Hershkowitz asked the end date of the data. Dr. Carter replied as of April 30, 2021. Ms. Douglas added that data collection for the final report will end on June 30, 2021.

Dr. Archer commented that he is happy to see that actual violations are minimal with low mean and median and that Virginia has a well maintained and competent healthcare workforce.

Mr. Brigle asked how often the online interactive map will be updated. Ms. Douglas replied that it will be discussed at DHP.

Discussion regarding “any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement” (HB 793, 2018) – Committee Members and Advisory Committee Members

Ms. Gerardo asked for recommendations to report from Committee Members and Advisory Committee Members.

Ms. Douglas noted that the data presented in the report related to five years clinical experience data, not two years.

Ms. Hershkowitz inquired if the similar data are available from other states. Ms. Douglas responded that there are data available but the enactment clause does not require those data.

Ms. Mitchell suggested maybe including a recommendation regarding the attestation.

After discussion, the Committee included the following recommendations to the report:

- ❖ Two-year data should be considered;
- ❖ Comparison of two years data and five years data;
- ❖ Reducing clinical experience to two years permanently or even removing time requirement completely;
- ❖ Removing restrictions (such as practice agreement, supervision and out-of-state attestation) to allow well trained and qualified nurse practitioners to practice to full scope as long as the public is not harmed;
- ❖ Recommend a parallel to CNM 2021 legislation allow experienced CNM & MD to enter into practice agreement
- ❖ Incorporating national data;
- ❖ For out-of-state nurse practitioners, the Board should consider violations or suspensions only;
- ❖ Consider internal military report which provides incidents by specialty with negative outcomes for each branch of the military
- ❖ For nurse practitioners who are seeking autonomous practice, self-attestation or using practice agreement dates should be considered; and
- ❖ Moving toward APRN Compact which requires advanced practice registered nurses to have 2,080 hours of clinical experience

Ms. Mitchell noted that recommendations should align with national requirements.

ENVIRONMENTAL SCAN: Ms. Gerardo asked for the updates from the Advisory Committee Members.

Mr. Brigle commented that tax break for preceptors update would be appreciated.

No additional updates were noted.

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Ms. Gerardo thanked Advisory Committee members for their participation in the meeting and reminded everyone that the next meeting is scheduled for Wednesday, October 13, 2021.

The Advisory Committee Members, Dr. Brown, Dr. Allison-Bryan, Dr. Harp and Ms. Yeatts, left the meeting at 10:23 A.M.

RECESS: The Committee recessed at 11:57 A.M.

RECONVENTION: The Committee reconvened at 12:32 P.M.

CONSIDERATION OF CONSENT ORDER

Ms. Gerardo said that the Committee have one Consent Order for consideration. Copy of the Consent Order was mailed to the Committee Member in advance.

Charmayne L. Lanier-Eason, LNP

Ms. Gerardo asked if the Committee Members wishes to go into the closed meeting for discussion. None was noted.

ACTION: Ms. Hershkowitz moved to accept the consent order to indefinitely suspend the license of **Charmayne L. Lanier-Eason** to practice as a nurse practitioner in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Lanier-Eason's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP), compliance with all terms and conditions of the HPMP for the period specified by the HPMP, and additional terms and conditions. The motion was properly seconded by Dr. Ranson. A roll call was taken and the motion was carried unanimously.

AGENCY SUBORDINATE RECOMMENDATION CONSIDERATION

The Committee had one Agency Subordinate recommendation for consideration. Copy of the recommendation was mailed to the Committee Members in advance.

#1 – Darlene Whitfield Olive, LNP

Ms. Olive was not present to address the Committee regarding her Agency Subordinate recommendation.

CLOSED MEETING: Ms. Hershkowitz moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 12:35 P.M., for the purpose to reach a decision in the matter of Darlene Whitfield Olive's Agency

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Subordinate Recommendation. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Dr. Hills, Ms. Vu, and Ms. Mitchell 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 properly seconded by Dr. Ransone. A roll call was taken and the motion carried unanimously.

RECONVENTION:

The Board reconvened in open session at 12:53 P.M.

Ms. Hershkowitz 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 properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

Ms. Olive joined the meeting at 12:53 P.M. noting that she had technical difficulties joining the Webex. Ms. Olive requested to address the Committee regarding her Agency Subordinate recommendation.

Ms. Gerardo instructed Ms. Olive that she has five minutes to address the Committee and no new information can be provided.

CLOSED MEETING:

Ms. Hershkowitz moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 1:00 P.M., for the purpose to reach a decision in the matter of Darlene Whitfield Olive's Agency Subordinate Recommendation. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Dr. Hills, Ms. Vu, and Ms. Mitchell 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 properly seconded by Dr. Ransone. A roll call was taken and the motion carried unanimously.

RECONVENTION:

The Board reconvened in open session at 1:08 P.M.

Ms. Hershkowitz 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 properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

ACTION:

Dr. Gleason moved to modify the recommended decision of the agency subordinate to reprimand Darlene Whitfield Olive and to require Ms.

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Olive, within 90 days from the date of entry of the Order, to provide written proof satisfactory to the Committee of the Joint Boards of Nursing and Medicine of successful completion of the following NCSBN courses: *Professional Boundaries in Nursing* and *Righting a Wrong: Ethics and Professionalism in Nursing*. The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion carried unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 1:11 P.M.

