

NEVADA STATE BOARD
of
DENTAL EXAMINERS



BOARD MEETING

NOVEMBER 4, 2016

9:00 A.M.

PUBLIC BOOK



NEVADA STATE BOARD OF DENTAL EXAMINERS
 6010 S Rainbow Boulevard, Suite A-1
 Las Vegas, Nevada 89118
 (702) 486-7044



Video Conference was available at the office of the
 Nevada State Board of Medical Examiners 1105 Terminal Way, Suite 301, Reno Nevada 89502

DRAFT MINUTES

Friday September 23, 2016
 8:31 a.m.

ANESTHESIA COMMITTEE

(Brendan Johnson, DDS (Chair); Dr. Timothy Pinther; Dr. Jason Champagne; Dr. James Kinard)

Meeting Agenda

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.

At the discretion of the Chair, public comment is welcomed by the Board, but will be heard only when that item is reached and will be limited to five minutes per person. A public comment time will also be available as the last item on the agenda. 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.

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. Johnson called the meeting to order and Mrs. Shaffer-Kugel conducted the following roll call:

Dr. Brendan Johnson, DDS (“Dr. Johnson”) ----- PRESENT
 Dr. Timothy Pinther, DDS (“Dr. Pinther”) ----- PRESENT
 Dr. Jason Champagne, DDS (“Dr. Champagne”) ----PRESENT
 Dr. J Gordon Kinard, DDS (“Dr. Kinard”) -----PRESENT

Others Present: Mr. John Hunt, Board Counsel; Mrs. Debra Shaffer-Kugel, Executive Director.

Public Attendees: Richard Dragon, NDA; Alex Tanchek, NDHA; Robert Talley, DDS – NDA; Georgene Chase, DDS – Smile Restore; Sally-Ann Nash, Counsel for Dr. G. Chase; Caryn Solie, RDH – NDHA; Catherine O’Mara, NSMA; Jason Sadow, Nutile Law.

2. **Public Comment:** (Public Comment is limited to three (3) minutes for each individual)

Public Comment given by: There was no public comment.

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. Review, discuss and make recommendation to the Board to approve/reject the draft proposed language from the Anesthesia Subcommittee regarding NAC 631.003; NAC 631.004; NAC 631.2211 – NAC 631.2254 pursuant to the new definitions for minimal and moderate sedation enacted through AB89.
(For Possible Action)

Debra Shaffer-Kugel gave a brief history of the initial language changes adopted by Legislative Counsel Bureau (“LCB”), and how the Board created an Anesthesia Subcommittee to go over the new regulations to draft language for proposed anesthesia regulation changes. She briefly went over some of the changes regarding minimal sedation and the proposed changes regarding sedation on pediatric patients. Dr. Johnson gave a little more insight to some of the reasoning and changes for the pediatric moderate sedation, moderate sedation and the education requirements. Dr. Johnson stated that the Anesthesia Subcommittee forwarded the recommended regulations for proposed draft language. Dr. Pinther asked for clarification on the regulation for minimal sedation and read the proposed regulation for said sedation type. Dr. Johnson stated that it is easier to control a single drug administered versus multiple doses of multiple drugs, which creates a greater safety factor. Dr. Johnson clarified to Dr. Champagne that there is a pediatric moderate permit and a moderate permit. Mrs. Shaffer-Kugel clarified that pediatric is defined based on age, and there will be two separate permits, and therefore, there is some restriction for those that are not dually-permitted. There was additional discussion regarding the two separate permits and the restrictions for those administering under the definition of minimal sedation.

MOTION: Dr. Kinard made the motion to move forward with presenting the recommendations from the Anesthesia Subcommittee to the Board for consideration. Motion was seconded by Dr. Champagne. All were in favor of the motion.

4. Public Comment: (Public Comment is limited to three (3) minutes for each individual)

Public Comment from: There was no public comment.

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)

5. Announcements: There were no announcements made.

- *6. Adjournment (For Possible Action)

MOTION: Dr. Champagne made the motion to adjourn. Motion was seconded by Dr. Pinther. All were in favor of the motion.

Meeting Adjourned at 8:51 am.

Respectfully submitted by:

Debra Shaffer-Kugel, Executive Director



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Video Conferencing was available for this meeting at the Nevada State Board of Medical Examiners located at 1105 Terminal Way, Suite 301, Reno, NV 89502

NOTICE OF INTENT TO ACT ON PROPOSED PERMANENT REGULATIONS (R086-16)
& NOTICE OF PUBLIC MEETING

DRAFT Minutes

Friday, September 23, 2016

9:09 a.m.

Board Meeting Agenda

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.

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1. Call to Order, roll call, and establish quorum

Pledge of Allegiance

Dr. Pinther called the meeting to order and Mrs. Shaffer-Kugel conducted the following roll call:

Dr. Timothy Pinther (“Dr. Pinther”) -----PRESENT	Dr. Ali Shahrestani (“Dr. Shahrestani”) -----EXCUSED
Dr. Byron Blasco (“Dr. Blasco”) -----PRESENT	Mrs. Leslea Villigan (“Mrs. Villigan”) -----PRESENT
Dr. J Gordon Kinard (“Dr. Kinard”) -----PRESENT	Ms. Theresa Guillen (“Ms. Guillen”) -----PRESENT
Dr. Brendan Johnson (“Dr. Johnson”) -----PRESENT	Ms. M Sharon Gabriel (“Ms. Gabriel”) -----PRESENT
Dr. Gregory Pisani (“Dr. Pisani”) -----PRESENT	Ms. Stephanie Tyler (“Ms. Tyler”) -----PRESENT
Dr. Jason Champagne (“Dr. Champagne”) ---PRESENT	

Others Present: John Hunt, Board Legal Counsel; Debra Shaffer-Kugel, Executive Director; Stacie Hummel, Board Accountant.

Public Attendees: Robert Talley, DDS, NDA; Tina Tsou, Las Vegas Dental Association; Jason Sadow, Nutile Law; Jody Beck, Self; Elizabeth Gibson, Self; Sara Mercier, Self; Tina Brandon-Abbatangelo, DDS, SNDS; Bill Pappas, DDS - ADEX; Pashtana Usutzy, Self; Rick Thiriot, DDS - UNLV SDM; Richard Dragon, NDA; Alex Tanchek, NDHA; Georgene Chase, DDS - Smile Restore; Sally-Ann Nash, Counsel for Dr. Georgene Chase; Caryn Solie, RDH - NDHA; Catherine O'Mara, NSMA; Joanna Jacob, Ferrari Public Affairs & NDA; Luke Hermann, inLumon; Lyn Beggs, Esquire, Smile Restore; Kelly Euse, Advanced Dentistry by Design.

2. Public Comment: (Public Comment is limited to three (3) minutes for each individual)

Tina Tsou with the Las Vegas Dental Association disseminated copies of her public comment to the Board members before reading her comments into the record.

