

MINUTES
NC STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
Morrisville, North Carolina
February 9-11, 2017

THURSDAY, FEBRUARY 9, 2017

The North Carolina State Board of Dental Examiners convened at 6:30 p.m., Thursday, February 9, 2017 at the Board's offices in Morrisville for the purposes of conducting a public Rule Making Hearing involving proposed rule changes to 21 NCAC 16Q .0101, .0201, .0202, .0206, .0207, .0301, .0302, .0304, .0305, .0404, .0405, .0406 and .0407. All members of the Board were present, with the exception of Dr. Kenneth M. Sadler. Also present was Mr. Bobby D. White, Chief Operations Officer, Terry W. Friddle, Deputy Operations Officer and Mr. Douglas Brocker, the Board's legal counsel. The proceeding was recorded and a copy of the proposed rules is attached to the Minutes. The public hearing concluded at 6:50 p.m., at which time the Board recessed its meeting for the day.

FRIDAY, FEBRUARY 10, 2017

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM **Dr. Litaker**

A. Call to Order

Dr. William Litaker, President of the Board, called the meeting to order at 8:30 a.m., Friday, February 10, 2017, at the Board's offices in Morrisville, North Carolina. Dr. Litaker 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 this weekend?

If so, please identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. [Dr. Sadler recused himself from one of the settlement conferences on Friday. Dr. Allen recused himself from participation in the formal hearing on Saturday.]

If, as agenda items are discussed, 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 him or herself.

B. Roll Call

All members of the Board were present. The members included Dr. William M. Litaker, Jr., Dr. Merlin W. Young, Dr. Clifford O. Feingold, Dr. Stanley L. Allen, Dr. Millard W. Wester, III, Dr. Kenneth M. Sadler, Ms. Carla J. Stack, R.D.H. and Mr. Dominic Totman, Esq. Mr. Bobby D. White, Chief Operations Officer; Ms. Terry W. Friddle, Deputy Operations Officer; Ms. Casie Goode, Assistant Director of Investigations; Mr. Line Dempsey Investigator for the Board; and Mr. Douglas Brocker 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. Litaker declared a quorum for the purposes of conducting the business of the Board.

II. APPROVAL & ORDER OF AGENDA

Dr. Litaker

Dr. Allen moved, which was seconded by Dr. Young, to accept the agenda as presented and to allow the President of the Board to determine the order of business. The motion passed by general consent.

III. APPROVAL OF MINUTES

A. Minutes of January 27-28, 2017

[Item #1] Dr. Litaker

Following a review of the January 27-28, 2017 Minutes, Dr. Feingold moved to approve the Minutes as drafted. Dr. Young seconded the motion, which passed by general consent.

IV. REPORT FROM PRESIDENT

Dr. Litaker

[No Report]

V. REPORT FROM CHIEF OPERATIONS OFFICER

Mr. White

A. Financial Report (January)

[Item #2]

Following a review of the January Financial Report, Dr. Young moved to accept the report for informational purposes. Dr. Sadler seconded the motion, which passed by general consent.

B. Personnel Matters

Mr. White reported that Ms. Goode would be taking Ms. Friddle's position as Deputy Operations Office in June and Ms. Sines would be moving into Ms. Goode's position. With those changes, staff will be looking to hire a replacement for Ms. Sines' position. Staff has already begun the process to replace Mr. Snider, who voluntarily left the Board's employ in January.

C. Miscellaneous

✦ Board Meeting Schedule

Mr. White inquired whether Board members had any interest in changing the frequency of Board meetings from once a month to once every 6-8 weeks. The Board directed staff to check with several others Boards to see how often they meet and whether there is a more efficient way for our Board to conduct its meetings. Dr. Wester volunteered to assist with this review.

✦ NCDS Annual Meeting

Mr. White reminded Board members of the annual Dental Society meeting in May and requested that the Board begin to think about topics for Topics for our portion of the meeting: Mr. White suggested that one way to increase attendance at the Board's Forum would be to offer a one (1) hour continuing education course for those who attend. The Board approved the idea and will decide on a topic(s) at the March meeting. Mr. White further suggested that this would be a good venue to hold a small reception for Ms. Friddle, since she would be retiring the following month. The Board agreed and directed Mr. White to make the necessary arrangements.

✦ Dental Organization for Conscious Sedation

DOCS education invited Board members to attend one of their upcoming sedation seminars in order to audit the courses they offer. Dr. Sadler expressed an interest in attending the August 25-27, 2017 course in Memphis, Tennessee. Dr. Allen moved to approve Dr. Sadler's expenses in connection with attending this seminar. Dr. Young seconded the motion, which passed by general consent.

✦ AABD

Mr. White reminded Board members of the upcoming American Association of Dental Boards' Mid-Year Meeting in Chicago and requested that anyone wishing to attend to let staff know.

