Unapproved

VIRGINIA BOARD OF DENTISTRY
BUSINESS MEETING MINUTES
December 9, 2016

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 9:05 a.m. on December 9, 2016, Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.

PRESIDING: A. Rizkalla, D.D.S., President

BOARD MEMBERS PRESENT:
John M. Alexander, D.D.S
Tonya A. Parris-Wilkins, D.D.S.
Patricia Bonwell, R.D.H., PhD.
Nathaniel Bryant, D.D.S.
Augustus Petticolas, D.D.S.
Carol Russek, J.D.
James D. Watkins, D.D.S.
Bruce S. Wyman, D.M.D.

BOARD MEMBERS ABSENT: Tammy Ridout, R.D.H

STAFF PRESENT:
Sandra K. Reen, Executive Director for the Board
Kelley Palmatier, Deputy Executive Director for the Board
Christine M. Houchens, Licensing Manager for the Board
Elaine Yeatts, DHP Senior Policy Analyst

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: David E. Brown, D.C. Director, DHP

ESTABLISHMENT OF A QUORUM: With nine members of the Board present, a quorum was established.

Ms. Reen read the emergency evacuation procedures.

Dr. Rizkalla explained the parameters for public comment and opened the public comment period.

PUBLIC COMMENT: **Lauren Schmidt**, lobbyist for the VDHA, asked the Board to support the proposed legislation that will amend the provisions for practice under remote supervision. She noted the law needs to be

amended to expand the practice settings, adding that the VDHA and the VDA are working together on amending this legislation.

APPROVAL OF Minutes:

Dr. Rizkalla asked if there were any corrections to the September 15, 2016 Formal Hearing minutes, September 16, 2016 Public Hearing Minutes; September 16, 2016 Business Meeting minutes; and the September 26, 2016 and November 28, 2016 Telephone Conference Call Minutes. It was agreed that the last sentence in the last paragraph of the September 15, 2016 minutes should be removed because it was a repetition of the previous sentence. In the September 16, 2016 minutes, it was agreed to add in the last paragraph of the DHP Director's Report that Dr. Rizkalla had asked Dr. Alexander to spearhead a committee to work on guidelines for opioids and that Dr. Alexander accepted. Dr. Watkins moved to approve the minutes with the changes discussed. The motion was seconded and passed.

DHP DIRECTOR'S REPORT:

Dr. Brown welcomed the new Board Members and noted the work of the Board members is essential and is to protect the public. He reported on the success of the Board Member Training that took place in October and encouraged all Board members to attend next year. He noted there was an in-depth presentation on the Freedom of Information Act (FOIA) and emphasized that a public meeting is taking place when more than 2 board members are discussing board related topics and indicates such meetings are not allowed unless public notice has been given and minutes are taken.

Dr. Brown said the Commissioner of Health has declared a state of public health emergency to address the opioid crisis. He stated that while prescriptions for these drugs are harder to obtain, the Commonwealth does not offer enough help for those that are already addicted and who turn to street drugs, such as heroine. He asked the Board to look into the need for emergency regulations to address prescribing by dentists.

2016 WORKFORCE REPORTS:

Elizabeth A. Carter, Ph.D. and Director of DHP Healthcare Workforce Data Center reviewed the work of the Center and presented the two 2016 Workforce reports for Dentistry and Dental Hygiene. She explained that the Center is working with other states to address a common set of questions and is working to get the data down from the regional level to the county level. She highlighted the following survey results:

1. The number of licensed dentists has grown 1.5% from 2014 to 2016 to approximately 7300 licensed dentists but 24% of those do not currently practice in Virginia. She also noted that 18% of licensed Dental Hygienists do not work in Virginia.

2. She reported that there is great cultural diversity among the Board's licensees which is rare in healthcare.

Dr. Carter concluded by noting that Dentistry has a very high response rate to the surveys which allows for solid, accurate data.

VIRGINIA'S PRESCRIPTION MONITORING PROGRAM (PMP):

Ralph A. Orr, Director of the PMP explained the new data system application platform, PMP Aware, for addressing reporting requirements. He said that, instead of accessing the system by license or DEA numbers, licensed dentists will now use their email address and will also be able to designate additional users to access the PMP data on their behalf. Ms. Yeatts added these additional users are required to sign confidentiality agreements as they will have regular access to confidential information. In response to a question, Mr. Orr stated dentists will be able to see information about the additional user's access to the platform. He added that the new system includes a simplified reset password feature.

Mr. Orr also reported that almost all licensed dentists have obtained reporting waivers and said that those who do currently report dispensing information will be required to report daily effective January 1, 2017. He added if unusual dispensing or prescribing practices are discovered, DHP now has the authority to report this information to the Enforcement Division for investigation of possible violations.

Mr. Orr also briefly reviewed a handout regarding how to calculate total daily dose of opioids for safer dosing and said an advisory panel is addressing ways to identify unusual prescription writing practices.

