



Executive Committee Meeting

Virginia Board of Medicine

August 7, 2020

8:30 a.m.

General Information for Those Attending Meetings Held at the Perimeter Center During the COVID-19 Pandemic

In accordance with the Governor's Executive Order Number 63 (2020), any person age ten and older entering the building will be required to wear a face covering, such as a mask, scarf, or bandana.

The Department of Health Professions has taken precautions to address the recommendations of the CDC along with the Governor's Executive Orders, such as social distancing, cleaning/sanitizing common surfaces, wearing face coverings and reducing the numbers of people attending meetings.

Please do not enter the building if you are experiencing symptoms such as:

- Fever, cough, shortness of breath and/or,
- Have been exposed within the past 14 days to individuals who have tested positive to COVID-19.

Please note that the Board Room will be set up to appropriately social distance. During the meeting, you may continue to wear a face covering. However, when you are speaking you may choose to pull down your face covering to speak into a microphone for clarity. When not speaking we recommend returning the face covering to cover your nose and mouth.

Please know that there will be limited seating for the public, so it will be on a first-come, first-served basis.

**PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)**

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 4

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Executive Committee
Friday, August 7, 2020 @ 8:30 a.m.
9960 Mayland Drive, Suite 200
Henrico, VA 23230
Board Room 4

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Call to Order of the Executive Committee—Ray Tuck, Jr., DC, President, Chair

Emergency Egress Procedures i

Roll Call

Approval of Minutes – December 6, 2019 1

Adoption of Agenda

Public Comment on Agenda Items

DHP Director’s Report – David Brown, DC

President’s Report - Ray Tuck, Jr., DC

Executive Director’s Report – William L. Harp, MD 6

- COVID-19 Board Update..... ---
- Licensing Changes during COVID-19 & Beyond..... ---
- Budget..... ---
- Joint Efforts ---
- Updated Supreme Court List..... ---
- Appointments ---

NEW BUSINESS:

1. Regulatory Actions – Ms. Yeatts

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- Report of the 2020 General Assembly 8
- Adoption of Amendment to Regulations for Surgical Assistants/Surgical Technologists..... 24
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Announcements

Next scheduled meeting: December 4, 2020

**VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES**

Friday, December 6, 2019

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Tuck called the meeting of the Executive Committee to order at 8:31 a.m.

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

MEMBERS PRESENT: Ray Tuck, DC - President
Lori Conklin, MD - Vice-President
Blanton Marchese - Secretary-Treasurer
David Archer, MD
Alvin Edwards, MDiv, PhD
Karen Ransone, MD (*arrived at 8:40 a.m.*)
Kenneth Walker, MD

MEMBERS ABSENT: Syed Salman Ali, MD

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

OTHERS PRESENT: W. Scott Johnson, JD - MSV
Clark Barrineau - MSV

EMERGENCY EGRESS INSTRUCTIONS

Dr. Conklin provided the emergency egress instructions.

APPROVAL OF MINUTES OF AUGUST 2, 2019

Dr. Edwards moved to approve the meeting minutes from August 2, 2019 as presented. The motion was seconded and carried unanimously.

ADOPTION OF AGENDA

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

PUBLIC COMMENT

There was no public comment.

DHP DIRECTOR'S REPORT

Dr. Allison-Bryan reported on the Perimeter Center's new security measures and the overhaul of the Board's webpage. She also reported that other boards have noticed the Board of Medicine's expansion of the ban on conversion therapy to all ages. Some other boards have followed suit or considering doing so.

PRESIDENT'S REPORT

Dr. Tuck reported on his work with the Federation of State Medical Boards (FSMB) on physician impairment.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp provided a brief report on the following:

Cash Balance

Dr. Harp stated that the Board is in good financial standing. However, more funds than projected have been spent on DHRM consultation services this fiscal year.

FSMB Advocacy Network News

Dr. Harp noted the following federal and state legislative issues:

- The House Judiciary Committee and the Federal Trade Commission are discussing antitrust issues and license portability for professionals.
- There are several telemedicine bills intended to expand access to care while respecting existing state and federal laws.
- Opioid legislation is designed to prevent diversion.
- The Veterans Administration is seeking to expand access to healthcare through telemedicine and to protect patients by reporting unprofessional conduct to state medical boards.
- Federal legislation would prohibit state licensing agencies from denying, suspending or revoking an individual for defaulting on a student loan.
- Proposed law would permit certain allied health and behavioral health credentials to be awarded to some individuals with arrests and convictions.

--DRAFT UNAPPROVED--

- CMS is proposing a rule that would authorize the revocation or denial of a physician's privileges to participate in Medicare and/or Medicaid based upon state board actions.
- The Interstate Medical Licensure Compact currently has 29 participating states and 3 more with bills in their legislatures. To date, the Compact has issued 7,599 licenses.
- North Carolina has a bill that will mirror Section 54.1-2909 of the Code of Virginia for the reporting of unprofessional conduct.
- Alaska has a bill that will allow physician assistants to diagnose and treat patients without performing a physical examination.
- Florida has a bill that will allow Veterans Administration physicians to treat veterans residing in Florida without a Florida license, as long as they have an unencumbered license in another jurisdiction.

Licensure by Endorsement

Dr. Harp reported that since January 2019, the Board has issued 229 medicine and surgery licenses by endorsement. He said it appears that there are two types of applicants: those who just want a less cumbersome way to apply and those who want a license issued expeditiously. The range of days to licensure has been 1 to 201. A diligent applicant can be issued a license by endorsement quickly.

FSMB Nominations

Dr. Harp reminded Committee members that applications for FSMB committees and elected positions are due by December 31, 2019.

These reports were for informational purposes only and did not require any action.

Dr. Archer asked if there was a national movement to allow a practitioner that is licensed in one state to practice in another.

Dr. Harp provided comment emphasizing effective lobbying efforts in Congress for telemedicine around 2011 and the subsequent beginnings of the Interstate Medical Licensure Compact in 2013.

NEW BUSINESS

Chart of Regulatory Actions

Ms. Yeatts provided a brief overview of the regulatory actions as of November 26, 2019.

Legislative Report as of November 26, 2019

Ms. Yeatts stated that, although DHP only has one bill, this will be a very busy Session. Three bills that will affect the Board of Medicine are: HB 39 – Health benefit plans; enrollment by pregnant individuals, HB 41 – Adverse childhood experiences; Board of Medicine to adopt regulations for screening, and HB42 – Health care providers; screening of patients for prenatal and postpartum depressions, training.

—DRAFT UNAPPROVED—

Adoption of Regulation for Waiver of Electronic Prescribing by Emergency Action

Ms. Yeatts noted that the language of the proposed final regulation was identical to the emergency regulations that became effective on September 18, 2019. She also noted that there were no comments on the NOIRA to replace the emergency regulations.

MOTION: Dr. Edwards moved to adopt the proposed regulations to replace the emergency regulations including the temporary waiver for e-prescribing of opioids. The motion was seconded and carried unanimously.

Adoption of Proposed Regulations for Physician Assistants

Ms. Yeatts noted that the language was identical to the emergency regulations that became effective on October 1, 2019. She also noted that there were no comments on the NOIRA to replace the emergency regulations.

MOTION: Dr. Edwards moved to adopt the proposed regulations to replace the emergency regulations for practice of physician assistants with a patient care team physician. The motion was seconded and carried unanimously.

Question Regarding Waiver of Electronic Prescribing of Opioids

Dr. Harp informed the Board members that staff had received a request for a waiver of 1 year for electronic prescribing of opioids from Mid-Atlantic Permanente Medical Group (MAPMG). MAPMG has 1700 physicians in its group and believes that its electronic system will not be ready by July 1, 2020. This item was before the Committee to determine if the collective request from MAPMG could be granted to exempt all 1700 physicians or not.

Ms. Barrett advised that a reading of the statute appears to require that each practitioner submit a request for a waiver; therefore a blanket request cannot be granted. She added that the Board should grant Dr. Harp the authority to relay the Board's decision to MAPMG. The Committee agreed.

Report of the FSMB Workgroup on Physician Sexual Misconduct

Dr. Tuck advised that FSMB had sent a very detailed draft of its work on this topic and is seeking general comments about the document.

After discussion, the members suggested the following:

- 1 – Abbreviate the content
- 2 – Address FOIA issues
- 3 – Develop a training document

Dr. Harp said he would convey the Board's thoughts to Mark Staz at FSMB.

ANNOUNCEMENTS

Dr. Harp announced that Dr. Matusiak requests Board members review disciplinary cases after adjournment.

The next meeting of the Committee will be April 10, 2020 at 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 9:44 a.m.

Ray Tuck, Jr., DC
President, Chair

William L. Harp, MD
Executive Director

Colanthia M. Opher
Recording Secretary

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

Staff Note: All items for information only

Action: None.