63 Mr. Hunt commented that the complaint referenced in Ms. Tsou's statement, was regarding the Board policy for
64 public comment at the beginning and end of meetings pursuant to the open meeting law. He noted that the
65 complainants attempted to interject Board discussion of an agenda item with public comment, which public
66 comment is permitted on our agenda for before and after the meeting, therefore the Board did not violate said policy.
67 Mr. Hunt noted that the Board was recognized for their work with the community and the dental school.
68

69 Joanna Jacob commented that on the draft minutes of July 15, while she does affirm her attendance, she noted that she
70 is with the NDA not NDHA, and therefore, asked that the correction be made.
71

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

74
75 *3. Notice of Intent to Act Upon Proposed Permanent Regulations (R086-16), Request for Comments
76 relative to the proposed permanent regulation changes and/or amendments pertaining to Nevada
77 Administrative Code Chapter 631; the general topics include the following: Use of laser radiation in practice
78 (NAC 631.033); Continuing Education (NAC 631.175); Dental hygienists, authorization to perform certain
79 services (NAC 631.210) (For Possible Action)
80

81 Mrs. Shaffer-Kugel noted that the Board previously held public workshops for the regulations being addressed. She
82 stated that at the July 15th meeting, the Nevada Medical Association came forward and strongly opposed the board
83 moving forward with the regulation changes that would permit for dental hygienist' and dentist' to administer
84 Botulinum toxins. Mrs. Shaffer-Kugel stated that she spoke with LCB regarding the comments and concerns from
85 the NMA, and inquired of other options to move forward with one of the three proposed regulations. She was
86 advised that the Board could reassign some of the regulations to their own R-document, which she explained the
87 option briefly.
88

89 Mr. Hunt noted at the time the Board gave their Advisory Opinion in November 2015, the Medical Board submitted a
90 letter to the Board indicating that there was no conflict with the Board moving forward with the opinion that
91 administering botulinum toxins would, also, fall under the scope of dentistry. He noted further that pursuant to the
92 Medical Board's statutes, a medical assistant - whom they have no jurisdiction over, and without any defined
93 training - can administer the toxin. Mr. Hunt argued, inversely, that the Dental Board would be permitting licensees
94 to administer the toxin - licensees whom the Board has jurisdiction over, should there be any complaints or violations
95 he added that the Board would, also, be establishing parameters for minimum training requirements. Mr. Hunt
96 stated that since the issuance of the Advisory Opinion some concerns were raised, particularly, to whom a dentist
97 may administer to. He clarified (in assumption that the regulation changes were approved) that any licensee
98 administering botulinum toxins, dermal fillers and/or other facial injectables only may do so on patients of record, in
99 office, and must comply with CDC infection control requirements.
100

101 Mr. Hunt advised the Board of their option to either adopt the regulations as they are, amend them, or table them.
102 Dr. Blasco stated that multiple states and provinces allow dentist' to administer botox and dermal fillers. He noted
103 that the Continuing Education committee created a parameter for a minimum requirement of training, however, that
104 it did not exclude a licensee's ability to obtain training that would go beyond the minimal training requirements. He
105 stated that there was a segment of the public administering the injectables in question that are far less trained to
106 administer them than dentists'. He noted that the Board is at the very least setting parameters that must be met and
107 that they have jurisdiction over the licensees that would be administering said injectables. Nevertheless, he noted
108 that it was never the Board's intent to allow for dentists to be able to administer on patients that are not patients of
109 record, and stated further that licensees would be limited to the oral and maxillofacial region. Mrs. Shaffer-Kugel
110 noted that she spoke with Pamela, the chief examiner for the Medical Board, who informed her that they have a
111 regulation that states that Medical Assistants are allowed, under the supervision of medical doctor, to administer
112 botulinum toxins. She noted further, that the Medical Board was pursuing regulations to address the regulation
113 regarding medical assistants as there currently was an issue with Medical assistants improperly administering the
114 toxin in question. Dr. Johnson stated that it was ironic that the Medical Association was critiquing dentists' and
115 dental hygienists' as being insufficiently trained to administer, though the Board drafted language for the
116 establishment of training for the administration of the injections in question; yet the Medical board had no set
117 parameters for the unlicensed medical assistants, not even for training.
118

119 Mrs. Shaffer-Kugel recommended that the Board extract, on page two (2) the proposed regulations, NAC 631.033,
120 regarding the administration of botulinum toxin, dermal fillers, and other facial injectables by dentists' and dental

121 hygienists', as well as the language proposed under NAC 631.210, and reassign it to have its own R-number and be
122 posted for a notice of public workshop.
123

124 ****No public attendees stepped forward with public comment****
125

126 MOTION: Dr. Pisani to move forward with the language as presented. Motion was seconded by Dr. Kinard.
127 Roll Call Vote:

128 Dr. Timothy Pinther-----no	Dr. Gregory Pisani -----yes	Ms. Theresa Guillen -----yes
129 Dr. Byron Blasco-----yes	Dr. Jason Champagne-----no	Ms. M Sharon Gabriel----yes
130 Dr. J Gordon Kinard-----yes	Dr. Ali Shahrestani-----excused	Ms. Stephanie Tyler-----no
131 Dr. Brendan Johnson-----yes	Mrs. Leslea Villigan -----yes	

132
133 Motion was agreed to; motion passed.
134

135 ***4. Executive Director's Report (For Possible Action)**
136

137 ***a. Minutes-NRS 631.190 (For Possible Action)**
138

- 139 (1) Board Meeting-July 15, 2016
- 140 (2) Budget & Finance Committee Meeting-08/18/2016
- 141 (3) Board Meeting-08/24/2016
- 142 (4) Anesthesia Subcommittee Meeting-09/08/2016
143

144 Mrs. Shaffer-Kugel noted the correction to be made to the July 15th minutes.
145

146 MOTION: Dr. Blasco made the motion to approve the minutes with the public comment correction. Motion was
147 seconded by Ms. Guillen. All were in favor of the motion.
148

149 **b. Financials -NRS 631.180/NRS 631.190**
150

- 151 (1) Review Balance Sheet and Statement of Revenues, Expenses and Balances for fiscal period
152 July 1, 2015 through June 30, 2016 (For Possible Action)
153

154 Mrs. Hummel went over the balance sheet and statement of revenues, expenses and balances for fiscal period July
155 2015 through June 2016. She stated that the statements provided were unaudited statements. She explained that
156 they do not have the current pension liability and that she could not add it to statement provided until the
157 information is provided to them from the state, and that they, therefore, cannot begin the audit until the information
158 is received and added to the statement.
159

- 160 (2) Consider the Recommendations from the Budget & Finance Committee to approve the FY 17
161 Proposed Budget (For Possible Action)
162

163 Mrs. Shaffer-Kugel indicated that the budget was reviewed and approved by the Budget and Finance committee. Mrs.
164 Hummel pointed out that she added one item to the budget, which was \$40,000 for the possibility of the Board
165 choosing to transition over to the new licensing system. She went on to discuss the increases and items added in
166 anticipation of the changes to anesthesia permits. She noted that should the board opt to stay with GL Suites, she
167 budget for a project to be done. Mrs. Shaffer-Kugel stated that regarding the public comment regarding legal
168 expenses, and stated that the public may be confused in assuming that the \$270,000 is an increase to Mr. Hunt's
169 contract, which was invalid. Ms. Hummel clarified for the record that the \$270,000 was a total for all legal fees and
170 expenses, that it was a combination of all legal services and not exclusive to Mr. Hunt's services.
171

