

## **IOWA DENTAL BOARD**

### **JANUARY 10, 2008 MEETING MINUTES DES MOINES, IOWA**

The open session meeting of the Iowa Dental Board was called to order at 10:30 a.m. on Thursday, January 10, 2008, in the conference room, 400 S.W. 8<sup>th</sup> St., Suite D, Des Moines, Iowa, by the chairperson of the board, Deena R. Kuempel, D.D.S.

Members present at this meeting:

Deena R. Kuempel, D.D.S., Chairperson  
Gary D. Roth, D.D.S., Vice Chairperson  
Debra L. Yossi, D.H., Secretary  
Michael J. Rovner, D.D.S.  
Lynn D. Curry, D.D.S.  
Eileen A. Cacioppo, D.H.  
Elizabeth Brennan, Public Member  
Suzan Stewart, Public Member

Also present: Constance L. Price, Executive Director  
Christel Braness, Administrative Assistant  
Phil T. McCollum, Investigator  
Dee Ann Argo, Administrative Assistant  
Theresa O'Connell Weeg, Assistant Attorney General  
Jennifer Hart, Executive Officer  
Janet Arjes, Executive Officer

#### **PUBLIC COMMENT**

Dr. Kuempel allowed time for public comment.

#### **MINUTES**

Motion by Ms. Cacioppo, seconded Dr. Rovner, to approve the minutes of the October 11-12, 2007, meeting of the board and the teleconference board meeting on November 8, 2007, as written.

Vote: Unanimous.

Motion carried.

**EXECUTIVE DIRECTOR REPORT**

FISCAL YEAR 2008

Ms. Price reported that the board is in the middle of the fiscal year and that expenditures are on target.

DATABASE PROJECT

Ms. Price reported that board staff met with Iowa Access about funding the new database system. Iowa Access determined that they were not in a position to approve the funding at this time. The licensing boards will be expected to pick up more of the cost than anticipated for this system.

AMERICAN ASSOCIATION OF DENTAL ADMINISTRATORS  
AMERICAN ASSOCIATION OF DENTAL EXAMINERS  
MID-YEAR MEETINGS

Ms. Price reported that the meetings for the American Association of Dental Administrators (AADA) and American Association of Dental Examiners (AADE) were scheduled for March 9-10, 2008, in Chicago, IL.

Dr. Kuempel, Dr. Roth, Ms. Price, and Ms. Weeg expressed an interest in attending the mid-year meetings of the AADA and AADE.

Motion by Ms. Cacioppo, seconded Ms Yossi, to request travel approval for Dr. Kuempel, Dr. Roth, Ms. Price and Ms. Weeg to attend the AADA and AADE meetings.

Vote: Unanimous.  
Motion carried.

AMERICAN DENTAL ASSOCIATION  
NATIONAL BOARD TEST CONSTRUCTION COMMITTEE

Ms. Price reported that the ADA was looking for individuals who would be interested in participating on the National Board Test Construction Committee. The deadline for those interested in participating is January 21, 2008.

TRAVEL REIMBURSEMENT

Ms. Price asked Ms. Braness to advise the members on the reimbursement revisions. Ms. Braness informed the board that effective January 1, 2008, the state has increased the reimbursement for mileage.

**LEGAL UPDATE**

JUDICIAL REVIEW – ANDRE' BELL, D.D.S.

Ms. Weeg reported that Dr. Bell's appeal was heard by the court. Arguments were presented to the court on January 4, 2008, following submission of briefs by both sides. The court has not yet issued a ruling in the matter.

BLEACHBRIGHT OF IOWA

Ms. Weeg reported that BleachBright of Iowa, LLC has filed in the District Court for Polk County a Petition for Declaratory Judgment against the State of Iowa, Iowa Dental Board. The plaintiff is requesting that the court declare and construe that the plaintiff's business activities related to the sale of teeth whitening kits do not constitute the practice of dentistry within the meaning of Iowa Code 153.13.

**COMMITTEE REPORTS**

**CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. (CRDTS)**

DENTAL STEERING COMMITTEE REPORT

Dr. Kuempel reported that there was no report at this time. The next Dental Steering Committee Meeting is scheduled for February 2008.

DENTAL EXAMINATION REVIEW COMMITTEE

Dr. Roth had no report at this time.

DENTAL HYGIENE EXAMINATION REVIEW COMMITTEE

Ms. Cacioppo had no report at this time.

ADEX EXAMINATION COMMITTEE

Dr. Roth attended the meeting in Chicago, Illinois on January 5, 2008. Dr. Roth reported that he is not an official representative to ADEX, but rather that he is allowed to attend as a consultant. The meeting was well attended. Dr. Roth reported that the examination was reviewed.