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions
As of July 15, 2020**

Board of Medicine		
Chapter		Action / Stage Information
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	<u>Conversion therapy</u> [Action 5412] NOIRA - At Governor's Office at 46 days
[18 VAC 85 - 21]	Regulations Governing Prescribing of Opioids and Buprenorphine	<u>Waiver for e-prescribing of an opioid</u> [Action 5355] Proposed - At Governor's Office at 44 days
[18 VAC 85 - 40]	Regulations Governing the Practice of Respiratory Therapists	<u>CE credit for specialty examination</u> [Action 5486] Fast-Track - At Governor's Office at 44 days
[18 VAC 85 - 50]	Regulations Governing the Practice of Physician Assistants	<u>Practice with patient care team physician</u> [Action 5357] Proposed - At Governor's Office at 46 days

**Report of the 2020 General Assembly
Board of Medicine**

HB 42 Prenatal and postnatal depression, etc.; importance of screening patients.

Chief patron: Samirah

Summary as passed:

Health care providers; screening of patients for prenatal and postpartum depression; training. Directs the Board of Medicine to annually issue a communication to every practitioner licensed by the Board who provides primary, maternity, obstetrical, or gynecological health care services reiterating the standard of care pertaining to prenatal or postnatal depression or other depression and encouraging practitioners to screen every patient who is pregnant or who has been pregnant within the previous five years for prenatal or postnatal depression or other depression, as clinically appropriate. The bill requires the Board to include in such communication information about the factors that may increase susceptibility of certain patients to prenatal or postnatal depression or other depression, including racial and economic disparities, and to encourage providers to remain cognizant of the increased risk of depression for such patients.

HB 115 Health care providers, certain; program to address career fatigue and wellness, civil immunity.

Chief patron: Hope

Summary as enacted with Governor's Recommendations:

Programs to address career fatigue and wellness in certain health care providers; civil immunity. Expands civil immunity for health care professionals serving as members of or consultants to entities that function primarily to review, evaluate, or make recommendations related to health care services to include health care professionals serving as members of or consultants to entities that function primarily to address issues related to career fatigue and wellness in health care professionals licensed to practice medicine or osteopathic medicine or licensed as a physician assistant. The bill also clarifies that, absent evidence indicating a reasonable probability that a health care professional who is a participant in a professional program to address issues related to career fatigue or wellness is not competent to continue in practice or is a danger to himself, his patients, or the public, participation in such a professional

program does not trigger the requirement that the health care professional be reported to the Department of Health Professions. The bill contains an emergency clause.

EMERGENCY

HB 299 Fluoride varnish; possession and administration by persons authorized by a doctor or dentist

Chief patron: Sickles

Summary as passed House:

Medical assistants; administration of fluoride varnish. Allows an authorized agent of a doctor of medicine, osteopathic medicine, or dentistry to possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry. This bill is identical to SB 239.

HB 362 Physician assistant; capacity determinations.

Chief patron: Rasoul

Summary as passed House:

Capacity determinations; physician assistant. Expands the class of health care practitioners who can make the determination that a patient is incapable of making informed decisions to include a licensed physician assistant. The bill provides that such determination shall be made in writing following an in-person examination of the person and certified by the physician assistant. This bill is identical to SB 544.

HB 385 Chiropractic, practice of; clarifies definition.

Chief patron: Sickles

Summary as passed House:

Practice of chiropractic; definition. Clarifies the definition of "practice of chiropractic" to make clear that a doctor of chiropractic may (i) request, receive, and review a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) document in a patient's record information related to the condition and symptoms of the patient, the examination and

evaluation of the patient made by the doctor of chiropractic, and the treatment provided to the patient by the doctor of chiropractic.

HB 386 Conversion therapy; prohibited by certain health care providers.

Chief patron: Hope

Summary as passed House:

Department of Health Professions; conversion therapy prohibited. Prohibits any health care provider or person who performs counseling as part of his training for any profession licensed by a regulatory board of the Department of Health Professions from engaging in conversion therapy, as defined in the bill, with any person under 18 years of age and provides that such counseling constitutes unprofessional conduct and is grounds for disciplinary action. The bill provides that no state funds shall be expended for the purpose of conducting conversion therapy with a person under 18 years of age, referring a person under 18 years of age for conversion therapy, or extending health benefits coverage for conversion therapy with a person under 18 years of age. This bill is identical to SB 245.

HB 471 Health professionals; unprofessional conduct, reporting.

Chief patron: Collins

Summary as passed House:

Health professionals; unprofessional conduct; reporting. Requires the chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth to report to the Department of Health Professions any information of which he may become aware in his professional capacity that indicates a reasonable belief that a health care provider is in need of treatment or has been admitted as a patient for treatment of substance abuse or psychiatric illness that may render the health professional a danger to himself, the public, or his patients, or that he determines, following review and any necessary investigation or consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, indicates that there is a reasonable probability that such health professional may

have engaged in unethical, fraudulent, or unprofessional conduct. Current law requires information to be reported if the information indicates, after reasonable investigation and consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct. This bill is identical to SB 540.

HB 517 Collaborative practice agreements; adds nurse practitioners and physician assistants to list.

Chief patron: Bulova

Summary as passed House:

Collaborative practice agreements; nurse practitioners; physician assistants. Adds nurse practitioners and physician assistants to the list of health care practitioners who shall not be required to participate in a collaborative agreement with a pharmacist and his designated alternate pharmacists, regardless of whether a professional business entity on behalf of which the person is authorized to act enters into a collaborative agreement with a pharmacist and his designated alternate pharmacists. As introduced, this bill is a recommendation of the Joint Commission on Healthcare. This bill is identical to SB 565.

HB 552 Birth control; definition.

Chief patron: Watts

Summary as introduced:

Definition of birth control. Defines "birth control," for the purposes of the regulation of medicine, as contraceptive methods that are approved by the U.S. Food and Drug Administration and provides that birth control shall not be considered abortion for the purposes of Title 18.2 (Crimes and Offenses Generally).

HB 648 Prescription Monitoring Program; information disclosed to Emergency Department Care Coord. Program.

Chief patron: Hurst

Summary as passed:

Prescription Monitoring Program; Information disclosed to the Emergency Department Care Coordination Program; redisclosure. Provides for the mutual exchange of information between the Prescription Monitoring Program and the Emergency Department Care Coordination Program and clarifies that nothing shall prohibit the redisclosure of confidential information from the Prescription Monitoring Program or any data or reports produced by the Prescription Monitoring Program disclosed to the Emergency Department Care Coordination Program to a prescriber in an electronic report generated by the Emergency Department Care Coordination Program so long as the electronic report complies with relevant federal law and regulations governing privacy of health information. This bill is identical to SB 575.

HB 860 Inhaled asthma medications; school nurse, etc., may administer to a student.

Chief patron: Bell

Summary as passed:

Professional use by practitioners; administration of albuterol inhalers or nebulized albuterol. Provides that, pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, employee of a local health department, employee of a school for students with disabilities, or employee of an accredited private school who is authorized by a prescriber and trained in the administration of albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis. The bill also provides that a school nurse, employee of a school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of albuterol inhalers or nebulized albuterol who provides, administers, or assists in the administration of an albuterol inhaler or nebulized albuterol for a student believed in good faith to be in need of such medication, or is the prescriber of such medication, is not liable for civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. This bill is identical to HB 1174.

HB 908 Naloxone; possession and administration by employee or person acting on behalf of a public place.

Chief patron: Hayes

Summary as passed House:

Naloxone; possession and administration; employee or person acting on behalf of a public place. Authorizes an employee or other person acting on behalf of a public place, as defined in the bill, who has completed a training program on the administration of naloxone or other opioid antagonist to possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. The bill also provides that a person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. The bill provides immunity from civil liability for a person who, in good faith, administers naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose, unless such act or omission was the result of gross negligence or willful and wanton misconduct. This bill incorporates HB 650, HB 1465, and HB 1466.

HB 967 Military service members and veterans; expediting issuance of credentials to spouses, application.

Chief patron: Willett

Summary as passed House:

Professions and occupations; expediting the issuance of credentials to spouses of military service members. Provides for the expedited issuance of credentials to the spouses of military service members who are (i) ordered to federal active duty under Title 10 of the United States Code or (ii) veterans who have left active duty service within one year of the submission of an application to a board if the spouse accompanies the service member to the Commonwealth or an adjoining state or the District of Columbia. Under current law, the expedited review is provided more generally for active duty members of the military who are the subject of a military transfer to the Commonwealth. The bill also authorizes a regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions or any other board in Title 54.1 (Professions and Occupations) to waive any requirement relating to experience if the board determines that the documentation provided by the applicant supports such waiver. This bill incorporates HB 930 and is identical to SB 981.

HB 1000 Prescription drugs; expedited partner therapy, labels.

Chief patron: Hope

Summary as introduced:

Prescription drugs; expedited partner therapy; labels. Eliminates the requirement that a bona fide practitioner-patient relationship exist with a contact patient for a practitioner to prescribe expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention. A pharmacist dispensing a Schedule III through VI drug to a contact patient whose name and address are unavailable shall affix "Expedited Partner Therapy" or "EPT" to the written prescription and the label. The bill repeals the July 1, 2020, sunset on the provision that allows practitioners employed by the Department of Health to prescribe antibiotic therapy to the sexual partner of a patient diagnosed with a sexually transmitted disease without the physical examination normally required.

