

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

October 14, 2021

Department of Health Professions

Henrico, VA 23233

CALL TO ORDER: Mr. Marchese called the meeting to order at 8:30 a.m.

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

**MEMBERS
PRESENT:** L. Blanton Marchese, President
David Archer, MD, Vice-President
James Arnold, DPM
Amanda Barner, MD, Secretary-Treasurer
Manjit Dhillon, MD
Alvin Edwards, MDiv, PhD
Madge Ellis, MD (late arrival)
Jane Hickey, JD
Oliver Kim, JD
Jacob Miller, DO
Pradeep Pradhan, MD
Milly Rambhia, MD
Karen Ransone, MD
Jenifer Rathmann, DC
Brenda Stokes, MD
Ryan Williams, MD
Khaliq Zahir, MD

**MEMBERS
ABSENT:** Joel Silverman, MD

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

**OTHERS
PRESENT:** Clark Barrineau, MSV
Wayne Halblieb - Senior Assistant Attorney General
Erin Weaver – Assistant Attorney General
Sean Murphy – Assistant Attorney General
Anne Joseph – Administrative Proceedings Division
Michael Parsons – Administrative Proceeding Division

**EMERGENCY
EGRESS:**

Dr. Archer provided the emergency egress procedures for Board Room 4.

DISCIPLINARY MATTERS FOR THE BOARD'S CONSIDERATION

The following licensees were presented to the Board by the Office of the Attorney General and the DHP Administrative Proceedings Division in consideration for summary suspension:

1 – CL, R.T, (“Respondent”) Licensed to practice respiratory therapy in the Commonwealth – upon presentation of the statement of allegations, Dr. Ransone moved to summarily suspend the license. The motion was seconded by Dr. Edwards and passed unanimously by the 16 Board members present.

2 – KB, D.C. (“Respondent”) Licensed to practice chiropractic in the Commonwealth – upon presentation of the statement of allegations, Dr. Edwards moved to summarily suspend the license. The motion was seconded by Dr. Miller and passed unanimously by the 16 Board members present.

3 – SB, D.O. (“Respondent”) Licensed to practice osteopathic medicine and midwifery in the Commonwealth – upon presentation of the statement of allegations, Dr. Williams moved to summarily suspend the license. The motion was seconded by Dr. Miller and passed unanimously by the 17 Board members present.

4 – CM, M.D. (“Respondent”) Licensed to practice medicine in the Commonwealth – upon presentation of the statement of allegations, Dr. Williams moved to summarily suspend the license. The motion was seconded by Dr. Ransone and passed unanimously by the 17 Board members present.

INTRODUCTION OF NEW BOARD MEMBERS

Dr. Harp asked the four new Board members, Madge Ellis, MD from Salem in the 9th Congressional District, Oliver Kim, JD, Citizen Member from Alexandria, Pradeep Pradhan, MD from Danville in the 5th Congressional District, and Jenifer Rathmann, DC from Blacksburg, to introduce themselves to their colleagues on the Board.

APPROVAL OF THE JUNE 24, 2021 MINUTES

Dr. Edwards moved to approve the June 24, 2021 minutes as presented. The motion was properly seconded and carried unanimously.

ADOPTION OF THE AGENDA

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

PUBLIC COMMENT

Clark Barrineau, Assistant Vice President of Government Affairs and Public Policy at the Medical Society of Virginia (MSV), addressed the Board with comments from MSV regarding its request for the Board to consider revising the mental health question on the license application. Mr. Barrineau advised that since the submission of their comments to the Board, several other Virginia medical associations have written letters of support for the revision of the question.

REPORT OF THE DHP DIRECTOR -- David Brown, DC

Dr. Brown welcomed the new Board members and passed along a gentle reminder that while they are serving, they will find that the interests of the public and their profession will overlap. However when a Board member comes to a meeting, he/she must take off other hats and be laser-focused on the protection of the public. He noted that when he served on the Board of Medicine, it was one of the most rewarding experiences of his career, and that you get out of it what you put in.

Dr. Brown reminded the members that with the ending of the state of emergency, all boards are back to meeting in-person. He said DHP has submitted a bill requesting authorization to hold some meetings virtually. Stay tuned for further information. He also mentioned that the Conference Center will be getting upgrades to its audio/visual system in the near future.

