Approved

VIRGINIA BOARD OF DENTISTRY
MINUTES
JUNE 8, 2012

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 9:10 a.m. on June 8, 2012 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

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

BOARD MEMBERS PRESENT:
Augustus A. Petticolas, Jr., D.D.S., Vice President
Herbert R. Boyd, III, D.D.S., Secretary-Treasurer
Martha C. Cutright, D.D.S.
Surya P. Dhakar, D.D.S.
Meera A. Gokli, D.D.S.
Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

BOARD MEMBERS ABSENT:
Misty Mesimer, R.D.H.
Myra Howard, Citizen Member

STAFF PRESENT:
Sandra K. Reen, Executive Director for the Board
Elaine J. Yeatts, DHP Senior Policy Analyst
Alan Heaberlin, Deputy Executive Director for the Board
Huong Vu, Operations Manager for the Board

OTHERS PRESENT: Howard M. Casway, Senior Assistant Attorney General

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

PUBLIC COMMENT: Lynn Pooley, of the Virginia Dental Assistants Association, referenced the petition for rulemaking to permit DAsII to use high speed hand-pieces in the mouth and said the Board is responsible for addressing the skills needed for quality dental care. She also said that dental assistants are committed members of the dental team.

Carrie Simpson stated that the Virginia Dental Hygienists Association does not support allowing DAsII to use high speed hand-pieces in a patient's mouth.

APPROVAL OF MINUTES:

Dr. Hall asked if the Board members had reviewed the March 9, 2012 minutes. Dr. Petticolas moved to accept the minutes. The motion was seconded and carried.

DHP DIRECTOR'S REPORT:

Dr. Hall noted that Dr. Cane was unable to attend today.

REPORT ON SANCTION REFERECE POINTS (SRP):

Mr. Kauder reported the Board of Health Professions has engaged his company, VisualResearch, to study implementation of the SRP program to determine its effectiveness and to identify potential improvements the boards might consider. He said that, based on Dentistry's consistently high agreement rate and the information gathered through interviews with Board members and staff, there is no need to make significant changes to the worksheets. He then reviewed the following recommendations that were identified:

- Definition for "Patient Injury" – Mr. Kauder stated concern was expressed about limiting the scoring to injuries requiring medical care so the proposed definition would broaden this factor to impairing "normal daily functions." Ms. Reen said she was concerned that there are injuries that might not impair daily functions and the term itself would need to be defined in order for it to be applied consistently. She provided a reference sheet on the Board's current parameters and parameters recently adopted by other boards. She commented that other Boards' definitions move away from physical injury. Dr. Gokli suggested that the Board stay with physical injury. Ms. Pace said she would like to add mental abuse. Dr. Levin suggested narrowing down to oral and dental injuries. Ms. Reen asked for permission to revise the proposed language and bring a recommendation to the September meeting. All agreed.
- Automating SRP worksheets – Mr. Kauder said that the Board of Nursing (BON) is beginning to complete its worksheets in Microsoft Excel so that scoring is automatic. He offered to set up the worksheets, if Dentistry would like to implement this change. Ms. Reen suggested letting the BON work out any kinks before undertaking this change. All agreed.
- Reporting of quarterly SRP agreement rates – Mr. Kauder noted that he was withdrawing the recommendation for distribution of the quarterly reports. He complimented the Board for consistently achieving high agreement rates.

Dr. Hall thanked Mr. Kauder for his report.

LIAISON/COMMITTEE REPORTS:

Board of Health Professions (BHP). Dr. Levin stated that there is nothing new to report because the May 8 meeting was cancelled.

AADB Mid-Year Meeting. Dr. Levin said that he and Ms. Reen attended AADB Mid-Year meeting in Chicago in April 2012. He then reported that the following subjects were addressed:

- Prescription drug abuse and the Prescribers' Clinical Support System for Opioid Therapies to promote safe use for patients with pain.
- Dental Professional Review and Evaluation Program (D-PREP) is new service offered by AADB which state boards might use to detect and evaluate deficiencies in dental practitioners. The participating schools are University of Mayland, Marquette University and Louisiana State University.
- Expert Review Assessment (ERA) is another new service offered by AADB to dental boards in need of an independent expert witness in disciplinary cases.
- Mid-Level Providers such as Dental Therapists are being considered in seven or eight states and AADB will provide more information soon.
- ADA RFP for Portfolio-Style Examinations was presented as an effort by to provide dental boards with an additional option for making licensing decisions.

