

GEORGIA BOARD OF DENTISTRY
Board Meeting
September 19, 2014
2 Peachtree St., N.W., 36th Floor
Atlanta, GA
9:30 a.m.

The following Board members were present:

Dr. Logan Nalley
Dr. Stephen Holcomb
Dr. Richard Bennett
Dr. Randy Daniel
Ms. Connie Engel (*departed at 1:12 p.m.*)
Dr. Tracy Gay
Dr. Greg Goggans
Dr. Antwan Treadway

Staff present:

Tanja Battle, Executive Director
Bryon Thernes, Asst Attorney General
Brandi Howell, Bus Operations Specialist

Visitors:

Sarah Sikkelee, Connect South
Michael Pruett, GRU
Dr. Amish Naik
Scott Carter
Dr. Carol Lefebvre
Dr. Jonathan Bullard
Dr. Lewis Petree
Dr. Adam Doss
Bennie Smith
Wendy Blond, GDHA
Dr. Carol A. Wooden, AGD
Dr. Ken Gilbert, AGD
Dr. Thomas J. Price, AGD
Bill Head, ADSO
Dr. Charles Coulter
Joseph Maclean, Great Expressions Dental
Mark Middleton
Andrew P. Kaiser
J. Zaykeeah Robertson
Melana McClatchey, GDA
Dr. Donald F. Brown, GDA
Lynn Livingston, Great Expressions Dental
Joan Pantazis, Heartland Dental
Dr. Leo Wheat, Jr., Heartland Dental
Rhonda Hogan, GAPD
Dr. Martin P. Krieger

Open Session

Dr. Nalley established that a quorum was present and called the meeting to order at 9:40 a.m.

Ms. Connie Engel made a motion and Dr. Greg Goggans 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. Logan Nalley, Dr. Steve Holcomb, Dr. Richard Bennett, Dr. Randy Daniel, Ms. Connie Engel, Dr. Tracy Gay, Dr. Greg Goggans, and Dr. Antwan Treadway.

Executive Session

Attorney General's Report – Mr. Bryon Thernes

The Board received advice from Mr. Thernes regarding proposed Rule 150-10-.01 Fraudulent, Misleading or Deceptive Advertising.

Application Discussion

- R.K.

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

Open Session

Introduction of Visitors

Dr. Nalley welcomed the visitors.

Public Hearing

Dr. Nalley called the Public Hearing to order at 10:39 a.m.

Rule 150-4-.01 Investigations.Amended

No comments or written responses were received.

Rule 150-5-.02 Qualifications for Dental Hygienists

No comments or written responses were received.

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

Public comments from Dr. Lynn Livingston were received. He commented that he has been the sole owner of Great Expressions since 2003 with 51 practices. His philosophy is that the patient comes first. He stated that all dentists should have the freedom of choice as he has to make a living just like everyone else. He closed by stating that he is only asking for dialogue so that we may understand each other better.

Public comments from Dr. Charles Coulter were received. Dr. Coulter stated that he contracts out to a DSO (Dental Service Organization). He stated that he is really proud of contracting out to a DSO and that doing so affords him the opportunity to have 22 locations in the state of Georgia. He further stated that he wanted to come to the meeting in support of the DSO model but wanted to express his concern if the rule passes as is.

Public comments from Dr. Leo Wheat were received. Dr. Wheat stated that he received his DMD degree in 1994 and has been in continuous practice since that time. He stated that prior to hiring Heartland Dental, he had somewhat of a jaded view of dental support organizations. He then educated himself on that model and began to realize that this would be the best choice for his team. He has been able to focus more on patient care and provide voluntary service to those in need. From a clinical perspective, he continues to be a leader in his office and his team while performing dentistry to the highest level possible. He stated that there are many benefits to a DSO and proposes everyone embrace this model and consider we share the common goal of providing the proper dental care. He stated that he respectfully recommends the Board table any actions on this rule and take the opportunity to start a dialogue with the stakeholders.

