Advisory Board on Athletic Trainers

Board of Medicine
Thursday, February 7, 2013, 10:00 a.m.
9960 Mayland Drive, Suite 201
Richmond, Virginia
Board Room 1

Call to Order – Brent Arnold, AT, Chair

Emergency Egress Procedures - Brent Arnold, AT i

Roll Call – Bradley Verry

Approval of Minutes of October 4, 2012 1-3

Adoption of the Agenda

Public Comment on Agenda Items (15 minutes)

New Business

1. Legislative Report – Elaine Yeatts 4-11
2. Review of Regulatory Revisions – Elaine Yeatts 12-23
3. Discussion – What to do about people who are working unlicensed.

Announcements

Next meeting date: June 6, 2013 @ 10:00 a.m.

Adjournment

ADVISORY BOARD ON ATHLETIC TRAINING
MINUTES

October 4, 2012

The Advisory Board on Athletic Training met on Thursday, October 4, 2012, at 10:00 a.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Brent Arnold, AT, Chair
Cynthia Su, MD, Vice-Chair
Jon Almquist, AT
Mitchell Callis, AT

MEMBER ABSENT: None

STAFF PRESENT: William L. Harp, M.D., Executive Director
Alan Heaberlin, Deputy Executive Director for Licensing
Elaine Yeatts, Senior Regulatory Analyst
Bradley Verry, Licensing Specialist

GUESTS PRESENT: None

CALL TO ORDER

Brent Arnold called the meeting to order at 10:05 a.m.

EMERGENCY EGRESS PROCEDURES

Dr. Harp announced the Emergency Egress Instructions.

ROLL CALL

Roll was called, and a quorum declared.

APPROVAL OF MINUTES OF October 6, 2011

Mr. Almquist moved to approve the minutes of October 6, 2011. The motion was seconded and carried.

ADOPTION OF AGENDA

Mr. Almquist moved to adopt the agenda. The motion was seconded and carried.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment.

NEW BUSINESS

#1. Regulatory/Legislative Report – Elaine Yeatts

Ms. Yeatts informed the Advisory Board of legislative changes made during the 2012 Session of the General Assembly. No action was required. Additionally, Ms. Yeatts explained that a comprehensive review of the regulations for Athletic Training should be conducted to determine if the regulations can be streamlined. There will be a period for public comment during the review.

#2. Discussion – Performing Core Temperature Evaluations on Minors

Mr. Almquist addressed the issue of Core Temperature Evaluations with the Advisory Board and their relationship to treatment. The Advisory Board noted that immediate treatment for heat-related illness is the standard of care. The discussion supported treatment in the context of signs and symptoms of heat-related illness without a Core Temperature Evaluation as long as the standard of care of is met. Each case would be considered on its own merits.

#3. Discussion – Best Practices for Administering Oxygen to Athletes

The Advisory Board discussed administration of oxygen to athletes. It was noted that the only way for Athletic Trainers to have access to oxygen would be to include its use in the Drug Control Act, which would require action by the General Assembly.

#4. Discussion of Draft Legislation to Amend the Definition of Athletic Training

Ms. Yeatts informed the Advisory Board that the 2012 Session of the General Assembly removed physical therapists as supervisors for athletic trainers.

#5. Review of Application – Alan Heaberlin

Mr. Heaberlin conducted a review of the current application for Athletic Training with the Advisory Board for the purpose of to updating and adapting it to an online format.

#6. 2013 Meeting Calendar – Dr. Harp

Dr. Harp reviewed the meeting calendar for 2013 with the Advisory Board. No action was required.

#7. Election of Officers

Mr. Almquist moved to nominate Brent Arnold to continue to serve as Chair. The motion was seconded and carried. Mr. Almquist moved to nominate Dr. Su to continue to serve as Vice-Chair. The motion was seconded and carried.

#8. Conflict of Interest Training

Mr. Heaberlin provided instructions to the Advisory Board members regarding completion of the Conflict of Interest training.

ANNOUNCEMENTS

Dr. Harp further introduced Alan Heaberlin, Licensing Supervisor, to the Advisory Board.

Mr. Heaberlin informed the Advisory Board that there are currently 1212 licensed Athletic Trainers.

NEXT MEETING DATE

February 7, 2013

ADJOURNMENT

The Advisory board meeting was adjourned at 12:30 p.m.