Dr. Levin thanked the Board for sending him to the meeting and Ms. Reen said she had nothing to add.

SRTA. Dr. Hall stated that he has nothing new to report. Ms. Pace reported that the SRTA Annual meeting will be held in early August in Bonita Springs, FL and she plans to attend.

Dental Laboratory Workgroup. Dr. Hall reported that he, Dr. Boyd, Ms. Yeatts, Ms. Reen and Virginia Dental Association (VDA) representatives met twice to review the need for registration of dental labs. The proposed bill and the Board's dental laboratory work order forms were discussed without closure. Ms. Reen added that she has been invited to address the VDA Board of Directors on June 16, 2012. Dr. Boyd indicated that he would also attend.

LEGISLATION AND REGULATIONS:

Status Report on Regulatory Actions. Ms. Yeatts noted that not much has changed since the last report. She stated particular concern with the delay in implementing the regulations for sedation and anesthesia permits which have been at the Governor's Office

for approval for 177 days. Ms. Reen asked what the Board can do as a body to advance the regulations. Dr. Hall expressed his frustration about the regulations not being approved yet and commented that the Board has worked hard on the regulations. Ms. Yeatts said that the Board might express its concern to Dr. Cane and added that the need for action on the regulations is reported weekly to the Secretary of Health and Human Resources. Dr. Boyd moved that the Board send a letter to Dr. Cane expressing its concern about the regulations. The motion was seconded and passed.

Ms. Burnette's Petition for Rulemaking. Ms. Yeatts stated that Ms. Burnette petitioned the Board to allow dental assistants II (DAs II) to use high speed rotary instruments and it is presented for Board action. She added that the comment period was from April 23, 2012 to May 18, 2012 and the majority of the comments opposed the proposed action and only two were in favor. She noted that the statute limits delegation to DAsII to reversible, intraoral procedures and questioned if the use of high speed rotary instruments could cause irreversible harm to patients. Dr. Hall commented that this matter was addressed when the Board worked on the DA II regulations and decided that the risk of harm was too great. Dr. Petticolas moved to deny the petition due to the potential for irreversible harm to patients. The motion was seconded and passed.

BOARD DISCUSSION/ACTION:

Review of Public Comment Topics. Dr. Hall noted that the comments received have already been addressed.

AADB Membership. Ms. Reen noted that the Board voted not to renew its AADB membership at its September 9, 2011 meeting. She added that she has notified AADB of the decision and AADB is requesting reconsideration. Discussion followed about the costs and benefits of membership. Dr. Levin moved that the Board not renew its membership but continue to appoint a Board member to attend AADB meetings. The motion was seconded and passed.

State Board Letters on ADA Test RFP & ADA Responses. Ms. Reen said the Board continues to receive letters from other states expressing their opposition to the ADA becoming involved in licensure examinations. She said the concern is that the ADA is encroaching on the responsibility of each state to decide its licensing process. No action was taken by the Board.

Dental Lab Work Order Forms. Ms. Reen stated that these forms were revised as requested by the Dental Laboratory Workgroup and that she recommended no action at this meeting because the

VDA representatives still have concerns. She asked Board members for suggestions on making them as workable as possible for possible action at the September meeting. Dr. Hall noted that these forms are templates only. Ms. Reen referred the Board to the Workgroup May 18, 2012 minutes on page 19 where Dr. Sarrett, Dean of VCU School of Dentistry, suggested that, instead of advancing the proposed bill, the VDA could consider developing a registry or clearinghouse so dental labs could voluntarily apply to be listed as doing business in the Commonwealth. She commented that this might be a good solution if the VDA decides to move in that direction.

REPORT ON CASE ACTIVITY:

Mr. Heaberlin reported that in the third quarter of FY2012 the Board received a total of 83 patient care cases and closed a total of 90 for a 108% clearance rate. He added that:

- the current caseload older than 250 days is 14%,
- 97% of all cases were closed within 250 business days,
- 235 cases are open, and
- 77 cases are in probable cause with 31 at Board member review.

