

NEVADA STATE BOARD OF DENTAL EXAMINERS

Meeting Location:



Nevada State Board of Dental Examiners 6010 S Rainbow Blvd, Suite A1 Las Vegas, Nevada 89118

<u>Video Conferencing was available for this meeting at the Nevada State Board of Medical Examiners Office located at: 9600 Gateway Drive; Reno, Nevada 89521</u>

PUBLIC MEETING

Friday, March 22, 2019 10:22 a.m.

Board Meeting Minutes

<u>Please Note</u>: The Nevada State Board of Dental Examiners may hold board meetings via video conference or telephone conference call. The public is welcomed to attend the meeting at the Board office located at 6010 S. Rainbow Blvd, Suite A1; Las Vegas, Nevada 891.18; or in the Conference room of the Nevada State Board of Medical Examiners office located at 1105 Terminal Way, Suite #301, Reno, NV 89502 (when applicable).

Persons wishing to comment may appear at the scheduled workshop/hearing or may address their comments, data, views, arguments or small business impact in written form to: Nevada State Board of Dental Examiners, 6010 S. Rainbow Blvd, A-1, Las Vegas, Nevada 89118, Attn: Debra Shaffer-Kugel, Executive Director; FAX number (702) 486-7046; e-mail address nsbde@nsbde.nv.gov. Written submissions must be received by the NEVADA STATE BOARD OF DENTAL EXAMINERS on or before March 19, 2019 in order to make copies available to members and the public.

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 time is available after roll call (beginning of meeting) and prior to adjournment (end of meeting). Public Comment is limited to three (3) minutes for each individual. You may provide the Board with written comment to be added to the record.

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

Board President, Mrs. Yvonne Bethea, called the meeting to order and the Executive Director, Mrs. Debra Shaffer-Kugel, conducted the following roll call of Board Members:

Mrs. Yvonne Bethea	PRESENT (President),
Dr. R. Michael Sanders	PRESENT (Secretary-Treasurer)
Dr.: Byron Blasco	PRESENT
Dr. Timothy Pinther	PRESENT
Dr.: Jason Champagne	PRESENT
Dr. Gregory Pisani	
Dr. D. Kevin Moore	PRESENT
Dr. David Lee	
Ms. Betty Pate	
Ms. Joan Shadler	PRESENT
Ms. Gabrielle Cioffi	PRESENT

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Others Present: Melanie Bernstein Chapman, Board General Counsel; Rosalie Bordelove, Esquire, Deputy Attorney General/Board Co-Counsel; Debra Shaffer-Kugel, Executive Director.

Public Attendees: Tina Tsou, LVDA Secretary; Lisa Zastrow, Esquire, Counsel for LVDA; Guinness Ohazuruike, Esquire, Counsel for Dr. Luiz dos Santos; Keith West, DDS; Tom Brooksbank, DDS, Esquire; Ed DeAndrade, DDS, NDA Secretary; Rick Dragon, NDA; Sarah McElroy; Georgene Chase, DDS, Smile Restore; Janet Walford, Smiled Restore; Annie Parafianowicz, Smile Restore; Jennifer Hamilton, Smile Restore; Steve Ricker, Smile Restore; Lyn Beggs, Esquire, Counsel for Smile Restore; Damon Hunter, DDH; Keaupuni Warren, Smile Restore; George Lindesmith, Smile Restore; Wendi Spano, Smile Restore; Cathy Lindesmith, Smile Restore; Daniel Bouer, Cameraman for LVDA.

Pledge of Allegiance.

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

Lisa Zastrow, Esq., Counsel for the LVDA, submitted documents with information that was requested by the Board at the November 2018 Board meeting, in regards to public comment submitted by a Mr. Malcolm LaVergne, Co-Counsel for the LVDA. She noted that she was present with respect to agenda item (3)(a).

