



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
DENTAL QUALITY ASSURANCE COMMISSION
BUSINESS MEETING MINUTES
Friday, March 4, 2016

MEMBERS PRESENT

Charles Hall, DDS, Chair
Colleen Madden, Public Member, Vice-Chair
Paul Bryan, DMD
James Henderson, Public Member
Bree Kramer, EFDA
Todd Cooper, DDS
LouAnn Mercier, DDS
Robert Shaw, DMD
Aaron Stevens, DMD
Lyle McClellan, DDS
Kara Baza, EFDA
Karim Alibhai, DMD

MEMBERS ABSENT

Kunal Walia, DDS
Hyun Jung Song, DDS
John Liu, DDS
John Carbery, DMD

STAFF PRESENT

Trina Castle, Executive Director
Jennifer Santiago, Program Manager
Tracie Drake, Assistant Program Manager
Heather Carter, Assistant Attorney General (AAG)
Bill Kellington, Supervising Staff Attorney

OTHERS PRESENT

Mike Walsh, Washington State Dental Association (WSDA)
Anne Burkland, WSDA
James Cunnington, Washington Academy of General Dentistry
Kirsten Johnson, Smiles Support Services
Kathy Bassett, Washington State Dental Hygienists' Association (WSDHA)
Melissa Johnson, WSDHA, Willamette Dental
Beverly Frye, WSDHA
Marilyn Rothen, WSDHA
Timothy Hess, University of Washington School of Dentistry (UWSOD)
Mark Drangsholt, UWSOD
Scott Drake, Dentist
Tom Tilson, Dentist
Daniel Mooney, Attorney
Lisa L. Buttaro, Pierce County Dental Society
Chris Bundy, MD, Washington Physicians Health Program
Ericka Brown, Department of Health

OPEN SESSION

1. **CALL TO ORDER** – Dr. Hall, Chairperson, called the meeting to order at 8:00 a.m.
 - 1.1. The commission, staff, and audience introduced themselves.

- 1.2. The commission approved the agenda as presented.
- 1.3. The commission approved the January 22, 2016 business meeting minutes as presented.

2. LEGISLATION

- 2.1. Dr. Bryan updated the commission on the weekly meet me calls. The meet me calls have been cancelled due a lack of new bills being introduced.
- 2.2. The commission was provided copies of legislative letters approved at the January 22, 2016 meeting.
 - Jennifer Santiago discussed that there are two bills still before the legislature that may affect the commission:
 - Open Public Meetings Act. HB 2353/SB 6171.
 - Encouraging certificates of restoration of opportunity. 2ESHB 1553. This bill creates a pathway for applicants with criminal convictions. If this bill becomes law, it could limit the commission's ability to deny some applications based on criminal convictions.
 - Trina Castle discussed the department's concern with the proposed senate budget, which includes a \$500,000 transfer from the health professions account to the general fund.
- 2.3. Ms. Madden requested the commission support 2017 legislation to add an additional public member. This addition would allow for one public member in each discipline panel. The commission also discussed presenting legislation to require the governor to appoint an oral surgeon. Some commission members expressed concern that if a request for appointment of an oral surgeon was included in the request for a public member, the legislature may deny both. Dr. Shaw made a motion to approve proposing legislation for one additional public member. The commission unanimously approved the motion.

3. DENTAL COLLABORATION COMMITTEE

- 3.1. Dr. Mercier updated the commission on the Dental Collaboration Committee meeting held on February 22, 2016.
- 3.2. The commission reviewed comments received and discussed proposed rule changes.
 - WAC 246-817-550 – Acts that may be performed by licensed dental hygienists under general supervision. The commission discussed comments with dental hygienists providing local anesthetic under general supervision.
 - Much of the concern with moving local anesthetic to general supervision was with the training of the dental hygienists. The commission received documentation demonstrating that dental hygienist emergency management training is very similar to that of dentists.
 - The collaboration committee modified proposed rule language to include patient safety parameters within the rule.
 - Ms. Burkland with the Washington State Dental Association (WSDA) stated that the modified proposed rule language met many of the concerns of WSDA's membership. There is still some membership concern, particularly regarding the number of available staff in an emergency.

- Ms. Bassett from the Washington State Dental Hygienists' Association (WSDHA) suggested continuing education for medical emergencies is taken together with dentists and staff.
- Ms. Santiago discussed a minor non-substantial change to (6)(b).
- The commission approved moving WAC 246-817-550, with changes, forward for stakeholder comments.