LIAISON/COMMITTEE REPORTS:

AADB. Dr. Rizkalla reported the following topics were addressed at the 2016 Annual Meeting:

1. interstate medical board compacts for license reciprocity;
2. hygienists practicing in health access settings;
3. programs available to address a licensee's ethics and boundary violations;
4. the ADA Licensing Task Force's work to establish an objective structured clinical examination (OSCE) for initial licensure to eliminate the use of patients in clinical exams; and
5. the Board's executive director was elected as Vice-President of the American Association of Dental Administrators (AADA).

ADEX. Dr. Rizkalla noted that his term on the House of Representatives has expired and Dr. Bryant is now serving and that

Ms. Russek is currently serving as a consumer representative for Region Six.

CITA. Dr. Rizkalla briefly reviewed the approved agreement between the Board and CITA regarding travel, which allows Board representatives to administer CITA examinations.

SRTA. Dr. Watkins reported there have been no meetings since the September business meeting.

Dr. Rizkalla asked Dr. Brown if Board members can serve on CITA's board of directors. Discussion followed about being members of the other testing agencies accepted for licensure. Dr. Brown noted that he would need additional information before responding.

BHP. Dr. Watkins reported he was reappointed to the Board and there have been no recent meetings.

Exam Committee. Dr. Watkins said the committee is meeting on December 16th.

Regulatory-Legislative Committee. Dr. Wyman reviewed the minutes of the committee's last minutes, noting that Germanna Community College reported getting DAII courses accredited for college credit which allows students to receive student loans for taking these courses. He added that the VDA & VDHA reported on proposed changes to the remote supervision legislation which the Board will address later in the agenda and that the RAP on Dental Assistants is meeting in January to address DAII eligibility requirements.

LEGISLATION AND REGULATIONS:

Status Report on Regulatory Actions. Ms. Yeatts reported that the Board has two fast track regulatory actions that are approved and will go into effect on February 10, 2017: one addressing CE credit for volunteer hours and the other addressing the administration of only nitrous oxide.

Board Action on Capnography: Ms. Yeatts reported no public comments were received at the public hearing held on 09/16/2016 and only one comment was posted on Town Hall. She said the commenter supported the proposed amendment but did include a question about monitoring. Ms. Yeatts indicated that the need to monitor end-tidal carbon dioxide had been overlooked and could be addressed. Following discussion, Dr. Wyman moved to add end-tidal carbon dioxide to the monitoring requirements for conscious/moderate sedation and deep sedation and general

anesthesia. The motion was seconded and passed. Dr. Watkins moved to adopt the final proposed regulations as amended. The motion was seconded and adopted.

Respond to Petition for Rulemaking. Ms. Yeatts reviewed Dr. Barry's petition for rulemaking which requests amendment of the list of accepted sponsors in 18VAC60-21-250.C to add a number 16 as "any other provider approved by the Board." Ms. Yeatts said the Board could initiate rulemaking or deny for specified reasons. Discussion followed on the extensive list of approved sponsors, several of which credential providers and others that could be approached for affiliation. Concerns discussed included the lack of objective criteria; authority to regulate CE providers; and the lack of resources to undertake this activity. A motion by Dr. Watkins to deny the petition was seconded and passed.

Adoption of Proposed Amendment on Moderate Sedation: Ms. Yeatts explained that recent changes made in the renamed and issued ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (the Guidelines) need to be addressed in the Board's regulations on conscious/moderate sedation to avoid confusion over the requirements for a permit. The Guidelines, in Section V. Teaching Administration of Moderate Sedation, no longer include different provisions for the administration of moderate sedation by an enteral method. Instead, the same course requirements now apply to all the methods used to administer moderate sedation. Ms. Yeatts reviewed the proposed amendments which remove references to enteral administration and make it clear that the course requirements for moderate sedation in the ADA Guidelines now apply to all applicants for a moderate sedation permit. She added that this could be advanced as a fast track action since it is needed to conform to incorporated guidelines. Dr. Petticolas moved to adopt the amended regulations as a fast track action. The motion was seconded and passed.

BOARD DISCUSSION/ ACTION:

Establishing a Guidance Document on Opioid Prescriptions. Dr. Wyman moved to create a Regulatory Advisory Panel (RAP) chaired by Dr. Alexander to draft a guidance document on opioid prescribing. Discussion followed with Ms. Yeatts noting the RAP should be allowed to consider guidance and/or regulations. Dr. Brown said Secretary Hazel wants Dentistry to follow Medicine's example and hold its licensees accountable. He added that the RAP is not expected to create the regulatory language but is to create the points to be addressed in regulations. Dr. Wyman then moved to convene a RAP to develop guidance and regulations. This motion was seconded and adopted.

