

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

**MINUTES OF MEETING  
DECEMBER 2, 2011**

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 December 2, 2011, at the Robert Atwood Bldg., Conf. Room 1860, 550 W 7<sup>th</sup> Ave., Anchorage, Alaska.

The meeting was called to order by Dr. Thomas Wells, Chairman at 8:38 a.m.

**Roll Call**

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

Dr. Thomas Wells, President – Anchorage  
Cheryl Fellenberg – Dental Hygienist – Wasilla  
Dr. Clifford D. White – Dillingham  
Robyn Chaney – Public Member – Dillingham  
Dr. Mary Anne Navitsky – Sitka  
Dr. Paul Silveira - Valdez  
Dr. Thomas Kovaleski - Chugiak  
Deborah Stauffer – Dental Hygienist – Anchorage

Absent and excused:

Dr. Robert Warren – 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. Wells asked Ms. Donohue to review the Agenda. Ms. Donohue then noted additions to the Agenda as follows:

**Item 6 – INVESTIVATIVE**

- Consent Agreement – CE Audit
- Consent Agreement – CE Audit
- Dentist Application

**Item 7 – REVIEW APPLICATIONS**

- Coronal Polishing Course Approval-Gregory Johnson, DDS
- Review CE Documentation-Bonnie Dupree

**Agenda Item 2 – Review Minutes**

Following review of the Sept. 9, 2011 meeting minutes the Board the following corrections were noted:

Page 2, first line under Agenda Item 5 – corrected “share” to “shared”;

Page 5, fourth line under Agenda Item 7 – corrected “meeting” to “meet”.

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

**RESOLVED to approve the Sept. 9, 2011 meeting minutes, as corrected.**

**Agenda Item 3 – Ethics Report/Training**

Dr. Wells asked if anyone had any possible ethics violations to report. There was no response, indicating no ethics reports were necessary.

**Agenda Item 4 – Budget Review**

The board reviewed the budget presented for FY 2011, and felt they were on track. They noted for FY2011 to date they had \$232.8K in expenses and \$359.7K in revenue.

Dr. Wells asked what if the Board wants to introduce something like inspecting office of dentists who hold Parenteral Sedation Permits. The regulation says every applicant for the PS Permit is subject to inspection, and there is no provision to do the inspection nor to

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pay for it. Ms. Donohue said she has always wondered about why inspections are not being done, and it has been explained in the past that the inspection can be done at the discretion of the Board, in accordance with 12 AAC 28.630(b). She further noted that if the Board wanted an inspection they would notify the Investigator, who would do the inspection. No inspection is being done, and under the current process, a complaint would trigger an investigation and inspection. Dr. Wells voiced his concern that the Board is responsible to assure the facilities meet certain standards, as part of their charge to protect the public, and that is not being done. Ms. Donohue suggested Dr. Wells, as the Board President, write a letter to the Division Director, Mr. Habeger, advising the Board is looking at ways to institute random inspections, or perhaps inspections of every applicant for Parenteral Sedation, and asking for his ideas.

**Agenda Item 5 – Miscellaneous Correspondence**

Joint Commission On National Dental Examinations – Update on the Progress of the Committee for an Integrated Examination. Information Only.

Courtesy License Discussion – Following discussion pertaining to a conversation between Ms. Donohue and Carolyn Gove with the Rasmussen Foundation, where Ms. Gove disclosed that clinics contracting with holders of Dental Courtesy licenses are billing Medicaid, the Board reaffirmed the intent of the Courtesy Dental license is that the services provided are strictly volunteer, with no billing or charging, either direct or indirect, allowed. The Board directed Ms. Donohue to add language to the directions included with the Courtesy License application that no billing will occur. Dr. Wells asked if these practitioners have business licenses in order to collect fees.

The second topic discussed during this review is whether students from out-of-state, accompanying a Courtesy License holder, can perform services in Alaska. The Board determined, in accordance with AS 08.36.238, that a full-time enrolled student in an accredited school of dentistry may perform procedures as part of a course of study without a license if (1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under this chapter, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under this chapter; and (2) the clinical program has received written approval from the Board. The Board has not seen or approved the New York University dental program.

Lastly, the Board directed Ms. Donohue to contact the Yakutat Community Health Center to confirm compliance with these concerns.

Patrick Braatz, Executive Director, OR Board of Dentistry – Letter from Mr. Braatz expressing concern about ADA's involvement in state dental board licensing, in

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particular why the ADA should be allowed to enter into the development of a clinical licensing examination for state licensing boards. He notes the mission of the ADA is to promote the profession of Dentistry; the mission of state licensing dental boards is **the protection of the public**. Mr. Braatz requests the Board to contact the ADA and tell them that as a professional organization that promotes the profession they have no business becoming involved in the clinical licensing examination process for Dentistry. Following discussion the Board determined the Board Secretary draft a letter to ADA expressing their opinion that a professional organization has no place in being involved in developing clinical licensing examinations. Dr. Stauffer will draft a response, and provide to Ms. Donohue to forward to the ADA.

