



Douglas A. Ducey,
Governor

Arizona State Board of Dental Examiners

“Caring for the Public’s Dental
Health and Professional Standards”

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OPEN SESSION MINUTES FOR SPECIAL MEETING OF THE BOARD’S RULES ADVISORY GROUP Held on Friday, January 22, 2021

Group Members

Heather N. Hardy, RDH – Chairperson

Aditya Dynar, Esq.

Anthony Herro, DDS

Robert B. Taylor, DDS

I. CALL TO ORDER AND ROLL CALL

Chairperson Hardy called the Group’s meeting to order at 8:02 a.m.

ROLL CALL

The following Rules Advisory Group (“Group”) members participated in the meeting:

Chairperson Hardy, Mr. Dynar, Dr. Herro and Dr. Taylor.

ALSO PRESENT

The following Board staff and Assistant Attorneys General participated in the meeting:

Ryan P. Edmonson, Executive Director; Kristina C. Gomez, Deputy Director; Seth T. Hargraves, Esq., Assistant Attorney General (“AAG”); Sherrie Biggs, Assistant Deputy Director; Selena Acuna, Legal Administrator; Susie Adams, Program and Project Specialist; Jill Barenbaum, Administrative Assistant; Julie Cutler, DMD, Deputy Chief Investigator; John Dovgan, DDS, Chief Investigator; Nancy Elia, Administrative Services Officer; Lisa Schmelling, Chief Compliance Officer; and, Andrea Cisneros, Minutes Administrator.

The following individuals participated in/observed the meeting:

Brennon Hancock, CGA AZDA

Deb Kappes, AZ Dental Hygienists’ Association

Kristen Boilini, Pivotal Policy Consulting

Jessica Thomas, Rule Writing Consultant

Kim Russell, AZ Advisory Council on Indian Health Care

Sean Murphy, Arizona Dental Association

Alida Montiel, Inter Tribal Council of Arizona

II. WELCOME AND INTRODUCTIONS

Chairperson Hardy recognized the stakeholders participating in today’s proceedings, thanked them for their time and stated that their input in this process is invaluable.

III. CALL TO THE PUBLIC

Ms. Montiel addressed the Group during the Call to the Public regarding the notice of proposed rule making and stated that there appeared to be a section missing from the updated draft.

IV. SCOPE OF WORK

Ms. Hardy offered to serve as the Group’s Chairperson.

MOTION: Mr. Dynar nominated Ms. Hardy as the Group’s Chairperson.
SECOND: Dr. Taylor
VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

Chairperson Hardy explained that the Group will continue to review and vote on the proposed draft that will ultimately be presented to the full Board for final review and approval.

V. NOTICE OF PROPOSED RULEMAKING (“NPR”)

The Group reviewed and discussed possible action to recommend that the Board approve draft NPRs for submission to GRRC, including proposed changes to Title 4, Chapter 11, Articles 1, 2, 3, 4, 5, 6, 7, 9, 12, 13, 14 and 15, including the adoptions of rules regarding the licensing and regulations of Dental Therapists and amendments to the continuing education (“CE”) requirements and advertising.

The Group continued where the Board had left off at its October 30, 2020 meeting and discussed R4-11-203 regarding Dental Therapist Licensure by Credential; Application. Stakeholders offered input and the Group considered the proposed revisions to subsection E, numbers 1 and 2, to provide clarification with regard to what settings are eligible for reduction in licensure fees.

