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

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MINUTES OF TELECONFERENCE
CONFERENCE ROOM C, 9TH FL.
333 WILLOUGHBY AVENUE
JUNEAU, ALASKA
June 28, 2013

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 teleconference meeting of the Board of Dental Examiners was held June 28, 2013. Site for the teleconference was 333 Willoughby Ave., 9th Floor, Conf Room C, Juneau, Alaska.

The meeting was called to order by Dr. Tom Wells, President at 8:32 a.m.

Roll Call

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

Dr. Tom Wells, President – Anchorage
Dr. Mary Anne Navitsky– Sitka
Dr. Robert Warren – Anchorage
Dr. Tom Kovaleski - Anchorage
Cheryl Fellenberg – Wasilla
Dr. Paul Silveira – Valdez
Robyn Chaney - Dillingham

Absent and excused:

Dr. Steven Scheller -- Fairbanks
Gail Walden -- Wasilla

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

Debbie Kunow, Licensing Examiner
Angela Birt, Investigator – Anchorage

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51 **Agenda Item 1 – Review Agenda**

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No changes to the agenda.

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Agenda Item 2 – Investigative Review

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Ms. Birt advised there are currently thirteen open cases and approximately half the case load involves a practitioner that the Board investigated in Homer.

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60 Investigations Unit has also received numerous queries regarding Troy Burns, who has
61 surrendered his license. There is an issue regarding obtaining dental records by former
62 patients. The practice is up for sale and Burns has shuttered his doors. Investigations
63 have been referring these patients to Burns' counsel: Clapp, Peterson, Tiemessen,
64 Thorsness & Johnson in Fairbanks. The Alaska Dental Society has also been receiving a
65 high volume of calls regarding this former provider and they have consulted with Mr.
66 Tiemessen, who is also counsel for the Alaska Dental Society. His response has been
67 that the practice is up for sale and the new provider will afford them access to their
68 records. Ms. Birt advised this is a consumer and citizen complaint. Although there is not
69 a lot the Board can do about this, it does impact the Board. This was an unforeseen issue
70 that was not addressed when the license was surrendered. Going forward, if the Board is
71 preparing to take a license, the Board will need to be prepared about how to talk to the
72 provider regarding how the records will be made available to the patients.

73
74

Ms. Kunow asked if there is any timeframe involving the sale of the business. Ms. Birt advised no, and that citizens currently have the option to file a HIPPA complaint because they have a title to those records. Hopefully, counsel will make public notice for patients to obtain their records.

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Dr. Wells stated there is no incentive to return the records because it would deplete the value of the practice, but his attorney should be providing those records.

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78

Ms. Birt advised there is no statutory violation since he is no longer licensed.

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The Board was made aware of this issue for future reference.

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Ms. Birt stated the next issue is a disciplinary action related to case number 2012-001362 and will require executive session.

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84

On a motion duly made by Silveira, seconded by Fellenberg, and approved unanimously, it was

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**RESOLVED to go into executive session in accordance with AS
44.62.310(c)(2), for the purpose of discussing case number 2012-001362.**

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Staff to remain during executive session.

91

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96
97 Off the record at 8:38 a.m.

98 On the record at 9:02 a.m.

99

100 **Agenda Item 3 – Application by Credentials**

101

102 **On a motion duly made by Wells, seconded by Navitsky, it was**

103

104 **RESOLVED to table the application of Timothy R. Harbolt until the**
105 **September 6, 2013 Board meeting.**

106

107 Roll call- Silveira, yea- Kovaleski, yea- Natvisky, yea- Warren, yea- Fellenberg, yea-
108 Chaney, yea- Wells- yea -7 yeas, 0 nays- motion passed.

109

110 The Board thanked Investigator Birt for her work.

111

112 **Agenda Item 4 – Regulations**

113

114 The Board addressed public comment. Ms. Fellenberg noted most public comments
115 involved the mistake regarding 12 AAC 28.630(a)(2) that was amended to read ancillary
116 staff have advanced cardiac certification. The Board agreed the wording was incorrect
117 and would amend the regulation back to basic life support techniques. It was never the
118 Board's intent to change that regulation.

119

120 12 AAC 28.010 – Gail Walden provided written comment and asked if subsection (4)
121 should be “or” or “and.” Ms. Fellenberg advised it was correct as “or” as written.

