

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

**MINUTES OF MEETING
MAY 14, 2012**

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 May 14, 2012, at the Atwood Bldg., Conf. Room 1270, 550 W. 7th Ave., Anchorage, Alaska.

The meeting was called to order by Dr. Thomas Wells, Chairman at 8:34 a.m.

Roll Call

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

Dr. Thomas Wells, President – Anchorage
Cheryl Fellenberg – Dental Hygienist – Wasilla
Dr. Mary Anne Navitsky – Sitka
Dr. Paul Silveira - Valdez
Dr. Thomas Kovaleski - Chugiak
Deborah Stauffer – Dental Hygienist – Anchorage
Dr. Robert Warren – Anchorage
Dr. Clifford D. White – Dillingham
Robyn Chaney – Public Member – Dillingham

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 1 – Review Agenda

Dr. Wells asked Ms. Donohue to review the Agenda. Ms. Donohue then noted additions to the Agenda as follows:

Item 5 – MISC. CORRESPONDENCE

- Western Conference On Licensure & Education

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Item 7 – REVIEW APPLICATIONS

- INR Seminars – Copies of Correspondence File

Item 9 – PUBLIC COMMENT

- Frank Thomas-Mears-CE Course Follow-Up

Item 12 – NEW/OLD BUSINESS

- Documentation from Regulation File for Courtesy License

Agenda Item 2 – Review Minutes

Following review of the Feb. 3, 2012 meeting minutes and noting correction:

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

RESOLVED to approve the Feb. 3, 2012 meeting minutes as corrected.

Agenda Item 3 – Ethics Report/Training

Dr. Wells asked if anyone had any possible ethics violations to report. There was no response, indicating no ethics reports were necessary.

Agenda Item 4 – Budget Review

Current budget reports are not available due to a comprehensive audit project. Misty Frawley, the Division's Administrative Officer, assured the Board updated reports will be available at the conclusion of the project.

Agenda Item 5 – Miscellaneous Correspondence

ADA – Letter from Iowa and Arkansas Dental Boards to ADA, regarding their opposition to the Request for Proposals to develop a portfolio-style examination for initial licensure. Information Only.

Angela Garves – Inquiry to the Board from Ms. Garves seeking clarification if a pre-cancerous screening program she would like to initiate is within the scope of practice for Alaska licensed dental hygienists, specifically authorization to administer and/or interpret results from the VisiLite Plus Oral Lesion Identification and Marking System. They affirmed this is properly within the dental hygiene scope of practice, and further commended Ms. Garves on this effort.

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Western Conference on Licensure & Education –Correspondence with meeting information. The Board reviewed the Agenda for the meeting and determined they want to continue to send a Board member to this meeting every year as the information presented is valuable and pertinent for keeping them abreast of current issues in dental licensing nationwide.

Upon a motion duly made by Stauffer, seconded by Fellenberg and approved unanimously, it was:

RESOLVED to approve Dr. Kovaleski to attend the Western Conference on Licensure & Education meeting in Denver, CO., July 20-21, 2012.

Rep. Michael C. Burgess, MD – Member Energy & Commerce Committee, US House of Representatives; Rep. Jim Matheson, Member Energy & Commerce Committee, US House of Representatives; Rep. Betty McCollum, Member Committee on Appropriations, US House of Representatives; Rep. Tom Graves, Member Committee on Appropriations, US House of Representatives; and Rep. Steve Chabot, Member Committee on the Judiciary, US House of Representatives. Letter to The Honorable Jonathan Leibowitz, Chairman, Federal Trade Commission expressing their concern regarding recent FTC actions which they respectfully submit are a direct interference with the state regulation of the practice of medicine and dentistry. Specifically, the FTC's targeting of state legislatures' and state health regulatory boards' decisions, proposed rules, and legislation regarding who may provide certain services to patients. Information Only.

United States District Court Northern District of Texas – Judgement between George M. White, plaintiff and ADA, its constituent associations and/or societies, their members and the members marital estates; The Texas State Board of Dental Examiners; and Texas Dental Association and their constituent associations and/or societies, their members and their members marital estates, defendants, Civil Action No. 3:10-CV-2087-L, as follows: The court ordered, adjudged, and decreed that Plaintiff George M. White take nothing against Defendants; that this action is dismissed with prejudice; that all relief not expressly granted herein is denied; and that all allowable and reasonable costs are taxed against Plaintiff White, dated 2/16/2012. Plaintiff contends that Defendants, along with state elected officials and judges, have wrongly deprived and conspired to deprive him and other denturists from practicing their chosen profession of denturity or denturism in that he and other denturists are not allowed to practice as “free and liberated denturist(s)” in the State of Texas. Information Only.

