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 13, 2016, at 550 W. 7th Ave, Room 1760, Anchorage, Alaska.

The meeting was called to order by Dr. Thomas Wells at 8:29 a.m.

**Roll Call**

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

- Dr. Thomas Wells, President – Anchorage
- Dr. David Nielson – Dentist - Anchorage
- Dr. Steven Scheller- Dentist - Fairbanks
- Dr. Paul Silveira – Dentist – Valdez
- Dr. Michael Moriarty – Dentist – Seward
- Gail Walden – Dental Hygienist - Wasilla
- Paula Ross – Dental Hygienist - Anchorage
- Dr. Thomas Kovaleski – Dentist – Chugiak

Absent:

- Robyn Chaney- Public Member – Dillingham, excused

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

- Stacia Erkenbrack, Licensing Examiner – Juneau videoconference
- Michael French, Office Assistant II - Anchorage
- Jasmin Bautista, Investigator – Anchorage
- Angela Birt, Chief Investigator – Anchorage
- Janey Hovenden, Director - Juneau
- Martha Hewlett, Administrative Officer II, - Juneau
In attendance for Public Comment were:

Seth Lockhart, Anchorage
Shauna Cranford, Anchorage
Guy Burk, Anchorage
H. William Gottschalk, Tarzana, CA
Kenley Michaud, Anchorage
Jon McNiel, Anchorage
Jessica Blanco, Juneau
W. Jay Marley, Jr., Homer
David Logan, Anchorage
Bob Bauder, Soldotna
Chris Logan, Homer
Sheila Jenson, Wasilla

Dr. Wells read the Board Mission Statement for the record. He stated with that in mind, let the board review the agenda.

**Agenda Item 1- Agenda**

Wells asked if there were any additions to the agenda. Nielson stated he would like to discuss SB74. SB74 would be added to Agenda Item 6, Old/New Business.

Scheller wanted to add the NPDB continuous inquiry notification he had researched. That would also be added to Old/New Business.

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

RESOLVED to approve the Agenda with additional items added.

**Agenda Item 2- Minutes**

The Board reviewed the minutes from the February 26, 2016 board meeting.

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

RESOLVED to approve the minutes of the February 26, 2016 minutes, with corrections.
Agenda Item 3- Ethics

Wells discussed ethics and asked if there were any comments or reports to make. There were no ethics violations to report.

Agenda Item 4- Budget Review

Janey Hovenden, Director, joined the meeting to discuss SB74 and how it would impact the board. Hovenden stated the PDMP expansion would impact the board along with several boards that were required to report to the legislature. Board of Dental Examiners were amongst the boards that needed to jointly write guidelines for not over prescribing pain killers and schedule II substances. Hovenden stated that Sara Chambers, Operations Manager, came up with the suggestion that in order to meet that requirement, each board would each come up with their own draft and a point of contact and identify one spokesperson from each board to come to what we might call a conference committee and come up with a final product. October 1st would be the deadline and the representative from each board would come together before December 1st, the final product would then be distributed to all the boards. January 1st the Division would submit that final transmission to the legislature as required by SB 74.

Nielson stated that each profession would have different guidelines for prescribing schedule II. He continued that if you had a pain specialist, he would have different guidelines than a dentist. Nielson wanted clarification on all boards having their own guidelines. Hovenden stated that would more than likely all be incorporated into that final product. Silveira asked for clarification about the goal of the PDMP. Hovenden stated there was a white paper that was done by a task force appointed by the Governor. Dr. Butler was in charge of the task force and paper about the opioid problem and nine recommendations on how to assist with that. Hovenden would have that white paper sent to the board so they would have an idea of why the PDMP and what the boards’ report needs to entail. Hovenden confirmed that the legislature would work with the Board of Pharmacy regarding fees that would come along with the PDMP. It was confirmed the board should start working on regulations regarding licensees registering for the PDMP. Walden asked if it was required by Alaska Statutes, why was it necessary to add to the Dental Board Regulations as well? Hovenden stated that Chambers would be able to answer that question eloquently.

