

MINUTES OF THE EMERGENCY MEETING
OF THE
BOARD OF DENTISTRY

November 9, 2023

ROLL CALL

The meeting of the Board of Dentistry was called to order at 4:30 p.m. by Dean Cope, DDS, Chairperson, via WebEx. The Agenda were sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Dean Cope, DDS - Chairperson
Melanie Steckelberg, DDS, Vice-Chairperson
Michael J. O'Hara, JD, PhD – Secretary
Yoshiharu Ameku, DDS
Gene Giles, DDS
Lynlee Medhi
Hannah Randell, RDH
Terrence Lanphier, DDS
Lisa Kucera, RDH

Absent: John Thomas, DMD

Also present were (all attending via WebEx: Vonda Apking, Program Manager; Jan Gaden Harris, Health Licensing Coordinator; Teresa Hampton, Department Attorney; Timothy Tesmer, MD, Chief Medical Officer.

Cope announced that there is a copy of all the public documents being reviewed at this meeting available in the meeting room pursuant to the Open Meetings Act.

Cope provided an overview of the Board of Dentistry's purpose and addressed everyone in attendance and reminded everyone to be courteous and noncontentious. Please raise your hand to speak.

ADOPTION OF AGENDA

O'Hara moved, seconded by Lanphier, to adopt the agenda.

Steckelberg would like to have a productive meeting today and hopes that her draft legislation for resident licensure will expedite today's discussion. Steckelberg provided comments regarding the manner in which the Emergency Meeting of the Board was scheduled. She also provided information regarding the background of this agenda item in which the Board had discussed several times at past Board meetings starting back on September 23, 2022. The Board discussed this topic with the Deans, Faculty and Dental Student at their meeting in April 2023, as well as Temporary Educational License. The Board requested seeing proposed language on the Temporary Educational License in order to determine acceptability; this was requested in April for our July 2023 meeting, but the board was not given an update. Clinical Examinations were on the agenda and again discussed at our August 2023 and October 2023

meetings. Steckelberg suggested that any future emergency meetings of the Board of Dentistry be approved by the Board Chair and Vice-Chair.

The following vote on approval of the agenda is as follows. Voting aye: Ameku, Cope, Giles, Kucera, Lanphier, Randell, Medhi, O'Hara, Steckelberg. Voting nay: None. Absent: Thomas. Motion carried.

Discussion Regarding Dental Clinical Examination Decision and the Effect on Temporary/Resident Licenses

Cope believes that there is a simple solution. Requested input from the University of Nebraska.

Kristen Hassebrook
University of Nebraska
Lincoln NE

Ms. Hassebrook extended her appreciation to the Board's diligence in addressing this topic on such short notice. The University knows there is need for a long-term legislative change. Ms. Hassebrook explained that there is a residency applicant shortage due to Nebraska only accepting one clinical examination. Both the General Practice and Advanced Education residency programs accept applicants on a rolling basis and are feeling the lack of applicants due to only accepting one clinical examination. Most students have already decided which clinical examination they are going to take mostly because they tend to take the clinical examination offered by their chosen University. There are cost and time constraints to taking an additional exam. Ms. Hassebrook highlighted that UNMC Dental Residency program is one of the largest providers for treating Medicaid and special needs patients in Nebraska.

Dr. Gerard Kugel, Dean at UNMC
University of Nebraska, College of Dentistry
Lincoln NE

Dr. Kugel is greatly appreciative of Board to come together to discuss this issue. This discussion will help the community.

Cope thinks that the proposed language should help solve this issue. Ms. Hassebrook reminded that a legislative change would not help the immediate need.

Teresa Hampton, Department Legal, explained that the Board cannot change the statutes. If the residents are considered students that cannot charge. Lanphier asked temporary license and why the Board could not amend the statute. Ms. Hampton explained that the statute requires the temporary license to pass the same clinical examination as any dental applicant applying by examination and changing this would require a legislative change to address the statutory language.

