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**STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND  
ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS,  
BUSINESS & PROFESSIONAL LICENSING  
BOARD OF DENTAL EXAMINERS**

**MINUTES OF MEETING  
August 18, 2017**

By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the provisions of Article 6 of AS 44.62, a meeting of the Board of Dental Examiners was held August 18, 2017, by Teleconference.

The meeting was called to order by Dr. Thomas Wells, President, at 8:33

**Roll Call**

Those present, constituting a quorum of the board, were:

Dr. Thomas Wells, President – Anchorage  
Dr. Paul Silveira – Valdez  
Dr. David Nielson – Anchorage  
Ms. Paula Ross – Anchorage  
Dr. Thomas Kovaleski – Chugiak  
Ms. Gail Walden – Wasilla  
Dr. Steven Scheller – Fairbanks  
Dr. Michael Moriarty – Seward

Absent:

Ms. Robyn Chaney, Secretary – Dillingham

In attendance from the Division of Corporations, Business & Professional Licensing, Department of Commerce, Community and Economic Development were:

Mr. Jedediah A. Smith, Licensing Examiner – Juneau  
Ms. Jasmin Bautista, Investigator – Anchorage  
Ms. Angela Birt, Chief Investigator – Anchorage  
Mr. Douglas Fell, Investigator – Anchorage  
Ms. Marilyn Zimmerman, Paralegal II – Juneau  
Ms. Megyn Greider, Assistant Attorney General – Anchorage

Members of the public in attendance:

47 Dr. Kenley Michaud, Dentist – Anchorage  
48 Dr. Sharon Osborn Popp, WREB Official  
49

50 **Agenda Item 1 – Review of Agenda**

51  
52 Dr. Wells asked the board if they had any matters that they would like to add to  
53 the agenda. Dr. Wells himself requested that the board discuss the matter of a pending  
54 Continuing Education Course Application that had been tabled for discussion.  
55

56 **Agenda Item 2 – Review/Approve Minutes**

57  
58 **On a motion duly made by Kovaleski, seconded by Ross, and approved by roll  
59 call vote, it was**

60  
61 **RESOLVED to approve the minutes of the April 28, 2017 teleconference.**

62  
63 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,  
64 Walden – yea, Scheller – yea, Moriarty – yea.  
65 8 yeas, 0 nays. Motion passed.**  
66

67 **On a motion duly made by Kovaleski, seconded by Ross, and approved by roll  
68 call vote, it was**

69  
70 **RESOLVED to approve the minutes of the June 1, 2017 teleconference.**

71  
72 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,  
73 Walden – yea, Scheller – yea, Moriarty – yea.  
74 8 yeas, 0 nays. Motion passed.**  
75

76 **Agenda Item 3 - Ethics Report**

77  
78 There were no ethics violations to report.  
79

80 The board was well ahead of schedule, and chose to discuss the matter of the  
81 pending Continuing Education Course Application, titled “BTY Study Club”. The board  
82 did not feel comfortable approving a course for 40 hours of CE without deeper  
83 knowledge of the content of the course and demographic it is intended to educate.  
84

85 **On a motion duly made by Nielson, seconded by Moriarty, and approved by roll  
86 call vote, it was**

87  
88 **RESOLVED to deny the Continuing Education Course Application titled  
89 BTY Study Club until further information has been received or the course  
90 instructor has presented to the board.**  
91

92 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
93 **Walden – yea, Scheller – yea, Moriarty – yea.**  
94 **8 yeas, 0 nays. Motion passed.**  
95

96 The board was still ahead of schedule, and Dr. Kovaleski initiated a brief  
97 discussion of a possible anti-competitive ethics issue; issuing courtesy licenses in areas  
98 where there are lots of dentists. As courtesy licenses are only issued to professionals  
99 who will be practicing in a pro-bono setting, there exists the possibility that any offer of  
100 free dental care could draw business away from dentists who rely upon those patients  
101 for their livelihood. This topic was merely a discussion and resulted in no actions.  
102

