Approved

VIRGINIA BOARD OF DENTISTRY
MINUTES
SEPTEMBER 7, 2012

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 9:02 a.m. on September 7, 2012 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Herbert R. Boyd, III, D.D.S., President

BOARD MEMBERS PRESENT:
Martha C. Cutright, D.D.S.
Charles E. Gaskins, III, D.D.S.
Jeffrey Levin, D.D.S.
Melanie C. Swain, B.S.D.H-R.D.H
Tammy K. Swecker, R.D.H
James D. Watkins, D.D.S.

BOARD MEMBERS ABSENT:
Surya P. Dhakar, D.D.S.
Myra Howard, Citizen Member
Evelyn M. Rolon, D.M.D.

STAFF PRESENT:
Sandra K. Reen, Executive Director for the Board
Dianne L. Reynolds-Cane, M.D., DHP Director
Arne Owens, DHP Deputy Executive Director
Elaine J. Yeatts, DHP Senior Policy Analyst
Kelley Palmatier, 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 seven members of the Board present, a quorum was established.

Dr. Boyd recognized five new Board members. He stated that Dr. Rolon was not available to attend the meeting. He introduced Dr. Gaskins, Ms. Swain, Ms. Swecker, and Dr. Watkins. He thanked Board staff for their assistance in orienting new Board members so they can be ready for hearings and business meetings.

PUBLIC COMMENT: Dr. Robert Allen of Hampton, VA, asked the Board to address non-dentists who own dental offices. He stated that non-dentist owners are predatory and unhealthy to patients. He also asked the Board

for clarification on how long a wife can own the practice once the dentist passes away.

ELECTION OF OFFICERS:

Ms. Reen noted that this item was listed twice on the agenda because the Bylaws do not contemplate the current situation in which both the President and the Vice-President's terms expired at the same time. She stated that it is the Board's decision to hold the election now or at the end of the Board business meeting. Dr. Levin moved to hold the election now. The motion was seconded and passed.

Dr. Cutright noted that the Nomination Committee met this morning and nominates for the 2012-2013 officers:

Herbert R. Boyd, III, DDS – President
Jeffrey Levin, DDS – Vice President
Martha C. Cutright, DDS – Secretary-Treasurer

Dr. Gaskins moved to elect nominees as reported. The motion was seconded and passed.

APPROVAL OF MINUTES:

Dr. Boyd asked if the Board members had reviewed the June 8, 2012, June 14, 2012, July 23, 2012, and August 22, 2012 minutes. Dr. Gaskin moved to accept the minutes. The motion was seconded and carried.

DHP DIRECTOR'S REPORT:

Dr. Reynolds-Cane thanked the Board for its letter regarding regulatory action pending approval. She added that Secretary Hazel is aware of the urgent need of the pending emergency regulations. She deferred comments about regulatory actions to Ms. Yeatts. She invited new and current Board members to attend DHP Board Orientation on September 28, 2012. She added that Dr. Levin will be on the panel discussion.

LIAISON/COMMITTEE REPORTS:

Board of Health Professions (BHP). Dr. Levin stated that the last two meetings were canceled. He then asked Elizabeth Carter, Ph.D., BHP Executive Director and Director of the Healthcare Workforce Data Center, to report on current initiatives.

Dr. Carter stated that currently BHP is examining the expansion of the scope of practice of pharmacy technicians. She asked the Board to let her know if it would like to look at the scope of practice for dentists and dental hygienists. She added that she hopes to have reports for the Board on the workforce surveys completed by dentists and dental hygienists with their 2012 renewals at its next meeting.

AADB Mid-Year Meeting. Dr. Levin said that Dr. Cutright and Ms. Reen will attend AADB Annual meeting in San Francisco in October 2012.

SRTA. Dr. Boyd stated that SRTA reports from Dr. Hall and Ms. Pace are in the agenda package. He asked if there are any questions or discussion. Dr. Watkins added that Missouri is now accepting the SRTA exam. He also noted that he is now a SRTA Examination Captain and he plans to attend training in January 2013. Ms. Reen asked Dr. Watkins to forward meeting information to Ms. Vu so a travel request can be submitted. She added that new Board members have the option of serving as SRTA examiners but it is not required. Dr. Watkins asked new members to contact him if they want to be examiners.

