

**KANSAS DENTAL BOARD MEETING MINUTES  
FRIDAY, NOVEMBER 8, 2019, 9:00 A.M.  
LANDON STATE OFFICE BUILDING, 5<sup>th</sup> FLOOR  
900 SW JACKSON, ROOM 560  
TOPEKA, KANSAS 66612**

**A. Call to Order / Approval of the Agenda.**

**Call to Order:** Mark Herzog, D.D.S., President, called the Board meeting to order at 9:01 a.m.

**Members Present at Call to Order:** Mark Herzog, D.D.S., President; Jarrod Jones, D.D.S., Vice-President; Stephen Zeller, D.D.S., Secretary; Stanley Wint, D.D.S.; Jackie Leakey, R.D.H.; Jill Harding, R.D.H.; and James Kilmartin, Public Member.

**Members Arriving After Call to Order:** Daniel Thomas, D.D.S.

**Members Absent:** None.

**Staff Present:** Randy Forbes, Attorney for the Board; Lane Hemsley, Executive Director; Charity Carlat, Senior Administrative Specialist; and Vanda Collins, Senior Administrative Assistant.

**Attendees:** Wanda Droge (Delta Dental); Robert Baratta; Jeffrey Sulitzer, D.M.D.; Larrie Ann Brown; Gene Lambright; and Maggie Smet (telephone).

**Approval of the Agenda:** It was moved and seconded to approve the agenda. The motion passed.

**B. Minutes of August 16, 2019.**

It was moved and seconded to approve the minutes of August 16, 2019. The motion passed unanimously.

**C. Public Hearing on Regulatory Amendments Proposed for Permanent Adoption.**

**1. K.A.R. 71-2-2. Branches of dentistry.** Consistent with the Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.*, the Board held a public hearing to consider the adoption of a proposed permanent amendment to K.A.R. 71-2-2. After review and discussion, it was moved and seconded to adopt the amendment. A roll call vote was taken of all members present. The motion passed unanimously.

**2. K.A.R. 71-2-3. Committee for specialists' examination.** Consistent with the Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.*, the Board held a public hearing to consider the revocation of K.A.R. 71-2-3. After review and discussion, it was moved and seconded to revoke the regulation. A roll call vote was taken of all members present. The motion passed unanimously.

**3. K.A.R. 71-5-11. Level II Permit: parenteral conscious sedation.** Consistent with the Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.*, the Board held a public hearing to consider the adoption of a proposed permanent amendment to K.A.R. 71-5-11. After review and discussion, it was moved and seconded to adopt the amendment. A roll call vote was taken of all members present. The motion passed unanimously.

**4. K.A.R. 71-8-8. Information for patients.** Consistent with the Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.*, the Board held a public hearing to consider the adoption of a proposed permanent amendment to K.A.R. 71-8-8. After review and discussion, it was moved and seconded to adopt the amendment. A roll call vote was taken of all members present. The motion passed unanimously.

**D. Anesthesia Inspection Checklist Review.**

With the adoption of the permanent amendment to K.A.R. 71-5-11 (Level II Permit: parenteral conscious sedation), the Board reviewed a draft of an anesthesia inspection checklist. Dr. Zeller sponsored the amendment to K.A.R. 71-5-11 and prepared the checklist for the Board's staff to finalize. After review and discussion, it was moved and seconded to approve the anesthesia inspection checklist as written. The motion passed unanimously. The Board's staff will put the anesthesia inspection checklist into production and send notification to all sedation permit holders regarding the regulatory changes.

**E. Craniofacial Injections Inquiry: Dr. Johnson.**

The Board's inspector and investigator, Dr. Johnson, presented the following question to the Board: When injections are used in various parts of the craniofacial area for treatment of pain or diagnosis and not for treatment generally associated with dentistry, should the injections be considered within the scope of dentistry? After review and discussion, the Board concluded that the use of injections into the craniofacial area falls within the scope of dentistry if the treatment is dentally-related.

