



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

July 17, 2020 Special Board Meeting

Members of the Arizona State Board of Dental Examiners (“Board”) held a meeting at 8:03 a.m. on Friday, July 17, 2020, which was held virtually and telephonically due to the COVID-19 pandemic. All participants, including guests participated either telephonically or virtually. The Board did not meet in executive session.

BOARD MEMBERS:

- Heather N. Hardy, RDH..... President and Licensed Hygienist Member
- Robert B. Taylor, DDS Vice-President and Licensed Dentist Member
- Lisa B. Bienstock, DMD..... Licensed Dentist Member
- Morgan Burg..... Business Entity Member
- Aditya Dynar, Esq..... Public Member
- Nick Goodman..... Public Member
- John N. Harman, IV, DDS Licensed Dentist Member
- Anthony Herro, DDS Licensed Dentist Member
- Marilyn J. McClain, RDH..... Licensed Hygienist Member
- Russell J. Morrow, DDS Licensed Dentist Member
- Leslie D. Seaman, DDS Licensed Dentist Member
- Left the meeting at 10:45 a.m.
- Participated from 8:04 a.m. to 11:48 a.m.
- Participated from 9:32 a.m. to 9:52 a.m.
- Absent

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
- Kristina Gomez Deputy Director
- Seth T. Hargraves, Esq..... Assistant Attorney General
- Sherrie Biggs..... Licensing Manager
- Miriam Thompson, LLB, LEC Chief Compliance Officer
- Nancy Elia..... Licensing Administrator
- Selena Acuna Legal Administrator
- Lisa Schmelling Administrative Assistant

GUESTS PARTICIPATING AND/OR PRESENT:

- Kristen Boilini, Managing Partner..... Pivotal Policy Consulting

Stuart Blumenthal, DDS, Assistant Director of Examinations.....	CDCA
Zaida Dedolph, Director of Health Policy	Children’s Action Alliance
Denise Helm.....	Arizona Oral Health Coalition
Deb Kappes, RDH, MPH.....	Arizona Dental Hygienists’ Association
Jeanette Lalli, RDH, Vice-President.....	Arizona Dental Hygienists’ Association
Dorothy Lew, Executive Director.....	Pan Asian Community Alliance
John MacDonald, Esq.	Arizona Dental Association
Alida Montiel, Director.....	Health & Human Services, Inter Tribal Council of Arizona
Ta Moore.....	Guest
Sean Murphy, Executive Director.....	Arizona Dental Association
Da-Nell Pedersen, Director of Clinical Programs, Arizona Alliance for Community Health Centers	
Gary Pickard	Pacific Dental Services
Patty Price	Rio Salado College
Layal Rabat	Asian Pacific Community in Action, Arizona Oral Health Coalition
Jessica Rainbow, Senior Associate	Pivotal Policy Consulting
Emily Raymond, Operations Director	Goodman Schwartz Public Affairs
Kim Russell, Executive Director	Arizona Advisory Council on Indian Health Care
Brian Thomas.....	Guest
Jessica Thomas.....	Rules Consultant
Alicia M. Thompson	Southern Arizona Oral Health Coalition
Brianna Weeks	Arizona Oral Health Coalition

OPEN SESSION

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 8:03 a.m. by Heather N. Hardy. Roll call of the Board members was taken and a quorum was established. The following order of business was then considered.

DECLARATION OF CONFLICTS OF INTEREST – A.R.S. § 38-503

None were declared.

NOTICE OF PROPOSED RULEMAKING (“NPR”)

The Board reviewed, discussed the Notices of Proposed Rulemaking and invited other stakeholders to voice their concerns, amendments, deletions, etc. The Board discussed the statutory provision regarding dental therapy that passed during the 2018 legislative session, including the difficult process of moving a bill through the legislative process. The Board also understood/stands that the bill that became law was a deliberate consequence of many negotiations, very careful debates and ultimately is a product of a great deal of discussion and negotiation. John MacDonald stated that the law reads the way it does on purpose and if there is not other specific language in the law; it’s on purpose and because there wasn’t an agreement. Mr. MacDonald expressed his concern that a rules package should not include things that differ from the law because the law was not a product of oversight, but on the contrary, it was left out deliberately and after very deliberate and careful conversations at the Legislature.

