

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

**MINUTES OF MEETING
FEBRUARY 19-20, 2009**

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 scheduled meeting of the Board of Dental Examiners was held February 19-20, 2009, in Conf. Room A of the State Office Building, 333 Willoughby Ave., Juneau, Alaska.

THURSDAY, FEBRUARY 19, 2009

The meeting was called to order by Dr. David Eichler, Chairman at 8:40 a.m.

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

Dr. David Eichler, Chairman – Fairbanks
Mr. Gregory Gurse – Anchorage
Cheryl Fellenberg – Dental Hygienist – Wasilla
Vicki Martin – Dental Hygienist – Anchorage
Dr. Rebecca Nesland – Anchorage
Dr. Kevin Gottlieb – Anchorage
Dr. William Gerace – Anchorage
Dr. Newell Walther – Wasilla

Those absent and excused were:

Dr. Arne Pihl - Ketchikan

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

Brenda Donohue, Licensing Examiner – Juneau

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Agenda Item 1 – Review Agenda

Dr. Eichler reviewed the Agenda. Ms. Donohue noted the following additions:

Item 6 – INVESTIGATIVE REPORT

- Investigative Report

Item 7 – MISC CORRESPONDENCE

- Email from Sandra Pence, UAA-Anchorage
- Email from Gail Walden, CIDHA
- WREB – Board of Director Representation

Item 3 – REVIEW APPLICATIONS

- Course Approval Applications
 - Premeditated Dental Hygiene
 - Good Vibrations
 - Everything You Wanted to Know About Implant Overdentures
 - Traumatic Dental Injuries: What You Need to Know
 - CNA HealthPro Dental Professional Liability Risk Management Seminar

Item 9 – REGULATIONS

- Survey of graduate requirements re: CI II composites and Amalgams – Expanded Function Permits
- Draft of 12 AAC 28.910 changes
- Draft of 12 AAC 28.400, 405, 420, and 937 changes

Agenda Item 2 – Review Minutes

Following review and correction of the December 12, 2008 meeting minutes, Dr. Eichler asked for a motion to approve. Ms. Fellenberg noted a correction on page 14, section 13(B). Dr. Eichler called for a motion to accept the minutes, as corrected.

Upon a motion duly made by Dr. Neslund, seconded by Dr. Gerace and approved unanimously, it was:

RESOLVED to approve the December 12, 2008 minutes as corrected.

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Agenda Item 3 – Ethics Report

Dr. Eichler queried board members if anyone had any possible ethics violations to report. There was no response, indicating no ethics reports were necessary.

Agenda Item 4 – Budget Review

Ms. Donohue advised the Board that every Board's budget is being audited, and no report is available for this meeting. Following several procedure and staff changes in the past couple of years, the Division wants to assure the accuracy of the reports prior to releasing them to the Boards.

Agenda Item 4 – Application Assignments and Review

Assign Questions for Credential Candidates

Dr. Eichler assigned credential review interview questions to the board members.

Credential Application Review

The board reviewed the credential application of the following in preparation for the personal interview:

Ray S. Hall, II, DDS Reviewed by Dr. Eichler

Continuing Education Course Approval Applications

Dr. Gerace will review the applications in the Additions to the Board Packet, and bring his recommendations to the meeting on Friday.

Agenda Item 7 – Miscellaneous Correspondence

Donald O. Nordstrom, DDS – letter requesting the Board change his general dental license to a specialty license. There is no provision to change a license from one type to another. Dr. Neslund believes that when Dr. Nordstrom was licensed in Feb. 2007, it was explained to him that if he wanted to obtain a specialty license in the future, there was a short application form to complete and submit, that was associated with the general dental license. That procedure has since changed because of the change in statute allowing a practitioner to hold a specialty license without holding a general license. Now, each of these licenses is a stand-alone license, requiring a full application and

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associated verification documents. Dr. Gottlieb noted that Dr. Nordstrom is not eligible for a specialty license under the statutes and regulations in place today because he is not a diplomate, Board Eligible, or eligible to be examined for diplomate status with the American Board of Pediatric Dentistry according to their letter to Dr. Nordstrom of Sept. 17, 2008. Dr. Nordstrom's certification status expired in 1985.

