

MINUTES
NC STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
Sunset Beach, North Carolina
May 18-19, 2022

WEDNESDAY, MAY 18, 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 8:36 a.m., Wednesday, May 18, 2022, at the Thistle Golf Club in Sunset Beach, 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, Mr. Douglas Bocker and Ms. Crystal Carlisle, 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 8:40 a.m., Dr. Litaker 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 11:45 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. At 11:50 a.m., Ms. Crystal Carlisle and Mr. Doug Brocker made a presentation to the Board regarding the background and current process for reviewing management arrangements. Following their presentation, Ms. Hannah Nye, introduced herself to the Board as a lobbyist representing the North Carolina Association of Oral and Maxillofacial Surgeons. Dr. Bruce Arne, a licensed oral surgeon, and Valerie Pencook with the Dental Society were also present. Following Ms. Nye, the Board heard from Dr. Sarah Tomlinson for the North Carolina Department of Health and Human Services regarding the latest version of the state's Dental Opioid Action Plan. She also expressed interest in creating a specialty program for dental hygienists in the public health arena. At 2:26 p.m., Dr. Litaker 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 5:08 p.m., at which time Dr. Watkins made a motion to move into open session. Dr. Lanier seconded the motion, the motion carried. The meeting adjourned for the day at 5:10 p.m.

THURSDAY, MAY 19, 2022

The North Carolina State Board of Dental Examiners reconvened at 8:30 a.m., Thursday, May 19, 2022, at the Thistle Golf Resort in Sunset Beach, North Carolina for the purposes of deliberating regarding the settlement conference and conducting the Board's business. Dr. Clemons, President of the Board, called the meeting to order. All members of the Board were present. 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, Mr. Douglas Brocker, Legal Counsel for the Board were also present.

II. APPROVAL & ORDER OF AGENDA

Dr. Clemons

Dr. Litaker moved, which was seconded by Ms. St. Onge, 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 April 1, 2022

[Item #1] Dr. Clemons

Following a review of the April 1, 2022, Minutes, Dr. Litaker moved to approve the Minutes as presented. Ms. St. Onge seconded the motion which passed by general consent.

IV. REPORT FROM PRESIDENT

Dr. Clemons

A. Tripartite Meeting

Dr. Clemons reported that on April 29, 2022, the Tripartite Meeting was hosted by the Old North State Dental Society at the offices of the North Carolina Dental Society. He reported that it was a collaborative meeting to discuss various ideas for improving the practice of dentistry in North Carolina. Dr. Watkins, Ms. St. Onge and Mr. White were also in attendance on behalf of the Board.

V. REPORT FROM CHIEF EXECUTIVE OFFICER

Mr. White

A. Financial Report (April)

[Item #2]

Following a review of the April 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 that Mr. Rick Hetzel has recently been hired to develop a program and resume sedation/general anesthesia facility inspections.

C. Miscellaneous

❖ Board of Elections

Mr. Totman was nominated and will serve as election chair for this year's election. Ms. St. Onge will serve as vice-chair in his absence. The five (5) candidates are, Dr. Vincent Allison, Dr. Daniel Campolieto, Dr. W. Stan Hardesty, Dr. Karen Lanier and Dr. Raleigh Wright.

❖ Proposed Ballot Preparation and Election Timeline

Mr. White presented a proposed ballot preparation and election timeline to include, Wednesday, June 1, 2022, to prepare and mail ballots. The preparation will take place at the Board Office in Morrisville and is open to the public. Ballots must be received at the office of Norton Lund Collar Lilley CPA, PLLC by 5:00 p.m. on Tuesday, June 21, 2022. The ballots will be counted on Friday, June 24, 2022, at noon at the Board Office in Morrisville and the tabulation will be open to the public. Dr. Johnson made a motion to approve the timeline as presented. Dr. Litaker seconded the motion. The motion carried.

❖ Licensure Compact
[Tabled]

VI. REPORTS OF STANDING COMMITTEES

A. Executive Committee
[None]

B. Finance Committee
[None]

C. Sedation/General Anesthesia Committee

Dr. Lanier and Mr. Bocker reported that on May 11, 2022, the Chairs of the three (3) subcommittees of the General Anesthesia/Sedation Committee met. In general, all three subcommittees agreed to: eliminate the language in the proposed rule that requires a dedicated anesthesia provider, eliminate the ACLS requirement for auxiliaries, require capnography, and revise language regarding tracking and reporting adverse occurrences so as to not discourage practitioners from utilizing emergency medical professionals in the event of an emergency or perceived emergency. The Board also discussed drafting the rules to

create separate rules for each permit level or continuing to draft rules with the current consolidated language. Dr. Johnson made a motion to continue drafting rules incorporating the recommendations of the subcommittees as well as continuing with the proposed consolidated format for the common requirements and maintaining separate rules for requirements specific to each level. Dr. Litaker seconded the motion. The motion carried.

The subcommittees will continue to meet and will make concrete recommendations on the proposed rules as soon as possible.

