

GEORGIA BOARD OF DENTISTRY
Board Meeting
2 Peachtree St., N.W., 36th Floor
Atlanta, GA 30303
December 9, 2016
10:00 a.m.

The following Board members were present:

Dr. Tom Godfrey, Vice-President
Dr. Richard Bennett
Ms. Becky Bynum
Dr. Tracy Gay
Dr. Greg Goggans
Dr. Steve Holcomb
Ms. Wendy Johnson
Dr. Dale Mayfield
Dr. Logan Nalley
Dr. Antwan Treadway

Staff present:

Tanja Battle, Executive Director
Bryon Thernes, Assistant Attorney General
Ryan McNeil, Chief Investigator
Anil Foreman, Attorney
Brandi Howell, Business Operations Specialist

Visitors:

Jesse Werthington, GSG
Scott Lofranco, GDA
Stephanie Lotti, GDA
James E. Barron, GDS
Ryan Loke, PDS
Carol Wooden, AGD
Carol Lefrevre, DCG
Margie Miller, DCG

Open Session

Dr. Godfrey established that a quorum was present and called the meeting to order at 10:15 a.m.

Introduction of Visitors

Dr. Godfrey welcomed the visitors.

Approval of Minutes

Dr. Nalley made a motion to approve the Public and Executive Session minutes for the November 18, 2016 meeting conference call. Dr. Bennett 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. Bennett seconded and the Board voted unanimously in favor of the motion.

Correspondence from Holly Litt, DH011257

The Board considered this request from Ms. Litt asking for consideration of being a dental hygiene examiner for the Central Regional Testing Services, Inc. ("CRDTS"). The Board recommended directing staff to respond to Ms. Litt by stating that it appreciates her willingness to serve; however, CRDTS is not accepting deputy examiners from Georgia at this time.

Correspondence from Mike Long, Elements Behavior Health

The Board previously considered this correspondence at its meeting on October 14, 2016. At that time, the Board voted to table the correspondence. After further discussion, Dr. Bennett made a motion to table

the correspondence pending receipt of additional information from the Georgia Board of Pharmacy. Dr. Nalley seconded and the Board voted unanimously in favor of the motion.

Correspondence from Dr. Carol Lefebvre, Augusta University

The Board recommended tabling this correspondence for further discussion in Executive Session and will bring the matter back up in Open Session prior to adjournment of the meeting.

Correspondence from Marty Klein, Institute for Advanced Laser Dentistry

The Board considered this correspondence in regards to holding a dental training class and out of state instructors. Dr. Nalley made a motion to direct staff to respond to Mr. Klein by stating that the Board's laws and rules do not allow for the unlicensed practice of dentistry, except in limited circumstances which do not appear to apply to the program and to refer him to O.C.G.A. §§ 43-11-17, 43-11-20, and 43-11-42, and Board Rule 150-7-.02. Additionally, because it appears from his correspondence that the instructors are not licensed in Georgia, they would be prohibited from treating patients. It would be the same for any student who is not licensed to practice dentistry in Georgia, unless the requirements of O.C.G.A. § 43-11-20 are met. Because it appears from the correspondence those requirements are not met by his program, any student not already licensed in Georgia would be similarly prohibited from treating patients.

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

Petition for Rule Waiver from Lynne Powel

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

General – Dr. Bert Yeargan

No report.

CE Audit Committee Report – Dr. Richard Bennett

No report.

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. Steve Holcomb

No report.