Dr. Eichler interrupted this discussion to note there were guests to be introduced. Ms. Donohue introduce Lynn Smith, the new Division Director to the Board. Ms. Smith thanked the Board for making time to speak with her, as well as giving their time to serve on this Board. She noted she is available to them for questions. Ms. Smith left the meeting.

Ms. Donohue then introduced Ms. Heimbigner, Coordinator of the Marine Pilot Board, who was observing their Investigative Report process.

Agenda Item 6 – Investigative Report

Susan Winton, Investigator, joined the meeting at 9:20 a.m., via teleconference, to present the Investigative Report.

Ms. Winton asked if the Board had any questions regarding the Investigative Report. The Board proceeded in asking the status of several of the cases. Ms. Winton noted for the record there were eleven open investigations, fifteen open complaints, two closed complaints and one probation monitoring case.

Dr. Gerace inquired if any of the new complaints were repeat offenders. Ms. Winton responded there were not.

Ms. Winton noted she had provided a supplemental report regarding teeth whitening activities, and explained that she is monitoring the cases listed. She asked the Board to let her know if they have any additional questions or directions for her once they have reviewed the report.

Dr. Eichler thanked Ms. Winton for her report, and she left the meeting.

Ms. Heimbigner asked for clarification of their Investigative process. Dr. Eichler explained this process, and, as there were no further questions, Ms. Heimbigner left the meeting.

Dr. Eichler appointed Dr. Walther and Dr. Gottlieb to serve on the Discipline Review Panel for the March-June 2009 quarter.

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Agenda Item 7 – Miscellaneous Correspondence (continued)

The Board returned to discussion of Dr. Nordstrom's correspondence. Following this discussion, Dr. Eichler called for a motion on the matter.

Upon a motion duly made by Dr. Eichler, seconded by Dr. Gottlieb, and approved unanimously, it was:

RESOLVED that Dr. Donald Nordstrom is eligible to receive a dental specialty license based on the intent of AS 08.36.246.

The Board directed Ms. Donohue to send a letter to Dr. Nordstrom stating that he can apply for the dental specialty license by submitting the proper application, paying all fees, providing certified true copy of specialty education, a notarized statement to limit practice, and certification from the specialty board that he is a diplomate or equivalent, or is eligible to be examined for diplomate status.

AADE Mid-Year Meeting – Dr. Walther is the Board designated representative who will be attending the AADE Mid-Year meeting in Chicago April 5-6, 2009.

Joint Commission on National Dental Examinations – Request to have a Board member assist with the administration at the testing centers for the National Board Examinations as follows:

Univ. of Alaska, Anchorage March 24, 2009
Univ. of Alaska, Fairbanks March 24, 2009

Information only. No Board members interested at this time.

The American Academy of Oral and Maxillofacial Radiology – Letter asking clarification of Alaska's regulations regarding cone beam computed tomography (CBCT). Following discussion the Board directed Ms. Donohue to respond thanking them for the great letter, and advising them Alaska has no regulations limiting use or ownership of CBCT. There has been no determination of the devices being medical or dental.

DANB – Email advising Board of an article regarding Lava COS – technology that allows for digital impression taking, that appeared in the last issue of the online newsletter, "Dental Assisting Digest". Comments following review of the article are that Alaska hasn't decided to limit use of this technology. In accordance with the Dental Practice Act, assistants can do what their dentist delegates to them, and they have the proper training for.

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CRDTS – Letter regarding CRDTS withdrawal from ADEX. No response, information only.

Sandra Pence – Program Director – UAA Dental Hygiene Program – Email encouraging the Board to move forward with the regulations for restorative functions. She noted the University has historically taught to the state statutes, and they have begun reviewing other restorative curriculum to help them prepare their own. They cannot proceed until they know the regulatory requirements for the coursework they will need to deliver. No response necessary, information only.

