

North Dakota Board of Dental Examiners
Minutes for Regular Meeting: Draft: January 12, 2024, 12:00 PM CDT
Office of Brady Martz & Associates
2537 University Dr. South, Fargo, North Dakota

1. Call to Order, roll call, officers:

Ms. Marsh called the meeting to order at 12:00 pm CT.

Board Members and Administrative Staff Attendance

Bev Marsh, RDH, President

*Marcus Tanabe, DDS, OMFS

*Megan Olson Stremick, DDS

*Cindy Snay, Consumer Member, Sec/Treasurer

Jennifer Sarsland, DDS

*Rita Sommers, RDH, MBA, Assistant Director

*Matt Menge, Assistant Attorney General

Joel Kangas, DDS

*Alison Fallgatter, DDS

Otto Dohm, DDS, MS

Andrea Carlson, RDA

David Schaibley, Executive Director

*Jacinda Simmons, Board Administrator

*** *Indicates remote attendance***

(Dr. Olson Stremick attended until approximately 6:11pm)

Discussed election of Board Officers; President and President-Elect terms run for one year commencing March 16 of each year.

Motion by Ms. Marsh; Second by Dr. Fallgatter: Nominating President-Elect Dr. Tanabe to serve as President and nominating Dr. Kangas to serve as President-Elect—commencing March 16, 2024.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

2. Minutes

September 29, 2023 (Quarterly meeting): Dr. Kangas discussed a needed correction to indicate that that Dr. Burke did (instead of did not) complete continuing education as required by his settlement agreement.

December 5, 2023 (Special meeting): Reviewed.

Motion by Dr. Fallgatter; Second by Dr. Olson Stremick: Approving the September 29, 2023, minutes but incorporating the change suggested by Dr. Kangas, and approving the December 5, 2023, meeting minutes as drafted.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

3. Agenda

Ms. Marsh explained that due to time constraints she would be discussing some agenda topics out of sequence to allow demonstrations of software by Albertson Consulting and Prominent to occur at this point of the meeting. She also explained that she will move the complaints, discipline, and inquiry matters to the end of the agenda so public attendees can attend the meeting uninterrupted up until the complaints portion's executive session.

Motion by Dr. Olson Stremick; Second by Ms. Marsh: Approving the agenda as revised.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

4. Software Demonstrations

Albertson Consulting explained services it could offer as follows: could allow the Board to continue using CloudDoc or the Board can chose to migrate to the existing WorkDocs solution; if WorkDocs is chosen, they'd refresh the Board's website. Cost was shared. Demonstrated aspects of its solution.

Prominent explained services it could offer. Custom build of a solution that would meet the requirements the Board specifies. Demonstrated aspects of an existing solution. Shared that cost can be arrived at through its road mapping process. Roadmapping would be streamlined due to Prominent's prior experience with this software and cost \$6,500.

5. Treasurer's Report

Ms. Sommers shared information on Certificates of Deposit and provided a biennial budget. Ms. Sommers, Mr. Schaibley, and Ms. Snay responded to questions; explained a need to update the people that have access and authority for bank accounts, check writing, certificates of deposit.

Motion by Dr. Dohm; Second by Dr. Fallgatter: Approving the budget.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

Motion by Ms. Marsh; Second by Dr. Fallgatter:

On the US Bank Checking Account:

Bill Kalanek is to remain as an authorized agent and as a check-writing signatory; David Schaibley is to be added to the account as an authorized agent and as a check-writing signatory; Rita Sommers is to remain authorized to view the account but is no longer authorized as a check-writing signatory.

On the certificates of deposit:

David Schaibley is authorized to move funds out of US Bank and into Certificates of Deposit at other financial institutions as made necessary by FDIC limits or per Board direction. David may delegate the movement of funds and other aspects of these financial transactions to Bill Kalanek as appropriate.

When CDs mature, David may either reinvest all or part of those funds into a new CD at the same or other financial institution or return all or part of the funds back into the US Bank checking account. David may delegate the movement of these funds and other aspects of these financial transactions to Bill Kalanek as appropriate.

David Schaibley and Bill Kalanek shall both be named as authorized agents on each CD.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

6. Licensees/Registrants

The Board reviewed the table of current quantities of licensees and registrants, and the attachment listing new licenses and registrations that have been issued since the last meeting.

Motion by Dr. Stremick; Second by Ms. Carlson: Ratification of licenses and registrations on Attachment A.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

7. Portfolio Report: Anesthesia

Discussed approved site evaluations for Dr. Eaton; Dr. Wehrman; Dr. Crago; Dr. Chahal; Dr. Grey; Dr. Gomez

Discussed the site evaluation process and acceptable evaluators.

Motion by Ms. Marsh; Second by Dr. Fallgatter: Confirming that:

(a) Moderate Sedation Site Evaluators. Ms. Kelly Pierce, CRNA, is approved as a site evaluator for holders of moderate sedation permits. Dr. Tanabe may approve other CRNAs to carry out moderate sedation site evaluations. Dr. Tanabe may require such CRNAs to submit all material he deems relevant to his decision.

(b) Deep Sedation and General Anesthesia Site Evaluators. Holders of active Board-issued deep sedation and general anesthesia permits are authorized to perform site evaluations on other holders of deep sedation and general anesthesia permits. CRNAs may carry out deep sedation and general anesthesia site evaluations if they are approved by Dr. Tanabe. Dr. Tanabe may require such CRNAs to submit all material he deems relevant to his decision.

(c) Site evaluators must be independent from, and not in business relationships with, the individuals whose site evaluations they carry out.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

8. Portfolio Report: Continuing Education

Random audits for licenses renewed as of December 31, 2023, will begin now that the renewal period has ended.

