

WEST VIRGINIA BOARD OF DENTISTRY

MINUTES - GENERAL SESSION

- Dates:** July 15 & 16, 2015
- Location:** The Greenbrier Hotel
300 West Main Street
White Sulphur Springs, WV 24986
- Members Present:** C. Richard Gerber, DDS, President
George D. Conard, Jr., DDS, Secretary
Byron H. Black, DDS
L. Edward Eckley, DDS
Mr. William E. Ford, III
Stanley W. Kaczkowski, DDS
Mary Beth Shea, RDH
Charles L. Smith, DDS
Beverly L. Stevens, COMSA
- Staff Present:** Mrs. Susan M. Combs, Executive Secretary
- Board Counsel:** Ms. Betty A. Pullin, Assistant Attorney General
- Guests Present:** Dr. Bruce Cassis
Dr. Anthony Thomas Borgia, Dean, WVU School of Dentistry
Dr. Dallas Nibert, WV Dental Association
Mr. Richard Stevens, WV Dental Association

July 15, 2015

The afternoon began with the giving of law exams and interviewing of the applicants as noticed to the Secretary of State's Office. Thereafter the complaint committees met with the Board's Counsel to review complaints and disciplinary matters and the budget committee met concerning the Board's finances with no decisions or votes being made and adjourned thereafter.

July 16, 2015

The Board's President, Dr. Gerber, determined this meeting was properly noticed with the Secretary of State's office and a sufficient number of Board members were in attendance to constitute a quorum. The quorum was determined by the presence of Dr. Gerber, Dr. Conard, Dr. Black, Dr. Eckley, Dr. Kaczkowski, Mrs. Shea, Dr. Smith, Mr. Ford and Mrs. Stevens. Therefore, the meeting of the West Virginia Board of Dentistry was called to order.

The first order of business was the meeting notice to the Secretary of State which was distributed for information purposes only.

The next order of business were the minutes from the March meeting. Upon motion by Dr. Charles L. Smith and properly seconded by Mrs. MaryBeth Shea, and unanimously passed, the minutes were approved as distributed.

The next order of business were the minutes from the May meeting of the Investigator Committee. Upon motion by Dr. Byron H. Black and properly seconded by Mrs. Beverly L. Stevens, and unanimously passed, the minutes were approved as distributed.

The next order of business was a review and decision concerning the renewal of the Board's contract with the WV Pharmacist Recovery Network to administer the WV Dental Recovery Network for fiscal year 2016. Upon motion by Dr. Charles L. Smith, and properly seconded by Dr. L. Edward Eckley, and unanimously passing the Board approved the contract and was signed by the President of the Board.

The next order of business was information concerning a Settlement Order with Aspen Dental Management, Inc. and the New York State Attorney General. This settlement requires Aspen Dental to change the way it operates its business practices in New York so that it does not dictate the care provided by dentists and dental hygienists in their dental offices, does not split fees with clinics, and makes clear to the public that Aspen Dental Management is not a provider of dental services. At this time the President of the Board asked that this topic be tabled until the October meeting so Board counsel may have opportunity to further review this settlement as it relates to West Virginia law.

The next order of business was information concerning the Supreme Court decision concerning the Federal Trade Commission vs. North Carolina Board of Dental Examiners case and a letter from the Federation of Associations of Regulatory Boards to Attorney Generals across the country concerning the consideration of the impact of any potential alterations to regulatory structure and to exercise due diligence before undertaking these potential alterations.

The next order of business was the review of the recently approved policy concerning driving under the influence charges. Board counsel has suggested the Board revise its policy as to second offence charges to read automatic referral to the Dental Recovery Network or board approved program for evaluation. The Board agreed to this editorial change by consensus.

The next order of business was a review and discussion concerning the renewal form question "...have you been treated for drug or alcohol addiction...". The Board has received a verbal request from Mike Brown, Executive Director of the WV Dental Recovery Network to change this question on the form so it does not deter any licensee from getting the help they need with impairment issues. Upon motion by Dr. George D. Conard, Jr., and properly seconded by Mrs. Beverly L. Stevens, and unanimously passed, the Board approved a change to the question to allow

licensees who are under contract with the Dental Recovery Network to answer no to this question.

The next order of business was a report concerning the recent continuing education audit for the period of February 1, 2012 through January 31, 2014. Upon motion by Dr. Charles L. Smith, and properly seconded by Mrs. Beverly L. Stevens, and unanimously passed, the Board accepted the report and directed the staff to send a letter to the audited licensees, who passed their audit, notifying them of a successful completion.

