

**GEORGIA BOARD OF DENTISTRY**  
**Rules Committee Meeting**  
**2 Peachtree St., N.W., 5<sup>th</sup> Floor**  
**Atlanta, GA 30303**  
**March 2, 2018**  
**9:00 a.m.**

**The following Committee members were present:**

Dr. Tom Godfrey, Chair  
Dr. Tracy Gay

**Staff present:**

Tanja Battle, Executive Director  
Bryon Thernes, Assistant Attorney General  
Ryan McNeal, Chief Investigator  
Kimberly Emm, Attorney

**Visitors:**

John Watson, ADSO  
Ryan Loke, PDS  
Scott, Lofranco, GDA  
Charles Craig, GDHA  
Valerie Ferro, GDHA  
Bekah Adamson, GDHA  
Marjorie M. Cabell, NGDS  
Dawn Lipfert  
Richard Lipfert, DMD  
Summer Grisamore  
James E. Barron, GDS  
Kevin Frazier, DCG  
Eunice Chay, Grady  
Terrisha Scott  
Felicia Williams  
Sid Barrett, Public Health  
Mark Willis  
Kim Willis  
Martin Krieger, GA Academy of Ped Dentists  
Pam Wilkes, Help A Child Smile/Shurett  
Dental

Dr. Godfrey established that a quorum was present and called the meeting to order at 9:06 a.m.

**Approval of Minutes**

Dr. Gay made a motion to approve the minutes for the December 1, 2017 meeting. Dr. Godfrey seconded and the Committee voted unanimously in favor of the motion.

**Correspondence from Tiffaney Beeman**

The Committee considered this correspondence requesting clarification regarding Rule 150-5-.03(6). Ms. Beeman asked, since she is newly licensed in Georgia, if she has to work in Georgia two years before she can perform dental hygiene services under general supervision. She added that she has 12 years-experience in other states. Dr. Godfrey stated that she would be able to perform dental hygiene services under general supervision as long as she has worked 1,000 hours for each twelve-month period. Dr. Gay agreed and recommended discussing this further with the full Board.

## **Rules Discussion**

Rule 150-5-.03 Supervision of Dental Hygienists: The Committee discussed the need to define two-years' experience and recommended mirroring the credentials rule, which states 1,000 hours for each twelve-month period.

Rule 150-7-.03 Volunteers in Dentistry: Ms. Battle stated the request is to streamline the process so an individual who holds an active license can move to a volunteer license without having to submit the application in its entirety. Dr. Godfrey commented that he felt the full Board would be open to considering this. He asked Mr. Thernes if there was way the Board can do this without working around anything. Mr. Thernes responded he would need to conduct the proper research regarding such. Dr. Gay asked if it can be done administratively and the Board can approve at the next meeting. Ms. Battle indicated an application would still be needed. Ms. Battle read the requirements for Rule 150-7-.03 and asked the Committee if any of the requirements listed does Ms. Battle thinks can be done administratively. Ms. Battle responded by stating that a shorter application can be developed that could exclude education. She added that there has to be an assumption that if they have an active license they already meet those requirements that are listed. She stated the disciplinary questions can be left because the Board will want current information. She stated that section (1)(a) of the rule references "Need of the Community" and requests documentation. She further indicated that the current application does not address this requirement. Dr. Godfrey stated that for someone who is already holding a full license in good standing, this should be an easy process. Ms. Battle stated that an active licensee could either renew or decide if he/she wants to be a volunteer. Dr. Gay asked if this is more for dentists coming from a different jurisdiction looking to come into Georgia. Ms. Battle responded by stating this application would still be applicable there as we would need all this information, but the question currently is for active Georgia dentists looking to become volunteers. Dr. Godfrey commented that he thinks the licensee should just send notification to the Board office. He stated there is no fee. Ms. Battle responded by stating except for a \$1 renewal fee for online renewal. Dr. Godfrey requested that information be added to the application. Dr. Gay stated it seems the Board is basically asking the licensee to surrender their full license for the volunteer license. Mr. Thernes responded by stating that it sounds like the licensee is relinquishing his/her rights, as they are not asking for any rights they do not already have. Ms. Battle stated that the rule also requires passage of the jurisprudence examination. She asked if that should be removed. Dr. Gay stated that should be required for individuals coming from a different jurisdiction. The Committee suggested amending the rule to make qualifications specific to Georgia licensees and qualifications for those coming from out of state. The Committee directed Ms. Emm to make the suggested changes and bring back to the Committee at its next meeting.

