

North Dakota Board of Dental Examiners

Minutes

June 16, 2017

Kelly Inn, Bismarck, ND

1. **Call to Order:** Dr. Dohm called the meeting to order at 5:06 PM, June 16, 2017.

Board Members and Administrative Staff Attendance

Otto Dohm, DDS, President	Greg Evanoff, DDS
Bev Marsh, RDH, President-Elect	Tim Mehlhoff, CPA
Troy Petersen, DMD, MD	
Mike Goebel, DDS	
Rita Sommers, Executive Director	Absent: Michael Keim, DDS
John Tyler, Esq., AAG	

2. **Review Minutes:** Dr. Goebel moved, seconded by Ms. Marsh to adopt the April 7, 2017 minutes. Roll call vote (RCV): Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes; Dohm, yes; Marsh, yes. Motion carried 6-0.
3. **Additions to agenda:** RDA duties; Reminder letter to and Aspen Dental
4. **Treasurer's Report:** Moved by Mr. Mehlhoff, seconded by Dr. Goebel to approve the quarterly report: The Board's next report will be reporting on the end of the second quarter. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes; Dohm, yes; Marsh, yes. Motion carried 6-0.

<u>06/16/2017 Balances</u>	<u>Certificates:</u>	CC Union	72,193.75
Checking	141,543.11	Acct 3120/1	119,145.71
Muni Investor	2,830.98	<u>Bremer</u>	<u>108,249.02</u>
Preferred Bus	<u>2,791.12</u>	Total	\$299,588.48
Total:	\$147,165.21	Total Assets	\$457,652.44

5. **Review license applications and credentials:**

The Board recognized Dr. Kent Michael Frisbie, DDS and reviewed the license by credential application. Dr. Evanoff moved to grant Dr. Frisbie license, motion seconded by Dr. Dohm. (RCV): Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes; Dohm, yes; Marsh, yes; motion carried 6-0. 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. Incomplete dental license by credential applications will be reviewed at the next meeting of the Board. Dr. Dohm seconded the motion. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes; Dohm, yes; Marsh, yes. Motion carried 6-0.

CANDIDATES	LICENSE #	SCHOOL/YEAR GRADUATED
Kent Michael Frisbie, DDS	2309	Indiana University 2001
Taylor Zmoos, DDS	2313	U of Iowa 2017
Priscilla Taylor, DDS	2314	Loma Linda U 2017
Kayla Nelson, DMD	2315	Midwestern AZ 2017
Stanislaus Dyda, DDS	2316	U of MI 2008
Kiley F. Dohm, DDS	2317	U of MN 2017
Matthew Swanson, DDS	2318	U of MN 2007
Jeffrey A. Goodrich, DDS	2319	U of Iowa 2015
Kcee Jo Barnaby, RDH	1678	NDSCS 2017
Brittany Bartlett, RDH	1679	NDSCS 2017
Kayla Budke, RDH	1680	MSCTC 2017
Ali Buechler, RDH	1681	NDSCS 2017
Bailey Crosswait, RDH	1682	Northern WY CC 2014
Cassandra Dahlen, RDH	1683	NDSCS 2017
Kristin Eggers, RDH	1684	NDSCS 2017

Hailley Engebretsen, RDH	1685	NDSCS 2017
Alyssa Hanson, RDH	1686	MSCTC 2017
Terianne Itzen, RDH	1687	NDSCS 2017
Shawn Kilen, RDH	1689	MSCTC 2017
Natalie Kramer, RDH	1690	NDSCS 2017
Megan Lennox, RDH	1691	MSCTC 2017
Hailey Longtin, RDH	1692	MSCTC 2017
Tara Loomer, RDH	1693	NDSCS 2017
Amber Maygra, RDH	1694	MSCTC 2017
Lexi Schmaltz, RDH	1695	NDSCS 2017
Rikke Schmidt, RDH	1696	NDSCS 2017
Carissa Sjolie, RDH	1697	NDSCS 2017
Alissa Stueve, RDH	1698	MSCTC 2017
Jessica Sundbom, RDH	1699	MSCTC 2017
Kelly Swanberg, RDH	1700	MSCTC 2017
Karisa Thomas, RDH	1701	NDSCS 2017
Ashley Throlson, RDH	1702	MSCTC 2017
Najwan Wafi, RDH	1703	MSCTC 2017
Jacqueline J. Hasbargen, RDH	1148	Reinstatement
Casey Jane Sabo, RDH	1673	Rochester Comm. '14
Emily Mallory	1704	MSCTC 2017

6. Committee Reports

A. Application Review Committee: Several background checks are incomplete to date. Mr. Tyler reviewed background checks showing charges. No action taken. The Board discussed when letters of concern should be sent to applicants when charges show up on the background check.