VDA and VDHA Amendments to Remote Supervision Statute. Dr. Wyman said the Regulatory-Legislative Committee voted to recommend that the Board support the proposed legislation then a motion to accept the recommendation. The Committee's motion passed. Dr. Bonwell questioned why the word office was replaced by the word practice? Ms. Yeatts said it was changed to ensure that a dentist could not open an office to have his name on the door for the sake of remote practice without actually having a clinical practice.

Clarification of Regulatory Provisions. Ms. Reen stated she is requesting an interpretation of several regulatory provisions or lack thereof which have been questioned by licensees as follows.

1. To comply with 18VAC60-21-30.B, 18VAC60-25-20.B and 18VAC60-30-20.B may a licensee post the wallet size license issued by the Board? Discussion followed about the posting requirement was changed to prevent duplication of licenses and the ability to duplicate or create any size license. Ms. Reen said the regulations also require the license to be displayed in a conspicuous location where patients can see it and asked if the wallet size license could meet this requirement. There was general agreement that posting to meet this requirement was possible so Dr. Watkins made a motion to clarify that the wallet license can be used to meet the posting requirements. The motion was seconded and passed.

2. Why don't the posting regulations (18VAC60-21-30B, 18VAC60-25-20B & 18VAC60-30-20B) include the exemption for volunteer practice in §54.1-2721 and §54.1-2727 of the Code of Virginia? The Regulatory-Legislative Committee recommends that these sections be amended to reference the exemptions as proposed by Elaine Yeatts. Upon the motion of Dr. Wyman, the Board agreed to amend the regulations as discussed.

3. Will the Board provide more regulatory guidance by including the CDC Guidelines for Dentistry or another such reference? The Regulatory-Legislative Committee voted to recommend adopting a guidance document to address safe and sanitary practice instead of incorporating the CDC Guidelines by reference in the regulations. It was noted that this is currently being addressed in GD 60-15 on Professional Conduct so Ms. Yeatts recommended that the Board defer this topic to the next meeting when it has the CDC Guidelines to review. Dr. Wyman's motion to defer to the next meeting was seconded and passed.

4. Does the Reportable Events regulation 18VAC60-21-100 apply to the use of local anesthesia? The Regulatory-Legislative Committee agreed to recommend that the term "anesthesia" as used in 18VAC60-21-100 should be interpreted to require reporting within 15 days of any emergency treatment related to local anesthesia. Following discussion, the Board agreed by consensus to adopt the Committee's recommendation. Ms. Reen stated that no regulatory change would is needed based on this interpretation. Additionally, the Committee recommended that "or" should be inserted between sedation and anesthesia in this regulatory section. A motion by Ms. Russek to adopt the recommendation passed.

5. Licensees are concerned that the terms "gingival curettage" and "non-surgical" in 18VAC60-21-13, 18VAC60-21-140 and 18VAC60-25-40 are problematic and need to be replaced. Ms. Yeatts reported that she has not yet completed this. Dr. Watkins moved to defer this topic to the next business meeting. The motion was seconded and passed.

6. Clarification has been requested on the inconsistency in regulatory provisions addressing dental hygienists treating patients under sedation as addressed in 18VAC60-21-140, 18VAC6025-40, 18VAC60-21-291 and 18VAC60-21-30 and GD 60-4. Ms. Yeatts reported that she has not yet completed this. Dr. Petticolas moved to defer this topic to the next business meeting. The motion was seconded and passed.

REPORT ON CASE ACTIVITY:

Ms. Palmatier reviewed her report noting that during the first quarter of FY2017:

- A total of 58 patient care cases were received and 62 patient care cases were closed for a 107% clearance rate, which is up from 102% in Q4 of 2016.
- The current pending caseload older than 250 days is 27%, which is down from 29% in Q4 of 2016. This brings this figure closer to the Board's goal of 20%.
- 75% of the patient care cases were closed within 250 days, the same as Q4 of 2016 and noted that the Board's goal is 90%.

She added that, between August 30, 2016 and November 18, 2016, the Board summarily suspended one dental license. Ms. Palmatier also noted there is a new trend in informal conferences where the respondents are bringing their own expert witnesses, to discuss quality of care issues.

EXECUTIVE DIRECTOR'S

Ms. Reen addressed her interest in possibly changing renewals from annually on March 31, to annually by birth month in order

REPORT/BUSINESS: to spread out the workload. She noted this could be implemented with minimal financial impact on licensees. She requested approval to develop a proposal for implementing this change for consideration by the Board. Dr. Rizkalla requested a motion to have Ms. Reen investigate this further and report her findings at the next business meeting. Dr. Petticolas so moved and the motion was seconded and passed.

Ms. Reen said in preparation for the upcoming Exam Committee meeting she is:

- providing the 2016-2017 ADEA Snapshot of Dental Education for review, and
- recommending that the members consider which statutes and regulations they want to be addressed in the law exam.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 12:09 p.m.

Al Rizkalla, D.D.S., President	Sandra K. Reen, Executive Director
Date	Date