

**VIRGINIA BOARD OF DENTISTRY  
MINUTES  
February 21, 2002**

The Virginia Board of Dentistry held its **Board Meeting at 9:30 a.m. on February 21, 2002**, in Richmond, Virginia.

**MEMBERS PRESENT:** Michael J. Link, D.D.S., President  
Gary E. Taylor, D.D.S., Vice-President  
Nora M. French, D.M.D.  
Darryl Lefcoe, D.D.S.  
Trudy Levitin, R.D.H.  
Deborah Southall, R.D.H.  
Gopal Pal, D.D.S.  
James D. Watkins, D.D.S.

**ALSO PRESENT:** Sandra K. Reen, Executive Director  
Howard Casway, Assistant Attorney General  
Senita Booker, Administrative Staff Assistant  
Robert A. Nebiker, Director, DHP  
Elaine Yeatts, Senior Policy Analyst  
Winston Mitchell, Fiscal Technician  
Charles Giles, Budget Manager  
Pam Horner, Administrative Staff Assistant

**NOT PRESENT:** Richard D. Wilson, Secretary-Treasurer  
Robert Winters, Esquire

**Business Meeting – February 21, 2002**

**Public Comment**

No public comment at this time.

**Determination of Quorum**

Dr. Link announced a quorum of the Board.

**Approval of Minutes for the January 18, 2002 Meeting.**

Dr. French made a motion, which was seconded, that the Board accepts the minutes for the January 18, 2002 meeting. The motion was unanimously carried.

## Legislation and Regulation

### Legislation

Ms. Yeatts reviewed the bills being tracked by the department. She gave an update on SB 503 regarding dental hygienists which has been referred to the Committee on Health, Welfare and Institutions and on HB 1055 regarding temporary permits for dentists which has been referred to the Committee on Education and Health. She also addressed SB 425, the establishment of a prescription monitoring program. All prescription drugs Schedule II-IV would be entered into a data system to track patient usage and practitioner prescribing practices. The professions that have prescription drug authority would be assessed a share of the cost for the program. She stated that the department has included an amendment that the program would be implemented once there are federal or general fund monies to cover the startup costs for at least one year of at least of \$1M.

### Fee Increases

Ms. Yeatts reviewed the budget projections based on fees through fiscal year 2004 for the Board's consideration. She also stated that the Code of Virginia an analysis of the budget at the end of each biennium and if there is a 10% differential between revenue and expenditures, then the Board is required to adjust the budget accordingly. Dr. Watkins made a motion, which was properly seconded, to accept Option II of the budget projections for fee increases. This motion was carried unanimously. The Board also discussed proposals to change the provisions for renewal and reinstatement fees as well as an amendment to add a returned check fee. Ms. Southall made a motion, which was properly seconded, to adopt the proposed amendments for renewal and reinstatements and adding a return check fee. The motion was carried unanimously.

### OMS Regulations

Ms. Reen reported on the implementation of the proposed OMS regulations and the changes that were needed for the promulgation of these regulations. She stated that the Board would need to act on adopting the regulations for submission at the May meeting.

### OMS Cosmetic Procedures Application Review Worksheet

Ms. Reen reported on the review worksheet being used in the review of applications for certification to perform cosmetic surgery. She asked the Board to adopt the worksheet as a guidance document. Dr. Taylor made a motion, which was properly seconded, to adopt the application review worksheet as a guidance document for OMS certification. The motion was carried unanimously.

### Petition for Rulemaking

Ms. Reen reported that the petition for rulemaking involves three actions to be taken by the Board ① receipt of the petition ② make a decision and ③ respond to the petition within 180 days. She stated that Dr. Link on December 19<sup>th</sup>, had asked that the Legislative/Regulatory Committee address the petition from Dr. Michael Campbell and bring a recommendation to the Board to be acted upon. Mr. Casway stated that the Board may consider promulgation of regulations to change 18 VAC 60-20-220 to possibly create a classification for root-planning and scaling. Ms. Reen stated that if you remove #1 that section, then root-planning and scaling could fall under duties that may be delegated to assistants. The Board deferred this item until the Regulatory-Legislative Committee meets in May. The Board reviewed the petition from Dr. Joseph Mix regarding temporary permits and decided to defer this petition until the May meeting also.

## **Examinations**

### **PSI Contract**

The Board discussed the examinations given by PSI in regards to the pass/fail rate for the jurisprudence examination. They also discussed the possibility of having the examination given as open book exam or the possibility of having the examination provided on-line. Dr. Taylor stated that at other SRTA sites, the law exam is passed out on the first day of orientation and then turned in either on the second or third day of testing. Dr. Watkins, made a motion, which was properly seconded, that the Executive Director, Ms. Reen explore the possibility of PSI providing an open book examination and on-line testing for the jurisprudence exam. The motion was carried unanimously.