Wells asked if registration would be on a yearly basis or just one time. Hovenden responded just one time. Walden asked if they could provide the board with a list of how many dentists are already registered. It was recommended previously that dentists register, however, not many did, which is why it was now being regulated.
Dave Logan from Alaska Dental Society stated that the PDMP had been in the state for about five or six years now. It switched vendors so those that had registered previously had to register again. Some dentists registered originally, some switched over with the new database, some did not. There was a requirement that the prescriber must have a DEA number to register but with SB74 passing it would put into statute that dentists must register with PDMP if they have a DEA number. The legislature had only said that they may discipline if necessary if not registered. It was verified that this would be a state databank. The board discussed the databank and exemptions with Logan, who had experience with the current databank. It was confirmed with Hovenden that the report needed to be done by August 1st for review. Nielson and Kovaleski would work on the regulations for SB74 as required and the board would review at the September 23, 2016 BODE meeting.

Martha Hewlett, Administrative Officer II discussed the FY16 3rd quarter reports. Hewlett discussed the direct, personal, indirect and travel expenditures.

Nielson asked where the surplus went year to year. Nielson stated the board had some pretty significant fees they were collecting for parenteral sedation and wondering how much money was in the board’s account that was set aside so when the board started doing inspections the board would have access to it.

Hewlett explained that each of the boards funds stayed in the boards program. Hewlett had the board look at FY10 and where the board started at $180,000.00 in the red. She took the board through the previous years and deficits, beginning and ending of the years. Hewlett pointed out that in years prior that the expenditures were higher than they were currently. Scheller agreed that expenditures were going way down. Hewlett also explained that the board was in a non-renewal year. The ideal was that revenue was generally brought in a renewal year to cover expenditures for two years. Scheller agreed the board should see an increase next year, which was a renewal year.

Walden asked if the board could get a number on the cost associated with the regulation project the board was currently working on. Hewlett responded that the regulations specialists time was billed under direct expenses and department of law billed under contractual expenses. Hewlett would pull those expenses separately and give to the examiner to forward to the board. Walden stated it would be good for the board to know what the regulation project has cost so far, so going forward the board would get an idea of what it would continue to cost. Hewlett confirmed she would get the numbers to the board and that the postage amount the board was requesting may be hard to determine. Hewlett asked for an approximate number on
how many licensees were mailed for the regulation notification. Silveira asked if the
expenses incurred while working on the SB74 regulations would be taken out of the
board budget since it was mandated by the legislature. Hovenden confirmed all
expenses would be paid for by each of the programs that worked on the SB74
regulations.

The board had no further questions and thanked Hewlett and Hovenden for their
time. Hovenden and Hewlett left.

**Agenda item 5-Investigations**

Jasmin Bautista and Angela Birt, Chief Investigator appeared for the investigative
report. Wells introduced Jasmin Bautista and Bautista suggested the board go into
Executive Session.

On a motion duly made by Walden, seconded by Scheller, 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 general open and pending cases.**

Staff to remain

Off record at 9:39 a.m.

On record at 10:09 a.m.

Break at 10:09 a.m.

Back at 10:20 a.m.

**Agenda Item 6 – Old/New Business**

The board discussed the Annual Report. It was decided that Walden and Ross would
work on the Goals/ Objectives and Proposed Changes, The examiner would do the
budget recommendation and Wells would once again do the Narrative Statement.

Nielson discussed Radiology requirements and getting Radiology up and running.

The board discussed a regulation project for Radiology inspection changes and
updates. Nielson and Silveira would work on the project. Scheller was in support of
that project.
On a motion duly made by Nielson, seconded by Ross, and approved unanimously, it was

RESOLVED to begin a radiology regulation project to get radiology inspection in line.

The board reviewed a letter from the president of Alaska Dental Society regarding the sedation regulation project.

Wells responded to the letter and a majority of the complaints and comments stating that this project had been underway for over four years. So, the accusations that the regulations were a knee-jerk operation because of the deaths in Hawaii and Texas were not valid. Those deaths occurred after this project had started. Department of Law had held the project up for over a year before it was released. This project had been discussed at meetings for at least two years. Most of the wording in the regulations comes from other states, that they were not made up by the board or a particular board member, the board had taken input from those that had attended board meetings and that currently, the boards sedation permits were very generic for having a permit for IV sedation without much documentation.

Some states had as many as seven permits; from nitrous oxide and different combinations. Even the ADA had discussed making regulations based upon the person’s level of sedation and how to manage it. Alaska was trying to conform to what was going on in other places and hold people accountable for what they did, mishaps, or self-reporting. Without regulations, there was not much action to regulate what was going on. Some people said there were no incidences here. Yes, there were incidences, but the board could not do anything without regulations in place. Some people complained there were only 30 days to respond. Wells stated that the board only had four days to respond; to 123 pages. Dr. Wells assured everyone that the board would take the input submitted within the 30 day public comment timeline and modify the regulations. Wells confirmed that the 123 pages were public record. The examiner would have the comments put up on the dental board website as soon as possible.

