

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY AND
3 ECONOMIC DEVELOPMENT
4 DIVISION OF CORPORATIONS,
5 BUSINESS & PROFESSIONAL LICENSING
6 BOARD OF DENTAL EXAMINERS
7

8 MINUTES OF MEETING
9 December 8, 2017
10

11
12 By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the
13 provisions of Article 6 of AS 44.62, a meeting of the Board of Dental Examiners was
14 held December 8, 2017.
15

16 The meeting was called to order by Dr. Thomas Wells, Acting President, at 8:33 a.m.
17

18 Roll Call
19

20 Those present, constituting a quorum of the board, were:
21

22 Dr. Thomas Wells – Anchorage
23 Dr. David Nielson – Anchorage
24 Ms. Paula Ross – Anchorage
25 Dr. Thomas Kovaleski – Chugiak
26 Ms. Gail Walden, Secretary – Wasilla
27 Dr. Steven Scheller – Fairbanks
28 Ms. Robin Wahto – Anchorage
29 Dr. Michael Moriarty – Seward
30

31 Flight delayed, joined meeting at 11:45 a.m.:
32

33 Dr. Paul Silveira, President – Valdez
34

35 In attendance from the Division of Corporations, Business & Professional
36 Licensing, Department of Commerce, Community and Economic Development
37 were:
38

39 Mr. Jedediah A. Smith, Licensing Examiner – Juneau
40 Ms. Jasmin Bautista, Investigator – Anchorage
41 Mr. Alvin Kennedy, Senior Investigator – Anchorage
42 Ms. Sara Chambers, Deputy Director – Juneau
43 Ms. Sher Zinn, Licensing and Records Supervisor – Juneau
44 (Teleconference)
45 Ms. Megyn Greider, Assistant Attorney General - Anchorage
46

47 Members of the public in attendance:
48

49 Dr. David Logan, Dentist – Anchorage
50 Dr. Kenly Michaud, Dentist – Anchorage
51 Ms. Amanda Lyon, Dental Hygienist - Anchorage
52 Mr. Justin Beagley, Dental Hygienist – Monte Vista, CO
53

54 **Agenda Item 1 – Review of Agenda**
55

56 Dr. Wells asked the board if they had any matter that they would like to add to
57 the agenda. Dr. Nielson requested that he give the board an update on the AADB
58 meeting that he attended in October.
59

60 **Agenda Item 2 – Review/Approve Minutes**
61

62 Ms. Walden requested that a minor correction be made to line 116: change
63 “excessively” to “excessive”.
64

65 **On a motion duly made by Nielson, seconded by Ross, and approved**
66 **unanimously, it was**
67

68 **RESOLVED to approve the minutes of the August 18, 2017 teleconference**
69 **with the edit requested by Ms. Walden.**
70

71 **Agenda Item 3 – Ethics Report**
72

73 There were no ethics violations to report.
74

75 **Agenda Item 4 – Public Comment**
76

77 No members of the public had any comment, however, Dr. David Logan wished
78 to present the draft for a legislative action to establish a temporary or locum tenens type
79 license. The Board had previously voted to support the ADS in this effort to pass new
80 legislation. Dr. Logan provided the board with examples of the draft bill and informed the
81 board that a senator had made a commitment to present the bill to the Senate and then
82 the House. In Dr. Logan’s opinion, the biggest challenge of the bill will be getting
83 enough committee time. It is his hope that the bill can be passed in this session, but if it
84 is not, it can be reintroduced next year.
85

86 The board was ahead of schedule and Dr. Kovaleski asked if he could bring the
87 board up to date on the circumstances regarding the departure of Angela Birt from the
88 position of Chief Investigator with the Division of Investigations. He read to the board a
89 series of texts from her indicating that she left her position due to some complaints that
90 she was working her employees too hard. Apparently, she felt that the performance of
91 some employees under her supervision was below standard, but that she could not
92 encourage them to perform at a higher level. The board continued discussion of the

93 investigative process and how a backlog of investigations can damage the reputation
94 and function of a Board.

