

VIRGINIA BOARD OF DENTISTRY
MINUTES
SEPTEMBER 9, 2011

- TIME AND PLACE:** The meeting of the Board of Dentistry was called to order at 9:05 a.m., on September 9, 2011 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- PRESIDING:** Jacqueline G. Pace, R.D.H., President
- BOARD MEMBERS PRESENT:** Robert B. Hall, Jr., D.D.S., Vice President
Augustus A. Petticolas, Jr., D.D.S., Secretary-Treasurer
Herbert R. Boyd, III, D.D.S.
Martha C. Cutright, D.D.S.
Surya P. Dhakar, D.D.S.
Meera A. Gokli, D.D.S.
Jeffrey Levin, D.D.S.
Misty Mesimer, R.D.H.
- BOARD MEMBERS ABSENT:** Myra Howard, Citizen Member
- STAFF PRESENT:** Sandra K. Reen, Executive Director for the Board
Arne Owens, DHP Chief Deputy Director
Elaine J. Yeatts, DHP Senior Policy Analyst
Alan Heaberlin, Deputy Executive Director for the Board
Donna Lee, Discipline Case Manager
- ESTABLISHMENT OF A QUORUM:** With nine members of the Board present, a quorum was established.
- PUBLIC COMMENT:** No public comments were received.
- APPROVAL OF MINUTES:** Ms. Pace asked if the Board members had reviewed the June 3, 2011 and June 14, 2011 minutes. No changes or corrections were made. Dr. Petticolas moved to accept the June 3, 2011 and June 14, 2011 minutes. The motion was seconded and passed.
- DHP DIRECTOR'S REPORT:** Mr. Owens reported on the following activities of DHP:
- Dr. Reynolds-Cane was not able to be present because she was attending the Virginia Health Reform Initiative meeting.
 - New Board Member orientation will be held on September 23, 2011.
 - DHP received the Council on Licensure, Enforcement and Regulation (CLEAR) regulatory award this year for the

Sanction Reference Points Guidelines.

- The leadership team is working on case management efficiencies.
- The Board of Dentistry is financially sound.

**UPDATE ON
PRESCRIPTION
MONITORING
PROGRAM:**

Ralph Orr, Program Director, for the Prescription Monitoring Program (PMP) provided the following update:

- Prescriptions involving Schedule II, III, and IV controlled substances are required to be reported to the PMP.
- All pharmacies in Virginia, non-resident pharmacies, and dispensing physicians are required to report to the PMP.
- Over 1 million prescriptions are added every month to the PMP and approximately 600,000 requests will be filled this year.
- Individuals over 18 can request their own history.
- Interoperability is in the pilot phase. Currently requests can be made to Virginia, Indiana and Ohio. West Virginia will be added next. This is helpful because patients can move from state to state and now the data can be accessed from those states.
- October 1, 2011 new regulations go into effect that the data has to be reported within 7 days after dispensing, instead of the current requirement to report 2 times a month.
- Reviewed the easier to read new format of the PMP report.
- There are continuing education courses available on the PMP website.
- Real time reporting is coming in the future, but one major hurdle is the cost.
- The Substance Abuse Mental Health Services Administration reported that most young people have their first exposure to prescribed opiates because of a dental procedure.

**LIASON/COMMITTEE
REPORTS:**

Board of Health Professions (BHP). Dr. Levin stated he is the new appointee. There has not been a meeting since May 3, 2011. The next meeting is scheduled for October 24, 2011.

AADB. Dr. Levin stated that there has not been a meeting since his last report on June 3, 2011. The next meeting will be held in Las Vegas in October.

SRTA. Dr. Gokli reported that:

- The Board should consider no longer accepting CITA exams from North Carolina because North Carolina does not accept any other testing agencies' exams. NERB and SRTA have tried to work with CITA without success and no other

SRTA state accepts CITA. Following discussion, no action was taken.