FDA – Article titled “FDA probes illegal sale of handheld dental X-ray devices”. Information Only.

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UAA – Anchorage – Letter from Kristi Morehead, RDH, Oral Pain Control Instructor expressing concern regarding the timing of the WREB local anesthetic written exam, which must be taken at a “Pearson VUE Testing Center...any time between 60 and 15 days prior to the first day of the Local Anesthesia Clinical Examination”. The only Pearson Testing Center in Alaska is located in Anchorage, which puts rural students at a significant disadvantage. They often travel great distances at significant cost, so make every effort to make only one trip to Anchorage and take both the WREB written and clinical exam. The Board determined to take this concern to the July WREB meeting where one of the dental hygiene members sits on the Hygiene Exam Review Board (HERB). Ms. Fellenberg will report back to the Board at the Sept. 7, 2012 meeting.

The Board was ahead of schedule, so moved on to Agenda Item 7, Review Applications until Ms. Bundick arrives for the Investigative Report.

Agenda Item 7 – Review Applications

INR Seminars- Board reviewed past correspondence with INR where they removed the wording on their continuing education material that Alaska would award X number of CEs for a course. For the course Conquering Pain they are offering June 1, 2012 in Anchorage, the disclaimer is back on the material stating the Board will accept the course for 6 CEs. The Board determined they want to see any reference to Alaska awarding CEs for a course removed from the material unless the specific course has been presented to the Board on a Course Approval Application, and received written approval. The Board feels the wording used is deceiving and confusing and it does not serve the licensee in a good faith effort to meet the continuing education requirements associated with their license renewal.

Chris Slottee, representing INR Seminars joined the meeting to respond to questions. Board members reiterated to Mr. Slottee that INR including a statement on their advertising material for continuing education courses that the Alaska Dental Board would accept X number of CEs was a false statement unless INR had received written approval from the Board. They specifically requested that Mr. Slottee relay to his clients the Board is requesting all wording giving the impression that the Alaska Dental Board would accept credits be removed from advertising material unless INR has received written approval for the course. Mr. Slottee agreed to take that information back to his client. They explained that several Alaska licensees were in license discipline agreements after having taken courses from INR upon reliance of the false information, then upon audit of their continuing education the Board did not accept the courses as the content was not related to dental patient clinical care.

The Board moved on to review of several course approval applications.

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Continuing Education Course Approval

Upon a motion duly made by Fellenberg, seconded by Stauffer and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements listed in 12 AAC 28.400-410:

Conquering Pain, sponsored by Institute for Natural Resources, for six (6) hours of continuing education.

Upon a motion duly made by Stauffer, seconded by Kovaleski and approved by majority vote, it was:

RESOLVED to approve the following continuing education course as meeting the requirements listed in 12 AAC 28.400-410:

Good Intentions-Bad Outcomes, sponsored by The Dentists Insurance Company, for three (3) hours of continuing education.

Credential Application and Review & Assign Interview Questions

Dr. Kovaleski reviewed the application for Anthony Brusca, DDS, dentist applying by credentials, and found it to be in order. Dr. Wells assigned interview questions.

Agenda Item 8 – Legislation/Regulations

SB92 – Passed by Legislature, not yet signed by the Governor. This will require an extensive review of regulations to assure compliance with the changes included in SB92. Dr. Stauffer and Dr. Silveira will work on that project this summer along with Ms. Donohue and bring a draft of changes to the Sept. 7, 2012 meeting. The changes will go into effect 90 days after the bill is signed by the Governor.

SB150 – Did not pass the Legislative Session.

Ms. Donohue reported the adopted Regulation Project was still awaiting signature of the Lt. Governor. She will advise the Board by email when notified this has happened, and noting the effective date of those regulation changes.

The board recessed at 9:35 a.m.;
Reconvened at 9:51 a.m.

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Agenda Item 14 – Task List

Discussion ensued regarding advertising in the yellow pages, and incorrectly including statements for provision of specialty services. Dr. Warren will go through the Anchorage yellow pages and make a personal call to any providers with questionable ads, advising they should correct the claims to be in compliance with the ADA's Principles of Ethics and Code of Professional Conduct, in accordance with 12 AAC 28.905. He will provide a list of questionable ads to Ms. Donohue who will find and update the advertising letter sent out in 2004 or 2005, then mail to the practitioners on Dr. Warren's list.