Gail Walden – email asking the Board to clarify if it is allowed for Cook Inlet Dental Hygiene Assoc. to be involved in community health fairs. Can they do oral cancer screenings and head and neck “assessments” at the fairs without a dentist being present. The Board determined there was no barrier to this type of activity.

WREB – Memorandum re: WREB Board of Directors Representation. Cheryl Fellenberg and Dr. David Eichler are the Board’s representatives to WREB. Ms. Donohue will fax WREB the completed form containing this information.

Upon a motion by Dr. Eichler, seconded by Dr. Gottlieb and approved unanimously, it was:

RESOLVED to designate Dr. Eichler to serve as the WREB representative for the Dental Board.

A list of correspondence reviewed will be attached as an integral part of the minutes.

The board recessed at 10:38 am until Friday, Feb.20, 2009 at 8:30 a.m.

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FRIDAY, FEBRUARY 20, 2009

The meeting was called to order by Dr. David Eichler, Chairman at 8:31 a.m.

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

Dr. David Eichler, Chairman – Fairbanks
Dr. William Gerace - Anchorage
Mr. Gregory Gursey – Public Member - Anchorage
Cheryl Fellenberg – Dental Hygienist – Wasilla
Vicki Martin – Dental Hygienist – Anchorage
Dr. Rebecca Nesland – Anchorage
Dr. Kevin Gottlieb – Anchorage
Dr. Newell Walther – Wasilla

Those absent and excused were:

Dr. Arne Pihl - Ketchikan

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

Brenda Donohue, Licensing Examiner – Juneau

Agenda Item 2 – Review Agenda

Dr. Eichler reviewed the Agenda. Ms. Donohue noted there were no additions to the Agenda.

Agenda Item 3 – Review Applications

Assign Questions for Credential Candidates

Dr. Eichler assigned questions.

Credential Application Review

The board reviewed the credential application of the following in preparation for the personal interview:

Ray S. Hall, II, DDS

Reviewed by Dr. Eichler

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The application appears to be in order for meeting the requirements for dental licensure by credentials.

Continuing Education Course Applications

Dr. Gerace proceeded to review and discuss continuing education course applications submitted to the Board. Following discussion, Dr. Eichler called for a motion on the applications.

Upon a motion duly made by Dr. Gerace, seconded by Dr. Eichler and approved unanimously, it was:

RESOLVED to approve the following continuing education courses as meeting the requirements in accordance with 12 AAC 28.410:

Everything You Wanted to Know About Implant Overdentures, sponsored by the Anchorage Dental Society, for eight (8) hours of continuing education;

Traumatic Dental Injuries: What You Need to Know, sponsored by the Anchorage Dental Society, for seven (7) hours of continuing education;

Temporary Anchorage Devices, sponsored by Coombs Orthodontics, for one (1) hour of continuing education;

Orthodontic Treatment Timing, sponsored by Coombs Orthodontics, for one (1) hour of continuing education.

Upon a motion duly made by Dr. Gerace, seconded by Ms. Martin, it was:

RESOLVED to approve the following continuing education courses as meeting the requirements in accordance with 12 AAC 28.410:

CNA HealthPro Dental professional Liability Risk Management Seminar, sponsored by Multiple Risk Managers Inc., CNA HealthPro, for two-and-one-half (2.5) hours of continuing education.

The motion failed unanimously. The Board determined the content did not meet the requirements in accordance with 12 AAC 28.410.

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Upon a motion duly made by Dr. Gerace, seconded by Ms. Martin, and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements in accordance with 12 AAC 28.410:

Family Violence: Implications for Patients and Practice for PANDA of Alaska, sponsored by University of Alaska Dental Assisting Program, for two (2) hours of continuing education.

Upon a motion duly made by Dr. Gottlieb, seconded by Ms. Martin, and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements in accordance with 12 AAC 28.410:

Premeditated Dental Hygiene, sponsored by the Alaska State Dental Hygienists' Association, for six (6) hours of continuing education.