4. OTHER

- 4.1. Ms. Carter provided an informational update on specialty advertising litigation in other states. Courts have ruled it is unconstitutional to limit dentists to only advertising American Dental Association specialties. The commission rule WAC 246-817-420 has a provision stating that the commission can approve other organizations. The rules may need to be updated in the future. Ms. Carter does not believe an immediate rule modification is necessary.
- 4.2. The commission discussed the use of Botox in dentistry. The University of Washington now offers an elective course that appears to include the cosmetic use of Botulinum Toxin Injections. The commission discussed the 2013 Interpretive Statement on Use of Botulinum Toxin Injections/Dermal Fillers by Dentists.
 - Ms. Carter stated that the 2013 Interpretive Statement was well thought-out, included extensive stakeholder review and was consistent with many other states. She indicated that the current interpretive statement is a reasonable interpretation of RCW 18.32.020. Ms. Carter indicated that a legislative change would be required to change the scope of practice for dentistry. The commission does not have the latitude to violate the statute. The commission is the regulator appointed by the governor to uphold the current laws.
 - The commission discussed that there are legitimate dental uses for Botox injections that do not involve injecting in the teeth, gums or jaw. Dentists provide many procedures involving facial aesthetics, should they be limited in use of Botox injections? There are many treatments dentists provide to patients that have to do with their appearance. Does the aesthetics of the face end with the smile? The commission's primary role is to protect the citizens of Washington. If the interpretive statement is limiting dentists from providing care needed to patients, then should the commission look at revising the interpretive statement? Some members expressed that the 2013 interpretive statement should be revisited, as it may be prohibiting dentists from providing adequate care to the citizens of Washington. The American Dental Association definition of dentistry is much broader than Washington State. Washington is decades behind. There are many antiquated laws in the state of Washington that are not enforced. The commission should decide what cases we prosecute and let the legislature catch up.
 - Dr. Hall discussed that the course that the University of Washington is offering appears to be offering treatment for wrinkles of the skin. Skin and face are not within the definition of the scope of practice for a dentist. This is a legal interpretation, not an issue of standard of care. Botox can be injected anywhere in the face according to our statement, but it must be for the purpose of treating a dental condition. Legislation dictates the dentist scope of practice. The current

interpretive statement is a strict interpretation of the law. In 1996 the legislature added the clause to allow only oral and maxillofacial surgeons expanded treatment options and specifically did not open the treatment options to all dentists. Amending the definition of dentistry is the appropriate way to address this issue through the legislature.

- Dr. Drangsholt, University of Washington School of Dentistry (UWSOD), expressed concern with the current gaps between what physicians treat and what dentists treat. Many patients fall between those gaps and neurotoxins are safe and could greatly benefit those patients.
 - Dr. Hess, UWSOD, requested the commission modify the 2013 interpretive statement. Due to the current interpretive statement, the University of Washington is limited in the pharmaceuticals they can purchase for their patients. There are hundreds of dentists trained and providing neurotoxin on a daily basis. Can the commission handle all those cases?
 - Dr. Hall indicated that the commission does not dictate what a school of dentistry teaches, but the legislature did not intend to allow any school to dictate scope of practice in the state of Washington.
 - Dr. Stevens motioned for the commission to form a committee to review the 2013 Interpretive Statement. The motion passed with five in favor, three opposed, four abstaining. The new committee will include Kara Baza, Colleen Madden, Dr. Robert Shaw, Dr. Karim Alibhai, and Dr. Aaron Stevens.
- 4.3. Ms. Santiago discussed with the commission the difficulty of filling disciplinary hearing panels. The Secretary of the Department of Health has appointed two new pro tem commission members to assist with disciplinary panels.

5. PRESENTATION

- 5.1 Dr. Chris Bundy, Associate Medical Director, Washington Physicians Health Program (WPHP), provided a presentation on the WPHP program and dentist statistics.
- 5.2 Stacey Kjeldgaard, Ethics Boundaries Assessment Services, LLC (EBAS), provided a presentation regarding the EBAS ethics and boundaries testing. The EBAS testing is a proctored exam performed at Pearson VUE sites across the nation.

6. RULES

- 6.1. WAC 246-817-160 Graduates of non-accredited schools. There were no stakeholder comments received. The commission approved the proposed rule with changes. Ms. Santiago will file a CR102.
- 6.2. The commission discussed comments received regarding the dental assistant and expanded function dental auxiliary delegation rules. Dr. Wentworth provided comments pertaining to WAC 246-817-540. Dr. Mercier made a motion and the commission approved adding additional language addressing Dr. Wentworth's concerns. The commission approved the proposed rules with changes. Ms. Santiago will file a CR102.
 - WAC 246-817-510 Definitions for WAC 246-817-501 through 246-817-570
 - WAC 246-817-520 Supportive services that may be performed by registered dental assistants

