1 2 3 4	STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION OF CORPORATIONS,
5	BUSINESS & PROFESSIONAL LICENSING
6 7	BOARD OF DENTAL EXAMINERS
8	MINUTES OF MEETING
9	September 4, 2015
10	September 4, 2013
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12	By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with
13	the provisions of Article 6 of AS 44.62, a scheduled meeting of the Board
14	of Dental Examiners was held September 4, 2015, at 550 W. 7 th Ave,
15	Suite 1270, Anchorage, Alaska.
16	Oute 1270, Allohorago, Alaska.
17	The meeting was called to order by Dr. Thomas Wells at 8:41 a.m.
18	The meeting was called to order by Dr. Montas wells at 5.11 a.m.
19	Roll Call
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21	Those present, constituting a quorum of the board, were:
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23	Dr. David Nielson – Dentist - Anchorage
24	Dr. Paul Silveira – Dentist – Valdez
25	Dr. Steven Scheller- Dentist - Fairbanks
26	Paula Ross – Dental Hygienist - Anchorage
27	Dr. Thomas Kovaleski – Dentist - Chugiak
28	Dr. Thomas Wells, President – Anchorage
29	, and the second se
30	Absent:
31	Robyn Chaney- Public Member - Dillingham, excused
32	Gail Walden - Dental Hygienist - Wasilla, excused
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34	In attendance from the Division of Corporations, Business & Professional
35	Licensing, Department of Commerce, Community and Economic Development
36	were:
37	Stacia Erkenbrack, Licensing Examiner – Juneau
38	Jasmin Bautista, Investigator – Anchorage
39	Todd Araujo - Juneau
40	Sara Chambers, Operations Manager - Juneau
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42	Agenda Item 1- Agenda
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44	Kovaleski asked for clarification regarding a pediodontist who came in as a
45	credential applicant but technically could have come in by examination since she
46	had a two year pediatric certificate she obtained after graduating in 2013. Kovaleski

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 stated a two year certificate after graduating from school allows a dentist to come in by exam and the board does not have to interview as in credentialing. Kovaleski still wanted to interview this applicant but stated there were others coming through in the same position. They should be licensed as exam. The discussion of specialty license ensued as did whether these applicants had a license or WREB. Kovaleski explained the two year program takes the place of the WREB. Graduation, WREB or two year program should come in by exam. Scheller did not agree with that since the State of Alaska no longer has a specialty license. Wells and Silveira agreed with Scheller. It was discussed that the regulation be changed where the applicant was required to have a license in another state since the state legislature changed the original statue and Alaska no longer had a specialty license. The board now wants to add the specialty license under regulation for public safety. This item no longer needed to be added to the agenda since discussion had already taken place.

Agenda Item 2- Minutes

The Board reviewed the minutes from the May 15, 2015 board meeting. Kovaleski needed to be changed to living in Chugiak, not Fairbanks and the dates needed to be changed from 2nd page to finish from February 20, 2015 to May 15, 2015. On line 236, page 8 the word needed to be changed from fell to failed.

On a motion duly made by Nielson, seconded by Kovaleski and approved unanimously, it was

RESOLVED to approve the minutes of the May 15, 2015 minutes with above-mentioned changes.

Agenda Item 3- Ethics

Wells discussed ethics regarding interview questions. It was discussed that a board member would abstain from voting on an applicant or situation that involved the board member, their practice or their finances, personally. The board agreed that they would like to see all consent agreements before they are presented to the applicants. There were no ethics violations to report.

Agenda Item 4- Regulation Review/Adoption

The board reviewed and considered public comment from the regulations project that had been proposed and comment period had ended May 26, 2015. Nielson mentioned the ADS comments regarding 28.630(b) and the word "may" vs "shall". The Alaska Dental

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Society felt it should stay "will". Kovaleski explained it was because the board did not know if there would be staff or funding to do that. It was discussed that the raise in sedation fees were done so that those inspections would be covered. After great discussion it was determined the word "may" would be left as is and "at its discretion" would be added.

On a motion duly made by Scheller, seconded by Kovaleski, and approved unanimously, it was

RESOLVED to adopt the Professional Regulations, Chapter 28. Board of Dental Examiners with changes adopted below.

On a motion duly made by Nielson, seconded by Ross, and approved unanimously, it was

RESOLVED to adopt the regulation 12 AAC 28.630(b)(b) with the change, the board "may, at its discretion", require an on-site inspection of the permittee's

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

RESOLVED to adopt regulation 12 AAC 28.340(4) (F) (i) with the change "currently valid cardiopulmonary resuscitation certification" to match all of the other regulations.

