

**UNAPPROVED DRAFT**

**BOARD OF DENTISTRY**

**MINUTES**

**SPECIAL CONFERENCE COMMITTEE "C" MEETING**

**TIME AND PLACE:** Special Conference Committee "C" convened on December 14, 2007, at 9:05 a.m., at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, VA.

**PRESIDING:** James D. Watkins, D.D.S.

**MEMBERS PRESENT:** Myra Howard

**MEMBERS RECUSED:** Glenn A. Young, D.D.S.

**STAFF PRESENT:** Alan Heaberlin, Deputy Director  
Cheri Emma-Leigh, Operations Manager  
Leigh C. Kiczales, Adjudication Specialist

**OTHERS PRESENT:** William Clay Garrett, Assistant Attorney General

**QUORUM:** Two members of the Committee were present.

**MADLINE B. HAHN,  
D.D.S.  
Case Nos. 110306,  
109733, 110665, 110958,  
111042, 111053, 111719,  
111906, 112203, 112601,  
112724, 112731, and  
113308**

Madeline B. Hahn, D.D.S. appeared with counsel, Peter M. Mellette, Esq., to discuss allegations that she may have violated laws and regulations governing the practice of dentistry, in that,

1. On or about November 28, 2006, during her treatment of Patient A, she failed to maintain the Statim autoclave machine, used to sterilize dental instruments, in proper working order.
2. On or about November 28, 2006, during her treatment of Patient A, she billed Patient A's insurance company for a four (4) quadrant, deep cleaning procedure when only two (2) quadrants had been completed.
3. On or about January 2, 2007, during her treatment of Patient B, she failed to maintain the Statim autoclave machine, used to sterilize dental instruments, in proper working order. Further, during Patient B's visit that day, she noticed what appeared to be rust on several of the instruments laid out on the tray in the exam room.

4. On or about November 8, 2006, during her treatment of Patient C:
  - a. Dr. Hahn failed to take an initial medical history of the patient;
  - b. Dr. Hahn failed to conduct a comprehensive oral evaluation; and
  - c. Dr. Hahn billed Patient C's insurance company for a comprehensive oral evaluation which was documented in the dental record as "not completed."
  
5. During her treatment of Patient D:
  - a. On May 16, 2006, she broke tooth #11 and the core that held a temporary crown on tooth #11 while attempting to remove the crown;
  - b. Patient D's dental record does not reflect an accurate account of the treatment rendered on May 16, 2006. Specifically, Dr. Hahn failed to document that she had broken tooth #11 and the core while attempting to remove the crown in order to correct the composite shade;
  - c. On May 17, 2006, Dr. Hahn represented to Patient D that the reason for having to prepare a bridge for tooth #11, as opposed to delivering a new crown, was that the tooth was too decayed to hold a crown, yet she proceeded to fit a temporary crown on tooth #11 that day; and
  - d. On or about February 2, 2006, Dr. Hahn fraudulently billed Patient D for the taking of panoramic films and a complete series of bitewing x-rays, given that no documentation exists in Patient D's dental record to

substantiate that x-rays were taken on that date.

6. Dr. Hahn fraudulently billed Patient K's insurance company for services rendered on September 21, 2006, despite the fact that she was not in the office that day due to a family emergency. Further, she charged Patient K for a returned check fee for cancelling her check for the deductible collected by her office on that date.
7. Dr. Hahn failed to provide copies of dental records and/or x-rays to certain patients who had requested their records from her in writing. Specifically:
  - a. Patient C submitted written requests for copies of her records on November 15, 2006, and December 18, 2006;
  - b. Patient H made a written request for records on February 8, 2007;
  - c. Patient J made a written request dated October 3, 2006, which was sent via certified mail and received by her office on October 5, 2006; and
  - d. Patient L made a written request dated December 1, 2006, which was sent via certified mail and received in her office on December 6, 2006.
8. Dr. Hahn failed to provide copies of dental records and/or x-rays to certain patients who had verbally requested copies of their records. Specifically:
  - a. Patient F made a verbal request in person for a copy of his records and paid a \$20 duplication fee in her office on September 20, 2006; as of November 13, 2006, he had not received any records;

