

MINUTES
TENNESSEE BOARD OF DENTISTRY

Date: May 4, 2020

Location: Tennessee Department of Health
665 Mainstream Dr.
Nashville, TN 37243

Members Present: Dan Meadows, DDS- President
Robert Caldwell, DMD
Phillip Kemp, DDS
Thao Kinsey, RDH
Airica Brooke Puckett, RDH
Naomi Martin, RDA
Edward Moody, DDS
David Travis, DDS
Thomas Williams, DDS
Maricela Rodriguez, DDS
Bettye Lynn Richert

Staff Present: Dea Smith, Executive Director
Ailene Macias, Administrative Manager
Ms. Francine Baca-Chavez, Office of General Counsel

The teleconference meeting began at 2:00 p.m. with Ms. Baca-Chavez, from the Office of General Counsel and Ms. Macias from the board staff being present in the Iris Room located at 665 Mainstream Dr. in Nashville, TN.

A roll call was taken by Ms. Baca-Chavez to confirm that all board members were present on the teleconference line. A second roll call was taken to confirm that all board members were able to hear the replies of the other board members on the phone. All board members confirmed that they could hear each other, although there was a lot of background noise from callers who had not muted their phones. A third roll call was taken, confirming that all board members did not have anyone else present at their locations while they were joining the meeting via phone.

Ms. Baca-Chavez read the agenda items to be covered:

1. Discuss what PPE is believed to be necessary to safely practice dentistry with limited access to PPE.
2. Discuss what action if any, the board would consider taking if a dental office provided

services without sufficient PPE.

Due to the current COVID19 pandemic, the emergency meeting was called and was held via teleconference to avoid gatherings of 10 or more people. A motion was made by Dr. Kemp to move forward with the meeting, and the motion was seconded by Ms. Puckett. A roll call vote was taken, and the motion passed after all board members confirmed the meeting was necessary and should move forward.

Ms. Baca-Chavez reviewed the requirements of a teleconference meeting: that the subject matter to be discussed required timely action, the physical presence of all members is not practical given the time frame in which action is required, and the participation of all or some of the members via electronic means is necessary. Ms. Puckett made a motion that the meeting did meet all of the requirements necessary for a teleconference to be held. Dr. Rodriguez seconded the motion, and the motion carried following a roll call vote.

Ms. Baca-Chavez reminded the board's authority was regulated by statute, and includes the following areas: prescribe rules and regulations for examination, conduct examinations, approve courses for schools, issue licenses, conduct disciplinary hearings, conduct on site anesthesia inspections, and promulgate rules to clarify the provisions contained in their statutes. She then turned the meeting over to Dr. Meadows, the Board President.

Dr. Meadows welcomed everyone to the special board meeting, and asked again for everyone on the call to keep their phones on mute, unless they wished to speak. He also requested that anyone wishing to speak should identify themselves and wait to be called upon before speaking. Joining the call was Dr. Terry Propper from the TDA, Cindy Godfrey from the TN Dental Hygienist Association, Keith Gilmore from the TN Academy of General Dentistry, Alicia Azimipour from the Nashville Dental Hygiene Association, and Whitney Howard from the TN Dental Hygienist Association, were among the association or organization representatives on phone. Dr. Meadows gave a brief review of the Executive Orders released by the Governor's Office that have affected the dental profession, ending with the order allowing dental offices to resume practicing on May 6th. In his statement, he also discussed that dental professionals have received many calls from patients asking for dental offices to provide non-emergent dental care, and the dentists are ready to go back to work. Dr. Meadows said the safety of all dental office staff, dental professionals, and patients must be our highest priority when re-opening offices to provide care. He also believes that dental professionals have been practicing with proper PPE in a hygienic office environment for many years, and they follow OSHA standards. Dr. Meadows reminded those on the teleconference of the board's lack of ability to open or close dental offices, and is even limited with the way they can make rules.

Dr. Kemp made a motion to adopt the ADA guidelines on how to open up dental practices to treat patients. Dr. Travis seconded the motion. Dr. Rodriguez agreed with Dr. Kemp's statement. Dr. Meadows asked for questions and comments from the audience concerning the motion to

adopt the ADA guidelines. Caller Dr. Tanya Porter, asked if anything in the ADA guidelines would be over ridden by OSHA. Dr. Travis stated anything done now as far as adopting guidelines will need to be modified as we move forward, due to the changes in the guidelines from the ADA and CDC that have occurred during the pandemic. Dr. Meadows agreed any guidelines put out by the board will need modification in the future as the situation evolves. Ms. Porter asked that one agency be chosen by the board for the guidelines, so it is very clear for dental professionals which guidelines to follow. Ms. Baca-Chavez reminded the board they have the authority to adopt the ADA, CDC, OSHA or other guidelines. The board would then be choosing to enforce those guidelines and the board could take disciplinary action for unprofessional conduct if a complaint is filed. The board can also combine guidelines from multiple agencies if they so choose.

