

MINUTES
North Dakota Board of Dental Examiners
June 14, 2019, 1:00 PM
Office of Brady Martz & Associates, Bismarck, ND

1. Call to Order and roll call: Dr. Keim called the meeting to order at 1:04 PM. Dr. Keim welcomed newly appointed board member Alison Fallgatter, DDS.

<u>Board Members and Administrative Staff Attendance</u>	
Michael Keim, DDS, President	Tim Mehlhoff, CPA, Secretary-Treasurer
Greg Evanoff, DDS President-elect	Otto Dohm, DDS
Bev Marsh, RDH, Immediate Past President	Mike Goebel, DDS
Rita Sommers, Executive Director	Alison Fallgatter, DDS
Tara Brandner, Assistant Attorney General	

2. Review and approve minutes: January 16, 2019; Feb 6, 2019; Feb 20, 2019; March 27, 2019: Moved by Dr. Goebel to accept all minutes, motion seconded by Dr. Dohm. Roll call vote (RCV): Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.

3. Additions to agenda: None

4. Treasurer's Report

A. Proposed 2019-2020 Budget: Ms. Sommers presented the 2019-2020 biennial budget and provided an overview of the fixed and variable expenses to demonstrate where resources are allotted regarding operating expenses of the Board including line item variable increases to reflect potential inflationary issues and anticipated shortfalls. Ms. Sommers commented that all fees, the primary source of Board revenue, have remained the same since January 2008 and recommending an approximate 1% per year rather than the inflationary percentage per year over the previous 10-year period to calculate a reasonable increase in fees during the next Administrative Rules amendment process. The Board's policy regarding funds dedicated for emergency use, such as litigation, is to maintain 1.5 times annual revenue in reserve. Throughout the previous years the Board has been successful maintaining lower fees by going paperless while also reducing hotel and travel expenses by using video technology for conferencing. Mr. Mehlhoff was comfortable with the projections and speculated that it is unlikely the Board would be able to delay fee increases for another 10-year interval as the Board may have exhausted options for trimming the budget. Mr. Mehlhoff moved to adopt the budget; motion seconded by Dr. Goebel. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.

<u>2rd Q Balances</u>		<u>Certificates</u>	
Checking	\$129,835.28	CC Union	\$73,975.18
Muni. Inv.	\$2,831.86	Acct 3120/1	\$123,358.11
Prefer. Bus.	\$2,791.70	Bremer x2	\$110,248.12
Total	\$135,458.84	Total	\$307,581.41
Total Assets	\$443,040.25		

5. Review candidate credentials: 2nd Quarter report: Ms. Sommers provided a list of 2nd quarter status of dental and dental hygiene applicants and completed applications.

6. Committee reports:

A. Application Review Committee

1) BCI reports: EXECUTIVE SESSION - The Board convened into executive session for the purpose of discussing confidential criminal history record checks as they relate to candidates for licensure. The legal authority for closing this portion of the meeting is NDDC 12-60-24.1(c). The public was asked to leave the room. Executive session began at 1:21 P.M. and was attended by Dr. Keim, Dr. Evanoff, Ms. Marsh, Mr. Mehlhoff, Dr. Goebel, Dr. Dohm, Dr. Fallgatter, Ms. Sommers and Ms. Brandner, AAG. The executive session ended at 1:30 P.M., the public was invited to return to the room and the meeting returned to its regular session.

2) Review applicant files:

a) DUI's - other incidents and new applicants: Dr. Goebel moved to grant license to applicants where incidents were reported and to not censure the new applicants with a reported incident. Discussion; the Board's current protocol regarding an incident in a BCI report or reported to the Board by the individual applying for ND licensure is, grant the license once all requirements of license have been met. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0. Dr. Dohm moved to reiterate that an applicant who has, or is in the process of, navigating a solitary issue with the law enforcement is not grounds for denying a license as long as the applicant discloses the incident. Dr. Dohm seconded the motion. The applicant must be in compliance **or** have completed any court mandates for the single incident or one-time event. Dr. Evanoff commented that letters of concern could be issued to an individual who already holds a ND license and a letter of concern should not be issued to a new applicant who has a record of an incident occurring prior to application of the ND license. Ms. Brandner commented board actions must support the conclusion that the reported incident(s) would have a direct bearing upon the individual's ability to serve the public as a dental practitioner. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.

