

PRESIDENT'S MESSAGE



If you are reading this message, **thank you**, for taking the time to view the Board's website. I am honored to serve as the President of the NDBDE alongside my fellow members who share a common passion focused on the mission of **protecting the public**. In our service to the NDBDE, at times our main focus unfortunately is complaints. Just about any question a practitioner may have can be answered on the pages of the Board's website or by reviewing the laws and rules pertaining to dentistry. On the

flip side, most complaints received by the Board may have been averted by observing information on the Board's website, all **relevant** to the lawful and ethical practice of dentistry or resolved by practicing thorough communication with our patients.

New Administrative Rules became effective **July 1, 2017**. The new rules include important information to those of us who are prescribing. New laws initiated by the 2015 **legislation** in HB 1149 required licensing boards to implement rules regarding participation in the Prescription Drug Monitoring Program (**PDMP**); those rules are now effective for all prescribers.

The Board of Pharmacy and any Board regulating **prescribers** followed suit with the regulatory language which states that if you are prescribing or dispensing you must authorize an employee to review the prescription drug monitoring program report of the patient within the previous twelve months. There are exceptions to this law and many other provisions. Attorney General Stenehjem and Governor Burgum have made tremendous efforts in fight against opioid misuse and addiction including the Governor's **Executive Order** making **naloxone**, a medication designed to reverse the symptoms of an opioid overdoses, more available.

Mark Hardy, the Executive Director of the ND Board of Pharmacy stated at a roundtable discussion with the **Governor** that the number of opioid prescriptions from 2015 to 2016 has actually decreased. It's decreased by about 75,000 prescriptions and 2017 figures show a similar trend of a 10% decrease.

Recognizing the importance of continuing education tailored to individual practitioner's needs, the Board has determined the webinars shall be accepted in lieu of classroom style education. Half of all continuing education credits may be obtained online from self-study; the other half may be obtained from webinars or classroom style continuing education. The Board describes self-study as an educational process designed to permit a participant to learn a given subject without involvement of a proctor.

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WHAT CAN WE DO?
EDUCATE PATIENTS ON THE RECEIVING
END OF THE OPIOID PRESCRIPTIONS;
INFORM PATIENTS WHERE TO DISPOSE
OF UNUSED PRESCRIPTION MEDICATIONS;
AND, PURSUANT TO ADMIN RULE 20-02-
01-12, ENROLL IN THE PDMP.

PRESIDENT'S MESSAGE, CONTINUED

A key feature of a **webinar** is its interactive elements; the opportunity to receive and discuss information in real time.

As the New Year approaches I would like to remind licensees to take advantage of the **online renewal** process. The process saves you time, and saves the Board added and unnecessary administrative costs. The next renewal cycle will not include paper applications.

The Board continues to research and discuss future administrative rule amendments and **amendments** to the NDCC, and is always open to questions, feedback, and input from fellow practitioners. Tara Brandner, Assistant Attorney General is now serving as the Board's new legal counsel, and will guide us through the process. **Welcome Tara!** And my gratitude goes out to my fellow members of the NDBDE for their commitment and time given to the NDBDE.

Sincerely,
Otto Dohm, DDS

CONTINUUM ANESTHESIA CO₂ RESPIRATION CAPNOGRAPHY SEDATION

Troy Petersen, DMD, MD
Anesthesia Committee Chair

New Administrative Rules effective July 1, 2017 include revisions in section 20-02-01-05 pertaining to anesthesia and sedation. A North Dakota licensed anesthesia or sedation provider authorized by the board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permit holder within **every five years** following a successful initial application or renewal.

The Board often receives questions regarding site evaluations and why the Board's requirements may seem to be beyond the level of the permit requested. Practitioners intending to produce a given level of sedation should be able to diagnose and manage the physiologic consequences (rescue) for patients whose level of sedation becomes deeper than initially intended. Level of sedation is entirely independent of the route of administration. Moderate and deep sedation or general anesthesia may be achieved via any route of administration and thus an appropriately consistent level of training must be established. Because sedation and general anesthesia are a continuum, it is not always possible to predict how an individual patient will respond. Hence, the existing site evaluation requirements.

