



Board of Dental Examiners Quarterly Meeting

Meeting Minutes – Approved by the board

August 26, 2022

Alaska Division of Corporations, Business and Professional Licensing

1. Call to Order/Roll Call

Members Present: Christina Hansen, Brittany Dschaak, Greg Johnson, Jesse Hronkin, Jonathan Woller, Kenley Michaud, David Nielson

Staff Present: Sara Chambers, Division Director; Terry Ryals, Records and Licensing Supervisor; Patty Burley, Assistant Attorney General; Lisa Sherrell, PDMP Manager and Acting Executive Administrator of the Board of Pharmacy; Erika Prieksat, Senior Investigator; Josh Hardy, Investigator; Alison Osborne and Ashley Carabajal, Licensing Examiners

Members Absent: Dominic Wenzell, Bradley Heaston

2. Declaration of potential conflicts of interest: No members declared any conflicts of interest

3. Review/Approve Agenda

Motion to approve the agenda as presented.

Moved: Greg Johnson, Seconded: Christina Hansen; Unanimously adopted

4. Review/Approve Minutes

Motion to approve the minutes as presented.

Moved: Greg Johnson, Seconded: Brittany Dschaak; Unanimously adopted

Chairman Nielson requested that signed and approved minutes be placed on the web page for all meetings.

5. Investigations

Investigator Josh Hardy provided a written and verbal report regarding the time period since the last meeting. Hardy stated that 25 cases listed were attributed to one dentist, and the total number of individuals under investigation numbered 15. He explained that the case management system will be implemented later this year, which will result in an improved reporting format.

Chair Nielson reviewed the discussion that he, Director Chambers, Chief Francois, Senior Investigator Prieksat, and Investigator Hardy held a couple of weeks earlier. Topics included the written reporting format, method of assigning reviewing board members, and other topics that Inv. Hardy will address further in executive session.

Inv. Hardy presented a PowerPoint on the investigative process for the benefit of the board and the public.

Chair Nielson stated that Dr. Wenzell is leading the effort to craft a disciplinary matrix for the board's use and is not able to attend today's meeting. Inv. Hardy recapped that he is working with Dr. Wenzell to develop a useful draft in concert with the Department of Law for presentation at an upcoming meeting.

Motion to enter executive session under AS 44.62.310(c)(3) to discuss matters which by law, municipal charter, or ordinance are required to be confidential. Staff are requested to attend.

Moved: David Nielson, Seconded: Jesse Hronkin; Unanimously adopted

Off the record at 9:37 a.m.

Motion to exit executive session.

Moved: Greg Johnson, Seconded: Kenley Michaud; Unanimously adopted

On the record at 10:25 a.m.

The board recessed for a brief break at 10:27 a.m. and went back on the record at 10:45 a.m.

Roll call indicated Christina Hansen, Brittany Dschaak, Greg Johnson, Jonathan Woller, Kenley Michaud, David Nielson all present.

6. Public Comment

The board heard public comment:

- Jennifer Simpson, Woodside Dental Group, Anchorage
Registered concerns that the practice is unable to find dental hygienists to work. Licensing process is taking too long, which is affecting patient care.
- Dave Logan, Alaska Dental Society
The ADS wanted to go on record as supporting mannequin-based exams for dental hygienists, especially since UAF program has been dramatically reduced.

Jesse Hronkin rejoined the meeting about 10:55 a.m.

The board also had access to letters received regarding mannequin testing for hygienists.

7. Division Update

Director Sara Chambers delivered the 3rd Quarter Fiscal Report, which is also available on the web site. She walked through HB 265 and provided the division's written guidance on implementation of this new telehealth law that became effective July 14, 2022. The board also discussed staffing concerns and delays regarding hygienists. Drs. Woller and Johnson were tasked by the chair to review the legislative documentation and prepare an analysis and any potential regulations in time to be considered at the next meeting.

8. SB 173 - Review of Draft Regulations

Chair Nielson presented regulations to implement SB 173, which was signed by the governor this summer. The advanced practice dental hygienist and dentist specialty license provisions of the law

become effective January 1, 2023. The dental radiological equipment regulations become effective July 1, 2023, and will be addressed at a future meeting.

Motion to transmit the proposed regulations for advanced practice dental hygienist and specialty license as proposed for drafting and public comment.

