

**Rules Oversight Committee Meeting  
Minutes  
August 22, 2013**

MEMBERS PRESENT: Brandon Schwindt, D.M.D., Chair  
Mary Davidson, M.P.H., R.D.H.  
Alton Harvey, Sr.  
Jill Price, D.M.D., ODA  
Lynn Ironside, R.D.H., ODHA  
Bonnie Marshall, C.D.A., E.F.D.A., E.F.O.D.A., M.A.D.A.A., ODAA

STAFF PRESENT: Patrick D. Braatz, Executive Director  
Paul Kleinstub, D.D.S., M.S., Dental Director/Chief Investigator  
Lori Lindley, Senior Assistant Attorney General – Via Telephone  
Stephen Prisby, Office Manager  
Teresa Haynes, Examination and Licensing Manager

OTHERS PRESENT: Jonna Hongo, D.M.D., Board Member; Todd Beck, D.M.D., Board Member; Patricia Parker, D.M.D., Board Member; Beryl Fletcher, ODA; Les Sturgis, CRNA

**Call to Order:** The meeting was called to order by the Committee Chair at 7:00 p.m. at the Board office; 1600 SW 4<sup>th</sup> Ave., Suite 770, Portland, Oregon.

**MINUTES**

Ms. Ironside moved and Mr. Harvey seconded that the minutes of the January 22, 2013 Committee meeting be approved as presented. The motion passed with Ms. Davidson, Mr. Harvey, Dr. Price, Ms. Ironside and Ms. Marshall voting aye.

**818-012-0005 Scope of Practice**

Ms. Davidson moved and Ms. Ironside seconded that the Committee recommend the Board send 818-012-0005 forward to a public rule hearing as amended. The motion passed with Ms. Davidson, Mr. Harvey, Ms. Ironside and Ms. Marshall voting aye and Dr. Price voting nay.

**818-012-0005  
Scope of Practice**

~~(1) The Board determines that the practice of dentistry includes the following procedures which the Board finds are included in the curricula of dental schools accredited by the American Dental Association, Commission on Dental Accreditation, post-graduate training programs or continuing education courses:~~

- ~~(a) Rhinoplasty;~~
- ~~(b) Blepharoplasty;~~
- ~~(c) Rhydidectomy;~~
- ~~(e) Submental liposuction;~~
- ~~(f) Laser resurfacing;~~

~~(g) Browlift, either open or endoscopic technique;~~  
~~(h) Platysmal muscle plication;~~  
~~(i) Dermabrasion;~~  
~~(j) Otoplasty;~~  
~~(k) Lip augmentation;~~  
~~(l) Hair transplantation, not as an isolated procedure for male pattern baldness; and~~  
~~(m) Harvesting bone extra orally for dental procedures, including oral and maxillofacial procedures.~~

**(21)** No ~~licensee~~ dentist may perform any of the procedures listed below

- (a) Rhinoplasty;
- (b) Blepharoplasty;
- (c) Rhytidectomy;
- (e) Submental liposuction;
- (f) Laser resurfacing;
- (g) Browlift, either open or endoscopic technique;
- (h) Platysmal muscle plication;
- (i) Dermabrasion;
- (j) Otoplasty;
- (k) Lip augmentation;
- (l) Hair transplantation, not as an isolated procedure for male pattern baldness; and
- (m) Harvesting bone extra orally for dental procedures, including oral and maxillofacial procedures,

unless the dentist:

~~(a)~~ **(A)** Has successfully completed a residency in Oral and Maxillofacial Surgery accredited by the American Dental Association, Commission on Dental Accreditation (CODA); and

~~(b)~~ **(B)** Has successfully completed a clinical fellowship, of at least one continuous year in duration, in esthetic (cosmetic) surgery recognized by the American Association of Oral and Maxillofacial Surgeons or by the American Dental Association Commission on Dental Accreditation; or

~~(c)~~ **(C)** Holds privileges either:

**(A1)** Issued by a credentialing committee of a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to perform these procedures in a hospital setting; or

**(B2)** Issued by a credentialing committee for an ambulatory surgical center licensed by the State of Oregon and accredited by either the JCAHO or the American Association for Ambulatory Health Care (AAAHC).