Upon a motion duly made by Dr. Neslund, seconded by Dr. Gerace, and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements in accordance with 12 AAC 28.410:

Good Vibrations, sponsored by the Alaska State Dental Hygienists' Association, for three (3) hours of continuing education.

Dental Renewal Application

The Board reviewed the renewal application for Dr. Kenneth Mears. He does not hold a current CPR certification due to a physical condition. However, he provided the information and documentation for a licensed dental hygienist who has agreed to be in attendance if he treats patients. Dr. Eichler called for a motion on this matter.

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Upon a motion duly made by Dr. Gerace, seconded by Dr. Walther, and approved unanimously, it was:

RESOLVED to approve renewal of Dr. Kenneth Mears dental license application with the agreement that Julieann Small, RDH, holding Alaska DEN H #230, will be present in a clinical situation to perform CPR when and if necessary.

Dental Credential Application

Ms. Donohue asked the Board's guidance on a question of time in clinical practice for an applicant for dental license by credentials. The applicant documents shortly under the five (5) years required. Ms. Donohue has suggested the applicant withdraw his current application, and reapply. That way he can claim the few months work experience since his original application, and meet the time requirement. The Board determined he should withdraw his original application, and reapply.

Dental Specialist Application

Ms. Donohue asked the Board's guidance regarding an applicant for dental specialty license who's eligibility to examine for diplomate status expired 12/31/08. The Division and PBIS received the application 10/8/08. The file was complete except for the PBIS report, prior to 12/31/08. The PBIS report was received in the Division on Jan. 21, 1009. The Board determined the applicant's file was substantially complete prior to the 12/31/08 deadline, and therefore he met the qualifications for specialty license.

Dental Application by Exam Level III

Ms. Donohue asked if the Board wanted to review a dental application file that became complete today, or did they want her to send it to them on a Mail Ballot. They determined to review the file today. Following review of the file, Dr. Eichler called for a motion on the matter.

Upon a motion duly made by Dr. Neslund, seconded by Dr. Gerace, and approved unanimously, it was:

RESOLVED to approve Ben Pinney for dental license by Exam Level III.

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Agenda Item 4 – Public Comment

There were no members of the public in attendance for Public Comment.

Agenda Item 6 – Goals and Objectives

Dr. Eichler reviewed the Goals & Objectives. He suggested deleting #5 – Assist the Division in the establishment of fines commensurate with costs incurred for investigations, hearings and disciplinary actions. Following discussion, no action was taken on this suggestion.

Agenda Item 10 – New/Old Business

The Board reviewed the list of questions asked of dental credential applicants during their Board interview. Ms. Donohue will make the changes approved by the Board and provide copies to the members for their review.

Next the Board reviewed the Jurisprudence Exam to assure it relates to current statutes and regulations. Ms. Donohue will make the changes approved by the Board to update the exam.

Recess: 9:58 a.m.

Back from Recess: 10:06 a.m.

Agenda Item 5 – Regulations

Gayle Horetski, Assistant Attorney General, Dan Branch, Assistant Attorney General, Jun Maiquis, Regulation Specialist, and Karen Wilke, Paralegal, joined the meeting. Ms. Horetski introduced Dan Branch, who will be the contact person in Dept. of Law for the Board.

Ms. Horetski reviewed the draft of regulation changes to 12 AAC 28.910 – Denial of Licensure. She explained the draft contained Option A, the “laundry list” of situations that will allow the Board to deny a dental license, which the Board has previously provided to the Division, and Option B, stating the Board will deny a license if the applicant does not meet the requirements for licensure stated in the appropriate statute, and adding a section whereby the Board may deny an application for the same reasons that the Board may impose disciplinary sanctions upon a licensee under AS 08.36.315. In addition, Option B adds a new section to state the same denial provisions for dental hygienists.