Dr. Roth reported that the examination, as it exists currently, is essentially a pass/fail examination. Scores are either very high or very low. Dr. Roth reported that changing the weighting of the scoring would not benefit many candidates. Dr. Roth reported that it is a good process and thought it was helpful to have the educators present at the meeting.

EXAMINATION AD HOC COMMITTEE

Dr. Kuempel reported that the Examination Ad Hoc Committee met since the last board meeting. A handout was provided to the board members summarizing the meeting. Dr. Kuempel reported that the consensus of the committee was to table the discussion of initial licensure by examination at this time. The committee recommends that the board continue to recognize the WREB examination through the next examination season. The committee also suggests that if the board continues with the WREB examination, it should consider joining the WREB organization. The board currently accepts CRDTS, WREB, and ADEX.

NERB PUBLIC ADVOCACY EDUCATIONAL CONFERENCE

Ms. Brennan attended the NERB Public Advocacy Educational Conference in Washington, D.C. The meeting discussed mutual recognition of examinations. Ms. Brennan reported that the main theme was that there should be one nationally-recognized examination and that it would be possible to accomplish. One national examination would create an even balance for everyone.

Ms. Brennan also reported that the meeting expressed a need for better communications between state boards so as to prevent dentists who have been disciplined from moving from state to state.

CRDTS AND WREB EXAMNATIONS  
PRESENTATIONS TO THE BOARD

Dr. Kuempel stated that the topic of examinations was a critical one for the board and felt that it was important to have CRDTS and WREB at this board meeting to present information concerning each examination. Dr. Kemple thanked the participants for their interest in attending this board meeting.

CENTRAL REGIONAL DENTAL TESTING SERVICE  
AMERICAN BOARD OF DENTAL EXAMINERS, INC.  
DR. BRUCE BARRETT  
DR. GUY SHAMPAINE  
PRESENTATION

Dr. Bruce Barrett reported that CRDTS invited Dr. Guy Shampaine, Vice-president of ADEX, to present to the board. Dr. Shampaine reported that ADEX was developed with the idea that it would become a national examination. Dr. Shampaine reported that 41 states currently accept ADEX without qualification. ADEX has moved as many procedures as possible to non-patient testing. In cases where live patients are used, CRDTS strives to administer the examination in the most ethical manner possible.

Diagnosis and treatment are the foundation to the practice of dentistry. The examination was based on this and has five stand-alone sections based on standard skill sets. The format was based on the national medical examination.

Dr. Shampaine reported that ADEX has been independently evaluated. The performance criteria are measurable, not subjective. Each section of the examination must be passed prior to successfully completing the examination. Failure is the result of two or three consecutive clinically unacceptable treatments.

WESTERN REGIONAL EXAMINATION BOARD  
DR. CHARLES BROADBENT  
PRESENTATION

Dr. Charles Broadbent presented information about the Western Regional Examination Board, (WREB) examination. Dr. Broadbent reported that WREB does a practice analysis. The philosophy of WREB is to not use a typodont examination on plastic teeth if possible.

Dr. Broadbent also reported that in the last 10 years, the WREB examination has been independently evaluated three times. The reliability coefficient for the WREB examination is 0.91 with 1.0 being a perfect score.

Dr. Broadbent reported that 75 is the minimum score needed to pass WREB. If a candidate receives a score of 55 or less on any section of the examination, that section must be retested. Dr. Broadbent reported that there are protocols in place for the protection of the patient.

**ANESTHESIA CREDENTIALS COMMITTEE**

Dr. Roth reported that the Anesthesia Credentials Committee is scheduled to meet on January 22, 2008, to discuss the new ADA Anesthesia Guidelines.

**DENTAL ASSISTANT COMMITTEE**

Dr. Rovner reported that the Dental Assistant Committee met in December. A summary of the meeting was reviewed by the members of the board. The committee considered proposed changes to Iowa Administrative Code 650 Chapters 20 & 22 including the definition of personal supervision, experience needed for expanded functions, and taking radiographs under general supervision. The committee discussed the possibility of adding sealants to the list of expanded function duties for dental assistants and concluded that it will recommend that the board not pursue further consideration of sealants as a dental assistant expanded function at this time. The committee also discussed the possibility of adding the removal of temporary cement to the list of dental assistant expanded function duties. Following discussion the committee recommends to the board that it defer action on this issue to allow groups of interest to propose a solution.

Dr. Kuempel thanked the groups for working together so amicably.

