

IOWA DENTAL BOARD

JANUARY 15-16, 2009 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 15, 2009, in the conference room, 400 S.W. 8th 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
Eileen A. Cacioppo, D.H., Secretary
Michael J. Rovner, D.D.S.
Lynn D. Curry, D.D.S.
Perry T. Grimes, D.D.S.
VaLinda J. Parsons, D.H.
Elizabeth Brennan, Public Member *
Diane Meier, Public Member

Also present: Constance L. Price, Executive Director
Christel Braness, Administrative Assistant
Phil T. McCollum, Investigator
Brian Sedars, 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. Curry, to approve the minutes of the October 28-29, 2008, meeting of the board, and the November 25, 2008, teleconference meeting of the board.

Vote: Unanimous.
Motion carried.

EXECUTIVE DIRECTOR REPORT

BOARD STAFF

Ms. Price introduced Brian Sedars to the board as the new investigator on staff. Mr. Sedars comes from the Adel, Iowa police department. He is a graduate of Iowa State and has his Certification from the Iowa Law Enforcement Academy. Mr. Sedars was chosen from an applicant field of over seventy persons.

Ms. Price took this opportunity to recognize the exceptional work of the current investigative staff, Phil McCollum, Health Professions Investigator, and Dee Ann Argo, Administrative Assistant.

BUDGET UPDATE

Ms. Price reported that the board members have been provided with an updated financial report. Ms. Price noted that there are ongoing budget issues within the state of Iowa associated with the national economic challenges.

Ms. Price reported that the budget cuts imposed include restrictions on all out of state travel, conferences, use of overtime, and equipment purchases, monitoring of in state travel and service contracting, and the imposition of a hiring freeze, including temporary staffing.

AMERICAN ASSOCIATION OF DENTAL ADMINISTRATORS (AADA)/ AMERICAN ASSOCIATION OF DENTAL EXAMINERS (AADE)

MID-YEAR MEETINGS

Ms. Price reported that out-of-state travel is one of the areas affected by current budget restrictions. The meetings of the AADA and AADE are scheduled for April 2009 in Chicago, Illinois. The board may want to consider applying for an exemption to allow for the travel as Ms. Price serves as current Secretary of the AADA and has also been asked to be a speaker at the AADE meeting. Dr. Kuempel also expressed interest in attending the AADE meetings.

Motion by Ms. Cacioppo, seconded Ms. Brennan, to strongly support sending Ms. Price and Dr. Kuempel as representatives of the board to the AADA/AADE mid-year meetings.

Vote: Unanimous.

Motion carried.

MEETINGS WITH DENTAL AND DENTAL HYGIENE STUDENTS

Ms. Price reported that Ms. Hart has been asked to present jurisprudence to various dental hygiene programs in the state of Iowa. Ms. Price also reported that the board has agreed to speak with the senior dental students on March 25, 2009. Ms. Price stated that it is important to continue the contact with future licensees to keep them informed. Dr. Kuempel reported that she and Mr. McCollum were scheduled to meet with the junior dental students on March 31, 2009.

DATABASE PROJECT

Ms. Price reported on the status of the RFP process for the new licensing database. One year ago the boards of dental, medicine and nursing presented a joint request to the Iowa Access Council

to obtain funds to assist the boards with the costs associated with the healthcare provider licensing database. At that time the Iowa Access Council asked that the boards return with information about the total cost of the project and the specific cost associated with the public interface portion of the project. The boards recently presented information to the Iowa Access Council again. The council voted to support the boards' request for funds.

AADE GUIDELINES

Ms. Price reported that she has received a copy of the American Association of Dental Examiners Guidelines for Evaluating Allegations of Inappropriate Prescribing Practices, Drug Diversion, and Substance-Related Impairment of the Dental Licensee. If anyone is interested in reviewing this report it will be available in the board office.

NATIONAL DENTAL EXAMINERS ADVISORY FORUM

Ms. Price reported that the Advisory Forum is scheduled to be held at the time of the AADA/AADE mid-year meetings. This meeting is sponsored by the ADA Joint Commission on National Dental Examinations. Funding is provided by the Joint Commission for one current board member to attend. Dr. Kuempel stated that she would try to attend this meeting.

