Executive Committee Meeting

Virginia Board of Medicine
August 5, 2022
8:30 a.m.

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 5, 2022 @ 8:30 a.m.
Perimeter Center
9960 Mayland Drive, Suite 201, Board Room 4
Henrico, VA 23233

Call to Order and Roll Call

Emergency Egress Procedures

Approval of Minutes from April 8, 2022 1

Adoption of Agenda

Public Comment on Agenda Items

DHP Director's Report

Reports of President and Executive Director

- President.....-----
- Executive Director .....-----

New Business

1. Exempt action based on HB145 (Physician Assistant practice) – Erin Barrett 6

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6. Vacant Offices on the Board – Dr. Harp..... 37

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9. Adjourn

====No motion needed to adjourn if all business has been conducted====

---DRAFT UNAPPROVED---

VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES

Friday, April 8, 2022 | Department of Health Professions | Henrico, VA

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

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

MEMBERS PRESENT:
Blanton Marchese – President, Chair
Amanda Barner, MD - Secretary-Treasurer
Alvin Edwards, MDiv, PhD
Karen Ransone, MD
Joel Silverman, MD
Brenda Stokes, MD

MEMBERS ABSENT:
David Archer, MD – Vice-President
Jane Hickey, JD

STAFF PRESENT:
William L. Harp, MD - Executive Director
Jennifer Deschenes, JD - Deputy Exec. Director for Discipline
Colanthia Morton Opher - Deputy Exec. Director for Administration
Michael Sobowale, LLM - Deputy Exec. Director for Licensure
Barbara Matusiak, MD - Medical Review Coordinator
Deirdre C. Brown - Executive Assistant
Erin Barrett, JD – DHP Senior Policy Analyst

OTHERS PRESENT:
Jennie Wood – Discipline Staff
W. Scott Johnson - Hancock Daniel & Medical Society of Virginia

EMERGENCY EGRESS INSTRUCTIONS

Dr. Barner provided the emergency egress instructions for Board Room 4.

APPROVAL OF MINUTES OF DECEMBER 3, 2021

Dr. Edwards moved to approve the minutes from December 3, 2021 as presented. The motion was seconded by Dr. Ransone and carried unanimously.

ADOPTION OF AGENDA

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

PUBLIC COMMENT

Mr. Marchese opened the floor for public comment. There was none.

PRESIDENT'S REPORT

No report.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp had been asked by Dr. Brown to provide an update on DHP. He reported that there were no updates about administration transitions from the Governor's office. He also spoke to the following:

- DHP leadership is pleased with the new security service in the building.
- On Monday, April 4, 2022, everyone returned to the office. Teleworking, up to 3 days a week may be approved by supervisors, if one's job is amenable to telework.
- During the pandemic, original materials were able to leave the building to facilitate telework. Effective immediately, original materials are to be returned to the building.
- Elaine Yeatts' DHP retirement celebration was held on April 1, 2022 in the building.
- Looking forward, Liz Carter and Ralph Orr will be retiring on July 1, 2022.

Dr. Harp then gave an overview of the Cash Balance Report and reminded the Committee that the Board cannot have more than 10% in cash reserves. Currently the Board is in the 4th biennial decrease of renewal fees for all its professions. On June 30, 2022, the decrease in renewal fees will continue.

Next, Dr. Harp covered the Revenue and Expenditures Summary. He highlighted that the Board's "Total Fee Revenue" for the period of July 1, 2021 through December 31, 2021 was 21.03% of that anticipated for FY2022. He pointed out that this was an even year when most of the fee revenue comes in, so the % of fee revenues will be going up throughout the year. Dr. Harp then pointed out the "Total Computer Hardware and Software" item and that 100.92% of monies budgeted had already been spent. He said that this expense was to setup robotic responses called BOTs, which initially will generate automatic responses to applicants about their status updates. Lastly, Dr. Harp gave a brief overview on the "Allocated Expenditures" at the end of the Revenue and Expenditures Summary.

NEW BUSINESS

1. Report of the 2022 General Assembly – Erin Barrett

Ms. Barrett reviewed the 2022 General Assembly with the Executive Committee, highlighting several bills that have passed or are still pending. She also presented a handout of the "Virginia Regulatory Town Hall – Current Actions Underway" as of April 5, 2022. Ms. Barrett then reviewed the following bills for the Committee as being passed or still pending:

- HB 192 Opioids; repeals sunset provisions relating to prescribers requesting information about a patient from the Prescription Monitoring Program. It was passed by both houses.
- HB 191 Health Workforce Development; creates the position of Special Advisor to the Governor. Ms. Barrett stated that this bill is pending and has been moved to the Special Session.
- HB 213 Optometrists; allowed to preform laser surgery if certified by Board of Optometry. Ms. Barrett stated that this bill did pass, but will not have an immediate effect.
- HB 264 Public health emergency; out-of-state licenses, deemed licensure. Authorizes medical professionals legally licensed in another jurisdiction to deliver telemedicine services with Virginia patients with whom he/she has an established relationship.
- HB 286 Nurse practitioners; declaration of death and cause of death.
- HB 896 Nurse practitioners; patient care team provider. Ms. Barrett said that there is a lot of misinformation that is being sent out regarding this bill.
- HB 1323 Pharmacists; initiation of treatment with and dispensing and administration of vaccines. Ms. Barrett did state that the Board of Medicine will take the lead on this and establish a panel of Board members and VDH representatives by this summer.
- SB 169 Practical nurses, licensed; authority to pronounce death for a patient in hospice, etc. Ms. Barrett did point out that this bill provides limited authority.
- SB 317 Out-of-State health care practitioners; temporary authorization to practice. This bill allows an applicant to practice for 90 days pending licensure.
- SB 480 Administrative Process Act; final orders, electronic retention. Ms. Barrett added that as of July 1, 2022, documents may be scanned then shredded.
- SB 511 Opioid treatment program pharmacy; medication dispensing, registered/licensed practical nurses.

