

**MINUTES
TENNESSEE BOARD OF DENTISTRY**

Date: January 8-9, 2009

Location: Tennessee Department of Health
227 French Landing, Iris Room
Heritage Place Metro Center
Nashville TN 37243

Members Present: Michael P. Tabor, D.D.S., President
Ruth E. Bailey, D.D.S, Vice-President
John M. Douglass, D.D.S., Secretary/Treasurer
Jeffrey M. Clark, D.D.S.
Beth A. Casey, R.D.H.
Katherine H. Cherry, R.D.H.
Betty Gail Fox, R.D.A.
Lawrence Hsia, D.M.D.
Randall P. Prince, D.D.S.
James L. Smith, D.D.S.
Agnes S. Young, Consumer Member

Staff Present: Dea Smith, Executive Director
Sue Kerley, Board Administrator
Thomas Miller, Assistant General Counsel

Dr. Michael Tabor, President, called the meeting to order at 9:09 a.m. Dr. Tabor determined that a quorum was present in order to conduct Board business. Dr. Tabor reminded the Board members about the conflict of interest statement.

Minutes

Ms. Beth Casey made a motion to accept the Minutes from the September 11-12, 2008 meeting. Second was given by Ms. Katherine Cherry. The motion carried. Dr. Randall Prince made a motion to accept the Minutes from the Clinical Issues Committee meeting held on November 7, 2008, as presented. Second was given by Dr. Lawrence Hsia. The motion carried.

Applicant Interviews

Shanna N. Qualls, D.A. Ms. Qualls applied for registration as a dental assistant disclosing a conviction for DUI. Ms. Qualls is on probation until July 2009. Dr. Prince made a motion to approve and place on probation until July 2009. Second was given by Ms. Betty Fox. The motion carried.

Patrick M. Carroll, D.D.S. Dr. Carroll requested the Board accept his application for licensure as a dentist based on successful passing of the North East Regional Board (NERB) exam in February 2007. Dr. Carroll is currently enrolled in the Oral and Maxillofacial Surgery Residency Program at Vanderbilt University. Dr. Jeffrey Clark made a motion to approve. Second was given by Dr. Prince. The motion carried.

Montez A. Bugg, D.A. Mr. Bugg, an applicant for registration as a dental assistant appeared before the Board to address his application. At the completion of his interview Dr. Prince made a motion to approve Mr. Bugg's application. Second was given by Dr. James Smith. The motion passed.

Ashley Phillips, D.A. Ms. Phillips, an applicant for registration as a dental assistant appeared before the Board to address her application. At the completion of her interview Dr. Ruth Bailey made a motion to approve Ms. Phillips' application. Second was given by Ms. Cherry. The motion carried.

The Board discussed approval of applications by the Board Consultant where there was evidence of an arrest but where the outcome of the arrest had not been determined. After discussion, the Board, by consensus, decided that the Board Consultant should continue to refer any application he has questions on to the full Board for review on a case by case basis.

Nichelle Woodruff, D.A. Ms. Woodruff applied for registration as a dental assistant. Ms. Woodruff is on probation for DUI until June, 2009. Dr. Bailey made a motion to approve and place on probation to run concurrent with the Court ordered probation (June 2009). Dr. Clark seconded the motion. The motion carried.

The Board discussed amending the language in the application to clarify the meaning of "minor traffic violation", specifically that a DUI is not a minor traffic violation and should, therefore, be disclosed. The Board suggested an article in the next newsletter addressing this issue.

Orders of Compliance

Juanita Stone, Disciplinary Coordinator, presented the following Orders of Compliance to the Board for approval:

Deji Ogundiya, D.D.S., license number 5165. Determination was made that the disciplinary file for Dr. Ogundiya was complete and that he was in compliance with the terms and conditions of the Order Modification dated July 26, 2005. Ms. Casey made a motion to approve and restore the license to unencumbered status. Second was given by Dr. Clark. The motion carried.

Malcom Drew Shabo D.D.S., license number 7631. Determination was made that the disciplinary file for Dr. Shabo was complete and that he was in compliance with the terms and conditions of the Letter of Reprimand dated October 10, 2007. Dr. Bailey made a motion to approve and restore the license to unencumbered status. Second was given by Dr. Douglass. The motion carried.