He stated that this has been a hard year. But on the positive side, COVID-19 led some boards to adopt new efficiencies in their processes. DHP enabled most agency personnel to telework, and in anticipation of becoming more digital, the landscape of how the boards are currently operating may become the norm.

Dr. Allison-Bryan spoke to the Board about the healthcare workforce, which has become a critical issue. She said that during the state of emergency, waivers for applicants and licensees, including out-of-state licensees, created greater access to care for patients in the Commonwealth. She said that the Virginia Hospital and Healthcare Association is looking into how to continue those efforts by welcoming refugees in Virginia and determining how they might be incorporated into the healthcare workforce. She concluded with an update on where Virginia ranks in vaccinations.

REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT

Mr. Marchese had no report.

VICE-PRESIDENT

Dr. Archer had no report.

SECRETARY-TREASURER

Dr. Barner had no report.

EXECUTIVE DIRECTOR

Dr. Harp provided an update on the following items:

- FY 2021 Financial Report – Dr. Harp covered the Board’s Revenue and Expenditures for Fiscal Year 2021. Medicine finished the year under budget. He reminded the Board that if the reserve funds exceed 10% of what is needed for the next biennium, it must reduce fees. The Board has reduced its renewal fees for the last 4 biennia.
- Waivers for Electronic Prescribing of Opioids – Licensees were notified in the March 2021 Board Briefs that all prescribers of opioids should be prepared to submit opioid prescriptions electronically by July 1, 2021 or have a waiver. Since the Board Briefs went out, the interpretation of the law has been amended to indicate that a waiver lasts 12 months from the date it was granted. Dr. Harp noted that at the beginning, 100 or more requests were received most weeks. Now requests are down to about 2 per week.
- Implicit Bias – At the Board’s request, an item on implicit bias, with resources, was placed in the September 2021 Board Briefs. Legislation has been submitted that will authorize the Board to require a 2-hour selected continuing education topic each biennium for renewal.

COMMITTEE AND ADVISORY BOARD REPORTS

Committee Appointments

Dr. Harp reviewed the new assignments to the Legislative and Credentials Committees.

Executive Committee

Dr. Arnold moved to accept the Executive Committee meeting minutes of August 6, 2021 as presented. The motion was properly seconded and carried unanimously.

Credentials Committee

Dr. Stokes moved to accept the Credentials Committee meeting minutes of September 20, 2021 as presented. The motion was properly seconded and carried unanimously.

OTHER REPORTS

Board Counsel

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

Merchia v. Board of Medicine et al.
Zackrison v. Ali et al.

Board of Health Professions

This report was for informational purposes only.

Podiatry Report

Dr. Arnold reported on his attendance at the Virginia Podiatric Medical Association meeting. He noted there were approximately 126 other attendees, including practicing podiatrists, residents and one student. He also reported that 114 Podiatric Medical Assistants have taken the Radiologic Technologist-Limited certification course and examination in the last 14 months. Dr. Arnold passed along the VPMA's gratitude to Beulah Archer, licensing specialist, for her continued assistance, accessibility, and willingness to help with the licensing process of the podiatric limited rad techs. Additionally, Dr. Arnold noted that VPMA is closely monitoring the actions of the Joint National Task Force related to DPM's taking the USMLE exam.

Chiropractic Report

No report.

Committee of the Joint Boards of Nursing and Medicine

This report was for informational purposes only.

Break

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

NEW BUSINESS:

1. Regulatory and Legislative Issues

Chart of Regulatory Actions

Ms. Yeatts provided an update on the status of regulatory actions as of October 6, 2021, noting that the Regulations Governing the Licensure of Surgical Assistants and Certification of Surgical Technologists have moved to the Governor's Office.

Regulatory/Policy Actions – 2021 General Assembly

Ms. Yeatts did a quick review of the Board's emergency regulations and exempt regulations. She and Dr. Brown provided an overview of the non-regulatory actions, e.g. workgroups, which involve professions at the Board of Medicine.