103 Jasmin Bautista, Douglas Fell, and Angela Birt joined the meeting at 8:59 a.m.  
104

105 **Agenda Item 4 – Investigative Report**  
106

107 Ms. Bautista gave the investigative report: Between the dates of April 16, 2017 and  
108 August 7, 2017 there were a total of 23 cases opened and 17 cases closed, leaving a  
109 total of 25 unresolved matters.  
110

111 The board asked if this was a normal caseload, and Ms. Bautista said that it is a little  
112 above normal, but not excessively.  
113

114 **On a motion duly made by Ross, seconded by Nielson, and approved by roll call**  
115 **vote, it was**  
116

117 **RESOLVED to go in to executive session in accordance with Alaska Statute**  
118 **44.62.310(c)(2) and 44.62.310(c)(3) for the purposes of discussing ongoing**  
119 **investigations.**  
120

121 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
122 **Walden – yea, Scheller – yea, Moriarty – yea.**  
123 **8 yeas, 0 nays. Motion passed.**  
124

125 Board staff to remain.  
126

127 Off record at 9:00 a.m.

128 On record at 9:29 a.m.  
129

130 Ms. Bautista, Mr. Fell, and Ms. Birt departed the meeting at 9:30 a.m.  
131

132 Ms. Marilyn Zimmerman joined the meeting at 9:30 a.m.  
133

134 **Agenda Item 5 – Incomplete Audit**  
135

136 **On a motion duly made by Ross, seconded by Nielson, and approved by roll call**  
137 **vote, it was**

138  
139 **RESOLVED to go in to executive session in accordance with Alaska Statute**  
140 **44.62.310(c)(2) and 44.62.310(c)(3) for the purposes of discussing ongoing**  
141 **investigations.**

142  
143 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
144 **Walden – yea, Scheller – yea, Moriarty – yea.**  
145 **8 yeas, 0 nays. Motion passed.**

146  
147 Board staff to remain.

148  
149 Off record at 9:31 a.m.  
150 On record at 9:44 a.m.

151  
152 The board requested a brief recess at 9:45 a.m.

153  
154 Off record at 9:45 a.m.  
155 On record at 9:53 a.m.

156  
157 **Agenda Item 6 – Pending Sedation Regulations**

158  
159 Ms. Megyn Greider joined the meeting at 9:59 a.m.

160  
161 The board began discussion of the sedation regulations prior to adoption. There were  
162 some minor edits that they felt would make the regulations easier to understand, or that  
163 had been suggested in the public comments and the board felt were valid, as follows:

164  
165 **12 AAC 28.010. (c)(2)** Change to: “successfully completed an advanced educational  
166 program in oral maxillofacial surgery accredited by Commission On Dental Accreditation  
167 of American Dental Association”

168  
169 **12 AAC 28.010. (c)(3)** Change to: “successfully completed an advanced educational  
170 program in dental anesthesiology accredited by Commission On Dental Accreditation of  
171 the American Dental Association”

172  
173 **12 AAC 28.010. (f)** add brackets to direct reviser of statutes to input date of  
174 implementation of regs.

175  
176 **12 AAC 28.010. (i)(5)** 5 will become 4 and 4 will drop out.

177  
178 **12 AAC 28.015.** in heading change “and” to “or” for continuity of titles.

179  
180 **12 AAC 28.015. (c)** The board discussed this section, but decided to make no changes.  
181 The regs exclude hospitals, but most dentists are not comfortable with the listed drugs  
182 in the general practice offices. Other states use these (ketamine, propofol, brexival, and  
183 sodium pentothal) as examples of general anesthetics.

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**12 AAC 28.015. (f)** Change “equivalent” to “sufficient”

**12 AAC 28.015. (g)(4)** Change to “not earlier than 24 months” and **12 AAC 28.015. (h)(4)** Change to “25 cases per biennial renewal period”

**12 AAC 28.015. (I)(4)** Delete and renumber **(I)(5)** as **(I)(4)**.

A form needs to be developed for the establishment of collaborative agreements between dentists and anesthesiologists. The board discussed whether a fee might be necessary for processing collaborative agreements, but on the advisement of Ms. Greider, decided to wait until a collaborative agreement had been submitted in order for board staff to plot time and resources used to process and record the agreement, then take that information to the division and see if a fee is needed.