LEGAL UPDATE

Ms. Weeg reported that the matter concerning Dr. Andre Q. Bell is still pending.

COMMITTEE REPORTS

EXAMINATIONS

CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. (CRDTS)

CRDTS DENTAL STEERING COMMITTEE REPORT

Dr. Kuempel reported that Dr. Roth attended in her place.

Dr. Roth reported that the Steering Committee, at the recommendation of the Executive Committee, voted to withdraw from ADEX at the end of the testing year, which is June 30, 2009. In a letter dated November 18, 2008, CRDTS announced that it has notified ADEX of its intention to withdraw from ADEX. The individual states within CRDTS also have separate contracts with ADEX and each state will have to determine whether it will continue to participate in ADEX and accept its results.

Dr. Roth suggested that Iowa should stay with CRDTS unless, or until, CRDTS demonstrates that they cannot provide an adequate examination. Dr. Kuempel reported that CRDTS would like to present information to the state licensing boards on the status of developing the new examination. Dr. Kuempel would like to see CRDTS placed on the agenda for the April 2009 meeting.

Dr. Kuempel stressed how important it is that all board members attend and become involved with the CRDTS organization as Iowa is a member of CRDTS. Dr. Kuempel stated that now is the time to retain a strong relationship with CRDTS since the board can have the necessary input

to make the examination what the board needs it to be. Dr. Roth also suggested that once a new CRDTS examination is developed and board members are actively examining for CRDTS that the board strongly encourage the University of Iowa College of Dentistry to participate in the examination.

Dr. Roth suggested that the board take no action at this time concerning the examination issue and that Iowa continue to accept the dental examinations administered by CRDTS, ADEX and WREB.

CRDTS DENTAL EXAMINATION REVIEW COMMITTEE

Dr. Roth provided information as reported above.

CRDTS DENTAL HYGIENE EXAMINATION REVIEW COMMITTEE

Ms. Cacioppo reported that the current dental hygiene ADEX examination was the CRDTS dental hygiene examination. The new proposed ADEX dental hygiene examination is the periodontal portion of the ADEX dental examination. Ms. Cacioppo reported that the CRDTS organization voted against this change to the ADEX examination as they felt it was not sufficient for the purposes of dental hygiene licensure. Due to these changes and upon the recommendation of CRDTS, the Dental Hygiene Committee is supporting eliminating ADEX from the list of approved examinations for dental hygiene licensure.

ANESTHESIA CREDENTIALS COMMITTEE (ACC)

NATALIE GHOSHEH, D.D.S.
PERMIT APPLICATION

The members of the board considered an application for issuance of a conscious sedation permit.

Motion by Dr. Roth, seconded Ms. Cacioppo, to approve the conscious sedation permit for Natalie Ghosheh, D.D.S.

Vote: Unanimous.
Motion carried.

CONTINUING EDUCATION ADVISORY COMMITTEE

Ms. Cacioppo reported that the board has received two applications for sponsor status: Midwest Dental Management and Linn County Dental Society. Ms. Cacioppo stated that she is recommending approval for both of these sponsors.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve these sponsors.

Vote: Unanimous.
Motion carried.

Ms. Cacioppo reported that the board members have been provided with a list of continuing education courses that have been reviewed since the last meeting.

Motion by Ms. Cacioppo, seconded Dr. Rovner, to approve the list of courses as recommended.

Vote: Unanimous.
Motion carried.

DENTAL ASSISTANT COMMITTEE

Course approval

Ms. Arjes reported that the Dental Assistant Committee considered an addendum to Dr. Hal Harris' expanded function courses on applying cavity liners and bases, desensitizing agents, and bonding systems and taking final impressions. The committee is recommending approval of these course as revised.

