

**VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES – VIRTUAL MEETING**

Friday, April 9, 2021 Department of Health Professions Henrico, VA

CALL TO ORDER: Mr. Marchese called the virtual meeting of the Executive Committee to order at 8:33 a.m.

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

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

MEMBERS ABSENT: Lori Conklin, MD – President, Chair

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
David Brown, DC - DHP Director
Barbara Allison-Bryan, MD - DHP Deputy Director
Elaine Yeatts - DHP Senior Policy Analyst
Erin Barrett, JD - Assistant Attorney General

OTHERS PRESENT: Richard Grossman
Valentina Vega
Jennie Wood – Board Staff
Ben Traynham, JD – Hancock Daniel
Tamika Hines - Board Staff
Christina ...
LeVar Bowers
Clark Barrineau -MSV
Alicia Cundiff –Spotts Fain
Scott Castro - MSV
K. Wilkinson

EMERGENCY EGRESS INSTRUCTIONS

Mr. Marchese provided the emergency egress instructions for those in the building.

MOMENT OF SILENCE

The Board observed a moment of silence for the passing of the Honorable William E. Quarles, Jr., member of the Board of Medicine's Advisory Board on Radiologic Technology.

PUBLIC HEARING

Mr. Marchese opened the floor for public comment on the proposed regulations prohibiting Conversion Therapy.

Hearing no comment, Mr. Marchese reminded everyone that comment can still be posted on Regulatory Townhall or sent by email to Elaine Yeatts, Policy until April 16, 2021.

APPROVAL OF MINUTES OF DECEMBER 4, 2020

Dr. Ransone moved to approve the meeting minutes from December 4, 2020 as presented. The motion was seconded by Dr. Edwards and carried unanimously.

ADOPTION OF AGENDA

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

PUBLIC COMMENT

The Board acknowledged written comment submitted by the Medical Society of Virginia (MSV). The letter supported the recommendation of the Board's Legislative Committee not to join the Interstate Medical Licensure Compact at this time and encouraged the Executive Committee to confirm it. Additionally, MSV voiced its continued support of the licensure by endorsement pathway as well as revision of the medical malpractice question to better focus on paid claims or pending claims. MSV commented that the revision would not disqualify an applicant solely on the basis of a frivolous or retributive lawsuit.

DHP DIRECTOR'S REPORT

Dr. Brown provided an update on Diversity, Equity and Inclusion (DEI) in the Commonwealth and at DHP. He advised that Governor Northam appointed Dr. Underwood to a cabinet level position as the Chief Diversity Officer for Virginia. The 2021 General Assembly passed legislation mandating that all state agencies adopt a strategic plan on DEI. DHP was one of the pilot agencies to develop this process, which is consistent with DHP's past efforts addressing other government-wide issues. Dr. Brown said that several years ago, the agency was mandated to do a succession planning report. One of the weaknesses identified was the lack of diversity in senior management. Since that time, this issue has been addressed by expanding the hiring process to ensure a more diverse pool of applicants for positions that have a path to leadership in the agency. He noted that the last in-house staff training day in 2019 was entirely devoted to DEI issues, that there is an ongoing series of Lunch and Learns on unconscious bias, and that DHP has established an internal DEI Council. DHP intends to

present this topic at the next in-person board member training with assistance from organizations that support the boards in DHP, such as the Federation of State Medical Boards (FSMB).

Dr. Brown then provided an update on the recently approved legislation to legalize adult use of marijuana. He said it has been signed into law even though some of the programmatic effects are a couple of years away. Effective July 1, 2021, possession of small amounts of marijuana will be legal. The law will need to be re-enacted next year as the legislators will take a careful look at it this year. The law also reflected a change in the Governor's original idea by creating a new agency to regulate marijuana. The new agency will not only regulate adult use, but it will also regulate medical use. Accordingly, the pharmaceutical processor program will be transferred from the Board of Pharmacy to the new agency in 2023. The entire scope of these processes is expected to be in effect in 2024. Dr. Brown also provided an update to the changes in the medical cannabis oil-based program.

