

North Dakota Board of Dental Examiners
Minutes for Regular Meeting: December 6, 2024, 12:00 PM CDT
Remote Only

1. Call to Order, roll call, officers

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

Board Members and Administrative Staff Attendance

Andrea Carlson, RDA

Marcus Tanabe, DDS, OMFS, President (joined 12:05p)

Joel Kangas, DDS

Cindy Snay, Consumer Member, Sec/Treasurer

David Schaibley, Executive Director

Otto Dohm, DDS

Jennifer Sarsland, DDS

Megan Olson Stremick, DDS

Ali Fallgatter, DDS

Jacinda Simmons, APT

Absent: Bev Marsh

2. Minutes

Reviewed drafts of the minutes of the October 18, 2024, Regular Meeting:

Motion by Dr. Sarsland; Second by Ms. Snay: Approve October 18, 2024, minutes.

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

3. Additions/Changes to Agenda

Discuss complaint 120 last due to Dr. Dohm conflict of interest.

Mr. Schaibley suggested that Dr. Tanabe might request adding an anesthesia issue to the agenda. Dr. Tanabe joined the meeting within about one minute of this discussion and he requested the addition of an anesthesia matter to the agenda.

4. Portfolio Report: Legislation and Rulemaking

Legislation:

Mr. Schaibley explained conversations on the Board's Bill that he has had with stakeholders and Sen. Cleary. Sen. Cleary agreed to serve as sponsor; Sen. Bekkedahl agreed to be co-sponsor. We are not aware of any opposition at present.

Mr. Schaibley explained that while others might file Bills related to dentistry, such as Dental Therapy or a Compact, none have been shared as of yet. He summarized work on a report that the Department of Labor was directed to create: it is to contain a summary of how boards operate, focusing on continuing education and licensure by credential/reciprocity. The yet-to-be-released report might prompt a Universal Licensure Bill. Mr. Schaibley explained that the discussions with DOL reflect their recognition of the importance for ensuring boards can protect public safety by requiring that applicants meet our state's standards.

Mr. Schaibley explained Ms. Marsh's interest in revising the Bill to allow for a 2nd tier of late-renewal. It would leave the 60-day late renewal deadline in place, but also create a 2nd tier of late renewal for the period of 61-365 days after licensure expiration. The proposed language she and Mr. Schaibley discussed was that the Board could ask

applicants for more information (e.g., about their skills, reasons for lateness, etc.); assess a second late fee; or require applicants to submit additional continuing education related to professional responsibility. Discussed that this change would preserve public safety because the Board would not expect skills to markedly diminish in one year.

Motion by Dr. Fallgatter; Second by Dr. Dohm: Approve the idea of proposing the revision to Sen. Cleary, but removing the idea of requiring the submission of additional continuing education.

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

Rulemaking:

Concerns Shared by Dr. King during October 18, 2024, Meeting.

Discussed difficulties in obtaining patient records when dental services organizations are involved. The Board noted that language in the Board's Bill language should increase efficiencies in the production of patient records.

Discussed that anecdotal information exists of patients who claim to have received subpar care in offices managed by dental service organizations, and that the Board has received complaints of this nature in the past. Discussed that the Board reviews all complaints fully and will continue to do so.

Discussed that at the October 18, 2024, meeting, Dr. Tanabe requested that Mr. Schaibley come up with logistical options for moving forward with exploring possible rulemaking on this and other possible new rules. Mr. Schaibley shared the ideas of creating a committee or having the Board direct one person to explore the issue. The Board opted to have one person, Mr. Schaibley, carry out that exploration; directed him to more fully explore how other states are regulating on these matters, talk to key stakeholders, develop language, etc.

Discussed financial concerns of patients who sometimes allege difficulty in getting their funds returned to them when they decline services that are encompassed by a Care Credit financial relationship. Directed Mr. Schaibley to reach out to the Office of the Attorney General's Consumer Protection and Anti-Trust Division to establish a more formal procedure by which the Board will send information of this type to CPAT.

Timing of Future Rulemaking: Mr. Schaibley explained that rulemaking must take place within 9 months after changes to statutes. Because NDCC ch.43-20 and NDCC ch. 43-28 are both likely to be modified during session and those changes would generally take effect August 1, 2025, rulemaking will likely need to occur within 9 months of that date.