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

Dr. Godfrey reported that the Committee met earlier that morning. He stated that the Committee needed further direction from the Board regarding Board Rule 150-7-.04 Dental Provisional Licensure by Credentials and Rule 150-7-.05 Dental Hygiene Provisional Licensure by Credentials. Specifically, defining “active practice”. Dr. Godfrey stated that both rules state that within the first two (2) years of being granted a provisional license by credentials, the applicant must establish full-time clinical practice. Ms. Foreman added that there is not a definition for what is considered active practice. Dr. Godfrey asked the Board for input. Dr. Treadway added that it is important for there to be a health history for the patient. The individual should not be allowed to come in for treatment and leave. A dentist needs to be actively taking comprehensive care of the patient. He stated that would be considered “active practice” to him. Dr. Godfrey responded that was a good point; however, what stops the idea of a consultant, locum tenens. Dr. Treadway stated that he/she may see the patient one time, but if there is a health record, the individual is his/her patient. Dr. Godfrey asked if there should be a minimum number of hours, days, or patient contacts? Dr. Goggans commented that the Board’s job is making sure it protects the public and to make sure the dentist is qualified to treat the patient. Dr. Godfrey stated the extreme would be forty (40) hours per week or one (1) patient per year. Dr. Holcomb stated that he thinks the reason the Board has not considered out-of-state issues for active licenses in Georgia is because the only time it is considered is in the initial application process. After that, the Board has no jurisdiction in monitoring states outside of its borders. He stated that anything the Committee comes up with should be specific to the State of Georgia, but what the answer is, he does not know. He stated that what happens outside of Georgia cannot be monitored appropriately. He stated Georgia has two (2) different mechanisms of licensure with examination and credentials. He stated the Board does not monitor the active licensees other than through the Census Data Form required at renewal. Dr. Nalley asked what happens if the individual establishes active practice, but after the required two (2) years, he/she quits in Georgia; would the law allow for that? Dr. Godfrey asked if, for the purpose of this rule, active practice can be defined as full time clinical practice. He stated that would be consistent with the rule. Dr. Holcomb made a motion to state that for the purpose of this rule active practice be defined as full time clinical practice and refer to the Rules Committee with those parameters. Dr. Bennett seconded and the Board voted, with the exception of Dr. Goggans who opposed, in favor of the motion.

Dr. Godfrey reported on Rule 150-7-.06 Expedited Licenses for Military Spouses, Service Members, and Transitioning Service Members. Discussion was held on suggested changes to the rule. Dr. Treadway made a motion to refer the rule back to the Rules Committee to be redrafted. Ms. Johnson seconded and the Board voted unanimously in favor of the motion.

Dr. Godfrey reported on suggested amendments to Rule 150-8-.02 Fee Splitting. Dr. Treadway voted to post Rule 150-8-.02 as amended. Dr. Gay seconded and the Board voted unanimously in favor of the motion.

150-8-.02 Fee Splitting.

(1) A dentist shall not give rebates with a referral source or split fees ~~with a referral source~~.

(2) “Fee splitting” includes but is not limited to the following:

(a) Any coupons, rebates, paid referrals or other consideration provided in exchange for a referral for service on a per-patient basis provided from or to licensed dentists, excepting the purchase of a practice by one dentist actively licensed in Georgia to another dentist actively licensed in Georgia.

(b) Any coupons, rebates, paid referrals or other consideration provided in exchange for a referral on a per-patient basis provided to a licensed dentist from an unlicensed party based on an agreement, written or otherwise.

(c) The sharing of fees for professional services between licensed dentists or between licensed dentists and unlicensed third-parties, where the treating practitioner or the treating practitioner’s office shares the fees associated with treatment of a specific patient with a third-party that did not provide the treatment that

generated the fee to the patient in exchange for a referral, recommendation, or coupon provided to that patient.

(d) The sharing of fees for professional services between a licensed dentist and any unlicensed party.

(e) Any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services constitutes a percentage of, or is otherwise dependent upon, the income, profits, or revenue of a practice.

(3) “Fee splitting” does not include:

(a) The payment of a commission from a dentist actively licensed in Georgia who owns a practice to any employee, associate, independent contractor or agent who is also a dentist or dental hygienist actively licensed in Georgia and working for the practice. Such exclusion applies where the dentist owns the practice through a sole proprietorship, partnership, limited liability company, or by majority ownership in a professional corporation.

(b) The sharing of professional fees between dentists practicing in a partnership or within the same practice group, where the remuneration is not based on the number of referrals within the practice or referrals required by the partnership agreement;

(c) The division of fees between dentists where a dentist actively licensed in Georgia employs another dentist actively licensed in Georgia as an agent, associate, employee, or independent contractor, if not otherwise provided in 150-8-.02(3)(a);

(d) The giving of a gift from a dentist to a patient in exchange for a referral, where the dentist provides gifts of equivalent value to all other patients for the same number of referrals or value of referrals, and such gift does not exceed one hundred (\$100) dollars in value.