B. Legislative Committee

1) Status of Admin Rules | House Resolution 3026: Ms. Sommers presented testimony to the Legislative Management's Administrative Rules Committee regarding rules the Board had adopted in September, 2016. If adopted the rules would be effective July 1, 2017. No further information was available regarding HR 3026, directing legislators to study the 2015 North Carolina Board of Dental Examiners v. Federal Trade Commission decision and determine if ND public boards have adequate oversight to avoid antitrust law violations. Courts were unclear in defining "state supervision" therefore the issue is being left to individual states.

2) Indiana Complaint: The Board reviewed the Indiana complaint regarding specialties and implantologists and a similar decision in Texas. No action.

3) Dual degreed dentists: Dr. Dohm suggested the Board review GA laws regarding dual degreed practitioners regarding how disciplinary actions are taken.

4) Ms. Sommers presented information to the Administrative Rules Committee. If the rules are adopted the rules would go into effect July 1, 2017.

C. Anesthesia Committee

1) ADA's Anesthesia and Sedation guidelines revised: Dr. Peterson summarized ADA's anesthesia and sedation guidelines.

D. CE Committee

1) Audit; status: Ms. Marsh reported five registered dental assistant audits had been completed and emphasized the importance of licensees maintaining records and proof/evidence of CE.

2) ADA's CERP call for comments on changes to CE up for consideration; CERP is suggesting changes to accommodate newer educational formats. The Commission is proposing to reduce the minimum length of CE activities to 0.25 hour, with credits to be awarded in increments of 0.25 credit hours.

E. Complaint Committee | Legal Matters

1) Moved by Dr. Evanoff and seconded by Ms. Marsh to send a preemptive reminder letter to Aspen Dental. The Board has received two allegations that the organization is allowing dental assistants to practice outside the scope of their practice. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0.

2) RDA employment recruitment tactics: It was brought to the Board's attention that a dental entity (the letter sent from Colorado) was sending dental offices letters for the purpose of recruiting otherwise employed registered dental assistants. The Board determined that while the letters were annoying, no infraction of statute had occurred.

3) Rai, DDS: At its April, 2017 meeting the Board moved to send Dr. Rai a letter of concern and a \$250 fine. Discussion; the violation, failure to release copies of dental records requested by a patient of record, NDCC § 23-12-14 and NDCC § 43-12-18(23) is also a violation of the ADA's Principles of Ethics and Code of Professional Conduct. The Settlement Action remains incomplete. No further action. Mr. Tyler was urged to send an Agreement which would include the letter of concern to Dr. Rai.

4) Quamme, DDS: At its April meeting the Board moved to send Dr. Quamme a letter of concern and a \$500

fine to address the failure to release copies of dental records. The Board dismissed the portion the issue regarding the denture complaint. Discussion; the violation, failure to release copies of dental records requested by a patient of record, NDCC § 23-12-14 and NDCC § 43-12-18(23) is also a violation of the ADA's Principles of Ethics and Code of Professional Conduct. The Board previously reproached Dr. Quamme for the same violations. The actions remain incomplete. Mr. Tyler was urged to send an Agreement to include the letter of concern to Dr. Quamme.

5) M. Bulik, DDS: Dr. Evanoff moved and Dr. Dohm seconded a motion to send a letter of concern to Dr. Bulik. Discussion; the dentist is ultimately responsible for auxiliary. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0.

6) Iravani, DMD, MD: The Board discussed the ND BOMEX Complaint and Ex Parte Order of Temporary Suspension against Dr. Iravani. The investigation regarding the allegations is ongoing and the suspension remains in effect. Mr. Tyler reported no communications have taken place between himself and the BOMEX.

7) Manke, DDS v. Gandhi: Dr. Petersen moved and Dr. Goebel seconded a motion to dismiss the complaint. Grounds for disciplinary action against Dr. Manke do not exist. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0.

8) Frank, DDS: Dr. Evanoff moved to dismiss the complaint. Dr. Goebel seconded the motion to dismiss, grounds for disciplinary action to not exist. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0.

9) Dr. Johnsen: Dr. Evanoff moved that Mr. Tyler send a letter to Johnsen's legal counsel requiring Dr. Johnsen submit to a chemical dependency evaluation from a facility approved by the Board at Dr. Johnsen's expense. Motion seconded by Dr. Petersen. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0. Dr. Evanoff moved to authorize a search for an outside opinion by an expert regarding competency issues. Discussion; Patient treatment records obtained from Dr. Johnsen will be reviewed by independent source(s). Motion seconded by Dr. Dohm. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0.

