

**VIRGINIA BOARD OF DENTISTRY
BUSINESS MEETING MINUTES
December 10, 2021**

- TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:07 a.m., on December 10, 2021 at the Perimeter Center, 9960 Mayland Drive, in Board Room 4, Henrico, Virginia 23233.
- PRESIDING:** Nathaniel C. Bryant, D.D.S., President
- MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD., Vice President
Jamiah Dawson, D.D.S., Secretary
Sidra Butt, D.D.S.
Sultan E. Chaudhry, D.D.S.
Alf Hendricksen, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Dagoberto Zapatero, D.D.S.
- STAFF PRESENT:** Sandra K. Reen, Executive Director of the Board
Jamie C. Sacksteder, Deputy Executive Director
Donna Lee, Discipline Case Manager
Sally Ragsdale, Executive Assistant
David C. Brown, D.C., Agency Director, Department of Health Professions
Barbara Allison-Bryan, M.D., Deputy Director, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
- COUNSEL PRESENT:** James E. Rutkowski, Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With nine members of the Board present, a quorum was established.
- Dr. Bryant welcomed Dr. Hendricksen and Dr. Butt as new Board members; and Sally Ragsdale as the new Executive Assistant to Ms. Reen.
- Ms. Reen read the emergency evacuation procedures.
- PUBLIC COMMENT:** Dr. Bryant explained the parameters for public comment and opened the public comment period. Dr. Bryant also stated that written comment was received from Trey Lawrence, which was included in the agenda package.
- Marla Brutten, D.D.S Applicant** – Ms. Brutten explained that she failed the diagnostic section in the CITA exam; however, she passed this section in the CDCA exam. She requested that the Board approve combining the two scores reports so she could receive her Virginia dental license since CITA and CDCA both administer the ADEX examination.

Alexander T. Vaughan, D.D.S., Dental Director, Virginia Total Sleep – Dr. Vaughan stated that it is within the scope of the practice of dentistry for dentists to order and dispense home sleep apnea tests, but not to make a diagnose based on the test results. He said his practice has treated over 1,000 patients for sleep apnea and 98% were referred by sleep physicians. Dr. Vaughan expressed his support for convening an advisory panel to discuss this issue as proposed by the Regulatory-Legislative Committee. He also offered to serve on the panel.

Michael Pagano, D.D.S., Virginia Total Sleep – Dr. Pagano stated the ADA has provided updated language ~~to~~ stating that home sleep study tests are within the scope of the practice of dentistry. He said sleep apnea can be dangerous to a person's health and that Virginia Total Sleep collaborates with physicians ~~to~~ on providing treatment to patients. Dr. Pagano offered to serve on a committee to further discuss this subject.

APPROVAL OF MINUTES:

Dr. Bryant asked if there were any edits or corrections to the September 10, 2021 Business Meeting minutes and the September 10, 2021 Formal Hearing minutes. Hearing none, Dr. Bonwell moved to approve the minutes as presented. The motion was seconded and passed.

DIRECTOR'S REPORT:

Dr. Brown welcomed the new Board members, stating that serving as a Board member is a rewarding and important service to their profession. He added that the purpose of the Board is to protect the public and not the profession. He went on to say there is a new security service provider for the building, RMC Events. He said that the second floor audio system will be upgraded in the spring of 2022. Dr. Brown also said the functions of DHP, which is licensing and regulating health professions, will not change during the transition to Governor-elect Youngkin's administration.

Dr. Allison-Bryan reported on the latest COVID-19 data regarding immunization in Virginia. She acknowledged that cases are going up a little; and there are still individuals who are not getting vaccinated. She said the Omicron variant does appear to be highly contagious, but less virulent; and, the vaccines contributes to milder cases. She confirmed that there are two oral agents which are very close to release. She encouraged everyone to get vaccinated.

LIAISON & COMMITTEE REPORTS:

CITA Update – Ms. Lemaster stated that she and Dr. Dawson attended the CITA meeting in Florida on October 9, 2021. She referred to the written report in the agenda package stating that: new exam software is in development; the CDCA-WREB merger, is expected to be completed in 2022 with a 2023 effective date; and the future merger of CDCA-WREB-CITA is anticipated.

Report on Regulatory-Legislative Committee Meetings – Dr. Bonwell clarified that the first topic to address is the Committee's recommendation to convene an advisory panel to develop proposed language on the role of dentists in addressing sleep apnea. Ms. Yeatts clarified that advisory panels address development of regulations and recommended changing the

terminology to either an ad-hoc committee or workgroup to gather information on sleep apnea and the role of dentists. Following discussion, Mr. Martinez moved to accept the Committee's recommendation to convene a workgroup to address the role of dentists in addressing sleep apnea. The motion was seconded and passed.

Dr. Bryant asked if there was a motion to accept the Committee's recommendation to establish a workgroup to discuss in-person examinations of patients receiving active appliances. During discussion, it was noted that a patient can always choose to see a dentist in person. Dr. Bonwell explained that the Committee was asked to form a workgroup to discuss whether a patient receiving an active appliances should be seen by a dentist in person as opposed to relying on teledentistry. Ms. Sacksteder read the relevant section of the May 17, 2021 Regulatory-Legislative Committee Meeting minutes. Following discussion, Dr. Zapatero moved to accept the Committee's recommendation to establish a workgroup to discuss in-person examinations of patients receiving active appliances. The motion was seconded and passed.

