

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

**MINUTES OF MEETING
FEBRUARY 4, 2010**

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 February 4, 2010, at the State Office Bldg., Conference Room C, 333 Willoughby Ave., Juneau, Alaska.

The meeting was called to order by Dr. David Eichler, Chairman at 8:49 a.m.

Roll Call

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

Dr. David Eichler, Chairman – Fairbanks
Dr. Mary Anne Navitsky – Sitka
Cheryl Fellenberg – Dental Hygienist – Wasilla
Deborah Stauffer – Dental Hygienist – Anchorage
Dr. Arne Pihl - Ketchikan
Dr. Clifford D. White – Dillingham
Robyn Chaney – Public Member – Dillingham
Dr. Newell Walther – Wasilla

Not present, joined the meeting at 9:50 a.m.:

Dr. Kevin Gottlieb – Anchorage

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

Brenda Donohue, Licensing Examiner – Juneau

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Agenda Item 1 – Review Agenda

Dr. Eichler reviewed the Agenda. Ms. Donohue noted additions to the Agenda as follows:

Item 5 – INVESTIGATIVE REPORT

- Consent Agreement – Continuing Education

Item 7 – MISCELLANEOUS CORRESPONDENCE

- Univ. of Florida - Request for Approval for non-Alaska licensed dental practitioners to offer radiographic interpretation services
- ADA – Proposed Changes to the ADA CERP Recognition Standards and Procedures Related to CE Content Review and Validation
- WREB – Power Point presentation made to WREB Board re: Governance Restructuring

Item 8 – PUBLIC COMMENT

- Dr. Christine Moleski – Comment re: Public Notice Procedure for Regulation Projects

Upon a motion duly made by Dr. Pihl, seconded by Ms. Chaney and approved unanimously, it was:

RESOLVED to approve the meeting Agenda.

Agenda Item 2 – Review Minutes

Following review of the December 4, 2009 meeting minutes the Board approved the minutes as presented.

Upon a motion duly made by Dr. Eichler, seconded by Dr. Pihl and approved unanimously, it was:

RESOLVED to approve the Dec. 4, 2009 meeting minutes as presented.

Agenda Item 3 – Ethics Report

Dr. Eichler queried Board members if anyone had any possible ethics violations to report. There was no response, indicating no ethics reports were necessary.

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Agenda Item 4 – Budget Review

The board reviewed the budget presented as of Jan. 19, 2010, and felt they were on track. Dr. Pihl questioned the figures from the page titled “FY 2009 – Licensing Statistics” where it shows there are 475 less licensees currently than in the prior year. Ms. Donohue concurred that figure is confusing as there have never been 1700 licensees. She contacted Ms. Mason, Admin. Officer, who prepares these figures and Ms. Mason explained the 1759 is the Total number of licenses, permits, endorsements, courtesy licenses, etc. from the FY 2008 Annual Report. She will have to research the make-up of the “Current” licensee number and get back to the Board.

The Board moved on to the Investigative Report and Ms. Donohue asked Ms. Wilke, Paralegal, to join the meeting.

Agenda Item 5 – Investigative Report

The board determined to enter executive session to discuss an Investigative case.

On a motion duly made by Ms. Fellenberg, seconded by Dr. White and approved unanimously, it was

RESOLVED to enter executive session in accordance with AS 44.62.310(c)(2), and Alaska Constitutional Right to Privacy Provisions, for the purpose of reviewing an investigative case with the Paralegal.

Entered into executive session at 9:09 a.m.

Out of executive session at 9:35 a.m.

The Board will postpone consideration of the two consent agreements until after meeting with Ms. Wilke again at 2:00 p.m. She will gather penalty information from similar cases the Board has adopted in the past.

Ms. Donohue called Jo Anna Williamson, Investigator, to join the meeting and present the Investigative Report.

Ms. Williamson gave an update on her report regarding Case 1200-02-016. This case is for Dr. Ness, and was appealed to the State Superior Court and then the State Supreme Court. The Supreme Court just handed down their ruling, and Ms. Williamson will be preparing documents to present to the Board.

