

**VIRGINIA BOARD OF HEALTH PROFESSIONS
FULL BOARD
MINUTES
FEBRUARY 18, 2003**

TIME AND PLACE: The meeting was called to order at 1:05 p.m. on Tuesday, February 18, 2003 in Conference Room 2 at the Department of Health Professions, 6603 W. Broad St., Richmond, VA.

PRESIDING OFFICER: Charles M. Bristow, Jr., F.S.L., Chair

MEMBERS PRESENT: Linda Ault, M.S.N., R.N.
Sonny Currin, Jr. R.Ph.
Joe Gieck, P.T.
Terone Green
Jack Knapp
Alan E. Mayer
Dianne Reynolds-Cane, M.D.

STAFF PRESENT: Robert Nebiker, Director, Dept. of Health Professions
Elizabeth A. Carter, Ph.D. - Executive Director for the Board
Howard M. Casway - Assistant Attorney General
Gail Jaspen, Chief Deputy Director, Dept. of Health Professions
Elaine Yeatts, Sr. Policy Analyst
Mark Monson, Deputy Director for Administration
Donna Whitney, Intervention Program Manager
Faye Lemon – Director, Enforcement
Terri H. Behr – Administrative Assistant

OTHERS PRESENT: Neal Kauder, Visual Research, Inc.
Eleanor McCance-Katz, Ph.D., M.D., Health Practitioners Intervention Program

QUORUM: With eight members of the Board present, a quorum was not established.

PUBLIC COMMENT: No public comment was presented.

COMMENTS OF DIRECTOR: Mr. Nebiker reviewed HB1441 (Attachment #1) with the Board. He highlighted the following provisions that affect all thirteen health regulatory boards:

- Hospitals and other health institutions must report misconduct within 30 days and no longer wait for peer review committees. There are penalties for failure to report.
- Establishes confidential consent agreements.
- Requires a three-year minimum waiting period to accept requests for reinstatement after revocation.
- Requires the agency to share information with law enforcement when a crime has been committed.
- Amends the confidentiality statute to allow for sharing of information with the relevant Commonwealth's Attorney.
- Allows for a fine of up to \$5,000 per violation, opposed to the former \$1,000 limit.
- Allows for the issuance of summons for unlicensed practice.
- Requires greater reporting of disciplinary actions.
- Provides for emergency rulemaking for boards to increase fees to cover implementation costs.

Mr. Nebiker stated that there are two additional provisions that affect the Board of Medicine, specifically, and one that also affects the Board of Physical Therapy. They are as follows:

- Changes the grounds for action from gross negligence or misconduct to simple or intentional negligence (Medicine and Physical Therapy)
- Changes the composition of the Executive Committee of the Board of Medicine to include two citizen members.

Mr. Nebiker also reported that all of the health regulatory boards will be examining the need for emergency regulations to increase fees to cover costs for the implementation of HB1441.

He informed the Board that the Governor has approved eleven new positions, with another twenty-seven positions to be added in the future.

COMMENTS OF THE EXECUTIVE DIRECTOR:

Dr. Carter informed the Board that under the new state travel policy, all reimbursements for travel

would be directly deposited into their accounts as a cost saving device. She stated that they would need to fill out the direct deposit information that was provided to them and send it directly to the Dept. of Accounts.

Dr. Carter also gave the Nominating Committee report on behalf of Dr. Smart. She stated that Dr. Smart had been working with Mr. Bristow on suggestions for a slate of officers for the fall election. Dr. Carter informed the Board members that if any are interested in serving as Chair or Vice-Chair they should let Dr. Smart or herself know. Dr. Smart also was asked to make suggestions to Mr. Bristow for appointments to various committees. Mr. Bristow accepted the suggestions, and the new members replacing vacancies for the respective committees are as follows:

Executive Committee – Lucia Trigiani, and Nadia Kuley, Ph.D.

Regulatory Research Committee – Joe Gieck , P.T. (Chair) , Linda Ault, M.S.N., R.N., and Michael Ridenhour, Au.D.

Education Committee – Darryl Lefcoe, D.D.S. and Mary Smith

Enforcement Committee – The Honorable Alan Mayer, Dianne Reynolds-Cane, M.D., and Jerry Hinn, D.V.M.

Nominating Committee – William Russell, L.C.S.W., and Jerry Hinn, D.V.M.

LEGISLATIVE UPDATE:

Ms. Yeatts gave an overview and update of the regulatory actions involving the Dept. of Health Professions. She stated that the Board of Dentistry has the most activity currently. Her status report is provided in Attachment #2.