Yadav Sumit
University of Nebraska
Lincoln NE

Dr. Sumit asked how the law got change in the first place. Cope explained that the statutory language has not been changed since approximately 1988. The statutory language gives the Board of Dentistry the authority to approve clinical examination that are considered comparable to the Central Regional Dental Testing Services (CRDTS) clinical examination. Ms. Hassebrook

asked that the Board go back in accept American Dental Examination (ADEX). Cope explained that the Board never considered ADEX comparable to the CRDTS examination. Dr. Sumit asked about temporary license for students. O'Hara explained that the Board does not have the authority to suspend a statute, but the Governor could intervene, and the basis would be based on this emergency meeting. Dr. Tesmer requested to clarification regarding ADEX is not comparable when 49 other states accept the examination. Steckelberg explained that this decision happened last year. Dr. Tesmer is concerned because it is affecting dental care of Nebraska Medicaid patients. Cope understands the concern and trying to establish a path to address this concern. Lanphier asked about the Governor suspending a statute. O'Hara provided clarification on how the Governor can suspend a statute.

John Thomas, DMD joined that meeting at 5:15 p.m.

Dr. Jill Wallen, Dean at Creighton University
Creighton University, School of Dentistry
Omaha NE

Dr. Wallen mentioned the e-clause regarding a statute. O'Hara explained that the e-clause requires legislation to be introduced. Dr. Kugel explained the issues effecting the recruiting of the dental students for their residency programs and have them come to Nebraska when the surrounding states accept the ADEX examination. Dr. Kugel mentioned that there needs to be a solution. Steckelberg commented that she is not aware whether other states have taken the time to compare the examination.

Richel Cobler
CRDTS
Topeka KS

Ms. Cobler mentioned that this is a license issue not an examination issue. Dr. Kugel explained that UNMC has discussed paying for residency applicants to take the CRDTS examination but what applicants would want to do that. Dr. Sumit mentioned the long waiting list for each residency programs.

Lanphier provided draft language as " *That the department, with the recommendation of the Board, shall issue a temporary license to any person who a) has met the requirements for a license to practice dentistry as set forth in section 38-1117 or is licensed in another jurisdiction as defined in 38-1124 and b) is enrolled in an accredited school or college of dentistry for the purpose of completing a postgraduate or residency program in dentistry.*" Lanphier explained that the meeting today is addressing getting resident applicants to residency programs in Nebraska. Ms. Hassebrook suggested knowing what options are available that are non-legislative. Ms. Hampton requested clarification as to whether the residents charge for the procedures they are performing, if they are not charging, then they can be considered as students. Dr. Sumit explained that procedures by students could be charged under the faculty. Ms. Hassebrook requested clarification to Dr. Tesmer as to whether Medicaid would require students to bill. Ms. Hampton explained that Dr. Tesmer is not an expert on Medicaid billing. Dr. Wallen explained that they are currently discussing Medicaid provider contracts. Ms. Hampton reminded everyone that students are not licensed if providing gratuitous care.

Dr. Scott Morrison
University of Nebraska
Omaha NE

Dr. Morrison explained residents have always been considered as a student practice in the past. Dr. Morrison how this would affect emergency call or moonlighting. Dr. Wallen explained that residents are always under a faculty member. Dr. Kugel would agree. Thomas explained that someone made the comment about ADEX was never accepted but he explained that if applicants took ADEX they were required to take additional portions to make the examination comparable to CRDTS.

Dr. Jay Hansen
University of Nebraska
Lincoln NE

Dr. Hansen thanked everyone for their thoughts. Dr. Hansen explained that he is one of the directors of one of the residency programs at UNMC. He mentioned that he does not have a single applicant that took the CRDTS examination and most of them do not attend a school that offers the CRDTS examination. The licensure issues and temporary licensure is currently problematic. The issue is that they are required to a coverage for a level one trauma hospital by July 1, 2024. However, the biggest obstacle is getting the applicants licensed on time. Cope questioned why the University does not offer contracts to the students until after July 1. Dr. Hansen explained that Nebraska does not issue contracts until after July 1 because of the process involved with issuing contracts. Apking explained the review process regarding licensure and explained how the temporary educational permits for physician and there could be similar process for dental temporary licenses. Hampton questioned if the residents were considered employees by the University. Dr. Sumit explained that the residents are considered employees because they are on graduate medical education (GME) funding. Ms. Hassebrook asked for clarification if it would be acceptable to begin treating residents as students even though they are funded by graduate medical educational funding. Dr. Morrison commented that he is not convinced that the residents can be treated as students and how do the college vet the students. Dr. Wallen expressed the concern that treating the residents as students could cause the residency programs to lose their GME funding. Dr. Kugel agreed. Cope questioned whether it could be a temporary solution. Dr. Wallen and Dr. Kugel explained that it would lead to bigger problems regarding the funding and program accreditation by the Commission on Dental Accreditation (CODA).

