



Alabama Department of Examiners of Public Accounts

Report on the **Board of Dental Examiners State of Alabama Birmingham, Alabama**

October 1, 2019 through September 30, 2023

Filed: August 23, 2024

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ALABAMA STATE HOUSE

Rachel Laurie Riddle, Chief Examiner



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State of Alabama
Department of
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Honorable Rachel Laurie Riddle
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Madam:

An examination was conducted on the Board of Dental Examiners, Birmingham, Alabama, for the period October 1, 2019 through September 30, 2023, by Examiners Charnelle Martin and Kierra Burston. I, Charnelle Martin, served as Examiner-in-Charge on the engagement, and under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I hereby swear to and submit this report to you on the results of the examination.

Respectfully submitted,

Charnelle Martin
Examiner of Public Accounts

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Department of **Examiners of Public Accounts**

EXAMINER'S SUMMARY

**Board of Dental Examiners
October 1, 2019 through September 30, 2023**

PURPOSE AND SCOPE OF EXAMINATION

This report presents the results of an examination of the Board of Dental Examiners (the "Board") and a review of the Board's compliance with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12. The examination was performed to determine whether the public officers, agents, and employees of the Board properly and lawfully accounted for all money and other public assets, or resources received, disbursed, or in the custody of the Board.

This examination included procedures to determine whether the Board complied with the state laws and regulations that pertain to its financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. The Board's internal control policies and procedures relating to the areas listed above were also reviewed; however, this examination did not encompass managerial and operational matters, such as whether the Board accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

The mission and purpose of the Board is described in the accompanying Agency Overview. The Board's financial information for the examination period is shown on Exhibit 1.

RESULTS OF THE EXAMINATION

Nonconsumable personal property in the custody of the Board was compared with the property records maintained by the Property Inventory Control Division of the State Auditor's Office as required by the *Code of Alabama 1975*, Section 36-16-9. Discrepancies were noted as indicated in Finding 2023-016 below.

Findings

The following instances of noncompliance with State laws and regulations and other matters were found during the examination, as shown on the Schedule of State Legal Compliance and Other Findings and they are summarized below.

- ◆ 2023-001: The minutes of the Board meetings did not always contain the place, members present or absent, and action taken at each meeting as required.
- ◆ 2023-002: The Board waived fees without statutory authority to waive the fees.
- ◆ 2023-003: The full Board met twelve times to discuss legislative incentives; however, there were no minutes kept and provided for review for ten of the twelve meetings as required by the Open Meetings Act.
- ◆ 2023-004: The Board did not post the requisite notice for three meetings to the Secretary of State's website as required.
- ◆ 2023-005: The Board did not post vacancy notices forty-five days prior to the expiration of Board members' terms.
- ◆ 2023-006: The Board had not published, on a quarterly basis, financial information, or other pertinent information on their website as required.
- ◆ 2023-007: During a review of the Board's Leave Accrual and Usage and employees' timesheets, errors were noted in two of the employees' leave balances.
- ◆ 2023-008: The Board did not compute and record compensatory time correctly for four employees.
- ◆ 2023-009: The Board incorrectly paid two employees for accumulated sick leave upon separation from the Board.
- ◆ 2023-010: The Board granted employees July 3, 2023 as an extra paid holiday that is not authorized by state law and was not designated as a holiday by the Governor.
- ◆ 2023-011: The Board purchased seven meals totaling \$1,541.87 for Board members, staff members, and guests attending Board meetings who were not always entitled to receive a meal allowance. Additionally, on seven occasions the cost per eligible attendee exceeded the statutorily allowed amount.
- ◆ 2023-012: The Board made an unallowable purchase of food and food supplies totaling \$1,666.46 for the Alabama Dental Hygiene Program's Pinning Ceremony.

- ◆ 2023-013: The Board of Dental Examiners purchased two vehicles without ensuring the purchases were made by free and open bidding, on sealed bids, to the lowest responsible bidder, or using a current state contract.
- ◆ 2023-014: The Board did not ensure all professional services were procured in accordance with competitive sealed proposals in accordance with the *Code of Alabama 1975*, Section 41-4-133(a)(1).
- ◆ 2023-015: The Board compensated the accounting firm for an amount in excess of the total contract amount.
- ◆ 2023-016: The Board did not report the purchase of five laptops, two sleeper sofas, and a conference table totaling \$11,572.96 to the State Auditor's Office, Property Inventory Control Division.
- ◆ 2023-017: The Board purchased supplies and/or services without ensuring the procurement of supplies and services was conducted in accordance with the *Code of Alabama 1975*, Section 41-4-110 et seq., including the requisite permission of the Chief Procurement Officer's office or receiving a delegation stating otherwise.
- ◆ 2023-018: Board members were not compensated in accordance with the Board's *Administrative Rule* 270-X-1-.08 when actively engaging in the duties of the office or when a sitting board member observes a licensing examination.

