



STATE OF IOWA

IOWA DENTAL BOARD

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

JILL STUECKER
EXECUTIVE DIRECTOR

IOWA DENTAL BOARD

MINUTES

October 31, 2014
Conference Room
400 S.W. 8th St., Suite D
Des Moines, Iowa

Board Members

	October 31, 2014
Steven Bradley, D.D.S.,	Present
Steven C. Fuller, D.D.S.	Present
Matthew J. McCullough, D.D.S.	Absent
Thomas M. Jeneary, D.D.S.	Present
Kaaren G. Vargas, D.D.S.*	Present
Mary C. Kelly, R.D.H.	Present
Nancy A. Slach, R.D.H.	Present
Diane Meier, Public Member	Present
Lori Elmitt, Public Member	Present

*Dr. Vargas arrived at the meeting after roll call was taken.

Staff Members

Phil McCollum, Christel Braness, Dee Ann Argo

Attorney General's Office

Sara Scott, Assistant Attorney General

Other Attendees

Tom Cope, Iowa Dental Hygienists' Association
Carol Van Aernam, R.D.H., Iowa Dental Hygienists' Association
Michael Jenkins, Brown Winnick Law Firm
Larry Carl, Iowa Dental Association
Tracy Rodgers, Iowa Department of Public Health

I. CALL TO ORDER FOR OCTOBER 31, 2014

Dr. Bradley called the open session meeting of the Iowa Dental Board to order at 2:09 p.m. on Friday, October 31, 2014. A quorum was established with seven members present.

Roll Call:

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Present	x	x	x	x	x		x	x	
Absent						x			x

II. EXECUTIVE DIRECTOR SEARCH

CLOSED SESSION

- ❖ MOVED by KELLY, SECONDED by MEIER, for the Board to go into closed session at 2:10 p.m. on Friday, October 31, 2014, pursuant to Iowa Code Section 21.5(1)(i).

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Aye	x	x	x	x	x		x	x	
Nay									
Absent						x			x

Motion APPROVED by ROLL CALL.

- The Board went into closed session at 2:10 p.m.
- Ms. Meier left the meeting at 3:50 p.m.

OPEN SESSION

- ❖ MOVED by FULLER, SECONDED by JENEARY, to return to open session. Motion APPROVED unanimously.
- The Board reconvened in open session at 4:14 p.m. on October 31, 2014.

III. 1st OPPORTUNITY FOR PUBLIC COMMENT

Dr. Bradley allowed the opportunity for public comment.

Mr. Carl, Iowa Dental Association, commented on the proposal regarding temporary permits for retired licensees. Due to a lot of work by staff and others, Mr. Carl believed that the current language was an excellent compromise. The Iowa Dental Association will put its resources to use in accomplishing this matter.

Mr. Mike Jenkins, Brown Winnick Law Firm, spoke on the issue related to public health supervision and correctional facilities. Mr. Jenkins asked the Board to comply with the rulemaking processes, and rescind its action from the October 17, 2014 Board meeting. Mr. Jenkins believed that the Board established a precedent when it enacted the rulemaking process in 2012 to add day care centers to the list of approved locations. Mr. Jenkins asked that the earlier precedent be followed and allow the rulemaking process to occur. Mr. Jenkins asked that the previous action be rescinded.

Mr. Tom Cope, Iowa Dental Hygienists' Association, disagreed with the Iowa Dental Association's summary of what occurred at the October 17, 2014 meeting of the Board. Mr. Cope stated that the rule was not changed. The Board was asked to determine whether correctional facilities could be interpreted as being included in the current list of approved locations; more specifically, the Board interpreted local, state and federal public health programs to include correctional facilities.

