

SOUTH DAKOTA STATE BOARD OF DENTISTRY
MINUTES OF PUBLIC HEARING

Dr. Wilson called the public hearing to order at 10:00 a.m. on Friday, October 16, 2015, in the large conference room, South Dakota Housing Development Authority, 3060 Elizabeth St., Pierre, South Dakota, and noted that this was the time and place for the Board of Dentistry Public Hearing to consider the amendment and adoption of proposed rules ARSD § 20:43:08:11; 20:43:09:03; 20:43:09:04; 20:43:09:04.01; 20:43:09:05; 20:43:09:06; 20:43:09:06.01; 20:43:09:06.02; 20:43:09:07; 20:43:09:08; 20:43:09:10; 20:43:09:10.01; 20:43:09:11; 20:43:09:16.

Hearing Officer: Jim Carlon.

Members of the Board in attendance: Dr. Roger Wilson, Dr. Roy Seaverson, Dr. Amber Determan, Dr. Tara Schaack, Dr. Robin Hattervig, Tina Van Camp and Audrey Ticknor.

Board staff in attendance: Brittany Novotny, Rachel Day, Lisa Harsma and Kris O'Connell.

Others in Attendance: Paul Knecht (South Dakota Dental Association), Dr. Mark Kampfe (South Dakota Dental Association), Kara McMachen (South Dakota Association of Nurse Anesthetists), Donald Roesler (South Dakota Association of Nurse Anesthetists), Justin Bell (South Dakota State Medical Association), Dr. Jay Crossland (South Dakota Society of Oral and Maxillofacial Surgeons), Pat Aylward (South Dakota Dental Hygienists' Association), Nicole Glines (South Dakota Dental Hygienists' Association), Dr. Bruce Wintle, Dr. Tim Kappenmann, Dr. Scott Van Dam, Dr. Greg Williams, Dr. Denis Miller, Dr. Louis George, Dr. Ed Kusek and Dr. Patrick Vezeau.

Mr. Carlon noted that minutes were being taken and that due notice of this hearing had been published in three South Dakota newspapers and was made to interested parties in advance of the hearing. Mr. Carlon noted that the proposed rules were edited for compliance with the requirements for form, style and legality as requested by the South Dakota Legislative Research Council pursuant to SDCL 1-26-6.5.

Written Testimony: Mr. Carlon entered into the record the following letters that were received prior to the hearing:

1. David Enos (Rapid City) noting support for the proposed rules and highlighting the importance of being able to access anesthesia services for his handicapped son in a dental office.
2. Dr. Brent Henriksen, MD, DDS and Dr. Andrew Hille, DMD (Sioux Falls) noting support for the proposed rules and support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01.

3. Patrick Gustaf, AAF, SDCF (Sioux Falls) – noting general support for the proposed rules and highlighting the importance of being able to access moderate sedation anesthesia services in a dental office.
4. Mike Lycole – highlighting the importance of being able to access moderate sedation anesthesia services in a dental office.
5. Ronald Meyer (Sioux Falls) – highlighting the importance of being able to access moderate sedation anesthesia services in a dental office.
6. Dr. Bruce Wintle, DDS (Huron) – noting support for the proposed rules.
7. Dr. Jay Crossland, DDS (Rapid City) on behalf of the South Dakota Society of Oral and Maxillofacial Surgeons – noting support for the proposed rules, support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01, and noting the safety of the current model of administration of anesthesia or sedation in a dental office.
8. Paul Knecht (Pierre) on behalf of the South Dakota Dental Association – noting support for the proposed rules and support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01, but requesting the following:
 - a. ARSD 20:43:09:04.01 - requesting removal of the current requirement that a dentist, using the services of an anesthesia provider in the dentist’s office, hold a moderate sedation permit.
 - b. ARSD 20:43:09:08 - requesting that the Board consider rules or guidelines stipulating what the Board deems to be continued competency.
 - c. ARSD 20:43:09:16 - requesting that the Board consider adding a dentist that does not hold an anesthesia or sedation permit to the anesthesia credentials committee.
9. Dr. G.J. Muller II, DDS (Rapid City) – noting support for the proposed rules, support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01, and noting the safety of the current model of administration of anesthesia or sedation in a dental office.
10. Dr. Daniel Becker, DDS (Dayton, Ohio) – noting support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01 and the safety of the current model of administration of anesthesia or sedation in a dental office.
11. Dr. Edward Kusek, DDS (Sioux Falls) – noting support for the proposed rules and support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01, but recommending that anesthesia training required in ARSD 20:43:09:10.01 (DAANCE certification) for a dental hygienist, registered dental assistant or dental assistant to inject medication be removed.
12. Dr. Stephania Knight, MD (Sioux Falls) on behalf of the South Dakota Society of Anesthesiologists – noting concern related to ARSD 20:43:09:04.01 and urging modification of language to require dentist supervision of an employed or contracted Certified Registered Nurse Anesthetists (CRNA).
13. Dr. Denis Miller, DDS, MBA and Dr. Louis George, DMD (Sioux Falls) – noting support for the proposed rules, support for the injection of medication by assistants outlined in ARSD 20:43:09:10.01, and noting the safety of the current model of administration of anesthesia or sedation in a dental office.

