

**WEST VIRGINIA BOARD OF MEDICINE**  
**Legislative Committee Minutes**  
**January 18, 2024**

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The West Virginia Board of Medicine's Legislative Committee met via Zoom at 5:00 pm on January 18, 2024.

The following committee members attended the meeting:

Mustafa Rahim, MD, Legislative Committee Chair  
Kishore K. Challa, MD, FACC  
Douglas S. Dockery, DPM  
Jonathan P. Lilly, MD  
Ashish P. Sheth, MD  
Victoria L. Takubo, PA-C

The following staff members attended the meeting:

Mark A. Spangler  
Jamie S. Alley, Esq.  
Greg S. Foster, Esq.  
Jamie C. Frame

With a quorum of members present, Dr. Rahim called the meeting to order, and attendance was documented by Ms. Frame. **CALL TO ORDER**

Mr. Spangler reported that the following Board of Medicine rules are awaiting introduction:

- W. Va. Code R. § 11-1B-1 *et seq.*, *Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants.*
- W. Va. Code R. § 11-6-1 *et seq.*, *Continuing Education for Physicians and Podiatric Physicians.*
- W. Va. Code R. § 11-12-1 *et seq.*, *Permitting and Disciplinary Procedures: Educational Permits for Graduate Medical Interns, Residents and Fellows.*

Prior to today's meeting a potential bill which would consolidate the West Virginia Board of Osteopathic Medicine with the West Virginia Board of Medicine, effective January 1, 2025, was made available for members to review. Mr. Spangler reported that in consulting with staff of the West Virginia Board of Osteopathic Medicine regarding the potential bill there are three areas for which the Board of Medicine and the Board of Osteopathic Medicine lack agreement. They are:

- Board Composition – As currently drafted in the potential bill, the Board would consist of twenty-one members. Twelve of the twenty-one members must be physicians, “at least two of which shall be allopathic physicians and two of which shall be osteopathic physicians.” West Virginia Board of Osteopathic Medicine staff have communicated that they would like for this section to be amended to require that four of the members be allopathic physicians and four of the members be osteopathic physicians. Legislative Committee members directed Board staff to modify the potential bill to require that four members be allopathic physicians and four members be osteopathic physicians.
- Board Membership – As currently drafted in the potential bill, to be eligible to serve on the Board, citizen members, who represent the interests of health care consumers, among other things “shall not be, nor shall any member of their immediate families be, a provider of health care services or be employed by a provider of health care services.” West Virginia Board of Osteopathic Medicine staff have communicated that they would like for the potential bill to be amended to permit citizen members to be employed by a provider of health care services. Legislative Committee members were strongly committed to the proposition that citizen members should be selected from individuals who have no practice or employment ties to the health care system.
- Clinical Practice Requirement – As currently drafted in the potential bill, to be eligible to serve on the Board, physicians, podiatrists and physician assistants must, among other things, “Be engaged in active clinical practice in this state as a licensed provider, and have a history of active clinical practice in West Virginia for the five years prior to the date of appointment. “Active clinical practice” means that the licensee is engaged in full-time clinical practice and is personally providing direct care and clinical services to patients in West Virginia for a minimum of eighty percent of the licensee’s total professional practice.” West Virginia Board of Osteopathic Medicine staff have communicated that

they would like for this the potential bill to be amended to eliminate the eighty percent clinical practice requirement. Legislative Committee members directed Board staff to modify “Active clinical practice” to mean that the licensee is engaged in the full-time practice of clinical medicine in West Virginia for a minimum of eighty percent of the licensee’s professional practice.”

Dr. Rahim appointed Dr. Sheth to chair the remainder of the meeting. Dr. Rahim left the meeting room at this time and was not present for the remainder of the meeting. With a quorum of members still present, Mr. Spangler asked Ms. Alley to speak to the genetic counselor section of the potential bill. Ms. Alley reported that the potential bill which was made available for members to review creates a new section, W. Va. Code § 30-3EE-1. *et. seq.* that establishes a Genetic Counselors Practice Act. Ms. Alley provided an overview of this section of the potential bill, which sets forth the definitions, licensure requirements and exemptions, duties and powers of the Board, active candidate status permits, license expiration, renewal, reinstatement and continuing education, scope of practice, disciplinary proceedings and actions and prohibited practice, injunctive relief, health care facility reporting requirements, and unlawful acts and penalty for physicians, advanced practice registered nurses and physician assistants practicing genetic counseling. Dr. Challa moved that the Board support the potential bill which would consolidate the West Virginia Board of Osteopathic Medicine with the West Virginia Board of Medicine as drafted and with the modifications directed by the Committee at today’s meeting. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler recognized Board staff and thanked them for their work with regard to the potential bill which consolidate the West Virginia Board of Osteopathic Medicine with the West Virginia Board of Medicine.

