

KENTUCKY BOARD OF DENTISTRY
BOARD MEETING
August 13, 2011

Adam Rich, D.M.D. called the meeting to order at 8:07 a.m. There was a determination of a quorum.

ROLL CALL

Board members present were: Dr. Fonda Robinson (ex-officio UKCD); Julie McKee, D.M.D.(ex-officio Dept. Public Health); Dr. Katherine King; Dr. C. Mark Fort; Mary Ann Burch RDH; Dr. Adam Rich; Allan Francis; Dr. Susan King; Tim Daugherty, D.M.D. (ex-officio ULSD) and Dr. Robert Zena. William Boggess, D.M.D. attended via SKYPE. Dr. Vance was not in attendance.

Staff present were Mr. Bishop K. Bishop, Executive Director; William A. Bausch, General Counsel, Marquetta Poynter, D.M.D. and Robert S. Thompson III, Investigators; and Lisa A. Turner, Executive Staff Advisor.

Guests present:

Stephen Rhodes, D.M.D., Academy of General Dentistry
Donna Ruley, R.D.H., Executive Director KyDHA

AGENDA ITEM 3. DISCUSSION AND ACTION ON REPLACEMENT PROCESS FOR GENERAL COUNSEL

a. Public Notification of Resignation of General Counsel

Dr. Fort made a motion to make public the resignation from employment with the Kentucky Board of Dentistry from General Counsel, William Bausch and to accept the same with his last day as August 26, 2011. Dr. Susan King seconded the motion.

Dr. Zena made a motion to amend the motion to make Mr. Bausch's resignation effective today under the conditions that he take two work days to complete the remaining tasks with the Board including issuing his Motions to Withdraw as Counsel on all the Board of Dentistry' cases. Dr. Kathy King seconded the motion. Dr. Zena, Dr. Kathy King, Dr. Rich and Dr. Boggess via SKYPE were in favor. Dr. Susan King, Ms. Burch, Mr. Francis and Dr. Fort were opposed. Motion failed for lack of majority.

The original motion vote was: all in favor; none opposed. Motion passed.

b. Discussion on Replacement Process

Dr. Zena made a motion to hire temporary legal representation by contracting with Office of the Attorney General and to request the same Monday morning. Mr. Francis seconded the motion. All were in favor.

Dr. Kathy King made a motion to post the position with the Courier Journal and careerbuilder for 14 calendar days. Mr. Francis seconded the motion. All were in favor.

The Board agreed that the replacement process will include the formation of a Search Committee to review all applications received in response to the posting for a permanent position. The first

interview by the committee of candidates will be held on September 7, 2011. The committee will recommend to the full Board the top 3 candidates. Background checks will be completed for those 3 applicants. The full Board will conduct the second interview of the top 3 candidates at the regular Board meeting held on September 10, 2011.

Dr. Zena made a motion to use the job posting description used by the Board on its last attorney search but to strike job qualification #3 and replace it with "preferred qualifications include experience in health care administration compliance; risk management and litigation" and to revise qualification #2 to include letter of Good Standing from the Kentucky Bar Association. Dr. Kathy King seconded the motion. All were in favor.

The Board General Counsel Search Committee members were appointed: Mr. Francis, Dr. Zena, Dr. Susan King, Ms. Tabor, and Dr. Robinson.

AGENDA ITEM 4. DISCUSSION, REVIEW AND REAFFIRMATION OF ITEMS OF THE JULY BOARD AGENDA OF BOARD MEMBER TERMS AND APPOINTMENTS

Dr. Kathy King made a motion to reaffirm the discussions and votes from the July Meeting. Dr. Susan King seconded the motion. Dr. Kathy King withdrew the motion.

Dr. Zena made a motion to adjourn and request an Opinion from the Office of the Attorney General. Motion failed for lack of a second.

Dr. Zena made a motion to adjourn and that both Dr. Rich and Dr. Fort represent the Board and take the request to the OAG for an Opinion. Dr. Kathy King seconded the motion. Dr. Rich, Dr. Zena, Dr. Kathy King and Dr. Boggess via SKYPE were in favor. Motion failed for lack of a majority.

Dr. Zena made a motion to affirm the July votes of the July Board meeting and to adjourn. Mr. Francis seconded the motion. Dr. Zena withdrew the motion.

Dr. Fort made a motion to reaffirm the July Board meeting in its entirety as legitimate. Dr. Kathy King seconded the motion. Dr. Rich, Dr. Zena, Dr. Kathy King, Dr. Fort and Dr. Boggess via SKYPE were in favor. Ms. Burch, Mr. Francis and Dr. Susan King were opposed. Motion passed by majority.

AGENDA ITEM 5. DISCUSSION OF BOARD MEMBER TERMS AND APPOINTMENTS

Mr. Francis made the motion to go into closed session to discuss potential litigation. Dr. Susan King seconded the motion. All were in favor. Ms. Burch, Dr. Susan King, Mr. Francis and Dr. Fort were in favor. Dr. Zena, Dr. Rich, Dr. Kathy King and Dr. Boggess via SKYPE were opposed. Motion failed for lack of majority.

After receiving documents distributed for review by Board Members, Ms. Burch made a new motion to go into closed session. Dr. Susan King seconded. Ms. Burch, Dr. Susan King, Mr. Francis and Dr.

Fort were in favor. Dr. Zena, Dr. Rich, Dr. Kathy King and Dr. Boggess via SKYPE were opposed. Motion again failed for lack of majority.

Mr. Bausch advised there are two valid paths: request an Advisory Opinion from the Office of Attorney General or go to Circuit Court for a ruling on statutory interpretation and request an interpretation of our statute; interpretation of the Governor's Executive Orders of Appointment and to settle the OAG's conflicting opinions which allow for holdovers for constitutional offices and not agency Board Appointments.

Dr. Susan King made a motion that Dr. Rich and Dr. Fort draft a request of the above-stated issue and present it to the Attorney General's Office. Dr. King withdrew the motion.

Ms. Burch made a motion to make an order of the Board that no member may contact a member of the executive or legislative branch concerning Board matters without direct permission and full knowledge of the Board; penalty would be an automatic public reprimand on the professional license of the Board Member, penalty for the citizen-at-large would be an automatic public reprimand which would be sent to the Governor's Office. This in no way would prohibit any Member of the Board from contacting their legislator concerning non-Board issues. Dr. Susan King seconded the motion. Dr. Fort, Dr. Susan King, Mr. Francis, Ms. Burch were in favor. Dr. Zena, Dr. Kathy King and Dr. Boggess via SKYPE were opposed. Dr. Rich abstained. Motion passed by majority.

Dr. Fort made a motion to adjourn at 12:45 p.m. Dr. Susan King seconded the motion. All were in favor.

APPROVED:

Adam K. Rich, D.M.D.
President

Mary Ann Burch, R.D.H.
Vice President