William H. Smartt IV, D.D.S., license number 2718. Determination was made that the disciplinary file for Dr. Smartt was complete and that he was in compliance with the terms and conditions of the Agreed Order approved by the Board September 22, 2006. Ms. Casey made a motion to approve and restore the license to unencumbered status. Second was given by Dr. Clark. The motion carried.

Norma Jean Coleman, D.D.S., license number 7062. Determination was made that the disciplinary file for Dr. Coleman was complete and that he was in compliance with the terms and conditions of the Corrected Order Regarding January 12, 2007 Hearing

dated February 12, 2007. Ms. Cherry made a motion to approve and restore the license to unencumbered status. Second was given by Ms. Fox. The motion carried.

Gary Stump, D.D.S., license number 7414. Determination was made that the disciplinary file for Dr. Stump was complete and that he was in compliance with the terms and conditions of the September 2003 Agreed Order. Ms. Casey made a motion to approve and restore the license to unencumbered status. Second was given by Dr. Prince. The motion carried.

Rita Elizabeth Baggett, R.D.A., license number 9408. Determination was made that the disciplinary file for Ms. Baggett was complete and she was in compliance with the terms and conditions of a Consent Order dated September 23, 2005. Ms. Casey made a motion to approve and restore the license to unencumbered status. Second was given by Ms. Cherry. The motion carried.

Report to the Board

Dr. Rathnasabapathy Mohan, D.D.S., license number 4424, reported to the Board as directed by Consent Order previously entered. Determination was made he was in compliance with the terms and conditions of said Order. Dr. Douglass made a motion to lift the probation status of Dr. Mohan's license and restore the license to unencumbered status. Second was given by Dr. Smith. The motion carried.

Miscellaneous

Tamper Resistant Prescription Pads Dr. Douglass reminded the Board that as of October 1, 2008, all TennCare prescriptions were to be written using tamper resistant pads. Effective July 1, 2009, all prescriptions must be written using tamper resistant pads. Dr. Clark brought to the Board's attention that in mid 2010, there will be different reimbursement rates, except for scheduled drugs, from Medicare based on whether a prescription is filed electronically or printed.

Dr. Douglass, the Board Consultant, asked for further clarification on the May 15, 2008 policy on Cardiopulmonary Resuscitation Requirements (**CPR**). It was the consensus of the Board that the Consultant continue to review for equivalency any course not previously approved by the Board. It was also suggested that an article be placed in the newsletter.

Correspondence from Associations, Testing Agencies and Others

Ms. Casey made a motion to request approval for Executive Director Dea Smith and one active Board Member to attend the American Association of Dental Examiners (AADE) Meeting April 5-6, 2009 in Chicago, Illinois. If more than one Board member wishes to attend, the selection will be made based on seniority of service. Second was given by Dr. Clark. The motion carried.

Dr. Bailey made a motion that the attendees approved to attend the AADE meeting also request approval to attend the Joint Commission on National Dental Examinations Meeting on April 7, 2009, which follows the AADE meeting in Chicago. Second was given by Ms. Casey. The motion carried.

Reports received from AADE concerning the November 13, 2008, meeting of the National Practitioner Data Bank (NPDB) Executive Committee were reviewed by the Board.

The Board reviewed a letter from the American Association of Dental Consultants dated November 26, 2008, in regards to peer review involving insurance claims.

The Board reviewed correspondence dated November 3, 2008, from the Commission on Dental Accreditation (CODA) notifying the Board that Concorde Career College in Memphis and Tennessee Technology Center at Dickson had indicated a willingness to have a representative of the state board participate in the Commission on Dental Accreditation's 2009 on-site evaluations of the respective programs. It was determined by the Board not to send a representative.

The Board reviewed correspondence and newsletters from testing agencies. Dr. Tabor encouraged all the Board members to attend the 2009 Southern Regional Testing Agency (SRTA) annual meeting August 7-8, 2009 in Gulfport, Mississippi.