It was noted that on page 2, under 12 AAC 28.905. Ethical Standards. (a) That the date should be June 24, 2014, corrected from June 24, 2013. The board asked that typo be changed.

On a motion duly made by Nielson, seconded by Scheller, and approved unanimously, it was

RESOLVED to adopt regulation 12 AAC 28.906. (1)Disciplinary sanctions. With the change "to make those records available to the board and/or the board's representatives".

On a motion duly made by Nielson, seconded by Ross, and approved unanimously, it was

RESOLVED to withdraw regulation 12 AAC 28.955(c) (5).

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On a motion duly made by Nielson, seconded by Kovaleski, and approved unanimously, it was

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RESOLVED to organize a workgroup to simplify radiology. Nielson will investigate and lead the group.

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Off the record at 9:45 a.m. On the record at 9:47 a.m.

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Agenda item 5 - Law Department

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The board contacted Todd Araujo with the Law Department. Nielson asked about dental ownership and close any loopholes for a non-dentist to be able to own a practice, or more specifically to run a dental practice in the state of Alaska. Araujo shared provision AS 08.36.367 Ownership of a Dental Office or Facility. In subsection (a) - Only a person who holds a valid license out of this chapter may own, operate or maintain a dental office or clinic. Wells stated there was a loophole in the provision since it did not specify that the licensee must be living in or be a resident of the state. We had people that own the business but were not present in the state so how could they really manage it for the best interest for the people of the State of Alaska. Subsection (c) was discussed and whether an outside entity would have control over what the dentists in the state did or interfered with professional judgment of the licensed dentists that worked within the entity, that would affect patient care. Scheller asked if the out of state dentists that get licensed and just buy a dental practice in the State of Alaska could influence the way the dentists practiced their dentistry within that practice, as far as the way they would treat patients or the materials used for patients. Nielson asked if the board was able to protect the dentists and their patient relationships so there was no undo pressure on them to do things they were not comfortable doing or did not want to do. according to the way the BODE statutes and regulations were written now. Araujo responded that if the business or entity was one-hundred percent owned by a dentist or dentists licensed under this chapter, under this board, that the entity was in full compliance with our statutory and regulatory scheme that one might ask where was the tension. Nielson asked about regulation 12 AAC 28.730. Control Over Professional Dental Matters And Operation Of Dental Equipment. Nielson asked if that addressed the concern. Araujo answered that seemed to allow the board to determine whether a person was practicing dentistry or asserting control over dental matters. Nielson asked that if a licensee had a complaint regarding an entity. would that licensee have anywhere to go to be heard. Araujo stated there was if what was being asserted to do was out of bounds and not just a difference in opinion of procedure. Neilson asked if it was reasonable for the board to require residency

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in Alaska. Araujo answered this would take statutory change and that his guess was no other state had that requirement and how many dentists do we have in the state that were not actual residents but were critical to the industry because they spent a sufficient amount of time here. What would be considered residency? The board would have to convince a lot of policy makers and the legislature that there was a critical need in this area for this reason. Kovaleski asked about the Supreme Court ruling in February regarding dentists that could not prevent non-dentists from doing bleaching in malls and other assorted places. The board had a request for actual dental staff, not under the supervision of a dentist, to do bleaching at a mall type setting. Kovaleski asked if the board was required to follow what the North Carolina Supreme Court said in February, that basically anyone can do dental bleaching anywhere, or can the board push back? Araujo stated that case had many layers to it, issues that did not implicate this board. Scheller asked if the board had latitude on what kind of questions the board could ask the applicants. Araujo answered as long as the questions related to statutory or regulatory requirements. Nielson asked if they could ask why an applicant let another state license lapse or why they lost their license. Wells asked if the board could ask where or what kind of practice they intended to be involved in. Araujo answered yes. As long as it was not of the personal variety, such as asking what they do in their personal time. The board could ask what they wanted regarding application as long as it was a legitimate question and not of the personal nature. Wells asked about teeth whitening clinics and asked if the Attorney General's office would stand behind the board if they stick to regulations regarding non-dentists performing dental duties. Nielson stated that the big question was what constituted performing dentistry without an actual dentist present. Kovaleski stated to further complicate things, he could go online and order bleaching trays to do it himself. He asked where the line on dentistry falls. Araujo will research and have an answer for the board for the December 4, 2015 board meeting. Silveira stated that you could also do online orthodontics. Wells stated he had a flier that a clinic has advertised general anesthesia and they did not have a permit to do general anesthesia and asked what the board needed to do to have this stopped or investigated. Araujo stated he should give the flyer to the investigator to confirm what was going on.

