

**VIRGINIA BOARD OF DENTISTRY
MINUTES
March 11, 2016**

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 9:03 a.m. on March 11, 2016, Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.

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

BOARD MEMBERS

PRESENT: John M. Alexander, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
A. Rizkalla, D.D.S.
Evelyn M. Rolon, D.M.D.
Carol R. Russek, J.D., Citizen Member
Melanie C. Swain, R.D.H.
Tammy K. Swecker, R.D.H.
James D. Watkins, D.D.S.

BOARD MEMBERS

ABSENT: Bruce S. Wyman, D.M.D.

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:

David E. Brown, D.C., DHP Director

**ESTABLISHMENT OF
A QUORUM:**

With nine members of the Board present, a quorum was established.

Ms. Palmatier read the emergency evacuation procedures.

Dr. Gaskins explained the parameters for public comment and opened the public comment period.

PUBLIC COMMENT:

Dr. Nick Lombardozi, DDS, a pediatric dentist, asked the Board to adhere to the American Dental Association and the American Academy of Pediatric Dentistry's (AAPD) guidelines for monitoring pediatric patients during the administration of nitrous oxide for minimal sedation.

Dr. Carl Atkins, DDS, a pediatric dentist, said the current guidelines of the AAPD state that children who receive minimal sedation generally will not require more than observation and intermittent assessment of their level of sedation. He described how the current Board requirements for minimal sedation significantly increase the cost of treatment. He also questioned the requirement for recording vital signs prior to discharge.

Dr. Tegwyn H. Brickhouse, DDS, PhD, VCU School of Dentistry Pediatric Department Chair, said that there is no rationale for monitoring requirements for minimal sedation when the child is verbally responsive.

Dr. Robert A. Strauss, DDS, Oral and Maxillofacial Surgeon and Professor at VCU School of Dentistry, noted that a second person is not required for the administration of nitrous oxide and said when only nitrous oxide is administered taking intraoperative vital signs is not needed.

Kara Sprouse, RDH, DA II, said she is currently teaching the DA II program at Fortis College. She stated taking the CDA exam to be registered as a DA II was an unreasonable requirement for an RDH. She asked the Board to remove this requirement for dental hygienists to qualify for registration as a DA II.

**APPROVAL OF
MINUTES:**

Dr. Gaskins asked if there were any corrections to the December 10, 2015 minutes. Dr. Watkins moved to accept the December 10, 2015. The motion was seconded and passed. The minutes for December 11, 2015 were also adopted.

**DHP DIRECTOR'S
REPORT:**

Dr. Brown reported that DHP is working with other agencies to develop a statewide website of resources on prescribing opioids, pain management, continuing education courses, and help for addiction. He invited recommendations of sites that could be linked. He added that now dentists are required to check the Prescription Monitoring Program before prescribing opioids for more than 14 days.

**WORKFORCE DATA
REPORTS:**

Dr. Carter, director of the Healthcare Workforce Data Center, reviewed the latest reports on Virginia's dental and dental hygiene workforce prepared from the information collected through the 2015 online renewals. She highlighted the following findings:

- half the current dental workforce expects to retire by 2035.

- 84% of dentists and 91% of dental hygienists renewing online completed the surveys.
- 76% of dentists and 82% of dental hygienists reported working in Virginia.
- the median age for dentists is 50 years and for dental hygienists it is 44 years.

**LIAISON/COMMITTEE
REPORTS:**

Board of Health Professions (BHP). Dr. Watkins said he did not attend the February 11, 2016 meeting, and the minutes of the meeting are provided. He added that the topic of electronic records is still on the agenda.

AADB. Dr. Gaskins reported that Dr. Parris-Wilkins and Ms. Palmatier will attend the April, 2016 AADB Mid-Year meeting in Chicago.

ADEX. Dr. Rizkalla reported on the ADEX Bylaws changes made following SRТА's decision to not administer the ADEX exam. He added that CITA will be giving the ADEX exams at VCU. Dr. Rizkalla moved to have Ms. Reen consult with CITA to see if it would be willing to comply with Virginia's State Travel Regulations, and with Board counsel to further explore whether interested Board members can serve as examiners for CITA. The motion was seconded and passed. Dr. Gaskins added that he will appoint a Board member to SRТА's Board of Directors and another to the ADEX House of Representatives. Ms. Swecker reported that she was appointed to represent region six on the ADEX Dental Hygiene Committee.

