

North Dakota Board of Dental Examiners

Minutes

January 13, 2017

HAMPTON INN & SUITES, GRAND FORKS, ND

1. **Call to Order:** Ms. Sommers called the meeting to order at 8:25 AM, January 13, 2017.

Board Members and Administrative Staff Attendance

Troy Petersen, DMD, MD, President
Otto Dohm, DDS, President-Elect
Michael Keim, DDS
Mike Goebel, DDS
Bev Marsh, RDH
Rita Sommers, Executive Director
John Tyler, Esq., AAG

Absent: Greg Evanoff, DDS
Tim Mehlhoff, CPA

2. **Review Minutes:** Moved and seconded to adopt the 2016 minutes from September 23-24; November 21; December 2; and December 12. Roll call vote (RCV): Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.
3. **Additions to agenda:** ADA House of Delegates Resolution 77.
4. **Treasurer's Report:** 1099 Misc. were distributed. Ms. Sommers provided a review of the budget. Moved by Dr. Goebel and seconded by Dr. Petersen to accept the report. Discussion; Roll call vote, Ms. Sommers presented balance sheet ending 1/31/2017 profit & loss statements and other comparable reports.

<u>12/31/2016 Balances</u>	
Checking	142,662.30
Muni Investor	2,830.99
Preferred Bus	2,791.14
Total:	\$148,284.43

<u>Certificates:</u>	
CC Union	71,946.70
Acct 3120/1	119,145.71
Bremer	162,373.53
Total	\$353,465.94
Total Assets:	\$501,750.37

5. **Review license applications and credentials:** Dr. Goebel moved and Dr. Petersen seconded to refund Dr. Weekley's application fee, recommend that she take a clinical regional board accepted by the NDBDE, and reapply for ND dental license. Discussion; Dr. Weekley took the computer based OSCE exam at the U of MN, in lieu of a regional clinical board required by ND, therefore had not met the lawful requirement for ND licensure. RCV; Roll call vote: Petersen, yes; Marsh, no; Keim, no; Goebel, yes; Dohm, yes. Motion carried 3-2.

Dr Petersen moved to grant license to applicants who completed requirements and grant remaining applicants' licensure once background check has been reviewed and other requirements have been satisfied. Dr. Dohm seconded the motion. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.

Candidate for Licensure

Sarah E. Marrlow, RDH
Amy Jo McKenzie, RDH
Melissa Jo Lewis, RDH
David Barclay Dowling, DDS
Claude-Jean Langevin, DMD
Greg M. Frokjer, DDS
Nicole Weekley, DDS

License #

1663
1672
1669
2302
2300
1773
denied

Education

Coastal Carolina -NC '12
NDSCS '16
U of MN '14
U of TN '71
U of Montreal '98
REINSTATEMENT
U of MN '12

6. Committee Reports

- A. **Complaint Committee:** Licensees may be unaware that even though a complaint may appear frivolous, the Board must review all complaints and has a duty to proceed as per NDCC 43-28-18.2 Disciplinary procedure.