The next order of business were future meetings of the Board and various agencies or associations as follows:

WV Dental Association 109th Annual Session - July 16-19, 2015
Southern Regional Testing Agency - August 5-8, 2015
Central Regional Dental Testing Service - August 22, 2015
Federation of Associations of Regulatory Boards - October 1-4, 2015
WV Board of Dentistry - October 22-24, 2015
American Association of Dental Boards - November 3-4, 2015
American Board of Dental Examiners - November 13-15, 2015
Commission on Dental Competency Assessments - January 14-16, 2016
WV Board of Dentistry - January 21-23, 2016
WV Dental Association - January 22-24, 2015
Southern Conference of Dental Deans & Examiners - January 29-31, 2016
Federation of Associations of Regulatory Boards - January 28-31, 2016

The Executive Director will attend the American Board of Dental Administrators & American Association of Dental Boards meetings November 1 - 4, 2015, in Washington, D.C.. Dr. Conard, Mr. Ford, Mrs. Stevens and Betty Pullin will attend the American Association of Dental Boards meeting November 30, 2015 in Washington, DC. Upon motion by Dr. Charles L. Smith, and properly seconded by Dr. Stan W. Kaczowski, and unanimously passed, the Board approved the expenses for the individuals attending these meetings.

The next order of business were newsletters from the following organizations: American Association of Dental Boards, Federation of Association of Regulatory Boards - FARB Focus, Health Care Highlights, National Practitioner Data Bank, Western Regional Examining Board, and the WV Dental Association. The newsletters were taken for information purposes only.

The next order of business were appointments to Regional Board positions. Upon motion by Dr. Byron H. Black, and properly seconded by Dr. Charles L. Smith, and unanimously passed, the Board appointed Mrs. MaryBeth Shea to the Hygiene Exam Committee of the Southern Regional Testing Agency (SRTA). Upon motion by Dr. Byron H. Black, and properly seconded by Dr. L. Edward Eckley, and unanimously passed, Dr. Stan W. Kaczowski was appointed to the Dental Exam Committee of SRTA. Upon motion by Dr. Charles L. Smith, and properly seconded by Mrs. MaryBeth Shea, and unanimously passed, Dr. C. Richard Gerber was appointed to the Board of

Directors of SRTA. The Board recognizes and thanks Dr. Diane Paletta and Mrs. Dina Vaughan for their dedication to the integrity of Board examinations and the protection of the citizens of the State of West Virginia.

The next order of business was a discussion concerning the possible gathering of the anesthesia committee members for examination calibration. Dr. Byron H. Black will discuss with Dr. Lew Gilbert need for calibration and how such would be handled. Dr. Black will report back to the Board concerning this issue in October.

The next order of business were the purchasing card & financial reports. The purchasing card report covered the period of March 1, 2015 through June 30, 2015. The financial reports covered expenses and revenues of the final quarter of fiscal year 2015 as well as reviews of revenue and expense trends. These reports were accepted as distributed.

The next order of business was an update concerning the licensing software development with GL Solutions. At this time Evan Dewey gave a report to the Board concerning the progress of this project with an install expected in the fall including a new website and dental and hygiene renewals ready online during the upcoming renewal period.

The next order of business was a report of the Investigative Committee. It was reported to the Board that in the least, the Board should have an available panel of three investigators. The committee directed the Executive Secretary to write a letter to the State's component dental societies informing them of the need for investigators in various parts of the state and to inform their members of this need. These letters were sent out shortly before the Board meeting. The Board requested information be placed in the newsletter requesting dentists or hygienists interested in being considered should send a letter of interest with a curriculum vitae to the Board office.