Radiation Equipment Discussion – Ms. Donohue noted that in regards to registering radiation equipment, only control panels are registered. She then asked what part of the equipment emits radiation, the control panel or the tubeheads. The response was that the entire machine emits radiation, but the control panel issues very little radiation, and is not located near the patient. Her next question is why are we registering control panels if there is no risk of exposure? Following discussion that question could not be answered as no member understands the intent of the statutes in regard to registering equipment. Further, SB92 removes registering radiation equipment from the statutes and will leave it up to the Board to regulate. If the legislation passes the Board will undertake revision of the regulations.

Dr. Silveira – He asked for clarification about an application that is sent to the Board on a mail ballot where the applicant has not disclosed information on the application, the file has gone to Investigations, their follow-up report has been completed, and is now ready for Board review. It was reinforced that any Board member who has questions and wants to discuss an application with the rest of the Board should return a “table” vote, with a clear statement why they are tabling it. In the specific application concerning Dr. Silveira, the applicant had not disclosed a violation occurring when they were a minor, and they thought it was no longer on their record. Investigations researched, and determined there was nothing else in this person’s background, and returned their report for the Board to review. Ms. Donohue had advised Dr. Silveira when he questioned if the Board needed to discuss this application that the reason the applicant gave for non-disclosure seemed logical and Investigations had found nothing else, so there were no concerns with this applicant. An applicant who knowingly did not disclose important information on the application would trigger that file coming to the Board through the Investigator, and the Board reviewing at a regular meeting.

The board recessed at 9:43 a.m.;  
Reconvened at 9:52 a.m.

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**Agenda Item 6 – Investigative Report**

Investigator Bundick joined the meeting for the Investigative Report at 9:53 a.m.

Ms. Bundick proceeded to present the Investigative Report noting there are three (3) open complaints; twenty (20) open investigations; and one (1) case closed since the last report.

The board determined to enter executive session to deliberate questions on a dental application.

**On a motion duly made by Dr. Stauffer, seconded by Ms. Fellenberg 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 a dental application.**

Entered into executive session at 10:05 a.m.

Out of executive session at 10:16 a.m.

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

**RESOLVED to deny the application for dental license by credentials for David J. Clonts, DDS, in accordance with AS 08.36.315(1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license. In addition, he does not meet the qualifications in accordance with AS 08.36.234 (a)(1)(F) is not the subject of an unresolved or an adverse decision based upon a complaint, investigation, review procedure, or other disciplinary proceeding, undertaken by a state, territorial, local or federal dental licensing jurisdiction, dental society, or law enforcement agency that relates to criminal or fraudulent activity, dental malpractice, or negligent dental care and that adversely reflects on the applicant's ability or competence to practice dentistry or on the safety or well-being of patients. Dr. Clonts has several malpractice settlements reported in the National Practitioner Data Bank Report which he did not disclose on his application, in violation of AS 08.36.315.**

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Ms. Bundick asked if the Board could work on the Sanctions List, specifically the definitions for standard of care sanctions. The Board agreed, and a draft will be provided at the February meeting for review.

There being no other Investigative business Dr. Wells thanked Ms. Bundick for her report and she left the meeting at 10:23 a.m.

The Board moved on to review of two Consent Agreements provided by Karen Wilke, Paralegal, for continuing education audit violations.

**On a motion duly made by Dr. Stauffer, seconded by Dr. White, it was**

**RESOLVED to adopt the Consent Agreement in Case #2011-000488.**

Dr. Wells noted the licensee in this case is Scott A. Brookshire, holding Dental License #855.

**On a motion duly made by Dr. Kovalski, seconded by Ms. Fellenberg, it was**

**RESOLVED to adopt the Consent Agreement in Case #2011-000668.**

Dr. Wells noted the licensee in this case is Vicky L. Musgrave, holding Dental Hygiene License #389.

The Board then reviewed continuing education certificates for the following courses and determined the content was “directly related to dental patient clinical care” in accordance with 12 AAC 28.410:

- Protect Yourself, sponsor The Journal of Professional Excellence Dimensions of Dental Hygiene, taken online 8/27/2011 for 2 CEs;
- Promote Healthy Aging, sponsor The Journal of Professional Excellence Dimensions of Dental Hygiene, taken online 8/27/2011 for 2 CEs;
- Protect Your Skin, sponsor The Journal of Professional Excellence Dimensions of Dental Hygiene, taken online 8/24/2011 for 2 CEs;
- The New Era of Periodontal Regeneration, sponsor The Journal of Professional Excellence Dimensions of Dental Hygiene, taken online 8/24/2011 for 2 CEs.

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**Agenda Item 7 – Application Assignments and Review**

Continuing Education Course Approval

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

**RESOLVED to approve the following continuing education course as meeting the requirements listed in 12 AAC 28.830:**

**Coronal Polishing**, sponsored by North Star Children’s Dentistry, PC, for four (4) hours of continuing education.

Credential Application Review

Dr. Wells proceeded in assigning questions to be asked of the applicants who will be interviewing later in the meeting.

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

Bradley J. Szutz, DDS

Reviewed by Wells

Gregory R. Fisher, DDS

Reviewed by Silveira

The applications appear to be in order for meeting the requirements for dental license by credentials.

