

APPROVED

BOARD OF DENTISTRY

MINUTES

SPECIAL CONFERENCE COMMITTEE "B" MEETING

TIME AND PLACE: Special Conference Committee "B" convened on June 22, 2007, at 9:07 a.m., at the Department of Health Professions, Richmond, Virginia.

APPROVAL OF MINUTES: Ms. Pace moved to approve the Minutes of the Special Conference Committee "B" meeting held on April 27, 2007. The motion was seconded and passed.

FIRST CONFERENCE: 9:07 a.m.

PRESIDING: Edward P. Snyder, D.D.S.

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT: Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Gail W. Ross, Adjudication Specialist

QUORUM: All three members of the Committee were present.

**Zahra Kavianpour, D.D.S.
Case No. 103773** Zahra Kavianpour, D.D.S., appeared without counsel, to discuss allegations that she may have violated laws and regulations governing the practice of dentistry, in that she published, or caused to be published, an advertisement that included a *New Patient Special* coupon at a fee of \$59 for discounted services, which failed to disclose the full fee for the discounted services advertised.

The Committee received Dr. Kavianpour's statements and discussed the evidence in the case with her.

Closed Meeting: Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Zahra Kavianpour, D.D.S. Additionally, Ms. Pace moved that Board staff, Alan Heaberlin, and Catherine Chappell, and Administrative Proceedings Division staff, Gail Ross, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee

in its deliberations. The motion was seconded and passed.

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

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision: Dr. Snyder reported that the Committee determined that a violation of the Board's statutes and regulations was not established by clear and convincing evidence, and therefore, the case is dismissed. Ms. Pace moved to adopt the decision of the Committee. The motion was seconded and passed.

SECOND CONFERENCE: 10:05 a.m.

PRESIDING: Edward P. Snyder, D.D.S.

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT: Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Gail W. Ross, Adjudication Specialist

QUORUM: All three members of the Committee were present.

**Elizabeth Resnick, D.D.S.
Case Nos. 93176 and
101485**

Elizabeth Resnick, appeared with counsel, Robert A. Rapaport, Esq., to discuss allegations that she may have violated laws and regulations governing the practice of dentistry, in that:

1. On or about September 2003, she fraudulently billed Patient A's insurance company for procedures performed on dates when no treatment was provide.

2. On or about May 26, 2004, following periodontal scaling and root planning on Patient B in her office, she recommended that the patient use Listerine as a pre- or post-rinse to brushing and flossing once a day. Dr. Resnick concomitantly prescribed metronidazole (Flagyl), which is contraindicated with any alcohol-based product.
3. On or about June 2004, Patient B consulted with another dentist, who found no evidence of present or past periodontal disease on visual examination and random probing.
4. There is no health history for Patient B in Patient B's record.

The Board received statements on behalf of Dr. Resnick from Jean Mallari, R.D.H. and John Ross, D.D.S.

The Committee received statements from Patient B and Patient B's wife.

The Committee received Dr. Resnick's statements and discussed the evidence in the case with her.

Closed Meeting:

Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Elizabeth Resnick, D.D.S. Additionally, Ms. Pace moved that Board staff, Alan Heaberlin, and Catherine Chappell, and Administrative Proceedings Division staff, Gail Ross, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

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

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening

the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision:

Ms. Ross read the Findings of Fact and Conclusions of Law as adopted by the Committee as follows:

1. Dr. Resnick holds a current Virginia dental license;
2. Dr. Resnick violated § 54.1-2706(4) and (9) of the Code, and 18 VAC 60-20-170(1) of the Regulations, in that by her own admission, on or about September 2003, she fraudulently billed Patient A's insurance company for procedures performed on dates when no treatment was provided.
3. Dr. Resnick violated § 54.1-2706(5) and (11) of the Code, in that, on or about May 26, 2004, following periodontal scaling and root planning on Patient B in his office, she recommended that the patient use Listerine as a pre- or post-rinse to brushing and flossing once a day. She concomitantly prescribed metronidazole (*Flagyl*), which is contraindicated with any alcohol-based product.
4. Dr. Resnick violated § 54.1-2706(9) of the code and 18 VAC 60-20-15(4) of the Regulations, in that, on or about May 26, 2004, she failed to note the amount of anesthesia administered to Patient B in his record.