- WAC 246-817-525 Supportive services that may be performed by expanded function dental auxiliaries (EFDAs)
 - WAC 246-817-540 Acts that may not be performed by registered dental assistants
 - WAC 246-817-545 Acts that may not be performed by expanded function dental auxiliaries (EFDAs)
- 6.3. WAC 246-817-304, 305, 310, and 315 Dental treatment record rules. Ms. Santiago has submitted the CR103 and it is in agency review.
- 6.4. WAC 246-817-701 through 790 Administration of anesthetic agents for dental procedures. The CR103 has been signed by Dr. Hall and is waiting for code reviser filing. The rule becomes final 31 days after the filing date.
- 6.5. WAC 246-817-760 Moderate sedation with parenteral agents. The CR 101 has been signed and is waiting for code reviser filing. Rule modifications can begin after the filing date.
- 6.6. WAC 246-817-120 Examination content. The CR102 was filed on February 16, 2016, a rules hearing will be held on April 22, 2016.
- 6.7. WAC 246-817-130, 135, and 140 Licensure without examination. The commission approved the proposed rule with changes. Ms. Santiago will file a CR102.
- 6.8. WAC 246-817-110 and 150 Dental licensure and faculty licenses. The CR103 was filed February 16, 2016. The rule will be effective on March 18, 2016.
- 6.9. The commission reviewed the list of priorities for rule modification. No changes were made.

7. EDUCATIONAL OUTREACH COMMITTEE

Colleen Madden updated the commission on the Educational Outreach Committee meeting held on February 19, 2016. The committee published the March newsletter, which was focused on ethics. The next meeting will cover planning the retreat and new commission member training. Ms. Santiago reminded the commission members to reserve October 27, 2016 for the retreat.

8. JURISPRUDENCE EXAMINATION COMMITTEE

Dr. Shaw updated the commission on the progress of the Jurisprudence Examination Committee. The last meeting was held in person after the January 22, 2016 commission meeting. The committee is much more effective in person. The committee has approved approximately 30 questions. The intention is to have approximately 35 to 40 total questions for the final exam. The committee will be meeting this afternoon at 1:30 p.m. and hopes to complete the review of examination questions today.

9. POLICIES / GUIDELINES

The commission approved the Examination Review policy/procedure as presented.

10. PROGRAM REPORT

Ms. Castle updated the commission on the two newly appointed pro tem members. The Secretary intends to utilize the new members to fill in disciplinary hearing panels and review discipline cases. Ms. Obenland expressed her concern with assigning cases to the new pro-

tem members. The commission agreed that the new members would observe a few disciplinary panels prior to being assigned new cases.

10.1. The commission received the 2015-2017 interim operating budget report. The budget report shows a positive balance

- Dr. Cooper suggested the commission reduce dentist license fees due to the surplus.
- A request to allow additional spending was mentioned.
- Ms. Castle indicated that the legislature determines how much the commission can spend. The Department of Health sets licensing fees and dental is on the list to be evaluated for fee reductions.

10.2. Ms. Santiago updated the commission that the Department of Health Citrix network access project is currently on hold. Hardware/software compatibility issues have been identified.

10.3. Ms. Santiago indicated the April 22, 2016 commission meeting will be held at the Courtyard by Marriott in Richland, Washington.

10.4. The commission received a list of active committees.

11. REGIONAL BOARD UPDATES

The commission discussed priorities of the commission members. The commission members agreed that commission business meetings should take priority over examinations or other commission-related activities.

11.1. The commission approved Dr. Carbery to attend the American Association of Dental Boards meeting on April 10-11, 2016.

11.2. Dr. Bryan updated the commission on the Western Regional Examination Board (WREB) Dental Exam Review Board meeting on February 12, 2016. WREB made minor changes to the examination to ensure it remains valid. Dr. Bryan indicated that WREB does beta testing and ensures the examination is solid. WREB is evaluating whether to remove the amalgam restoration component on their examination.

11.3. Dr. Mercier updated the commission on her attendance at the Central Regional Dental Testing Services (CRDTS) Examination Review Committee meeting in January 2016. CRDTS has created a new restorative examination for dental hygienists and expanded function dental auxiliaries licensure. CRDTS will be beta testing the new examination in May. Dr. Mercier recommends approval of the new examination. The commission decided to re-review the CRDTS restorative examination after beta testing is complete.

12. FUTURE COMMISSION BUSINESS

The commission had no future business topics at this time.

The commission adjourned at 11:53 a.m.

Submitted By:

Commission Approval By:

Signature on file
Jennifer Santiago, Program Manager

Signature on file
Charles Hall, D.D.S., Chairperson