

**VIRGINIA BOARD OF DENTISTRY
BUSINESS MEETING MINUTES
June 10, 2022**

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 9:03 a.m., on June 10, 2022 at the Perimeter Center, 9960 Mayland Drive, in Board Room 4, Henrico, Virginia 23233.

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

MEMBERS PRESENT: 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.
Patricia B. Bonwell, R.D.H., PhD.

STAFF PRESENT: Jamie C. Sacksteder, Acting 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: Jim E. Rutkowski, Assistant Attorney General

ESTABLISHMENT OF A QUORUM: With eight members of the Board present, a quorum was established.
Ms. Sacksteder read the emergency evacuation procedures.

PUBLIC COMMENT: Dr. Bryant explained the parameters for public comment and opened the public comment period. Dr. Bryant notified the Board of a letter submitted for public comment by Barry Dorans on behalf of Southern Regional Testing Agency "SRTA" on pages 1-8 of the agenda packet. SRTA was asking the Board to reconsider its earlier decision of only accepting the ADEX beginning January 1, 2023 for dental hygiene applicants to continuing to accept SRTA's examination.

Tracey Martin, BSDH, RDH, President of Virginia Dental Hygienists' Association (VDHA)- Ms. Martin stated that VDHA supports the mandatory training in CDC recommended infection control procedures for all Virginia dental assistants; and to provide further public protection, the removal of the 60-day grace period for dentists/employers to provide such training.

Ms. Martin also stated that the VDHA supports Guidance Document 60-7 and the notifying all Virginia dental licensees via the email draft in today's agenda packet, with clearly defines 18VAC60-21-140 and 18VAC60-21-160,

that have been in effect for decades

Dr. Bryant reminded the audience that the Board would not accept public comment for any regulations in which the public comment period had closed.

Dr. Scott Berman, D.D.S., President of the Virginia Dental Association (VDA)- stated that he is an orthodontists and wanted to address the delegation of cutting instruments for a Dental Assistant II and wanted to comment on Guidance Document 60-7.

Dr. Bryant reminded Dr. Berman that the comment period is now closed, therefore the Board could not accept comments in accordance to the statute of the Virginia Administrative Process Act.

Dr. Berman stated that staff do numerous tasks and are performed in a safe manner. He further stated that he could not find a single complaint or problem regarding assistants using scalers. Dr. Berman objected to not being allowed to comment on the Guidance Document, stating that in accordance to Parliamentary Procedure, the Board President had discretion.

Dr. Brown reiterated that public comment could not be accepted after the public comment period had ended, and that this applied to all boards within the Department of Health Professions; not a decision that was at the discretion of the President of the Board.

Ms. Jessica Bui, Executive Director of SRTA -Ms. Bui stated that SRTA has worked diligently to make changes to their testing. The SRTA exam for dental hygiene is equivalent in the exam components and scoring as all other testing agencies. SRTA has developed and will offer a computerized diagnostic skills examination, and made the periodontal section of the exam a mandatory section. She requested the Board to reconsider its earlier decision of only accepting the ADEX beginning January 1, 2023 for dental hygiene applicants to continuing to accept SRTA's examination.

Ms. Nousheen Manzoor, a dental applicant- asked to address the Board regarding her application. Dr. Bryant reminded her that the Board does not address individual applications at Board meetings and questions regarding applications must be directed to Board staff.

APPROVAL OF MINUTES:

Dr. Bryant asked if there were any edits or corrections to the March 11, 2022 Business Meeting minutes and the March 11, 2022, April 7, 2022 and April 14, 2022 Special Session minutes.

Ms. Barrett stated that on page 12 of the agenda, which are the March 11, 2022 Board Business Meeting minutes, under the title 2022 General Assembly, where it shows the word "Regulation" it should be changed to "Legislation" Dr. Hendricksen moved to approve all the minutes, with the corrections to the March 11, 2022 Board Business Meeting minutes. The

motion was seconded and passed.