Ms. Tina Tsou read a statement into the record (copy is on the Board's website under public book for this meeting date) in regards to certain board members that approved stipulation agreements that involved licensees making contributions to nonprofit dental organizations in lieu of community service. Ms. Tsou asked Ms. Sophia Long, DAG to investigate alleged criminal activity by certain board members.

Ms. Sarah McEiroy stated for the record that she has been a patient of Smile Restore for almost 5 years. She spoke of her struggle to find dental care with little to no insurance and unable to afford dental care. She stated that she would like to speak on the character of Smile Restore. She stated the key terms used when defining "non-profit organization". She stated that Smile Restore has helped countless of people in caring for their dental needs, when other dentists would not. She thanked Smile Restore for their compassionate service to healthcare.

Note: No vote may be táken 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. Old Business:

*a. <u>Discussion and review of public comment(s) submitted by the attorney(s) on behalf of members of the LVDA-At the request of Dr Lee at the November 29, 2018 Board Meeting (For Possible Action)</u>

Tabled

*b. Approval for Alternate Non- Board Member to Review Panel (For Possible Action)

(1) Brendan Johnson, DDS

MOTION: Board Member Blasco moved that the Board approve to appoint Dr. Brendan Johnson as an alternate non-board member to the Review Panel. Motion seconded by Board Member Sanders. With no further discussion, vote was unanimous, motion passed.

- *c. <u>Approval of GA Permit Holder as Agent to the Anesthesia Committee</u> NRS 631.190 (For Possible Action)
 - (1) Brendan Johnson, DDS

MOTION: Board Member Blasco moved that the Board approve to appoint Dr. Brendan Johnson as an agent to the Anesthesia Committee. Motion seconded by Board Member Pate. With no further discussion, the vote was unanimous, motion passed.

- *4. Executive Director's Report (For Possible Action)
 - *a. Minutes NRS 631.190 (For Possible Action)
 - (1) Board Meeting 02/22/2019

Executive Director directed the Board members to the draft minutes provided in their meeting books and inquired if there were any amendments/corrections to be made. If none, Executive Director requested approval. There were some grammatical and typographical errors noted by Board Member Pate, Board Member Cioffi, and General Counsel.

MOTION: Board Member Sanders motioned that the Board adopt the draft minutes of February 22, 2019 with the noted amendments. Motion seconded by Board Member Blasco. With no further discussion, the vote was unanimous, motion passed.

- *b. <u>Financials</u> NRS 631.180/NRS 631.190 (For Possible Action)
 - (1) Review Balance Sheet and Statement of Revenues, Expenses and Balances for period July 1, 2018 to January 31, 2019 (Informational Purposes only)

Mrs. Hummel was present. Mrs. Hummel inquired if the Board members had any questions regarding the financial statements. Mrs. Hummel discussed the budget and how some expenses were coming in lower than expected, especially since staff has worked diligently to reduce or eliminate costs wherever possible. She briefly went through the entire budget with the Board. Board Member Moore inquired that if he, or any other board member, ever has any questions can contact her directly. Mrs. Hummel responded they were welcome to.

(2) Request to Amend approved budget for the increase in the contract amount for Lee Drizin, Esquire who is representing the Board, Members, Staff and Agents with litigation (For Possible Action)

Executive Director indicated that this request was approved at the previous board meeting.

(3) Request to Amend approved budget for the contract amount for Robert Eisenberg, Esquire of \$150,000.00 who may represent the Board, Members, Staff and Agents in appellate matters (For Possible Action)

Executive Director indicated that at the previous board meeting, the Board approved the contract for Mr. Eisenberg. She noted that they would only need to adjust the budget by \$25,000 as they are nearing the end of the current fiscal year, and therefore, can budget the remainder in the upcoming fiscal year budget.

MOTION: Board Member Cioffi moved that the board approve to amend the approved budget by \$25,000. Motion seconded by Board Member Pate. With no further discussion, the vote was unanimous, motion passed.

