

Nevada State Board of Dental Examiners
6010 S Rainbow Blvd, Suite A-1
Las Vegas, Nevada 89118
October 12, 2012 at 12:05 pm
(No Video Conference Available for this Meeting)

MINUTES
Board Meeting

Teleconference was available at the Board office, 6010 S Rainbow Boulevard, Suite A-1, in Las Vegas, Nevada.

Please Note: The Nevada State Board of Dental Examiners may 1) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine items for consideration by the public body; 3) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. *See* NRS 241.030. Prior to the commencement and conclusion of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. *See* NRS 233B.126.

Public comment is welcomed by the Board, but at the discretion of the Chair, may be limited to five minutes per person. A public comment time will be available before any action items are heard by the public body and then once again prior to adjournment of the meeting. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn. Prior to the commencement and conclusions of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment

Asterisks () denote items on which the Board may take action.
Action by the Board on an item may be to approve, deny, amend, or table.*

1. Call to Order, roll call and establish quorum

Dr. Miller called the meeting to order and Ms. Kelly conducted the following roll call:

Dr. Jade Miller-----PRESENT
Dr. M Masih Soltani-----EXCUSED
Dr. Byron Blasco-----EXCUSED
Dr. J Gordon Kinard-----PRESENT
Dr. Timothy Pinther-----PRESENT
Dr. Jason Champagne-----PRESENT
Dr. J. Stephen Sill-----PRESENT
Mrs. Theresa Guillen-----EXCUSED
Mrs. Leslea Villigan-----PRESENT
Mr. James "Tuko" McKernan-----PRESENT
Mrs. Lisa Wark-----PRESENT

Others Present: Kathleen Kelly, Executive Director, Sandra Spilsbury and John Hunt, Esq., Board Legal Counsel

Public Attendees: Robert Talley, DDS. Executive Director of NDA, Amanda J Okundaye, DDS (self), Wendy Seaver, RDH

2. **Public Comment:** Amanda J Okundaye, DDS introduce herself as a Mobile Dental Anesthesiologist who was present to make public comment related to inspections of sites for the administration of moderate to deep sedation. Dr Okundaye would like to see possible random audits conducted to insure dental offices with equipment safely use the equipment and to ensure staff training. Dr Okundaye would like to see written law to require the equipment in the offices. Dr Miller requested information of Dr Okundaye with regards to her anesthesia background. Dr Okundaye shared her educational and anesthesia training. Dr Miller thanked Dr Okundaye for her comments and suggested she participate in future Public Workshops with regards to the possible regulation changes related to anesthesia (NAC 631.2211-NAC 631.2239). Dr Miller encouraged Dr Okundaye to be present at the workshops with her experience. Dr Okundaye was advised to keep in touch with Ms. Kelly at the Board office regarding future dates.

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

***3. Consideration of Recommendations of Report From Board Appointed Anesthesia Evaluators Pursuant To NAC 631.2233(2) To Determine Pass or Fail of Anesthesia Evaluation -**

*a. Conscious Sedation (For Possible Action)

(1) Dr. X

* b. Based on Board Consideration and Action From (1), Further Consideration of NAC 631.2235 and Granting Executive Director Authority to Respond Accordingly to any Request Made

Discussion – Dr Miller advised the Board Members two Anesthesia Evaluators have submitted their recommendations to the Board with regards to the evaluation conducted for the administration of conscious sedation for Dr X. Currently, Dr X holds a temporary permit for the administration of conscious sedation. Dr X along with his dental office were inspected and evaluated. The site passed the inspection. However, the two Evaluators with regards to the administration of conscious sedation recommend a Fail. Dr X made five (5) attempts to begin

IV sedation and was unsuccessful. Dr Miller followed up with the Evaluators to see if there were complications and the patient began to develop a hematoma and recommended stopping the administration. Further, Dr Miller stated pursuant to the regulations the Board can either accept or reject the recommendations of the Evaluators. Dr Miller indicated Dr X my request a re-evaluation. Dr Miller requested input from Ms. Kelly who gave background with regards to the temporary permit issued to Dr X. Dr Miller asked if any Board Member had questions. Ms. Wark had a question as to whether Dr X had previous problems in the past with starting IV's. Dr. Miller was unable to answer Ms. Wark's question. However, Ms. Kelly advised Ms. Wark that since this was a temporary permit the Board's only encounter with Dr X was with regards to the evaluation for conscious sedation and the Board had no knowledge of any previous problems.

Motion: Dr Kinard made a Motion to immediately suspend the temporary permit. Dr Pinther seconded. Ms. Kelly requested a Point of Order to have consideration by the Board to either accept or reject the recommendations of the two Anesthesia Evaluators pursuant to NAC 631. Dr Kinard made a Motion to accept the recommendations of the two Evaluators of the failure of Dr X. The Motion was seconded by Dr Pinther. Dr Miller requested any public comment. No comment. Motion passed. Dr Kinard questioned whether Dr X would be required to remediate. Dr Miller said the applicant could contact the dental school or the applicant could submit a remediation plan to the Board for remediation. Dr X could contact other ADA accredited dental schools to inquire about their programs. Ms. Villigan had questions about a licensee who receives a failure notice cannot be evaluated in a twelve month period. Ms. Kelly explained the process pursuant to the regulations. Mr. Hunt explained this is not a suspension of the temporary permit it is the notification pursuant to NAC 631.2235 notifying the applicant of the failure and therefore there is now an Order not to administer conscious sedation. The issue on remediation Mr. Hunt suggested being careful on requiring additional remediation measures that is not set forth in the course of a normal evaluation. Mr. Hunt states Dr X should receive his failure notification and the notification should contain language that advises Dr X cannot administer conscious sedation and should he administer conscious sedation it would be deemed unprofessional conduct. At the suggestion of Mr. McKernan the motion should contain language to include conscious sedation or IV sedation. As for the remediation measures, Mr. Hunt suggest the Board can recommend Dr X remediate based upon the concerns but cannot require the remediation related to IV technique. Dr Kinard amended his Motion to contain the language suggested by both Mr. McKernan and Mr. Hunt. Dr Pinther Seconded. Motion Passed.