Wells continued that if the board opened up for public comment, that the board would need to extend the public comment period and delay the regulation project again, probably another two years. With the 123 pages of comments, there was a lot of good public comment to work with. Wells reiterated that modification and changes could be made within the scope of public comment only. Wells stated that the regulations could be modified as needed later.
Nielsen stated that perception was reality and the perception was that the
regulations were sprung on people. Nielsen suggested that the board send letters to
everyone on why they were doing the project and thank everybody that had input.
That the board reassure licensees that the board was using submitted input to
tweak and modify the regulations. The board agreed that the modifications made
should be done with the board face to face and not via teleconference. Scheller
stated that he and Walden had compiled a majority of this information. Scheller had
looked at many other states and that these regulations were much simpler and a lot
less restrictive than many other states. Scheller continued that the board’s job was
to protect the public. The regulations as they stand do not protect the public. As
Wells stated, regulations can be changed if the board found the regulations weren’t
working properly but the board needed to do something about this. Scheller stated
the board had been working on these regulations four years ago when he first
started as a member. Walden added the board is aware there was frustration with
the board not taking public testimony but that the room would be full of emotion
rather than writing out what needed to be said. She continued that there was a lot
of emotion written in the comments as is.

It was agreed that the board would determine a date and time for a teleconference
or discuss the changes and perhaps adopt at the next board meeting. Nielsen
suggested that once any changes were made that the regulations would go back out
for 30 days for public comment. Not necessarily oral testimony but written
comment again.

The board agreed that another meeting to discuss the modification and changes to
the regulations was necessary. The examiner shared concern about travel. Dates
for an additional meeting were discussed. It was determined that the board
members would review public comments, modify the regulations and send to the
examiner. The examiner would send to Walden and Scheller who would make the
revisions and disperse to the board. A meeting date would be scheduled after that.
The board members that could make it to Anchorage would be there for a face to
face. Members that could not make it would call in via teleconference.

Once the board makes the modifications the board would discuss whether to put out
for public comment again.

On a motion duly made by Nielsen, seconded by Kovaleski, and approved
unanimously, it was
RESOLVED to approve Scheller and Walden to act as a review committee with submission from the board to look at all input received from the public comments regarding the proposed regulations and modify as necessary. All input from the board members must be received by July 8, 2016.

Scheller discussed NPDB and the option of continuous reporting. The board would enroll each licensee and if that dentist had anything, NPDB would automatically report to the board. Scheller stated the NPDB continuous reporting would be $3.00 per year, per Doctor.

Scheller continued the State of Oregon had already been running the continuous reporting. Nielson would contact Patty, from the Oregon Board to see if they considered the report to be a valuable thing. The board would like to know if OR felt the report was a benefit. The board asked if Logan from the ADS had an opinion. Logan stated the ADS would endorse anything to pull bad actors out of the dental profession. Scheller suggested raising the licensing fees by $3.00 to cover the fees associated with the continuous report. Nielson reiterated that he would contact Patty and report what he found at the next board meeting. It was then determined that Kovaleski would contact Patty rather than Nielson.

**Agenda Item 7 – Public Comment**

A licensee that did not state his name for the record stated he had come to the meeting to give comment and was disappointed and discouraged that the board was not willing to hear what he had to say. Scheller asked if he had written in for public comment. The licensee stated he had. Scheller assured him that his comment would be reviewed. Nielson stated that the board should listen to the perception of the licensees and that although it was made clear there would be no oral testimony that he hoped the board would learn something from all of this and that maybe next time the board would think about it. Meaning, once the modifications were made the board would consider oral testimony.

Nielson continued that by not taking public testimony it appeared that the board was conducting board activities under closed doors. It was not the kind of perception he wanted.

Wells stated the regulation project had been on the website in minutes and the agenda “right there” for everyone to see. That the project had been on the agenda for over two years. There had been nothing secret about it. Nielson agreed it had
been in the ADS newsletter, Logan put it out daily on the ADS website and people
still didn’t see it. Walden stated that this was the only way people realized that the
board was going to do something. She continued that the project was still not over.
Nielson reiterated that the perception was that the board had done this project
under closed doors. Silveira stated that all the meetings for the past two years had
been attended by at least as many people as were there today and they had input
into the sedation project. Kovaleski added that many of the people in attendance at
the meeting today had input into the project.