HB 1040 Naturopathic doctors; Board of Medicine to license and regulate. (Bill not passed; study by the Board of Health Professions)

Chief patron: Rasoul

Summary as introduced:

Naturopathic doctors; license required. Requires the Board of Medicine to license and regulate naturopathic doctors, defined in the bill as an individual, other than a doctor of medicine, osteopathy, chiropractic, or podiatry, who may diagnose, treat, and help prevent diseases using a system of practice that is based on the natural healing capacity of individuals, using physiological, psychological, or physical methods, and who may also use natural medicines, prescriptions, legend drugs, foods, herbs, or other natural remedies, including light and air.

HB 1059 Certified registered nurse anesthetists; prescriptive authority.

Chief patron: Adams, D.M.

Summary as passed House:

Certified registered nurse anesthetists; prescriptive authority. Authorizes certified registered nurse anesthetists to prescribe Schedule II through Schedule VI controlled substances and devices to a patient requiring anesthesia as part of the periprocedural care of

the patient, provided that such prescribing is in accordance with requirements for practice by certified registered nurse anesthetists and is done under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry. This bill is identical to SB 264.

HB 1084 Surgical assistants; definition, licensure.

Chief patron: Hayes

Summary as enacted with Governor's Recommendations:

Surgical assistants; licensure. Defines "surgical assistant" and "practice of surgical assisting" and directs the Board of Medicine to establish criteria for the licensure of surgical assistants. Currently, the Board may issue a registration as a surgical assistant to eligible individuals. The bill clarifies that requiring the licensure of surgical assistants shall not be construed as prohibiting any professional licensed, certified, or registered by a health regulatory board from acting within the scope of his practice. The bill also establishes the Advisory Board on Surgical Assisting to assist the Board of Medicine regarding the establishment of qualifications for and regulation of licensed surgical assistants.

HB 1147 Epinephrine; every public place may make available for administration.

Chief patron: Keam

Summary as passed:

Epinephrine permitted in certain public places. Allows public places to make epinephrine available for administration. The bill allows employees of such public places who are authorized by a prescriber and trained in the administration of epinephrine to possess and administer epinephrine to a person present in such public place believed in good faith to be having an anaphylactic reaction. The bill also provides that an employee of such public place who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person present in the public place believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. The bill directs the Department of Health, in conjunction with the Department of Health Professions, to develop policies and guidelines for the recognition and treatment of anaphylaxis in public places. Such policies and guidelines shall be provided to the Commissioner of Health no later than July 1, 2021.

HB 1260 Athletic Training, Advisory Board on; membership.

Chief patron: Hodges

Summary as introduced:

Advisory Board on Athletic Training; membership. Provides that the one member of the Advisory Board on Athletic Training required to be an athletic trainer who is currently licensed by the Board on Athletic Training and who has practiced in the Commonwealth for not less than three years may be employed in the public or private sector. Currently, the law requires that the member be employed in the private sector.

HB 1261 Athletic trainers; naloxone or other opioid antagonist.

Chief patron: Hodges

Summary as introduced:

Athletic trainers; naloxone or other opioid antagonist. Authorizes licensed athletic trainers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice.

HB 1328 Offender medical & mental health information & records; exchange of information to facility, etc.

Chief patron: Watts

Summary as passed:

Exchange of offender medical and mental health information and records. Provides that a health care provider who has been notified that a person to whom he has provided services within the last two years is committed to a local or regional correctional facility shall, upon request by the local or regional correctional facility, disclose to the local or regional correctional facility where the person is committed any information necessary to ensure the continuity of care of the person committed. The bill also provides protection from civil liability for such health care provider, absent bad faith or malicious intent. This bill is identical to SB 656.

HB 1506 Pharmacists; initiating of treatment with and dispensing and administering of controlled substances.

Chief patron: Sickles

Summary as passed:

Pharmacists; prescribing, dispensing, and administration of controlled substances.

Allows a pharmacist to initiate treatment with and dispense and administer certain drugs and devices to persons 18 years of age or older in accordance with a statewide protocol developed by the Board of Pharmacy in collaboration with the Board of Medicine and the Department of Health. The bill directs the Board of Pharmacy to establish such protocols by November 1, 2020, to promulgate emergency regulations to implement the provisions of the bill, and to convene a work group to provide recommendations regarding the development of protocols for the initiating of treatment with and dispensing and administering of additional drugs and devices for persons 18 years of age and older. The bill also clarifies that an accident and sickness insurance policy that provides reimbursement for a service that may be legally performed by a licensed pharmacist shall provide reimbursement for the initiating of treatment with and dispensing and administration of controlled substances by a pharmacist when such initiating of treatment with or dispensing or administration is in accordance with regulations of the Board of Pharmacy.

HB 1654 Schedule VI controlled substances and hypodermic syringes and needles; limited-use license.

Chief patron: Helmer

Summary as passed:

Schedule VI controlled substances; hypodermic syringes and needles; limited-use license. Allows the Board of Pharmacy to issue a limited-use license for the purpose of dispensing Schedule VI controlled substances, excluding the combination of misoprostol and methotrexate, and hypodermic syringes and needles for the administration of prescribed controlled substances to a doctor of medicine, osteopathic medicine, or podiatry, a nurse practitioner, or a physician assistant, provided that such limited-use licensee is practicing at a nonprofit facility. The bill requires such nonprofit facilities to obtain a limited-use permit from the Board and comply with regulations for such a permit. This bill directs the Board of Pharmacy to adopt emergency regulations to implement the provisions of the bill. This bill is identical to SB 1074.

HB 1683 Diagnostic medical sonography; definition, certification. (Bill not passed; study by Board of Health Professions)

Chief patron: Hope

Summary as introduced:

Diagnostic medical sonography; certification. Defines the practice of "diagnostic medical sonography" as the use of specialized equipment to direct high-frequency sound waves into an area of the human body to generate an image. The bill provides that only a certified and registered sonographer may hold himself out as qualified to perform diagnostic medical sonography. The bill requires any person who fails to maintain current certification and registration or is subject to revocation or suspension of a certification and registration by a sonography certification organization to notify his employer and cease using ultrasound equipment or performing a diagnostic medical sonography or related procedure.

SB 431 Provision of mental health services to a minor; access to health records.

Chief patron: Surovell

Summary as introduced:

Provision of mental health services to a minor; access to health records. Prohibits a health care provider from refusing to provide mental health services to a minor on the basis that the parents of such minor refuse to agree to limit their access to such minor's health care records or request that such health care provider testify in a court proceeding regarding the treatment of the minor.

SB 530 Epinephrine; possession and administration by a restaurant employee.

Chief patron: Edwards

Summary as passed:

Possession and administration of epinephrine; restaurant employee. Authorizes any employee of a licensed restaurant to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such employee is authorized by a prescriber and trained in the administration of epinephrine. The bill also requires the Department of Health, in conjunction with the Department of Health Professions, to develop policies and guidelines for the recognition and treatment of anaphylaxis in restaurants.

SB 544 Physician assistant; capacity determinations.

Chief patron: Edwards

Summary as passed Senate:

Capacity determinations; physician assistant. Expands the class of health care practitioners who can make the determination that a patient is incapable of making informed decisions to include a licensed physician assistant. The bill provides that such determination shall be made in writing following an in-person examination of the person and certified by the physician assistant. This bill is identical to HB 362.

SB 757 Medical Excellence Zone Program; VDH to determine feasibility of establishment.

Chief patron: Favola

Summary as passed Senate:

Department of Health; Department of Health Professions Medical Excellence Zone Program; telemedicine; reciprocal agreements. Directs the Department of Health to determine the feasibility of establishing a Medical Excellence Zone Program to allow citizens of the Commonwealth living in rural underserved areas to receive medical treatment via telemedicine services from providers licensed or registered in a state that is contiguous with the Commonwealth and directs the Department of Health Professions to pursue reciprocal agreements with such states for licensure for certain primary care practitioners licensed by the Board of Medicine. The bill requires the Department of Health to set out the criteria that would be required for a locality or group of localities in the Commonwealth to be eligible for the designation as a medical excellence zone and report its findings to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020.

The bill states that reciprocal agreements with states that are contiguous with the Commonwealth for the licensure of doctors of medicine, doctors of osteopathic medicine, physician assistants, and nurse practitioners shall only require that a person hold a current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the acts of unprofessional conduct. The Department of Health Professions is required to report on its progress in establishing such agreements to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020. The bill

requires the Board of Medicine to prioritize applications for licensure by endorsement as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner from such states through a streamlined process with a final determination regarding qualification to be made within 20 days of the receipt of a completed application. This bill is identical to HB 1701.

SB 760 Psychologists; licensure, permitted to practice in Psychology Interjurisdictional Compact.

Chief patron: Deeds

Summary as introduced:

Licensure of psychologists; Psychology Interjurisdictional Compact. Authorizes Virginia to become a signatory to the Psychology Interjurisdictional Compact. The Compact permits eligible licensed psychologists to practice in Compact member states, provided that they are licensed in at least one member state. The bill has a delayed effective date of January 1, 2021, and directs the Board of Psychology to adopt emergency regulations to implement the provisions of the bill.