95
96 The board was still well ahead of schedule and decided to deviate to Agenda
97 Item 7 and discuss the Sedation Regulations. Mr. Smith brought to the board's attention
98 that a portion could be shortened by rephrasing 12 AAC 28.010(e) to read "In addition to
99 meeting the requirements of (b) of this section, **on or after March 1, 2019...**" and
100 removing (f) of that section. The same change could be made to 12 AAC 28.015(h) "In
101 addition to meeting the requirements of (d) of this section, **on or after March 1, 2019...**"
102 and removing 12 AAC 28.015(i)(2). The board also noted that the 12 AAC 28.015(i)
103 should read "A dentist who holds a permit for parenteral sedation that the board issued
104 before (effective date of regulations)"

105
106 Ms. Jasmin Bautista and Mr. Alvin Kennedy joined the meeting at 9:10 a.m.

107
108 **Agenda Item 5 – Investigative Report**

109
110 Ms. Jasmin Bautista gave the investigative report, informing the board of the
111 number of cases opened (11), number of cases closed (11), and total number of open
112 cases (23). Ms. Bautista answered some technical and procedural questions about the
113 investigative process.

114 Dr. Scheller asked how board members are selected for case review. Ms.
115 Bautista informed him that it is essentially random, but that the selection is weighted
116 towards board members who have reviewed similar cases, and who respond in a timely
117 fashion.

118 Dr. Wells asked about licensees that are placed on probation and how long they
119 remain in that status. Ms. Bautista explained that in order to comply with the
120 requirements of the probation, the licensee must be in the state and maintaining an
121 active license. If the licensee is not in the state, or has a lapsed or expired license, the
122 probation is effectively "paused" and would resume upon the licensee reentering the
123 state or renewing their license. For example, a licensee that is placed on a two year
124 probation, completed one year of said probation, then left the state for two years would
125 still have a year of probation to complete when they returned to Alaska.

126 Dr. Nielson stated that some additional effort be made to include board members
127 who are not frequently utilized to review investigative case files. From the perspective
128 of the public, it will reflect better on the board to have a wider variety of members
129 involved in investigative processes.

130 Dr. Nielson also asked about the volume of cases being processed and how, if
131 need be, the process could be accelerated.

132 Mr. Kennedy interjected and stated that it would be the responsibility of the
133 supervisor (in this case, himself) to provide that motivation. He also explained that
134 sometimes, investigative procedures can take longer because the investigator is
135 awaiting conclusion of criminal proceedings. Frequently, the judgement on a criminal
136 case will result in revocation or surrender of a license, and that punishment resulting
137 from a criminal proceeding needs to be considered by the investigator.

138 Dr. Nielson asked about the standard length of time needed for a case. Mr.
139 Kennedy stated that SOP is 180 days for an investigative procedure.

140
141 **Agenda Item 6 – Update on Smile Direct Club Letter**

142
143 Ms. Greider arrived at 9:40. First, she informed the board that she had been
144 assigned to represent the division, and had brought contact information for her
145 supervisor who could assign council to advise the board on any particular action. She
146 began her report on the motion the board made at the August 18, 2017 meeting to issue
147 a Cease and Desist Letter to Smile Direct Club. Ms. Greider discussed with the board
148 the minutia of the situation and detailed the political issues inherent to matters such as
149 this that cross state borders. She explained the need for additional evidence of any
150 wrongdoing on the part of Smile Direct Club and requested on behalf of the Division that
151 the board withdraw the motion for a Cease and Desist Letter. By eliminating any
152 ongoing action, this will clear the way for the Department of Law and the Division of
153 Investigations to continue researching Smile Direct Club and prevent the Board from
154 overstepping their authority as a regulatory body.

155 Ms. Greider requested that the board encourage any members of the public who
156 have complaints about Smile Direct Club to contact the investigations section. She also
157 explained that a potential political issue of this matter is that Smile Direct Club is offering
158 a service that is considerably cheaper and is easier to access for isolated populations.
159 To refuse this service to the public could potentially have a negative impact in terms of
160 access to care. This needs to be balanced by the necessity for consumer protection
161 and the possibility that this form of procedure could, if done improperly, cause
162 irreparable harm to individual patients.

163 Ms. Greider wanted to assure the board that their concerns are being taken very
164 seriously and that updates on the investigation will be given at future meetings.

165
166 **On a motion duly made by Nielson, seconded by Scheller and approved**
167 **unanimously, it was**

168
169 **RESOLVED to withdraw the motion requesting the Division of**
170 **Corporations, Business and Professional Licensing to issue a Cease and Desist**
171 **Letter to Smile Direct Club.**

172
173 Dr. Nielson wanted to take advantage of Ms. Greider's presence by asking a
174 question about bringing back the recognition of specialty licenses into the dental
175 practice act. The initial process would need to begin with statute, and find a friendly
176 legislator to draft a bill to give the board authority to maintain specialty licenses.