(e) The payment of a fee to a former partner, associate, or employee based on a retirement plan or separation agreement;

(f) The payment of fees owed to an unlicensed party because of the unlicensed party’s possession of the ownership interest of a deceased or disabled dentist in a partnership, where the interest is transferred to another licensed dentist within six months after the date of death or disability of the unlicensed party’s predecessor-in-interest.

(4) Any substantiated violations of this rule for conduct committed subsequent to June 1, 2017 may subject the dentist to disciplinary action.

A motion was made by Dr. Nalley, seconded by Dr. Treadway, and the Board voted that the formulation and adoption of this rule amendment does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed amendment cannot be reduced by a less expensive alternative that fully accomplishes the objectives of the relevant code sections. The formulation and adoption of this rule amendment will impact every licensee in the same manner, and each licensee is independently licensed, owned and operated and dominant in the field of dentistry.

Dr. Godfrey reported that Rules 150-10-.01 Fraudulent, Misleading or Deceptive Advertising, 150-14-.02 Fabrication of Dental Appliances, Caps, Coverings, Prosthesis and Cosmetic Coverings Is Practice of Dentistry, and Chapter 150-26 Mobile Dentistry were tabled by the Committee.

Dr. Godfrey stated that one additional item comes from the Long Range Planning Committee and that is a review of expanded duties. Dr. Goggans responded by stating that the Board office has received responses to the surveys that were sent out to the various associations over the summer, with the exception of a response from the AGD (“Academy of General Dentistry”). He stated that the EDDA Review Committee will discuss those responses after the first of the year and will forward its recommendations to the Rules Committee.

Education Committee Report – Dr. Tom Godfrey

No report.

Long Range Planning Committee Report – Dr. Steve Holcomb

Dr. Holcomb discussed the list of long range planning items previously submitted to the Board. He stated that there are some items on the list that require a revisit as such as teledentistry, ownership of dental practice. In regards to teledentistry, he feels strongly that the definition of such needs review. A review of what neighboring states are doing needs to be done, and based on that, have language to be considered by the Rules Committee. He added that some of these long range planning items have become imminent issues.

CRDTS Steering Committee – Dr. Logan Nalley

Dr. Nalley reported that a CRDTS Steering Committee is scheduled for January and he will report on such at the Board’s meeting in February.

IP Committee Report – Dr. Richard Bennett

No report.

EDDA Review Committee – Dr. Greg Goggans

Dr. Holcomb commented that CRDTS has developed a restorative exam for auxiliaries for states with laws and rules that permit the delegation of this responsibility. Currently, the state of Washington requires a restorative examination for dental hygiene licensure. This does not include the removal of any soft or hard tissue; only the reversible procedure of placing and finishing amalgam and composite restoration. There has been requests to CRDTS from several states requesting information on this format.

Executive Director’s Report – Ms. Tanja Battle

Ms. Battle reminded the board members to change his/her password for Sharepoint if he/she has not done so already. She stated that a temporary one was initially set and that those passwords have now expired. She informed the Board that each member will need to contact GTA and register on his/her own due to security issues. She stated that if there are any issues to please let board staff know.

Ms. Battle reported that Dr. Bennett previously reviewed information provided by CE Broker, which is a tracking system for continuing education. She stated that a representative from CE Broker will be making a presentation before the Board regarding this program at the Board’s meeting in January 2017.

Attorney General’s Report – Mr. Bryon Thernes

No report.

Dr. Logan Nalley made a motion and Dr. Antwan Treadway 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. Greg Goggans, Dr. Steve Holcomb, Ms. Wendy Johnson, Dr. Dale Mayfield, Dr. Logan Nalley, and Dr. Antwan Treadway.

Executive Session

Licensure Overview Committee Appointments/Discussion Cases:

- S.E.G.

Applications

- P.D.S.
- K.R.M.
- M.R.B.

- M.E.B.
- W.C.A.
- D.H.B.
- D.M.B.
- G.W.F.
- R.H.
- S.R.C.
- M.K.P.
- E.C.P.