**LEGISLATION,
REGULATION, AND
GUIDANCE:**

Status Report on Regulatory Actions Chart. Ms. Yeatts reviewed the updated Regulatory Actions. The following proposed regulations are currently at the Governor's Office:

- amendment to restriction on advertising dental specialties;
- training and supervision of digital scan technicians;
- technical correction to fees; and
- removal of pulp capping as a delegable task for a DAI.

She said the waiver for e-prescribing would be approved February 2, 2022. She said there is a Public Hearing scheduled for February 18, 2022 for Training in Infection Control.

Guidance Document 60-27: Sedation Inspections and Permits - Ms. Yeatts stated this is a new guidance document that was proposed by the Regulatory Committee with the changes highlighted. Dr. Bonwell moved to adopt the guidance document. The motion was seconded and passed.

Guidance Document 60-7: Delegation to Dental Assistants - Ms. Yeatts explained this guidance document was reviewed by the Regulatory Committee and the proposed revisions are shown in red. Dr. Dawson moved to adopt the revised guidance document. The motion was seconded and passed.

Proposed Policy on Meetings Held with Electronic Participation – Ms. Yeatts stated that during the COVID-19 pandemic an Emergency Order allowed electronic meetings. She stated this is a written policy for holding meetings of the Board with electronic participation by some of its members and the public. Dr. Bonwell moved to adopt the policy on Meetings Held with Electronic Participation. The motion was seconded and passed.

**BOARD DISCUSSION
TOPICS:**

Consideration of Public Comment - Ms. Reen explained that Ms. Bruten is requesting that the Board allow Board staff to combine two score cards from two testing agencies to determine if she meets the clinical examination requirements for dental licensure in Virginia. She referred to Guidance Document 60-25, which requires an applicant to submit a detailed score report documenting passage of an acceptable examination. After discussion, the Board decided to adhere to the current policy as set forth in Guidance Document 60-25.

Discussion of Dental Assistants Using Scalers – Ms. Reen asked the Board for guidance on how to inform the dental community about the Board's change in policy regarding dental assistants using scalers. The Board recommended that the message be disseminated to dental associations, dental hygiene associations, schools, and current licensees. Dr. Bonwell, Dr. Dawson, and Ms. Lemaster volunteered to assist with drafting the message which will be presented to the Board for approval.

Policy on Recovery of Disciplinary Costs (Guidance Document 60-17) – Ms. Reen stated the Board adopted the 2021 guidance document, then elected not to enforce based on Dr. Brown's concern that Dentistry is the only board authorized to impose disciplinary costs Ms. Reen explained that: the VDA requested the enabling statute; the Board currently has a healthy cash balance; and, the Board is reducing its fees as license renewals are being changed to 2022 birth months. Ms. Reen said the Board can decide not to impose these costs or keep the option open and not implement it this year. She recommended that the Board not implement the policy for at least the next two years. Dr. Dawson moved to defer implementing the Policy on Recovery of Disciplinary Costs for two years. The motion was seconded and passed.

**BOARD COUNSEL
REPORT:**

During its September 2021 meeting, the Board asked Mr. Rutkowski to research if dentists can prescribe antibiotics without a DEA license. Mr. Rutkowski reported that a DEA registration is required for Schedule II through V controlled substances only and is not needed to prescribe antibiotics.

**DEPUTY EXECUTIVE
DIRECTOR'S REPORT:**

Ms. Sacksteder reviewed the disciplinary Board report on case activity from January 1, 2021 to October 31, 2021, giving an overview of the actions taken and a breakdown of the cases closed with violations.

**EXECUTIVE DIRECTOR'S
REPORT:**

Information Needs – Ms. Reen provided the Board with a Cash Balance report as of June 30, 2021 and said she will provide updates in future agenda packages.

**BOARD MEMBERSHIP –
INSIGHTS AND
DISCUSSION**

Dr. Bryant explained he wants to reinforce the importance of the work of the Board by concluding meetings with an open discussion. This discussion included an exercise on appropriate questioning. He said the Dental Review Coordinator is retiring in January and Board members will be called on to review more cases for probable cause until the position is filled and the new person is trained. He encouraged the Board members to be diligent and thorough when reviewing cases. Discussion followed about conferring with

staff; and, reviewing cases regularly after meetings and proceedings with staff present.

Dr. Brown added that the Agency has prepared training available and asked the Board members to notify Ms. Reen of their training interests and she will pass the information on to the appropriate people.

Dr. Bryant demonstrated the appropriate way to ask questions of respondents during IFCs and hearings.

Mr. Rutkowski reminded the Board that decorum is important; He recommended not thanking witnesses for coming to formal hearings because they are issued a subpoena to appear; He also asked that, while on breaks, Board members to be cognizant of that laughter should be limited.

ADJOURNMENT:

With all business concluded, the Board adjourned at 11:58 a.m.



Nathaniel C. Bryant, D.D.S., President

11 Mar 2022

Date



Sandra K. Reen, Executive Director

3/11/22

Date