Aside from the above bills being passed, Ms. Barrett did state that HB 1245 - Nurse practitioners; practice without a practice agreement; which repeals the sunset provision still remains pending. This bill has been moved to the Special Session, since agreement on this bill was not reached in conference.

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

2. Approval of Proposed Regulations for Implementation of the Occupational Therapy Interjurisdictional Compact – Erin Barrett

Ms. Barrett stated that this is an approval of proposed regulations, not final regulations, for implementation of the Occupational Therapy Interjurisdictional Compact. She reviewed the language for definitions under the compact. 1) "Compact" means the Occupational Therapy Interjurisdictional Licensure Compact." 2) "Compact privilege" means the same as the definition of the term in 54.1-2956.71 of the Code of Virginia." 3) "Practitioner" means an occupational

therapist or occupational therapy assistant licensed in Virginia or an occupational therapist or occupational assistant practicing in Virginia with a compact privilege."

MOTION: Dr. Edwards moved to approve the amended regulations as presented. The motion was properly seconded by Dr. Ransone and carried unanimously.

3. Review and Approval of Revised Guidance Document 85-9 – Dr. Harp

Dr. Harp reviewed current Guidance Document 85-9 on USMLE Step Attempts which allows 6 attempts at each Step. He reported that as of July 1, 2021, NBME and FSMB has reduced the number of attempts at each USMLE Step from 6 to 4 for all applicants applying on July 1, 2021 or thereafter. The new USMLE policy allows a one-time exception for a 5th attempt at one of the Step exams. Sponsorship by a state board is required for USMLE's consideration of an additional attempt.

Dr. Harp proposed a new version of 85-9, which includes that the Board, in its discretion, could support a one-time 5th attempt of a USMLE Step exam. Dr. Edwards moved to approve, and Dr. Ransone seconded. Dr. Silverman then questioned the need for an exception and the rationale for allowing a 5th attempt. He stated concerns of legal consequences and suggested that there should only be 4 attempts allowed, no exceptions. Dr. Harp referred the Committee to the language on page 34 that indicates the document does not authorize an extra attempt at Step 3. He further pointed out that an applicant requesting an exception must have passed all 3 Steps previously and only needs Step 1 or Step 2 to bring his/her scores into line with Virginia's 10-year requirement. Mr. Sobowale said that about 2% of the applicants email him, requesting a waiver. Ms. Deschenes then asked Mr. Sobowale, "How many other states have exceptions?" to which Mr. Sobowale replied, 45 or 46 states have time limits to pass the USMLE.

MOTION: Dr. Edwards moved to approve the revised Guidance Document 85-9. The motion was properly seconded by Dr. Ransone. After discussion, 5 approved and 1 opposed.

4. Update on Reciprocal Licensing with Maryland and the District of Columbia – Dr. Harp

Dr. Harp updated the Committee on the status of reciprocal licensing with Maryland and the District of Columbia. He said that the meeting scheduled for Friday, April 1, 2022 had been rescheduled to April 28, 2022. He described the draft application for reciprocity generally as having far fewer questions and documents required than the traditional and endorsement applications. He said he hopes to be able to present the draft application at the June Board meeting. Ms. Deschenes said that there is a statutory foundation for reciprocity, so no regulations should be needed.

ANNOUNCEMENTS

Everyone was reminded to submit their Travel Expense Reimbursement Vouchers within 30 days after completion of their trip (CAPP Topic 20335, State Travel Regulations, p. 7).

The next meeting of the Executive Committee will be August 5, 2022 @ 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 9:17 a.m.

Blanton Marchese
President

William L. Harp, MD
Executive Director

Deirdre C. Brown
Recording Secretary

Agenda Item: Exempt action based on HB145 (Physician Assistant practice)

Included in your agenda package are:

- Exempt changes to regulations governing physician assistants based on changes from 2022 legislation (HB145); and
- HB145

Action needed:

- Motion to adopt exempt regulatory changes.

Project 7145 - Exempt Final

Board of Medicine

Implementation of HB145 for Physician Assistant Practice

18VAC85-50-40. General requirements.

A. No person shall practice as a physician assistant in the Commonwealth of Virginia except as provided in this chapter.

B. Except as provided in § 54.1-2952(C), ~~All~~ all services rendered by a physician assistant shall be performed only in accordance with a practice agreement with one or more doctors of medicine, osteopathy, or podiatry licensed by this board to practice in the Commonwealth.

18VAC85-50-101. Requirements for a practice agreement.

A. Prior to initiation of practice, a physician assistant and one or more patient care team physicians or podiatrists shall enter into a written or electronic practice agreement that spells out the roles and functions of the assistant and is consistent with provisions of § 54.1-2952 of the Code of Virginia.

1. Any such practice agreement shall take into account such factors as the physician assistant's level of competence, the number of patients, the types of illness treated by the physicians or podiatrists, the nature of the treatment, special procedures, and the nature of the physicians' or podiatrists' availability in ensuring direct physician or podiatrist involvement at an early stage and regularly thereafter.

2. The practice agreement shall also provide an evaluation process for the physician assistant's performance, including a requirement specifying the time period, proportionate to the acuity of care and practice setting, within which the physicians or podiatrists shall review the record of services rendered by the physician assistant.

3. The practice agreement may include requirements for periodic site visits by licensees who supervise and direct the patient care team physicians or podiatrists to collaborate and consult with physician assistants who provide services at a location other than where the physicians or podiatrists regularly practice.

B. The board may require information regarding the degree of collaboration and consultation by the patient care team physicians or podiatrists. The board may also require a patient care team physician or podiatrist to document the physician assistant's competence in performing such tasks.

C. If the role of the physician assistant includes prescribing drugs and devices, the written practice agreement shall include those schedules and categories of drugs and devices that are within the scope of practice and proficiency of the patient care team physicians or podiatrists.

D. If the initial practice agreement did not include prescriptive authority, there shall be an addendum to the practice agreement for prescriptive authority.