DIRECTOR'S REPORT:

Dr. Brown informed the Board that the Governor is still in the process of making appointments, which include Dr. Brown's position. In the last few weeks they appointed two deputy secretaries and he is hopeful to hear something soon.

Dr. Brown provided additional updates on the security team and the audio-visual system. They are pleased with the new security team, anticipating additional security measures to be implemented by the end of the year. The estimate time frame initially was Spring 2022 for the upgrades to the conference center, but it has been delayed because the vendor is waiting to receive the necessary equipment. It is anticipated that those improvements will be done by the end of the summer.

Dr. Brown informed the Board that there are ongoing discussions about the allowance of virtual meetings by state agencies. He believes the General Assembly will address this in the 2023 legislative session.

LIAISON & COMMITTEE REPORTS:

Regulatory-Legislative Committee - In the absence of Dr. Bonwell, Ms. Sacksteder referred the Board to page 23 of the agenda, which contained Dr. Bonwell's written report. Ms. Sacksteder clarified that the draft of the Dental Scan Technicians Regulations were withdrawn and a NOIRA was not submitted, but the regulations were re-proposed. She continued by saying that the recommendations from the May 20, 2022 meeting will be addressed by Ms. Barrett to the Board later in the meeting.

Exam Committee – Dr. Chaudhry reviewed his report regarding the two C.E. reporting companies, CE Broker and CE Zoom, which made a presentation to the Exam Committee and answered questions from the Committee regarding the different features of the two companies. This included a breakdown of the differences in the two continuing education reporting companies (CE Broker and CE Zoom) the Board is considering utilizing in the future.

Ms. Sacksteder confirmed that there would be no cost for the Board or licensees with either company. She also reported that the DHP IT Department, has not identified any preliminary issues with the platforms. She asked for Ms. Barrett and Mr. Rutkowski to comment if they are aware of any regulatory restraints that would block the Board from going forward. She also stated that the Board would want to choose one company because for auditing purposes it is not advantageous to use both companies. Jim Rutkowski also stated that Board Staff would need to do more research to ensure there were no procurement issues.

One decision that the Board will need to decide is if they want to have a "hard-stop" or "soft-stop" imposed when licensees renew. A hard-stop will deny the renewal of a license in the required continuing education has not

been submitted. A soft-stop will allow a renewal to proceed, but a warning will be given reminding the licensee to submit their certificates of completion. Jim Rutkowski stated he did not see any legislation or regulation that would prevent the Board from utilizing a hard-stop, if it was decided.

Discussion was had on whether the reporting to the continuing education reporting company could send reminders to licensees to renew their license. It was confirmed that both companies (CE Broker and CE Zoom) can send reminders.

Discussion was also had about if reporting to the chosen continuing education reporting company would be voluntary or mandatory. Dr. Brown stated that the Governor has asked all agencies to reduce up to 25% of regulations that are not mandated by statute.

After discussion, Dr. Zapatero moved that the Board recommend that licensees voluntarily use a C.E. reporting agency to track continuing education. The motion was seconded and passed.

Dr. Dawson moved that Board staff, Ms. Barrett, and Mr. Rutkowski review the memorandum of understanding of both CE companies and review the procurement process, then present it to the Board at its September meeting. The motion was seconded and passed.

Dr. Chaudhry reviewed the recommendation from the Exam Committee that there be a requirement of 2 hours of continuing education in Jurisprudence every 2 years for all licensees; and 2 hours of continuing education in sedation Jurisprudence every 2 years for all sedation permit holders.

After discussion, Dr. Zapatero moved that a NOIRA be initiated that every 2 years, 2 hours of the required 15 hours of continuing education for license renewal must be in the subject of jurisprudence for all licensees. The motion was seconded and passed.

Dr. Zapatero also moved that a NOIRA be initiated that every 2 years, sedation permit holders must complete 2 hours of continuing education in the subject of sedation jurisprudence in addition to the 4 hours in administration and monitoring. The motion was seconded and passed.