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

**Agenda Item:
Regulatory Actions - Chart of Regulatory Actions
As of October 6, 2021**

		Action / Stage Information
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	<p><u>Conversion therapy</u> [Action 5412]</p> <p>Final - <i>At Secretary's Office for 71 days</i></p>
[18 VAC 85 - 50]	Regulations Governing the Practice of Physician Assistants	<p>(E) <u>Conforming regulations to 2021 legislation - patient care team physician</u> [Action 5762]</p> <p>Final - <i>Register Date: 8/16/21</i> <i>Effective: 9/15/21</i></p>
[18 VAC 85 - 80]	Regulations for Licensure of Occupational Therapists	<p><u>Implementation of the OT Compact</u> [Action 5797]</p> <p>Emergency/NOIRA - <i>At Secretary's Office for 43. days</i></p>
[18 VAC 85 - 160]	Regulations Governing the Licensure of Surgical Assistants and Registration of Surgical Technologists	<p><u>Amendments for surgical assistants consistent with a licensed profession</u> [Action 5639]</p> <p>Proposed - <i>At Secretary's Office for 23 days</i></p>

**Department of Health Professions
Regulatory/Policy Actions – 2021 General Assembly
Board on Medicine**

EMERGENCY REGULATIONS:

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
SB1189	Occupational therapy compact	Medicine	8/6/21	By 12/23/21

EXEMPT REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1737	Revise autonomous practice reg consistent with 2 years	Nursing & Medicine	N – 7/20/21 M – 8/6/21	11/10/21
HB1747	Licensure of CNS as nurse practitioners – Amend Chapters 30 and 40 Delete sections of Chapter 20 with reference to registration of CNS	Nursing & Medicine	N – 7/20/21 M – 8/6/21	11/10/21
HB1817	Autonomous practice for CNMs with 1,000 hours	Nursing & Medicine	N – 7/20/21 M – 8/6/21	11/10/21
HB1988	Changes to pharmaceutical processors	Pharmacy	7/6/21	9/1/21
HB2218/SB1333	Sale of cannabis botanical products	Pharmacy	7/6/21	9/1/21
HB2039	Conform PA regs to Code	Medicine	6/24/21	9/15/21
HB2220	Change registration of surgical technologists to certification	Medicine	6/21/21	9/1/21
SB1178	Delete reference to conscience clause in regs for genetic counselors	Medicine	6/24/21	9/1/21

APA REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1953	Licensure of certified midwives	Nursing & Medicine	NOIRA Nursing – 7/20/21 Medicine – 8/6/21	Unknown

NON-REGULATORY ACTIONS

Legislative source	Affected agency	Action needed	Due date
HB793 (2018)	Medicine & Nursing	To report data on the number of nurse practitioners who have been authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any	November 1, 2021

		recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement	
SB431	Behavioral health/medicine/legal	Continuance of study of mental health services to minors and access to records <i>Requested an extension of 2020 study</i>	November 1, 2021
Budget bill	Department	To study and make recommendations regarding the oversight and regulation of advanced practice registered nurses (APRNs). The department shall review recommendations of the National Council of State Boards of Nursing, analyze the oversight and regulations governing the practice of APRNs in other states, and review research on the impact of statutes and regulations on practice and patient outcomes.	November 1, 2021
HB1953	Department	To convene a work group to study and report on the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals.	November 1, 2021
HB2079	Pharmacy (with Medicine & VDH)	To establish protocols for the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment available over-the-counter by pharmacists in accordance with § 54.1-3303.1. Such protocols shall address training and continuing education for pharmacists regarding the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment.	Concurrent with emergency regulations
HB2079	Pharmacy	To convene a work group to provide recommendations regarding the development of protocols for the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment by pharmacists to persons 18 years of age or older, including (i) controlled substances, devices, controlled paraphernalia, and supplies and equipment for the treatment of diseases or conditions for which clinical decision-making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988, including influenza virus, urinary tract infection, and group A Streptococcus bacteria, and (ii) drugs approved by the U.S. Food and Drug Administration for tobacco cessation therapy, including nicotine replacement therapy. The work group shall focus its work on developing protocols that can improve access to these treatments while maintaining patient safety.	November 1, 2021
HB2300	Department	Together with the Department of Health, to convene a work group to develop recommendations for best practices for the	November 1, 2021

		<p>treatment and discharging of patients in emergency departments experiencing opioid-related emergencies, including overdose, which shall include recommendations for best practices related to (i) performing substance use assessments and screenings for patients experiencing opioid-related overdose and other high-risk patients; (ii) prescribing and dispensing naloxone or other opioid antagonists used for overdose reversal; (iii) connecting patients treated for opioid-related emergencies, including overdose, and their families with community substance abuse resources, including existing harm reduction programs and other treatment providers; and (iv) identifying barriers to and developing solutions to increase the availability and dispensing of naloxone or other opioid antagonist used for overdose reversal at hospitals and community pharmacies and by other community organizations. The work group shall include representatives of the Virginia Hospital and Healthcare Association, the Virginia College of Emergency Physicians, the Medical Society of Virginia, the Virginia Society of Health-System Pharmacists, the Virginia Harm Reduction Coalition, the Virginia Pharmacists Association, and such other stakeholders as the Department of Health Professions shall deem appropriate.</p>	
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Future Policy Actions:

HB2559 (2019) - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by **November 1, 2022**.

Agenda Item: Recommendation on Adoption of Fast-track regulation

Included in your agenda package:

- Copy of amended regulations for Licensure of Acupuncturists

Board motion:

To accept the recommendation of the Advisory Board on Acupuncture for regulatory amendments to conform to name changes in credentialing bodies by a fast-track action.

Project 6955 - Fast-Track

Board Of Medicine

Changes in acupuncture certifying bodies

18VAC85-110-10. Definitions.

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

Acupuncturist

Board

Licensed acupuncturist

Practice of acupuncture

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

"~~ACAOM~~" "ACAHM" means the Accreditation Commission for Acupuncture and Oriental Herbal Medicine. ~~ACAOM~~ ACAHM replaces the ~~National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.~~

"~~CCAOM~~" "CCAHM" means the Council of Colleges of Acupuncture and Oriental Herbal Medicine.

"CNT course" means a Clean Needle Technique Course as administered by the ~~CCAOM~~ CCAHM.

"NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.

18VAC85-110-50. Educational requirements: graduates of approved institutions or programs in the United States.

A. Requirements for acupuncture education obtained prior to July 1, 1990, shall be as provided in this subsection.

1. An applicant applying for licensure to practice as an acupuncturist on the basis of successful completion of education in a school or college of acupuncture accredited by the ACAOM ACAHM or other accrediting agencies approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of successful completion of an acupuncture course of study in an accredited school or college for acupuncture, providing evidence of not less than 1,000 hours of schooling in not less than a continuous 18-month period.