**F. Medical and Dental Billing Code Inquiry: Dr. Johnson.**

The Board's inspector and investigator, Dr. Johnson, presented the following question to the Board: If dental codes are available for procedures completed, should those be used before submitting to the patient's medical insurance? In some cases, it has been found that dental insurance claims are completely bypassed. After review and discussion, the Board concluded that a dentist is permitted to bill under either medical or dental codes as insurance permits. A dentist, however, cannot bill both medical and dental codes for the same procedure.

## **G. Prescription Drug Monitoring Program Legislative Proposal Discussion.**

The Board received a written request from the Kansas Board of Pharmacy (KBOP) regarding its legislative proposal for KTRACs. In particular, the KBOP sought stakeholder support for one or more proposed statutory amendments to the existing KTRACs legislation. Dr. Wint previously served on the KTRACs committee as the dentist member. After review and discussion, it was moved and seconded to support the KBOP's legislative proposals dated September 6, 2019. The motion passed unanimously. The Board's staff will work with the KBOP as needed on the proposed statutory amendments.

## **H. Stipulation and Consent Orders.**

**1. Michelle Petersen, D.D.S. (Case No. 17-99).** Attorney Randy Forbes presented the Stipulation and Consent Order. It was moved and seconded to approve the Stipulation and Consent Order, a copy of which will be posted on the Board's website. The motion passed unanimously.

## **I. Direct to Consumer Orthodontic Aligners Discussion: California Assembly Bill 1519.**

The Board received a copy of California Assembly Bill 1519. The California legislature recently passed the bill. The California governor approved the bill, which is now law. The bill provides, in pertinent part, that the failure of a licensed dentist to review diagnostic or conventional radiographs for orthodontia prior to the initial diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances is unprofessional conduct. The bill further provides that any entity providing dental services through telehealth shall notify each patient of the dentist's contact and licensing information prior to rendering services. Additionally, it specifies that a provider of dental services shall not require a patient to sign an agreement that limits the patient's ability to file a complaint with the California Dental Board. After review and discussion, the Board invited the Kansas Dental Association to attend a future meeting to discuss the California bill and any other legislative proposals.

## **J. Public Forum.**

The Board welcomed members of the public to speak to the Board. There were no public comments.

## **K. President's Report: Dr. Herzog.**

**1. WREB / DERB Discussion.** The American Dental Association (ADA) is preparing its own clinical examination, which will be similar to WREB, CRDTS, and the like. The examination, which is projected for completion in or around 2022, does not use live patients to assess clinical skillsets of licensing applications. The Board will be required to determine whether it will accept the ADA clinical examination for initial licensing purposes. Likewise, the Board will continue to consider naming a licensed dentist to WREB's dental examination review board (DERB).

**2. CRDTS Discussion.** The Board accepts CRDTS as clinical examination for initial licensing purposes. The dental hygiene members, Jackie Leakey, R.D.H. and Jill Harding, R.D.H., will update the Board of any potential changes in either the WREB or CRDTS examinations.

**L. Investigations Report: Dr. Herzog / Lane Hemsley.  
Inspections Report: Dr. Johnson.**

Mark Herzog, D.D.S., and Lane Hemsley presented the status of the Investigative Committee cases from January 1, 2019, to October 15, 2019.

**M. Executive Report: Lane Hemsley.**

**1. Budget.** An update was provided on the approved budget for FY 2020 (July 1, 2019 – June 30, 2020).

**2. Licensee and Specialty Licensee Report.** License and specialty license reports were provided for July 15, 2019, to October 15, 2019.

**N. New Business / Adjournment.**

The Board welcomed additional topics of discussion from members or the public. There was no new business.

**Adjournment:** It was moved and seconded to adjourn at 10:55 a.m. The motion passed. The meeting was adjourned.

APPROVED BY:

s/ Stephen Zeller, D.D.S.  
Stephen Zeller, D.D.S.  
Secretary, Kansas Dental Board

November 8, 2019  
Date