

GEORGIA BOARD OF DENTISTRY
Board Meeting
2 Peachtree St., N.W., 36th Floor
Atlanta, GA 30303
September 15, 2017
10:00 a.m.

The following Board members were present:

Dr. Tom Godfrey, President
Dr. Richard Bennett
Ms. Becky Bynum
Dr. Tracy Gay
Dr. Steve Holcomb
Dr. Dale Mayfield
Dr. Logan Nalley
Dr. Antwan Treadway

Staff present:

Tanja Battle, Executive Director
Bryon Thernes, Assistant Attorney General
Ryan McNeil, Chief Investigator
Kimberly Emm, Attorney
Brandi Howell, Business Support Analyst I

Visitors:

James E. Barron, GDS
Eric Scalzo, SDC
David Bridgers, SDC
Jeffrey Sulitzer, DMD, Smile Direct Club
Cynthia Hall, DMD
Carol A. Wooden, DDS, AGD
Alan Furness, DMD, DCG
Kevin Frazier, DMD, DCG
Charles Craig, GDHA
Dixianne Parker, DPH
Carol Smith, DPH
David Reznik, Grady
Eunice Chay, Grady NYU AEGD
W. Kevin Dancy, GEDC of Georgia
William Young, Affordable Denture
Joseph MacKean, Great Expressions
Dennis LaGanza, ADSO
J.L. Morgan, PDS
Ryan Loke, PDS
John Watson, ADSO
Margie Miller, AU
Leslie Cohen, Imagix Dental
Gina Panto, Imagix Dental
Pam Wilkes, Help A Child Smile
Scott Lofranco, GDA
Misty Mattingly, GDHA

Dr. Godfrey established that a quorum was present and called the meeting to order at 10:07 a.m.

Introduction of Visitors

Dr. Godfrey welcomed the visitors.

Dr. Godfrey called the public hearing to order at 10:08 a.m.

Rule 150-5-.03 Supervision of Dental Hygienists

Public comments were received from Dr. Carol Wooden, AGD. Dr. Wooden stated that under section (5) it reads in the private practice setting the patient will have an initial exam. However, under section (7) the proposed rule reads that it shall be in the sole discretion of the authorizing dentist whether to require an initial examination. She stated that this language seems confusing and contradictory.

Public comments were received from Charlie Craig, GDHA. Mr. Craig commented that allowing dentists' discretion has to do with safety net settings (HB154) and GDHA supports that aspect of the rule.

Written response received from Scott Lofranco, GDA.

Rule 150-7-.04 Dental Provisional License by Credentials

Dr. Nalley stated that he agreed with the written comments submitted by Dr. Carol Lefebvre, Augusta University, containing suggested language to the proposed rule and the request that the Board not delete language concerning a provisional license by credentials is at the discretion of the Board. In response, Dr. Holcomb asked Dr. Nalley if he agreed with putting active military dentists in the same category with dental faculty. Dr. Nalley responded that he agrees with treating them in the same manner. Dr. Holcomb stated he just wanted clarification as Augusta University's recommendation is for specific verbiage change. Dr. Nalley stated that he is not looking to put them together. He stated there are other issues with active military and veterans that would not apply. Dr. Godfrey stated that he would not agree with the written comments stating the proposed amendments would make it impossible to gain hospital privileges as he does not think that is entirely the case. He further commented that there is always the option to obtain licensure by exam. Dr. Nalley agreed, but stated having to take the exam would be a deterrent for an oral surgeon that has been practicing for twenty-five (25) years.

Public comments were received from Dr. Kevin Frazier, Augusta University. Dr. Frazier commented in regards to Dr. Godfrey's point about taking the examination as a route of licensure. He stated 40% of faculty are specialists. They do not just teach undergrads, they also teach residents. He stated most of the residency programs have specific requirements for hospital experience. He added that some of these changes unintentionally limit the ability to be competitive and it is very difficult for them to obtain a regular dental license. He stated that Augusta University is requesting reconsideration of some of the language. Dr. Godfrey stated that he understands their position and appreciated the clarification. He commented that Dr. Lefebvre's letter stated that the proposed language would make it impossible for many faculty to gain an unrestricted license and it is not impossible as there is certainly another avenue for licensure.