- B. Complaint Committee:
- 1) Case number 19-03182019: Dr. Goebel moved to dismiss the case as grounds for disciplinary action do not exist. Motion seconded by Dr. Fallgatter. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.
 - 2) St. Claire, RDA: In a letter to the Board dated April 16, 2019, Ms. St. Claire provided the Board erroneous information. St. Claire responded to the Board's inquiry regarding a complaint related to fraudulent prescribing. The Board then learned of Federal court indictments filed April 4th, 2018 for health care fraud. Ms. Claire did not report the federal charges pursuant to NDCC section 43-28-18.1, nor report a crime report dated 4/21/2018 for a drug/narcotic violation; the offense being counterfeiting/forgery. In a letter dated April 16, 2019 Ms. St. Clair stated no criminal charges had been filed, falsifying her renewal application. Dr. Evanoff moved to authorize Ms. Brandner to offer a Settlement Agreement to include a one-year suspension, and chemical dependency evaluation prior to reinstatement of Ms. St. Claire's dental assisting registration to address the alleged forgery of prescriptions. Discussion; the offer would still leave the door open for Ms. St. Claire to be employed as a non-registered dental assistant. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.
- C. Anesthesia Committee
- 1) Site Evaluations:
 - a) T.Deeter, DDS, failed to proceed with the site evaluation pursuant to the April 4, 2019, Settlement Agreement which provided a 60-day window for the re-evaluation. Dr. Goebel moved to revoke Dr. Deeter's sedation privileges. Dr. Dohm seconded the motion. Ms. Brandner shall issue the Order revoking the permit. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.
 - b) Dr. Hoge's site evaluation: A site- evaluation was completed for Dr. Hoge's Fargo office. Dr. Chad Hoge utilizes a CRNA. Dr. Mikayla Hoge was not present during the site evaluation and therefore currently would not be permitted to utilize the services of the CRNA until the site evaluator conducts an interview and is satisfied with the results. Dr. Goebel moved to approve the site evaluation for Dr. Chad Hoge and stipulate that if Dr. Mikayla Hoge chooses to utilize the anesthesia provider, she would have to be interviewed by the site evaluator and may not provide sedation without the site evaluator being satisfied with the interview results. The Interview could be conducted via phone conference. In addition, Dr. Hoge's office must also provide evidence of the required secured wall or floor safe noted to be non-existent during the evaluation. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.
 - c) Dr. Casperson's site re-evaluation remains incomplete; a second evaluation is required to address concerns related to the initial site evaluation and has yet to be scheduled with Dr. McMahon. Dr Goebel moved to require the high security wall safe, rather than the heavy file cabinet for storage of drugs and Schedule I, II, III and IV narcotics.
 - 2) DAIRS (dental anesthesia incident reporting system) A test case was sent through the system. No further reports.
 - 3) OMFS consultant: Dr. M. Tanabe, DDS, OMFS has agreed to act as a consultant to Anesthesia Committee. Moved and seconded to nominate Dr. Goebel to chair the Anesthesia Committee. The motion was seconded by Dr. Dohm. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0.
 - 4) Two new dental applicants specializing in OMFS have submitted applications for sedation and anesthesia permits; Dr. Radu and Dr. McBee.
- D. CE Committee
- 1) Random audits: Ms. Marsh provided an audit report; 40 audits will be completed in 2019. All audits thus far have been satisfactory.
 - 2) Diers CE: The Diers course has been considered clinical CE for several years. The Diers company intends to send the Board a copy of the book provided to attendees of the Diers course which should satisfy any questions regarding course content.
 - 3) Acceptable "clinical" course content: Ms. Marsh commented on the courses offered by the NDDA at their 2019 Annual Meeting held September 19-21, 2019 which will not be considered clinical and asked requested Board comments on courses that appear to be "gray" areas. For example, some offerings appear to be more about marketing a product/service than actual clinical CE. Until a definitive definition of clinical CE is adopted by the Board, the CE Committee shall make the determination on a case by case basis.
- E. Legislative Committee
- 1) Review laws draft: Ms. Sommers navigated through an initial draft of proposed Administrative Rules amendments proposed for an Administrative Rules change and will incorporate comments. A new section will be created under sedation and anesthesia, additional definitions, and clarification of existing definitions such as 'general supervision'. Ms. Sommers will continue to complete the areas of the DRAFT that are incomplete, sedation & anesthesia, for review at the Sept meeting. No further action.
 - 2) RDA presentations and NDDAA communications:
 - a) Sasha Dusek, RDA - restorative procedures & use of highspeed handpiece: Ms. Dusek requested use of high speed handpiece for adjustment of composite restorations. Board members appreciated the comment but remain concerned with the duty and believe it is a safety issue. Ms. Dusek commented the use of high speed handpieces is taught in courses for restorative procedures.
 - b) Susan Peters, RDA - NDDAA recommendations to the Board: Ms. Peters urged the Board to consider the following duties for dental assistants during the rules amendment process: 1) Administer fluoride varnish.