2. The studies shall include not less than 700 didactic hours and not less than 250 clinical hours. Additional hours may be in either didactic or clinical hours based upon the school or college curriculum.

B. Requirements for acupuncture education obtained after July 1, 1990, shall be as provided in this subsection.

An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ACAOM ACAHM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of three academic years in length equivalent to 90 semester credit hours or 135 quarter credit hours.

One academic year means full-time study completed in four quarters, two semesters, or three trimesters. A full-time continuous study program shall be a concentrated educational process in

acupuncture that requires individual study with assigned materials in a classroom or clinical setting.

C. Requirements for acupuncture education obtained after July 1, 1999, shall be as provided in this subsection. An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ~~AGAOM~~ ACAAM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of 1,725 hours of entry-level acupuncture education to include at least 1,000 didactic hours and 500 clinical hours. Clinical hours may include observation, as well as internship or treatment hours; the remaining 225 hours may be earned as either didactic or clinical. Correspondence programs or courses in acupuncture are excluded and may not be used to meet the requirements for acupuncture education.

D. Requirements for acupuncture education obtained after February 1, 2011, shall be as provided in this subsection. An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ~~AGAOM~~ ACAAM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of 1,905 hours of entry-level acupuncture education to include at least 1,155 didactic hours and 660 clinical hours. Clinical hours may include observation, as well as internship or treatment hours; the remaining 90 hours may be earned as either didactic or clinical hours. Correspondence programs or courses in acupuncture are excluded and may not be used to meet the requirements for acupuncture education.

E. An applicant from an acupuncture program in a school or college that has achieved candidacy status for accreditation by ~~ACAOM~~ ACAAM shall be eligible for licensure provided the

program meets the applicable requirements of subsection A, B, C, or D of this section, with the exception of full ~~ACAOM~~ ACAHM accreditation.

18VAC85-110-60. Requirements of foreign graduates of nonaccredited educational programs in acupuncture.

A. An applicant who has completed an educational course of study in a school or college outside the United States or Canada that is not accredited by ~~ACAOM~~ ACAHM or any other board-approved accrediting agency shall:

1. Submit a transcript from his educational course of study in acupuncture to a credential evaluation service approved by the board to determine equivalency in education and training to that required in 18VAC85-110-50.
2. Meet the examination requirements as prescribed in 18VAC85-110-80 and 18VAC85-110-90.

B. All documents submitted to the board which are not in English must be translated into English and certified by the embassy of the issuing government or by a translating service.

18VAC85-110-80. Examination requirements for licensure.

The examination requirements for licensure shall consist of:

1. Passing the NCCAOM comprehensive written examination, resulting in current, active certification by the NCCAOM at the time the application is filed with the board;
2. Passing the Point Location Examination; and
3. Completing the CNT course as administered by the ~~GCAOM~~ CCAHM.

Agenda Item: Further Data from the 2020 Physician Workforce Survey

Staff Note: At the June 24, 2021 Board meeting, Board members posed questions to Dr. Shobo which she said she would research and report back to the Board. You will find the questions on the following page. Dr. Shobo will address the new data.

Action: None anticipated, but Board members may generate more questions for Dr. Shobo.

Colanthia Opher

From: Harp, William <william.harp@dhp.virginia.gov> on behalf of Harp, William
Sent: Tuesday, July 13, 2021 7:32 PM
To: Shobo, Yetty; Colanthia D. Morton
Subject: Re: FW: [EXTERNAL] Workforce Questions

Hi Yetty:

If you could report at the October Board meeting, that would be great.

Thanks, WLH

On Tue, Jul 13, 2021 at 4:08 PM Shobo, Yetty <yetty.shobo@dhp.virginia.gov> wrote:
Hi Coco and Dr. Harp:

Thanks so much for getting back to me on this. I have indicated the ones that can be done easily. **Do you think I should do it and come present these additional analyses? Or should I do these additional analyses the next time we survey physicians in 2022?**

1. Dr. Williams was the member who asked about the breakdown of education debt by gender, race/ethnicity. **This can be easily done.**

2. Dr. Silverman asked about specialties in each district. **I mentioned that we have that information on our website now.** <http://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/Dashboards/VirginiaPhysicianBoardCertificationDashboard/>

3. Dr. Archer asked (a) what is the ratio of income to debt, density of physicians in certain areas of the state and (b) is the quality of care better or worse. **Part A can be easily done. We don't have the data for Part b.**

Kind regards,
Yetty

Yetty Shobo, Ph.D.
Deputy Director, DHP Healthcare Workforce Data Center
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233
Tel: 804-597-4212, 804-527-4434(fax)
Cell: 304-395-1259
Email: Yetty.Shobo@dhp.virginia.gov

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On Tue, Jul 13, 2021 at 3:30 PM Colanthia Opher <coco.morton@dhp.virginia.gov> wrote:

Yetty, as you can probably tell, we are inundated with emails and my response time is not what it typically is.

Dr. Williams was the member who asked about the breakdown of education debt by gender, race/ethnicity. Dr. Silverman who asked about specialties in each district, and Dr. Archer who asked what is the ratio of income to debt, density of physicians in certain areas of the state and is the quality of care better or worse.

I hope this helps.

Co-Co

Colanthia Opher

From: Shobo, Yetty <yetty.shobo@dhp.virginia.gov> on behalf of Shobo, Yetty
Sent: Wednesday, October 6, 2021 12:12 PM
To: Harp, William
Cc: Colanthia D. Morton
Subject: Re: Board Meeting Next Week

Flag Status: Flagged

Hi Dr. Harp and Coco:

I wanted to also include the link below in case you are sending any communication to the board members before the meeting. If not, some of them may want it after my presentation. The link from our website provides answers to Dr. Silverman's question. I'll be referring to the link in my presentation so I wanted board members to have it so they can access it themselves if they are interested.

<http://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/Dashboards/VirginiaPhysicianBoardCertificationDashboard/>

I'll see you both next week Thursday.

