

APPROVED
BOARD OF DENTISTRY

MINUTES
FORMAL HEARING

TIME AND PLACE: A meeting of the Virginia Board of Dentistry convened on June 16, 2006, at 9:03 a.m. at the Hilton Springfield, Springfield, Virginia.

PRESIDING: Harold S. Seigel, D.D.S.

MEMBERS PRESENT: Jacqueline G. Pace, R.D.H.
Darryl J. Pirok, D.D.S.
Misty Sissom, R.D.H.
James D. Watkins, D.D.S.

MEMBERS EXCUSED: Edward P. Snyder, D.D.S.
Millard D. Stith, Jr.

MEMBERS RECUSED: Meera A. Gokli, D.D.S.
Glenn A. Young, D.D.S.
Paul N. Zimmet, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Cheri Emma-Leigh, Operations Manager
Cynthia E. Gaines, Adjudication Specialist

COUNSEL PRESENT: Howard Casway, Senior Assistant Attorney General

OTHERS PRESENT: Frank Pedrotty, Senior Assistant Attorney General
Connie K. Kyle, Court Reporter, Rudiger & Green Reporting Service

QUORUM: With five members present, a panel was established.

████████████████████
**Case Nos. 99098 and
100380**

████████████████████ appeared with counsel, August
McCarthy, Esq., to discuss allegations that he may have:

1. engaged in negligent conduct in his practice of dentistry and conducted his practice in a manner presenting a danger to the health and welfare of his patients. Specifically:

- (a) after injecting Patient A with an anesthetic, he left the operatory for a prolonged period of time and by the time he returned to the operatory, the anesthetic had worn off, and

the patient received a repeated anesthetic injection prior to his beginning treatment on him, and

- (b) after placing porcelain veneers on Patient A's teeth #7, #8, #9, and #10, the patient reported that the veneers frequently detached and one veneer had detached approximately eight (8) times in less than one year. [REDACTED] eventually placed a new veneer on tooth #10, because the prior veneer had detached from patient's tooth on multiple occasions, and placed a new veneer on tooth #9;

2. engaged in fraudulent and/or deceptive billing. Specifically:

- (a) following an exam of Patient B, [REDACTED] developed a treatment plan, to include an estimate of the charges for proposed treatment. The treatment plan presented to the patient indicated that the patient would be responsible for a total of one hundred twenty-two dollars and eighty cents (\$122.80) for the cost of services. [REDACTED] billed Patient B in excess of the amount stated on the treatment plan and for items which were not part of the written plan. Additionally, [REDACTED] office charged the patient for fine scaling and polish, although this service should have been included in the cost the patient paid for a full mouth debridement, and
- (b) during [REDACTED] treatment of Patients C, D, E, F, G, H, I, J, and K, his office submitted a proposed treatment plan to each patient which included a total cost for each proposed procedure, based on the amount to be paid by the patient and their insurance carrier. However, following the procedures, [REDACTED] office frequently charged amounts in excess stated on the patients' respective primary treatment plans for the procedure;

3. verbally abused Patient M resulting in the discontinuance of the treatment session. [REDACTED] continued to display verbal abusiveness toward the patient while exiting the building and continued the confrontation into the parking lot; and
4. maintained inadequate records. Specifically:
 - (a) his records for Patients B, C, and E-M failed to include the patients' name on each page of the patients' record,
 - (b) his treatment notes for Patient B failed to include documentation that a full mouth debridement was actually performed on the patient, despite billing the patient for this treatment, and
 - (c) the duplicate laboratory work orders that he submitted for Patients A, C, and E-L failed to include his address and are sometimes illegible.

Testifying on behalf of the Commonwealth were Alicia Gailliot, Patient M, Denise Fortner, Brenda Creel, and Denise Woodard. Testifying on behalf of the Commonwealth by telephone was Patient A.

Upon the conclusion of witnesses testifying on behalf of the Commonwealth, Mr. McCarthy moved to strike and dismiss the case.

Closed Meeting:

Dr. Watkins moved that the Board convene a closed meeting pursuant to § 2.2-3711 (A) (28) of the Code of Virginia to deliberate in reaching a decision in the matter of [REDACTED]. Additionally, it was moved that Board Counsel, Howard Casway, and Board staff, Sandra Reen and Cheri Emma-Leigh 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 to certify that only public matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only public business matters as were identified in the motion

convening the closed meeting were heard, discussed or considered by the Board. The motion was seconded and passed.

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

Decision:

Based on the facts that were alleged regarding Patient A, it appears they do not constitute any violation of law or regulations. In the matter of Patient M, the facts presented could result in a violation of law and regulations. Dr. Watkins moved to sustain Mr. McCarthy's motion to strike the allegations involving Patient A and to continue to hear evidence involving allegations 2 through 4. The motion was seconded and passed.

Testifying on behalf of [REDACTED] were Sitara Azizi, Manuela Schmidt, Katarzyna Wassel, and Stephanie Shaker.

ADJOURNMENT:

Dr. Seigel announced at 7:05 p.m. that, in light of the hour, the hearing would be adjourned and reconvened by the end of the month. Mr. Casway polled the parties for a date to reconvene. The Board and [REDACTED] agreed to continue the hearing until Saturday, August 5, 2006 and the hearing was adjourned at 7:17 p.m.

Harold S. Seigel, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date