

APPROVED

**BOARD OF DENTISTRY
MINUTES OF BOARD MEETING**

Friday, January 21, 2005

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712

- CALL TO ORDER:** A meeting of the Virginia Board of Dentistry was called to order at 9:13 a.m.
- PRESIDING:** James D. Watkins, D.D.S., President
- MEMBERS PRESENT:** Meera Gokli, D.D.S.
Michael J. Link, D.D.S.
Jacqueline G. Pace, R.D.H.
Harold S. Seigel, D.D.S.
Misty L. Sissom, R.D.H.
Edward P. Snyder, D.D.S.
Millard D. Stith, Jr.
Glenn A. Young, D.D.S.
Paul N. Zimmet, D.D.S.
- STAFF PRESENT:** Sandra Reen, Executive Director
Julia Bennett, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Cheri Emma-Leigh, Operations Manager
- COUNSEL PRESENT:** Howard Casway, Senior Assistant Attorney General
- QUORUM:** With ten members of the Board present, a quorum was established.
- PUBLIC COMMENT:** None.
- APPROVAL OF MINUTES:** On a properly seconded motion by Dr. Link, the Board approved the Minutes of the Formal Hearing of November 18, 2004 and the Board Meeting of November 19, 2004.
- REPORTS:** **Board of Health Professions:** Dr. Seigel reported that the BHP reviewed the progress being made through the Sanction Reference Study, which includes the Boards of Medicine, Pharmacy and Dentistry.
- Dr. Seigel shared a copy of a worksheet, which is currently being used by the Board of Medicine to evaluate eligibility for a Confidential Consent Agreement. This worksheet was

provided to the BHP as a “best practice” submission. Ms. Reen was asked to consider adapting and using the worksheet in probable cause reviews.

Dr. Seigel advised that he has asked the BHP to look into the use of tele-medicine and consider the need to address this growing method of practice in regulations.

SCDDE Meeting: Dr. Zimmet reported that he and Dr. Seigel attended the SCDDE 50th Annual Meeting in New Orleans where the focus was on the activities being undertaken to establish a national clinical exam for dental and dental hygiene candidates. He reported the educational program was very interesting, He noted the presentation on the most prescribed drugs and offered to provide copies of the hand-out from that presentation.

Exam RFP Committee: Dr. Seigel explained that the RFP Committee did not meet prior to the Board meeting as planned. The Committee is waiting for a response from the Attorney General regarding compensation of current and former Board members to serve as examiners and regarding Board members voting on participation in a testing agency when there is a possibility of future employment. Mr. Casway reviewed the provisions of Conflict of Interest Act and the Virginia Procurement Act to be addressed by the Attorney General. He further estimated that the opinion would not be received until or after the end of February.

AADE Mid-Year Meeting Travel Request: Ms. Reen stated that Dr. Watkins and Dr. Zimmet were approved to attend the AADE Mid-Year Meeting then Dr. Seigel requested that he be approved to attend as well. On a properly seconded motion by Dr. Link, the Board voted 10-0 in favor of requesting approval for Dr. Seigel to attend the meeting with Dr. Watkins and Dr. Zimmet.

**LEGISLATION AND
REGULATION:**

Update on 2005 Legislative Session: Ms. Yeatts provided a list of bills that the Department of Health Professions is following. She advised that the bill proposed by the Board was introduced by Delegate Bryant as HB 2368 and that the VDA bill for licensure by credentials and

volunteer practice was introduced By Senator Houck as SB 1127.

Dr. Zimmet asked Ms. Yeatts to explain the Practitioner Self-Referral Act as addressed in HB 2237. She and Mr. Casway advised that the current law prohibits any referral to a family member in another practice. Ms. Yeatts then explained that this bill would permit some referrals to a family member so long as certain conditions are met.

Ms. Reen noted that a copy of HB 2368 was in the agenda materials.

BOARD DISCUSSION:

Inquiry about Dentist Administering Hepatitis B Vaccination from Ms. Malik: The Board discussed this inquiry and agreed that administering the Hepatitis B Vaccine was not within the scope of the practice of dentistry.