Ms. Puckett believes proper PPE and patient safety has been a high priority in the dental profession for years, long before the COVID pandemic. She believes it is time for dental professionals to go back to work, and the guidelines set forth are good examples for how to do so. Dr. Meadows expressed concern over the possibility of each of the guidelines turning into possible complaints if each part of the guidelines is adopted by the board. He suggested only some of the guidelines be adopted as those that will be enforced by the board, such as proper PPE. Ms. Puckett commented the portions of the guidelines stating patients and staff should have their temperatures taken in the office, the number of patients in the office at any one time should be limited, adults/parents accompanying patients should wear masks in the office, and PPE (gowns, gloves, masks, safety glasses, etc.) should be worn while working with patients. Dr. Kemp commented that he has been asking for weeks for a meeting concerning PPE, because a one hour meeting would be too short to discuss the specific details of which of the ADA guidelines to adopt. His goal is to get the dental professionals back to work, and the reason he joined the board was to help people and serve people and not to be a "police". In speaking to what board members that he has been able to with the limited ability, that is the heart of everyone. He feels that if the board is expected to hand out citations they should be involved in creating guidelines but thankfully the ADA has developed guidelines. Ms. Baca-Chavez reminded those on the call that the meeting could continue as long as necessary, and was not limited to the time frame listed on the public notice.

Dr. John Werther an oral surgeon in the Nashville area, suggested the guidelines be accepted on an interim bases, since they may need review and reflection based on incoming data to improve or alter, as needed. Dr. Kemp was willing to alter his motion based on Dr. Werther's suggestion. Ms. Puckett seconded the alteration of the original motion. Dr. Meadows asked if the board could "recommend" the ADA guidelines be followed, and then set some minimum standards from the board on items like PPE. Ms. Baca-Chavez asked for clarification regarding whether the ADA guidelines were going to be adopted, with a policy statement on minimum standards, if the board was wishing to enforce both in the form of disciplinary action for those who violate the guidelines and standards. Dr. Werther stated the board did not likely have the authority or ability

to override OSHA standards regarding PPE. He discussed research about Level 3 masks being as effective, or more effective than the N-95 masks, but there are still a lot of unknowns about COVID19 and the nature of the virus. Dr. Werther cautioned the board against requiring a specific kind of mask be worn in dental offices, since research is still being conducted regarding the virus and requiring things like a certain level of mask could leave open the possibility of causing more issues for dental professionals and the board in the future. Ms. Puckett and Dr. Kemp agreed that they wished to help dental professionals get back to work to serve the residents of Tennessee, and they did not want to be in the business of "policing" licensees over PPE using policy statements and specific guidelines being enforced with disciplinary action. Ms. Baca-Chavez reminded the board members that by adopting the ADA guidelines, the board would have the authority to discipline licensees for violating the guidelines, but they did not have to discipline licensees after reviewing any complaints regarding possible violations.

Ms. Puckett suggested the ADA guidelines be recommended by the board, but not enforced by possible disciplinary action by the board. Chris Webb, a hygienist from East Tennessee, asked a question regarding the CDC, OSHA, and ADA guidelines requiring N-95 masks for any aerosol producing procedures. All three agencies stated elective procedures not be performed at this time, and wanted to know how the board would address those concerns. After a brief discussion regarding PPE, Dr. Kemp amended his motion to state that the board "strongly recommended" the following of the ADA guidelines, instead of adopting the guidelines. Ms. Puckett seconded the motion. Dr. TJ Fowler from Knoxville, TN, agreed the board should "strongly recommend" the guidelines be followed, because of the board waiting until a day and a half before offices were reset to open to discuss enforcing the guidelines through disciplinary action. He stated that some PPE and other items are very difficult to get at this time, and it may not be possible to acquire those items even if they would be required by the ADA guidelines. Dr. Propper from the TDA asked for an immediate vote be taken on the motion that was made by Dr. Kemp. Ms. Baca-Chavez asked if there was any further discussion on the motion. A roll call vote was taken, and the motion carried.