Oral Testimony: Mr. Carlon took oral testimony in general support of or opposition to the entire rules package and then by each section of the administrative rules in the order they appear in the Notice of Public Hearing to Adopt Rules. Oral Testimony was presented by the following:

General support for the proposed rules:

Dr. Ed Kusek

Dr. Denis Miller

Dr. Scott Van Dam

Mr. Paul Knecht - South Dakota Dental Association (SDDA)

Dr. Jay Crossland - South Dakota Society of Oral and Maxillofacial Surgeons (SDOMS)

Dr. Bruce Wintle

Dr. Greg Williams

Dr. Tim Kappenmann

General opposition to the proposed rules:

Don Roesler - South Dakota Association of Nurse Anesthetists (SDANA). Mr. Roesler provided a written letter on behalf of SDANA.

Kara McMachen - South Dakota Association of Nurse Anesthetists (SDANA)

Justin Bell - South Dakota State Medical Association (SDSMA)

20:43:08:11:

- Justin Bell (SDSMA) voiced opposition to (4).

20:43:09:03: No oral testimony.

20:43:09:04: No oral testimony.

20:43:09:04.01:

- Paul Knecht (SDDA) voiced support for the rule changes and requested an additional change to remove the requirement currently in rule that a dentist hold a moderate sedation permit when using the services of an anesthesia provider in the dentist's office.
- Kara McMachen (SDANA) voiced support for the inclusion of licensed anesthesia provider.

20:43:09:05: No oral testimony.

20:43:09:06: No oral testimony.

20:43:09:06.01: No oral testimony.

20:43:09:06.02: No oral testimony.

20:43:09:07: No oral testimony.

20:43:09:08:

- Paul Knecht (SDDA) voiced support for the inclusion of a continued competency requirement and requested rules or guidelines stipulating what the Board deems to be continued competency.

20:43:09:10:

- Kara McMachen (SDANA) voiced no opposition to the rule changes being proposed, but voiced opposition to the current administrative rule as a whole.
- Don Roesler (SDANA) voiced no opposition to the rule changes being proposed, but voiced opposition to the current administrative rule as a whole.
- Dr. Scott Van Dam voiced support for the rule changes.
- Dr. Jay Crossland (SDOMS) voiced support for the rule changes.

20:43:09:10.01:

- Dr. Ed Kusek voiced support for the rule changes.
- Dr. Louis George voiced support for the rule changes.
- Dr. Patrick Vezeau voiced support for the rule changes.
- Mr. Paul Knecht (SDDA) voiced support for the rule changes.
- Dr. Scott Van Dam voiced support for the rule changes.
- Dr. Bruce Wintle voiced support for the rule changes.
- Dr. Jay Crossland (SDOMS) voiced support for the rule changes.
- Dr. Tim Kappenmann voiced support for the rule changes.
- Don Roesler (SDANA) voiced opposition to the rule changes.
- Kara McMachen (SDANA) voiced opposition to the rule changes.
- Justin Bell (SDSMA) voiced opposition to the rule changes.