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On a motion duly made by Kovaleski, seconded by Nielson, and approved unanimously, it was

RESOLVED to go into executive session in accordance with AS 44.62.310(c) (2)(3), for the purpose of discussing various cases

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Staff to stay

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Off record at 10:29 a.m.

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Agenda Item 7 - Personal Interviews

On record at 11:24 a.m. 211 212 213 Agenda item 6 - Investigative Report 214 215 The board stay in executive session for the investigation report. 216 217 Break at 11:24 a.m. 218 On record at 11:28 a.m. 219 220 Agenda Item 6 - Public Comment 221 222 Brynn Moe appeared before the board to ask that the board consider extending the 223 date for payment for her consent agreement. She explained that she thought she 224 had sent payment in with renewal and had not received the letters sent by Paralegal, 225 Charles Ward. She apologized for the oversight and stated that just having had 226 twins and other circumstances in her life, that paying the full fine would create 227 great hardship for her and her family. The board stated they would take this under 228 advisement. She thanked the board and departed. 229 230 On a motion duly made by Ross, seconded by Nielson, and approved 231 unanimously, it was 232 233 RESOLVED to go into executive session in accordance with AS 234 44.62.310(c) (2), for the purpose of discussing Brynn Moe. 235 236 Staff to stay 237 238 Off the record at 11:30 a.m. 239 On the record at 11:46 a.m. 240 241 The board discussed regulations and changes they would like to make with 242 radiology. Wells asked about where the anesthesia regulations were in the process. 243 The examiner told him they are currently with Department of Law but neither the 244 regulations specialist nor the examiner has heard an update. 245 246 Break for lunch at 11:57 p.m. 247 Back from lunch at 12:58 p.m. 248

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251 The board welcomed Dr. Steven Paige to the Board meeting and explained the interview 252 process. Dr. Paige appeared in person. Dr. Silveira introduced himself as the reviewing 253 member of his application and stated that on question number 2, " Have you had a 254 professional license denied, revoked, suspended, or otherwise restricted, 255 conditioned, or limited or have you surrendered a professional license, been fined. placed on probation, reprimanded, disciplined, or entered into a settlement with a 256 257 licensing authority in connection with a professional license you have held in any 258 jurisdiction including Alaska and including that of any military authorities or is any such action pending?" and question number 4, "Have you ever been the 259 260 subject of a report from the National Practitioner Data Bank or the American 261 Association of Dental Boards Clearinghouse?" Dr. Paige had answered no on both 262 questions and that after subsequent investigation found that these were not good 263 answers. Dr. Paige stated he was not even aware of question number 4 until now. 264 Dr. Paige stated this was a misunderstanding; he had no intention of trying to hide 265 anything. He stated 14 years ago he had called his lawyer and his lawyer told him 266 this was an informal disposition; the lawyer told him it was not a formal disciplinary 267 action and that Dr. Paige should just sign it, that it would be easier on everybody. So, being young, and listening to his attorney, he signed it. He was then told by his 268 269 lawyer that if future questions regarding this issue came up, and it did not say 270 formal disciplinary action, put no. Dr. Paige stated he had been answering no since 271 then and in all these years, this is the first time he had heard anything. Dr. Paige 272 stated that there was no intention of trying to hide anything from anybody, he was 273 very aware the board would read this. It was just a misunderstanding of how it was 274 written and what the lawyer had told him years ago. He apologized for the 275 misunderstanding. Dr. Paige confirmed that he has applied for licenses in other 276 states and has not had this problem. He had no idea he had been reported to the 277 NPDB and was surprised to learn of this.

The Board asked the standard interview questions.

The board thanked Dr. Paige for coming to the interview.

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

RESOLVED to go into executive session in accordance with AS 44.62.310(c)(2), for the purpose of discussing the license by credentials of Steven Paige.

Staff to stay

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292 Off record at 1:11 p.m.293 On record at 1:19 p.m.

The board welcomed Dr. Jessica Blanco to the Board meeting and explained the interview process. Dr. Blanco appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Kovaleski, seconded by Scheller, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Jessica Blanco.

The board welcomed Dr. Roxana Mirabal to the Board meeting and explained the interview process. Dr. Mirabal appeared telephonically. The Board asked the standard interview questions.

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

RESOLVED to approve the application for a dental license for Dr. Roxana Mirabal.

The board welcomed Dr. Wayne Millar to the Board meeting and explained the interview process. Dr. Millar appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Nielson, seconded by Kovaleski, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Wayne Millar.