Dr. Allison-Bryan provided an update on the vaccine efforts in Virginia. She noted that 1/3 of the population has gotten at least one shot of vaccine. The numbers continue to go up daily, nearly 80,000 a day. The big news is that all of Virginia will enter Phase 2 on April 18. Dr. Allison-Bryan then shared a website called the Kaiser Family Foundation COVID Website. She said that it looks at some of the demographics related to the vaccine. The website is updated every two weeks, and it addresses some very interesting questions. In February, vaccine hesitancy among different ethnic/racial groups equalized, and now the African-American population is getting the vaccine at a higher rate. Dr. Allison-Bryan thinks this speaks well of the efforts that the local health departments have put into education and reassurance about the vaccines.

Dr. Edwards commented on the statement about the health departments' efforts to educate and reassure the African-American population about the vaccine. He said there were some vaccination disparities, and that it was not until the pastors' council got involved and approached Dr. Oliver, Commissioner of Health. The pastors explained what they thought was going on, and subsequently more African-Americans were able to obtain the vaccine. Mr. Marchese said that from his observation, the trust level in the African-American community changed once the churches got involved.

Dr. Ransone asked what role physicians will play once it is legal for adults to possess marijuana. Dr. Brown said there is an expectation that there will always be a role for the physician-supervised medical use of cannabis. The medical program is moving forward with the pharmaceutical processors having up to 5 additional dispensaries in their region. As far as adult use goes, localities may have opt-in or opt-out choices.

Dr. Harp added the law regarding medicinal marijuana products requires that the Supreme Court to work with the Board of Medicine to update the certificate form, DC-307. The revised form should be available July 1, 2021 and most likely the language will refer to cannabis products instead of cannabis-based oils.

PRESIDENT'S REPORT

No report.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp provided a brief report on the Board's finances, case hours for Enforcement and Administrative Proceedings, and the Health Practitioners' Monitoring Program.

Dr. Harp also provided an update on opioid waiver requests, electronic meetings, and reciprocity with contiguous jurisdictions.

Dr. Brown informed the members that the COVID-19 landscape is improving quickly with some geographic variance throughout the state. He said that as the Commonwealth is opening up, DHP will revisit the policy on resuming in-person meetings.

Dr. Harp ended his report by announcing that FSMB has awarded the John H. Clark, MD Award for Leadership to Kevin O'Connor, MD, past president of the Board of Medicine.

NEW BUSINESS

1. Chart of Regulatory Actions and Reaffirmation of Guidance Document 85-14

Ms. Yeatts presented the chart for review only.

She then addressed Guidance Document 85-14 – Enforcement of Continuing Competency Requirements, and said that every 4 years, guidance documents must be reviewed and reaffirmed, amended, or repealed. She noted that staff recommends the Board reaffirm the current guidance in 85-14.

MOTION: Dr. Stokes moved to reaffirm 85-14 as included in the agenda packet. The motion was seconded by Dr. Ransone and carried unanimously.

2. Recommendation from the Legislative Committee regarding the Interstate Medical Licensure Compact (IMLC)

Mr. Marchese reminded the members of the letter of support received from MSV presented during public comment. He said that the Legislative Committee met on January 15, 2021 and discussed the advantages and disadvantages of joining the IMLC. After deliberation, the recommendation of the Legislative Committee was not to join the IMLC at this time.

MOTION: Dr. Ransone moved to confirm the recommendation of the Legislative Committee not to join the IMLC at this time. The motion was seconded by Dr. Archer and carried unanimously.

3. Recommendation of the Advisory Board on Midwifery regarding Guidance Document 85-10

Dr. Harp said this was a pro forma item; it was originally to be addressed at the February Board meeting. He provided the history on the development of Guidance Document 85-10. The

document is due to be reviewed for reaffirmation or possible updating. Dr. Harp said the Advisory Board had already identified some points in the document that may need to be updated. The original document was developed by a work group of Advisory Board members and Board of Medicine members. Repeating this process will ensure that agreed upon, evidence-based revisions will occur. At this time, no date has been set, but it is anticipated that Dr. Barner, Dr. Archer, Kim Pekin, CPM, Becky Banks, CPM, Erin Hammer, CPM, and Dr. Conklin as chair will constitute this work group.

MOTION: Dr. Ransone moved to approve the formation of a work group of 3 Advisory Board members and 3 Board of Medicine members to review and revise Guidance Document 85-10. The motion was seconded by Dr. Stokes and carried unanimously.