EXIT CONFERENCE

An exit conference was held on July 12, 2024 at the Board's office. Individuals in attendance were Board Members: Dr. Roberto V. Pischek, Dr. Melodie A. Jones, Dr. Mark R. McIlwain, Dr. Kevin M. Sims, Dr. Marshall A. Williams, Sandra K. Alexander, and Dr. Holt Gray; and Executive Director W. Blake Strickland, along with Rachel Laurie Riddle, Chief Examiner, Jason Paulk, Chief Legal Counsel, Dixie Thomas, Director of Operational Audits and Examiners Charnelle Martin and Kierra Burston from the Department of Examiners of Public Accounts.



Department of **Examiners of Public Accounts**

AGENCY OVERVIEW

Board of Dental Examiners October 1, 2019 through September 30, 2023

The Board of Dental Examiners (the “Board”) operates under the authority of the *Code of Alabama 1975*, Sections 34-9-1 through 34-9-65, 34-9-80 through 34-9-90; Sections 34-38-1 through 34-38-8 Impaired Professional Committee; and Sections 20-2-2 through 20-2-58 Controlled Substances. The mandated function of the Board of Dental Examiners of Alabama is to protect the public of the State of Alabama in matters relating to dentistry through, among other things, licensing applicants who seek to practice dentistry or dental hygiene and disciplining dentists and dental hygienists who violate the provisions of the Alabama Dental Practice Act. The Board formulates and implements rules and regulations governing the use of general anesthesia and parenteral sedation by licensed dentists. Activities related to this subfunction include the application process used by dentists to apply for permits to use general anesthesia or parenteral sedation; on-site inspections of the dental facilities, equipment and personnel; the issuance of permits; and annual renewals of permits.

In addition, the Board administers the Alabama Dental Hygiene Program (ADHP) for the training of dental hygienists.

The Board performs initial inspections of facilities, equipment, and dental personnel for first time applicants for general anesthesia and parenteral (intravenous) sedation permits. The Board also inspects mobile and portable dental clinics and annually issues state-controlled substance registration certificates to licensees.

Through the Alabama Dental Professionals Wellness Program, the Board promotes the early identification, intervention, treatment, and rehabilitation of dentists and dental hygienists who may be impaired by reason of mental or physical illness or substance abuse to the extent that they are unable to meet the standards of the profession.

The Board’s revenues consist of license and regulatory fees. The Board’s funds are maintained in a checking account. The Board invests funds not needed for current operations in a money market account. Year-end balances are retained.