E. If there are any changes in consultation and collaboration, authorization, or scope of practice, a revised practice agreement shall be entered into at the time of the change.

F. Physician assistants appointed as medical examiners pursuant to §32.1-282 may practice without a written or electronic practice agreement.

18VAC85-50-117. Authorization to use fluoroscopy.

A physician assistant working under a practice agreement with a licensed doctor of medicine or osteopathy specializing in the field of radiology or orthopedics is authorized to use fluoroscopy for guidance of diagnostic and therapeutic procedures provided such activity is specified in his protocol and he has met the following qualifications:

1. Completion of at least 40 hours of structured didactic educational instruction and at least 40 hours of supervised clinical experience as set forth in the Fluoroscopy Educational

Framework for the Physician Assistant created by the American Academy of Physician Assistants (AAPA) and the American Society of Radiologic Technologists (ASRT); and

2. Successful passage of the American Registry of Radiologic Technologists (ARRT) Fluoroscopy Examination.

CHAPTER 151

An Act to amend and reenact §§ 32.1-162.1, 32.1-282, 54.1-2900, and 54.1-2952 of the Code of Virginia, relating to practice of physician assistants.

[H 145]

Approved April 7, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-162.1, 32.1-282, 54.1-2900, and 54.1-2952 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-162.1. Definitions.

As used in this article unless a different meaning or construction is clearly required by the context or otherwise:

"Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative and supportive medical and other health services to terminally ill patients and their families. A hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs which are experienced during the final stages of illness, and during dying and bereavement. Hospice care shall be available twenty-four hours a day, seven days a week.

"Hospice facility" means an institution, place, or building owned or operated by a hospice provider and licensed by the Department to provide room, board, and appropriate hospice care on a 24-hour basis, including respite and symptom management, to individuals requiring such care pursuant to the orders of a physician. Such facilities with 16 or fewer beds are exempt from Certificate of Public Need laws and regulations. Such facilities with more than 16 beds shall be licensed as a nursing facility or hospital and shall be subject to Certificate of Public Need laws and regulations.

"Hospice patient" means a diagnosed terminally ill patient, with an anticipated life expectancy of six months or less, who, alone or in conjunction with designated family members, has voluntarily requested admission and been accepted into a licensed hospice program.

"Hospice patient's family" shall mean the hospice patient's immediate kin, including a spouse, brother, sister, child or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the hospice patient's family by mutual agreement among the hospice patient, the relation or individual, and the hospice team.

"Identifiable hospice administration" means an administrative group, individual or legal entity that has a distinct organizational structure, accountable to the governing authority directly or through a chief executive officer. This administration shall be responsible for the management of all aspects of the program.

"Inpatient" means the provision of services, such as food, laundry, housekeeping, and staff to provide health or health-related services, including respite and symptom management, to hospice patients, whether in a hospital, nursing facility, or hospice facility.

"Interdisciplinary team" means the patient and the patient's family, the attending physician, and the following hospice personnel: physician, nurse, social worker, and trained volunteer. ~~Providers~~ *Physician assistants and providers* of special services, such as clergy, mental health, pharmacy, and any other appropriate allied health services, may also be included on the team as the needs of the patient dictate.

"Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process, rather than the treatment aimed at investigation and intervention for the purpose of cure or prolongation of life.

§ 32.1-282. Medical examiners.

A. The Chief Medical Examiner may appoint for each county and city one or more medical examiners, who shall be licensed as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner in the Commonwealth and appointed as agents of the Commonwealth, to assist the Office of the Chief Medical Examiner with medicolegal death investigations. A physician assistant appointed as a medical examiner shall ~~have a~~ practice ~~agreement with and be under the continuous supervision of a physician medical examiner~~ in accordance with § 54.1-2952. A nurse practitioner appointed as a medical examiner shall practice in accordance with § 54.1-2957.

B. At the request of the Chief Medical Examiner, the Assistant Chief Medical Examiner, or their designees, medical examiners may assist the Office of the Chief Medical Examiner with cases requiring medicolegal death investigations in accordance with § 32.1-283.

C. The term of each medical examiner appointed, other than an appointment to fill a vacancy, shall begin on the first day of October of the year of appointment. The term of each medical examiner shall

be three years; however, an appointment to fill a vacancy shall be for the unexpired term.

§ 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.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"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.

"Clinical nurse specialist" means an advance practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 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.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"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 (i) requesting, receiving, and reviewing 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) documenting 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 treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also 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 licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"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.

§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care teams; services that may be performed by physician assistants; responsibility of licensee; employment of physician assistants.

A. A patient care team physician or patient care team podiatrist licensed under this chapter may serve on a patient care team with physician assistants and shall provide collaboration and consultation to such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed to collaborate or consult with more than six physician assistants on a patient care team at any one time.

Service as part of a patient care team by a patient care team physician or patient care team podiatrist shall not, by the existence of such service alone, establish or create vicarious liability for the actions or inactions of other team members.

B. Physician assistants may practice medicine to the extent and in the manner authorized by the Board. A patient care team physician or patient care team podiatrist shall be available at all times to collaborate and consult with physician assistants. Each patient care team shall identify the relevant physician assistant's scope of practice and an evaluation process for the physician assistant's performance.

C. Physician assistants appointed as medical examiners pursuant to § 32.1-282 ~~shall only function as part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282~~ *may practice without a written or electronic practice agreement.*

D. Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees that are supervised by one or more physicians or podiatrists may employ one or more physician assistants in accordance with the provisions of this section.

Activities shall be performed in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a practice agreement and may include health care services that are educational, diagnostic, therapeutic, or preventive, including establishing a diagnosis, providing treatment, and performing procedures. Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a physician assistant may perform initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, in accordance with the practice agreement, including tasks performed, relating to the provision of medical care in an emergency department.