VI. REPORTS OF STANDING COMMITTEES

A. Executive Committee
[No Report]

B. Finance Committee
[No Report]

C. Sedation/General Anesthesia Committee
[No Report]

VII. OLD BUSINESS

A. Update on APO

Mr. White

Mr. White informed Board members that he had attended the Joint Legislative Administrative Procedure Oversight Committee meeting on January 3, 2017. One of the topics for discussion at that meeting was the consideration of recommendations from the Office of Administrative Hearings and the Rules Review Commission and legislative proposals recommended by the Committee to the 2016 Regular Session. The following proposals were of interest to the Board:

§150B-21.5 – Circumstances when notice and rule-making hearing not required; circumstances when submission to the Commission not required. This proposed legislation would be beneficial to the Board in that it would allow our office to make certain minor/technical changes to the rules without publishing a notice of text in the North Carolina Register or hold a public hearing. This would include rules that have no effect on the public, such as the Board changing its address.

§150B-22 – Settlement; contested case. This Bill is being proposed to clarify that a party may commence a contested case in a dispute with an agency without petitioning the agency for rule making or obtaining a declaratory ruling. A party or person aggrieved shall not be required to petition an agency for rule making or to seek or obtain a declaratory ruling before commencing a contested case.

§150B-43 – Right to judicial review. Any party or person aggrieved by the final decision in a contested case, and who has exhausted all administrative remedies made available to the party or person aggrieved by statute or agency rule, is entitled to judicial review of the decision under this Article, unless adequate procedure for judicial review is provided by another statute, in which case the review shall be under such other statute.

§150B-21.3A – Periodic review and expiration of existing rules. This Bill will revise the process for the review and re-adoption of existing rules and would reduce the number of options given to the Board in deciding whether a rule is necessary. Currently the Board has three options: (1) the rule is necessary, (2) the rule is necessary with substantive public interest or (3) the rule is necessary without substantive public interest. The proposed change will only give the Board two options for categorizing its rules. Those two options will be (1) necessary or (2) unnecessary. The Board can use the existing rule to categorize its rules, if the re-categorization is completed before May 1, 2017. Dr. Feingold moved, seconded by Dr. Young, to go ahead and review all of our rules under the old rule. The motion passed.

§93B-17 – Occupational Licensing Board Rule Making. This proposed legislation responds to the holding in North Carolina State Board of Dental Examiners v. Federal Trade Commission, as recommended by the Joint Legislative Administrative Procedure Oversight Committee. Mr. White reported that our Board is already doing all of the things suggested in this proposed legislation, with the exception of accepting complaints submitted electronically.

B. Influenza Vaccinations

Dr. Feingold

At the January meeting, Board members requested that staff look into the legality of dentists offering Influenza vaccinations. Mr. White reported that the Medical Board considers the administration of all vaccines to be the practice of medicine. A few years ago, the Pharmacy Board worked with the Medical Board to get a special law to allow pharmacists to give several types of vaccines. The Dental Board would also need an exemption from the Medical Board and be willing to open our Practice Act to get the law changed to allow this function. Upon further consideration, the Board elected not to pursue this matter any further.

C. Request for Rule Change from UNC

[Item #3] Mr. White

At the January meeting, Board members met with representatives from the UNC School of Dentistry, at their request, to discuss a potential rule change which would allow interns at educational institutions to work under direction rather than supervision in order to participate in the Dental School's on-call system. Mr. White presented Board members with a draft rule change which would implement this change. Upon review, the Board referred the matter to committee to study and propose appropriate revisions to the existing rule. Committee members included Dr. Sadler, Dr. Allen and Mr. White.

At 10:00 a.m., Dr. Feingold made a motion to move into closed session, pursuant to NCGS §143-318.18(6), in order to conduct three (3) settlement conferences. Ms. Stack seconded the motion, which passed by general consent. The first conference concluded at 11:30 a.m., at which time the Board moved back into open session. Dr. Feingold made a motion to move into open session. Dr. Sadler seconded the motion, which passed by general consent.

VIII. NEW BUSINESS

A. Approve Rotation Sites for ECU

[Item #4] Ms. Friddle

The Board received a request from Dr. Michael L. Scholtz to designate the following sites as extramural rotation sites for its residents and students at East Carolina University School of Dental Medicine pursuant to G.S. 90-29(c)(4): The North Carolina Dental Society's Mission of Mercy Projects; Give Kids a Smile Event(s); NC Baptist Men's Dental Bus Clinics; James B. Bernstein Medical Center Dental Clinic in Greenville; St. Mary's Clinic in Wilmington; Blue Ridge Free Dental Clinic in Cashiers and Ahoskie Vidant Hospital. Dr. Scholtz verified that the sites had been approved by the School of Dental Medicine as official rotation sites for ECU's dental students and residents. Dr. Wester made a motion to approve all seven (7) sites as Board approved extramural sites for dental students and residents currently enrolled at ECU's School of Dental Medicine. Dr. Feingold seconded the motion. The motion carried.

B. Approve Rotation Sites for UNC

[Item #4] Ms. Friddle

The Board received a request from Dr. Lewis Lampiris to designate fifty-one (51) extramural rotation sites for the University of North Carolina School of Dentistry pursuant to G.S. 90-29(c)(4), for approval. Dr. Lampiris verified that each of the sites had been approved by the Dental School as official rotation sites for UNC dental students. A complete list of the approved sites is attached to the February Minutes. Dr. Wester made a motion to approve all fifty-one (51) extramural rotation sites for dental students currently enrolled at the UNC School of Dentistry. Dr. Feingold seconded the motion. The motion carried.

