

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

Friday, December 6, 2019

Department of Health Professions

Henrico, VA

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

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

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

**MEMBERS ABSENT:** Syed Salman Ali, MD

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

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

**EMERGENCY EGRESS INSTRUCTIONS**

Dr. Conklin provided the emergency egress instructions.

**APPROVAL OF MINUTES OF AUGUST 2, 2019**

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

## **ADOPTION OF AGENDA**

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

## **PUBLIC COMMENT**

There was no public comment.

## **DHP DIRECTOR'S REPORT**

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

## **PRESIDENT'S REPORT**

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

## **EXECUTIVE DIRECTOR'S REPORT**

Dr. Harp provided a brief report on the following:

### Cash Balance

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

### FSMB Advocacy Network News

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

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

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

### Licensure by Endorsement

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

### FSMB Nominations

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

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

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

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

## **NEW BUSINESS**

### Chart of Regulatory Actions

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

### Legislative Report as of November 26, 2019

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

### Adoption of Regulation for Waiver of Electronic Prescribing by Emergency Action

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

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

### Adoption of Proposed Regulations for Physician Assistants

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

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

### Question Regarding Waiver of Electronic Prescribing of Opioids

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

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

### Report of the FSMB Workgroup on Physician Sexual Misconduct

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

After discussion, the members suggested the following:

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

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

## **ANNOUNCEMENTS**

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

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

## **ADJOURNMENT**

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

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Ray Tuck, Jr., DC  
President, Chair

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William L. Harp, MD  
Executive Director

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Colanthia M. Opher  
Recording Secretary