

MINUTES
NC STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
Morrisville, North Carolina
June 23-24, 2022

THURSDAY, JUNE 23, 2022

The North Carolina State Board of Dental Examiners convened at 6:30 p.m., Thursday, June 23, 2022, at the Board's offices in Morrisville for the purposes of conducting a public Rule Making Hearing involving the proposed adoption of 21 NCAC 16I .0206 and 16R .0206. The proceeding was recorded and conducted in-person. A copy of the proposed rules is attached to the Minutes. The public hearing concluded at 6:36 p.m., at which time the Rule Making Hearing was adjourned.

FRIDAY, JUNE 24, 2022

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM

Dr. Clemons

A. Call to Order

Dr. Edward Clemons, President of the Board, called the business meeting to order at 8:30 a.m., Friday, June 24, 2022, at the Board's offices in Morrisville, North Carolina. Dr. Clemons read the following statement regarding conflicts of interest as a reminder to all Board members:

In accordance with General Statute 138A-15(e), it is the duty of every Board member to avoid both conflicts of interest and appearances of conflict.

Does any Board member have any known conflict of interest or appearance of conflict with respect to any matters coming before the Board today?

If so, please identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved.

If, during the discussion, any Board member learns of a conflict or appearance of a conflict, he or she should notify the Chair and take appropriate action to recuse himself or herself.

B. Roll Call

All members of the Board were present at the meeting. The members present at the Board office included Dr. Edward Clemons, Dr. Raleigh Wright, Dr. William Litaker, Dr. Mark Johnson, Dr. Karen Lanier, Dr. Catherine Watkins, Ms. Nancy St. Onge, RDH and Mr. Dominic Totman, Esq. Mr. Bobby D. White, Chief Executive Officer, Ms. Casie Goode, Deputy Operations Officer, Dirk German, Investigator, Tyler Henderson, Investigator, Betty Sines, Investigations Coordinator, Jamie Rivera, Investigator/Paralegal, Rick Hetzel, Inspector/Investigator, Mr. Douglas Brocker and Ms. Dauna Bartley, Legal Counsel for the Board were also present.

C. Declaration of Quorum

With all eight members of the Board present, Dr. Clemons declared a quorum for the purposes of conducting a Formal Hearing and the business of the Board.

At 8:32 a.m., Ms. St. Onge made a motion to move into closed session, pursuant to NCGS §143-318.18(6), in order to conduct a settlement conference. Dr. Wright seconded the motion. The motion carried. The conference concluded at 10:42 a.m., at which time Dr. Lanier made the motion to move into open session to resume Board business. Dr. Wright seconded the motion, and the motion passed.

II. APPROVAL & ORDER OF AGENDA

Dr. Clemons

Dr. Litaker moved, which was seconded by Dr. Lanier, to accept the agenda with permission for the President to take items out of order to facilitate business. The motion passed by general consent.

III. APPROVAL OF MINUTES

A. Minutes of May 18-19, 2022

[Item #1] Dr. Clemons

Following a review of the May 18-19, 2022, Minutes, Dr. Litaker moved to approve the Minutes as presented. Dr. Lanier seconded the motion which passed by general consent.

IV. REPORT FROM PRESIDENT

Dr. Clemons

[None]

V. REPORT FROM CHIEF EXECUTIVE OFFICER

Mr. White

A. Financial Report (May)

[Item #2]

Following a review of the May 2022 Financial Report, Dr. Litaker moved to accept the report for informational purposes. Dr. Wright seconded the motion which passed by general consent.

B. Personnel Matters

Mr. White announced three additional staff members including: Madeline Richardson, Summer Intern, Rick Hetzel, hired as a temporary Investigator/Inspector, and Precious Lee, currently with a staffing agency who is being considered for the Kelly Skonier vacancy. He also announced that Kelly Skonier has changed positions and is now the Investigative Assistant and Jamie Rivera is now acting as a Paralegal and Investigator.

Dr. Wright made a motion, which was seconded by Dr. Lanier, to move into closed session, pursuant to NCGS §143-318.11(a)(6), in order to discuss performance and fitness of a current employee diagnosed with a long-term illness. The motion carried.

Following the discussion of personnel matters, Dr. Lanier made a motion to move back into open session in order to continue with the consideration of Board business. Dr. Litaker seconded the motion. The motion carried.

At 12:12 p.m., while in open session, Rick Hetzel, the Board's newest investigator/inspector, gave an informational presentation explaining the process for conducting general anesthesia and sedation office inspections. He concluded his presentation at 12:50 p.m., at which time the Board remained in open session to resume Board business.

C. Miscellaneous

❖ Licensure Compact

Mr. White reported that the counsel of state government and the committee continues to review the concept involving a potential licensure compact. He will continue to update the Board as information becomes available.

❖ TowneBank Account

Dr. Wright made a motion to close this account and transfer the money into our legal fee fund. Dr. Lanier seconded the motion. Motion passed.

