

These minutes have not been reviewed or approved by the Board of Dentistry.

MINUTES OF THE MEETING  
OF THE  
BOARD OF DENTISTRY

October 19, 2018

ROLL CALL

The meeting of the Board of Dentistry was called to order at 9:00 a.m. by Dennis Anderson, DDS, Chairperson, in the Lincoln Room at the Country Inn & Suites, located at 5353 North 27<sup>th</sup> Street, Lincoln, Nebraska. The Agenda and Revised Agenda (revised more than 24 hours prior to the commencement of the meeting and posted/available for public inspection at the Board's office more than 24 hours prior to the meeting) were sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Dennis Anderson, DDS, Chairperson  
Lisa Kucera, RDH, Vice-Chairperson  
Cynthia Gaskill, RDH, Secretary  
Charles Bauer, DDS  
David Blaha, DDS  
Dean Cope, DDS  
Mary Sneckenberg  
Gregory Thomas, JD  
John Thomas, DMD

Absent: Yoshiharu Ameku, DDS

Also present were: Jesse Cushman, Program Manager; Vonda Apking, Health Licensing Coordinator; Ami Huff, Assistant Attorney General; Larry Wiehn, Investigator; and Jeff Newman, Investigator.

Anderson 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.

ADOPTION OF AGENDA

Gaskill moved, seconded by Sneckenberg, to adopt the Agenda with the ability for the Chairperson to rearrange as necessary. Voting aye: Anderson, Blaha, Bauer, Gaskill, Sneckenberg, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

APPROVAL OF MINUTES

July 13, 2018

Under 172 NAC 57 – Dental Hygienists and 172 NAC 53 – Dental Assistants on page 5, Anderson suggested adding the word “some” before the word “changes” in the second line.

J. Thomas moved, seconded by Kucera, to approve the July 13, 2018 minutes as corrected. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, G. Thomas, J. Thomas, Sneckenberg. Voting nay: None. Absent: Ameku. Motion carried.

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PRESENTATION ON LICENSEE DISCIPLINE – MATT GELVIN, PROGRAM MANAGER, ANNA HARRISON, RN, BSN, COMPLIANCE MONITOR, AND JUAN RAMIREZ, RESEARCH ASSISTANT

Juan Ramirez, Research Assistant, presented on Health Care Professionals Disciplinary Actions for a period of the last 5 years. He reported many different facts such as:

- there were 1,339 health care professionals disciplined for alcohol/drug related issues;
- 19 disciplined licensees were in the dental profession;
- there were 199 sites across Nebraska, determining that not all disciplinary actions occurred in urban areas but also rural areas (rural area defined as areas under 2,500 people);
- out of the 19 disciplined within the dental profession only 3 were required to participate in 5 years of body fluid screening.

The Board questioned whether the data would be available to share. Matt Gelvin, Program Manager explained that his staff would make the data available after presentations have been made to the Boards. The Board thanked the presenters.

INVESTIGATIONAL REPORTS AND APPLICATION REVIEW – CLOSED SESSION

Gaskill moved, seconded by J. Thomas, to go into closed session at 9:35 a.m. for the purpose of review and discussion of investigative reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals. Voting aye: Anderson, Bauer, Blaha, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

Blaha recused himself from the meeting at 9:54 a.m.  
Blaha returned to the meeting at 9:56 a.m.

Kucera moved, seconded by J. Thomas, to reopen the session at 10:09 a.m. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

Teresa Hampton, Department Legal, joined the meeting at 10:09 a.m.

LICENSURE APPLICATION(S)

Dental Application(s)

Gaskill moved, seconded by Blaha, to recommend denying a dental license to Caleb Johnsen. The basis for this denial are the following misdemeanor convictions, disciplinary action in other states, and misrepresentation of material facts in procuring a credential. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

Cope moved, seconded by J. Thomas, to recommend issuing a dental license to Larry Hutchinson. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

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### E-Mail Ballot(s) Since Last Meeting

Since the last Board meeting, the Board voted via e-mail to approve the minimal sedation renewal course presented by Midwest Sedation Consultants which was approved on July 20, 2018.