Dr. Goggans asked if there was anyone that would come forward and articulate how the proposed language would affect the DSO model. Mark Middleton, representing Pacific Dental Services, stated that when he looks at the advertising rule, there are obviously concerns the Board has about how one uses a DSO. Speaking on behalf of his client, he stated that the DSO is there to support the owner dentist. He stated that he is not sure the rule has the statutory authority to support the Board's intent. Mr. Middleton specifically addressed the requirement of the name of the owner being placed on the advertisement. He stated that he, along with Pacific Dental Services, would like to assist the Board with language for the rules.

Dr. Goggans responded to Mr. Middleton by stating that the Board can change the language of the rule to tweak what was discussed; however, he would like to know what would be detrimental about the proposed rule. Dr. Bennett added that the current discussion is on proposed Rule 150-10-.01. He asked how the proposed rule hinders business. Mr. Middleton reiterated the issue regarding the name of the owner needing to be included in an advertisement. Dr. Bennett responded by asking if it would be an issue for a practice that would not have a dentist owner. Mr. Middleton stated that they do not own dental practices. The DSO serves the dentist who owns the dental practice. Dr. Bennett stated that there are a number of models out there and that Board is seeking to develop some language to protect the citizens of the state. Mr. Middleton responded by stating that he would like to help the Board do that. He further stated that while the Board is trying to address a problem it is jeopardizing dentists that are using DSOs. It seems that what Mr. Middleton is trying to say is that the Board is going down a slippery slope of doing something that it is not authorized to do. Mr. Middleton responded that he does not believe that the way the rule is drafted is authorized in the statute.

Dr. Holcomb stated that what it is boiling down to with the Board is the dentist's role in the delivery of care to the public. Are the decisions being made by the dentist or the owner of the practice? He has been into a practice where the dentist had no control over what supplies are used or what goes on at the front desk. He added that the Board does not license facilities and that it is merely seeking to ensure the public's best interests are at the forefront of dental practice.

Public comments from John Pantazis were received. Mr. Pantazis stated that everyone agrees that only a dentist may own a dental practice. He stated that, in the case where three dentists own a practice, the DSO would be there to address issues such as ordering supplies, rather than any clinical matters. There may be a buy/sell agreement to ensure the continuity of any services. He stated that this proposed rule would apparently forbid that. He added that it is not a clinical issue, but an issue related to business practice. Dr. Coulter added that his DSO does not have anything to do with the clinic and such is the responsibility as the owner.

Dr. Goggans asked if there were any issues where you contemplate, in a contractual agreement, the amount the DSO owns relative to production. Mr. Pantazis responded that there is a fee for service contract. The DSO does the IT and the dentist pays a fee for that. The DSO handles the supplies and the dentist pays a fee for that. Dr. Goggans asked if any decisions are ever made based on production. Mr. Pantazis responded that there should not be and added that a proper DSO would be providing a service for a fee.

A written response was received from Dr. Quinn Dufurrena, Association of Dental Service Organizations.

Rule 150-13-.01 Conscious Sedation Permits

Public comments were received from Dr. Martin Krieger. Dr. Krieger commented that there is proposed amendment to Rule 150-13-.01 that reads, "For moderate sedation, End Tidal CO₂ shall be monitored". He stated that this is a mandate, whereas the proposed language in Rule 150-13-.02 reads in part "the ability to monitor End Tidal CO₂". He stated that this does not seem to be congruent within the two

rules and does not understand why the two rules were written differently. Dr. Krieger read some language from the American Association of Anesthesiologists (ASA) regarding this specific issue. Dr. Krieger stated that he thinks it would be important for the Board to consider the wording of the ASA. In addition, Dr. Krieger stated that he feels the Board needs to consider the concept of whether or not End Tidal CO₂ is always the best indicator of the status of the patient.

Public comments were received from Dr. Carol Lefebvre. Dr. Lefebvre commented on the budgetary implications of this rule if it has to be done in a year. Dr. Daniel responded that the Board has taken that into consideration and will give a reasonable timeframe for implementation. Dr. Lefebvre stated that it was her understanding that the units are on backorder. Dr. Daniel responded that there was a shortage when AMOS (Associates in Maxillofacial & Oral Surgery) first implemented these guidelines, but that this was no longer the case. He further responded that the Board is certainly not going to implement a requirement that cannot be met.

