NORTH DAKOTA BOARD OF DENTAL EXAMINERS

Minutes
SPECIAL MEETING
April 14, 2022 | 5:30 PM CDT
Via Zoom Meeting

1. **Call to Order and roll call:** The North Dakota Board of Dental Examiners convened for the purpose of discussion of written and oral comments regarding amendments to Title 20 of the North Dakota Administrative Code. Board President, Tim Mehlhoff called the virtual meeting to order at 5:30 PM CDT.

Board Members and Administrative Staff Attendance

Tim Mehlhoff, CPA
Otto Dohm, DDS, MS
Marcus Tanabe, DDS, OMFS, Secretary Treasurer
Joel Kangas, DDS
David Schaibley, Assistant Attorney General
Bev Marsh, RDH President -Elect
Andrea Carlson, RDA
Allison Fallgatter, DDS
Rita Sommers, RDH, MBA, Executive Director
Absent: Michael Keim, DDS

Other known members of the public in attendance: Bobbie Will, Community HealthCare Association of the Dakotas; Will Sherwin, Esq. North Dakota Dental Association (NDDA); Cari Orn, DDS, NDDA; Marsha Krumm, RDA, North Dakota Dental Assistants' Association (NDDAA), Katherine Landsberg, Dental Assisting National Board (DANB); Sasha Dusek, RDA, NDDAA; Trey Lawrence, Esq., American Association of Orthodontists (AAO); Jeffrey Sulitzer, DDS, SDC; Justin Hagel, Marc Ackerman, DMD, American Teledentistry Association; Levi Andrist, Esq. SDC

2. **Complaint Committee:** At the Board's March 8, 2022 meeting a motion was made regarding Robert Bates, DDS, which mistakenly did not reflected the Board's intent. Dr. Dohm moved to retract the motion made regarding complaint number 49-0211 at the March 8 meeting and further moved to retroactively suspend the license of Dr. Bates for violation of NDCC § 43-28-18(1),(29). Motion seconded by Ms Carlson. Roll call vote: Mr. Mehlhoff, yes; Dr. Kangas, yes; Ms. Marsh, yes; Dr. Dohm, yes; Dr. Fallgatter, yes; Ms. Carlson, yes; Dr. Tanabe, yes. Motion carried 7-0.
3. **The Board allowed additional commentary** for those entities joining the meeting and requesting additional discussion.

NDAC Section addressed and/or concern	Commentator	Summary of Comment
Definitions: 20-01-02-1(38) [38. "Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and has received at least ~~six~~ three hundred ~~fifty~~ hours of on the job training, and successfully completed ~~a board approved infection control seminar and~~	Katherine Landsberg	Ms. Landsberg provided clarity regarding eligibility requirements of DANB's NELDA exam. DANB supports the on-the-job training hours required for the Qualified Dental Assistant in conjunction with the NELDA examination process and eligibility requirements.

~~passed~~ the x-ray, infection control, and dental anatomy portions of the dental assisting national board examination and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.]		

BOARD RESPONSE TO ORAL COMMENT: The Board appreciates the comment, and the suggestion was adopted by the Board. The Board seeks to provide additional pathways for dental assistants to enter the workforce and therefore added the language, or a board approved equivalent course as seen below creating a 4th pathway for dental assistants entering the dental job market.
Amended no. 38 was further amended as shown in highlighted text to:

38. "Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and has received at least ~~six~~ three hundred ~~fifty~~ hours of on the job training, and successfully completed ~~a board approved infection control seminar and passed~~ the national entry level dental assistant certification administered by ~~x-ray, infection control, and dental anatomy~~ ~~portions of~~ the dental assisting national board examination~~,~~ or other board approved course, and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.]

Ms. Marsh commented on deleting the 300 hours from pathway #3 because of the requirements of the ND Dept of Career Technical Educations layer of requirements for the program. The Board also deleted language related to the ND institution to safeguard those students who may take the education out of state.

2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
   a. The applicant meets any of the following requirements:
      (1) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~ and completed 300 hours of on-the-job clinical training within one year of application.
      (2) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~, 300 hours of on-the-job clinical training, and completed within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
      (3) The applicant successfully completed the national entry level dental assistant certification administered by the dental assisting national board and successfully completed the North Dakota State Department of Career Technical Education dental assisting education program association ~~or board approved equivalent course offered by a North Dakota institution of higher education and submits evidence of 300 hours of on-the-job clinical training within one year of application.~~
      (4) The applicant completes a board approved equivalent course within one year of application.