Written responses were received from Dr. Carol Lefebvre, Augusta University, and Scott Lofranco, GDA.

Rule 150-7-.05 Dental Hygiene Provisional License by Credentials

No public comments were received. A written response was received from Scott Lofranco, GDA.

Rule 150-8-.02 Fee Splitting

Public comments were received from Dennis LaGanza, ADSO: Mr. LaGanza expressed concern regarding section (2)(d) of the proposed rule, which would prohibit sharing of fees with any licensed third party. He stated from the ADSO's perspective, this proposed section interjects with uncertainty and ambiguity. He stated the proposed rule does not distinguish the sharing of professional fees for patient referrals from legitimate business relationships that have no impact on patient treatment or professional

judgement. In particular, this may include services provided by DSOs such as billing, collections, real estate, accounting, legal and insurance claims to name a few. He stated the proposed changes may foster uncertainty and impede legitimate and efficient business arrangements where there is no risk of a tainted referral, because there is no referral at all. He stated that he would like to thank and recognize all of the board members for their service and recognize they are looking to get the best possible language for rule.

Public comments were received from Dr. W. Kevin Dancy, GEDC of Georgia: Dr. Dancy commented that he is concerned with the verbiage with fee splitting. He added that with this change it puts an uncertain feeling with how he is supposed to treat patients. He asked what the motive is for this change. Dr. Bennett responded by asking Dr. Dancy how this proposed change impacts his ability to treat patients. Dr. Dancy responded by stating obtaining fees for referring patients is unacceptable and against the law, but when they have a contract with their business partner to managerial part of practice has nothing to do with patient care. Dr. Bennett asked again how would this impact Dr. Dancy's ability to care for patients. Dr. Dancy responded by saying he sees the patients, while the DSOs manage the business aspects of the practice. Dr. Dancy further indicated he was seeking clarification regarding the proposed change.

Mr. Thernes asked Mr. LaGanza if he could provide specific examples on how it would impact the business arrangement. Mr. LaGanza stated that the business provides business and administrative support services. It can be for claims management. He stated their question is if the dentist turns around and pays them, as the rule reads is potentially sharing fees with an unlicensed 3rd party. Mr. Thernes asked Mr. LaGanza if it was his interpretation that fees may encompass practice revenue. Mr. LaGanza responded affirmatively. Mr. Joseph MacKean commented that his experience with fee splitting rules concerns percentage fee arrangement. The problem with the rule is if it is targeting those type of arrangements. He stated the language appears to be too broad.

Written responses were received from Association of Dental Support Organizations and Scott Lofranco, GDA.

Rule 150-9-.02 Expanded Duties of Dental Assistants

Public comments were received from Dr. Jeffrey Sulitzer, Smile Direct Club. Dr. Sulitzer thanked the Board for allowing him to speak to its members. Dr. Sulitzer stated that Smile Direct Club provides a platform for affiliated dentists to provide orthodontic aligner therapy and provides it to where people would normally not have care. He stated that Smile Direct Club believes the Board should not adopt the proposed amendments at this time. In regards to fabrication to create models, he stated it is not clear as to what is permitted and what is not. He added that the way the language is written is vague and ambiguous.

Questions were asked by the Board members regarding Smile Direct Club's business model. Dr. Mayfield asked about placing an appliance on teeth without a periodontal exam. Dr. Sulitzer responded that there is consent, and photos are reviewed digitally. He added if there is a periodontal concern, a referral is made for the patient. Dr. Holcomb commented that a Georgia licensed dentist reviews the photos and 3D images, and authorizes for the treatment to be initiated and that is without the advantage of what the Board considers standard of care. He added that they may be authorizing treatment on patients who have undiagnosed pathology and from his perspective, he would consider that Georgia dentist to be in violation of standard of care.