Public comments were received from Rhonda Hogan. Ms. Hogan stated that the precordial stethoscope is a great monitor. Ms. Hogan explained that if a typical healthy child comes in with extreme anxiety, sedation can be tricky. Her primary concern is patient safety. There are some scenarios that can cause you to completely abort your case. Ms. Hogan asked the Board to consider using a precordial stethoscope as an alternative for moderate conscious sedation and to also consider using the language from ASA that Dr. Krieger discussed.

Public comments were received from Dr. Michael Pruett. Dr. Pruett commented that a tremendous number of sedations are provided in his clinic. He stated that capnography is a wonderful thing; however, in the clinic, is not user friendly. He stated that he feels the Board should delay implementing this requirement as there are a tremendous number of people who do not know how to use it.

Public comments from Dr. Adam Doss were received. Dr. Doss commented that he does have the ability to monitor capnography. However, he stated that if the power goes out, he has nothing else. He explained that if he has pulse oximeter, he will have a battery. He stated that he has the ability to do either, but chooses the pulse oximeter because it is more reliable and less expensive.

Public comments were received from Dr. Amish Naik. Dr. Naik commented that he has started an online petition as he is not sure what is bringing about the rule change.

Rule 150-13-.02 Deep Sedation/General Anesthesia Permits

No comments or written responses were received.

The hearing was adjourned at 11:42 a.m.

Open Session

Dr. Holcomb made a motion to adopt Rule 150-4-.01 Investigations.Amended. Dr. Bennett seconded and the Board voted unanimously in favor of the motion.

Dr. Bennett made a motion to adopt Rule 150-5-.02 Qualifications for Dental Hygienists. Dr. Goggans seconded and the Board voted unanimously in favor of the motion.

Dr. Goggans made a motion to table Rule 150-10-.01 Fraudulent, Misleading or Deceptive Advertising. Dr. Gay seconded and the Board voted unanimously in favor of the motion.

Dr. Daniel made a motion to adopt Rule 150-13-.01 Conscious Sedation Permits. Dr. Treadway seconded the motion. Discussion was held by Dr. Bennett. Dr. Bennett stated that he feels a lot of the

commentary discussed today should be taken into consideration. He further stated that some of the language Dr. Krieger provided is very adequate and feels the rule is too restrictive the way it is currently written. Dr. Daniel responded by stating that it is mandated by other societies. Dr. Gay responded by stating that he feels the rules should mirror the language provided by Dr. Krieger. The motion was rescinded by Dr. Daniel. Dr. Treadway made a motion to table Rule 150-13-.01 Conscious Sedation Permits. Dr. Holcomb seconded and the Board voted unanimously in favor of the motion.

Dr. Daniel made a motion to table Rule 150-13-.02 Deep Sedation/General Anesthesia Permits. Dr. Gay seconded and the Board voted unanimously in favor of the motion.

Dr. Tracy Gay 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. Logan Nalley, Dr. Steve Holcomb, Dr. Richard Bennett, Dr. Randy Daniel, Ms. Connie Engel, Dr. Tracy Gay, Dr. Greg Goggans, and Dr. Antwan Treadway.

Executive Session

Appearances

- J.Z.R.
- B.L.S.

Applications

- A.M.R.
- C.J.S.
- J.J.M.
- C.E.J.
- J.E.H.
- K.A.C.
- L.B.T.
- Y.W.J.
- W.D.A.
- D.H.
- R.A.T.
- D.L.

Investigative Committee Report

Report presented:

- DENT140259
- DENT120060
- DENT140249
- DENT140237
- DENT130028
- DENT140190
- DENT110157
- DENT120104
- DENT120108
- DENT140274

- DENT140171
- DENT140246
- DENT140215
- DENT140125
- DENT140192
- DENT140260
- DENT140197
- DENT140250
- DENT140150
- DENT140088
- DENT140002
- DENT140046

Correspondences

- Correspondence from K.B.

Executive Director's Report – Ms. Tanja Battle

- Report of Credentials Licensees
- K.D.C.

Attorney General's Report – Mr. Bryon Thernes

Mr. Thernes presented the following consent order for acceptance:

- M.T.W.

Mr. Thernes discussed the following individual:

- J.E.C.