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Following review and discussion of the draft changes to 12 AAC 28.910, the Board considered the cost to private persons of the regulatory action being taken, and moved to adopt the following changes:

Upon a motion duly made by Dr. Gottlieb, seconded by Dr. Neslund, and approved unanimously, it was:

RESOLVED to adopt the Option B changes to 12 AAC 28.910.

Dr. Eichler signed the Adoption Order, and Ms. Donohue will provide the notarized original to Mr. Maiquis.

Next the Board asked Ms. Horetski for guidance regarding AS 08.36.246 Qualifications for a specialist license. Specifically, they are confused about subsection (3) be a diplomate or the equivalent of the appropriate specialty board, or be eligible to be examined for diplomate status as documented by an organization recognized by the American Dental Association. A dental licensee has requested he be issued a specialist license, stating he has met all the qualification per AS 08.36.246(a) and (b). He referenced subsection (b) because his eligibility to be examined for diplomate status expired in 1985, so he does not currently meet the requirement in (a)(3). Since he took and passed the written section in 1976, he is eligible for that specialty board's Revalidation Examination to become eligible again. He believes that subsection (b) says he can still obtain his specialist license even though he does not meet the requirement stated in subsection (a)(3).

Dr. Eichler explained to Ms. Horetski that subsection (b) applies only to a general dentist who wishes to limit their practice to a specialty, but they do not hold a specialist license. If the general dentist has the proper training, they can so limit their practice.

The Board is asking Ms. Horetski if they can license this person as a specialist even though he does not meet (a)(3), because when the statute was written, specialty boards did not impose a time-limit for their board eligible applicants to finish the process to obtain their diplomate status. Therefore, once they became eligible to be examined for diplomate status, they remained in that status even though they never obtained the diplomate status. Ms. Horetski advised the Board they cannot license an applicant unless the applicant meets the requirements contained in the statute. It is irrelevant that the specialty boards have changed their requirements and imposed a time limit to finish the process. The Board must act in accordance with the letter of the law, not the intent. If they want to change that requirement, they must work to have the statute changed.

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Ms. Horetski advised the Board that during review of AS 08.36.244, she discovered that the Supreme Court had struck down the identical statute in Kentucky stating it prohibited a person's First Amendment right of freedom of speech.

Dr. Eichler then asked Ms. Horetski, that due to the age of the statutes in the Dental Practice act, is it possible to do a comprehensive review of the Act, and make changes to bring it up-to-date. She explained there was a process for this to happen that could be initiated by the Board by completing a Legislative Proposal Request form, to be submitted to the Division Director. The Director would then send the request along through the Commissioner's Office, and eventually the Governor's Office for review. She stated that her office could not undertake this type of project without being authorized to do so by the Governor.

There being nor further questions for Ms. Horetski and Mr. Branch, they left the meeting.

Mr. Maiquis then reviewed the draft of the house-cleaning Regulation Project the Board adopted at their last meeting, and asked if there were any questions. There being none Dr. Eichler asked for a motion to approve the project for public notice.

Upon a motion duly made by Dr. Walther, seconded by Dr. Gottlieb, and approved unanimously, it was:

RESOLVED to accept for public notice the changes to 12 AAC 28.400, 12 AAC 28.405, 12 AAC 28.410, 12 AAC 28.420, cleaning up language regarding continuing education for dentists and dental hygienists; 12 AAC 28.610, changing the requirement for CPR certification to Advanced Cardiac Life Support training for Parenteral Sedation Permits; 12 AAC 28.930, repealing the regulation for Inactive License Renewal; 12 AAC 28.937, requiring a dental hygiene by credentials applicant to complete a Jurisprudence Questionnaire; and adding 12 AAC 28.956, Collaborative Agreement requirements.

Dr. Eichler thanked Mr. Maiquis for his time, and he left the meeting.

The Committee developing the regulations to implement HB319 presented a draft of regulations for requirements to qualify for the Restorative Functions by Dental Hygienists, Restorative Functions by Dental Assistants, and Coronal Polishing by Dental Assistants, for the Board's consideration.

