

***BOARD OF DENTAL  
EXAMINERS MEETING  
ANCHORAGE, AK***

**ATWOOD BLDG. RM AAC 1760**

**Teleconference**

**July 30, 2018**

**9:00 A.M.**

# Item 1

- Call to Order/Roll Call

# **BOARD ROSTER**

**JULY 30, 2018**

**PAUL SILVEIRA, DMD – BOARD PRESIDENT**

**GAIL WALDEN, RDH, BSDH, BOARD SECRETARY**

**DAVID NEILSON, DDS**

**PAULA ROSS, RDH**

**THOMAS KOVALESKI, DDS**

**STEVEN SCHELLER, DDS**

**MICHAEL MORIARTY, DDS**

**DOMINIC WENZELL, DMD**

**ROBIN WAHTO, PUBLIC MEMBER**

# Item 2

- Review of Agenda

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

**BOARD OF DENTAL EXAMINERS AGENDA**

July 30, 2018

550 W 7<sup>th</sup> Ave, Atwood Building Ste. 1760, Anchorage, AK 99501

**GCI Conference Line: (800)315-6338**

**Access Code: 12011**

	<u>TIME</u>	<u>TOPIC</u>	<u>AGENDA</u>	<u>LEAD PERSON</u>
1.	9:00 a.m.	Call to Order/Roll Call		VICE CHAIR
2.	9:05 a.m.	Review of Agenda		VICE CHAIR
3.	9:10 a.m.	Public Comment		VICE CHAIR
4.	9:25 a.m.	Regulation Review		Nielson/Wenzell
5.	10:00 a.m.	Temporary License		VICE CHAIR
6.	10:30 a.m.	Review Currently proposed regulations		VICE CHAIR
7.	11:00 a.m.	Hygienist – WREB equivalent exams		VICE CHAIR
8.	11:15 a.m.	Adjourn		CHAIR



# **STATE OF ALASKA**

**DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT**

**DIVISION OF OCCUPATIONAL LICENSING  
BOARD OF DENTAL EXAMINERS**

## **MISSION STATEMENT**

**To protect the health, safety, and welfare of Alaskans by ensuring that practitioners possess competency, ethical standards, and integrity necessary to offer or deliver quality services to consumers.**

## **VISION STATEMENT**

**To ensure that all Alaskans receive the best possible dental care.**

## State of Alaska Department of Law

# Ethics Act Procedures for Boards & Commissions

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

## Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act<sup>1</sup> has several ethics supervisors designated by statute.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director.
- The executive director serves as DES for the staff.
- The governor is the DES for a chair.<sup>2</sup>

## What Do I Have To Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.
- For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, "*Ethics Information for Members of Boards and Commissions*." The executive director and staff should refer to the guide, "*Ethics Information for Public Employees*." Both guides and disclosure forms may be found on the Department of Law's ethics website.

## How Do I Avoid Violations of the Ethics Act?

- Make timely disclosures!

- Follow required procedures!
- Provide all information necessary to a correct evaluation of the matter!<sup>3</sup>
- When in doubt, disclose and seek advice!
- Follow the advice of your DES!

## What Are The Disclosure Procedures for Board and Commission Members?

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

### Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act **on the public record and in writing to the chair.**

*Disclosure on the public record.* Members must identify actual and potential conflicts orally at the board or commission's public meeting **in advance** of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.<sup>4</sup>
- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

*Disclosure in writing at a public meeting.* In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved **and** there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

*Confidential disclosure in advance of public meeting.* Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict submits a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter. <sup>5</sup>

- If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.<sup>6</sup>

*Determinations at the public meeting.* When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- *Exception:* A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.<sup>7</sup>

*If the chair identifies a potential conflict,* the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

## Procedures for Other Member Disclosures

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the Department of Law's ethics website.

## What Are The Disclosure Procedures for Executive Directors and Staff?

Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- Disclosure forms are found on the ethics website, noted above.

*Notices of Potential Violations.* Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or

removal by the employee of the personal or financial interests giving rise to the potential violation.

- These disclosures are not required to be made part of the public record.
- A copy of a determination is provided to the employee.
- Both the notice and determination are confidential.

*Other Disclosures.* The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination to the employee.

## How Are Third Party Reports of Potential Violations or Complaints Handled?

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted **in writing** and **under oath**.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.<sup>8</sup>
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- **These matters are confidential**, unless the subject waives confidentiality or the matter results in a public accusation.