Mr. Eric Scalzo spoke to the Board on behalf of Smile Direct Club. He stated that instead of diving into Smile Direct Club's business practice, the Board needs to look at rule. Specifically (aa) which reads "Scan digital for fabrication orthodontic appliances and models". He stated the language is not clear and is requesting the Board not adopt the proposed amendment. Dr. Holcomb asked if the concern regarding this language is because it says digital scan instead of digital image. Mr. Scalzo responded that there is misconception. He stated all of Georgia patients are supervised by a licensed dentist and a Georgia

licensed dentist is providing services. He added whether or not it meets the standard of care is not the issue here today. He stated that the purpose of them speaking to the Board is in regards to the proposed language in section (aa). Mr. Scalzo requested the Board redraft the language.

Written responses were received from Scott Lofranco, GDA.

Rule 150-10-.01 Fraudulent, Misleading or Deceptive Advertising

Public comments were received from Dennis LaGanza, ADSO: Mr. LaGanza provided the Board with a background on ADSO. He stated thirteen (13) of ADSO's member companies have supported practices within the state of Georgia. In regards to the proposed rule at hand, ADSO is concerned that the proposed revisions to Rule 150-10-.01(6)(b), (c), (e) and (g) will generate uncertainty that has the potential to inhibit competition for dental services to the detriment of Georgia consumers. He added that the two key elements of the proposed rule, "Ownership Interest" and "Practice" are not defined. Additionally, the proposed rule provides no guidance on how it is to be applied or the applicable standards.

Mr. LaGanza discussed misunderstanding/deceptive statements. He stated section (6)(g) utilizes legal terms such as "reasonable probability" and "ordinarily prudent person" neither of which are defined and may lead to inconsistent outcomes.

Dr. Nalley commented that there is a lot in this rule that needs to be reworked. He suggested it be referred back to the Rules Committee. Dr. Mayfield agreed.

Written responses were received from Association of Dental Support Organizations, Dr. Alfred E. Pesto, Jr., GSOMS, Scott Lofranco, GDA, and Dr. Gary Inman, Southern Association of Orthodontists.

At this point in the meeting, the Board suspended the public hearing.

Open Session

Approval of Minutes

Dr. Nalley made a motion to approve the Public and Executive Session minutes for the August 11, 2017 meeting. Dr. Treadway seconded and the Board voted unanimously in favor of the motion.

Licenses to Ratify

Dr. Nalley made a motion to ratify the list of licenses issued. Dr. Mayfield seconded and the Board voted unanimously in favor of the motion.

Correspondence from Tanya L. Shores

The Board considered this correspondence regarding nurse practitioners working for dentists. Ms. Shores asks specifically if she could have a dental spa and have a nurse provide treatments if she is properly trained. Discussion was held by the Board regarding whether or not this was outside the scope of dentistry. Ms. Battle stated she could contact the Nursing Board regarding this matter and would report back to the Board.

Correspondence from Danica Collins, ADA

The Board discussed this correspondence at its August meeting concerning the ADA's request for a temporary dental license for two dentists to lead a live patient educational session at the ADA's annual meeting in Atlanta. At that time, the Board requested additional information, which has now been supplied by Ms. Collins. The Board suggested tabling further discussion on this matter until later in the meeting.

Correspondence from Dr. Gary Bouloux, Emory University School of Medicine

At its meeting in August, the Board discussed Dr. Bouloux's correspondence requesting the Board's support in developing a mini fellowship within the Emory University School of Medicine Oral and Maxillofacial Surgery Program. At that time, the Board voted to direct staff to respond to Dr. Bouloux by stating that a student would not need to apply for dental licensure in order to participate in the fellowship as long as the individual is enrolled as a student of Emory and supervised at the time he or she is treating patients. Dr. Bouloux has responded to the Board's letter by stating that the mini fellowship is more consistent with continuing medical education and is requesting the Board reconsider the issue. After further discussion, the Board stated that its initial response has not changed.