Brent Arnold, AT, Chair

William L. Harp, M.D., Executive Director

Bradley Verry, Licensing Specialist

Report of the 2013 General Assembly

Board of Medicine - Advisory Boards

HB 1352 Health care records; increases maximum copying fee that a health provider may charge.

Chief patron: Habeeb

Summary as introduced:
Health care records; copying fees. Increases the maximum fee that a health care provider may charge for retrieving, reviewing, and preparing copies of patient records in response to a subpoena duces tecum or a request by the patient, his attorney, or his executor or administrator. The maximum fee is raised from $0.50 to $0.75 per page for up to 50 pages and from $0.25 to $0.50 per page for documents in excess of 50 pages. The bill also raises the maximum search and handling fee from $10 to $20.

11/29/12 House: Referred to Committee for Courts of Justice
01/10/13 House: Assigned Courts sub: #2 Civil
01/21/13 House: Subcommittee failed to recommend reporting (3-Y 4-N)
01/23/13 House: Subcommittee recommends reporting with amendment(s) (5-Y 1-N)

HB 1422 Interchangeable biosimilar biological products; permits pharmacists to dispense.

Chief patron: O'Bannon

Summary as introduced:
Dispensing of interchangeable biosimilar biological products. Permits pharmacists to dispense a biosimilar that has been licensed by the U.S. Food and Drug Administration as interchangeable with a prescribed biological product unless the prescriber indicates such substitution is not authorized or the patient insists on dispensing of the prescribed biological product. The bill requires any pharmacist who dispenses an interchangeable biosimilar to inform the patient prior to dispensing the biosimilar, provide notification of the substitution to the prescriber, and record the brand name or the product name and name of the manufacturer of the biosimilar on the record of dispensing and the prescription label.

01/21/13 House: Engrossed by House - floor substitute HB1422H1
01/22/13 House: Read third time and passed House (91-Y 6-N 1-A)
01/22/13 House: VOTE: PASSAGE (91-Y 6-N 1-A)
01/23/13 Senate: Referred to Committee on Education and Health

HB 1444 Medications; administration by certain employees or contract service providers.

Chief patron: O'Bannon

Summary as introduced:
Administration of medications by employees or contract service providers of providers licensed by the Department of Behavioral Health and Developmental Services. Provides that employees of or persons providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may administer insulin, glucagon, and epinephrine in certain circumstances; provides protection from liability for certain acts related to such administration; and requires the Board of Nursing to promulgate regulations governing training in the administration of epinephrine by persons authorized to administer epinephrine.

01/22/13 House: Impact statement from DPB (HB1444E)
01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/23/13 Senate: Referred to Committee on Education and Health

HB 1463 Tramadol; adds to list of Schedule IV controlled substances.

Chief patron: Yost

Summary as introduced:
Schedule IV controlled substances; tramadol. Adds tramadol, an opiate painkiller, to the list of Schedule IV controlled substances.

12/28/12 House: Referred to Committee on Health, Welfare and Institutions
01/07/13 House: Impact statement from VCSC (HB1463)
01/11/13 House: Assigned HWI sub: #2
01/24/13 House: Subcommittee recommends reporting with amendment(s) (7-Y 0-N)

HB 1468 Public schools; possession & administration of epinephrine by employees of local governing bodies.

Chief patron: Greason

Summary as introduced:
Public schools; possession and administration of epinephrine. Adds employees of local governing bodies and employees of local health departments to the lists of individuals who are permitted to possess and administer epinephrine and not be held liable for civil damages when certain conditions are met. The bill also requires local school boards to include in policies for the possession and administration of epinephrine a provision adding any employee of a local governing body or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to administer the drug to any student believed to be having an anaphylactic reaction.

EMERGENCY

01/23/13 House: Emergency clause added
01/23/13 House: Engrossed by House as amended HB1468E
01/24/13 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)

HB 1499 Emergency medical services personnel; administration of medications.

Chief patron: Stolle

Summary as introduced:
Administration of medications. Clarifies the circumstances under which emergency medical services personnel may administer medications and provides that emergency medical services personnel may administer medications pursuant to an oral or written order or standing protocol.

01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/23/13 Senate: Referred to Committee on Education and Health

HB 1501 Pharmacy; collaborative agreements.