In addition, Ms. Donohue will draft a newsletter/flyer for the Board to review at the Sept. 7 meeting, to be included with the renewals which will include updates on SB92 and any changes in regulations, as well as any other information items the Board wishes to add.

Ms. Donohue advised that links to the ADA Code of Ethics, Advertising Guidelines, and the ADHA Bylaws and Code of Ethics had been added to the web page, as requested at the Feb. 2012 meeting.

She reported that Director Habeger was planning to attend the meeting during the Investigative Report item, but was traveling and may be a bit late.

Agenda Item 6 – Investigative Report

Investigator Bundick joined the meeting for the Investigative Report at 10:00 a.m. She proceeded to present the Investigative Report noting there are twelve (12) open complaints; twelve (12) open investigations; one (1) probation case being monitored; and two (2) cases closed since the last report.

She pointed out that the format of the report is different, and is a standard format that is used for all boards. It is important to produce the report in a format that maintains confidentiality if a copy of the report gets out into the general public.

Dr. Stauffer expressed frustration about cases several years old on the list, with standard of care and negligence listed as the violation, and the licensee is continuing to practice. Her concern, as expressed on several previous occasions, is if the Board is doing its job of properly protecting the public.

Ms. Bundick explained that if the subject of a listed case is in civil or criminal litigation in the court system, the Board's case would wait until the court case is concluded. She also explained that cases will be combined when a case is open, another complaint comes

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in against the same licensee, and then moves to the investigation stage. That is how the list will include cases showing different years, that have been combined into one case.

Dr. Stauffer asked how is the public being protected if a licensee is allowed to continue practicing as long as eight years after a case is opened, and is still not settled. Ms. Bundick replied she could not answer that question.

Dr. Stauffer then asked what is the process when the Board's Discipline Review members recommend a summary suspension of a license in a case, and return that request to the Investigator. Ms. Bundick replied that the Investigator would then check with the Chief, who would direct to proceed, or recommend more information was needed. Dr. Stauffer then asked does that mean it takes more than the Board's request to summarily suspend a license?

The members expressed extreme frustration that incompetent licensees are continuing to practice when the Board has advised the person is a danger to the public and they want the license summarily suspended. How are they protecting the public when their request is not being carried out?

Dr. Stauffer asked what is constituted under the designation "other", besides standard of care, negligence, incompetence. Ms. Bundick replied "other" is used when a description of the violation is not included in the drop-down box in the menu on the report program. An example would include "fraudulent billing".

Ms. Winton, Sr. Investigator, Acting Chief, joined the meeting and Ms. Donohue asked if she could explain the summary suspension process. She explained that if Review Panel members looked at a case and they have concern there is imminent danger to the public their recommendation can be that the license is summarily suspended. That would come back to the Investigator, who would write up the documents, the Licensing Examiner would schedule an immediate, emergency teleconference meeting of the Board, at which the board would review the prepared documents and determine if a summary suspension is appropriate. The only caution on a summary suspension, is that the licensee can request a hearing within seven days. The Board must be prepared to meet very quickly if that happens, and all the documents must be in order.

A member asked about the status of a recommendation from the Review Panel returned to the Investigator in August 2011, that has had nothing happen. Ms. Winton said it should have been written up by the Investigator, the summary suspension documents prepared, the Licensing Examiner contacted to set up a teleconference Board meeting, or at the latest by the next scheduled Board meeting. Although a summary suspension request would indicate a fairly urgent situation and the Board would want to act quickly.

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Dr. Wells noted that the Board has the authority to summarily suspend a license, the recommendation was made, and nothing happened. Ms. Chaney asked whos decision was it to not prepare the summary suspension. Ms. Bundick replied that Chief Warren said more information was needed. Ms. Fellenberg asked if Chief Warren over-rode the Board's request. Ms. Bundick replied he did not over-ride the request, he just said more work needed to be done to get the documents together. Dr. Stauffer then asked why nothing further has happened with this request nine months later.

Ms. Winton explained that if the Chief said further information was needed, the Investigator would relay that information back to the Review Panel members. It would be a process of communication between the Panel members and the Investigator, and as soon as possible the request would be prepared and a meeting called to review. Usually if there is a critical piece of information missing all parties are going to be in agreement. Ms. Chaney asked the Panel members if they were contacted that additional information was needed. They replied they were not. Dr. Wells noted that he had in fact written a letter at a later date stating that if this licensee did one more thing the State of Alaska was liable and could be sued because the Board had done its duty, recommended suspension, and nothing has happened.

