

MINUTES
South Carolina Board of Dentistry
Teleconference Board Meeting

9:00 a.m., April 9, 2021

Public notice of this meeting was properly posted at the S.C. Board of Dentistry office, Synergy Business Park, Kingstree Building, and on the board website and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. In accordance with the Governor’s directives regarding social distancing, the meeting will be held via teleconference. Members of the public who wish to attend may do so by telephone. The telephone number and access code are provided on the posted agenda.

BOARD MEMBERS PRESENT:

Charles Bumgardner, DMD– President
Donald Marler, DMD - Vice President
Elizabeth Marchi, RDH - Secretary
Murtuza Ansari, DMD
Carolyn Brown, DMD
Thomas McDonald, MD, DMD
K. Britt Reagin, DMD, MS

SCLLR STAFF PRESENT:

Bob Horner, Esq., Office of Advice Counsel
Meredith Buttler, Board Administrator
Prentiss Shealey, Esq., Office of Disciplinary Counsel
Erin Baldwin, Esq., Office of Disciplinary Counsel
Courtney Clark, Office of Disciplinary Counsel
Angie Baldwin Office of Investigations and Enforcement
Christa Bell, Office of Investigations and Enforcement

PRESENT:

Melissa Blackwell, Court Reporter	Jeremy Bayer, DMD
Tia Cooper, RPP	James Montgomery, DMD
James Mercer, DDS	Mallary Forrest, DDS
Rebecca Payne, RPP	Melissa Minger, DMD
Erin Griese, RPP	Jennifer Boyland, DMD
Lee Muthig	Mike Montgomery, Esq.
Vance Shield, DDS	Andrea Reynolds, RDH
Terri Hubbard, DDS	Corine Victork
Talmadge Wilkins, DMD	Deborah Knapp
Edward Dennis	Deadra Harmon

CALL TO ORDER: President Bumgardner called the meeting to order at 9:06 a.m.

APPROVAL OF AGENDA

Motion: To approve the agenda.
Marler/Marchi/approved.

INTRODUCTION OF BOARD MEMBERS

Each Board member provided a brief introduction of themselves.

APPROVAL OF EXCUSED ABSENCES

Motion: To approve Dr. Stewart's absence.
Ansari/Marler/approved.

APPROVAL OF MEETING MINUTES

Motion: To approve the minutes for the January 15, 2021 meeting.
Ansari/McDonald/approved.

Motion: To approve the minutes for the Orofacial Myofunctional Therapy Committee Meeting on February 19, 2021.
Reagin/Marler/approved.

Motion: To approve the minutes for the Nitrous Oxide Course Review Committee Meeting on February 19, 2021.
McDonald/Ansari/approved.

PRESIDENT'S REMARKS

Dr. Bumgardner did not have any remarks.

STAFF REPORTS

a. Office of Investigations and Enforcement Statistical Report

Ms. Angela Baldwin reported that in the first quarter of 2021 the Board had received forty-five (45) complaints and closed twenty-two (22) cases. Ms. Baldwin highlighted the top five areas of complaints: failure to maintain/provide records, furnishing unnecessary or substandard items/service, improper or abusive billing practice, sub-standard patient care, and unprofessional conduct. Dr. Bumgardner requested clarification regarding complaints categorized as 'Misconduct'. Ms. Christa Bell provided the requested information and expounded on office procedures for prioritizing cases in light of immediate threats to the public's welfare. Dr. Bumgardner requested a report on what constitutes a 'priority complaint' for the next board meeting.

b. Investigative Review Committee Report

Ms. Baldwin reported the IRC Committee met on March 18, 2021, recommending nine (9) cases for dismissal and three (3) formal complaints. Ms. Shealey requested an additional seven (7) cases be added to the IRC report, all are recommended for formal complaint.

Motion: To accept the nine (9) cases for dismissal.
Ansari/Reagin/approved.

Motion: To accept the three (3) cases for formal complaint listed in the IRC report.
Reagin/Marler/approved.