***4. Appointment of Special Investigator to Review and Assess Cases Related to Anesthesia Administration and Report Recommendations to the Board**
a. Guy Champagne, DDS

Discussion- Dr Miller confirmed with all Board Members receipt of the CV belonging to Dr Guy Champagne. Dr Miller believes as Chair of the Anesthesia Committee and based upon the anesthetic death of a patient outlined in a recent stipulation agreement Dr Miller recommends the Board have an independent investigator to evaluate the anesthesia procedures and make a report to improve our process and increase patient safety. Dr Miller explained Dr Champagne was a Member of the Anesthesia Committee for the ADA and assisted in developing the newly designed guidelines approved by the ADA House of Delegates. It is stated, Dr Champagne is well versed in this area. Dr Miller recommends Dr Champagne as this independent Evaluator. Dr Kinard had a question about the compensation Dr Champagne would receive through the

contractual agreement. Dr Miller deferred the question to Ms. Kelly. Ms. Kelly stated the Board would be contracting with Dr Shampaine and his consultant firm, Dr Shampaine would be required to register with the Nevada Secretary of State. Ms. Kelly stated as long as Dr Shampaine is paid annually under \$9999.00 the Board would not be required to have the contract approved by the State Board of Examiners. Mr. Hunt recommended Dr Shampaine should submit the financial arrangement to the Board pursuant to NRS 631.190 then the Board could entertain a motion. Dr Miller asked for further discussion. Dr Miller will request a contract from Dr Shampaine. Dr Miller asked for a time line to expect to have a report for the Board. Dr Miller would encourage moving quickly on this matter. Mr. Hunt explained Dr Shampaine should submit a proposal of what his duties would be and the financial arrangement. Dr Miller was concerned with the legislative session approaching to move quickly should there be a need for a statute change. Ms. Kelly asked if she should contact Dr Shampaine to discuss in more detail of his duties and contractual fees and obtain a general idea of his duties. Mr. Hunt reiterated the Board is asking for a proposal from Dr Shampaine to review the anesthesia regulations and assist the Board related to anesthesia administration. Dr Miller wanted Dr Shampaine to focus on bad outcomes to see if it was a due to a breakdown in our regulatory procedures and/or process. Ms. Kelly was directed to get more information before the next Board meeting. Dr Miller stated he would recommend a telephone conference call before the next regularly scheduled meeting.

5. Approval of Reactivation of Inactive License –

a. Wendy L Seaver, RDH

Discussion- Ms. Seaver was present telephonically – Ms. Seaver confirmed she submitted an application for the reactivation of her inactive dental hygiene license. Dr Miller asked Ms. Seaver if she would like to make any comments, Ms. Seaver had no other comments other than her family had moved to Pennsylvania for seven years and she has now returned to Nevada, Dr Sill advised the Board Ms. Seaver has been inactive for more than two years in Nevada and Ms Seaver does not have any other current active dental hygiene licenses in any other states. Ms. Seaver has practiced outside the State of Nevada with a last ending employment date of November 2011 in Delaware. Dr Miller confirmed with Ms. Seaver while she practiced in Delaware ending in November 2011 she had an active license there. Ms. Seaver states she had an active license in Delaware while practicing. Ms. Seaver confirmed she has been out of practice for the past eleven months.

Motion: Ms. Villigan made a Motion to approve Ms. Seaver's inactive license to active. Seconded by Dr Pinther. Dr Miller recused himself due to Ms. Seaver being a past employee. Dr Sill abstained. Motioned Passed.

Discussion- Dr Miller had a general question with regards to whether the Board could ask the applicant who failed the anesthesia evaluation for the information on where he received his training through a GPR, or a residency program, University or through supplemental education. Mr. Hunt stated the Board is entitled to know where the applicant received his training. Ms. Kelly advised the Board this information is listed on the application. Dr Miller would like the Board to notify the Anesthesia Committee Member who reviews applications the program information the applicant has completed.

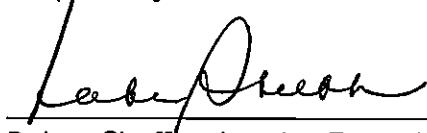
6. Public Comment: No comment

7. Announcements:

Mr. Hunt addressed the Board and noted there was no attorney report listed on the agenda. However, Mr. Hunt stated the Board should know the Board received two days ago a complaint filed in District Court and the complaint has been sealed. The complainant tried to seek an injunctive relief the Court decided by Stipulation to continue, just so the Board Members know the issue is with regards to confidential information being disseminated example is the patient who filed the complaint if they are entitled to receive the response to the complaint the licensee files with the Board or whether that is deemed confidential. This is for informational purposes only, the hearing is set for November 27th.

*8. Adjournment: Motion: Dr Pinther Seconded: Mrs. Wark.

Respectfully Submitted



Debra Shaffer, Interim Executive Director