Cone Beam CT Images

Ms. Arjes reported the Dental Assistant Committee also considered a request that the board clarify whether registered dental assistants who have the qualification in dental radiography issued by the board and who complete appropriate training on the specific unit are permitted to make cone beam CT (CBCT) dental images. The committee recommends that it is within the purview of a registered dental assistant with qualification in dental radiography issued by the Iowa Dental Board and with additional training to make cone beam dental CT (CBCT) images.

Motion by Dr. Roth, seconded Ms. Cacioppo, to accept the Dental Assistant Committee's recommendations regarding the course approval and cone beam dental CT images.

Vote: Unanimous.
Motion carried.

DENTAL HYGIENE COMMITTEE

Cone Beam CT Images

Ms. Cacioppo reported that the Dental Hygiene Committee considered a request that the Dental Hygiene Committee clarify whether or not licensed dental hygienists are permitted to make cone beam CT (CBCT) dental images. The Dental Hygiene Committee recommends to the board that dental hygienists are authorized to make cone beam dental CT images by virtue of their dental hygiene education and additional training as necessary.

Motion Ms. Cacioppo, seconded Dr. Roth, to accept the recommendation of the Dental Hygiene Committee.

Vote: Unanimous.
Motion carried.

Public Health Supervision
Petition for Rulemaking

Ms. Cacioppo reported that the Dental Hygiene Committee discussed the Petition for Rulemaking concerning public health supervision. Ms. Cacioppo reported that the Dental Hygiene Committee is suggesting that the board deny the Petition for Rulemaking as submitted. However, the Committee is suggesting alternative wording, which will be discussed during the consideration of rules.

ADEX/CRDTS Dental Hygiene Examinations

Ms. Cacioppo reported that the committee considered this issue and will be recommending rule changes.

IOWA PRACTITIONER REVIEW COMMITTEE

Ms. Price discussed with the board issues concerning the composition of the Iowa Practitioner Review Committee (IPRC). She reported that Dr. Eckhoff, who has been serving as a public member on the IPRC for several years, has notified the board that he is no longer able to fill this role. Ms. Price reported that she has asked Ms. Kathy Stone, the current Substance Abuse Council Director at the Iowa Department of Public Health, if she would be willing to replace Dr. Eckhoff. Ms. Stone has agreed to serve on the IPRC committee and her CV has been submitted for the board's review.

Ms. Price also reported that the new IPRC rules that define the terms of members serving on the committee became effective on October 1, 2008. The rules allow members to serve for a maximum of three terms or nine years. She reported that the committee will soon have members who have served the maximum length of time. The staff is recommending that the board approve a third practitioner, Dr. Joseph Bates, to aid in the transition.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve the IPRC appointments as recommended.

Vote: Unanimous.
Motion carried.

CONSIDERATION OF RULES

PETITION FOR RULEMAKING

Filed November 25, 2008

650 IAC 10.5(3)"a"(3) - Public health supervision required for dental examination

Ms. Hart reported that the IDHA resubmitted the request for rulemaking so that the board can rule on the request in a timely manner. The Dental Hygiene Committee considered the petition earlier in the morning at its meeting and is suggesting that the board deny the petition for rulemaking as submitted. Rather, the Dental Hygiene Committee is recommending the board amend the rules to allow the dentist and dental hygienist in a public health supervision agreement the flexibility to determine the appropriate interval for an exam. This puts the responsibility on

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the licensees who have signed these agreements. It could mean no changes for the hygienist, if the dentist wants to continue to require a 12-month exam interval or it could allow for a longer period of time, if specified in the agreement.

The board discussed the original petition and Dental Hygiene Committee's suggestion at length.

Motion by Ms. Cacioppo, seconded Dr. Roth, to deny the petition for rulemaking as submitted.

Vote: Unanimous.
Motion carried.

Motion by Dr. Roth, seconded Dr. Grimes, to amend the subrule to allow only prophylaxis to continue after the 12 months. After additional board discussion, Dr. Roth withdrew the motion.

Motion by Ms. Cacioppo, seconded Ms. Parsons, to propose rulemaking to amend the rules as follows: "Specify a period of time, ~~no more than 12 months~~, in which an examination by a dentist must occur prior to providing further hygiene services."

