South Carolina Board of Dentistry
Board Meeting
Friday, January 13, 2012 at 9:00 a.m.
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 108
Columbia, South Carolina

Board Members Present:

President:
David W. Jones, D.D.S.

Board Members:
Charles F. Wade, D.M.D.
Felicia L. Goins, D.M.D
John M. Whittington, D.M.D.
Douglas J. Alterman, D.M.D.
Dr. Z. Vance Morgan, IV, D.D.S.
Thomas M. Dixon, D.M.D.
Sherie Williams, R.D.H.

Staff Present:
Kate K. Cox
Carolyn Coats

Reported by: Robin Spaniel
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DR. JONES: We'll call this meeting to order.

Public notice of this meeting was properly posted at the office of the South Carolina Board of Dentistry, Synergy Business Park, Kingstree Building, 110 Centerview Drive in Columbia, South Carolina and provided to any requesting persons, organizations or new media in compliance with Section 30-4-80 of the 1976 South Carolina Code, as amended, relating to the Freedom of Information Act. A quorum is noted as present. All votes referenced herein were unanimous unless otherwise indicated.

Board you have the agenda before you on your laptops and you also have the minutes of the last meeting as well as the teleconference meeting. Can I have a motion to approve the agenda and the minutes of the last meeting and the teleconference meeting and a second.

DR. DIXON: I make a motion that we approve the minutes from both meetings and the agenda.

DR. JONES: Is there a second?

DR. ALTERMAN: Second.

DR. JONES: All those in favor?

BOARD: Aye.
DR. JONES: Opposed. Again, under the Disciplinary Issues Reports, we have the IRC Report, the OIE and OGC Management Reports and we also have a list of expert reviewers all three of those require approval and a second.

DR. DIXON: I make a motion that we approve the reports.

DR. ALTERMAN: Second.

DR. JONES: All those in favor?

BOARD: Aye.

DR. JONES: Opposed?

MS. COX: Mr. President, may I ask to introduce, please, the Chief Investigator for you now David Love, he's here. And we want you to know who is working with OIE and your IRC members. David Love, here's the Board.

MR. LOVE: It's a pleasure to be before you this morning.

DR. JONES: Appreciate your service. Next on the agenda we have the South Carolina --

DR. ALTERMAN: Can I ask a question?

MS. COX: Yes, sir.

DR. ALTERMAN: Is there anybody else besides you doing the investigations?

MR. LOVE: The investigators are here, sir. Yes,
MR. LOVE: Yes, sir. I actually --

DR. ALTERMAN: There's multiple investigators assigned to the Board of Dentistry now.

MR. LOVE: That is correct.

MS. COX: Would you like those introduced?

DR. ALTERMAN: Sure.

MS. COX: David, would you introduce the investigations.

MR. LOVE: Yes, ma'am. Please stand if you would, just introduce yourselves and your position if you would please.

MS. MEADOWS: I'm Kathy Meadows, I'm an investigator with the board.

MS. STEVENS: I'm Kerri Stevens, I'm an investigator with the board.

MR. SMITH: Maurice Smith, investigator with the board.

MS. BAILEY: Ashley Bailey, investigator with the board.

MS. HALL: Alexia Hall, investigator with the board.

DR. ALTERMAN: Thank you.
DR. JONES: Next we have the presentation by the South Carolina Dental Association. I believe there's three people -- two people. If you guys could introduce yourselves.

DR. CROSS: Good morning, I'm Dr. Darren Cross.

DR. MERCER: I'm Jim Mercer. I think Darren's going to go first so I'll let him start off.

DR. CROSS: Good morning to the Members of the South Carolina Board of Dentistry. Thanks for allowing me to speak to the board regarding anesthesia and the credentials of dentists administering anesthesia in a dental office. I am a board certified oral surgeon and dental anesthesiologist practicing in Columbia, South Carolina. I am also Vice President of the South Carolina Society of Oral Surgeons, and I'm here with Dr. Mercer to make our presentation.

We as members of the society are extremely concerned as well as the Board of Dentistry in protecting the public when IV anesthesia is given in the dental office. There are presently dentist in the state of South Carolina who are giving IV anesthesia without the proper credentials. South
Carolina dental law specifically outlines the training, education for any dentist before he or she administers IV general anesthesia in a dental office. It also requires that the dentist have qualified personnel, CPR, monitoring equipment, emergency drugs and proper resuscitative equipment when patients are receiving IV general anesthesia. This also includes any dentist who utilizes a certified nurse anesthetist or M.D. anesthesiologist in the dental office.

Myself, Dr. Mercer and members of the South Carolina Oral Surgeons are asking that the Board of Dentistry reevaluate the enforcement of dental office anesthesia, inspections and credentialing of those dentist who administer anesthesia in the dental office.

We as Fellows of the American Association of Oral Surgeons and South Carolina Society of Oral Surgeons voluntarily submit to anesthesia office inspections every five years by our peers. This has resulted in an excellent anesthesia safety track record both nationally and on a state level. The South Carolina Society of Oral and maxillofacial Surgeons and
myself are available to assist the board if needed regarding the enforcement of anesthesia office inspections and credentialing of dentist who utilize anesthesia in South Carolina. Please feel free to contact our President of the South Carolina Society, Dr. Sam Joudeh, Dr. Mercer, past president, myself or any member of the South Carolina Society of Oral Surgeons, if we can help the Board in any way. Thank you for your valuable time this morning.

DR. MERCER: Thank you for letting us speak and this early on the agenda. I sat here before where you're on the agenda and you go -- you close session and finally by the afternoon we get to speak so I really appreciate you pushing us up to the front.