- b. Patient I was charged a duplication fee in the amount of \$20 on July 24, 2006, although no records were received. Further, it is noted in his dental record on June 20, 2006, that "copy of patient's records will be forwarded to address;" and
  - c. Patient J was charged a duplication fee in the amount of \$20 on October 25, 2006, although no records were ever received.
9. During 2005, 2006 and 2007, Dr. Hahn failed to cooperate with the Board's investigator in connection with her investigation of the complaints filed against her by Patients A-M. Specifically, she refused to produce requested and/or subpoenaed patient records, and failed to respond to the investigator's request(s) for interviews with her.
10. On numerous occasions in 2005, 2006, and 2007, Dr. Hahn failed to cooperate with the Board's investigator regarding the scheduling of inspections of her office in connection with the various complaints filed against her by Patients A-M.
11. On January 9, 2007, Dr. Hahn fraudulently billed Patient L's insurance company for a "broken/missed" appointment in December 2006, although on or about October 10, 2006, Patient L had verbally notified Dr. Hahn's receptionist that he was cancelling all follow-up appointments.
12. On or about November 8, 2007, during an unannounced inspection of Dr. Hahn's practice by a Department of Health Professions investigator, she admitted to the investigator that she permitted an uncertified employee to place and expose x-ray film on her patients.

The Committee received statements from Dr. Hahn and discussed the evidence in the case with her.

The Committee received statements from Lynn Austin, Senior Investigator.

**Closed Meeting:**

Ms. Howard 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 Madeline B. Hahn, D.D.S.. Additionally, Ms. Howard moved that Board staff, Alan Heaberlin and Cheri Emma-Leigh, 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:**

Ms. Howard 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.

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

Dr. Watkins announced that the Committee will continue to receive statements from Dr. Hahn concerning the allegations listed in the Notice of Informal Conference.

The Committee received statements from Patient C and Patient H.

**Closed Meeting:**

Ms. Howard 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 Madeline B. Hahn, D.D.S.. Additionally, Ms. Howard moved that Board staff, Alan Heaberlin and Cheri Emma-Leigh, 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:**

Ms. Howard 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.

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

Dr. Watkins announced that the Committee will continue to receive statements from Dr. Hahn concerning the allegations listed in the Notice of Informal Conference.

The Committee received statements from Tamara Worley, Dental Assistant.

**Closed Meeting:**

Ms. Howard 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 Madeline B. Hahn, D.D.S.. Additionally, Ms. Howard moved that Board staff, Alan Heaberlin and Cheri Emma-Leigh, 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:**

Ms. Howard 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.

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

**Decision:**

Mr. Heaberlin read the Findings of Fact and Conclusions of Law as adopted by the Committee as follows:

1. Dr. Hahn holds a current Virginia dental license.
2. Dr. Hahn violated §§ 54.1-2706(4), (5), and (11) of the Code, and 18 VAC 60-20-170(2) of the Regulations, in that, on or about November 28,

2006, during her treatment of Patient A, she failed to maintain the Statim autoclave machine, used to sterilize dental instruments, in proper working order.

3. Dr. Hahn violated §§ 54.1-2706(4) and (9) of the Code, and 18 VAC 60-20-170(1) and (6) of the Regulations, in that, on or about November 28, 2006, during her treatment of Patient A, she billed Patient A's insurance company for a four (4) quadrant, deep cleaning procedure when only two (2) quadrants had been completed.
4. Dr. Hahn violated §§ 54.1-2706(4), (5) and (11) of the Code, and 18 VAC 60-20-170(2) of the Regulations, in that, on or about January 2, 2007, during her treatment of Patient B, she failed to maintain the Statim autoclave machine, used to sterilize dental instruments, in proper working order.
5. On or about November 8, 2006, during her treatment of Patient C:
  - a. Dr. Hahn violated § 54.1-2706(11) of the Code, in that she failed to conduct a comprehensive oral evaluation; and
  - b. Dr. Hahn violated §§ 54.1-2706(4) and (9) of the Code, and 18 VAC 60-20-170(1) and (6) of the Regulations, in that she billed Patient C's insurance company for a comprehensive oral evaluation which was documented in the dental record as "not completed."
6. Dr. Hahn violated § 54.1-2706(4) of the Code, and 18 VAC 60-20-170(1) and (6) of the Regulations in that, during her treatment of Patient D on or about February 2, 2006, she fraudulently billed Patient D for a complete series of bitewing x-rays, given that no documentation exists in Patient D's dental record to substantiate that x-rays were taken on that date.
7. Dr. Hahn violated §§ 54.1-2706(4) and (9) of the Code, and 18 VAC 60-20-170(1) and (6) of the Regulations, in that she fraudulently billed Patient K's insurance company for services rendered on

September 21, 2006, despite the fact that she was not in the office that day.