Frank Thomas-Mears stated he was a public member and not regulated by the
dental board, although he wished that the Division of Insurance was as open as the
dental board was. He continued that he was highly regulated and can go to jail if he
did not follow those regulations and was just given the regulations without a chance
to comment at all. He continued that his question was what was the difference
between testimony and comment and respectfully asking as a member of the public.
Neilson stated any testimony regarding how they wanted things changed was
testimony but comment about not liking how the board was not taking testimony
that was comment. Wells stated testimony is specific; comment is just that –
comment. Walden clarified that the regulations were a draft that had taken the
board years to develop and they were not being implemented at that point in time.
Mears stated that the public was asking, “If that is what I need to live with, give us
time to live with it”. Wells stated it was not regulations until the Lt Governor signed
them, which could be a year down the road. Mears also stated that although the
board had been very open with the regulations the perception was that the board
was springing the regulations on the licensees. Scheller stated if the public and
licensees were concerned about what the board was doing than they needed to look
at the minutes, they were on the website. This project had been in the minutes and
on the website for three and a half years.

Dave Logan from the Alaska Dental Society asked that the board re-introduce the
modified version of the proposed regulations for public comment. Seeing the
outpour and the regulations being 38 pages, Logan felt it is worth a second pass
through. Logan appreciated the four years of work the board had put into the
regulations, however, in the interest of the process, it was better to get it right than
get it fast. Also, that the ADA would be re-visiting sedation regulations again at
National in October and may come out with recommendations the board would
want to incorporate, as well.

Switching gears, Logan stated that the ADS had sent a letter to the board requesting
that the board consider other licensing options for licensure by examination other
than WREB. Scheller asked what the position of the ADS was on that. Logan stated
that increased licensure options are in the best interest of both license holders and
the public.

Moriarty stated the board had already discussed other exams and would be looking
into more next year when the sedation regulations were settled. Walden continued
that the board decided not to make any changes until the board could evaluate all
the exams. Kovaleski stated the problem he saw was if the board went to another
testing agency that board members would need to be on the committee and exams
and that was very time consuming. A majority of the board members were part of
WREB and that took approximately 25 to 30 weekends a year. Logan stated that
may not be necessary since the board already accepts candidates with other
regional exams through licensure by credential. Logan asked that the board look
into other states and other regions of the country and ask if dentistry was a lot
different? Are there problems within those dental communities that accept other
regional exams?

Nielson reiterated that the board would be looking at other exams next year.

Nielson discussed amalgam restoration. The ADA had confirmed that amalgam was
a very viable restoration, especially in the public health arena. If a testing agency
doesn’t test for it and dental schools aren’t teaching it, it is something that was just
going to go away. Nielson felt it was a good skill for dentists to have. Nielson asked
as a state if it was appropriate to ask our licensees to know amalgam. If the board
were to require amalgam, it would fall under 28.949 (a). It was agreed by the
board not to start another regulation project to ask for amalgam until the sedation
regulations were done. The board would revisit this option at the December
meeting.

Nielson discussed self-reporting. Nielson talked with the Providence hospital who
stated they could report ER visits for sedation issues like they do for dog bites.
Nielson spoke with Providence and Walden had contacted Mat-Su Valley Hospital.
Walden stated they logged everything but data sharing with the board is an issue.
Reports would not include any HIPPA information. When Nielson spoke with
Providence, they told him a kid had come in unresponsive a couple of weeks ago
from a dental office from 14 mg of Versed. Under current regulations the office the
kid had come from did not have to report. It was discussed that the forms to be
completed by ER would be generic information.

The board discussed the holes in the current sedation regulations. Nielson
suggested the licensees sign affidavits stating during renewal there had been no
incidences that would require mandatory reporting. Scheller stated he thought that it would have to be under statute so the hospitals could add to their bi-laws. The board agreed and Nielson would research further.

Logan stated if the board was interested in reaching out, ADS would be willing to take it to ASHNA, hospital association to work together to present to the legislature. Walden suggested the board invite ASHNA to a board meeting.

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

RESOLVED to send a representative to work with the ADS to research the best course of action to implement a hospital admission report of a sedation complication that arose from a dental office.

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

RESOLVED that Dr. David Nielson be the spokesperson representative for the Board of Dental Examiners regarding hospital reporting.