9. Portfolio Report: Applications

Discussed Ms. Yazzie's application. To approve her application the Board would have to approve Carrington College's dental assisting program under NDAC 20-03-01-05(1)(a)(3). No motion was made to approve Carrington College's program. Ms. Marsh and Mr. Schaibley will explain Ms. Yazzie's options for registration as both QDA and RDA to her.

Discussed Dr. Judd's inquiry. The Board discussed that she would need to pass the clinical exam's Class III. It provided dates and locations when she could take the exam.

10. Portfolio Report: Legislation and Rulemaking

Discussed an upcoming Board meeting at which the Commissioner of the Department of Labor will discuss SB 2249 with the Board.

Discussed changes to its statutes and rules. In doing so it discussed that workforce is at a critical stage in nearly every aspect of the economy, and so concerns about it should be expected to remain on the forefront of issues licensees, the Board, legislators, and stakeholders focus on—and that these workforce matters directly impact the care that consumers receive. With that in mind, it discussed that the primary goal and key changes the Board is proposing to its laws reflect a focus on workforce. The Board analyzed the duties in its rules, and all rules, and in doing so assessed public policy, health, safety, and welfare concerns underlying them. It discussed whether the way the current rules regulate each duty addresses those public welfare concerns in an appropriate way—or if the Board could propose that any be regulated differently; less-impactfully; in ways that reduce any real or perceived negative impact on workforce while still sufficiently protecting the public. It proposed dozens of modifications in this regard. In doing so, it:

-Discussed the Board's current draft of a Bill that would likely be filed in the next legislative session. The Bill is anticipated to amend NDCC ch. 43-20 and NDCC ch. 43-28. The Board incorporated modifications to the draft.

-Discussed the Board's current draft of proposed changes to NDAC Title 20. Incorporated changes to the draft. Discussed its prior conversation that it anticipates going forward with rulemaking on a timeline that will result in the rules taking effect October 1, 2024.

Motion by Ms. Marsh; Second by Dr. Fallgatter: Move to approve the draft changes to NDCC ch. 43-28, NDCC ch. 43-20, and NDAC Title 20, and direct Mr. Schaibley to circulate them to stakeholders, obtain input, and prepare revision for review at a special meeting to occur in March.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

11. Portfolio Report: Executive Director

Discussed Mr. Schaibley's quarterly report.

Discussed the process for performance evaluations of the Executive Director. Outgoing Board Presidents will prepare the evaluation materials in January-February of each year; full Board will review the materials and conduct the evaluation at the March-April meeting. Evaluation of other staff may occur in the same time frame and include input from the Executive Director.

Directed a change to the standard agenda topics. Mr. Schaibley to add "public forum" as a permanent topic on agendas going forward.

12. Old Business

Discussed that the Board's current process does not include posting disciplinary matters/decisions on the Board website. The Board considered changing that process. It recognized that some nearby and comparable sized states do and some don't post these materials on their website; that there is a cost in website programming to do so; that feedback encouraging a change, and benefits of making a change, seem minimal. No motion made to change the process.

Ms. Simmons confirmed that the administrative aspects of issuing licenses using electronic signatures of Board members are wrapping up and the Board can anticipate soon issuing license certificates using electronic signatures of Board Members.

12. New Business

Discussed that Dakota College Dental Assisting program will begin instruction in Minot starting fall 2024. Applications accepted Jan-May 2024.

Discussed not rejoining AADB, if they have useful resources explore purchasing them.

Discussed that Mr. Schaibley should accept NDCA's offer to have a table for the Board at its mid-winter meeting, and that he should attend it.

13. Portfolio Report: Complaints, Discipline, Inquiries

Discussed ongoing monitoring of inquiries related to Dr. Mengedoth, Dr. Turman, and Dr. Noffze.

Closed investigation of Dr. Dowling with no action taken.

Discussed Dr. Nelson's disciplinary settlement agreement ending January 18, 2024.

Motion by Dr. Dohm; Second by Dr. Fallgatter: If no complaints are filed against Dr. Nelson by January 18, 2024, Mr. Schaibley is to send Dr. Nelson a letter confirming he has met the terms of discipline and all restrictions on his license are lifted.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

Discussed Dr. Napoles ongoing disciplinary settlement agreement.

Discussed that the disciplinary matter as to Dr. Day, and the complaints remaining on the agenda may occur in Executive Session pursuant to NDCC §§ 43-28-18.2(3) and (4); NDCC 44-04-19.1(5), (7), (9); NDCC 44-04-18.1(4); NDCC 44-04-18.32.

Motion by Ms. Carlson; Second by Dr. Fallgatter: Move to executive session.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Olson Stremick, Dr. Sarsland, Ms. Snay. Motion carried 9-0.

After close of the executive session and return to open meeting, the following occurred:

Motion by Dr. Dohm; Second by Dr. Sarsland: Move to dismiss complaints 100, 101, 102, 103.

In Favor: Ms. Marsh, Dr. Dohm, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Sarsland, Ms. Snay. Absent: Dr. Olson Stremick. Motion carried 8-0.

Motion by Dr. Kangas; Second by Dr. Fallgatter: Move to dismiss complaint 105.

In Favor: Ms. Marsh, Dr. Fallgatter, Dr. Tanabe, Ms. Carlson, Dr. Kangas, Dr. Sarsland, Ms. Snay. Absent: Dr. Olson Stremick. Abstain: Dr. Dohm. Motion carried 7-0.

14. Adjournment

6:48 PM, CT