Regulatory-Legislative Committee. Ms. Swain stated that the Committee met on February 12, 2016, and the recommendations on DA II registrations will be addressed later on the agenda. Dr. Gaskins noted that any committee's minutes of attendance should list the committee members attending along with Board members attending ex-officio (i.e.: able to vote), those committee members absent, and any other Board members attending but non-voting, separately.

SRТА. Dr. Rizkalla announced that Dr. Watkins is one of the nominees for President of SRТА. Ms. Swecker and Dr. Watkins had no additional information to report.

SCDDE. Dr. Gaskins stated that along with Dr. Watkins and Ms. Reen, they attended the annual SCDDE meeting in January, 2016. He said the "Unconscious Bias" presentation was very engaging and would be good for all Boards in DHP. The session on an

integrative model for medical and dental professionals to work together also was informative. Dr. Watkins' report was published in the meeting's materials and agenda.

LEGISLATION AND REGULATIONS:

Report of the 2016 General Assembly. Ms. Yeatts reviewed legislation passed by the General Assembly, stating:

- HB310 expands the exemptions for registration requirements to mobile dental clinics operated by federally qualified health centers, and free health clinics or health safety net clinics.
- HB319 requires boards to amend regulations to allow volunteer hours at local health departments or free clinics to count toward continuing education requirements.
- HB586 requires boards to decide whether or not to disclose practitioners' health records in notices and orders.
- SB491 authorizes the DHP director to send unsolicited reports on prescribers and dispensers.
- SB513 requires prescribers to query the PMP when prescribing opioids for more than 14 consecutive days.
- SB712 allows dental hygienists to practice under remote supervision in free clinics and federally qualified health centers.

Ms. Yeatts noted that HB310 requires the Board to amend its regulations, which can be done as an exempt action, and added SB712 requires the Board to adopt emergency regulations at its September meeting in order to meet the 280 day enactment clause. She recommended that the Regulatory-Legislative Committee be convened soon to start work on these regulations. It was noted that HB 319 also requires regulatory action.

Ms. Swain referenced SB212 and expressed her disappointment that the provision to add another citizen member to the Board had been withdrawn since it had the full approval of the Board. Ms. Yeatts explained the Board could consider submitting another legislative proposal. Dr. Brown added it appeared to him that the VDA misunderstood the reasons the proposal was made.

Status Report on Regulatory Actions. Ms. Yeatts reported:

- The comment period for the NOIRA to add capnography to the equipment required for conscious/moderate sedation ended on December 30, 2015, with no comments received. Ms. Yeatts provided a revision of the proposed regulation to amend Chapter 21; rather than Chapter 20 which has been repealed. She noted that this amendment was adopted as a fast-track action by the Board, but was changed to the standard regulatory process in response to the Department of Planning Budgets review, and is now presented for Board

action. Dr. Watkins moved to adopt the proposed amendments. The motion was seconded and passed.

- The comment period for the NOIRA to require passage of a jurisprudence examination closed on December 16, 2015, with all commenters opposing this action. Dr. Rizkalla moved to withdraw the NOIRA. The motion was seconded and passed. Ms. Reen was asked to give the history on this proposal. She explained that previously applicants were required to take the law exam, but issues arose with the testing agency. The Board then offered an exam through another testing agency for 3 hours of CE credit to get dentists to voluntarily take the exam. She added that the testing agency didn't renew the contract because only licensees under a Board Order were taking it. Following discussion of mandating an hour of CE, Ms. Reen suggested allowing staff to review the recommendations made in the comments received, look at other states' requirements, and present information at the June meeting for further discussion. Dr. Alexander moved to accept Ms. Reen's recommendation. The motion was seconded and passed.