Bautista came in to discuss an imposition of civil fine with the board. This action applies to technical violations such as failure to disclose, no patient care issues, no reprimand or censure. It was a civil fine, generally \$1000.00. It is a public document but not reported to NPDB or distributed. It will go into the licensing file. The board had in the past suspended part of the fine, such as \$500.00.

On a motion duly made by Scheller, seconded by Silveira,

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To approve an imposition of civil fine for failure to disclose in the amount of \$1000.00 with \$1000.00 suspended for Dr Steven Paige.

Discussion began when Nielson stated there should be some fine to cover costs and suggested \$1000.00 with \$600.00 suspended. It was agreed that the Paige did nothing wrong but got bad advice. Bautista suggested the board stay with precedent and stay with the \$1000.00 fine with \$500.00 suspended.

On a motion duly made by Nielson, seconded by Kovaleski, and approved unanimously, it was

RESOLVED to amend the original motion for the imposition of civil fine for failure to disclose in the amount of \$1000.00 with \$500.00 suspended for Dr Steven Paige.

Nielson – yea, Ross – yea, Silveira – yea, Wells – yea, Kovaleski – yea, Scheller – nay.

On a motion duly made by Scheller, seconded by Kovaleski, and approved unanimously, it was

RESOLVED to approve the application for a dental license subject to the consent agreement for Dr. Morrie Talbot.

Agenda Item 8 - Old/New Business

The board called Paralegal, Charles Ward and discussed two consent agreements. The first case # 2014-001808. The board discussed the consent agreement and whether they had seen it or not. The board wanted to see all consent agreements before it went to the licensee rather than after. Ward presented the circumstances regarding the agreement. Silveira asked if the consent agreement had been run past any members of the board before the agreement was signed. Ward stated it was not. The board requested that any further consent agreements be presented to at least one of the board members before the agreement was signed by licensee. Ward stated this could be done as long as the board member that reviewed the agreement recused themselves from the vote since it would be considered ex parte communication. The board inquired about cost of having it presented to the board before the licensee. Charles stated less than \$100.00. The board agreed they would like to have all consent agreements done this way going forward.

On a motion duly made by Scheller, seconded by Ross, and approved unanimously, it was

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374 375 RESOLVED that all consent agreements will be presented to one board 376 member before the agreement is presented and signed by licensee. 377 378 Nielson asked that the motion be amended to include that the board member who 379 reviews the agreement would recuse themselves from voting when presented to the 380 board. 381 382 On the amended motion duly made by Nielson, seconded by Scheller, and 383 approved unanimously, it was 384 RESOLVED that all consent agreements will be presented to one board 385 member before the agreement is presented and signed by licensee. The 386 387 board member that reviews the agreement will recuse themselves from 388 the vote when presented to the board for review and approval. 389 390 On a motion duly made by Scheller, seconded by Nielson, and approved 391 unanimously, it was 392 393 RESOLVED to approve the consent agreement for Dr. Gary Sawdy. 394 395 The next case was regarding Brynn Moe. Ward presented the case and 396 circumstances regarding the non-payment of Moe's fine per consent agreement. 397 Should the board decide to extend the payment of the unsuspended amount of fine, the new due date would be November 27, 2015. 398 399 400 On a motion duly made by Scheller, seconded by Ross, and approved 401 unanimously, it was 402 403 RESOLVED to accept the order to extend the date of payment for 404 unsuspended amount of fine due for Brynn Moe. 405 406 The board reviewed correspondence and the board chair signed documents. 407 408 409 Off record at 2:33 p.m. 410 On record at 2:48 p.m. 411 412 Kovaleski discussed the Dental Exam Review Board. Anyone that wanted to become 413 an examiner needed to have references in by Tuesday. Kovaleski discussed all new 414 items involved with the examinations, including re-takes the same day. Wells did

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not feel the letter from Dr. Logan needed to be discussed because the discussion of practice ownership had already been done with the Attorney General. The boards' concerns were the same as Dr. Logan and according to the Attorney General, our regulations read that a corporate entity could not own a dental practice. They could own the building and the property but they could not own the practice, and they could not collect fees. Nielson would sit down with Logan and pick that area of regulation apart. Scheller asked how SMIL dental clinic collected their fees if they had to pay fees to the dentist since they could not pay fees to the corporation. Nielson stated that a lot of what was needed is in regulation; it was a matter of policing it. Silveira stated it could not be done by the board; it could only be done if someone reported it. If someone brought the complaint, the board could enforce it, but the board could not go out and investigate just to see what they were doing. The Dental Society could call Jasmin and file a complaint against these guys. It was confirmed that a name must be given in order for an investigation to be done. Nielson suggested that a newsletter be done from the board for the ADS newsletter to educate the community on what was going on. Scheller stated he would do the first newsletter by the deadline of September 28, 2015.