172 MOTION: Dr. Pisani made the motion to approve. Motion was seconded by Dr. Kinard. All were in favor of the
173 motion.
174

- 175 (3) Consideration of proposal for new Licensing Software System (For Possible Action)
176 (a) inLumon
177
178

179 Mrs. Shaffer-Kugel stated that the Board had been with GL Suites since 2005, and that while it was a good
180 licensing system, the issues were projects and tasks were taking months to complete, and was always running
181 behind on making the system more efficient, even with the fact that the Board has the largest system currently
182 available by GL Suites. She noted that the new system with inLumon would give the board more control and that

183 it would streamline the system, which would grant more access options to licensees and applicants. Mr. Herman
184 with inLumon stepped forward to give a little more insight on to what they offer and some of the benefits they
185 would have should they choose to move over the licensing system. Dr. Kinard inquired on the length of the
186 transition period. Mr. Herman responded that it would take approximately three (3) months to do the transition.
187 Mrs. Shaffer-Kugel stated that the more prudent option would be to choose option 1, and pay the \$40,000 upfront,
188 which would create a 6-month lag before the monthly fees were to commence. Mr. Herman noted that in the
189 proposal there was a possibility of a 3% increase in fees annually. Dr. Pisani inquired if they budget to pay the
190 monthly GL Suite fees and upfront fees to begin the transition process. Ms. Hummel answered affirmatively that
191 they were both budgeted for. Mrs. Villigan inquired on the potential security issues that the State could have with
192 the Board potentially accessing meeting information using their personal electronic devices. Dr. Pisani noted that
193 inLumon was an approved State vendor, and therefore, strongly assumed that security concerns would not be an
194 issue with the State. Mr. Herman spoke of the different boards and the work they're doing with them.

195
196 MOTION: Dr. Kinard made the motion to move forward with inLumon proposal. Motion was seconded by Dr.
197 Blasco. All were in favor of the motion. Mrs. Shaffer-Kugel asked that they clarify with contract option they were
198 voting for. Dr. Kinard and Dr. Blasco rescinded their motion and second to the motion.

199
200 MOTION: Dr. Kinard made the motion to move forward with inLumon with the initial investment of \$40,000 and
201 monthly maintenance costs of \$2,100. Motion was seconded by Dr. Blasco. All were in favor of the motion.
202

203 *c. Authorized Investigative Complaint-NRS 631.363 (For Possible Action)

204
205 (1) Dr. V - NRS 631.3475(1) (For Possible Action)

206
207 Mr. Hunt gave a brief description of the process for doing authorized investigations anonymously. Mrs. Shaffer-
208 Kugel went over the alleged violations.

209
210 MOTION: Dr. Kinard made the motion to authorize the investigation. Motion was seconded by Dr. Blasco. All
211 were in favor of the motion.

212
213 (2) Dr. W - NRS 631.3475(5) and NAC 631.230(1)(b) (For Possible Action)

214
215 Mrs. Shaffer-Kugel went over the alleged violations.

216
217 MOTION: Dr. Pisani made the motion to authorize the investigation. Motion was seconded by Ms. Guillen. All
218 were in favor of the motion.

219
220 (3) Dr. X - NRS 631.395(10) (For Possible Action)

221
222 Mrs. Shaffer-Kugel went over the alleged violations.

223
224 MOTION: Ms. Gabriel made the motion to authorize the investigation. Motion was seconded by Ms. Guillen. All
225 were in favor of the motion.

226
227 (4) Dr. Y - NRS 631.3475(4) and NAC 631.230(1)(c) (For Possible Action)

228
229 Mrs. Shaffer-Kugel went over the alleged violations.

230
231 MOTION: Dr. Pisani made the motion to authorize the investigation. Motion was seconded by Ms. Guillen. All
232 were in favor of the motion.

233
234 (5) Dr. Z - NRS 631.348(1) and NRS 631.395(6) (For Possible Action)

235
236 Mrs. Shaffer-Kugel went over the alleged violations.

237
238 MOTION: Dr. Kinard made the motion to authorize the investigation. Motion was seconded by Dr. Blasco. All
239 were in favor of the motion.

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254 d. Correspondence-NRS 631.240 and NRS 631.300:

255
256 (1) Review correspondence from ADEX and update on the ADEX Annual Meeting

257
258 (a) Timothy Pinther, DDS

259
260 Dr. Pinther gave a report on his recent meeting with ADEX and some of the minor changes made to the language
261 for both the dental and dental hygiene exams. He went over some of the ASDA desires for exam requirements and
262 the changes they want made to exams. Dr. Pappas went over in some detail, the noted structure changes.

263
264 *e. Travel - NRS 631.190 (For Possible Action)

265
266 (1) Approval for So. Nevada Board Members and Executive Director to travel to Reno, Nevada for the
267 January 2017 Election of Officers and Board Meeting (For Possible Action)

268
269 MOTION: Ms. Gabriel made the motion to approve travel. Motion was seconded by Ms. Guillen. All were in favor
270 of the motion.

271
272 *f. Calendar - NRS 631.190 (For Possible Action)

273
274 (1) Approval of Calendar of Events for 2017

275
276 Mrs. Shaffer-Kugel stated that the following dates were tentative dates with confirmed conference room
277 availability with the Medical Board.

278
279 MOTION: Dr. Blasco made the motion to approve. Motion was seconded by Dr. Johnson. All were in favor of the
280 motion.

281
282 *5. Board Counsel's Report (For Possible Action)

283
284 a. Legal Actions/Lawsuit(s) Update

285
286 (1) District Court Case(s) Update

287
288 Mr. Hunt indicated that there are no pending lawsuits against the Board.

289
290 *b. Consideration of Stipulation Agreements (For Possible Action)

291
292 (1) William Maricondia, DDS

293
294 Mr. Hunt went over the provisions of the stipulation agreement and stated that the disciplinary screening office
295 ("DSO") recommended approval.

296
297 MOTION: Dr. Pisani made the motion adopt the stipulation agreement. Motion was seconded by Dr. Champagne.
298 All were in favor of the motion.

299
300 (2) Gregg Hendrickson, DDS

301
302 Mr. Hunt went over the provisions of the stipulation agreement and stated that the DSO recommended approval.

303
304 MOTION: Dr. Blasco made the motion adopt the stipulation agreement. Motion was seconded by Dr. Johnson. All
305 were in favor of the motion; Dr. Kinard abstained.

306
307 *6. New Business (For Possible Action)

308
309 *a. Board to determine whether Smile Restore (non-profit organization) is providing dental
310 services by volunteer dentists at no charge or at a substantially reduced charge to populations
311 with limited access to dental care pursuant to NRS 631.215(2)(f)(3) (For Possible Action)

312
313 Dr. Chase and counsel were present. Mrs. Shaffer-Kugel stated that they inquired about Smile Restore, which is
314 based out of Washoe County, to obtain additional information regarding the services offered and their fees. Mrs.
315 Shaffer-Kugel stated that non-profit organizations are required to provide the Board with the name of the dental
316 director of the organization. Dr. Pisani inquired if the Dental Director listed is the custodian of the patient records.

