

**VIRGINIA BOARD OF DENTISTRY  
MINUTES  
December 12, 2014**

**TIME AND PLACE:** The meeting of the Board of Dentistry was called to order at 9:02 a.m. on December 12, 2014, Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.

**PRESIDING:** Melanie C. Swain, R.D.H., President

**BOARD MEMBERS  
PRESENT:**

John M. Alexander, D.D.S.  
Surya P. Dhakar, D.D.S.  
Charles E. Gaskins, III, D.D.S.  
A. Rizkalla, D.D.S.  
Evelyn M. Rolon, D.M.D.  
Tammy K. Swecker, R.D.H.  
James D. Watkins, D.D.S.  
Bruce S. Wyman, D.M.D.

**BOARD MEMBERS  
ABSENT:**

Sharon W. Barnes, Citizen Member

**STAFF PRESENT:**

Sandra K. Reen, Executive Director for the Board  
Kelley Palmatier, Deputy Executive Director for the Board  
Huong Vu, Operations Manager for the Board

**OTHERS PRESENT:**

David E. Brown, D.C., DHP Director  
James E. Rutkowski, Assistant Attorney General

**ESTABLISHMENT OF  
A QUORUM:**

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

Ms. Swain welcomed Dr. Brown and guests to the meeting and thanked Board staff and Mr. Rutkowski for their work on behalf of the Board.

**PUBLIC COMMENT:**

None.

**APPROVAL OF  
MINUTES:**

Ms. Swain asked if there are any corrections to the minutes as listed on the agenda. She suggested changing the term "smart phones" on page 8 of the September 12, 2014 business meeting minutes to "personal electronic devices". All agreed. Dr. Watkins

moved to adopt the minutes in the agenda package as amended.  
The motion was seconded and passed.

**DHP DIRECTOR'S  
REPORT:**

Dr. Brown reported the following:

- The Governor issued Executive Order 29 establishing the Task Force on Prescription Drug and Heroin Abuse to advise him on measures that can be taken to address the misuse and abuse of these drugs. He noted that he and several DHP staff are participating in this initiative.
- It has recently come to his attention that dentists are not reporting when they dispense Schedule II-IV controlled substances as required by §54.1-2521 of the Code of Virginia. He said that dentists will be notified of this reporting requirement so they may come into compliance. Board members commented that dispensing is on the decline in dental practices; improper dispensing is an issue in cases; and, drug supply companies may be a good source of information on who is dispensing.
- He is meeting with members of the health regulatory boards to gain their perspective on the work of the boards and the department. He said Dr. Wyman met with him prior to the meeting and he encouraged other members to schedule a time to talk with him.

**PRESCRIPTION MONITORING**

**PROGRAM UPDATE:**

Mr. Orr, PMP Director, reported the following:

- The results of the recent National Survey on Drug Use and Health indicates that 53% of Americans do not get rid of left over prescription drugs; and, in 2012, dentists were the number one prescribers of opioid analgesics for patients aged 10 to 19.
- The PMP operates a 24/7 database on the number of Schedule II-IV drugs prescribed or dispensed in Virginia and has more than 1000 dentists registered as users. He added that the database is interoperable within 17 states and that over 1.3 million requests were received in 2013. He said that effective July 1, 2015 it will be mandatory for all prescribers to register and that an email address must be provided. He added that dentists, who do not have DEA registrations, must provide a National Provider Identifier (NPI) and that dentists will be notified to register through the renewal notices to be sent in 2016 but that dentists can register now.

Discussion followed about:

- Educating dentists about using nonsteroidal anti-inflammatory drugs instead of narcotic.
- Hydrocodone being scheduled as a level II drug may add to the problem of leftover medicine because many long distance patients will receive larger prescriptions since prescribers no longer have the ability to phone in refills.
- Prescribers educating patients about the importance of disposing unused drugs. Unused prescription narcotics left in the medicine cabinet and used by other family members is one of the most common reasons for entrance into addiction.
- Emergency provisions for Schedule II drugs.

**HWDC 2014 DENTISTRY &  
DENTAL HYGIENIST  
SURVEY RESULTS:**

Mr. Crow of the Healthcare Workforce Data Center (HWDC) stated that the same data fields are addressed across the health professions to facilitate comparisons and that boards can add additional questions. He said that surveys are completed voluntarily by dentists and dental hygienists who renewed their licenses online. He provided the 2014 reports and highlighted the following:

- 77% of dentists (about 5500), and 84% of dental hygienists (about 4700) completed the surveys;
- 4589 dentists and 3078 dental hygienists reported working in Virginia;
- 40% of dentists and 64% of dental hygienist obtained their professional degree in Virginia; and
- The median age for dentists is 49 and for dental hygienists is 43.

