

IOWA DENTAL BOARD

JANUARY 14-15, 2010 MEETING MINUTES DES MOINES, IOWA

The open session meeting of the Iowa Dental Board was called to order at 10:00 a.m. on Thursday, January 14, 2010, 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
VaLinda J. Parsons, D.H., Secretary
Michael J. Rovner, D.D.S.
Lynn D. Curry, D.D.S.
Perry T. Grimes, D.D.S.
Marijo A. Beasler, D.H.
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 Dr. Curry, seconded Dr. Roth, to approve the minutes of the October 27-28, 2009, meeting of the board.

Vote: Unanimous.

Motion carried.

EXECUTIVE DIRECTOR REPORT

BOARD APPOINTMENTS

Ms. Price reported that the Dental Board continues to be a nine member board with five dental, two dental hygiene and two public members, however one public member position expired in April 2009 and has not been filled. To date, the governor has not appointed a public member to fill that vacancy and no word as to when that appointment will be made.

FISCAL REPORT

Ms. Price indicated that all of the board members received updated financial information for the current fiscal year. To date, the board is on target for the current fiscal year. Due to state-wide budget issues, there has been greater scrutiny of the budget. There has been discussion of a proposal to completely reorganize state government to address the budget crisis.

Ms. Price reported that all non-contract state employees will be required to take seven days furlough. Due to union approval, all contract state employees will be required to take five days unpaid in order to cut costs. The furloughs affect all the employees of the board's staff. Ms. Price reported that the board office was closed on December 24, 2009, so that staff members, who wished to do so, could use the day as one of the mandatory unpaid days.

AMERICAN ASSOCIATION OF DENTAL BOARDS AMERICAN ASSOCIATION OF DENTAL ADMINISTRATORS NATIONAL ANNUAL MEETINGS

Ms. Price reported that the next meetings for the American Association of Dental Boards and American Association of Dental Administrators have been scheduled for April 2010 in Chicago, Illinois. Ms. Price indicated that she would like to attend the AADA meeting as she is currently serving as Vice President of that Association. However, due to current travel restrictions, it is unclear as to whether approval to travel will be granted. Ms. Price indicated that the request will be submitted in hopes that the request will be approved. Board members who are interested in attending the American Association of Dental Boards are encouraged to let the Executive Director know so that a proper request for the travel can be made.

DATABASE PROJECT

Ms. Price reported that the database project was progressing. Ms. Price thanked Ms. Hart and Mr. McCollum for the time they are providing to the database project. The project continues to be extremely time consuming.

LEGAL UPDATE

Ms. Weeg reported that the district court previously dismissed the matter concerning Dr. Andre Q. Bell. Dr. Bell has appealed the district court's decision. Ms. Weeg reported that briefs have been filed with the 8th Circuit Court of Appeals in response to Dr. Bell's appeal.

EXAMINATIONS

CRDTS – CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. DENTAL STEERING COMMITTEE REPORT

Ms. Beasler reported that she attended the Dental Steering Committee meeting on Dr. Kuempel's behalf. Ms. Beasler reported:

- CRDTS failure rate is going down after remediation and retakes, 97% of dentists pass the clinical examination before graduation. Statistics are not yet available for dental hygiene examinations.
- CRDTS is holding a clinic to train examiners on the handheld scoring system for the dental examinations. Handheld scoring is not available this year for the dental hygiene examinations, but will be available next year.
- CRDTS has appointed a new director. The new director is a former examiner. While the director is familiar with the examinations, he will no longer assist with the administration of the examinations.
- Upcoming meeting dates are going to change. The meetings will start Saturday and go into Sunday morning.

Dr. Kuempel took the opportunity to remind the board members that the CRDTS Annual Session is August 26-28, 2010. Dr. Kuempel strongly encouraged everyone to attend as CRDTS is funding the travel for all board members and executive directors.

CRDTS – CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. DENTAL EXAMINATION REVIEW COMMITTEE REPORT

Dr. Roth indicated that there is a meeting scheduled for this weekend.

Dr. Roth reported that representatives of the University of Iowa College of Dentistry asked to attend this meeting. However, due to scheduling conflicts, they were unable to attend. Once again, the University of Iowa College of Dentistry is offering the WREB examination. Iowa is not a member of WREB; therefore, the board has no input into the construction or administration of the examination. Dr. Roth encouraged the board members to give some thought as to how to proceed with future examinations.

Dr. Kuempel encouraged the board members to try to observe a WREB examination and administer CRDTS when possible to fully understand the intricacies of both examinations.