The sanctions reported by Ms. Ross were that Dr. Resnick be required to complete seven (7) continuing education hours in pharmacology, seven (7) continuing education hours in periodontal disease, and seven (7) continuing education hours in risk management and ethics, and assessed a \$7,000 monetary penalty.

Dr. Levin moved that the Committee adopt the Findings of Fact and Conclusions of Law, and sanctions imposed as reported by Ms. Ross. The motion was seconded and passed.

After adjourning the informal conference at 11:55 a.m., the Committee reconvened to add a sanction that was omitted at the time the sanctions were read by Ms. Ross.

Dr. Levin moved to amend the sanctions to include a sanction of reprimand. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. Resnick unless a written request to the Board for a formal hearing on the allegations made against her is received from Dr. Resnick. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Committee shall be vacated.

THIRD CONFERENCE:

12:28 p.m.

PRESIDING:

Edward P. Snyder, D.D.S.

MEMBERS PRESENT:

Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT:

Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Leigh C. Kiczales, Adjudication Specialist

QUORUM:

All three members of the Committee were present.

**Faryl K. Hart, D.D.S.
Case Nos. 96773 and
104628**

Faryl K. Hart, D.D.S., appeared without counsel, to discuss allegations that she may have violated laws and regulations governing the practice of dentistry, in that:

1. During her treatment of Patient A on or about August 17, 2004, to on or about September 20, 2004, Dr. Hart failed to complete root canal treatment on tooth #19, resulting in a questionable to poor prognosis for the viability of the tooth. On November 29, 2004, during a

subsequent endodontic evaluation, it was determined that tooth #19 had been weakened during the initial attempt to locate the mesio buccal canal, the floor of the tooth had been irreparably thinned from over-grinding the tooth into the gum, and that a perforation was likely.

2. On or about August 3, 2004, Dr. Hart billed Patient A's insurance company for a resin composite and delivery of a crown to tooth #20, which constitutes a fraudulent attempt to obtain payment for services that were not performed.
3. Patient A's dental records fail to contain the name of the dentist performing the procedure, as required.
4. On or about July 17, 2002, Dr. Hart prescribed Zithromax for Patient B, without therapeutic purpose. Further, she dispensed Darvocet (Schedule IV) and Flexeril for Patient B without a bona fide patient/practitioner relationship warranting the use of such medications.
5. During an unannounced inspection of Dr. Hart's practice by the Department of Health Professions on September 23, 2004, the following deficiencies were noted:
 - a. Dr. Hart failed to maintain required inventories and records for receipt and dispensing of a controlled substance.
 - b. Dr. Hart failed to maintain certain patient records for the minimum period of three (3) years.
 - c. Dr. Hart failed to obtain the requisite education and training for administering conscious sedation required by the Board.
 - d. Dr. Hart failed to maintain the proper emergency equipment required when administering conscious sedation, including a laryngoscope, endotracheal tubes, and oral/nasopharyngeal airways.
 - e. Dr. Hart failed to post in plain view of patients the radiation certification of the

dental assistant who exposes the dental x-ray film.

The Committee received Dr. Hart's statements and discussed the evidence in the case with her.