Correspondence from Laura S. Vieth, Nonpublic Postsecondary Education Commission

Ms. Vieth's correspondence regarding dental assisting was discussed by the Board at its August meeting. One school notified GNPEC that it had been rejected by the Board because they were unaccredited, but pointed out a competing institution had been approved by the Board. GNPEC asked what guidelines are used to determine whether or not a program is approved by the Board. At that time, the Board directed staff to request additional information from GNPEC regarding this matter. Additional information regarding the Board's request has been received. Ms. Battle requested this matter be tabled pending legal advice from Mr. Thernes in Executive Session.

Correspondence from Suzanne Newkirk, GDHA

The Board considered this correspondence containing questions related to House Bill 154. The Board suggested referring this correspondence to the Rules Committee.

Correspondence from Todd Slatzer

The Board viewed this correspondence for informational purposes only.

General – Dr. Tom Godfrey

Dr. Godfrey emphasized the importance of getting agenda items for the monthly meeting in no later than ten (10) days prior to the meeting to allow ample time for review.

CE Audit Committee Report – Dr. Richard Bennett

In regards to CE Zoom and CE Broker, Dr. Bennett requested the Board make a decision regarding whether or not to utilize the services of one of these continuing education vendors. He stated that this is a renewal year and it gets increasingly more difficult for staff and board members to review all random audits. He stated that utilizing one of these vendors may be an easier way to ensure all licensees are in compliance. The Board directed Ms. Battle to contact the AADB to inquire if they suggest a particular vendor for these purposes and report back to the Board.

Conscious Sedation/General Anesthesia Committee Report – Dr. Antwan Treadway

No report.

Credentials Committee Report – Dr. Greg Goggans

No report.

Dental Hygiene Committee Report – Ms. Rebecca Bynum

No report.

Examination Committee Report – Dr. Bert Yeargan

Dr. Holcomb reminded the board members to send in his/her availabilities in for dental assignments.

Investigative Committee Report – Dr. Bert Yeargan

No report.

Legislative Committee Report – Dr. Greg Goggans

No report.

Licensure Overview Committee Report – Dr. Tracy Gay

No report.

Rules Committee Report – Dr. Tom Godfrey

No report.

Education Committee Report – Dr. Tom Godfrey

No report.

Long Range Planning Committee Report – Dr. Steve Holcomb

No report.

CRDTS Steering Committee – Dr. Logan Nalley

Dr. Nalley made a motion for the Board to appoint Dr. Mayfield as Dr. Nalley's replacement on the CRDTS Steering Committee. Dr. Holcomb seconded and the Board voted unanimously in favor of the motion.

IP Committee Report – Dr. Richard Bennett

No report.

EDDA Review Committee – Dr. Greg Goggans

No report.

Executive Director's Report – Ms. Tanja Battle

Proposed 2018 Board Meeting Dates: Dr. Godfrey suggested the Board not schedule any meetings during the same week as a holiday. Dr. Holcomb made a motion to approve the 2018 meeting dates with the changes noted and make it policy that going forward no meetings be scheduled during the same week as a holiday. Dr. Mayfield seconded and the Board voted unanimously in favor of the motion.

Ms. Battle reported that the Board office is currently working with the vendor to have renewals live by the end of the month. She added that she understood the Board intended to again conduct a post-renewal audit. Dr. Holcomb encouraged the member organizations present at the meeting to communicate to its members that the Board sends renewal reminders to licensees electronically. Dr. Holcomb stated that very frequently the Board sees that the comment from the licensee is that he/she did not receive a notice in the mail or it was sent to the wrong email address. He stated that it is very important that the Board office has the individual's current email address on file and requested each member organization present at the meeting to reiterate this to its members. Dr. Holcomb also requested each member organization to remind its members to review his/her continuing education documentation to ensure he/she is in compliance.

Dr. Godfrey thanked all the interested parties for making their way to Atlanta for the hearing and thanked them for submitted comments to the Board.

Dr. Steve Holcomb made a motion and Dr. Richard Bennett seconded and the Board voted to enter into **Executive Session** in accordance with O.C.G.A. § 43-1-19(h)(2), §43-11-47(h) and §43-1-2(k) to

deliberate and receive the Assistant Attorney General's report. Voting in favor of the motion were those present who included Dr. Richard Bennett, Ms. Becky Bynum, Dr. Tracy Gay, Dr. Tom Godfrey, Dr. Steve Holcomb, Dr. Dale Mayfield, Dr. Logan Nalley, and Dr. Antwan Treadway.