- *c. <u>Authorized Investigative Complaints</u> NRS 631.360 (For Possible Action)
 - (1) Dr. X Received information from the Board's Licensing Specialist that Dr. X has failed to file current board re-certification for his/her designated specialty in accordance with NRS 631.255 (For Possible Action)

Executive Director advised the Board members of the alleged violations of Dr. X and requested the Board authorize an investigation against Dr. X.

MOTION: Board Member Moore motioned the Board authorize the investigation against Dr. X. Motion was seconded by Board Member Pate. No further discussion, the vote was unanimous, motion passed.

(2) Dr. Z - Received information from the State Board of Pharmacy regarding allegations of non-compliance with AB 474, failing to conduct patient-queries and self-queries to the PMP possible violations of NRS 631.3485(2) and NRS 631.395(7) and NAC 631.045(4) (For Possible Action)

Executive Director advised the Board members of the alleged violations of Dr. Z and requested the Board authorize an investigation against Dr. Z.

MOTION: Board Member Cioffi motioned that the Board authorize the investigation against Dr. Z. Motion was seconded by Board Member Pate. Discussion: General Counsel clarified for Dr. Moore, that the Pharmacy Board's statutes directs the Board's to enforce the Pharmacy Board's statutes. As for any action to be taken by the Board upon completion of the investigation, the process is already defined in the Board's current statutes and regulations. No further discussion, the vote was unanimous, motion passed.

*5. General Counsel's Report (For Possible Action)

*a. <u>Legal Actions/Lawsuit(s) Update</u>

General Counsel provided updates to the Board regarding current litigation in District Court. General Counsel stated the case regarding Abbey Dental remained pending, and gave an update on where they were in the case.

General Counsel stated the other two legal matters have been resolved. Board Member Pisani inquired who represented Abbey Dental. General Counsel noted that Ms. Lisa Zastrow was counsel for Abbey Dental. Board Member Pisani inquired if Ms. Zastrow was the same attorney that represented the LVDA, to which General Counsel responded affirmatively.

*b. Consideration of Stipulation Agreement(s) (For Possible Action)

(1) Luiz dos Santos, DMD

General Counsel advised the Board Member the stipulation agreement proceeded from a patient complaint, was reviewed by the review panel. Counsel for Dr. dos Santos was present to answer any questions. General Counsel noted that Mr. Ohazuruike, upon receiving the Review Panel's findings and recommendations, requested a stipulation agreement. General Counsel stated that on behalf of Dr. dos Santos, she asked that the board approve the Corrective Action Plan Non Disciplinary Stipulation Agreement.

MOTION: Board Member Sanders motioned to approve the corrective action plan non disciplinary stipulation agreement. Motion seconded by Board Member Blasco. No further discussion, the vote was unanimous, motion passed. Abstained from the motion: Board Member Pisani and Board Member Pate (Review Panel)

*c. Board to determine if Smile Restore (a non-profit clinic) is operating in accordance with NRS 631.215(2)(f)(3) and NRS 631.3452 (For Possible Action)

(1) Board of Director Members & Dental Director

Lyn Beggs, Counsel for Smile Restore was present. For the newer board members, the Executive Director gave a brief synopsis on Smile Restore, their location, and who they are. Executive Director stated that when there is a non-profit entity wanting to operate in Nevada, the Board must first determine if the entity is operating in accordance with NRS 631.215(2)(f)(3). It was noted that Smile Restore had come before the Board in prior years to determine if they met the requirements as outlined in NRS 631.215(2)(f)(3) and NRS 631.3452. However, that Smile Restore has recently been re-established, thus requiring the Board to newly determine if they are operating in accordance to the statutes. Lyn Beggs introduced Dr. Annie Parafianowicz, current and acting Dental Director of Smile Restore; Janet Walford,

