

MINUTES
NC STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
Morrisville, North Carolina
March 10, 2023

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM

Dr. Lanier

A. Call to Order

Dr. Karen Lanier, President of the Board, called the business meeting to order at 8:32 a.m., Friday, March 10, 2023, at the Board's offices in Morrisville, North Carolina. Dr. Lanier 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

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

C. Declaration of Quorum

With all eight members of the Board participating, Dr. Lanier declared a quorum for the purposes of conducting a disciplinary hearing and the business of the Board.

II. APPROVAL & ORDER OF AGENDA

Dr. Lanier

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

III. APPROVAL OF MINUTES

A. Minutes of February 9-10, 2023

[Item #1]

Dr. Lanier

Following a review of the February 9-10, 2023, Minutes, Dr. Johnson moved to approve the Minutes as presented. Dr. Hardesty seconded the motion which passed by general consent.

IV. REPORT FROM PRESIDENT

[None]

V. REPORT FROM CHIEF EXECUTIVE OFFICER

Mr. White

A. Financial Report (February)

[Item #2]

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

B. Personnel Matters

[None]

C. Miscellaneous

- ❖ Discussion Topics for Tripartite Meeting and NCDS Annual Meeting –
 1. General Anesthesia and Sedation Update
 2. Anxiolysis Position Statement
 3. The Dental and Dental Hygiene Compact
 4. Mr. Hetzel's end of year report regarding general anesthesia and sedation inspections.

- ❖ Board Photograph – do it in May or June
The annual Board photograph will be rescheduled for May or June.

- ❖ Mr. White updated the Board Members regarding the new electronic system and the new owl technology in the Board Room.

VI. REPORTS OF STANDING COMMITTEES

A. Executive Committee

[None]

B. Finance Committee

[None]

C. Sedation/General Anesthesia Committee

Rick Hetzel presented a year end update from his 2022 inspections and probation visits. He discussed trends of noncompliance. The members of the Board commended Mr. Hetzel's efforts.

VII. OLD BUSINESS

A. CDT Code D9130

[Item #3]

Mr. White

The Board received an inquiry from a licensee regarding the use of CDT Code D9130 and which dental team members are allowed to perform this type of therapy. D9130 is defined as temporomandibular joint dysfunction – non-invasive physical therapies. Dr. Litaker made a motion to allow properly trained dentists, dental hygienists and dental assistants to perform this function. Dental hygienists and dental assistants may only perform this function after a diagnosis from a licensed dentist and with proper supervision. Dr. Lanier seconded the motion. The motion carried.

VIII. NEW BUSINESS

- A. Coronal Polishing Course **[Item #4] Ms. Goode**
Ms. St. Onge made a motion allowing dental assistant II's to teach coronal polishing courses provided that the course is identical to an ADA accredited program. Dr. Johnson seconded the motion. The motion carried.
- B. Extramural Site Approval **[Item #5] Mr. White**
Dr. Litaker made a motion to approve an internship at the office of Dr. Jenine Giles for an out of state dental hygiene student, Megan Phillips. Ms. St. Onge seconded the motion. The motion carried.

IX. LICENSURE MATTERS

- A. Approval of Licenses/Permits/Reinstatements **[Item #6] Ms. Goode**
Dr. Hardesty 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. Litaker and passed by general consent.
- B. Examinations
Dr. Litaker reminded the Board members that there are a few changes in the examination process that they should be aware of and prepared for.

X. REPORT FROM LEGAL COUNSEL

- A. Anxiolysis **[Item #7] Mr. Brocker**
Mr. Brocker/Mr. White
Dr. Litaker made a motion to approve the Interpretive Statement Regarding Administration of Anxiolysis to Adult and Geriatric Patients. Dr. Hardesty seconded the motion. The motion carried. The statement will be posted on the Board's website.
- B. NCOEMS **[Item #8] Mr. Brocker**
Mr. Brocker informed the Board that the North Carolina Office of Emergency Medical Services (OEMS) is proposing rules that would allow EMS personnel to work in dental settings. This information was accepted for informational purposes.
- C. Trust Compliance **[Item #9] Mr. Brocker**
Dr. Hardesty made a motion to approve the Board's position regarding trust agreements. The position remains that the trust must meet the following requirements: the trustee must be a NC licensed dentist; the beneficiaries must be either NC dentists or members of the immediate family of a NC dentist; no non-relatives or corporations can be beneficiaries of the trust; if a non-dentist relative is a beneficiary, the relative must divest himself/herself of

the interest in the practice within 1 year of inheriting; and at no time can any non-dentist beneficiary control the practice or dictate clinical practices. The motion was seconded by Dr. Johnson. The motion carried.

D. Dental Sleep – Referral

[Item #10] Mr. White

The Board received an inquiry from Dr. Tyler Davis regarding entering into a service agreement with North Carolina Dental Sleep to provide dental treatment and monitoring for referred patients. After a review of the contract, the fee that would be collected by the dentist would be collected upfront and based on the patient referral. Since a dentist may not be compensated for patient referrals, the scenario as originally presented, could be in violation of NCGS 90-401 which prohibits health care providers from giving or receiving payment for patient referrals. However, a monitoring fee could be paid to the dentist to whom the patient is referred to for monitoring. Such a fee would be for a monitoring service and would not be paid to the referring dentist at the time of the initial referral.

Dr. Davis restructured the service agreement and resubmitted it for consideration. Following a review of the new agreement, Dr. Hardesty made a motion to approve the agreement as amended since it is now a fee for service arrangement and not referral compensation. Dr. Clemons seconded the motion. The motion carried.

E. Duke Question

Dr. Litaker made a motion to allow a craniofacial orthodontist to provide orthodontic services outside of the surgical setting as of July 1, 2023, when Duke Hospital becomes a non-profit. Dr. Johnson seconded the motion. The motion carried.

XI. INVESTIGATIVE MATTERS

A. Investigative Statistics (February)

[Item #11] Dr. Watkins

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

B. Hearing Panel Decisions

[None]

C. Settlement Conferences

[None]

XII. NEXT MEETING

The Board's next regularly scheduled meeting will begin at 6:30 p.m. on Thursday, April 13, 2023 and will be held at the Board's offices in Morrisville, North Carolina for the purposes of conducting a rulemaking hearing. The meeting for the consideration of routine business will begin at 1:00 p.m., Friday, April 14, 2023, following the attendance of the Executive Committee at the Tripartite meeting.

XIII. ADJOURNMENT

There being no further business, Dr. Hardesty made a motion to adjourn the meeting. Dr. Watkins seconded the motion, which was passed by general consent. The meeting adjourned at 11:56 a.m.

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

Date of Approval: April 14, 2023

MEMBERS OF THE BOARD

Dr. Karen Lanier, President

Dr. Catherine Watkins, Secretary-Treasurer

Dr. Edward Clemons, Jr., Immediate Past President

Dr. William Litaker

Dr. Mark Johnson

Dr. W. Stan Hardesty

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

Mr. Dominic Totman, Esq., Consumer Member