The Board scrolled through the draft Notices of Proposed Rulemaking and provided members and stakeholders opportunities to suggest amendments.

After a discussion regarding adding a separate article at the end of the Board’s current rules or adding dental therapy rules into the existing *Article 5. Dentists*, a motion was made by Heather N. Hardy, seconded by Aditya Dynar and passed unanimously to create a separate article and add it at the end of the Board’s current Articles sequentially and amend A.A.C. R4-11-503 by striking the draft language and instead reference A.R.S. 32-1276.03(B).

After further discussion, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to remove all the dental therapy references in the current draft and add them in its own separate Article in sequential order.

After the Board discussed A.A.C. R4-11-607 & 608 and the composition of the dental hygiene committee and whether or not these rules should include dental therapists, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to remove the words “dental therapists” from the draft language and add the word “hygiene” after the word “dental”, but before the word “examiners”.

The Board heard professional arguments from stakeholders regarding the reference to the American Dental Association under A.A.C. R4-11-1102 and agreed that there should be a change to the reference.

After discussion, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed 8 – 2 to amend A.A.C. R4-11-1102(A) to read, “A dentist may advertise as a specialist or use the terms “specialty” or “specialist” to describe professional services only if the dentist limits the dentist’s practice exclusively to one or more of the following specialty areas that have a post-doctoral program consisting of at least two full-time years and is accredited by an accreditation agency that is recognized by the United States Department of Education” and then list the specialties.

Aditya Dynar and Nick Goodman voted against the motion.

Dr. Lisa Bienstock left the meeting at 9:52 a.m.

The Board then discussed amendments to Article 11.

After discussing a couple of amendments and in lieu of Dr. Bienstock’s absence, a motion was made by Heather N. Hardy, seconded by Nick Goodman and passed unanimously to table any action regarding Article 11 until a future board meeting.

The Board took a break from 9:54 a.m. to 10:01 a.m.

After break, roll call of the Board members was taken and a quorum was established. The following order of business was then considered.

NOTICE OF PROPOSED RULEMAKING (“NPR”)

The Board continued to review and discuss the Notices of Proposed Rulemaking and invited other stakeholders to voice their concerns, amendments, deletions, etc. as they progress through the draft materials.

The Board discussed the Board's Article 12, including the continuing education requirements and the commensurate amount of continuing education levels for a dental therapist.

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to have A.A.C. R4-11-1203(3) read, "at least three credit hours in chemical dependency or opioid education, which may include tobacco cessation".

Both Ms. Hardy and Dr. Taylor rescinded their motion and second respectively.

After a discussion regarding continuing education, a motion was made Heather N. Hardy, seconded by Marilyn J. McClain and passed 6 – 1 – 2 to add culturally competent care and health disparities to subsections 2 of A.A.C. R4-11-1203 and 1204 and the new dental therapy rule, which will similarly mirror these rules.

Aditya Dynar and Dr. Robert B. Taylor voted against the motion.

Nick Goodman abstained.

For clarification, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to have the new dental therapy continuing education requirements mirror the dentists' requirements in A.A.C. R4-11-1203 by keeping subsection 1 through the sentence that begins with "A licensee who holds a permit to administer general anesthesia...", and strike this sentence, keep subsection 2 with the additional amendments that were just approved in in the previous vote and have subsection 3 read, "at least three credit hours in chemical dependency or opioid education, which may include tobacco cessation".

After a discussion the continuing education requirements regarding retired licensees, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to add a subsection 2.b. Dental Therapists and then renumber/letter the current b and c to be c and d and make the hours requirement be 24 for dental therapists, which is between a dentist and dental hygienist.

John N. Harman, IV left the meeting at 10:45 a.m.

Board staff provided a summary of the Board's documents in their materials and requested comments on the additional stakeholders' provided documents.