current Board President of Smile Restore; and Steve Ricker, a longtime non-profit consultant, whom has been working with Smile Restore to get them back up and running. Ms. Beggs noted that the current sitting board for Smile Restore was a new board. There was lengthy discussion regarding the fee schedules provided to the Board, which copies were made available to the Board members. Board Member Sanders inquired about the array of fee schedules and noted that the fees were higher than fees found in private practice. Board Member Sanders requested clarification on the disparity of fees and the multiple fee schedules provided. There was additional discussion regarding the multiple fee schedules and Mr. Ricker's experience in working with non-profits. There was a question if Smile Restore was owned by a dentist. Ms. Beggs stated that Smile Restore was not owned by a Nevada licensed dentist, but rather by a non-profit corporation. Board Member Champagne agreed that based on the information listed in the fee schedules, the reduced fees appear to be rather high. It was noted that the some of the fee schedule documents provided to the Board did not contain the even numbered pages. There were some concerns regarding the fee schedules and was unclear how Smile Restore determined which fee schedules patients were being charged from. In order for the Board to be able to determine if Smile Restore is operating in compliance with NRS 631.215(2)(f)(3), they requested more information from Smile Restore's voucher system, a list of its current board members, and the complete fee schedules. The Board agreed to table this agenda item until the next board meeting in May.

*d. Overview of the Board's investigative and adjunctive process in accordance with NRS and NAC Chapter 631 (Information only)

General Counsel stated this was placed on the agenda since there was some confusion regarding the process. She provided information and answered many questions already, but inquired if there were more questions. No action taken.

*6. New Business (For Possible Action)

*a. <u>Discussion request made by Board Member Lee regarding inclusion of verified/authorized complaint and investigatory materials to be included as part of the stipulation agreement</u> (For Possible Action)

Tabled

*b. <u>Board to consider establishing a process for issuance of subpoenas for investigations</u> (For Possible Action)

General Counsel spoke to the Board regarding the issuance of subpoenas by the Board's Executive Director during an investigation, and a determination made by a judge in respect to their interpretation of how the statute reads. General Counsel noted that to the extent that a subpoena is necessary during an investigation, the Board has the authority to issue subpoenas. However, complaints and documents regarding investigations are confidential and may not be shared with the Board. The Board will need to determine how they will move forward with issuing subpoenas until the Board can amend the regulation. Board Member Blasco inquired if a member of the review panel could be the one to issue the subpoenas when necessary? The board determined that because the Secretary-Treasurer's duties are determined by them, and because the current Secretary-Treasurer sits on the Review Panel, the Board would like to assign the duty of issuing subpoenas on behalf of the board when needed, to the Secretary-Treasurer.

MOTION: Board Member Blasco moved that the Board delegate the issuance of subpoenas to the sitting Secretary-Treasurer. Motion seconded by Board Member Pate.

Discussion: Board Member Moore inquired if this motion would satisfy the judge's ruling? General Counsel stated that the judge's ruling was that the Board has the authority to issue subpoenas and not the Executive Director during an investigation; and furthermore, that they have the authority to determine the duties of the Secretary-Treasurer, therefore, the Board delegating this duty on their

behalf to the Secretary-Treasurer was within reason. With no further discussion, the vote was unanimous, motion passed.

*c. Consideration for Approval of Laser Certification Course – NAC 631.035 (For Possible Action)

(1) Institute for Advanced Laser Dentistry – IALD Standard Proficiency Course for Dental Hygienists, Dentists, and Dental Office Staff on the PerioLase MVP-7

Board Member Blasco reviewed the course and stated that all was in order, and recommended approval.

MOTION: Board Member Sanders moved that the board approve the IALD Laser Proficiency Course. Motion seconded by Board Member Pate. Discussion: Board Member Pate inquired what the dental office staff would receive from this course. Board Member Blasco stated that they had to amend their application to indicate that in the State of Nevada, dental office staff not licensed as dentists or dental hygienists could not utilize lasers. Executive Director stated for clarification that the approval letter would clearly state that the approval comes with provisions. With no further discussion, the vote was unanimous, motion passed.

(2) Dedicated Dental Hygiene – Introduction to Lasers

Board Member Champagne reviewed the course and stated that all was in order, and recommended approval.

MOTION: Board Member Blasco moved that the board approve the Laser Course. Motion seconded by Board Member Sanders. With no further discussion, the vote was unanimously, motion passed.