NDAC SECTION ADDRESSED AND/OR CONCERN	COMMENTATOR	SUMMARY OF COMMENT

1st concern: 20-03-01-01(1.k.) [Take dental photographs including the use of intraoral cameras on a patient of record.] 2nd concern: 20-02-01-09 (2.j.) [Each patient shall have access to health provider info as it pertains to their treating doctor or potential doctor. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to or during the rendering of dental services.]	Marc Ackerman, DMD, American Teledentistry Association	Concern with issue of the taking of photographs and new technology, handheld advanced digital cameras, e.g. camera phones. A dental assistant under direct supervision is a barrier to the use of "teledental care" and suggested the need of the population is for an increase in dental care in rural and urban on demand local dentists. He feels the need is not being met and that teledentistry is the best option. "It's our feeling that taking photographs is not the practice of dentistry" Dr. Ackerman opined, that intraoral digital scans are the same as simple photographs and that this rule states that it is the practice of dentistry and "since the photograph is taken under direct supervision, the doctor is involved." Also concerned with the Board's opinion of "what is a bonified doctor-patient relationship" Ackerman commented that all 50 states have determined what a qualified doctor patient relationship is and shared thought's why the Board's rules are not in step with telemedicine or telehealth regarding the doctor patient relationship.

BOARD RESPONSE TO ORAL COMMENT:

Regarding Dr. Ackerman's 1st concern about (20-03-01-01(1)(k)) "taking dental photographs including the use of intra oral cameras on a patient of record;" A dental assistant authorized to take photographs of existing conditions or utilizing the intra-oral camera has the least amount of training and no formal education in dentistry other than some amount of "on the job" training which is currently not regulated or required. "Once a record-taking process ensues" Ms. Marsh commented, "the patient definitely becomes a patient of record." A dentist looking at photos or intra oral photos would most likely be reviewing these materials to establish a diagnoses and/or treatment plan. SDC commented that no clinical knowledge is required to gather such elements. However, anyone who is not sufficiently educated could struggle to recognize essential elements when taking intra oral photographs of the mesial buccal aspect of tooth number 30 or other anatomical structures. SDC is only considering the use of the Cerec, iTero or other intraoral scanner use. The issue is also related to whether a final image is being captured for use in treatment itself or to establish a diagnoses where an inadequate images can be problematic. SDC uses the verbiage of scan and photograph as interchangeable, and anyone can do either when in fact a photograph is different than capturing a 3D digital scan.

Regarding Dr. Ackerman's 2nd concern – the doctor patient relationship. Existing North Dakota telehealth statute specifically states a dentist is held to the same standard of care and ethical standards, whether practicing traditional in-person dentistry or telehealth. Before a dentist initially diagnoses or treats a patient, the dentist shall perform the exam or evaluation which can be done through telehealth if the exam or evaluation may be performed in accordance with the standard of care required for an in person dental examination or evaluation. SDC indicated it opposes rules that are less stringent than the actual law regarding telehealth. Existing telehealth laws are actually more stringent than the rules proposed by the Board, ie. 20-02-01-09(2)(j) "Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of the patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to or during the rendering of dental services." Whereas current telehealth law states "A dentist practicing telehealth shall verify the identity of the patient seeking care and shall disclose to the patient the dentist's identity, physical location, contact information, and licensure status." Statute states the information must be provided. The Board does not believe that a phone number requirement is overreaching or a burden to the practitioner utilizing telehealth. Therefore, the Board disagrees with Smile Direct Club and agrees with statute established by the ND Legislature.

Dr. Ackerman also commented on the American Medical Associations position on the doctor-patient relationship related to telehealth and stated the Board's rule is not in step with the current standards when in fact the ND Board of Medicine laws contain exactly the same language (see NDCC 43-17-44(2)).

The Board's language simply validates the statute (NDCC § 43-28-11.3) by referring to the contact information language found in NDCC § 43-28-11.3. The Board feels that a telephone number is one ingredient in "contact information" that

should be provided upon request of the patient. Therefore the Board disagrees with Ackerman that any changes should be considered to the amendment, and disagrees that the language is overreaching and submits that it is a patient's right to have knowledge of the information as part of the doctor patient relationship.