Prior to today’s meeting, **Senate Bill 161**, creating an emeritus physician license, was made available for members to review. Mr. Spangler reported that this bill was immediately considered, passed first and second reading on the Senate Floor, and was referred to the Rules Committee on third reading. The bill is awaiting consideration by the Rules Committee.

Prior to today's meeting, **Senate Bill 377**, exempting certain physicians from specified traffic laws when responding to emergencies, was made available for members to review. Mr. Spangler reported that this bill would permit physicians traveling in response to an emergency call to be exempt from specified traffic laws "if the vehicle being used displays an emblem approved the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine indicating that the vehicle is owned by the licensed physician and responding to an emergency call." The Legislature has requested that the Board of Medicine submit a Fiscal Note with regard to this bill.

Mr. Spangler reported that there have been several bills introduced which would modify when funds accumulated by boards may be transferred to the State's General Revenue Fund. Due to the possibility of consolidating the West Virginia Board of Osteopathic Medicine with the West Virginia Board of Medicine, Dr. Challa moved that the Board oppose all bills which would alter the current code requirements with regard to this issue. Dr. Lilly seconded the motion, and the motion carried without opposition.

Mr. Spangler reported that **Senate Bill 407**, Pharmacist Prescribing Authority Act, has been introduced. This bill would authorize pharmacists to prescribe certain "low risk" medications to patients. The bill is awaiting consideration by Senate Health and Human Resources Committee.

Mr. Spangler reported that **Senate Bill 297**, providing that continuing education credits shall be valid for three years, has been introduced. This bill provides that continuing education credits obtained shall be valid for three years. Additionally, the bill provides that "Each individual board under this chapter may choose to extend the time that continuing education credits are valid, up to an additional three years." The bill is single referenced to Senate Government Organization Committee where it is awaiting consideration.

Ms. Takubo left the meeting at this time and was not present for the remainder of the meeting.

With a quorum of members still present, Dr. Sheth inquired about **House Bill 4511**, relating to living anatomical gift. Mr. Spangler asked Ms. Alley to speak regarding this bill. Ms. Alley reported that House Bill 4511 would prohibit the state, an agent of the state, parents, guardians and persons with a medical power of attorney for another from making a living anatomical gift on behalf of another individual. The bill is single referenced to House Health and Human Resources Committee where it is awaiting consideration.

Ms. Alley reported that House **Bill 4622**, relating to medical marijuana, has been introduced. This bill would prohibit denial of employment due to medical marijuana usage. The bill is double referenced to House Workforce Development Committee then to House Judiciary Committee.

Mr. Spangler reported that **House Bill 4449**, increasing the age to 21 for tobacco and vapes sales to align with federal law, has been introduced. The bill is double referenced to House Health and Human Resources Committee then to House Judiciary Committee. Dr. Challa moved that the Board support House Bill 4449. Dr. Lilly seconded the motion, and the motion carried without opposition.

Prior to today's meeting, **House Bill 4432**, relating to midlevel practitioners, was made available for members to review. Ms. Alley reported that this bill would permit physician assistants to obtain a Certificate of Authorization for a foreign medical corporation and/or a professional limited liability company. The bill would also modify W. Va. Code § 30-3-14(c) to incorporate physician assistants. Additionally, W. Va. Code § 30-7-15 was included in this bill. The proposed modifications to this section would permit a certified registered nurse anesthetist to administer anesthesia in cooperation with a physician, podiatrist or dentist. This bill was considered by House Health and Human Resources Committee yesterday, January 17, 2024, and an amendment was introduced which would strike W. Va. Code § 30-7-15 from the bill. Dr. Lilly moved that the Board support House Bill 4432 as modified by the Committee Amendment. Dr. Dockery seconded the motion, and the motion carried without opposition.

Mr. Spangler reported on **Senate Bill 192**, relating to the administration of anesthetics. This bill would permit a certified registered nurse anesthetist to administer anesthesia in cooperation with a physician or dentist. Committee members are not opposed to this bill, so long as podiatrists remain carved out. Board staff will continue to closely monitor Senate Bill 192.

Mr. Spangler reported that **House Bill 4324**, permitting pharmacists to dispense the drug Ivermectin by means of a standing order, has been introduced. This bill is single referenced to House Health and Human Resources Committee.