**CONTINUING EDUCATION ADVISORY COMMITTEE**

Ms. Cacioppo referred the board members to a list regarding courses submitted to the committee for approval and the corresponding recommendations.

Motion by Ms. Cacioppo, seconded Ms. Yossi, to accept the committee's recommendations for board approval of continuing education courses.

Vote: Unanimous.  
Motion carried.

Ms. Cacioppo reported that the board had received two applications for sponsor status from Oral Surgery Associates of Iowa City and Great River Oral and Maxillofacial Surgery, P.C.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve the applications for sponsor status.

Vote: Unanimous.  
Motion carried.

Ms. Cacioppo reported that a third application for sponsor status had been received by the board. However, additional information is needed prior to making a recommendation to the board.

**DENTAL HYGIENE COMMITTEE**

Ms. Yossi had no report at this time.

**BOARD RECESS**

At 11:45 a.m., the board recessed for lunch. The board reconvened at 1:00 p.m.

**CONSIDERATION OF RULES**

650 IOWA ADMINISTRATIVE CODE 30.4(14)  
Adopted and Filed  
Effective December 12, 2007

Ms. Hart reported that the amendment specifies that failure to preserve the confidentiality of patient information may be grounds for discipline. The amendment went into effect on December 12, 2007.

650 IOWA ADMINISTRATIVE CODE  
CHAPTER 20, DENTAL ASSISTANTS  
CHAPTER 22, DENTAL ASSISTANT RADIOGRAPHY QUALIFICATION

Ms. Hart reported that a public hearing was held in November 2007. The board received one comment from the Iowa Dental Association. The public comment was reviewed by the Dental Assistant Committee. The committee recommends that the board proceed with the rule as published in the Notice of Intended Action.

Motion by Ms. Cacioppo, seconded Ms. Brennan, to Adopt and File the proposed amendments as published in the Notice of Intended Action.

Vote: Unanimous.  
Motion carried.

**CONSIDERATION OF ISSUES**

**MOBILE DENTAL UNITS**

The board received a request asking the board to consider whether a for-profit mobile dental unit could be considered a public health setting.

Motion by Dr. Roth, seconded Ms. Stewart, that the board does not consider a for-profit dental unit as a public health setting.

Vote: Unanimous.  
Motion carried.

**STANDARD OF CARE – DENTAL RADIOGRAPHY PROTOCOLS**

As a follow up to an issue discussed at a previous board meeting concerning radiography protocols, the board determined that it will note this information and keep it on file for future reference.

#### GOOD MORAL CHARACTER – CHEATING ISSUE

The members of the board decided to table this discussion until the next meeting since the AADE meeting in March 2008 will be addressing this issue again. The board will revisit this issue after this matter has been discussed further on a national level.

#### SEXUAL BOUNDARIES GUIDELINES – REVIEW OF AADE GUIDELINES

The board members have been provided a copy of the information from the AADE meeting in September 2007. The information is designed to be used as a template for cases of this nature. The board feels that this information is useful as reference material and that drafting rules to address it is not necessary at this time. The board members felt that it was important that all dental offices have sexual harassment policies in place as a standard protocol.

#### COSMETIC TEETH BLEACHING – BOARD POSITION STATEMENT

Given the recent filing of a Petition for Declaratory Judgment in a related matter, the board tabled discussion of this topic at this time.

#### DEA SCHEDULE II AMENDMENTS

Ms. Price reported that this information was provided for reference only. There was no further discussion.

#### IOWA BOARD OF NURSING POSITION STATEMENT – PROPOFOL

Ms. Price reported that the Iowa Nursing Board had issued a position statement concerning nurses and the administration of propofol. The board has information that the nurses in oral and maxillofacial surgeons' offices assist with the administration of propofol under the direction and supervision of the dentist.

The dental board asked the nursing board to revisit this issue. The dental board asked that an exemption be made for oral surgeons. To date, the nursing board has not put forth a written response; however, it is expected that the nursing board would deny this request.

Ms. Price reported that the specific drug is the issue, not the category of drugs in general. Ms. Price also reported that Nebraska has an "extra pair of hands" policy, which means that the nurse is not determining administration or dosage, but simply assisting at the direction of the oral surgeon.

Ms. Cacioppo, seconded Ms. Yossi, to bring the issue back to the nursing board and request that the board work with the dental board to find a resolution.

Vote: Unanimous.

Motion carried.

#### IPRC COMMITTEE

Ms. Price reported that there had been some interest from individuals currently serving on the committee to add another member to the committee. Ms. Price stated that this would also be a good time to consider setting term limits for service.