NDAC Section addressed and/or concerns	Commentator	Summary of Comment
NDCC 43-28-11.3(2)	Levi Andrist, Esq representing Smile Direct Club	Mr. Andrist stated he wants to hear Boards comments in unison with HB 1151." Concerns were raised with the Board and Mr Andrist felt they were "unaddressed." Smile Direct then worked with the legislature to pass HB 1151 – teledentistry standards because the Board did not address Smile Direct Clubs concerns. "This is third time we have engaged with the Board, and we [SDC] still have some lasting concerns".
20-02-01-09 (2.j.) Each patient shall have access to health provider info as it pertains to their treating Dr. Any entity utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a pt. before, prior to or during the rendering of dental services.	Dr. Sulitzer, Chief Clinical Officer of Smile Direct Club 3 points: 1.Contact info for telehealth dentists: 20-02-01-09, and	Dr. Sulitzer: Concern 1. Providing address phone number or other contact information would not be a concern for a traditional dental setting and concerned with rules for dentist using teledentistry. The rules or standard should be the same for both. "Just because you go to a brick-and-mortar practice doesn't mean you know who you are seeing". "At smile direct club our patients know who the doctor is and license number and phone is available. Patients can communicate thru face time, chat, 1-800 number and other ways and therefore patients can get to their doctors." "We are fine with the rule if it is across the board for all dentists." Regarding the scanner, "The iTero is very complex but is easy to use, the machine does all the work and decisions are made from that data." Dr. Sulitzer was concerned that dentists who use teledentistry laws are subject to same laws that apply in traditional brick and mortar settings.
20-03-01-01(1.k.) Take dental photographs including the use of intraoral cameras on a patient of record.	2. scanning shouldn't require NDBDE credentialing 3. taking scan shouldn't require any type of a dentists' supervision.	2. A dental assistant should not need any credentials or dental educational requirements to take a an intra-oral digital scan or extra-oral photo. He indicated it does not take a skilled person to take a photo or scan, although they do capture important landmarks "because the scanners are idiot proof." 3. Simple cameras and taking photos is easy and should not require supervision as it is not a clinical procedure. Dr. Sulitzer commented that anyone can be trained in about 30 – 60 minutes to use the iTero scanner effectively and ultimately it is up to the doctor to determine if the scan would need to be redone. 4. Definition of a patient record. "Having a patient be a patient of record is a problem". "We are about access to care at a reasonable cost." Does not believe the rules comply with the statute.

Board response to oral comments: With regard to 20-03-01-01(1)(k):
To Dr. Sulitzer's points: The question becomes what should the qualifications of the individual taking the final scan that will be used for fabrication of an intraoral device/appliance consist of? Although the doctor ultimately has the final say on the use of the final image/scan, there are other aspects of even the simplest treatment such as considering the patient. If the patient has the digital scan made and the dentist is not readily available to review it, the patient may be significantly inconvenienced because they must return for another scan. Dr. Sulitzer is suggesting any staff member should be allowed to be trained to take the scan with or without the dentist present The NDBDE felt the importance of the data being acquired and the purpose for which it would be used (diagnosis, treatment planning and/or oral

device fabrication) considered the patient who may have taken time away from work, needed to travel or arrange childcare. etc., for a dental appointment. This would be true whether in either traditional or telehealth settings. Mr. Mehlhoff also commented from the consumers point of view; there are also concerns of education and training for infection control issues and other regulations and, therefore, an individual scanning the teeth would require training beyond merely learning to use the scanning device. There is an expectation that the person who takes care of you in the clinical office space where dental treatment is performed, has some level of knowledge, training and proficiency. The Qualified Dental Assistant is required to have infection control continuing education. The dental assistant with no requirements of education or training that provides limited duties is not required to have infection control education. Ms. Marsh commented that the technology is easy to use but believes the language should be left as is and a Qualified Dental Assistant should be able to take the 3D scan (under appropriate supervision) - rather than office personnel such as a receptionist suggested by SDC.

The Board addressed the concerns Regarding Sulitzer's points related to 20-02-01-09 (2)(j) in their response to Dr. Ackerman.

