

**VIRGINIA BOARD OF DENTISTRY
MINUTES
December 11, 2015**

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 9:03 a.m. on December 11, 2015, Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.

PRESIDING: Charles E. Gaskins III, D.D.S., President

**BOARD MEMBERS
PRESENT:**

John M. Alexander, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
A. Rizkalla, D.D.S.
Evelyn M. Rolon, D.M.D.
Carol R. Russek, J.D., Citizen Member
Melanie C. Swain, R.D.H.
James D. Watkins, D.D.S.
Bruce S. Wyman, D.M.D.

**BOARD MEMBERS
ABSENT:**

Tammy K. Swecker, R.D.H.

STAFF PRESENT:

Sandra K. Reen, Executive Director for the Board
Elaine J. Yeatts, DHP Senior Policy Analyst
Kelley Palmatier, Deputy Executive Director for the Board
Huong Vu, Operations Manager for the Board

OTHERS PRESENT:

David E. Brown, D.C., DHP Director
Lisa R. Hahn, DHP Chief Deputy Director
James E. Rutkowski, Assistant Attorney General

**ESTABLISHMENT OF
A QUORUM:**

With nine members of the Board present, a quorum was established.

Ms. Reen read the emergency evacuation procedures.

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

PUBLIC COMMENT:

Dr. Richard Taliaferro, DDS, VDA President, thanked the members for their service then asked the Board to require a jurisprudence exam only for initial licensure; increase communications with licensees about regulatory actions; and provide guidance on implementing practice requirements and restrictions.

Hobart Harvey, VA Oral Health Coalition, read a letter from Patricia B. Bonwell, RDH, Ph.D., a dental clinic coordinator for a nursing home. The letter addressed the need for preventative and periodontal oral health care in older adults and supported allowing dental hygienists to work under remote supervision in nursing homes.

Marlene Rhodes, RDH, asked the Board to provide more opportunities for dental hygienists to practice under remote supervision.

APPROVAL OF MINUTES:

Dr. Gaskins asked if there were any corrections to the minutes as listed on the agenda. The September 17, 2015 minutes were adopted by consensus. Dr. Rizkalla asked that the SRTA report section of the September 18, 2015 minutes be amended to strike “that SRTA is concerned”, and substituted to read “*He added that it is worth noting that Maryland...*”. By consensus, the Board accepted the amendment then adopted these minutes. The minutes for November 18, 2015 also were adopted by consensus.

DHP DIRECTOR’S REPORT:

Dr. Brown introduced Ms. Lisa R. Hahn, the new DHP Chief Deputy. Ms. Hahn commented that she looks forward to working with the Board. Dr. Brown reported that DHP is developing information for guidance counselors and community colleges to inform students about careers in health care such as dental hygiene.

SANCTIONING REFERENCE POINTS (SRP) INSTRUCTION MANUAL:

Dr. Watkins stated that the Committee recommends amending the manual. Ms. Reen said that in addition to editorial changes, the committee proposed revising the worksheets to add consideration of “financial or material gain” in deciding sanctions. She said that the effect of adding this factor was evaluated by Visual Research and was found to improve the prediction level. Dr. Rizkalla moved

to adopt the manual as presented. The motion was seconded and passed.

HEALTH PRACTITIONERS' MONITORING PROGRAM

(HPMP):

Dr. Master and Dr. Knisely presented detailed information on the HPMP's mission, admissions practices, and the monitoring services provided to impaired practitioners. They also reviewed data on Board of Dentistry admissions from 1/1/2003 – 6/30/2015. Following questions and answers about costs and participation, Dr. Gaskins thanked Drs. Master and Knisely for their presentation.

LIAISON/COMMITTEE REPORTS:

Board of Health Professions (BHP). Dr. Watkins stated the last two meetings were cancelled so he has nothing to report. In response to a question, he said that the topic of electronic records is still on the agenda.

AADB. Dr. Gaskins stated that he attended the AADB Annual meeting on November 3 and 4, 2015, and reviewed the topics addressed. In response to a question about addressing teeth whitening by unlicensed providers, Mr. Rutkowski explained that the Board would have to address this through the General Assembly.

ADEX. Dr. Rizkalla stated CITA will administer the ADEX exam at VCU this year. He then reviewed the changes made to their bylaws and examinations. In response to a question, Dr. Rizkalla said the examiners do not know the students in the Buffalo Model format.

Regulatory-Legislative Committee. Ms. Swain noted that the recommendations advanced by the Committee will be addressed later on the agenda. In regard to the discussion of sleep apnea, Dr. Alexander asked if a dentist is permitted to refer patients for sleep studies. After further discussion, the report was accepted as presented and Dr. Alexander's question was referred to Mr. Rutkowski.

Executive Committee. Dr. Gaskins stated the revised Bylaws are provided for Board consideration. Dr. Rizkalla moved to accept the Bylaws as presented. The motion was seconded and passed.

SRTA. Dr. Rizkalla stated CITA will administer the ADEX exam at the VCU School of Dentistry starting in 2016. Dr. Watkins said that with the dissolution of SRTA's agreement with ADEX, contracts and relationships are changing and he believes the Board needs to be part of all exams that it accepts.

SCDDE. Dr. Gaskins stated that he, Dr. Watkins and Ms. Reen will attend the SCDDE Annual Meeting in January, 2016.