Board members and the Officials in charge of governance for the Board are shown on Exhibit 2. Additional information on the Board of Dental Examiners can be found on their website at <https://www.dentalboard.org/>.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-001	<p><u>Finding:</u></p> <p>The minutes of seventy-one Board meetings were reviewed and the following errors were noted:</p> <ul style="list-style-type: none">◆ The location of the meeting was not recorded in the minutes fourteen times.◆ The minutes of three meetings reflect participation and voting by a Board member, not listed as present at the meeting.◆ The minutes do not reflect the Board’s approval of the promotion of an investigator to the Board’s Interim Executive Director. <p>The <i>Code of Alabama 1975</i>, Section 36-25A-4 states, “A governmental body shall maintain accurate records of its meetings, excluding executive sessions, setting forth the date, time, <i>place, members present or absent, and action taken</i> at each meeting. Except as otherwise provided by law, the records of each meeting shall become a public record and be made available to the public as soon as practicable after approval.”</p> <p><u>Recommendation:</u></p> <p>The Board should maintain accurate minutes to document the place, members present or absent and action taken at its meetings.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-002	<p><u>Finding:</u></p> <p>Based on the review of the minutes of the Board of Dental Examiners (the “Board’s”) meetings, it was noted the Board waived the following fees without statutory authority.</p> <ul style="list-style-type: none">◆ On December 2, 2021, the Board waived the mobile clinic permit fee for three individuals.◆ On December 8, 2023, the Board waived the application fee for a mobile dental facility and the monitoring fee for the final year of the Wellness Committee’s deferral program for one hygienist.◆ On February 9, 2024, the Board waived the application fee for a mobile dental facility. <p>Neither the Board’s statutes nor their administrative rules allow for the Board to grant waivers for these particular fees. As a result, the licensees obtained those licenses without paying the respective fees.</p> <p>According to the <i>Code of Alabama 1975</i>, Section 34-9-16, the Board <i>shall establish and collect</i> reasonable fees provided for in this chapter within the ranges set forth and without having to engage in the rulemaking process.</p> <p>The Board’s <i>Administrative Rule</i> 270-X-4-.09(3) related to Mobile/Portable Dental Facilities states, “No Certificate of Registration or renewal thereof shall be issued until the required fee is paid.”</p> <p><u>Recommendation:</u></p> <p>The Board should ensure that all licensees pay respective fees set by the Board’s statutes.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-003	<p><u>Finding:</u></p> <p>The Board met twelve times to discuss legislative incentives. While the Board posted the requisite notice for the twelve meetings to the Secretary of State's website, there were no minutes kept and provided for review for ten of the twelve meetings as required by the Open Meetings Act.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-25A-2(6)(a), in part, defines a meeting as "2. The prearranged gathering of a quorum of a governmental body or a quorum of a committee or subcommittee of a governmental body during which the full governmental body, committee, or subcommittee of the governmental body is authorized, either by law or otherwise, to exercise the powers which it possesses or approve the expenditure of public funds. 3. The gathering, whether or not it was prearranged, of a quorum of a governmental body during which the members of the governmental body deliberate specific matters that, at the time of the exchange, the participating members expect to come before the full governmental body at a later date."</p> <p><u>Recommendation:</u></p> <p>The Board should maintain accurate minutes to document the date, time, place, members present or absent and action taken at its meetings.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-004	<p><u>Finding:</u></p> <p>The Board did not post requisite notice of meetings held on October 11, 2022, November 4, 2022, and February 10, 2023, on the Secretary of State’s website. As a result, the public may not have been aware these meetings occurred and given the opportunity to attend.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-25A-3(b) states, “Unless otherwise specified by law directly applicable to the governmental body, notice of a meeting, as defined in Section 36-25A-2(6) a. 2. and 3. as well as meetings called pursuant to Section 11-43-50 shall be posted as soon as practicable after the meeting is called and in no event less than 24 hours before the meeting is scheduled to begin, unless such notice (i) is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property; or (ii) relates to a meeting to be held solely to accept the resignation of a public official or employee. In such situations, notice shall be given as soon as practical, but in no case less than one hour before the meeting is to begin. At the same time general notice is given, special notice shall be directed to any person who has registered to receive direct notices pursuant to the provisions of subsection (a)(6)”.</p> <p><u>Recommendation:</u></p> <p>The Board should post notices of meetings to the Secretary of State’s website as soon as practicable after the meeting is called.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-005	<p><u>Finding:</u></p> <p>The Board did not post vacancy notices forty-five days prior to the expiration of Board members' terms. Vacancy notices were not posted for two Board members terms whose terms expired October 2019, two members terms expired October 2020, one member whose term expired October 2021, one member whose term expired October 2022 and one member whose term expired October 2023. Further, a vacancy notice was not posted within fifteen days of one member's resignation. As a result, potential candidates did not receive notice of vacancies and caused the Board not to receive input from all interested candidates to fill the vacancy.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-14-17(c) states, "The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy as follows:</p> <ol style="list-style-type: none">(1) For a vacancy scheduled to occur on the board as a result of the expiration of a term, at least 45 days before the vacancy occurs.(2) For a vacancy occurring for any reason other than the expiration of a term, as soon as possible, and in any case within 15 days after the occurrence of the vacancy. <p><u>Recommendation:</u></p> <p>The Board should notify the Secretary of State of vacancies at least forty-five prior to a member's expiration of term and within fifteen days for all other vacancies.