SB 976 Pharmaceutical processors; operation of cannabis dispensing facilities.

Chief patron: Marsden

Summary as enacted with Governor's Recommendations:

Board of Pharmacy; pharmaceutical processors; cannabis dispensing facilities. Defines "cannabis dispensing facilities" and allows the Board of Pharmacy to issue up to five permits for cannabis dispensing facilities per health service area. The bill requires the Board to establish a ratio of one pharmacist for every six pharmacy interns, technicians, and technician trainees for pharmaceutical processors and cannabis dispensing facilities. The bill directs the Board of Pharmacy to require that, after processing and before dispensing cannabis oil, a pharmaceutical processor make a sample available from each homogenized batch of product for testing at an independent laboratory located in Virginia that meets Board requirements. The bill requires that the Board promulgate regulations that include an allowance for the sale of devices for administration of dispensed products and an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification. The bill also requires the Board to adopt regulations for pharmaceutical processors that include requirements for (i) processes for safely and

securely cultivating cannabis plants intended for producing cannabis oil; (ii) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (iii) the secure disposal of plant remains; (iv) dosage limitations, which shall provide that each dispensed dose of cannabis oil not exceed 10 milligrams of tetrahydrocannabinol; and (v) a process for registering cannabis oil products. The bill requires the Board of Pharmacy to promulgate required regulations within 280 days of the bill's enactment.

**Department of Health Professions
Regulatory/Policy Actions – 2020 General Assembly**

EXEMPT REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1084	Licensure of surgical assistants	Medicine	8/7/20	

APA REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1084	Surgical assistants – continuing education and standards of practice	Medicine with recommendation from Advisory Board	10/22/20	

NON-REGULATORY ACTIONS

Legislative source	Affected agency	Action needed	Due date
HB793 (2018)	Department	Report on a process by which nurse practitioners who practice without a practice agreement may be included in the online Practitioner Profile	November 1, 2020
Letter from JCHC	Pharmacy	Workgroup on expansion of statewide standing orders for drugs that may be dispensed without prescription	October 1, 2020
Letter from Committee Chair	Health Professions	Study of regulation of naturopaths	
Letter from Committee Chair	Health Professions	Study of regulation of diagnostic sonographers	
SB270	Pharmacy	Annual report to House and Senate on outsourcing facilities that have a contract with Corrections to compound drugs for lethal injections and the name of any such outsourcing facilities that received disciplinary action for a violation of law or regulation related to compounding.	December 1, 2020
Code Commission	Pharmacy and others	Re-write of 54.1-3408	November 1, 2020
HB1506	Pharmacy and Medicine	Protocols for the initiating of treatment with and dispensing and administering of drugs and devices by pharmacists in accordance with § 54.1-3303.1 as amended	November 1, 2020
HB1506	Pharmacy	Work group consisting of specified stakeholders to provide	November 1, 2020

		recommendations regarding the development of protocols for the initiating of treatment with and dispensing and administering by pharmacists to persons 18 years of age or older of certain drugs and devices	
HB42	Medicine	Communication with licensees about prenatal and postpartum depression	Board Briefs in 2020
HB908/SB836	Pharmacy (with Medicine and VDH)	Revision of protocols for administration of naloxone by employees of public places – guidance document	September 2020
HB967/SB981	All boards	1) Collection of data on applicant who is veteran; 2) Decision on waiver of experience requirements	July 1, 2020
HB1701/SB757	Medicine	Pursue reciprocal agreements with neighboring states; report to Committee Chairs	November 1, 2020
SB431	Behavioral Sciences/Medicine	Provision of mental health to minors	November 1, 2020

Future Policy Actions:

HB793 (2018) - Boards of Medicine and Nursing to report data on the implementation of this act, including 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 recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health and the Chairman of the Joint Commission on Health Care by November 1, 2021.

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: Adoption of Amendment to Regulations for Surgical Assistants/Surgical Technologists

Included in agenda package:

Copy of legislation passed by the 2020 General Assembly (HB1084)

Draft of amendments to conform 18VAC85-160 (Regulations) to changes in the Code.

Action: Adoption of amended regulation as an exempt action

2020 SESSION

CHAPTER 1222

An Act to amend and reenact §§ 54.1-2900 and 54.1-2956.13 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2956.14, relating to surgical assistants; licensure.

[H 1084]

Approved April 22, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900 and 54.1-2956.13 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2956.14 as follows:

§ 54.1-2900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines. "Practice of chiropractic" shall include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and

anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds

under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2956.13. Licensure of surgical assistant; practice of surgical assisting; use of title.

A. No person shall *engage in the practice of surgical assisting or use or assume the title "registered surgical assistant"* unless such person ~~is registered with~~ holds a license as a surgical assistant issued by the Board. *Nothing in this section shall be construed as prohibiting any professional licensed, certified, or registered by a health regulatory board from acting within the scope of his practice.*

B. The Board shall ~~register as a registered~~ establish criteria for licensure as a surgical assistant ~~any applicant who presents satisfactory evidence that he (i) holds,~~ which shall include evidence that the applicant:

1. *Holds a current credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, the National Surgical Assistant Association, or the National Commission for Certification of Surgical Assistants or their successors, (ii) has;*

2. *Has successfully completed a surgical assistant training program during the person's service as a member of any branch of the armed forces of the United States,; or (iii) has*

3. *Has practiced as a surgical assistant in the Commonwealth at any time in the six months immediately prior to July 1, 2014, provided he registers with the Board by December 31, 2016 July 1, 2020.*

C. For renewal of a ~~registration license~~, a surgical assistant who was ~~registered licensed~~ based on a credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, ~~the National Surgical Assistant Association~~, or the National Commission for the Certification of Surgical Assistants or their successors shall attest that the credential is current at the time of renewal.

§ 54.1-2956.14. Advisory Board on Surgical Assisting; appointments; terms; duties.

A. *The Advisory Board on Surgical Assisting (Advisory Board) shall assist the Board in carrying out the provisions of this chapter regarding the qualifications and regulation of licensed surgical assistants.*

B. *The Advisory Board shall consist of five members appointed by the Governor for four-year terms. Three members of the Board shall be, at the time of appointment, surgical assistants who have practiced in the Commonwealth for not less than three years; one member shall be a doctor of medicine, osteopathy, or podiatry whose practice shall include surgery; and one member shall be a citizen member appointed from the Commonwealth at large. Vacancies occurring other than by expiration*

of a term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

C. The Advisory Board shall, under the authority of the Board, recommend to the Board for its enactment into regulations (i) standards for continued licensure of surgical assistants, including continuing education requirements, and (ii) standards relating to the professional conduct, termination and reinstatement and renewal of licenses of surgical assistants.

2. That initial appointments to the Advisory Board on Surgical Assisting established pursuant to this act shall be made for the following terms: one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, one member shall be appointed for a term of three years, and two members shall be appointed for a term of four years.

Project 6112 - none

BOARD OF MEDICINE

Surgical Assistant licensure

CHAPTER 160

**REGULATIONS GOVERNING THE LICENSURE OF SURGICAL ASSISTANTS AND
REGISTRATION OF SURGICAL TECHNOLOGISTS**

18VAC85-160-30. Current name and address.

Each licensee or registrant shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any such licensee or registrant shall be validly given when sent to the latest address of record provided or served to the licensee or registrant. Any change of name or address of record or public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

18VAC85-160-40. Fees.

A. The following fees have been established by the board:

1. The fee for ~~registration~~ licensure as a surgical assistant or registration as a surgical technologist shall be \$75.
2. The fee for renewal of licensure or registration shall be \$70. Renewals shall be due in the birth month of the licensee or registrant in each even-numbered year. For 2020, the renewal fee shall be \$54.
3. The additional fee for processing a late renewal application within one renewal cycle shall be \$25.

4. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.

B. Unless otherwise provided, fees established by the board are not refundable.

18VAC85-160-50. Requirements for registration licensure as a surgical assistant.

A. An applicant for ~~registration~~ licensure shall submit a completed application and a fee as prescribed in 18VAC85-160-40 on forms provided by the board.

B. An applicant for ~~registration~~ licensure as a surgical assistant shall provide evidence of:

1. A current credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, ~~the National Surgical Assistant Association,~~ or the National Commission for Certification of Surgical Assistants or their successors;

2. Successful completion of a surgical assistant training program during the applicant's service as a member of any branch of the armed forces of the United States; or

3. Practice as a surgical assistant in the Commonwealth at any time in the six months immediately prior to ~~July 1, 2014~~ July 1, 2020, ~~provided the applicant registers with the board by July 1, 2015.~~

~~C. An applicant for registration as a surgical technologist shall provide evidence of:~~

~~1. A current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor;~~

~~2. Successful completion of a surgical technologist training program during the applicant's service as a member of any branch of the armed forces of the United States;~~

~~or~~

~~3. Practice as a surgical technologist at any time in the six months prior to July 1, 2014, provided the applicant registers with the board by July 1, 2015.~~

18VAC85-160-51. Requirements for registration as a surgical technologist.