317 Mrs. Shaffer-Kugel read the statute addressing dental directors and their scope of that position. Counsel for Dr.
318 Chase stated that Smile Restore was opening a new location in MoundHouse, but in the interim were in Reno as
319 they attempt to open up in MoundHouse. She stated further that Dr. Chase was the volunteer dentist in Reno, and
320 that Dr. Dodson was the dental director of Smile Restore. Dr. Blasco stated that while non-profit did not mean
321 not-profitable, however, that based on the fees provided it appeared to be fairly similar to insurance company
322 reimbursement fees. Counsel for Dr. Chase stated that a great deal of services are done at no charge to the patients,
323 and noted that the fee schedules were greatly reduced fees. Dr. Blasco commented that the fees on the list provided
324 appeared to be rather similar fees used for standard reimbursement rates of insurance companies. Mr. Hunt stated
325 that the intent of the statute was to ensure that a non-profit organization would not perform services in
326 competition with other dental practices. Dr. Pisani stated that the fees listed in the fee schedule were substantial
327 and comparable to fees charged at regular dental offices. He noted that Board members were not provided a list of
328 other volunteer dentists, aside from Dr. Chase, providing services. Dr. Chase stated that they bill Access
329 Healthcare, which is the entity that sends their patients to her facility. She noted that the fee schedule provided
330 pertained to Access to Healthcare, and was not a fee schedule produced or established by Smile Restore. Dr. Pisani
331 suggested that Dr. Chase refine the list to reflect a more accurate fee schedule. Dr. Chase stated to the Board that
332 Smile Restore does not have a fee schedule established based on the reason that they only charge what patients are
333 able to pay for services rendered, which at time patients are not able to afford any payment. Ms. Tyler stated that
334 Dr. Chase should submit a fee schedule that reflects a more accurate list of fees and what is actually collected from
335 grants. Mr. Hunt noted that the Board did have the option to request additional information and revisit the agenda
336 item at a future Board meeting.
337

338 MOTION: Dr. Pisani made the motion to declare that Smile Restore was a non-profit organization until the board
339 is provided with additional information. Motion was seconded by Ms. Guillen. All were in favor of the motion.
340

341 *b. Request to Amend the Advisory Opinion issued by the Board on November 20, 2015/January 22,
342 2016 for the administration of botulinum toxins, dermal fillers and other facial injectables - NAC
343 631.279 (For Possible Action)
344

345 (1) Byron Blasco, DMD
346

347 Dr. Blasco read his recommendations to amend the Advisory Opinion to read as read in the proposed changes in
348 language. Mr. Hunt noted that Dr. Blasco's statement would supplement the advisory opinion previously given by
349 the Board. He stated further, that the Board can draft another regulation to better clarify the administration of
350 injectables to the oral and maxillofacial region.
351

352 MOTION: Ms. Guillen made the motion to approve the revisions as read by Dr. Blasco. Motion was seconded by
353 Dr. Pisani. All were in favor of the motion.
354
355

356 *c. Request for Advisory Opinion for clarification whether webinar continuing education courses
357 are recognized as on-line courses pursuant to NAC 631.175(5)(c)-NRS 631.279 (For Possible Action)
358

359 (1) ~~Sarah~~ Sara Mercier, RDH
360

361 Ms. Mercier stated that her name was "Sara" not "Sarah". She noted that at a previous meeting, Mrs. Shaffer-Kugel
362 stated that webinars were considered live lecture based. Mrs. Shaffer-Kugel indicated that webinars that are live
363 are considered live instruction/lecture. However, that webinars that are previously recorded and non-interactive
364 are considered home study and not live instruction. There was discussion on how the Board could define
365 'interactive'.
366

367 ADVISORY OPINION: Mrs. Villigan stated that it was the Board's opinion that a live webinar continuing
368 education course would qualify as live instruction if the ability to have immediate interaction with the lecturer is
369 available. The advisory opinion was seconded by Ms. Guillen. All were in favor of the advisory opinion.
370

371 *d. Board to approve/reject the recommendations from the Budget & Finance Committee Meeting
372 held on August 18, 2016 regarding the Legislative Auditors recommendations-NRS 631.190
373 (For Possible Action)
374
375

376 Mrs. Shaffer-Kugel stated that there were some recommendations from the Legislative auditor's report and went
377 over the recommendations. She read over the recommendations from the Budget and Finance Committee. The
378 MOTION's were as follows:

- 379 - **Recommendation 1)** to not assess the costs of investigations to licensees for complaints that are
380 remanded: **MOTION:** Dr. Pisani made the motion to approve the recommendation that the Board not
381 charge for remands. Motion was seconded by Dr. Blasco. All were in favor of the motion.
382
383 - **Recommendation 2)** Set a limit for travel: **MOTION:** Dr. Blasco made the motion to approve the
384 recommendation for set travel limits as presented. Motion was seconded by Ms. Guillen. All were in favor
385 of the motion.
386
387 - **Recommendation 3)** Merits of in-house counsel: **MOTION:** Dr. Pisani made the motion to accept the
388 recommendations to continue with current counsel and review the merits of both in-house and outside
389 Counsel at the end of counsel's contract in June 2017. Motion was seconded by Mrs. Villigan. All were in
390 favor of the motion.
391
392 - **Recommendation 4)** Reimbursement of investigation costs declared overcharged by LCB auditors:
393 **MOTION:** Ms. Tyler made the motion to amend the recommend reimbursement to include the five (5)
394 individuals who are currently under monitoring by the Board (reimburse all licensees listed in LCB audit
395 owed a reimbursement). Motion was seconded by Dr. Pisani. All were in favor of the motion.
396

397
398 ***e. Approval of Reactivation of Dental License – NAC 631.170(4)** (For Possible Action)
399

400 (1) Joseph Beck, DDS
401

402 Dr. Beck was present and stepped forward. Dr. Beck commented that he last actively practiced in Indiana in 2011.
403 Mrs. Shaffer-Kugel noted to the Board that Dr. Beck successfully passed the CDCA exam in 2015. Mr. Hunt stated
404 that historically the board has required that licensees who have not practiced in over two (2) years to complete
405 either a skills assessment or successfully take and pass a clinical exam. Mr. Hunt noted that Dr. Beck successfully
406 completed the CDCA exam in May 2015 but has not practiced since taking the exam. There was discussion
407 regarding Dr. Beck's disciplinary issues in Indiana, which the Board spoke with Dr. Beck in length and detail.
408

409 **MOTION:** Ms. Tyler made the motion to deny the application until Dr. Beck's Indiana license is reinstated.
410 Motion was seconded by Dr. Pisani. Dr. Blasco stated for edification that should Dr. Beck's Indiana license be
411 reinstated, which would potentially occur in December 2018, he will have surpassed two years since taking the
412 CDCA exam; therefore noted that the Board may require him to retake a clinical exam at that time, should be apply
413 to reactivate. All were in favor of the motion.
414

415 Recess: 12:13 p.m.

Return from Recess: 12:25 p.m.

