

MINUTES
NC STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
Morrisville, North Carolina
September 7-9, 2017

THURSDAY, SEPTEMBER 7, 2017

The North Carolina State Board of Dental Examiners convened at 6:30 p.m., Thursday, September 7, 2017 at the Board's offices in Morrisville for the purposes of conducting a public Rule Making Hearing involving a proposed rule change to 21 NCAC 16G .0101, 21 NCAC 16G .0103, 21 NCAC 16H .0203, and 21 NCAC 16H .0205. All members of the Board were present, with the exception of Dr. Kenneth Sadler and Mr. Dominic Totman. Also present was Mr. Bobby D. White, Chief Operations Officer and Legal Counsel. The proceeding was recorded and a copy of the proposed rule is attached to the Minutes. The public hearing concluded at 6:55 p.m., at which time the Board recessed its meeting for the day.

FRIDAY, SEPTEMBER 8, 2017

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

A. Call to Order

Dr. Merlin Young, President of the Board, called the meeting to order at 8:30 a.m., Friday, September 8, 2017, at the Board's offices in Morrisville, North Carolina. Dr. Young 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. Merlin W. Young, Dr. Millard Wester, III, Dr. William M. Litaker, Jr., Dr. Clifford O. Feingold, Dr. Catherine Watkins, Dr. Kenneth M. Sadler, Ms. Nancy St. Onge, R.D.H. and Mr. Dominic Totman, Esq. Mr. Bobby D. White, Chief Operations Officer, Ms. Casie S. Goode, Deputy Operations Officer, Ms. Betty Sines, Investigations Coordinator, Mr. Line Dempsey, Senior

Investigator, Mr. Douglas Brocker and Ms. Whitney Waldenberg, Legal Counsel for the Board, were also present.

C. Declaration of Quorum

With all eight members of the Board present, Dr. Young declared a quorum for the purposes of conducting the business of the Board.

II. APPROVAL & ORDER OF AGENDA

Dr. Young

Dr. Wester moved, which was seconded by Dr. Feingold, 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.

At 8:30 a.m., the Board remained in open session to conduct a formal hearing involving Dr. Tung Nguyen. A Court Reporter was present to transcribe the proceedings. Mr. Brocker and Ms. Waldenberg represented the Investigative Panel, Ms. Carrie Meigs represented Dr. Nguyen. Mr. Fred Morelock was present as legal counsel for the Hearing Panel. The hearing recessed for lunch at 12:20 p.m. and reconvened at 1:20 p.m. The hearing concluded at 4:15 p.m. at which time the Board continued to conduct further business.

SATURDAY, SEPTEMBER 9, 2017

III. APPROVAL OF MINUTES

A. Minutes of July 14-15, 2017

[Item #1] Dr. Young

Following a review of the July 14-15, 2017 Minutes, Dr. Litaker moved to approve the Minutes as drafted. Dr. Wester seconded the motion, which passed by general consent.

B. Minutes of August 30, 2017

[Item #2] Dr. Young

Following a review of the August 30, 2017 Minutes, Ms. St. Onge moved to approve the Minutes as amended. Dr. Litaker seconded the motion, which passed by general consent.

IV. REPORT FROM PRESIDENT

Dr. Young

A. Updating Website

Dr. Young discussed his desire to improve and update our website so that our licensees have as much information as possible. Staff was instructed to add Agendas and Minutes to the website.

V. REPORT FROM CHIEF OPERATIONS OFFICER

Mr. White

A. Financial Report (July and August)

[Item #3]

Following a review of the July and August Financial Reports, Dr. Feingold moved to accept the reports for informational purposes. Dr. Wester seconded the motion, which passed by general consent.

B. Personnel Matters

[No Report]

C. Miscellaneous

 Advertising Rules **[Item #4]**


The American Board of Dental Specialties (ABDS) submitted a request for the Board to consider amending current advertising regulations to allow licensees to advertise as specialists recognized by the ABDS as well as those recognized by the American Dental Association (ADA). The Board tabled the vote pending the Rules Review Commission's periodic review of all of the Board's current rules.