A. An applicant for registration as a surgical technologist shall submit a completed application and a fee as prescribed in 18VAC85-160-40 on forms provided by the board.

B. An applicant for registration as a surgical technologist shall provide evidence of:

1. A current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor; or

2. Successful completion of a surgical technologist training program during the applicant's service as a member of any branch of the armed forces of the United States.

18VAC85-160-60. Renewal of registration licensure for a surgical assistant.

A surgical assistant who was ~~registered~~ licensed based on a credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, ~~the National Surgical Assistant Association,~~ or the National Commission for the Certification of Surgical Assistants or their successors shall attest that the credential is current at the time of renewal.

Agenda Item: Regulatory Action – Waiver of requirement for electronic prescribing

Staff note:

This action is to replace emergency regulations currently in effect with permanent regulations. A Notice of Intended Regulatory Action was published on 1/6/20; there was no comment on the NOIRA.

Included in agenda package:

Copy of Notice on Regulatory Townhall

Copy of proposed amendments (Note: there is one difference between the proposed regulation and the emergency regulation. In subsection A, there is an added reference to the exemptions from electronic prescribing in the Code.)

Board action:

To adopt the proposed amendments
(Board of Nursing adopted amendments at its July meeting)

[go back](#) | [open in word](#)

Project 6115 - Emergency/NOIRA

BOARD OF NURSING

Waiver for electronic prescribing

18VAC90-40-122. Waiver for electronic prescribing.

A. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection B of that section.

B. Upon written request, the boards may grant a one-time waiver of the requirement of subsection A of this section, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

Agenda Item: Petition for rulemaking

Staff Note:

The Board received a petition for rulemaking from the Virginia Society of Radiologic Technologists.

Included in your package:

A copy of the petition and Townhall notice (There was no comment on the petition)

A copy of applicable section of regulation

Board action:

The Board can decide to take no regulatory action (should explain why petition is rejected); OR

The Board can decide to initiate rulemaking with a Notice of Intended Regulatory Action

Virginia.gov

Agencies | Governor



Secretariat

Health and Human Resources

Agency

Department of Health Professions

Board

Board of Medicine[Edit Petition](#)

Petition 317

Petition Information	
Petition Title	Requirement for maintenance of professional credential for renewal of licensure
Date Filed	2/26/2020 [Transmittal Sheet]
Petitioner	Virginia Society of Radiologic Technologists
Petitioner's Request	To amend sections on renewal, reinstatement, or reactivation to require a licensee to hold current ARRT and/or NMTCB credentials in good standing for biennial renewal, reinstatement, or reactivation of one's license under the Board of Medicine.
Agency's Plan	<p>In accordance with Virginia law, the petition will be filed with the Register of Regulations and published on March 30, 2020 and posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov. Comment on the petition will be requested until April 29, 2020 and may be posted on the Townhall or sent to the Board.</p> <p>Following receipt of all comments on the petition to amend regulations, the matter will be considered by the Advisory Board on Radiologic Technology and by the full Board at their meetings in June of 2020.</p>
Comment Period	Ended 4/29/2020 0 comments
Agency Decision	Pending
Contact Information	
Name / Title:	William L. Harp, M.D. / <i>Executive Director</i>
Address:	9960 Mayland Drive Suite 300 Richmond, 23233
Email Address:	william.harp@dhp.virginia.gov
Telephone:	(804)367-4558 FAX: (804)527-4429 TDD: (-)



COMMONWEALTH OF VIRGINIA

Board of Medicine

FEB 25 2020

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

DHP
(804) 367-4600 (Tel)
(804) 527-4426 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition. If the board has not met within that 90-day period, the decision will be issued no later than 14 days after it next meets.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle Initial, Suffix,)

Virginia Society of Radiologic Technologists

Street Address

1300 Emerald View Court

Area Code and Telephone Number

City

Bedford

State
Virginia

Zip Code
24523

Email Address (optional)

gimminick@gmail.com

kmdeacon@gmail.com

Fax (optional)

Respond to the following questions:

1. What regulations are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

Under code section titled :Chapter 101. Regulations Governing the Practice of Radiologic Technology, subsections:

- 18VAC85-101-150. Biennial Renewal of License.
- 18VAC85-101-151. Reinstatement.
- 18VAC85-101-152. Inactive License.

25FEB '20 3:09PM

BOM

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

The Board of the Virginia Society of Radiologic Technologists (VSRT) wishes to petition the Board of Medicine to consider changes in the above stated subsections of the laws regulating the Licensure of Radiologic Technologists.

Rational: The VSRT considers the existing regulations to have a loophole that allows technologists renewing or reinstatement of license to anyone who once held a properly obtained Virginia license without verification of active credentials. Technologists who have previously held a license may appear to qualify for a current Virginia license, although they may have lost their credentials through inactivity or sanction with their professional body.

We ask the Board to consider adding the following wording to each of the sections above as stated below in each section

1. **18VAC85-101-150. Biennial Renewal of License.** - add "and be in good standing" after ARRT and/or NMTCB and before
within

D. In order to renew an active license as a radiologic technologist, a licensee shall attest to having completed 24 hours of continuing education as acceptable to the ARRT and/or NMTCB within the last biennium.

2. **18VAC85-101-151. Reinstatement.**- add " and demonstrate evidence of current good standing" after renewal and before and A. A licensee that allows this license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a new application, information on practice and licensure in other jurisdictions during the period in which the license was lapsed, evidence of completion of hours of continuing education equal to those required for a biennial renewal and the fees for reinstatement of his license as prescribed in 18VAC85-101-25.

3. **18VAC85-101-152. Inactive License.** remove and before 3. and add in section "B" #4- Provide proof of current ARRT and/or NMTCB certification

To reactivate an inactive license, a licensee shall:

1. Submit the required application;
2. Pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure; and
3. Verify that he has completed continuing education hours equal to those required for the period in which he held an inactive license in Virginia, not to exceed one biennium.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

Radiologic Technologist Advisory Board

2010 Code of Virginia,

Title 54.1 - PROFESSIONS AND OCCUPATIONS.

Chapter 24 - General Provisions (54.1-2400 thru 54.1-2409.4)

54.1-2408 - Disqualification for license, certificate or registration.

54.1-2408.1 - Summary action against licenses, certificates, registrations, or multistate licensure privilege; allegations to be in writing.

54.1-2409.2 - Board to set criteria for determining need for professional regulation.

Signature: Nicholas Gimmi, President-Elect, Legislative Affairs member, VSRT
Kourtney Ligon, VSRT Chair

Date: 02/11/2020

18VAC85-101-150. Biennial renewal of license.

- A. A radiologist assistant, radiologic technologist or radiologic technologist-limited who intends to continue practice shall renew his license biennially during his birth month in each odd-numbered year and pay to the board the prescribed renewal fee.
- B. A license that has not been renewed by the first day of the month following the month in which renewal is required shall be expired.
- C. An additional fee as prescribed in 18VAC85-101-25 shall be imposed by the board.
- D. In order to renew an active license as a radiologic technologist, a licensee shall attest to having completed 24 hours of continuing education as acceptable to the ARRT within the last biennium.
- E. In order to renew an active license as a radiologic technologist-limited, a licensee shall attest to having completed 12 hours of continuing education within the last biennium that corresponds to the anatomical areas in which the limited licensee practices. Hours shall be acceptable to the ARRT, or by the ACRRT for limited licensees whose scope of practice is chiropractic, or by any other entity approved by the board for limited licensees whose scope of practice is podiatry or bone densitometry.
- F. In order to renew an active license as a radiologist assistant, a licensee shall attest to having completed 50 hours of continuing education as acceptable to the ARRT within the last biennium. A minimum of 25 hours of continuing education shall be recognized by the ARRT as intended for radiologist assistants or radiologists and shall be specific to the radiologist assistant's area of practice. Continuing education hours earned for renewal of a radiologist assistant license shall satisfy the requirements for renewal of a radiologic technologist license.
- G. Up to two continuing education hours may be satisfied through delivery of radiological services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for three hours of providing such volunteer services. For the purpose of continuing education credit for voluntary service, documentation by the health department or free clinic shall be acceptable.
- H. Other provisions for continuing education shall be as follows:
1. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.
 2. The practitioner shall retain in his records the Continued Competency Activity and Assessment Form available on the board's website with all supporting documentation for a period of four years following the renewal of an active license.

3. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

4. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

5. The board may grant an extension of the deadline for satisfying continuing competency requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

6. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

18VAC85-101-151. Reinstatement.

A. A licensee who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a new application, information on practice and licensure in other jurisdictions during the period in which the license was lapsed, evidence of completion of hours of continuing education equal to those required for a biennial renewal and the fees for reinstatement of his license as prescribed in 18VAC85-101-25.

B. A licensee whose license has been revoked by the board and who wishes to be reinstated shall submit a new application to the board, fulfill additional requirements as specified in the order from the board, and pay the fee for reinstatement of his license as prescribed in 18VAC85-101-25.

