

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

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Friday, August 7, 2020

Department of Health Professions

Henrico, VA

**CALL TO ORDER:** Dr. Tuck called the in-person meeting of the Executive Committee to order at 8:31 AM in Board Room 4 of the Perimeter Center Conference Complex.

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

**MEMBERS PRESENT:** Ray Tuck, DC - President  
Blanton Marchese - Secretary-Treasurer  
David Archer, MD  
Alvin Edwards, MDiv, PhD  
Karen Ransone, MD  
Kenneth Walker, MD

**MEMBERS ABSENT:** Syed Salman Ali, MD  
Lori Conklin, MD - Vice-President

**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  
David Brown, DC - DHP Director  
Elaine Yeatts - DHP Senior Policy Analyst  
Erin Barrett, JD - Assistant Attorney General

**OTHERS PRESENT:** W. Scott Johnson, JD – Medical Society of Virginia

**EMERGENCY EGRESS INSTRUCTIONS**

Mr. Marchese provided the emergency egress instructions.

**APPROVAL OF MINUTES OF DECEMBER 6, 2019**

Dr. Edwards moved to approve the meeting minutes from December 6, 2019 as presented. The motion was seconded and carried unanimously.

## **ADOPTION OF AGENDA**

Dr. Ransone 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. Brown presented an overview of the measures taken by DHP to ensure the safety of staff, Board members, and the public during the COVID-19 pandemic, including social distancing guidelines and the wearing of masks. He thanked the Board members, specifically acknowledging Dr. Walker and Mr. Marchese for their work on review of cases. He also thanked Mr. Sobowale for the efficiencies gained through the changes made to the Board's licensing processes. Dr. Brown also noted that each board is looking at what lessons have been learned, what amended processes should become permanent, and what if any waivers need to be adopted. He also stated that teleworking will remain an option for many DHP employees.

## **PRESIDENT'S REPORT**

Dr. Tuck thanked Dr. Harp and staff for keeping him informed and ensuring the continuity of the Board's business

## **EXECUTIVE DIRECTOR'S REPORT**

Dr. Harp provided a brief report on the Board of Medicine staff's hybrid work schedules, the changes in processes to lessen the time from application to licensure, the Board's financial balance as of June 30, 2020, and the approval of the 2021-2022 budget.

Dr. Harp reported on the joint effort with the Board of Pharmacy and Ms. Deschenes in rewriting part of the Pharmacy laws for easier reference about prescribing and use of drugs and devices. He also mentioned that Dr. Miller and Dr. Stokes are participating with the Board of Pharmacy on the HB1506 Work Group to establish protocols for pharmacists to initiate dispensing and treatment with certain drugs and devices. He said Dr. Stokes and Dr. Miller did a fantastic job representing the Board of Medicine. Dr. Harp acknowledged Dr. Ransone's participation as part of a collaborative effort with the behavioral boards to study and report on SB431 – Provision of mental health services to a minor; access to health records.

Dr. Harp then spoke to the status of the Supreme Court list for malpractice panels and the expiring terms of several Board members. He indicated that the new Director of Appointments in the Office of the Secretary of the Commonwealth, Shawn Soares, is working very efficiently.

## NEW BUSINESS

### Chart of Regulatory Actions

Ms. Yeatts provided a brief overview of the Board's regulatory actions as of July 15, 2020. She pointed out that 18VAC85-20 Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic – Conversion therapy and 18VAC85-50 Regulations Governing the Practice of Physician Assistants – Practice with patient care team physician have been approved by Governor Northam. She anticipates that, after a minor revision of 18 VAC85-40 Regulations Governing the Practice of Respiratory Therapists - CE credit for specialty examination, all these regulations will be ready for adoption at the October Board meeting.

This report was for information only and did not require any action.

### Report of the 2020 General Assembly

Ms. Yeatts summarized the Report of the 2020 General Assembly and pointed out that HB 1040 Naturopathic doctors; Board of Medicine to license and regulate, did not pass. However, the Board of Health Professions has been charged with conducting a study of the profession to see if it meets the criteria for regulation.

