

**Nevada State Board of Dental Examiners
6010 S Rainbow Blvd, Suite A-1
Las Vegas, Nevada 89118
Friday, April 6, 2012 at 10:05 am
(No Video Conference Available for this Meeting)**

**Minutes
Board Meeting
Formal Hearing Previously Posted Has Been Cancelled**

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

Dr. William Pappas	-----PRESENT
Dr. M Masih Soltani	-----PRESENT
Dr. Donna Hellwinkel	-----PRESENT
Dr. J Gordon Kinard	-----PRESENT
Dr. Timothy Pinther	-----PRESENT
Dr. Jade Miller	-----PRESENT
Dr. J. Stephen Sill	-----PRESENT
Mrs. Rosanne "Missy" Matthews	-----PRESENT
Mrs. Leslea Villigan	-----PRESENT
Mr. James "Tuko" McKernan	-----PRESENT
Mrs. Lisa Wark	-----PRESENT

Others Present: John Hunt, Board Legal Counsel; Kathleen Kelly, Executive Director; Debra Shaffer, Deputy Executive Director.

Public Attendees: Annette Lincicome, NDHA; Charles Zeh (via teleconference), Counsel for Kathy Nelson-Burns, RDH.

All present, voluntarily stood to recite the Pledge of Allegiance.

2. **Public Comment:** No comments.

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. **Board Counsel's Report**

***a. Consideration of the Amended Findings and Recommendations (for possible action)**

(1) Kathy Nelson-Burns, RDH

Mr. Hunt indicated that prior to the meeting he disseminated the amended finding and recommendations, regarding Kathy Nelson-Burns, which was executed and the Board has reviewed. He went over the provisions of the proposed stipulation agreement. Approval was recommended. Mr. Zeh indicated that Mr. Hunt accurately stated the terms of the agreement.

MOTION: Dr. Hellwinkel made the motion to accept the amended findings and recommendations as outlined and received. A second to the motion was made by Dr. Sill; all in favor.

Roll call vote:

- Dr. William Pappas-----yes
- Dr. Jade Miller-----yes
- Dr. Donna Hellwinkel-----yes
- Dr. J Gordon Kinard-----yes
- Dr. Timothy Pinther-----yes
- Dr. M Masih Soltani-----yes
- Dr. J. Stephen Sill-----yes
- Mrs. Rosanne "Missy" Matthews-----yes
- Mrs. Leslea Villigan-----abstain
- Mr. James "Tuko" McKernan-----yes
- Mrs. Lisa Wark-----yes

Motion is agreed to; amended findings and recommendations accepted. Mr. Hunt stated for the record that in the morning he was in receipt of an initial payment in the amount of one-thousand dollars to be submitted to be processed.

***4. Executive Director's Report: (For Possible Action)**

***a. Minutes: (For Possible Action)**

- (1) 10/21/2011 - Legal & Disciplinary Action Committee Meeting
- (2) 10/21/2011 - Board Meeting

Ms. Kelly indicated that, per Dr. Hellwinkel's request the Board meeting minutes were amended; minutes presented for approval.

MOTION: Dr. Miller made the motion to adopt the minutes as revised. A second to the motion was made by Dr. Pinther; all in favor. Discussion: Dr. Pappas asked for clarification if Dr. Miller's motion was to approve both minutes. Dr. Miller indicated that they vote on the minutes separately. He added that he had a couple of questions for Mr. Hunt regarding his review of the discussion of the disciplinary process as discussed at the meeting; or asked if the chair, or Dr. Hellwinkel, would like to briefly provide information that was not provided in reading the minutes. Dr. Hellwinkel, indicated that, though not stated in the minutes, believes it was the consensus of the

committee, that after hearing Mr. Hunt and Mr. Drizins' review regarding the disciplinary process that the disciplinary process should continue as is and the committee was to explore creating a DSO manual and have additional training for DSO's. Dr. Pappas commented that the information was actually part of the minutes. Dr. Hellwinkel indicated that she was affirming what was provided in the minutes. Dr. Miller commented that he just wanted to make sure that there was no additional information that perhaps was not included in the minutes. Mr. Hunt indicated that he looked over the minutes and that discussion at meeting seems to be covered. Ms. Kelly reminded the Board that the minutes are not a verbatim transcript, but a general synopsis of matters discussed and that audio of the meetings are always available upon request. Dr. Pappas pointed out that there was a motion that is out of order and suggested withdrawing the motion on the floor so as to approve the minutes in proper order. Dr. Miller withdrew his motion. Dr. Pinther withdrew his second to the motion. **SECOND MOTION:** Dr. Miller made the motion to approve both sets of minutes. A second to the motion was made by Dr. Pinther; all in favor.