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-006	<p><u>Finding:</u></p> <p>At the time of testing, the Board had not published, on a quarterly basis, financial information, or other pertinent information on their website as required. Financial information had been included in the Board’s minutes posted on their website until November 2022. However, no financial information has been included in the minutes since that time. Additionally, the Board did not have a copy of its fee schedule, or a list of all individuals licensed to practice published on its website.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-9-43(a)(11) states that the Board shall “Publish, on a quarterly basis, all minutes, except minutes of executive sessions, financial reports, schedules of meetings, including anticipated executive sessions, and <i>other pertinent information on the board's</i> website no later than 90 days following the date of occurrence. In addition, publish or post annually the rules by the board, a copy of the Dental Practice Act, and a list of all individuals licensed to practice under this chapter.”</p> <p>Further, <i>Code of Alabama 1975</i>, Section 34-9-16 states, “The board <i>shall establish</i> and collect reasonable fees provided for in this chapter within the ranges set forth below and without having to engage in the rulemaking process.”</p> <p><u>Recommendation:</u></p> <p>The Board should publish information on the Board’s website as required by their statutes.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-007	<p><u>Finding:</u></p> <p>The Board's Leave Accrual and Usage spreadsheets were reviewed and compared to employees' timesheets. This review revealed errors related to the Board's leave records not corresponding with leave amounts reflected on employees' timesheets. As a result, two employees' leave balances required adjustments. Once brought to the attention of the Board's staff, these errors were corrected, and the employees' leave balances were corrected.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-12-2, states, "All public officers and servants shall correctly make and <i>accurately keep</i> in and for their respective offices or places of business all such books or sets of books, <i>documents</i>, files, papers, letters and copies of letters as at all times shall afford full and detailed information in reference to the activities or business required to be done or carried on by such officer or servant and from which the actual status and condition of such activities and business can be ascertained without extraneous information, and all of the books, documents, files, papers, letters, and copies of letters so made and kept shall be carefully protected and safely preserved and guarded from mutilation, loss or destruction."</p> <p><u>Recommendation:</u></p> <p>The Board should ensure leave is entered into the Board's Leave Accrual and Usage spreadsheet based on employees' timesheets.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-008	<p><u>Finding:</u></p> <p>The Board did not compute and record compensatory time correctly for three employees. Compensatory time, in some cases, was computed for hours worked in excess of eight hours per day instead of a 40-hour workweek; employees were given straight time when the employee had earned compensatory time at time and half; the hours earned and/or taken according to the employee's timesheet did not get entered into the Board's Leave Accrual and Usage spreadsheet. The following errors were found when reviewing the Board's records for compensatory time:</p> <ul style="list-style-type: none">◆ One employee's compensatory leave was understated by 160:30 hours.◆ One employee's compensatory leave was understated by 2:07 hours.◆ One employee's compensatory leave was understated by 3:50 hours.◆ One employee used 18:00 hours of compensatory time the employee did not have. <p>According to the <i>Fair Labor Standards Act</i>, non-exempt employees receive overtime pay <i>for hours worked over 40 in a workweek</i> at a rate of not less than time and one-half their regular rate of pay.</p> <p>Additionally, the Board of Dental Examiners <i>Policies and Procedures Manual</i> states "Employees should make every effort to notify the Executive Director and receive approval prior to working more than 40 hours within a work week. Non-exempt employees that work more than 40 hours within a work week are entitled to receive overtime or compensation pay at a rate of 1.5 times the hourly rate."</p> <p>Once brought to the attention of the Board's staff, these errors were corrected, and the employees' leave balances were corrected.</p> <p><u>Recommendation:</u></p> <p>The Board should ensure compensatory time is being computed accurately and the correct amount of compensatory time earned and/or used is entered into the Board's Leave Accrual and Usage spreadsheet accurately.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-009	<p><u>Finding:</u></p> <p>The Board incorrectly paid two employees for accumulated sick leave upon separation from the Board. An employee was paid for all their accumulated sick leave, instead of 50% of their accumulated sick leave upon retirement. Another employee was paid for all their accumulated sick leave upon resignation. These errors resulted in overpayments to these employees. These former employees were notified of the overpayments and the amounts were repaid to the Board prior to the conclusion of the examination.</p> <p>The Board's <i>Personnel Policy Employee Handbook</i> states, "This Personnel Policy and Employee Handbook incorporates by reference provisions from the State of Alabama Fiscal Policy and Procedures Manual, including but not limited to, related to accrual of leave, military service, and <i>separation from employment</i>. If the Board's stated policy or procedure conflicts with the State Fiscal Policy and Procedures Manual, the Board will follow the policies and procedures set forth by the State of Alabama."</p> <p>In addition, the Board's <i>Personnel Policy Employee Handbook</i> states, "Payment for accrued leave at the time of an employee's separation from employment is processed in the manner set forth in the State of Alabama's Fiscal Policies and Procedures Manual."</p> <p>At the time the payments were made to the employees, the Department of Finance's <i>Fiscal Policy and Procedures Manual</i> states, "In accordance with <i>Code of Alabama 1975</i>, Section 36-26-36, as amended, an employee is entitled to receive payment of 50 percent of accrued but unused sick leave, up to a maximum of 1,200 hours (in most cases), <i>at the time of his retirement</i>. These payments shall be made at the rate of 1/2080 of the employee's regular annual pay at the time of the employee's retirement." Further, the Department of Finance's <i>Fiscal Policy and Procedures Manual</i> contained no provision providing for the payment of unused sick leave to an employee upon resignation.</p> <p><u>Recommendation:</u></p> <p>The Board should ensure that employees are paid the correct amounts for accumulated leave hours upon separation.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-010	<p><u>Finding:</u></p> <p>The Board granted employees July 3, 2023 as a paid holiday that is not authorized by state law and was not designated as a holiday by the Governor. The Board's <i>Personnel Policy Employee Handbook</i> states, "The Board office will close on all <i>legal</i> holidays as set by state law and other days as designated by the Governor."