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Dr. Eichler asked for clarification of terms used under “Status” on open complaints, specifically, does “Ready for Review” mean ready to be reviewed by the Board’s Discipline Review Panel. Ms. Williamson responded that was correct. She is currently processing several of the open complaints she inherited from the previous Investigator.

Dr. Eichler then asked about the “Ready for Review” status for the open investigations. Ms. Williamson explained it was the same as for the open complaints, meaning a complaint had progressed to the investigation phase because the Investigator determined there had been a violation of the Practice Act. However, it still needs to be reviewed by the Board’s Review Panel. Dr. Eichler noted that he had reviewed case number 1200-04-001 when Ms. McQuaid was the Investigator, which was two Investigators ago. Ms. Williamson said she had just gotten these cases from the previous Investigator, and hasn’t had time to process them.

Dr. Eichler then asked about the 2003, 2004, and both 2005 cases which have already been reviewed by the Board’s Panel. What is the status of these cases, has an accusation been filed on those, or is the Division looking at a consent agreement? Ms. Williamson looked up case 1200-05-010 and reported that case is being prepared for an Accusation with the AG’s office. That is also the case with the other cases Dr. Eichler inquired about.

Dr. Eichler remarked it was good to know the status of those older cases. Ms. Williamson noted that once a case goes to the AG’s office, she doesn’t know the time frame for an Accusation to be filed as it depends on their workload.

Dr. Eichler then asked about the status of the final three cases listed under Open Investigations. Is there something different about those cases from the other cases? Dr. Walther asked if Ms. Williamson could provide more information in her report so the Board has a better idea of how each case is progressing. She said she could provide an addendum to the report providing that information.

As to case number 1200-07-001 – falsified application – she reported this was a case with the Paralegal, and that the notes advised the applicant had contacted an attorney. Ms. Donohue noted she has no outstanding applications for that time period.

Dr. Eichler then asked if either of the last two cases involves a practitioner who has more than one case or investigation in progress. Ms. Williamson responded that the respondent in case 1200-08-002 has engaged an attorney, and she will have to review case 1200-08-001 further. She explained that if there is more than one case for a licensee, all case numbers are listed together on the report.

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Ms. Fellenberg asked Ms. Williamson for an update on the teeth whitening kiosk reported in the last meeting. Ms. Williamson reported she had checked the location and there was no operating business. She checked a second location for this company, and found no kiosk there either.

There being no further questions regarding the Report, Dr. Eichler thanked Ms. Williamson for her time and she left the meeting.

The Board took a recess.

Off record at 9:58 a.m.
Back on record at 10:10 a.m.

There followed a discussion regarding the format of the Disciplinary Review Panel process. Dr. White said he has participated in two reviews to date, and the found it difficult to make a fair recommendation how to proceed because the review packets didn't include copies of the xrays. Dr. Gottlieb said that in the past those have been included.

The Board is requesting that the Investigator and the Chief attend the next meeting to provide an explanation of the Investigative process and ask for a more comprehensive status report of complaints and investigations. In particular, they would like to know how the old cases are progressing, including what actions have been taken since the last report. They also want to know how to arrange for more complete records to be included in the packets sent to the Review Panel, i.e. copies of xrays, and then how the Investigator proceeds once the two Panel members have returned their recommendations. As part of the packet they would like a listing of what is available in the way of actions that can be taken, as listed in centralized statute AS 08.01.075. Ms. Donohue will pass on the request.

Dr. Navitsky remarked that when she is requested to provide copies of xrays in her practice, she uses the local hospital to have copies made. Dr. Eichler added that in the past the dental hygiene school at Univ. of Alaska in Anchorage has made copies of xrays for the Investigators.

Dr. Eichler then asked if the Chief Investigator is under the authority of Director Smith, and Ms. Donohue said she thought so. He asked if she could see if Director Smith could join the meeting so the Board can relay its frustration. She said she'd find out and left the room to locate and invite Ms. Smith to the meeting.

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The Board moved on to Application Review while Ms. Donohue was locating Director Smith.