Ms. Chaney added that part of the frustration is that the Panel members were not contacted and advised that further information was being obtained, and the process would move along as quickly as possible. They were not kept informed. The Board and Ms. Winton agreed that good communication would have avoided the frustration and led to a speedy decision and action. She agreed that if the Board identifies a practitioner with a deficiency they think rises to the level of requiring speedy action, the Investigator needs to be in constant communication with the Panel members in preparing for this to happen.

The Board asked what is the next action in the process of pursuing the summary suspension request in this case. Ms. Winton responded that as the Sr. Investigator she can step in and assist Ms. Bundick. Dr. Silveira asked when will the Board hear back on this case. Ms. Winton replied she will get back with the reviewing Board members within a week.

Ms. Winton went on to say the Unit is aware of the passage of SB92 which allows for a full-time, dedicated Investigator for the Board and they are looking over the options of how to implement the new requirements. The Unit has had a good working relationship with the Board in the past and they want to get back to that. The Board thanked Ms. Winton for her assistance, and she left the meeting.

The board determined to enter executive session to review an Investigation case.

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

RESOLVED to enter executive session in accordance with AS 44.62.310(c)(2), and Alaska Constitutional Right to Privacy Provisions, for the purpose of reviewing an Investigation case.

Entered into executive session at 10:45 a.m.
Out of executive session at 11:04 a.m.

Director Habeger joined the meeting at 11:04 a.m. He remarked he is aware of the Board's frustration with the lack of progress in their Investigation cases and he is prepared to spend a great deal of time and attention to resolve their concerns.

Dr. Kovaleski explained that since the last meeting he and Dr. Warren had tried to meet with Ms. Bundick to go over the entire list of cases and get a sense of where each case is. They have made no progress in that effort as Ms. Bundick has cancelled each meeting. Director Habeger stated he will correct that concern promptly. He agrees that prompt, clear communication is necessary. Dr. Kovaleski noted that even more embarrassing is that Ms. Bundick brought up that several of the cases on the Report are awaiting transmittal to the two Panel members for initial review.

Director Habeger updated the Board that with the passage of SB92, the new fiscal year commences July 1, and the Division cannot do anything in relation to the new Investigator position until that time. His estimate is that late July or early August, once the finance structure is in place, he will be recruiting for a new Investigator. It is clear to him that it is a joint effort between the Division and the Board as to who is hired. In the past when there has been dedicated Investigators typically what the Division does is present the Board with three candidates for the position, and the Board chooses who they want from that group.

Dr. Stauffer suggested that as Dr. Kovaleski and Dr. Warren are the Discipline Review Panel members for a year, that it would expedite the process if they, along with the Director, interview and choose the candidate.

As the Board is ahead of schedule for Public Comment, the determined to move on to Agenda Item 12 – New/Old Business, and review of the continuing education requirements and site evaluations for conscious sedation facilities for other states.

Site inspections – most other states require a site visit of a sedation facility prior to issuance of the initial license or permit. The Alaska statutes state an inspection “may” be

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conducted, and to their knowledge it has never been done. They are researching how other states carry out this task; by whom are the inspections done; do they want to require a passing report as part of an initial application, then setting up a re-inspection timeframe. Questions came up about compliance, in light of the compliance issues associated with radiological equipment registration and inspection. Dr. Wells' suggestion is the inspection team would include an oral surgeon and another dentist with IV sedation experience. The issue will be getting someone to do this task. In other states the inspectors are paid, and that fee should be included on the application or the applicant should provide the report with the application. No additional inspection fee would be charged if the applicant must provide the report with the application.

Dr. Stauffer suggested a checklist where the applicant makes a sworn statement they have complied with each element listed on that list, as part of the application.

The Board requested Ms. Donohue inquire how the Medical Board handles inspection of sedation facilities.

The OK Board's checklist could work for Alaska. What would be the inspection schedule? Most states are five-six years. At renewal require a statement that the permit holder is still compliant with the information provided on the initial application.

The Board likes the idea of having the applicant provide a report, done by an inspector from a list of Board-approved inspectors, as part of the initial application. All current permit holders be subject to a random inspection, with the Board accomplishing approximately five per year. The Board would have to develop the check sheet for the audit. May require changes to the sedation regulations.

Continuing Education requirements – the Board is researching ways to broaden or define the term clinical content. Most states researched allow practice management, risk management, and require more hours than Alaska does. Ms. Fellenberg noted that four CE hours are allowed for CPR, which is also a requirement to renew a license, so that is a “free” four hours.