The topic of collaborative agreements will be revisited at a later meeting when additional information is available.

**12 AAC 28.060.** Remove subsection **(c)** completely and re-letter **(d)**, **(e)**, and **(f)** to **(c)**, **(d)**, and **(e)**, respectively.

**12 AAC 28.061. (12)** Change to “If the deep sedation or general anesthesia provider is the dentist, a second person is necessary to monitor and observe the patient, and a third person to assist the operating dentist.”

**12 AAC 28.065. (4)** Change to “the administration of deep sedation, general anesthesia, moderate or minimal sedation in a licensed hospital...”

Mr. Smith asked if it was the Board's intent to remove the renewal requirement for the Local Anesthesia and Nitrous Oxide permits. This requirement provides approximately \$55,000.00 of revenue for the board per biennial renewal period. The board stated that with the recent increase in licensing fees, the renewal costs for additional permits are unnecessary and place an excessive financial burden on the licensees. The removal of the requirement will also result in decreased administrative costs associated with the renewal.

**12 AAC 28.068. (e)** Change to “If a dentist maintains membership in the American Association of Oral and Maxillofacial Surgeons (AAOMS) and receives notification from the board that an on-site inspection is required, the board may accept reports that result from the periodic office examinations required by that association.”

Ms. Greider brought up that the wording in the publicly noticed fee regulations associated with the sedation regulations, the word “permit” was used. For the sake of continuity, this could be changed to “certification”.

229 **12 AAC 28.345. (a)** Change to “To satisfy the requirements for a certification under 12  
230 AAC 28.325, a course of instruction for administering nitrous oxide, must be provided by  
231 an organization accredited by the Commission on Dental Accreditation (CODA) of the  
232 American Dental Association or approved by the board. This course must contain a  
233 minimum of three hours of clinical and three hours of didactic instruction.”

234

235 **On a motion duly made by Wells, seconded by Walden, and approved by roll call**  
236 **vote, it was**

237

238 **Resolved to adopt the sedation regulations, as amended.**

239

240 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
241 **Walden – yea, Scheller – yea, Moriarty – yea.**  
242 **8 yeas, 0 nays. Motion passed.**

243

244 **On a motion duly made by Walden, seconded by Ross, and approved by roll call**  
245 **vote, it was**

246

247 **RESOLVED to approve the fee regulations set out for public comment as**  
248 **amended (change “permit” to “certification” and remove 12 AAC 02.190.**  
249 **(a)(11) and (a)(12)).**

250

251 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
252 **Walden – yea, Scheller – yea, Moriarty – yea.**  
253 **8 yeas, 0 nays. Motion passed.**

254

255 Ms. Sara Chambers joined the meeting at 11:24 a.m.

256

### 257 **Agenda Item 7 – Division Update**

258

259 Ms. Chambers proceeded with an explanation of the 3<sup>rd</sup> quarter fiscal report, including  
260 detailed descriptions of each grouping of expenditures and how they relate to the board  
261 and state budgets.

262

263 Ms. Walden expressed a concern regarding the impending increase in the amount of  
264 paperwork as a result of the new sedation regulations. Her concern is that timelines will  
265 be unmanageable and that excessive delays could cause practice issues for dental  
266 practitioners and patients alike. Ms. Chambers reassured the board that resources are  
267 available to assist the sole staff member with the workload.

268

269 Ms. Walden also requested that the effected licensees are fully informed of the  
270 requirements for the additional permits as soon as possible, specifically for the Nitrous  
271 Oxide Certification.

272

273 The board questioned Ms. Chambers about Board travel policies, and how they might  
274 be able to request additional in person meetings per year.