</p> <p>The <i>Code of Alabama 1975</i>, Section 1-3-8(a) states in part, "Sunday, Christmas Day, New Year's Day, Martin Luther King, Jr.'s birthday, Robert E. Lee's birthday, George Washington's birthday, Thomas Jefferson's birthday, Confederate Memorial Day, National Memorial Day, Jefferson Davis's birthday, the Fourth day of July, Labor Day, Columbus Day and Fraternal Day, Veterans' Day, American Indian Heritage Day, and the day designated by the Governor for public thanksgiving shall each be deemed a holiday."</p> <p><u>Recommendation:</u></p> <p>The Board should only award employees' holidays provided for by the <i>Code of Alabama 1975</i>, Section 1-3-8 or as designated by the Governor.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-011	<p><u>Finding:</u></p> <p>The Board purchased seven meals totaling \$1,541.87 for Board members, staff members, and guests attending Board meetings. These expenditures were reviewed, and the following issues were noted:</p> <ul style="list-style-type: none">◆ Meals were provided for board members, staff and guests who were not entitled to a meal allowance.◆ One board member received both a meal and claimed per diem on their travel claim.◆ On seven separate occasions, costs per eligible attendees exceeded the \$12.75 meal allowance by \$5.86 to \$36.88. These expenditures for meals exceeded the statutorily allowed amount by \$1,019.13. <p>The <i>Code of Alabama 1975</i>, Section 36-7-20(b) states, “No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, <i>the traveler shall be paid a meal allowance of 15 percent of the regular per diem rate for a trip of from six to 12 hours' duration</i>, and for travel in excess of 12 hours' duration, the traveler shall be paid one meal allowance and one-fourth of the per diem allowance.”</p> <p>Opinion to Honorable Robert Childree, State Comptroller, dated April 26, 2001, Attorney General Opinion 2001-168 states, “The State may, however, provide refreshments and meals during a meeting that lasts through a mealtime as long as the total costs of the meals and the refreshments provided throughout the day do not exceed the amount allowable to an individual employee for in-state travel.”</p> <p>Opinion to Honorable N. Genelle Lee, Executive Officer, dated May 6, 2003, Attorney General Opinion 2003-137 states, “Meals and refreshments may be provided when a meeting lasts all day, and participants work through lunch or when an examination lasts all day and participants are not allowed to leave the area.”</p> <p><u>Recommendation:</u></p> <p>The Board should ensure that only eligible attendees at meetings are provided meals; that the costs of the meals do not exceed the amount allowable for an individual employee for in-state travel; and persons receiving meals do not claim the state meal allowance.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-012	<p><u>Finding:</u></p> <p>The Board purchased food and food supplies totaling \$1,666.46 for the Alabama Dental Hygiene Program's Pinning Ceremony.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-9-41 states, "The board is authorized to expend such funds as shall be necessary to enforce the provisions of this chapter; to pay salaries, expenses and other costs herein provided; to promote the arts and science of dentistry; and for such other purposes as the board shall consider to be in the best interest of dentistry in this state."</p> <p>Opinion to Honorable N. Genelle Lee, Executive Officer, dated May 6, 2003, A. G. Opinion 2003-137 states, "We have previously stated that public funds may be used to pay for meals and/or refreshments served at business meetings when the meals are directly related to the business of the entity, and the meals and refreshments are incidental to the meeting.... In order for meals to be an incidental part of the meeting, the primary purpose of the gathering must be to have an official meeting at which business is conducted, <i>not a social gathering at which food is provided.</i>"</p> <p><u>Recommendation:</u></p> <p>The Board should expend funds for allowable purchases at official meetings at which business is conducted, not at social gatherings at which food is provided.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-013	<p><u>Finding:</u></p> <p>During the examination period the Board of Dental Examiners purchased two vehicles without going through the process of getting sealed bids and awarding the contract to the lowest responsible bidder as required or using a current state contract. On December 5, 2019, a vehicle was purchased for \$34,338.40 and on October 11, 2022, another vehicle was purchased for \$37,064.70.</p> <p>Upon inquiry, the Board stated they used a state bid/contract for both vehicles. A review of supporting documentation provided showed the master agreement with the vendor used to purchase the vehicles was effective April 1, 2020 through April 1, 2021. The purchase of both vehicles was outside the effective dates of the master agreement.</p> <p>At the time these purchases were made, the <i>Code of Alabama 1975</i>, Section 41-16-20(a) stated, “With the exception of contracts for public works whose competitive bidding requirements are governed exclusively by Title 39, all contracts of whatever nature for labor, services, work, or for the purchase or lease of materials, equipment, supplies, other personal property or other nonprofessional services, involving fifteen thousand dollars (\$15,000) or more, made by or on behalf of any state department, board, bureau, commission, committee, institution, corporation, authority, or office shall, except as otherwise provided in this article, be let by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.”</p> <p><u>Recommendation:</u></p> <p>The Board of Dental Examiners should ensure all purchases over \$15,000 are let by free and open bidding, on sealed bids, to the lowest responsible bidder, or use a current state contract.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-014	<p><u>Finding:</u></p> <p>The Board did not go through the Request for Proposal (RFP) process when procuring professional services and/or did not execute a contract for the following services:</p> <ul style="list-style-type: none">◆ Auditing and accounting services.◆ Video staff and editing services and acting services for training videos for the Alabama Dental Hygiene Program.◆ Evaluation services performed on behalf of the Board by four contractors.◆ Lecture services provided by a Board Member for the Alabama Dental Hygiene Program.