Director Smith and Operations Chief, Jenny Strickler, joined the meeting. Director Smith explained that Brian Howes, Chief Investigator, is under the authority of Ms. Strickler. Dr. Eichler proceeded to explain that the Board is not happy with the format of the Investigative Report they receive. He said there is no explanation of what has occurred on each case since the last Report. They would like to see a report that notes under “status” what has been done since the last meeting, and if nothing, an explanation of the progress, and include an estimate of when the case is going to come to a conclusion. The Board is particularly concerned about the cases that are several years old, and don’t seem to be progressing. He said the Board is perceived as not doing its job if it doesn’t pursue cases in a more timely fashion.

Ms. Strickler reassured Dr. Eichler that she would contact the Chief Investigator and ask for a more comprehensive status report, especially concerning the older cases. As the Board members remarked, if there is more progress being accomplished than what appears on the Report, they would like to know that.

Dr. Eichler then asked about the “expert review” status. Who are the “experts” who decide how to proceed to this step, the Investigator or the Board’s Review Panel. Then who chooses the “expert”. Ms. Strickler explained the Investigator will contact the Dental Society to find an appropriate expert for a specific case. The Board members will not be contacted as they will be judging the case when it comes before the Board, and must remain “untainted” regarding the Investigation. She further explained it is not unusual for the expert to reside outside of Alaska, and that in some cases, the expert will be flown into Alaska for their testimony if a case goes to a hearing.

Director Smith added that when Brian Howes attends the next meeting he will be able to answer these questions more thoroughly. She then proceeded to thank the members for volunteering their time to serve on the Board. She appreciates the time it takes out of their daily activities.

Director Smith and Ms. Strickler then left the meeting.

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Agenda Item 6 – Application Assignments and Review

Dr. Eichler proceeded in assigning questions to be asked of the applicants that will be interviewing later in the meeting. Ms. Donohue said all three would be interviewing telephonically.

Credential Application Review

The board reviewed the dental applications by credentials for the following in preparation for the personal interview:

Steven G. Howard, DDS	Reviewed by Dr. Walther
Aaron P. Frantz, DMD	Reviewed by Dr. Navitsky
Christopher S. Coplin, DMD	Reviewed by Ms. Chaney

The application appears to be in order for meeting the requirements for dental license by credentials.

Dental Hygiene by Credentials Application – tabled on Mail Ballot

Following discussion of the felony Ms. Kolden disclosed on her dental hygiene application, the Board determined it does not affect the qualifications for licensure because it occurred more than five years prior to application, and does not affect her ability to practice competently and safely.

Upon a motion duly made by Dr. Stauffer, seconded by Dr. Gottlieb and approved unanimously, it was:

RESOLVED to approve Debra Kolden for dental hygiene licensure by credentials.

Upon a motion duly made by Dr. Stauffer, seconded by Dr. Gottlieb and approved unanimously, it was:

RESOLVED to approve Debra Kolden for Local Anesthetic Permit.

Agenda Item 8 – Public Comment

Dr. Eichler announced it was 11:00 a.m. and time for Public Comment. The Board will come back to Agenda Item 6 at the conclusion of Public Comment.

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Dr. Christine Moleski, President-Elect for the AK Dental Society, was present for comment. She proceeded to comment that the Society is asking the Board to extend the public comment period on the regulation project pertaining to dental hygienists and assistants. The Society membership feels the proposed regulations should have been mailed to every license holder as they affect how a practitioner delivers services. The Society feels it is appropriate to re-open public comment. Their concern is particularly with regulation 12 AAC 28.830.

Dr. Eichler asked Dr. Moleski if she was familiar with the process to public notice regulation changes. She commented she was not until two days ago. She has not received the public notice of the project.

Dr. Eichler advised her there is notification on the Dental Board's web-page explaining the process to be included on the Board's Interested Parties List if you want to receive copies of all regulation projects. Ms. Donohue pointed out this information is also available on the dental renewal forms.

Dr. Eichler said that unless the Board determines to make substantial changes to the present project, he didn't see the point in sending the project out for public notice again.

