

**VIRGINIA BOARD OF DENTISTRY  
BUSINESS MEETING MINUTES  
March 11, 2022**

- TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:02 a.m., on March 11, 2022 at the Perimeter Center, 9960 Mayland Drive, in Board Room 2, Henrico, Virginia 23233.
- PRESIDING:** Nathaniel C. Bryant, D.D.S., President
- MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD., Vice President  
Jamiah Dawson, D.D.S., Secretary  
Sidra Butt, D.D.S.  
Sultan E. Chaudhry, D.D.S.  
Alf Hendricksen, D.D.S.  
Margaret F. Lemaster, R.D.H.  
J. Michael Martinez de Andino, J.D.  
Dagoberto Zapatero, D.D.S.
- MEMBERS ABSENT:** Joshua Anderson, D.D.S.
- STAFF PRESENT:** Jamie C. Sacksteder, Deputy Executive Director  
Donna Lee, Discipline Case Manager  
Sally Ragsdale, Executive Assistant  
David C. Brown, D.C., Agency Director, Department of Health Professions  
Erin Barrett, Senior Policy Analyst, Department of Health Professions
- COUNSEL PRESENT:** Charis A. Mitchell, Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With nine members of the Board present, a quorum was established.
- Ms. Sacksteder read the emergency evacuation procedures.
- There were no additional announcements or any additional items added to the agenda.
- Ms. Sacksteder stated that the Board received written comment from VCU School of Dentistry and additional documentation from Dr. Zapatero regarding the jurisprudence exam for discipline cases, which were distributed to the Board members. She also stated that the Agenda cover page was corrected to show that Dr. Brown is a D.C. not an M.D.
- PUBLIC COMMENT:** Dr. Bryant explained the parameters for public comment and opened the public comment period. There was no public comment.
- APPROVAL OF MINUTES:** Dr. Bryant asked if there were any edits or corrections to the December 9, 2021 Formal Hearing minutes, December 10, 2021 Business Meeting minutes, and the December 10, 2021 Formal Hearing minutes. Dr. Bonwell moved to approve the minutes as presented. The motion was seconded and passed.

**DIRECTOR'S REPORT:**

Dr. Brown informed the Board that Dr. Allison-Bryan retired and commended her on her hard work with DHP. Dr. Brown stated that the metrics pertaining to COVID are improving statewide and nationally; the spread is mainly due to the lack of vaccination. Dr. Brown stated that by April 4, 2022, DHP employees should be prepared to come back to the new normal that will allow up to three days a week for teleworking, which will be at the discretion of the supervisor. He stated there is a balance between the benefits of teleworking such as not having to commute and spending less money on gasoline, but also a sense of community in the agency and connectivity in the work environment.

Dr. Brown provided an update in security, there are plans to enhance security when entering the building, especially as it pertains to disciplinary proceedings. He also provided an update in the audio system, the estimate time frame initially was Spring 2022 but has not happened yet because vendors are waiting to receive necessary equipment. Dr. Brown stated that he is impressed with the new Secretary of Health and there are weekly meetings with the Agency. The Governor is still making appointments, which includes Dr. Brown's position. Dr. Brown would like to be at DHP for another four years.

Dr. Brown was questioned about virtual meetings and he explained that a bill was introduced to allow meetings virtually; however, it was amended to exclude regulatory meetings and ultimately excluded DHP. Dr. Brown stated that there is currently an agency policy that allows for one Board member to participate remotely as long as there is a physical quorum within the building at DHP. There would need to be a legitimate reason for the Board member to participate remotely, which would allow the Board to address issues quickly, if needed.

**LIAISON & COMMITTEE REPORTS:**

**Report on Regulatory-Legislative Committee Meetings** – Dr. Bonwell referred the Board to page 15 of the agenda package that contained her report and the minutes from the Regulatory-Legislative Committee meeting held on February 18, 2022 that are pages 10-14 of the agenda package. She stated there were no recommendations made by the Committee. Dr. Bonwell also referred the Board to the March 19, 2021 Board Business Meeting minutes on page 19 of the agenda package where Ms. Reen stated "the Board's position has been that a dentist can refer patients for a sleep study, but only a medical doctor can make a diagnosis; then the medical doctor can refer a patient for dental treatment to address sleep apnea. Ms. Yeatts confirmed that sleep studies fall within the scope of practice of medicine and dentists are allowed to make referrals but not a diagnosis".