275  
276 Ms. Chambers moved on to discuss the policies of the PDMP (Prescription Drug  
277 Monitoring Program), and how those policies will impact the state, specifically the  
278 Dental Board. This includes expanding the disciplinary authority of the board to include  
279 opioid over-prescription. None of the State boards have established regulations for  
280 prescriptive guidelines. A committee, in which the Dental Board was represented, did  
281 meet last year and came to a consensus for recommended guidelines. HB 159 limits  
282 prescriptions to a maximum of a 7-day supply per patient. Possible exceptions to this  
283 rule could be for patients in extremely rural areas who would be unable to return to their  
284 prescribing dentist for a refill. Ms. Chambers also informed the board that they will need  
285 to establish what continuing education will be accepted as required for opioid  
286 prescribers under HB 159. This will be a requirement for all prescribing licensees,  
287 including any new applicants.

288  
289 President Wells had requested that Ms. Chambers also present on the use of mail  
290 ballots for voting on application files. Ms. Chambers explained the process in detail,  
291 including what is included in a mail ballot, and the procedures that are acceptable  
292 practice for voting on ballots.

293  
294 The board broke for lunch.  
295 Off record at 12:15 p.m.  
296 On record at 1:22 p.m.

297  
298 Dr. Sharon Osborn Popp joined the meeting at 1:22 p.m.

299  
300 **Agenda Item 8 – Old/New Business**

301  
302 **On a motion duly made by Wells, seconded by Moriarty, and approved by roll call**  
303 **vote, it was**

304  
305 **Resolved to request Division officials to send a Cease and Desist letter to**  
306 **Smile Direct Club**

307  
308 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
309 **Walden – yea, Scheller – yea, Moriarty – yea.**  
310 **8 yeas, 0 nays. Motion passed.**

311  
312 The board discussed the need for a temporary/emergency license. This will require a  
313 change of statute, and to help initiate the process, the board requested that Dr. Nielson  
314 draft a letter to the Alaska Dental Society to request them to lobby for the legislation to  
315 be enacted.

316  
317 The board assigned Dr. David Nielson to attend the October AADB and ADA annual  
318 meetings in an official capacity.

319

320 The board assigned Dr. Kovaleski to attend the February meeting of the DERB (Dental  
321 Education Review Board. Dr. Kovaleski interjected that he will almost certainly be able  
322 to attend, but in the event that he could not, the board should have a replacement  
323 available. The board nominated Dr. Moriarty to attend should Dr. Kovaleski not be  
324 available. Dr. Kovaleski will inform the board staff about his status well in advance of the  
325 meeting.

326  
327 Mr. Smith asked the board about proper procedure for receipt of an NPDB continuous  
328 query report. The board recommended that he contact the Oregon Board of Dental  
329 Examiners and inquire how the process works for them.

330  
331 **Agenda Item 9 – WREB Presentation**

332  
333 Dr. Popp presented on the WREB examination, providing an explanation of the entire  
334 process from beginning to end. She primarily focused on the Dental Exam, but the  
335 exam process remains much the same for the Hygiene Exam. The presentation  
336 included a detailed psychometric analysis of pre- and post-exam participants, calibration  
337 of examiners, procedures that the examinees participate in, and pass/fail rates of  
338 attendees.

339  
340 Dr. Witsil joined the teleconference for his application interview at 2:50 p.m.

341  
342 The Board thanked Dr. Popp for her presentation.

343  
344 **Agenda Item 10 - Applicant Interviews**

345  
346 The board wished to discuss Dr. Witsil's application, and asked him to leave the  
347 teleconference for a few minutes.

348  
349 The board welcomed Dr. Michael Witsil to the meeting and explained the interview  
350 process. Dr. Witsil appeared telephonically. The Board asked the standard interview  
351 questions.

