

**VIRGINIA BOARD OF DENTISTRY
MINUTES
DECEMBER 5, 2013**

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 1:37 p.m. on December 5, 2013, in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Jeffrey Levin, D.D.S., President

BOARD MEMBERS PRESENT: Charles E. Gaskins, III, D.D.S.
A. Rizkalla, D.D.S.
Evelyn M. Rolon, D.M.D.
Melanie C. Swain, R.D.H.
Tammy K. Swecker, R.D.H.
James D. Watkins, D.D.S.
Bruce S. Wyman, D.D.S.

BOARD MEMBERS ABSENT: Surya P. Dhakar, D.D.S.
Myra Howard, Citizen Member

STAFF PRESENT: Sandra K. Reen, Executive Director for the Board
Elaine J. Yeatts, DHP Senior Policy Analyst
Kelley Palmatier, Deputy Executive Director for the Board
Huong Vu, Operations Manager for the Board

OTHERS PRESENT: None

ESTABLISHMENT OF A QUORUM: With eight members of the Board present, a quorum was established.

PUBLIC COMMENT: Dr. Mitchell J. Buzkin of Woodbridge, VA stated that his letter was on the agenda for Board consideration.

APPROVAL OF MINUTES: Dr. Levin asked if the Board members had reviewed the minutes listed on the agenda. Dr. Watkins moved to accept the minutes in a block. The motion was seconded and carried.

DHP DIRECTOR'S REPORT: Dr. Levin noted that Dr. Reynolds-Cane was not available to attend the meeting.

**VIRGINIA'S DENTISTRY
AND DENTAL
HYGIENIST**

WORKFORCE 2013:

Mr. Justin Crow, Virginia Healthcare Workforce Data Center (HWDC) Policy & Planning Specialist, stated that the two reports represented the latest findings from the surveys completed by licensees who renewed their licenses online by March 31, 2013. He then reported the following:

- Response rate – 78% of dentists and 88% of dental hygienists
- Full-time equivalency units (working 40 hours per week for 50 weeks with 2 weeks off) – 4,490 dentists and 3,062 dental hygienists
- Job satisfaction – 96% of dentists and 92% of dental hygienists are satisfied with their job
- Median age – 50 for dentists and 44 for dental hygienists
- Completed undergraduate program in VA – 41% of dentists and 62% of dental hygienists

Mr. Crow asked Board members for their feedback by December 13, 2013, so the reports might be posted to the DHP website. He then answered Board members' questions.

Dr. Levin asked if new graduates are tracked. Mr. Crow said no because the reports were collected at renewals.

Ms. Reen asked how this data is being used. Mr. Crow replied that it is used by healthcare decision makers, hospitals and academic institutions to measure the healthcare workforce in Virginia.

Dr. Levin asked how new graduates can be helped by HWDC. Mr. Crow stated that graduates can contact HWDC for assistance. He added that HWDC works with the Healthcare Workforce Development Authority, which works to identify, recruit and retain health professionals in Virginia's workforce.

**LIAISON/COMMITTEE
REPORTS:**

Board of Health Professions (BHP). Dr. Levin stated that he had nothing to report since the meeting was cancelled.

AADB. Ms. Swain stated that she and Ms. Reen attended the Annual meeting in October, 2013, and her report was provided in the agenda package.

ADEX. Dr. Rolon stated that she attended the ADEX House of Representatives meeting, and that her report was provided on lavender paper.

Dr. Watkins stated that he attended the ADEX Dental Examination Committee meeting in November, 2013. He added that CITA has joined ADEX, which makes the ADEX examination acceptable in 45 jurisdictions.

SRTA. Dr. Watkins stated that the SRTA 2014 exam schedule has not been sent to him yet, but he will send the first draft out to examiners for review.

Ms. Swecker reported that there is no major change in the dental hygiene exam. She added that the ADEX exam will be administered to dental hygienists beginning in 2015.

LEGISLATION AND REGULATIONS:

Status Report on Regulatory Actions. Ms. Yeatts reported the following:

- Sedation and Anesthesia permits for dentists - The emergency regulations will expire on March 15, 2014. The public comment period on the final regulations ends at 5 pm on December 6, 2013. The Executive Committee will meet on January 10, 2014, to review any additional comments and to adopt the final regulations.
- Periodic Review – The proposed regulations to establish four chapters have been approved by the Governor. The public comment period will end on January 11, 2014, and no comment has been received to date.
- Correction of renewal deadline for faculty licenses – §54.1-2713.D of the Code relating to faculty licenses was amended in 2012. As a result, the Regulations Governing Dental Practice were amended by the Board at its September, 2013 meeting to conform to the statute. The correction has been at the Attorney General's Office for review for 68 days.

BOARD

DISCUSSION/ACTION: Review of Public Comment Topics.

Letter from Dr. Bukzin – Ms. Reen stated that the letter from Dr. Buzkin expresses his concern about fraud and the work of the Board. She asked for Board guidance on the response to be given. Dr. Levin stated that complaints need to be made to the Board for investigation. No action was taken.

