

North Dakota Board of Dental Examiners
Minutes for Regular Meeting: January 17, 2025, 12:00 PM CDT
Remote and at Brady Martz & Associates
207 E. Broadway Ave, Bismarck, ND

1. Call to Order, roll call

Dr. Tanabe called the meeting to order at 12:00 pm CT.

Board Members and Administrative Staff Attendance

Andrea Carlson, RDA

Marcus Tanabe, DDS, OMFS, President

Megan Olson Stremick, DDS (departed 2:00p)

Cindy Snay, Consumer Member, Sec/Treasurer

Ali Fallgatter, DDS

David Schaibley, Executive Director

Otto Dohm, DDS

Jennifer Sarsland, DDS (joined 12:03p)

Joel Kangas, DDS

Bev Marsh, RDH

Jacinda Simmons, APT

Matt Menge, AAG

2. Minutes

Reviewed drafts of the minutes of the December 6, 2024, Regular Meeting.

Motion by Ms. Carlson; Second by Dr. Kangas: Approve the December 6, 2024, meeting minutes.

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

3. Bismarck State College

Guest speakers: Dr. Tegwyn Brickhouse; Ms. Rebecca Collins; Mr. Dan Leingang

Guests provided statements and engaged in discussions with the Board to explain that the State Board of Higher Education has granted BSC the ability to move forward with plans to create a dental clinic and a dental education programming.

For the Clinic, BSC seeks board approval for an exception to the restrictions on ownership of a dental practice by non-dentists. Dr. Brickhouse will be the dentist at that site, and they plan to hire staff, including licensed hygienists and dental assistants; they will be offering dental care with a focus on patients who are uninsured, underinsured, on public assistance, the indigent, and homeless, with a key focus on pediatric dental needs. The Board discussed the exceptions to the dental ownership restriction, including that public health settings and nonprofits are exempt from those restrictions. The Board concluded that its plan is to assess BSC through the nonprofit exception. The Board anticipates reviewing BSC's formal application at the Board's February 21, 2025, meeting.

BSC shared that they are also developing curriculum and programming for a Qualified Dental Assistant program. While timelines are not certain, they will submit that material for Board approval as soon as practicable—likely in the Fall of 2025. BSC also shared that

it is working toward the creation of a dental hygiene program accredited by CODA, followed by a dental assisting program accredited by CODA.

4. Board Officers

Discussed Dr. Dohm's final term on the Board, after 10 years, is ending March 15, 2025, and that February's meeting may be his last. He leaves his seat when his replacement is appointed.

Discussed the officer positions as follows: Dr. Tanabe's term as President ends March 15th and Dr. Kangas' term as President begins on March 16th; Ms. Snay's term as Secretary/Treasurer ends March 15, 2026. Discussed the need for a Board member to fill the position of President-Elect on March 16th.

Motion by Dr. Kangas; Second by Dr. Fallgatter: Nominate Dr. Sarsland as President-Elect.

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

5. 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.

A draft of the 2021-2023 biennial audit being conducted by Widmer Roel has been received. We have an opportunity to provide the accountant with input next week. Board members can share feedback with Dave, but Ms. Snay will review it and will share input, including exploring the accountant's points related to the means by which payroll reporting data was recorded. Widmer Roel anticipates finalizing the audit soon after receiving our input.

Shared that our bookkeeping support from APT has experienced a recent shift in personnel that we're hopeful will result in more effective communication and our timelier receipt of the financial data needed by Cindy—so that she can more effectively share those details at Board meetings. Discussed that these changes are anticipated to allow Ms. Snay to provide the Board with an accurate budget soon.

Discussed that our merchant fees for credit card transactions amounted to approximately \$20,000 last biennium; that Ms. Snay and Mr. Schaibley will explore better rates with other vendors; discussed exploring the cost of modifying our renewal system so that licensees received the option of paying online—and by doing so they agree to pay the credit card merchant fee, or by paying by check—and saving the credit card merchant fee.

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 Dr. Fallgatter; Second by Ms. Marsh: 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, Dr. Fallgatter. Motion carried 9-0.

6. Portfolio Report: Anesthesia

Dr. Tanabe and Mr. Schaibley shared that several Host Dentist and Permit Dentist site evaluations were approved.