- NERB and SRTA are working together toward a national examination and the Board should become a member of ADEX. ADEX does not administer an examination, it develops an examination. We are members of SRTA and SRTA is a district member. SRTA will designate representation for the ADEX Board of Directors. Ms. Reen said that the Board had received a presentation from ADEX several years ago and decided not to join. Virginia currently accepts all regional exams in the country and accepts ADEX results. The Board should have information about the current operations of ADEX and its membership policies before making a decision. Ms. Pace referred this matter to the Exam Committee to receive and review information about ADEX and present their findings to the Board at its next meeting.

Ms. Pace reported that:

- She did not attend the annual meeting, but received an update from Deborah Southall, R.D.H on the work of the Dental Hygiene Exam Committee. The execution and format of the dental hygiene exam will not change, but radiographs will no longer be graded. The Committee is reviewing whether to eliminate the EEM because it is addressed in the national boards. She added that a Conference Call of the Committee was held on September 1, 2011. Points of interest were that (1) there was a vote to eliminate the EEM; (2) the by-laws were amended for the Committee to accept proxy voting; and (3) the Dental Hygiene Annual Examiners training will be held in Charlotte, North Carolina on January 13-14, 2012.

Exam Committee. Dr. Cutright reported that:

- The Exam Committee met on August 18, 2011 in closed session to revise questions and answers to the existing Dental Law Exam for correlation with the current regulations. Additional meetings will be scheduled to develop exam questions and answers which take into consideration recent and upcoming law and regulatory changes.
- The Exam Committee held an advisory forum on August 19, 2011 to discuss alternatives to using human subjects in clinical competency examinations for practicing dentistry or dental hygiene. The forum included professionals from the dental community. The consensus was to further investigate other evaluation options and then recommend policy changes to the Board. The Board will hear from experts about

alternative strategies for determining competence. The next Exam Committee meeting will be held after the Board meeting today.

LEGISLATION AND REGULATIONS:

Regulatory-Legislative Committee. Ms. Reen reported that the Committee met on September 8, 2011, and some of the items addressed are before the Board today for action and others will continue to be worked on by the Committee.

Ms. Pace welcomed the Board's newest member, Dr. Dhakar.

Status Report on Regulatory Actions. Ms. Yeatts reported the following update:

- Periodic Review and reorganization of Chapter 18 VAC 60-20 - Proposed regulations adopted on June 3, 2011;
- Training in pulp capping for Dental Assistants II – Fast-Track- at the Governor's Office for signature;
- Board-approved courses for radiation certification – Fast-Track- at the Secretary's Office for approval;
- Recovery of Disciplinary Costs Regulations - are in final stage and are at the Governor's Office for signature; and
- Registration of Mobile Clinics – are in final stage and are at the Governor's Office for signature.

Ms. Yeatts informed the Board that there are currently no regulations in place for mobile dental clinics because the 6-month extension that was granted for the Emergency regulations expired on July 6, 2011. She has been in constant contact with the Governor's Office about the regulations. Concerns were expressed about the possibility of violations and how they would be handled since there are no regulations. Ms. Reen explained that the Board has no authority to act if there are complaints or if an application for registration is received. She added the statute requiring registration is still in place. Mr. Heablerlin added that a complaint against a dentist could be addressed.

Proposed Draft of Sedation/Anesthesia Regulations. Ms. Yeatts stated that the requirement for sedation and general anesthesia permits was mandated by Senate Bill 1146 and the emergency regulations need to be adopted today so that they will be in effect by December 27, 2011. These regs will stay in effect for 12 months and will need to be replaced with final regulations before they expire. She said the NOIRA for the final regs should also be adopted today. Ms. Yeatts then facilitated review and discussion of the proposed regulations as amended by the Regulatory/Legislative Committee which included:

18VAC60-20-10 – A separate entry was added for “moderate sedation” to read **“Moderate sedation”** (see meaning of conscious/moderate sedation) because the term “conscious/moderate sedation” is used to be consistent with the statute.