Motion: To accept the seven (7) case for formal complaint added to the IRC report.
Marler/Reagin/approved.

c. Office of Disciplinary Counsel

Ms. Shealey reported there are currently nineteen (19) cases open. Of the open cases, eleven (11) are pending agreements, three (3) are pending hearings, two (2) are have been walked back to the IRC, and three (3) are pending advice. Since the last meeting on January 15, 2021, nine (9) cases have been closed.

Motion: To enter into closed session for hearing of 2015-123.
Brown/Ansari/approved.

DISCIPLINARY HEARING

a. 2015-123 Release from Board Order

The respondent was present before the Board for a closed hearing. Respondent was represented by Mike Montgomery, Esq. and joined by witness Leah Wilkins, DMD. Disciplinary hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To release respondent from Board Order 2015-123, effective April 9, 2021.
Reagin/Ansari/approved.

Motion: To return to open session.
Marchi/Marler/approved.

APPLICATION HEARING

a. Terri Hubbard, DDS

Dr. Hubbard appeared before the Board for an application hearing. She was not represented by counsel and was sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To approve Dr. Hubbard's application for reinstatement.
Brown/McDonald/approved.

b. Andrea Reynolds, RDH

Ms. Reynolds appeared before the Board for an application hearing. She was not represented by counsel and was sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To approve Ms. Reynold's reinstatement application.
Reagin/Ansari/approved.

c. Vance Shields, DDS

Dr. Shields appeared before the Board for an application hearing. He was not represented by counsel and was sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To approve Dr. Shield's reinstatement application.
Reagin

Motion: To enter into executive session for legal advice.
McDonald/Marler

Dr. Reagin withdrew his motion.

Motion: To enter into executive session for legal advice. Ms. Buttler was requested to join the session.
McDonald/March/approved.

Motion: To enter into public session.
Marler/Ansari/approved.

Board President, Dr. Bumgardner, noted for the record that no votes or actions were taken while in executive session.

Motion: Due to incomplete application, Dr. Shield's to remain in Active in Renewal status for seven days. Upon submission of CE compliance within the allowed time period, Board staff is delegated the ability to issue reinstatement of licensure.
McDonald/Ansari/approved.

d. Lyndon Alford, DMD

Dr. Alford did not appear before the Board for an application hearing. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To deny Dr. Alford's renewal application due to continuing education non-compliance.
McDonald/Ansari/approved.

e. Jennifer Boyland, DMD

Dr. Boyland appeared before the Board for an application hearing. She was not represented by counsel and was sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To approve Dr. Boyland's reinstatement application.
McDonald/Ansari/approved.

f. Melissa Minger, DMD

Dr. Minger appeared before the Board for an application hearing. She was not represented by counsel and was sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: Due to incomplete application, Dr. Minger will be allowed seven days to submit continuing education compliance documentation. Upon submission of CE compliance within the allowed time period, Board staff is delegated the ability to issue reinstatement of licensure.
McDonald/Ansari/approved.

g. Megan Bickers, RDH

Ms. Bickers did not appear before the Board for an application hearing. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To deny Ms. Bicker's reinstatement application for failing to appear.
Reagin/Marler/approved.

h. Mallory Forrest, DDS

Dr. Forrest appeared before the Board for an application hearing. She was not represented by counsel and was sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To approve Dr. Forrest's reinstatement application.
Ansari/Brown/approved.

Motion: To enter into closed session for application hearing.
Brown/Marler/approved.

i. James Montgomery, DDS

Dr. Montgomery appeared before the Board for a hearing. He was represented by Edward J. Dennis IV, Esq. All parties were sworn in by the court reporter. Hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To reinstate Dr. Montgomery's general dentistry license without restrictions.
Brown

Dr. McDonald requested amendment to the motion to include reinstatement of Dr. Montgomery's specialty license.

Motion: To reinstate Dr. Montgomery's general and specialty dentistry licenses without restrictions.
Brown/McDonald/approved.

Motion: To enter into open session.
Ansari/Marchi/approved.

