

MINUTES

SOUTH CAROLINA BOARD OF DENTISTRY CONFERENCE CALL

12:00 P.M., Thursday, March 6, 2003

Synergy Business Center, Kingstree Building, Room 306-21
110 Centerview Drive
Columbia, SC

On Thursday, March 6, 2003 at 12:00 p.m., Dr. Dennis Newton, Jr., Vice President, of West Columbia, called the meeting to order. Members of the Board present were: Dr. Amon A. Martin, Jr., Secretary, of Seneca; Dr. Michelle Bedell, of Blacksburg; Dr. William H. Bragdon, of Greenville; Dr. William Cranford, Jr., of Rock Hill; Tanya Riffe, RDH, of Ravenel; and Dr. John D. Snowden, of Florence. It was noted for the record that Dr. Dale Finkbine, President, of Summerville, and Genie Duncan, of West Columbia, were granted excused absences.

Dr. Newton announced that public notice of this meeting was properly posted at the main entrances of the Kingstree Building, Synergy Business Center, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. He noted that a quorum was present at all times.

Staff members present were H. Rion Alvey, Administrator, James Evans, Investigator, and Melissa Slagle, Investigator.

Randall Bryant, Assistant Deputy Director, POL Office of Business and Related Services; Wendy Cartledge, General Counsel, Office of General Counsel; Sandra Dickert, Administrative Assistant; Pat Hanks, General Counsel; Lisa Maseng, Legislative Liaison; and Rick Wilson, Deputy General Counsel, Office of General Counsel were in attendance at the meeting.

Members of the public attending the meeting included: Tammi Byrd, RDH, Phil Latham, Dr. Jim Mercer, and Hal Zorn.

APPROVAL OF AGENDA

Dr. Bragdon moved the agenda be approved. The motion was seconded by Dr. Cranford and unanimously carried.

LEGISLATIVE UPDATE - DEFINITIONS AND PUBLIC HEALTH DENTISTRY

Mr. Wilson stated the Department of Health and Environmental Control (DHEC) had no suggested changes to Section 2 (Section 40-15-86, Functions and procedures which may

not be delegated to dental hygienists) or Section 3 (Section 40-15-110, Exemptions from chapter) of this document. He noted that DHEC is comfortable with the language in Section 3 regarding their exemption.

DISCUSSION - SECTION 1. 40-15-85

Mr. Wilson made the following recommended changes to Section 1 (Section 40-15-85. "Direct supervision," "general supervision," "oral prophylaxis," and "authorization" defined.) :

1. Line twelve should read "authorized" instead of "supervised," so that this line now reads, " ... has authorized (replacing the word "supervised") the procedures to be performed ..."
2. Due to some confusion within DHEC regarding the requirements of the public health dentist having to have a S.C. dental license in order to conduct his job in directing the program, strike the language "or the South Carolina Department of Health and Environmental Control's public health dentist."

Section 40-15-85.B. would now read, "The term 'general supervision' means that a licensed dentist has authorized the procedures to be performed but does not require that a dentist be present when the procedures are performed. In private dental office settings, a hygienist may only perform the following functions under general supervision:

1. Oral prophylaxis and assessment
2. Fluoride treatment
3. Placing sealants
4. Oral hygiene instruction and education
5. Expose and process radiographs as directed by standard office protocol

3. Returning the phrase "in a private office setting" to Section 40-15-85.D. on line 26. The sentence would read, "The term 'authorized' means the supervising dentist in a private office setting has personally approved the procedures to be performed and is responsible for the care provided to the patient."

4. Section 40-15-85.D.2. and D.3. should be re-lettered in this section as "E" and "F."

E. A dentist authorizing treatment by a hygienist in school settings or nursing home settings is subject to the same general supervision restrictions as stated above unless the dentist is working in a public health setting with the S.C. Department of Health and Environmental Control as defined in Section 40-15-110.

F. A dentist billing for services for treatment provided by a dental hygienist in a public health setting contracting with the Department of Health and Environmental Control as defined in 40-15-110 will be the provider of services and shall be held clinically responsible.

Mr. Wilson asked Ms. Byrd if the hygienist bills directly for the services. Ms. Byrd stated at this point in time the hygienist must bill through a dentist.

Dr. Martin stated he would like to see a clean version prior to voting and indicated he would abstain from voting at this time.

Motion: Dr. Bragdon made a motion, seconded by Dr. Bedell and carried with a majority vote, to accept Section 1, Section 40-15-85, as amended. Dr. Martin abstained from voting.

DISCUSSION - SECTION 2. 40-15-86.

Mr. Wilson stated that the beginning of Section 2 needed a lead sentence (line 47). He stated that this section had a title followed by a list. "The following" was added at the beginning of the sentence. He also stated that the paragraphs in Section 2 were lettered, which was done for the Legislative Council. The sentence now reads, "The following functions and procedures may not be delegated to dental hygienists."

Ms. Riffe questioned how or if this section would affect Regulations 39-12-39.13 and 39-14 which now specifically list the approved functions hygienists can perform. She asked if there would be any conflict.

Ms. Byrd stated that although not specifically spelled out in statute, according to education, a dental hygienist can perform a hygiene exam, a hygiene diagnosis, a hygiene treatment plan and evaluate the treatment plan. She asked how the Board would handle having a consultant in an office in the dental hygiene room when a patient enters and the patient needs a crown and the hygienist is instructed that the patient may want to consider a crown prior to the dentist entering the office. Dr. Newton stated he listens to and accepts a lot of recommendation from his hygienists, although he reserves the right to make the final decision and doesn't feel there is real conflict there. The consensus of the Board was that there is no conflict between this section and regulation 39-12. Mr. Wilson stated when this bill becomes law the board would review the regulations to ensure they match the statute.