MOTION: Chairperson Hardy moved for the Group to modify and approve the proposed language in R4-11-203(E)(1) and (2) by adding the statutory reference of A.R.S. § 32-1276.04 to the top of this section of rule.
SECOND: Dr. Taylor
VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

The Group considered the proposed language in section F and subsections 1-3 of R4-11-203.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-203(F)(1) – (3).
SECOND: Dr. Taylor
VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

The Group considered the proposed language in section G of R4-11-203.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-203(G).
SECOND: Dr. Taylor
VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

The Group considered the proposed language in section A and subsections 1-3 of R4-11-301 regarding Applications.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-301(A)(1) – (3). A1-3 including A and B as written.
SECOND: Mr. Dynar
VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

The Group discussed and received stakeholder input on the proposed language in sections R4-11-301(A)(4) and R4-11-301(A)(4)(a) regarding proof of completion of clinical examination.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-301(A)(4) and R4-11-301(A)(4)(a).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received input from stakeholders on the proposed language in R4-11-301(A)(4)(b) regarding dental therapy licensure by examination. The Group also received input from Board staff regarding whether or not to strike “Arizona Board-approved” from the language in this subsection. Mr. Dynar spoke in favor of striking this language from the rule to allow the Board the ability to make determinations on a case-by-case basis as to whether the clinical portion of the examination was substantially equivalent to the Western Regional Board Examination. He also supported replacing the statutory reference with A.R.S. § 32-1276.01(B)(3)(a). Chairperson Hardy instructed staff to agendaize discussion of A.R.S. § 32-1233(2) for potential revisions.

The Group further discussed and received additional stakeholder input regarding whether dental therapy applicants will be required to first hold an Arizona Dental Hygiene license versus having completed training in that area in order to qualify for licensure. The Group and stakeholders also engaged in a discussion regarding the different requirements for the licensing pathways of universal recognition and licensure by examination for Dental Therapists.

MOTION: Chairperson Hardy moved for the Group to modify and approve the proposed language in R4-11-301(A)(4)(b) by striking “Arizona Board-approved,” replacing A.R.S. § 32-1233(2) with A.R.S. § 32-1276.01(B)(3)(a) and adding “license” to clarify that the hygiene license number should be included.

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received stakeholder input on R4-11-301(A)(4)(c) regarding replacing the statutory reference of A.R.S. § 32-1233(2) with A.R.S. § 32-1285(2) and striking “Arizona Board-approved” from this subsection.

MOTION: Chairperson Hardy moved for the Group to modify and approve the proposed language in R4-11-301(A)(4)(c) to strike “Arizona Board-approved” and replace the statutory citation of A.R.S. § 32-1233(2) with A.R.S. § 32-1285(2).

SECOND: Mr. Dynar

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group to a break from 9:36 a.m. to 9:47 a.m.

Upon returning to Open Session, the Group discussed and received stakeholder input regarding the proposed language in R4-11-301(A)(4)(d), and considered striking this subsection from rule.

MOTION: Chairperson Hardy moved for the Group to strike the proposed subsection of R4-11-301(A)(4)(d).

SECOND: Mr. Dynar

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received stakeholder input on the proposed language for R4-11-301(A)(4)(e) regarding dental therapy licensure by credential and considered striking this section as section (4) specifically involved the pathway of licensure by examination, not by credential.

MOTION: Chairperson Hardy moved for the Group to strike R4-11-301(A)(4)(e) in the proposed draft.

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received stakeholder input regarding R4-11-301(A)(5) of the proposed draft regarding National Board examination. The Group recognized that there is currently no national exam for dental therapists and considered including the reference to specific statutes for the individual types of licenses to clarify the examination components. The Group also noted that the Board is required to review its rules every five years and that this issue could be revisited at such time that a national exam is created for dental therapists. After hearing further input from members and stakeholders, the Group discussed approving the draft of this section as written.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-301(A)(5).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group considered section R4-11-301(A)(6).

MOTION: Chairperson Hardy moved for the Group to approve R4-11-301(A)(6) as written.

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received comments from Board staff regarding R4-11-301(A)(8) regarding the NPDB self-inquiry.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in section R4-11-301(A)(8).

