

**UNAPPROVED**

**BOARD OF DENTISTRY**

**MINUTES**

**SPECIAL CONFERENCE COMMITTEE "C"**

**TIME AND PLACE:** Special Conference Committee "C" convened on June 21, 2013 at 9:07 a.m., at the Department of Health Professions, Perimeter Center, 2<sup>nd</sup> Floor Conference Center, 9960 Mayland Drive, Henrico, VA 23233.

**FIRST CONFERENCE:** 9:07 a.m.

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

**MEMBERS PRESENT:** Evelyn M. Rolon, D.M.D.

**MEMBERS ABSENT:** Myra Howard

**STAFF PRESENT:** Kelley W. Palmatier, Deputy Executive Director  
Donna Lee, Discipline Case Manager  
Indy Toliver, Adjudication Specialist

**QUORUM:** With two members present, a quorum was established.

**Len Futerman, D.D.S.**  
**Case No.: 146656**

Dr. Futerman appeared with counsel, Lori-Ann Futerman, to discuss the allegations set forth in a Notice of the Board dated January 29, 2013. Daniel L. Orr, II, D.D.S., and Robert L. Campbell, D.D.S., appeared as experts on behalf of Dr. Futerman. Charles L. Cuttino, D.D.S., appeared as an expert on behalf of the Board. The Committee received additional evidence and statements from Dr. Futerman, Dr. Orr, Dr. Campbell, Dr. Cuttino, and Ms. Futerman and discussed the allegations with them.

**Closed Meeting:** Dr. Rolon 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 Len Futerman. Additionally, Dr. Rolon moved that Ms. Palmatier, Ms. Lee, and Ms. Toliver 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:** Dr. Rolon moved that the Committee certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia

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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.: 146656

Ms. Toliver reported that the Committee found that Dr. Futerman, while providing treatment to Patient A, used a 3.5mm cuffed nasotracheal tube that was too short and did not provide optimal airflow to the patient; that he failed to properly monitor Patient A by recording and reporting blood pressure, pulse, respiration and other vital signs; and that he maintained anesthesia records that were illegible.

The Committee also found that Dr. Futerman failed to report Patient A's adverse reaction under general anesthesia to the Board as required.

The Committee further found that during an unannounced inspection of Dr. Futerman's practice, the following deficiencies were noted: (1) neither spore indicator equipment nor a spore indicator log was present in the dental office; (2) dental instruments did not have the date of expiration displayed on the packaging; and (3) the x-ray machine inspection reports were not posted by the x-ray machine.

The sanctions reported by Ms. Toliver were that Dr. Futerman shall pay a \$5,000.00 monetary penalty, and that his license be placed on probation for 18 months subject to the terms and conditions that within 6 months from the date of entry of the Order he shall successfully complete 16 hours of continuing education in management of anesthesia emergencies and complications, including management of emergency documentation.

Dr. Futerman shall be the subject of an unannounced inspection, to include a random sample of 10 complete patient records, 5 pediatric patients and 5 adult patients, who receive general anesthesia subsequent to the completion of the required 16 hours of continuing education course.

Dr. Rolon moved to adopt the decision of the Committee. The motion was seconded and passed.

**SECOND CONFERENCE:** 1:25 p.m.

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

**MEMBERS PRESENT:** Evelyn M. Rolon, D.M.D.

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**MEMBERS ABSENT:** Myra Howard

**STAFF PRESENT:** Kelley W. Palmatier, Deputy Executive Director  
Donna Lee, Discipline Case Manager  
Shevaun Roukous, Adjudication Specialist

**QUORUM:** With two members present, a quorum was established.

**Michael Gwaltney, D.D.S.**  
**Case No.: 146878**

Dr. Gwaltney appeared without counsel to discuss his petition for modification of the Order of the Board entered November 5, 2009, to remove the provision restricting him from prescribing, administering, or dispensing Schedule II, III, IV or V controlled substances, and to review his compliance with the Order as forth in a Notice of the Board dated April 30, 2013. Sameh Kassem, D.D.S., and Andrew Redford, L.P.C., appeared on behalf of Dr. Gwaltney. The Committee received statements from Dr. Gwaltney, Dr. Kassem, and Mr. Redford and discussed the petition with them.

**Closed Meeting:**

Dr. Rolon 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 Michael Gwaltney. Additionally, Dr. Rolon moved that Ms. Palmatier, Ms. Lee, and Ms. Roukous 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:**

Dr. Rolon 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.: 146878**

Ms. Roukous reported that the Committee granted Dr. Gwaltney's petition for modification of the November 5, 2009 Board Order, and restored his license to a full and unrestricted status.

Dr. Rolon moved to adopt the decision of the Committee. The motion was seconded and passed.

**Approval of Minutes:**

Upon a motion by Dr. Rolon, the minutes from the Informal Conferences conducted on March 29, 2013 and May 10, 2013 were approved.

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ADJOURNMENT:                      With all business concluded, the Committee adjourned at 2:00 p.m.

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James D. Watkins, D.D.S., Chair

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Sandra K. Reen, Executive Director

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Date

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Date