Chief patron: O'Bannon

Summary as introduced:
Pharmacy; collaborative agreements. Clarifies parties with whom a pharmacist may enter into a collaborative

agreement; provides that a patient who does not wish to participate in a collaborative procedure must notify the prescriber of his decision; and provides that a prescriber may elect to have a patient not participate in a collaborative agreement by contacting the pharmacist or his designated alternative pharmacist or by documenting his decision on the patient's prescription. The bill also clarifies that collaborative agreements may be in writing or in electronic form.

01/24/13 House: Committee amendments agreed to
01/24/13 House: Engrossed by House as amended HB1501E
01/24/13 House: Printed as engrossed 13100522D-E
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

HB 1516 Pharmacies; access to the Prescription Monitoring Program.

Chief patron: Lewis

Summary as introduced:
Pharmacies; access to the Prescription Monitoring Program. Requires every pharmacy permitted by the Board of Pharmacy to ensure that at least one pharmacist who is physically present at the pharmacy shall have access to the Prescription Monitoring Program at all times.

01/03/13 House: Prefiled and ordered printed; offered 01/09/13 13102118D
01/03/13 House: Referred to Committee on Health, Welfare and Institutions
\01/15/13 House: Assigned HWI sub: #1

HB 1564 Drugs; administration by a person to a child in private school.

Chief patron: Orrock

Summary as introduced:
Administration of drugs; private schools, private nursery schools, and private preschools. Provides that nothing shall prevent the administration of drugs by a person to a child in a private nursery school or preschool that is accredited by the Virginia Council for Private Education and exempt from licensure by the Board of Social Services, or in a private school that is accredited by the Virginia Council for Private Education in accordance with standards prescribed by the Board of Education, provided such person has completed an approved training program, obtained written authorization of the parent, and administers drugs dispensed from a pharmacy and maintained in the original labeled container only to the child identified on the prescription label and in accordance with the prescriber's instructions.

01/17/13 House: Read second time and engrossed
01/18/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/21/13 Senate: Referred to Committee on Education and Health

HB 1644 Birth control; definition.

Chief patron: Watts

Summary as introduced:
Birth control; definition. Adds a definition of birth control. "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.

01/07/13 House: Prefiled and ordered printed; offered 01/09/13 13101037D
01/07/13 House: Referred to Committee for Courts of Justice

HB 1666 Professional counselors; establishes minimum education requirements for licensure.

Chief patron: Yost

Summary as introduced:
Licensure of professional counselors. Establishes minimum education requirements for licensure as a professional counselor and provides that an applicant must have received a master's degree from a program in which the primary emphasis is on preparation for the practice of counseling. The bill exempts individuals who meet all other requirements for licensure as a professional counselor related to coursework and completion of a supervised residency by July 1, 2017, from provisions related to completion of a graduate degree.

01/07/13 House: Referred to Committee on Health, Welfare and Institutions
01/11/13 House: Assigned HWI sub: #2
01/24/13 House: Subcommittee recommends reporting with amendment(s) (7-Y 0-N)

HB 1672 Naloxone; administration by unlicensed individual in cases of opiate overdose.

Chief patron: O'Bannon

Summary as introduced:
Naloxone; administration in cases of opiate overdose. Provides that nothing shall prohibit an unlicensed individual from administering naloxone to a person who is experiencing or is about to experience a life-threatening opiate overdose, provided the unlicensed individual has completed a training program approved by the Board of Health. The bill also requires the Board of Health and the Board of Pharmacy to work together with law-enforcement agencies to develop a pilot program for the training of law-enforcement personnel and provision of nasally administered naloxone to law-enforcement personnel for the purpose of enabling law-enforcement personnel to administer naloxone to persons experiencing opiate overdose and to work together with recovery support organizations and other stakeholders to develop a pilot program for the training of members of the public and provision of nasally administered naloxone to members of the public for the purpose of enabling members of the public who have received such training to administer naloxone to persons experiencing opiate overdose.

01/07/13 House: Referred to Committee on Health, Welfare and Institutions
01/11/13 House: Assigned HWI sub: #1

HB 1702 Counseling, Board of; confirmation of appointments by General Assembly.

Chief patron: Carr

Summary as introduced:
Board of Counseling; confirmation of appointments by General Assembly. Provides that all appointments to the Board of Counseling that are made by the Governor shall be subject to confirmation by the General Assembly.