A patient care team physician or the on-duty emergency department physician shall be available at all times for collaboration and consultation with both the physician assistant and the emergency department physician. No person shall have responsibility for any physician assistant who is not employed by the person or the person's business entity.

E. No physician assistant shall perform any acts beyond those set forth in the practice agreement or authorized as part of the patient care team. No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient is available for collaboration or consultation, pursuant to regulations of the Board.

F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working in the field of radiology *or orthopedics* as part of a patient care team, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.

Agenda Item: Exempt action based on HB598 (Surgical Technologists)

Included in your agenda package are:

- Exempt changes to regulations governing surgical technologist certification based on changes from 2022 legislation (HB598); and
- HB598

Action needed:

- Motion to adopt exempt regulatory changes.

Project 7146 - Exempt Final

Board of Medicine

Implementation of HB598 for certification of surgical technologists

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

A. An applicant for certification 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 certification as a surgical technologist shall provide satisfactory evidence of:

1. Successful completion of an accredited surgical technologist training program and 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 training program for surgical technology during the applicant's service as a member of any branch of the armed forces of the United States.

C. The board will certify a surgical technologist who registers with the board by December 31, 2022 if that surgical technologist provides satisfactory evidence of:

1. Practice as a surgical technologist prior to October 1, 2022; or

2. Attendance of a surgical technologist training program prior to October 1, 2022.

CHAPTER 71

An Act to amend and reenact § 54.1-2956.12 of the Code of Virginia, relating to registered surgical technologist; criteria for registration.

[H 598]

Approved April 1, 2022

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2956.12 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2956.12. Registered surgical technologist; use of title; registration.

A. No person shall hold himself out to be a surgical technologist or use or assume the title of "surgical technologist" or "certified surgical technologist," or use the designation ~~"C.S.T."~~ ~~or~~ "S.T." or any variation thereof, unless such person is certified by the Board. *No person shall use the designation "C.S.T." or any variation thereof unless such person (i) is certified by the Board and (ii) has successfully completed an accredited surgical technologist training program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor.*

B. The Board shall certify as a surgical technologist any applicant who presents satisfactory evidence that he (i) has successfully completed an accredited surgical technologist training program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor, (ii) has successfully completed a training program for surgical technology during the person's service as a member of any branch of the armed forces of the United States, or (iii) has practiced as a surgical technologist *or attended a surgical technologist training program* at any time ~~in the six months~~ prior to ~~July 1, 2021~~ *October 1, 2022*, provided he registers with the Board by December 31, ~~2021~~ *2022*.

Agenda Item: Approval of bylaws for all advisory boards

Included in your agenda package are:

- Draft Guidance Document 85-3

Action needed:

- Motion to adopt Guidance Document 85-3.

BYLAWS FOR

ADVISORY BOARDS OF THE BOARD OF MEDICINE

Article I - Members of the Advisory Board

The appointments and limitations of service of the members shall be in accordance with the applicable statutory provision of the advisory board governing such matters.

Article II - Officers

Section 1. Titles of Officers - The officers of the advisory board shall consist of a chairman and vice-chairman elected by the advisory board. The Executive Director of the Board of Medicine shall serve in an advisory capacity.

Section 2. Terms of Office - The chairman and vice-chairman shall serve for a one-year term and may not serve for more than two consecutive terms in each office. The election of officers shall take place at the first meeting after July 1, and officers shall assume their duties immediately thereafter.

Section 3. Duties of Officers.

(a) The chairman shall preside at all meetings when present, make such suggestions as may deem calculated to promote and facilitate its work, and discharge all other duties pertaining by law or by resolution of the advisory board. The chairman shall preserve order and conduct all proceedings according to and by parliamentary rules and demand conformity thereto on the part of the members. The chairman shall appoint all committees as needed.

The chairman shall act as liaison between the advisory board and the Board of Medicine on matters pertaining to licensing, discipline, legislation and regulation of the profession which the advisory board represents.

When a committee is appointed for any purpose, the chairman shall notify each member of the appointment and furnish any essential documents or information necessary.

(b) The vice-chairman shall preside at meetings in the absence of the chairman and shall take over the other duties of the chairman as may be made necessary by the absence of the chairman.

Article III - Meetings

Section 1. There shall be at least one meeting each year in order to elect the chairman and vice-chairman and to conduct such business as may be deemed necessary by the advisory board.

Section 2. Quorum - Three members shall constitute a quorum for transacting business.

Section 3. Order of Business - The order of business shall be as follows:

(a) Calling roll and recording names of members present
(b) Approval of minutes of preceding regular and special meetings
(c) Adoption of Agenda
(d) Public Comment Period
(e) Report of Officers
(f) Old Business
(g) New Business

The order of business may be changed at any meeting by a majority vote.

Article IV - Amendments

Amendments to these bylaws may be proposed by presenting the amendments in writing to all advisory board members prior to any scheduled advisory board meeting. If the proposed amendment receives a majority vote of the members present at that advisory board meeting, it shall be represented as a recommendation for consideration to the Board of Medicine at its next regular meeting.

Agenda Items: Consideration of response to petition for rulemaking

Included in your agenda package are:

- Petition for rulemaking from Michael Moates;
- Public comment received by the Board; and
- Public comment posted on Town Hall in response to the petition.

Staff note:

Virginia Code § 54.1-2409.5 already prohibits conversion therapy.

Action needed:

Motion to either:

- Initiate rulemaking; or
- Take no action.

COMMONWEALTH OF VIRGINIA
Board of Medicine

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

(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,)		
Michael Moates		
Street Address	**Area Code and Telephone Number**	
2700 Colorado Boulevard #1526	817-999-7534	
City	**State**	**Zip Code**
Denton	Texas	76210
Email Address (optional)	**Fax (optional)**	
michaelsmoates@gmail.com		

Respond to the following questions:

1. What regulation 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.

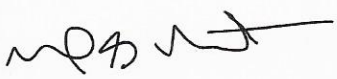
Amend 7 Part IV Scope of Practice 18VAC85-150-110 to specifically block conversion therapy, shock therapy to modify behavior, or the use of the Graduated electronic decelerator (GED by anyone licensed to practice behavior analysis).