Correspondences

- D.S.
- A.F.T.
- M.J.
- W.H.W.

Investigative Committee Report

Report presented:

- DENT160118
- DENT160019
- DENT160446
- DENT150303
- DENT150011
- DENT150377
- DENT160097
- DENT160201
- DENT160249
- DENT160458
- DENT160502
- DENT160021
- DENT160187
- DENT160386
- DENT160422
- DENT160455
- DENT160493
- DENT160504
- DENT160524
- DENT170011
- DENT170046
- DENT170054
- DENT170059
- DENT170060
- DENT170062
- DENT170063
- DENT170066
- DENT170030
- DENT150351

- DENT170127
- DENT170125
- DENT170124
- DENT170115
- DENT170112
- DENT150235
- A.S.
- DENT160233
- DENT160102
- DENT160245
- DENT160198
- DENT150307
- DENT160398
- DENT140238
- DENT160449
- DENT160479
- Docket
#2015-0005
- DENT150281
- DENT150126
- DENT160158
- DENT160191
- DENT160403
- DENT160503
- DENT160510
- DENT170003
- DENT170020
- DENT170029
- DENT170056
- DENT170073
- DENT170074
- DENT170076
- DENT170081
- DENT170084
- DENT170096
- DENT140247
- DENT170131
- DENT170132
- DENT170051
- DENT160461
- DENT170038

Executive Director's Report – Ms. Tanja Battle

- L.F.M.

Attorney General's Report – Mr. Bryon Thernes

Mr. Thernes reported on the following cases:

- D.O.
- C.D.P.

Legal Services – Ms. Anil Foreman

- C.W.W.

Miscellaneous

- C.L.

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 in Executive Session as follows:

Licensure Overview Committee Appointments/Discussion Cases:

- S.E.G. Dental Hygiene Exam Applicant Approved application

Applications

- P.D.S. Dental Exam Applicant Approved application
- K.R.M. Dental Hygiene Exam Applicant Approved application
- M.R.B. Dental Exam Applicant Approved application
- M.E.B. Dental Exam Applicant Approved application
- W.C.A. Dental Exam Applicant Approved application
- D.H.B. Dental Reinstatement Refer to Attorney for further action
- D.M.B. Dental Reinstatement Approved application
- G.W.F. Dental Reinstatement Approved application
- R.H. Dental Hygiene Reinstatement Approved application
- S.R.C. Dental Reinstatement Denied application
- M.K.P. Dental Hygiene Reinstatement Refer to Attorney for further action
- E.C.P. Dental Reinstatement Approved application

Correspondences

- D.S. Request to complete remedial course Approved request
- A.F.T. Appearance request Denied request
- M.J. Request for waiver of reinstatement fee Allow to reinstate with reduced application fee.
- W.H.W. Correspondence regarding conscious sedation application Table pending receipt of additional information

Investigative Committee Report

Report presented:

Complaint Number	Allegations	Recommendation
DENT150126	Quality of care/substandard practice	Close with a letter of concern
DENT160158	Quality of care/substandard practice	Close with no action