Dr. Moleski said the Society had provided a letter to the Division during the Public Comment period stating their concern that a dental assistant would have to travel out of state to obtain the necessary training for the coronal polish certificate. Dr. Eichler responded that was not the case; that the training could be obtained online or in a course provided in Alaska. The requirement is the course must be approved by the Board, and must include the elements outlined in 12 AAC 28.830.

Dr. Eichler said that what he'd like to communicate to the Society is there is a process for Public Comment, and a well-publicized process for a licensee to sign up to be included on the Interested Parties list if they wish to receive public notice of every regulation project. It would cost thousands of dollars to mail every public notice to every licensee, and the Board doesn't see the need for that at this time. Ms. Donohue added that any regulation project that concerns continuing education or license fees is currently mailed to every license holder.

Dr. Moleski thanked the Board for allowing her to comment, and said she'd take their message back to the Society. She then left the meeting.

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Agenda Item 6 – Application Assignments and Review (cont'd)

Continuing Education Course Applications

Ms. Donohue noted there are three (3) Course Approval Applications for review.

Review and discussion of the applications ensued, and the Board took the following action:

Upon a motion duly made by Dr. Gottlieb, seconded by Dr. White and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements in accordance with 12 AAC 28.410:

Contemporary Orthodontic Controversy: Two Tons of Canaries in a One-tone Truck, sponsored by AK State Society of Orthodontists, for eight (8) hours of continuing education;

Upon a motion duly made by Ms. Chaney, seconded by Dr. White and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements in accordance with 12 AAC 28.410, but does not meet the requirement for the ACLS certification as stated in 12 AAC 28.610, nor for CPR certification.

Advanced Cardiac Life Support (ACLS), sponsored by American Safety & Health Institute (ASHI), for eleven (11) hours of continuing education;

The Board stipulated this course is approved for continuing education hours but does not meet the requirements of 12 AAC 28.610 whereby an Alaska licensed dentist holding a Parenteral Sedation Permit must hold a current ACLS certification from the American Heart Association, nor for CPR certification.

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Upon a motion duly made by Ms. Fellenberg, seconded by Dr. Gottlieb and approved unanimously, it was:

RESOLVED to approve the following continuing education course as meeting the requirements in accordance with 12 AAC 28.410:

Periodontal Disease: What Your Patients Should Know, sponsored by Midnight Sun Dental Hygiene Association, for two (2) hours of continuing education.

Agenda Item 7 – Miscellaneous Correspondence

AADB – Survey pertaining to Scope of Practice for Dentists, to be used during the AADB Mid-Year Meeting in Chicago. The Board discussed and provided answers to the survey questions. Ms. Donohue will fax the survey to Bayley Milton at AADB.

AADB – Letter advising of a new continuing education course offered by AADB, titled “The Dental Patient Record” available on the www.dentalboards.org web site. Information only.

ADA – Advisory from the Council on Dental Education of resolutions adopted by the 2009 House of Delegates on policy and issues related to dental education and licensure and other areas of interest. Information only.

Univ. of Florida – Letter asking the Board’s formal approval for the Radiology Dept. at the Univ. of Florida College of Dentistry to provide radiographic interpretation service to dental practitioners in Alaska if they do not hold an Alaska dental license. The Board cannot approve this request, in accordance with AS 08.36.100. They directed Ms. Donohue to reply to the University with this information, and the offer to provide an application packet.

ADA – Proposed Changes to the ADA CERP Recognition Standards and Procedures Related to CE Content Review and Validation. Information Only.

WREB – Email explaining that WREB is undergoing a strategic planning process, and one of the key initiatives identified is the need to alter their governance structure to be more efficient and responsive to the current environment. The Executive Committee has engaged an expert in governance restructuring to guide them through the process and have included an abbreviated Power Point presentation made to the WREB Board at its January meeting. Dr. Eichler gave a short history of how WREB was formed.