Ms. Reen noted that she forgot to cover travel requirements at the Board Member Orientation meeting on Thursday, September 6, 2012. She stressed that all travel must be approved first by Dr. Cane.

Dr. Watkins added that he has the 2013 SRTA exam schedule. He noted that for new Board members who want to be examiners, they must first be observers. Dr. Boyd commented that he finds being an examiner very interesting and encouraged Board members to serve as examiners.

LEGISLATION AND REGULATIONS:

Status Report on Regulatory Actions. Ms. Yeatts reported that the emergency regulations for sedation and anesthesia permits have been approved and will be effective September 14, 2012 and expire on September 13, 2013. She added the followings:

- Dentists who use deep sedation/general anesthesia or moderate/conscious sedation in a dental office must have the permits by March 1, 2013.
- Dentists who administer local anesthesia and minimal sedation are not required to hold a permit.
- Dentists who have self-certified in sedation may be issued a temporary permit to allow continued administration but must have a full permit in conscious/moderate sedation by any method or by enteral only by September 14, 2014, two years after the effective date of the emergency regulations.
- All permits will expire on March 31, 2014 and are subject to annual renewal by March 31 each year concurrent with renewal of dental licenses.
- All licensed dentists will be notified by mail.

She noted that the emergency regulations will expire on September 13, 2013, but the Board may request a 6-month extension until March 13, 2014. She added that the Board at its December 7, 2012 meeting may adopt the proposed regulations which may or may not have the same language as the emergency regulations. She commented that the definitions in the emergency regulations were taken from the Board's work on periodic review. She stated that the Notice of Intended Regulatory Action (NOIRA) will be published on October 8, 2012, with a 30-day comment period until November 7, 2012.

Ms. Reen added that notification letters to dentists have been prepared with guidance from Dr. Hall and Mr. Casway and will be mailed out next week. She stated that licensees are responsible for reading the emergency regulations and deciding if they are required to hold a permit.

Adoption of Exempt Regulations on Temporary Resident's License and Faculty License. Ms. Yeatts stated that HB334 was sought by the VCU School of Dentistry, and she asked Dr. Sarrett to go over the new legal provisions. Dr. Sarrett stated the bill amended the licensure provisions for temporary residents and dental faculty. He added that it added language to allow graduates of dental and dental hygiene programs who are not licensed in Virginia to participate in hands-on clinical courses in CODA accredited programs. He then requested that the proposed regulations be amended at 18VAC60-20-90.C(2) to expressly include the words "program" and "program director."

Ms. Yeatts said the amendments were appropriate, and Dr. Watkins moved to adopt the proposed regulations as amended for exempt action. The motion was seconded and passed.

Adoption of Exempt Regulations on Dental Hygiene Practice in Department of Health. Ms. Yeatts noted that the law allows dental hygienists, employed by the Department of Health (VDH), to provide educational and preventative dental care under remote supervision. She added that the regulations are presented for adoption by the Board. She stated that the protocol from VDH needs be adopted to be incorporated by reference as part of the regulations.

Dr. Levin moved to adopt the final exempt proposed regulations and the VDH protocol. The motion was seconded and passed.

BOARD DISCUSSION/ACTION:

Review of Public Comment Topics. Dr. Boyd stated that the comments received from Dr. Allen will be considered.

Surveys of Renewing Dentists and Dental Hygienist. Dr. Boyd noted that Dr. Carter covered this earlier.

AADB Survey on Opiods. Ms. Reen said that she brings this to the Board's attention for guidance as recommended by Dr. Hall while he was serving as president. She explained that she or the Board president normally responds to surveys based on adopted statutes, regulations and Board guidance, but this survey is requesting information not addressed in any Board policy. She asked how she should address such requests.

Dr. Watkins moved that the president be authorized to respond to this and similar surveys at his discretion. The motion was seconded and passed.

Study Report on Oral Health in Virginia. Ms. Reen stated that this is provided for possible discussion by the Board but no action is needed. Dr. Boyd noted that the Board will take it as information only.

Liability for Exams. Dr. Levin asked the Board and Dr. Sarrett to discuss who is liable for students and examiners during regional exams administered at the School.