I'm an oral maxillofacial surgeon. Today I'm here representing the South Carolina Dental Association. Darren's representing the state oral/surg group. Let me just preference my comments to say that this is not an effort to restrict, on our part, who can do anesthesia. Any dentist, any licensed dentist who has appropriate education, training and
facilities should be able to do anesthesia in our state. So that's not our purpose. It's really a question of is the public being protected. You know, we're -- basically the way it's working is dentist are self reporting and self regulating. I worked on the guidelines for 39-17, a whole different set of board members, but when we look at the ADA and AAPD guidelines we raise the issue of inspections at that point in time and the answer we got from -- not you -- but the previous board was not enough money. What I would say is you tell that to the family of somebody that's -- a family member when there's an adverse outcome. You tell them there's not enough money. If you look at the standards across the U.S. or just even look at our neighbors, Georgia, North Carolina, Virginia, Florida, they all require inspections. They all require permits for anesthesia.

In summary we think 39-17 is not adequately being implemented or enforced. Specifically audits and inspections of facilities and the qualifications of
anesthesia providers. Like I said, the current system really depends on dentists to self report and self regulate. For example for me to be a member of my national oral surgery organization we have to be inspected if we provide anesthesia. Our state doesn't even do that. So we have to go and inspect each other offices just to have membership in our national organization. It was suggested back when we worked on 39-17 before that the oral surgery society do inspections. That was not our suggestion but that was the state board's suggestion. We felt like that's not appropriate. It's a function of the board. But if the Board of Density were to do inspections, there's certainly plenty of non-oral surgeons and oral surgeons that could be designated, deputized by the board to do those kinds of things if you don't have the expertise in-house.

The other issue we wanted to raise is, I've looked at the Nursing Practice Act and our practice act and it's a little muddy in terms of when a nurse anesthetist is in a dental office what the qualifications are of a
dentist if a dentist is supervising them. It's unclear in the Nursing Practice Act and the Dental Practice Act. I'm not an attorney and I didn't sleep in an Holiday Inn, so I'm not qualified but you certainly have your own legal side to look into that but I think it's kind of muddy at this point.

So, I want to thank you for your time and I can say on behalf of both of our organizations, we appreciate your time today and your attention and we appreciate the time you devote to the board. I know it takes a lot of your time and you have to deal with a lot of tough issues. So we're willing to work with you and provide any assistance that you might request of us. And we're not going let this issue die, at least, from our end. So if there's any questions.

DR. CROSS: One other question on this. I'm sorry. As far as a dentist utilizing a nurse anesthetist or another provider to administer anesthesia, it's who the captain of the ship? So if the dentist isn't trained in anesthesia techniques or formal training, so that's where it gets a little muddy.
DR. WHITTINGTON: Jim, my question is, how do we as a board know who is doing these anesthesia procedures illegally? Here, again, we can go to every office and not see anything and then, you know, tomorrow they are doing IV sedation, you know, and, again, inappropriately.

DR. JONES: Well, it's listed -- that's a question on your license.

DR. WHITTINGTON: Really? Okay.

DR. CROSS: We usually find out when there's a bad result and someone has to come to the board and then you say okay, present your credentials.

DR. WHITTINGTON: Well, exactly.

DR. CROSS: Right. But we try to be proactive. Like I say we self evaluate ourselves every five years for our association it's mandatory.

DR. WHITTINGTON: Sure that's the oral surgeons but then there are those as you say, Jim, that, you know, are outside the oral surgery -- I mean we have them in state here that don't belong to the South Carolina Dental Association. You know, as I would say, I'm not going to call them rogue dentist but just don't believe in the associations. And they
can do what they want to do, you know, "within realms of the law" or what they can get by with. And until they are caught, you know, how do we know where to go to investigate?

DR. MERCER: Let me just turn the question if I may and look at it from the public's point of view. They have no way of knowing because there's no anesthesia permit. If there was an anesthesia permit, the public can simply say show me your anesthesia permit. But right now they have no way to distinguish between dentists that are able to appropriately report to you and do anesthesia and don't. My office was inspected in 1988. That's the last time my office has ever been looked at.

DR. WHITTINGTON: All right. Let me turn it back to you, how many people do you, on a basis, you think come into my office and say let me see your license and your degree. None. I've never had a patient in 37 years ask me where I went to school or where's my license.

DR. MERCER: Well, we do. We have people ask if we're board certified. We do have people checking our credentials because we're putting people to sleep.
DR. WHITTINGTON: I guess what I'm getting at is where do we start in finding those people --

DR. CROSS: You know, even with -- and we're not only talking about IV anesthesia, we're talking about PO sedation.

DR. WHITTINGTON: Sure.

DR. CROSS: You know with DOCS Organization. I don't expect anybody's in that organization but that's pushing the envelope too. They're giving pills and they're not monitoring the patient. Which is probably even more dangerous.

DR. MERCER: The people that do report to you, you don't even know what equipment they have in their office. Those are the people that report to you.

DR. JONES: But y'all's main concern is not so much -- I mean, we adopt the ADA Guidelines for conscience sedation. That's not really your beef, it's the inspection protocol of whether someone's adequate to do that sedation. It's not the guidelines, you're pretty comfortable with what the ADA says, right?

DR. CROSS: Right. We've gone by pretty much state law, South Carolina State law as far as
administering anesthesia. Because really the ADA Guidelines are pretty recent over the past few years.

DR. JONES: Yeah, but this board under, I guess, it's a policy statement has said that we accept the ADA Guidelines for conscience sedation.

DR. MERCER: It's actually 37 E or whatever -- 39-17 E -- No, A. AAPD and ADA and then E is the inspections.

DR. JONES: Within the oral surgery group, how do y'all police yourselves? I mean, do you have -- does your president, vice president conduct inspections? Is it done just within South Carolina oral maxillofacial?

DR. CROSS: In conjunction with the American Association of Oral Maxillofacial Surgeons the South Carolina Society falls under the American Association for membership criteria we evaluate each other every five years for emergency drugs, equipment, personnel --

DR. ALTERMAN: Do you have other oral surgeons going to other oral surgeons offices? Is that what you're saying?