NDAC Section addressed and/or concern	Commentator	Summary of Comment
20-02-01-09 (2)(j) Each patient shall have access to health provider info as it pertains to their treating Dr. Any entity utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a pt. before, prior to or during the rendering of dental services. 20-03-01-01(1)(k) Take dental photographs including the use of intraoral cameras on a patient of record.	Tray Lawrence, Esq., AAO	Mr. Lawrence Strongly supported providing contact information and identity of the doctor as well as strong support for the necessity that photographs and digital scans be performed by individuals under the supervision of the doctor. "We support access to care which provides patients basic rights, one of which is to be able to contact your doctor to have a conversation via phone or live interaction". "Opponents say they provide this, but why oppose it unless you are NOT in compliance?" There should be no opposition to a rule protecting patients' rights. "The opposition makes a flippant comparison of photos referred to as selfies and how easy it is to take them. The digital scan or iTero scan is NOT just a photo, but technology which replaces the final impression used for treatment and diagnosis". The opponents try to undersell the importance of that first impression used to have a lab make a device. The iTero scanner is very complicated and serves a very important purpose and the complexity is not that of a mere "selfie".

Board response to oral comments: Based on Mr. Lawrences concerns and others the Board did make changes to sections 20-02-01-09 (2)(j) and 20-03-01-01(1)(k) and feel the changes were consistent with Mr. Lawrences concerns and the Board addressed them in the best way possible.

NDAC Section addressed and/or concern	Commentator	Summary of Comment
20-02-01-05	ADA'S Cathy Baumann, Director NCRDSCB.	The NCRDSCB (National Commission on Recognition of Dental Specialties and Certifying Boards) determined that the requirements for dental specialists had been met and adopted a resolution recognizing the American Board of Orofacial Pain as the national certifying board for orofacial pain.

Board response to comment: The Board appreciates the comment; however the information is not directly related to the proposed rules the Board is adopting at this time and the since the comment does not indicate any concerns regarding the proposed rules, the Board will not be making any changes based on this comment.

NDAC Section addressed and/or concern	Commentator	Summary of Comment
20-01-02-01(39); 20-01-02-01 In support of definition (39) and 20-02-01-05(f) f. The dentist authorized to provide deep sedation and general anesthesia shall utilize and have present a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least two qualified dental staff members as specified in section 20-01-02-01~~(36) -~~ (39). 20-02-01-05 subsection 9(c) highlighted: area of concern c. During the administration of deep sedation or general anesthesia the anesthesia permit provider and at least two other individuals: One individual to assist the (host) dentist as necessary. One individual solely responsible to assist with observation and monitoring of the patient. This individual shall be a class I or II dental anesthesia assistant permit holder as provided in 20-03-01-05 or the anesthesia permit provider if utilized by a host dentist. 20-03-01-01.(5r) duties under general supervision r. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive fixed or removable appliance. 20-03-01-02(12) 12. Unless authorized by permit in accordance with section 20-03-01-05.1, Monitor a patient	J. Glosenger, DDS, OMFS	Dr. Glosenger believes the sections conflict with each other because 9c lays out new information on the team members and limits the team to an RDA or RDH as it requires the staff to have the Class I or II permit. Dr. Glosenger does not support this because: Protection of the public. A QDA who has taken the DAANCE course and passed their exam also has ACLS. BLS, and PALS (Advanced Cardiac Life Support, Basic Life Support and Pediatric Advanced Life Support). Their training prepares them for an emergency situation as might occur in a dental setting, but they are not eligible under current rule to take the DAANCE and obtain the CL I or II permit. The section also prevents an RN, LPN, or paramedic from assisting in a surgical setting yet are highly trained to do so. Currently these health providers are used to monitor vital signs during surgical procedures. Dr. Glosenger suggests the NDBDE consider that a QDA may become certified by DAANCE. The OMFS office trained dental assistant does not need RDA certification and have nothing to gain by learning the techniques for restorative four-handed dentistry as they work in the oral surgery setting. DANB exam has a very small portion related to surgical setting and DAANCE does a far better job of that. Re 20-03-01-01.(5r) duties under general supervision The board should consider the difference between fixed crown and bridge and simply scanning an abutment on an implant, the scanner is taking 500 pictures and using an algorithm to produce a 3D image. Scans are far more accurate than other types of impressions used for crown and bridge. Monitor a patient who has been induced to moderate sedation, deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines the patient may be discharged for recovery. 20-03-01-02(12) 12. Unless authorized by permit in accordance with section 20-03-01-05.1, Monitor a patient who has been induced to a level of moderate sedation, or deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery. Every national standard that exists states the anesthesia provider must be with patient for whom they have induced anesthesia for the duration of the anesthetized state, until they are appropriately responsive. Dr. Glosenger asserts the language for the hygienists is better. He does not think it is the Board's intention to allow an RDA or RDH to monitor a patient who has been induced to general anesthesia without the doctor in the room. Dr. Glosenger also commented on the workforce, shortages of RDH, RDA or people that just want to work. There are many that