The representatives of the University of Iowa College of Dentistry have been rescheduled to attend the April, 2010 meeting.

CRDTS – CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. DENTAL HYGIENE EXAMINATION REVIEW COMMITTEE REPORT

Ms. Beasler indicated that she provided all of the information available during the Dental Steering Committee report.

COMMITTEE REPORTS

ANESTHESIA CREDENTIALS COMMITTEE (ACC)

Dr. Roth reported that the proposed changes to rules regarding sedation were made available for public comment. The proposed changes attempt to clarify the difference between minimal and moderate sedation. The proposed changes also attempt to match the updated ADA guidelines; however, Iowa varies in that Iowa requires the same level of training regardless of the method used to introduce sedation.

If the proposed changes are accepted, the major change from previous requirements would be in regards to pediatric (under 12) and medically-compromised (ASA 3-4) patients. Additional training (e.g. formal residency) will be required since they are the groups with the highest risk of complications.

Ms. Hart indicated that the board cannot formally adopt the rules until January 20, 2010. She noted, however, that the board has the option to discuss the proposed changes.

FOTENE GENNATOS, D.D.S.; JEFFREY W. PURK, D.D.S.
PERMIT APPLICATIONS

The members of the board considered applications for conscious sedation permit.

Motion by Dr. Rovner, seconded Dr. Curry, to approve the conscious sedation permits.

Vote: Unanimous.
Motion carried.

Dr. Curry inquired about the number of sedation training courses available. Ms. Hart reported that there are quite a few courses available; however only four courses have been submitted for formal review and approval by the ACC. Ms. Hart indicated that licensees can submit a course for approval at any time. A syllabus and pertinent information should be forwarded to the ACC when a course needs to be reviewed.

CONTINUING EDUCATION ADVISORY COMMITTEE

Ms. Beasler indicated that there were only a few courses, which required her evaluation. The board members were provided a list of continuing education courses which were submitted for review.

Ms. Beasler also reported on the results of the continuing education audit, which was conducted during the renewal period for dental hygienists and dental assistants.

DENTAL HYGIENE COMMITTEE

Ms. Parsons indicated that she did not have a report.

ISSUES FOR CONSIDERATION

USE OF RESTALYN, BOTOX, AND OTHER DERMAL FILLERS BY LICENSED DENTISTS

Ms. Price reported that the board considered, at its last meeting, issuing a position statement on the use of these and similar products by Iowa-licensed dentists. This topic is being revisited in light of comments from the last meeting. A proposed statement has been provided to all board members. The statement has been updated to allow the use of these services by oral surgeons who received training in the use of these products in their residency programs and who are offering services within the scope of the practice of dentistry.

Ms. Weeg indicated a preference for some changes in the proposed position statement. Ms. Weeg proposes making the language more specific to the type of training received as opposed to limiting the services to a specific specialty.

Motion by Dr. Roth, seconded Ms. Meier, to update the position statement to address training requirements and to make the proposed statement available for comment.

Vote: Unanimous.
Motion carried.

IOWA DENTAL ASSOCIATION
EXPANDED FUNCTIONS OF REGISTERED DENTAL ASSISTANTS
QUESTION ON SESSION LAWS
ATTORNEY GENERAL OPINIONS

At its October, 2009 meeting the Board discussed a letter from the Iowa Dental Association requesting that the Board provide guidance concerning the Session Laws associated with the 2000 Legislative Session, House File 686. That session law prohibited the Board from promulgating rules authorizing dental assistants to perform certain functions. The Board discussed the matter and asked Theresa O'Connell Weeg, Assistant Attorney General to review the matter and advise the Board accordingly.

Ms. Weeg provided the Board with Attorney General Opinions concerning the matter of session laws. Ms. Price provided a summary of the Opinions to the members. Session laws are valid laws, whether or not placed in the Iowa Code and thus are part of Iowa law. Laws enacted by the legislature but printed only in the session laws and omitted from the permanent edition of the Code of Iowa because they are not of "a general and permanent nature" have full force and effect.

HOUSE FILE 2036
2010 LEGISLATIVE SESSION

Ms. Price reported that House File 2036 was introduced in the House yesterday, which addresses, in part, the Board's authority to promulgate rules which would allow dental assistants

to perform certain functions. Specifically, the bill seeks to allow dental assistants to place sealants and remove supra-gingival plaque, stains, or hard natural or synthetic materials and other services as determined by the Board by rule.