DR. CROSS: Yes, sir. Right so we don't inspect
ourselves.

DR. JONES: Right. Is there somebody on a master national list that will travel to South Carolina to look at your office or . . .

DR. CROSS: We designate members in the society and we'll send somebody to another part of the state, things like that. Like, I won't go to -- my colleague who's next door to my practice, I won't go to his office. But I'll go to another part of the state.

DR. MERCER: But the reason we do that is because the state doesn't inspect.

DR. CROSS: Then again, we're taking a proactive approach. But there's so many dentists now giving anesthesia, it's not just oral surgeons.

DR. ALTERMAN: Oral surgeons would have to fall under the same guideline -- Would it fall under a different set of guidelines? If we enacted some other different policy, we would basically be inspecting oral surgeons as well as dental offices?

DR. MERCER: You'd be inspecting based on somebody's request to provide anesthesia services.
DR. ALTERMAN: You're not asking us to just do general dentistry, this is something that would be enacted upon everybody.

DR. CROSS: Everybody, because we're all trying to get to the same safety of the patient first and we're all trying to get to the same end result.

DR. MERCER: Every licensed dentist that provides anesthesia services.

DR. DIXON: So the first place to start would be to require a permit.

DR. ALTERMAN: In your opinion.

DR. CROSS: I didn't say that.

DR. MERCER: We didn't say that but that's how -- I mean, we have some dated documents, we've requested documents that kind of lists what each state has in place right now and you probably have resources through board networking. But a lot of states have decided that's a way to approach the problem. I'm not here to do your job and decide the best way to do it. That's one solution that a lot of our neighboring states have used is an anesthesia permit. And some inspect yearly, some inspect on a different period. Some inspect at the
discretion of the board, but a lot of them have anesthesia permits and then you know. And I hate to say it because I'm kind of a Libertarian but with a permit may come a fee to help support what you have to do to do your fiduciary responsibility to protect the public.

DR. CROSS: And the states that do go around and do inspections, a lot of states the oral surgeons do the inspections whether they're deputized or however means they do.

DR. MERCER: The last time in 1988 when somebody from the board came to inspect my office, they're going down a checklist and said okay, what's a fail safe, what's an oxygen fail safe? I mean --

DR. DIXON: In other words, you would need somebody...

DR. MERCER: Well, you could train staff. It doesn't need to be a dentist. But they need to know what they're looking for. Whether, you know, an AED is it maintained, is there a battery, emergency drugs, I mean, basically you have to make sure they're following the guidelines that you say we're supposed to
follow the ADA and the AAPD Guidelines in terms of equipment, training, experience.

DR. WADE: I appreciate very much y'all coming because I think it is a need. We've talked about it some in past meetings and it's something we're going to have to address. You hate to see over regulation especially from a governmental standpoint, but at the same time we are here to protect the public and I very much appreciate the SCDA coming and making the presentation today.

DR. CROSS: Like I said, we want to be proactive because if we're reactive and there's an incident, they look at us as we're all the same so it doesn't matter what speciality you are.

DR. JONES: Right now, I guess I'll throw this question out to Kitty or Carolyn or both, logistically is it a possibility for them, the present staff, to inspect everybody who does IV sedation?

MS. COX: I think you said today that you're not sure who all does IV sedation or pill sedation so that would be one issue there. But we do have inspectors and I don't know the case load
but that's something that we can look at. You need to be -- if you're going to discipline, you can't discipline from the guidelines and policy, you discipline from statutes. So you want to look at your statutes and regulations then we'd look at that load of the statutes and that's we can look at. Sheridon, would you have anything else to say?

MR. SPOON: I think that falls under OIE more so than the board office but that would be my only point.

DR. CROSS: Now, in our re-registration for licensure there's a checklist: Do you administer -- and I guess people who really are credentialed they check it but like you said who's the ones who -- they'll probably put no and they may still be doing it. How do you enforce that. That's where the problem is.

DR. WHITTINGTON: That's my question. You know, do you present anesthesia? Whereas there's a big difference doing noxious oxide and general anesthesia which is what y'all are concerned with. And I -- certainly we've had the cases and we're kind of stuck with that. But
normally we go back to Kitty and say, you know, where do we find these, how many of them of them are doing it, you know, and go to legal and let's set up, you know, some type of licensure for that.

MS. COX: We'll be glad to begin to look into that process for you. But you do know in the definition of what is the practice of dentistry it does say shall administer anesthetics, local or general, for dental procedures. So it appears to me and I'm new with you that people do have in your definition the ability to do anesthesia. How you would like to work with that in the future I think going's to have to be defined in some way.

DR. DIXON: That's the way it reads in the dental practice?

MS. COX: Yes, sir, in 40-15-70. So we'll go back and we'll look from the beginning in your statute through your regs and then see what your think your needs are and then you can see through inspections, not the investigators, these are inspections you're talking about. Investigators work from -- are reacting to a
complaint. Inspections are proactive.

DR. DIXON: So in other words the way the Dental Practice Act reads right now is any dentist can administer local or general anesthesia with the training that they get out of dental school?

MS. COX: That's how --

DR. CROSS: No, it's not.

DR. MERCER: No, that's not correct.

MS. COX: It's not quite like that and also no one should do anything that they're not trained to do. So you always want to practice by that code. This is what's in the statutes right there. That's your basis.

DR. CROSS: Yeah, because there's some dentist who will take a weekend course and now I'm trained to do it and that's not what -- but if we go by the guidelines in the state regs, statutes it specifically outlines it.

MS. COX: Go from your definition and then you look through everything you've added in your statute and your regs.

DR. MERCER: It's 39-17 A puts the ADA Guidelines out there and those guidelines, if you look at them, talk about education, training and so
forth so that's what you're referring to in 39-17 A. So it's not just coming out of school you can do anesthesia.