The next order of business were the proposed rules and review of comments from the comment period. The first set of rules series 11 concerning continuing education. There was one comment received in regards to this rule, which referred to language from the Access to Opioid Antagonist Act, the drug diversion and proper prescribing of controlled substances requirement now includes training on the prescribing and administration of an opioid antagonist and that the proposed rule should reflect this change. The Board agreed with this comment. Upon motion by Mrs. Beverly L. Stevens, and properly seconded by Dr. L. Edward Eckley, and unanimously passed, the Board directed the Executive Secretary to file series 11 as agency approved rule. The second set of rules series 13 regarding expanded duties. During the comment period, the Board received no comments, but questions arose from licensees concerning the language in sections 5.1(e), 6.1(c)(13) and 7.1(j)(7) "Examining and recording periodontal findings". The Board is of the opinion the word "examining" is confusing and in this case is unnecessary. Changing the language to recording periodontal findings allows the hygienist to continue to measure pocket depths and record the findings. The Board voted unanimously to make this change to the proposed rule and file it as the agency approved rule. Motion was made by Dr. George D. Conard, Jr., and properly seconded by Dr. Stan W. Kaczowski. The last rule were the procedural rules concerning contested case hearing

procedures. There were no comments during the comment period. Upon motion by Mrs. MaryBeth Shea, and properly seconded by Dr. Charles L. Smith, and unanimously passed, the Board voted unanimously to final file these rules as proposed.

The next order of business was an application for a mobile dental facility permit from the Colgate Bright Smiles program that recruits local dentists to conduct dental screenings of children enrolled in head start programs in various areas of West Virginia. The Colgate Bright Smiles program has requested a waiver of the application fees. Upon motion by Dr. George D. Conard, Jr., and properly seconded by Dr. L. Edward Eckley, and unanimously passed, the Board waives the application fee.

The next order of business was a verbal discussion concerning Valley Health and their possible partnership for an Advanced General Dentistry program, which was taken for information purposes only.

The next order of business was the appearance of Dr. Bruce Cassis to speak concerning the use of lasers by qualified dental hygienists. Dr. Bruce Cassis presented a power point presentation to the Board for their information and review. The Laser Review Committee will review and make a recommendation to the Board later during this meeting.

The next order of business was the appearance of Dr. Dallas Nibert and Mr. Richard Stevens. Mr. Stevens requested the Board identify criteria for Drug Diversion courses in a future newsletter.

The next order of business was the appearance of Dr. Tom Borgia, Dean of the West Virginia University, School of Dentistry. Dr. Borgia appeared to update the Board on projects, possibility of hiring of additional instructors, and the upcoming accreditation visit at the school. The Board expressed concerns with the upcoming accreditation and the faculty required. Upon motion by Dr. Charles L. Smith, and properly seconded by Mr. Beverly L. Stevens, and unanimously passed, the President of the Board will send a letter to President Gee regarding these concerns with a carbon copy to the following individuals:

The Honorable Earl Ray Tomblin, Governor of West Virginia
The Honorable Patrick Morrissey, Attorney General of West Virginia
The Honorable William P. Cole III, President West Virginia State Senate
The Honorable Tim Armstead, Speaker West Virginia House of Delegates
Clay Marsh, MD, Vice President and Executive Dean Health Sciences WVU
Anthony T. Borgia, D.D.S., Dean West Virginia University School of Dentistry

The next order of business was the consideration of disciplinary actions by way of Consent Decree and Orders for the following cases:

2014-DB-0014DA
2014-DB-0014DB
2014-DB-0056D
2013-DB-0029D

2013-DB-0033D

Upon motion by Dr. Charles L. Smith, and properly seconded by Dr. L. Edward Eckley, and unanimously passing, the Board approved the Consent Decree and Orders in these cases.

The next order of business was consideration of all other recommendations by the complaint committees of the Board. Upon motion by Dr. Byron H. Black, and properly seconded by Dr. George D. Conard, Jr., and unanimously passed, the Board approved all other recommendations.

The next order of business was a discussion by the members of the Laser Review Committee concerning all of the documents provided to the Board by Dr. Bruce Cassis and his presentation today. The Laser Review Committee recommended the following to the Board:

Request no change in the West Virginia dental laws regarding the use of dental lasers by dental hygienists. The West Virginia Board of Dentistry continue to be receptive and to evaluate any information that may be provided to it in the future in regard to the use of dental lasers (primarily for periodontal patients). The Laser Committee will review the laws, rules and duties of the states that allow dental hygienists to use lasers in the dental practice (primarily for periodontal patients) in order to be better prepared for the future consideration of laser usage by dental hygienists.

Dr. George D. Conard, Jr., made a motion the Board adopt the recommendations as made by the Laser Review Committee. Dr. Byron H. Black properly seconded the motion. The motion passed unanimously.

At this time the meeting was adjourned with the next regularly scheduled meeting scheduled for October 22, 23, & 24, 2015, at the Board Office in Crab Orchard, West Virginia.