The Board discussed the proposed bill and first considered the “removal of supra-gingival plaque, stains, or hard natural or synthetic materials” section. The board discussed the fact that the removal of supra-gingival plaque, stains or hard natural or synthetic materials is included in the definition of an oral prophylaxis which is specifically included in Iowa Code section 153.15 Dental Hygienists – scope of term. There is no formal education or examination requirement included in the bill. Hygienists must take two years of accredited education and pass a clinical licensing exam to perform tooth cleaning services. Registered dental assistants are not required to take formal education or pass clinical exams to demonstrate competency.

Motion by Dr. Roth, seconded Ms. Meier, to oppose the portion of the bill pertaining to the removal of supra-gingival plaque, stains, or hard natural or synthetic materials.

Vote: Dr. Roth, aye; Ms. Parsons, aye; Dr. Rovner, aye; Dr. Grimes, aye; Ms. Meier, aye; Ms. Beasler aye; Dr. Curry abstained.

Motion carried.

The Board next considered the “placement of sealant” section of the bill. Some ADA-accredited dental assistant programs currently teach dental assistants to place sealants. Approximately 30 states allow dental assistants to place sealants. There are a few ADA-accredited dental assistant programs along the Iowa border that teach dental assistants to place sealants.

The members discussed whether placement of sealants could possibly be allowed as an expanded function provided the training is completed at an accredited program. It is critical that sealants be placed correctly and that the training be sufficient to perform this service, however the bill does not allow for education and training of placement of sealants.

Motion by Dr. Roth, to remain neutral on the placement of sealants; however, the allowance of the placement of sealants would be subject to board rules pertaining to training.

After further board discussion, Dr. Roth withdrew his motion.

Motion by Ms. Parsons, seconded Ms. Beasler, to oppose the portion of the bill, which would allow the placement of sealants by a dental assistant.

Vote: Dr. Roth, aye; Ms. Parsons, aye; Dr. Grimes, aye; Ms. Meier, aye; Ms. Beasler; aye; Dr. Rovner, abstained; Dr. Curry abstained.

Motion carried.

Larry Carl, Executive Director, Iowa Dental Association, asked to clarify that this bill was not sponsored by the Iowa Dental Association. Mr. Carl explained that the bill was submitted by a state representative at the request of a licensee.

CORPORATE PRACTICE OF DENTISTRY
MATTERS REGARDING CORPORATE PRACTICE

Ms. Price reported that this matter was being addressed due to some recent concerns of the board about corporate dental practice in Iowa. Ms. Price provided an information sheet regarding what other states have done in relation to the regulation of corporate dental practice. Iowa law, currently, does not prohibit the corporate practice of dentistry; however, non-licensee owners are prohibited from making any decisions, which would affect the clinical practice of dentistry. Ms. Price wanted to ensure that the board members were well informed about the matter and were aware of any options available to the Board prior to bringing representatives from the corporate practices in to visit with the board.

Some of the concerns involved the quality and continuity of dental care at a number of these locations. The continuity of care becomes a critical issue when there is a high level of turnover of licensees within a corporation. The board also expressed concerns relating to some of the financial protocols of some of these corporate practice offices.

Some states have attempted to address similar concerns and met great resistance to the prohibition of the corporate practice of dentistry. However, when states proposed regulating corporate practice, versus prohibition, they found greater acceptance to the idea.

The Board has seen some problems with the organizational structure of some of these companies. Ultimately, the licensee is responsible; and yet, the corporate policies may create situations where Iowa licensees have a difficult time complying with regulations.

Regulation may be a good solution to the problem. Corporate practices should be made fully aware that they will be held accountable for complying with regulations to the same degree as a licensee in a private practice.

Motion by Dr. Grimes, seconded Ms. Parsons, to gather information and submit a proposal concerning the regulation of the corporate practice of dentistry.

Vote: Unanimous.

Motion carried.

INFECTION CONTROL
MATTERS REGARDING INFECTION CONTROL PRACTICES

At its last meeting the members of the Board asked that infection control issues be placed on the open agenda for discussion. The purpose of this was to remind licensees that they should refer to board rules and guidelines to ensure that they are complying with infection control requirements.

Currently, board rules require compliance with CDC guidelines for infection control in a dental office, which are identified as IA, IB, or IC.

**RECORDKEEPING REGULATIONS
MATTERS REGARDING RECORDKEEPING PRACTICES**

Ms. Price thanked Dr. Grimes for writing the "Iowa Dental Board Highlights" which appears in the Iowa Journal. She also thanked the Iowa Dental Association for allowing the Board to have space in the Journal to disseminate information out to the licensees regarding recordkeeping regulations and other important information.