 Legislative Update **[Item #5]**

SB 407 - An Act to Enact the Employee Fair Classification Act. This Bill, in part, proposes to require all occupational licensing boards to ensure that all applicants for initial licensure and renewal have read and understand the public notice statement regarding the classification of employees. The Board will implement this requirement during the 2018 renewal period.

 Board Member Email Addresses

Mr. White informed the Board that going forward, new Board Members will be issued a Board email address to be used for conducting any business of the Board for the duration of each member's terms of service. Ms. St. Onge and Dr. Watkins have been issued a Board email address and any other members of the Board who would like to transition to a Board issued email address should notify Ms. Goode.

 NCDS Professional Relations Meeting **[Item #6]**

Dr. Feingold moved to approve any expenses for Dr. Young to attend the North Carolina Dental Society's Professional Relations Meeting on Saturday, October 28, 2017. Dr. Wester seconded the motion, which passed by general consent.

VI. REPORTS OF STANDING COMMITTEES

A. Executive Committee

[No Report]

B. Finance Committee

Mr. White reported that he and Dr. Wester will begin to put together a budget for 2018 and will present a draft for the Board's review at the November meeting.

C. Sedation/General Anesthesia Committee

Dr. Sadler reported that the sedation advisory committee is planning a meeting to discuss the examinations that have been developed for the general anesthesia/sedation evaluation

process. Once arrangements have been finalized, staff will inform all Board Members of the details.

VII. OLD BUSINESS

- A. Licensure by Credentials Question - Insurance [Item #7] Mr. White
The Board received an inquiry from a North Carolina dentist licensed by credentials regarding the Board's position on reviewing insurance claims as it pertains to fulfilling the statutory requirement that anyone licensed by credentials must establish a practice and limit that practice to North Carolina within one year of licensure. Following discussion, the Board opined that reviewing insurance claims that does not involve making a dental diagnosis is not considered the practice of dentistry and does not require a dental license.
- B. Dental Sleep Medicine [Item #8] Mr. White
At the July meeting, Dr. Hal Smith requested a Board opinion 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. According to Dr. Smith, the raw data from HST would be sent to a registered sleep physician who interprets the data and makes a diagnosis. As a result of this request, Dr. Smith was informed that based on the facts presented, what he was proposing would be outside the scope of practice for dentists licensed to practice in North Carolina. Dr. Smith later responded that he would not dispense HST, but only perform initial screenings for OSA. Based on these facts, Mr. Brocker will modify the Board's opinion statement to allow a dentist to conduct initial screenings.

VIII. NEW BUSINESS

- A. Approve RDH Rotation Sites – CCCC [Item #9] Ms. Goode
Coastal Carolina Community College (CCCC) requested Board approval for dental hygiene students currently enrolled in the dental hygiene program at CCCC to participate in the MOM clinic in New Bern, North Carolina on October 28, 2017. Upon review of the documentation, Dr. Wester made a motion to approve their participation. Dr. Litaker seconded the motion. The motion carried.
- B. Approve RDH Rotation Site – CVCC [Item #10] Ms. Goode
Catawba Valley Community College (CVCC) requested Board approval of Gaston Family Health, Broughton Hospital and Morganton Children's Dental Center as rotation sites for dental hygiene students currently enrolled in the dental hygiene program at CVCC. Upon review of the documentation, Dr. Wester made a motion to approve the proposed rotation sites. Ms. St. Onge seconded the motion. The motion carried.
- C. Approve Sedation Course [Item #11] Dr. Sadler
Conscious Sedation Consulting submitted a modified sedation course to meet the new training requirements for obtaining a moderate sedation permit for the Board's approval.

Upon review and discussion, Dr. Sadler made a motion to approve the course. Dr. Feingold seconded the motion. The motion carried.

- D. Approve Sedation Course **[Item #12] Dr. Sadler**
Aristotle Institute of the Triad submitted a modified sedation course to meet the new training requirements for obtaining a moderate sedation permit for the Board's approval. Upon review and discussion, Dr. Sadler made a motion to approve the course. Dr. Litaker seconded the motion. The motion carried.

IX. LICENSURE MATTERS

During the open session, and without conducting other business, Dr. Feingold made a motion, which was seconded by Dr. Young, 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 #13] Ms. Goode**
Dr. Wester moved to approve all licenses, 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.