122 28.040 – no comment, no changes

123 28.050(a) – no comment, no changes

124 28.060(4) – no comment, no changes

125 28.330(2) – no comment, no changes

126 28.400(a)(1) – Dr. Kovaleski stated the continuing education requirements are actually
127 being reduced since it is now three hours for risk management and practice management
128 and two for volunteer. Ms. Fellenberg agreed and stated that the public comments which
129 indicated that it would be a financial hardship for dentists was out of character. Many of
130 the online courses are free or have minimum costs. Board agreed to keep the amended 32
131 hours of continuing education for dentists.

132 28.400(b)(1) - no comment, no changes. Keep 20 hours of continuing education for
133 dental hygienists.

134 28.410(a) - no comment, no changes

135 28.610- no comment, no changes

136 28.630(a)(2) – keep basic life support techniques for ancillary staff.

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141

142 28.630(b) – The Board discussed Dr. Marley’s public comment. Dr. Wells said it
143 represented the Board’s intent that evaluations will not be mandatory before a permit is
144 issued. Random inspections will be conducted on permittees. Applications will contain a
145 checklist that applicants must complete and notarize. The inspection checklist will be
146 included in the application narration so the applicants will know what will be included in
147 the inspection.

148 Dr. Silveira advised the Board will need to do a cost analysis of what an inspection will
149 cost and then make a decision about how many random inspections will be done per year.
150 Ms. Fellenberg stated 30 days prior notice of the inspection was reasonable and the Board
151 would work with the permittee for scheduling. Dr. Kovaleski stated the wording should
152 also include those traveling permittees that take their sedation equipment to other offices,
153 but don’t necessarily have their own office. At least one ancillary staff member will be
154 included on those traveling permittees’ inspection. Drs. Wells and Kovaleski will work
155 on compiling the application checklist and inspection check sheet. The inspection check
156 sheet will also be posted on the web-site.

157 The Board decided on the following wording:

158 12 AAC 28.630(B) BEFORE THE ISSUANCE OF A PARENTERAL SEDATION
159 PERMIT, A CHECKLIST PROVIDED IN THE APPLICATION WHICH MEETS THE
160 REQUIREMENTS OF 12 AAC 28.600 – 12 AAC 28.640 MUST BE COMPLETED
161 AND NOTARIZED. DURING THE TERM OF THE PERMIT, THE BOARD MAY,
162 IN ITS DISCRETION, REQUIRE AN ON-SITE INSPECTION OF THE PERMITTEE’S
163 FACILITIES AND EQUIPMENT, OR PERMITTEE’S EQUIPMENT, AND AN
164 EVALUATION OF THE ANCILLARY STAFF TO DETERMINE IF THE
165 STANDARDS SET OUT IN 12 AAC 28.600 – 12 AAC 28.640 HAVE BEEN MET.
166 THE EVALUATION MAY BE CARRIED OUT BY THE BOARD OR ITS
167 DESIGNATED REPRESENTATIVE. INSPECTIONS WILL BE CONDUCTED
168 USING A CHECKLIST APPROVED BY THE BOARD AND CONSISTENT WITH
169 THE AMERICAN DENTAL ASSOCIATION (ADA) *Guidelines for the Use of Sedation*
170 *and General Anesthesia by Dentists*, as adopted by the October 2012 ADA House of
171 Delegates. PERMITTEES WILL BE NOTIFIED IN WRITING 30 DAYS PRIOR TO
172 INSPECTION. THE EVALUATION WILL BE CONDUCTED USING A FORM
173 APPROVED BY THE BOARD AND AVAILABLE TO THE APPLICANT FOR
174 REVIEW PRIOR TO THE INSPECTION.