Kind regards,
Yetty

Yetty Shobo, Ph.D.
Deputy Director, DHP Healthcare Workforce Data Center and Data Analytics Division
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233
Tel: 804-597-4212, 804-527-4434(fax)
Cell: 304-395-1259
Email: Yetty.Shobo@dhp.virginia.gov

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On Tue, Oct 5, 2021 at 5:12 PM Harp, William <william.harp@dhp.virginia.gov> wrote:
9:40 will probably be fine. We can adjust the order of the agenda to suit your arrival.

Thanks!!

On Tue, Oct 5, 2021 at 5:07 PM Shobo, Yetty <yetty.shobo@dhp.virginia.gov> wrote:
Hi Dr. Harp:

Agenda Item: MSV Request to Revise Mental Health Question on Applications

Staff Note: Several weeks ago, the current President of the Medical Society of Virginia sent a letter to the Board requesting that it consider revising the question about mental health on its applications. MSV believes that the “current question obfuscates the issues of illness and impairment.” MSV provides language from Maryland and New Jersey and offers to assist the Board in this matter. In the following pages, you will find a cover email from Clark Barrineau, the letter from MSV President, Art Vayer, MD, comment from a medical student regarding Virginia’s current question, the current application questions on mental health and substance use, and the lead item in edition #93 of the Board Briefs on mental health treatment.

Action: Discussion of the current language and proposed language, and decide if the question needs to be revised.



Harp, William <william.harp@dhp.virginia.gov>

The Medical Society of Virginia's Request to Change the Mental Health Question for the Board of Medicine Licensure Application

1 message

Clark Barrineau <cbarrineau@msv.org>

Wed, Sep 22, 2021 at 11:21 AM

To: "Harp, William" <WILLIAM.HARP@dhp.virginia.gov>

This was meant to go to you. Apologies.

Thank you for the consideration.

Clark Barrineau

Assistant Vice President of Government Affairs

Medical Society of Virginia

T 804-377-1031

TF 800-746-6768

F 804-355-6189

<http://www.msv.org>

From: President MSV <president@msv.org>

Sent: Wednesday, September 22, 2021 11:18 AM

To: michael.sobowale@dhp.virginia.gov; medbd@dhp.virginia.gov

Cc: Clark Barrineau <cbarrineau@msv.org>; Scott Johnson <sjohnson@hancockdaniel.com>; Ben Traynham <btraynham@hancockdaniel.com>; Tyler Cox <tcx@hancockdaniel.com>; Kelsey Wilkinson <kwilkinson@msv.org>

Subject: The Medical Society of Virginia's Request to Change the Mental Health Question for the Board of Medicine Licensure Application

Hello Dr. Harp,

Please find the attached letter.

Best,

Arthur J. Vayer, MD

President

Medical Society of Virginia
2924 Emerywood Pkwy Ste 300
Richmond, VA 23294-3746

<http://www.msv.org>



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 **MSV_Medical Licensure Application Questionnaire_BOM_9.22.21 (005).pdf**
118K

September 22, 2021

William L. Harp, M.D., Executive Director

CC: Michael Sobowale, Deputy Executive Director- Licensure

Via Electronic Mail: medbd@dhp.virginia.gov, michael.sobowale@dhp.virginia.gov

Re: The Medical Society of Virginia's Request to Change the Mental Health Question for the Board of Medicine Licensure Application

Dear Dr. Harp:

As you know, the Medical Society of Virginia (MSV) represents Virginia's physicians, PAs, residents, and medical students of all specialties and localities across the Commonwealth. Many of these clinicians have raised concerns over the language in the medical licensure application regarding mental health and the unintended consequence on Virginia's healthcare providers.

Thousands of medical students and practitioners who live with mental illness remain silent, untreated, or undiagnosed due to fear of stigma or threat to their medical license. The COVID-19 pandemic has only further increased burnout to historic levels. When applying for a medical license in Virginia, physicians are asked to attest to their mental and medical fitness to practice by answering yes or no to the following question: *Do you currently have any mental health condition or impairment that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing physician.* This line of questioning may cause physicians to forego seeking psychological or psychiatric care when they are suffering from depression, anxiety, or professional burnout for fear of losing or never receiving their license.

Virginia's current question obfuscates the issues of illness and impairment¹. Virginia's language affirms the belief that mental health illness undermines a provider's ability to do their job, implying that illness and impairment are comparable to one another. The Federation of State Medical Boards and the National Academy of Sciences, Engineering, and Medicine have acknowledged the language used by many state licensing boards inadvertently discriminates against physicians with mental illness and may not be in compliance with the Americans with Disabilities Act (ADA).²

Neighboring states such as Maryland, Washington D.C., North Carolina, and Kentucky, and Maine have already implemented language changes on their applications that are more physician-friendly.

The Medical Society of Virginia respectfully asks the Board to consider the following change to the mental competency question on the licensure application:

¹ Physician-Friendly States for Mental Health: A Review of Medical Boards; Research Project by Pamela Wible, M.D., and Arianna Palermi, OMS2. Copyright 2019.

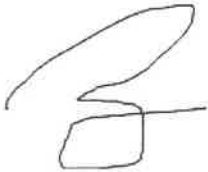
² Physician Wellness and Burnout, available at: <https://www.fsmb.org/siteassets/advocacy/policies/policy-on-wellness-and-burnout.pdf>

“Do you have any reason to believe that you would pose a risk to the safety or well-being of your patients? Are you able to perform the essential functions of a practitioner in your area of practice with or without reasonable accommodation?”

This is the same language as used by Maryland and New Jersey. This small language change will have a positive impact on our healthcare system. Supporting physician interventions enhances the patient experience of care and reduces costs from decreased physician productivity, high turnover rates, and the adverse consequences of medical errors.³ Organizations such as the Lorna Breen Heroes Foundation, the American Psychiatric Association, the American College of Physicians, the AMA, and dozens of state medical societies across the country have been strong advocates for removing barriers to mental health services and removing the stigma for providers—and this requested change would align with these principled efforts.