who has been induced to a level of moderate sedation, or deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery.		require our services, and we need to treat them safely and if we are too prescriptive and have require credentials for tasks they are not performing, we will further limit the dental workforce. Page 30 -14. The Board uses "American Heart Association" when other providers do equally as well. It may be impossible for this organization to provide instructors or classes at times or places they are needed. Elsewhere we allow other providers and do not want to favor one when others may be more accessible. Rather set quality standards such as hands-on courses.

BOARD RESPONSE TO COMMENT:

Regarding the comment related to use of the language "American Heart Association," the Board identifies other entities as well as stating that other equivalent courses would be acceptable and has consistently accepted CE from the American Red Cross, i.e., the Board's definition of Cardiopulmonary resuscitation course where the definition accepts an equivalent course. Similar language can be found in section 20-02-01-05. Dr. Tanabe commented that the committee that makes recommendations for life support is not associated with American Heart Association (AHA). The AHA takes the information and extrapolates it into a course. No changes were recommended by the Board for this comment.

Regarding 20-02-01-05 subsection 9(c) highlighted: area of concern the Board determined that the section could be removed as there simply are not that many dental anesthesia assistants available while other non-dental, but adequately educated and trained individual are available.

c. During the administration of deep sedation or general anesthesia the anesthesia permit provider and at least two other individuals: One individual to assist the (host) dentist as necessary. One individual solely responsible to assist with observation and monitoring of the patient. ~~This individual shall be a class I or II dental anesthesia assistant permit holder as provided in 20-03-01-05 or the anesthesia permit provider if utilized by a host dentist.~~

The section also implies that only an RDH or RDA can become the anesthesia assistant. Some anesthesia assistants employed by offices where oral surgery is provided are EMT (emergency medical technician) trained. Other health care providers are excluded as well.

c. During the administration of deep sedation or general anesthesia the anesthesia permit provider and at least two other individuals: One individual to assist the (host) dentist as necessary. One qualified dental staff member solely responsible to assist with observation and monitoring of the patient. This individual shall be a class I or II dental anesthesia assistant permit holder as provided in 20-03-01-05 or the anesthesia permit provider if utilized by a host dentist. In motion #8, the Board addressed Dr. Glosenger's concerns related to the limited staff available to provide anesthesia and sedation assistance to the sedation provider. OMFS often use nurses if they are available which is not always the case. Dr. Tanabe concurred that the issue is something many OMFS encounter and is a patient safety concern. This issue is another avenue for the board to ensure safety in the provision of anesthesia as the Board ensures adequate certifiable training and education is practical for auxiliary to obtain. In new section 20-02-01-05 (9)(c) the rules require a dental assistant must be in the room during the administration of deep sedation or general anesthesia. One individual to assist the dentist and one qualified dental staff member will be required to assist with monitoring the patient in the administration of deep sedation or general anesthesia.

The Board agreed with Dr. Glosenger request regarding duties for a final scan by digital capture for review by the authorizing dentist for a prescriptive fixed or removable appliance to apply also to Qualified Dental Assistants and the section was amended.

NDAC Section addressed and/or concern	Commentator	Summary of Comment
20-03-01-05.2 Endorsement and support. Also remain concerned regarding on the job hours required to be registered as a Qualified Dental Assistant.	**Sasha Dusek, RDA, North Dakota Dental Assistants' Association (NDDAA)**	The NDDAA supports the Board's Administrative Rules efforts. However, the organization remains in disagreement with the reduction of hours required to become a Qualified Dental Assistant and is supportive of all other amendments.

