

**VIRGINIA BOARD OF HEALTH PROFESSIONS
REGULATORY RESEARCH COMMITTEE
MINUTES
OCTOBER 21, 2004**

TIME AND PLACE: The meeting was called to order at 9:05 a.m., on Thursday, October 21, 2004, in Conference Room 1 at the Department of Health Professions, 6603 W. Broad St., Richmond, VA

PRESIDING OFFICER: Michael Ridenhour, Au.D.

MEMBERS PRESENT: Mary Smith
David Hettler, O.D.
David R. Boehm, L.C.S.W.
Damien Howell, PT
Alan E. Mayer

MEMBERS NOT PRESENT: Janet Payne
Natale A. Ward, LPC

STAFF PRESENT: Robert Nebiker – Director, Dept. of Health Professions
Elizabeth A. Carter, Ph.D. - Executive Director for the Board
Elaine Yeatts, Regulatory Manager
Emily Wingfield, Assistant Attorney General
Terri H. Behr - Administrative Assistant
Sandra Reen, Executive Director, Board of Nursing Home Administrators
Charles Giles, Finance

OTHERS PRESENT: Dana Steger, VANHA
Georgia Weiss
Linda McKorkindale
Jason Wilkins
Carolynne Stevens, Va. Dept. of Social Services
Judy McGreal, Va. Dept. of Social Services
Beverly Soble, Va. Healthcare Assoc.

QUORUM: With six members of the Committee present, a quorum was established.

PUBLIC COMMENT: Beverly Soble commented that the report regarding Assisted Living Directors is an excellent product and she encourages the committee to support it.

APPROVAL OF MINUTES: On properly seconded motion by Dr. Hettler, the

Committee voted to approve the minutes of the meeting of September 24, 2004 as presented.

**DIALYSIS PATIENT-CARE
TECHNICIAN REGULATIONS:**

Ms. Yeatts directed the Committee to the proposed regulations in their agenda packets. She stated that no comments were received and that the regulations before the Committee were identical to the ones previously proposed. The Committee needs to propose a recommendation for adoption of these regulations to the full Board.

On properly seconded motion by Mr. Howell, the Committee voted unanimously to recommend adoption of the proposed regulations to the full Board.

**ASSISTED LIVING DIRECTORS
REPORT:**

Dr. Carter directed the Committee to the report with the policy options that were discussed at the last meeting in September. She stated that at that time the Committee directed staff to go forward and draft a legislative proposal for licensure of assisted living facility administrators and also to address the fiscal impact. Dr. Carter informed the Committee that the legislative proposal has been disseminated to as many interested parties as they could contact. The Committee also has copies of the written comment received on the proposal.

Dr. Hettler referred to comments received from Jay DeBoer, Commissioner of the Va. Dept. for the Aging, regarding amending the language in §54.1-3103 to allow a resident's guardian to serve on the Board in recognition of the fact that many residents have no family members.

On properly seconded motion by Dr. Hettler, the Committee voted unanimously to add to §54.1-3101 the phrase, "or guardian" following "family member" under the description of the composition of the board.

Ms. Yeatts directed the Committee to comments received from Andrew J. Carle, Director of the Program in Assisted Living Administration at George Mason University, objecting to the composition of the Board of Long Term Care Administrators being weighted in favor of nursing home administrators. Mr. Carle suggests that the composition should be more evenly divided. Ms. Yeatts stated that there are several written comments regarding the composition. She also

stated that Commissioner Jones of the Dept. of Social Services has comments of direct relevance to that and are significant to the proposal.

One is a recommendation that the legislation include those administrators who oversee residential living care facilities as well as those who oversee assisted living care level facilities. Upon properly seconded motion by Mr. Howell, the Committee voted to adopt the amendments to the draft legislation that were provided by Commissioner Jones which strike the phrase “assisted living care” in §54.1-2503 in the definition of assisted living and the phrase “providing assisted living care” in §63.2-1803.

In reference to §54.1-3103, Commissioner Jones also requested that nursing home administrators not be exempted from licensure requirements for assisted living administrators. After much consideration, the Committee declined to amend the proposal to remove deemed status for nursing home administrators. They held that since both professions would be regulated within the Board of Long Term Care Administrators, that board’s regulations could address concerns over competency issues spanning the entire continuum of care.

Ms. Yeatts discussed the composition of the Board. She stated that federal regulation on nursing homes provide that the majority of the Board cannot be representative of a single profession or category of institution. Ms. Yeatts stated that neither nursing home administrators or assisted living facility administrators could constitute a majority. She stated that the Committee might want to consider changing the proposal to include three people from each profession.

On properly seconded motion by Dr. Hettler, the Committee voted unanimously to amend §54.1-3101 regarding the composition of the Board of Long Term Care Administrators to include three members who are licensed nursing home administrators and three members who are assisted living facility administrators and also that one of the licensed nursing home administrators shall be administrator of a proprietary nursing home.

Georgia Weiss, the owner and operator of five small eight bed assisted living facilities in McLean, Va., spoke expressing concern regarding some of the language in the proposed regulations. She stated that under the current regulations she is required to have an administrator for each one of her five assisted living facilities. Under the proposed she would be required to have five *licensed* administrators for each of her five, eight bed homes as opposed to larger facilities that could have 100 to 150 beds and have only one *licensed* administrator. She stated that this requirement could potentially put the smaller providers out of business if they have to meet this requirement.

On properly seconded motion by Dr. Hettler, the Committee voted unanimously to add a Subsection B under §54.1-3103 which states: Nothing in this chapter shall prohibit a licensed assisted living facility administrator from serving as the administrator of record for more than one assisted living facility as permitted by regulations of the licensing authority for the facility.

NEW BUSINESS:

Charles Giles of the DHP Finance Section presented information to the Committee regarding the fiscal impact on the agency because of the proposed legislation regarding assisted living facility administrators.

MEETING ADJOURNED:

There being no further business the Committee adjourned at 11:15 a.m.

Michael W. Ridenhour, AU.D., Chair

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