01/08/13 House: Referred to Committee on Privileges and Elections
01/11/13 House: Assigned P & E sub: Appointments
01/11/13 House: Impact statement from DPB (HB1702)
01/24/13 House: Subcommittee recommends reporting (7-Y 0-N)
01/25/13 House: Reported from Privileges and Elections (22-Y 0-N)

HB 1704 Prescription Monitoring Program; disclosure of information to local chief law enforcement officer.

Chief patron: Stolle

Summary as introduced:
Prescription Monitoring Program; disclosure of information to local law enforcement. Adds an agent designated by the chief law-enforcement officer of any county or city to the list of individuals to whom the Department of Health

Professions must disclose information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber upon request.

01/22/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/22/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
01/23/13 Senate: Constitutional reading dispensed
01/23/13 Senate: Referred to Committee on Education and Health
01/24/13 House: Impact statement from DPB (HB1704E)

HB 1778 Mammography; provider must notify patient about dense breast tissue.

Chief patron: Filler-Corn

Summary as introduced:
Mammography results; information about dense breast tissue. Clarifies the conditions under which a mammography services provider must notify a patient of dense breast tissue and adds language to the notice that must be sent to patients under the existing law.

01/24/13 House: Read second time
01/24/13 House: Committee substitute agreed to 13104024D-H1
01/24/13 House: Engrossed by House - committee substitute HB1778H1
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 1791 Practitioners; suspension of license, etc., by health regulatory agency.

Chief patron: Garrett

Summary as introduced:
Suspension of license, registration or certificate by a health regulatory agency; practice pending appeal. Prohibits a practitioner of the healing arts whose license, certificate, registration, or permit has been suspended or revoked by a health regulatory board from engaging in practice pending appeal of the board's order.

01/15/13 House: Referred to Committee for Courts of Justice
01/21/13 House: Subcommittee recommends reporting (8-Y 0-N)
01/22/13 House: Assigned Courts sub: #2 Civil
01/23/13 House: Reported from Courts of Justice (17-Y 0-N)
01/25/13 House: Read first time

HB 1876 Sterilization operations; for persons capable of informed consent.

Chief patron: McClellan

Summary as introduced:
Sterilization operations for persons capable of informed consent. Eliminates the requirement for a 30-day waiting period prior to a sterilization operation for persons who are over the age of 18 and capable of giving informed consent who have not previously become the natural or adoptive parent of a child.

01/08/13 House: Referred to Committee on Health, Welfare and Institutions
01/17/13 House: Reported from Health, Welfare and Institutions (21-Y 1-N)
01/17/13 House: Impact statement from DPB (HB1876)
01/18/13 House: Motion to rerefer to committee agreed to
01/18/13 House: Rereferred to Health, Welfare and Institutions

HB 1933 Lyme disease; disclosure of iuformation to patients.

Chief patron: Comstock

Summary as introduced:
Lyme disease; disclosure of information to patients. Requires physicians to provide each patient for whom a test for the presence of Lyme disease is ordered with a notice about Lyme disease, about testing for Lyme disease, and about the need to contact his physician with questions or concerns about Lyme disease.

01/09/13 House: Prefiled and ordered printed; offered 01/09/13 13102771D
01/09/13 House: Referred to Committee on Health, Welfare and Institutions
01/14/13 House: Impact statement from DPB (HB1933)
01/15/13 House: Assigned HWI sub: #1

HB 2120 Health care practitioner, licensed; procedure for physical evidence recovery kit examination.

Chief patron: Herring

Summary as introduced:
Individual incapable of making an informed decision; procedure for physical evidence recovery kit examination. Provides that a licensed health care provider may perform a physical evidence recovery kit examination for a person who is believed to be the victim of a sexual assault and who is incapable of making an informed decision regarding consent to such examination when there is an immediate need to conduct the examination, no legally authorized representative is available to provide consent, and a capacity reviewer provides written certification that the person is incapable of providing informed consent and that the examination should be performed.

01/09/13 House: Referred to Committee on Health, Welfare and Institutions
01/15/13 House: Referred from Health, Welfare and Institutions
01/15/13 House: Referred to Committee for Courts of Justice
01/18/13 House: Impact statement from DPB (HB2120)
01/25/13 House: Assigned Courts sub: #1 Criminal

HB 2136 Methasterone and prostanozol; added to list of Schedule III controlled substances.