### REQUEST TO APPROVAL OF A DENTAL RADIOLOGY COURSE – UNITED AIR FORCE (USAF) RADIOLOGY COURSE AND METRO COMMUNITY COLLEGE RADIOLOGY COURSE

J. Thomas moved, seconded by Cope, to recommend approving the radiology course offered by the United States Air Force (USAF). Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

J. Thomas moved, seconded by Gaskill, to recommend approving the radiology course offered by Metro Community College. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### REQUEST FOR APPROVAL OF CONTINUING COMPETENCY COURSE – DENTAL DAYS

J. Thomas moved, seconded by Sneckenberg, to approve three hours per day of continuing competency or one and a half hours per half day for participating in the clinical portion only of Mission of Mercy or other similar events with a maximum of 12 hours per a 24 month period. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### DRAFT REGULATIONS – 172 NAC 53, 172 NAC 56, AND 172 NAC 57

Cushman updated the Board where the three sets of regulations are in the approval process. Hampton explained the process of getting regulations approved. The Board members requested that a regulations workflow document as sent to them and any interested stakeholders. Staff will forward the regulations workflow document to the Board members and interested stakeholders via e-mail.

### Approval of Exam Content/Criteria for the Restorative 1 and 2 Permits

The Board discussed that individuals taking a clinical examination should be tested on minimal competency. J. Thomas moved, seconded by Cope, to accept the Restorative examination given by CRDTS or an equivalent restorative examination requiring individual candidates to perform a Class I amalgam or a Class I composite for a Restorative 1 permit and to perform a Class II amalgam or Class II composite for a Restorative 2 permit. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

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### Approval of Courses for the Restorative 1 and 2 Permits

The Board mentioned that the course offered by the University of Minnesota was previously approved. Stakeholders mentioned that part of the University of Minnesota course requires the individuals to perform restorations under their Nebraska dentist's supervision here in Nebraska. The Board wondered if these individuals are exempt from practicing in dentistry in Nebraska. Hampton will review the statutes.

Gaskill moved, seconded by Bauer, to approve the University of Colorado's expanded function course. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### Set Initial and Renewal Fees for the Restorative 1 and 2 Permits

Cope moved, seconded by Kucera, to set the initial fee for the Restorative 1 and Restorative 2 permits as \$25.00 for each permit and set the renewal fee for the Restorative 1 and 2 permits as \$25.00 for each permit. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### Review the Testing Requirements for the Expanded Scope Areas

Anderson moved, seconded by J. Thomas, to approve the testing requirement for the expanded scope as being the test offered within the course. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### Approval of Courses for the Expanded Scope Areas

Gaskill moved, seconded by Blaha, to approve courses on the expanded scope areas that are taught at Commission on Dental Accreditation (CODA) accredited programs. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### Set Fee for Expanded Scope Areas

Gaskill moved, seconded by Sneckenberg, to set the initial fee for the expanded scope areas at \$10.00 for one expanded scope area or all four expanded scope areas depending on how many times a license needs to be reprinted. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### CENTRAL REGIONAL DENTAL TESTING SERVICE (CRDTS) – MEMBER COMMENTS ABOUT THE ANNUAL MEETING AND WORKSHOP – AUGUST 2018 IN KANSAS CITY, MO

J. Thomas provided the Board with a written report from the Steering Committee meeting. Gaskill provided a written report from the Dental Hygiene Examination Review Committee meeting.

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### Approval of Courses for the Expanded Scope Areas – Con't

A stakeholder asked “To what level such as “pre-clinical or post-clinical” should the expanded scope areas be taught?” J. Thomas moved, seconded by Gaskill, to require the expanded scope areas to be taught to the level of pre-clinical competency. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### RECOMMENDATION ON ACCEPTABLE DENTISTRY AND DENTAL HYGIENE CLINICAL EXAMINATIONS FOR 2018-2019

Cope moved, seconded by Kucera, to accept the dental clinical examinations given by Central Regional Dental Testing Service (CRDTS) Dental Examination, the Commission on Dental Competency Assessments (CDCA) Dental Examination with either the CDCA Patient based Periodontal Examination or the CRDTS Patient based Periodontal Examination, the Council of Interstate Testing Agencies (CITA) Dental Examination, the Southern Regional Testing Agency (SRTA) Dental Examination with CRDTS Periodontal Examination, and the American Dental Examination (ADEX) with a patient based periodontal examination as acceptable clinical examinations for 2018-2019 testing season and to accept the dental hygiene clinical examination given by the Central Regional Dental Testing Service (CRDTS) and the Western Regional Examining Board (WREB) as acceptable clinical examinations for the 2018-2019 testing season. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### AMERICAN ASSOCIATION OF DENTAL BOARDS (AADB) 135<sup>TH</sup> ANNUAL MEETING – SEPTEMBER 22-23, 2018 IN CHICAGO, IL

Anderson provided a written report from the AADB Annual meeting.