Ms. Yeatts also gave an overview of the legislation pertinent to the Dept. of Health Professions:

HB1792 – Authorizes the Circuit Courts to

suspend the license of any health care provider who defaults on child care support or educational loans.

Hb1820 – Dept. of Health Professions will not include street address, post office box number or rural route number on a licensee on the online lookup system. The address of record could still be provided under a Freedom of Information request.

HB1823 – Eliminates the Virginia voluntary formulary and replaces it with current the federal guidelines. It also eliminates the specific prescription pad format.

HB 1870 – In addition to the current requirement to notify patients upon selling a practice, this bill adds an obligation to notify the patients if the practice is being relocated. It also allows for charging a patient to transfer the records to another practitioner, but those charges would be limited to the actual costs of retrieval and copying.

HB 1871 – The effective date of this bill has been put off to 2005, but it will allow nurses who are licensed in Virginia to go to another state that is part of a multi-state compact and practice without acquiring a license from that state.

HB2182 – Grants the department the authority to collect from licensees e-mail addresses, fax numbers, telephone numbers, etc. to be used for emergency contact. None of this information would be available for public disclosure.

HB2183 – Allows the Commissioner of Health to develop protocols for allowing persons who are currently unlicensed and not authorized to administer and dispense drugs and devices, under very specific requirements to do so if no health practitioners authorized by law are available. Will also allow the Board of Pharmacy to waive certain requirements of law or regulation in case of a declared emergency, so that there is no disruption in the availability of pharmaceuticals.

HB2605 – Directly affects the Board of Health Professions. Establishes in the Code the profession of a dialysis patient care technician and creates a title protection for persons practicing under that title. It requires that the Board of Health Professions adopt regulations to approve the certification program to credential the persons that hold that title.

HB2651 – Allows for a ninety-day temporary license for foreign nationals otherwise qualified to practice. This allows them the time needed to obtain their Social Security numbers which had, heretofore, been a prerequisite to licensure.

REPORT ON HEALTH PRACTITIONERS INTERVENTION PROGRAM:

Donna Whitney introduced Eleanor McCance-Katz, M.D., Ph.D., Medical Director and Chief Operating Officer of the Virginia Health Practitioners Intervention Program (HPIP), to the Board. Ms. Whitney stated that the agency has entered into a contract with Virginia Commonwealth University Health Systems, Dept. of Psychiatry, Division of Addiction Psychiatry to provide services for impaired practitioners. The new contract took effect on January 1, 2003 and will run for five years. Dr. McCance-Katz is the Chair of Addiction Psychiatry at Virginia Commonwealth University and presented an overview of HPIP.

COMMENTS OF BOARD COUNSEL:

Mr. Casway clarified the mission and function of the Board of Health Professions and provided the Board with a copy of §2.2-2100 of the Code which sets out the three types of boards. They are advisory, policy, and supervisory. In essence, the Board of Health Professions is an advisory board. Mr. Casway also provided the Board members with a copy of §54.1-2510 of the *Code of Virginia*, which sets out the specific powers and duties of the Board, delineating its authority. The regulatory boards are policy boards.

ENFORCEMENT COMMITTEE:

Dr. Carter reported that there was an update on the Sanction Reference Study at the meeting of the Enforcement Committee earlier this morning as well as discussion concerning the need for a different management approach to case resolution by the boards as a result of HB 1441.

Initial results from the Board of Medicine's cases results involving the factors associated with removal from practice were presented as well as a discussion of work to be accomplished with the Board of Pharmacy and Board of Dentistry.

With the advent of HB1441, the caseload is expected to increase dramatically. As such, the case management approaches used by the health regulatory boards and agency staff will need to evolve in some manner to be able efficiently and effectively operate. To assist the agency and the respective health regulatory boards in grappling with this, the Committee requested staff to develop statistical reports on case categories. It was the Committee's consensus that there may be merit in distinguishing "clinical" cases (which require board member expertise) from those "non-clinical" cases (which largely involve administrative/legal issues (e.g., facility violation, continuing education, dishonored checks, fraud, advertising, business practices)).

NEW BUSINESS:

Mr. Bristow requested the assembled Board members to review the Mission of the Board of Health Professions ("Mission"). Dr. Carter stated that the Mission was developed as a result of the Board's retreat in 2000 and, at that time, it was agreed that it would be reviewed every two years. Upon review of the discussion, Mr. Bristow directed the Education Committee to discuss the matter and report to the full Board at the next meeting.

MEETING ADJOURNED:

There being no further business, the Board adjourned at 3:00 p.m.

Charles M. Bristow, Jr., F.S.L., Chairman

Elizabeth A. Carter, Ph.D., Executive Director for
the Board of Health Professions

