

UNAPPROVED - DRAFT

**BOARD OF DENTISTRY
MINUTES OF BOARD MEETING**

Friday, March 7, 2008

**Perimeter Center
9960 Mayland Drive, Suite 200
Richmond, Virginia 23233-1463
Board Room 4**

- CALL TO ORDER:** A meeting of the Virginia Board of Dentistry was called to order at 9:07 a.m.
- PRESIDING:** Paul N. Zimmet, D.D.S., President
- MEMBERS PRESENT:** Meera A. Gokli, D.D.S.
Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.
Darryl J. Pirok, D.D.S.
Misty L. Sissom, R.D.H.
Edward P. Snyder, D.D.S.
James D. Watkins, D.D.S.
Glenn A. Young, D.D.S.
- MEMBERS ABSENT:** Myra Howard
- STAFF PRESENT:** Sandra K. Reen, Executive Director for the Board
Sandra Whitley-Ryals, Director for the Agency
Emily Wingfield, Chief Deputy Director for the Agency
Elaine Yeatts, Senior Policy Analyst
Alan Heaberlin, Deputy Executive Director for the Board
Cheri Emma-Leigh, Operations Manager
- COUNSEL PRESENT:** Ishneila G. Moore, Assistant Attorney General
- QUORUM:** With nine members of the Board present, a quorum was established.
- PUBLIC COMMENT:** **Gus C. Vlahos, D.D.S**, Virginia Dental Association President, introduced Laura Givens, Charles Gaskins, III, D.D.S., and Kathy Fulton, D.D.S. Dr. Vlahos thanked the Board for developing the anesthesia guidelines and advancing the Dental Assistant I and II legislation. Assistance with developing the regulations for dental assistants was offered. He extended an invitation for the Board to hold a meeting in conjunction with the VDA's September 12, 2008

meeting in Newport News or to host a forum on current issues at the VDA meeting in June in Williamsburg.

Warren West, D.D.S. stated that the Virginia Society of Oral and Maxillofacial Surgeons stands ready to assist the Board with its regulatory review particularly in the areas of sedation and anesthesia. He suggested consideration of some form of oversight of office administration by general dentists and noted that oral and maxillofacial surgeons' offices are inspected every 5 years through their organization.

**APPROVAL OF
MINUTES:**

Dr. Zimmet asked if the Board members had reviewed the minutes in the agenda package.

- Dr. Snyder moved to accept the minutes of the December 6, 2007 formal hearings. The motion was seconded and carried.
- Dr. Snyder moved to accept the minutes of the December 7, 2007 board meeting. The motion was seconded and carried.
- Ms. Sissom moved to accept the minutes of the February 8, 2008 board meeting. The motion was seconded and carried.
- Ms. Sissom moved to accept the minutes of the February 12, 2008 conference call board meeting. The motion was seconded and carried.

**DHP DIRECTOR'S
REPORT**

Ms. Ryals reported on the Governor's spending restrictions regarding hiring, travel and discretionary spending that apply to DHP. Dr. Young asked about the fee increase that took place last year and how that affects the budget. Ms. Ryals explained that it doesn't change the spending restrictions and should there be excess money, then the Board would have to consider a fee reduction. Dr. Zimmet thanked her for allowing two Board members to attend the AADE conference.

Ms. Ryals praised the Board and thanked its members for the work being done to close cases and to address the Governor's key performance measure of closing patient care cases within 250 days.

Ms. Ryals explained that she has redeployed staff from the Compliance Unit to use the staff resources more effectively. Positions were reassigned to work on investigations and to boards

to meet staffing needs.

REPORTS:

Board of Health Professions. Dr. Gokli referenced the material in the agenda package and reported that the Board is exploring strategies to address universally clear communication across all languages and cultures in health care settings similar to what has been done in the Virginia court system.

SRTA. Dr. Watkins reported on the following activities of SRTA:

- An increase in the number of candidates taking the exam
- Positive experience with using PDAs for scoring
- Plans to review the employee handbook
- Reviewing finances related to building ownership
- Posting ads for the executive director search
- Presenting at the Hinman Dental Meeting
- CSW has started repaying advances for developing the simulated test

**LEGISLATION AND
REGULATION:**

Report on the 2008 General Assembly. Ms. Yeatts reviewed the following bills with the Board:

- HB 1222 permits volunteer practice at charitable medical events for up to 3 days without notice to a licensing board and reduces the notice requirement from 15 days to 5 days prior to volunteer practice for submission of an exemption request. Dentists were originally included in this bill, but were removed at the request of the VDA.
- HB 1431 and SB 151 are identical bills which establish two classes of dental assistants. A Dental Assistant I is a traditional dental assistant, and a Dental Assistant II would perform expanded duties with training required by regulations. Ms. Yeatts advised that the law will go into effect July 1, 2008 and the Board can adopt the NOIRA at its June meeting. Dr. Zimmet asked the Regulatory-Legislative Committee to add this to its agenda.

Regulatory Actions Status Report. Ms. Yeatts presented a chart of the current regulatory actions. She noted that the change in language for scaling and/or root planning will go into effect on March 10, 2008 and the administration of local anesthesia or inhalation analgesia by hygienists will become effective April 16, 2008. She also noted that at the last meeting there was discussion of withdrawing the NOIRA regarding informed consent.

She requested a Board motion to do so. Dr. Snyder moved that the NOIRA be withdrawn. The motion was seconded and passed.

Ms. Reen added that the regulatory review process is on hold while the Board works on addressing the backlog of disciplinary cases.