4. Recommendations from Board Staff on the Licensure by Endorsement Pathway

Dr. Harp reminded the Committee of the requirements for licensure by endorsement. He then said endorsement is supposed to be the “express train”, with no equivocal information or answers. He pointed out that the current structure of the application intends that all the answers be “No”, including the malpractice question. Staff has noticed that there are applications where the answer to the current malpractice question is “No”, but NPDB comes back with a report that may indicate there are other malpractice suits that have been closed. Staff thinks that the application, the applicants and the process would be better served if the current question was changed to **“Have you had any malpractice paid claims in the last 10 years, or do you have any pending malpractice suits?”** Dr. Harp stated that this change would provide better protection for the public, close a loophole, and make the application more pristine. He then suggested that this same language be used in the traditional pathway application.

MOTION: Dr. Ransone moved to accept the suggested language change for both the endorsement and the traditional applications. The motion was seconded by Dr. Edwards and carried unanimously.

Dr. Harp said when the Board contemplated joining the IMLC in 2016, speed of licensure was one aspect that was considered. In 2021, the question remains if the Board can, through endorsement, match or exceed the speed that the Compact provides. Dr. Harp stated that as the Board has gained experience with the endorsement process, it has become evident that there are two groups that apply through endorsement - those who want a license quickly and those that want an easier process. The IMLC is about expeditious licensure, and going forward, if the Board is to compare licensure by endorsement to the Compact, he suggested a binary count to capture more accurate processing times for endorsement. Staff considered processing times and agreed that 45 days or less to licensure would be about speed, and longer than 45 days to licensure would reflect the group that wanted an easy pathway. Being able to separate these 2 groups statistically would provide a clearer picture for the Board as it assesses the endorsement pathway and the IMLC in the future.

MOTION: Dr. Archer moved to accept the binary count with 45 days being the breakpoint. Dr. Ransone seconded.

Dr. Stokes asked for clarification of the process for applications over 45 days.

Mr. Sobowale said there are some individuals that submit required documentation in the 12th month of an endorsement application. This inflates the numbers for endorsement processing times. The plan will be to send a reminder at the 30-day mark to all who have applied through endorsement. After 45 days, those who have not responded to the notification will be moved to the traditional pathway.

Mr. Marchese reminded the members that the burden is on the applicant to get their supporting documentation to the Board, and that with this notification, staff is going above and beyond to move the process along.

Dr. Archer asked if it would be advantageous to add a checkbox for the applicant to indicate if their desire was to obtain the license quickly, thereby giving staff some preview as to what the intentions were. If so, staff could complete the process in 45 days or less.

Following up on Mr. Sobowale's comments and Dr. Archer's question, Dr. Harp stated that there was no way to exclude any applicant that qualifies for licensure by endorsement with a checkbox at the beginning of the application process. He also stated that after 45 days, incomplete applications should not be transitioned to the traditional pathway, but rather kept in endorsement and just provide the binary numbers which will be helpful when revisiting the Compact. Moving an application to the traditional pathway after 45 days may ruffle some feathers.

After some discussion, the motion carried unanimously.

Licensing Report

Mr. Sobowale provided statistics from July 2020 to the present. The Board has issued over 5,000 new licenses, more than half of which were in the 5 expedited professions. He noted that last fall the Board gained a new profession, licensed surgical assistants. Mr. Sobowale said that across all the professions, the license processing time is approximately 60 days from start to finish. From April 1, 2020 to April 1, 2021, there have been 2,787 MD licenses and 508 DO licenses issued with the number of days ranging from 1 – 366 days. For the first quarter of this year, the Board has issued 421 MD and 82 DO licenses. This report was for information only and did not require any action.

Mr. Marchese expressed his appreciation for the expertise and knowledge Mr. Sobowale brings to the job, and the work he is doing to streamline the licensing process.

Discipline Report

Ms. Deschenes briefly went over the discipline numbers pre-pandemic and during COVID-19. She pointed to the notable number of 97 PHCO's in 2020 compared to 68 in 2019. Adjudication has not slowed much during the pandemic. She noted that one concern is the formal hearings that need to be scheduled; most of them are not amenable to being held virtually.

ANNOUNCEMENTS

---FINAL APPROVED---

There were no announcements.

The next meeting of the Executive Committee will be August 6, 2021 @ 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 10:16 a.m.

Blanton Marchese
Vice- President

William L. Harp, MD
Executive Director

Colanthia M. Opher
Recording Secretary