VII. OLD BUSINESS

- A. Phlebotomy vs. Venipuncture [Item #3] Mr. White
[Tabled]
- B. CSRS Audit Update Ms. Goode
[Tabled]

VIII. NEW BUSINESS

- A. Approve Nitrous and Radiology Instructor [Item #4] Ms. Goode
[Tabled]
- B. Approve Radiology Course [Item #5] Ms. Goode
Dr. Joseph Hendrick and Ms. Lori Hendrick with Athena Dental Solutions, LLC submitted a radiology course for Board approval. Upon review of the documents, Ms. St. Onge made a motion to approve the course. Dr. Johnson seconded the motion. The motion carried.
- C. National Dental Association Annual Convention Mr. White
Ms. St. Onge moved to approve any expenses for Dr. Clemons to attend the July 14-17, 2022, National Dental Association Annual Convention to be held in Phoenix, Arizona. Dr. Lanier seconded the motion. The motion carried.
- D. High Point University Dr. Lanier
[Tabled]
- E. Dental Opioid Action Plan [Item #6] Mr. White
[Tabled]

IX. LICENSURE MATTERS

- A. Approval of Licenses/Permits/Reinstatements [Item #7] Ms. Goode
[Tabled]
- B. Examinations
[None]

X. REPORT FROM LEGAL COUNSEL

Mr. Brocker/Mr. White

- A. Rules for Publication 16B .0303 and 16C .0303 **[Item #8]**
Dr. Johnson made a motion to approve 21 NCAC 16B .0303 and 16C .0303 for publication. The rules, if adopted, will allow for the use of manikins for clinical dental and dental hygiene licensure examinations. Dr. Wright seconded the motion. The motion carried.
- B. Rules for Permanent Adoption **[Item #9]**
Dr. Wright made a motion to approve amendments to the fourteen rules that were modified because of the annual rules review for permanent adoption. Those rules include: 16F .0102, 16F .0104, 16F .0105, 16F .0107, 16F .0110, 16I .0202, 16R .0202, 16G .0103, 16G .0109, 16Z .0101, 16C .0101, 16Q .0704, 16V .0101 and 16V .0102. Dr. Litaker seconded the motion. The motion carried.
- C. Coronal Polishing **[Item #10]**
[Tabled]
- D. Facility Dogs **[Item #11]**
Dr. Ben Friberg requested something in writing from the Board to present to his insurance carrier regarding his facility dog. The Board approved Mr. White drafting a statement which includes the Board's current rule regarding the facility dogs in dental practices.
- E. 16J .0101 – UNC Research Grant
The Board approved endorsing and supporting a research grant for Dr. Laura Jacox' at the Adams School of Dentistry at UNC Chapel Hill. The grant supports her research of dog-assisted therapy in dental clinics. Mr. White was directed to draft a letter reflecting the Board's position.
- F. Letter of Warning
[Tabled]
- G. Public Records
[Tabled]
- H. Radiology Guidelines **[Item #12]**
[Tabled]
- I. LLP Registration **[Item #13]**
[Tabled]
- J. Default Judgment **[Item #14]**
[Tabled]

- K. Referral Fees **[Item #15]**
Terri Cook, Esq requested some guidance on behalf of a client who is in the process of purchasing a dental practice. Specifically, she had questions regarding potential violations to 90-401, which prohibits financial payments for patient referrals. The scenario presented included the following facts: the purchasing dentist will pay the retiring dentist a set fee for the retiring dentist's goodwill, which would include a noncompete and sending letters to the patients notifying them that the purchasing dentist is now in possession of their dental records. The letter would further recommend to the patients that they receive future dental treatment from the purchasing dentist. The purchasing dentist would then pay the retiring dentist a one-time fee of \$200.00 for each patient that is seen by the purchasing dentist during a set period after the purchasing dentist receives custody of the records. Following discussion, the Board opined that this scenario appears to violate 90-401 in that it involves financial payments for successful patient referrals. Specifically, the Board was concerned that the selling dentist was making a referral for services and would receive a fee from the buying dentist on a per patient basis for any former patients who accepted the recommendation and came to see the purchasing dentist to provide dental services. The Board also concluded that patients must be offered the choice to go to another dental practice, notwithstanding the arrangement reached between the dentists.

- L. Cosmetic Procedures **[Item #16]**
[Tabled]

- M. Clarification of 16W **[Item #17]**
[Tabled]

XI. INVESTIGATIVE MATTERS

- A. Investigative Statistics (April) **[Item #18] Dr. Lanier**
[Tabled]

- B. Hearing Panel Decisions
a. Log #21-195 **[Item #19] Dr. Litaker**
[Tabled]

- b. Log #18-042 **[Item #20] Dr. Litaker**
[Tabled]

- C. Settlement Conferences
The Board conducted two (2) settlement conferences throughout the meeting. Mr. Douglas Broucker and Ms. Crystal Carlisle represented the Board's Investigative Panel in those matters. Standard protocol was followed.

XII. NEXT MEETING

The Board's next regularly scheduled meeting will begin on Thursday, June 23, 2022, at 6:30 p.m. and will be held at the Board's offices in Morrisville, North Carolina to conduct a rulemaking hearing, disciplinary conferences and for the consideration of routine business.

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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 10:53 a.m.

Reported by: Casie S. Goode
Casie S. Goode
Deputy Operations Officer

Date of Approval: June 24, 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