Discussed the revision of site evaluation forms to create separate ones for:

- Site Evaluations on Initial Permit Holders (a distinction being that new permit holders would not have anesthesia patient files)
- Host Dentist (a distinction being they do not hold an anesthesia permit)
- Moderate Sedation Permit Holders
- Deep Sedation Permit Holders

Discuss difficulties site evaluators can experience in carrying out evaluations, including tardiness of the dentist, scheduling on short notice, failing to have all equipment on-site that needs to be evaluated, difficult communications, etc. Discussed that we should share guidance with Ms. Pierce, who is asked to do many site evaluations, including her discretion to decline to carry out site evaluations. Discussed the option of asking MDs who possess anesthesia credentials to carry out site evaluations. Discussed Dr. Harrie's site evaluation and shared input with Dr. Tanabe, including him calling Dr. Harrie, exploring whether a second site visit by another approved site evaluator might be useful. Dr. Tanabe will reach out to Dr. Harrie to discuss.

Discussed doing outreach to moderate sedation permit holders who have submitted comments indicating an apparent concern that they are being singled out for unfair treatment. Discussed that the Board doesn't have that perception; discussed the importance of site evaluations to the patients and their families (reinforces that safe, quality care will occur), the permit holders (gives them assurance that they're practicing safely and meeting standards), etc.

7. Portfolio Report: Continuing Education

Ms. Carlson and Mr. Schaibley will provide APT with a request for a quantity of Assistant renewals to be randomly selected in March; Jacinda will randomly select that number; enter their data—including permits—onto a spreadsheet; use mail merge tools to print and send the audit letters. Ms. Carlson will do ¼ of the reviews each quarter.

8. Portfolio Report: Applications

Assistant Renewals: Jacinda sent out six reminders of the renewal period and deadline. Through this week, 773 Assistants renewed and 145 did not. That non-renewed quantity seems higher than in years past.

Ms. Lucker: The Board discussed Ms. Lucker's application and that she falls short of the requirement that she actively practiced in the three years leading up to her application, and compared that to the law requiring the board to grant case-by-case exceptions to its requirements when applicants are military/military spouses. The Board assessed her materials and qualifications, including her maintaining licensure, CPR, CE requirements while inactive; exceeding CE and other

requirements for licensure. Discussed the possibility of requiring her to undergo remedial training through CRDTS to ensure her hand skills are acceptable before licensing her; the travel to that site in Kansas; the cost; the timing; the need. Discussed the military licensing law which results in automatic provisional licensure if the Board doesn't grant or deny within 30 days.

Motion by Dr. Fallgatter; Second by Ms. Marsh: Grant licensure but ask applicant to submit a self-report within three months to explain what, if any, of her skills had notably deteriorated and if she would suggest that in future cases certain retraining be considered:

In Favor: Ms. Marsh, Dr. Kangas, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Ms. Snay, Dr. Fallgatter. Opposed: Dr. Dohm. Absent: Dr. Olson Stremick. Motion carried 7-1.

9. Portfolio Report: Legislation and Rulemaking

SB 2217. Discussed SB 2217 and Mr. Schaibley's testimony. Ms. Carlson raised concerns about the definition of QDA-LRR, and how would be read to conclude that a QDA-LRR has the same scope of duty as a QDA. Mr. Schaibley and Mr. Menge discussed the timing of an amendment seeking that change, and the possibility that seeking to do so if it passes the Senate might be the best option

HB 1220. Discussed this Bill related to accelerated degrees and directed Dave to testify on it.

HB 1270. Discussed this Bill related to a process by which individuals could file complaints with the Governor's office about boards and board members.

Discussed Dr. Fallgatter's authority limits in her legislative portfolio and that she can approve Board testimony content to the extent she can confidently anticipate the Board's perspective on an issue. If she feels she can't, she must bring the issue to the full Board.

10. Portfolio Report: Executive Director

Mr. Schaibley left the room. Board members discussed Mr. Schaibley's performance; expressed appreciation for his work, relationship building, dedication, and support of the Board, its members, and the profession.