18VAC60-20-30(J) – after **“\$350”** the following phrase was added to be clear that this fee will not be charged for the routine inspections of permit holders: **“with the exception of a routine inspection of an office in which the dentist has a conscious/moderate sedation permit or a deep sedation/general anesthesia permit.”**

18VAC60-20-110(A) – To assure posting of an acceptable credential the following sentence was added at the end of the paragraph: **“Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.”**

18VAC60-20-110(D) – After the word **“permit”** add the words **“or AAOMS certificate.”**

18VAC60-20-110(H)(2) – After the word **“number”** add the words **“for the dental practice.”**

18VAC60-20-107(D) – Dr. Petticolas suggested that the word **“the”** before the words “unintended reduction” should be changed to the word **“an.”** The Board agreed and Ms. Yeatts noted the change.

18VAC60-20-120(A) – Add the following sentence to the end of the paragraph: **“Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.”**

18VAC60-20-120(C)(1)(c) – Ms. Yeatts stated that if a dentist were self-certified in anesthesia and conscious sedation prior to January 1989, a temporary permit will be issued for up to two years so the dentist can complete the required training for one of the standard permits so section (c) reads **“Temporary conscious/moderate sedation permit (may be renewed one time).”**

18VAC60-20-120(F) Dr. Levin moved to add after the word **“providers”** the words **“including basic electrocardiographic interpretation.”** The motion was seconded and passed. This same wording is also added to 18VAC60-20-110(C)(2).

18VAC60-20-107(G) Dr. Levin stated that an emergency written action plan should be added under equipment. After a discussion by the Board, the consensus was to add the following sentence: **“A dentist in whose office sedation or anesthesia is administered shall have written basic emergency procedures established and staff trained to carry out such procedures.”**

18VAC-60-20-120(G) – After the word **“section,”** the following wording was added **“or the AAOMS certificate issued to an oral and maxillofacial surgeon.”**

18VAC60-20-120(K)(2) – The following phrase was added after

the word **“number”** to clarify that the intent is a number **“for the dental practice.”**

Dr. Levin moved to adopt the emergency regulations as recommended by the Regulatory Committee as further amended; and to publish a Notice of Intended Regulatory Action to replace the emergency regulations. The motion was seconded and passed.

Response to Petitions for Rulemaking on Radiation Courses.

Ms. Yeatts reported that on June 3, 2011, the Board adopted revised regulations on radiation certification and revised Guidance Document 60-20 to address the concerns of the three petitioners. She added that the Board needed to adopt a formal response to the petitions today since the comment period on the petitions did not close until June 22, 2011. She advised that the Regulatory Committee is recommending that Guidance Document 60-20 be revised further to add the following sentence **“Any person who was qualified to place or expose dental x-ray film by satisfactorily completing a course and passing an examination in compliance with guidelines provided by the Board prior to May 11, 2011 continues to be so qualified.”**

Dr. Petticolas moved to accept the revision to Guidance Document 60-20 as read by Ms. Yeatts. The motion was seconded and passed.

Dr. Petticolas moved to respond to the petitioners that the Board has acted in response to the petitions by adoption of a guidance document on interpretation of Section 195 on radiation certification and by adoption of amendments to that section by a fast-track action. The motion was seconded and passed.

**BOARD
DISCUSSION/ACTION:**

Public Comment Topics. No public comment was received.

Dental Laboratory Work Order Forms. Ms. Reen informed the Board that the initial draft of the two forms to be prescribed by the Board were reviewed at its December 3, 2010 meeting. During that meeting, the Board requested that the Regulatory/Legislative Committee develop the forms to make clear the intent is to prescribe the minimum content required by the Board and to consider whether the forms should be issued as a guidance document. The Committee recommends adoption of the revised forms with these changes to:

- the Dental Laboratory Work Order Form in the first paragraph at the top, line 2, to bold this sentence: **“A licensee may use a different form only if all the required information on this form is collected and conveyed.”** and at the bottom of the form

add the heading **“Instructions to Lab”** in bold print above the word **“Laboratory.”**

- the Dental Laboratory Subcontractor Work Order Form in the first paragraph at the top, line 3, to bold this sentence: **“A different form may be used only if all the required information on this form is collected and conveyed.”** and at the bottom of the form add the heading **“Instructions to Lab”** in bold print above the word **“Subcontractor.”**

The Regulatory Committee recommended that the forms be issued as additional Board forms and mentioned in the Board BRIEFS.