Dr. Chris Kratochvil
University of Nebraska
Lincoln, NE

Dr. Kratochvil agreed with being cautious about considering the residents as students. Steckelberg mentioned whether calling the residents "interns".

Dr. Carolyn Taggart-Burns. President
Nebraska Dental Association
Lincoln, NE

Dr. Taggart-Burns questioned whether they could approach the Governor. Ms. Cobler asked how going to the Governor would help. Apking explained the statutes regarding temporary licensure requires you to go back the statute that regarding licensure by examination. Hampton explained that the Board cannot amend the statutes and that this is a matter of policy and leadership is usually not in favor of suspending statutes. Ms. Hassebrook is this option viable. O'Hara explained that he reviewed the emergency statute clause for another client during COVID. If the Board, choose to go this way and you might want to give Attorney General Hilgers a heads up. Dr. Morrison mentioned that updating the statutes would be the route to go. Apking explained statutes cannot be changed until the legislative session and the Board needs to look

at changing the acceptable examinations. Hampton explained that the Governor cannot amend a statute he can only suspend a statute and the Board needs to be careful. Apking asked if the Board could keep their current recommendation regarding acceptable examination for examination candidates and another recommendation for temporary licensure. Ms. Cobler explained that if candidates needed to take additional portions of the examination, CRDTS has independent testing sites and would like to be part of the solution. Cope asked if that would be acceptable. Hampton commented that if the Board makes two different recommendations regarding acceptable examination comes with risks. Ms. Cobler asked the Deans if it would be helpful if CRDTS came to the schools and offered the portions considered not acceptable. Dr. Sumit said this would be too late currently. Dr. Kratochvil asked if temporary license would work. Hampton explained that temporary license is the license they normally obtain and again the risk is minimal. Giles commented on comparability and leave that out of solution. Cope agreed with Giles comment. Ms. Hassebrook reminded about the Boards authority within the existing statute. Bo Bothello, General Counsel commented that the Governor does not have the authority to waive statutes, nor he cannot suspend statute without a declared emergency. Dr. Taggart-Burns asked if the Board could approve ADEX for temporary licensure only. Hampton agreed that the Board can recommend that ADEX is comparable for the temporary licensure.

Dr. Wallen supports Dr. Taggart-Burns recommendation.

Dr. Mark Edwards
CRDTS
Topeka, KS

Dr. Edwards agreed that the Board could determine if another examination is acceptable for temporary license. Bo Bothello, General Counsel concurred. O'Hara mentioned using the word "solely" would get his support. Lanphier asked if the temporary license would only be used for the residents. Apking explained that the statute requires the applicant to prove that they are in a residency program. O'Hara moved, seconded Lanphier, for the purposes of 38-1123 in referencing 38-1117 that ADEX is comparable. Steckelberg asked for a point of clarification. Steckelberg heard the motion as that for 38-1123 referencing 38-1117 that ADEX is comparable but earlier he mentioned the word "solely". O'Hara and Lanphier accepted that friendly amendment. Giles asked if the motion could be read in its entirety. O'Hara read the motion as "Solely, for the purposes of 38-1123 in referencing 38-1117, that ADEX is comparable to CRDTS. Cope mentioned that Lanphier seconded the motion. Roll call was called as Voting aye: Ameku, Cope, Giles, Kucera, Lanphier, Medhi, O'Hara, Randell, Steckelberg, Thomas. Voting nay: none. Motion carried.

Ms. Hassebrook thanked everyone for address this issue on short notice.

ADJOURNMENT

The Board adjourned the meeting at 6:17 p.m.

Respectfully submitted by,

(signature on file with the Department)

Michael O'Hara, JD, PhD, Secretary
Board of Dentistry