18VAC85-101-152. Inactive license.

A. A licensed radiologist assistant, radiologic technologist or radiologic technologist-limited who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain continuing education hours and shall not be entitled to perform any act requiring a license to practice radiography in Virginia.

B. To reactivate an inactive license, a licensee shall:

1. Submit the required application;

2. Pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure; and

3. Verify that he has completed continuing education hours equal to those required for the period in which he held an inactive license in Virginia, not to exceed one biennium.

C. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of §54.1-2915 of the Code of Virginia or any provisions of this chapter.

Agenda Item: USMLE Step 2 Clinical Skills (CS)

Staff Note: The Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners have notified boards of medicine that Step 2 CS of the USMLE will be suspended for the next 12-18 months. This suspension also impacts the Educational Commission for Foreign Medical Graduates (ECFMG). On the following pages, you will find an update on USMLE and ECFMG, the law and regulations governing examinations for licensure, and notice of a survey regarding the Step 2 Clinical Skills Exam

Action: To discuss the impact of the suspension of USMLE Step 2 CS on USMLE scores and develop policy for the Board to follow for the next 12-18 months.

Quarterly FSMB Update on USMLE

June 2020 - Vol 1, No 2



USMLE Response to COVID-19 Pandemic

What has changed?

Suspension of the Step 2 Clinical Skills (CS) Exam

As the state boards were notified via email on June 15, administration of the USMLE Step 2 CS exam is suspended for the next 12-18 months. This was not an easy decision and was considered very carefully and thoughtfully, given the significant impact this disruption will have on examinees and others. The FSMB reviewed statutes for all boards and did not find any that specifically reference or cite Step 2 CS as a requirement for licensure. Therefore, we do not anticipate suspension of the CS exam to present an immediate statutory issue for state boards when reviewing and approving applicants for licensure. However, language to this effect was found in several boards' rules, regulations or administrative code. If you believe suspension of the Step 2 CS exam may cause an issue for your board, please feel free to contact David Johnson, FSMB's Chief Assessment Officer, at djohnson@fsmb.org or (817) 868-4081.

Read the full announcement [here](#).

See the following page for details about ECFMG certification during the suspension and a link to a USMLE podcast.

Addition of Alternate Testing Sites

In response to ongoing limited seating capacity at Prometric testing centers to enable examinees to adhere to social distancing guidelines, the USMLE program is implementing a multi-phased approach to expand testing capacity:

- **Phase one:** Regional testing centers for Steps 1 and 2CK have been set up at six LCME and COCA medical schools, using Prometric equipment, across the U.S. These six schools serve students from 48 schools in the same regions. Read the full announcements [here](#).
- **Phase two:** Focuses on administering one-day event-based tests for Steps 1 and 2CK at medical schools. All LCME and COCA medical schools have been sent a survey to determine their interest in participating in this in July and August. Examinees registered for Step 1 or Step 2 CK were sent a survey regarding their availability and interest in participating. We are exploring additional test delivery options for examinees who require test accommodations.
- **Phase three:** Explores the feasibility of delivering USMLE through at-home, remote proctoring.

What is not changing?

Exam Length

The USMLE program initially announced plans to provide its exams at reduced length at certain test sites by excluding unscored questions. After hearing the concerns of examinees about perceived inequities, the program decided to administer standard length forms that include unscored questions at all testing sites. The full announcement is available [here](#).

Timeline for Change in USMLE Step 1 Score Reporting

The USMLE program's plan to change score reporting for Step 1 from a three-digit numeric score to reporting only a pass/fail outcome will still be implemented no earlier than January 1, 2022. The full announcement regarding this decision is available [here](#).

What is still being discussed or considered?

Operational Impact of Step 2 CS Suspension

The USMLE program is still working through the operational impacts of the Step 2 CS suspension – e.g., USMLE transcripts and what information specific to Step 2 CS will be reported to state boards and other entities. The program hopes to finalize these details soon and will share more information and guidance to state boards and others as soon as a decision is made.

Contact Frances Cain, Director of Assessment Services, at fcain@fsmb.org or (817) 868-4022 with questions or for more information

Podcast about Step 2 CS Suspension

A podcast about the decision to suspend the Step 2 CS exam is available. The podcast provides insight into the decision-making process, alternative delivery options that were explored, and next steps for the USMLE program to consider.

You can access the podcast via the USMLE website or Soundcloud: <https://soundcloud.com/user-433574324>



ECFMG Certification During CS Suspension

To be certified by ECFMG, international medical graduates (IMGs) have been required to pass USMLE Step 1, Step 2 Clinical Knowledge (CK), and Step 2 CS. In response to the suspension of Step 2 CS, ECFMG has identified five pathways that will allow qualified IMGs who have not passed Step 2 CS to meet the requirements for ECFMG Certification. All other eligibility requirements for ECFMG Certification will remain in effect. The pathways are directed toward IMGs who intend to enter the 2021 Match. IMGs who have passed Step 2 CS and/or are certified by ECFMG do not need to be familiar with these new requirements and do not need to pursue these pathways.

Applicants who are eligible to pursue ECFMG Certification based on one of the pathways include those who:

- Have not already passed Step 2 CS.
- Are not barred by ECFMG from pursuing certification.
- Are not barred by USMLE from taking a Step or Step Component from August 1, 2020 to January 31, 2021.
- Have not failed a USMLE Step or Step Component (Step 1, Step 2 CK, or Step 2 CS) two or more times.
- Have taken or been registered for any USMLE Step or Step Component since January 1, 2018.

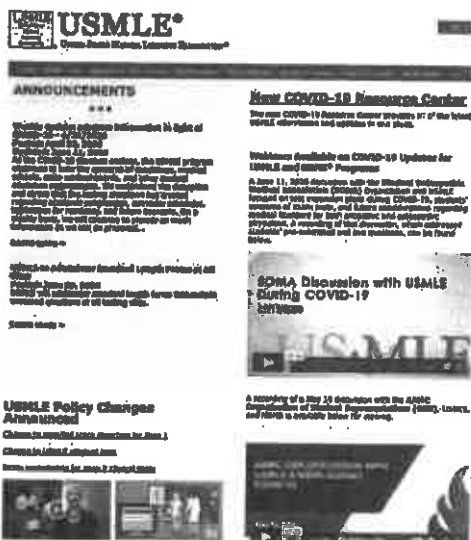
Pathways:

1. Already Licensed to Practice Medicine in Another Country
2. Already Passed a Standardized Clinical Skills Exam for Medical Licensure
3. Medical School Accredited by Agency Recognized by World Federation for Medical Education (WFME)
4. Medical School Participates in U.S. Federal Student Loan Program
5. Medical School Issues Degree Jointly with a U.S. Medical School Accredited by Liaison Committee on Medical Education (LCME)

Read the full ECFMG announcement here: <https://www.ecfm.org/certification-requirements-2021-match/>

Webinars with Student Organizations

In May and June 2020, the USMLE program hosted virtual townhalls with the AAMC Organization of Student Representatives (OSR) and the Student Osteopathic Medical Association (SOMA) to discuss the USMLE program's response to the COVID-19 pandemic. Recordings of the webinars are accessible on the homepage of the USMLE website.



USMLE Resources

Website: www.usmle.org

NEW! COVID-19 Resource Center: <https://covid.usmle.org/>

Bulletin of Information: www.usmle.org/bulletin/

facebook.com/usmle/

twitter.com/TheUSMLE

linkedin.com/company/usmle

CALENDAR

All USMLE meetings have been changed to virtual meetings until further notice

- ❖ July 2020 - USMLE Composite Committee
- ❖ August 2020 - USMLE Management Committee and USMLE Committee for Individualized Review
- ❖ November 2020 - USMLE Management Committee
- ❖ December 2020 - USMLE Committee for Individualized Review

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 29. Medicine and Other Healing Arts

§ 54.1-2931. Examinations; passing grade.

A. The examinations of candidates for licensure to practice medicine and osteopathy shall be those of the National Board of Medical Examiners, the Federation of State Medical Boards, the National Board of Osteopathic Medical Examiners, or such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.

B. The examination of candidates for licensure to practice chiropractic shall include the National Board of Chiropractic Examiners Examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.

C. The examination of candidates for licensure to practice podiatry shall be the National Board of Podiatric Medical Examiners examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.

Code 1950, § 54-297; 1958, c. 161; 1966, c. 657; 1970, c. 69; 1973, c. 529; 1978, c. 466; 1982, c. 605; 1985, c. 291; 1988, c. 765; 1990, c. 818; 2013, c. 144.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

7/22/2020

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Helpful Resources

[Virginia Code Commission](#)
[Virginia Register of Regulations](#)
[U.S. Constitution](#)

For Developers

The Virginia Law website data is available via a web service.

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Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 85. Board of Medicine
Chapter 20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic

18VAC85-20-140. Examinations, General.