177 Dr. Logan, a former member of the board, explained how the original specialty
178 license recognition was removed from the Dental Practice act, primarily because the
179 Dental board at that time did not provide any opposition against the bill that saw that
180 removal.

181
182 Ms. Greider left the meeting at 10:45 a.m.

183 **On a motion duly made by Nielson, seconded by Scheller, and approved**
184 **unanimously, it was**
185

186 **RESOLVED to form a subcommittee to review current statute and develop a**
187 **list of necessary statutory changes and possibly add statutory authority. The**
188 **committee is to be formed of two board members, to be assigned by the**
189 **president, two members of the ADS, and two members of the ADHA, to be**
190 **assigned by their respective Societies.**
191

192 **Agenda Item 7 – Pending Sedation Regulations**
193

194 **12 AAC 28.010(e) “In addition to meeting the requirements of (b) of this section, on or**
195 **after March 1, 2019...” and removing (f) of that section.**
196

197 **12 AAC 28.010(e)(4) “Complete at least 50 general anesthesia or deep sedation cases**
198 **each biennial licensing period.” The board stated, and verified by way of Dr. Kenly**
199 **Michaud, a practicing dentist and member of the public who holds a General Anesthesia**
200 **Permit, that holders of permits such as this typically complete hundreds of cases per**
201 **year, and that this is not an onerous requirement.**
202

203 **12 AAC 28.015(h) “In addition to meeting the requirements of (d) of this section, on or**
204 **after March 1, 2019...” and removing 12 AAC 28.015(i)(2).**
205

206 **12 AAC 28.015(i) “A dentist who holds a permit for parenteral sedation that the board**
207 **issued before (effective date of regulations)”**
208

209 **12 AAC 28.010(b)(7) “submit applicable fees specified in 12 AAC 02.190”**
210

211 **12 AAC 28.015(d)(7) “submit applicable fees specified in 12 AAC 02.190”**
212

213 **12 AAC 28.030(b) “The dentist shall provide the written agreement to the board.”**
214 **(Replacing the last sentence)**
215

216 The board stated on record that an applicant for a nitrous oxide permit will have to pay
217 the application and permit fees.
218

219 **On a motion duly made by Nielson, seconded by Kovalski, and approved**
220 **unanimously, it was**
221

222 **RESOLVED to re-adopt amended sedation regulations, including the edits**
223 **discussed above.**
224

225 The board requested a brief break.
226

227 Off record at 11:15 a.m.

228 Back on record at 11:25

229 **Agenda Item 8 – Division/Fiscal Update**

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Ms. Sara Chambers presented her fiscal report to the board. The report included the first quarter of FY '18, as well as the last quarter of FY '17. Ms. Chambers answered questions for the board regarding the allocation of expenses and how decisions regarding the disbursement of finances are made and who makes them.

Dr. Paul Silveira joined the meeting at 11:45 a.m.

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

RESOLVED to support the bill drafted by the ADS on temporary licensure for Dentists in Alaska.

Ms. Chambers requested that the board write a letter outlining the benefits of this bill and why the board believes that it would be a boon for the state.

Ms. Amanda Lyon, a Dental Hygienist and member of the public was present, and wished to ask a question of the board before they took a break for lunch. She wanted to know if a Dentist who holds an active DEA number would need to register with the PDMP, even if he does not issue prescriptions. The board and staff responded by informing her that any dentist who holds a DEA would need to register.

The board broke for lunch at 12:02 p.m.
Back on record at 1:12 p.m.

As requested by Dr. Nielson, he gave a brief report on his attendance of the AADB meeting. He informed the board that the AADB had placed him on a council that would review the new ADA exam that was being developed. He updated the board on the general components of the exam, specifically that there would be no "live patient" portion of the exam. He will be going to Chicago in January to engage in discussion about the future of that exam. Dr. Nielson also discussed how multiple organizations have had lawsuits brought against them to force them to recognize specialties, and how this could affect the board. Inspection of sedation facilities was another topic he discussed, specifically how other states performed the inspections and how they were funded.

As per the earlier motion by Dr. Nielson (see line 184), Dr. Silveira requested volunteers for the subcommittee that would review statute and develop a list of possible statutory changes and explore the possibility of adding authority. After some discussion, Dr. Nielson and Ms. Walden volunteered. The ADS and ADHS will select two members each for the subcommittee.