The American Dental Association's (ADA) 2016 revisions to the *Guidelines for the Use of Sedation and General Anesthesia by Dentists* and *ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students* (the "ADA sedation guidelines") do not mandate a capnograph (with no other options) for moderate sedation. Although capnography equipment is required for moderate sedation permit applicants, the board recognizes that a capnography may produce false-positives. The revised guidelines are quite clear that the clinician has the option to utilize other methods of monitoring respiration based on his/her clinical judgment: "The dentist must monitor ventilation and/or breathing by monitoring end-tidal CO₂ unless precluded or invalidated by the nature of the patient, procedure or equipment. In addition, ventilation should be monitored by continual observation of qualitative signs, including auscultation of breath sounds with a precordial or pretracheal stethoscope." (*Guidelines for the Use of Sedation and General Anesthesia by Dentists*, p. 11, 13.) The NDBDE will maintain the requirement that dentists who wish to practice IV moderate sedation have had training providing IV sedation to at least 20 live patients.

Did you Know that

An RDA can be authorized by permit to place, carve and adjust class I, II, and class V amalgam or glass ionomer?

Psst...
AND the same
is true for a
RDH

or
AND an RDH or
RDA who is
authorized by permit may
provide anesthesia
assisting duties for a DDS
OMFS authorized to give sedation!

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Title 20 Of the North Dakota Administrative Code

contains **NEW LAWS** promulgated by the North Dakota State Board of Dental Examiners. The new Administrative Rules have been **IN EFFECT** since **JULY 1, 2017**. The **NEW LAWS** can be found at www.nddentalboard.org click on the **LAWS & REGULATION** tab. You will find all the latest regulations, even those regulations that are not in the dental practice act.

ADA's OSCE -- What is it?

Some feel it poses a very high stakes issue for the ADA, as significant funding has been dedicated to promoting the ADA's vision for licensure. The concept does not sit well with most state boards across the country, including the NDBDE. OSCE is the acronym for **Objective Structured Clinical Examination** which would be offered to affirm the clinical skills required for licensure without utilizing live patients.

Concerns numerous state boards have brought forward stress that minimal clinical competency examinations should be demonstrated on live patients rather than manikins or models. Presently, for example, periodontal aspects of clinical examinations cannot be artificially replicated. Existing regional clinical boards have been shown to be psychometrically sound.

Canada has OSCE which the NDBDE accepts, in lieu of the National Board, but not in lieu of a clinical regional board examination. Currently Minnesota is the only state that recognizes the OSCE examination as a requirement for clinical board examination. The bottom line for the NDBDE? Those seeking dental licensure in ND must successfully complete a live patient regional board as offered by NERB, WERB, CRDTS and CDCA.

DENTAL ASSISTANT We all know how valuable dental assistants are to the dental team. **WANTED**

Laws and Administrative rules which govern the practice of dental assisting provide a couple of avenues to become registered with the Board [See *Administrative Rules 20-03-01-05*]. **A dental assistant may not legally provide expanded duties without becoming first registered with the board.** What may appear to be a roadblock? The accredited education. Currently, a dental assistant who has not had a formal education may become registered via *On the Job* (OTJ) training plus DANB [see DANB.org]. Registered dental assistants possess the knowledge and training to be a great asset to the flow of a busy dental office.

Although the Board encounters concerns from some legislators regarding the validity of the OTJ training as a means to qualify dental assistants to provide expanded duties, the Board counters by stating that a dental assistant who is being trained by a DDS, and most likely the entire dental team, must also successfully complete a psychometrically sound and valid National Board Examination (three part Dental Assisting National Board General Chairside Exam).

Recognizing a shortage of dental assistants throughout the state, interested stake holders have been hard at work trying to provide answers and solutions related to how dental assistants should be trained, the most efficient means to train interested candidates and of course... how much it will cost. Not to mention "where will the funds come from? and, is it enough?" Stay tuned.

**NEXT SCHEDULED MEETING
 OF THE NDBDE**
FRIDAY, JAN. 26, 2018 1:00 PM
& SATURDAY, JAN. 27, 2018*
 HAMPTON INN
 GRAND FORKS, ND

MEETING AGENDA CAN BE FOUND APPROXIMATELY 2-3 WEEKS BEFORE THE BOARD MEETING AT:
<https://apps.nd.gov/sos/ndpnmn/meetings/searchMeetings.htm>
 . * Saturday meeting will convene if the Board requires additional time.



During the latest Administrative Rules changes, effective July 1, 2017, the board made two changes regarding CE. In the new ND Administrative Code 20-01 through 20-04 on the board’s website, under continuing education for each profession, half of the required CE can be self-study. The other half must be ‘live’ which means attending seminars or online webinars with a proctor involving interactive communications.

Webinar attendance certificate should state “webinar” as well as hours of attendance and date of attendance. The requirement for CPR remains the same. A webinar or other online CPR course must contain a *hands-on* component to be eligible for continuing education credits. All CE can be obtained online as long as half is interactive.