We are happy to support the efforts of the Board and appreciate your attention to this important issue. To discuss this matter further, please contact Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy at the Medical Society of Virginia, at cbarrineau@msv.org or 704-609-4948.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Vayer'.

Arthur J. Vayer, MD
President, The Medical Society of Virginia

CC:

Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy/ MSV
W. Scott Johnson, Esquire/ Hancock, Daniel & Johnson, General Counsel/ MSV
Benjamin H. Traynham, Esquire/ Hancock, Daniel & Johnson
Tyler S. Cox, Government Affairs Manager/ Hancock, Daniel & Johnson
Kelsey Wilkinson, Government Affairs Manager/ MSV

³Brower K.J. (2017) Organization-Level Interventions to Promote Physician Health and Well-Being: From Taking Care of Physicians to Giving Care to Patients. In: Brower K., Riba M. (eds) Physician Mental Health and Well-Being. Integrating Psychiatry and Primary Care. Springer, Cham.

COMMENT ON APPLICATION QUESTIONS ABOUT MENTAL HEALTH

Physicians have historically faced barriers to addressing mental health needs at all levels of training. These include lack of institutional support, concerns over safeguarding of confidentiality, and negative consequences on licensure and public reputation.¹ These hurdles to accessing timely mental health care have resulted in preventable adverse long-term outcomes ranging from reduced empowerment to development of chronic health conditions. These barriers to seeking mental health care are a factor in the over 300 physician suicides each year, one of the highest rates of any profession.²

While strides towards the destigmatization of physician mental health struggles have been made, such as the recent federal enactment of the *Dr. Lorna Breen Health Care Provider Protection Act* and our local expansion of SafeHaven services coverage, there remains work to do. We must continue to advocate for the removal of barriers for seeking mental health treatment and we must continue to protect the well-being of our medical students, resident trainees and physicians who are put in the position of having to disclose prior or current mental health struggles that are not relevant to their ability, aptitude or competency to practice medicine.

According to a 2018 article from JAMA, Virginia is one of 32 states whose medical licensure questions regarding mental health history violate the ethics and the principles of the Americans with Disabilities Act.³ It has been shown that interns, residents, and physicians collectively believe measures must be implemented to increase the emphasis on provider competence as opposed to history of illness.^{1,4} Especially in the setting of the COVID-19 pandemic, which has increased cases of burnout, further efforts to improve physician wellness are fundamental to ensuring overall well-being and preventing workforce attrition.⁵

As medical students, we are very aware of the stressors that our colleagues and classmates face: the pressures of constant exams, limited free time, and mounting student debt. We have also seen new challenges stemming from COVID-19 including being pulled from clerkships, virtual classes, and limitations in social and extracurricular activities. We want to ensure that physicians at all levels of training should be able to seek mental health services without fear of adverse professional consequences in terms of future and/or current licensure and credentialing.

CURRENT QUESTIONS ON MENTAL HEALTH AND SUBSTANCE USE ON THE PHYSICIAN APPLICATION

- ¹⁶ Do you currently have any mental health condition or impairment that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? “Currently” means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing physician.
- ¹⁷ Do you currently have any condition or impairment related to alcohol or other substance use that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? “Currently” means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing physician.

THE BOARD'S PERSPECTIVE ON MENTAL HEALTH TREATMENT

This item is in response to a psychiatric colleague's recognition that healthcare practitioners are reluctant to seek mental health treatment when they need it.

We all know that practicing the professions licensed by the Board of Medicine can be stressful, and at times that stress can be additive to other circumstances occurring in our lives. This has been particularly evident during the COVID-19 pandemic. According to The Physicians Foundation 2021 Physician Survey: COVID-19 Impact Edition: A Year Later, more than half of physicians (57%) have felt inappropriate feelings of anger, tearfulness or anxiety because of COVID-19. 46% of physicians have withdrawn or isolated themselves from others. 34% have felt hopeless or without purpose. Despite these symptoms, only 14% of physicians sought medical attention. Board Briefs does not know if these numbers are characteristic of the other professions licensed by the Board of Medicine, but it would not be surprising if they give similar responses. These numbers may show that even when the individual knows he/she needs some help and wants to get that help, there is reluctance to do so for fear of a licensing sanction from the Board of Medicine. So Board Briefs hopes the following is helpful.

The mission of the Board is to protect the public. Part of that mission is to protect the public from impaired physicians and other healthcare providers that may not be safe to practice due to mental health issues. Obviously, the Board wants all its licensees to be safe to practice and heartily supports mental health treatment for all who feel they need it. A healthier, happier healthcare professional is more likely to be safer and more effective. And mental health treatment can help accomplish that.

Everyone should understand that the Board is about conduct. Its mission is to ensure licensees are able to safely and competently conduct their practice. It is not about a diagnosis that they may carry, especially a diagnosis "in remission".

As you may know, the Board's disciplinary system is complaint and report driven. Healthcare professionals that treat other healthcare professionals have reporting requirements that perhaps have been misunderstood by those who want to access mental health treatment.

A treatment provider has the responsibility to report a licensee in treatment to the Board "unless the attending practitioner has determined that there is a reasonable probability that the person being treated is competent to continue in practice or would not constitute a danger to himself or to the health and welfare of his patients or the public." The attending practitioner's discretion is applicable to outpatient and inpatient treatment.

Some of this discretion for reporting has recently been extended to CEO's and Chiefs of Staff in hospitals, as well as administrators of some other facilities. A healthcare professional is to be reported within 30 days if admitted voluntarily to a hospital "for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public or his patients." Note that this language allows the CEO/Chief of Staff to coordinate with the attending practitioner on the decision if a patient meets the threshold for reporting by representing a danger to himself, the public or his patients. If the threshold for reporting is not met by the time of discharge, no report is required. However, if a licensee is involuntarily admitted to a facility, then the CEO or Chief of Staff must report within 5 days.

BOTTOM LINE: Get help if you need it. The Board wants its licensees in good shape to serve the patients of the Commonwealth.