He said that staff has begun reviewing cases before they are sent out for Probable Cause review and the Probable Cause review sheet has been revised and updated. He reminded members not to substitute the staff's review and notes for their own opinion. Dr. Hall stated his appreciation on staff work.

BOARD COUNSEL REPORT:

Mr. Casway reported that Dr. Jeffery R. Leidy tried to appeal the signed Consent Order entered June 9, 2008 to the Circuit Court and after many communications has finally decided to drop the suit.

EXECUTIVE DIRECTOR'S REPORT/BUSINESS:

Ms. Reen reported the following:

- The proposed calendar for 2013 is offered for adoption. She noted that all Board members had an opportunity to review and no changes were requested. Dr. Boyd asked to move the January 25, 2013 informal conference to February 1, 2013. Ms. Reen said that the change is noted. Dr. Petticolas moved to adopt the amended 2013 calendar. The motion was seconded and passed.
- Ms. Reen reported on staff's work on new member orientation and preparing for four to five new members. She asked for recommendations to make the revised Probable Cause Review form and the draft Guide to Case Review and Probable Cause Decisions easier to user. Discussion

followed about the improvements made and the concern that the staff review section on the Probable Cause Review form may cause reviewers to overlook the issues the staff reports already doing. Dr. Levin's suggestion to remove the references to staff's work so reviewers consider the content issues was agreed to by consensus. Ms. Reen noted that she is working on another reference sheet that highlights typical case complaints, violations and sanctions plus the resources and tools available for making probable cause decisions. She said she will circulate this document for feedback, too. She thanked Dr. Hall and Dr. Boyd for their guidance.

- The Commemorative Resolution is offered for adoption by the Board. Ms. Reen stated that Dr. Hall requested the Resolution to honor and recognize the outstanding professional career of Robert T. Edwards, DDS, who was a former Board Member in the 70's. Dr. Levin moved to adopt the Resolution. The motion was seconded and passed. Dr. Levin moved to send the resolution upon receiving notice of the death of a former member. The motion was seconded and passed.

SCHOOL OF DENTISTRY UPDATE:

David C. Sarrett, D.M.D., M.S., Dean – Dr. Sarrett provided a presentation addressing the:

- DDS program applications and enrollees,
- VCU RAMpS program and its statistics,
- Student breakdown, debt and cost of education,
- Focus on Ethics through Book Read Program,
- Recent faculty hires,
- FY11 Budget,
- Comparison of VCU tuition and fee rates with other schools, and
- Dean priorities and Dean's blog.

NATIONAL BOARD EXAMINATIONS:

B. Ellen Byrne, D.D.S., PhD, Senior Associate Dean, Professor of Endodontics, VCU School of Dentistry -

Dr. Byrne gave a presentation addressing:

- JCNDE Mission Statement,
- Committee for an Integrated Examination (CIE),
- Brief History of Integrated National Board Dental Exam,
- CIE members and affiliations,
- CIE progress – 12 steps for test development, and
- INBDE project phases & method of communication

Dr. Hall asked if the VCU School of Dentistry will need to align course content to the INBDE and Dr. Byrne said yes.

Dr. Hall thanked Dr. Sarrett and Dr. Byrne for their presentations.

CALIFORNIA'S PORTFOLIO EXAMINATIONS:

Ms. Reen stated that the Board asked for presentations on the alternatives to live patient clinical examinations. She noted that the Board heard about some exam models at its December 2011 and March 2012 meeting. Then she introduced Dental Board of CA representatives, Richard DeCuir, Board Executive Officer, and Stephen Casagrande, DDS, Board member, who joined the meeting by conference call to address the CA Portfolio Examination.

Mr. DeCuir reported that the first step the CA Board took to explore the feasibility of using alternative pathways to initial licensure was to contract with Comira to do a feasibility study. Following the feasibility study, Comira was hired to define the competencies to be tested and to provide background research that might affect implementation. He confirmed that VA had received both Comira reports. He then said development and implementation was a coordinated effort between the Board and the five CA dental schools. Then Dr. Casagrande discussed the characteristics of the exam which assesses the skills required in commonly encountered clinical situations with patients of record at the respective schools within the student's program of dental education.