Part IV

Licensure: Examination Requirements

A. The Executive Director of the Board of Medicine or his designee shall review each application for licensure and in no case shall an applicant be licensed unless there is evidence that the applicant has passed an examination equivalent to the Virginia Board of Medicine examination required at the time he was examined and meets all requirements of Part III (18VAC85-20-120 et seq.) of this chapter. If the executive director or his designee is not fully satisfied that the applicant meets all applicable requirements of Part III of this chapter and this part, the executive director or his designee shall refer the application to the Credentials Committee for a determination on licensure.

B. A doctor of medicine or osteopathic medicine who has passed the examination of the National Board of Medical Examiners or of the National Board of Osteopathic Medical Examiners, Federation Licensing Examination, or the United States Medical Licensing Examination, or the examination of the Licensing Medical Council of Canada or other such examinations as prescribed in § 54.1-2913.1 of the Code of Virginia may be accepted for licensure.

C. A doctor of podiatry who has passed the National Board of Podiatric Medical Examiners examination and has passed a clinical competence examination acceptable to the board may be accepted for licensure.

D. A doctor of chiropractic who has met the requirements of one of the following may be accepted for licensure:

1. An applicant who graduated after January 31, 1996, shall document successful completion of Parts I, II, III, and IV of the National Board of Chiropractic Examiners examination (NBCE).

2. An applicant who graduated from January 31, 1991, to January 31, 1996, shall document successful completion of Parts I, II, and III of the National Board of Chiropractic Examiners examination (NBCE).

3. An applicant who graduated from July 1, 1965, to January 31, 1991, shall document successful completion of Parts I, II, and III of the NBCE, or Parts I and II of the NBCE and the Special Purpose Examination for Chiropractic (SPEC), and document evidence of licensure in another state for at least two years immediately preceding his application.

4. An applicant who graduated prior to July 1, 1965, shall document successful completion of the SPEC, and document evidence of licensure in another state for at least two years immediately preceding his application.

E. Applicants who sat for the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensure Examination (COMLEX-USA) shall provide evidence of passing all steps within a 10-year period unless the applicant is board certified in a specialty approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists of the American Osteopathic Association.

F. Applicants for licensure in podiatry shall provide evidence of having passed the National Board of Podiatric Medical Examiners Examination to be eligible to sit for the Podiatric Medical Licensing Examination (PMLEXIS) in Virginia.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from VR465-02-1 § 3.1, eff. January 18, 1989; amended, Volume 06, Issue 04, eff. December 20, 1989; Volume 06, Issue 08, eff. February 14, 1990; Volume 06, Issue 26, eff. October 24, 1990; Volume 07, Issue 26, eff. October 23, 1991; Volume 10, Issue 09, eff. February 23, 1994; Volume 10, Issue 24, eff. September 21, 1994; Volume 11, Issue 25, eff. October 4, 1995; Volume 14, Issue 21, eff. August 5, 1998; Volume 17, Issue 08, eff. January 31, 2001; Volume 20, Issue 10, eff. February 25, 2004; Volume 24, Issue 01, eff. October 17, 2007; Volume 29, Issue 04, eff. November 21, 2012; Volume 35, Issue 24, eff. September 26, 2019.

Website addresses provided in the Virginia Administrative Code to documents incorporated by reference are for the reader's convenience only, may not necessarily be active or current, and should not be relied upon. To ensure the information incorporated by reference is accurate, the reader is encouraged to use the source document described in the regulation.



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

Your Input Requested: USMLE Clinical Skills Assessment (deadline for input: July 12)

1 message

Frances Cain (FSMB) <FCain@fsmb.org>

Mon, Jul 6, 2020 at 11:30 AM

To: "Frances Cain (FSMB)" <FCain@fsmb.org>, "ClinicalSkills@nbme.org" <ClinicalSkills@nbme.org>

Cc: Suzanne McEllhenney <SMcEllhenney@nbme.org>, Nancy Clark <NClark@nbme.org>

Dear State Board Executive Directors and Medical Directors/Physician Staff Members,

I hope you are doing well! I am sending the email below on behalf of Dr. Chris Feddock, Executive Director of the Clinical Skills Evaluation Collaboration (CSEC), which oversees the USMLE Step 2 CS exam.

So that you are aware, we are also extending this invitation to state board members, and I will be sending an email to them today as well.

Please feel free to contact me if you have any questions. I am working from home, so please feel free to email me or call me on my cell (817-846-7863 – please leave a message if I don't answer, and I will be happy to call you back).

Thank you!

Frances

As you may know, the COVID-19 outbreak and the need to social distance has caused the United States Medical Licensing Examination® (USMLE®) program to suspend administration of the Step 2 Clinical Skills (CS) examination. Its suspension provides the opportunity to accelerate work aimed at charting the future of clinical skills assessment for licensure, and we are asking stakeholders like you who have expertise and insights for their input.

You are invited to participate in a survey to help identify clinical skills important for licensure. This survey serves as a critical means to gather community feedback and make meaningful steps forward for performance-based assessment. Please let us know your thoughts and opinions by completing the survey through the link below:

<https://www.viewpointforum.com/survey/?s=14023&ss=13>

The deadline for completing the survey is July 12, 2020. We value your input and will consider it carefully in the development of a revitalized component of a performance-based licensure exam.

Information gathered will inform the future competencies and constructs to be assessed for licensure purposes. Our goal is to deliver a revised performance-based assessment in the next 12-18 months, as well as a plan for continuous improvements over the next 5 years.

We appreciate your time and contribution to this important area of work.

Kindest regards,

**Chris Feddock, MD, MS
CSEC Executive Director**



3750 Market Street, Philadelphia PA 19104, USA

Frances Cain, MPA

Director, Assessment Services

Federation of State Medical Boards

400 Fuller Wiser Road | Euless, TX 76039

817-868-4022 direct | fcain@fmb.org

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Agenda Item: Waiver Requests for Opioid E-Prescribing

Staff Note: The 2017 General Assembly passed law that requires the electronic transmission of prescriptions containing an opioid beginning July 1, 2020. A 1-year waiver from this requirement can be granted by the respective regulatory board. In April of this year, an email containing the law and a Waiver Request Form was sent to all licensees of the Board of Medicine with prescribing authority, with the exception of Nurse Practitioners. In the following pages, you will find Code Section 54.1-3408.02, a copy of the Waiver Request Form, copies of the 3 emails responsive to requests, and Code Section 54.1-3410 (note subsection C). Statistics and comments will be provided by staff.

Action: Board staff would appreciate guidance on the DENIAL of requests.

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 34. Drug Control Act

§ 54.1-3408.02. Transmission of prescriptions.

A. Consistent with federal law and in accordance with regulations promulgated by the Board, prescriptions may be transmitted to a pharmacy as an electronic prescription or by facsimile machine and shall be treated as valid original prescriptions.

B. Any prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription.

C. The requirements of subsection B shall not apply if:



1. The prescriber dispenses the controlled substance that contains an opioid directly to the patient or the patient's agent;
2. The prescription is for an individual who is residing in a hospital, assisted living facility, nursing home, or residential health care facility or is receiving services from a hospice provider or outpatient dialysis facility;
3. The prescriber experiences temporary technological or electrical failure or other temporary extenuating circumstance that prevents the prescription from being transmitted electronically, provided that the prescriber documents the reason for this exception in the patient's medical record;
4. The prescriber issues a prescription to be dispensed by a pharmacy located on federal property, provided that the prescriber documents the reason for this exception in the patient's medical record;
5. The prescription is issued by a licensed veterinarian for the treatment of an animal;
6. The FDA requires the prescription to contain elements that are not able to be included in an electronic prescription;
7. The prescription is for an opioid under a research protocol;
8. The prescription is issued in accordance with an executive order of the Governor of a declared emergency;
9. The prescription cannot be issued electronically in a timely manner and the patient's condition is at risk, provided that the prescriber documents the reason for this exception in the patient's medical record; or
10. The prescriber has been issued a waiver pursuant to subsection D.


D. The licensing health regulatory board of a prescriber may grant such prescriber, in accordance with regulations adopted by such board, a waiver of the requirements of subsection B, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

2000, c. 878; 2017, cc. 115, 429; 2019, c. 664.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

7/22/2020

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The Virginia Law website data is available via a web service. 

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9960 Mayland Drive, Suite 300
 Perimeter Center
 Henrico, Virginia 23233-1463

Website: <https://www.dhp.virginia.gov/medicine/>



Virginia Department of
Health Professions
 Board of Medicine

REQUEST FOR WAIVER FOR ELECTRONIC TRANSMISSION OF OPIOID PRESCRIPTIONS

Virginia Code § 54.1-3408.02 requires that all prescriptions containing an opioid be transmitted to a pharmacy electronically on and after July 1, 2020. This law includes the provision that a health regulatory board may grant a one-time waiver of this requirement for up to one (1) year for **demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.**

LICENSEE INFORMATION

Last Name:	First Name:
License #:	Last (4) SSN #:
Email:	Phone: ()

I am requesting a Waiver for July 1, 2020 until June 30, 2021 for the following reason(s)

- Economic Hardship
- Technological Limitations
- Other Exceptional Circumstances

Provide a detailed narrative demonstrating the need for a waiver.

By signature below or typed name, I confirm the accuracy of the information provided for this Waiver. You will be notified within 30 days of the Board's decision.