Moved: Kenley Michaud, Seconded: Greg Johnson; Unanimously adopted

9. Proposed Emergency Regulation Changes

The board discussed the need to adopt emergency regulations to all ow mannequin-based exams for dental hygienists. There is considerable concern over the current scarcity of live-patient testing available to new hygienists, and the board has received many letters from dentist and hygienist licensees and potential applicants requesting this change. Board member Hansen, a dental hygienist, said she had assisted with an exam and worked with the mannequin and believe this exam is high quality and will be useful and is in favor of these regulations.

Motions as presented below to adopt a finding of an emergency and adopt regulations pertaining to the emergency.

Moved: David Nielson, Seconded: Kenley Michaud; Unanimously adopted

I move that the Board of Dental Examiners finds that an emergency exists under AS 44.62.250 requiring an immediate change to the dental hygienist licensure process and that an emergency regulation change is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

Alaska is currently experiencing an unprecedented shortage of dental hygienists and new applicants for a dental hygiene license are unable to take the necessary exam required by regulations without extreme expense, delay and hardship. The Alaska regulatory requirements require a live-patient exam to obtain a dental hygiene license. Alaska is one of only two states remaining with this requirement. The other 48 states allow substitution of a mannequin exam. Of the 3000 exams given nationwide so far this year, only 95 have given a live-patient option; of all the national sites applying for an exam next quarter, only two are asking for a live-patient or hybrid exam. The testing agencies, due to COVID restrictions and low demand, are either not offering live patient exams or are cancelling these exams without providing a substitute venue. Alaska regulations require a standard that is suddenly not readily available, creating a shortage in dental hygienists, which is impacting public health.

I move to adopt the following emergency regulation changes to allow mannequin-based exams for dental hygienists applying for certification to administer local anesthetic agents under 12 AAC 28.320(a)(4):

*“(4) evidence of having passed the local anesthetic written and patient **or mannequin** based clinical components of the Western Regional Examining Board (WREB) dental hygienist examination or an equivalent examination, within the five years immediately preceding the date of application...”*

I move to adopt the following emergency regulation changes to allow mannequin-based exams for dental hygienists applying by examination under 12 AAC 28.935(b)(7):

“...a copy of the applicant’s certificate of examination showing that the applicant has passed, within the five years immediately preceding the date of application, a patient or mannequin based clinical examination...”

The board recessed for lunch and went off the record at 12:11 p.m.

The board returned from lunch and went back on the record at 1:00 p.m.

Roll call indicated Brittany Dschaak, Greg Johnson, Jonathan Woller, Kenley Michaud, David Nielson all present. Christina Hansen joined at 1:10 p.m.

10. Prescription Drug Monitoring Program (PDMP) Report

PDMP Manager and Acting Executive Administrator for the Board of Pharmacy, Lisa Sherrell, presented a verbal update regarding PDMP staffing, a forthcoming upgrade to the PDMP compliance module, upcoming implementation of statewide integration of the PDMP into provider clinical workflow (EMR) at no cost to the provider, and integration of PDMP registration into licensure as a designation instead of a separate registration. She also revealed the division’s contract with McKinley Group to assess the effectiveness of the PDMP and encouraged board participation, if contacted.

Jesse Hronkin joined at 1:22 p.m.

11. Proposed Regulations to Streamline Licensure

Director Chambers presented the governor’s Administrative Order #335 regarding barriers to licensure. She and Chair Nielson discussed their collaboration on the proposed list that is in the board packet. The board discussed the proposed regulations and statutory changes they wish to pursue, culminating in the following motions:

Motion to approve changes to administrative regulations as presented and attached to these minutes.

Motion: Greg Johnson; Seconded: Kenley Michaud; Unanimously approved

Motion to support the establishment of a board Executive Administrator in the partially exempt service; changing to a voluntary interview process for dental applicants by credential; evaluating the definition of dentistry in AS 08.36.360, particularly in the context of tooth gems and whitening; and the establishment of a temporary license for dentists and dental hygienists and authorize the chair to seek sponsorship of this legislation.

Motion: David Nielson; Seconded: Kenley Michaud; Unanimously approved

Chair Nielson will ask individual board members to help with aspects of this effort and pledged to report back at each subsequent board meeting.

12. Old Business

Chair Nielson invited AAG Patty Burley to present the Department of Law's advice regarding Teeth Gems/Whitening Services, as requested in a memo provided to the board. AAG Burley explained that the board's statutes, specifically AS 08.36.360, did not reserve these cosmetic procedures to licensees of the board. She discussed the U.S. Supreme Court's precedence on this matter and advised the board not to publish their previously adopted letter on the matter.