352  
353 **On a motion made by Nielson, seconded by Walden, and approved by roll call**  
354 **vote, it was**

355  
356 **RESOLVED to approve the application for a Dental License by Credentials**  
357 **for Dr. Michael Witsil.**

358  
359 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,**  
360 **Walden – yea, Scheller – yea, Moriarty – yea.**  
361 **8 yeas, 0 nays. Motion passed.**

362  
363 In a topic completely unrelated to his application, the Board asked Dr. Witsil some  
364 questions about his experience with the regional exam that he took to be licensed in  
365 Florida. The Boards interest in the topic stems from the recent effort to establish



366 whether any Regional Board Exams, besides the WREB exam, are sufficient for  
367 establishing candidate qualifications for licensure in Alaska. Dr. Witsil was very helpful  
368 and answered the Boards questions, describing his experience and stating that the  
369 Florida Board Exam was similar to the ADEX.

370

371 **Agenda Item 11 – Office Business**

372

373 The minutes of the April 28, 2017 and June 1, 2017 were signed by Dr. Wells. They  
374 were given to Division Personnel to be forwarded to Juneau.

375

376 **On a motion duly made by Wells, seconded by Ross, and approved by roll call  
377 vote, it was**

378

379 **RESOLVED to add to regulation 12 AAC 28.940(b)(8)(A) and 12 AAC  
380 28.951(e) that the WREB exam, or equivalent, must include the following  
381 components: Periodontics Exam, CTP (Constructive Response Test),  
382 Endodontics Exam, Prosthetics Exam, and an Operative Exam that  
383 includes one posterior alloy and one composite procedure, either anterior  
384 or posterior.**

385

386 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,  
387 Walden – yea, Scheller – yea, Moriarty – yea.**

388

**8 yeas, 0 nays. Motion passed.**

389

390 **Agenda Item 12 – Public Comment**

391

392 Dr. Kenly Michaud did not have a comment, but he used the time to ask the board how  
393 application fees are established and put into regulation. Ms. Walden gave him a brief  
394 explanation of the process; specifically that the Division establishes the fees based on  
395 administrative costs and board expenses.

396

397 **Agenda Item 13 – Officer Elections**

398

399 Dr. Wells nominated Ms. Walden for the position of Secretary.

400

401 **On a motion duly made by Wells, seconded by Nielson, and approved by roll call  
402 vote, it was**

403

404 **RESOLVED to elect Gail Walden as Secretary of the Alaska Board of Dental  
405 Examiners.**

406

407 **Wells – yea, Silveira – yea, Nielson – yea, Ross – yea, Kovaleski – yea,  
408 Scheller – yea, Moriarty – yea.**

409

**7 yeas, 0 nays. Motion passed.**

410

411 Ms. Walden departed the meeting at 3:40 p.m.

412  
413 Dr. Moriarty stated that he knew a possible candidate for a new public member, and  
414 asked about the process for applying.

415  
416 Dr. Moriarty nominated Dr. Paul Silveira for the position of Board President.

417  
418 **On a motion duly made by Moriarty, seconded by Nielson, and approved by roll**  
419 **call vote, it was**

420  
421 **RESOLVED to elect Dr. Paul Silveira as President of the Alaska Board of**  
422 **Dental Examiners.**

423  
424 **Wells – yea, Nielson – yea, Ross – yea, Kovaleski – yea, Scheller – yea,**  
425 **Moriarty – yea.**  
426 **6 yeas, 0 nays. Motion passed.**

427  
428 **Tasks –**

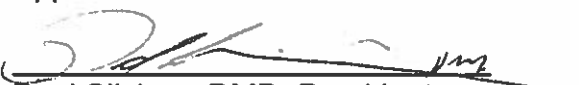
- 429
- 430 • Continue working on a penalty matrix for presentation to the board at the
  - 431 December meeting.
  - 432 • Send out a Doodle request to get the best date for the February 2018
  - 433 meeting.
  - 434 • Contact Oregon Board of Dental Examiners and question the examiner
  - 435 about the procedures for receipt of NPDB Continuous Query Report.
- 436

437 The board adjourned the meeting at 3:52 p.m.

438 Respectfully Submitted:

439  
440   
441 \_\_\_\_\_  
442 Jedediah Smith  
443 Occupational Licensing Examiner

444 Approved:

445  
446   
447 \_\_\_\_\_  
448 Paul Silveira, DMD, President

449 Date: 12-8-2017