



NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS

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Called Meeting Minutes – March 15, 2009

Chairperson Margaret Wingate called the meeting to order at 1:00 p.m. The following members were in attendance: Dana Combopiano, James Doyle, Liz Fisher, Dr. Gary Slaughter, and Margaret Wingate. All Board members responded in the negative when queried about existing or potential conflicts of interest. The Disclosure of Affiliation sign-in sheet was circulated among the following members of public attendees:

GPEA: Jennifer Morris, Dorenda Stilwell, Cynthia White, Alice Saintsing, Mary Ann Wheeler, Dianne M. Van Dyke, Barbara Hussey, Patty Lilly, Melinda Smith, Lisa Huryn, Jane Hines, Thelma White, Linda Anderson

EANC: Lesa Wingate

Others: Michael Trent, Mary Bynum, Janice Eyerly, Ronda Jones, Myrtle Hamrick
 Susan Magas, Administrative Assistant for the Board was also in attendance.

APPROVAL OF AGENDA: Wingate announced that the agenda today will consist of finalizing of the Board's revision of the Rules. A motion was made by Slaughter and seconded by Combopiano to accept the proposed agenda for today's meeting. Motion carried unanimously.

RULES

Before discussion of the Rules, Margaret distributed a list of specific paragraphs discussed in the January 24, 2009 meeting and suggested that the Board read through the list to identify the specific sections needing further discussion today. The suggestion received unanimous consent. Following is the list of specific items and the approach which will be followed for the meeting:

0201(a)(20) – accepted

0202(1)(d) – accepted

0202(1)(e) - accepted

0202(2)(b)(6) and 403(c) – needs discussion

0401(b) – accepted

0401(c) - accepted

403(b)(9) – accepted

500(d) – accepted

0601 – accepted

0613 – needs discussion

0618 – needs discussion

0622 – needs discussion

0623 – needs discussion

0624 – accepted

0701(d) – accepted

0701(f) – accepted

0400 – entire section on Infection Control Standards will be discussed

Revisited Items

202(2)(b)(6) and 403(c) – At issue are two aspects of the supervisory agreement, the oversight of training by the supervising physician vs. NCBE and the posting of the supervisory agreement in a conspicuous place. Combopiano and Fisher say there is no statute to support these proposed rules. The Board discussed the aspect of who is ultimately responsible for laser. Slaughter said that in the state of NC, if a complaint were lodged regarding laser, the NC Medical Board (NCMB) would look to the licensed physician during its investigation of the complaint, regardless of who was at fault. Combopiano disagreed and said that NCBE is responsible for the electrologists. In response to Slaughter's question on to whom lawsuits would be directed, Fisher and Combopiano said electrologists would be held responsible since they have malpractice insurance on themselves and the supervising physician. Slaughter said the NCMB deems laser to be under its jurisdiction, and it will come after the physician if something happens. He said that the more NCBE looks unlike other types of practitioners who do laser, the more problems will come its way. An example was provided - nurse practitioners perform laser hair removal and are not under NCBE jurisdiction, but rather, under a separate nursing board. They practice laser with physician supervision just as electrologists do, and their rules provide for conspicuous display of the supervisory agreement. In its investigations, the NCMB gives great weight to the fact that an agreement is conspicuously displayed, because it limits the headache for defending the practitioner and the doctor in the event of a problem. Slaughter believes NCBE owes it to its licensees, the electrologists, to cover them with similar provisions in its rules. Doyle said there is no statute to require the display/posting of the supervisory agreement. Fisher said the majority of our licensees who have provided feedback to the Board want the agreement kept private. Slaughter responded that as leaders, we should protect our licensees rather than say we did what everyone wanted us to do - otherwise, NCBE becomes a target in the event an electrologist gets in trouble. Slaughter has spoken to the Board attorney, Anne Brown, who was in favor of language that included conspicuous placement of the supervisory agreement. Combopiano said she does not believe the display or posting of the agreement provides protection for licensees and should not be required. Fisher said she believed the electrologists are protected without the proposed language. Slaughter said he would not move from his position on this issue, but was prepared for the Board to vote.

The following motion, made by Combopiano and seconded by Doyle, carried on a vote of 3 to 2, with affirmative votes by Fisher, Combopiano, and Doyle (Slaughter abstained and Wingate voted against the motion):

202(2)(b)(6) to read: "Supervisory Agreement" form is filed with NCBE and a copy is available in the office of the Supervising Physician and the laser hair practitioner for inspection.