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

I am requesting that those licensed person in behavior analysis by the Virginia Board of Medicine not be allowed to engage in the practice of conversion therapy or shock therapy to modify behavior using the Graduated electronic decelerator (GED).

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 <u>other</u> legal authority for promulgation of a regulation, please provide that Code reference.

54.1-2400
VA Code § 54.1-2957.18 (2021) (c)

Signature: 

Date: 24 April 2022

MSV℠ MEDICAL SOCIETY OF VIRGINIA

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June 22, 2022

William L. Harp, M.D.
Executive Director
Board of Medicine
9960 Mayland Drive, Suite 300
Henrico, VA 23233
Via Electronic Submission

Re: Comment on Petition on Regulations Governing the Practice of Behavior Analysis

Dear Dr. Harp:

On behalf of the Commonwealth's physicians, PAs, residents, and medical students, the Medical Society of Virginia (MSV) supports the petitioner's request to ban behavior analysts from using conversion therapy, shock therapy, and the use of a graduated electronic decelerator to modify behavior. The petitioner's request aligns with MSV policy prohibiting the use of conversation therapy or any similar practice.

Conversion therapy, which aims to change a person's sexual orientation, has no substantial evidence-based research demonstrating its efficacy. The American Psychiatric Association has shown that conversion therapy increases the risk of depression, guilt, helplessness, suicidality, substance abuse, and high-risk sexual behaviors in LGBTQ youth.

As an organization of healthcare providers, the MSV is supportive of measures that aim to protect Virginians from serious illness, reduce the rate of hospitalizations, and ease the overall burden on our healthcare system. Conversion therapy achieves none of these noble objectives, and in fact, is proven to harm patients rather than help them. We therefore support the petitioner's request.

To discuss this matter further, please contact Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy at the Medical Society of Virginia, at cbarrineau@msv.org or 704-609-4948.

Sincerely,

M. Clark Barrineau
Assistant Vice President of Government Affairs and Policy
The Medical Society of Virginia

CC:
W. Scott Johnson, Esquire/Hancock, Daniel & Johnson, General Counsel/MSV
Benjamin H. Traynham, Esquire/Hancock, Daniel & Johnson
Tyler S. Cox, Government Affairs Manager/Hancock, Daniel & Johnson
Scott Castro, Director of Health Policy/MSV
Valentina Vega, MPH, Health Policy Analyst/MSV

Virginia.gov Agencies | Governor

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Agency Department of Health Professions

Board Board of Medicine

Chapter Regulations Governing the Practice of Behavior Analysis [18 VAC 85 - 150]

5 comments

All good comments for this forum Show Only Flagged

Back to List of Comments

Commenter: Anonymous 5/23/22 1:52 pm

Do your research

Conversion Therapy is already banned in Virginia.

CommentID: **122081**

Commenter: Clark Barrineau 6/22/22 9:26 am

Comment on Petition on Regulations Governing the Practice of Behavior Analysis

On behalf of the Commonwealth's physicians, PAs, residents, and medical students, the Medical Society of Virginia (MSV) supports the petitioner's request to ban behavior analysts from using conversion therapy, shock therapy, and the use of a graduated electronic decelerator to modify behavior. The petitioner's request aligns with MSV policy prohibiting the use of conversation therapy or any similar practice.

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As an organization of healthcare providers, the MSV is supportive of measures that aim to protect Virginians from serious illness, reduce the rate of hospitalizations, and ease the overall burden on our healthcare system. Conversion therapy achieves none of these noble objectives, and in fact, is proven to harm patients rather than help them. We therefore support the petitioner's request.

To discuss this matter further, please contact Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy at the Medical Society of Virginia, at cbarrineau@msv.org.

Thank you for the consideration.

CommentID: **122152**

Commenter: Josh Hetzler, The Family Foundation of Virginia 6/22/22 10:02 pm

Reject unconstitutional ban on so-called "conversion therapy"

The Family Foundation opposes this proposal as an unconstitutional limitation on free speech and religious exercise. Such a ban would also interfere impermissibly with the right of a patient to direct the purpose and goals of their therapy/counseling. These so-called "conversion therapy" bans have been struck down as unconstitutional by courts across the country as violating the free speech clause of the First Amendment. They represent classic "viewpoint discrimination". The U.S. Supreme Court in the 2018 case of NIFLA v. Becerra made clear that so-called "professional speech" is no less protected by the First Amendment, even citing to a 9th Circuit Court case involving a ban on "conversion therapy." Such a regulation would not be legally defensible, and the Board of Medicine should therefore reject at least that portion of the petition.

But the Board should also reject such a ban on "conversion therapy" (certainly as is has been defined in VA Code section 54.1-2409.5) based on principle. The reality is that people can and DO change their mind, behavior, and desires relative to their sexuality all the time. This is not in dispute. To hear from hundreds of individuals for whom this is true, we encourage you to go to https://changedmovement.com/. Moreover, in order for anyone to become a Christian, they must first acknowledge their sin before a holy God, repent/turn from their sin (including homosexuality and "transgenderism"), and ask Jesus Christ to forgive them of their sin and make them into a "new creation", being transformed in their heart, mind, and spirit. Prohibiting someone from promoting or receiving change in the ways proposed here would necessarily and directly attack the Christian "gospel" - a hostility towards religion that the law does not permit the government to maintain. For these reasons, we respectfully ask you to reject this petition.

CommentID: **122155**

Commenter: Virginia Association for Behavior Analysis Public Policy Committee — 6/22/22 11:45 pm

Petition should be addressed through broader legislation

In 2020, the Virginia General Assembly passed a bill that prohibits conversion therapy (§ 54.1-2409.5. Conversion therapy prohibited (virginia.gov)). Conversion therapy, shock therapy, and the use of graduate electronic decelerators are not specific to the practice of behavior analysis and are not being used by behavior analysts in Virginia. Rather than amending the behavior analysis regulations, these subjects would be better addressed through broader legislation similar to that used for the prohibition of conversion therapy, where other professions that include behavior modification within their scopes of practice are also covered (psychiatry, psychology, and others).