After discussion, Dr. Bonwell moved that the Board do nothing on this position and hold its historical position that a dentist can refer to a medical doctor to order a home sleep test and diagnose, and the medical doctor can refer to a dentist for dental treatment. The motion was seconded and passed.

**LEGISLATION,  
REGULATION, AND  
GUIDANCE:**

**Status Report on Regulatory Actions Chart** -Ms. Barrett introduced herself to the Board as the new Senior Policy Analyst and stated Ms. Yeatts would be retiring on April 1, 2022. Ms. Barrett informed the Board that she previously worked with the Office of the Attorney General and represented DHP Boards and also substituted as board counsel for other boards so she is very familiar with DHP.

Ms. Barrett reviewed the updated Regulatory Actions. The following proposed regulations are currently at the Governor's Office:

- amendment to restriction on advertising dental specialties; and
- technical correction to fees; and

The comment period ends on April 1, 2022 for training and supervision of digital scan technicians.

The comment period ended on March 4, 2022 for training in infection control and it will be presented at the June Board Meeting for action.

**NOIRA for Regulations Governing the Practice of Dental Assistants** – Ms. Barrett stated this NOIRA is for the removal of pulp capping as a delegable task for a DAI. She recommended that this topic be sent to the Regulatory-Legislative Committee for further consideration because there are currently a number of people authorized to do this function and a further explanation is needed for the change to limit this ability for a DAI.

Dr. Bryant stated that the NOIRA should be for direct pulp capping to be removed because there is no training for a DAI to perform this function.

Ms. Barrett reiterated that she recommended that the Regulatory-Legislative Committee consider this issue because there could be legal concerns if the Board removes this ability from those who are already allowed to perform this task.

Dr. Bonwell moved that this matter be referred to the Regulatory-Legislative Committee for further discussion. The motion was seconded and passed.

**Report of the 2022 General Assembly** – Ms. Barrett provided the following updates:

- **HB 80:** Healthcare Regulatory Sandbox Program – Legislation failed.
- **HB 192:** Opioids; repeals sunset provisions relating to prescriber requesting information about a patient – Legislation will continue.
- **HB 213:** Optometrists; allowed to perform laser surgery if certified by Board of Optometry – New certification for the Board of Optometry.
- **HB 244:** Regulatory Budget Program; DPB to establish a continuous program, report – Legislation failed.
- **HB 444:** Virginia Freedom of Information Act; meetings conducted through electronic meetings – The Board is excluded from using this

exception.

- **HB 555:** Health care providers; transfer of patient records in conjunction with closure, etc. – Updated to show electronic notice permitted along with mail.
- **HB 1359:** Health care; consent to services and disclosure of records – Legislation passed.
- **SB 317:** Out-of-state health care practitioners; temporary authorization to practice – Health care practitioner can practice for 90 days while waiting for licensure if they hold a license in another state.
- **SB 590:** Dentistry, license to teach; foreign dental program graduates – Applies to foreign dentists with a sunset clause of July 1, 2025.

**Notice of Periodic Review of Chapters 21, 25, and 30** – Ms. Barrett explained periodic review is done routinely to determine whether new regulations should be adopted and old regulations amended or repealed. Mr. Martinez moved that the Board issue a Notice of Periodic Review of Chapters 21, 25, and 30 of the Board of Dentistry Regulations. The motion was seconded and passed.

**Review Guidance Document 60-25 – “Dental Applications by Credentials”** – Ms. Barrett informed the Board that a petition for rule-making was submitted, but it is really an amendment to the guidance document and a petition for rule-making would not apply. She referred the Board to page 40 of the agenda package under the title “Dental Applications by Credentials”. Ms. Barrett explained there appeared to be a typographical error. Dr. Bryant pointed out that there was an error in copying of the language and the intent was not for the applicant to have to retake the exam. Ms. Barrett made the suggested language “the Board will accept a passing score of the Clinical Competency Exam required in the state in which the dentist was originally licensed” along with the regulation requirement of every candidate shall have been in continuous clinical practice in another jurisdiction of the United States or in federal civil or military service for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in another jurisdiction of the United States (i) as a volunteer in a public health clinic, (ii) as an intern, or (iii) in a residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant. 18VAC60-21-210.B.

Dr. Bonwell moved to amend Guidance Document 60-25 to the recommended language presented. The motion was seconded and passed.