The Board reviewed correspondence received from licensees and others which included a letter dated November 7, 2008 from J. Stansill Covington, II regarding modification of the sealant course to allow students to attend lectures, labs, demonstrations and examinations on campus but return to their employing dentist for direct supervision of the clinical procedures. Thomas Miller, Assistant General Counsel advised the Board that a modification of this nature would require a rule change. The matter was referred to the Clinical Issues Committee for evaluation. It was requested that the Tennessee Dental Association, the Tennessee Dental Hygienists Association and the Tennessee Dental Association Associations be solicited for input.

The Board discussed the memorandum from the Western Regional Exam Board (WREB) dated October 29, 2008, concerning their change from compensatory scoring to conjunctive scoring. The Board requested Ms. Smith obtain more information from WREB for review at the May, 2009 meeting.

Examinations From Other States

Dr. Andrew Hagan is requesting licensure by criteria using the method of two years of practice and approval of a state exam. Pursuant to a review at the September 11-12, 2008 meeting, the Board requested Mr. Hagan secure the services of a psychometrist to evaluate the validity of the Florida exam by comparing same to the SRTA exam and present the results so the Board could reconsider the application. After review of the additional information, Dr. Prince made a motion to defer until the meeting on Friday, January 9, 2009. Second was given by Dr. Hsia. The motion carried.

Clinical Issues Committee The Clinical Issues Committee will meet February 27, 2009, beginning at 10:00 a.m. It was the consensus of the Board that Dr. Douglass attend the meeting in place of Dr. Tabor. It was suggested by the Board that the Clinical Issues Committee review the school rules on sealant certification courses and other certification courses.

Thomas Miller, Assistant General Counsel, addressed the Board regarding the recommendations of the Clinical Issues Committee concerning teeth whitening. Joyce Osborn, President of the Council for Cosmetic Teeth Whitening and Tina Burkett, Attorney for the Council addressed the Board. After discussion and based on

recommendations of the Committee, the Board interpreted the statutes and rule governing the application of teeth whitening to be defined as:

Teeth whitening formulations shall be prescribed and dispensed by a licensed dentist. Licensed dental hygienists or registered dental assistants are authorized to apply teeth whitening formulations, but only under the direct supervision of a licensed dentist. An individual found to have taken the impression of another or who performs any phase of any operation incident to teeth whitening, including, but not limited to, the instruction and/or application on-site of teeth whitening materials or procedures, except under the direct supervision of a licensed dentist, shall be deemed engaging in the practice of dentistry.

Dr. Clark made a motion to approve the Policy as presented. Second was given by Dr. Douglass. The motion carried by roll call vote.

The Board reviewed the Workforce Models information previously reviewed by the Clinical Issues Committee. Ms. Casey made a motion for the Board to create certifications for currently licensed hygienists. Second was given by Ms. Fox. The motion carried. It was the consensus of the Board that the matter be referred back to the Clinical Issues Committee for ideas on implementation.

Contested Case Hearings The Board expressed frustration over the number of contested case hearings that are being continued. Dr. Tabor reported he had discussed with Matt Scanlan, Office of General Counsel, the possibility of making a request to the Administrative Law Judges to not allow any continuance of cases inside 15 days of the schedule hearing date.

A rulemaking hearing is scheduled for Friday, January 16, 2009 at 2:30 on the proposed rules.

The meeting stood in recess at 5:00 p.m.

JANUARY 9, 2009

The meeting of the Board of Dentistry reconvened at 9:01 a.m. with all members present. (Ms. Cherry arrived at 9:04)

Disciplinary Orders

Thomas Miller presented the Board with a Consent Order signed by **Rudy W. Young D.D.S.** wherein Dr. Young stipulated to the allegation he violated condition(s) of an Agreed Order entered January 14, 2008. Dr. Young agreed to the revocation of his license number 2584. Ms. Casey made a motion to approve the Consent Order as presented. Second was given by Dr. Douglass. The motion carried.