<u>Agenda Item 9 – Budget Review</u>

The Board called Sara Chambers, Operations Manager for the Budget Review. The board welcomed Chambers to the meeting. Chambers stated that she did not have a comprehensive financial report for the board because the latest one she had is third quarter and were in a period of time in what she liked to refer to as radio silence and waiting for the shuttle to re-enter the atmosphere. While the division was reappropriating all the FY15 funds and expenditures and finalizing the last year of close out, we have this waiting period but did anticipate having the boards' end of year information and first quarter information toward the first of November.

Chambers asked if the board had any questions regarding time-frame. The board did not. Chambers then explained the revenue, although not reconciled to the system, just received at the front desk, which represented 77 transactions. Chambers asked the examiner if the board had a copy of the dental sealant question regarding the PEW Charitable Trust report from the Senator MacKinnon's office. Chambers wanted to follow up and inquire on why the state would be downgraded from an A to a B minus. Chambers had requested the examiner to include this in the agenda for the board to respond or have a discussion regarding the issue. Nielson stated that nothing had changed since last time the state was graded. The state has never had a sealant program in the schools or what is called a collaborative agreement. Nielson continued that no one has taken on the task. He continued that programs like that take a lot of energy and manpower to get programs like that going. Nielson explained there had been other programs where they went out to

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schools and did screenings, education and things like that, but it was organized by a dentist that said I'm going to organize this. Nielson stated Kovaleski probably knows more about collaborative agreements than he did and that this probably depended on what school they were going to, what population they were seeing. It was more who was going to run the program and who was going to take it on. Chambers stated perhaps this is something that could be partnered with the school districts and Health and Social Services and that this board and this industry had a very esteemed reputation in their mission work and that Alaska had adequate dental care, so that point was certainly not lost on her. If it was the thought of the board that it would just take someone to spearhead this and some of those organizational resources, Chambers would be happy to carry that message back to Senator MacKinnon and her staff. Nielson stated if she was just referencing sealants, Alaska, with its Denali Kid Care and very generous reimbursement rates, that kids were pretty well taken care of here. It's not exactly like the states that she was probably referencing. Nielson was not clear on why Alaska received a B minus when our kids are better taken care of than a lot of states. Koyaleski stated that he would question the assessment by the PEW Charitable Trust. In the bush of Alaska some of the public health things they had done had increased sealants by significant amounts and did not think anything had changed in the negative, so did not know how PEW had come up with this, so he would question their assessment method. Nielson stated that just a lack of a program doesn't necessarily equate to a population that was in bad shape. Chambers agreed and volunteered to take this information to Senator MacKinnon. Kovaleski stated that Alaska was a very difficult state to assess. The board agreed that Chambers report this information to MacKinnon. Chambers would forward the response to the examiner to be forwarded to the board and close the loop.

The board asked Chambers what it would take to have an examiner full time. Chambers stated that a new examiner PCN should be hopefully happening soon and would be hired to help with Pharmacy and Barbers and Hairdressers. Chambers anticipated that once the new position was hired and paired up with Pharmacy and if cleared with the examiners supervisor, the board could possibly have an examiner full time. The new examiner position would hopefully be happening this fall. Chambers explained how funding is generated, legislation, and if necessary, board input for support of more staff. The board thanked Chambers and Chambers departed.

On a motion duly made by Scheller, seconded by Ross, and approved unanimously, it was

RESOLVED to go into executive session in accordance with AS 44.62.310(c)(2), for the purpose of discussing an investigative matter.

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Off the record at 3:21 p.m. On the record at 3:32 p.m. The smile whitening business was discussed. The board agreed that this was considered practicing dentistry without a license. This issue had been already dealt with previously when the board's investigator pulled a whitening business out of a salon. On a motion duly made by Scheller, seconded by Ross, and approved unanimously, it was RESOLVED that in the board's opinion, a smile whitening business without a licensed dentist on the premise is considered practicing dentistry without a license. The spring dental board meeting was scheduled for February 5, 2016. Scheller was the final vote to approve Christopher Waite-Janes as a Radiological Equipment Inspector. All other board votes were given via email. Agenda item 10- Office Business Wall certificates were signed. Silveira signed in the absence of Chaney. Meeting adjourned 4:11 p.m. Respectfully submitted: Stacia Erkenbrack Licensing Examiner Approved: Thomas Wells, DD8, President