Mr. Cope reported that the Iowa Dental Hygienists' Association submitted comments in response to the proposed legislation regarding temporary licensure. Ms. Braness reported that those comments were forwarded as part of the meeting materials. Mr. Cope noted that this proposed legislation was not an action of the board; rather it is a request from the Iowa Dental Association for support of the legislation. The Iowa Dental Hygienists' Association is not in support of language as currently proposed. The Iowa Dental Hygienists' Association asked that their proposed changes to the legislation be included with the final submission.

IV. OTHER BUSINESS

REQUEST TO INCLUDE CORRECTIONAL FACILITIES IN PUBLIC HEALTH SUPERVISION LOCATIONS

Ms. Scott provided an overview of the action taken by the Board at the October 17, 2014 meeting. The Dental Hygiene Committee and the full Board discussed this matter at their respective meetings.

Ms. Scott does not believe that the Board engaged in improper rulemaking. This was an interpretation of the rules, and may not be binding. It would be similar to the FAQs or other position statements issued by the Board. Ms. Scott stated that she was involved in the addition of day care centers to the list of approved public health supervision locations. There was a lot of discussion that occurred about the 2012 request prior to engaging in the rulemaking process. Ultimately, day cares were determined to not fall within the previous list of approved locations.

The Board can choose to do a number of things in response to the Iowa Dental Association's request to withdraw the action by the Board at the October 17, 2014 meeting. The Board can do nothing; issue a declaratory ruling upon receipt of a request, which has not been received to date; or the Board can pursue rulemaking to clarify this further. Mr. McCollum agreed with Ms. Scott. Other interested parties would have the means to request further remedy to this if they choose that it needs to be further addressed.

Dr. Bradley asked what the result would be if the Board chose to do nothing. Ms. Scott stated that if there were enough concern, an interested party could request a declaratory ruling. Ms. Kelly reported having asked about that at the last meeting. Ms. Scott stated that a declaratory ruling must be requested by another party; declaratory rulings cannot be initiated by the Board.

Ms. Kelly stated that she would make the motion to retain the previous meeting's motion to interpret correctional facilities as being a state public health program.

Dr. Fuller asked for a definition of “public health program”. Ms. Scott stated that it is not defined in Iowa Administrative Code 650, which is part of the problem.

Ms. Kelly asked about this matter at the public health department at the University of Iowa College of Dentistry for input. Ms. Kelly talked to board-certified dental public health dentists. Dr. Warren indicated that correctional facilities should be considered within a public health program since there are no private options available to that population. Dr. Warren believed that correctional facilities were similar, with respect to the population, to schools or nursing homes. Schools and nursing homes are approved locations for public health supervision. Dr. Kuthy also agreed that correctional facilities could be deemed public health programs since there aren’t private sector options available to these populations.

Ms. Slach referenced some articles, which supported those statements. Ms. Slach stated that correctional facilities do not compare equally to the addition of day care facilities to the current list of approved sites. Prisoners cannot choose to opt out of that system or setting.

- ❖ **MOVED** by KELLY, **SECONDED** by VARGAS, to retain the motion from the last meeting. Motion **APPROVED**. Dr. Fuller opposed the motion.

V. LEGISLATIVE UPDATE

TEMPORARY PERMITS FOR RETIRED DENTISTS

Mr. McCollum provided some explanation of the drafts, which were provided for consideration, and some of the explanation of the proposals. Mr. McCollum clarified that the Iowa Dental Association would be sponsoring the legislation, but the Board and other interested parties could register their support if they wanted.

Mr. McCollum stated that the intention of the stricken language in the latest proposal would be addressed in the Iowa Administrative Code 650 following adoption of the legislation. The specifics of the administrative code portions would be addressed through the rulemaking process.

Ms. Slach stated that she did not feel like there was enough time to fully consider these options. There were questions about the matter of military and faculty. Mr. McCollum stated that military members have been taken into consideration in the proposal. Mr. McCollum believed that faculty permit holders were addressed as well.

Ms. Braness stated that faculty permit holders are welcome to participate in volunteer programs so long as the university or college where they are employed participate in these programs. Faculty permits allow participation in university- or college-sanctioned events.