416
417 ***f. Approval of Voluntary Surrender of License – NAC 631.160** (For Possible Action)
418

- 419 (1) Margaret MacMinn, DMD
420 (2) Aymee Jaramillo Rivas, DDS
421 (3) Lindsay Pfeffer, DMD
422 (4) Russell Penner, RDH
423 (5) Irene Durand, RDH
424

425 Mrs. Shaffer-Kugel stated that there were no pending matters for the licensees listed.
426

427 **MOTION:** Dr. Pisani made the motion to approve. Motion was seconded by Ms. Gabriel. All were in favor of the
428 motion.
429

430 ***g. Approval for Anesthesia-Permanent Permit – NAC 631.2233** (For Possible Action)
431

432 (1) **General Anesthesia** (For Possible Action)
433

434 (a) Blair Alexander Isom, DDS
435

436 Dr. Johnson stated that the licensees passed the inspections and recommended approval.
437

438 **MOTION:** Ms. Guillen made the motion to approve. Motion was seconded by Dr. Pisani. All were in favor of the
439 motion; Dr. Johnson abstained.
440
441
442
443
444

445 (2) **Conscious Sedation** (For Possible Action)

446
447 (a) Amy M.K. French, DMD

448
449 Dr. Johnson stated that the licensees passed the inspections and recommended approval.

450
451 MOTION: Dr. Pisani made the motion to approve. Motion was seconded by Ms. Guillen. All were in favor of the
452 motion; Dr. Johnson abstained.

453
454
455 *h. **Approval for Anesthesia-Temporary Permit – NAC 631.2254** (For Possible Action)

456
457 (3) **General Anesthesia** (For Possible Action)

458
459 (a) Christina J. Baek, DDS

460
461 Dr. Johnson stated that he reviewed the applications, that all was in order, and recommended approval.

462
463 MOTION: Dr. Pisani made the motion to approve. Motion was seconded by Ms. Guillen. All were in favor of the
464 motion; Dr. Johnson abstained.

465
466 (4) **Conscious Sedation** (For Possible Action)

467
468 (a) Shahriar H. Agahi, DMD

469 (b) Brittany N. Rich, DMD

470 (c) Keaton M. Tomlin, DMD

471 (d) Arshid Torkaman, DDS

472 (e) Doribeth Ruiz, DMD

473
474 Dr. Johnson stated that he reviewed the applications, that all was in order, and recommended approval.

475
476 MOTION: Ms. Guillen made the motion to approve. Motion was seconded by Dr. Pisani. All were in favor of the
477 motion; Dr. Johnson abstained.

478
479 *i. **Approval for Anesthesia Evaluator(s)-NRS 631.190** (For Possible Action)

480
481 (1) Troy D. Savant, DDS – General Anesthesia

482
483 Mrs. Shaffer-Kugel stated that Dr. Savant met the requirements.

484
485 MOTION: Ms. Guillen made the motion to approve Dr. Savant's application to be an evaluator. Motion was
486 seconded by Dr. Pisani. All were in favor of the motion.

487
488
489 *7. **Resource Group Reports**

490
491 *a. **Legislative and Dental Practice** (For Possible Action)

492 (Chair: Dr. Pinther; Dr. Champagne; Dr. Blasco; Dr. Kinard; Ms. Guillen)

493
494 No report.

495
496 *b. **Legal and Disciplinary Action** (For Possible Action)

497 (Chair: Dr. Kinard; Dr. Pisani; Dr. Blasco; Dr. Shahrestani; Mrs. Villigan)

498
499 No report.

500
501 *c. **Examinations Liaisons** (For Possible Action)

502
503 *(1) **WREB/HERB Representatives** (For Possible Action)

504 (Dr. Blasco; Ms. Gabriel)

505
506 (a) Report from Dr. Blasco regarding DERB Meeting 06/24/2016

507
508 Dr. Blasco gave his report from the DERB meeting in June 2016.

509
510 *(2) **ADEX Representatives** (For Possible Action)

511 (Dr. Kinard)

512
513 Dr. Kinard stated that Dr. Pinther gave a report earlier in the meeting.

516 *d. Continuing Education (For Possible Action)

517 (Chair: Dr. Blasco; Dr. Shahrestani, Dr. Pisani; Mrs. Villigan; Ms. Gabriel)

518 No Report.

519 *e. Committee of Dental Hygiene (For Possible Action)

520 (Chair: Ms. Guillen; Mrs. Villigan; Ms. Gabriel; Dr. Shahrestani)

521 No report.

522 *f. Specialty (For Possible Action)

523 (Chair: Dr. Pisani; Dr. Johnson; Dr. Pinther)

524 No report.

525 *g. Anesthesia (For Possible Action)

526 (Chair: Dr. Johnson; Dr. Pinther; Dr. Champagne; Dr. Kinard) (For Possible Action)

527 (1) **Approve or Reject Recommendations from the Anesthesia Committee regarding proposed**
528 **draft language changes to NAC 631.2211-NAC 631.2254** (For Possible Action)

529 Dr. Johnson briefly went over the recommendations from the Anesthesia Committee and recommended approval.

530 MOTION: Dr. Kinard made the motion to approve the proposed language. Motion was seconded by Dr. Blasco.
531 All were in favor of the motion.

532 *h. Infection Control (For Possible Action)

533 (Chair: Mrs. Villigan; Dr. Blasco; Dr. Champagne; Dr. Pisani; Ms. Gabriel)

534 (1) **Recommendations from Leslea Villigan, RDH (Committee Chair), to make certain changes**
535 **to the Infection Control Form** (For Possible Action)

536 Mrs. Villigan briefly went over some of the recommended changes for the IC inspection form. She noted that the
537 question numbers were from a previous form. She added that the current form needed updating so that it would
538 be current with the CDC guidelines.

539 MOTION: Dr. Blasco made the motion to approve the recommended changes. Motion was seconded by Dr.
540 Johnson. All were in favor of the changes.

541 *i. Budget and Finance Committee (For Possible Action)

542 (Chair: Dr. Blasco, Dr. Pinther, Ms. Tyler, Ms. Guillen)

543 No report.

544 8. Public Comment: (Public Comment is limited to three (3) minutes for each individual)

545 Kathryn O'Mara with Nevada Medical Association commented for the record that she studied law, and that she
546 wanted the Board to become aware that there were serious concerns with pushing forward with R118-15. She
547 stated that the public was not given the opportunity to state their comments, and that public comment should be
548 taken into consideration. She noted further that the NMA was strongly against with the Board pushing the
549 language forward. She gave her interpretation of the fact that the LCB put botulinum toxins administration under
550 NRS Chapter 630.

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

553 9. Announcements: Mrs. Shaffer-Kugel announced that she will be arranging a date to hold a Public Workshop
554 for the Anesthesia Regulations.

555 Mr. Hunt stated that he did not comprehend how the public was not given an opportunity to comment on the
556 regulations in R118-15, when that there was a workshop.