◆ A former employee was rehired as an independent contractor without executing a contract. <p>The <i>Code of Alabama 1975</i>, Section 41-16-72(4) (effective through September 30, 2022) states, “The Director of Finance, through the Division of Purchasing of the Department of Finance, shall establish and maintain lists of professional service providers, other than those specifically named in this section, which may be required from time to time by any state agency, department, board, bureau, commission, authority, public corporation, or instrumentality. When such professional services are needed, the purchasing state entity shall solicit proposals from the professional service providers desiring to receive requests for proposals. The purchasing state entity shall select the professional service provider that best meets the needs of the purchasing entity as expressed in the request for proposals. Price shall be taken into consideration. In the event the fees paid to the selected professional service provider exceed by 10 percent the professional service fee offered by the lowest qualified proposal, the reasons for selecting a professional service provider must be stated in writing, signed by the director of the purchasing state entity, and made a part of the selection record.”</p> <p>The <i>Code of Alabama 1975</i>, Section 41-4-133(a)(1) (effective October 1, 2022) states, in part, “Unless determined otherwise by the Chief Procurement Officer, professional services shall be procured by competitive sealed proposals.”</p> <p><u>Recommendation:</u></p> <p>The Board should ensure all professional services are procured in accordance with competitive sealed proposals in accordance with the <i>Code of Alabama 1975</i>, Section 41-4-133(a)(1).</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-015	<p><u>Finding:</u></p> <p>The Board does not have effective internal controls in place to ensure payments are made in accordance with the contract's specified terms and conditions. The accounting firm used by the Board was compensated an amount in excess of the total contract amount. In fiscal year 2021, the total contract amount was set at \$12,500.00; however, the accounting firm was paid a total of \$18,243.75, resulting in an overpayment of \$5,743.75.</p> <p>The Board is responsible for ensuring amounts paid are in accordance with and do not exceed amounts agreed upon in contracts. Further, the Board is responsible for ensuring that contract invoices are properly reviewed and analyzed, and that the Board makes payments to contractors only for goods and services received and accepted pursuant to contractual terms and conditions.</p> <p><u>Recommendation:</u></p> <p>The Board should ensure that the contractors are paid in accordance with the terms of the contract.</p>
2023-016	<p><u>Finding:</u></p> <p>The Board's asset listing did not reflect the purchase of five laptops, two sofas, and a conference table totaling \$11,572.96.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-16-8(1) states, "Except for books, the property manager shall make a full and complete inventory of all nonconsumable personal property and certain other items of personal property deemed important or sensitive enough by the Property Inventory Control Division to be included in the inventory of state property of the value of five hundred dollars (\$500) or more owned by the state and used or acquired by the department or agency."</p> <p>According to Section V. Inventory Procedures in the State Auditor's Office Property Manual, within 30 days of receiving an item of furniture or equipment having a value of \$500 or more and all computers or laptops, regardless of cost, obtained by purchase, the Property Manager shall report receipt of the item to the State Auditor's Office.</p> <p><u>Recommendation:</u></p> <p>The Board should report all property with a value of \$500.00 or more to the State Auditor's Office, Property Inventory Control Division.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-017	<p><u>Finding:</u></p> <p>The Board purchased supplies and/or services without receiving procurement delegation authority from the Chief Procurement Officer (CPO) of the Alabama Department of Finance, Division of Procurement during the period of October 1, 2022 to current date. While the Board requested procurement delegation authority on January 2, 2024, fifteen months after the new procurement law became effective, to date, no such delegation has been granted. As a result, supplies and services were procured during this period without authorization from the Chief Procurement Officer.</p> <p>The <i>Code of Alabama 1975</i>, Section 41-4-122 states in part,</p> <p>“(a) The Chief Procurement Officer shall serve as the central procurement officer of the state.</p> <p>(c) Except as otherwise specifically provided in this article, the Chief Procurement Officer, in accordance with rules adopted under this article, shall do all of the following:</p> <p style="padding-left: 40px;">(1) Except for alcoholic beverages, which shall be purchased by the Alcoholic Beverage Control Board, <i>procure, or supervise the procurement of all supplies and services</i> needed by the state.</p> <p>The <i>Code of Alabama 1975</i>, Section 41-1-124(a) states, “Except as otherwise provided in this article, all rights, powers, duties, and authority relating to the procurement of supplies and services now vested in, or exercised by, any governmental body under existing law are transferred to the Chief Procurement Officer.</p> <p>Additionally, the <i>Code of Alabama 1975</i>, Section 41-1-123 states, “Subject to rules adopted under this article, the Chief Procurement Officer may delegate his or her authority to designees or to any department, agency, or official.”</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
	<p><u>Finding Continued:</u></p> <p>The Alabama Department of Finance’s <i>Administrative Rule</i> 355-4-1-.02, effective October 1, 2022, states, “Where the State Procurement Code or these Rules require a written determination, the written determination shall set out sufficient facts, circumstances, and reasoning to substantiate the specific determination which is made. The Chief Procurement Officer is authorized to prescribe methods and operational procedures to be used in preparing written determinations. Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and except as otherwise provided by law or regulation, shall be open to public inspection.”</p> <p>The Department of Finance’s <i>Fiscal Policy and Procedures Manual</i> states, “The Department of Finance, Division of Procurement (formerly, the Division of Purchasing), is established by statute (<i>Code of Alabama 1975</i>, Sections 41-4-110 through 115, as amended) and is under the direction of the Chief Procurement Officer (CPO). The CPO procures all supplies and services, except as <i>delegated by the CPO</i> or through statutory exceptions, for all State departments, boards, bureaus, commissions, agencies, offices, and institutions, as well as executing and supervising the performance of all contracts and leases for the use and acquisition of any supplies and services.”</p> <p><u>Recommendation:</u></p> <p>The Board should ensure the procurement of supplies and services is conducted in accordance with the <i>Code of Alabama 1975</i>, Section 41-4-110 et seq., including the requisite permission of the Chief Procurement Officer’s office, unless the Board receives a delegation stating otherwise.</p>