Ms. Baca-Chavez asked the board members if they would like to vote on or amend the drafted policy statement to implement the motion that was just passed, which had been sent to them prior to the teleconference. Dr. Kemp made a motion to accept the policy statement that was drafted, and Dr. Travis seconded the motion. Dr. Meadows asked that the policy be read out loud. After some discussion, the board members said they would like to leave in the policy statement to recommend the ADA and CDC guidelines be reviewed by licensees, but the guidelines would not be adopted by the board.

Dr. Tanya Porter was concerned about why the board chose to make recommendations regarding PPE, when previously that was not an area regulated by the board but by OSHA. Ms. Chris Webb questioned why the board previously stated a policy or statement could not be released regarding COVID, but the board was then holding a meeting to decide whether a policy statement regarding PPE was to be released, and to discuss the possibility of disciplining

licensees for violating PPE policies/guidelines. Dr. Propper agreed the board would be right to recommend the following of the ADA guidelines, so dental offices would be able to open safely. She also requested the draft policy statement be read so that all individuals joining the call would be able to hear what has been drafted. Dr. Meadows replied to Ms. Webb's question, stating the board was not making guidelines, merely recommending the guidelines written by the ADA and CDC for the dental profession. Dr. Travis read the drafted policy statement for attendees on the call. Dr. Larry Tragesse wished to have the wording in those guidelines not accepted by the board, which stated "elective procedures" should not be conducted at this time. He believes that would hinder the ability of dental professionals to go back to work, due to differing interpretations of what "elective care" includes. Ms. Cindy Godfrey, the president of the TDHA, agreed with the previous speaker that licensees provide essential care to patients, and the wording of "elective care" not be accepted by the board's policy statement. Dr. Kemp amended his motion to remove the CDC from the policy statement draft, and only recommend reviewing the ADA guidelines and the TN Department of Health webpages for guidelines regarding how to practice safely upon opening dental offices. Ms. Puckett seconded the motion. Ms. Webb disagreed, stating "elective care" was listed in more than just the CDC guidelines, and was in the ADA and OSHA guidelines as well. Dr. Tragesse suggested that the board substitute the word "essential" for "elective" in any of the guidelines that are being used by the board as recommendations. Dr. Paul McCord thinks the governor's office wants the board to support the ADA tool kit, and recommend it be followed by licensees, so offices can re-open safely when the executive order expires. He said the governor is likely not concerned about whether or not the board will discipline for violations of the ADA guidelines. Dr. Propper agreed with Dr. McCord. Ms. Puckett stated Dr. Kemp's motion in fact was supporting the recommendation of following the ADA guidelines, and did not discuss disciplinary action. Dr. Kemp agreed with Dr. McCord that dental offices would be able to open if the ADA guidelines were recommended by the board in a policy statement during the teleconference. Dr. Kemp amended his motion wished to remove the last paragraph in reference to disciplinary action in the policy statement. Ms. Puckett seconded the seconded motion. The board meeting had to be stopped again due to the background noise from callers who had not muted their phones, and were playing music or having conversations while on the line. A roll call vote was taken, and the motion passed. Dr. Travis requested that all Tennessee dental professionals receive an email with the new policy statement. Ms. Baca-Chavez agreed, and would ensure an email went out with the new policy statement, with it also being posted on the Board webpage.

Dr. Meadows stated if there was no other discussion, he would like a motion to adjourn the meeting. An unidentified caller asked if there was room for public comments and questions. Several board members commented the last hour and forty-five minutes was already open for public comments and questions. The caller wish to discuss some information with the board to be considered when making amendments to the policy statement, and began to discuss how many licensed dental professionals in the state of Tennessee. Dr. Kemp asked the caller to identify themselves, and in response the caller stated she is a hygienist in the Knoxville area. Dr. Travis

and Dr. Kemp replied that everyone speaking had to identify themselves, therefore the caller needed to give their name, stating the caller could not speak without stating their name. The caller stated she wished to remain anonymous. Dr. McCord believed the caller was trying to give a "paid political announcement" and did not want to be identified for that reason. Ms. Baca-Chavez reminded those on the call that for the purpose of public record, everyone should identify themselves before speaking. The unidentified caller stated she would write her concerns in a letter to send to the board, in which Dr. Kemp and Dr. Travis asked her to write her name on the letter if she did. Ms. Webb asked if the requirement to identify yourself in a meeting was in writing somewhere as a policy. Dr. Meadows reminded all callers should identify themselves for public record, due to it being an electronic meeting.

Dr. Rodriguez made a motion to adjourn the meeting, with Dr. Williams seconding the motion. All board members agreed the meeting could be adjourned at that time.