**(2) A dentist may utilize Botulinum Toxin Type A to treat a condition that is within the scope of the practice of dentistry after completing a minimum of 16 hours in a hands on clinical course(s) and the course instructor(s) are approved by the American Dental Association Continuing Education Recognition Program (ADA CERP) or the Academy of General Dentistry (AGD).**

## **818-013-0001 Definitions**

Dr. Price moved and Mr. Harvey seconded that the Committee recommend the Board send 818-013-0001 forward to a public rule hearing as presented. The motion passed with Ms. Davidson, Mr. Harvey, Dr. Price, Ms. Ironside and Ms. Marshall voting aye.

### **818-013-0001 Definitions**

*For the purpose of this section, the following definitions apply:*

(1) *“Confidential” means that, to the highest degree possible, the identities of the licensees investigated for alleged addiction to, dependence upon, or abuse of alcohol, drugs, and mind altering substances, or mental health disorders, and who have a diagnosed substance abuse disorder or mental health disorder, will be kept confidential by the Board and not be a matter of public record.*

(2) *“Diagnosis” means the principal mental health or substance use diagnosis listed in the DSM. The diagnosis is determined through the evaluation and any examinations, tests, or consultations suggested by the evaluation, and is the medically appropriate reason for services.*

(3) *“Direct Observe” means that a collection taker is in the restroom with donor and observes the providing of the sample throughout the entire process.*

(4) *“Diversion Coordinator” means the individual(s) authorized by the Board and the Executive Director to know the identities of the licensees who are candidates for or who are enrolled in HPSP.*

(5) *“Division” means the Oregon Health Authority, Addictions and Mental Health Division.*

(6) *“DSM” means the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.*

(7) *“Evaluation” means the process a Board approved, independent evaluator uses to diagnose the licensee’s symptoms and to recommend treatment options for the licensee.*

(8) *“Health Professionals’ Services Program” (HPSP) means the consolidated, statewide health professionals program for licensees diagnosed with a substance use disorder, a mental health disorder, or both types of disorders, as established by ORS 676.190.*

(9) *“Independent evaluator” means a Board approved individual or entity qualified to evaluate, diagnose, and recommend treatment regimens for substance abuse disorders, mental health disorders, or co-occurring disorders.*

(10) *“Mental health disorder” means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress or disability or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom that is identified in the DSM. “Mental health disorder” includes gambling disorders.*

(11) "Monitoring agreement" means an individualized agreement between a licensee and the HPSP vendor that meets the requirements for a diversion agreement set by ORS 676.190.

(12) "Monitoring Entity" means an independent third-party that monitors licensees' program enrollment statuses and monitoring agreement compliance.

(13) "Non-disciplinary" means the Board will not take disciplinary action or enter disciplinary orders against a licensee who agrees to enter into the HPSP and remains compliant with that program.

(14) "Non-identifying" means a system where the licensee is referred to by number rather than name and the licensee's identity remains confidential to the Board.

(15) "Program" means the process whereby allegations of addiction to, dependence upon, or abuse of alcohol, drugs, or mind altering substances or mental health disorders are investigated, evaluated, and reported to the Board for action.

~~(16)~~ **"Self-referred licensee" means a licensee who seeks to participate in the HPSP program without referral from the Board.**

~~(17)~~ (16) "Substance Use Disorders" means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.

~~(18)~~ (17) "Substantial non-compliance" means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee's ability or willingness to participate in the program. Substantial non-compliance and non-compliance include, but are not limited to, the factors listed in ORS 676.190(1)(f). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

~~(19)~~ (18) "Successful completion" means the licensee has complied with the licensee's monitoring agreement to the satisfaction of the Board.

~~(20)~~ (19) "Toxicology testing" means urine testing or alternative chemical monitoring including, but not limited to blood, saliva, or breath as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

~~(21)~~ (20) "Treatment" means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder, mental health disorder or both types of disorders.

~~(22)~~ (21) "Vendor" means the entity that has contracted with the Division to conduct the program.

~~(23)~~ (22) "Voluntary" means that the Board cannot compel a licensee to enter the HPSP.

Stat. Auth.: ORS 676, 679 & 680

Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)

Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11; OBD 4-2011, f. & cert. ef. 11-15-11

### **818-013-0005 Participation in Health Professionals' Services Program**

Mr. Harvey moved and Ms. Ironside seconded that the Committee recommend the Board send 818-013-0005 forward to a public rule hearing as presented. The motion passed with Ms. Davidson, Mr. Harvey, Dr. Price, Ms. Ironside and Ms. Marshall voting aye.

