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

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**MINUTES OF TELECONFERENCE
333 WILLOUGHBY AVENUE, 9TH FLOOR
JUNEAU, ALASKA
JANUARY 21, 2014**

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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 teleconference meeting of the Board of Dental Examiners was held January 21, 2014. Site for the teleconference was 333 Willoughby Avenue, 9th Floor Operation Manager's Office, Juneau, AK 99801.

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The meeting was called to order by Dr. Thomas Wells at 1:01 p.m.

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Roll Call

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

Dr. Thomas Wells, President – Mexico
Dr. Paul Silveira – Valdez
Dr. Thomas Kovaleski - Chugiak
Cheryl Fellenberg – Wasilla
Dr. Mary Anne Navitsky – Sitka
Dr. Robert Warren - Anchorage

Absent and excused:

Dr. Steven Scheller – Fairbanks
Robyn Chaney – Dillingham
Gail Walden – Wasilla

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

Greg Silvey, Attorney, Anchorage
Susan Winton, Investigator – Anchorage
Debbie Kunow, Licensing Examiner, Juneau

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53 In attendance representing Dr. David Nelson:

54

55 John Tiemessen, Attorney - Anchorage

56

57 **Agenda Item 1 – Investigative Review**

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59 Dr. Wells requested the Board motion for executive session.

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61 **On a motion duly made by Fellenberg, seconded by Navitsky, and approved by roll**
62 **call vote, it was**

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64 **RESOLVED to go into executive session in accordance with AS**
65 **44.62.310(c)(2), for the purpose of discussing case numbers 2010-001091,**
66 **2012-000779, and 2013-000748.**

67

68 Roll call- Navitsky, yea- Silveira, yea- Fellenberg, yea- Kovaleski, yea- Warren, yea-
69 Wells- yea -6 yeas, 0 nays- motion passed.

70

71 Board staff to remain.

72

73 Before the Board entered executive session, Mr. Tiemessen advised Dr. Nelson had
74 waived his right to privacy and asked that the matter be heard in open session.

75 Ms. Winton advised once the Board would go into executive session that, unlike other
76 meetings where the Board went into executive session to discuss discipline and staff
77 remains, that because litigation had been filed in this matter and to avoid any exparte
78 communication or the appearance of exparte communication, Counsel for the Division,
79 Greg Silvey, and Investigator Winton would log off as well.

80

81 Dr. Wells asked if the Board's investigator, Angela Birt, was present. Ms. Winton
82 advised she was filling in for Ms. Birt and the investigator would not be able to go into
83 executive session with the Board to avoid any exparte communication because, in this
84 matter, litigation had been filed.

85

86 Dr. Wells asked if litigation had been filed by the patient. Mr. Silvey stated the concern
87 was that there was a pending matter before the Office of Administrative Hearings (OAH),
88 a disciplinary matter. The Board is a decision maker and we cannot have contact about
89 that matter until it is over. Unlike a case where the Board has an investigatory matter but
90 no accusation filed, we won't be talking to the Board in executive session.

91

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97
98 Ms. Winton said she was mistaken to use the term 'litigation' and should have referred to
99 the term 'accusation.'

100 Ms. Winton advised, based on new information the Division received on Friday, she
101 contacted the reviewing Board member and the reviewing Board member wanted to
102 proceed with this teleconference to consider the voluntary surrender. Once the Board
103 goes into executive session, you will lose the investigator, the Division's attorney and
104 Mr. Tiemessen.

105
106 Dr. Wells stated that since the Board called for executive session, they would proceed
107 with that and excuse the others.

108
109 Off the record at 1:06 p.m.

110 On the record at 1:23 p.m.

111
112 Ms. Winton, Mr. Silvey and Mr. Tiemessen rejoined the teleconference at 1:24 p.m.

113
114 Dr. Wells asked for a statement from the attorneys.

115
116 Mr. Silvey stated an accusation was filed. A notice from Dr. Nelson was received stating
117 he was prepared to surrender his license beginning January 2nd and that was the status of
118 things. The matter before OAH would remain pending until the Board takes an action.
119 Once the Board takes action on the surrender, we will know whether to dismiss that
120 action or do something else with it. It was pending a decision by the Board. It was
121 originally scheduled for the next regularly scheduled meeting, but is being taken up now.

122
123 Dr. Warren asked about January 2nd. Mr. Silvey stated January 2nd was the date the
124 voluntary surrender document was signed and then was forwarded to the Division and the
125 Department of Law.

126
127 Dr. Warren told Mr. Tiemessen he was told Dr. Nelson was back in town and working.
128 Mr. Tiemessen stated Dr. Nelson had a number of patients who needed prosthodontic
129 adjustments, final seatings of crowns and bridges, and invisalign. Knowing that the
130 Board was going to meet on February 7th, Dr. Nelson was told he needed to make sure he
131 had everything wrapped up prior to that date. Dr. Nelson scheduled his last patients on
132 January 20, 21 and 22. His plan was that these were the last patients he would see. He
133 would basically be cementing crowns and bridges and doing final invisalign for those
134 treatment plans before he closed up. Dr. Nelson is practicing in Wisconsin now and just
135 came up here for those three days and I think he's planning on heading back to Wisconsin
136 for good on Friday. Tomorrow is the last day he's going to see patients.

137

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144 Dr. Warren recommended that for the patients' benefits, what the Board talked about
145 doing would be effective tomorrow. Dr. Warren asked Mr. Tiemessen if he agreed. Mr.
146 Tiemessen did agree and asked that if the Board was going to accept the surrender, that it
147 be effective at the close of business tomorrow. Mr. Tiemessen said Dr. Nelson advised
148 him there was one patient that he saw today where he was not happy with the way the
149 bridge was fitting. He was going to send that back to the lab and would make
150 arrangements with another provider to do the final fit.

151
152 Dr. Wells asked if Ms. Winton had any discussion on that comment. Ms. Winton had
153 nothing to add.

154 Dr. Warren asked Dr. Wells if a motion was needed. Dr. Wells asked for a motion.

155

156 **On a motion duly made by Warren, seconded by Navitsky, and approved by roll call**
157 **vote, it was**

158

159 **RESOLVED to accept the voluntary license surrender of Dr. David E.**
160 **Nelson, DDS effective end of working day January 22, 2014.**

161

162 Roll call- Navitsky, yea- Silveira, yea- Fellenberg, yea- Kovaleski, yea- Warren, yea-
163 Wells- yea -6 yeas, 0 nays- motion passed.

164

165 Case numbers 2010-001091, 2012-000779, 2013-000748 referred to Dr. David E.
166 Nelson, Alaska license number D-1184.

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168 Dr. Warren said he would sign the adoption order for Dr. Wells since Dr. Wells was
169 currently in Mexico.

170 There being no further business, Dr. Wells adjourned the meeting.

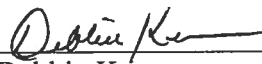
171 Off record at 1:31 p.m.

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Respectfully submitted:

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Debbie Kunow
Licensing Examiner

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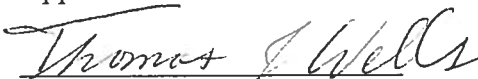
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Approved:

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Thomas Wells, DDS, President
2/7/2014

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