(3) Advanced Dental Hygiene – Diode Laser Training & Certification

Board Member Champagne reviewed the course and stated that all was in order, and recommended approval.

MOTION: Board Member Pinther moved that the board approve the Advanced Dental Hygiene – Laser training and Certification Course. Motion seconded by Board Member Shadler. With no further discussion, the vote was unanimous, motion passed.

*d. <u>Consideration of Application for Licensure by Endorsement</u> – NRS 622.530(2) (For Possible Action)

(1) Keith West, DDS

Executive Director advised the Board that Dr. West was present. Executive Director noted that when the Secretary-Treasurer reviewed the application, there were some concerns about Dr. West's license in Michigan. Dr. West gave a brief synopsis of his licensure issues and his criminal conviction. Executive Director read the statute for Licensure by Endorsement, which was the application type, submitted by Dr. West, which clearly states that anyone with a criminal or civil conviction does not qualify for a license under this licensure method.

MOTION: Board Member Pisani moved that the Board by statute cannot consider the application due to the reasons for initial rejection by the Board's Secretary Treasurer. Motion seconded by Board Member Blasco. Discussion: Dr. West inquired if there were any other options to obtain licensure. There was discussion regarding the a geographical restricted license and licensure by examination and

how those regulations provide the Board latitude when issuing those license types, and should Dr. West decide to complete the WREB or ADEX exam, he could potentially be eligible for licensure. With no further discussion, the vote was unanimous, motion passed.

*e. Approval of Voluntary Surrender of License – NAC 631.160 (For Possible Action)

(1) Marvin Conley, DDS

Executive Director advised the Board the licensee wished to surrender their licenses in the state of Nevada. The surrender is absolute and irrevocable. There is no pending matters and recommends approval of the voluntary surrender.

MOTION: Board Member Pinther moved that the board approve the request for voluntary surrender of Dr. Marvin Conley's dental license. Motion was seconded by Board Member Champagne. No discussion, the vote was unanimous, motion passed.

- *f. Approval for Anesthesia-Permanent Permit NAC 631.2233 (For Possible Action)
 - (1) Moderate Sedation (Pediatric Specialty) 21 years of age or younger (For Possible Action)
 - ; (a) Larry S Hon, DMD

Board Member Moore stated he reviewed the application, that they passed the evaluation, and recommended approval of the permanent pediatric moderate sedation permit (21 years of age or younger) for Dr. Hon.

MOTION: Board Member Blasco motioned that the board approve the permanent pediatric moderate sedation permit (21 years of age or younger) for Dr. Hon. Motion seconded by Board Member Sanders. No discussion, the vote was unanimous, motion passed.

- *g. Approval for Anesthesia-Temporary Permit NAC 631.2254 (For Possible Action)
 - (1) General Anesthesia (For Possible Action)
 - (a) Mitchell D Duckworth, DDS

Board Member Moore stated he reviewed the application and recommended approval of the Temporary General Anesthesia permit for Dr. Ducksworth.

MOTION: Board Member Blasco moved that the board approve the temporary General Anesthesia permit for Dr. Ducksworth. Motion seconded by Board Member Pate. No discussion, the vote was unanimous, motion passed.

- *h. Appointment of Anesthesia Evaluator(s)/Inspector(s) NRS 631:190 (For Possible Action)
 - (1) Manny Rapp, DDS Moderate Sedation (Pediatric Specialty)

Board Member Moore reviewed the application and recommended approval of Dr. Rapp as an agent of the Board to conduct anesthesia evaluations/inspections on behalf of the Board.