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The proposed membership structure consists of two tiers, active and affiliate members. Active members will: accept WREB exam; support WREB policies and values; and commit to active participation. Affiliate members will: accept WREB exam; support WREB policies and values. Active member rights include: eligible for board seat; 1 vote per state; committee participation and opportunities for leadership; receive regular communication from WREB. Affiliate member rights are: not eligible for board seat; receive regular communication from WREB. Dr. Eichler asked if there was any reason why the Alaska Board would not want to remain a member of the Executive Committee. The members concurred there is none. Ms. Donohue will provide that feedback to Beth Cole, Executive Director of WREB.

Recess for lunch 12:05 p.m.
Back from lunch 1:05p.m.

Agenda Item 11 – Personal Interview for Dental Applicants by Credentials

Ms. Donohue advised the Board that all three applicants would be interviewing via teleconference.

Stephen G. Howard, DDS

Applicant Stephen G. Howard, joined the meeting via teleconference for the personal interview.

Dr. Eichler welcomed the applicant to the meeting and explained the interview process.

Dr. Walther reviewed the application for Dr. Howard, and the board proceeded in asking the standard interview questions.

Upon a motion duly made by Dr. Walther, seconded by Dr. Stauffer and approved unanimously, it was:

RESOLVED to approve Dr. Stephen G. Howard for dental licensure by credentials.

Aaron P. Frantz, DMD

Applicant Aaron P. Frantz, joined the meeting via teleconference for the personal interview.

Dr. Eichler welcomed the applicant to the meeting and explained the interview process.

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Dr. Navitsky reviewed the application for Dr. Frantz, and the board proceeded in asking the standard interview questions.

Upon a motion duly made by Dr. Navitsky, seconded by Ms. Chaney and approved unanimously, it was:

RESOLVED to approve Dr. Aaron P. Frantz for dental licensure by credentials.

Christopher S. Coplin, DMD

Applicant Christopher S. Coplin, joined the meeting via teleconference for the personal interview.

Dr. Eichler welcomed the applicant to the meeting and explained the interview process.

Ms. Chaney reviewed the application for Dr. Coplin, and the board proceeded in asking the standard interview questions.

Upon a motion duly made by Ms. Chaney, seconded by Ms. Fellenberg and approved unanimously, it was:

RESOLVED to approve Dr. Christopher S. Coplin for dental licensure by credentials.

Agenda Item 11 – Goals and Objectives FY 2010

Following review of the Goals and Objectives, it was decided to:

Change #3 from Pursue a better relationship.... to Continue to pursue.....

Delete #8 – Continue to work on access of dental care in the rural dental communities.

Reiterate support for #11 – on-line renewal. The Board is supportive of dropping the need for each licensee renewal to include a copy of the current CPR certification, and instead require a statement verifying the licensee holds a current certification. This would facilitate the on-line renewal as an extra piece of documentation would not be required for renewal.

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Agenda Item 12 – Regulations

Ms. Donohue passed out copies of AS 44.62.310, and provided brief training on the proper reasons whereby a public board can enter into executive session.

On a motion duly made by Ms. Chaney, seconded by Dr. Gottlieb and approved unanimously, it was

RESOLVED to enter executive session in accordance with AS 44.62.310(c)(3), and Alaska Constitutional Right to Privacy Provisions, for the purpose of reviewing privileged information from Legislative Affairs Agency.

Entered into executive session at 1:42 p.m.

Out of executive session at 2:15 p.m.

Agenda Item 5 – Investigative Report (cont'd)

Ms. Wilke, Paralegal joined the meeting to continue working with the Board in regards to two Consent Agreements. She provided a list of guidelines the Board has previously agreed to for the Paralegal to follow when negotiating a Consent Agreement with a licensee. In addition she supplied a summary of Agreements they have adopted since providing these guidelines.

On a motion duly made by Ms. Fellenberg, seconded by Dr. Gottlieb and approved unanimously, it was

RESOLVED to enter executive session in accordance with AS 44.62.310(c)(2), and Alaska Constitutional Right to Privacy Provisions, for the purpose of reviewing an investigative case with the Paralegal.

Entered into executive session at 2:30 p.m.

Out of executive session at 2:45 p.m.