Signature	Date:
-----------	-------

Below Section to be completed by Board staff ONLY

<input type="checkbox"/> Granted <input type="checkbox"/> Denied	Date:
---	-------

Executive Director or Designee Signature

Revised 3-9-2020



WAIVER GRANTED

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9980 Mayland Drive, Suite 300
Henrico, Virginia 23233-1483

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

August 7, 2020

Ref: «LicenseNo»
Notification emailed to: «Email»

Dear Dr. «FirstName» «LastName»:

The Board of Medicine has reviewed your request for a 1-year waiver of the requirement to transmit prescriptions containing an opioid to a pharmacy electronically.

It has been determined that your explanation demonstrates the need for a waiver for economic hardship, technological limitations, or other exceptional circumstances.

Therefore, the Board approves a 1-year waiver of the requirement.

Please bear in mind that this waiver is for 1 year only and cannot be further extended. As of July 1, 2021, all prescriptions for drugs containing an opioid must be transmitted to a pharmacy electronically.

Here is the law for your convenient review.

<https://law.lis.virginia.gov/vacode/title54.1/chapter34/section54.1-3408.02/>

Safe practice and kindest regards,

William L. Harp, MD
William L. Harp, MD
Executive Director
Virginia Board of Medicine

WLH/cmo



**ADDITIONAL INFORMATION
NEEDED**

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9980 Mayland Drive, Suite 300
Henrico, Virginia 23233-1483

www.dhp.virginia.gov
TEL (804) 387-4400
FAX (804) 527-4475

August 7, 2020

Ref: «LicenseNo»
Notification emailed to: «Email»

Dear Dr. «FirstName» «LastName»:

The Board of Medicine has reviewed your request for a 1-year waiver of the requirement to transmit prescriptions containing an opioid to a pharmacy electronically.

It has been determined that your explanation does not provide enough information for the Board to make a decision about a waiver.

To provide a more thorough explanation that **demonstrates economic hardship, demonstrates technological limitations that are not reasonably within your control, or demonstrates other exceptional circumstances**, go to the waiver request form and submit a new request. <https://www.dhp.virginia.gov/forms/OpioidWaiverRequest/default.asp>

If you do not provide additional information, your request for a waiver may be denied.

Here is the law for your convenient review.

<https://law.lis.virginia.gov/vacode/title54.1/chapter34/section54.1-3408.02/>

Safe practice and kindest regards,

William L. Harp, MD
William L. Harp, MD
Executive Director
Virginia Board of Medicine

WLH/cmo



EXCEPTION LETTER

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

August 7, 2020

Ref: «LicenseNo»
Notification emailed to: «Email»

Dear Dr. «FirstName» «LastName»:

The Board of Medicine has reviewed your request for a 1-year waiver of the requirement to transmit prescriptions containing an opioid to a pharmacy electronically.

The law provides "exceptions" for which a waiver is not required.

It has been determined the explanation you provided describes an "exception", so you do not require a waiver issued by the Board.

Here is the law for your convenient review.

<https://law.lis.virginia.gov/vacode/title54.1/chapter34/section54.1-3408.02/>

Safe practice and kindest regards,

William L. Harp, MD
William L. Harp, MD
Executive Director
Virginia Board of Medicine

WLH/cmo

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 34. Drug Control Act

§ 54.1-3410. When pharmacist may sell and dispense drugs.

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed. If the prescription is for expedited partner therapy pursuant to § 54.1-3303 and the contact patient's name and address are unavailable, the prescription shall state "Expedited Partner Therapy" or "EPT" in lieu of the full name and address of the contact patient.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section. However, if the pharmacist dispenses a Schedule III through VI drug or device for expedited partner therapy pursuant to § 54.1-3303 and the contact patient's name and address are unavailable, the prescription shall state "Expedited Partner Therapy" or "EPT" in lieu of the full name and address of the contact patient.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy. If the prescription is for a Schedule VI drug or device for expedited partner therapy pursuant to § 54.1-3303 and the contact patient's name and address are unavailable, then labeling the name and address of the contact patient is not required.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

E. A dispenser who receives a non-electronic prescription for a controlled substance containing an opioid is not required to verify that one of the exceptions set forth in § 54.1-3408.02 applies and may dispense such controlled substance pursuant to such prescription and applicable law.

1970, c. 650, § 54-524.67; 1972, c. 798; 1976, c. 614; 1977, c. 302; 1983, cc. 395, 612; 1988, c. 765; 1996, c. 408; 2003, c. 511; 2017, cc. 115, 429; 2019, c. 664; 2020, c. 464.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

7/22/2020

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Agenda Item: Reciprocity with Contiguous States

Staff Note: The 2020 General Assembly passed legislation that requires the Department of Health Professions, and therefore the Board of Medicine, to pursue reciprocal agreements for the licensure of MD's, DO's, PA's and NP's with our neighboring states. The first step the Board has taken in this process is to inquire of the Executive Directors (ED's) of boards of medicine in our contiguous states. In the following pages, you will find HB1701 and the email that has been sent to the ED's. Staff will provide comment received to date.

Action: Board staff would appreciate the Committee's thoughts on the parameters of such a licensing pathway.

2020 SESSION

CHAPTER 368

An Act to require the Department of Health to determine the feasibility of the establishment of a Medical Excellence Zone Program and to require the Department of Health Professions to pursue reciprocal agreements with states contiguous with the Commonwealth for licensure for certain primary care practitioners under the Board of Medicine.

[H 1701]

Approved March 18, 2020

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Department of Health shall determine the feasibility of establishing a Medical Excellence Zone Program (the Program) to allow citizens of the Commonwealth living in rural underserved areas to receive medical treatment via telemedicine services as defined in § 38.2-3418.16 of the Code of Virginia. The Department shall set out the criteria that would be required for a locality or group of localities in the Commonwealth to be eligible for the designation as a medical excellence zone. Such criteria shall include that any locality or group of localities eligible for the Program must demonstrate economic disadvantage of residents in the proposed medical excellence zone. The Department of Health shall report its findings to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020.*

2. § 1. *That the Department of Health Professions shall pursue the establishment of reciprocal agreements with states that are contiguous with the Commonwealth for the licensure of doctors of medicine, doctors of osteopathic medicine, physician assistants, and nurse practitioners. Reciprocal agreements shall only require that a person hold a current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on § 54.1-2915 of the Code of Virginia. The Department of Health Professions shall report on its progress in establishing such agreements to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020.*

3. § 1. *That the Board of Medicine shall prioritize applicants for licensure as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner from such states that are contiguous with the Commonwealth in processing their applications for licensure by endorsement through a streamlined process, with a final determination regarding qualification to be made within 20 days of the receipt of a completed application.*



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

Reciprocity

1 message

Harp, William <william.harp@dhp.virginia.gov>
To: "Rodman, Michael (KBML)" <mike.rodman@ky.gov>

Wed, Jun 17, 2020 at 3:22 F

Good afternoon, Mike:

I hope the Kentucky Board is navigating this difficult time well, and that your staff and board members are enjoying good health.

I write regarding a Virginia initiative to establish reciprocal licensing agreements with its contiguous states and the District.

Please take a look at the attachment, and if you will, please provide responses to the 5 questions.

This would be a great help to the Virginia Board of Medicine, and please know that your effort is appreciated ahead of time.

With kindest regards,

Bill
William L. Harp, MD
Executive Director
Virginia Board of Medicine

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INQUIRY REGARDING RECIPROCITY WITH OTHER STATES

The 2020 Session of the Virginia General Assembly passed HB 1701 and SB 757 which require the Virginia Department of Health Professions and the Virginia Board of Medicine to pursue reciprocal licensing agreements with other state boards for MD's, DO's, PA's and NP's.

Here is the relevant language from HB 1701 and SB 757.

2. § 1. That the Department of Health Professions shall pursue the establishment of reciprocal agreements with states that are contiguous with the Commonwealth for the licensure of doctors of medicine, doctors of osteopathic medicine, physician assistants, and nurse practitioners. Reciprocal agreements shall only require that a person hold a current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on § 54.1-2915 of the Code of Virginia. The Department of Health Professions shall report on its progress in establishing such agreements to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020.

I am writing to you as an Executive Director of a contiguous state, or an almost contiguous state (DE & PA). The Board of Medicine will have to report to the Committees of the General Assembly by November 1 of this year. If you could provide answers to the following questions, it would be most helpful.

1. Is reciprocity between our states a concept in which your board has interest?
2. Would your board be interested in reciprocity for all 4 of the professions in the bill, or just some?
3. Does your current statutory and regulatory framework support reciprocity as described with the Virginia Board of Medicine?
4. Would your board be willing to pursue legislation or regulation to facilitate reciprocity if the answer to number 3 is no?
5. Would additional state boards need to be involved, specifically those regulating physician assistants and nurse practitioners?

Your answers to these questions will be a great help to the Virginia Department of Health Professions and the Virginia Board of Medicine.

Please know that your responses are very much appreciated in advance.

With kindest regards,

William L. Harp, MD
Executive Director
Virginia Board of Medicine