Dr. Kovaleski added the Board may want to note in regulation “these don't count” ie courses for personal education. Dr. Stauffer is a strong proponent to include courses from a broader perspective than strictly “wet finger” clinical, such as risk management, dental records. Ms. Chaney remarked that the Board is responsible to verify only clinical courses, and require “at a minimum” X numbers of clinical CEs. A licensee is encouraged to educate themselves on other topics, but are required to obtain at least X number of clinical CEs. Ms. Fellenberg suggested including the wording “require X

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hours of clinical CE which could include X, Y, Z". Ms. Donohue added that the Board could state that "no more than six (ex.) CEs" in certain areas would be allowed, and control the number of CEs allowed outside strictly clinical. Dr. Silveira suggested the total number of CEs be increased along with broadening the content of the courses.

Ms. Donohue suggested the Board could add a section in the CE regulations with wording similar to "With written Board approval the following courses will be accepted: Risk Management, Dental Record Keeping, Patient Management, Patient Communication, etc." That way the Board can assure the content of a course in one of these areas. The Board liked that idea.

Agenda Item 8 – Public Comment

Mr. Frank Thomas-Mears was present to thank the Board for their approval of the CAN Risk Management course, and to give a follow-up on that course. He has been listening to the discussion about allowing a broader range of continuing education courses, and thinks the idea of requiring written Board approval, on a case-by-case basis, is very good, to assure course content that applies to the practice of dentistry. Second reason for coming to the Board is to inquire if they would entertain a "home-study" risk management course if presented on a Course Approval Application per the usual process. The Board said they would entertain that type of course and encourage Mr. Thomas Mears to submit an application.

The Board thanked him for the written follow-up of the course just presented that included numbers attended, reasons for attendance, how the attendees rated the speaker and the course overall. The information was very helpful.

Mr. Thomas Mears then left the meeting.

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

RESOLVED to enter executive session in accordance with AS 44.62.310(c)(2), and Alaska Constitutional Right to Privacy Provisions, for the purpose of reviewing an Investigation case with staff to remain.

Entered into executive session at 11:48 a.m.
Out of executive session at 12:05 a.m.

Recess for lunch 12:05 p.m.; back from lunch 1:02 p.m.

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Agenda Item 10 – Personal Interview for Dental Applicants by Credentials

Anthony Bursca, DDS

Applicant Anthony Bursca, DDS joined the meeting for the personal interview.

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

Dr. Kovaleski reviewed the application for Dr. Brusca, and the board proceeded in asking the standard interview questions.

Upon a motion duly made by Kovaleski, seconded by White and approved unanimously, it was:

RESOLVED to approve Anthony, DDS for dental licensure by credentials.

Agenda Item 12 – Old/New Business

Attorney General Opinion RE: Tribal Health Hire – Director Habeger advised the Board Signe Anderson, an Assistant Attorney General, will be present to answer any questions the Board has about the Opinion.

Director Habeger said he had financial information to present if the Board had the time. He explained that he has spent most of his time since being appointed to getting the Division finances on a firm foundation. One of the projects he has been working on is making sure business licensing and professional licensing are paying their fair share. In this case there has been a long history of professional licensing picking up more than their share. What happened is that general administration costs go into a pool and are then distributed out equally among just professional licensing, when in fact, some of those costs should go to business licensing. The Department brought the issue before the Legislature, who agreed with their arguments to reimburse those costs. Consequently there is a \$3.4 million line item in the 2013 Capital Budget to reimburse that money to professional licensing. The monies will be distributed equally among license areas.

Board members inquired what it costs for a full-time Investigator, and Director Habeger said they estimated it was \$114K per year. They then asked if some of the extra money can be used to increase manpower to address some of the Investigation backlog. He said he'd take that under consideration.

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AT Still University- Request for Program Approval. Dr. Ronald Adair was present to assist the Board with this issue. Dr. Adair explained he is the only dentist in Ft. Yukon, and the outreach programs of New York University and AT Still are very helpful to him in getting services out to the population in his area.

Dr. Stauffer asked if he is a faculty member of the university and he replied he is not. She then asked Dr. Adair what is it he wants the Board to do, what is his question for the board. He replied he is there to answer any questions about AT Still University's request for approval of their dental program so they can have students come into Alaska on the outreach efforts. Dr. Stauffer clarified that students and their instructors come to Ft. Yukon and provide services, and that he is always present during these times.