**Agenda Item 8 – Public Comment**

Dr. David Eichler was present for Public Comment. He proceeded to give his final report as the Board’s WREB representative.

Recess for lunch 11:22 a.m.

Back from lunch 12:55 p.m.

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**Agenda Item 9 – Personal Interview for Dental Applicants by Credentials**

**Bradley J. Szutz, DDS**

Applicant Bradley J. Szutz, DDS joined the meeting for the personal interview.

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

Dr. Wells reviewed the application for Dr. Szutz, and the board proceeded in asking the standard interview questions.

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

**RESOLVED to approve Bradley J. Szutz, DDS for dental licensure by credentials.**

**Gregory R. Fisher, DDS**

Applicant Gregory R. Fisher, DDS joined the meeting via teleconference for the personal interview.

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

Dr. Silveira reviewed the application for Dr. Fisher, and the board proceeded in asking the standard interview questions.

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

**RESOLVED to approve Gregory R. Fisher, DDS for dental licensure by credentials.**

**Agenda Item 10 – Legislation**

**SB92**

Dr. Silveira reported that he had contacted Dave Logan seeking clarification on the new section AS 08.36.367 Ownership of a dental office or facility (a) (1) specifically why is labor organization included. Dr. Logan said that appears to have “slipped through” by

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accident, and they may be stuck with that language at this stage of the legislation. The Board is in favor of dropping “a labor organization” and keeping “a nonprofit organization formed by or on behalf of a labor organization for the purpose of providing dental services;

Following discussion the Board removed its suggestion of adding “dental hygienists” to AS 08.36.367(c)(2).

Dr. Kovaleski passed out copies of AS 09.65.300, the State Statute providing Immunity for Providing Free Health Care Services, and explained that he had been approached by other providers asking if the Dental Board has similar statutes, and how to find them. The Dental Board does not have similar statutes, but it seems that dental providers would be covered under AS 09.65.300.

Discussion followed about compiling a mailing to all dental licensees to include several information items, including how to access this Statute. Topics to be included should also include a clear explanation that if continuing education courses are sponsored by ADA or AGD they are not automatically accepted by the Board if they do not meet the requirements listed in 12 AAC 28.400-420; the requirement to register radiology equipment; and including the most current disciplinary list.

**Agenda Item 11 – Regulations**

Following review and discussion of questions returned to the Board from the Regulations Specialist about the additions to the current regulation project the Board adopted at the Sept. 9, 2011 meeting, the Board stated they want the additions to remain as written, and that they relate to programs the Board will be reviewing for approval rather than programs accredited by the Commission on Dental Accreditation, as listed in 12 AAC 28.750(b)(3)(B).

Following discussion the Board then determined to add further to this project.

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

**RESOLVED to add to the current Regulation Project the following items: delete 12 AAC 28.020; delete 12 AAC 28.030(3); rewrite 12 AAC 28.060(2) by deleting “use an oxygen machine and have it available for maintaining the ventilation of the lungs;” and replace with “have available oxygen under positive pressure along with pulse oximetry;”; add subsection to 12 AAC 28.630(a)(3) have available oxygen under positive pressure along with pulse oximetry.**

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Ms. Donohue will forward the regulation project to Mr. Maiquis, Regulation Specialist, for drafting.

**Agenda Item 12 – Old Business**

There was no Old Business.

**Agenda Item 13 – Goals & Objectives**

The Board reviewed their Goals and Objectives for FY 2012 and made the following change:

#11 changed to “Study WREB requirements for Clinical Exam.

**Agenda Item 15 – Task List**

Dr. Wells assigned Dr. Warren and Dr. Kovaleski to remain on the Discipline Review Panel for Jan.-Mar. 2012.

**Agenda Item 16 – Office Business**

A. Travel Authorizations

Ms. Donohue collected signed TAs and travel receipts.

B. Meeting Dates

Feb. 2-3, 2012 - Juneau – Confirmed  
May 14, 2012 – Anchorage - Confirmed

C. Sign Wall Certificates

The President and Secretary signed wall certificates.

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**Agenda Item 17 - Adjourn**

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

The board adjourned the meeting at 3:02 p.m.

Respectfully Submitted:

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Brenda Donohue, Licensing Examiner

APPROVED:

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Thomas Wells, DDS  
President  
Board of Dental Examiners

Date: \_\_\_\_\_

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TASK LIST FROM DEC. 2, 2011 MEETING**

**Ms. Fellenberg**

**Dr. Stauffer**

**Dr. Stauffer**

Draft Letter to ADA expressing Board's opinion pertaining to clinical licensing exam.

**Dr. Kovalski**

WREB Representative

Discipline Review Panel – Oct. 2011-Mar. 2012

**Dr. Wells**

Draft letter to Director Habeger requesting guidance to institute facility inspection for anesthesia permit holders.

**Dr. Warren**

Discipline Review Panel – Oct. 2011-Mar. 2012

**Dr. White**

**Robyn Chaney**

**Licensing Examiner**

Work on board's Web site – updating/adding information