

North Dakota Board of Dental Examiners
Minutes for Regular Meeting: October 18, 2024, 12:00 PM CDT
Brady Martz & Associates
2537 S. University Drive; Fargo, ND 58103

1. Call to Order, roll call, officers

Dr. Tanabe called the meeting to order at 12:01 pm CT.

Board Members and Administrative Staff Attendance

Andrea Carlson, RDA

Marcus Tanabe, DDS, OMFS, President

Joel Kangas, DDS

Cindy Snay, Consumer Member, Sec/Treasurer

David Schaibley, Executive Director

Otto Dohm, DDS

Jennifer Sarsland, DDS

Megan Olson Stremick, DDS

Bev Marsh, RDH

Jacinda Simmons, APT

Absent: Ali Fallgatter, DDS

2. Minutes

Reviewed drafts of the minutes of the September 20, 2024, Regular Meeting:

Motion by Ms. Marsh; Second by Dr. Sarsland: Approve the September 20, 2024, meeting minutes.

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

3. Dental Service Organizations

Guest speaker: Dr. Bradley King requested an opportunity to discuss concerns about Dental Service Organizations.

Submitted a written statement. Key concerns are impacts DSOs seem to be having on clinical care and patient billing. Dentists and staff in DSOs seem pressured to provide treatments in too short of time, and providing treatments that may be excessive—but are pressured to complete because either insurance will cover them or the patient is encouraged to apply for Care Credit. DSO financial considerations agenda being pushed onto and negatively impacting quality and appropriate dental care. It seems if patients get approved for Care Credit, some DSOs bill the full balance of Care Credit before the patient receives the treatment. And then if the patient doesn't seek the treatment its difficult to recoup those funds; difficult for patient or other provider to get the patients records if they decide to switch to another dentist.

Suggests adding language to allow the definition of "ownership" to be more clear and robust. Language suggested refers to "complete control" by the dentist. Make sure the dentist, not the DSO, are in charge of and responsible for releasing patient records; and the dentist is responsible for overbilling and would be subject to discipline if that occurs and isn't rectified. Suggests a policy of referring matters to OAG Consumer Protection if they rise to that level.

Dr. Kangas asked where the language related to “complete control” came from; Dr. King explained he worded it based on his concerns and educating himself on these issues at many meetings, conferences, research, experiences, etc.

Dr. Tanabe suggests the Board consider creating a sub-group to assess how this might work; invited Dr. King to participate; considers it to be a relatively layered and potentially complex area to legislate on. Asked Mr. Schaibley to consider and research infrastructure and process options and bring them back to the Board.

4. Treasurer’s Report

Ms. Snay shared the current financial assessment of the Board; confirmed it is sound financially and shared balance sheets, income statements, and transaction histories for the last three months.

Ms. Snay proposed preparing similar documentation for each meeting, plus an expenditure report.

The 2021-2023 biennial audit being conducted by Widmer Roel is progressing and hopefully closing in on completion.

Board seeks full transition of all checking from US Bank to Starion.

Motion by Dr. Tanabe; Second by Dr. Dohm: Complete the transition from US Bank checking to Starion checking, and closure of US Bank Checking, by May 31, 2025.

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

5. 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 Ms. Marsh; Second by Dr. Dohm: Ratification of licenses and registrations on Attachment C.

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

6. Portfolio Report: Anesthesia

Dr. Tanabe and Mr. Schaibley shared that several Host Dentist and Permit Dentist site evaluations took place and no concerns arose.

7. Portfolio Report: Continuing Education

Ms. Carlson and Mr. Schaibley recapped that at the July meeting six of the licensees she’s carrying out continuing education audits on are lacking hours. Staff created a tracking form; Ms. Carlson and Mr. Schaibley used it; confirmed that 4 of the 6 outstanding audits are now complete to our satisfaction, and the remaining 2 have been in contact with Mr. Schaibley and confirmed they’ll be submitting the necessary documentation.

Ms. Carlson suggested that it would be helpful of the spreadsheet of randomly chosen licensees also listed their permits—so she knows which licensees to ensure earned their permit-related CE (e.g., restorative permits require restorative CEs, etc.). Ms. Simmons confirmed she can do that.

Mr. Schaibley suggested creating a system by which the randomly selected licensees to be audited be sent the initial CE audit letter by APT through Mail Merge—instead of by the Board member.

8. Portfolio Report: Applications

Australian potential applicant: The Board discussed the situation where there is an agreement between CODA and CDAC—by which CODA considered institutions that are accredited by CDAC to be the equivalent of CODA-accredited institutions. The Board discussed that absent any anomalies or new information, it would likely accept such an applicant as meeting North Dakota’s licensing criteria.

Dr. Johnson: Board reviewed his application and explained it does not propose any restrictions on his license. Mr. Schaibley to complete his review and if all the remaining criteria are met, to issue the license.

Dr. Newman: Board reviewed his application and explained it does not propose any restrictions on his license. Mr. Schaibley to complete his review; to seek a more complete Notarized Statement from someone attesting to Dr. Newman’s years of experience because the existing one submitted with his application was incomplete. And if all the remaining criteria are met, Mr. Schaibley may issue the license.

Dr. Harrie: Board reviewed his application and concluded that once Mr. Schaibley confirms all criteria are met, he can issue the permit without restrictions, and that the interview required by the prior settlement agreement will be carried out by Dr. Tanabe at or before Dr. Harrie’s site evaluation.

