UNAPPROVED

BOARD OF DENTISTRY

MINUTES
SPECIAL CONFERENCE COMMITTEE "B"

TIME AND PLACE: Special Conference Committee "B" convened on June 20, 2014 at 9:05 a.m., at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, 9960 Mayland Drive, Henrico, VA 23233.

PRESIDING: Charles E. Gaskins, III, D.D.S.

MEMBERS PRESENT: A. Rizkalla, D.D.S.
Melanie C. Swain, R.D.H.

STAFF PRESENT: Kelley W. Palmatier, Deputy Executive Director
Donna Lee, Discipline Case Manager
Tiffany Laney, Adjudication Specialist

QUORUM: All three members of the Committee were present.

Brendan Stack, D.D.S.
Case No.: 145210

Dr. Stack appeared with counsel, Glenn H. Silver, to discuss the allegations set forth in a Notice of the Board dated January 16, 2014.

Mr. Silver noted an objection to the informal conference being held because since the Complainant was not present the information provided by the Complainant would be considered hearsay and the Respondent would not have an opportunity to ask questions of the Complainant.

Dr. Gaskins noted Mr. Silver's objection, but ruled that the Committee would go forward with the informal conference.

Jeff Brown, D.D.S., and Anthony Sims, D.D.S. appeared on behalf of Dr. Stack. The Committee received statements from Dr. Stack, Dr. Brown, Dr. Sims, and Mr. Silver and discussed the allegations with them.

Closed Meeting: Ms. Swain moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Brendan Stack. Additionally, Ms. Swain moved that Ms. Palmatier, Ms. Lee, and Ms. Laney attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Committee in its deliberations. The

motion was seconded and passed.

Reconvene:

Ms. Swain moved that the Committee certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

DECISION:
Case No.: 145210

Ms. Laney reported that the Committee found that from approximately 2009 to 2012, Dr. Stack performed or recommended treatment modalities for Tourette's syndrome, a neurological disorder, none of which were of proven dental therapeutic benefit or supported by evidence-based scientific and/or clinical research or studies. Dr. Stack provided Patients A-D with an intraoral orthotic for treatment of Tourette's syndrome.

On April 18, 2012, Dr. Stack completed a Letter of Medical Necessity for Patient A in which he listed his diagnoses as Tourette's syndrome, anxiety, sensory disorder, vertigo, and chronic fatigue. In a letter dated June 14, 2010, regarding Patient C, Dr. Stack wrote that his "initial clinical impression is Tourette's disorder (307.23), Tic disorder (307.2), and Blepharospasm (338.81)," which are all conditions requiring the expertise of a medical physician.

The Committee further found that Dr. Stack engaged in advertising, via his website and/or letters provided to patients and the public, that were expressly or implicitly false, deceptive, misleading, and/or contained claims of superiority. Dr. Stack's website, as of June 11, 2012, stated that he treated movement disorders and body tremor patients, which is misleading and deceptive in that it implies that, as a dentist, it is permissible for him to treat non-dental conditions.

Dr. Stack listed on his letterhead that he is a specialist in orthodontics, TMJ, and Sleep Apnea. The Committee found that the designations of a specialty in "TMJ and Sleep Apnea" are misleading, deceptive, and not recognized by the American Dental Association or by the Board.

The sanctions reported by Ms. Laney were that Dr. Stack shall pay a $3,000.00 monetary penalty; cease and desist making medical diagnoses, such as Tourette's syndrome, anxiety, sensory disorder, vertigo, chronic fatigue, and Blepharospasm;

and cease and desist publishing advertisements that are inconsistent with the laws and regulations governing the practice of dentistry in the Commonwealth of Virginia.

Ms. Swain moved to adopt the decision of the Committee. The motion was seconded and passed.

Approval of Minutes: Upon a motion by Ms. Swain, the minutes from the Informal Conference conducted on March 21, 2014 were approved.

ADJOURNMENT: With all business concluded, the Committee adjourned at 2:36 p.m.

Charles E. Gaskins, III, D.D.S. Chair

Sandra K. Reen, Executive Director

Date

Date