Thomas Miller presented the Board with a Consent Order signed by **Jennifer Johnson Adam, D.D.S.** wherein Dr. Adam stipulated to the allegation(s) she violated an aftercare contract with the Concerned Dental Professionals Committee (CDPC). Dr. Adam agreed to have her license to practice dentistry in the State of Tennessee, number 7345, on probation for a period of no less than two years beginning January 8, 2009. Dr. Adam must sign a monitoring agreement with Affiliated Monitors or its designees,

and pay a civil penalty in the amount of \$500 plus costs. Ms. Casey made a motion to approve. Second was given by Ms. Young. The motion carried.

Thomas Miller presented the Board with a Consent Order signed by **Glenn E. Vance, Jr., D.D.S.** wherein Dr. Vance stipulated to the allegation(s) he purchased controlled substances from a Virginia based distributor for personal use and for dispensing from his office and failure to keep and maintain appropriate documentation. Dr. Vance agreed to have his license to practice dentistry in the State of Tennessee, number 2622, placed on probation for a period of no less than two years beginning January 8, 2009, be evaluated by the CDPC or its designees within 30 days and follow all evaluation and treatment recommendations by the CDPC or its designees, complete the three day seminar entitled: "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls" and a two-day course "Intensive Course in Medical Record Keeping with Individual Preceptorships" and pay costs. Dr. Clark made a motion to approve. Second was given by Ms. Fox. The motion carried.

Letters of Reprimand

Cynthia G. Chapman R.D.H., license number 2226, agreed to a Letter of Reprimand and to pay costs. Ms. Chapman entered a plea of guilty before the General Sessions Court of Sullivan County, Tennessee, for using a false identity on a report filed with the Tennessee Occupational Safety and Health Administration (TOSHA). Ms. Casey made a motion to approve. Second was given by Ms. Fox. The motion carried.

Tracey Rosann Charles, D.D.S., license number 8119, agreed to a Letter of Reprimand for failure to report a DWI conviction to the Board within 30 days of its occurrence. Dr. Charles agreed to pay a civil penalty in the amount of \$500 plus costs. Dr. Clark made a motion to approve. Second was given by Ms. Fox. The motion carried.

Continuing Education For Reinstatement

After discussion by the Board, Dr. Prince made a motion to effect a rule change to require a maximum of two (2) cycles of continuing education for reinstatement of a license which has been expired two (2) years or longer. If the license has been expired less than two (2) years, only the continuing education for the cycle in default needs to be provided. Second was given by Dr. Clark. The motion carried.

American Association of Dental Examiners (AADE) Report

Dr. Bailey reported to the board on the AADE meeting in San Antonio. Material from the meeting was attached to her written report and the information on teeth whitening and workforce issues had been reviewed by the Clinical Issues Committee and were also reviewed by the board the previous day.

Dr. Bailey informed the board that AADE had approved a policy relating to ethics and licensure. This policy encourages state boards to inquire as part of the application process if the applicant had a record of professional or academic misconduct while in dental school.

It was also reported that the National Boards Joint Commission is changing from a numerical passing score to just reporting pass or fail starting in 2010 and that drug testing was also discussed at the AADE meeting.

Budget Status Report was presented to the Board.

Reports/Requests From the Executive Director

Ms. Dea Smith reported to the Board on the continuing education and CPR audits now being done on a monthly basis. She also gave a report on the activities that have transpired in the administrative office since the last board meeting.

A brief report on the American Association of Dental Administrators (AADA) and American Association of Dental Examiners (AADE) meetings in San Antonio were given. The information on teeth whitening and workforce issues obtained at these meetings had been presented to the board the previous day during the Clinical Issues Committee discussion.

Report from Office of General Counsel Thomas Miller, Assistant General Counsel, reported to the Board on the number of open and closed cases. Mr. Miller also discussed with the Board the new rules that became effective December 9, 2008. Dr. Clark made a motion to retract the January 26, 2006 *Policy Statement on Prescriptive Authority of Dentists Who Practice in the Hospital Setting* since it is now in rule. Second was given by Ms. Fox. The motion carried.

Reports/Requests From the Office of Investigations

Juanita Stone reviewed with the Board the number of complaints received and processed during 2008.