275 **Agenda Item 10 – Old/New Business**

276
277 Mr. Smith presented to the board a series of questions submitted from licensees that
278 statute and regulation do not specifically address.

279
280 The first question was about the use of Silver Diamine Fluoride by Dental Hygienists.
281 The board stated that the use of SDF by Hygienists is acceptable, provided that the
282 patient is made fully aware of the side effects. The use of this agent falls under statute
283 08.32.110(1)(f), and requires only General Supervision of a licensed dentist. Dr.
284 Silveira interjected here to explain to the public that SDF is the new "magic" way of
285 stopping dental decay, which it does very well, but it also turns the affected tooth black,
286 which brings up the importance of informed consent.

287
288 The next question was regarding the use of Lasers by Dental Hygienists. The board
289 discussed this and the answer was somewhat convoluted. To put it briefly, whether the
290 use of lasers by Hygienists is acceptable depends on the procedure that is being
291 performed. For therapeutic or very low impact procedures, it is allowable. For higher
292 level or more invasive procedures, using lasers is not acceptable. To quote the board
293 "Lasers can be used provided that they do not cause irreversible tissue alteration."
294

295 Question number three was regarding the use of Botox by Dental Hygienists. The
296 board had previously stated that the administration of Botox by Hygienists is not
297 acceptable. They reiterated their position that Dental Hygienists cannot administer
298 Botox or any dermal fillers in Alaska.

299
300 The final question posed to the board was regarding In-House tooth whitening by Dental
301 Assistants. The board clarified that Dental Assistants can perform tooth whitening
302 procedures under Indirect Supervision. This procedure would fall under Statute Sec.
303 08.36.346(a)(3).

304
305 The board gave a position statement on the use of Teledentistry. Dr. Kovaleski stated
306 that Dental Hygiene Aide Therapists utilize Teledentistry quite often, albeit in the federal
307 jurisdiction. The size of Alaska, and the accessibility of a good deal of its land mass
308 necessitates utilizing each and every advantage possible. In all, the board is generally
309 in favor of the use of Teledentistry.

310
311 **Agenda Item 9 – PDMP Implementation and CE regulations**

312
313 The board backtracked at this point to discuss the implementation of the PDMP and CE
314 regulations that must now be placed in the Dental Practice Act to comply with that
315 legislation. Mr. Smith explained that the CE requirements must be added or altered in
316 three separate locations to include the necessary components: 12 AAC 28.400, 12 AAC
317 28.940, and 12 AAC 28.951.

318
319 Suggested wording was provided to the board by the division for 12 AAC 28.400 and
320 they were generally in favor of that exact wording. They did want to change the

321 suggested location, by moving it to (a)(3) as opposed to placing it by itself under (b) and
322 re-lettering (b), (c), and (d) to (c), (d), and (e), respectively.

323

324 **On a motion duly made by Walden, seconded by Kovaleski, and approved**
325 **unanimously, it was**

326

327 **RESOLVED to place into regulation the following wording:**

328 **12 AAC 28.400(a)(3) A dentist who holds a DEA registration must complete no**
329 **less than 2 hours of continuing education in pain management, opioid use and**
330 **addiction during the concluding licensing period and may be counted toward the**
331 **total number of hours required by this section.**

332

333 The board reverted to discussing Item number 10 and clarified that the motion made at
334 the previous meeting to include the words "or equivalent" with regards to the
335 acceptance of the WREB examination as a qualification for licensure was the intent of
336 the board. The goal is to expand the accepted examinations but not lose any individual
337 requirements of those exams. The board wished to amend the motion to include an
338 additional criteria. The wording of 12 AAC 28.940(b)(8)(A) should now read:

339

340 "the examinations must include the following subject areas and their components and
341 characteristics:

342

343 i. Standardization and calibration of the examiners and anonymity between
344 candidates and grading examiners.

344

345 ii. Patient based periodontics testing;

346

347 iii. Constructive response testing that includes treatment planning;

348

349 iv. Endodontics Testing;

350

351 v. Prosthetics Testing;

352

353 vi. Patient based operative examination exam that includes one posterior alloy
354 and one composite procedure, either anterior or posterior."