## What Are The Procedures for Quarterly Reports?

Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises Angie White by e-mail at [Angie.White@alaska.gov](mailto:Angie.White@alaska.gov) and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts

reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

## How Does A DES or Board or Commission Get Ethics Advice?

A DES or board or commission may make a **written request** to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides **advice by phone or e-mail** to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

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It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

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- 1 The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.
- 2 The governor has delegated the DES responsibility to Guy Bell, Administrative Director of the Office of the Governor.
- 3 You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.
- 4 In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.
- 5 The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.
- 6 In this manner, a member's detailed personal and financial information may be protected from public disclosure.
- 7 When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

8 The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

2/12

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# Item 3

- Public Comment

## Public Comment:

The board chair shall open public comment. The time allotted for comment will be divided between all individuals signed in to give comment. The group will be told how much time each person will have to speak; the licensing examiner will keep track of the time and notify the individual when they have 1 minute left.

This is not the time for the board to respond to the comments. The board can choose to respond to any comments at the end of the comment period; they can choose to send a letter with their responses to the individual; or they can choose to not respond.

# Item 4

- Regulation review

12 AAC 28.010(e) is amended to read:

(e) In addition to meeting the requirements of (b) of this section, on or after March 1, 2019, a dentist who seeks to renew a permit to administer deep sedation or general anesthesia must

(1) during each biennial licensing period participate in four or more contact hours of continuing education that relates specifically to hands-on advanced airway management or general anesthesia; [IF THE PERMIT HOLDER PROVIDES ANESTHESIA FOR PATIENTS YOUNGER THAN 13 YEARS OF AGE, THE COURSE MUST BE A PEDIATRIC COURSE;]

**(A) if the permit holder provides anesthesia for patients younger than 13 years of age, the course must be a pediatric course;**

**(B) if the permit holder provides anesthesia for patients older and younger than 13 years of age, at least four contact hours of continuing education must relate specifically to hands-on advanced airway management of patients older than 13 years of age, and at least four additional contact hours of continuing education must relate specifically to hands-on advanced airway management of patients younger than 13 years of age;**

(2) during each biennial licensing period participate in eight contact hours of continuing education that focuses on one or more of the following:

(A) physical evaluation;

(B) medical emergencies;

(C) monitoring and use of monitoring equipment;

(D) pharmacology of drugs and agents used in deep sedation and general anesthesia;

(3) complete at least 50 general anesthesia or deep sedation cases each biennial licensing period; and

(4) maintain continuing education records that can be audited, including course titles, instructors, dates attended, sponsors, and number of contact hours for each course[.]; **and**

**(5) if seeking to renew a permit to administer anesthesia or deep sedation to a patient younger than 13 years of age, a dentist must**

**(A) meet the requirements of this section; and**

**(B) provide documentation that 20 of the 50 anesthesia or deep sedation cases were individually managed patients younger than 13 years of age.**

12 AAC 28.015(e) is amended to read:

(e) In addition to meeting the requirements of (d) and (g) of this section, an applicant for an initial permit to administer moderate sedation to a patient who is at least 13 years of age under this section must

**(1)** provide documentation that the applicant completed either

**(A)** [1] training in moderate sedation consistent with the *Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students*, as adopted by the American Dental Association (ADA) House of Delegates, October 2016, adopted by reference; the applicant must complete the training required under this paragraph while enrolled in

(i) a dental program accredited by the Commission on Dental Accreditation (CODA) of the American Dental Association; or

(ii) a post-doctoral university or teaching hospital program; or

(B) [2] a board-approved continuing education course in sedation consistent with the *Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students*, adopted by reference in (1) of this subsection; the course must consist of a minimum of 60 hours of instruction plus administration of sedation for at least 20 individually managed patients per participant to establish competency and clinical experience in moderate sedation and management of a compromised airway; and

**(2) provide proof that the applicant completed 30 hours of board-approved coursework in pediatric anesthesia or deep sedation; and**

**(3) provide proof of administration of sedation for at least 20 individually managed patients younger than 13 years of age.**

12 AAC 28.015(f) is amended to read:

(f) In addition to meeting the requirements of (d) and (g) of this section, an applicant for an initial permit to administer moderate or minimal sedation **only** to [A PATIENT] **patients** who **are** [IS] younger than 13 years of age under this section must provide [DOCUMENTATION THAT THE APPLICANT HAS COMPLETED A COMMISSION ON DENTAL ACCREDITATION (CODA) ACCREDITED RESIDENCY IN PEDIATRIC DENTISTRY OR SUFFICIENT TRAINING IN PEDIATRIC MODERATE SEDATION AS DETERMINED BY

THE BOARD. THE APPLICANT MUST PROVIDE] proof of administration of sedation for at least 20 individually managed patients younger than 13 years of age to establish competency and clinical experience in management of a compromised airway [ .], **and provide documentation that the applicant has completed**