(assistants are currently authorized under NDCC 43-28-02(6) to provide the duty under general supervision.)
2) Administer nitrous oxide – Board members commented that it is not a hardship for a dentist to start the nitrous. Another Board member acknowledged that it would be a time saving issue. 3) Final digital impression; Ms. Peters commented the dentist would have the final word and the digital impression is not harmful to the patient. The Board is concerned that it would be a slippery slope and will give the issue further consideration for the rules process. 4) Formal representation on the Board; dental assistant member. The Board was not opposed to a dental assistant serving on the Board and would consider the issue at a future legislative opportunity. Ms. Peters requested a commitment from the Board to legislatively move forward with the issue however, the Board cannot commit to legislation since they cannot foresee if they would be legislatively active during the next session in two years.

7. Old Business

- A. Mercury safe marketing: Moved to September meeting.
- B. BCI Training – The premise of the Criminal Justice Information Services (CJIS) is to provide appropriate controls to protect the criminal justice information and provide guidance on viewing transmission, dissemination, storage and destruction of CJI records. Each member of the Board has successfully completed the CJIS training.
- C. ASTHO update: Bobbie Will submitted a written report regarding data collection and the renewal process.
 - a) The next renewal will include questions for dentists and dental hygienists to answer during the renewal process and are taken from state and federal surveys. The ND OH Program will be able to pay the Board annually to extract the data through an OH Program grant.
 - b) A typo in the Administrative Rules section 20-04-01-01(7) pertaining to dental hygienists and oral assessments proved to be a barrier to increasing access in community settings and ND Medicaid use of billing code D0190 (Screening of a patient which includes state and federally mandated screenings and code D0191, assessment of a patient to identify possible signs of oral or systemic disease, malformation or injury and the potential need for referral for diagnosis and treatment. The codes are needed for long term care facilities, school, community, and public health settings where hygienists assess, and apply sealants.
 - c) Fluoride varnish: Clarification was provided to the dental assistants requesting to provide fluoride varnish. Pursuant to 43-28-02(6) a dental assistant may apply fluoride varnish to an individual when acting under the direct or general supervision of a physician or licensed dentist if the RDA has completed training approved by the board to provide the varnish.
 - d) ASTHO (Association of State Territorial Health Officers) is exploring teledentistry processes, equipment etc., and working on a model for children to see nurse, hygienist, and dentist at Healthy Tracks OH screenings and care starting with one location with hopes of branching out.
- D. Citizen Petition filed by ADA to the FDA (SDC): No report

8. New Business

- A. Face & Jaw disclosure letter: The Board reviewed and was satisfied with the report and actions taken by the Face & Jaw. No Action or further discussion.
- B. Brent Holman, DDS; Mission of Mercy (MOM) projects and volunteer license process. Next MOM project is in Bismarck, May 1-2, 2020. Dr. Holman provided some insight to recommendations to the Board for streamlining MOM volunteer dental licensing and the addition of dental hygiene volunteer licensing and provided the comparisons of Virginia and Kansas. Dr. Holman suggested the Kansas verification process should sufficiently meet the needs of the NDBDE's volunteer licensing process (other licenses verified and remove background check requirement) and requested the Board consider making changes to the Administrative Rules to facilitate the licensing process for short term events such as the 2-day MOM event. Dr. Evanoff suggested an "event volunteer license" which would only be valid for a single event. Dr Evanoff moved to add to rules a volunteer license specifically addressing an event such as MOM. Discussion; Dr Evanoff suggested streamlining the application by not asking applicants to send evidence of CE, rather the applicant would attest to the fact. Dr. Evanoff withdrew his motion and moved to appoint Dr. Goebel Chair a committee to manage the process of drafting a volunteer license to streamline the licensing process for volunteer dentists participating in the MOM projects. Mr. Mehlhoff seconded the motion. RCV: Keim, yes; Evanoff, yes; Marsh, yes; Mehlhoff, yes; Goebel, yes; Dohm, yes; Fallgatter, yes. Motion carried, 7-0. Further discussion; if laws do not prohibit the hygienist from a volunteer status Dr. Evanoff suggested the volunteer license status be extended to the RDH as well.

9. Meetings & National Organizations

- A. Regional clinical boards: Reports
- B. AADA-AADB: Mid-Winter Meeting 2019: Trip reports
 - 1) AADA-AADB Annual Meetings; Las Vegas - October 17-21 to be attended by R. Sommers and T. Brandner, AAG
- C. FARB: Annual Regulatory Law Seminar October 3-6; St. Louis, MO to be attended by R. Sommers and T. Brandner, AAG
- D. CRDTS: Annual Meeting; August 23-24, 2019 KC, MO Register by 7/15

10. Remuneration

11. Next meeting 9/20/19 1PM; Holiday Inn, Fargo

12. Adjournment: Dr. Keim moved to adjourn, seconded by Bev Marsh. All voted in favor of the motion. Meeting adjourned at 5:29 PM.

Respectfully Submitted, Rita Sommers, Executive Director

Tim Mehlhoff, CPA, Secretary-Treasurer