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

Ms. Yeatts presented HB1084 from the 2020 Session and the draft regulatory amendments necessary to conform 18VAC85-160-10 et seq. to the Code. She pointed out that the standard sections on unprofessional conduct, fees, etc., will be added for consistency with the other professions licensed by the Board.

Ms. Yeatts also noted that only surgical assistants will be licensed; surgical technologists will remain registered.

**MOTION:** Dr. Edwards moved to adopt the amended regulation as an exempt action. The motion was seconded and carried unanimously.

### Waiver of Requirement for Electronic Prescribing

Ms. Yeatts stated that this action is to replace emergency regulations currently in effect with permanent regulations for nurse practitioners. A Notice of Intended Regulatory Action was published on January 6, 2020; no comment was received on the NOIRA. Ms. Yeatts pointed out that the Board of Nursing adopted these amendments at its July meeting.

**MOTION:** Dr. Edwards moved to adopt the proposed amendments as presented. The motion was seconded and carried unanimously.

### Petition for Rulemaking

Ms. Yeatts presented the petition from the Virginia Society of Radiologic Technologists (VSRT) to amend 18VAC85-101-150, 151 & 152 on renewal, reinstatement, or reactivation to require the individual to hold current ARRT and/or NMTCB credentials and be in good standing for biennial renewal, reinstatement, or reactivation of a license.

At the suggestion of Ms. Yeatts, the members agreed to defer action and allow the Advisory Board on Radiologic Technology the opportunity to review the proposal and forward a recommendation to the Full Board.

### USMLE Step 2 Clinical Skills (CS)

After a historical review of examination requirements, Dr. Harp reported that the Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners (NBME) have notified the Board of Medicine that administration of Step 2 CS of the USMLE is being suspended for the next 12-18 months. Dr. Harp explained that the suspension also affects the ability of international medical graduates to become certified by the Educational Commission for Foreign Medical Graduates (ECFMG).

One question posed by Dr. Harp to the members was: does an individual that failed Step 2 CS prior to the suspension of the examination, but has passed all Clinical Knowledge (CK) Steps 1, 2 & 3, qualify for a license?

Ms. Barrett advised that unless that person were to go back and retake the test and pass, they are considered to have failed and are therefore ineligible. She stated that the Board should avoid making special accommodations.

After a brief discussion, Mr. Marchese moved to authorize Board staff to accept evidence of passing scores in USMLE Steps 1, 2 & 3 CK until the reinstatement of Step 2 CS. The motion was seconded and carried unanimously.

### Waiver Request of Opioid E-Prescribing

Dr. Harp reminded the Committee that the 2017 General Assembly passed law that required the electronic transmission of prescriptions containing an opioid beginning July 1, 2020. It also gave the Board the authority to grant a 1-year waiver for demonstrated reasons. After briefly reviewing the Code, the Waiver Request form, and the 3 email responses to waiver requestors, Dr. Harp asked for guidance on the threshold for not granting waivers. .

After discussion, the members agreed that with there being a waiver end date of July 1, 2021, there could be some leniency in granting waivers this year. For those licensees who do not provide a feasible explanation, Ms. Barrett suggested that amending the Additional Information Needed letter to say "not granted" would serve as adequate notification.

Reciprocity with Contiguous States

Dr. Harp noted that the 2020 General Assembly passed HB1701 and SB757 that require the Department, and therefore, the Board of Medicine to pursue reciprocal agreements for the licensure of MDs, DOs, PAs and NPs with Virginia's contiguous states. Dr. Harp also gave an account of his communication efforts with Executive Directors of boards of medicine in those jurisdictions. He noted that two states seem to be willing to pursue reciprocal licensing but ask that other parameters be included such as a criminal background check and 5 years of practice, which go beyond HB1701 and SB757. Dr. Harp said he is still gathering information and will be providing a report to the Legislature committees by November 1, 2020.

**ANNOUNCEMENTS**

Dr. Matusiak reminded the Board members that there were cases for probably cause review after the meeting adjourns.

The next meeting of the Executive Committee will be December 4, 2020 at 8:30 AM.

**ADJOURNMENT**

With no additional business, the meeting adjourned at 10:13 AM.

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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