On a motion duly made by Ms. Chaney, seconded by Dr. Gottlieb and approved unanimously, it was

RESOLVED that the Board of Dental Examiners adopt the Consent Agreement in Case #1202-10-001.

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Dr. Eichler noted for the record the licensee in this case is Geraldine Cayabyab, Dental Hygiene License #1057.

On a motion duly made by Ms. Chaney, seconded by Dr. Gottlieb and approved unanimously, it was

RESOLVED that the Board of Dental Examiners adopt the Consent Agreement in Case #1200-09-002.

Dr. Eichler noted for the record the licensee in this case is Donald E. Burk, Dental License #208.

Agenda Item 12 – Regulations (cont'd)

The Board returned to review of the comments provided during the Public Comment period for the regulation project for coronal polishing and restorative function for dental assistants and restorative function for dental hygienists.

In regards to comments concerning the course for coronal polishing for dental assistants, the Board feels it has addressed the concerns adequately by explaining there is no restriction concerning how an applicant obtains the training, only that it must be a course approved by the Board.

Following discussion, the Board made the following changes to 12 AAC 28.810: subsection (b)(4) – delete; subsection (c) delete “..of (a)(3) or (a)(4)...” and replace with (b)(3); delete subsection (2) and remove the number (1) to make (c) one section; second subsection (c), which should actually be (d) – delete. These changes do not affect the intent of the regulation.

Upon considering the public comments and paying particular attention to the cost to private persons of the regulatory action being taken, the Board took the following action:

Upon a motion duly made by Dr. Gottlieb, seconded by Dr. Navitsky and approved unanimously, it was:

RESOLVED to approve 12 AAC 28.810, 12 AAC 28.820, 12 AAC 28.830, 12 AAC 28.840 and 12 AAC 28.915 including the changes noted above, and to withdraw for further consideration 12 AAC 28.750, 12 AAC 28.760, 12 AAC 28.770, 12 AAC 28.780, 12 AAC 28.850, 12 AAC 28.860, 12 AAC 28.870, and 12 AAC 28.880.

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Agenda Item 13 – Task List

Dr. Eichler assigned Dr. Walther and Dr. Navitsky to the Discipline Review Panel for March-June, 2010.

Agenda Item 14 – Old Business

License Renewal Continuing Education Audit

Upon a motion duly made by Ms. Fellenberg, seconded by Dr. White and approved unanimously, it was:

RESOLVED to approve the nine continuing education hours for the license renewal audit for Dr. John D. Walsh.

Dr. Stauffer reported that the Practice Act revisor committee has met via teleconference three times and they are making significant progress. She asked that if someone sees something they think needs to be included in this project to please forward this information to the committee.

Agenda Item 15 – Office Business

A. Travel Authorizations

Ms. Donohue collected signed TAs and travel receipts.

B. Meeting Dates

May 27, 2010 in Anchorage – Confirmed

Sept. 10 or 13, 2010 in Dillingham - Tentative

C. Sign Wall Certificates

The President and Secretary signed wall certificates.

Dr. Stauffer said she had been asked that now that dental assistants can hold a certificate, can they be represented on the Board. Ms. Donohue said the make-up of the Board is set by the Legislature, in AS 08.36.010, and a change by them would be necessary to change the current structure of the Board.

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Agenda Item 17 - Adjourn

There being no further business Dr. Eichler called to adjourn the meeting.

The board adjourned the meeting at 3:45 p.m.

Respectfully Submitted:

Brenda Donohue, Licensing Examiner

APPROVED:

David Eichler, DMD
Chairman
Board of Dental Examiners

Date: _____

**BOARD OF DENTAL EXAMINERS
TASK LIST FROM FEB. 4, 2010 MEETING**

Ms. Fellenberg

- Dental Hygiene CE Audit

Dr. Navitsky

- Discipline Review Committee

Dr. Walther

- Discipline Review Committee

Licensing Examiner

- Work on board's Web site – updating/adding information
- CE Course approval letters to applicants
- Letter to Univ. of Florida
- Reply to AADB Survey