- i. Discussion regarding complaint anonymity: Can the Board keep names and defendant names confidential during a meeting of the Board? If a case is dismissed without merit, and another complaint is received regarding the same licensee, can the dismissed complaint be considered during discussion of the new complaint? Mr. Tyler will provide advisement at the April meeting. Dr. Petersen moved, seconded by Dr Goebel to table the discussion until the April 2017 meeting. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.
- ii. Ulloa, DDS: An anonymous complaint received by the Board regarding the credentials of Dr. Ulloa was reviewed. Dr. Ulloa was interviewed and licensed in 2007 under laws that have since been repealed and replaced with comprehensive licensure requirements for dentists. Dr. Petersen moved and Dr. Dohm seconded the motion to forward the complaint to Dr. Ulloa and request a response as is protocol for all complaints received by the Board. Mr. Tyler will send the communication.
- iii. Gandhi, DDS; Remediation: Dr. Petersen moved and Dr. Dohm seconded to accept the U of MN program for the remediation of Dr. Gandhi. Discussion; Dr. Eva Ackley, reviewed aspects of the AADB's D-PREP program via teleconference regarding the Board's concerns that D-PREP does not offer patient based remediation, making the D-PREP substantially equivalent to the U of MN's course. One explanation for the lack of patient remediation availability is licensure. The dentist being remediated would require licensure in the state offering the patient based remediation. Former AADB President, Dr. Ackley, confirmed that D-PREP was not patient based. Five deficiencies were specified by the Complaint Committee. The U of MN format covers the concerns identified by the Board's subcommittee. The course would consist of remediation in each of the 5 areas, testing, and further remediation if necessary. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.
- iv. Crago, DDS: Dr. Petersen moved and Ms. Marsh seconded to send a letter of concern. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0. Dr. Evanoff will communicate the Board's findings to both parties.
- v. Iravani, DDS, MD: Dr. Iravani's probationary period began December 10, 2015 and was subject to specific conditions including random drug testing at a Board approved. Dr. Iravani has met all conditions of the Board's Agreement. A letter will be sent to Dr. Iravani indicating as such.
- vi. Glosenger, DDS: Dr. Petersen moved and Dr. Keim seconded to dismiss the complaint. Discussion; Board was troubled with a few aspects of patient management, however, grounds for disciplinary action do not exist. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0. Dr. Evanoff will communicate the Board's findings to both parties.
- vii. Bulik, DDS: Dr. Petersen moved and Dr. Dohm seconded to dismiss the complaint. Discussion; Dr. Bulik's rational for prescribing Ambien was TMD related. Grounds for disciplinary action do not exist. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0. Dr. Evanoff will communicate the Board's findings to both parties.

B. Anesthesia Committee

- i. Review of applications: The Committee reviewed the successful site evaluation for Dr. Langevin employed at Sanford Health in Fargo.
- ii. ADA Resolution 77 (which morphed into Resolution 37): The ADA's House of Delegates has yet to take action. The controversial resolution amends requirements for minimal sedation sparking conflict with the organization, DOCS. The resolution reduces the maximum allowable dose from 1.5x the MRD to the MRD itself. A dentist would therefore be required to take a moderate sedation course to provide any amount of sedative with any other oral drug.
- iii. Minimal sedation course approval: Dr. Petersen moved not to accept the minimal sedation course. Discussion; Upon review of the material sent by California Institute of Dental Education the Board determined the curriculum does not meet the minimum requirements for application of a minimal sedation permit. Motion seconded by Dr. Keim. Roll call vote: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.