9. Portfolio Report: Legislation and Rulemaking

Rulemaking. Mr. Schaibley explained that:

1. Rita, Jacinda, Albertsons, and he are revising processes, procedures, database programming, and website to adhere to the October 1, 2024, rules.
2. Mr. Schaibley explained Ms. Gryskiewicz’ suggesting related to anesthesia assistants and wasting medications; witness requirements. The Board is open to the idea and will look at it further, but discussed that it may be a DEA requirement she’s concerned about rather than the Dental Practice Act and its rules.
3. Organization materials for August 2025 rulemaking.
4. Discussed the high-level idea that Dr. Dohm led discussions on, of potentially changing our rules on hygienists and assistants to simply list prohibitions and not list duties that may be carried out.

Legislation. Discussed the draft of Bill that will seek revisions to NDCC ch. 43-20, ch. 43-28, and ch. 54-10

Discussed the workforce-centric nature of our Bill; the near certainty that both compacts and dental therapy bills will be introduced. Discussed the appeal of our Bill as an option for workforce. Discussed possible amendment to 43-28-15; decided to return the language related

to licensure by credential, with the addition of language that applicants under this revision must pass a hand skills exam approved by the board.

10. Portfolio Report: Executive Director

Board members reviewed and discussed Mr. Schaibley's quarterly report. A focus the third quarter of 2024 was revisions to all systems to incorporate the substantial changes required by the rules that took effect October 1, 2024; considerable work on Bill drafting; surprise nomination of Mr. Schaibley for the State's/Governor's Harvest Award.

11. Old Business

Joint Statement with Board of Nursing. Reviewed the BON's current draft; discussed the complexity of the issue from the BON perspective; discussed that the statement may not provide as concise of guidance as we had hoped, but will be useful. BON will review it again at next week's meeting and if they don't alter it again and they approve this version, we can circulate it. If they don't, we'll assess that outcome.

BSC. Discussed that Ms. Marsh and Ms. Carlson volunteered to share input with BSC as it creates its QDA programming. BSC has not yet reached out to them.

Use of Lasers. Board members Ms. Marsh and Dr. Kangas explained that marketing materials received by them and by colleagues seem to suggest that any dental employee in any dental office can make broad use of lasers for cosmetic purposes. Board members shared that they have concerns. Discussed that the use of lasers or any other equipment are always to be part of a dental treatment plan and within the scope of practice; that purely cosmetic uses that are not part of a dental treatment plan would raise concerns.

DA Prep. Discussed that they created their stand-alone RHS program. They also recognized that those who complete that program may eventually want to become a full QDA—so they revised their full QDA programming to allow those who already completed RHS to complete the remaining portions of their full QDA program—sans RHS.

12. New Business

NDDA. Dave presentations at NDDA conferences and articles in their newsletters can continue.

AADA/AADB Conference: Dave unfortunately had to cancel attendance. A funeral reduced the time he could spend their to about 1 ½ days, and then Hurricane Helene hit on those remaining days.

13. Portfolio Report: Complaints, Discipline, Inquiries

Non-Complaint files/Inquiries:

Discussed ongoing monitoring of two non-complaint inquiries.

Complaints:

Discussed that the complaints on the agenda may be reviewed in Executive Session pursuant to NDCC §§ 43-28-18.2(3) (patient records and information is confidential); 43-28-18.2(4) (complaint files prior to decision to discipline are exempt); 44-04-19.1(5) (attorney consultation is exempt); 44-04-19.1(7) (investigatory work product is exempt); 44-04-19.1(9) (negotiation

strategy is exempt; 44-04-18.1(4) (licensee personal information is exempt); 44-04-18.32 (medical records and information are exempt).

Motion by Dr. Kangas; Second by Dr. Dohm: Motion to enter into executive session.
In Favor: Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Dr. Olson Stremick, Ms. Snay. Motion carried 8-0.

Entered executive session at 2:37 pm CT. Attended by Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Ms. Snay, Dr. Olson Stremick, Ms. Simmons, Mr. Schaibley.

Ended executive session at 2:48 pm CT.

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

Motion by Dr. Dohm; Second by Dr. Kangas: Move to dismiss complaints 118-A and 118-M.
In Favor: Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Dr. Olson Stremick, Ms. Snay. Motion carried 8-0.

Discussed that Mr. Schaibley should assess whether there would be any complications if we revise the Complaint Form to add to it a release the complainant signs that would allow the dental office at issue to release patient records to the Board, and for the Board to share them with the former dentist. That way, if the records are needed for the licensee to defend themselves or if the Board needs to review the records, they can be obtained. This type of release would generally only be used when there are complications with getting the records—which can be the case when the complaint-about dentist is no longer employed at the location where the alleged wrongdoing occurred. If the records are needed, the Board can use that release to obtain the records.

14. National/State Organizations

Mr. Schaibley will attend NDDA mid-year conference in January. Provide a jurisprudence CE.

15. Calendar of Meeting Dates

Next meeting is December 6, 2025. It is a Regular Meeting so any topics can be put on the agenda or discussed, but its purpose was to be a place holder in case we need a meeting prior to Legislative Session starting. Reasons might be to discuss Bills that we become aware of that impact the dental profession, and to discuss our own Bill—and whether legislators who will be filing our Bill will want changes to our language.

For the 2025 meetings, Mr. Schaibley will send out Meeting Date Polls to identify dates.

16. Adjournment

3:00 pm CT