LEGISLATION AND REGULATIONS:

Status Report on Regulatory Actions. Ms. Yeatts reported:

- The comment period on the NOIRA for a law exam ends on December 16, 2015;
- The fast track action to accept education programs accredited by the Commission on Dental Accreditation of Canada goes into effect on January 28, 2016;
- The comment period on the NOIRA to require capnography equipment for monitoring anesthesia or sedation ends on December 30, 2015;
- The Periodic Review to reorganize Chapter 20 into four chapters (15, 21, 25 and 30) was final and effective on December 2, 2015; and
- The One Time Renewal Fee reduction was final and effective on December 2, 2015.

Status Report on Legislation. Ms. Yeatts reviewed the following legislative proposals which will be considered by the upcoming General Assembly:

- a bill addressing payment for services by dentists and oral surgeons is being requested by the Virginia Dental Association;
- a bill addressing the composition of health profession boards would add a citizen member to the Board of Dentistry;
- a bill requiring prescribers to query the PMP when prescribing an opiate or benzodiazepine;
- the Governor's Task Force on Prescription Drug and Heroin Abuse advanced a bill to authorize the PMP to send unsolicited reports on prescribers and dispensers; and
- a bill allowing dental hygienists to practice under remote supervision in free clinics and federally qualified health centers.

Regulatory Chapters in Effect on 12/2/2015. Ms. Yeatts said that the new chapters were sent out to licensees. Ms. Reen added that reference guides for Chapters 21, 25 and 30 were distributed with the new regulations to facilitate a review between the old regulations and the new chapters. She added there will be a significant transition period in which the Board will be working with both sets of regulations to address disciplinary cases. Ms. Yeatts then proposed a fast track regulatory action to amend 18VAC60-21-230 on the qualifications for a restricted license. She explained that statutory changes which were made in 2012 for a faculty license and a temporary resident's

license were not included in the new regulations. Dr. Rizkalla moved to adopt the recommended changes for fast track action. The motion was seconded and passed.

BOARD

DISCUSSION/ACTION: **Review of Public Comment Topics.** Dr. Gaskins expressed the Board's appreciation for the comments received on requiring a law exam, more communication with licensees, and the need for remote supervision of dental hygienists.

NGA Paper on Strategies to Improve Oral Health. By consensus, the Board accepted this paper as information.

CITA Invitation to Examine. By consensus, the Board accepted this letter as information.

SRTA Letter. By consensus, the Board accepted this letter as information.

Guidance Document on Teledentistry. Ms. Reen said the Regulatory-Legislative Committee asked staff to revise the Board of Medicine's Guidance Document 85-12 to establish guidance on the use of teledentistry. She added the document is presented for the Board's consideration. Dr. Rizkalla moved to adopt the guidance document as presented. The motion was seconded and passed.

**BOARD COUNSEL
REPORT:**

Mr. Rutkowski had no report.

**REPORT ON CASE
ACTIVITY:**

Ms. Palmatier reported that performance numbers improved in the first quarter of 2016, and she thanked the Board for their effort.

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

Ms. Reen advised that a number of guidance documents (GD) have to be updated to be consistent with, and accurately reference, the new chapters of regulations. She presented the proposed revisions and each of the following documents was adopted as presented:

- GD 60-3. Periodic Office inspections for Administration of Sedation and Anesthesia as moved by Dr. Watkins;
- GD 76-24.3. Virginia Board of Dentistry Dental Inspection Form as moved by Ms. Swain;
- GD 60-4. Questions and Answers on Analgesia, Sedation and Anesthesia Practice as moved by Dr. Rizkalla;

- GD 60-5. Policy on Sanctioning for Failure to Meet Continuing Education Requirements as moved by Dr. Wyman;
- GD 60-6. Policy on Sanctioning for Practicing with an Expired License as moved by Dr. Wyman;
- GD 60-8. Educational Requirements for Dental Assistants II as moved by Dr. Rolon;
- GD 60-10. Policy on Sanctioning for Failure to Comply with Advertising Guidelines as moved by Dr. Rolon;
- GD 60-17. Policy on Recovery of Disciplinary Costs as moved by Dr. Watkins;
- GD 60-18. Approved Template for Dental Laboratory Work Order Form as moved by Ms. Russek;
- GD 60-20. Guidance on Radiation Certification as moved by Dr. Rolon; and
- GD 60-22. Policy on Sanctioning for Failure to Comply with Insurance and Billing Practices as moved by Dr. Wyman.

AGENCY SUBORDINATES RECOMMENDATIONS:

Case # 160283 Dr. Miniclier and his attorney appeared to answer any questions the Board might have.

Closed Meeting: Dr. Rizkalla 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 matter of the Agency Subordinate’s recommendation for Case Number 160283. Additionally, he moved that Ms. Reen, Ms. Vu, Ms. Palmatier and Mr. Rutkowski, Board counsel, 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. Rizkalla moved to certify that the Board 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.

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

DECISION: Dr. Wyman moved to accept the recommendation from the Agency Subordinate. The motion was seconded and passed.

Virginia Board of Dentistry
Board Business Meeting
December 11, 2015
**Case #s 152428 and
157224**

Closed Meeting: Dr. Rizkalla 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 the Agency Subordinate’s recommendation for Case Numbers 152428 and 157224. Additionally, he moved that Ms. Reen, Ms. Vu, Ms. Palmatier and Mr. Rutkowski, Board counsel, 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. Rizkalla moved to certify that the Board 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.

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

DECISION: Ms. Russek moved to accept the recommendations from the Agency Subordinate. The motion was seconded and passed.

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

Charles E. Gaskins, III, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date