C. Opioid Prescribing Course

Board members expressed an interest in offering an Opioid prescribing course. Staff was directed to check with Dr. Bill Claytor on his availability to present the North Carolina Caring Dental Professionals' (CDP) Opioid Prescribing course at some point during the Board's March meeting.

IX. LICENSURE MATTERS

During the open session, and without conducting other business, Ms. Stack made a motion, which was seconded by Dr. Wester, to move into closed session, pursuant to NCGS §143-318.11(a)(1), §143-318.18(6) and §90-41(g), in order to discuss applicants for licensure and the status of individuals currently licensed, with all motions and votes taken in open session. The motion passed by general consent.

A. Approval of Licenses/Permits/Reinstatements

[Item #5] Ms. Friddle

Dr. Young 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. Allen and passed by general consent.

Following its discussion of applicants for licensure and the status of individuals currently licensed, Dr. Sadler made a motion to move back into open session to continue with Board business. Dr. Allen seconded the motion, which passed by general consent.

B. Examinations

Dr. Wester

Dr. Wester reported that the first CITA examination of the season will be held on February 17-18th and thanked Board members for their anticipated participation.

X. REPORT FROM LEGAL COUNSEL

A. [No Report]

XI. INVESTIGATIVE MATTERS

A. Investigative Statistics

[Item #6] Dr. Young

The Board reviewed investigative statistics for the month of January. The statistics were accepted for informational purposes.

B. Hearing Panel Decisions

During open session, and without conducting other business, Dr. Young made a motion to move into closed session, pursuant to NCGS §143-318.18(6) and §90-41(g), in order to rule on a Hearing Panel Decision and other investigative matters. The motion was seconded by Dr. Feingold and passed by general consent.

a. Log #14-100

[Item #7] Dr. Allen

Following its discussion of investigative matters, Dr. Young made a motion to move back into open session. Dr. Allen seconded the motion, which passed by general consent.

C. Settlement Conference

The Board conducted three (3) settlement conferences throughout the meeting. Ms. Carlisle represented the Board at all three conferences and standard protocol was followed.

The Board recessed for lunch at 11:50 a.m. The Board reconvened at 1:00 p.m. in closed session in order to conduct the final two (2) settlement conferences. Dr. Sadler made a motion to move into closed session, pursuant to NCGS §143-318.18(6), Dr. Young seconded the motion, which passed by general consent. The final conference concluded at 6:10 p.m., at which time the Board recessed its meeting for the day.

SATURDAY, FEBRUARY 11, 2017

The North Carolina State Board of Dental Examiners reconvened at 8:30 a.m., Saturday, February 11, 2017, at the Board's offices in Morrisville, North Carolina in order to re-convene the December 2016 formal hearing involving Dr. Paresh B. Patel. Dr. Litaker, President of the Board, called the meeting to order. All members of the Board were present, with the exception of Dr. Stanley Allen, who was recused from the hearing. Also present were Mr. Bobby D. White, Chief Operations Officer, Ms. Terry W. Friddle, Deputy Operations Officer; Mr. Line Dempsey, Investigator; Mr. Douglas Brocker and Ms. Brooke Ottesen, Legal Counsel for the Investigative Panel; Mr. Thomas Moffitt, Legal Counsel for the Hearing Panel; and Mr. Philip Jackson, legal counsel for Dr. Patel. A court reporter was present to transcribe the proceedings.

The Board recessed the formal hearing for lunch at 12:00 p.m. and reconvened at 1:00 p.m. The hearing recessed for dinner at 5:40 p.m. and reconvened for closing arguments at 6:45 p.m. The formal hearing concluded at 8:30 p.m.

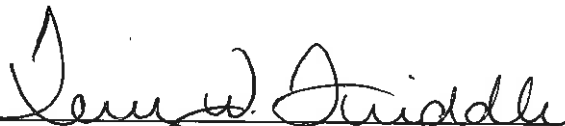
XII. NEXT MEETING

The Board's next regularly scheduled meeting will begin on Friday, March 10, 2017, and will be held at the Board's offices in Morrisville, North Carolina for the purposes of conducting several disciplinary hearings and for the consideration of routine business.

XIII. ADJOURNMENT

There being no further business, Mr. Totman made a motion to adjourn the meeting. Dr. Wester seconded the motion, which passed by general consent. The meeting adjourned at 8:35 p.m.

Reported by:



Terry W. Friddle
Deputy Operations Officer

Date of Approval:

March 10, 2017

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MEMBERS OF THE BOARD

Dr. William M. Litaker, Jr., President

Dr. Merlin W. Young, Secretary-Treasurer

Dr. Clifford O. Feingold, Past-President

Dr. Stanley L. Allen

Dr. Millard W. Wester, III

Dr. Kenneth M. Sadler

Ms. Carla J. Stack, R.D.H., Dental Hygiene Member

Mr. Dominic Totman, Esq., Consumer Member