Vote: Dr. Rovner, aye; Ms. Parsons, aye; Dr. Roth, aye; Ms. Cacioppo, aye; Ms. Brennan, aye; Dr. Curry, aye; Dr. Kuempel; aye; Ms. Meier, no; Dr. Grimes, no.
Motion carried. 7-2

650 Iowa Administrative Code
Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene"
Procedures for denial of licensure
Consider Notice of Intended Action

Ms. Hart reported that amendments specify the procedures for denying a license based on court rulings involving another health board. Ms. Weeg clarified that there needs to be some language added back in to the proposed changes to clarify the appeal process. The Notice of Intent to Deny is a public record.

Motion by Ms. Cacioppo, seconded Dr. Curry, to file Notice of Intended Action on the amendments.

Vote: Unanimous.
Motion carried.

650 Iowa Administrative Code
Chapter 12, Dental and Dental Hygiene Examinations
Removal of ADEX from list of exams administered/accepted
Consider Notice of Intended Action

Ms. Hart reported that this proposal addresses the acceptance of ADEX examinations for the purposes of licensure. The Dental Hygiene Committee has recommended that the board remove

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the ADEX examination from the list of approved clinical examinations for the purposes of dental hygiene licensure in Iowa.

Motion by Ms. Cacioppo, seconded Dr. Curry, to remove ADEX from the list of approved exams for licensure as a dental hygienist on the basis of examination.

Vote: Unanimous.
Motion carried.

Motion by Dr. Roth, seconded Dr. Curry, to continue acceptance of the ADEX dental examination for the purposes of dental licensure.

Vote: Unanimous.
Motion carried.

650 Iowa Administrative Code
Chapter 10 General Requirements
Placement of provisional appliances by dental hygienist
Consider Notice of Intended Action

Ms. Hart reported that this is a draft of amendments discussed at the last board meeting to allow the placement of provisional appliances by a dental hygienist under direct supervision.

Motion by Ms. Cacioppo, seconded Dr. Rovner, to file a Notice of Intended Action on the proposed amendments.

Vote: Unanimous.
Motion carried.

650 Iowa Administrative Code
Chapter 29, "Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia"
ADA Guidelines/Anesthesia Credentials Committee Recommendations
Notice of Termination

Ms. Hart reported that the rulemaking has been terminated until the Anesthesia Credentials Committee can meet to further review ADA guidelines and the board's proposed rules.

LEGISLATION – 2008 SESSION

IOWA CODE CHAPTER 147.14
FACULTY BOARD MEMBER

Ms. Price reported that the Iowa Dental Association is reconsidering whether they would support the prohibition against full faculty members serving on the board, rather than adjunct faculty members.

Motion Dr. Roth, seconded Ms. Cacioppo, to move forward with proposed legislation to remove the prohibition against faculty serving on the board based on the recommendations of the associations.

Vote: Unanimous.
Motion carried.

DENTAL ASSISTANT BOARD MEMBER

Ms. Price reported that the board has received a formal request from the Iowa Dental Assistants Association asking the Board to appoint a committee to consider adding a dental assistant as a member to the board.

Motion by Dr. Roth, seconded Dr. Curry, to appoint a committee to look into this matter.

Vote: Unanimous.
Motion carried.

The Board members suggested the associations be allowed to submit names of its members who would like to participate on the committee. The Board Chair will appoint the ad-hoc committee.

TOOTH WHITENING AND THE PRACTICE OF DENTISTRY

The members of the board considered an amendment to 153.13, which defines the practice of dentistry. The purpose of this amendment is to further clarify that removal of stains, accretions, or deposits from human teeth constitute the practice of dentistry and therefore cannot be provided by unlicensed persons.

Motion by Dr. Roth, seconded Ms. Cacioppo, to recommend moving forward with the amendment to Iowa Code section 153.13 to further clarify the definition of the practice of dentistry and ensure that only appropriately licensed individuals provide these services.

Vote: Unanimous.
Motion carried.