Petition for Rule-making on Anesthesia, Sedation and Analgesia from Mr. Bitting. Ms. Yeatts reviewed the Petition for Rule-making submitted on behalf of DOCS, recommending changes for the practice of oral sedation to address the following issues:

- Use of simulators in training
- Monitoring requirements for moderate sedation
- Training for enteral sedation of ASA III patients
- Training for the sedation team.

Ms. Pace moved to deny the Petition because the Board is already making changes in regulatory matters and the Board can consider these changes at that time. The motion was seconded and passed. Dr. Levin abstained.

**BOARD
DISCUSSION/ACTION:**

Letter from WREB on Mutual Recognition. Reviewed. Dr. Watkins stated the Board should continue its practice of working with the respective testing agency to understand exam content.

WREB Information on its Scoring Methodology. Reviewed without discussion.

E-Mail on Paraformaldehyde from Ms. Megaro. Reviewed without discussion.

CODA letter about Dental Assisting Program at Tidewater Tech. Reviewed without discussion.

CODA Open Hearing Announcement. Reviewed without discussion.

**EXECUTIVE
DIRECTOR'S
REPORT/BUSINESS**

Report on Case Activity. Ms. Reen deferred this report until Alan Heaberlin, Deputy Executive Director, was present.

Staff Update. Ms. Reen stated that Ms. Ryals reassigned two positions to the Board in the redeployment of the Compliance Unit. An administrative assistant, Shirley Small, was transferred to us and a part-time wage position. She also reported a case manager is being recruited to fill the wage position and that the vacant administrative assistant position should be filled shortly.

Adverse Reaction Reports. Ms. Reen stated she wanted to make the Board aware that she has received three adverse reaction reports recently and that all three reports addressed treatment of a child. The reports were reviewed by Charles Cuttino, D.D.S., the OMS expert under contract with the Board, who found no evidence of a violation of a standard of care so no cases were opened. She discussed how the reports are being addressed. Dr. Gokli noted that there has been a significant increase in the number of pediatric dentists. Dr. Pirok commented on the difficulty of sedating pediatric patients. It was consensus that the current management of these cases was appropriate and that the situation should be monitored.

Use of Assumed Names. Ms. Reen indicated that the Board has more cases where practitioners are adopting "American" first and/or last names without legally changing their name and without using their legal names. She indicated that in some recent probable cause reviews the decision has been to send an advisory letter indicating they should use their legal name. She advised that using an advisory letter leaves it open to the licensee to come into compliance or not. She asked that the Board adopt guidance on this so that first offences of this nature are addressed through Confidential Consent Agreements (CCA) so the Board is enforcing the law and requiring compliance. Discussion of the provisions for trade names being used in conjunction with the name of the dentist followed. Ms. Sissom moved that CCAs be used to address the first offense of a licensee practicing under an assumed name without disclosing his name. The motion was seconded and passed.

**BOARD COUNSEL
REPORT**

Closed Meeting. Upon Ms. Moore's request, Dr. Gokli moved that the board enter into a closed meeting pursuant to § 2.2-3711.A(7) of the Code of Virginia for consultation with legal counsel pertaining to actual or probable litigation, and pursuant to § 2.2-3711.A(28) of the Code of Virginia for the purpose of consideration and discussion of recommended decisions from an Agency Subordinate and the Credentials Committee. Additionally, Dr. Gokli moved that Board staff, Sandra Reen and Cheri Emma-Leigh, and board counsel, Ishneila Moore, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

Reconvene. Dr. Gokli moved to certify that only public matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. The motion was seconded and passed.

Credentials Committee Recommendation. Ms. Sissom moved to accept the recommendation of the Credentials Committee with respect to Case #116281. The motion was seconded and carried unanimously.

Agency Subordinate Recommendation. Dr. Gokli moved to accept the recommendation of the Agency Subordinate with respect to Case #103650. The motion was seconded and carried unanimously.

Board Counsel Report. Dr. Zimmet noted that no action was taken during the closed meeting.

**SANCTION
REFERENCE POINTS
UPDATE**

Neal Kauder, President, VisualResearch, Inc. reported that the Board is achieving 95% consistency between its sanction decisions and its Sanction Reference Points (SRP). He stated that was a remarkable achievement and there were no concerns to be addressed. He noted that the Board of Medicine is now using its SRP with CCAs and suggested that as a possibility for future discussion.

DENTISTRY'S

James Banning, Director, and Lorraine McGehee, Deputy Director,

**ADMINISTRATIVE
PROCEEDINGS**

Administrative Proceedings Division, discussed APD's work on and staffing for the Board's cases. Ms. McGehee reported there is one adjudication specialist, Gail Ross, assigned to the Board full-time; two adjudication specialists, Cynthia Gaines and Leigh Kiczales, who share their time with the Board; and an additional part-time adjudication specialist, Shevaun Roukous, who will be working on the Board's CCAs.

Mr. Banning stated that the Board's comments on the Probable Cause Review form are very helpful for staff to understand and write up the allegations. He encouraged reviewers to provide as much information as possible to guide the development of documents for the case. Further, he stated they are seeing more Consent Orders being agreed to with the respondent not admitting or denying the findings but accepting the sanctions. Mr. Banning said that having such a clause does not diminish the sanctions and encouraged the continued use of the orders to settle cases.

Ms. McGehee and Ms. Reen commented positively on the working relationships between the staff in addressing cases and in staffing proceedings. Ms. Ryals added her appreciation for the extra time Board members are giving to keep cases moving.

Mr. Heaberlin reported on case activity in February noting that 142 cases had been closed in large part due to the February 8th "blitz day." He also reported on the number of cases which are pending a proceeding, being investigated and are at the probable cause stage.

ADJOURNMENT

With all business concluded, the Board meeting was adjourned at 12:17 p.m.

Paul N. Zimmet, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date