8. Dr. Hahn violated §§ 54.1-2706(11) and 32.1-127.1:03(E) of the Code, in that on numerous occasions in 2006 and 2007, she failed to provide copies of dental records and/or x-rays to certain patients who had requested their records from her in writing. Specifically:
  - a. Patient C submitted written requests for copies of her records on November 15, 2006, and December 18, 2006;
  - b. Patient H made a written request for records on February 8, 2007;
  - c. Patient J made a written request dated October 3, 2006, which was sent via certified mail and received by her office on October 5, 2006; and
  - d. Patient L made a written request dated December 1, 2006, which was sent via certified mail and received by her office on December 6, 2006.
9. Dr. Hahn violated §§ 54.1-2706(4) and (11) of the Code, and 18 VAC 60-20-170(1) of the Regulations of the Board of Dentistry, in that she failed to provide copies of dental records and/or x-rays to certain patients who had verbally requested copies of their records. Specifically:
  - a. Patient F made a verbal request in person for a copy of his records and paid a \$20 duplication fee in her office on September 20, 2006; as of November 13, 2006, he had not received any records; and
  - b. Patient I was charged a duplication fee in the amount of \$20 on July 24, 2006, although no records were received. Further, it is noted in his dental record on June 20, 2006, that "copy of patient's records will be forwarded to address."

10. Dr. Hahn violated § 54.1-2706(9) of the Code, and 18 VAC 60-20-170(4) of the Regulations, as further defined in § 54.1-111.A(7) of the Code, in that, during 2005, 2006 and 2007, she failed to cooperate with the Board's investigator in connection with her investigation of the complaints filed against Dr. Hahn by Patients A-M. Specifically, she refused to produce requested and/or subpoenaed patient records, and failed to respond to the investigator's request(s) for interviews with her.
11. Dr. Hahn violated §§ 54.1-2706(9) and 54.1-2703 of the Code, in that, on numerous occasions in 2005, 2006, and 2007, she failed to cooperate with the Board's investigator regarding the scheduling of inspections of her office in connection with the various complaints filed against her by Patients A-M.
12. Dr. Hahn violated § 54.1-2706(4) of the Code, and 18 VAC 60-20-170(1) of the Regulations, in that, on January 9, 2007, she fraudulently billed Patient L's insurance company for a "broken/missed" appointment in December 2006, although on or about October 10, 2006, Patient L had verbally notified Dr. Hahn's receptionist that he was cancelling all follow-up appointments.
13. Dr. Hahn violated §§ 54.1-2706(4), (9), (11) of the Code, and 18 VAC 60-20-170(4), (7) and (8) of the Regulations, in that, on or about November 8, 2007, during an unannounced inspection of her practice by a Department of Health Professions investigator, she admitted to the investigator that she permitted an uncertified employee to place and expose x-ray film on her patients.

The sanctions reported by Mr. Heaberlin were that Dr. Hahn be issued a reprimand, be required to successfully pass the Board's dental law examination, be required to complete four (4) continuing education hours in Infection Control, seven (7) continuing education hours in Diagnosis and Treatment Planning, and four (4) continuing education

hours in Recordkeeping, be subjected to (2) two unannounced inspections annually for two (2) years, and be assessed a monetary penalty of twenty-nine thousand five hundred dollars (\$29,500).

Ms. Howard moved that the Committee adopt the Findings of Fact, Conclusions of Law, and Sanctions imposed as reported by Mr. Heaberlin. 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. Hahn unless a written request to the Board for a formal hearing on the allegations made against her is received from Dr. Hahn. 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 at 2:44 p.m.

\_\_\_\_\_  
James D. Watkins, D.D.S., Chair

\_\_\_\_\_  
Sandra K. Reen, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date