Rule 150-8-.02 Fee Splitting: Mr. Joe MacLean, General Counsel for ADSO, Joe Watson, ADSO and Dennis LaGauza, ADSO, spoke to the Committee regarding this rule. Mr. MacLean stated that they again thought the current fee splitting rule was concise and showed what would result in disciplinary action. He stated that their issue is concerning section (2)(d) regarding the sharing of fees for professional services between a dentist and any unlicensed party. He asked if this is this related to referrals. He stated they do not want contractual relations to become violations because the individual is paying a lease or other fees. He added that this change created ambiguity. He stated that they do not understand what the Board is trying to keep from occurring. Dr. Godfrey asked if they had suggestions to present to the Committee. Discussion was held regarding what might be considered is a safe harbor provision and maybe defining what does not constitute fee splitting. Contractual relations in place that are not related to specific patient referral may also be considered. A representative from ADSO stated language that was struck from rule "with a referral source" was the clarity, but that has now been removed. He suggested under (3)(d) spelling out contractual services that do not have to do with specific patient referrals. Non-clinical related services/Non-referral relationships would be protected. He stated anything a dentist does generates fees. He added that this is just very broad. Dr. Godfrey responded by stating that he thinks he has a better understanding now of how this would affect the ADSOs. He stated the Committee will try and figure out

what the author intended with this line. Dr. Godfrey stated he will report to the full Board today regarding this matter to see what it would like to do.

Rule 150-10-.01 Fraudulent, Misleading, or Deceptive Advertising: Dr. Godfrey suggested starting with section (3)(b). Robert Molson commented that the proposed language is very broad. Dr. Godfrey asked if Mr. Molson was worried that a weekend course would fulfill this requirement. Mr. Molson responded by stating that the language recently adopted by the Louisiana Board of Dentistry basically says it has to be a post-doctoral education course accredited and recognized by US Department of Education. Dr. Godfrey stated that the Committee will discuss that language with the full Board.

A representative from ADSO commented that ADSO previously stated section (e) introduces new definitions that create ambiguity. He mentioned FTC rules in Georgia state what is allowed and what is not allowed in regards to advertising. He stated in regards to section (e), ADSO does not know why there is a focus on ownership interest. He stated Georgia law and rules allow a dentist to employ other dentists. He added that it seems somehow someone is saying they are owners when they are not and they do not want dentists to unintentionally cross a line and get sanctioned.

In regards to (g), the representative from ADSO stated that terms like “reasonable probability” or “prudent person” are legal terms of art. He added that the terms can mean different things to different people. Dr. Godfrey responded by stating that the Committee would need to speak to its legal counsel regarding the definition of those terms. Dr. Godfrey asked about the FTC rules and asked if perhaps there is a way to reference their definition. The representative from ADSO responded by stating he did not know if a reference was needed or if the Board could just use the FTC’s definition of deceptive advertising. He stated FTC and anti-trust may inhibit competition and truthful advertising. Dr. Godfrey responded by stating that would take the suggestions to the full Board for consideration.

Rule 150-14-.02 Fabrication of Dental Appliances, Caps, Coverings, Prostheses and Cosmetic Coverings Is Practice of Dentistry and Chapter 150-26 Mobile Dentistry remain tabled.

Dr. Tracy Gay made a motion and Dr. Tom Godfrey seconded and the Committee voted to enter into **Executive Session** for the purpose of receiving legal advice as authorized under O.C.G.A. §§ 50-14-1(e)(2)(c), 50-14-2(1). Voting in favor of the motion were those present who included Dr. Tracy Gay and Dr. Tom Godfrey.

### Executive Session

The Committee received legal advice regarding teeth whitening.

No votes were taken in Executive Session. Dr. Godfrey declared the meeting back in Open Session.

### Open Session

Dr. Gay made a motion to suggest the Board request legal advice from the Department of Law regarding teeth whitening. Dr. Godfrey seconded and the Committee voted unanimously in favor of the motion.

There being no further business to come before the Committee, the meeting was adjourned at 10:08 a.m.

The next scheduled meeting of the Rules Committee will be held on Friday, June 15, 2018 at 9:00 a.m. at the Department of Community Health’s office located at 2 Peachtree Street, N.W., 5<sup>th</sup> Floor, Atlanta, GA 30303.

Minutes recorded by Kimberly Emm, Attorney  
Minutes edited by Tanja D. Battle, Executive Director