DENT160191	Quality of care/substandard practice	Close with no action
DENT160403	Quality of care/substandard practice	Close with no action
DENT160503	Quality of care/substandard practice	Close with no action
DENT160510	Quality of care/substandard practice	Close with no action
DENT170003	Quality of care/substandard practice	Close with no action
DENT170020	Quality of care/substandard practice	Close with no action
DENT170029	Quality of care/substandard practice	Close with no action
DENT170056	Quality of care/substandard practice	Close with no action
DENT170073	Quality of care/substandard practice	Close with no action
DENT170074	Quality of care/substandard practice	Close with no action
DENT170076	Quality of care/substandard practice	Close with no action
DENT170081	Quality of care/substandard practice	Close with no action
DENT170084	Quality of care/substandard practice	Close with no action
DENT170096	Quality of care/substandard practice	Close with no action
DENT140247	Records release	Refer to the Department of Law
DENT170131	Unprofessional conduct	Close with no action
DENT170132	Unprofessional conduct	Close with no action
DENT170051	Quality of care/substandard practice	Close with a letter of concern
DENT160461	Records release	Close with no action
DENT170038	Quality of care/substandard practice	Close with no action
DENT160118	Unprofessional conduct	Close with no action
DENT160019	Quality of care/substandard practice	Refer to the Department of Law
DENT160446	Quality of care/substandard practice	Close with no action
DENT150303	Quality of care/substandard practice	Close with no action
DENT150011	Quality of care/substandard practice	Close with no action
DENT150377	Quality of care/substandard practice	Close with no action
DENT160097	Quality of care/substandard practice	Close with no action
DENT160201	Quality of care/substandard practice	Close with no action
DENT160249	Quality of care/substandard practice	Close with no action
DENT160458	Malpractice	Close with no action
DENT160502	Quality of care/substandard practice	Close with no action
DENT160021	Quality of care/substandard practice	Close with no action
DENT160187	Quality of care/substandard practice	Close with no action
DENT160386	Other	Close with no action
DENT160422	Quality of care/substandard practice	Close with no action
DENT160455	Malpractice	Close with no action
DENT160493	Quality of care/substandard practice	Close with no action
DENT160504	Quality of care/substandard practice	Close with no action
DENT160524	Fraud	Close with no action
DENT170011	Malpractice	Close with no action
DENT170046	Quality of care/substandard practice	Close with no action
DENT170054	Records release	Close with a letter of concern
DENT170059	Quality of care/substandard practice	Close with no action
DENT170060	Abandonment	Close with no action
DENT170062	Malpractice	Close with no action

DENT170063	Malpractice	Close with no action
DENT170066	Quality of care/substandard practice	Close with no action
DENT170030	Quality of care/substandard practice	Close with no action
DENT150351	Quality of care/substandard practice	Close with a letter of concern
DENT170127	Billing	Close with no action
DENT170125	Other	Close with no action
DENT170124	Quality of care/substandard practice	Close with no action
DENT170115	Quality of care/substandard practice	Close with no action
DENT170112	Billing	Close with no action
DENT150235	Quality of care/substandard practice	Close with no action
A.S.	Discipline in another jurisdiction	Index correspondence to file
DENT160233	Quality of care/substandard practice	Close with no action
DENT160102	Quality of care/substandard practice	Close with no action
DENT160245	Quality of care/substandard practice	Close with no action
DENT160198	Impairment/substance abuse	Refer to the Department of Law
DENT150307	Quality of care/substandard practice	Close with no action
DENT160398	Quality of care/substandard practice	Close with no action
DENT140238	Quality of care/substandard practice	Close with no action
DENT160449	Quality of care/substandard practice	Close with a letter of concern
DENT160479	Quality of care/substandard practice	Close with no action against supervising dentist
Docket #2015-0005	Review of continuing education	Accept continuing education that was submitted
DENT150281	Morbidity and mortality	Keep the case closed

Executive Director’s Report – Ms. Tanja Battle

- L.F.M.

Attorney General’s Report – Mr. Bryon Thernes

Mr. Thernes reported on the following cases:

- D.O.
- C.D.P.

Legal Services – Ms. Anil Foreman

- C.W.W.

Miscellaneous

- C.L.: The Board discussed the implications regarding examination content. Further discussion to be resumed in Open Session.

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

Correspondence from Dr. Carol Lefebvre, Augusta University

The Board considered this correspondence regarding Dr. Lefebvre’s request that the Board consider digital portfolios, a compilation of digital photographs, as an additional method of supplementing student rotations. Dr. Nalley made a motion to direct staff to respond to Dr. Lefebvre by stating that the Board’s position is that digital portfolios may be used as an adjunct to student observation; however, digital

portfolios may not be used in lieu of student observation or video. Dr. Mayfield seconded and the Board voted unanimously in favor of the motion.

With no further business, the Board meeting adjourned at 11:54 a.m.

The next scheduled meeting of the Georgia Board of Dentistry will be held on Friday, January 20, 2017, at 10:00 a.m. at the Department of Community Health's office located at 2 Peachtree Street, N.W., 36th Floor, Atlanta, GA 30303.

Minutes recorded by Brandi Howell, Business Operations Specialist

Minutes edited by Tanja D. Battle, Executive Director