Dr. White then asked where he got the idea the Board doesn't support this program. Dr. Adair replied that AT Still had submitted courtesy license applications which they found out could not be issued in time for the outreach they had scheduled, and for which they had purchased airline tickets and made arrangements. He asked Ms. Donohue to help explain why this occurred.

Ms. Donohue explained she had received the Courtesy License applications for the three dentists who would be overseeing the outreach and supervising the students approximately one week prior to the start date of the clinic. At that time she immediately contacted Dr. Adair and AT Still University to advise no Courtesy Licenses could be issued until after the Board meeting of May 14, when the issues of billing and students coming into the State without the program they were enrolled in having written approval from the Board would be discussed. Because of the tardy submission of the Courtesy License applications there was no way for the Alaska Dental Board to be aware of their plans and to advise them of the need for the Board to further review issues associated with the licenses. She further advised them that one of the dentists did not qualify for a courtesy license as she had held another courtesy license within the previous twelve months.

Dr. White verified that it was not an issue of the Board being opposed to the outreach, it was a matter of timing for this specific clinic, and the issue of the program being approved by the Board.

Dr. Stauffer then added that if the Board approves the University's program, and one of the faculty is licensed in Alaska, they could carry out whatever program they wanted to, whenever they wanted. Dr. Kovaleski added that the University could make Dr. Adair, who is an Alaska licensed dentist, adjunct faculty, which would meet the requirement of AS 08.36.238 as to the supervision of the students of an approved program.

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The other issue is billing for services, which goes into covering the costs of the program, not to the people doing the work. The Board clarified the billing is done under the supervisor's licensing status as the students are not licensed and cannot properly bill for their services. Dr. Adair agreed that was correct.

Ms. Fellenberg added that she understood, following the discussion at the Dec. 3, 2011 meeting, that billing could be done as long as the volunteers were not paid. She understands that was not the understanding with all members.

Dr. White replied that he was not present at that meeting, but upon reading the minutes, on page 5 it says that the volunteers are not to be compensated, but the village corporations could bill for their services. Ms. Donohue added the confusion is whether the contracting entity can bill Medicaid for the students services or just the associated the expenses. When it came time to draft a letter of reply to Sonosky, Chambers, et al., she polled the Board to clarify their intent as the wording in the minutes did not do so. The response to that polling was split on the issue, so it was determined that further discussion was needed to clarify and would be added to the Board's agenda for their May meeting.

Ms. Donohue explained that she cannot find the paperwork for the board approval of the UAA and UAF dental hygiene programs as to the students practicing without a license. It was determined that as the paperwork cannot be found to verify a formal approval was given for these programs, and especially in light of the fact there is no application form, that once an application form has been adopted by the Board for these requests, Ms. Donohue will send this form to both of those schools to be completed.

Ms. Donohue has provided a draft of an application form so the Board can start the conversation of what they will require to review and act on requests for program approvals. Dr. Stauffer added that once the Board approves the AT Still University program and Dr. Adair becomes an adjunct faculty at that university our law allows for a faculty member to supervise students in an accredited program that the Board has approved. Ms. Donohue read AS 08.36.238 into the record at this point to highlight the elements required and the conditions under which unlicensed students could be brought into the State to provide services.

Dr. White added that what has happened in the past with the tribal programs is they've made these contracts themselves with the universities to bring the students up, they instruct them for two-four weeks at a time, working hands-on with them under direct supervision, and the supervisor is adjunct faculty at the universities participating. His question is do they need to bring those university programs to the Board for approval. Ms. Donohue asked do the students hold a license anywhere. Dr. White responded no. Ms. Donohue then explained that under the requirements of AS 08.36.238 and AS

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08.32.095 the programs do need written approval of the Board. Board discussion verified that information.

Director Habeger interjected that there were two State Attorney's present to assist with tribal hire issues, Signe Anderson and Mr. Robert Auth. Dr. Well's proceeded to ask for clarification that the Native hospitals could treat non-beneficiaries. Ms. Anderson responded that under some circumstances she believed that was true. There has been a recent Opinion released for the Pharmacy Board on this issue that she is sure has ramifications for the other health care boards, but she isn't prepared to speak to those legal questions today. If the Board has questions she requested they submit those in writing to her office and she will research and respond to those.