175 28.640 - no comment, no changes

176 28.730 – add AS 08.36.367 authority

177 28.912(a) - no comment, no changes

178 28.912(b) - no comment, no changes

179 28.915 - no comment, no changes

180 28.920 - no comment, no changes

181 28.925(b) – change hygienist to hygiene

182 28.935(a) - no comment, no changes

183 **BOARD OF DENTAL EXAMINERS**
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188 28.935(b)(6) - no comment, no changes
189 28.935(b)(8) - no comment, no changes
190 28.935(c) - no comment, no changes
191 28.935(d) - no comment, no changes
192 28.937(a) - no comment, no changes
193 28.937(c)(2) - no comment, no changes
194 28.937(c)(4)(B) – Ms. Walden’s written comment suggested changing the active clinical
195 practice to document 2000 hours within the past 5 years of the application. Ms.
196 Fellenberg stated she would like to see documentation of clinical practice for five years
197 for dental hygiene credentials applicants, equal to the dental credentials licensure time
198 frame. Ms. Fellenberg also suggested documenting 2500 hours within the prior 5 years.
199 These hours should be documented within five years of the date of application. Clinical
200 practice does not have to be continuous, but a minimum of 500 hours per year could be
201 averaged. Drs. Wells and Silveira agreed. This change could accommodate those
202 hygienists that have to take time off to care for family, travel with military spouses, etc.
203 The Board also agreed that the dental licensure by credentials clinical practice hours
204 should also be averaged over 5 years and the Board will be amending the wording in 12
205 AAC 28.951(c)(6)(B) in the next regulation project.
206 The Board decided on the following wording:
207 28.937(c)(4)(B) that the applicant has been in active clinical practice documenting at
208 least 2500 hours for five years immediately preceding application.
209 28.937(d) – keep completion
210 28.938 - no comment, no changes
211 28.940(b)(7) - no comment, no changes
212 28.940(b)(8) – add Commission on Dental Accreditation (CODA).
213 28.940(b)(9) - no comment, no changes
214 28.951(a) – include AS 08.36.234 authority.
215 28.951(c)(1) - no comment, no changes
216 28.951(c)(2) - no comment, no changes
217 28.951(c)(6) – KEEP – do not repeal.
218 28.951(c)(6)(B) –take out “as required under AS 08.36.234(a)(1)(D).”
219 28.951(c)(7) - no comment, no changes
220 28.951(e) – KEEP – do not repeal.
221 28.951(f) – KEEP – do not repeal.
222 28.951(g) - no comment, no changes
223 28.951(h) – KEEP – do not repeal.
224 28.952 - no comment, no changes
225 28.955(d) - no comment, no changes
226 28.955(e)(2) - no comment, no changes
227 28.960(b) – repeal
228 28.960(c) - repeal

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234 28.960(d) – The Board considered several public comments and decided on the following
235 wording:

236 12 AAC 28.960(d) – All dental radiological equipment being used must be operated and
237 maintained following manufacturers’ instructions and federal guidelines.

238 28.960(e) - no comment, no changes

239 28960(f) – no comment, no changes

240 28.965 – no comment, no changes

241 28.970 – no comment, no changes

242 28.990(a)(7) – no comment, no changes

243

244 **On a motion duly made by Wells, seconded by Warren, it was**

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246 **RESOLVED to adopt the changes to the regulations that went out to public**
247 **comment and closed June 3, 2013 with additional revisions as recorded.**

248

249 Roll call- Silveira, yea- Kovaleski, yea- Natvisky, yea- Warren, yea- Fellenberg, yea-
250 Chaney, yea- Wells- yea -7 yeas, 0 nays- motion passed.

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252 The Board decided to discuss a new regulation project at its September 6, 2013 meeting.

253

254 **Agenda Item 5– Old/New Business**

255

256 Social Coupon Advertising -- Dr. Wells stated the ADA is noncommittal on social
257 couponing, although a few state boards have made regulations in regard that fees to the
258 general public have to be honored for all existing patients.

259 Dr. Warren stated that dentists cannot advertise themselves as a specialist if they don’t
260 have the expertise.

261 Dr. Silveira expressed concern regarding dentists that are advertising pediatric dentistry
262 without having those credentials.

263 Dr. Warren suggested sending out a mass mailing to all licensed dentists reminding them
264 about advertising ethics. Ms. Fellenberg stated mailing costs could be expensive, but
265 maybe the notice could be sent with the mass mailing. Dr. Warren volunteered to create
266 the verbiage.

267 The Board suggested Ms. Walden’s advisory statement should be posted on the web-site.

268 Ms. Kunow advised the ADA has a guide for advertising basics for dentists and dental
269 associations. This reference link could be included on dental applications and posted on
270 the website.

271

272 There being no further business, Dr. Wells adjourned the meeting.

273

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280 Off record at 11:03 a.m.

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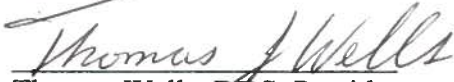
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Respectfully submitted:



Debbie Kunow
Licensing Examiner

Approved:



Thomas Wells, DDS, President

Date: Sept. 6, 2013