Legal Services – Ms. Anil Foreman

Ms. Battle discussed the following individual:

- J.G.W.

Ms. Battle presented the following consent orders for acceptance:

- G.W.P.

Miscellaneous

- R.K.

Licensure Overview Committee Appointments/Discussion Cases

- D.J.B.
- E.B.E.
- D.B.G.
- M.E.M.
- J.D.S.
- K.D.K.
- C.S.
- D.L.P.

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

Open Session

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

Attorney General's Report – Mr. Bryon Thernes

The Board received advice from Mr. Thernes regarding proposed Rule 150-10-.01 Fraudulent, Misleading or Deceptive Advertising. No action taken.

Application Discussion

- R.K. Dental Exam Applicant Approved application

Appearances

- J.Z.R. Submit new application and allow a one day provisional permit. Waive application fee
- B.L.S. Overturn denial and approve application

Applications

- A.M.R. DH Credentials Applicant Approved application
- C.J.S. Dental Credentials Applicant Approved application
- J.J.M. DH Credentials Applicant Approved application
- C.E.J. Dental Credentials Applicant Approved application
- J.E.H. DH Reinstatement Refer to the Attorney General's office
- K.A.C. DH Reinstatement Refer to the Attorney General's office
- L.B.T. DH Reinstatement Approved application
- Y.W.J. DH Reinstatement Approved application
- W.D.A. Conscious Sedation Applicant Submit initial application for sedation permit.
- D.H. Conscious Sedation Applicant Approved request for waiver of application fee. Approve for provisional permit.
- R.A.T. Conscious Sedation Applicant Denied request for extension of provisional permit. Approve for one day provisional permit for the date of the evaluation only.
- D.L. Renewal Pending Refer to Attorney General's office

Investigative Committee Report

Report presented:

Complaint number	Allegations	Recommendations
DENT140259	Renewal Falsification	Refer to A G Office
DENT120060	Quality of Care	Close
DENT140249	Unprofessional Conduct	Refer to A G Office
DENT140237	Patient Abandonment/Stability	OMPE
DENT130028	Quality of Care	Close
DENT140190	Quality of Care	Close
DENT110157	Quality of Care	Close
DENT120104	Substandard Work	Close
DENT120108	Quality of Care	Close
DENT140274	Other	Close
DENT140171	Quality of Care	Close

DENT140246	Quality of Care	Close
DENT140215	MMPR	Close
DENT140125	Quality of Care	Close
DENT140192	Quality of Care	Close
DENT140260	Quality of Care	Close
DENT140197	Quality of Care	Close
DENT140250	Quality of Care	Close
DENT140150	Quality of Care	Close
DENT140088	Quality of Care	Close
DENT140002	Quality of Care	Close
DENT140046	Unprofessional Conduct	Close w/Letter of Concern

Correspondences

- Correspondence from K.B.: Denied request for remainder of application fee to be applied towards 2015 renewal and pending sedation application fees.

Executive Director’s Report – Ms. Tanja Battle

- Report of Credentials Licensees No action taken.
- K.D.C. Dental Licensee Schedule to meet with the Licensure Overview Committee.

Attorney General’s Report – Mr. Bryon Thernes

Mr. Thernes presented the following consent order for acceptance:

- M.T.W. Public Consent Order accepted

Mr. Thernes discussed the following individual:

- J.E.C. No action taken

Legal Services – Ms. Anil Foreman

Ms. Battle discussed the following individual:

- J.G.W. Approved to release renewal application to the Georgia Board of Pharmacy

Ms. Battle presented the following consent orders for acceptance:

- G.W.P. Public Consent Order accepted

Licensure Overview Committee Appointments/Discussion Cases

- D.J.B. DH Reinstatement Approved application
- E.B.E. Dental Exam Applicant Approved application
- D.B.G. Dental Credentials Applicant Denied application
- M.E.M. DH Exam Applicant Approved application
- J.D.S. Request to terminate probation Approved request
- K.D.K. Request to terminate probation Approved request
- C.S. Request for approval of the addition of Class II drugs to DEA license Approved request
- D.L.P. Request to terminate probation Approved request

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

Approval of Minutes

Dr. Bennett made a motion to approve the Public and Executive Session minutes for the August 15, 2014 conference call. Dr. Goggans seconded and the Board voted unanimously in favor of the motion.