Myra Munson from Sonosky, Chambers added that her company deals almost exclusively representing tribal organizations. She is obviously not giving this Board legal advice, she is just asking permission to comment on the question. Tribal health programs in Alaska and the rest of the country are permitted to serve both beneficiaries and non-beneficiaries so long as they make a finding they can do so without diminishing care to the Alaska Native American Indian beneficiaries and their funding. In return for doing so they must charge those non-beneficiary individuals for their care. There is no restriction to provide that care to non-Indian people. Dr. Adair added they essentially do that in his clinic in Ft. Yukon. For example they provide services to a school teacher there who is a non-beneficiary but has no access to other providers. Ms. Munson added this is a provision of the Indian Health Care Improvement Act and is done nationwide. This information is most recently amended March 25, 2010.

Dr. White moved on to discussion of the Courtesy License billing issue. He explained some of the expenses associated with doing outreach efforts, for example, it costs his facility about \$20K roundtrip just for airfare to move the personnel to a location. As long as Medicaid is okay with the way billing is done, as long as the volunteer holding the Courtesy License is not paid for their services, he thinks that is appropriate.

Dr. Stauffer noted the action step needed is for the Board to develop a dental and dental hygiene program approval application form. Ms. Donohue confirmed that was correct.

Ms. Donohue directed the Board to the request in their Board Packet from AT Still University, asking for approval of their program, and to the draft form she had done to give the Board a place to start on that project. Following discussion and minor changes the Board approved the form Ms. Donohue provided.

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Ms. Munson from Sonosky, Chambers, et al. asked if the Board would like to hear from them in this discussion. Dr. Wells acknowledged the Board did, but he had a comment first regarding that his understanding is that Courtesy License holders should be volunteers providing services on a strictly pro-bono basis. The charging for services is an entirely new part of the discussion. Typical mission trips the volunteers pay their own way, with a sponsoring entity to fund the project. They don't depend upon patients to pay for the services. Until hearing the information provided at this meeting he was unaware that tribal health programs could provide services to non-beneficiaries and charge for those services. His second question was charging for work done by dental students. He is still unclear on that issue.

Ms. Munson offered to clarify the billing piece. The billing that's actually occurring when billing Medicaid or any insurer, is billing for the service provided. She said she'd heard some discussion where the Board approved only billing to recover for expenses. She explained there is no third-party payer who will pay for the airfare of a volunteer to come to a place. Billing must be done for the service, payment received for the service. The money goes back to the tribal health program, or the not-for-profit. The dentist coming on the Courtesy License or the students coming with the outreach receive no compensation as a result of any billing that occurs. Any billing that occurs may occur under their name or license, but the income is assigned to the contractor, who must use those monies for the health program. Their interpretation of the Dental Board rules is that the Courtesy License holder receives no remuneration, and indeed they are not.

Ms. Donohue pointed out there is a definition for "remuneration" in the Courtesy License regulations that says "remuneration does not include reimbursement for actual reasonable expenses incurred for travel, food and lodging". Ms. Munson stated that those expenses are the only monies paid to the volunteers. That all monies received from billing for services are assigned to the no-for-profit entity sponsoring the clinic.

Dr. Adair noted that AT Still University is planning to have another outreach effort in the fall so will reapply at that time. Dr. Stauffer explained that only licensed dentists or dental hygienists wanting to obtain a Courtesy License need apply. As long as they are bringing students from a program that has received written approval from the Board, they do not need to apply for that approval again.

Dr. White noted the Courtesy License is good for only 90 days, and only one could be issued to a practitioner in a 12-month period. He understands that one of the applicants for the AT Still clinic just past was not eligible as she had held a Courtesy License within the 12-month time frame. Dr. Kovalski noted that if Dr. Adair is adjunct faculty, he could supervise other out-of-state licensed dentists who are part of that team.

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Ms. Donohue asked for clarification regarding billing associated with services provided by Courtesy License holders. She understands tribal hire, but her concern is the application used must be used by applicants not only participating in tribal hire situations, but all other situations that don't involve tribal hire.

Ms. Kay Gouwens with Sonosky, Chambers, et al., explained that the Board's interpretation allows for billing exactly the same for either. That while the Courtesy License rules prohibit the license holder from receiving compensation for their services, that's all that is prohibited. If the sponsoring entity, whether tribal or non-tribal, has authority and ability to bill Medicaid, or other third-party payer, that is not prohibited as long as those entities don't go back and line the pockets of the volunteers. She noted it is up to Medicaid to monitor who can properly bill them.

She said that in effect the Board has already approved the New York University Program and the AT Still program by issuing Courtesy Licenses to dentists supervising students from these programs previously.