Agenda Item: Recommendations from the Credentials Committee on Streamlining the Licensing Process

Staff Note: On September 20, 2021, the Credentials Committee met to consider what the licensing process for all professions should look like going forward. During the pandemic, a number of requirements have been waived for 5 professions considered to be critical in the fight against COVID-19. The professions were MD's, DO's, DPM's, PA's and RT's. The accommodations sped up the licensing process by lightening the burden on applicants for the submission of documents, some of which had traditionally been required to come directly from the primary source. The Board has no evidence that the accommodations made during the pandemic have led to an increase in complaints about these 5 professions. In follow-up to the expiration of Executive Order 57 on June 30, 2021, with the Board's experience in expediting the issuance of licenses of 5 professions, and with no evidence of compromising patient safety, the Credentials Committee makes its recommendations in the following pages. The Committee was only able to discuss the 5 expedited professions. It asked the staff to address possible streamlining of the other 16 professions with the Advisory Boards, which was done last week. The recommendations from the Advisory Boards will be reported to the Credentials Committee for discussion.

Action: To discuss the recommendations and approve, reject or amend.

--- DRAFT UNAPPROVED ---

VIRGINIA BOARD OF MEDICINE

CREDENTIALS COMMITTEE BUSINESS MEETING

Monday, September 20, 2021

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Miller called the meeting to order at 9:00 a.m.

MEMBERS PRESENT: Jacob Miller, DO - Chair
Joel Silverman, MD
Janet Hickey, JD
Blanton Marchese
Alvin Edwards, PhD

STAFF PRESENT: William L. Harp, MD - Executive Director
Michael Sobowale, LLM - Deputy Executive Director, Licensing
Colanthia M. Opher - Deputy Executive Director, Administration
Elaine Yeatts - DHP Senior Policy Analyst

GUESTS PRESENT: W. Scott Johnson, Esq. – Medical Society of Virginia
Clark Barrineau – Medical Society of Virginia
Christy Evanko - Virginia Association for Behavior Analysis

Dr. Miller read the emergency egress instructions.

Mr. Sobowale called the roll; a quorum was declared.

Approval of the Agenda

Dr. Silverman moved approval of the agenda as presented with Dr. Edwards seconding. The agenda was approved unanimously.

Public Comment

The Committee received public comment from Christ Evanko, Administrative Director for the Virginia Association for Behavior Analysis (VABA). VABA would like to request that the Committee recommend that Board staff run National Practitioner Data Bank (NPDB) queries on behalf of license applicants. Other issues pertaining to the licensing of Behavior Analysts and Assistant Behavior Analysts will be presented to the Advisory Board on Behavior Analysis at its October 4th meeting.

NEW BUSINESS

Overview

Dr. Harp provided brief comments on the purpose of the meeting. He said that during the pandemic, the Board made accommodations in the licensing processes of 5 professions considered essential to combatting COVID-19. Governor Northam declared the pandemic over June 30th. Given the success of expedited licensing during the pandemic, discussion has occurred about simplifying the process for applicants while still protecting the public. Part of the Committee's task will be to review and recommend which documents required in the licensing process must be primary-source verified, or submitted as copies, and those that may no longer be useful in the licensing process. He reminded the Committee that the Board voted to cease requiring FORM B's (employment verifications) as part of the licensing process. If an applicant has been licensed in multiple states and jurisdictions, the applicant is currently required to ensure a primary-source license verification from each state. It can be challenging for licensing boards to respond in a timely fashion to an applicant's request, producing significant delays in the licensing process. Also, during the pandemic, transcripts were not required to be primary-sourced. So if time permits, the Committee is tasked to review the documents required for licensing applicants in the 22 professions at the Board of Medicine and make recommendations on how the licensing process can be further streamlined.

New Business:

1. Review of Licensure Requirements and Documents required for Submission

The Committee began by reviewing the licensure requirements and documents required of applicants prior to the waivers and accommodations implemented in concert with the Governor's Executive Order 57 on March 12, 2020. The waivers and accommodations enabled the Board to waive verification of certain primary-sourced documents and make certain accommodations in the licensing processes for five (5) expedited professions in order to streamline the licensure of health care providers during COVID-19. The 5 expedited professions were Medical Doctor (MD), Doctor of Osteopathy (DO), Doctor of Podiatric Medicine (DPM), Physician Assistant (PA), and Respiratory Therapy (RT).

MD, DO, DPM

After review and extensive discussion of the licensure requirements for MDs, DOs, and DPMs, and upon a motion by Mr. Marchese, seconded by Dr. Edwards, the Committee unanimously approved that the following recommendation to be made to the Board: that, for MDs, DOs, and DPMs, the Board should continue to require that an applicant submit primary-source verification transcripts, national board examination scores, evidence of completion of postgraduate training, the National Practitioner Data Bank (NPDB) self-query report, and one state license verification. The Committee agreed that a digitally-certified electronic copy of the NPDB report provided by an applicant is acceptable.

For verification of completion of postgraduate training, the Board can accept a copy of the completion certificate issued by the training program or a program director's letter of completion, or other verification submitted by an applicant as proof of completion of postgraduate training when the applicant has finished postgraduate training at least 5 years prior to submitting an application to the Board. An applicant who is within 5 years of completing postgraduate training when an application is submitted to the Board would have to provide primary source verification

of proof of completion directly from the training program.

PA

After review and discussion, and upon a motion by Mr. Marchese, seconded by Dr. Edwards, the Committee voted unanimously to recommend to the full Board to continue to request that applicants submit primary-source verification of passage of the National Commission on Certification of Physician Assistants (NCCPA) certifying examination, proof of completion of education, the NPDB self-query report, and one current state license verification. The Board can accept a digitally-certified electronic copy of the NPDB report provided by an applicant, in lieu of a mailed report. In addition, the Committee recommended that the Board dispense with using "Form L" and place the question about successful completion of 35 hours of pharmacology in the application form.