REPORTS

a. AADB Annual Meeting Report

Dr. Brown presented the Board with the report for the AADB 2021 Mid-Year Meeting held virtually on February 26-28, 2021. Board member attendance included Dr. Brown, Dr. McDonald and Ms. Marchi. Dr. Brown provided a written report for Board member information summarizing the various sessions of the meeting.

b. Orofacial Myofunctional Therapy Committee Report

Ms. Marchi presented the proposed FAQ developed by the committee. The committee's research found that orofacial myofunctional therapy (OMT) does not fall under the scope of practice for dental hygiene and therefore cannot be regulated by the Board. Mr. Horner clarified that while OMT certification may require an educational background in dental hygiene or speech pathology, the therapy is not a function of dental hygiene and therefore licensees certified in OMT should not hold themselves as a dental hygienist while practicing OMT nor should they practice dental hygiene while administering therapy.

Motion: To accept the proposed FAQ.
McDonald/Marchi

Dr. Brown and Dr. Bumgardner expressed concern over the wording in the FAQ. Dr. McDonald withdrew his motion.

Motion: To table the item for July 9, 2021 meeting.
McDonald/Marler/approved.

c. **Nitrous Oxide Course Committee Report**

Dr. McDonald informed the committee that after review it was found that public offering of courses for monitoring nitrous oxide are not readily available. Of the current providers approved, most offer the course as part of their educational degree/certification program. Dr. McDonald stated the course presented by Summerville Pediatrics is a well-developed course and recommends it for approval. Revisions to the current course approval policy was presented to the Board. Finding there are better qualified entities for reviewing course materials, the committee recommends revising the policy so that courses must attain PACE, CERP or other certifying agency in order to be accepted by the Board.

Motion: To accept the proposed policy revision.
Reagin/Ansari/approved.

Motion: To accept the course provided by Summerville Pediatric Dentistry.
McDonald/Brown/approved.

d. **CODA Reaccreditation York Technical College**

Ms. Marchi informed the Board CODA conducted a site visit for York Technical College via ZOOM. The visit lasted three days and conducted a very thorough study of the curriculum.

e. **Administrator Report**

Ms. Buttler reported there are currently 2,854 general dental licenses; 708 specialty licenses; 4,105 dental hygiene licenses; 5,241 dental assisting with nitrous oxide monitoring certificates; 174 dental technician licensees; and 7 orthodontic technicians. The Board's current cash balance as of February 28, 2021 is \$4,534,998.80.

Dental renewals closed at midnight on March 1, 2021, and licenses not renewed were changed to lapsed status on March 2, 2021. Ms. Buttler presented the Board with a comparative overview of lapsed licenses numbers for the past five renewal cycles.

Throughout the time period from January 1 to March 1, 2021, the Board office received numerous phone calls and emails regarding the late fee and why it was being applied if their license stated they expired on March 1, 2021. For each of these, board staff directed the licensee back to the statutes. Many licensees followed up with the comment that if the licensee expiration date had stated December 31, 2020, then they wouldn't have waited till after to renew. With the shift of the renewal period to showing expiration date of 12/31/2022 and the late renewal period from January 1, 2023 to February 28, 2023, Ms. Buttler anticipate the board office will receive less of these calls/emails. Additionally, per the Board's practice act the Board office is required to mail a certified letter to all licensees who have not renewed by January 31, 2021. Ms. Buttler provided the Board members with a breakdown and anticipates this number will be significantly lower for the next renewal

cycle.

Ms. Buttler shared with the Board a press release from the Department of Defense regarding a grant to explore licensure compacts for military spouses.

On January 22, 2021, the Board office hosted the specialty examinations at the State Fire Academy. The Board office was slated to have 18 applicants sit for the exam but only 8 agreed to travel to take the exam. The day of the exam, only 6 applicants took the exams. The Board office was able to work with a few applicants and examiners to conduct an exam at a later date due to scheduling conflicts. The next specialty examination date is July 16, 2021.