**(1) a Commission on Dental Accreditation (CODA) accredited residency in pediatric dentistry; or**

**(2) at least 60 hours of continuing education coursework in pediatric moderate sedation approved by the board.**

12 AAC 28.015(h) is amended to read:

(h) In addition to meeting the requirements of (d) of this section, on or after March 1, 2019, a dentist who seeks to renew a permit to administer moderate or minimal sedation under this section must

(1) during each biennial licensing period participate in four or more contact hours of continuing education that relates specifically to hands-on advanced airway management; [IF THE PERMIT HOLDER PROVIDES MODERATE OR MINIMAL SEDATION FOR PATIENTS YOUNGER THAN 13 YEARS OF AGE, THE COURSE MUST BE A PEDIATRIC COURSE;] contact hours earned from certification in health care provider basic life support (BLS), advanced cardiac life support (ACLS), and pediatric advanced life support (PALS) courses may be used to meet the continuing education requirements for obtaining or renewing a permit to administer moderate or minimal sedation under this section;

**(A) if the permit holder provides moderate or minimal sedation for patients younger than 13 years of age, the course must be a pediatric course;**

**(B) if the permit holder provides moderate or minimal sedation for patients older and younger than 13 years of age, at least four contact hours of continuing education must relate specifically to hands-on advanced airway management of patients older than 13 years of age, and at least four additional contact hours of continuing education must relate specifically to hands-on advanced airway management of patients younger than 13 years of age;**

(2) during each biennial licensing period participate in four contact hours of continuing education that focuses on one or more of the following:

(A) venipuncture;

(B) intravenous sedation;

(C) enteral sedation;

(D) physiology;

(E) pharmacology;

(F) nitrous oxide analgesia;

(G) patient evaluation, patient monitoring, or medical emergencies;

(3) complete at least 25 moderate sedation cases each biennial renewal period;

and

(4) maintain continuing education records that can be audited, including course

titles, instructors, dates attended, sponsors, and number of contact hours for each course[.]; **and**

**(5) if seeking to renew a permit to administer moderate or minimal sedation to a patient younger than 13 years of age, a dentist must**

**(A) meet the requirements of this section;**

**(B) provide proof of completing at least 30 hours of board-approved coursework in pediatric sedation; and**

**(C) provide documentation that 10 of the 25 moderate sedation cases were individually managed patients younger than 13 years of age.**

12 AAC 28.060(d)(2) is amended to read:

(d)(2) shall, **unless administering moderate or minimal sedation to a patient who is younger than 13 years of age,** continually monitor a patient's heart rate, blood pressure, and respiration using electrocardiographic monitoring, pulse oximetry, blood pressure monitoring device, and a respiration monitoring device;

12 AAC 28.062 is amended by adding a new subsection to read:

(4) the dentist shall, if a patient is younger than 13 years of age, continually monitor the patient using pulse oximetry.

# Item 5

- Temporary License

#### Temporary permit bill requirements-

1. Board shall set qualifications
  - a. Application
  - b. Fees-also need to initiate a division regulation for the fees
  - c. Valid license verification from another state or territory of the US-
  - d. Proof of incapacitated dentist- how should that be documented and verified
2. May provide a 60 day extension if the applicant submits a full license application in addition to the request of the extension.
3. Section (f) states 90 days initial, 60 days extension, no more than 240 days total in 24 consecutive months. Meaning the applicant may apply for more than one temporary permit for more than one reason in a 24 month period. Should there be a minimum of days after the initial 150 day permit and extension to keep a dentist from applying for a new temporary permit for the same incapacitated dentist? Should the additional permit only be for a different dentist? Could be construed as a loop hole.
4. Section (g) allows an extension past the initial 90 days and extension of 60 days if the board determines the extension is necessary as long as the NPDB report and DEA clearance have been received. The applicant would have already been required to submit a full license application to obtain the 60 days extension under (f), meaning the DEA clearance may have already been received. The examiner could obtain the NPDB report. The board needs to determine what the additional extension would be past the 150 days in (f), but no more than the total 240 days required under (f). The purpose of this extension would be if the full dental license application is not complete and not ready for board review.
5. The applicant may be foreign graduate who has been issued a license in another state that allows foreign graduates. Does the board want the applicant to meet the educational qualifications under 12 AAC 28.938? Current regulations do not allow foreign graduates unless they have a degree from a CODA accredited institution under 28.938.

#### Regulations for consideration-

1. Documentation required to obtain initial permit and an extension- new section 12 AAC 28.953
2. Documentation required to show dentist incapacitation- form? If so who to complete.
3. Additional extension under (g), number of days
4. Fee setting in 12 AAC 02 by division, ¼ of the full license fee, application fee for temporary permit should be separate from full license fee

# Item 6

- Review Currently proposed regulations

# Item 7

- Hygienists – WREB equivalent exams accepted

# Item 8

- Adjourn