

**VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING
November 21, 2014**

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 9:06 a.m., on November 21, 2014 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

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

MEMBERS PRESENT: Sharon W. Barnes, Citizen Member
Surya P. Dhakar, D.D.S.
Evelyn M. Rolon, D.M.D.
Tammy K. Swecker, R.D.H.
James D. Watkins, D.D.S.

MEMBERS EXCUSED: Al Rizkalla, D.D.S.
Bruce S. Wyman, D.M.D.

MEMBERS ABSENT: John M. Alexander, D.D.S.
Charles E. Gaskins, III, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Huong Q. Vu, Operations Manager

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: Wayne H. Halbleib, Sr., Assistant Attorney General
Shevaun Roukous, Adjudication Specialist
Theresa J. Pata, Court Reporter, Crane Snead & Associates Inc.

**ESTABLISHMENT OF
A QUORUM:** With six members present, a quorum was established.

**Michael McQuade, D.D.S.
Case No.: 140724
and 150036**

Dr. McQuade was present with legal counsel, Joseph D. Morrissey, and Paul Goldman (appearing *pro hac vice*), in accordance with the Notice of the Board dated October 3, 2014.

Mr. Halbleib submitted an amended statement of particulars. No objection was made and Ms. Swain accepted the submission.

Mr. Morrissey asked the Board to consider a proposed consent order (CO) in lieu of proceeding with the hearing.

Mr. Halbleib stated that the Commonwealth is not in a position to address the proposed CO because he had just received it.

By consensus, the Board agreed to convene in closed meeting to consult with Board counsel.

Closed Meeting:

Dr. Watkins moved that the Board of Dentistry convene in a closed meeting pursuant to section § 2.2-3711(a) (7) of the Code of Virginia for consultation with legal counsel to consider the settlement proposal. Additionally, it was moved that Board staff, Ms. Reen, Ms. Vu, and Board counsel, Mr. Rutkowski, attend the closed meeting because their presence is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Dr. Watkins moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Dr. Watkins moved to reject the proposed CO and proceed with the hearing. The motion was seconded and passed.

Ms. Morrissey raised another preliminary matter. He stated that Dr. McQuade has sold his practice then asked if Dr. Prior could tell the Board about the work Dr. McQuade will be doing at Dr. Prior's practice.

Ms. Swain denied the request and ruled that the hearing will proceed.

Ms. Swain swore in the witnesses.

Mr. Halbleib asked that all witnesses be excused until called to testify. Mr. Morrissey said that Dr. Stoner should stay since he is an expert witness and is assisting in presenting Dr. McQuade's case. Ms. Swain ruled that the witnesses are excused except Dr. Stoner.

Following Mr. Halbleib's opening statement, Ms. Swain admitted into evidence Commonwealth's Exhibits 1 through 4.

Following Mr. Morrissey's opening statement, Ms. Swain admitted into evidence Respondent's Exhibits A through O.

Testifying on behalf of the Commonwealth was Anne L. Hardy, DHP Senior Investigator.

Testifying on behalf of Dr. McQuade were Virginia Van Orman, Dr. McQuade's Office Manager, Kenneth E. Stoner, DDS, Julius Morrison, DDS, and Gordon Prior, DDS.

Closed Meeting:

Dr. Watkins moved that the Board enter into a closed meeting pursuant to §2.2-3711(A)(27) and Section 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Dr. McQuade. Additionally, he moved that Board staff, Ms. Reen, Ms. Vu, and Board counsel, Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Dr. Watkins moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Dr. Watkins moved to accept the Findings of Facts and Conclusion of Law as presented by the Commonwealth, amended by the Board, and read by Mr. Rutkowski. The motion was seconded and passed with five (5) votes in favor and one (1) vote against.

Dr. Watkins moved to reprimand Dr. McQuade, impose a \$12,000 monetary penalty and require an audit of patient records. The motion was seconded and passed with five (5) votes in favor and one (1) vote against.

Mr. Morrissey moved to set aside the Findings of Facts, Conclusion of Law, and sanctions imposed by the Board.

The Board rejected the motion with five (5) votes against and one (1) vote in favor.

ADJOURNMENT: The Board adjourned at 8:07 p.m.

Melanie C. Swain

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

Sandra K. Reen

Sandra K. Reen, Executive Director

12/12/14

Date

December 12, 2014

Date