

MINUTES
NC STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
Sunset Beach, North Carolina
May 17 - 18, 2017

WEDNESDAY, MAY 17, 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., Wednesday, May 17, 2017 at Sea Trail Convention Center in Sunset Beach, 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.

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 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; and Mr. Douglas Brocker, 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.

At 8:45 a.m., Dr. Wester made a motion to move into closed session, pursuant to NCGS §143-318.18(6), in order to conduct three (3) settlement conferences. Dr. Feingold seconded the motion, which passed by general consent. The third conference concluded at 12:00 p.m., at which time the Board recessed for lunch. The Board reconvened at 1:00 p.m. to conduct two (2) additional settlement conferences. The last conference concluded at 2:45 p.m. At that time, Dr. Allen made the motion to move into open session to consider the business of the Board. Mr. Totman seconded the motion. The motion carried.

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 April 7, 2017

[Item #1] Dr. Litaker

Following a review of the April 7, 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

Dr. Litaker reminded the Board of their invitation to attend the North Carolina Dental Society's President's Reception, hosted by Dr. William "Billy" Williams on Wednesday, May 17, 2017 from 6:30 – 7:30 at the Kingston Plantation.

V. REPORT FROM CHIEF OPERATIONS OFFICER

Mr. White

A. Financial Report (April)


[Item #2]

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

B. Personnel Matters

[No Report]

C. Miscellaneous

 ADA Talking Points

[Item #3]

Mr. White reviewed a document recently disseminated by the American Dental Association entitled "Talking Points for State Dental Societies." This document was generated after recent action by the ADA Board of Trustees to authorize development of an Objective Structured Clinical Exam (OSCE) for dental licensure. The ADA will present its plan regarding the development of the OSCE to its delegates at the October 19-23, 2017 meeting in Atlanta, Georgia. Dr. Allen made a motion to have Mr. White to draft a letter to the leadership of the North Carolina Dental Society and to the ADA Board of Trustees regarding the Board's position on

the importance and necessity of live patient examinations. Dr. Young seconded the motion which passed by general consent.



Legislative Update

HB 243 – An Act Strengthening Opioid Misuse Prevention (STOP). This Bill, in part, proposes to help prevent opioid misuse by: establishing maximum limits for prescribed substances, mandating practitioner use of the CSRS, and requiring DHHS to report practitioners who fail to properly use the CSRS. It further allows the Board to discipline licensees who fail to use the CSRS. This Bill has passed the House and the first reading in the Senate.

HB 701 – An Act to Require Occupational Licensing Boards to Adopt Rules Governing Hearings in Order to Exercise the Power to Summarily Suspend Licenses and to Increase Oversight of Occupational Licensing Boards. This Bill, in part, proposes to require all occupational licensing boards to adopt rules governing the conduct of its hearings prior to issuing summary suspension orders. It proposes to increase the Board member per diem from \$100 to \$200 per day; adds antitrust law and state action immunity training for Board members; changes the venue for occupational licensing boards seeking a court order for injunctive relief to the superior court of the county where the defendant resides or in the county where the occupational board has its principal place of business; and requires Boards to develop and implement an electronic complaint process. This Bill has passed the House and first reading in the Senate.

SB 131 – Copies of Certain Public Records. This Law was signed by the Governor on May 4, 2017 and it has updated public record requirements to include technology and databases.



Funds Transfer – Auditor Recommendation

Mr. White informed the Board of the auditor recommendation to transfer all of the funds currently designated in the Examination Development Fund to the Legal Defense Reserve Fund. Mr. White suggested that the Board wait to take action until after they hear from the auditor on Thursday, May 17, 2017.



Shep's Center Request

The Shep's Center has requested that the Board begin collecting National Provider Identifier (NPI) numbers for all dentists. The Shep's Center wants to use the numbers to do global analysis for Medicaid providers. The Board requested that Mr. White contact the Shep's Center and get more information and inquire as to whether or not they could get the information directly from the Department of Health and Human Services, Medicaid Division.