557 MOTION: Dr. Champagne made the motion to return to agenda item (3) Public Comment. Motion was seconded
558 by Ms. Gabriel. All were in favor of the motion.

580 *3. **Public Comment:** Kathryn O'Mara stated that her comments were a question of public health and safety. She
581 stated that botulinium toxin should be administered by only those properly trained to do so. She argued that the
582 Legislature's intent was for the toxin in question to be governed solely by the Medical board and thus placed the
583 toxin regulation under Nevada Chapter 630, not Dentistry (Chapter 631). She boldly stated that if a dentist were
584 to utilize 'botox' it would be the improper use of dentistry. She continued on that the Medical Board had the sole
585 discretion to regulate the use of Botulinium Toxins. She noted that the Medical Association would have supported
586 reassigning the two sections for their own R-number so that they could be readdressed at a future workshop, and
587 that they were willing to work with the Board. She asked that the Board reopen the original motion and reassign
588 the sections regarding Botulinium toxins.
589

590 Mrs. Shaffer-Kugel commented as a member of the public and clarified that through conversations with the
591 Medical Board, her understanding was that they are given the ability to license medical doctors, Physician
592 Assistant's, etc. She stated that it seemed inaccurate for one to state that the Legislature gave exclusive control
593 over the use of botulinium toxin to the Medical Board when it was not noted in the statute. She commented that
594 the Statute referenced by the Medical Association, was developed to give the Medical Board the ability to have
595 Medical Doctors authorize and supervise medical assistants to have in their possession, and in their administration
596 of botulinium toxins. She added that in 2006 the Medical Board's position, when approached regarding dentists'
597 ability to administer the toxin, was deemed the practice of Medicine; however, that in 2011, the Medical Board
598 changed their statutes to allow for Medical Assistants, whom are not registered and therefore, the Medical Board
599 has no legal jurisdiction over, to administer botulinium toxin. Mrs. Shaffer-Kugel then argued that unlike Medical
600 Assistants, Dental Hygienists' and Dentists are licensed and are trained in anatomy and human biology. She stated
601 that in all fairness, the Medical Board changing their regulations to allow for a medical assistant to administer the
602 toxin under the authorization and supervision of a medical doctor, created a new avenue for argument. As a
603 member of the public, she stated that she would feel more comfortable with a dentist, who has a four year degree
604 and has education in the anatomy and the nerves of the oral and maxillofacial region, to administer botulinium
605 toxin to than with a medical assistant who has no proper training or educational background; especially to know
606 that if something were to go amiss, she would have no proper recourse because the medical assistant is not a
607 registered or licensed individual. She stated that she believed that the Board should re-open the topic for further
608 discussion. She went on to state that the Medical entities were reaching in their comments and statements. She
609 stated that twenty-one other states allow the profession of dentistry to administer the toxin, and noted that that
610 the administration of botulinium toxin is taught in specialty programs for dentists, which goes against the
611 argument that it is a toxin solely governed by the Medical board and Medical profession.
612

613 There was no motion to reconsider.
614

615 MOTION: Dr. Pisani made the motion to return to agenda order. Motion was seconded by Ms. Gabriel. All were in
616 favor of the motion.
617

618 *10. **Adjournment** (For Possible Action)
619

620 MOTION: Dr. Kinard made the motion to adjourn. Motion was seconded by Dr. Johnson. All were in favor of the
621 motion.
622
623
624
625
626

627 Meeting Adjourned at 1:03 pm.

628 Respectfully submitted by:
629
630

631 _____
632 Debra Shaffer-Kugel, Executive Director



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

ADAM PAUL LAXALT
Attorney General

March 10, 2016

WESLEY K. DUNCAN
First Assistant Attorney General

NICHOLAS A. TRUTANICH
First Assistant Attorney General

Received

MAR 14 2016

NSBDE

Timothy T. Pinther, D.D.S., President
Nevada State Board of Dental Examiners
6010 S. Rainbow Blvd., Suite #A-1
Las Vegas, NV 89118

RE: Joint Representation of Nevada State Board of Dental Examiners

Dear President Pinther:

The Office of the Attorney General (OAG) is designated as legal counsel for the Executive Branch of State Government pursuant to NRS 228.110. Various other statutes require the OAG to perform specific legal functions for the various components of the Executive Branch, including Title 54 Boards. Since the Nevada State Board of Dental Examiners also engages John Hunt as outside counsel pursuant to NRS 631.190, this correspondence will clarify the scope of the Board's joint representation by both outside counsel and the OAG.

In the course of joint representation, please be mindful of the following:

- 1) The Board may request written opinions on questions of Nevada law from the OAG pursuant to NRS 228.150. When relying on an Attorney General Opinion in good faith, the Board is protected from liability for damages against the governmental body it serves if the Opinion is later found to be incorrect. See *Cannon v. Taylor*, 88 Nev. 89, 91, 493 P.2d 1313 (1972).
- 2) The Board should immediately notify the OAG whenever served with a complaint in federal or state court, or a petition for judicial review, or if the Board is otherwise presented with legal documents, since service must be effected in strict compliance with FRCP 4(j)(2), NRS 41.031(2) or NRS 233B.130(2), which includes service upon the OAG.
- 3) Due process considerations together with Nevada Rule of Professional Conduct 1.7 (prohibiting attorneys from conflicts of interest in legal representation) prohibit the same attorney from acting as both prosecutor and Board counsel whenever the Board adjudicates the legal rights of a licensee. See *Laman v. Nevada Real Estate Advisory Comm'n*, 95 Nev. 50, 56, 589 P.2d 166, 170 (1979). The OAG can provide attorneys to serve the Board in either role whenever necessary to avoid any conflict.

To: Timothy T. Pinther, D.D.S, President

Date: March 10, 2016

Page: 2 of 2

- 4) NRS 333.700(6) requires any contract for services, including but not limited to contracts for outside counsel, to be reviewed and approved as to form and compliance with law by the OAG. NRS 331.110(2) similarly requires any office lease to be reviewed and approved as to form and compliance with law by the OAG.

In order to confirm the Board's understanding of the scope of joint representation, the OAG recommends discussion of this correspondence as an agenda action item at a future Board-meeting. I will attend that Board meeting to answer any questions that the Board may have.

The OAG appreciates the extraordinary efforts of the Board to protect the public by enforcing the provisions of NRS Chapter 631 regarding the practice of dentistry and dental hygiene. The OAG encourages the Board to be proactive in seeking legal advice, and wants to emphasize that all the resources of our office are available to the Board to assist in this effort, including training and briefings on recent legal developments and critical issues facing licensing boards.

If you have any questions, please do not hesitate to contact me at 775-684-1201 or bkandt@ag.nv.gov.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: 
Brett Kandt
Chief Deputy Attorney General

WBK/klr
cc: John Hunt, Esq.