After discussion, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to make the agreed upon amendments to the draft Notices of Proposed Rule Making and schedule another special meeting to include the new drafts and the rule regarding advertising.

A motion was made by Aditya Dynar, seconded by Heather N. Hardy and passed to move forward with the rules approved from today's meeting and submit them to the Governor's Regulatory Review Council.

FIVE-YEAR RULE REVIEW

Board staff and Jessica Thomas provided an update regarding the Board's approved Five-Year Rule Review, but provided information about the Governor's Regulatory Review Council's concern about the Board's continuing education requirements being greater than at least 51 other United States' dental jurisdictions.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded Heather N. Hardy and passed 7 – 1 – 0 to reduce the amount of continuing education hours for each profession the Board regulates by nine, which would make dentists requirements 63 versus 72, dental therapists 54 versus 63 and hygienists 45 versus 54.

Nick Goodman abstained.

Following the aforementioned motion, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed 7 – 1 – 0 to make amendments to subsections 1 and 2 of A.A.C. R4-11-1203 and 1204 and the new dental therapy rule by reducing the requirements of each respective subsection 1 by six hours and subsection 2 by three hours.

Nick Goodman abstained.

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed 6 – 1 – 1 to amend A.A.C. R4-11-1209(B) to reduce the total number of credit hours earned per renewal period in any combination of the activities listed in A.A.C. R4-11-1209(A)(4) to be 21 for dentists, add dental therapists and make the amount 18 hours for dental therapists and 15 for hygienists.

Aditya Dynar voted against the motion.

Nick Goodman abstained.

After a discussion regarding the differences between online continuing education courses versus live webinars and that hygienists were reduced by more than 1/3 of the total, a motion was made by Heather N. Hardy, seconded by Marilyn J. McClain and passed 7 – 1 – 0 to rescind the previous motion and make the total number of credit hours earned per renewal period in any combination of the activities listed in A.A.C. R4-11-1209(A)(4) 21 hours for all license holders.

Nick Goodman abstained.

A motion was made by Heather N. Hardy, seconded by Marilyn J. McClain and passed 7 – 1 – 0 to amend A.A.C. R4-11-1208 by reducing the total number of required continuing education hours by three for each license type.

Nick Goodman abstained.

A motion was made by Aditya Dynar, seconded by Dr. Robert B. Taylor and passed to add a start date for the new continuing education requirements to be effective based on a delayed effective date.

Nick Goodman abstained.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Response/Non-response to Offered Consent Agreement(s)

202000044; Meyer, Nicholas (tabled from the June 5 board meeting)

Board staff provided an update on the status of an offered consent agreement.

After discussion, a motion was made by Dr. Robert B. Taylor and seconded by Heather N. Hardy to file a Complaint and Notice of Hearing before the Office of Administrative Hearings to seek revocation and grant the Board's attorney limited authority to settle with suspension and the Board's costs in this matter. The motion passed 7 – 1 by the following the roll call vote:

Heather N. Hardy, RDH – Aye

Robert B. Taylor, DDS – Aye

Morgan Burg – Aye

Aditya Dynar, Esq – Nay

Nick Goodman – Aye

Anthony Herro, DDS – Aye

Marilyn J. McClain, RDH – Aye

Leslie D. Seaman, DDS – Aye

DRIVING UNDER THE INFLUENCE (“DUI”) AND DRIVING WHILE INTOXICATED (“DWI”) DISCLOSURES

The Board's staff provided a summary of the staff's current processes when reviewing applications received for licensing, which also contain applicant disclosures of a history of a DUI(s) and/or DWI(s). Board staff requested whether or not the Board was comfortable with the current processes or whether they would like to make changes to their previous agreed upon processes. The Board agreed that the current processes are still sufficient.

CALL TO THE PUBLIC

Deb Kappes was present and requested that the Board consider reviewing and making amendments to Article 6 of the Board's rules at a future meeting and as part of the Board's rule review.

SUMMARY OF CURRENT EVENTS

No current events were provided.

DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS

No discussion was had about future meeting agenda topics.

ADJOURNMENT

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to adjourn the Board meeting at 11:51 a.m.