Concerned Dental Professionals Committee (CDPC)

Dr. Wayne McElhiney, Director of the CDPC, provided the Board with a quarterly report of activities. He requested the grant be renewed with no changes. Dr. McElhiney reaffirmed his request to allow the CDPC to utilize rented office space at the Tennessee Dental Association (TDA) to meet clients.

Ratifications

Ms. Casey made a motion to approve and ratify the lists of newly licensed **dentists**, educational licenses, limited licenses, specialty certifications and permits for limited and comprehensive conscious sedation and deep sedation/general anesthesia, reinstatements, reactivations, administrative revocations and retirements, including the waiver of competency testing for **Stephen W. Merrill**. Also included in the motion was approval and ratification of the lists of newly licensed **dental hygienists**, certifications, reinstatements, reactivations, retirements and administrative revocations, including the requests for waiver of continuing education for 2005-2006 for **Stacey Stiles** and **Nancy E. Casey**. Also included in the motion was approval and ratification of the lists of newly registered **dental assistants**, certifications, modifiers, reinstatements and reactivations, retirements, and administrative revocations. Also included in the motion was ratification of the **continuing education and/or CPR courses** initially approved by Dr. Douglass since the September, 2008 meeting, and ratification of approval of a continuing education course entitled **“Missing and Unidentified Person – The Never Ending Disaster: Preparing Dental Information for Use in FBI Computer Systems”** taken

by **Solomon Christian, D.D.S.** Second was given by Ms. Fox. The motion carried with Ms. Cherry recusing herself.

Ms. Casey made a motion to return the license status of **Christie Enochs Holland** to a failed to renew due to an insufficient funds check given for reinstatement of her dental assistant registration which Ms. Holland failed to make good. Second was given by Ms. Fox. The motion carried.

Ms. Casey made a motion to approve the **Administration and Monitoring of Nitrous Oxide** certification courses submitted by Dentedonline, Interfaith Dental Clinic, Southeastern Oral & Maxillofacial Surgery and University of Tennessee-Memphis; the **Dental Radiology** certification courses submitted by Anderson County Dental Assisting, Chattanooga State Technical Community College, Dental Learning Center, Dentedonline, E.W. Professional Career Training Center, Nashville Dental Society, Tennessee Academy of General Dentistry, Tennessee Technology Center at Murfreesboro and the University of Tennessee College of Dentistry; the **Monitoring of Nitrous Oxide** certification courses submitted by Chattanooga State Technical Community College, Dentedonline, E.W. Professional Career Training Center, Interfaith Dental Clinic, Northeast State Technical Community College, Southeastern Oral & Maxillofacial Surgery, Tennessee Academy of General Dentistry, Tennessee Technology Center at Knoxville, Tennessee Technology Center at Murfreesboro, University of Tennessee College of Dentistry and Volunteer State Community College; the **Sealant** certification courses submitted by Chattanooga State Technical Community College, E.W. Professional Career Training Center, Northeast State Technical Community College, Tennessee Technology Center at Knoxville, Tennessee Technology Center at Murfreesboro and University of Tennessee College of Dentistry; the **Coronal Polishing** certification courses submitted by Chattanooga State Technical Community College, Dentedonline, E.W. Professional Career Training Center, Tennessee Technology Center at Knoxville and University of Tennessee-Memphis. Second was given by Dr. Prince. The motion carried.

Dr. William Johnson, Chattanooga State Community College, addressed the Board requesting he be allowed to use another facility to conduct classes while the clinical facilities at the school are being renovated. It was the consensus of the Board to allow this as long as the space is adequate to accommodate the students. Dr. Johnson also requested interpretation from the Board on the requirement that the coronal polishing, radiology and sealant certification courses be taught entirely by a dentist. After discussion, Dr. Bailey made the following motion: In regards to the rule “that a course must be taught in it’s entirety by a dentist”, the policy of the board is that this dentist will be responsible in entirety for the course but may employ others within the course, under their guidance. Second was given by Ms. Casey to accept this policy statement. The motion carried.

Equivalency of Administration and Monitoring of Nitrous Oxide Courses

Ms. Casey made a motion to approve the out-of-state courses for administration and monitoring of nitrous oxide by Weber State University approved for Celeste Tucker. Second was given by Dr. Douglass. The motion carried.