Ms. Barrett stated that one NOIRA would be submitted to cover both motions.

AADB Mid-year Conference- Mr. Martinez reviewed his report from the online AADB mid-year conference that he and Ms. Sacksteder attended on April 8-9, 2022. He stated it was an informative conference. He informed the Board, that the conference dealt with the different factors that impact oral health, such as racial and income disparities; talked about the effect the COVID pandemic has had on the dental industry; and the use of teledentistry since it reduces travel time and costs. Ms. Sacksteder concurred it was an informative conference.

**LEGISLATION,
REGULATION, AND
GUIDANCE:**

Status Report on Regulatory Actions Chart -Ms. Barrett reviewed the updated Regulatory Actions chart included in the agenda packet. The following proposed regulations are currently at the Governor's Office and have been there for a significant period of time.

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

Ms. Barrett stated that the NOIRA for removal of direct pulp-capping as a delegable task to a Dental Assistant II and the proposed regulation for training in infection control for Dental Assistants will be discussed by the Board today.

Dr. Brown informed the Board that he did not have an explanation for the regulations that have been at the Governor's office for more than two years under the previous administration, but he expects there will be movement under the new administration.

Digital Scan Technician Regulations – Ms. Barrett explained that she and Ms. Sacksteder, while working on the comments of the final regulations, realized that the incorrect draft regulations were posted on Town Hall, submitted to the Secretary's office and the Governor's office, so the process has to start again. Therefore, the previous NOIRA was withdrawn on May 19, 2022 and another NOIRA with the correct draft was re-proposed on May 19, 2022.

Re-adopt Guidance Document 60-9- Ms. Barrett clarified this is not a new guidance document, but a new guidance document number. She explained this guidance document regarding sanctions for practicing on an expired license was previously Guidance Document 60-6. Ms. Sacksteder clarified that she believes the original intention of the Board was to revise the document not to remove it in a previous meeting. Mr. Martinez moved that Guidance Document 60-9 be adopted by the Board. The motion was seconded and passed.

Initiation of Periodic Review for Chapter 15 - Ms. Barrett stated it is time to do a periodic review for 18VAC60-15-10 and 18VAC60-15-20 of the Regulations Governing the Disciplinary Process. Mr. Martinez moved to initiate periodic review for Chapter 15, Regulations Governing the Disciplinary Process. The motion was seconded and passed.

Consideration of Action on 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.

Motion was made by Dr. Dawson to retain Chapters 21, 25, and 30 but amend the chapters. It was seconded and passed. A separate motion was

made and passed to refer Chapters 21, 25 and 30 to the Regulatory-Legislative committee to determine amendments.

Ms. Lemaster moved that the Board retain Chapters 21, 25, and 30, but amend the chapters. The motion was seconded and passed.

Consideration of Petition for rulemaking— Ms. Barrett explained that the a petition for rule-making is regarding allowing refresher courses provided by the ADA and AADH for dental hygienists applying for reinstatement.

The Legislative-Regulatory Committee recommended initiating rulemaking and issue a NOIRA to revise 18VAC60-25-210 and 18VAC60-21-240.

Ms. Sacksteder informed the Board that the regulations are not clearly defined on what is considered a “refresher” course. The petition for rulemaking would also apply to reinstatement applicants for dentists, in order to be consistent.

Ms. Lemaster moved to initiate rulemaking and issue a NOIRA to revise 18VAC60-25-210 of the Regulations Governing the Practice of Dental Hygiene and 18VAC60-21-240 of the Regulations Governing the Practice of Dentistry. The motion was seconded and passed.

Ms. Barrett recommended that the Board request staff prepare a guidance document to outline the length of the refresher course and other criteria to present to the Legislative-Regulatory Committee and back before the full Board for approval. The motion was seconded and passed.