CommentID: **122156**

Commenter: Professor Michael Moates, MA, QBA, LBA, LCMHC, LMHP — 6/22/22 11:58 pm

Comment

Members of the Board of Medicine and the Behavior Analyst Advisory Board:

I write you today because this issue must be addressed. I am deeply disappointed in the Association for Professional Behavior Analysts, Behavior Analyst Certification Board, and Association for Behavior Analysis International for not speaking on this issue. Less than a month ago, they and many others commented on a petition that had to do with their license and over 100

comments. Yet, this one can't even get ten. It clearly shows that their priorities are self involved and selfish in nature. See: https://townhall.virginia.gov/L/comments.cfm?petitionid=359

I am disappointed in the Virginia Association for Behavior Analysts for defending against this petition and the horrible practices that are taking place. The GED and shocking minor children does not happen outside the field of behavior analysis.

The anonymous is right, by statute, conversion therapy is banned in the State of Virginia. See 54.1-2409.5. Conversion therapy prohibited. The following Virginia Licenses take it a step further by adding it to their administrative rules:

Licensed Substance Abuse Treatment Practitioners

Licensed Marriage and Family Therapists

Licensed Professional Counselors

Medical and Osteopathic Doctors

This should apply to Behavior Analysts who work with some of the most vulnerable patients in Virginia. Those who have a disability effecting their ability to communicate.

Further, the statute does not block the shocking of minor children using the graduated electronic decelerator. This practice is actively used just a few states over in Canton, Massachusetts at the Judge Rotenberg Center. See: https://www.youtube.com/watch?v=Ko-ip3MImik. Virginia MUST stand up to this evil practice and say that it will not allow it.

I am extremely grateful to the Medical Society of Virginia and Clark Barrineau for standing up and saying that this is not okay. This takes leadership and courage.

To their point on "conversion therapy increases the risk of depression, guilt, helplessness, suicidality, substance abuse, and high-risk sexual behaviors in LGBTQ youth" I would add that also the shocking of children would likely have the same effect and not to mention the trauma.

I also want to go on record that the comment by Josh Hetzler is completely without merit for may reasons. First, minors enjoy constitutional rights including the right to be protected from sex based discrimination. Second, the patient likely underage has the right to treatment due process as required by law.

For the record, the Virginia legislature has already banned the use of conversion therapy. What I as the petitioner am asking for is for shocking patients and conversion therapy to be expressly banned in the scope of practice of the regulations.

Mr. Hetzler's arguments are flawed. The board cannot refuse to follow a statute simply because they disagree. If Mr. Hetzler thinks he has a case the courts are the proper place to adjudicate not

here. He should know this as an attorney which is why he said principle instead of citing case law. The Board of Medicine shall not consider any religious views but only the safety of patients including physical and mental health. This is required under the separation of church and state provisions of the Constitution.

20 States plus the District of Columbia block the use of conversion therapy.

The Federal Fourth Circuit Court of Appeals has declined to issue injunctions on this in the past. See Christopher Doyle v Lawrence Hogan Jr. (2020). Pickup v Brown (2013).

Mr. Hetzler's OPINIONS are just that and are not a matter of law or weight to this body. If Mr. Hetzler feels this strong he should litigate the law. Instead, he seeks to try to get this body to violate the law.

His actions are indefensible. Let the people who have done the research on the effectiveness and traumatize aspects of this practice guide you.

I ask the board to remember its duty. Primum non nocere. **First, Do No Harm.**

Act NOW.

PS. I am a Christian too but the government MUST not consider religion because the Constitution is not a religious document. It is a logical one. One that gives patients the right to due process, humane treatment, and above all under the Eight Amendment prohibits cruel and unusual punishment.

Punishment by definition is doing to the something environment to decrease behaviors from happening in the future. Conversion Therapy is a type of behaviorism that seeks to punish and discriminate against those for their sexual beliefs.

Thank you,

Professor Michael Moates, MA, QBA, LBA, LCMHC

Adjunct College Professor

Candidate for the Doctor of Education

Licensed Behavior Analyst - VA, AZ, VT, IA

Licensed Clinical Mental Health Counselor - FL, VT, IN, NH, NJ

Licensed Mental Health Professional - VA

Qualified Mental Health Professional - OR

CommentID: **122157**

Agenda Item: Adoption of fast-track action regarding clinical nurse specialists

Included in your agenda package are:

- Exempt changes to 18VAC90-30-125 regarding practice agreements used by clinical nurse specialists
- Chapter 197 of the 2022 Acts of Assembly

Action needed:

- Motion to adopt fast-track regulatory changes regarding use of practice agreements by clinical nurse specialists.

Project 7304 - Fast-Track

Board of Nursing

Implementation of clinical nurse specialist practice agreement changes from 2022 General Assembly

18VAC90-30-125. Practice of nurse practitioners licensed as clinical nurse specialists.

A. Nurse practitioners licensed in the category of clinical nurse specialist who prescribe controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician.

B. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the boards upon request.

C. Nurse practitioners licensed in the category of clinical nurse specialist who do not prescribe controlled substances or devices may practice in the category in which the nurse practitioner is certified without a written or electronic practice agreement. Such nurse practitioner shall:

1. Only practice within the scope of the nurse practitioner's clinical and professional training and limits of the nurse practitioner's knowledge and experience and consistent with the applicable standards of care;

2. Consult and collaborate with other health care providers based on the clinical condition of the patient to whom health care is provided; and

3. Establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

~~C.~~D. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

CHAPTER 197

An Act to amend and reenact §§ 54.1-2957, as it is currently effective and as it shall become effective, and 54.1-2957.01 of the Code of Virginia, relating to clinical nurse specialist; practice agreement.