Dr. Sarrett stated that the current laws do not address who is liable while the students take regional clinical exams and added that exams are not part of the education program. He said the school hosts the exams and faculty assist, so he thinks the school could be liable.

Ms. Swecker commented that SRTA does offer malpractice insurance for the students.

Mr. Casway stated that this is not a Board matter because students are not licensed. He added that for Board members who are doing the exams, SRTA should have insurance in place. He suggested that Dr. Sarrett consult with the school's legal counsel about liability.

REPORT ON CASE ACTIVITY:

Ms. Palmatier reported that in the fourth quarter of FY2012 the Board received a total of 93 patient care cases and closed a total of 60 for a 65% clearance rate. She added that the current caseload older than 250 days is 18%, and 80% of all cases were closed within 250 business days. She noted that the Board did not meet the agency's performance goals and reminded Board members to act on cases timely to help in improving performance.

BOARD COUNSEL REPORT: Mr. Casway stated that he has nothing to report.

EXECUTIVE DIRECTOR'S REPORT/BUSINESS: Ms. Reen reported the following:

- The Dental Laboratory Work Group, which was formed by the Board and the VDA to discuss registration of dental labs and the dental lab work order forms, met two times and no agreement was reached. She added that she then presented the latest version of the forms to the VDA Board of Directors and requested recommendations for amending the forms so that the Board might complete work on them and consider issuing them as a guidance document. She said that the VDA plans to give its response following its annual meeting, so the Board will address this at its December meeting.
- While considering the status report on the Sanction Reference Points at the last meeting, staff was asked to bring a proposed definition for "Patient Injury" to the September meeting. She noted that the current definition, the definition proposed by Visual Research, and the one she and Ms. Palmatier developed are provided for discussion. During discussion of the options, Dr. Reynolds-Cane asked Mr. Casway if he might provide some guidance. Mr. Casway asked if the term "physical injury" was required, and Ms. Reen said that the Boards of Medicine and Physical Therapy use "injury." Mr. Casway recommended using the term "injury" and adopting "injury includes any negligent or intentional action which caused harm to the patient" as the definition. Dr. Watkins moved to accept Mr. Casway's definition. The motion was seconded and passed.
- In the past the current Board members have hosted a dinner to recognize the service of departing Board members. She noted the dinners are paid for by the current members and not the Board. She asked if the Board wants to continue this tradition. It was decided by consensus to host a recognition dinner. Ms. Reen asked if a member would volunteer to help staff organize this event. Dr. Boyd volunteered.
- Ms. Palmatier has joined the Board as Deputy Executive Director and is already proving to be a valuable asset. Ms. Reen added that the Board now has three part-time case managers who are dental hygienists; Deborah Southall, Trudy Levitin, and Kelly Williams.

COMMITTEES AND LIAISONS APPOINTMENTS:

Dr. Boyd made the following assignments:

- Special Conference Committee A – Dr. Cutright, Chair, Ms. Swecker, and Dr. Dhakar
- Special Conference Committee B – Dr. Levin, Chair, Dr. Gaskins, and Ms. Swain
- Special Conference Committee C – Ms. Howard, Chair, Dr. Rolon, and Dr. Watkins
- Exam Committee – Dr. Cutright, Chair, Dr. Watkins, and Ms. Swecker
- Regulatory-Legislative Committee – Dr. Levin, Chair, Dr. Gaskins, Dr. Rolon, and Ms. Swain
- SRTA Dental Exam – Dr. Watkins
- SRTA Dental Hygiene Exam – Ms. Swecker
- ADEX Board of Directors – Dr. Cutright
- ADEX Dental Exam – Dr. Watkins

and noted that he would ask Dr. Hall to complete his term on the SRTA Board of Directors.

Dr. Boyd then noted that the date for Special Conference Committee B at the bottom of the 2013 Calendar needs to be November 22 instead of November 29.

Dr. Robert Allen thanked Ms. Reen for the report on Oral Health in Virginia. He urged everyone to read it.

ADJOURNMENT:

With all business concluded, the meeting was adjourned at 10:55 a.m.

Herbert R. Boyd, III, D.D.S., President

Sandra K. Reen, Executive Director

Date

December 7, 2012

Date