Mr. Spangler reported on **Senate Bill 295**, making opioid treatment programs unlawful. This bill would prohibit treatment of substance use disorder through on-site administration or distribution of an opioid treatment medication. The bill is single referenced to Senate Health and Human Resources Committee where it is awaiting consideration.

Mr. Spangler reported that **Senate Bill 362**, increasing availability of prescription nonopioid medications, has been introduced. This bill would modify the Opioid Reduction Act to require practitioners prior to issuing a prescription for a Schedule II opioid drug to inform the patient of available prescription nonopioid alternatives for the treatment of pain, discuss with the patient the advantage and disadvantage of the use of prescription nonopioid alternatives, and provide the patient with an educational pamphlet to be developed by the West Virginia Department of Health and Human Services regarding the use of prescription nonopioid alternatives for the treatment of acute nonoperative, acute perioperative, subacute, or chronic pain. Board staff will continue to monitor Senate Bill 362.

Prior to today's meeting, **Senate Bill 300**, relating to the organization of the Office of Inspector General, was made available for members to review. Mr. Spangler reported that W. Va. Code § 16B-7-9(a) of the bill provides that "The Inspector General, in collaboration with the West Virginia Board of Medicine and the West Virginia Board of Osteopathy, shall promulgate rules in accordance with the provisions of § 29A-1-1 *et seq.* of this code for the licensure of pain management clinics to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities." W. Va. Code § 16B-13-9(d) of the bill provides that "Upon finding

that a physician has violated the provisions of this article or rules adopted pursuant to this article, the director shall provide notice of the violation to the applicable licensing board.” This bill has passed Senate Health and Human Resources Committee and is scheduled for second reading on the Senate Floor tomorrow, January 19, 2024. Board staff will continue to monitor Senate Bill 300.

Prior to today’s meeting, **Senate Bill 438**, modifying roster requirements of authorizing entities, was made available for members to review. While a copy of the bill was not made available for members to review in advance of today’s meeting, Mr. Spangler reported that **House Bill 4765**, exempting health care workers’ addresses from being made public, has been introduced. During the 2023 session the West Virginia Legislature amended state law to require professional and occupational licensing boards to publish a roster of all persons licensed or registered, certified, or otherwise authorized to practice a profession, occupation, or trade in this state. The roster was required to include, among other things, the practitioners mailing address of record with the Board. Following passage of the legislation in 2023, the Board notified practitioners who held an active status credential issued by the Board of the new requirement and gave them the opportunity to modify their preferred mailing address of record with the Board prior to publication of the roster. The notification resulted in outreach to the Board by both practitioners and legislative staff. Legislative staff indicated that the legislation enacted was not intended to require professional licensing boards to publish preferred mailing addresses as a component of the roster, and that this is an unintended consequence of the legislative process. Senate Bill 438 provides that the agencies subject to the provisions of W. Va. Code § 30-1-13, which includes the Board of Medicine, are exempt from publishing the roster on their website. House Bill 4765 would require the professional licensing boards to publish a roster of specific information on their website; however, this bill omits mailing addresses from the roster. Board staff will continue to closely monitor these bills.

Prior to today’s meeting a potential bill to facilitate licensure portability for physicians assistants via a Physician Assistant Compact was made available for members to review. Mr. Spangler asked Ms. Alley to provide an overview of the Physician Assistant Compact. Ms. Alley reported that the Physician Assistant Compact would differ from other licensure compacts, such as the Interstate Medical Licensure Compact and the proposed Interstate Podiatric Medical Licensure Compact, as this compact follows the “practice privilege” model rather than a licensure

model. States that enact Physician Assistant Compact legislation and meet the eligibility requirements would be considered member states pending the administrative processing of the privilege request. An eligible physician assistant who participates in the Physician Assistant Compact, and who holds an active license in one of the member states, would be eligible to practice in any and/or all of the member states. The Compact is available for state enactment but will not become operational until seven states have adopted the compact model legislation. To date, Physician Assistant Compact legislation has not been introduced in West Virginia. Board staff will closely monitor legislation introduced and will advise the Committee if the potential Physician Assistant Compact bill or any other bill related to physician assistant practice is introduced.

**ADJOURNMENT**

There being no further business to consider, Dr. Challa moved that the meeting adjourn. Dr. Dockery seconded the motion, and the motion carried without opposition.

  
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Mustafa Rahim, MD  
Legislative Committee Chair