The board added to the previous legislative motion (Item 11) to clarify the definition of the practice of dentistry. They discussed having a conversation with the Board of Barbers and Hairdressers to articulate their concerns about the risks of negative health outcomes that could occur if people without proper health care training are performing procedures on teeth.

Motion to withdraw the letter previously approved by the board on the issue and invite a member of the Board of Barbers and Hairdressers to come to a Board of Dental Examiners meeting (or vice-versa) to discuss the matter.

Motion: David Nielson, Seconded: Kenley Michaud; Unanimously approved

13. New Business

A. Supreme Court remand ITMO Ness back to the board

Chair Nielson invited AAG Patty Burley to present the Department of Law's request for the board to take action regarding the Alaska Supreme Court's remand of Dr. Ness' matter back to the board. AAG Burley reviewed the documentation provided to the board.

Motion that the board, through the division, immediately notify Dr. Ness that he has 30 days to request an administrative hearing on the board's denial of his request to be relieved of probation, which denial was previously memorialized in correspondence to Dr. Ness dated March 3, 2020, and July 17, 2020.

Motion: Kenley Michaud, Seconded: Greg Johnson; Unanimously approved

B. Update on initial licensing exams

Dr. Nielson mentioned that all regional exams have merged into one national exam. There has also been an increase in scanning/computer-graded exams and eliminating in-person examiners.

C. Review draft of the annual report, edit, and adopt

Dr. Nielson presented a new version of the FY22 Annual Report for board review and approval. The board had approved an earlier draft, which he has updated in this version.

Motion that the board accept the annual report as presented.

Motion: Greg, Seconded: Kenley Michaud; Unanimously approved.

D. Sedation Renewal

Dr. Nielson asked Dr. Michaud to identify sedation renewal form content updates and send them to Supervisor Terry Ryals. The board discussed the conundrum of sedation permit renewals during the

gap period of August 8, 2020, and August 8, 2022, in 12 AAC 28.068. A lack of staff and competition for resources had led to outdated sedation renewal forms and an inability to manage these processes. Fortunately, the gap only affects eight licensees. The board stated that allowing a little extra time to complete the inspections will benefit the licensees, as well as the board and staff.

Motion that the eight sedation inspections that were due August 8, 2022, align with the February renewal, having the effect that the “two-year period” will end February 28, 2023.

Motion: Kenley Michaud, Seconded: David Nielson; Unanimously approved.

E. CBPL Staffing shortages discussion/delays in processing

This topic was addressed frequently and fully throughout the meeting. Director Chambers restated the division’s commitment to prioritizing licensing and ongoing recruitment to fill the two positions supporting the board.

F. Feedback from board members on Dentist and Dental Hygienist Compact

Dr. Nielson provided an overview of the proposed compact. Links were provided to the board to review in depth and engage in the analysis process. He indicated that there is at least one critical area of disagreement among states—the lack of a practical exam. Director Chambers reviewed other boards’ engagement and approaches to licensing compacts, reiterating the Administration’s dedication to the Nurse Licensure Compact and desire for smoother licensing processes. The chair urged board members to register their independent opinions on the Council of State Governments web site by the September 30 deadline.

14. Sedation Permit Inspectors

Dr. Michaud discussed the current model of oral surgeons being able to inspect their peers and encouraged the board to utilize a similar process. He disclosed that he worked with the two current applicants to present a reasonable process, adopted from Colorado, for the board to consider. (He also requested to be recused from the vote because of this assistance, which the chair approved.) The proposal is a straightforward analysis of how a licensee is following the Alaska statutes and regulations. There was discussion about the inspector’s enforcement ability if a serious violation is discovered. The chair reminded the board that the process of board enforcement of this type of potential violation is outlined in 12 AAC 28.068(f).

Dr. Nielson invited applicant Dr. Leach to discuss his vision of the process. Dr. Park was not present.

Motion to accept Dr. John Leach and Dr. Peter Park as sedation permit inspectors.


Moved: Johnson, Seconded: Nielson. Recused: Michaud; Unanimously approved

15. Good of the Order

The board set a date to briefly review board regulations and public comment on October 24, 2022, at 12:30 p.m. Supervisor Ryals will send out a poll to determine the best full day for a regular meeting in early December.

Adjourned at 4:05 p.m.


I certify these meeting minutes are true and correct to the best of my knowledge:

DocuSigned by:

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Terry Ryals
Records and Licensing Supervisor

5/25/2023

Date

DocuSigned by:

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Gregory Johnson, DDS
Board Chair

5/25/2023

Date