Ms. Braness reported that the requirements for a faculty permit are not totally equivalent to the requirements for a dental license. There are some distinct differences between a dental license and a faculty permit. Faculty members can participate in programs if the university or college sanctions participation in those events.

Ms. Slach stated that faculty permit holders are unable to volunteer at free dental clinics since those have not been made a part of the University of Iowa College of Dentistry's official programs. Ms. Slach stated that faculty members who teach may be better suited to volunteer their services than retired practitioners. Mr. McCollum stated that this is not the purpose of this proposal. The purpose of this proposal is to find a pathway for retired practitioners to volunteer their services.

Dr. Vargas agreed with staff with respect to the differences between a dental license and a faculty permit. As a former faculty permit holder, Dr. Vargas viewed dental licenses and faculty permits as being different. In the case of faculty permits, the university or college indemnify the faculty permit holders. Outside of the confines of the educational program, it becomes much more difficult for the university or college to provide that same support. One of the other differences is that applicants for faculty permit are not mandated to complete the same examinations that are required of applicants for dental license.

Ms. Slach asked again about military members. Dr. Vargas and Mr. McCollum stated that the current language covers active military members.

Ms. Slach asked about the difference in the proposal that the retired volunteer permit would be valid for one year as opposed to being limited to a specific event. Current rules for voluntary permits limit the permit to a specific event. Ms. Braness stated that there is a difference between the two types of volunteer permit. The current rules only apply to practitioners hold active licenses in at least one state. Retired practitioners who do not hold an active license would be ineligible under the current rules.

Mr. McCollum stated that there is the potential for multiple events in which retired practitioners want to participate over the course of a year. By issuing the permit for one year, it reduces the administrative burden. The specific requirements would be addressed in administrative rule.

Ms. Slach asked why a fee was not being assessed. Mr. McCollum stated that the current temporary permit does not require payment of a fee. Ms. Braness clarified that only the temporary permit for *volunteer* services has no fee associated with it. There is a fee for applications for temporary permit for the purposes of urgent need or educational services. The reason for not requiring a fee for volunteer permits is that the practitioners are volunteering their time and services. Dr. Vargas agreed that there should be a fee for these requests.

Ms. Kelly asked about the cost to process the applications. Ms. Braness reported that at one time, there was a fee of \$25.00 assessed for volunteer permits. The fee was removed from the administrative rules approximately a year ago following the receipt of a request to remove the fee. Mr. McCollum reported that very few requests for volunteer permits are received each year. Ms. Braness stated that the number of applications vary each year, but the numbers are, typically, low.

Mr. McCollum does not see this as a high volume application. Mr. McCollum stated that this is a good faith effort to encourage practitioners, who meet the guidelines, to volunteer their services at no cost. Mr. McCollum believed that this was Dr. Cochrane's intent with the proposal.

Ms. Kelly inquired about potential costs to the Board. Mr. McCollum stated that a quote has not been formally requested in regards to these proposed changes; however, changes to the database could potentially cost between \$15,000-20,000 to implement the program in the database.

There was a question regarding potential volume. Mr. McCollum stated that it was hard to provide an accurate projection at this time since the current temporary permit is not a true equivalent. Since the Board has not previously allowed this type of permit, there is no easy method of projecting that number.

Ms. Slach had concerns about potential applicants with physical impairments. Ms. Braness stated that the applications for license and registration include questions about impairment. These questions could be included on this application. Mr. McCollum stated that some of these concerns could be addressed in the administrative code. The question at this time was if the board wished to support the proposed legislation.