Ms. Lemaster moved to request Board staff to present a guidance document to the Legislative-Regulatory Committee that outlines the length of the refresher course and other criteria, which then can be presented to the Board for approval. The motion as seconded and passed.

Adoption of Proposed Regulations Regarding Pulp-Capping – Ms. Barrett stated. that the Legislative-Regulatory Committee recommended the following:

Proposed regulatory changes to 18VAC60-30-120(3)(a) of the Regulations Governing the Practice of Dental Assistants:

- after the word “cord”, remove the word “and” and add the word “Indirect”

Proposed regulatory changes to 18VAC60-30-120(3)(b) of the Regulations Governing the Practice of Dental Assistants:

- after the word “cord”, remove the word “and” and add the word “indirect”.

Ms. Barrett also reviewed the proposed Guidance Document 60-11 that was recommended by the Legislative-Regulatory Committee.

Dr. Zapatero moved that the Board adopt proposed regulations removing direct pulp-capping from tasks delegable to a Dental Assistant II. The motion was seconded and passed.

Dr. Zapatero moved that the Board adopt Guidance Document 60-11. The motion was seconded and passed.

Repeal Guidance Document 60-21, Failure to report to PMP –Ms. Barrett explained that guidance documents are up for review every four years and the Acting Executive Director has requested this guidance document be repealed.

Dr. Zapatero moved that the Board repeal Guidance Document 60-21. The motion was seconded and passed.

Adoption of final regulations: “training in infection control”– Ms. Barrett stated the Board would need to make a motion to adopt the final regulations regarding training in infection control.

After discussion the Board amended the document clarifying that the “newly employed dental assistants shall complete training as soon as possible but no later than 60 days from employment, unless the dental assistant has evidence of completion of training within the last 12 months.” A motion was made to adopt with amendments, seconded and passed.

Mr. Martinez moved that the Board adopt the final regulations with amendments regarding training in infection control for dental assistants.

Public Comment from SRТА: Mr. Rutkowski informed the Board that he reviewed the letter submitted for public comment from SRТА and stated there is an assertion about anti-trust issues. He recommended that the Board go into closed session if they would like to discuss anti-trust law.

**BOARD DISCUSSION
TOPICS:**

Dr. Bryant asked if the Board wanted to consider SRТА’s request (from the public comment) and if the Board wanted to go into close session to discuss SRТА’s request. The Board unanimously did not want to go into closed session or consider SRТА’s request.

Dental Assistant Use of Scalers- Ms. Sacksteder referred the Board to page 122 of the agenda packet, which is a page from the December 10, 2021 Board Meeting minutes where the topic of dental assistants using scalers was discussed; and the Board recommended that a message be disseminated to various entities pertaining to the Board’s policy regarding dental assistants using scalers.. Ms. Sacksteder explained that Ms. Reen asked for guidance on how to inform the dental community of the changes. She requested Board approval of the email on page 121 of the agenda, as drafted by Board Members.

Dr. Hendricksen moved that the Board approve the draft email for dissemination. The motion was seconded and passed.

Proposed Board 2023 Calendar- Ms. Sacksteder explained that a copy of the proposed 2023 Board Calendar is included in the agenda packet. No changes were proposed. A motion to adopt was made by Dr. Dawson, seconded and passed.

**BOARD COUNSEL
REPORT:**

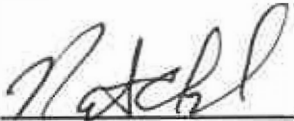
Mr. Rutowski stated he had no report.

**DEPUTY EXECUTIVE
DIRECTOR'S REPORT:**

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

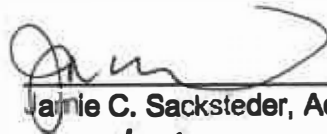
ADJOURNMENT:

With all business concluded, the Board adjourned at 11:57 a.m.



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

9 Sept 2022
Date



Jamie C. Sacksteder, Acting Executive Director

9/9/22
Date