***b. Authorized Investigative Complaints (For Possible Action)**

(1) Dr. X – NRS 631.3475(1) and NAC 631.230(1)(c)

Ms. Kelly went over the alleged violations.

MOTION: Dr. Kinard made the motion to authorize. It was seconded by Mrs. Wark; all in favor.

Recess: 10:22am

Returned from recess: 10:25

***5. Old Business (For Possible Action)**

***a. Consideration of Reactivation of Inactive License – NAC 631.170 (For Possible Action)**

(1) Scott T Weed, DDS – (Pursuant to NRS 241.030, the board may, by motion, enter closed session.)

Ms. Kelly indicated that Dr. Weed was not answering at the telephone number provided. She indicated that she left a message with the telephone number for him to join via teleconference.

MOTION: Dr. Pinther made the motion to go out of order. Mrs. Villigan seconded the motion. All in favor.

***6. New Business (For Possible Action)**

***a. Dental License by WREB – NRS 631.240(1)(b)(2) (For Possible Action)**

(1) Michael Y Chon, DDS

Dr. Hellwinkel indicated that she reviewed the application; applicant met the criteria, and recommended approval.

MOTION: Mrs. Wark made the motion to approve. Dr. Sill seconded the motion. All in favor; Dr. Hellwinkel abstained.

***b. Geographical Restricted Dental License – NRS 631.274(1)(c) (For Possible Action)**

(1) Samir J Ridha, DDS

Dr. Hellwinkel indicated that reviewed the application; applicant met the criteria, and recommended approval.

MOTION: Dr. Pinther made the motion to approve. Mr. McKernan seconded the motion. All in favor; Dr. Hellwinkel abstained.

***c. Dental Hygiene License by ADEX – NRS 631.300(1)(b)(1) (For Possible Action)**

(1) Danielle M Maffeo, RDH

Dr. Hellwinkel indicated that she reviewed the application; applicant met the criteria, and recommended approval.

MOTION: Mr. McKernan made the motion to approve. Dr. Soltani seconded the motion. All in favor; Dr. Hellwinkel abstained.

Dr. Weed was able to join via teleconference.

MOTION: Dr. Pinther made the motion to return to item (5). Mrs. Wark seconded the motion. All in favor.

***5. Old Business (For Possible Action)**

***a. Consideration of Reactivation of Inactive License – NAC 631.170 (For Possible Action)**

- (1) Scott T Weed, DDS – (Pursuant to NRS 241.030, the board may, by motion, enter closed session.)

Ms. Kelly reminded the Board that at the last scheduled Board meeting, there were some issues related to completion of continuing education (CE). Since that time, the Board is in receipt of the original submission of CE certificates, which is not a recognized provider under the Board regulations. She indicated that the Board contacted the CE provider and provided them with the application for provider approval, but have not received any requests for approval of provider status. She indicated that they have received an eleven hour course lecture certificate in endodontics. Per Dr. Pappas' inquiry, she indicated that the course taken was by an approved provider. Dr. Weed inquired if the transcripts from his school had been received. Ms. Kelly indicated that they had not received any transcripts. Dr. Hellwinkel inquired if any of the specialty training courses could count towards his CE's, which Ms. Kelly indicated that it would be to the Boards' discretion if they would like to do so. Dr. Soltani inquired if Dr. Weed planned to practice general dentistry or limit his practice to his specialty. Dr. Weed indicated that he planned to limit his practice to endodontics. Dr. Pappas responded to Dr. Hellwinkel's inquiry if there were any other issues with approving Dr. Weeds, and indicated that Dr. Weeds' was currently missing 9 CE's because some of the CE's he submitted were not taken through an approved provider. Dr. Sill inquired if the Board could approve the CE's presented that are approved by the California Dental Board. Ms. Kelly indicated that continuing education by another state board does not qualify as approved provider, in accordance with the regulation NAC 631.173. Mr. Hunt reviewed the regulations to determine if the Board has the discretion to approve a course that has been approved by another state board. Dr. Hellwinkel inquired if Dr. Weed had any intentions of applying for a specialty license upon obtaining approval to reactivate his general dental license. Dr. Weed indicated that he had already submitted the application for his specialty license, however, needed to reinstate his general dental license before he can become eligible to apply for a specialty license by application. Mr. Hunt indicated that the entities/agencies listed as approved providers are the only ones the Board may accept, without a CE provider application. Dr. Pappas indicated that though he would like to be able to approve the eleven hour course, however, the California Dental Board is not an approved provider listed in the regulations. Mr. Hunt indicated that he could seek the nine hours of CE's that he needs and have the license reactivated on the same agenda as his application for a specialty license.