Mr. Crow asked the Board for input or comments by the end of 2014 so the reports can be posted to DHP's website by the first week of January 2015. In response to questions, he said:

- The Board could, for example, add a question to the dental survey to get information on the number of dentists who dispense medications.
- The next survey results will be available in June or July 2015.

**LIAISON/COMMITTEE  
REPORTS:**

**Board of Health Professions (BHP).** Dr. Watkins reviewed the powers and duties of BHP to address the budget, policies and activities of the Department of Health Professions. He said that, as a member of BHP, he could present questions and issues that may also affect the other health profession boards for discussion. It was

noted that a public hearing will be held in January 2015 on BHP's Dental Hygienist Scope of Practice Review.

**AADB.** Ms. Swain noted that she, Dr. Wyman, and Ms. Reen attended the annual meeting in October, 2014 and asked Dr. Wyman to comment on the meeting.

Dr. Wyman said the topics addressed were:

- The benefits of joining Dental Support Organizations and the voluntary Code of Ethics in place for these organizations.
- Corporate owned group dental practices and the Nevada Board of Dentistry's work with its "State Corporation Commission" to hold corporations accountable for practice requirements.
- The dentist's role in addressing sleep apnea.

**ADEX.** Dr. Rolon stated that the House of Representative meeting was great and that a standardized test for dental hygienists modeled after the SRTA exam will be administered next year.

Dr. Rizkalla stated that he attended the Dental Examination Subcommittee meeting where making the periodontal component mandatory was discussed but no action was taken. He said that ADEX advises everyone to take the periodontal component even if a state does not require it. He added that candidates are now allowed to have a second submission for the periodontal component but imposing a 21-point penalty for a second submission is being considered.

**SRTA.** There was no new information to report.

**Regulatory-Legislative Committee.** Dr. Wyman reviewed the topics discussed by the Committee on October 24, 2014 then made the following motions for action as advanced by the Committee:

- Dr. Wyman moved to establish a task force to look at the DA II requirements. The motion was seconded. During discussion of the motion, it was suggested that an open forum format be used instead of a task force and that the motion be expanded to include consideration of allowing dental hygienists to take continuing education classes to qualify to perform the duties delegable to DAsII, and consideration of expansion of remote supervision of dental hygienists to community clinics. Dr. Wyman amended his previous motion to hold an open forum and to include consideration of the practice of dental hygiene. The seconder agreed and the motion passed as amended.

- Dr. Wyman moved to authorize the Board's president to convene an open forum to address teledentistry. The motion was seconded and passed.

Dr. Gaskins moved to accept the Committee's report as presented. The motion was seconded and passed.

## **LEGISLATION AND REGULATIONS:**

**Status Report on Proposed Legislation.** Dr. Brown reported that the Board's proposed legislation on fee-splitting was not approved by the Governor for submission to the 2015 General Assembly. In response to questions, he said he was not given a reason and that the Board has no recourse for this session. Dr. Brown indicated he just found out about this and would attempt to find the reason for the Governor's action.

**Status Report on Regulatory Actions.** Ms. Reen reported that the Periodic Review to reorganize Chapter 20 into four new chapters: 15, 21, 25 and 30, was approved by the Secretary of Health and Human Resources and is now at the Governor's office.

## **BOARD**

### **DISCUSSION/ACTION:**

#### **Review of Public Comment Topics.**

VSOMS Letter on Obstructive Sleep Apnea – Gr. Gaskins moved to include this information in the materials for the open forum. The motion was seconded and passed.

AAO Letter on "Do It Yourself" Teeth Straightening – Dr. Gaskins stated that the Board has no authority over companies outside of VA. Ms. Swain said that the Board will take this as information only.

**VDA Invitation for Dinner.** Ms. Swain reported that the Board received an invitation for a dinner meeting with the VDA board of directors. After expressing her appreciation for the invitation, she stated that, based on advice of counsel, the Board has to decline. She asked Mr. Rutkowski to address his guidance. Mr. Rutkowski stated that when three or more Board members meet to discuss professional practice, all FOIA requirements apply. He added that holding a meeting with a particular association could raise anti-trust concerns and open the Board to collusion litigation.