Education Requirement for Licensure – Dr. Wyman said that after reviewing the information collected by staff, he is withdrawing his request for discussion. Ms. Reen noted that the Board has licensed 214 dentists with only advance education since 2005, and only 1 of these licensees has been disciplined by the Board.

Guidance Document (GD) on Advertising – Ms. Reen noted that this item was discussed by the Regulatory-Legislative Committee earlier today. She added that the Committee recommended dropping the Guidance Document from the Board's list of pending actions. Dr. Watkins moved to accept the recommendation. The motion was seconded and passed.

**REPORT ON CASE
ACTIVITY:**

Ms. Palmatier reported that for the first quarter of FY2014, the Board received a total of 96 cases which included 63 patient care cases and closed a total of 82 patient care cases for 130% clearance rate. She added that 74% of the patient care cases were closed within 250 days and the Board met the clearance rate goals for the Agency's Key Performance Measures for the first quarter of FY2014.

She noted that the Board summarily suspended the license of 2 dental hygienists and 1 dentist between August 22, 2013, and November 25, 2013.

She stated that staff is requesting policy guidance on monetary penalties in response to a recent trend occurring in informal conferences. Guidance is needed so that the sanction for similar violations is consistent across all committees and in Pre-Hearing Consent Orders being offered. She reported that the precedent set by the Board has been to use \$1,000 as the standard monetary penalty per violation. She added that probable cause reviewers and special conference committees can and should consider aggravating and/or mitigating circumstances as a reason for any departure from this standard. By consensus, the Board agreed to use \$1,000 as the standard monetary penalty per violation.

Ms. Palmatier thanked the Board for their continued hard work on getting the backlog of cases resolved. She added that one issue that seems to be taking up some time is the back and forth communication between reviewers and staff with regards to the violations to be alleged. She provided a copy of a completed probable cause review form as a good example of a clear statement of a board member's case review decision.

**EXECUTIVE
DIRECTOR'S**

REPORT/BUSINESS: **Report on the AADA Annual Meeting** – Ms. Reen reported that the AADA meeting was very productive. She added that she brought back useful information that staff will be discussing in the coming months.

Retirement Recognition - Ms. Reen reported that Mr. Howard Casway is retiring effective January 1, 2014. She noted that he has served as Board Counsel since 1983. Dr. Watkins agreed to work with Ms. Reen on reviewing Mr. Casway's history of service. She said that the Attorney General's office is planning to have a retirement party for Mr. Casway in 2014. She added that he was unable to join the Board for lunch today and suggested inviting him to lunch at the March, 2014 meeting. After discussion, the Board decided to prepare a "Memory Book" for Mr. Casway, and to invite him to the Board's March meeting.

Electronic Recordkeeping – Dr. Gaskins raised a concern, as addressed in Ms. Swain's previously cited AADB meeting report, about authenticating electronic patient records, which might easily be altered. Following discussion, Ms. Reen said she will obtain the presentation from the AADB, and she will share it with the Enforcement division for consideration in investigations.

Teledentistry – Ms. Swecker noted that teledentistry, as addressed in Ms. Swain's AADB meeting report, is on the rise. She suggested that the Board look at this matter and determine its position. After discussion, Ms. Swecker moved to investigate permitting the practice of teledentistry within Virginia by addressing a definition, guidelines, and scope of practice. The motion was seconded and passed. Ms. Reen asked if the Board wanted to assign this to the Regulatory-Legislative Committee. All agreed.

CASE RECOMMENDATIONS:

Case # 150265:

Closed Meeting: Ms. Swain moved that the Board enter into a closed meeting pursuant to §2.2-3711(A)(27) and Section 2.2-3712(F) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of case #150265. Additionally, it was moved that Board staff, Sandra Reen, Ms. Palmatier, and Huong Vu attend the closed meeting because their presence in the closed meeting was deemed

necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Ms. Swain 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.

The Board reconvened in open session pursuant to §2.2-3712(D) of the Code.

DECISION:

Dr. Watkins moved to offer a Consent Order for voluntary surrender for permanent suspension in lieu of proceeding with the scheduled formal hearing. The motion was seconded and passed.

Case# 151455:

The Board received information from Mr. Halbleib on case #151455 in order to determine if the Respondent is unable to practice dentistry in a safe and competent manner due to alcohol abuse.

Closed Meeting:

Ms. Swain moved that the Board enter into a closed meeting pursuant to §2.2-3711(A)(27) and Section 2.2-3712(F) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of case #151455. Additionally, it was moved that Board staff, Sandra Reen, Ms. Palmatier, and Huong Vu and Board Counsel Charis Mitchell attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Ms. Swain 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.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

DECISION:

Dr. Wyman moved that the Board summarily suspend the license of the respondent in case #151455 to practice dentistry in the Commonwealth of Virginia due to alcohol abuse, and schedule the respondent for a formal hearing. The motion was seconded and passed.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 3:45 p.m.

Jeffrey Levin, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date