Motion by Ms. Marsch; Second by Dr. Dohm: Grant Mr. Schaibley a 5% raise:

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

11. Old Business

Software. Difficulties in the transition from WorkDocs to SecureDocs. Dave anticipates overcoming the one remaining problem with adding documents to SecureDocs, and then reaching out to each Board member and getting them a username and password to use for logging in and accessing the materials.

CODA. Discussed that Ms. Carlson is joining CODA in its on-site evaluation of Dakota College's dental assisting program and facility, and that Ms. Marsh was to join CODA in its on-site evaluation of NDSCS's dental hygiene and dental assisting program and facilities. NDSCS expressed concern that Ms Marsh has a conflict of interest since she is a consultant for the BSC dental education program.

NDDA. Dave presented an ethics/jurisprudence CE at the mid-year NDDA conference.

12. New Business

APT. Discussed that OMB fully anticipates renewing state contract 038 and the Board discussed its relationship with APT, including the hopeful positive steps that have now been taken with regard to the bookkeeping function.

Motion by Ms. Carlson; Second by Dr. Fallgatter: Approve the renewal of the Board's Participating Addendum with APT under state contract 038:

In Favor: Ms. Marsh, Dr. Kangas, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Ms. Snay, Dr. Fallgatter, Dr. Dohm. Absent: Dr. Olson Stremick. Motion carried 8-1.

Advertisements:

Discussed an advertisement saying "Your Premier Implant Dentist in Fargo, ND" and the related law:

"No dentist may advertise the dentist, the dentist's staff, the dentist's services, or the dentist's method or methods of delivery of dental services to be **superior to those of any other licensed dentist**, unless such claim or claims can be substantiated by the advertiser, upon whom rests the burden of proof." NDAC 20-02-01-01(5).

Discussed an advertising asserting that a dental office was multi-specialty when there is only one specialist, and the related law:

"All advertising must contain the legal name of the dentist, or a reasonable variation thereof. In the case of a partnership or corporation, the name used in the advertisement may be the true name of the partnership or corporation. The advertisement must also contain the location, or locations, of the dentist, partnership, or corporation. It is **false or misleading for a dentist to hold themselves out to the public as a specialist**, or any variation of that term, in a practice area unless the dentist meets the criteria of subsection 3." NDAC 20-02-01-01(2)

Directed Mr. Schaibley and Mr. Menge to send letters to the licensees responsible for the advertisements.

13. Portfolio Report: Complaints, Discipline, Inquiries

Non-Complaint files/Inquiries:

Discussed 106 ongoing monitoring and full compliance. Discussed 93 and that the court dismissed all charges. Mr. Menge shared that the rest of the discussion needs to occur in executive session due to confidential medical documents and information needing to be discussed. This inquiry was subsequently further discussed in the executive session that encompassed Complaints.

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. Fallgatter, Ms. Snay. Motion carried 8-0.

Entered executive session at 4:03 pm CT. Attended by Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Ms. Snay, Dr. Fallgatter, Ms. Simmons, Mr. Schaibley, Mr. Menge.

Ended executive session at 4:35 pm CT.

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

Motion by Dr. Kangas; Second by Dr. Fallgatter: Motion to dismiss complaint 119.
In Favor: Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Dr. Fallgatter, Ms. Snay. Motion carried 8-0.

Motion by Dr. Kangas; Second by Ms. Carlson: Motion to dismiss complaint 121.
In Favor: Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Dr. Fallgatter, Ms. Snay. Motion carried 8-0.

Motion by Dr. Kangas; Second by Dr. Fallgatter: Motion to dismiss complaint 123.
In Favor: Ms. Marsh, Dr. Kangas, Dr. Dohm, Dr. Tanabe, Ms. Carlson, Dr. Sarsland, Dr. Fallgatter, Ms. Snay. Motion carried 8-0.

14. National/State Organizations

Mr. Schaibley will attend the AADB mid-year conference in April if the legislative session business allows it.

Mr. Schaibley reinforced the value of the FARB conference and hopes to attend it in July if his schedule permits, and if the Board approved; Mr. Schaibley suggested that the Board consider sending Mr. Menge or a Board member, too.

15. Calendar of Meeting Dates

Noted the calendar and the next meeting on February 21, 2025.

16. Adjournment

4:50 pm CT