Ratifications

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

Correspondence from Sylvia Ratchford, Hinman Dental Society

The Board considered this correspondence regarding continuing education. The Board directed staff to respond to Ms. Ratchford by stating that the Board does not offer credit for registering for a meeting and does not approve credit for time spent in the exhibit hall. In addition, notify Ms. Ratchford that the Board would accept credit from an approved organization and refer her to Board Rule 150-3-.09(2) for a list of those organizations. Further, state that the Board has never determined if testing is required as that would be up to the organization offering the course and the approved organization would determine the quality/content of the course. In regards to guidelines/restrictions for a live-patient dentistry course, refer Ms. Ratchford to O.C.G.A. § 43-11-20(a) for more information

Correspondence from Mohd Majed Kachlan

The Board considered this correspondence from Dr. Kachlan regarding a request for an amendment to Board Rule 150-3-.01(3). The Board directed staff to respond to Dr. Kachlan by stating that the Board has no plans of modifying the rule at this time.

Correspondence from Angela Micka

The Board considered this correspondence from Ms. Micka requesting a comment from the Board on what constitutes the practice of dentistry in Georgia. The Board directed staff to respond to Ms. Micka by referring her to O.C.G.A. § 43-11-1 and § 43-11-17. In addition, the Board also recommended referring Ms. Micka to Board Rule 150-8-.02.

General – Dr. Logan Nalley

2015 Meeting Dates: Dr. Holcomb motioned to approve the 2015 meeting dates with the changes noted. Dr. Bennett seconded and the Board voted unanimously in favor of the motion.

CE Audit Committee Report – Dr. Richard Bennett

No report.

Conscious Sedation/General Anesthesia Committee Report – Dr. Randy Daniel

Dr. Daniel reported that the Committee met with a pending applicant earlier in the morning and has requested additional information. Once the information is received, the Committee will review.

Credentialing Committee Report – Dr. Greg Goggans

No report.

Dental Hygiene Committee Report – Ms. Rebecca Bynum

No report.

Examination Committee Report – Dr. Logan Nalley

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

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

No report.

IP Committee Report – Dr. Richard Bennett

Dr. Bennett reported that he, along with Ms. Battle, met with the Georgia Composite Medical Board regarding concerns it had about scope of practice issues. The main issue appears to be advertising at certain locations. Dr. Bennett stated that he made it clear that if GCMB had any concerns about individual dentists, to forward those to Ms. Battle for expeditious handling by the Board.

Dr. Bennett also reported that the IP Committee met earlier that morning and discussed sending notification to all IP registrants concerning the parameters of injectable pharmacologics in an effort to clarify any misunderstandings.

Executive Director’s Report – Ms. Tanja Battle

Roster request from Georgia Regents University: Dr. Gay made a motion to approve the request for a waiver of the fee for the roster. Dr. Goggans seconded and the Board voted unanimously in favor of the motion.

Ms. Battle reported that the Board office will be moving to the sixth floor. The full Board will continue to meet on the 36th floor until further notice.

Ms. Battle reported that she is working on getting a decision tree implemented that will give some options on the front end of telephone calls while still allowing customers to speak with a person.

Ms. Battle presented a public consent order on Dana Chambers, DH005588 for acceptance. Dr. Daniel made a motion to accept the consent order. Dr. Bennett seconded and the Board voted unanimously in favor of the motion.

Attorney General’s Report Open Session – Mr. Bryon Thernes

No report.

Miscellaneous

Dr. Nalley discussed committee assignments and stated that he will be revising the list and will report back to the Board.

The next scheduled meeting of the Georgia Board of Dentistry will be held on Friday, October 17, 2014, at 9:30 a.m at the Department of Community Health's office located at 2 Peachtree Street, N.W., 36th Floor, Atlanta, GA 30303.

The Board meeting adjourned at 2:50 p.m.

Minutes recorded by Brandi P. Howell, Business Operations Specialist

Minutes edited by Tanja D. Battle, Executive Director