The Board office is continuing to work on the ability to transfer the specialty exams to a virtual offering. Of the ADA approved specialty, six exams need to be developed. Ms. Buttler reported she has reached out to each of the specialty academies/societies listing on the ADA website requesting assistance in gathering individuals willing to assist in the creation of a state specialty exam. Most have expressed concern regarding exam development and maintenance. Most specialty organizations spend a considerable amount of time developing and maintaining examinations and therefore are apprehensive about a state exam not being held to the same standards. Ms. Buttler has also reached out to all the states listed on an ADA report as administering their own specialty examination. Of the twelve states listed, seven have replied that they no longer administer specialty exams. Most have delegated the examination requirement to the specialty organizations. Following further investigation and research, Ms. Buttler will include a full report at July meeting agenda.

Ms. Buttler stated a constant issue the Board office is presented with is verification of specialty licenses by credentialing agencies, licensing agencies, insurance companies, DEA offices and the general public. Due to the limitations of previous databases, the general and specialty license(s) were housed under the same record; resulting in the inability to look up the license by specialty license number. Additionally, the current system requires administrative processes that create unnecessary delay in processing and tracking. The Board office now has a more capable database and staff are separating out the general dentist licensed from the specialty dental license. This will result in both license number showing up on the licensee lookup and improved processing efficiency. Following completion of this project, the licensee lookup format will be updated.

Dr. McDonald expressed concern over foreign trained dentists who are unable to apply for dental specialty due to not meeting the requirements for general dentistry licensure. Dr. Bumgardner requested Board staff review to see if a regulation amendment could be done to assist with the situation and report at the July 9, 2021 meeting. Additionally, Dr. Bumgardner requested if follow-up had been done with ADEX regarding a dental hygienist being a Board representative. Ms. Buttler will contact CDCA and report at the next meeting.

NEW BUSINESS

a. Clarification: Coronal Polishing performed by Dental Assistants

Ms. Marchi stated the Board office had received an inquiry requesting clarification if a dental assistance, who took a course in coronal polishing, is allowed to perform the procedure. Following review of the published Summary of Procedures document, Ms. Marchi stated she found that only dental hygienists and expanded duty dental assistances would be able to perform coronal polishing. Dr. Bumgardner clarified that completion of a short course in coronal polishing would not qualify a dental assist to perform coronal polishing.

b. Dental Scope of Practice: Testing and Diagnosis of Sleep Apnea

Members of the public present for the discussion included Rebecca Zekman, Johnathan Nessee, Dana Blaloc, and Jeremy Bayer. Dr. Bumgardner stated after review of SC Code of Law Section 40-15-70, the ability of licensed dentists to order home sleep tests was within the scope of practice. He advocated for a position statement be created. Dr. McDonald expressed in the interest of time that the Board appoint a committee to draft the statement and present at the July 9, 2021 meeting.

Motion: To create a committee tasked with developing a position statement on ordering of home sleep tests being within the SC dental scope of practice.
McDonald/Ansari/approved.

Member of the committee to included Dr. Bumgardners, Dr. McDonald and interested members of the public.

c. Dental Scope of Practice: Salivary Diagnostic Screening Tests

Item was not discussed as resolution had been reached prior to the Board meeting.

d. Revision of Policy: Infiltration of Anesthesia Course Approval

Ms. Buttler presented a revised policy mirroring the revised policy for course approval of nitrous oxide monitoring certification courses.

Motion: To accept the proposed policy revision.
McDonald/Ansari/approved.

e. Review of Regulations 39-5 and Online Continuing Education Allowance

Due to a continuation of the state of emergency as declared by the Governor, Dr. Bumgardner presented the amended CE requirements which would continue to allow licensee to attain 100% of the require CEs from online sources for the 2021-2022 renewal period.