Mr. DeCuir and Dr. Casagrande then responded to the questions which the VA Board had sent them as follows:

- The projected cost to develop and administer the portfolio was about $300,000 and it is part of the Dental Board of CA budget. It took about 2 years to be developed.
- The features of the portfolio model are:
  a. Oversight is maintained by the Board .
  b. Built-in system for auditing the process.
  c. No additional resources are required from students, schools, or the Board.
  d. Must be instituted within the current systems of student evaluation.
  e. Must meet all professional testing standards.
  f. Meets psychometric standards for examinations set forth by the Standards for Educational and Psychological Testing (1999).
  g. Designed to cover the full continuum of competence by assessing competencies throughout the course of treatment including oral diagnosis and treatment planning, follow-up and ongoing care, restorative,

endodontics, periodontics, radiography, and removable prosthodontics.

h. Evaluation of competence is within the course of treatment plan for patients of record.

i. Evaluators are regularly calibrated for consistent implementation of the alternative examination. There are six (6) different calibrations in the process of being developing. Examiners are dental school faculty trained to use a standardized evaluation system. If any examiner is unable to be re-calibrated, the Board will dismiss them.

j. Has policies and procedures that treat licensure candidates fairly and professionally, with timely and complete communication of examination logistics and results.

- The portfolio exam is supported by content-related validity evidence from a job analysis and addresses six competency domains: comprehensive oral diagnosis and treatment planning, direct and indirect restoration, removable prosthodontics, periodontics, and endodontics.
- Deans, associate deans, and key faculty at the five Board-approved dental schools were involved in establishing and/or completing the portfolio evaluation process.
- There is a separate Law and Ethics examination.
- Each testing site is a CA licensed dental school which has to be CODA accredited.
- Students pay $350 to take the exam and decide when to challenge a competency so they are graded over time in a top down qualifying process.
- The portfolio exam is not accepted by other states yet. Students can take WREB if they want to apply for license in other states.
- The Dental Board of CA is looking at the feasibility of a similar examination for dental hygiene candidates.

Dr. Casagrande closed the presentation by offering assistance if VA is interested in establishing a portfolio exam. Dr. Hall thanked Mr. DeCuir and Dr. Casagrande for their assistance and asked for comments and questions. Discussion followed about the need to assure continuity of work on alternatives to the current clinical exams. Dr. Byrne suggested establishing an advisory committee. Dr. Sarrett suggested that the Board and the school work together to establish an exam similar to CA's. Dr. Hall stated that the Board should pursue a portfolio exam and continue to work with SRTA for a non-patient exam. Ms. Pace added that the Board should explore a model for Virginia with partnership with the school. Dr. Boyd moved that the Board establish a regulatory advisory committee to work with the Exam Committee to recommend actions the Board

should consider. The motion was seconded and passed. Ms. Reen asked if the Board would like to include others, like the VDA and VDHA, on the committee. The consensus was yes.

CASE RECOMMENDATIONS: **Case# 136273, Case# 136278, Case# 135072, Case# 135478, and Case# 136456**

Closed Meeting: Dr. Boyd moved that the Board convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* for the purpose of deliberation to reach decisions in the matters of case # 136273, # 135072, # 135478, # 136456, and # 136278. Additionally, Dr. Boyd moved that Board staff, Ms. Reen and Ms. Vu attend the closed meeting because their presence in the closed meeting is deemed necessary, and will aid the Board in its deliberations.

Reconvene: Dr. Boyd 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.

Dr. Gokli moved to accept the Consent Order for Case # 136273. The motion was seconded and passed.

Dr. Petticolas moved to accept the recommended Order of the Credentials Committee for Case # 136278. The motion was seconded and passed.

Dr. Gokli moved to accept the Consent Order for Case # 135072, Case # 135478, and Case # 136456. The motion was seconded and passed.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 3:32 p.m.

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

9-9-12
Date

Sandra K. Reen, Executive Director

September 7, 2012
Date