Inquiry about Patient Notice Required when Retiring from Dr. Link: Mr. Casway explained that the requirements of §54.1-2405 only apply if patient records are being moved or their ownership is being transferred as result of a practice being sold or closed. In the situation described by Dr. Link the records are not being moved or transferred and the practice is not being sold. The records are staying in the practice. The Board accepted Mr. Casway's guidance and agreed that notifying patients about a dentist's retirement from an ongoing practice is not required but would be beneficial for patient relations.

Inquiry about Dentist Using Personal Health Insurance to Purchase Medicine for Office Use through Dr. Watkins: Mr. Casway advised that prescriptions bought "for office use" should be purchased through a wholesale company as required by the Virginia Drug Control Act. The Board agreed that use of personal health insurance to make such a purchase through a pharmacy violates the Act and would be considered fraud. Dr. Watkins asked that this discussion be addressed in the next newsletter.

Report Upholds Amalgam: Dr. Watkins explained the article on the Review and Analysis of the Literature on the

Potential Adverse Effects of Dental Amalgam concludes that there is “insufficient evidence to support a causal relationship between mercury fillings and human health problems.” This review which was released in December was conducted by an independent, nonprofit research organization at the request of federal agencies.

Ms. Yeatt’s advised that the bill on mercury amalgams that was introduced in the 2004 Session and carried over was no longer under consideration. It was withdrawn by the patron.

Inquiry about Hygienists using a “Water Laser” for Debridement: After discussion, the Board concluded that only a dentist might use a “water laser” because of the training and skill needed to operate one safely.

**EXECUTIVE DIRECTOR’S
REPORT:**

Regulatory/Legislative Committee: Dr. Watkins noted that Dr. Link’s second term will end June 30, 2005 and that he has suggested that another member serve as chair to allow a transition period. Dr. Watkins asked Dr. Snyder to serve as chair effective immediately in order that he gain experience before Dr. Link leaves the Board.

Dr. Watkins also asked that the Committee meet on February 11, 2005 since the SRTA Calibration has been cancelled. Ms. Reen was asked to work with Doctors Snyder and Link to plan for the meeting.

Staff Update/Deputy Executive Director: Ms. Reen introduced the Board’s new Deputy Executive Director, Julia Bennett. Ms. Bennett is an attorney and comes to the Board from the Administrative Proceedings Division. Ms. Reen explained that Ms. Bennett will be managing the disciplinary activities and assisting the Special Conference Committees for the Board of Dentistry. Ms. Reen advised that in her absence, Ms. Bennett will supervise staff and manage the day to day affairs for both the Board of Dentistry and the Board of Nursing Home Administrators.

Guidance on the meaning of “Direction”: Ms. Reen advised that a recent decision in a formal hearing calls into question the meaning of the term “Direction” as defined in

18 VAC 60-20-10 of the Regulations and as previously applied by the Board. She requested guidance on whether or not a dentist must look in the patient's mouth when services are provided under the direction of the dentist.

Concern was expressed by several members that the Board's prior interpretation was not addressed in the hearing and that the definition is not clear on the expectation. Mr. Casway suggested that the prosecutor should be working with the members who participated in the informal conference to develop the Commonwealth's case. Ms. Reen was asked to facilitate the dialogue recommended by Mr. Casway.

On a properly seconded motion by Dr. Young, the Board voted 9-1 that "Direction" means the dentist must physically examine the oral cavity of the patient. This matter was referred to the Regulatory/Legislative Committee to consider amendment of the definition for purposes of clarity.

OTHER BUSINESS:

Jurisprudence Examination: Dr. Seigel asked the Board to reconsider eliminating the exam as a requirement for licensure. In order to allow completion of the current periodic review process, this matter was referred to the Regulatory/Legislative Committee.

WREB Dental Examination: Dr. Link asked the Board to re-evaluate its decision to accept WREB indicating that WREB did not change its policy on allowing a candidate to pass when he has failed to remove decay when performing a restoration. Ms. Reen was asked to send a letter to WREB asking about the status of the expected change in scoring.

Dr. Zimmet recommended that Board members attend the annual business meetings of CRDTS, NERB and WREB to become more familiar with their operations and to follow test development activities. Ms. Reen was asked to send a letter to each agency requesting the opportunity to observe at their next meeting.

ADJOURNMENT

With all business concluded, the Board adjourned at 11:50

**Virginia Board of Dentistry
Board Meeting
January 21, 2005**

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a.m.

James D. Watkins, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date