Equivalency of Local Anesthesia Courses

Ms. Casey made a motion to approve as equivalent the Local Anesthesia courses initially deemed equivalent by the Board Consultant from the University of New England on behalf of Jennifer Mooers and Louisiana State University on behalf of Michelle Campbell and deny as equivalent the course from Midlands Technical College for Chera Morton and from Oklahoma Dental Foundation for Jeannie Johnson. Second was given by Dr. Douglass. The motion carried.

Equivalency of Radiology Courses

Ms. Casey made a motion to approve as equivalent the radiology courses initially deemed equivalent by the Board Consultant as follows: Dalton State College approved for Susan Hawkins, Penn Foster Career School approved for Mary Campbell, Cencor Career College (Concorde) approved for Earleen Hillard, Columbus ParaProfessional Institute approved for Trisha Kowalski, ACT College approved for Zeineb Yosuf and 882 Training Group Sheppard AFB approved for Melissa Altares. The motion included ratification of the initial denial as equivalent the following courses: Concorde Career College denied for Jennifer Knight and the University of Oklahoma denied for Leah Bolton. Second was given by Ms. Cherry. The motion carried.

Equivalency of Coronal Polishing Courses

Ms. Casey made a motion to approve as equivalent the coronal polishing course submitted by Oklahoma Dental Foundation for Carla Howell and deny as equivalent the course from Wake Forest University for Rhonda Cutshaw. Second was given by Dr. Bailey. The motion carried.

Equivalency of Restorative Functions Courses

Ms. Casey made a motion to deny as equivalent the course from Indiana University for Rachel Medcalf. Second was given by Ms. Cherry. The motion carried.

Ratification of Agreed Citations

Ms. Casey made a motion to approve the Agreed Citations for deficiencies in continuing education/CPR for Rhonda Y. Allbert R.D.A., Judy A. Bailey R.D.A., Carol M. Burke R.D.A., Regina P. Collins R.D.A., Danny B. Crockarell D.D.S., Darby B. Follis D.D.S., Lisa L. Grizzard R.D.H., Vicky L. Pope R.D.A., Tracy N. Shipley Hornsby R.D.H., Brian D. Smith D.D.S., Ashley L. Sneed R.D.A., Roy S. Stapleton D.M.D., Jeana S. Vaughn R.D.A., Guylia R. Vick R.D.A., April D. Whitt, R.D.A., Marianne C. Wigard, R.D.H., Melissa K. Williams R.D.A., Ginger A. Richardson R.D.H; and approve the Agreed Citations for working on a lapse license for Allen H. Moffitt D.M.D. and Nancy L. Stimson R.D.A. Second was given by Dr. Bailey. The motion approved.

Examinations From Other States (revisited)

The Board revisited the application request of Andrew Hagan. After discussion, Ms. Casey made a motion to allow the Board Consultant to approve the application provided information is obtained from Florida verifying that Dr. Hagan passed all sections of the exam with a score of 75% or better. Second was given by Ms. Cherry. The motion carried.

Anesthesia and Sedation Committee: Dr. Clark resigned from the Anesthesia and Sedation Committee. Dr. Tabor informed the Board that Dr. Stanley C. Roddy, Jr. D.M.D. had also requested to be replaced on the Committee. Dr. Tabor suggested Dr. John R. Werther D.M.D. and Dr. J. David Johnson, Jr. D.D.S. as possible candidates to replace Dr. Clark and Dr. Roddy and that Dr. Werther act as Chair of the Committee. Dr. Bailey made a motion to replace Dr. Clark and Dr. Roddy on the Anesthesia and Sedation Committee with Dr. Werther and Dr. Johnson, and that Dr. Werther act as Chair of the Committee. Second was given by Dr. Smith. The motion carried.

Election of Officers

Dr. Smith made a motion nominating Dr. Clark as Chairman, Dr. Bailey as Vice Chair and Dr. Douglass as Secretary. Second was given by Ms. Cherry. The motion carried.

There being no further business, the meeting adjourned at 12:13 p.m.