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Following review and discussion, Dr. Eichler called for a motion to approve a regulation project for these regulations.

Upon a motion duly made by Dr. Neslund, seconded by Dr. Walther and approved unanimously, it was:

RESOLVED to adopt a Regulation Project to draft regulations outlining the requirements for Restorative Functions by Dental Hygienists, Restorative Functions by Dental Assistants, and Coronal Polishing by Dental Assistants, as provided for in AS 08.32.085, AS 08.36.342, and AS 08.36.344.

Agenda Item 11– Office Business

A. Travel Authorizations

Ms. Donohue collected signed TAs and travel receipts.

B. Meeting Dates for 2009

The Board confirmed the following scheduled meeting dates:

June 26, 2009 in Anchorage
Sept.18, 2009 in Fairbanks - Tentative

C. Sign Wall Certificates

The Chairman and Secretary signed wall certificates.

D. Board Member Task List

Ms. Donohue will send out a new Task List with assignments. A copy of the list will be included at the end of these minutes.

Recess for lunch 12:05 p.m.

Back from lunch 1:05 p.m.

Agenda Item 9 – Personal Interview for Dental Applicants by Credentials

Applicant Ray S. Hall, II, DDS, joined the meeting via teleconference for the personal interview.

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Dr. Eichler welcomed the applicant to the meeting and explained the interview process.

Ray S. Hall, II, DDS

Dr. Eichler reviewed the application of Dr. Hall. The board proceeded in asking the standard interview questions.

Upon a motion duly made by Dr. Eichler, seconded by Ms. Martin and approved unanimously, it was:

RESOLVED to approve Dr. Ray S. Hall, II for dental licensure by credentials.

Recess: 1:15 p.m.

Back from Recess: 1:19 p.m.

Agenda Item 10 – New/Old Business – (continued)

Dr. Eichler turned the meeting over to Dr. Gerace Vice-Chairman. Dr. Eichler was excused from the meeting.

The Board proceeded to discuss options whereby they could license applicants as dental specialists if, at any time, the applicant had passed the initial exam required by a specialty board, to start the process to eventually obtain diplomate status.

Upon a motion by Dr. Neslund, seconded by Ms. Fellenberg and approved unanimously, it was:

RESOLVED to designate Dr. Eichler to seek a friendly legislative sponsor to change the wording in AS 08.36.246(a)(3) to read: ...or be eligible or has been eligible to be examined for diplomate status as documented by an organization recognized by the American Dental Association;

Ms. Donohue asked for volunteers to screen the continuing education audit documents for licensees being audited, in preparation for the June 26, 2009 meeting. Dr. Eichler will review the documentation for dentists, and Ms. Fellenberg will review the documentation for dental hygienists.

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The members requested that discussion regarding pursuing a request for a comprehensive review of the Dental Practice Act, and submitting a Legislative Proposal Form to the Division Director, be added to the June meeting agenda.

Agenda Item 11 - Adjourn

There being no further business Dr. Gerace called for a motion to adjourn.

Upon a motion by Mr. Gurse, seconded by Ms. Martin and approved unanimously, it was:

RESOLVED to adjourn the meeting of the Board of Dental Examiners.

The Board adjourned the meeting at 1:40 p.m.

Respectfully Submitted:

Brenda Donohue, Licensing Examiner

APPROVED:

David Eichler, DMD
President
Board of Dental Examiners

Date: _____

**BOARD OF DENTAL EXAMINERS
TASK LIST FROM FEBRUARY 19-20, 2009 MEETING**

Ms. Fellenberg

Dental Hygiene CE Audit

Dr. Eichler

Dentist CE Audit

Dr. Arne Pihl

Dr. Newell Walther

Discipline Review Panel March-June 2009

Dr. Kevin Gottlieb

Discipline Review Panel March-June 2009

Licensing Examiner

- Work on board's web site – updating/adding information.
- CE Course approval letters to applicants.
- Respond to correspondence as directed.