Schedule of State Legal Compliance and Other Findings

October 1, 2019 through September 30, 2023

Ref. No.	Finding/Noncompliance
2023-018	<p><u>Finding:</u></p> <p>Board members were not compensated in accordance with the Board's <i>Administrative Rule</i> 270-X-1-.08 when actively engaging in the duties of the office or when a sitting board member observes a licensing examination. The following errors were noted:</p> <ul style="list-style-type: none">◆ Ninety-six times the Board members were paid an hourly rate instead of the flat rate of \$300.00 per day while actively engaging in the duties of the office.◆ Twenty-seven times the Board members were paid a flat rate less than the \$300.00 per day while actively engaging in the duties of the office.◆ Eight times the Board members were paid more than the \$100.00 per day for observing licensing examinations. <p>The <i>Code of Alabama 1975</i>, Section 34-9-41 states, "Out of the fund of the board the members thereof shall receive as compensation a sum to be fixed by the board for each day actively engaged in the duties of their office, and in addition board members shall actively engaged in the duties of their office."</p> <p>The Board's <i>Administrative Rule</i> 270-X-1-.08 (1) states, "The Board of Dental Examiners of Alabama shall comply with all the requirements of the <i>Code of Alabama 1975</i>, Section 34-9-41, concerning their meetings. Board members shall receive as compensation a sum of <i>\$300 each day actively engaged in the duties of their office</i>. (a) Board members who participate in the licensing examinations conducted by an approved testing agency shall be compensated by the testing agency. (b) A sitting Board member <i>who observes a licensing examination</i>, without actively participating in the examination, <i>shall be compensated \$100 per day</i> out of the Board funds. (c) Board members shall be compensated at a rate of \$100 per hour, not to exceed \$300 per day, for documented time spent in review of assigned cases while serving on an Investigative or a Complaint Review Team."</p> <p><u>Recommendation:</u></p> <p>Board members should be compensated in accordance with the Board's <i>Administrative Rule</i> 270-X-1-.08.</p>