Executive Session

Attorney General's Report – Mr. Bryon Thernes

The Board received legal advice regarding Rules 150-5-.03 Supervision of Dental Hygienists, 150-7-.04 Dental Provisional Licensure by Credentials, 150-7-.05 Dental Hygiene Provisional Licensure by Credentials, 150-8-.01 Unprofessional Conduct. Defined., 150-8-.02 Fee Splitting, 150-9-.01 General Duties of Dental Assistants, 150-9-.02 Expanded Duties of Dental Assistants, 150-10-.01 Fraudulent, Misleading, or Deceptive Advertising, and 150-14-.02 Fabrication of Dental Appliances, Caps, Coverings, Prostheses and Cosmetic Coverings is Practice of Dentistry.

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

Public Hearing

The Board resumed the Public Hearing at 11:51 a.m.

Dr. Nalley made a motion to adopt Rule 150-7-.05 Dental Hygiene Provisional License by Credentials. Dr. Mayfield seconded and the Board voted unanimously in favor of the motion.

Dr. Holcomb made a motion to table consideration of Rules 150-5-.03 Supervision of Dental Hygienists, 150-7-.04 Dental Provisional License by Credentials, 150-8-.02 Fee Splitting, 150-9-.02 Expanded Duties of Dental Assistants, and 150-10-.01 Fraudulent, Misleading or Deceptive Advertising. Dr. Nalley seconded and the Board voted unanimously in favor of the motion.

Dr. Holcomb made a motion to refer Rules 150-5-.03 Supervision of Dental Hygienists, 150-7-.04 Dental Provisional License by Credentials, 150-8-.02 Fee Splitting, 150-9-.02 Expanded Duties of Dental Assistants, and 150-10-.01 Fraudulent, Misleading or Deceptive Advertising back to the Rules Committee. Ms. Bynum seconded and the Board voted unanimously in favor of the motion.

The hearing was adjourned at 11:54 a.m.

Dr. Steve Holcomb made a motion and Dr. Richard Bennett seconded and the Board voted to enter into **Executive Session** in accordance with O.C.G.A. § 43-1-19(h)(2), §43-11-47(h) and §43-1-2(k) to deliberate and receive information on applications, investigative reports, and the Assistant Attorney General's report. Voting in favor of the motion were those present who included Dr. Richard Bennett, Ms. Becky Bynum, Dr. Tracy Gay, Dr. Tom Godfrey, Dr. Steve Holcomb, Dr. Dale Mayfield, Dr. Logan Nalley, and Dr. Antwan Treadway.

Executive Session

Licensure Overview Committee Appointments/Discussion Cases:

- A.D.H.
- M.D.D.
- C.P.H.
- C.T.E.
- A.K.K.

Applications

- J.C.S.
- M.F.B.
- M.M.M.
- K.N.T.
- B.G.C.
- D.A.T.
- I.D.L.
- M.U.S.
- M.R.M.
- D.C.M.E.
- J.B.M.
- L.L.M.
- M.N.K.
- D.H.H.
- J.H.B.
- R.L.R.
- D.A.W.
- D.L.G.
- H.Y.T.
- C.J.R.

Correspondences

- R.C.W.
- E.S.T.

Investigative Committee Report

Report presented:

- DENT170001
- DENT170106
- DENT140085

Executive Director's Report – Ms. Tanja Battle

No report.

Attorney General's Report – Mr. Bryon Thernes

Mr. Thernes presented the following consent order for acceptance:

- P.P.D.