The Board discussed the need for the radiology safety examination administered by PSI and decided to consider deleting this option when deciding upon the renewal of the PSI contract. Mr. Casway stated that in the case of the radiology exam, there is no requirement that the Board have an exam. He also stated that if the exam is done away with, the licensees would have to comply through one of the other three options to satisfy the training requirement. It was decided to leave the radiology exam as it currently is administered and concentrate on the jurisprudence examination.

A motion was made by Dr. Lefcoe, and properly seconded, that the Board initiates the regulatory process to do away with the jurisprudence exam and to require licensees certify to abide by the rules and regulations of the board. This motion was unanimously carried. Ms. Reen stated that this action would start the board's regulatory process which would take about 18 months for the intended changes to become effective.

### **SRTA**

The Board discussed the letter sent by Dr. Link to SRTA General Assembly Members discussing Virginia's contract with SRTA. It was decided that once Virginia's voting status is determined by SRTA, then action can be taken by the Board on the other testing services. If Virginia's voting privileges are not restored, the board will continue to recognize the SRTA exam through the 2002 test year. It was also noted that SRTA will need to act on the motion to give associate member. Dr. Watkins made a motion, which was properly seconded, that Virginia no longer examine with SRTA if SRTA allows the contract to expire on April 1, 2002. The motion was carried unanimously.

### Regional Testing Agencies

Information was provided for the other regional testing agencies. The Board decided to take no action on these regional testing agencies at this meeting.

### **Board Discussion**

#### VDA Resolution on Licensing and Treatment Decisions

The Board revisited the VDA's request that the Board address insurance companies use of dentists, not licensed in Virginia, to make or modify treatment recommendations. Dr. Link asked what action the Board might take while recognizing, that regulatory authority is vested elsewhere. He indicated that insurance companies are also changing bill codes. Dr. Lefcoe made a motion, which was properly seconded, that a letter voicing the Board's concern about these practices be sent to the Department of Health and the Bureau of Insurance. The motion was carried unanimously.

#### American Association of Dental Editors Request

The Board reviewed the request from the American Association of Dental Editors to allow dental editors to receive continuing education credit for participation in educational programs for dental editors. Mr. Watkins made a motion, which was properly seconded, to deny the request. The motion was carried unanimously.

#### Interpretation of 18 VAC 60-20-190.1

The Board considered whether or not a dental assistant is allowed to take an impression for a mouth guard. Following discussions, it was agreed that a dental assistant may not do so per §54.1-2711 of the Code of Virginia.

#### AADE Citizen of the Year Award

The Board considered the AADE request for nominations for the Citizen of the Year Award. It was agreed that no action would be taken.

### **Other Business:**

Dr. Link presented Pam Horner with a plaque expressing appreciation for her many years of service to the Board of Dentistry.

### **Remarks from Robert A. Nebiker, Director-DHP**

Mr. Nebiker spoke to the Board as the newly appointed Director for the agency. He addressed the issues of the budget problems within state government and the need to adjust fees in order for the

department to stay in balance. He stated that he has to submit to the Governor's office a list of specific functions that the department will accomplish within the next four years. The proposed list was distributed. Mr. Nebiker invited Board members to contact him with any questions or comments.

## **Executive Director's Report**

### Travel Policy/Reimbursement Procedures

Winston Mitchell from the Finance Department gave the members an overview on the State's travel policy and reimbursement procedures.

### Review Sheet for Probable Cause

Cheri Emma-Leigh, Operations Manager for the Board went over the review sheet for probable cause and received suggestions for changes to be made to the form. Dr. Link suggested that the form be included in the new member orientation.

### Agenda for May meeting

Ms. Reen stated the meetings for May will be two full days which includes the meeting of the Regulatory-Legislative Committee, a public hearing and three formal hearings. The Board decided to hold the public hearing and the committee meeting on May 2<sup>nd</sup>, to conduct board business on May 3<sup>rd</sup>, and to schedule another date for the formal hearings. Ms. Reen agreed to poll the Board for dates for scheduling the hearings.

## **Litigation**

### Certa v Harris

Mr. Casway provided the final order from the court regarding the Certa v Harris case. He also stated that the Board may want to promulgate regulations to require registration and a fee for trade names. Ms. Reen stated the Board had previously voted to initiate the regulatory process for registration of trade names. She indicated that only preliminary work had been done because of the other regulatory activities of the Board.

There being no further Board business, the meeting was adjourned at 3:15 p.m.

APPROVED:

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Michael J. Link, President  
Virginia Board of Dentistry

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Date

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Sandra K. Reen, Executive Director  
Virginia Board of Dentistry

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Date