RT

After review and discussion, and upon a motion by Mr. Marchese, seconded by Dr. Edwards, the Committee voted unanimously to recommend to the full Board for the Board to continue to request that applicants submit primary-source verification of passage of the National Board for Respiratory Care (NBRC) certifying examination, proof of completion of education, NPDB self-query report, and one current state license verification. The Board can accept a digitally-certified electronic copy of the NPDB report provided by an applicant, in lieu of a mailed report.

The Committee decided to defer review and discussion of the licensure requirements for other allied professions, and asked that the various advisory boards for each profession review their licensing requirements and application questions to determine if they are in line with current practice. The Committee asked that the findings be reported back to the Committee at its next meeting.

2. Guidance Document 85-9 on USMLE Attempts Limit

The Committee reviewed guidance document 85-9 and discussed whether a recommendation needed to be made to change the number of attempts written in the Board's guidance document for applicants taking the USMLE in light of the recent change made by FSMB to its policy regarding the total number of attempts that will be allowed a candidate on each Step of the exam. Effective July 1, 2021, FSMB reduced the total number of attempts a candidate may take per Step from six (6) to four (4). Upon a motion by Dr. Silverman, seconded by Dr. Edwards, the Committee voted unanimous approval of recommendation to change the total number of USMLE attempts limit listed in the Board's guidance document to bring it in line with the current FSMB's USMLE attempts limit.

3. Award of Continuing Education Credit for Board Members' Service

Dr. Miller led the discussion. Dr. Miller stated that Board members should be able to claim continuing education (CE) credit for their service on the Board, including attendance at meetings and case review. Mr. Marchese stated that he is aware that other states' licensing board members are able to receive CE credit for their service on the Board, but he is not sure how many credit hours should be claimed and in what category. Ms. Yeatts advised that currently, Board members should be able to claim credit for those types of activities, but they would be Type 2 CE.

Upon a motion by Dr. Edwards, seconded by Dr. Silverman, the Committee voted to recommend to the full Board that Board members be allowed to claim up to thirty (30) hours of Type 2 CE per biennium for time spent on licensing, discipline and policy issues. Two members abstained from the vote. The motion passed.

With no additional business, the meeting adjourned 12:35 p.m.

Jacob Miller, DO
Chair

William L. Harp, MD
Executive Director

Michael Sobowale, LL.M.
Deputy Executive Director, Licensing

Credentials Committee Recommendations			
	Primary Source Verification	Copies Accepted	No Longer Necessary
MD	<ul style="list-style-type: none"> ✓ School Transcripts ✓ National Board Examination Scores ✓ Evidence of completion of postgraduate training ✓ NPDB self-query report ✓ 1 state license verification 	<p>Other state license verifications, if submitted</p> <p>If postgraduate training completed for at least 5 years prior to submitting an application</p> <p>Digitally-certified electronic copy of NPDB report, in lieu of a mailed report</p>	<p>“Form B” employment verification</p>
DO	<ul style="list-style-type: none"> ✓ School Transcripts ✓ National Board Examination Scores ✓ Evidence of completion of postgraduate training ✓ NPDB self-query report ✓ 1 state license verification 	<p>Other state license verifications, if submitted</p> <p>If postgraduate training completed for at least 5 years prior to submitting an application</p> <p>Digitally-certified electronic copy of NPDB report, in lieu of a mailed report</p>	<p>“Form B” employment verification</p>
DPM	<ul style="list-style-type: none"> ✓ School Transcripts ✓ National Board Examination Scores ✓ Evidence of completion of postgraduate training ✓ NPDB self-query report ✓ 1 state license verification 	<p>Other state license verifications, if submitted</p> <p>If postgraduate training completed for at least 5 years prior to submitting an application</p> <p>Digitally-certified electronic copy of NPDB report, in lieu of a mailed report</p>	<p>“Form B” employment verification</p>
PA	<ul style="list-style-type: none"> ✓ Evidence of completion of PA education ✓ NCCPA Certifying Examination ✓ NPDB self-query report ✓ 1 state license verification 	<p>Other state license verifications, if submitted</p> <p>Digitally-certified electronic copy of NPDB report, in lieu of a mailed report</p>	<p>“Form L” - completion of education and 35 hours pharmacology course. (Place question on application form)</p> <p>“Form B” employment verification</p>

RT	<ul style="list-style-type: none">✓ Evidence of completion of Respiratory Care education✓ NBRC Certifying Examination✓ NPDB self-query report✓ 1 state license verification	Other state license verifications, if submitted Digitally-certified electronic copy of NPDB report, in lieu of a mailed report	"Form B" employment verification
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Agenda Item: Meetings Held with Electronic Participation

Staff Note: During COVID-19, the Board, Advisory Boards, and Committees were authorized to hold meetings virtually. However, with the expiration of the Governor's Executive Order on June 30, 2021, meetings have gone back to in-person. The Department of Health Professions has developed a draft policy document to provide its regulatory boards with guidance on holding meetings with some electronic participation. Each board is able to "customize" the policy to meet its needs, as long as the policy developed complies with the provisions of Section 2.2-3708.2 of the Code of Virginia. In the following pages, you will find the draft policy, which includes 2.2-3708.2 and DHP's recommended Procedures.

Action: To discuss and "tweak" the document as policy specific to the Board of Medicine.

Virginia Board of Medicine

Meetings Held with Electronic Participation

Purpose:

To establish a written policy for holding meetings of a health regulatory board within the Department of Health Professions with electronic participation by some of its members and the public.

Policy:

This policy for conducting a meeting with electronic participation shall be in accordance with § 2.2-3708.2 of the Code of Virginia.

Authority:

§ [2.2-3708.2](#) *Meetings held through electronic communication means.*

A. The following provisions apply to all public bodies:

1. Subject to the requirements of subsection C, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that:

a. Such member is unable to attend the meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance or (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance; or

b. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision b is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. If participation by a member through electronic communication means is approved pursuant to subdivision 1, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision 1 a, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to (i) a temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 1 b, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision 1 b is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

3. Any public body, or any joint meetings thereof, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § [44-146.17](#) or the locality in which the public body is located has declared a local state of emergency pursuant to § [44-146.21](#), provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. The public body convening a meeting in accordance with this subdivision shall:

- a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
- b. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
- c. Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
- d. Otherwise comply with the provisions of this chapter.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

The provisions of this subdivision 3 shall be applicable only for the duration of the emergency declared pursuant to § [44-146.17](#) or [44-146.21](#).