Motion: To extend the allowance for 100% of the required CEs to be obtained via online sources for the 2021-2022 renewal cycle only.
Marchi/McDonald/approved.

f. Continuing Education Requirements Clarification: Minimal Sedation and Licensure by Credential

Ms. Buttler presented her research regarding the applicability of SC Code of Law Section 40-15-420(C). Following review with advice counsel, it was determined the requirement of the four hours in pharmacology, anesthesia, emergency medicine or sedation every two years was applicable only to licensees holding sedation permits. Dr. Bumgardner provided an alternative legal interpretation for the Board's consideration. Dr. McDonald stated that he had been involved with the promulgation of the legislation and it was the intent that CE requirement was only applicable to dentists permitted for sedation, not licensed dentists offering minimal sedation.

Motion: To clarify the requirement of the four hours in pharmacology, anesthesia, emergency medicine or sedation every two years is applicable only to dentist who hold a sedation permit for moderate or deep sedation.
Marler/McDonald/approved.

Per request, Ms. Buttler reached out to CE Broker to determine if applicants for licensure by credential could submit the required CEs in CE Broker for administrative review. Per software limitations and viewing authority, the Board office would not be able to view non-SC licensee accounts and applicants not licensed by SC, would not be able to create a CE Broker account.

Motion: To require CE documentation be included with the application licensure by credential.
Ansari/Marler/approved.

g. Reinstatement Administrative Procedures and Policy Review

Ms. Buttler presented the Board will a policy crafted prior to 2003 which delegated reinstatement application approval authority to the Board administrator for reinstatement application submitted within the month following the close of renewals. A revised policy was presented to the Board, delegating authority to the administrator to approve reinstatement applications and requiring the licensees to appear at the second quarter Board meeting for ratification of approval.

Motion: To approve the revised policy.
Ansari/Brown/approved.

Ms. Buttler presented an additional policy for Board consideration. The policy would delegate application approval authority for reinstatements to the Board president. The applicant would have to appear at the next scheduled meeting for ratification of approval. Dr. McDonald expressed concern over the policy as the Board is not able to issue temporary licensure.

Motion: To table the item for the July 9, 2021 meeting.
McDonald/Brown/approved.

Ms. Buttler stated with the review of the Board's applications, the reinstatement application only contains the requirement to show Hepatitis B Virus Immunization. Following review of the federal OSHA and CDC guidelines concerning vaccination, Ms. Buttler stated the Hepatitis B vaccination was a requirement of the employers but could not be found within statutes or regulations as a requirement of licensure.

Motion: To remove the Hepatitis B Virus immunization from the reinstatement application.
Ansari/Brown/approved.

h. Review of SC Code of Law Section 40-15-83

Dr. Bumgardner stated he is being made aware of an issue concerning corporately owned dental office closing and patient records no longer existing. He requested information from the Office of Investigations and Office of Disciplinary Counsel as to how this was being addressed and if the Board was utilizing the statutes which allows for civil penalties to be levied. Mr. Horner reminded the Board in order for the Board to issue civil penalties, a complaint must first be submitted and an investigation conducted. He stated it is rare that a complaint to come in reporting only a record keeping violation; it is usually combined with other violations. As a result, cases where fines are issued generally cover multiple violations. Ms. Shealy and Ms. Bell provided an overview of how the cases involving record keeping violations are handled and the typical course a cases follows.

LEGAL BUSINESS

Mr. Horner reported that the Board office had received an inquiry regarding the dental scope of practice and micro-needling. In review of the medical practice act, micro-needling procedures constitutes surgery. Mr. Horner believes the medical board is taking the matter to the AGs office for review. Dr. Bumgardner stated he did find the procedure to be part of any CODA curriculum and therefore did not see it as within the scope of practice. The Board will await the AGs opinion for final determination of scope of practice.

STAFF REPORTS

b. Investigative Review Committee Report

Ms. Shealy re-read the seven case numbers added to the IRC report. Previous reading contained an error.

PUBLIC COMMENTS

None.

ANNOUNCEMENT

Next Board Meeting is on July 9, 2021.

ADJOURNMENT

Motion: To adjourn.
Brown/Marler/approved.

The April 9, 2021, meeting of the S.C. Board of Dentistry adjourned at 3:00 p.m.