Board response to oral comment:

The NDDAA remains concerned regarding 300 rather than 650 hours of on-the-job training. The Board moved to change the on-the-job hourly requirement to 300 hours in recognition of any applicant successfully completing the Dental Assisting National Board's (DANB) National Entry Level Dental Assistant (NELDA) examination. The Board consensus was that not only is the reduction in hours appropriate, safe and fair, the three components of the NELDA exam ensure that entry level dental assistants have the basic level of knowledge necessary *for the level of duties they may perform.* The exam includes an additional component not previously required that addresses anatomy, morphology and physiology. The NDBDE accepts the Dental Assisting National Board's (DANB) National Entry Level Dental Assistant (NELDA) pathway as a valid and reasonable pathway for entry level dental assisting that assesses the knowledge required for performing duties that an entry level dental assistant is authorized to provide when coupled with 300 hours of clinical experience. The Board recognizes that entry level dental assistants must spend numerous hours of study preparing for the exam. In exchange for successful completion of the NELDA examination, it wishes to recognize that 300 hours rather than 650 hours of clinical experience is a reasonable time period to grasp basic dental assisting duties as provided by NDAC 20-03-01-01. The Board considered input from both dental assistants and DANB to arrive at the 300-hour requirement.

NDAC Section addressed and/or concern	Commentator	Summary of Comment
20-03-01-01 (1)(k)	Robert Zena, DMD, Past President of the American Association of Dental Boards	Dr. Zena supports new technology.

Board response to oral comment:

The Board reviewed the comment, and the Board has addressed the comment regarding telehealth as shown above in the responses to comments from Doctor's Ackerman, Sulitzer and Mr. Andrist's and Mr. Lawrence's comments. The Board has amended those rules based on comments, opinions and perspectives reviewed.

Board actions

Motion #1: NDAC §§ 20-01-02-1(38); 20-03-01-05(2)

Dr. Dohm moved to approve the following changes, motion seconded by Ms. Marsh. Hearing no further discussion, RCV: Mr. Mehlhoff, yes; Ms. Marsh, yes; Ms. Carlson, yes; Dr. Dohm, yes; Dr Tanabe, yes; Dr. Kangas, yes; Dr. Fallgatter, yes. Motion carried, 7-0.

38. "Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and has received at least ~~six~~ three hundred ~~fifty~~ hours of on the job training, and successfully completed ~~a board approved infection control seminar and passed~~ the national entry level dental assistant certification administered by ~~x-ray, infection control, and dental anatomy~~ ~~portions of~~ the dental assisting national board ~~examination,~~ or other board approved course, and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.

Ms. Marsh commented on deleting the 300 hours from pathway #3 because of the requirements of the ND Dept of Career Technical Educations layer of requirements for the program. The Board also deleted language related to the ND institution to safeguard those students who may take the education out of state.

2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
   a. The applicant meets any of the following requirements:
      (1) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~ and completed 300 hours of on-the-job clinical training within one year of application.
      (2) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~, 300 hours of on-the-job clinical training, and completed within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
      (3) The applicant successfully completed the national entry level dental assistant certification administered by the dental assisting national board and successfully completed the North Dakota State Department of Career Technical Education dental assisting education program association ~~or board approved equivalent course offered by a North Dakota institution of higher education and submits evidence of 300 hours of on-the-job clinical training within one year of application~~.
      (4) The applicant completes a board approved equivalent course within one year of application.

Motion #2: NDAC § 20-03-01-01(2)

Ms. Marsh moved that 20-03-01-01(2) be amended by striking "on a patient of record" as follows:

2. A qualified dental assistant may perform the duties set forth in subsection 1 and take dental radiographs ~~on a patient of record~~ under the direct supervision of a dentist~~.~~, produce on a patient of record a final scan by digital capture for review by the authorizing dentist under general supervision for a prescriptive, fixed or removable appliance.

Dr. Kangas seconded the motion. Hearing no further discussion, RCV: Mr. Mehlhoff, yes; Ms. Marsh, yes; Ms. Carlson, yes; Dr. Dohm, yes; Dr Tanabe, yes; Dr. Kangas, yes; Dr. Fallgatter, yes. Motion carried, 7-0.