C. Continuing Education Committee: No report

- D. Application Review Committee:** The Board reviewed report documents received by the Board. Dr. Petersen moved to send letters to Dr.'s Fines and May signifying "no action was taken by the board at this time". Ms. Marsh seconded the motion. Discussion; responses from both parties were consistent with and supportive of previous reports submitted to the Board. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0. The Executive Director will send notification of the Board's decision. Regarding the report submitted with applicant Lewis, Dr. Petersen moved to grant the license, seconded by Dr. Keim. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.
- E. Nominating Committee:** The Committee determined that Dr. Goebel, Dr. Keim and Ms. Marsh will eligible to serve as President elect. Ms. Marsh was elected to fill the position. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.
- F. Legislative Committee:** Telehealth services legislation: a bill to authorize insurance providers to recognize telehealth services for public employees. Chapter 43-28 is listed in the bill should tele-dentistry be utilized. The bill hinges on insurance providers and insurance companies.
- 7. Old Business**
- A. ITR:** Dr. Goebel and Ms. Sommers attended Dr. Paul Glassman's Tele-Dentistry presentation sponsored by the Dept. of Oral Health. Much of the discussion centered on the value of interim therapeutic restorations (ITR) in public health. Dental auxiliary trained to provide the duty are utilized for the procedure. Administrative rule amendments would be required for the amendments therefore Dr. Goebel moved at this time the board has no recommendation on ITR's. Motion seconded by Dr. Dohm. It was recommended that further discussion of any details regarded the expanded function would be more appropriately timed when new rules would again be considered by the Board.
- B. Policy & Procedure Manual:** P & P Manual updates were reviewed. As per minutes 12/12/2016, "upon receiving a self-report, the Executive Director shall contact the licensee to obtain police reports and all supporting documentation to expedite the Board's review of such matters." Dr. Dohm has agreed to serve as the AADB liaison for a two year period ending 1/13/2019.
- C. Missouri EFDA course;** approval request per Dr. Holman; Motion by Dr. Goebel not to approve the Missouri course, seconded by Ms. Marsh. Discussion; after review of the course and comparison to the U of MN course which was previously approved, the Board determined the Missouri course was inferior to the U of MN Restorative Functions course. The NDDA was interested in the possibility of providing the course to train dental assistants in ND. RCV: Petersen, yes; Marsh, yes; Keim, yes; Goebel, yes; Dohm, yes. Motion carried 5-0.
- D. Review resume –** Ms. O'Grady expressed interest in a position as a deputy examiner. WREB and CRDTS both indicated that their respective organizations were flush with examiners at this time.
- 8. New Business**
- A. Election of Officers:** Dr. Goebel volunteered to assist Dr. Evanoff with complaint committee duties. Dr. Dohm will begin his term as president, 3/16/2017; Ms. Marsh will begin her term as president elect; Tim Mehlhoff will remain secretary-treasurer.
- B. AAO letter:** The AAO requested the Board review SmileDirectClub's business model as interpreted by AAO legal counsel and provide an opinion on the potential for illegal fee splitting. Based on the information provided by the AAO, the general consensus was that the business model which allegedly includes "the dentist is paid only if the treatment plan is approved. In either case, the patient pays the company, and the company pays the dentist to whom the patient is referred", even if the referral is just virtual." appears to represent the practice of fee splitting, a violation of the North Dakota Century Code (NDCC) as well as the Board's adopted code of ethics which is also referenced in the NDDC. Without seeing an actual SmileDirectClub agreement between a dentist and the SmileDirectClub organization and given the information provided by the AAO, the treatment model would not represent an acceptable standard.
- C. EPA:** The EPA has promulgated standards for dental offices discharging mercury present in amalgam. Existing dental offices must comply within three years after the effective date of the rule. Compliance for new dental offices is the date the new rule becomes effective. The State of North Dakota will regulate the federal code. The final rule was signed by the EPA's Administrator December 15, 2016. The official version of the rule may be seen at the following website: <http://fdsys.gpo.gov/fdsys/search/home.action> and <http://www.regulations.gov>.
- 9. AADB and CRDTS, WREB, National Meetings:** Dr. Dohm has agreed to serve as the AADB liaison for a two-year period ending 1/13/2019. The AADB meeting is scheduled for April 23-24, 2017 at the ADA headquarters in Chicago.

A. What Happened to Amalgam? Article submitted by Dale Brewster, DDS. Dr. Brewster recommended the Board read the article and discuss amalgam restorations. WREB and CRDTS currently do not require dental student to place an amalgam. No action.

10. Remuneration: Ms Sommers issued remuneration.

11. Date, Venue of 2017 Meetings:

- April 7, 2017, 5:00 PM and April 8, 8:00 AM, Fargo Holiday Inn;
- June 16, 5:00 PM and June 17, 8:00 AM, Kelly Inn, Bismarck;
- September 14th, 5:00 PM and September 15th, 8:00 AM, Holiday Inn, Fargo.

12. Adjournment: The meeting was adjourned at 3:08 PM.

Respectfully Submitted,

Rita Sommers, Executive Director

Troy Petersen, DMD, MD, President