Received
MAR 14 2016
NSBDE



Commission on Dental Accreditation

VIA ELECTRONIC MAIL: DASHAFFER@NSBDE.NV.GOV

September 29, 2016

Ms. Debra Shaffer-Kugel
Executive Director
Nevada Board of Dental Examiners
6010 S. Rainbow Blvd., Ste. A-1
Las Vegas, NV 89118

Dear Ms. Shaffer-Kugel:

RE: ***State Board Participation on Accreditation Site Visits***

This letter is to notify you that the institution(s) listed below have indicated a willingness to have a representative of the state board participate in the Commission on Dental Accreditation's 2016 on-site evaluations of the following dental and allied dental education program(s):

Allied Education Site Visits:

University of Nevada Las Vegas School of Dental Medicine
Las Vegas, NV
April 11, 2017

Appointment Process and Reimbursement: In accordance with the attached policy statement for state board participation on site visit teams, the state board of dentistry is requested to submit the names of ***two*** representatives who are ***current members*** of the board for each site visit listed. The Commission will then ask the institution to select ***one*** individual to participate on the visit. You will be notified when the institution has selected a representative. Prior to the visit, the representative will receive an informational packet from the Commission and the self-study document from the institution. **The state board is responsible for reimbursing its representative for expenses incurred during a site visit.**

Confirmation of State Board Participation Form (to be returned): Each program that has elected to invite the board of dentistry is identified on the attached Confirmation of State Board Participation Form(s). The board of dentistry is requested to complete this form, as described above.

Please note: The Confirmation of State Board Participation Form(s) must be returned by the due date indicated on each form, whether or not the State Board is participating in the site visit. However, if communication is not received from the state board by this date, it will be assumed that the state board is unable to participate on the site visit.

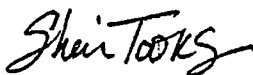
Conflicts of Interest: When selecting its representatives, the state board should consider possible conflicts of interest. These conflicts may arise when the representative has a family member employed by or affiliated with the institution; or has served as a current or former faculty member, consultant, or in some other official capacity at the institution. Please refer to the enclosed policy statements for additional information on conflicts of interest.

Time Commitment: It is important that the selected representative be fully informed regarding the time commitment required. In addition to time spent reviewing program documentation in advance of the visit, the representative should ideally be available the evening before the visit to meet with the Commission's site visit team. Only one state board representative may attend each site visit to ensure that continuity is maintained; the representative is expected to be present for the entire visit.

Confidentiality and Distribution of Site Visit Reports: Please note that, as described in the enclosed documents, state board representatives attending CODA site visits must consider the program's self-study, site visit report, and all related accreditation materials confidential. Release of the self-study, report, or other accreditation materials to the public, including the state board, is the prerogative of the institution sponsoring the program. **State Board representatives who attend a site visit will be requested to sign a confidentiality agreement. If the confidentiality agreement is not signed, the individual will not be allowed to attend the site visit.**

If the Commission can provide further information regarding its site visit evaluation process, please contact Ms. Malinda Little at 1-800-621-8099 extension 2675 or littlem@ada.org or Ms. Sheron Parkman at 1-800-621-8099 extension 2668 or parkmans@ada.org. Thank you in advance for your efforts to facilitate the board's participation in the accreditation process.

Sincerely,



Dr. Sherin Tooks
Director
Commission on Dental Accreditation

ST/gm

cc: Dr. Catherine Horan, Manager, Predoctoral Dental Education, Commission on Dental Accreditation (CODA)
Ms. Jennifer Snow, Manager, Advanced Specialty Education, CODA
Ms. Peggy Soeldner, Manager, Postdoctoral General Dentistry Education, CODA
Ms. Patrice Renfrow, Manager, Allied Education Programs, CODA
Ms. Alyson Ackerman, Manager, Allied Program Reviews, CODA
Ms. Catherine Baumann, Manager, Advanced Specialty Education, CODA
File

Enclosures: CODA Confirmation of State Board Participation Form(s)
Policy on State Board Participation and Role During a Site Visit

Policy on Conflict of Interest
Policy on Public Disclosure and Confidentiality



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Nevada State Board of Dental Examiners
6010 S. Rainbow Blvd., Ste. A-1
Las Vegas, NV 89118

State Dental Board Commissioner:

I write to you on behalf of the American Association of Orthodontists (AAO), which is the oldest and largest dental specialty group in the United States. It is comprised of over 9,000 practicing orthodontists. The AAO's main concern in writing to you is for the safety and health of patients treated using a business model of which you may not be aware.

The AAO would like you to review the practices of at least one company operating, according to information we have, within your state. It is our understanding that your authority as a regulatory body grants you the ability to review business practices of both licensed dental professionals and those with whom they do business in the course of patient treatment. Your charge, and our interest, is to protect the public against practices that are harmful, illegal, and unethical.

The purpose of this letter is to ask you to clarify to us your position on a new treatment and business model. Many of our members have asked the AAO to advise them on the legality of the model. We have informed our members that we do not make such determinations, nor do we take positions on the advisability of contractual relationships with any legal market participant. Given the number of inquiries, we thought it would be productive for the AAO to compile the questions most frequently raised, so that you may examine the model and advise us on how best to respond to members located in your state.

The practice to which we refer involves the question of potential illegal fee and/or referral fee splitting, as well as neglect of the patient in informing them of potential risk and alternatives to treatment. One example is a company named SmileDirectClub, which can be found at smiledirectclub.com. According to the company's website, the business model includes, in many instances, a patient sending a picture of their teeth to the company, located in Tennessee. The company then sends the pictures to a dentist licensed in the state of the patient's residence, who is paid by the company to review the picture. If the dentist determines that the patient is a candidate for the company's treatment, the patient is then sent a "kit" to make an impression of their teeth. The completed impression is then analyzed by the company, and the dentist approves, at his or her discretion,

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the treatment plan created—which involves a number of clear aligner trays which are shipped directly to the patient. The dentist is paid, apparently, only if the treatment plan is approved.

The AAO's concerns are that this treatment model potentially violates several aspects of your state laws/regulations:

1. Our first concern relates to the question of the potential that this model violated prohibitions against referral fees or fee splitting. In this treatment model, as we understand it, the patient pays the treatment fee directly to the company. The company then contracts with licensed dentists in the state to review and approve cases. It is our understanding that the dentist is paid only if the treatment plan is approved. In either case, the patient pays the company, and the company pays the dentist to whom the patient is "referred", even if the referral is just virtual. This likely creates a doctor-patient relationship between the patient and the dentist. If that is not the case, then the company could be practicing dentistry without a license in your state, which is an aspect that may also bear further scrutiny.

Our members are conscientious about following all applicable laws, regulations and ethical rules. We know that they routinely face questions about fee splitting when they enter into marketing arrangements, hire independent contractors, or even send holiday gifts to other professionals in their area who refer them patients. We advise our members to do all of this with extreme caution so as not to violate state law or give the appearance that anything other than the health and welfare of their patients is their only priority.

In fact, our own code of ethics contains a provision which we understand is also prevalent in many, if not all, states. In relevant part, it states:

"Members shall make treatment decisions and render all related opinions and recommendations based on the best interest of the patient without regard to a member's direct or indirect financial or beneficial interest in a product or service, or direct or indirect relationship with the manufacturer or supplier of such product or service." (AAO's *Principles of Ethics and Code of Professional Conduct*, I.C.)

