

APPROVED

**VIRGINIA BOARD OF DENTISTRY
FULL BOARD MINUTES**

December 14, 2018

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Dr. Parris-Wilkins called the meeting of the Board to order at 9:04AM. With 9 Board members present, a quorum was established. Ms. Reen provided the emergency egress procedures for Board Room 4.
- MEMBERS PRESENT:** Tonya A. Parris-Wilkins, D.D.S., President
Augustus A. Petticolas, Jr., D.D.S., Vice President
Sandra J. Catchings, D.D.S., Secretary
James D. Watkins, D.D.S.
Perry E. Jones, D.D.S.
Carol R. Russek, JD
Jamiah Dawson, D.D.S.
Patricia B. Bonwell, R.D.H., PhD
- MEMBERS ABSENT:** Nathaniel C. Bryant, D.D.S.
- STAFF PRESENT:** Sandra K. Reen, Executive Director of the Board
Kelley W. Palmatier, Deputy Executive Director of the Board
Sheila Beard, Executive Assistant
David Brown, DC, DHP Director
Elaine Yeatts, DHP Policy Analyst
- COUNSEL PRESENT:** James E. Rutkowski, Assistant Attorney General
- PUBLIC COMMENT:** Shawn Murphy, Vice President of Advocacy & General Council for American Assoc. of Orthodontist – Mr. Murphy spoke to the board about rising concerns surrounding Smile Direct Club and read two reviews posted on Yelp stating the dissatisfaction from consumers who have tried this product.
- Dr. Parris-Wilkins directed attention to the written comments received on the topics of: periodic testing of licensees; blood glucose testing/diabetes screening; the National Commission on Recognition of Dental Specialties and Certifying Boards; and implementation of the Integrated National Board Dental Examination.
- ELECTION OF OFFICERS:** Dr. Watkins reported the Nominating Committee’s nominees are Dr. Parris-Wilkins for president, Dr. Petticolas for vice-president and Dr. Catchings for secretary. He then asked if there were any nominations from the floor. Hearing none, the Committee’s motion to elect the nominees passed.
- APPROVAL OF MINUTES:** Dr. Parris-Wilkins asked if there were corrections to any of the 5 sets of minutes. Hearing none, Dr. Watkins moved to adopt the minutes as presented. The motion was seconded and passed.

DHP DIRECTOR'S REPORT

Dr. Brown informed the Board about positive developments in addressing the opioid crisis in Virginia. He said preliminary data from the office of the Chief Medical Examiner indicates the number of people dying from opioids should decrease this year. In addition, information from the PMP shows a significant decrease in the amount of opioids being dispensed. He also said the Secretary of Health and Human Resources has sent Core Competencies for addressing addiction and pain management to schools and programs training prescribers. He added that grant funding awarded to the Department of Behavioral Health will provide online educational tools for practitioners and for the schools. Dr. Brown also reported that Medicaid expansion will include funding for treatment of addiction and that Medicaid has worked hard to establish the infrastructure of providers that will help to support the expansion.

CONFERENCE/MEETING REPORTS

- **Southern Regional Testing Agency** – Dr. Watkins reported that SRTA has decided to merge with CITA. By the year 2020, the combined agency will operate under a new name. Dr. Watkins said he will attend the CITA Board of Directors meeting in January 2019 to participate in planning the merger. He added that SRTA has withdrawn its application to join ADEX. He also noted that SRTA has requested that ADEX refund a portion of the \$30,000 SRTA paid when it withdrew from ADEX. Dr. Watkins has submitted a full report on the SRTA Conference held in August.
Dr. Bonwell reported she attended the SRTA Conference and participated in meetings addressing the dental hygiene exam as well as the General Assembly. She noted that her full report is located in the agenda package.
- **Board of Health Professions** – Dr. Watkins stated there is no information to report because there wasn't a quorum to conduct business at the last meeting.
- **American Association of Dental Boards** – Dr. Catchings said she attended the AADB meeting which was very educational. She stated it helped round out the knowledge of what our board does and the issues that all the boards face. She also stated that it provided a deeper understanding of the role the FTC plays in dentistry. She added that her full report is included in the agenda package.
Dr. Parris-Wilkins reported that she also attended the AADB meeting in September and found the meeting to be informative. She expressed appreciation of the conference planners and their willingness to include topics on the agenda that may be controversial but provided insight into what other boards are going through as well. She added that her full report is included in the agenda package.
- **American Board of Dental Examiners** - Dr. Bryant's report on this meeting is included in the agenda package.
- **Joint Commission on National Dental Examinations** – Dr. Bryant's report on this meeting is included in the agenda package.