SECOND:

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Chairperson Hardy moved for the Group to strike section R4-11-301(A)(9).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-301(A)(10).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received input from staff regarding R4-11-301(A)(11) in the proposed draft. Executive Director Edmonson informed the Board regarding a pending legislative bill that if approved would require boards to accept all forms of payment including cash. The Group considered modifying the rule language regarding acceptable forms of payment to include generic language that would include all approved methods of payment. The Group also recognized that the same modification would need to be made to other areas of the NPRs that have already been reviewed. The Group members accepted Ms. Thomas' proposed language of "by a method authorized by law" and discussed tabling the sections pertaining to fees for staff to make the modifications and return to the Group for review and approval.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-301(B)(1) – (3).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group considered the proposed language in section R4-11-301(C).

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-301(C).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group considered the proposed language in R4-11-303(A).

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-303(A)(1) – (3).

SECOND: Mr. Dynar

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group considered section R4-11-303(C).

MOTION: Chairperson Hardy moved for the group to approve section R4-11-303(C).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group considered the proposed language in R4-11-303(F)(1) – (3).

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-303(F).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group proceeded to review and consider Article 4 regarding fees and Executive Director Edmonson made suggestions to the Group regarding its process for addressing the language for acceptable payment methods versus tabling these sections and having it return for further review and consideration by the Group.

MOTION: Chairperson Hardy moved for the Group to modify and approve the proposed language in sections R4-11-301(A)(11), R4-11-401 and R4-11-403(A) to replace the payment methods language with “shall be paid by a method authorized by law.”

SECOND: Mr. Dynar

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group considered the proposed language in R4-11-403(A)(1) – (8) regarding fees.

MOTION: Chairperson Hardy moved for the Group to approve the proposed language in R4-11-403(A)(1) – (8).

SECOND: Dr. Taylor

VOTE: 4-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Group discussed and received input from stakeholders and staff regarding the proposed language in R4-11-403(B)(1) – (4) regarding license-related fees. The Group also discussed the fee schedule for the different items listed under this section and noted the different fees that apply to the different types of licenses, particularly the jurisprudence examination fee schedule. The Group noted that the jurisprudence examination fees are outlined in A.R.S. § 32-1232 and A.R.S. § 32-1284 pertaining to dentists and dental hygienists, respectively, and considered whether this section of rule was needed. Based upon further discussion of this section, the Group elected to table the remaining NPRs to its next meeting along with a discussion topic relating to the jurisprudence examination requirement.

VI. GOVERNOR’S REGULATORY REVIEW COUNCIL (“GRRC”)

The Group discussed the recent correspondence to the Executive Director from GRRC asking the Board to consider modifying its rules to permanently waive the licensing fees that were waived in 2020 due to COVID and the declared state of emergency. Executive Director Edmonson reported that the Agency began collecting fees at the start of 2021 and will continue to do so until the Board makes a recommendation not to. He reported that the Agency currently has a backlog of investigations due to the inability to hire additional staff that is needed to help with the workload. The Group heard comments from stakeholders and from staff regarding the Agency’s inability to access its current fund balance and the Governor’s passing of a skinny budget. Deputy Director Gomez commented regarding the Agency’s revenue stream and stated that if the fees were permanently waived, the Agency would no longer receive operational funds.

Mr. Dynar departed from the meeting around 11:08 a.m.

Executive Director Edmonson informed the Group that if the Agency permanently waived fees, it would be insolvent in two to three years. The Group discussed responding to GRRC that the Agency will proceed with collecting initial licensing fees and whether or not to waive renewal fees. Executive Director Edmonson informed the Group that this item will be agendized for the Board’s meeting scheduled for January 29, 2021 for further consideration and discussion.

VIII. DISCUSSION AND POSSIBLE ACTION FOR FUTURE MEETINGS AND AGENDAS

The Group instructed staff to agendize the remainder of the rule package for review at a future meeting as well as a discussion topic relating to the jurisprudence examination requirement. Executive Director Edmonson reported that he would correspond with members and staff via email to determine future meeting dates.

IX. ADJOURNMENT

MOTION: Dr. Taylor moved for the Board to adjourn.

SECOND: Chairperson Hardy

VOTE: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board's meeting adjourned at 11:14 a.m.