7. Old Business

- A. ADA's OSCE - update: The ADA Board of Trustees recently (Feb/2017) voted to approve the development of an objective structured clinical examination (OSCE). Discussion/update with Dr. McDougall, DDS ADA's District X Trustee: The premise of the ADA OSCE exam, put forward in an effort to offer states an alternative to patient based clinical board examinations, is that patient based exams are unethical; without issuing supporting documentation, the ADA also suggested that clinical exams currently being used are inadequate in their protection of the public. An ADA representative also announced at an October 2016 national meeting that the ADA has intentions to proceed legislatively, usurping states boards. However, Dr. McDougall stressed that the issue would be left to individual states and the ADA had no intention of proceeding legislatively usurping states autonomy. The new initiative adds to ADA's other conflicts of interests, such as the Dental Admission Test (DAT is a dental education admission test designed to evaluate dental school applicants' understanding of pre-required subjects as a means to assess potential for success.), the National Boards and now the current pursuit of a clinical evaluation by way of non-patient based examination. The Board was also concerned that states' boards in the ADA's 10th District were not consulted or asked to weigh in on the matter and were caught off guard by the ADA's announced intentions. The NDBDE disagrees with the notion that live patient exams are unethical. Dental students practice on live patients for a minimum of two years before clinical competency testing examinations. The NDBDE also does not believe that dental schools identify and dismiss from their programs students who routinely do "failing-level" work or otherwise lack the ability to address or correct clinical deficiencies for fear of the potential for subsequent litigation. Dr. McDougall also stressed that the move is the will of ADA's House of Delegates and that national organizations were consulted and participated in the decision to move forward with the OSCE.
- B. PDMP registration update: As of May 16, 2017 the Board of Pharmacy reported 185 dentists have registered with data base.
- C. Dr. Jackie Nord has been invited to the Board's September meeting In Fargo, to provide an update regarding the Iowa dental students practicing at the Valley Community Dental Health Clinic.
- D. Refunding application fees: The Board reiterated its long-standing position of nonrefundable application fees. Administrative Rules state fees are nonrefundable. Once the Board receives the application administrative costs are incurred.
- E. ADA's CERP: The ADA's Commission for CE Provider Recognition is considering a change of standards related to minimum length of CE activities. The Commission is asking for comments. The Board has no objections to the changes.

8. New Business

- A. Denture adjustments by Registered Dental Assistants: The Board received reports that dental assistants were being utilized for unauthorized expanded duties. The Board authorized the Executive Director to communicate with the entity regarding RDA/QDA duties that are lawfully permitted.
- B. Medical marijuana - status of new laws: The Board received an inquiry regarding medical marijuana use and the practice of dentistry. Mr. Tyler expounded on the new laws. The Board's general concern would be any practitioner's level of impairment resulting from drugs that are not FDA approved. Current laws pertaining to dentistry do not address the issue. More information is needed. No action.

9. AADB and CRDTS, WREB, National Meetings:

- A. FARB: Ms. Sommers will attend the Bismarck July 17, 2017 meeting, all members are invited to attend the Federation of Association of Regulatory Board's Bismarck meeting. The Annual FARB meeting will be held October 5-8, 2017 in Savannah, GA.
- B. AADB Mid-Winter Meeting: The AADB's April 23-24, 2017 meeting was attended by Dr. Dohm and Mr. Tyler. Dr. Dohm provided a summary of the caucuses, speakers and the open and intense exchange regarding the ADA's move toward the OSCE exam. AADB's annual meeting is scheduled for October 18-19, 2017.
- C. WREB's Dental Exam Review Board (DERB): Dr. Evanoff provided a report from the DERB meeting. WREB is proposing further amendments to their exam format, changes to their exam, i.e., rather than an extracted tooth, synthetic teeth will be utilized for the endodontic examination; periodontal exam will be 'optional'. States can request the exam for licensees. The most disruptive proposed change to the exam is in regard to restorative procedures. Currently candidates are required to successfully perform two posterior composites or amalgam restorations. The proposed change allows 1 anterior tooth to be substituted for posterior teeth. If a candidate fails to restore a posterior tooth, the following day an anterior tooth can be substituted. Dr. Evanoff moved to request to be authorized at the DERB meeting to propose to the WREB that if the candidate is allowed to only provide one restoration, that the restoration must be a posterior CI II restoration. State boards can require posterior restorative testing. The motion was seconded by Dr. Dohm. RCV: Goebel, yes; Evanoff, yes; Mehlhoff, yes; Petersen, yes, Dohm, yes; Marsh, yes. Motion carried 6-0.
- D. CRDTS Annual Meeting: Aug 24-25, 2017 Kansas City Hilton.

10. Remuneration

11. 2017-2018 Future Meetings, Date, Location of

- September 14, 2017, 5:00 PM and September 15, 8:00 AM, Holiday Inn, Fargo.
- January 26, 2018, 1:00 PM and January 27, 8:00 AM, Grand Forks
- April 6, 2018, 1:00 PM Fargo
- June 15, 2018 1:00 PM Bismarck

12. Adjournment: Best wishes to John Tyler in his personal and professional endeavors in Dallas, TX. Dr. Goebel moved to adjourn, seconded by Dr. Petersen. The meeting adjourned at 8:25 PM.

Respectfully Submitted,

Rita Sommers, Executive Director

Tim Mehlhoff, CPA