#### **818-013-0005**

#### ***Participation in Health Professionals' Services Program***

(1) *Effective July 1, 2010, the Board participates in the Health Professionals' Services Program (HPSP).*

(a) *The Board establishes procedures to process cases of licensees preparatory to transfer to HPSP.*

(b) *The procedures will be confidential, non-disciplinary, and voluntary.*

(c) *The Executive Director will have overall management responsibilities for the procedures. The Executive Director will designate Board staff to serve as Diversion Coordinator(s) who will manage and conduct investigations and report to the Board.*

(d) *The Diversion Coordinator(s) will investigate information related to addiction to, dependence upon, or abuse of alcohol, drugs, or mind altering substances or mental health disorders, by licensees and provide licensees with resources for evaluations, if appropriate.*

(2) *Only licensees of the Board who meet the referral criteria may be referred by the Board to the HPSP.*

(a) *The Board may refer a licensee to the HPSP in lieu of public discipline.*

(b) *In the event a licensee declines to submit to an evaluation or declines referral to HPSP, the Diversion Coordinator(s) will present the matter to the Board for decision and the Board's action may jeopardize the confidential nature of licensee's status as a candidate for, or enrollment in, HPSP.*

~~**(3) Licensees may self-refer to HPSP without Board approval as permitted by ORS 676.190(5).**~~

### **818-026-0060 Moderate Sedation Permit**

Ms. Ironside moved and Mr. Harvey seconded that the Committee recommend the Board send 818-026-0060 forward to a public rule hearing as presented. The motion passed with Ms. Davidson, Mr. Harvey, Dr. Price, Ms. Ironside and Ms. Marshall voting aye.

#### **818-026-0060 Moderate Sedation Permit**

*Moderate sedation, minimal sedation, and nitrous oxide sedation.*

*(1) The Board shall issue or renew a Moderate Sedation Permit to an applicant who:*

*(a) Is a licensed dentist in Oregon;*

*(b) Either holds a current Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated, or successfully completes the American Dental Association's course "Recognition and Management of Complications during Minimal and Moderate Sedation" at least every two years; and*

*(c) Satisfies one of the following criteria:*

*(A) Completion of a comprehensive training program in enteral and/or parenteral sedation that satisfies the requirements described in Part ~~III~~ V of the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007) at the time training was commenced.*

### **818-042-0060 Radiologic Proficiency**

Mr. Harvey moved and Ms. Marshall seconded that the Committee recommend the Board send 818-042-0060 forward to a public rule hearing as amended. The motion passed with Ms. Davidson, Mr. Harvey, Dr. Price, Ms. Ironside and Ms. Marshall voting aye.

#### **818-042-0060 Certification — Radiologic Proficiency**

*(1) The Board may certify a dental assistant in radiologic proficiency by credential in accordance with OAR 818-042-0120, or if the assistant:*

*(2) Submits an application on a form approved by the Board, pays the application fee and:*

*(a) Completes a course of instruction in a program approved by the Oregon Health Authority, Oregon Public Health Division, Office of Environmental Public Health, Radiation Protection Services, or the Oregon Board of Dentistry, in accordance with OAR 333-106-0055 or submits evidence that RPS recognizes that the equivalent training has been successfully completed;*

*(b) Passes the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, Inc. (DANB), or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry; and*

*(c) Passes a clinical examination approved by the Board and graded by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board, consisting of exposing, developing and mounting a full mouth series of radiographs (14 to 18 periapical and 4 bitewing radiographs), or by submitting a digital full mouth series of radiographs (14 to 18 periapical and 4 bitewing radiographs) within one hour and under the supervision of a person permitted to take radiographs in Oregon No portion of the clinical examination may be completed in advance; a maximum of three retakes is permitted; only the applicant may determine the necessity of retakes. The radiographs should be taken on an adult patient with at least 24 fully erupted teeth. The radiographs must be submitted for grading within six months after they are taken.*

*Stat. Auth.: ORS 679*

*Stats. Implemented: ORS 679.020, 679.025 & 679.250*

*Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03;*

*OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05;*

*OBD 3-2007, f. & cert. ef. 11-30-07; OBD 4-2011, f. & cert. ef. 11-15-11*

#### **Other Business:**

Ms. Davidson moved and Dr. Price seconded that the Committee recommends the concept to add language to 818-012-0040 Infection Control Guidelines requiring licensees to maintain testing results for a set amount of time and recommends the Board send 818-012-0040 forward to a public hearing. The motion passed with Ms. Davidson, Mr. Harvey, Dr. Price, Ms. Ironside and Ms. Marshall voting aye.

The meeting was adjourned at 7:27 p.m.