MOTION: Dr. Sill made the motion to table this agenda item, until such time that Dr. Weed completes a minimum of nine hours of CE's. Mrs. Wark seconded the motion. All in favor.

MOTION: Mr. McKernan made the motion to return to agenda order. Mrs. Villigan seconded the motion. All in favor.

***d. Request for Advisory Opinion Pursuant to NAC 631.279 (For Possible Action)**

- (1) Gregory B Po, DDS – Request for opinion regarding use of Groupon in relation to the statutes and regulations for "fee splitting" – NRS 631.3465(1)

Mr. Hunt indicated that in looking into the statute NRS 631. 465, the Board is unable to provide an advisory opinion, based upon the insufficient information. The Board would need to see the 'groupon deal' and pertinent

information.

MOTION: Dr. Miller made the motion to table this agenda item so that Dr. Po may provide the Board with sufficient information. Dr. Pinther seconded the motion. Discussion: Ms. Kelly commented to the Board that 'Groupon' is an advertising marketing entity that has an application process that they take from a business; review the businesses intent as to what they are trying to market. Groupon then determines what the best offer should be for the market. They have a contract and a (one-time) 'feature' for issuing, on their website, the marketing and listing for the offer. The entity of individual would have to sign a contract for fee-splitting, which is a 50/50 fee split, for the service or the product that is being sold. It is termed as a 'fee split' and a 'revenue split.' Groupon collects all the fees paid and pays the business entity or individual in three installments over a 60-day period. The first payment is made immediately, and the other two installments are made within the 60-day period. Mr. Hunt indicated that when in reading the statute NRS 631.3465, the language reads that "without the knowledge of the patient, or his legal representative." The question, then, becomes can a fee be divided if the patient, or his legal representative, is aware that this division of fees is occurring. All in favor.

*7 **Public Comment:** No comments.

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)

Mr. Hunt asked if the Board could return to agenda item (3).

MOTION: Dr. Hellwinkel made the motion to return to item (3). Dr. Sill seconded the motion. All in favor.

3. **Board Counsel's Report**

Mr. Hunt indicated that he wanted to update the Board of the LVI lawsuit. He indicated that the Supreme Court has since decided that they are removing the settlement program, except for the briefing schedule. He indicated that he it was previously indicated that they denied the motion for fees and affirmed the issue of costs. He added that they filed their answer before the appeal; meaning that there is no issue regarding money damages. Dr. Pappas inquired on what the briefing schedule was. Mr. Hunt indicated that they were attempting to get the LCB to issue an 'amicus brief' in support of the Boards' appeal.

MOTION: Dr. Sill made the motion to return to agenda order. Mrs. Wark seconded the motion; all in favor.

8. **Announcements:** Ms. Kelly reminded the Board that the exam was at the end of April; with 15 dental candidates and 24 hygiene candidates. Calibration and orientation is to take place on that Friday.

Mr. Hunt announced that Ms. Kelly and he visited the dental school regarding licensing and the disciplinary process. He added that he was contacted by Dr. Thiriot and commented that the students liked the idea of being given information on the licensing and disciplinary process.

*9. **Adjournment** (For Possible Action)

MOTION: Dr. Pinther made the motion to adjourn. The motion was seconded by Dr. Sill. All in favor.

Meeting Adjourned at 11:13pm.

Respectfully submitted by:


Kathleen J. Kelly