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Governor

Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

April 9, 2021

Rules Advisory Group Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) Rules Advisory Group (“Group”) held a special meeting in virtual and telephonic formats due to the COVID-19 pandemic. The Group did not meet in executive session.

GROUP MEMBERS

Heather N. Hardy, RDH	Chairperson
Aditya Dynar, Esq.	Board Member and Group Member
<input checked="" type="checkbox"/> Anthony Herro, DDS	Board Member and Group Member
Robert B. Taylor, DDS	Group Member
<input checked="" type="checkbox"/> Absent	

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT

Ryan P. Edmonson	Executive Director
Kristina C. Gomez	Deputy Director
Seth T. Hargraves, Esq	Assistant Attorney General
Sherrie Biggs	Assistant Deputy Director
Jessica Thomas	Rules Administrator

GUESTS PARTICIPATING AND/OR PRESENT

Kristen Boilini	Partner, Pivotal Policy Consulting
Deborah Kappes, RDH, MPH	Advocacy Chair, Arizona Dental Hygienist’s Association
John McDonald	Arizona Dental Association
Alida Montiel	Health and Human Services Director, Inter Tribal Council of Arizona
Sean Murphy, JD	Executive Director and General Counsel, Arizona Dental Association

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 8:02 a.m. by Ms. Hardy. Roll call of the Group members was taken and a quorum was established.

II. WELCOME AND INTRODUCTIONS

Group members and staff introduced themselves. Board staff welcomed the new members and thanked the Group for its continued service.

III. CALL TO THE PUBLIC

No individuals addressed the group during the call to the public.

V. RENEWAL CYCLE

Mr. Edmonson informed the Group of the recent passing of Senate Bill 1013 and its January 1, 2022 effective date. Ms. Thomas further informed the Group of the changes that could be made in rule to be consistent with the statutory requirements for the new renewal cycle. The Group discussed drafting language after receiving the exemption from the Governor's Office to pursue the rulemaking process.

Motion: Mr. Dynar moved to bring the Board's rules into compliance with Senate Bill 1013.

Second: Ms. Hardy

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

VI. DENTAL ASSISTANTS

Mr. Edmonson stated that the Board does not regulate dental assistants and informed the Group that the Board's rules currently address that profession. Mr. Edmonson suggested using the State of Oregon's language for dental assisting as a model to reference for rule writing. The Group further discussed the Board's current process for credentialing dental assistants through A.A.C. R4-11-304. Mr. Edmonson explained that there isn't a way for the public to know if a dental assistant has received proper credentialing to practice in Arizona. The Group proposed to continue working with the Dental Assisting National Board ("DANB") to make statutory and/or regulatory changes to better regulate the profession.

Motion: Mr. Dynar moved to direct staff to work with DANB for options on how to change the statutes and rules regarding dental assistants and bring a recommendation to the Group for review.

Second: Ms. Hardy

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

VII. SUMMARY OF CURRENT EVENTS

Mr. Edmonson informed the Group that the full fee waiver for license renewal expired December 31, 2020 and that a partial fee waiver of sixty percent would be in effect for the 2021 renewal cycle.

IV. NOTICE OF PROPOSED RULEMAKING ("NPR")

The Group reviewed A.A.C. R4-11-403(B) to ensure that the proposed licensing fees in rule remain in harmony with statutory fees. The Group moved on to consider whether there was a need for the Jurisprudence exam and proposed eliminating the Jurisprudence exam to instead have applicants sign an attestation.

Motion: Ms. Hardy moved to direct staff to place on the Board's agenda the proposal to remove the Jurisprudence exam including fees associated with it and direct staff to seek legislative amendment.

Second: Mr. Dynar

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group proceeded to review Article 7.

Ms. Kappes proposed amending subsection A to remove the following language: “under a written collaborative practice agreement”. The Group discussed the statutory authority for a dental therapist to supervise the dental assistant profession pursuant to A.R.S. 32-1746.04(E)(4) and A.R.S. 32-1746.03.

Motion: Mr. Dynar moved to amend R4-11-701 subsections A and B to say a “licensed dentist or dental therapist” and delete “under a written collaborative practice agreement”.

Second: Ms. Hardy

Vote: 2-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Taylor voted against this motion.

Motion: Mr. Dynar moved to keep the changes to R4-11-701(A)(1) and R4-11-701(A)(10) as written in the draft NPR.

Second: Ms. Hardy

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Mr. Dynar moved to include “licensed” in subsections A and B for consistency.

Second: Ms. Hardy

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group discussed further clarifying the relationship between direct supervision and a written collaborative practice agreement.

Motion: Mr. Dynar moved to add a dental therapist to subsection A(11).

Second: Ms. Hardy

Vote: 2-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Taylor voted against this motion.

The Group proceeded to discuss language for R4-11-702

Motion: Mr. Dynar moved to add licensed dental therapists to subsection A(1).

Second: Ms. Hardy

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group moved to review R4-11-901 Application for Restricted Permits.

Ms. Kappes stated that restricted permits do not apply to dental therapy and subsequently suggested removing references to dental therapy in Article 9.

Motion: Mr. Dynar moved to remove all references to dental therapy in Article 9.

Second: Dr. Taylor

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Mr. Dynar moved to add “dental therapist” to R4-11-1502.

Second: Dr. Taylor

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group proceeded to review R4-11-1503 Initial Complaint Review.

Ms. Hardy asked if striking “certified” mail would be an appropriate amendment to Subsection A.1 to notify a complainant, licensee, certificate holder, business entity or mobile dental permit holder of a complaint. Mr. Hargraves indicated that certified mail is a preferred form of communication for a notice, subpoena and notice of hearing.

Motion: Ms. Hardy moved to direct board staff to work with legal counsel to review R4-11-1503(A)(1) and propose language for the Group to review.

Second: Dr. Taylor

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group took a break from 10:18 a.m. to 10:29 a.m.

Roll call of the members was taken and a quorum was established.

The Group proceeded to review Subsection B.

Motion: Ms. Hardy moved to have R4-11-1503(B)(1)(a) changed to read “If a complaint involves a dental hygienist, dentist, dental therapist or dentist...”.

Second: Mr. Dynar

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group reviewed R4-11-1503(B)(1)(b) and discussed the context of the rule and whether the proposed language was appropriate.

Motion: Ms. Hardy moved to accept the proposed changes for R4-11-1503(B)(1)(b).

Ms. Hardy rescinded her motion.

Mr. Hargraves clarified that R4-11-1503(B)(1)(b) specifically addresses clinical evaluations.

Motion: Mr. Dynar moved to direct staff to draft language for conflict of interest and disclosure of the licensee’s identity in situations where the dental consultant is providing a report to the Board.

Second: Ms. Hardy

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group proceeded to review Subsection C.

The Group discussed whether it was necessary to have the language in Subsection C in view of the fact that there was already statutory authority to suspend any license pursuant to A.R.S. 32-1263.02(D).

Motion: Ms. Hardy moved to remove Subsection C.

Second: Mr. Dynar

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Group proceeded to review Article 16.

Ms. Montiel addressed the Group to request that the proposed rule language include federal and state law. The Group considered Ms. Montiel's request, discussed the matter and agreed to continue discussion at the next meeting.

VIII. DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETINGS AND AGENDAS

The Group discussed possible future meeting dates.

IX. ADJOURNMENT

Motion: Dr. Taylor moved to adjourn the meeting at 11:59 p.m.

Second: Mr. Dynar

Vote: 3-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.