CONSIDERATION OF ISSUES

TOOTH WHITENING – BOARD POSITION

The members of the board considered the revised “Tooth Whitening Board Position Statement.”

Motion by Dr. Roth, seconded Dr. Rovner, to approve the position statement on tooth whitening.

Vote: Unanimous.
Motion carried.

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 28, 2008, and January 14, 2009, the board licensed 5 dentists and 2 dental hygienists; issued 2 faculty permits, and 5 local anesthesia permits. The board registered 61 dental assistants with the additional qualification in dental radiography and 5 dental assistants registered without a qualification in dental radiography; and trainee status to 24 dental assistants.

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

Vote: Unanimous.
Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT

Dr. Kuempel allowed time for public comment.

CLOSED SESSION

Motion by Dr. Curry, seconded Ms. Parsons, 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. Parsons, aye; Dr. Roth, aye; Dr. Kuempel, aye; Dr. Rovner, aye; Dr. Curry, aye; Dr. Grimes, aye; Ms. Brennan, aye; Ms. Meier, aye.
Motion carried.

OPEN SESSION

Motion by Ms. Cacioppo, seconded Dr. Curry, for the board to return to open session.

Vote: Unanimous.
Motion carried.

Motion by Ms. Cacioppo, seconded Ms. Meier, to approve sending a Cease and Desist Letter to Ron Iole.

Vote: Unanimous.
Motion carried.

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Motion by Ms. Cacioppo, seconded Ms. Meier to approve sending a Cease and Desist Letter to Jordan Creek Teeth Whitening.

Vote: Unanimous.
Motion carried.

Motion by Ms. Cacioppo, seconded Ms. Parsons, to approve sending a Cease and Desist Letter to Nu Image White Smile.

Vote: Unanimous.
Motion carried.

Motion by Ms. Cacioppo, seconded Ms.Meier, to approve sending a Cease and Desist Letter to Da Vinci Teeth Whitening.

Vote: Unanimous.
Motion carried.

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

The Board considered a proposed Stipulation and Consent Order regarding this matter.

Motion by Ms. Meier, seconded Ms. Cacioppo that the Board approve this Stipulation and Consent Order with an amendment that the Respondent must submit to the evaluation within thirty days of the date of this Order.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
JAY R. BUCKLEY, D.D.S.

This matter was continued by the Board until further Order of the Board on January 9, 2009, at the request of the Respondent's attorney.

Motion by Dr. Roth, seconded Dr. Grimes that the Board reschedule this hearing for March 4, 2009 to begin at 8:00 a.m.

Vote: Unanimous.
Motion carried.

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IN THE MATTER OF
DANIEL J. SCHUSTER, D.D.S.

The Board considered a new hearing date pursuant to a Ruling Granting Continuance with Stipulations entered on January 9, 2009.

Motion by Dr. Roth, seconded Ms. Meier that the Board reschedule this hearing for April 14, 2009 to begin at 8:00 a.m.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
CHAD B. HOECKER, D.D.S.

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

Motion by Dr. Rovner, seconded Ms. Parsons that the Board approve the Notice of Hearing and Statement of Charges as proposed and schedule this hearing for April 14, 2009.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
REBECCA J. KINSEY, R.D.A.

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

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

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
KIMBERLY J. ROBERTS, R.D.A.

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

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

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
RON M. HARSHMAN, D.D.S.

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

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

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
JENNIFER L. LADELY, R.D.A.

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

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

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
ROBERT J. FOUST, D.D.S.

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

Motion by Ms. Parsons, seconded Dr. Curry that the Board approve the Notice of Hearing and Statement of Charges with proposed amendments.

Vote: Unanimous.
Motion carried.

*Ms. Brennan was present for the January 15, 2009 meeting only.

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NEXT MEETING OF THE BOARD

The next meeting of the board is scheduled for April 14-15, 2009, in Des Moines, Iowa.

ADJOURNMENT

The board adjourned its meeting at 11:55 a.m. on January 16, 2009.

Respectfully submitted,

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

CONSTANCE L. PRICE
Executive Director

CLP/cb