DR. JONES: There's also a grandfather clause if I remember right.

DR. MERCER: If you're doing 10 years or something like that, from the time when these regulations went into effect, which -- does anybody know?

DR. JONES: I think it's ten years.

DR. MERCER: I think it was like ten years ago, we were just talking about it. So the other things is, to go back to your point, a lot of states set nitrous oxide aside from all these other things and what I would encourage the board to think about is, it's not the route of administration, it's the level of sedation that you're reaching. So it's the level of sedation and anxiolysis if you're doing that with nitrous or even if you're prescribing a Valium. For anxiolysis that does not fall under these guidelines. It's when you're going for conscious sedation or deeper which you can do by oral, IM, IV, inhalation.

DR. WADE: I'd like to make a motion, if I could, I
would move that we form a committee that
researches this issue and brings back a
recommendation to the board at the next board
meeting.

DR. DIXON: I'll second that.

DR. JONES: How many do you want on it, three?

DR. WADE: That's probably good, with at least one
    person that's doing active sedation.

DR. JONES: And the third? Anybody want to be a
    third?

DR. WADE: It would be nice to have an attorney on
    it, wouldn't it?

DR. ALTERMAN: I'll do it, unless you want to get
    Eric to do it.

MS. COX: So who will be placed on the committee,
    please?

DR. JONES: Me -- well, we'll do this side of the
    room. Us four. Dr. Wade is chairman.

DR. GOINS: About the nurse anesthetist, you said
    you had looked at the nursing . . .

DR. MERCER: Like I said I'm not an attorney and
    your attorney can help you with that, but when
    I looked at the nursing guidelines, it said a
    CRNA can be supervised by a physician or a
dentist. And you look at our Dental Practice
Act it doesn't specify what the dentist qualifications are to supervise the nurse anesthetist. So should a dentist that has no anesthesia training, should they be able to supervise a CRNA or should that dentist have to meet anesthesia guidelines to -- that's -- I didn't say that but that's what I was trying to lead you to.

MR. SPOON: And I'll be happy to carry that back to the attorney who is assigned to the board of nursing. Obviously, that's going to be largely a question. Based upon the principal that the individual that you're looking at, you look at what license they hold, so if we're talking about a CRNA, then I'll have to look at that or the attorney who's assigned to the nursing board will look at that from the standpoint of the Nurse Practice Act. Not leaving the Dental Practice Act out, but it's a question that involves what can a nurse do if I understand you.

DR. MERCER: Right. I guess the point I'm making is if the nurse is depending on the dentist for supervision, what qualifications does that dentist have.
1 DR. CROSS: If there's an emergency, he's going to look, okay, now what do we do? And this dentist is going like call 911 I guess.
2 DR. MERCER: It's a little muddy is all I'm trying to point out.
3 DR. MORGAN: But it's a valid point.
4 DR. MERCER: Absolutely. Because that's going on in our state right now with kids that go bad fast.
5 DR. DIXON: Most states do have permits/license to do this. I mean, talking to members of other state boards this is pretty common in other states, they have a permit or a license in administering anesthesia. Not necessarily nitrous oxide like you said, but if you're going for conscience sedation, deeper than that then they would -- a permit to inspect the equipment and that's pretty common. We've seen that with a case that came before our board here.
6 DR. CROSS: And when we talk about conscience sedation, it's not for the anxious patient who requires a Valium or one Ativan before they come in. Any dentist can do that. But someone who's double dosing, Halcion, Valium
DR. JONES: I believe Dr. Wade made the motion to form a subcommittee consisting of Dr. Alterman, Dr. Goins, Dr. Wade and myself. There was a second by Dr. Dixon. I think we need a vote. All those in favor?

BOARD: Aye.

DR. JONES: Opposed?

DR. MERCER: Thank you, Mr. President, for your time. Thank you to the whole board.

DR. CROSS: Thank you.

DR. JONES: Thank you. Let me say one thing before we get started on the next item. I meant to start it at the beginning. But as most of you see Dr. Dixon is here. He just can't get enough of us. But he is back in serving at the pleasure of the governor. No appointment has been made at this point subject to the redistricting rules.

(whereupon, Disciplinary Hearings were held at this time.)

DR. JONES: Ms. Cox, do you have the Administrative
Information and Financial Report?

MS. COX: I gave you a listing of the staffing at LLR, I think most of you all know that but you see it there. Catherine Templeton is the Director. Rion Alvey over whole professional occupational licensing. The Office of Board Services which I am directly under Charles Ido. And I think Dr. Wade just met him a minute ago. Your advice attorney Sheridon Spoon, your litigation attorney Suzanne Hawkins, however you will see other attorneys finishing cases for you like you saw Ms. Gray today. I'm the administrator and Carolyn Coats and Annie Hayward help with this of course. In speaking about staffing I also wanted to mention, just for the record, that Mr. Schweitzer does have an excused absence. We'll always note that, who is in attendance at your meeting and we want to make sure if someone's excused that that's noted for them.

The licensees totals since the last meeting up to January 3rd - I've just picked a cut off date - you've have 120 licenses issued and five licenses reinstated. And I think it's interesting for you to know as well for
me to see what the staff works with. You have 10,271 active credentials that means that's how many licenses or registrants or people that we are working with. Some of those people have more than one possibly. But that's how many people that we deal with and registrants that we deal with.

Under proposed regulations you know that you have your clean up Omnibus Bill out there. It was published in the State Register in December. That's on a 120 day timing period. If you don't have questions asked of you, you do have a hearing date set in case there is a question. We hope that will not happen. Yours was very much just a clean up of some small details. The Engine Bill has just beenprefiled. I just got an email while I was in my office so we'll watch that also for you to let you know the status of that.