Motion #3: NDAC § 20-03-01-01(2)

Following the discussion and because the Board believes clinical knowledge is required for the procedure, the Board amended subsection 2 which more appropriately addresses the issue. Ms. Marsh moved that 20-03-01-01(2) be amended as follows:

2. A qualified dental assistant may perform the following duties: ~~set forth in subsection 1 and take dental radiographs under the direct supervision of a dentist.~~
   a. Duties set forth in subsection 1 of this section under the direct supervision of a dentist.
   b. Take dental radiographs under the direct supervision of a dentist.
   c. Produce on a patient of record a final scan by digital capture for review by the authorizing dentist under general supervision for a prescriptive, fixed or removable appliance.

Discussion; Ms. Marsh provided a point of clarification; the amendment would apply to orthodontic appliances as well as other fixed or removable appliances. Ms. Carlson seconded the motion. RCV: Mr. Mehlhoff, yes; Ms. Marsh, yes; Ms. Carlson, yes; Dr. Dohm, yes; Dr Tanabe, yes; Dr. Kangas, yes; Dr. Fallgatter, yes. Motion carried, 7-0.

Motion #4: NDAC § 20-03-01-01(1)(k)

To further address the "patient of record" concern, the Board amended rule 1.k. by striking "on a patient of record" because the concept of "patient of record" applies to the entire section 1 as dental assistants not regulated must work under the direct supervision of a dentist. Including "on a patient of record" is there for already understood and need not be specifically included in this section.

Dr. Dohm moved and Dr. Tanabe seconded a motion to strike "on a patient of record"

1.(k.) Take dental photographs including the use of intraoral cameras ~~on a patient of record~~.
Hearing no further discussion, RCV: Ms. Carlson seconded the motion. Hearing no further discussion, RCV: Mr. Mehlhoff, yes; Ms. Marsh, yes; Ms. Carlson, yes; Dr. Dohm, yes; Dr Tanabe, yes; Dr. Kangas, yes; Dr. Fallgatter, yes.

Motion #5: NDAC § 20-02-01-09(2)(j)

Related to Mr. Andrist's comment; Dr. Dohm moved that the Board leave the language of section 20-02-01-09 (2)(j) as is because the language is in harmony with the ND Century Code 43-28-11.3(2). Motion seconded by Dr. Tanabe. Hearing no further discussion, RCV: Mr. Mehlhoff, yes; Ms. Marsh, yes; Ms. Carlson, yes; Dr. Dohm, yes; Dr Tanabe, yes; Dr. Kangas, yes; Dr. Fallgatter, yes. Motion carried, 7-0.

Motion #6: NDAC § 20-03-01-01(1)(k)

Dr. Dohm moved, motion seconded by Mr. Mehlhoff to acknowledge Dr. Zena's comments which the Board has previously acted upon by amending rules. Hearing no further discussion, RCV: Dr. Kangas, yes; Ms. Marsh, yes; Ms. Carlson, yes; Dr. Dohm, yes; Dr Tanabe, yes; Mr. Mehlhoff, yes; Dr. Fallgatter, yes. Motion carried, 7-0.

Motion #7: NDAC §§ 20-02-01-09(2)(j) and 20-03-01-01(1)(k)

Moved by Dr. Dohm to acknowledge the comments of the AAO and the Board is appreciative and thank the AAO for their support. The Board feels we have addressed their concerns in the best manner possible considering comments from all parties. Dr. Tanabe seconded the motion. Hearing no further discussion, RCV: Dr. Kangas, yes; Dr. Tanabe, yes; Mr. Mehlhoff, yes; Dr. Dohm, yes; Ms. Carlson, yes, Dr. Fallgatter yes. Ms. Marsh, yes. Motion carried, 7-0.

Motion #8: NDAC § 20-02-01-05.1(9)(c)

Dr. Tanabe moved to delete language which conflicts with other areas of statute by providing new information on the team members and which limits the staff for the position to a registered dental hygienist or registered dental assistant. Dr. Dohm seconded the motion. Discussion; Alternatively the Board considered a new definition for a dental sedation assistant (DSA) as defined in the definition and the criteria for qualifications of the DSA (dental sedation assistant).

highlighted: area of concern the Board determined that the section could be removed as there simply are not that many dental anesthesia assistants available. 20-02-01-05 subsection 9

c. During the administration of deep sedation or general anesthesia the anesthesia permit provider and at least two other individuals: One individual to assist the (host) dentist as necessary. One ~~individual~~ qualified dental staff member solely responsible to assist with observation and monitoring of the patient. ~~This individual shall be a class I or II dental anesthesia assistant permit holder as provided in 20-03-01-05 or the anesthesia permit provider if utilized by a host dentist.~~