Motion: Dr. Bragdon made a motion, seconded by Ms. Riffe and unanimously carried, to accept Section 40-15-86 as written.

DISCUSSION - SECTION 3. 40-15-110.

Dr. Newton stated there had been no changes made since the original changes were made some time ago with the Dental Association and the Dental Hygiene Association. Mr. Wilson stated the only change made was that staff designated the paragraphs by "lettering" (A,B,C,D,E and F) for ease of reference.

Mr. Alvey stated Mr. Hanks questioned if 40-15-110.D. (on page 2, lines 50-51) means

the assistants could contract with DHEC. He indicated that assistants are not licensed. Mr. Wilson stated this paragraph doesn't mention contracting, just performing the duties. In response to a question from Ms. Riffe, Mr. Wilson stated there are some hygienists who work for DHEC. He feels certain DHEC is ensuring their employees are covered.

Ms. Byrd left the meeting at this time.

Mr. Zorn stated under the Board's statutes and regulations an assistant cannot enter and perform screenings in school settings. He went on to say that DHEC's thought was to open it up so the assistants were not breaking the law if they entered any public health setting.

Mr. Zorn stated DHEC is asking that the word "certified" be removed from Section 40-15-110, paragraph (F), due to the nomenclature being utilized by the technical colleges and the changing nomenclature used in the programs is now expanding duties of the assistants.

Motion: Dr. Cranford made a motion seconded by Dr. Snowden and unanimously carried, to approve Section 3.

Mr. Alvey questioned if the problem would still exist, with the verbiage DHEC added to Section 40-15-85(F), if a dentist is not the one contracting with DHEC, but a company or a hygienist. Dr. Newton stated the dentist would have to be the one with the insurance and the Medicaid numbers. Mr. Alvey asked what if the dentist is not contracted? Mr. Wilson suggested dropping the word "contracting" in Section 40-15-85.F.

Discussion followed as to whether or not a dentist sees a patient in a public health setting. Mr. Alvey explained the Board's position as stated in a letter written by a past President, Dr. Barrett, that indicated that in all settings, regardless of whether it was public health or in a private practice setting, whether direct supervision or general supervision, that a licensed dentist has to diagnose and provide a treatment plan which requires a dentist to see the patient. Mr. Alvey asked if any of the Board members felt any differently. The Board members indicated they agreed.

Section 40-15-85.F. now reads, "A dentist billing for services for treatment provided by a dental hygienist in a public health setting with the Department of Health and Environmental Control as defined in 40-15-110 will be the provider of services and shall be held clinically responsible."

Motion: Dr. Bragdon made a motion, seconded by Dr. Bedell and unanimously carried, to approve to 40-15-85 as amended.

Mr. Bryant noted for the record the attendees at the meeting during this session. He noted that Ms. Byrd left approximately 25 minutes ago and indicated Mr. Latham from the Dental Association, Dr. Mercer, and Mr. Zorn were attending the meeting during this

discussion.

Mr. Bryant stated there are two bills at the State House he would like for the Board to consider. He indicated the first bill would make the administrator an "at-will" position. The second bill would suspend professional licenses for nonpayment of student loans. He noted that the staff would provide the Board with copies of these bills and asked the Board members to relay their feelings on these bills to staff.

Mr. Zorn urged the Board to continue its work on mobile vans.

LEGISLATIVE UPDATE: SCOPE OF PRACTICE OF ORAL SURGERY

Dr. Newton stated the Board would not be discussing this topic as the Board was waiting on final comments from the oral surgery group relative to the Virginia plan. He went on to say, in effect, that the Board has an agreement between Dr. Costa, of the Medical Board, and Dr. Mercer, who is representing the oral and maxillofacial group, that the language that has been accepted in the Virginia plan would be acceptable. Dr. Newton noted that Dr. Mercer has a few points that needed to be modified slightly. He went on to say the Board would not be presenting the oral surgery issue next week when Sections 40-15-85, 40-15-86, and 40-15-110 modifications are presented.

Dr. Newton stated that when the Virginia verbiage was further reviewed it was discovered that Virginia has an advisory committee, which South Carolina may or may not need to activate. He went on to say Virginia has notification of the Medical Board upon complaints of an oral maxillofacial surgeon and to have one individual in their specialty to review the case and give a comment, however, the Board of Dentistry would render the final decision.

Dr. Mercer stated the latest draft he reviewed on March 5, 2003 significantly changes the meaning of what they discussed as late as last week. He further stated the document has added five procedures that must be credentialed, which was never part of the original agreement.

Mr. Wilson stated he and Ms. Zeman did not understand the professional issues and asked that Dr. Mercer meet with him following this meeting.

Dr. Mercer stated he was referring to adding: treatment of facial diseases and injuries, facial fractures, cleft lip, augmentation, and genioplasty that have been added as credentialed procedures. He went on to say no one agreed to these procedures from the onset.

Dr. Newton stated the concern was that the Board didn't want to add procedures that were already listed, thereby excluding other procedures that could be implied.

Dr. Mercer stated he would meet with Mr. Wilson following the meeting.

PUBLIC COMMENTS

There were no public comments made.

EXECUTIVE SESSION

The Board entered executive session to discuss an applicant for the reinstatement of dental hygiene license.

RETURN TO PUBLIC SESSION

Motion: Dr. Cranford moved the Board accept the consent order as written. Dr. Bedell seconded the motion, which carried unanimously.

Motion: Dr. Bragdon moved to reinstate Marilyn J. Rich's license. Dr. Cranford seconded the motion, which carried unanimously.

ADJOURNMENT

There being no further business to be discussed at this time, the meeting adjourned at 1:18 p.m.

Respectfully submitted,

H. Rion Alvey
Administrator