2. Recommendation on Adoption of Fast-Track Regulations – Licensed Acupuncturists

Ms. Yeatts stated that the proposed changes were only to conform the regulations to changes in the names of national acupuncture credentialing bodies.

MOTION: Dr. Arnold moved to accept the recommendation of the Advisory Board on Acupuncture for regulatory amendments to conform the name changes of credentialing bodies by fast-track action. The motion was properly seconded and carried unanimously.

3. Further Data from the 2020 Physician Workforce Survey

Dr. Yetty Shobo presented her findings on the questions generated by her presentation at the June 24, 2021 Board meeting. She provided resources to locate the data on physicians by specialty, by county/city, education debt by gender and race/ethnicity, the ratio of income to debt, and the density of physicians across the state. Dr. Shobo advised that while her data did not address the question of whether the quality of care was better or worse during the pandemic, the Virginia Health Information site does have data for all hospitals that include patient ratings of the hospital's efficiency and satisfaction with their experience.

4. Medical Society of Virginia Request to Revise Mental Health Question on Applications

Dr. Harp referred to the communication received from the Medical Society of Virginia respectfully requesting that the Board consider revision of the mental health questions currently on the application for licensure. It is MSV's position that the current question obfuscates the issues of illness and impairment.

The exact questions up for discussion were:

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

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

After a lengthy discussion, Dr. Harp said that the Board's concern is about safe and competent practice, not diagnosis.

Ms. Barrett stated that these questions were all reviewed by the Office of the Attorney General (OAG) to ensure that they were compliant with the ADA. As a board in the Executive Branch, Medicine's duty is to protect the public. During the OAG analysis, there was a recognized tension between the Board's questions and the ADA. However, there is no recommendation to change the current language. Ms. Barrett went on to say that, even with the best of intentions, moving the words around could affect its current ADA compliance.

MOTION: Dr. Stokes moved that the questions remain as written and that this issue be referred to the Credentials Committee for further review. The motion was properly seconded and carried unanimously.

Additionally, the Board unanimously agreed that the “Board’s Perspective on Mental Health Treatment” article in the September Board Briefs be sent out again by blast email.

5. Recommendations from the Credentials Committee on Streamlining the Licensing Process

Dr. Miller provided the highlights of the September 20, 2021 Credentials Committee meeting that discussed what the post-pandemic licensing process should look like. At that meeting, the Committee reviewed and revised the licensing processes for the 5 professions identified as essential during the pandemic - MD, DO, DPM, PA, and RT. He stated that the accommodations made by waiving certain requirements for the 5 professions significantly sped up the licensing process to ensure that Virginia had an adequate healthcare workforce during COVID-19. He said there has been no evidence that streamlining of the process has led to an increase in complaints.

MOTION: Dr. Miller moved to accept the recommendations of the Credentials Committee as presented. The motion was properly seconded and carried unanimously.

6. DHP Draft Policy on Meetings Held with Electronic Participation

Mr. Marchese reminded the Board that during the state of emergency, the Board, Advisory Boards, and Committees were authorized to hold meetings virtually. However, since the expiration of the Executive Order, all meetings have gone back to in-person. Seeing the benefit of virtual meetings, DHP has developed a draft policy document to provide the boards with guidance on holding meetings with some electronic participation. The draft DHP policy was before the Board for acceptance or revision as the members saw fit.

MOTION: After review of the draft, Dr. Edwards moved that the Board accept the DHP policy as written. The motion was properly seconded and carried unanimously.

7. Licensing Report

Michael Sobowale advised that on October 12, 2021, there were 78,290 current active and current inactive licensees, 61% of which were physicians. He stated that 7,697 licenses were issued in the last Fiscal Year, which was 379 more than were issued in the previous year. Since January 1st, 2021, the Board has licensed 6,532 applicants.

8. Discipline Report

Ms. Deschenes provided a brief report on the status of cases as of October 4, 2021.

9. Announcements

Mr. Marchese reminded the Board members to respond to emails from Discipline staff regarding their available dates to serve on hearing committees and panels.

10. Adjournment

With no other business to discuss, the meeting adjourned at approximately 11:34 p.m.

Blanton Marchese
President, Chair

William L. Harp, MD
Executive Director

Colanthia Morton Opher
Recording Secretary