She then asked the Board to reconsider the 12-month limit per license, at least for academic programs such as the two under discussion. It puts the college programs in a bind. Typically there is a core of three or four doctors who work with the programs, and if they hold a Courtesy License say in April of one year, they may not be able to obtain a license and lead another group of students until past the next academic year. Some may want to come up twice a year, and she questions if that's really a problem. She said if the current Board reviews the prior Board's consideration of the Courtesy License, those members considered other states' ways of handling similar licenses, such as renewing the license, issuing in a six-month period, or they might allow 15 days in a 12-month period, so the licensee could come for two one-week periods anytime in that period. Issues that could affect timing on the outreach trips could be academic as well as environmental, such as flooding in parts of the State.

She further noted there are three things they would like to see the Board rule on today, those being:

1. Medicaid billing issue
2. Approval of the clinical program approval process
3. 12-month time frame

Upon a motion duly made by Kovalski, seconded by Chaney and approved unanimously, it was:

RESOLVED to approve Medicaid billing for both tribal and non-profits for services provided by holders of Courtesy Licenses.

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Upon a motion duly made by Stauffer, seconded by Kovaleski and approved unanimously, it was:

RESOLVED to adopt the draft form for Clinical Program Approval Application with noted changes.

These applications can be sent to the Board on mail ballot process upon receipt so approval of the requests can be expedited. Ms. Donohue will make the changes, email to the Board for review and final approval, then arrange to have posted to the Board's web page.

Dr. Stauffer noted that once the form is finalized and posted to the web page a copy be sent to both UAA and UAF so there can be a formal record of Board approval of those two programs.

Discussion ensued concerning changing the 12-month time-frame and noting this will need to be part of a regulation project. This item will be included in the project Drs. Stauffer and Silveira, and Ms. Donohue will be working on before the next meeting.

The board recessed at 2:38 p.m.;
Reconvened at 2:47 p.m.

Agenda Item 13 – Goals & Objectives

The Board reviewed their Goals and Objectives for FY 2012 and made no changes. Dr. Broadbent from the Western Regional Examination Board (WREB) was present to give an overview and update on WREB. Alaska is a WREB member and accepts their regional clinical exam as the clinical exam required for initial licensing of dentists and dental hygienists.

He read WREB's Mission Statement as follows: "The Mission of WREB is to be a leading developer and administrator of consistently valid, reliable, state-of-the-art competency assessments administered with honesty, integrity, and appropriate technology via a collaborative effort of its administrative staff, educators, consultants, and examiners for Dental Health Care Providers and State Agencies that license dental professionals".

Dr. Broadbent then went on to describe the structure of the organization, list the member states and the levels of membership, and present statistical information about number, location and results of the examinations.

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A copy of his presentation will be maintained as an integral part of the Board packet.

Agenda Item 16 – Office Business

A. Travel Authorizations

Ms. Donohue collected signed TAs and travel receipts.

B. Meeting Dates

Sept. 7, 2012 – Anchorage – Confirmed
Dec. 7, 2012 – Anchorage – Confirmed

Following discussion, the Board requested Ms. Donohue see if audio/visual teleconferences can be set up for Board members who cannot attend the meeting in person. Dr. Kovaleski will also follow-up with Director Habeger on this topic.

AADB/ADA Annual Meeting – Dr. Warren advised the Board he would be interested in attending the Annual Meeting of the AADB in October, to be held in San Francisco this year.

Upon a motion duly made by Stauffer, seconded by Fellenberg and approved unanimously, it was:

**RESOLVED to approve Dr. Warren to attend the AADB 129th
Annual Meeting in San Francisco, CA., October 17-18, 2012.**

C. Sign Wall Certificates

The President and Secretary signed wall certificates.

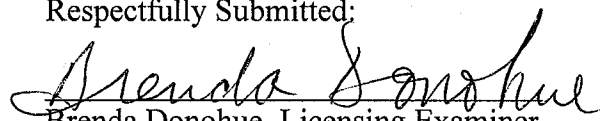
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Agenda Item 17 - Adjourn

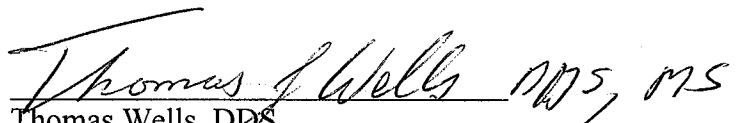
There being no further business Dr. Wells called to adjourn the meeting.

The board adjourned the meeting at 4:10 p.m.

Respectfully Submitted:


Brenda Donohue, Licensing Examiner

APPROVED:


Thomas Wells, DDS
President
Board of Dental Examiners

Date: Sept. 7, 2012