For registered dental anesthesia assistant and dental restorative permit holders (RDH or RDA), two hours related to each one are needed per two year cycle. Dental sedation and anesthesia permit holders are still required to include 4 hours of CE related to sedation/anesthesia.

Remember as licensees, YOU are responsible for obtaining and filing the attendance certificates for the CE that you attend. Random audits are done each cycle. Dentists and dental hygienists random audits begin in 2018. Inactive status licensees are not required to obtain CE.

Bev Marsh, RDH
Continuing Education, Chair



MAIL ORDER BRACES?

DIY BRACES? Mail order braces have come on the scene! SmileDirectClub... Google it!. The Board has received plenty of “literature” and letters from outside interests and has learned of various states contemplating action. Some states such as Alaska have begun to open investigations. Align Technology, owner of Invisalign, has a 19% stake in the company. To date, no complaints have been received by the NDBDE against SmileDirectClub. Caveat Emptor!

Licenses and Registrations 07/01/2017

	IN STATE	TOTAL	INACTIVE
DDS	431	472	42
RDH	629	832	63
RDA	563	639	N/A



2017 LEGISLATIVE ACTION

New Administrative Rules became effective July 1, 2017.

HB 1256: Relating to regulation of dental therapists. The Board unanimously adopted the position that the Board is not in favor of dental therapist HB 1256 and disagrees with the concept of the dental therapist. The Board provided several reasons for their opinion.

SB 2052 was enacted to address health insurance coverage and telehealth services. See NDCC 26.1-36-09.15.(c) Coverage of telehealth services. “Health care provider includes an individual licensed under chapter 43-28 (dental).

HB 1035 amended the Dentists’ Loan Repayment Program. Provides funding to support dentists providing dental services in cities or surrounding areas, or both in which the state health council identifies as having a defined need for dental services. Dentist must agree to accept medical assistance patients and assignments. For further information, see <http://www.ndhealth.gov/pco/main.asp>.

Board Actions 2017

LICENSEE	ACTION	VIOLATION
DDS	NON DISCIPLINARY SETTLEMENT The Board determined that the practitioner was practicing below the standard of care. The DDS was required to seek board approved clinical remediation.	NDCC § 43-28-18(11)
DDS	Letter of Concern; The Board determined a letter of concern was warranted for the faulty treatment which may have been avoided. However, the practitioner was not grossly negligent.	Code of Ethics
DDS	Letter of Concern Auxiliary was providing duties without authorization. The DDS is ultimately responsible for actions of auxiliary.	
DDS	Letter of Concern; A dentist was soliciting other dentists to refer patients The Board determined the	Violation of Code of Ethics 5.H.1.
DDS	Settlement Agreement which included Letter of Concern and \$250 fine (first offense).	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.
DDS	Settlement Agreement with Letter of Concern and \$500 fine.	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.
DDS	Settlement Agreement - Suspension; DDS completes a one-year live patient residency program and completes an intensive outpatient chemical dependency treatment program and during the suspension maintain sobriety from all mood altering chemicals.	N.D.C.C. § 43-28-18(1), (2), (4), (6), (7), (11), (20), (21), (23), (27), (28) and sections 1B1, 2D, and 2F of the American Dental Association's Principles of Ethics and Code of Professional Conduct.



CHAIRING THE COMPLAINT COMMITTEE

happens to be the most difficult in terms of hours **dedicated** to sending correspondences, requesting and reviewing written responses and directing the general committee business of preparing documents for the Board's meetings. Licensees and registrants whose fitness to practice, performance or **communication** skills have been called into question often end up before the NDBDE's Complaint Committee. In 2017 the Board addressed **21** complaints; **suspended** one dental license; and sent out numerous letters of **concern**. Greg Evanoff, DDS is the Chair of the Complaint Committee. Thank you **Dr. Evanoff**.

CHANGE OF ADDRESS

Pursuant to North Dakota Century Code and Administrative Rule, licensed and registered dentists, hygienists and registered dental assistants shall notify the Executive Director of the Board within thirty days of a new address. Such licensed and registered dentist or hygienist may not practice dentistry in the state for more than thirty without giving such notice. A dentist must provide a new business address. A registered dental hygienists or a registered dental assistant is required to provide a new mailing address as well. Failure to provide this information to the board can result in loss of registration of license or penalty. SEND THE INFORMATION TO: INFO@NDDENTALBOARD.ORG

THE PROVEN STRESS REDUCER & PRACTICE BUILDER

Dr. Dennis Sommers, Minot, ND*

"Meet in the lobby at 6:30" the text from Tom said. Tom and I sat side by side in every lecture through dental school. Now, 25 years later, he still took charge of our "study group." Tom, along with most who studied jointly for anatomy, pathology, radiology and the rest of the "ology" exams, were again meeting up – this time for dinner at the UMKC Alumni gathering.