MOTION: Board Member Blasco motioned the board approve the appointment of the Anesthesia Evaluator/Inspector. Motion seconded by Board Member Cioffi. No discussion, the vote was unanimous, motion passed.

i. Report from Michael McDonald regarding Senate and Assembly bills and the 2019
Legislative Session (Information only)

Mr. McDonald addressed the Board and discussed proposed bills that have a direct impact on the board. Board Member Lee inquired on bill SB366 that is proposing a separate dental hygiene board and dental therapy, which Mr. McDonald briefly discussed the bill language. Executive Director gave a brief summary of what the intent of the bill is and how there will be a financial impact on the Board should the bill pass, and that she submitted a fiscal note. There was discussion on the role of dental therapists. It was noted that there are only 2 programs in Minnesota that currently are not CODA accredited.

7. Committees:

a. Legislative and Dental Practice (For Possible Action)

(Chair: Dr. Pinther; Dr. Lee; Dr. Moore; RDH Shadler & Ms. Cioffi)

Board Member Pinther stated there were some bills that were pertinent to the board, which a report was provided to them. Executive Director inquired if the board members would like to receive an email with the bill links sent to them to which they agreed they would like.

*b. <u>Legal and Disciplinary Action</u> (For Possible Action)

(Chair: Dr. Blasco; Dr. Pisani; Dr. Lee; RDH Pate & Ms. Cioffi)

Board Member Blasco stated there was no report. Thanked Melanie and McDonald for their assistance.

*c. Examinations Liaisons (For Possible Action)

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

(Dr. Blasco; RDH Pate)

Board Member Blasco stated there was no report. Board Member Pate stated there was no report.

*(2) ADEX Representatives (For Possible Action)

(R. Michael Sanders, DMD)

Board Member Sanders stated there was no report.

*d. **Continuing Education** (For Possible Action)

(Chair: <u>Dr. Champagne</u>; Dr. Lee; Dr. Moore; RDH Shadler)

Board Member Champagne stated there was no report.

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

(Chair: RDH Pate; RDH Bethea; RDH Shadler; Dr. Pisani)

Board Member Pate stated there was a committee meeting after this meeting.

*f. Anesthesia (For Possible Action)

(Chair: <u>Dr. Móore</u>; Dr. Champagne; Dr. Sanders)

Board Member Moore stated there was no report.

*g. <u>Infection Control</u> (For Possible Action)

(Chair: RDH Bethea; Dr. Sanders; Dr. Champagne; RDH Shadler)

Board Member Bethea'stated there was no report.

*h. Budget and Finance Committee (For Possible Action)

(Chair: <u>Dr. Sanders</u>; Dr. Moore; MRDH Bethea; Ms. Cioffi)

Board Member Sanders stated there was no report.

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

Geórge Smith, a licensed land surveyor, read a statement in support of Dr. Georgene Chase. He stated that Dr. Chase has been a wonderful dentist and appreciated the services she offered him. He noted his appreciation for her compassion and enthusiasm to help patients and care for their oral health.

Lisa Zastrow stated that she was present on behalf of her client, the LVDA, and wanted that made clear. She spoke in regards to the tabling of agenda item (3), which was the reason for her appearance here today. She requested that should agenda item (3) ever be placed on a future agenda, she would like to be notified. She recommended that the Board consider adopting how the Medical Board adheres to Rule 45 with regards to the issuance of subpoenas. She noted that should any of her clients be in receipt of a subpoena, she will fight it.

Tom Brooksbank stated that he has been a Nevada attorney over 20 years, and that he was a practicing dentist in Pennsylvania for the past 10 years. Stated that he wanted to come see the board at a meeting, and stated that if he could be of service to anyone, to reach out to him. He stated that he is looking to be a dentists' lawyer, and that his goal was to represent dentists.

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)

9. Announcements: No announcements made.

*10. Adjournment (For Possible Action)

Board Member Bethea called for a motion to adjourn.

MOTION: Board Member Blasco motioned the March 22, 2019 meeting of the Nevada State Board of Dental Examiners be adjourned. Motion seconded by Board Member Sanders, and without discussion, the vote was unanimous, motion passed.

Meeting adjourned at 1:03 p.m.

Minutes approved at the May 10, 2019 Board Meeting Respectfully Submitted by:

Debra Shaffer-Kugel, Executive Director