Motion #9: NDAC §§ 20-03-01-01.1; 20-03-01-01.2 and NDAC § 20-01-02-01(18)

Dr. Tanabe moved to create a new definition for a *dental sedation assistant* as defined in NDAC § 20-01-02-01. Motion seconded by Dr Dohm. Discussion: The new qualified dental staff member would be specific to sedation and anesthesia. Language for dental sedation assistant can be found in the dental assisting section 20-03-01.1(2) and (3). The Board may expand on the definition in the future. Dr. Tanabe views the new form of assistant as a much-needed layer of patient safety and allows the dental practitioner to have office staff specific to anesthesia and sedation and providers. Eventually the Board may require all offices to have the minimum level of sedation and anesthesia training for staff in the sedation setting. Hearing no further discussion, RCV: Dr. Kangas, yes; Dr. Tanabe, yes; Mr. Mehlhoff, yes; Dr. Dohm, yes; Ms. Carlson, yes, Dr. Fallgatter yes. Ms. Marsh, yes. Motion carried, 7-0. The issue also addresses concerns of Dr. Glosenger.

18. "Dental anesthesia assistant" means an individual who possesses the expertise to provide supportive anesthesia care in a safe and effective manner. The anesthesia assistant is educated in the perioperative and emergent care management of patients undergoing dental office sedation and anesthesia.

Motion #10: NDAC § 20-02-01-05(14)(c)(5); NDAC § 20-02-01-05(13)

Dr. Tanabe moved that the age for pediatric patients be changed from 10 years to 8 years of age. Discussion; The measure aligns the Board with the recommendation of Pediatric Life support guidelines. Motion seconded by Dr. Dohm. Hearing no further discussion, RCV: Dr. Kangas, yes; Dr. Tanabe, yes; Mr. Mehlhoff, yes; Dr. Dohm, yes; Ms. Carlson, yes, Dr. Fallgatter yes. Ms. Marsh, yes. Motion carried, 7-0.

Motion #10: NDAC § 20-02-01-05(3)(f)

Mr. Mehlhoff moved to make a correction to NDAC § 20-02-01-05(3)(f) as follows:
f. Administering intranasal versed and or fentanyl shall be considered ~~moderate~~ deep sedation. Rules for deep sedation and general anesthesia site evaluations shall apply for administration of intranasal versed and or fentanyl. Dr. Dohm seconded the motion. Hearing no further discussion, RCV: Dr. Kangas, yes; Dr. Tanabe, yes; Mr. Mehlhoff, yes; Dr. Dohm, yes; Ms. Carlson, yes, Dr. Fallgatter yes. Ms. Marsh, yes. Motion carried, 7-0.

Final comments: Ms. Carlson commented on the RPM of handpieces. The Board has studied the "handpiece" issue and has remained satisfied with assistants using slow speed handpieces although it has created issues with dental assistants who provide expanded functions restorative procedures. Ms Carlson commented that some offices are going to electric highspeed handpieces which can be dialed down and the hand piece may have a ratio. The maximum slow speed on an electric handpiece is 40,000 RPM. Dr. Kangas also addressed the torque issue. Dr. Dohm is interested in the language of other state laws regarding the issue before making a decision. The Board will study the issue further once information is available. Sasha Dusek, RDA commented on the 80-hour course at the U of MN. The course teaches students on the high-speed handpieces. No motion.

Dr. Dohm moved to adopt rule changes as discussed. Motion seconded by Dr. Fallgatter. Discussion; The ED will provide a copy of adopted rules and minutes to Board members once the documents are complete. Hearing no further discussion, RCV: Dr. Kangas, yes; Dr. Tanabe, yes; Mr. Mehlhoff, yes; Dr. Dohm, yes; Ms. Carlson, yes, Dr. Fallgatter, yes. Ms. Marsh, yes. Motion carried, 7-0.

Ms. Carlson moved to adjourn. Motion seconded by Dr. Fallgatter. All in favor. The meeting was adjourned at 10:33 PM.

The next meeting of the Board will be held virtually April 22, 2022.

Submitted by Rita Sommers, RDH, MBA

Marcus Tanabe, DDS, OMFS, NDBDE Secretary-Treasurer