VI. REPORTS OF STANDING COMMITTEES

- A. Executive Committee
[No Report]

B. Finance Committee
[No Report]

C. Sedation/General Anesthesia Committee
Dr. Allen announced the June 9, 2017 Sedation Advisory Committee Meeting in Greensboro, North Carolina. He also informed the Board that the current amendments to the sedation rules will be presented to the Rules Review Commission on Thursday, May 18, 2017 for its consideration.

VII. OLD BUSINESS
[No Old Business]

VIII. NEW BUSINESS

- A. Lay Assessments **[Item #4] Ms. Goode**
Karen Medlin, DAI, Colgate Bright Smiles Bright Futures Coordinator, submitted a letter requesting the Board to allow her to provide lay assessments in order to refer children to local dentists. The Board directed Ms. Goode to respond to Ms. Medlin by informing her that she is still considered a professional when performing lay assessments and those assessments should in no way be presented as examinations, only screenings. Ms. Medlin should also be advised that she should not act as an agent for one specific dentist.
- B. Approve Radiology Course **[Item #5] Ms. Goode**
Tisha Anderson, CDA, BHS of A-B Technical Community College, submitted a radiology course for Board approval. Upon determining that the course met the appropriate criteria, Dr. Feingold moved, seconded by Dr. Young, to approve the course. The motion passed by general consent. Ms. Anderson was also approved as the course instructor.
- C. ADEX House of Representatives Meeting **[Item #6] Mr. White**
Dr. Allen moved to approve any expenses not covered by ADEX for Dr. Wester, Dr. Feingold and Mr. Totman to attend the American Board of Dental Examiners House of Representatives Meeting in Chicago, Illinois, August 11-13, 2017. Dr. Sadler seconded the motion, which passed by general consent.
- D. AADB Annual Meeting **Mr. White**
Mr. White announced that the American Association of Dental Boards annual meeting this year will be October 17-18, 2017 in Atlanta, Georgia.
- E. CITA Mid-Year Meeting
Dr. Young moved to approve any expenses not covered by CITA for Dr. Allen, Dr. Litaker, and Dr. Wester to attend the CITA mid-year meeting in Portland Maine on June 29-July 2, 2017. Dr. Feingold seconded the motion, which passed by general consent.

- F. **Dental/Dental Hygiene School Background Checks**
Following some discussion, Dr. Young made a motion for Mr. White to send a letter to all North Carolina dental and dental hygiene programs requesting that these programs inform all applicants for their perspective programs, prior to admitting them, that possessing requisite moral character is a component of licensure. Furthermore, completing the program and receiving a dental or dental hygiene degree does not ensure that they will be eligible for licensure. Dr. Wester seconded the motion. The motion carried.

IX. LICENSURE MATTERS

During the open session, and without conducting other business, Dr. Sadler made a motion, which was seconded by Ms. Stack, 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 #7] Ms. Goode**
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. Feingold made a motion to move back into open session to continue with Board business. Dr. Sadler seconded the motion, which passed by general consent.

- B. **Examinations Dr. Wester**
Dr. Litaker announced that the upcoming ADEX Dental Hygiene Exam will be administered at the University of North Carolina School of Dentistry on June 2-3, 2017.

The Board recessed its meeting for the day at 5:30 p.m.

THURSDAY, MAY 18, 2017

The North Carolina State Board of Dental Examiners reconvened at 8:30 a.m., Thursday, May 18, 2017, at Sea Trail Convention Center in Sunset Beach, North Carolina in order to conduct two (2) additional settlement conferences and to complete its consideration of agenda items. Dr. Litaker, President of the Board, called the meeting to order. All members of the Board were present. Also present were Mr. Bobby D. White, Chief Operations Officer; Ms. Terry W. Friddle, Deputy Operations Officer; Ms. Casie Goode, Assistant Director of Investigations; and Mr. Douglas Brocker, Legal Counsel.

At 8:45 a.m., Dr. Wester made a motion to move into closed session, pursuant to NCGS §143-318.18(6), in order to conduct two (2) settlement conferences. Dr. Young seconded the motion, which passed by general consent. The second conference concluded at 11:00 a.m.