BOARD COMMITTEE REPORTS

- **Examination Committee** – Dr. Watkins said the minutes of the August 10, 2018 meeting are in the agenda package. He added that the Committee is recommending that guidance document 60-25 be amended and that a regulatory action be taken to establish the required content for dental clinical exams and that both actions will be addressed later on the agenda.
- **Regulatory-Legislative Committee** – Dr. Petticolas informed the Board that the minutes from the meetings held on June 29, 2018 and October 26, 2018 are in the agenda package. He added that Ms. Yeatts will lead the discussion of the pending regulatory actions addressed by the Committee later on the agenda.

LEGISLATION AND REGULATORY ACTIONS

- **Administration of schedule VI drugs by dental hygienists** – Ms. Yeatts reported that the proposed legislation was approved by the Governor and is going forward. In response to a question, Ms. Yeatts replied that Delegate Tran will be the patron of the bill.
- **Regulation for opioid prescribing** – Ms. Yeatts said that the proposed regulation is presented for adoption to replace the emergency regulation. She said this regulation is identical to the proposed regulation, as recommended by the Regulatory-Legislative Committee. Dr. Bonwell made the motion to adopt the final regulations. The

motion was seconded and passed.

- **Proposed Regulation for administration of sedation & anesthesia** – Ms. Yeatts reviewed the regulation as recommended by the Regulatory-Legislative Committee and the amendments the Committee authorized. She reviewed the additional amendments which included: taking the word “anxiolysis” out of the definition of minimal sedation; adding a definition of the word “provide” as used in these regulations; in 18VAC60-21-279, moving the word “only” in the subsection title to follow after oxide in the parentheses “(nitrous oxide)”; and in 18VAC60-21-301.B(2) adding language to address the supervision of a certified registered nurse anesthetist by a medical doctor in accordance with a practice agreement. Dr. Catchings thanked Ms. Yeatts for her work and then made a motion to delete the words “or general anesthesia” in 18VAC60-21-280.F(4) stating that they are redundant and do not reflect passing into the next level of sedation in a continuum. The motion was seconded and passed. Dr. Catchings moved to adopt the proposed regulations as amended by the Board. The motion was seconded and passed.
- **Proposed Regulation for use of dental specialties** – Ms. Yeatts reminded the Board that this regulation was originally adopted as a fast-track action, however, there were 10 or more objections to the fast track, so the action was converted to the standard process at the NOIRA stage. She noted that, following review of the numerous objections to the proposed deletion of the language addressing dental specialties, the Regulatory-Legislative Committee did not amend the proposed language. In response to questions, Mr. Rutkowski explained that the findings in the Parker case against the Texas Board of Dentistry would apply to the current language in the Board’s regulations. He advised that keeping the current language would not withstand a court challenge. Following discussion, Dr. Catchings made the motion to adopt the regulation as proposed. The motion was seconded and passed.
- **Proposed Regulation for change in renewal schedule** – Ms. Yeatts stated the public comment period on the NOIRA for changing the renewal schedule to birth months ended on September 5, 2018. The Regulatory-Legislative Committee reviewed the proposed schedule and the associated plan for fee reductions for dentist, dental hygienists and dental assistants II during the year of 2021. Discussion followed about the effect changing the renewal schedule would have on meeting the continuing education requirement. The question was whether CE should be tracked by calendar year or by birth month. Dr. Jones made the motion to follow the Board of Medicine’s process for tracking CE requirements by birth month. The motion was seconded and passed. Ms. Russek moved to adopt the proposed regulation with amendments to change the renewal schedule to birth month as recommended by the Regulatory-Legislative Committee. The motion was seconded and passed.
- **Proposed Regulation for education and training of dental assistants II** – Ms. Yeatts explained that the substance of this proposal was recommended by a Regulatory Advisory Panel (RAP) convened in January 2017 and that the NOIRA on this action ended on September 5, 2018 with a few comments on the testing requirement and the reduction of hours. She added that, on November 27, 2018, the draft regulations were reviewed with the program director of the DAII educational program in Virginia to discuss the appropriate language to use to advance the RAP’s guidance on moving to competency based educational requirements. Dr. Petticolas moved to adopt the proposed regulations. The motion was seconded and passed.
- **NOIRA for required content of dental examination** – Ms. Yeatts reported that the Regulatory-Legislative Committee recommended advancing a regulatory proposal to include specific content for examinations acceptable to the Board. She also suggested submitting this proposal as a fast-track action. Dr. Watkins made the motion to submit the proposed regulation as a fast-track action. The motion was seconded and passed.
- **Action on Petition for Rulemaking** – Ms. Yeatts stated that the petition for rulemaking was reviewed by the Regulatory-Legislative Committee, which considered whether the Board should grant continuing education credits for volunteer dentists who serve as preceptors to senior VCU dental students practicing at community/free clinics. The Committee recommended denying the petition. Ms. Ridout moved to deny the petition as recommended by the Regulatory-Legislative Committee. The motion was seconded and passed.