Dr. Jay Marley, Jr. asked that in the future the board consider using a committee that represented the licensees that the regulations would affect. He continued, it shouldn’t be a room of oral surgeons and an anesthesiologist making regulations the rest of the community had to deal with. That going forward the public comment period included oral testimony and if there was a line going down the hall that board needed to take the time to listen.

Silveira stated that was not the case. The board did not have anyone in the meetings dictating what they were going to do. They had a general dentist, pediatric dentists; they had a lot of people in the meetings. Scheller added it was discussed openly for years. Scheller continued if he was concerned about what the board does, to look at what the board does. Look at the board minutes and meetings and agendas. Silveira stated that meetings are open to the public, if he were to go back and look at the minutes; he would see what was going on and how far back the regulations had been discussed. Silveira stated that the board is taking all of the comments very seriously. Another licensee wanted to be on the record as agreeing with Jay.

Moriarty stated it didn’t matter how much the board had put it out there, there was always someone who was going to say “I didn’t know”. The board had it online, the
ADS had reported it in newsletters, at some point, those that weren’t paying attention need to own it. What they need to say is, “I didn’t pay attention.” Scheller added that if they’re concerned in what the board was doing, then be concerned. The minutes were online for the public.

The board assured Dr. Marley and other licensees in attendance that the board would review and consider each comment submitted.

The board assured Dr. Marley and other licensees in attendance that the board would review and consider each comment submitted.

Off the record 11:56 a.m.
On the record 1:05 p.m.

**Agenda Item 8 – Personal Interviews for Applicants by Credentials**

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

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

RESOLVED to approve the application for a dental license for Dr. Michael Holm.

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

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

RESOLVED to approve the application for a dental license for Dr. Sara Nazeri.

The board asked Nazeri about the difference between the NERB and WREB. Nazeri discussed the differences between the two exams.

**Agenda Item 10 –Miscellaneous Correspondence**

Wells discussed the letter from the ADEA requesting accepting national exams. The board agreed they would invite representatives from each exam to present and let
the board know what they do. Neilson stated the Dental Board should just take all exams since the legislature would make the board take all exams eventually anyway. It was discussed that the dental board would give each national exam board 15 minutes of presentation with 15 minutes of the board asking questions. The board would like to invite two exams in December and two in March. Maximum amount of time would be half an hour to present and follow up with board questions. The board would work on questions to ask. The examiner would extend invitations to each national board to attend a dental board meeting to present what they have to offer. The board has not determined a March BODE meeting as of yet, so an “estimated” date would be given.

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

RESOLVED to invite 2 national examining boards to attend December 2016 and 3 in of March 2017 BODE meeting for interviews and to present what their national exams have to offer.

The board discussed an email from a new grad student asking if the board could wave the WREB for him since he was taking another national exam. The examiner had already explained that the board was bound by regulation, however, presented to the board as requested by the grad student. The board verified there was nothing they could do. The grad student would need to take the WREB at this point in time. Scheller stated that AADB meeting had a lot of good information for the board and felt someone should attend. Scheller stated he would be interested in attending. Scheller stated if the board would like to select a member to attend that he felt sending a representative would be a good idea since no one had attended since Warren. Nielson stated he would like to attend the meeting since he would be in Denver on October 20, anyway. The examiner would forward the information to Nielson about the meeting. Scheller stated last time he went, AADB could not pay for the meeting, so the state needed to cover it.

The Annual Report was discussed again. Walden and Ross would work on assigned sections of the report. The examiner reminded the board to include an allotment for travel in the budget section of the report.

The board members that were supposed to receive a stipend stated they had not received any since being members. The examiner stated they should let travel know.
The board reviewed the letter from the military dentist requesting that board accept NERB. The board reiterated that they would be interviewing other national boards next year.

Walden and Ross would begin completing their section of the Annual Report. Wells would work on the narrative. The examiner would work on identity of staff and travel budget. Once Walden and Ross complete their section of the Annual Report, the examiner will forward to the rest of the board members for review.

Scheller requested that the board discuss and review the sedation regulations, so he could get a head start on them. The board agreed and discussed sedation regulations.

**Agenda item 11- Office Business**

Wall certificates were signed and would be sent along with travel to the examiner. Moriarty would sign for Chaney.

Meeting adjourned 4:00 p.m.

Respectfully submitted:

[Signature]

Stacia Erkenbracht
Licensing Examiner

Approved:

[Signature]

Thomas Wells, DDS, President

Date: Sept 23, 2016