403(c) to read: A copy of the current "Supervisory Agreement" shall be available in the office and available for inspection.

No discussion or action was taken to amend the language approved in prior meetings regarding oversight of training by the supervising physician.

0613 – After a discussion as to whether to strike the phrase “and client” from both paragraphs, unanimous consent was reached to leave the language as per the revision from the January 24, 2009 meeting.

0618 – Still at issue in this paragraph is whether to include or exclude laser schools from private practice restrictions. Bobby Bryan from the Rules Review Committee can find no previous history or notes regarding why this rule was originally adopted and said that the statute does not require the rule. After discussion, the Board approved a motion made by Combopiano and seconded by Slaughter: to delete any reference to laser practice in this paragraph and to remove the last sentence in the existing rule regarding the requirement for a separate entrance, name, and sign. Motion carried.

403(b) – Though not originally on the agenda for discussion, Doyle asked whether the provision the Board has previously agreed to prohibits a laser practice from operating in other than a commercially zoned area. The other Board members confirmed that this provision is still in place as previously agreed.

0622 and **0623** - Board unanimously consented to leaving language as previously approved in the January 24, 2009 meeting. Language in other sections of the Rules prescribes the number of hours required for laser curriculum. Board had previously voted in October 2008 to add language indicating the Board retains authority to approve/disapprove a school for certification.

INFECTION CONTROL STANDARDS – 0400

Wingate advised that our existing rules and standards, written in 1993, have been outdated since 2001 based upon a recodification of higher level state law which is incorporated by reference into our existing Rules. Electrologists are now subject to Chapter 41A, Epidemiology/Communicable Disease statutes. Dr. Parsons suggested last year that the Board follow CDC/FDA guidelines. At three prior meetings (February 17, June 7, and August 23), the Board voted to adopt AEA infection control standards, which were developed with guidance from CDC and FDA. In June of 2008, the Board solicited and received permission from AEA to incorporate these standards into the Rules.

Since the last meeting in January, issues have arisen with respect to inspections and infection control. Combopiano said that this needs to be revisited because of a number of e-mails sent to the Board by electrologists. The question is where would we be best served and why is it a benefit to utilize AEA standards? Wingate said that AEA had condensed and consolidated the CDC/FDA requirements into a body of universal standards applicable to electrologists only. Rather than referencing all of the CDC/FDA mandates on infection control, the AEA standards include only those items applicable to the electrolysis industry.

Concerns were raised that the AEA standards may be difficult for our licensees to comply with. Slaughter commented that using the complete CDC/FDA standards would be even more difficult. Further, the Board's inspection checklist items do not have to include every standard. The Board can select from the standards whatever inspection checklist criteria it wants.

When Slaughter asked for clarification as to why the AEA document should now not be utilized, Combopiano stated that feedback had been received from several licensees urging the Board not to adopt the AEA standards. In the past AEA has not been supportive of the laser industry, so many of the laser hair practitioners are not in favor of endorsing the AEA organization. Combopiano, Fisher, and Doyle also said they previously voted to approve standards they had not seen in advance. Slaughter said the AEA verbiage could be used without endorsing AEA. Doyle said he believed this would satisfy the constituents. A motion was made by Slaughter and seconded by Combopiano to take the verbiage in the AEA document, remove the AEA reference, and use as our infection control standards in our Rules, with a link to the FDA website instead of AEA. Motion passed.

Magas stated that members of the Board (rather than she as the Administrative Assistant) would need to put the language and document together as she felt the Board may be violating a copyright by utilizing material without attribution to AEA. Slaughter said that since the Board has been given permission by AEA to use the materials, he would prepare the revised document and gain approval from AEA for the revision language in our Rules.

OTHER NON-SCHEDULED BUSINESS

Doyle said that the Board needs to approve the line-by-line content of the new web site before it goes live, as was done when the first web site was developed. Wingate recently sent an e-mail to Board members asking for that approval. Concern was raised that since our Rules are not yet in place and we haven't granted licensure to laser practitioners, we should not identify them in that manner on the web site. Wingate asked that Board members provide any feedback as soon as possible, as much work has already been put into development and the site is almost ready to go live.

NEXT MEETING

The next meeting is scheduled for July 25, 2009 at 9:30 a.m.

ADJOURNMENT

The meeting was adjourned at 3:00 p.m.