The next thing of interest to you is the statement of economic interest. Those have to be done like taxes by 15th, everybody needs to file. One hundred dollar a day fine. I don't want anybody to have that so we'll remind you and re-remind you. And Carolyn is mailing
those instructions, it is online filing. I think this year they've given you more detailed instructions but sometimes it's not easy. If you have any problems, please call the Ethics Commission. It's their website, it's how they work with it. If you have any more problems than that, let me know. But they're the people to help you and we're also sending you the financial monies you have gotten from us, which are so minor, but you will have that in that same packet that --

MS. COATS: We mailed them yesterday.

MS. COX: So you'll have that coming to you.

DR. WHITTINGTON: I did mine last night with this computer sitting here just up and my computer my wife doing that and I think I've have been 20 or $30 off on that 500 and some dollars that I got. Is that a big deal?

MS. COX: I don't think that it will be, but I think just being honest and just letting them know, I think that's the main thing.

DR. WHITTINGTON: Well, I thought I was getting $134 and this time I get $150. Did it go up this year?

MS. COX: I wish it had, but it has not. Maybe we
just had you a little more often or something.

DR. JONES: We had one extra meeting.

MS. COX: Okay. But disclosure is mainly the thing. Even if we don't pay you, say like Mr. Schweitzer he doesn't want any pay or reimbursement for this, but he still has to file and he's aware of that.

DR. ALTERMAN: Can I ask a quick question off that?

MS. COX: Uh-huh.

DR. ALTERMAN: In the past, I remember we did a CITA exam and we paid money . . .

DR. DIXON: I usually report it.

DR. ALTERMAN: Okay. Just -- I thought so. I have been.

DR. DIXON: I report it just because I really don't think it's an outside -- I really think it's an outside issue but --

DR. ALTERMAN: It's somewhat related.

DR. DIXON: You better on the right side of it.

That's why you put it down.

(Off the Record Discussion)

MS. COX: It might be safer to report, but it is your report. That's some advice here.
1 DR. JONES: I'd report anything that's having to do
2          with testing or anything.
3 MS. COX: Okay. I think that was a good subject.
4          You're always in the black with your finances.
5          You are not in the red, you are not a board
6          that has issues like that but we do give you a
7          financial report. We collect monies over a
8          two year period for you to be expended like
9          that. Because sometimes there are bigger
10         revenue years than other years. But we always
11         makes sure that the legislature knows that,
12         but they don't see you as an excessive amount
13         of money one year and not the other. So
14         that's why you see your report how it's stated
15         in there. Some years are bigger revenue years
16         than others.
17 DR. WADE: Kitty, have you gotten any direction
18          from the governor that you've got to cut the
19          budget substantially or anything like that
20          like we read in the newspapers?
21 MS. COX: That would come through the LLR and we've
22         already done lots of cutbacks here. You
23         remember when about 40 or more employees were
24         cut back and we do try to work with less and
25         less employees. The dental board in
particular had quite a number of employees that they do not have right now and it's somewhat overwhelming. You might want to kind of walk through our office up there and look at Annie's cubical right now. I almost didn't see her a minute ago, there's stacks of white paper and applications all around her that she's working with.

DR. WADE: How's everybody holding up with it?

Carolyn --

MS. COX: She would be hard to replace with one person. It's a lot going on.

DR. DIXON: You guys really actually need another person.

MS. COX: We really do. And it would be nice for that to happen. Now, we'll go through another budget year, we'll see if the economy for everybody changes and maybe it could happen.

DR. DIXON: I though that was slated at one time, was it not? Was it slated that y'all would get another person?

MS. COX: It was but because of the reorganization that person went to one of Veronica's boards. She has four boards and so that person went to them. They're not being paid out of y'all's
money. But because of that, we didn't get that person.

DR. DIXON: We definitely -- once you rotate to where David's at now, you'll see. They're really stretched on having, you know, having to man the phone and all that stuff is just really tough for Annie and Carolyn to get the phone right one the first ring like they were. You know, it's tough. They're stretched. They're working hard for us.

MS. COX: Very few calls go into voice mail at all. And we like to perform that way anyway. I always have with my boards. But right now the way they manage us that doesn't happen, so you do spend a lot of time on the phone being interrupted when you're in a work flow. That's particularly hard for somebody like Annie or if Carolyn's doing a project to be stopping and starting, you know, in the middle of it.

DR. DIXON: They've got the phone that does a roll over system.

MS. COX: They do.

DR. DIXON: So if this one is busy, it gets automatically rolled to another phone.
MS. COX: Yeah. You -- it can not be ignored and that's a very good thing in many ways. People -- the way I like to look at, we're a monopoly, people cannot get their licenses any other place than here. So we're here to serve the public. This is a service organization but we still want to do the best work and careful work for you.

DR. MORGAN: Kitty, I have a question. Do your all's salaries come directly from our board proceeds?

MS. COX: Yes.

DR. MORGAN: How does it take it that we can't have more staff? Is that strictly from the governor's office or the state's --

MS. COX: Well, it's because I work for LLR.

DR. MORGAN: Even though we pay your salary?

MS. COX: Even though you're paying the salary. I don't work for you. I really work for LLR and then I'm assigned to administer your work and the veterinary board's work, or the pilotage commission. They sometimes move those assignments around.

DR. MORGAN: It just seems strange that we're funding it. We should --
DR. ALTERMAN: So part of your salary though comes out of our budget?

MS. COX: Part of that's my salary. Part of my salary comes out of veterinarian and part from the pilotage commission. And I think Carolyn and Annie would both say that we love working for these boards. We love working for the dentistry board. And we're happy it works, so if we're working hard, that's just fine. We're glad to be here. If we get some relief, that would be nice too.

DR. WADE: We appreciate your efforts. Carolyn, you're too. Very much so.

MS. COX: Well, thank you.

MS. COATS: Thank you.

DR. GOINS: But you need some help.

DR. WADE: Yeah.

MS. COX: The next Board meetings are April 27, July 13 and October 12. We do try to stick to that schedule if we can because we have a lot of support from LLR people like Sheridon who is scheduled. You saw David Love and other investigators who are in here. So if we can, we try to stick to that. You are also adding a meeting and I believe everybody can come but
one person to that March 24-25 meeting because
you have a long hearing proposed and that may
be unusual or that may not be unusual as
things go, but we do want to keep that date
out there. It's still tentative, isn't
Sheridon? Aren't they still working with some
of their witnesses?

MR. SPOON: I did not to get a chance to ask the
attorneys who where here earlier doing the
stipulation. There's one remaining witness
that -- he's had ample opportunity to find out
if that witness is available and I had every
intention of asking him that question while he
was here today and failed to do that and he
did not bring it up.

MS. COX: Okay.

DR. DIXON: Sheridon, is there any chance it's
going to turn into a consent agreement?

MR. SPOON: I would not know about that until after
it was a done deal. We would be informed then
and -- so I don't know the answer to that
question. Pat would know and it wouldn't be
something that -- Kitty would be the first to
know. Kitty and I would be the first to know
and we'll certainly let you know.
MS. COX: That would be something we really don't want the board to be involved in --
MR. SPOON: Correct.
MS. COX: -- because we have to have y'all separate from that and I know y'all are well schooled in that also. But you're the judge and the jury so you can't cross over. And if anybody would ever call you about a complaint matter or something, please give them our numbers here at LLR and we'll work with them. But we need you to serve at these hearings. We don't need you to be recused unless it's in a way that's unavoidable by knowing someone. But we don't you to have prior knowledge.
DR. ALTERMAN: That would -- you mean if it was a consent agreement, we wouldn't do that weekend? Is that what you're saying?
MR. SPOON: In all likelihood yes. You would not be required to do that because it's -- that time is set aside because it's a contested hearing at this point and that's what takes a long time.
DR. DIXON: The length of time that we've all been on the board here there's been very little hearings. But prior to that, they had a lot
of hearings. But what would happen is lots of those hearings -- they would be set up for the hearing and be out in the hallway and before they could even get into the room, it would turn into a consent agreement. The guy at the last minute would say, --

DR. ALTERMAN: Like setting a lawsuit at the last second.

DR. DIXON: Yeah, exactly.

DR. WHITTINGTON: On this particular two day meeting will we be sequestered in Columbia?

MS. COX: I think you could go home if you could make that drive. I don't think you'd have to stay here but your rooms would be paid for here those of you that need to stay.

DR. WHITTINGTON: I mean are we talking about -- they said starting, you know, 12 - 14 hours. Are we talking about from nine to five or till it keeps going?

MS. COX: I think that's going to be how it begins to unwind. If you're in the middle of some testimony, you, they may decide to continue it for a little while into the evening or go long or they may see that this is really going to need the two days, let's go on and leave about
five or six and come back in the morning. But
I wouldn't be able to really predict.
DR. WADE: And there's no way to get a room on
Friday? They're just all taken, is that what
it is?
MS. COX: It's due to the attorneys and their
witnesses.
DR. WADE: Oh, really.
MS. COX: Uh-huh. Any other questions about that?
It's unusual. We can all hope for a consent.
In March we'll hold another election because
we have District 4 coming up for an expiration
date in December and your statutes call for an
election. We will go ahead and have it. You
have heard that we are having a little bit of
an issue of when people are getting appointed
and it's all due to that District 7. And
everybody is being held up that has anything
in there statutes that has to do with District
7 and it's the senate who's really kind of
putting a hold on that.
DR. DIXON: That is in this session right now.
They are discussing it.
MS. COX: That will be one of the very first things
that they discuss. I talked to legal upstairs
in Catherine Templeton's office early this morning, they told me that was one of the very first issues that they will begin to deal with in the legislative season.

DR. WHITTINGTON: When does their season start?

MS. COX: It did start Tuesday. They're working on it. When that occurs, when they decided how to deal with District 7 and they'll write legislation about that, you're going to want to know about it and you're going to want to have an opinion and be proactive because they're going to have to seat another person and then that will bring up lots of issues for different boards. So we'll let you know and then if you want to be proactive or have an opinion about that, then we'll either come to you or you'll come to us about it. But we'll let you know.

DR. WADE: Do most boards have even numbered or odd numbered members right now?

MS. COX: All the boards I've ever had, and I've had quite a few, have odd numbers.

DR. WADE: All odd, right. That's going to make us even at that point, isn't it?

MS. COX: If they added one person. But that tells
me that there's a possibility that they can add more than one.

DR. WADE: Add two.

MS. WILLIAMS: My recommendation is they add another hygienist.

MS. COX: And I think this board hasn't been disagreeable about that or disagreeing about it.

DR. DIXON: I think it's a wise way to look at it. Otherwise you (inaudible) somewhere when you do that. You can't cut your public member, you can't, you know, cut your appointee so I mean . . .

MS. COX: And they can of course add another consumer, you can have two. You can have another dentist or a dentist at large or, you know, you've got the dental hygienist so I think you'd want to have an opinion about that.

That's the report that I had for you today.

DR. JONES: Thank you. Under legal we have nothing. Unfinished business we have nothing. New business and I'll mention this and again this is tempered -- Kitty I think you would
have check on it, Carolyn I don't think you've known this but you asked me about it. I asked Dr. Morgan about serving as the representative from this board to the Credits Steering Committee and he said he would do that. Since this is something that's a function internal to this board, I'm not real sure it really needs to be advertised because we wouldn't name somebody from the public. So I think it's kind of a done deal if it's all right with everybody. But if we have to amend it and vote on it at the next meeting, we'll do that.

MS. COX: Could we take it as a report for the board? If we do that, would that be agreeable -- you're reporting that to us?

DR. JONES: Yes.

MS. COX: Okay.

DR. JONES: The next thing is a letter from Mr. Braatz. You have that on your laptop. It's basically talking about how the ADA shouldn't be involved in setting testing standards for licensure. Any comments?

DR. WADE: I agree with that letter. I think that's a state issue, licensing. I don't
think that's a national -- but I am not -- I don't like regulation from the government any more than we have to have it any how so.

DR. JONES:  Any other comments?

DR. ALTERMAN:  Do you need to respond to the letter in any way or it's just a . . .

DR. JONES:  I don't think so.

MS. COX:  I believe that Mr. Braatz is giving you information about this and he didn't particularly ask for a response back to him but he just suggested if you felt like it, if you wanted to respond to the ADA.

DR. DIXON:  What it probably gets back to is that there are four or five testing agencies and so the testing agencies, you know, are not universally accepted across the United States so that's where that's coming from. The ADA has mandated that they come up with a new plan to do that so that's where that's all coming from.

DR. WADE:  But that would be supervised by the ADA?

DR. DIXON:  Yes.

DR. WADE:  That's what I don't want.

DR. DIXON:  There's progress for the first time in a long time -- well, first time since I've
been on, there's progress, but minimal progress moving forward so for lack of a better word cooperation between two major boards. There seems to be something that in recently a little glimmer of hope that maybe it's breaking.

DR. JONES: The next is a letter from Dr. Oyster regarding the Millennium Laser use by dental hygienists. Sherie, do you have anything to add to that?

MS. WILLIAMS: I don't think hygienists need to do it. But that's all I have to add about that. Do we need to change our policy? Is it not listed?

DR. JONES: I'm not sure.

MS. WILLIAMS: I thought it was listed that we couldn't do it.

MR. SPOON: When I first got this, it looked to me like this was not something that was within the scope of practice for a hygienists --

MS. WILLIAMS: It's not.

MR. SPOON: -- and I could be wrong.

MS. WILLIAMS: And I don't think we need to change it that it should be.

DR. ALTERMAN: He's asking for us to allow
hygienists to do it?

MS. WILLIAMS: No, he doesn't want it either.

DR. ALTERMAN: Oh.

MS. WILLIAMS: He doesn't think it's . . .

DR. JONES: LANAP is a surgical procedure.

MS. WILLIAMS: And he's just saying that in the --
that our policy states that the only laser
policy regards bleaching. It is specifically
not authorized for RDH or dental assistant and
he says it's a lot more invasive than
bleaching.

DR. GOINS: Yeah.

DR. JONES: Yeah.

MS. WILLIAMS: I know Carolyn has called me several
times and asked me if we can do and I told her
no.

MR. SPOON: And I know Dr. Oyster's not here but if
he were here or if we had gotten an inquiry
from anyone, from either a dentist or
hygienist or member of the general public, in
our office I think we would have to say that --
we couldn't tell them -- we looked at the
practice act and we couldn't tell them that
this procedure did not appear to be in the
scope of practice for a hygienist. But we
don't, you know, in saying that we also don't have any complaints that I'm aware of. And I wouldn't necessarily be aware of them anyway. But he's just asking for the board's thoughts and it always put the board in kind of a hard position because the person who wrote the letter is not here. But he's just -- really people like this as often as not will file a complaint. He didn't chose to go that route.

MS. COX: And I asked that. When I first got this, I asked two questions. Are you making a complaint or are you making a comment and want it given to the board. And he said not a complaint but he would like this to be given to the board.

DR. JONES: Sherie, do you know of anybody in the state, any hygienist in the state using the laser for anything?

MS. WILLIAMS: No.

DR. GOINS: He must know of someone.

MS. COX: He said they're being trained.

DR. GOINS: Trained by the --

MS. WILLIAMS: By whom?

DR. GOINS: -- by the company?

MS. COX: By the company.
DR. JONES: Do we need to issue a policy statement?

MS. WILLIAMS: That's what I'm wondering if we just need to add a policy.

DR. JONES: Because periodically we go through -- I know you and I did it with the hygienist assistants and certified assistants and do that check list about what they can do or not do. We could put lasers on that and then just not check the box for anything and issue a policy statement.

MR. SPOON: The thing about policies is, and I know you have a number of them, but you can't -- you wouldn't be able to discipline anyone for violation of a policy of course. I would refer somebody like this -- as part of your discussion today -- refer them back to the practice act, and refer anyone whatever their position is on it. Refer them back to the practice act because I think your practice act is pretty clear about what's enumerated there, authorized procedures for various -- the dental hygienist. And also, I think this is a case where your statute is plain enough.

MS. WILLIAMS: But the reason we did the policies is because things have changed like the lasers
from -- when our practice act was written, we didn't have a laser and we had to cover that.

MR. SPOON: Right.

DR. DIXON: To me this seems like -- this is a surgical procedure. This is like saying you can't use a scalpel or a sword, you know, this is just another instrument that does surgery. You can't do surgery as a hygienist and you can't do it with a scalpel or you can't do it with a laser, either one. I'm kind of like with Sheridon, it's kind of built in.

MR. SPOON: I think it's incumbent on anyone who's getting training in this -- and you're right, procedures change and technology is always faster than the law. That's a given. Technology is faster than the law. But I think would be incumbent on any licensee, whether they're a dentist or a hygienist or whatever the licensee is, that even though the training is out there and even though you're eligible, you signed up for the training --

MS. WILLIAMS: It still doesn't mean you can do it.

MR. SPOON: -- it doesn't necessarily mean that it's in the scope of practice in the state that you're licensed in.
DR. ALTERMAN: We dealt with it with the scanners, the CEREC, same thing.

MS. WILLIAMS: Yeah.

DR. ALTERMAN: About doing a --

MS. WILLIAMS: Maybe he wants to contact Millennium and tell them that they can't --

DR. GOINS: I was going to say contact the company.

MS. WILLIAMS: -- hygienist in South Carolina can not do that.

DR. GOINS: Can not do that, right.

MS. WILLIAMS: But is that our place to do that?

DR. JONES: No.

DR. DIXON: No. If they want to send their staff to go take a course, fine but they can't come back and use it.

DR. ALTERMAN: It's the companies responsibility to the law in a state before a contract --

MS. WILLIAMS: I would think so also.

MS. COX: That happens with many boards. Since I sit with many of them, where people get trained to do things that they can not do, they hope in time that their scope in practice will reach out and encompass that. So they really shouldn't be doing that. I think it's difficult if you begin to tell a business
entity what they can and can not do, that's kind of like restraint of trade possibly. I'm not an attorney. I would always want people to know that. But those are discussions that I hear with other boards. LLR really doesn't want a lot of policies out there because they really want people to know practice acts and regulations and they told us to take down a lot of policies. Now, I didn't take down a lot of policies for boards because I think they could be clarifying. But just what Sheridon said you can't discipline on that policy. What you've got to do is go back and find that place in the reg or statute and your attorneys are good at that. Where they can find that place for them. Sheridon, I don't know if you want to get into that Safe Harbor idea but . . .

MR. SPOON: I was just going to say that, you know, it goes back to you've got responsibility in two areas. One is the licensee is responsible for compliance. It's not always -- I know the board does what they can do to keep people informed but the licensee has the main responsibility for knowing what the scope of
practice is. And if there's a question about that asking a question through the board office to the board, can I do this. And although you don't regulate companies that do this type training, if I were speaking to the company, I would say certainly part of your due diligence as a company is to insure that what you're training people on is something that they're ultimately going to be able to do. Or at least it's a question. But you can't really tell this company that they can't train people. They can train a lot of people I suppose but, again, it doesn't mean that --

DR. WHITTINGTON: They don't really care whether they can use it or not.

MR. SPOON: It might be --

DR. DIXON: It matters if they collect a fee for training.

MR. SPOON: It might be legal in some states and not others.

DR. JONES: Okay. Moving on.

MS. COX: Our comment to him then, would it be agreeable that we comment back or I do or someone on the board that we need refer to the practice act and be aware of the scope of
practice?

DR. JONES: Is he asking you for a comment --

DR. ALTERMAN: He just said comments please.

DR. GOINS: Comments please. He wants to --

MR. SPOON: I think it would be fair to say that

the board took it up and discussed it and that

based on their review of the practice act they

could not -- would not be able to advise

anyone that this was within the scope of a

hygienist.

DR. GOINS: Right.

MR. SPOON: Without knowing more because all you've

got is one letter from one person and there

may be other people that want to come forward

and talk about it and you can entertain those

people. But I think that's part of what I

would say.

DR. DIXON: I mean, it's -- are we or is it next

time we're going to be verbatim?

MS. COX: They were the last time and they are this

time from now on.

DR. DIXON: All he's got to do is read the minutes.

DR. ALTERMAN: Yeah.

DR. JONES: Okay. Good.

MS. COX: Thank you.
DR. JONES: Request for Volunteer Dental Clinic Approvals. We've got two: East Cooper Community Outreach or ECCO and Hershon Orthodontics. Kitty have both of these volunteer dental clinics satisfied the requirements?

MS. COX: Yes. They have six questions or questions of requirements to answer and they have.

DR. JONES: Does that require a board vote?

MS. COX: I believe that's what you've done in the past in some way. Carolyn?

MS. COATS: We have done that in the past. In looking at the Hershon Orthodontics, if you look at Number 3, it's for the Charleston Dental Clinic instead of -- I think it's just on his letterhead.

DR. ALTERMAN: Yeah. It's -- the ECCO Clinic both of these are in Charleston. ECCO Clinic has been around for a long time. And I think the reason that I was contacted about that one, it was -- I don't think they realized that they had to go through this approval. They've been operating for years. And what it was was that there was a dentist, a retired dentist coming
from out of town who wanted to volunteer there
and apparently was unable to under his license
or getting -- what was it? In getting a
credentialed license or something or volunteer
license --

MS. COX: Volunteer license.

DR. ALTERMAN: -- volunteer license in order to do
that unless the place was approved by us.

DR. DIXON: I need to make a motion that --

DR. GOINS: What about the other one?

DR. ALTERMAN: The other one is a new clinic that
opened up. There was another clinic that was
run by a church in downtown Charleston. It's
fully equipped and Dr. Hershon is a local
orthodontist and I think it's affiliated with
his church from what I understand. I really
don't know that much about it other than that.
I know that he was involved in getting it
started and that's all I really know about it
truthfully.

DR. GOINS: Doesn't look like he's going to do
orthodontic.

DR. ALTERMAN: That's relatively new, a relatively
new entity in the last year or less.

DR. JONES: Was there a motion to accept these
applications for Volunteer Dental Clinic
Approvals for both of these, for ECCO and Charleston Dental Clinic?

DR. WADE: I make that motion.

DR. JONES: Second?

DR. ALTERMAN: Second.

DR. JONES: All those in favor?

BOARD: Aye.

DR. JONES: Opposed? Okay. Next the ratification list of, I guess it's the -- just all dentist I guess. No. Dental hygienist and --

MS. WILLIAMS: CDTs.

DR. JONES: Yep. Is there a motion to accept this --

DR. DIXON: I make a motion that we accept this list dentist, dental hygienist and certified dental techs.

DR. WHITTINGTON: Second.

DR. JONES: All those in favor?

BOARD: Aye.

DR. JONES: Opposed? None. Discussion topics, anything? Public comments? We've already gone through the meeting dates. I believe that's a wrap.

MS. COATS: The speciality exams will be held next
Friday.

DR. JONES: Is there a motion to adjourn?

DR. DIXON: Yes.

DR. WADE: So moved.

DR. JONES: All right. Good. We're done.

(Whereupon, at 3:00 p.m., the proceeding in the above-entitled matter were concluded.)