**Review Guidance Document 60-26 – “Dental Hygiene Applications by Credentials”** – Ms. Barrett referred the Board to page 44 of the agenda package under the title “Dental Hygiene Applications by Credentials”. Discussion was had regarding 60-26, since it presented similar issues for Dental Hygiene Applicants by credentials, Ms. Barrett made the suggested language “the Board will accept a passing score of the Clinical Competency

Exam required in the state in which the dental hygienist was originally licensed" along with the regulation requirement of an applicant must be currently licensed to practice dental hygiene in another jurisdiction of the United States and have clinical, ethical, and active practice for 24 of the past 48 months immediately preceding application for licensure. 18VAC60-25-150.2

Dr. Bonwell moved to amend Guidance Document 60-26 to the recommended language presented. The motion was seconded and passed.

Dr. Butt left the meeting at 10:23 a.m.

**BOARD DISCUSSION  
TOPICS:**

**CE Reporting Companies** – Dr. Bryant gave some historical context that the Board considered CE reporting in the 2016-2017 time period. CE Reporting Companies monitor and record continuing education for dentists. There is reportedly no cost to the Board or the dentist. He proposed that the Exam Committee review the issue again and make a recommendation to the Board.

After discussion, Dr. Bonwell moved that the matter be referred to the Exam Committee to conduct further research and make a recommendation to the Board. The motion was seconded and passed.

**Agency Subordinate to hear Inspection and Level D Cases** – Ms. Sacksteder addressed the Board regarding the use of an agency subordinate to hear sedation inspection and Level D cases. She explained that Level D cases are mostly recordkeeping and advertising. She stated there was a backlog of inspection cases that required an informal conferences; however, level B and C cases were given priority as far as scheduling informal conferences. Ms. Sacksteder explained the agency subordinate process and the responsibility of the agency subordinate. The agency subordinate would not hear any standard of care cases. Ms. Sacksteder stated that presently there is not a backlog of inspections cases, but to avoid any future backlog and to be proactive regarding case scheduling, she requested the utilization of an agency subordinate and recommended that Mr. Martinez be the designated agency subordinate.

Dr. Dawson moved that the Board utilize an agency subordinate to conduct informal conferences for inspection and Level D cases, and that Mr. Martinez be selected as the agency subordinate. The motion was seconded and passed.

**Jurisprudence Exam for Discipline Cases** – Dr. Zapatero discussed with the Board his reasons for requesting that the jurisprudence exam be allowed for disciplinary cases. He stated that the Board did offer the jurisprudence exam, but in 2016 it was allowed to lapse and he asked that the Board restore an open book jurisprudence exam for the disciplinary process or new licensees.

Ms. Barrett stated that a NOIRA was issued in 2016 to require all licensees

to take a jurisprudence exam, and there were 191 public comments opposed to it so it did not go forward. Dr. Bryant also stated that in 2016 the Board discussed it and spent hours to design a test and psychometrics were involved; the NOIRA was pulled.

Ms. Sacksteder reiterated that the request is to administer the jurisprudence exam for disciplinary cases only and would effect a small number of licensees.

After discussion, Dr. Borwell moved that the matter be referred to the Exam Committee to conduct further research and make a recommendation to the Board.

**BOARD COUNSEL  
REPORT:**

Ms. Mitchell stated she was substituting for Mr. Rutowski. She stated there was no report.

**DEPUTY EXECUTIVE  
DIRECTOR'S REPORT:**

Ms. Sacksteder reviewed the disciplinary Board report on case activity from January 1, 2022 through February 28, 2022, giving an overview of the actions taken and a breakdown of the cases closed with violations.

Ms. Sacksteder informed the Board that Dr. Parris-Wilkins, a former Board member, has been hired as the Dental Review Coordinator and she will start on April 11, 2022.

Since Ms. Yeatts will retire on April 1, 2022, Ms. Sacksteder recognized some of her personal awards and professional accomplishments with the Department of Health Professions, and stated that the Board appreciated her many years of service. Dr. Bryant also remarked on the exceptional work that Ms. Yeatts did with the Board. The Board saluted Ms. Yeatts in her absence.

**ADJOURNMENT:**

With all business concluded, the Board adjourned at 11:25 a.m.



Nathaniel C. Bryant, D.D.S., President



Jamie C. Sacksteder, Deputy Executive Director

10 Jun 2022

Date

6/10/22

Date