Motion by Ms. Cacioppo, seconded Dr. Roth, to keep the name of the individual available for future appointment and to draft rules that would specify term limits of committee members.

Vote: Unanimous.  
Motion carried.

### **LEGISLATION – 2008 SESSION**

#### IOWA CODE CHAPTER 147 REVISIONS

#### IOWA CODE CHAPTER 153

Ms. Price reported that the draft of Chapter 147 is still being reviewed by legislative services. The bill is intended to clean up the language and update the Iowa Code to meet current practice.

### **APPLICATIONS FOR LICENSURE/PERMITS/REGISTRATION**

#### APPROVAL OF APPLICATIONS

The board was provided with a list of the applications for licensure, permit, and registration that have been processed since the last meeting.

Between October 11, 2007, and January 9, 2008, the board licensed 3 dentists and 5 dental hygienists; 3 conscious sedation permits, and 3 local anesthesia permits. The board registered 67 dental assistants with the additional qualification in dental radiography and 5 registered without qualification; the board issued 3 qualifications in dental radiography without registration, and trainee status to 63 dental assistants.

Motion by Dr. Roth, seconded Ms. Brennan, to approve issuance of licensure, permits, and registrations to those persons listed.

Vote: Unanimous  
Motion carried.

The board received a request from an applicant for dental license to accept his residency program as part of the three years of practice required for a dental license by credentials.

Motion by Dr. Roth, seconded Dr. Curry, to accept the time the applicant was in the residency program as part of the practice requirement for license by credentials.

Vote: Unanimous.  
Motion carried.

#### WAIVER REQUEST

Ms. Hart reported that the board had received a request for waiver. Juan Uribe, D.D.S. has requested a waiver to Iowa Administrative Code 650 subrule 11.4(1). Ms. Hart reported that Dr. Uribe will have completed two years of a general practice residency at an accredited school when he graduates in June 2008. Dr. Uribe has requested that the board accept his two years of

general practice residency in lieu of an additional two years of undergraduate dental education. Dr. Uribe has provided information concerning all the criteria for waiver.

Motion by Ms. Yossi, seconded Ms. Cacioppo, to approve the request for waiver.

Vote: Unanimous.  
Motion carried.

**OPPORTUNITY FOR PUBLIC COMMENT**

Dr. Kuempel allowed time for public comment.

**CLOSED SESSION**

Motion by Ms. Brennan, seconded Dr. Roth, for the board to go into closed session pursuant to Iowa Code Section 21.5(1)(d) and (f) to discuss and review complaints and investigative reports which are required by state law to be kept confidential and also to discuss decisions to be rendered in contested cases.

Vote: Ms. Cacioppo, aye; Ms. Yossi, aye; Dr. Roth, aye; Dr. Kuempel, aye; Dr. Rovner, aye; Dr. Curry, aye; Ms. Stewart, aye; Ms. Brennan, aye.  
Motion carried.

**OPEN SESSION**

Motion by Ms. Yossi, seconded Ms. Stewart, for the board to return to open session.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
TAMMY EASTMAN BERTCH, R.D.H.

The Board considered a proposed Notice of Hearing and Statement of Charges regarding this matter.

Motion by Ms. Yossi, seconded Ms. Cacioppo that the Board revise the proposed Notice of Hearing and Statement of Charges as discussed and approve the revised Order.

Vote: Unanimous.  
Motion carried.

Iowa Dental Board  
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IN THE MATTER OF  
DANIEL J. SCHUSTER, D.D.S.

The Board considered a proposed Notice of Hearing and Statement of Charges regarding this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry that the Board approve the proposed Notice of Hearing and Statement of Charges as discussed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
GAIL R. ST. PIERRE PIPER, R.D.H.

The Board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order regarding this matter.

Motion by Ms. Cacioppo, seconded Dr. Roth that the Board approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
GENE V. MUELLER, D.D.S.

The Board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order regarding this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry that the Board approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
CYNTHIA D. ADAMS, D.A.

The Board considered a proposed Stipulated Registration Agreement regarding this matter.

Motion by Ms. Yossi, seconded by Ms. Cacioppo that the Board approve the Stipulated Registration Agreement as proposed.

Vote: Unanimous.  
Motion carried.

**NEXT MEETING OF THE BOARD**

The next meeting of the board is scheduled for April 22-23, 2008, in Des Moines, Iowa.

**ADJOURNMENT**

The board adjourned its open session meeting at 1:35 p.m. on January 10, 2008.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'C. Price', written in black ink.

CONSTANCE L. PRICE  
Executive Director

CLP/cb