Chief patron: Hodges

Summary as introduced:
Adding methasterone and prostanozol to Schedule III. Adds methasterone and prostanozol to Schedule III.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)
01/23/13 House: Read first time
01/24/13 House: Read second time and engrossed
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 2161 Nurses; authority to possess and administer oxygen to treat emergency medical conditions.

Chief patron: O'Bannon

Summary as introduced:
Nurses; authority to possess and administer oxygen to treat emergency medical conditions. Provides that a prescriber may authorize registered nurses and licensed practical nurses to possess oxygen for administration in treatment of emergency medical conditions.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)
01/23/13 House: Read first time
01/24/13 House: Read second time and engrossed
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 2181 Medical equipment suppliers; delivery of sterile water and saline.

Chief patron: Hodges

Summary as introduced:
Medical equipment suppliers; delivery of sterile water and saline. Adds sterile water and saline to the list of prescription drugs and devices that a permitted medical equipment supplier may receive, store, and distribute to a consumer.

01/22/13 House: Reported from Health, Welfare and Institutions (22-Y 0-N)
01/23/13 House: Read first time
01/24/13 House: Read second time and engrossed
01/25/13 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/25/13 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 2312 Pharmacies; clarifies definition of compounding, etc.

Chief patron: Jones

Summary as introduced:
Compounding pharmacies. Clarifies the definition of "compounding" and adds a requirement for a current inspection report for registration or renewal of a registration for a nonresident pharmacy.

01/18/13 House: Presented and ordered printed 13103613D
01/18/13 House: Referred to Committee on Health, Welfare and Institutions
01/25/13 House: Impact statement from DPB (HB2312)

HJ 571 JCHC; study of feasibility of developing program of trained primary care personnel.

Chief patron: Hope

Summary as introduced:
JCHC; study of the feasibility of developing a program of trained primary care personnel to extend the reach of primary care services and reduce health care costs in the Commonwealth; report. Directs the Joint Commission on Health Care to study (i) the feasibility of developing and (ii) the potential impacts on access to and the quality and cost of health care resulting from implementation of a program whereby individuals are trained to provide primary health care services through telephone contacts and home visits, in accordance with standardized protocols and under the supervision of a licensed nurse or physician, using the Grande-Aides model or a similar program.

12/18/12 House: Prefiled and ordered printed; offered 01/09/13 13100760D
12/18/12 House: Referred to Committee on Rules
01/16/13 House: Assigned Rules sub: Studies

SB 858 Surgical assistants and surgical technologists; licensure and certification by Board of Medicine.

Chief patron: Blevins

Summary as introduced:
Surgical technologists and surgical assistants. Requires certification for surgical technologists and licensure for surgical assistants, and provides requirements for such certification and licensure. The bill creates the Advisory Board of Surgical Technology and Surgical Assisting to assist the Board of Medicine in the regulation of surgical technologists and surgical assistants.

01/03/13 Senate: Prefiled and ordered printed; offered 01/09/13 13101106D
01/03/13 Senate: Referred to Committee on Education and Health
01/09/13 Senate: Assigned Education sub: Health Professions
01/09/13 Senate: Impact statement from DPB (SB858)

SB 898 Practitioners; Board of Medicine to revoke license of certain (Twomey bill).

Chief patron: Reeves

Summary as introduced:
Board of Medicine; license revocation (Twomey bill). Makes it mandatory for the Board to revoke a license of a practitioner who engages in sexual contact with a patient under certain circumstances and provides that the person whose license has been revoked may not apply for reinstatement for five years. Under current law, revocation is at the Board's discretion and the person may apply for reinstatement after three years.

01/09/13 Senate: Assigned Education sub: Health Professions
01/24/13 Senate: Reported from Education and Health with substitute (15-Y 0-N)
01/24/13 Senate: Committee substitute printed 13103765D-S1
01/25/13 Senate: Constitutional reading dispensed (40-Y 0-N)

SB 950 Practitioners of medicine, etc.; updates terminology in sections governing licensure, etc.

Chief patron: Garrett

Summary as introduced:
Practice of medicine and other healing arts. Updates terminology in sections governing licensure of practitioners of the healing arts, provides for use of electronic communication, and eliminates the Psychiatric Advisory Board.