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

Dr. Wester made a motion to have the staff Licensing Coordinator initially approve applications for licensure by credentials for applicants with no adverse reports. Prior to issuing the license, the application must then be reviewed and approved by the Director of Licensing. Any applications with any type of adverse report(s) will be sent to the Secretary-Treasurer for approval. This process would mimic the current process for reviewing other types of applications. Following discussion, the motion was not seconded and therefore did not pass.

- B. Examinations **Dr. Wester**
Dr. Wester, Dr. Feingold and Mr. Totman attended the American Board of Dental Examiners House of Representatives Meeting in Chicago, Illinois on August 11-13, 2017. Dr. Wester reported that California is now accepting the results of the ADEX examination. He also reported that ADEX recently completed a job task analysis of the current dental hygiene exam and based on the results of that analysis, they are considering making changes. ADEX will begin a job task analysis of the current dental examination next year.

X. REPORT FROM LEGAL COUNSEL

- A. New Member Training **Mr. White**

The Department of Ethics requires that each Board Member receive training on open meetings and public records, every two years. Mr. White and the Brocker Law Firm will present this training at an upcoming meeting.

- B. Rules for Permanent Adoption **[Item #14] Mr. Brocker**
21 NCAC 16Y .0104 – Direction and Supervision – Interns. Dr. Wester moved for final approval for permanent adoption of this rule. Dr. Feingold seconded the motion. The motion carried.
- C. Employment Question **[Item #15] Mr. Brocker**
A representative from OnsiteCare inquired as to whether or not a dentist can be employed by a non-dental medical group as part of a multi-specialty integrated medical program. Following a discussion, the Board directed Mr. Brocker to inform OnsiteCare that a dentist cannot be employed by a non-dentist.
- D. Delegable Functions **[Item #16] Mr. Brocker**
The Board recently received an inquiry regarding a dentist delegating in-office bleaching procedures to dental assistants and/or dental hygienists. The Board directed staff to conduct research into the different types of bleaching agents that are currently on the market. Dr. Watkins will oversee the project and report the findings to the Board in October.
- E. Delegable Functions **[Item #17] Mr. Brocker**
The Board recently received an inquiry regarding an orthodontist delegating the removal of brackets to dental assistants under direct supervision. The Board opined that an assistant may remove brackets, but may not utilize a handpiece for cement removal or to smooth any surfaces.
- F. Periodic Rules Review **[Item #18] Mr. Brocker**
Dr. Wester made a motion to approve the rule designations as presented and submit them to the Rules Review Commission requesting an expedited review. Dr. Litaker seconded the motion. The motion carried.

XI. INVESTIGATIVE MATTERS

- A. Investigative Statistics (July and August) **[Item #19] Dr. Young**
The Board reviewed investigative statistics for the month of July and August, as well as year to date. The statistics were accepted for informational purposes.
- B. Hearing Panel Decisions
- a. Log #14-193 **[Item #20] Dr. Feingold**
 - b. Log #16-171 **[Item #21] Dr. Litaker**
 - c. Log #11-020 & 16-080 **[Item #22] Dr. Wester**
 - d. Log #17-009 **[Item #23] Dr. Wester**

C. Settlement Conferences
[None]

XII. NEXT MEETING

The Board's next regularly scheduled meeting will begin on Friday, October 13, 2017, and will be held at the Board's offices in Morrisville, North Carolina for the purposes of conducting disciplinary hearings and for the consideration of routine business.

XIII. ADJOURNMENT

There being no further business, Dr. Wester made a motion to adjourn the meeting. Dr. Watkins seconded the motion, which passed by general consent. The meeting adjourned at 10:30 a.m.

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

Date of Approval: October 13, 2017

MEMBERS OF THE BOARD

Dr. Merlin W. Young, President
Dr. Millard W. Wester, III, Secretary-Treasurer
Dr. William M. Lstaker, Jr., Past-President
Dr. Clifford O. Feingold
Dr. Kenneth M. Sadler
Dr. Catherine Watkins
Ms. Nancy St. Onge, R.D.H., Dental Hygiene Member
Mr. Dominic Totman, Esq., Consumer Member