Dr. Feingold made a motion to move into open session to discuss the auditor findings. The motion was seconded by Dr. Sadler, motion carried. The Board met with Ms. Jennilee Richardson of Bernard Robinson & Company, L.L.P. Ms. Richardson presented the results of the Board's financial audit for the year ending December 31, 2016. It was the auditor's opinion that the financial statements of the Board fairly and accurately presented the Board's financial position and cash flow for 2016. Recommendations were made to implement processes to reconcile database transactions to the general ledger on a quarterly basis, to more closely inspect expense reimbursement documentation, for the Board to review check copies and supporting documentation for disbursements, for management to review outstanding checks on a regular basis, and for the money currently designated for the Examination Development Fund to be transferred to the Legal Reserve Fund. Dr. Wester made a motion to move the Examination Development Fund to the Legal Reserve Fund. Dr. Young seconded the motion, which passed by general consent. Ms. Richardson left the meeting at 11:30 a.m. at which time the Board recessed for lunch.

The Board reconvened at 1:30 p.m. to continue its consideration of agenda items. At which time Dr. Allen made a motion to move into closed session, pursuant to NCGS §143-318.11(11), in order to consult with legal counsel. Dr. Young seconded the motion, which passed by general consent. All motions and votes were made in open session.

X. REPORT FROM LEGAL COUNSEL

- A. Licensure Application Question **[Item #8] Mr. Brocker**
Mr. Brocker proposed that the question on all current application(s) for licensure involving an applicant's disclosure of past mental health and/or substance abuse issues be revised to comport with current standards. Dr. Wester made a motion to accept Mr. Brocker's proposed revisions to all current licensure applications and to amend the applications accordingly. Dr. Feingold seconded the motion, which passed by general consent.
- B. Delegable Functions **[Item #9] Mr. Brocker**
Following a discussion regarding delegable functions for dental hygienists and dental assistants, Dr. Young made a motion to approve amending the Board's Rules to address several routinely performed duties and circulate the final draft for the Board to approve. Dr. Allen seconded the motion, which passed by general consent.
- C. Dental Sleep Medicine **[Item #10] Mr. Brocker**
The Board received an inquiry regarding whether a dentist screening patients for obstructive sleep apnea (OSA) and dispensing a home sleep test (HST), once OSA is ruled out, is within the scope of practice. It is the Board's opinion that this scenario would be outside the scope of practice for dentists licensed in North Carolina.

Following the report from legal counsel, Dr. Young made a motion to move back into open session to continue with Board business. Dr. Allen seconded the motion, which passed by general consent.

XI. INVESTIGATIVE MATTERS

A. Investigative Statistics

[Item #11] Dr. Young

The Board reviewed investigative statistics for the month of April, as well as year to date. The statistics were accepted for informational purposes.

B. Hearing Panel Decisions

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

a. Log #16-081

[Item #12] Dr. Allen

b. Log #16-243

[Item #13] Dr. Sadler

c. Log #16-234

[Item #14] Dr. Young

C. Settlement Conferences

The Board conducted seven (7) settlement conferences during the two-day meeting. Mr. Brocker represented the Board at the conferences and standard protocol was followed.

XII. NEXT MEETING

The Board's next regularly scheduled meeting will begin on Thursday, June 15, 2017, and will be held at the Board's offices in Morrisville, North Carolina, for the purposes of conducting a public Rule Making Hearing, several disciplinary hearings and to consider routine business.

XIII. ADJOURNMENT

There being no further business, Dr. Feingold made a motion to adjourn the meeting. Dr. Allen seconded the motion, which passed by general consent. The meeting adjourned at 3:30 p.m.

Reported by: _____

Casie S. Goode

Casie S. Goode

Deputy Operations Officer

Date of Approval: June 17, 2017

MEMBERS OF THE BOARD

Dr. William M. Lstaker, Jr., President
Dr. Merkin 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 Tetman, Esq., Consumer Member