Dr. Hall moved to accept the Dental Laboratory Work Order Form and Dental Laboratory Subcontractor Work Order Form as amended. The motion was seconded and passed.

Amendment of Guidance Document 60-13. Dr. Boyd moved to amend Guidance Document 60-13, by adding **“or a qualified dentist”** in item number 6(a) after the word **“anesthesiologist.”** The motion was seconded and passed.

NERB Information on Score Reports. Ms. Reen stated that the Board at its June 3, 2011 meeting requested an update from NERB on its action to address the reporting errors made regarding the candidates who took the Florida Dental Examination. The letters from the chairman of NERB addressing those issues are provided as information.

AADB Proposed Advertising Guidelines. This topic was deferred to the next Board meeting since Mr. Casway was not present to lead the discussion.

REPORT ON CASE ACTIVITY:

Mr. Heaberlin reported that in the fourth quarter of FY 11 the Board received a total of 61 patient care cases, and closed a total of 99 for a 162% clearance rate. The pending caseload older than 250 business days was 9% and 92% of all cases were closed within 250 business days. These numbers exceed the agency’s Quarterly Performance Measurement goals. The Board is currently working on the audits for OMS who perform cosmetic procedures. There were 24 cases opened for audit; 13 of the cases included practitioners who perform cosmetic procedures that meet the audit criteria; 17 cases were closed no violation. Many of the licensees received an advisory letter reminding them to update their OMS profiles.

The Board currently has 210 open cases; 159 are patient care; 53 are in probable cause with 25 at Board member review. Mr. Heaberlin reminded Board members who have cases for probable cause review to please complete and return them as soon as possible.

Mr. Heaberlin guided the Board members through a probable cause review exercise to promote consistency across reviewers. Discussion followed about the case and about when requesting x-rays should be considered to make a determination in a case. Concerns about reviewing the case without x-rays were raised and staff agreed to look at a more efficient process so that reviewers have the x-rays concurrent with the case.

**NOMINATING
COMMITTEE/ELECTION
OF OFFICER:**

On behalf of the Committee, Dr. Levin moved the election of the following slate of officers for 2011-2012 year:

Robert B. Hall, Jr., D.D.S. – President

Augustus A. Petticolas, Jr., D.D.S. – Vice President

Herbert R. Boyd, III, D.D.S. – Secretary/Treasurer

The motion was seconded and passed.

**RECOMMENDATIONS
OF CREDENTIALS
COMMITTEE:**

Case #135193 and Case #139166.

Closed Meeting:

Dr. Hall moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) and §2.2-3712(F) of the Code of Virginia for the purpose of consideration and discussion of two recommended decisions from the Credentials Committee. Additionally, Dr. Hall moved that Ms. Reen, Mr. Heaberlin and Ms. Lee attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Dr. Hall moved that the Committee 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.

Ms. Mesimer moved to accept the recommended Order of the Credentials Committee for Case #135193. The motion was seconded and passed.

Dr. Petticolas moved to accept the recommended Order of the

Credentials Committee for Case #139166. The motion was seconded and passed.

**BOARD COUNSEL
REPORT:**

Mr. Casway was not present.

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

AADB participation and membership. Ms. Reen asked the Board to consider the value of its membership in the AADB noting that it was expensive and that travel was very hard to get approved. Members discussed the advantages and disadvantages of participating in the organization. The consensus was that the organization and its meetings are more focused on the examining community rather than on Board business. Ms. Reen commented that this focus makes it difficult to defend travel requests. She added that a representative could still attend meetings at non-member costs if the agenda supports travel approval.

Dr. Levin moved that the Board not renew its membership in AADB for the year 2012. The motion was seconded and passed.

Dr. Hall moved to withdraw his attendance at the upcoming AADB meeting in October. The motion was seconded and passed.

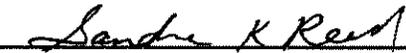
ADJOURNMENT:

With all business concluded, the meeting was adjourned at 12.48 p.m.



Robert B. Hall, Jr., D.D.S., President

2 DEC 2011
Date



Sandra K. Reen, Executive Director

December 2, 2011
Date