**IOWA ADMINISTRATIVE CODE 650 – CHAPTER 27
STANDARDS OF PRACTICE AND PRINCIPLES OF PROFESSIONAL ETHICS
MATTERS REGARDING REPRESENTATION OF CARE AND FEES**

Ms. Price reported that she put together some information proposing a change to board rules, which would address some of the concerns that the board members recently expressed in regards to dental practices billing for services far in advance of the service being rendered. The proposed rule would prohibit such billing prior to services being started.

The board also considered the question of what is considered a "timely" refund. After further discussion, the board members felt that the proposed change to rules would sufficiently address the need of a refund for work, which was not performed.

Motion by Dr. Roth, seconded Ms. Beasler, to draft rules, which would allow for the billing of services only when services have been started.

Vote: Unanimous.
Motion carried.

CONSIDERATION OF RULES

650 Iowa Administrative Code
Chapter 29 Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation
Analgesia
Defining Sedation
Public Comments
For Discussion

The members of the Board discussed aspects of these rules during the Anesthesia Credentials Committee Report by Dr. Roth. Ms. Hart reported that due to the extended comments period, the earliest the board could vote on these proposed rules would be January 20, 2010. The board scheduled a teleconference for Tuesday, January 26, 2010, to begin at noon to vote on the adoption of these rules.

LEGISLATION – 2010 SESSION

CONSIDERATION OF FELONY FOR ILLEGAL PRACTICE OF DENTISTRY

Ms. Price reported that the proposed amendment to Iowa Code Section 153, to make the illegal practice of dentistry a felony, will be attached to the omnibus bill of the Iowa Department of Public Health.

APPLICATIONS FOR LICENSURE/PERMITS/REGISTRATION

PETITION FOR WAIVER

No requests for waiver pending.

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 27, 2009 and January 13, 2010, the board licensed 7 dentists, and 13 dental hygienists; issued 1 resident dental license, 1 faculty permit, 10 local anesthesia permits and reinstated 1 general anesthesia permit. The board registered 47 dental assistants with the additional qualification in dental radiography, 3 dental assistants registered without a qualification in dental radiography and 3 qualifications in dental radiography without registration; and trainee status to 31 dental assistants.

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

Motion carried.

OPEN SESSION

Motion by Ms. Beasler, seconded Dr. Grimes, for the board to return to open session.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
GEORGE C. WEBER, D.D.S.

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

Motion by Dr. Roth, seconded Ms. Meier, that the Board determined to approve the Stipulation and Consent Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
DAVID L. BERNING, D.D.S.

Motion by Dr. Roth, seconded Ms. Meier, that the Board determined to approve the Stipulation and Consent Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
STANLEY L. MARGUL, D.D.S.

The Board considered a proposed Order placing Dr. Margul on inactive status and terminating his probation since he has moved out of state.

Motion by Dr. Roth, seconded Ms. Meier, that the Board determined to approve the Order as proposed however if he ever reinstates his Iowa license he will have to serve the rest of his probation term at that time.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
DOUGLAS W. MOORE, D.D.S.

The Board considered a proposed Order terminating Dr. Moore's probation as his probation actually expired in November of 2009.

Motion by Dr. Roth, seconded Ms. Meier, that the Board determined to approve the Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
TARA N. MCLEAN, R.D.A.

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

Motion by Dr. Roth, seconded Ms. Meier, that the Board determined to approve the Notice of Hearing and Statement of Charges by deleting a word in Count I.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
BRENT E. LUDENS, D.D.S.

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

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

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
BROOKE L. FRANKE, D.A.

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

Motion by Dr. Roth, seconded Dr. Curry, that the Board determined to approve the Stipulated Registration Agreement as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
CHARLES G. ROW, D.D.S.

The Board considered a proposed Stipulated License Agreement in this matter.

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Motion by Dr. Roth, seconded Dr. Curry, that the Board determined to approve the Stipulated License Agreement as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
ERICKA A. KUEHLE, D.A.

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

Motion by Dr. Roth, seconded Dr. Curry, that the Board determined to approve the Stipulated Registration Agreement as proposed.

Vote: Unanimous.
Motion carried.

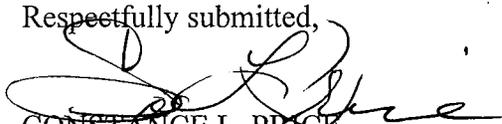
NEXT MEETING OF THE BOARD

The next meeting of the board is scheduled for April 6-7, 2010, in Des Moines, Iowa.

ADJOURNMENT

The board adjourned its meeting at 11:30 a.m. on January 15, 2010.

Respectfully submitted,


CONSTANCE L. PRICE
Executive Director

CLP/cb