5. Portfolio: Applications

Ms. Simmons:

We're in the renewal period for Dental Assistants. So far, 296 of Assistants have applied for renewal; 619 have yet to renew; 4 have shared that they are retiring.

The renewal website was down for a couple hours on 12/5/24, but was back up by noon

Mr. Schaibley shared two application-related process changes that should increase efficiency:

Criminal History Records Checks. One of our current processes is that applicants can only begin the criminal history records check after they submit their application to us by USPS, and then we return mail them the CHRI instructions and fingerprint cards. This process was put in place because some applicants withdraw before they get to the background check and because in the past fingerprint cards were not readily available at fingerprint locations. But that process contained delays inherent in mailing documents. Nowadays, however, fingerprint cards are more readily available in fingerprinting locations. Changing our process gets BCI's instructions into applicants' hands immediately through forms posted on our website, eliminates delays in mailing. That allows an applicant to have their fingerprints taken and submitted sooner in the process, and allows BCI to begin their work sooner.

License Verifications. An applicant shared with Ms. Marsh that she found it burdensome to obtain verification not only of her current licenses from other states, but also of expired licenses she held from other states that are now expired. Ms. Marsh and Mr. Schaibley noted that our laws require license verification from each state an applicant is licensed in, while our Application Form requires an applicant to produce verification from every state they are, or have ever been, licensed in. While there is some value to getting that historical data, other application requirements now in place reveal any old/past disciplinary problems (e.g., through required NPDB reports and BCI criminal history checks). Because of this, we changed the application process and forms so that we now only seek what the law requires (verification of current licenses) and do not also require verification of past licenses..

Dr. Tanabe noted that UND has a dental assisting program. It's a non-credit program and it is not CODA accredited. It is designed for those who are interested in becoming registered dental assistants; it prepares them for taking and passing the DANB NELDA exams.

6. Portfolio Report: Anesthesia

Dr. Tanabe shared that a site evaluation has been submitted where the new location did not have an AED on site, and revealed a few other anomalies. The Board reinforced that while some anesthesia-related equipment might be moved between multiple anesthesia sites, each needs its own AED. Dr. Tanabe assured the Board he will be seeking correction of that issue and any other anomalies.

7. Old Business

BSC. No updates about its dental hygiene and dental assisting programming.

CODA Re-Accreditation Site Visits. Ms. Marsh will participate in the NDSCS site visit; Ms. Carlson will participate in the Dakota College site visit.

Joint Statement with Board of Nursing: The BON has now declined to enter into the joint statement with the Board related to their nurse licensees and our anesthesia assistants. Mr. Schaibley and Dr. Tanabe explained the email we received from BON indicated that anesthesia and scope of practice have been a complicated matter for BON for years; providing anesthesia services in dental offices may be outside of the nursing scopes of practice. The Board discussed that the anesthesia related duties an assistant can perform in a dental office are of a relatively narrow scope and are under close supervision of a dentist. It's not clear what the BON might do if a complaint arises related to a licensed nurse working in a dental office given the supervision our laws require and the narrow scope of practice for dental anesthesia assistants.

8. New Business

Executive Director Evaluation Process:

The Board discussed the process it may follow for Mr. Schaibley's performance review at the January meeting. Dr. Tanabe asked that Mr. Schaibley send all Board members an email containing performance information documents; asked Ms. Snay to prepare financial data and circulate it to Board members prior to the January 2025—with a focus on the financial aspects of any possible salary increases.

Discussed Ms. Sommers salary, work, and continued employment. Mr. Schaibley explained that his primary goal was to ask that she be retained at least until the current audit is completed. It is still ongoing; it will hopefully wrap up in December; Ms. Sommers has provided valuable input on the audit and other board matters.

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

Entered executive session at 1:54 pm CT. Attended by Dr. Fallgatter, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Ms. Snay, Dr. Olson Stremick, Ms. Simmons, Mr. Schaibley.

Ended executive session at 2:39 pm CT.

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

Motion by Dr. Fallgatter; Second by Dr. Sarsland: Move to dismiss complaint 120.

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

Abstain: Dr. Dohm

Motion by Dr. Dohm; Second by Dr. Fallgatter: Move to dismiss complaint 122.

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

10. Calendar of Meeting Dates

Next meeting is January 17, 2025; remote and on site at Brady Martz in Bismarck.

11. Adjournment

2:43 pm CT