01/07/13 Senate: Referred to Committee on Education and Health
01/15/13 Senate: Assigned Education sub: Health Professions
01/24/13 Senate: Reported from Education and Health (15-Y 0-N)
01/25/13 Senate: Constitutional reading dispensed (40-Y 0-N)

SB 1250 Prescription Monitoring Program; Board of Pharmacy to identify "drugs of concern".

Chief patron: Puckett

Summary as introduced:
Designation and reporting of drugs of concern. Authorizes the Board of Pharmacy to identify "drugs of concern" and requires prescribers to report prescription drugs of concern to the Prescription Monitoring Program.

01/09/13 Senate: Presented and ordered printed 13103116D
01/09/13 Senate: Referred to Committee on Education and Health
01/15/13 Senate: Assigned Education sub: Health Care

Notice of Periodic Review

Board of Medicine

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine is conducting a periodic review of:

18VAC85-15	Regulations Governing Delegation to an Agency Subordinate
18VAC85-40	Regulations Governing the Practice of Respiratory Care
18VAC85-50	Regulations Governing the Practice of Physician Assistants
18VAC85-80	Regulations Governing the Licensure of Occupational Therapists
18VAC85-101	Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited
18VAC85-110	Regulations for Licensed Acupuncturists
18VAC85-120	Regulations Governing the Licensure of Athletic Trainers
18VAC85-130	Regulations Governing the Practice of Licensed Midwives

The review is part of the **Governor's Regulatory Reform Project with the goal of:**

a. Repealing regulations that are unnecessary or no longer in use;
b. Reducing unnecessary regulatory burdens on individuals, businesses, and other regulated groups; and
c. Identifying statutes that require unnecessary or overly burdensome regulations.

Further, the Board is seeking comment on whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins November 5, 2012 and ends on December 5, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at:
http://www.townhall.virginia.gov/L/Forums.cfm.
Comments may also be sent to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233 or faxed to (804) 527-4434 or emailed to elaine.yeatts@dhp.virginia.gov.

Following the close of the public comment period, a report of the periodic review will be posted on the Town Hall and published in the Virginia Register of Regulations.

Commonwealth of Virginia

REGULATIONS

GOVERNING THE LICENSURE OF ATHLETIC TRAINERS

VIRGINIA BOARD OF MEDICINE

Title of Regulations: 18 VAC 85-120-10 et seq.

Statutory Authority: § 54.1-2400 and Chapter 29 of Title 54.1 of the *Code of Virginia*

Periodic review – Regulatory reform project

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Part I. General Provisions.

18VAC85-120-10. Definitions.

In addition to words and terms defined in §54.1-2900 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Accredited educational program" means a program in athletic training accredited by the Commission on Accreditation of Athletic Training Education (CAATE) or any other agency approved by the National Athletic Trainers' Association Board of Certification (NATABOC) for its entry level certification examination or any other organization approved by the board.

"Advisory board" means the Advisory Board on Athletic Training to the board as specified in §54.1-2957.5 of the Code of Virginia.

"Athletic trainer" means a person licensed by the Virginia Board of Medicine to engage in the practice of athletic training as defined in §54.1-2900 of the Code of Virginia.

"Board" means the Virginia Board of Medicine.

"NATABOC" means the National Athletic Trainers' Association Board of Certification.

18VAC85-120-20. Public participation.

A separate board regulation, 18VAC85-10-10 et seq., Public Participation Guidelines, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

18VAC85-120-30. Current name and address.

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

18VAC85-120-35. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. The following fees have been adopted by the board:

1. The application fee shall be $130.

2. The fee for renewal of licensure shall be $135 and shall be due in the licensee's birth month, in each odd-numbered year.

3. A fee of $50 for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.

4. The fee for reinstatement of a license that has expired for two or more years shall be $180 and shall be submitted with an application for reinstatement.

5. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be $2,000.

6. The fee for a duplicate renewal license shall be $5, and the fee for a duplicate wall certificate shall be $15.

7. The fee for a returned check shall be $35.

8. The fee for a letter of verification to another jurisdiction shall be $10.

9. The fee for an inactive license shall be $70, and the fee for a late renewal shall be $25.

Part II. Requirements for Licensure as an athletic trainer.

18VAC85-120-40. General requirements.