Mr. Thernes discussed the following cases:

- DENT180072
- DENT170120

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

Open Session

Dr. Nalley made a motion to approve all recommendations based on deliberations made in Executive Session as follows:

Licensure Overview Committee Appointments/Discussion Cases:

- | | | |
|----------|--------------------------------|----------------------|
| • A.D.H. | Dental Hygiene Exam Applicant | Approved application |
| • M.D.D. | Request to terminate probation | Approved request |
| • C.P.H. | Request to terminate probation | Approved request |
| • C.T.E. | Request to terminate probation | Approved request |
| • A.K.K. | Request to terminate probation | Approved request |

Applications

- | | | |
|------------|--------------------------------|--|
| • J.C.S. | Dental Hygiene Exam Applicant | Approved application |
| • M.F.B. | Dental Hygiene Exam Applicant | Approved application |
| • M.M.M. | Dental Exam Applicant | Approved application |
| • K.N.T. | Dental Exam Applicant | Approved application |
| • B.G.C. | Dental Credentials Applicant | Approved application |
| • D.A.T. | Dental Credentials Applicant | Denied application |
| • I.D.L. | Dental Hygiene Credentials | Approved application |
| • M.U.S. | Dental Credentials Applicant | Approved application |
| • M.R.M. | Dental Faculty Applicant | Approved application |
| • D.C.M.E. | Dental Reinstatement Applicant | Denied application |
| • J.B.M. | Dental Hygiene Reinstatement | Approved application |
| • L.L.M. | Dental Hygiene Reinstatement | Refer to Legal Services |
| • M.N.K. | Dental Hygiene Reinstatement | Approved application |
| • D.H.H. | Conscious Sedation Applicant | Approved for provisional permit |
| • J.H.B. | Conscious Sedation Applicant | Approved for provisional permit |
| • R.L.R. | Conscious Sedation Applicant | Approved request for extension of provisional permit |
| • D.A.W. | Inactive Status Applicant | Approved application |
| • D.L.G. | Inactive Status Applicant | Approved application |
| • H.Y.T. | Inactive Status Applicant | Approved application |
| • C.J.R. | Inactive Status Applicant | Approved application |

Correspondences

- | | | |
|----------|--|---|
| • R.C.W. | Request for copy of sedation evaluation report | Board directed staff to send a letter confirming individual successfully passed the evaluation, along with a copy of the Board's Guidelines for General Anesthesia/Conscious Sedation On-Site Evaluation, as well as a license verification for the permit. |
| • E.S.T. | Request for extension of time to take LEAP | Approved request |

Investigative Committee Report

Report presented:

Complaint Number	Allegations	Recommendation
DENT170001	Quality of Care/Substandard Practice	Close case
DENT170106	Malpractice	Close case
DENT140085	Quality of Care/Substandard Practice	Send to Perio Peer Reviewer

Executive Director’s Report – Ms. Tanja Battle

No report.

Attorney General’s Report – Mr. Bryon Thernes

Mr. Thernes presented the following consent order for acceptance:

- P.P.D. Public Consent Order accepted

Mr. Thernes discussed the following cases:

- DENT180072 OMPE to be accepted and signed with express permission
- DENT170120 Approved request

Dr. Holcomb seconded and the Board voted unanimously in favor of the motion.

Petition for Rule Variance from Michelle U. Sarno

Dr. Bennett made a motion to deny the rule variance petition. Dr. Gay seconded and the Board voted unanimously in favor of the motion.

Correspondence from Danica Collins, ADA

Dr. Bennett made a motion to direct staff to respond to Ms. Collins by stating the Board does not offer a temporary license to dentists. In order to satisfy Board rules and regulations, a Georgia licensed dentist would need to be directly involved in the impression, insertion of the prosthesis, and any hands on element for the course held on Thursday, October 19, 2017 titled “View Over-the Shoulder Patient Overdenture Procedure” and on Friday, October 20, 2017 titled “View Over-the-Shoulder Patient Implant Guided Planning”. Dr. Nalley seconded and the Board voted unanimously in favor of the motion.

With no further business, the Board meeting adjourned at 12:43 p.m.

The next scheduled meeting of the Georgia Board of Dentistry will be held on Friday, October 13, 2017, at 10:00 a.m. at the Department of Community Health’s office located at 2 Peachtree Street, N.W., 5th Floor, Atlanta, GA 30303.

Minutes recorded by Brandi Howell, Business Support Analyst I

Minutes edited by Tanja D. Battle, Executive Director