B. The following provisions apply to regional public bodies:

1. Subject to the requirements in subsection C, regional public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

2. If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public.

If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

C. Participation by a member of a public body in a meeting through electronic communication means pursuant to subdivisions A 1 and 2 and subsection B shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at one primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

D. The following provisions apply to state public bodies:

1. Except as provided in subsection D of § [2.2-3707.01](#), state public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided that (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subdivision 2, and (iii) members of the public are provided a substantially equivalent electronic communication means through which to witness the meeting. For the purposes of this subsection, "witness" means observe or listen.

If a state public body holds a meeting through electronic communication means pursuant to this subsection, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

2. Notice of any regular meeting held pursuant to this subsection shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary or central meeting location and any remote locations that are open to the public pursuant to subdivision 4; shall include notice as to the electronic communication means by which members of the public may witness the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

3. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body conducting the meeting.

4. Public access to the remote locations from which additional members of the public body participate through electronic communication means shall be encouraged but not required. However, if three or more members are gathered at the same remote location, then such remote location shall be open to the public.

5. If access to remote locations is afforded, (i) all persons attending the meeting at any of the remote locations shall be afforded the same opportunity to address the public body as persons attending at the primary or central location and (ii) a copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body for the meeting shall be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the meeting.

6. The public body shall make available to the public at any meeting conducted in accordance with this subsection a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § [30-179](#).

7. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes. For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes.

8. Any authorized state public body that meets by electronic communication means pursuant to this subsection shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

- a. The total number of meetings held that year in which there was participation through electronic communication means;
 - b. The dates and purposes of each such meeting;
 - c. A copy of the agenda for each such meeting;
 - d. The primary or central meeting location of each such meeting;
 - e. The types of electronic communication means by which each meeting was held;
 - f. If possible, the number of members of the public who witnessed each meeting through electronic communication means;
 - g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;
 - h. The identity of any members of the public body who were recorded as absent at each meeting and any members who were recorded as absent at a meeting but who monitored the meeting through electronic communication means;
 - i. If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;
 - j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and
 - k. A written summary of the public body's experience conducting meetings through electronic communication means, including its logistical and technical experience.
- E. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

Procedures:

1. In order to conduct a meeting with electronic participation, a quorum of the board or a committee of the board must be physically present at a central location.
2. If a quorum is attained, one or more members of the board or committee may participate electronically if, on or before the day of a meeting, the member notifies the chair and the executive director that he/she is unable to attend the meeting due to: 1) a temporary or permanent disability or other medical condition that prevents the member's physical attendance; 2) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance; or 3) a personal matter, identifying with specificity the nature of the personal matter. Attendance

by a member electronically for personal reasons is limited to two meetings per calendar year or no more than 25% of meetings held.

3. Participation by a member through electronic communication means must be approved by the board chair or president.
4. The board or committee holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location does not need to be open to the public.
5. The board or committee shall also include in its minutes the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance or if the member participated electronically due to a personal matter, the minutes shall state the specific nature of the personal matter cited by the member.
6. If a board or committee holds a meeting through electronic communication, it must also hold at least one meeting annually where members are in attendance at the central location and no members participate electronically.
7. Notice of a meeting to be conducted electronically, along with the agenda, should be provided to the public contemporaneously with such information being sent to board members at least three working days in advance of such meeting. Notice of special, emergency, or continued meetings must be given contemporaneously with the notice provided to members.
8. Meeting notices and agendas shall be posted on the Virginia Regulatory Townhall (which sends notice to Commonwealth Calendar and the Board's website). They should also be provided electronically to interested parties on the Board's public participation guidelines list.
9. The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary meeting location; shall include notice as to the electronic communication means by which members of the public may participate in the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.
10. The agenda shall include a link to a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179 to allow members of the public to assess their experience with participation in the electronic meeting.
11. Members of the public must be given substantially equal access to the electronic communication available to the members. Public comment on the agenda item(s) may be

requested for submission in advance to be included in the agenda package or may be received at the beginning of the meeting.

12. The meeting may be conducted via teleconferencing or videoconferencing. If a telephonic meeting without video is held, members should have an opportunity to speak individually and should identify themselves as they do.
13. Minutes of meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted with electronic communication means shall be recorded by name in roll-call fashion and included in the minutes.
14. A board or committee that meets by electronic communication means must make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:
 - a. The total number of meetings held that year in which there was participation through electronic communication means;
 - b. The dates and purposes of each such meeting;
 - c. A copy of the agenda for each such meeting;
 - d. The primary or central meeting location of each such meeting;
 - e. The types of electronic communication means by which each meeting was held;
 - f. If possible, the number of members of the public who participated in each meeting through electronic communication means;
 - g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;
 - h. The identity of any members of the public body who were recorded as absent at each meeting;
 - i. . If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;
 - j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and
 - k. A written summary of the Board's experience conducting meetings through electronic communication means, including its logistical and technical experience.

Form:

Link to Public comment form from the Freedom of Information Council

<http://foiacouncil.dls.virginia.gov/sample%20letters/welcome.htm>

Adopted on (date): _____

Agenda Item: Licensing Report

Staff Note: Mr. Sobowale will provide information on note-worthy licensing matters.

Action: None anticipated.

Agenda Item: Discipline Report

Staff Note: Ms. Deschenes will provide information on discipline matters.

Action: Consent orders may be presented for consideration.

Next Meeting Date of the Full Board is

February 17-19, 2022



Please check your calendars and advise staff of any known conflicts that may affect your attendance.



The travel regulations require that “travelers must submit the Travel Expense Reimbursement Voucher **within 30 days after completion of their trip**”. (CAPP Topic 20335, State Travel Regulations, p.7). If you submit your reimbursement after the 30 day deadline, please provide a justification for the late submission.

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

November 7, 2021