No person shall practice or hold himself out as practicing as an athletic trainer in the Commonwealth unless licensed by the board except as provided in §54.1-2957.6 of the Code of Virginia.

18VAC85-120-50. Requirements for licensure.

An applicant for licensure shall submit evidence of meeting the following requirements for licensure on forms provided by the board:
1. A completed application and fee as prescribed in 18VAC85-130-150;

2. Verification of professional activity as required on the application form;

3. Evidence of current NATABOC certification; and

4. If licensed or certified in any other jurisdiction, documentation of practice as an athletic trainer and verification as to whether there has been any disciplinary action taken or pending in that jurisdiction.

18VAC85-120-60. ~~Educational requirements.~~ (Repealed)

~~An applicant for licensure shall:~~

~~1. Be a graduate of an accredited educational program for athletic trainers; or~~

~~2. Have met the educational requirement necessary to hold current credentialing as a Certified Athletic Trainer (ATC) from NATABOC or another credentialing body approved by the board.~~

18VAC85-120-70. ~~Examination requirements.~~ (Repealed).

~~An applicant for a license to practice as an athletic trainer shall pass the NATABOC entry level examination for athletic trainers or its equivalent as determined by the board.~~

18VAC85-120-75. Provisional authorization.

Upon written request from an applicant and his employer and for good cause shown, an applicant who provides documentation of current NATABOC certification and, if licensed or certified by another jurisdiction in the United States, documentation that his license or certificate is current and unrestricted may be granted authorization to practice as an athletic trainer for 45 days pending submission of all other required documentation and issuance of a license. At the discretion of the board, additional time, not to exceed 15 days, may be allowed to complete the application process.

18VAC85-120-80. Provisional licensure.

A. An applicant who is a graduate of an accredited education program and who has applied to take the certification examination may be granted a provisional license to practice athletic training under the supervision and control of an athletic trainer.

B. The graduate shall submit an application for a provisional license to the board for review and approval ~~by the Chair of the Advisory Board on Athletic Training or his designee~~.

C. The provisional license shall expire six months from issuance or upon receipt of notification of a failing score on the NATABOC certification examination or upon licensure as an athletic trainer by the board, whichever comes first.

18VAC85-120-85. Registration for voluntary practice by out-of-state athletic trainers.

Any athletic trainer who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. An incomplete application will not be considered;

2. Provide a complete record of professional certification or licensure in each state in which he has held a certificate or license and a copy of any current certificate or license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of $10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 27 of §54.1-2901 of the Code of Virginia.

Part III. Renewal and Reinstatement.

18VAC85-120-90. Renewal of license.

A. Every athletic trainer intending to continue licensure shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of licensure;

2. Pay the prescribed renewal fee at the time he files for renewal; and

3. Attest to current NATABOC certification.

B. An athletic trainer whose license has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC85-120-150.

18VAC85-120-95. Inactive licensure.

A. An athletic trainer who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to maintain NATABOC certification.

2. An inactive licensee shall not be entitled to practice as an athletic trainer in Virginia.

B. An inactive licensee may reactivate his license upon submission of:

1. The required application;

2. Payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure for the biennium in which the license is being reactivated; and

3. Documentation of having maintained certification or having been recertified by the NATABOC.

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

18VAC85-120-100. Reinstatement.

A. In order to reinstate a license that has been lapsed for more than two years, an athletic trainer shall file an application for reinstatement, pay the fee for reinstatement of his license as prescribed in 18VAC85-120-150, and submit to the board evidence of current certification by NATABOC.

B. An athletic trainer whose license has been revoked by the board and who wishes to be reinstated shall file a new application to the board and pay the fee for reinstatement of his license as prescribed in 18VAC85-120-150 pursuant to §54.1-2408.2 of the Code of Virginia.

Part IV. Standards of Practice.

18VAC85-120-110. Individual responsibilities.

The athletic trainer's responsibilities are to evaluate the individual being treated, plan the treatment program, and administer and document treatment within the limit of his professional knowledge, judgment and skills and in accordance with the practice of athletic training as set forth in §54.1-2900 of the Code of Virginia.

18VAC85-120-120. General responsibilities.

A. An athletic trainer shall be responsible for the actions of persons engaging in the practice of athletic training under his supervision and direction.

