

NORTH DAKOTA BOARD OF DENTAL EXAMINERS

Minutes

SPECIAL MEETING

August 9, 2022 | 6:30 PM CDT

Via Zoom Meeting

1. **Call to Order and roll call:** Mr. Mehlhoff called the virtual meeting to order at 6:30 PM CDT. The ND Board of Dental Examiners ("Board") convened for the purpose of discussion complaints.

Board Members and Administrative Staff Attendance

Tim Mehlhoff, CPA, President

Bev Marsh, RDH, President-Elect

Marcus Tanabe, DDS, OMFS Secretary Treasurer

Joel Kangas, DDS

Rita Sommers, RDH, MBA, Executive Director

Andrea Carlson, RDA

Otto Dohm, DDS, MS

Jennifer Sarsland, DDS

David Schaibley, Assistant Attorney General

Others in attendance: Joshua Day, DDS and Dr. Day's legal counsel: Mr. Sand, Esq; Mr. Caldwell, Esq

2. **Complaints.** Mr. Mehlhoff invited Mr. Schaibley to explain to the Board and meeting guests the rules regarding Executive Session and the limitations of the meeting regarding the agenda.

***Summary (Mr. Schaibley):** The Board requested Dr. Day obtain an evaluation for fitness to practice and once the Board has received the evaluation, the Board would then determine the conditions of a possible suspension or probation. Mr Sand has made the Board aware of a lengthy wait time required to schedule the appropriate health care provider. Availability of a clinical psychiatrist is much less than the availability of a psychologist and therefore Dr. Day and team requested the Board approve an evaluation provided by a clinical psychologist. Mr. Schaible provided an explanation of the Ex Parte suspension process as well as alternatives to consider.*

The next portion of the meeting was discussed in Executive Session. Dr. Day and his team were invited into a portion of the Executive Session. Legal authority for closing this portion of the meeting is provided in NDCC 44-04-19.1(9); NDCC 44-04-18.32; NDCC 44-04-19.1(5); NDCC 44-04-19.1(6); NDCC 44-04-18.1(2); NDCC 44-04-18.1(4); and NDCC 43-28-18.2(3). Moved by Dr. Fallgatter and seconded by Ms. Marsh to proceed to Executive Session. Roll call vote: Ms. Marsh, yes; Ms. Carlson, yes; Ms. Sarsland, yes, Dr. Fallgatter, yes; Dr. Dohm, yes; Dr. Tanabe, yes; Dr. Kangas, yes; and Mr. Mehlhoff, Yes. Motion carried 8-0. Executive Session began at 6:51 PM. The executive session was attended by members of the NDBDE and Dr. Day, Mr. Sand and Mr. Caldwell. Executive session ended at 8:50 PM.

3. Adjournment: At the conclusion of meeting, the Board summarized terms for a Settlement Agreement which would include a probation period rather than suspension. The licensee would be allowed to practice under specific conditions. During the probationary period Dr Day may not place implants; cannot provide full mouth edentulation, extractions must be staged extractions; successfully complete the AAID Maxi Course; pass part 1 of AAID Associate Fellowship Exam; complete a fitness to practice evaluation by clinical psychologist or psychiatrist and denial of the permit application for moderate sedation privileges. The Board had no objections to a psychologist for Dr. Day's evaluation. Having no further business, Dr. Fallgatter moved to adjourn, seconded by Dr. Kangas. All voted in favor to adjourn. The meeting adjourned at 8:55 PM.

Submitted by _____
Rita Sommers, Executive Director

Marcus Tanabe, DDS Secretary-Treasurer