Closed Meeting:

Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Faryl K. Hart, D.D.S. Additionally, Ms. Pace moved that Board staff, Alan Heaberlin and Catherine Chappell, and Administrative Proceedings Division staff, Leigh Kiczales, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

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

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision:

Ms. Kiczales read the Findings of Fact and Conclusions of Law adopted by the Committee as follows:

1. Dr. Hart holds a current Virginia dental license;
2. Dr. Hart violated § 54.1-2706(9) of the Code, and 18 VAC 60-20-170(1) of the Regulations, in that, on or about August 3, 2004, she billed Patient A's insurance company for a resin composite and delivery of a crown to tooth #20, which constitutes a fraudulent attempt to obtain payment for services that were not performed.
3. Dr. Hart violated § 54.1-2706 (9) of the Code, and 18 VAC 60-20-15(7) of the Regulations, in

that Patient A's dental records failed to contain the name of the dentist performing the procedure.

4. Dr. Hart violated § 54.1-2706(5), (11) and (15), § 54.1-3303 and § 54.1-3408.A of the Code, in that, on or about July 17, 2002, she prescribed Zithoromax for Patient B, without therapeutic purpose. Further, she dispensed Darvocet (Schedule IV) and Flexeril for Patient B without a bona fide patient/practioner relationship warranting the use of such medications.
5. During an unannounced inspection of Dr. Hart's practice by the Department of Health Professions on September 23, 2004, the following deficiencies were noted:
 - a. Dr. Hart violated § 54.1-2706(5), (9) and (15) and § 54.1-3404 of the Code, and 18 VAC 60-20-120 of the Regulations, in that she failed to maintain required inventories and records for receipt and dispensing of a controlled substance.
 - b. Dr. Hart violated § 54.1-2706(9) of the Code, and 18 VAC 60-20-195 of the Regulations, in that she failed to post in plain view of patients the radiation certification of the dental assistant who exposes the dental x-ray film.

The sanctions reported by Ms. Kiczales were that Dr. Hart be reprimanded, be assessed a monetary penalty of \$7,000, be required to complete seven (7) continuing education hours in risk management, and undergo one (1) unannounced inspection.

Dr. Levin moved that the Committee adopt the Findings of Fact and Conclusions of Law, and sanctions imposed as reported by Ms. Kiczales. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr.

Hart unless a written request to the Board for a formal hearing on the allegations made against her is received from Dr. Hart. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Committee shall be vacated.

FOURTH CONFERENCE:

2:25 p.m.

PRESIDING:

Edward P. Snyder, D.D.S.

MEMBERS PRESENT:

Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT:

Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Gail W. Ross, Adjudication Specialist

QUORUM:

All three members of the Committee were present.

**John T. DeWinkler, Sr.,
D.D.S.
Case No. 105117**

John T. DeWinkler, Sr., D.D.S., appeared without counsel, to discuss allegations that he may have violated laws and regulations governing the practice of dentistry, in that in or about May 2004, while treating Patient A, he failed to detect and remove all decay in tooth #2 before placing a crown on said tooth.

The Committee received Dr. DeWinkler's statements and discussed the evidence in the case with him.

Closed Meeting:

Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of John T. DeWinkler, D.D.S. Additionally, Ms. Pace moved that Board staff, Alan Heaberlin and Catherine Chappell, and Administrative Proceedings Division staff, Gail Ross, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

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

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision: Dr. Snyder read the Findings of Fact and Conclusions of Law as adopted by the Committee as follows:

1. Dr. DeWinkler holds a current Virginia dental license;
2. Dr. DeWinkler violated § 54.1-2706(5) and (11) of the Code, in that, in or about May 2004, while treating Patient A, he failed to detect and remove all decay in tooth #2 before placing a crown on said tooth.

The sanctions reported by Dr. Snyder were that Dr. DeWinkler be issued a reprimand.

Dr. Levin moved that the Committee adopt the Findings of Fact and Conclusions of Law, and sanctions imposed as reported by Dr. Snyder. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. DeWinkler unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. DeWinkler. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Committee shall be vacated.

ADJOURNMENT: With all business concluded, the Committee adjourned

**Virginia Board of Dentistry
Special Conference Committee B
June 22, 2007**

11

at 3:15 p.m.

Edward P. Snyder, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date