Ms. Kelly stated that the Iowa Dental Association could use any of the draft proposals. The Iowa Dental Hygienists' Association has submitted comments for consideration; however, that was not a guarantee that the Iowa Dental Association would use that draft. Mr. McCollum agreed that since the Iowa Dental Association is sponsoring the proposed legislation, it would be their decision as to which draft to use. Ms. Kelly stated that the Board would be voting not knowing which draft they would use. Due to constraints on time, Dr. Bradley did not allow the opportunity for additional comments from the members of the public in attendance. Mr. McCollum stated that the Board is aware of all comments concerning the legislation and can decide how to proceed.

Mr. McCollum stated that the Board members have received proposals as drafted by staff in conjunction with the Iowa Dental Association, and a version with the Iowa Dental Hygienists' Association's recommended changes. The Board will need to decide which version, if any, to support.

- ❖ MOVED by KELLY, SECONDED by VARGAS, to offer support the legislation if the final submission included the Iowa Dental Hygienists' Association's proposed changes.

Mr. McCollum stated that if the language referring to clinical practice is included in the legislative submission that other requirements would need to be added to the administrative code prior to implementation. Supervision levels would need to be established in administrative code since all services must be provided under supervision.

- ❖ Motion APPROVED. Dr. Jeneary, Ms. Slach and Dr. Fuller opposed. Since the vote was tied 3-3, Dr. Bradley voted to approve the motion.

VI. APPLICATIONS FOR LICENSURE/REGISTRATION & OTHER REQUESTS

PENDING LICENSURE/REGISTRATION APPLICATIONS

- *David C. Reff, D.D.S. – Dental License*

This application was discussed in closed session.

VII. 2nd OPPORTUNITY FOR PUBLIC COMMENT

Dr. Bradley allowed the opportunity for public comment.

No comments were received.

VIII. CLOSED SESSION

- ❖ MOVED by JENEARY, SECONDED by FULLER, for the Board to go into closed session at 4:46 p.m. on Friday, October 31, 2014, pursuant to Iowa Code Sections 21.5(1)(a), (d) and (f) to discuss and review applications, complaints and investigative reports which are required by state law to be kept confidential and to discuss whether to initiate disciplinary investigations or proceedings.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Aye	x	x	x	x	x			x	x
Nay									
Absent						x	x		

Motion APPROVED by ROLL CALL.

- The Board went into closed session at 4:46 p.m.

OPEN SESSION

- ❖ MOVED by ELMITT, SECONDED by KELLY, to return to open session. Motion APPROVED unanimously.
- The Board reconvened in open session at 4:50 p.m. on October 31, 2014.

IX. ACTION ON CLOSED SESSION ITEMS

1. Disciplinary Orders

- ❖ MOVED by SLACH, SECONDED by VARGAS, to approve the proposed Combined Statement of Charges, Settlement Agreement and Final Order in the Matter of Andris V. Kirsis, D.D.S., file number 14-0057. Motion APPROVED unanimously.
- ❖ MOVED by SLACH, SECONDED by VARGAS, to approve the proposed Stipulated License Agreement in the Matter of David C. Reff, D.D.S., file number 14-0139. Motion APPROVED unanimously.
- ❖ MOVED by KELLY, SECONDED by SLACH, to approve the proposed Findings of Fact, Conclusions of Law, Decision and Order in the Matter of Cynthia D. Adams, Q.D.A., file number 13-0049. Motion APPROVED unanimously.

2. *New Complaints*

- ❖ MOVED by VARGAS, SECONDED by FULLER, to close file number 14-0149.
Motion APPROVED unanimously.

3. *Reconsideration*

- ❖ MOVED by JENEARY, SECONDED by ELMITT, to close file number 14-0129.
Motion APPROVED unanimously.

X. ADJOURN

- ❖ MOVED by VARGAS, SECONDED by FULLER, to adjourn.

The meeting was adjourned at 4:55 p.m. on October 31, 2014.

NEXT MEETING OF THE BOARD

The next meeting of the Board is scheduled for January 22-23, 2015, in Des Moines, Iowa.

These minutes are respectfully submitted by Christel Braness, Program Planner 2, Iowa Dental Board.