[H 285]

Approved April 7, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957, as it is currently effective and as it shall become effective, and 54.1-2957.01 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957. (Effective until July 1, 2022) Licensure and practice of nurse practitioners.

A. As used in this section, "clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least two years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or

relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards and consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or a licensed physician, in accordance with a practice agreement. Such practice agreement shall address the availability of the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician for routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist, who has completed the equivalent of at least two years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be *the* named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

J. ~~Nurse practitioners~~ *A nurse practitioner* licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist *who does not prescribe controlled substances or devices may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement. Such nurse practitioner shall (i) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult and collaborate with other health care providers based on the clinical*

condition of the patient to whom health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner licensed by the Boards in the category of clinical nurse specialist who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

§ 54.1-2957. (Effective July 1, 2022) Licensure and practice of nurse practitioners.

A. As used in this section, "clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only

those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards and consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or a licensed physician, in accordance with a practice agreement. Such practice agreement shall address the availability of the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician for routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist, who has completed the equivalent of at least five years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be *the* named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

J. ~~Nurse practitioners~~ *A nurse practitioner* licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist *who does not prescribe controlled substances or devices may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement. Such nurse practitioner shall (i) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (ii) consult and collaborate with other health care providers based on the clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.*

A nurse practitioner licensed by the Boards in the category of clinical nurse specialist who prescribes controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such

practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. A nurse practitioner who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the nurse practitioner and a patient care team physician *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the nurse practitioner and a licensed physician.* Such nurse practitioner shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician,* that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician,* or shall clearly state the name of the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician,* who has entered into the practice agreement with the nurse practitioner.

It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician, *or, if the nurse practitioner is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician,* and information regarding how to contact the patient care team physician *or licensed physician.*

2. Physicians shall not serve as a patient care team physician on a patient care team ~~at any one time to~~ *or enter into a practice agreement with* more than six nurse practitioners *at any one time.*

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife ~~or clinical nurse specialist~~ and holding a license for prescriptive authority may prescribe Schedules II through VI controlled substances. However, if the nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife ~~or clinical nurse specialist~~ is required, pursuant to subsection H ~~or J~~ of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall also be in accordance with any prescriptive authority included in such practice agreement.

H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority

to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged.

Agenda Item: Vacant Offices on the Board

Staff Note: The Board voted in the new slate of officers at its meeting on June 16, 2022. However, the first terms of the individuals elected to the offices of Vice-President and Secretary-Treasurer expired June 30, 2022 and were not reappointed. The Board of Medicine Bylaws, Guidance Document 85-1, make provisions for replacing those that occupied the offices prior to June 30, 2022. The Bylaws are not crystal clear on the best way to proceed at this juncture. The options appear to be:

1. The President appoints a Secretary-Treasurer, but not a Vice-President
2. The newly appointed Secretary-Treasurer fills the Vice-President position, and the President then appoints a second individual for Secretary-Treasurer
3. Appoint a Nominating Committee to develop a slate for the vacant offices for discussion/approval at the October Board meeting

In the following pages, you will find the Board's Bylaws for your review.

Action: Arrive at a consensus regarding filling the vacant offices.

VIRGINIA BOARD OF MEDICINE

BYLAWS

PART I: THE BOARD

Article I – Members

The appointment and limitations of service of the members shall be in accordance with Section 54.1-2911 of the Code of Virginia.

Article II - Officers of the Board

Section 1. Offices and Titles – Officers of the Board shall consist of a president, vice-president and secretary/treasurer. All shall be elected by the Board for a term of one year. The term of each office shall begin at the conclusion of the June Board meeting and end at the conclusion of the subsequent June Board meeting.

A. President: The president shall preserve order and preside at all meetings according to parliamentary rules, the Virginia Administrative Process Act, and the Virginia Freedom of Information Act. The president shall appoint the members of the Executive Committee, Credentials Committee, Finance Committee, Committee of the Joint Boards of Medicine and Nursing, and ad hoc committees of the Board. He shall sign his name as president to the certificates authorized to be signed by the president.

B. Vice President: The vice president shall act as president in the absence of the president. The vice president shall preserve order and preside at all meetings of the Legislative Committee according to parliamentary rules, the Virginia Administrative Process Act, and the Virginia Freedom of Information Act. He shall, in consultation with the president, appoint the members of the Legislative Committee and shall sign his name as vice-president to the certificates authorized to be signed by the vice-president.

C. Secretary/Treasurer: The secretary/treasurer shall be knowledgeable of budgetary and financial matters of the Board. The secretary/treasurer shall preserve order and preside at all meetings of the Finance Committee according to parliamentary rules, the Virginia Administrative Process and the Virginia Freedom of Information Act. He shall sign his name as secretary/treasurer to the certificates authorized to be signed by the secretary/treasurer.

D. The officers of the Board shall faithfully perform the duties of their offices and shall coordinate with staff regularly on matters pertaining to their offices.

E. Order of succession: In the event of a vacancy in the office of president, the vice president shall assume the office of president for the remainder of the term. In the event of a vacancy in the office of vice president, the secretary/treasurer shall assume the office of vice president for the remainder of the term. In the event of a vacancy of

the office of secretary/treasurer, the president shall appoint a board member to fill the vacancy for the remainder of the term.

F. The Executive Director shall keep true records of all general and special acts of the Board and all papers of value. When a committee is appointed for any purpose, he shall notify each member of his appointment and furnish any essential document or information at his command. He shall conduct the correspondence of the Board when requested and shall sign certificates authorized to be issued by the Board and perform all such other duties as naturally pertain to his position.

Article III - Meetings

Section 1. Frequency of meetings: The Board shall meet at least three times a year.