B. An athletic trainer shall ensure that unlicensed persons under his supervision shall not perform those functions that require professional judgment or discretion in the practice of athletic training.

18VAC85-120-130. Supervisory responsibilities.

A. The athletic trainer supervising the practice of persons holding a provisional license issued by the board shall develop a written protocol with the provisional licensee to include but not be limited to the following:

1. Provisions for daily, on-site review and evaluation of services being provided, including a review of outcomes for individuals being treated; and

2. Guidelines for availability and ongoing communications proportionate to such factors as practice setting, acuity of population being served, and experience of the provisional licensee.

B. The athletic trainer supervising the practice of student athletic trainers shall:

1. Provide daily, on-site supervision and shall plan, direct, advise and evaluate the performance and experience of the student athletic trainer.

2. Delegate only nondiscretionary tasks that are appropriate to the level of competency and experience of the student athletic trainer, practice setting and acuity of population being served.

18VAC85-120-140. Violations.

Violations of Chapter 29 (§54.1-2900 et seq.) of Title 54.1 of the Code of Virginia may subject a licensee to sanctions as set forth in §54.1-2915 of the Code of Virginia.

Part V. Fees .

18VAC85-120-150. ~~Fees.~~ (Repealed)

~~A. Unless otherwise provided, fees listed in this section shall not be refundable.~~

~~B. The following fees have been adopted by the board:~~

~~1. The application fee shall be $130.~~

~~2. The fee for renewal of licensure shall be $135 and shall be due in the licensee's birth month, in each odd-numbered year.~~

~~3. A fee of $50 for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.~~

~~4. The fee for reinstatement of a license that has expired for two or more years shall be $180 and shall be submitted with an application for reinstatement.~~

~~5. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be $2,000.~~

~~6. The fee for a duplicate renewal license shall be $5, and the fee for a duplicate wall certificate shall be $15.~~

~~7. The fee for a returned check shall be $35.~~

~~8. The fee for a letter of verification to another jurisdiction shall be $10.~~

~~9. The fee for an inactive license shall be $70, and the fee for a late renewal shall be $25.~~

Part VI. Standards of Professional Conduct.

18VAC85-120-155. Confidentiality.

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

18VAC85-120-156. Patient records.

A. Practitioners shall comply with provisions of § 32.1-127.1:03 related to the confidentiality and disclosure of patient records.

B. Practitioners shall provide patient records to another practitioner or to the patient or his personal representative in a timely manner and in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage patient records and keep timely, accurate, legible and complete patient records.

D. Practitioners who are employed by a health care institution, school system or other entity, in which the individual practitioner does not own or maintain his own records, shall maintain patient records in accordance with the policies and procedures of the employing entity.

E. Practitioners who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records shall:

1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

a. Records of a minor child, including immunizations, shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

E. From October 19, 2005, athletic trainers who maintain their own patient records shall post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.

F. When a practitioner is closing, selling or relocating his practice, he shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the patient's choice or provided to the patient.

18VAC85-120-157. Practitioner-patient communication.

A. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or his legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

B. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a medication, treatment, or procedure provided or directed by the practitioner in the treatment of any disease or condition.

C. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

18VAC85-120-158. Practitioner responsibility.

A. A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;

2. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

4. Exploit the practitioner/patient relationship for personal gain.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in A 3 of this section.

18VAC85-120-159. Vitamins, minerals and food supplements.

A. The recommendation or direction for the use of vitamins, minerals or food supplements and the rationale for that recommendation shall be documented by the practitioner. The recommendation or direction shall be based upon a reasonable expectation that such use will result in a favorable patient outcome, including preventive practices, and that a greater benefit will be achieved than that which can be expected without such use.

B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in doses that would be contraindicated based on the individual patient's overall medical condition and medications.

C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.

18VAC85-120-160 Anabolic steroids.

An athletic trainer shall not sell, dispense, or administer anabolic steroids to any patient.

18VAC85-120-161. Sexual contact.

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, sexual contact includes, but is not limited to, sexual behavior or verbal or physical behavior which:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or

2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context

of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former patient.

Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care. For purposes of this section, key third party of a patient shall mean: spouse or partner, parent or child, guardian, or legal representative of the patient.

D. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

18VAC85-120-162. Refusal to provide information.

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

The travel regulations require that "travelers must submit the Travel Expense Reimbursement Voucher within 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 February 15, 2013