VI. REPORTS OF STANDING COMMITTEES

A. Executive Committee

[No Report]

B. Finance Committee

[No Report]

C. Sedation/General Anesthesia Committee

Dr. Miller, representing NC Association of Oral and Maxillofacial Surgeons, attended the meeting and requested an update on the proposed sedation rules. Dr. Lanier reported that the subcommittee chairs and subcommittees have been meeting over the past several months and intend to make a proposal to the Board at a future meeting.

VII. OLD BUSINESS

A. Phlebotomy vs. Venipuncture

[Item #3] Mr. White

Following a discussion, the Board determined that a venipuncture course is sufficient training for a DA II to be allowed to start an IV.

B. CSRS Audit Update

Ms. Goode

Ms. Goode gave an update on the status of the current CSRS audit. Of the approximately 50 licensees that were reported to the Board by the CSRS for not being registered, all but seven are now in compliance.

VIII. NEW BUSINESS

A. Approve Nitrous and Radiology Instructor

[Item #4] Ms. Goode

Ms. Nikki Liles from NC Dental U requested approval of Jaclyn Janiga as a radiology and nitrous oxide monitoring instructor. Dr. Wright made a motion to approve Ms. Janiga as an instructor. Dr. Litaker seconded the motion. The motion carried.

B. High Point University

Dr. Lanier

On May 6, 2022, Dr. Karen Lanier met with Dr. Kevin Cain to take a tour of High Point University's new dental school (HPU). Dr. Lanier reported that HPU has received over five hundred completed applications and the program is scheduled to begin in August of 2023.

- C. Dental Opioid Action Plan **[Item #5] Mr. White**
Dr. Sarah Tomlinson, the State Dental Director, submitted the latest version of North Carolina's Dental Opioid Action Plan. The Board accepted this for information purposes and did not recommend any changes.
- D. ADEX Annual Meeting **Ms. Goode**
Dr. Lanier moved to approve any expenses, including one travel day before the meeting and one travel day after the meeting, for Dr. Litaker to attend the upcoming ADEX Meeting held on August 5-6, 2022, in Chicago, Illinois. Dr. Wright seconded; motion carried.
- E. AADB Meeting **Ms. Goode**
Dr. Wright moved to approve any expenses, including one travel day before the meeting and one travel day after the meeting, for Board Members and necessary staff to attend the upcoming AADB Meeting held on October 7-9, 2022, in Asheville, North Carolina. Dr. Watkins seconded; motion carried.
- F. Approve Radiology/Nitrous Course **[Item #6] Ms. Goode**
Ms. Tashauna Hinton, from ASAP Dental Assistant Program, requested approval the program's radiology and nitrous oxide monitoring courses. Dr. Wright made a motion to approve the courses. Dr. Litaker seconded the motion. The motion carried.
- G. Approve Radiology Course **[Item #7] Ms. Goode**
Ms. Amanda Belleville, from Rowan Cabarrus Community College, requested approval of her modified radiology course. Dr. Lanier made a motion to approve the courses. Dr. Johnson seconded the motion. The motion carried.
- H. Approve Sedation Course **[Item #8] Dr. Lanier**
Dr. Joshua Byrd, from the American Society for the Advancement of Anesthesia and Sedation in Dentistry, requested approval of a moderate sedation course to be held at St. Joseph's University Medical Center in Paterson, New Jersey. Dr. Wright made a motion to approve the courses. Dr. Litaker seconded the motion. The motion carried.
- I. Approve Medical Emergencies Course **[Item #9] Ms. Goode**
Dr. Larry Sangrik, for the North Carolina Dental Society, requested approval of a medical emergencies course for public health hygienists and limited supervision hygienists. Dr. Wright made a motion to approve the courses. Ms. St. Onge seconded the motion. The motion carried.

IX. LICENSURE MATTERS

- A. Approval of Licenses/Permits/Reinstatements **[Item #10] Ms. Goode**
Dr. Litaker moved to approve all provisional licenses, licenses issued by credentials, intern permits, sedation permits, CE waivers and reinstatements issued since the last meeting. The motion was seconded by Dr. Lanier and passed by general consent.

B. Examinations

Dr. Litaker reminded everyone that the merger between CITA and CDCA/WREB will be official as of August 1, 2022.

X. REPORT FROM LEGAL COUNSEL

Mr. Bocker/Mr. White

A. Coronal Polishing

[Item #11] Mr. White

Dr. Rick Booth submitted a request to amend Board rules to allow a dental assistant I to take a course in coronal polishing a be allowed to perform that function before meeting the requirements to be considered a dental assistant II. The Board requested that staff further investigate the dental hygiene shortage and report to the Board at a future meeting.

The Board also stated that a dentist must be present for coronal polishing training to occur on live patients.

B. Letter of Warning

Mr. White

Mr. White requested approval to add another level of action in disciplinary cases when a technical violation of the Board Rules has occurred, however the conduct does not warrant disciplinary action. The Letter of Warning will not be considered disciplinary action; however, the letter will be maintained in the Board's files for consideration in future investigations. The Board directed staff to draft an example letter and submit it at the next meeting.