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Financial Information

Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2019 through September 30, 2023

	2022-2023	2021-2022	2020-2021	2019-2020	Total
Receipts					
Licensing Fees	\$ 2,070,818.30	\$ 1,570,492.00	\$ 1,586,339.00	\$ 1,437,727.00	\$ 6,665,376.30
ADHP Fees	464,055.00	445,028.70	343,524.25	214,710.10	1,467,318.05
Fines and Penalties	266,276.72	414,305.10	109,720.00	108,570.00	898,871.82
Interest Income	88.94	78.32	78.31	78.50	324.07
Other Income	14,002.43	40,664.17	1,269.42	16,471.78	72,407.80
Bad Check Fee	2,360.00	240.00	1,045.00	2,255.00	5,900.00
Total	2,817,601.39	2,470,808.29	2,041,975.98	1,779,812.38	9,110,198.04
Disbursements					
Personnel Costs	873,232.90	752,934.50	773,517.01	781,696.65	3,181,381.06
Employee Benefits	236,438.27	196,409.89	202,534.52	194,716.58	830,099.26
Travel, In-State	27,859.17	21,234.73	10,028.65	7,883.78	67,006.33
Travel, Out-of-State	15,181.86	3,424.74	555.00	14,690.90	33,852.50
Repairs and Maintenance	195,094.18	41,532.19	34,233.45	17,046.95	287,906.77
Rentals and Leases	88,438.83	45,188.22	12,347.78	20,740.26	166,715.09
Utilities and Communications	35,555.11	26,197.07	23,864.17	24,888.80	110,505.15
Professional Services	446,026.02	333,956.66	360,310.21	287,404.25	1,427,697.14
Supplies, Materials, and Operating Expenses	146,208.12	120,052.46	31,146.77	278,990.38	576,397.73
Transportation Equipment Operations	14,900.61	15,849.82	7,656.41	7,268.19	45,675.03
Other Equipment Purchases	120,374.00	39,047.01	29,319.16	82,064.24	270,804.41
Miscellaneous	13,996.79		13,219.54	6,270.63	33,486.96
Total	2,213,305.86	1,595,827.29	1,498,732.67	1,723,661.61	7,031,527.43
Excess (Deficiency) of Receipts Over Disbursements	604,295.53	874,981.00	543,243.31	56,150.77	2,078,670.61
Cash Balances at Beginning of Year (*)	3,160,160.62	2,285,179.62	1,741,936.31	1,685,785.54	1,685,785.54
Cash Balances at End of Year (*)	\$ 3,764,456.15	\$ 3,160,160.62	\$ 2,285,179.62	\$ 1,741,936.31	\$ 3,764,456.15

(*) Balances includes totals for the Board of Dental Examiners Money Market Account.

Other Information

Board Members and Officials
October 1, 2019 through September 30, 2023

Board Members		Term Expires
Hon. Roberto Pischek, DMD	President	2024
Hon. Melodie Jones, DMD	Member	2025
Hon. Marshall Williams, DDS	Member	2024
Hon. Mark McIlwain, DMD, MD	Member	2027
Hon. Kevin Sims, DMD, MS	Member	2026
Hon. Sandra Kay Alexander, RDH	Member	2025
Hon. Bruce Cunningham, DMD	Member	2023
Hon. Ray McLaughlin, DDS	Member	2026 (1)
Hon. Doug Beckham, DMD	Member	2020
Hon. Sherry Campbell, RDH, CDHC	Member	2020
Hon. Gerald Walker, DMD	Member	2019
Hon. Adolphus Jackson, DMD	Member	2019

Officials

Mr. W. Blake Strickland
 Executive Director
 2229 Rocky Ridge Road
 Birmingham, AL 35216
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 Website:
<https://www.dentalboard.org/>

Mr. Brad Edmonds, Esq. February 2022

(1) Resigned November 2022