BOARD DISCUSSIONS

Public Comment

- **Mr. Murphy's comments on Smile Direct Club** – Dr. Dawson and Dr. Catchings addressed their interest in educating the public about companies such as Smile Direct Club and asked what the Board could do. Ms. Reen responded that the Board has no authority to address the practices of dental businesses, it can only address licensees.
- **Ms. McGraw's Comments on Blood Glucose screening** – Ms. Ridout expressed her support for the comment and distributed handouts showing the benefits of screening for diabetes in order to refer patients that need care. She said allowing dentists to be proactive would provide a higher standard of care. Mr. Rutkowski shared the definition of “dentistry” and stated that A1C testing does not fit within the current definition. Ms. Yeatts added that the definition would have to be changed and other medical conditions related to the oral cavity would have to be identified and addressed. Dr. Parris-Wilkins assigned discussion of A1C testing and the definition of dentistry to the Regulatory-Legislative Committee. Ms. Reen said a decision to propose changing the definition of dentistry would need to be made at the June 2019 Board meeting into order to advance legislation for the 2020 Session of the General Assembly.

Review of Guidance Documents

- **60-13 Practice of a Dental Hygienists under Remote Supervision** – Ms. Reen explained that the changes in this document address the statutory changes enacted in 2017 and also address the current legal provisions in the Drug Control Act related to the practice of hygienists. She added that this document will need to be revised again if the legislation on remote supervision is passed. Dr. Watkins moved to adopt the proposed changes and to re-adopt the revised guidance document. The motion was seconded and passed.
- **60-15 Standards for Professional Conduct In the Practice of Dentistry** – Ms. Reen asked for consideration of striking the last bullet point in the section on Advertising Ethics. She said this section restricts claiming a specialty to dentists who hold a credential from an advanced postgraduate education program, which is inconsistent with the statute that allows a general dentist to advertise a specialty. Dr. Watkins made a motion to adopt the change and to re-adopt this guidance document as revised. The motion was seconded and passed.
- **60-17 Policy on Recovery of Disciplinary Costs** – Ms. Reen said this document is revised annually to reflect the costs incurred in the previous fiscal year for investigations and for monitoring dentists or hygienists under a board order. In addition, this draft includes changes in the policies on the assessment of costs recommended by the Regulatory-Legislative Committee. Dr. Petticolas moved to adopt this guidance document with the proposed changes. The motion was seconded and passed.
- **60-25 Policy on Dental Clinical Examinations Acceptable to the Board** – Ms. Reen said the Examination Committee recommends revising this document to eliminate the language stating all examination taken after December 7, 2012 must meet the stated requirements and replacing it with examinations taken after January 1, 2019. She explained a policy cannot be applied to a time period before it is adopted. She added that changing the term “periodontal” to “periodontics” is also recommended. A motion was made by Ms. Ridout to adopt the guidance document with the proposed changes. The motion was seconded and passed.
- **2019 Board Meeting Calendar** – Ms. Reen noted that Ms. Beard surveyed Board members earlier this year for conflicts with the proposed meeting dates for 2019. She said the calendar is presented for adoption. Dr. Bonwell moved to adopt the Board Calendar. The motion was seconded and passed.

BOARD COUNSEL REPORT

Mr. Rutkowski said he has nothing to add to his comments given during the discussion of specialty advertising and A1C testing.

DEPUTY EXECUTIVE DIRECTOR REPORT/BUSINES

● Disciplinary Activity Report

Ms. Palmatier reviewed her report covering the last quarter of FY2018 and the first quarter of FY2019. She said 90 patient care cases were received in the last quarter of 2018 and 98 patient care cases were closed, achieving a 109% clearance rate. She explained that across the boards in DHP the percentage of cases closed within 120 days has decreased. She noted that two mandatory suspensions of dental licenses were ordered between May 26, 2018

and November 16, 2018. She also reported on actions taken on late renewals and on OMS audits.

- Ms. Reen recommended the guidance document on late license renewals be referred to the Regulatory-Legislative Committee to address needed changes. The Board agreed to this recommendation by consensus.
- Ms. Palmatier shared written reports from dental and dental hygiene students who observed informal conferences and formal hearings as information for review and discussion.

EXECUTIVE DIRECTOR REPORT

Ms. Reen stated that she also attended the AADB meeting in September and submitted full report on the meeting to Dr. Brown. She added that she has worked on all the items on the agenda and has no additional activities to report.

CALIBRATION EXERCISE

- This exercise was not conducted.


ADJOURNMENT: With all business concluded, Dr. Parris-Wilkins adjourned the meeting at 11:35 AM.




Tonya A. Parris-Wilkins, D.D.S., President



Sandra K. Reen, Executive Director



Date



Date