True to my OCD, I arrived early at the Kansas City Sheraton and noted that none of my classmates had yet arrived. Scanning the lobby, a familiar face was sitting alone near the fountain. Dr. John Massey practiced just outside of Kansas City and had provided a setting for graduate students from the school to practice evenings during their residencies for many years. While still a student, I worked as a dental assistant two evenings and Saturdays most weeks for an ortho resident at the school. After graduation, and during my own orthodontic residency, an opportunity to practice in Dr. Massey's office came my way. I snapped it up.

A feeling of how much Dr. Massey cared about you was palpable for anyone visiting with him. He was one of the nicest people you would ever want to meet, and one you wished was your Uncle. I found my way over to the fountain and sat down to visit with "Uncle John." We had not seen each other for many years. Eventually I asked, "Are you still practicing?"

"No," he replied. "But I still enjoy coming to these alumni meetings to see old friends - like you." Warmth returned inside me, just as I felt it when working in his office many years before. We chatted about a number of things most of which I no longer recall. Although the context that preceded his next statement has also since been lost, the words he spoke have remained with me all the years since. **"I practiced for 45 years. And, I never was malpracticed," Massy said.**

I knew what he meant, and why things happened that way for him. It was simple: Dr. Massey's patients loved him. Having worked and shared common patients during those years, I knew it wasn't because the margins of his amalgams were always perfect. I also knew that his eye sight wasn't what it was in his younger years, and perhaps areas of decay on bitewings were occasionally overlooked. Dr. Massey's patients loved him because he communicated with them, was honest, treated them fairly, he cared, and he always did his very best to help every one of his patients. In a nutshell, he always did what he felt was best for each patient. In the years that followed the reunion with Dr. Massey a path led me toward volunteer work with the orthodontic association's Council that deals with Ethics.*

The ADA has a similar Council with a similar Codes of Ethics. Not only do AAO and ADA organizations require members to abide by their Codes, North Dakota laws pertaining to dentistry also require all those licensed and practicing in the state to adhere to the ADA Principles of Ethics and Code of Professional Conduct**. But, how many have read and are familiar with "The Code?"

In a review of published minutes from the ND State

Board of Dentistry's quarterly meetings it is both interesting and sad to see the numbers of complaints managed by the Board that could have been avoided if the individuals involved in complaints had exercised more effort to communicate with the complaining patient or family and/or had been more familiar with and employed ethical guidelines in their practices. Avoiding situations that spark an unhappy patient or colleague (and occasionally the Board of Dental Examiners) can bring more enjoyment from practice while avoiding lost time, sleep and potentially costly resolutions of such matters.

A condensed version of the guidance offered by the ADA's Code of Ethics is simple:

- Allow patients to make informed decisions about their own treatment. This includes clear, caring and honest communications – in **both** directions!
- Don't harm the patient. In other words, stay current with advancements in dental care, refer patients for specialty care when appropriate, don't violate patient's trust by recommending treatment that isn't needed nor ask your team to practice outside their scopes of practice, and more.
- Do good. We are privileged to provide dental care. This means we should use that privilege to help those in need, including those who may struggle to afford the care they require. Be beneficent.
- Be fair to your patients. Do not discriminate. And, be slow to judge your fellow dental practitioners. Often, the circumstances that may have contributed to outcomes that are less than perfect are not clearly known. And, patients often struggle to provide an unbiased view of what may have occurred.
- Be truthful and respectful to your patients. This covers a broad area of interactions with our patients.

I am convinced that Dr. Massey's successful practice was a result of how he treated his patients. He incorporated the finest communications and the Principles of Ethics into his daily work routine. Not only was he never "malpracticed," he enjoyed his work and the love of his devoted patients. As the New Year approaches, we would each do well by resolving to read the ADA Code of ethics in its entirety once every year, for it has the ability to not only build our practices, but also to maximize our enjoyment and love for the profession in which we work.

*Dr. Sommers is a former member of the AAO's Council on Membership, Ethics and Judicial Concerns, and is a Past President of the NDDA.

**The Principles of Ethics and Code of Professional Conduct can be found on the NDBDE's web site at www.nddentalboard.org.