### PRACTICE QUESTION(S) AND/OR REQUEST(S) FOR CLARIFICATION

The Board reviewed the following practice question(s) and/or request(s) for clarification:

1. Question from Jason Yungtum regarding a new marketing company.

I represent a Nebraska dentist who is interested in creating a Nebraska marketing company and website intended to market available appointment dates/times for licensed Nebraska dentists. Generally, the concept is that the marketing company and website will be an avenue for Nebraska dentists and dental practices to market and publicize appointment dates/times that are available due to cancellations, low patient volume, etc. (Structure described in his letter)

1. *Does the proposed marketing website violate the Nebraska Administrative Code (172 Neb. Admin. Code Ch. 54, 002.03), which prohibits dentists from “directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services is prohibited”?*
2. *Has the Nebraska Board of Dentistry previously provided practice guidance that touches upon any of the issues presented by this e-mail, and, if so, please advise?*

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3. *Does the proposed marketing website violate any local, state or federal laws or regulations that the Nebraska Board of Dentistry is aware of?*
4. *Does the Board of Dentistry have any other practice guidance recommendations or suggestions prior to launching the marketing website?*

The Board agreed with Cushman response that the Board doesn't see anything in the Dental Practice act that would prohibit this marketing scheme, however the Broad of Dentistry does not endorse businesses and/or their marketing schemes.

2. Question from Patrick Roy regarding taking tooth impressions for identification.

Basically, it is a group in Kearney that does tooth imprints for children.

"A Toothprint is basically a plastic wafer that is warmed up and it becomes soft and pliable. That is then inserted into the child's mouth and they bite down on it for 20 seconds. That gives us an "impression" of their teeth that can be used for identification when compared with dental records."

They have been told by the Nebraska Dental Association that doing the above task requires a licensed dentist according to Nebraska statute 38-1115.

**38-1115. Dentistry practice, defined.** Any person shall be deemed to be practicing dentistry who (1)...(2) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws, or performs any phase of any operation incident to the replacement of a part of a tooth;...

Gaskill moved, seconded by J. Thomas, that the above practice is not the practice of dentistry. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

3. Question from Diane Alden regarding whether debridement is part of oral prophylaxis.

I am having issues with Medicaid approving a debridement code. They stated it was not an authorized public health dental hygienist function. Please, could you bring that up to the board of dentistry? I can't understand why it would not be. When I go into the nursing homes I am not providing a routine prophylaxis. Many of these patients/residents have not had their teeth cleaned for years and have had very little or no oral hygiene care. I am removing gross amounts of plaque and calculus; it takes a lot longer than a routine prophylaxis and it is much more difficult.

Isn't a debridement under an oral prophylaxis?

**38-1130. Licensed dental hygienist; functions authorized; when; department; duties; Health and Human Services Committee; report.** (1)...(4)(a) The department may authorize a licensed dental hygienist who has completed three thousand hours of clinical experience to perform the following functions in the conduct of public health-related services to adults in a public health setting or in a health care or related facility: Oral prophylaxis; pulp vitality testing; and preventive measures, including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease.

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The Board reviewed several textbooks and how they define debridement and oral prophylaxis. Gaskill moved, seconded by Blaha, determined that debridement is part of oral prophylaxis and can be performed in a public health setting by a dental hygiene holding a public health authorization. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

- Question from Scott Thomson regarding oral surgeons being able to admit patients into a hospital and performing a History and Physical (H & P) examination.

Blaha moved, seconded by J. Thomas, the Board agrees that all oral surgeons are trained in the admitting of patients into a hospital and performing H & P's. Voting aye: Anderson, Blaha, Bauer, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

### 2017 PUBLIC HEALTH AUTHORIZATION DENTAL SERVICES REPORT

The Office of Oral Health provided a written report to the Board members.

### POSSIBLE MEETING DATES FOR 2019

The Board members requested the following meeting dates for 2019:

January 11, 2019 (already scheduled)  
April 19, 2019  
July 12, 2019  
October 25, 2019  
January 10, 2020

Staff will check with Country Inn & Suites to make sure their meeting room is available.

### STATE BOARD PARTICIPATION ON ACCREDITATION SITE VISIT – CREIGHTON UNIVERSITY SCHOOL OF DENTISTRY ON OCTOBER 15-17, 2019

No volunteers at this time.

### ADJOURNMENT

Gaskill moved, seconded by Cope, to adjourn the meeting at 12:06 p.m. Voting aye: Anderson, Bauer, Blaha, Cope, Gaskill, Kucera, Sneckenberg, G. Thomas, J. Thomas. Voting nay: None. Absent: Ameku. Motion carried.

Respectfully submitted by,

Cynthia Gaskill, RDH, Secretary  
Board of Dentistry