Section 2. Order of Business Meetings - The order of business shall be as follows:

Call to order

Roll call

Approval of minutes of preceding regular Board meeting and any called meeting since the last regular meeting of the Board

Adoption of Agenda

Public Comment Period

Report of Officers and Executive Director:
- President
- Vice President
- Secretary/Treasurer
- Executive Director

Report of Committees:
- Executive Committee
- Legislative Committee
- Credentials Committee
- Finance Committee
- Other Standing Committees
- Ad Hoc Committees

Report of Advisory Boards
- Acupuncture
- Athletic Training
- Midwifery
- Occupational Therapy
- Physician Assistant
- Radiological Technology

Respiratory Care
Behavior Analysis
Polysomnographic Technology
Genetic Counseling

Old Business

New Business

Election of Officers

Article IV – Committees

Section 1. Standing committees. The standing committees of the Board shall consist of the following:

Executive Committee
Legislative Committee
Credentials Committee
Finance Committee
Committee of the Joint Boards of Medicine and Nursing
Other Standing Committees

A. **Executive Committee**. The Executive Committee shall consist of the president, vice-president, the secretary-treasurer and five other members of the board appointed by the president. The Executive Committee shall include at least two citizen members. The president shall serve as chairman of the Executive Committee. In the absence of the Board, the executive committee shall have full powers to take any action and conduct any business as authorized by § 54.1-2911 of the Code of Virginia. Five members of the executive committee shall constitute a quorum.

B. **Legislative Committee**. The Legislative Committee shall consist of seven Board members appointed by the vice-president of the Board in consultation with the President. The vice president of the Board or his designee will serve as chair. The committee shall consider all questions bearing upon state and federal legislation, and regulations. The Legislative Committee shall recommend changes in the law and regulations as it may deem advisable and, at the direction of the Board, shall take such steps as may further the desire of the Board in matters of legislation and regulations. The committee shall submit proposed changes in the rules and regulations of the Board in writing to all Board members prior to any scheduled meeting of the Board.

C. **Credentials Committee**. The Credentials Committee shall consist of nine members of the Board appointed by the President and shall satisfy itself that applicants for licensure by endorsement or by examination fulfill the requirements of the Board. The Committee shall review the credentials of the applicants who may fail to meet the requirements of the Board as specified in statute or regulation. The Committee may hear credentialing issues in accordance with §2.2-4019, §2.2-4020 and §2.2-4021 and guidelines adopted by the Board.

D. **Finance Committee**. The Finance Committee shall consist of the secretary/treasurer, two other members appointed by the president and the Executive Director shall act ex officio to the committee. This committee shall be responsible for making recommendations to the Board regarding all financial matters. The committee shall meet as necessary.

E. **Committee of the Joint Boards of Medicine and Nursing**. The Committee shall be appointed in accordance with § 54.1-2957.01 of the Code of Virginia and shall function as provided in the Regulations Governing the Licensure of Nurse Practitioners (18VAC 90-30-30).

F. Members appointed to a committee shall faithfully perform the duties assigned to the committee. Committee chairs shall regularly communicate with staff on matters pertaining to the committee.

Section 2. Ad Hoc Committees.

A. The Board or any of its standing committees may establish such ad hoc committees as are deemed necessary to assist the Board or committee in its work.

B. The members of an ad hoc committee shall be appointed by the chair of the board or committee creating the ad hoc committee. The chair may appoint members to an ad hoc committee who are not members of the board when it serves the purpose of the committee.

C. All members of an ad hoc committee shall have full and equal voting rights.

D. Members appointed to a committee shall faithfully perform the duties assigned to the committee. Committee chairs shall regularly communicate with staff on matters pertaining to the committee.

Article V – Elections

The Board shall appoint a Nominating Committee at its February meeting. The committee shall present the names of candidates for office to the Board for election at its June meeting. In the event that the offices are vacated and succession is not possible, the Board shall appoint the Nominating Committee which will develop a slate of candidates for the Board's consideration at its next meeting.

Amendments to Bylaws

Amendments to these bylaws may be proposed by presenting the amendments in writing to all board members seven calendar days prior to any scheduled board meeting.

Agenda Item: Update on Reciprocity

Staff Note: The three jurisdictions, Maryland, the District of Columbia, Virginia, continue to discuss the processes necessary to establish reciprocal licensing. The first step is to develop a Memorandum of Agreement (MOA) that all Boards can approve. A draft MOA was discussed on July 22, 2022. Staff will review the notes from that meeting on the following page.

Action: For information only.

RECIPROCITY MEETING

JULY 22, 2022

PRESENT: Christine Farrelly – Maryland, Aisha Nixon – DC, Michael Sobowale - VA, Bill Harp - VA

The group discussed the draft MOA prepared by Suzanne Fenzel, JD, Board Counsel for DC. The suggested edits from Virginia were accepted.

Michael suggested that a required notice of withdrawal from the MOA be put in the Termination Section; the group agreed on 90 days.

It was suggested that the Executive Directors be the primary contact points, not with names just position. There should be an email box set up to handle Reciprocity Verifications.

It was also suggested that language be incorporated regarding confidentiality and further disclosure.

Another suggestion was for the boards to put the links to the other 2 boards' reciprocal licensing applications and instructions.

Since MD and DC require 2 and 3 years of US postgraduate training, VA suggested that the language be placed at the top of the applications and not in the MOA.

It was thought that a start date of January 1, 2023 would be possible (if regulations were not required). However, DC IT is still very busy and Maryland now requires approval by the Secretary for any data-sharing.

Next Meeting Date of the Executive Committee is

December 2, 2022

Please check your calendars and advise staff of any known conflicts that may affect your attendance.

Non-state employees are eligible for a $50.00 per diem and mileage reimbursement.

The travel regulations require that "travelers must submit the Travel Expense Reimbursement Voucher with 30 days after completion of their trip". (CAPP Topic 20335, State Travel Regulations, p.7)

In order for the agency to be in compliance with the state travel regulations, please submit your request for today's meeting no later than

September 5, 2022