20:43:09:11: No oral testimony

20:43:09:16:

- Mr. Paul Knecht (SDDA) voiced support for the rule changes and requested that the board add a dentist that does not hold an anesthesia or sedation permit to the anesthesia credentials committee.

Mr. Carlon closed testimony and opened the public hearing to Board discussion and/or action.

The Board reviewed the proposed rules by section, reviewing all written and oral testimony received.

20:43:08:11:

- The Board noted the opposition of Justin Bell (SDSMA) to (4).

20:43:09:04.01:

- The Board reviewed the request by Paul Knecht (SDDA) to remove the requirement currently in rule that a dentist hold a moderate sedation permit when using the services of an anesthesia provider in the dentist's office. The Board noted that this is not a new requirement, but is currently in administrative rule.

- The Board reviewed the support of Kara McMachen (SDSMA) for the inclusion of licensed anesthesia provider.
- The Board reviewed the letter submitted by Dr. Stephania Knight (South Dakota Society of Anesthesiologists) requesting that language be included in the rules that specifically requires dentist supervision of any Certified Registered Nurse Anesthetist (CRNA) providing anesthesia services in a dental office. Board legal counsel, Kris O'Connell, clarified that pursuant to statutes in the Nurse Practice Act, a CRNA must collaborate with a physician and cannot practice in a dental office; therefore, no language related to supervision is necessary to address the concern raised by Dr. Knight.

20:43:09:08:

- The Board reviewed the request of Paul Knecht (SDDA) to provide guidelines stipulating what the Board deems to be continued competency.

20:43:09:10:

- The Board reviewed the testimony of Dr. Scott Van Dam and Dr. Jay Crossland (SDOMS) voicing support for the rule changes.
- The Board reviewed the testimony of Kara McMachen (SDANA) and Don Roesler (SDANA) voicing opposition to the current administrative rule as a whole, not the changes being proposed. The Board noted that it has been issuing permits to monitor patients under anesthesia or sedation pursuant to the current administrative rule for a number of years with no incident.

20:43:09:10.01:

- The Board reviewed the proponent testimony of Dr. Ed Kusek, Dr. Louis George, Dr. Patrick Vezeau, Mr. Paul Knecht (SDDA), Dr. Scott Van Dam, Dr. Bruce Wintle, Dr. Jay Crossland (SDOMS), and Dr. Tim Kappenmann. The Board reviewed the opponent testimony of Don Roesler (SDANA), Kara McMachen (SDANA) and Justin Bell (SDSMA). The Board discussed the specific criteria outlined in this rule.
- The Board asked for input from Nicole Glines, representing the South Dakota Dental Hygienists' Association (SDDHA). Specifically, the Board asked if the SDDHA had any position on the proposed changes and the ability of dental assistants or dental hygienists to inject medication under the criteria outlined in this rule. Ms. Glines (SDDHA) voiced support for the rule changes.
- The Board noted that the Legislative Research Council requested section 20:43:09:10.01 be broken into two sections and that this change had been incorporated into the draft rules.

20:43:09:16:

- The Board reviewed the request of Mr. Paul Knecht (SDDA) that the Board add a dentist that does not hold an anesthesia or sedation permit to the anesthesia credentials committee.
- Motion by Ticknor to modify the second sentence of ARSD 20:43:09:16 to read "The committee shall include at least one member of the board, up to five additional dentists that hold a general anesthesia and deep sedation or moderate sedation permit, and up to

one additional dentist that does not hold a general anesthesia and deep sedation or moderate sedation permit.” Second by Determan. Motion carried.

Moved by Determan that the South Dakota State Board of Dentistry approve the adoption of amended rules § 20:43:08:11; 20:43:09:03; 20:43:09:04; 20:43:09:04.01; 20:43:09:05; 20:43:09:06; 20:43:09:06.01; 20:43:09:06.02; 20:43:09:07; 20:43:09:08; 20:43:09:10; 20:43:09:10.01; 20:43:09:10.02; 20:43:09:11; and 20:43:09:16, including the edits for compliance with the requirements for form, style and legality. Second by Seaverson. Motion carried.

There being no further business, the public hearing was adjourned at 11:30am.