**AADB Letter about Membership.** Dr. Wyman commented that he thought it was worthwhile to participate in the meetings for the discussion of issues, noting that the Board can attend without membership; he and Ms. Reen also recommended not to have the board hold membership in the AADB. Discussion followed about the voting structure and policies of AADB which led the Board to not

renew its membership several years ago. Dr. Gaskins moved that, until AADB changes its parliamentary procedures for adequate voting, the Board send members to the meetings but not join. The motion was seconded and passed.

**LA Board Letter to ADEX.** Dr. Rizkalla reported that ADEX maintains information on the number of failures for its exam and felt no action on its part is needed. Ms. Reen said this was discussed at the recent meeting of dental board administrators and there was general support for having a clearinghouse where all testing agencies reported results. She asked for the Board's guidance given that the Board accepts all exams and is now relying solely on the honesty of applicants to report all failures. She added that there is a regulation requiring dental applicants who fail any section of a clinical exam three times to complete a minimum of 14 hours of additional clinical training on that component in order to take the exam a fourth time. Dr. Rizkalla moved that the Board encourage the development of a centralized databank for clinical exam results. The motion was seconded and passed.

**ADA Request for Comments on its Sedation & Anesthesia Guidelines.** Dr. Rizkalla and Dr. Alexander said they had reviewed and are impressed with the Guidelines. Ms. Reen noted that it is an opportunity for the Board to address the Board's reliance on the Guidelines for issuing permits and its need for assistance with interpretations from time to time. Ms. Reen suggested that the Board authorize the President to review and approve comments drafted by Dr. Rizkalla, Dr. Alexander and Board staff. Dr. Rizkalla moved to accept Ms. Reen's suggestion. The motion was seconded and passed.

**REPORT ON CASE  
ACTIVITY:**

Ms. Palmatier reported on the Board's disciplinary case statistics, noting that Q1 of FY2015, the Board received 70 cases and closed 79 cases for a 113% clearance rate; which is up from 62% in Q4 of FY2014, and 67% of the patient care cases were closed within 250 days, as compared to 63% in Q4 of FY2014. She pointed out that the Board is again moving in the right direction for the first quarter of 2015 and staff appreciates the hard work of the Board members.

**PERMIT INSPECTION  
REPORT:**

Ms. Palmatier said the Board has received about 15 inspection reports and staff is requesting guidance on how to address them. She added that the inspectors report that permit holders are cooperative and interested in learning. She said that in most cases only minor violations such as recordkeeping are identified. Ms. Reen asked if the Board would like to grant staff the authority to

send advisory letters when only minor violations are identified. She said this approach was used when audits of OMSs with cosmetic certification were commenced. Dr. Rizkalla moved to authorize staff to issue advisory letter for minor deficiencies. The motion was seconded by Dr. Watkins. Dr. Gaskins commented that missing equipment and drug violations are not minor. Dr. Rizkalla amended his motion to add that Dr. Alexander will serve as a consultant for staff to address questions about the seriousness of a finding. Dr. Watkins agreed to the amendment and the motion passed.

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

**Review of Executive Order Number 2.** Ms. Reen stated this order prohibiting the receipt of certain gifts applies to every Board member and asked for careful consideration of this policy.


**Review of Guidance Document 60-20 on Radiation Certification.** Ms. Reen said that the vacated guidance document on radiation certification and the proposed revision are presented for Board consideration and action. She noted that the vacated document was removed from Board's web page because it is outdated as a result of changes made to 18VAC60-20-195 of the Regulations Governing Dental Practice. She added that the proposed draft addresses the Board's prior decision to continue to recognize persons who qualified to take x-ray under previous regulatory provisions which were stricken in 2011. Dr. Wyman moved to accept the proposed draft as presented. The motion was seconded and passed.

**Department of Medical Assistance Services (DMAS).** Ms. Reen said she wanted to make the Board aware that as a result of Dr. Brown's leadership, she and Enforcement staff are working with DMAS to identify information that can be shared about health professionals, including dentists, whose participation in the Medicaid program has been terminated.

**New Business.** Dr. Gaskins noted that at the June 13, 2014 business meeting, the Board passed a resolution to send Dr. Brown a request that DHP expands its investigation capacity to include a forensic IT specialist(s). He moved to amend the previous motion to also send the resolution to the Board of Health Professions. The motion was seconded and passed.

Virginia Board of Dentistry  
Board Business Meeting  
December 12, 2014

**ADJOURNMENT:** With all business concluded, the meeting was adjourned at 11:30 p.m.



Melanie C. Swain, R.D.H., President



Sandra K. Reen, Executive Director

3/13/15

Date

March 13, 2015

Date