BOARD

DISCUSSION/ACTION: **Review of Public Comment Topics.** Dr. Gaskins expressed the Board's appreciation for the comments received. In response to the comments on the nitrous oxide and minimum sedation monitoring requirements, he asked the Board to move quickly to consider amendment(s) of the requirement. Ms. Yeatts said the Board could take fast-track action. Discussion followed about the need for some research to develop the proposal. Dr. Rizkalla moved to take fast track action to amend 18VAC60-21-280, and to authorize Dr. Gaskins to convene a subcommittee to develop the language to be submitted. The motion was seconded and passed. Dr. Gaskins indicated that he would ask Dr. Alexander, Dr. Robert Strauss, Dr. Tegwyn Brickhouse, Ms. Yeatts, and Ms. Reen to be on the subcommittee. All agreed. Then Dr. Gaskins referred the comment on DA II registration to the Regulatory-Legislative Committee.

Auditing Continuing Education (CE). Ms. Reen asked the Board to review the information provided on how other boards within DHP and other boards of dentistry are conducting CE audits and provide guidance on what action the Board would like to take. Ms. Yeatts suggested requesting a statistically valid sample from Dr. Carter. Dr. Rizkalla moved to collect every year a random sample for CE audit based on Dr. Carter's statistic. The motion was seconded and passed. Ms. Reen suggested developing a guidance

document (GD) on how audits would be conducted, and she noted the Board has a GD on sanctioning for missing CE. All agreed.

Recommendation on the Requirements for DA II Registration.

Ms. Swain reported the Regulatory-Legislative Committee is planning to address these recommendations further in October. Ms. Reen added she has not yet contacted the VCU School of Dentistry.

Guidance Document (GD) Addressing Dental Practice. Ms. Reen stated that the Board asked for a GD which addresses who can own a dental practice and what duties are restricted to dentists. She said Board counsel advised her to compile the various Code of Virginia and regulatory provisions. The resulting draft is offered for consideration. Dr. Rolon moved to accept the GD as proposed. The motion was seconded and passed.

**REPORT ON CASE
ACTIVITY:**

Ms. Palmatier reported that for calendar year 2015, the Board received 552 cases and closed 680. She added that since January 1, 2016 through February 23, 2016, the Board received 52 cases and closed 35. She then reported the following for the second quarter of 2016 (October 1 – December 1, 2015):

- A total of 39 patient care cases received and 110 closed for a 282% clearance rate
- The current pending caseload older than 250 days is 33% and the goal is 20%;
- 79% of the patient care cases were closed within 250 days and the goal is 90%

She added that between November 20, 2015 and February 23, 2016, the Board has not mandatorily or summarily suspended any licenses.

She then reported the following on the fourth OMS Cosmetic Procedures Quality Assurance Review (1/1/2011 – 12/31/2013):

- 30 Oral & Maxillofacial surgeons held cosmetic procedure certifications
- 24 performed cosmetic procedures in their office
- Expert reviewer was an OMS and MD in private practice in Maryland
- Cost for the review was \$18,330.75 (\$104.75 hours x \$175)
- Four (4) were closed with no violation
- 19 were closed with advisory letters
- Two (2) were offered Pre-Hearing Consent Orders
- Two (2) were entered into Informal Orders

- Three (3) are still pending

**EXECUTIVE
DIRECTOR'S
REPORT/BUSINESS:**

Dentists Referring Patients for Sleep Studies. Ms. Reen stated that Dr. Alexander asked at the last meeting if a dentist is permitted to refer patients for sleep studies. She reported consulting with Board counsel who advised that a dentist can refer a patient for a sleep study; then the polysomnographer would perform the study under the direction of a physician and subsequently provide the report to the physician. The physician then might or might not share the results with the referring dentist.

SCDDE Annual Meeting Report. Ms. Reen stated that she also was impressed with the "Unconscious Bias" presentation at the SCDDE meeting, and she agreed with Dr. Gaskins that it would be good for board member training and also for DHP staff training.

ADA Update on Sedation and Anesthesia Guidelines. Ms. Reen said the ADA continues to work on its guidelines and is currently holding hearings for member comments. She added the Board again will be able to offer comments.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 12:21 p.m.

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

Sandra K. Reen, Executive Director

Date

Date