355

356 **Agenda Item 11 – Applicant Interviews**

357

358 Ms. Jasmin Bautista joined the meeting at 2:20.

359

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

362

363 **RESOLVED to go into executive session in accordance with the provisions**
364 **of AS 44.62.310(c)(2)(3) for the purpose of discussing applications for**
365 **licensure.**

366

367 Board staff to remain.

368

369 Off record at 2:20 p.m.

370

371 Back on record at 2:55 p.m.

372

367 The board called Dr. Edward Dove and performed the interview.

368

369 The board called Dr. Poonam Rai and performed the interview.

370

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

373

374 **RESOLVED to approve Dr. Poonam Rai for Dental Licensure by Credentials**

375

376 The board called Dr. Stephen Tullis and performed the interview.

377

378 **On a motion duly made by Ross, seconded by Kovaleski, and approved**
379 **unanimously, it was**

380

381 **RESOLVED to approve Dr. Stephen Tullis for Dental Licensure by**
382 **Credentials**

383

384 The board reviewed the Dental Assistant Restorative Functions Application for Ms. Kelly
385 Heavener. Mr. Smith explained how her application had progressed and what would be
386 necessary for the application to be considered complete. The board stated that if Ms.
387 Heavener could show successful completion of the WREB restorative exam that she
388 would qualify for licensure. The board advised that once the certificate was received,
389 that the application could be mail balloted again, thus declined to make a vote at that
390 time.

391

392 The board reviewed the Dental Hygiene Licensure by Credentials application for Mr.
393 Justin Beagley. Mr. Beagley was present at the meeting and wished to present his case
394 and explain his history to the board. Mr. Beagley answered all of the board's questions,
395 and volunteered to submit status reports to the board of his own volition. This was not
396 something required by the board, or even something that they could request, but Mr.
397 Beagley wished very much to prove beyond any doubt that he is professional and
398 competent in his field and to reassure the board of his trustworthiness.

399

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

402

403 **RESOLVED to enter executive session in accordance with the provisions of**
404 **AS 44.62.310(c)(2)(3) for the purpose of discussing applications for**
405 **licensure.**

406

407 Board staff to remain.

408

409 Off record at 3:42 p.m.

410 Back on record at 3:50 p.m.

411

412 On a motion duly made by Scheller, seconded by Kovaleski, and approve
413 unanimously, it was

414
415 **RESOLVED to approve Justin Beagley for Dental Hygiene Licensure by**
416 **Credentials.**

417
418 On a motion duly made by Neilson, seconded by Scheller, and approved
419 unanimously, it was

420
421 **RESOLVED to approve Dr. Edward Dove for Dental Licensure by**
422 **Credentials.**

423
424 **Agenda Item 12 – Continuing Education Course Applications for Review**

425
426 The board had only a single Continuing Education Course Application to review, which
427 had been tabled by Ms. Walden due to a questionable piece of wording in the course
428 outline. In her opinion as a Hygienist, the tools utilized by dental assistants during
429 coronal polishing procedures is referred to as “armamentarium” not “instrumentation” as
430 listed in the outline. The board discussed this briefly with the course provider, Dr. Dallin
431 Young, via teleconference and he agreed to provide an updated outline as per the
432 board’s wishes. The application would then be voted on again by Mail Ballot.

433
434 The board reviewed correspondence that had been sent to the board for review. This
435 included a letter from a Dr. Nelson Henry requesting leniency in the licensure process.
436 Mr. Smith informed the board of all he knew regarding the letter and other
437 correspondence with Dr. Henry. The board stated that any official review of his
438 credentials would need to be provided by application and reviewed by standard
439 procedure. Another letter from a potential applicant was reviewed, requesting that the
440 board look into accepting additional regional exams.

441
442 **Agenda Item 13 – Office Business**

443
444 Dr. Silveira signed the August 18, 2017 Board meeting minutes and wall certificates.
445 Ms. Walden also signed the wall certificates.


446
447 Tasks for Board staff to complete:

- 448
449 1.) Ensure that Board Roster is updated and complete.
450 2.) Complete Fine and Penalty Matrix.
451 3.) NPDB Continuous Query project.
452 4.) Clarify on website who can file a complaint and how the investigative process
453 works.
454 5.) Contact other State Dental boards and acquire information about inspection of
455 Dental Sedation Facilities (i.e. costs, frequency, standards, and inspectors).

456
457 The board adjourned the meeting at 4:25 p.m.

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Respectfully Submitted:


Jedediah Smith
Occupational Licensing Examiner

Approved:


Paul Silveira, DMD, President

Date: 2/16/18