C. Public Records

Mr. White

The Board received a public records request to provide a list of all Dental Service Organizations (DSOs) who have submitted management arrangements and whose arrangements have been deemed compliant. No such list currently exists, and the request would require the creation of a special document which is not required under the Public Record Law. The Board further determined that a comprehensive list of compliant DSOs cannot be provided because that information is protected by 90-41(g) under the Affordable Care decision.

D. Radiology Guidelines

[Item #12] Mr. White

Mr. White gave a brief overview of the radiology guidelines that were amended in February 2021. Dr. Wright made a motion to begin the rulemaking process to incorporate the current guidelines. Dr. Litaker seconded the motion. The motion carried.

E. LLP Registration

[Item #13] Mr. Bocker

The Board received an inquiry regarding approving Limited Liability Partnerships with the Secretary of State. It was determined that the Dental Practice Act does not prohibit dentists from entering into an arrangement whereby two registered PLLCs are partners in an LLP provided that all partners are either NC licensed dentists or fully owned by NC licensed dentists. Based on these facts, the Board should not have any role in the registration of an LLP with the Secretary of State.

- F. Default Judgment **[Item #14] Mr. Brocker**
Mr. Brocker notified the Board that a default judgment permanently enjoining Kia Foreman d/b/a Super Starz Dental Lab from practicing dentistry was entered by a Superior Court Judge in February 2022. Ms. Foreman's sentencing has not yet occurred.
- G. Cosmetic Procedures **[Item #15] Mr. White**
The Board received a request for clarification of the Board's interpretive statement related to elective cosmetic procedures from Dr. Courtney Aman a NC licensed orthodontist. Specifically, Dr. Aman wanted to know if an orthodontist could utilize dermal fillers and Botox to enhance the outcome of orthodontic treatment. Following a discussion, the Board determined that an orthodontist may not utilize dermal fillers and Botox unless he/she can prove that these cosmetic procedures were a part of his/her orthodontic residency.
- H. Clarification of 16W **[Item #16] Mr. White**
Ms. Deana Billings, from the Wilkes Public Health Dental Clinic, requested clarification regarding standing orders in the public health setting. Mr. White plans to inform her that public health hygienists can complete a dental assessment for a new patient and perform the needed prophylaxis and preventative procedures, then schedule the patient back at a later date to have the comprehensive exam and review the treatment plan with the dentist. The Board agreed with Mr. White's response and approved him to notify Ms. Billings accordingly.
- I. Dental Sleep Apnea Referral Practice **[Item #17] Mr. White**
Dr. Tyler Davis presented a scenario whereby a dentist screens patients for sleep apnea and refers patients directly to a medical doctor. If the medical doctor diagnoses sleep apnea and prescribes an oral appliance, the dentist would deliver the device and continue to monitor the patient. The Board requested staff to get more information and present at a future meeting.
- J. Elections
Mr. Totman announced the results of the dental election. He reported that Dr. Karen Lanier had been successful in her bid for re-election to the Board. However, since the remaining four (4) candidates did not obtain the minimum number of required votes, the statute requires a run-off election between the two nominees receiving the next to highest number of votes. The run-off election will be between Dr. F. Vincent Allison, III and Dr. W. Stan Hardesty. Dr. Clemons directed staff to set up the election schedule and communicate with Mr. Totman, as election chair, regarding the details.

XI. INVESTIGATIVE MATTERS

- A. Investigative Statistics (April and May) **[Item #18] Dr. Lanier**
The Board reviewed investigative statistics for April and May. The statistics were accepted for informational purposes.
- B. Hearing Panel Decisions
During open session, and without conducting other business, Dr. Lanier made a motion to move into closed session, pursuant to NCGS §143-318.18(6) and §90-41(g) in order to rule

on Hearing Panel Decisions and other investigative matters. The motion was seconded by Dr. Litaker and passed by general consent.

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| a. | Log #21-195 | [Item #19] | Dr. Litaker |
| b. | Log #18-042 | [Item #20] | Dr. Litaker |
| c. | Log #20-177 | [Item #21] | Dr. Litaker |
| d. | Log #21-092 | [Item #22] | Dr. Clemons |

C. Settlement Conferences

The Board conducted one (1) settlement conference throughout the meeting. Mr. Douglas Brocker represented the Board's Investigative Panel in that matter. Standard protocol was followed.

XII. NEXT MEETING

The Board's next regularly scheduled meeting will begin on Friday, July 15, 2022, at 8:30 a.m. and will be held at the Board's offices in Morrisville, North Carolina for the consideration of routine business.

XIII. ADJOURNMENT

There being no further business, Dr. Lanier made a motion to adjourn the meeting. Dr. Wright seconded the motion, which passed by general consent. The meeting adjourned at 4:15 p.m.

Reported by: _____

Casie S. Goode

Casie S. Goode

Deputy Operations Officer

Date of Approval: _____

July 15, 2022

MEMBERS OF THE BOARD

Dr. Edward Clemons, Jr., President

Dr. Karen Lanier, Secretary-Treasurer

Dr. Raleigh Wright, III

Dr. William Litaker

Dr. Mark Johnson

Dr. Catherine Watkins

Ms. Nancy St. Onge, R.D.H., Dental Hygiene Member

Mr. Dominic Totman, Esq., Consumer Member