There is also, in the same document, a prohibition on the giving or receiving of rebates or split fees "in relation to the referral or acceptance of patients." It is our understanding that all states have some prohibition against the splitting of fees or the giving or acceptance of referral fees, for the reason that it provides an incentive to the physician to prescribe a treatment which may not be in the best interest of the patient.

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Under this treatment model, it is difficult to understand how a licensed dental professional would have the opportunity to fully examine a patient and base a treatment decision on the best interest of the patient without regard to a financial incentive; in fact, it appears to us that a clear financial incentive is available to a licensed dentist if they approve a treatment plan proposed to them by the manufacturer. Dentists are not given the opportunity to examine the patient otherwise.

We respectfully request a definitive statement from your board relative to whether this model violates your state's anti-fee splitting or referral fee regulations.

2. Another concern is that this treatment model does not allow a dentist to provide the necessary details of treatment to the patient in order for the dentist to obtain appropriate informed consent, or to advise the patient of reasonable alternatives to treatment. If, as the company states, the patient never needs to visit or consult personally with the dentist, how can the patient be properly informed of the risks of, and the alternative to, treatment? It is our understanding, in fact, that patients do not know the identity of the dentist who is examining their records. Patients are not able to ask any questions of the dentist, and are not even aware of the identity of the dentist until they receive, via mail, their aligner trays.

It is also our understanding that patients' questions regarding treatment are directed to the corporate headquarters of the company, and not to the treating dentist. That, of course, raises concerns about who is answering questions about treatment. It also could raise questions about whether the dentist can properly prescribe treatment when they may not, in fact, be aware of the questions and concerns of their patient.

We respectfully request direction from your board on whether we may inform our members that this model is acceptable in terms of obtaining proper informed consent for treatment and the availability of reasonable alternatives in your state.

3. Another continuing concern of the AAO's with this treatment model is that it ignores the value and importance of complete pre-treatment diagnostic records. With many patients, the only "record" submitted for the dentist and the company to formulate a treatment plan include nothing more than a patient-taken picture and a dental impression that the patients take of themselves. Many significant dental and orthodontic complications cannot be determined through these records. For instance, dental caries, periodontal problems, and biological factors that may lead to root resorption and tooth loss, among other issues, would be difficult, if not impossible, to detect

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without the advanced technological screening capabilities that are routinely and widely available today. Rather than taking advantage of advancing technology, we are concerned that this treatment model uses incomplete methods to develop a diagnosis—methods that have not been the primary means for doing so since the routine use of x-ray machines in the first half of the last century.

We respectfully request direction from your board as to whether this treatment model meets the acceptable standard of care in your state.

These may not, in fact, be the only issues that this treatment model raises in your state. The AAO is not making any determination on these or other issues you may find with this treatment model, as it recognizes it does not have the power or responsibility to do so. We would, however, appreciate you informing us of your answers to our concerns so that we may adequately and appropriately inform our members, so that they may best serve the citizens of your state.

If you have any questions or concerns, please contact me at (314) 292-6525, or via email at kdillard@aaortho.org. Thank you in advance for your attention to this matter.

Sincerely,



Kevin J. Dillard
General Counsel

KJD:krd

Received

OCT 21 2016

NSBDE

Debra Shaffer

From: Dr. erika Smith <[REDACTED]>
Sent: Wednesday, October 26, 2016 9:40 AM
To: Debra Shaffer
Subject: Dr. Erika Smith suspension

To Whom It May Concern,

I am requesting the lifting of my suspension for 60 day extension because I have a company that wants to hire me. It would put me in a position to pay my fine and reinstatement fee in the amount of \$1990. I would appreciate your favorable consideration in this matter.

Dr. Erika J. Smith



Nevada State Board of Dental Examiners

6010 S. Rainbow Blvd., Bldg. A, Ste. 1

Las Vegas, NV 89118

(702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

APPLICATION TO REACTIVATE AN INACTIVE / RETIRED LICENSE

Name PATRICIA O. EASTERLING

Current Phone [REDACTED]

Complete Mailing Address [REDACTED]

I, PATRICIA Easterling, wish to reactivate my inactive Dental Dental Hygiene (circle one) license number 10095, which was placed on inactive/retired status on 6/2012. I certify (choose one below):

I have maintained an active license and practice (active license and working) outside the state of Nevada during the period my Nevada license has been inactive;

Requirements for reactivation are:

1. Payment of the reactivation fee of **\$300.00** in addition to the current active license fees. You will need to contact the Board office for confirmation of the correct fees to pay;
2. Provide a list of employment during the time the Nevada license was inactive;
3. Submit proof of current CPR certification (online certification is NOT acceptable);
4. Submit proof of completion of continuing education credits as follows (courses must be completed within the previous 12 months):
 - a. For Dentists reactivating, 20 credit hours are required (of those 20, a minimum of 14 MUST be live-instruction and a minimum of 2 must be in infection control);
 - b. For Hygienists reactivating, 15 credit hours are required (of those 15, a minimum of 10.5 MUST be live-instruction and a minimum of 2 must be in infection control);
5. Provide a current self query report from the National Practitioners Data Bank;
6. Provide certification from each jurisdiction in which you currently hold a license (expired, inactive, retired, etc.) to practice dentistry or dental hygiene, that the license is in good standing and that no proceedings which may affect that standing are pending;
7. Provide letters of recommendation from two (2) licensed dentists;

I have not maintained an active license and practice (no active license and not working) for one or more years outside the state of Nevada during the period my Nevada license has been inactive or retired;

Requirements for reactivation are:

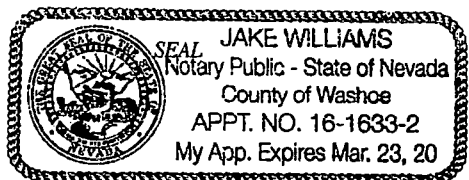
1. For licenses on inactive/retired status for less than 2 years:
 - a. Complete items (1) through (5) above.
2. For licenses on inactive/retired status for 2 years or more:
 - a. Complete items (1) through (5) above;
 - b. Pass such additional examinations for licensure as the Board may prescribe.

Received
JUL 21 2016
NSBDE

I certify that during the period of 2012 through 2016 (the period my license was inactive/retired), I had [REDACTED] filing(s) or service or claim(s) or complaint(s) of malpractice or disciplinary action(s) in any jurisdiction outside the State of Nevada. **FULL DISCLOSURE OF EACH SUCH CASE MUST BE ENCLOSED WITH THIS REACTIVATION APPLICATION.**

I authorize and empower the Nevada State Board of Dental Examiners or its agent to contact any person, firm, service, agency, or the like to obtain information deemed necessary or desirable by the Board to verify any information contained in my application to reactivate my inactive/retired license based upon this affidavit. I acknowledge I have a continuing responsibility to update all information contained in this application until such time as the Board takes action on this application. Failure of an applicant to update the information prior to final action of the Board is grounds for subsequent disciplinary action.

SIGNATURE OF LICENSEE Patricia O. Easterling DATE 7/7/16
SUBSCRIBED TO AND SWORN BEFORE ME, this 7th day of July, 20 16.



NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE