

**Thursday February 5, 2009
6:00 PM**

**Administrative Office
Hoover, Alabama**

The Board of Dental Examiners of Alabama met to conduct business. Members present were Drs. McCaffery, Mahan, DeRosier, Willis, Northcutt and Ms. Chapman. Also present was Stan McAdams, Mary Ann Wilkinson, Peyton Zarzour, and Mr. Joe Wilson, of WARD & WILSON, LLC.

Dr. McCaffery called the meeting to order at 6:08 PM.

License by Credentials: On motion by Dr. Mahan, seconded by Dr. DeRosier, Ms. Wilkinson was instructed to schedule an interview and the jurisprudence exam for the following licensure by credentials applicant:

Dr. Binh Thanh Ngo

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

On motion by Ms. Chapman, seconded by Dr. DeRosier, a license to practice dental hygiene shall be issued to the following Licensure by Credential applicant upon demonstration of successful completion of the jurisprudence exam.

Kellie Schmitt, RDH

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

Dr. McCaffery reviewed dates currently scheduled:

February 16, 2009	STATE HOLIDAY	April 5-6, 2009	AADE, Chicago
February 21,-22, 2009	ADHP academic session	April 7, 2009	National Dental Exam Forum, Chicago
March 5-6, 2009	Board Meeting Posted	April 9-10, 2009	Board Meeting Posted
March 28-29, 2009	ADHP academic session	June 15-16, 2009	Dental Hygiene Licensure Exam
April 3-4, 2009	CITA , Chicago	June 17-19, 2009	Dental Licensure Exam

On motion by Dr. McCaffery, seconded by Dr. DeRosier, Dr. Willis shall be the representative of the Board of Dental Examiners of Alabama at the National Dental Exam Forum, Chicago, Illinois April 7, 2009.

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

The Board discussed the request of the Council on Dental Accreditation for the Board to submit two nominations to allow the selection of one member to participate in each of the following site visits. Ms Wilkinson was instructed to submit the following nominees:

Dr. McCaffery and Dr. Mahan - June 2, 2009 - UAB School of Dentistry

Dr. DeRosier and Dr. Willis - November 10-12, 2009 - Wallace State Community College

On motion by Ms. Chapman, seconded by Dr. DeRosier, based on review of the information submitted by Karen Sladick, the Board determined that the submitted course, *Go System*, addresses practice management and thereby excluded pursuant to Rule 270-X-4.04 (5)(b) (3).

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

On motion by Ms. Chapman, seconded by Dr. Willis, based on the 2008 inspection report and current CODA status, both the Dental Assisting Program and the Dental Hygiene Program at Wallace State Community College are approved for 2009-2010. Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

On motion by Dr. McCaffery, seconded by Dr. Mahan, the meeting adjourned at 8:10 PM and will reconvene at 8:30 AM, February 6, 2009. Vote 6-0. Motion carried.

Friday February 6, 2009

8:30 AM

The Board of Dental Examiners of Alabama met to conduct business. Members present were Drs. McCaffery, DeRosier, Mahan, Willis, Northcutt and Ms.

Chapman. Also present was Sonya Lankford, Stan McAdams, Natalie Virciglio, Joe Wilson, Mary Ann Wilkinson and Peyton Zarzour.

Dr. McCaffery called the meeting to order at 8:45 AM.

A motion was made by Ms. Chapman, seconded by Dr. Willis, for the Board of Dental Examiners of Alabama to retire to executive session based upon the following allowable statutory reasons:

1. Discussion of the general reputation, character and/or professional competence of licensees.
2. A declaration by Board counsel, Joe Wilson, a licensed attorney in the State of Alabama that the executive session is for the purpose of settling pending cases.
3. An administrative disciplinary hearing authorized by the Alabama Dental Practice Act involving the following case:

2008-121

Any final order entered by the board consisting of findings of fact, conclusions of law and discipline will be maintained in the file of the licensee and shall be considered a public record.

Dr. McCaffery announced the time as 8:45 AM and will reconvene the public session at approximately 1:00 PM. Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

Dr. McCaffery reconvened the meeting at 1:15 PM.

On motion by Dr. McCaffery, seconded by Dr. Mahan, Mr. Wilson was requested to initiate proceeding for collection, including filing and prosecuting any necessary lawsuits on behalf of the board for the following unpaid disciplinary fines:

2009-16

2009-17

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

Mr. Wilson reported the Order from Judge McCooey regarding White Smile USA and D’Markos, LLC v. Alabama Board of Dental Examiners has not yet been issued.

On motion by Dr. Mahan, seconded by Dr. DeRosier, Mr. Wilson was instructed to issue a Notice of Hearing for the following:

2006-47

2006-169

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

On motion by Dr. Willis, seconded by Dr. DeRosier, Ms. Wilkinson was instructed to notify the following complainant and dentist that the matters raised are outside the jurisdiction of the Board and the complainant may wish to pursue the complaint through the Alabama Dental Associations’ Peer review process.

2009-2

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

On motion by Dr. McCaffery, seconded by Dr. DeRosier, there is no evidence to sustain a violation of the Alabama Dental Practice Act in connection with the complaints against the following dentists and the Board instructed Mr. Wilson was requested to notify both the dentist and the complainant of this decision.

2008-96

2008-97

2008-98

2008-127

2008-128

2008-125

2008-132

2008-134

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

On motion by Dr. DeRosier, seconded by Dr. Willis, the following cases are closed with no further action.

2007-9

2008-131

2009-1

2009-3

2009-4

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

On motion by Dr. Northcutt, seconded by Dr. Willis, Ms. Wilkinson was instructed to issue a letter of concern:

2008-132

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

On motion by Dr. DeRosier, seconded by Dr. Willis, Mr. Wilson was instructed to request a letter of explanation from the following resulting from complaints received.

2008-40

2009-5

2009-6

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye). Motion carried.

The following complaints, after review by all Board members, were placed under investigation. Board members, as listed, were assigned to review investigative findings.

2006-129 - Dr. Willis

2008-111 – Dr. Mahan

On motion by Dr. Willis, seconded by Dr. Mahan, the minutes of January 8-9, 2009 were approved with corrections.

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

On motion by Dr. Willis, seconded by Dr. DeRosier, the financial report was approved as presented.

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

Dr. McCaffery welcomed the following:

Dr. Lee Chaumoun

Mr. Wayne McMahan, Executive Director Alabama Dental Association

Dr. McCaffery asked Dr. Chaumoun if he had matters to bring before the Board, Dr. Chaumoun declined.

Dr. McCaffery recognized Mr. Steve Windom and called on him for report on governmental matters of interest to the Board.

Mr. Windom reported the Sunset Hearing on February 5, 2009 continued the Board of Dental Examiners for one year and adding diversity language consistent with all bills passed.

Mr. Windom discussed the final version of the bill with agreed substitutes. He further discussed his plans to represent the Board's position during the upcoming session. As agreed at the last meeting the bill now includes the amendment to 34-9-40(a) "two or more" dentists... submitted by the Alabama Dental Society Mr. Windom polled the members, with Drs. McCaffery, DeRosier, Mahan and Willis okay with this revision,, Dr. Northcutt stating he does not have an opinion.

Regarding the amendment to 34-9-43(8)(b), Mr. Windom recommended the Board request the addition of an "if" clause to reserve the Board's ability to employ an in house attorney rather than contract with multiple firms.

On motion by Dr. Willis, seconded by Dr. Mahan, to accept the recommendation of Mr. Windom to offer as the Board's position the following substitute to amend Code of Alabama (1975) §34-9-43 (8)(b):

"...provided, however if the Board contracts with an outside attorney to be general counsel of the board that the attorney and any member of any law firm with which he or she is associated shall not function as the board's prosecutor at hearings.

Dr. McCaffery called for the vote. Dr. McCaffery – Aye, Dr. DeRosier – aye, Dr. Mahan – aye, Dr. Willis – No, Dr. Northcutt- No, Ms. Chapman – yes). Motion carried.

Dr. McCaffery thanked Mr. Windom for talking with all legislators. Meetings regarding the status of both the House and Senate bills are scheduled for February 10 and 11, 2009.

On motion by Dr. Northcutt, seconded by Dr. Mahan, the Board approves Dr McCaffery and Dr. Willis to serve as a committee to research a job description to be discussed and once discussed and approved by the Board to proceed with presentation of qualified candidates for an in-house attorney,

Dr. McCaffery called for the vote. (Dr. McCaffery – Aye, Dr. DeRosier – Aye, Dr. Mahan – Aye, Dr. Willis – Aye, Dr. Northcutt – Aye, Ms. Chapman – Aye). Motion carried.

On motion by Dr. Willis, seconded by Dr. DeRosier, the meeting was adjourned at 4:30 PM. Vote 6-0. Motion carried.

Respectfully submitted,

S. Michael Mahan, Jr.

Secretary - treasurer

Approved: March 6, 2009

Submitted by: Mary Ann Wilkinson