

COMMONWEALTH OF MASSACHUSETTS

**NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF REGISTRATION IN DENTISTRY**

July 16, 2014
239 Causeway Street ~ Room 417 A&B
Boston, Massachusetts 02114

AGENDA

Time	#	Item	Exhibits	Contact
8:30	I	CALL TO ORDER		
8:31	II	DETERMINATION OF QUORUM AND APPROVAL OF AGENDA		
8:32	III	<p>EXECUTIVE SESSION—CLOSED TO THE PUBLIC The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.</p> <p>Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients.</p> <p>Specifically, the Board will discuss and evaluate Good Moral Character as required for applicants for licensure.</p> <p>Specifically, the Board will review prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the June 4, 2014 meeting.</p>		
10:30	IV	<p>COMPLAINT RESOLUTION—PENDING BOARD MATTERS DEN-2014-0068: Dr. Bruce R. Russell SA-INV-5611: Dr. Ilya Sherman DEN-2013-0159: Marycelie DeJesus, RDH DEN-2013-0160: Dr. Rahman Ullah DEN-2013-0161: Dr. Ekta Sagar DEN-2014-0029: Dr. Greg Rosenblatt DEN-2014-0021: Dr. Walter Melevsky SA-INV-5058: Dr. Oscar DePriest SA-INV-5060: Dr. Maurice Theberge DEN-2014-0135: Dr. Walter Krawczyk DEN-2013-0173: Anne Peddie, RDH DEN-2013-0174: Dr. Frank Walsh</p>	Investigation Reports, Photographs	L. Seeley-Murphy K. O'Connell S. Millar

11:30	V	ADMINISTRATIVE MATTERS Updates: Dental Assisting Regulations PGY-1 PHDH/Permit M August 13 Meeting Compliance Inspection Form Staff Action Policy—RDH Unlicensed Practice Electronic Signature Policy Permit M Application for PHDH: Shalini Lahoty, RDH Emergency Regulations at 234 CMR 5.00—Final Promulgation	Memos, Application, Regulations	B. Young S. Leadholm V. Berg
12:15	VI	PROBATION MATTERS DEN-2012-0190: Dr. A. K. Jagadeesh, Request for Termination of Stayed Probation DEN-2012-0077: Dr. Ean James, Violation of Terms of Stayed Probation, Recommendation for Probation	Memos	K. Fishman
12:30	VII	REVIEW OF GENERAL SESSION MINUTES Meeting of June 4, 2014	Minutes	
12:35	VIII	FLEX SESSION		
	IX	ADJOURNMENT		

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, Suite 500, 5th Floor, Boston, MA 02114

DEVAL L. PATRICK
GOVERNOR

JOHN W. POLANOWICZ
SECRETARY

CHERYL BARTLETT, R.N.
COMMISSIONER

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
July 16, 2014

Present: Dr. Cynthia Stevens, Board Chair; Dr. Stephen DuLong; Dr. Keith Batchelder; Dr. John Hsu; Dr. David Samuels; Ms. Kathleen Held, M.Ed.; Ms. Jacyn Stultz, RDH; Dr. Ward Cromer, Ph.D.; Ms. Ailish Wilkie, C.P.H.Q.; Ms. Diane Grondin, CDA, Dental Assistant Advisor

Absent: Ms. Lois Sobel, RDH; Dr. Milton Glicksman

Dr. John Hsu arrived at 8:39 a.m.

Staff Present: Barbara A. Young, Executive Director; Jeffrey Mills, Assistant Executive Director; Vita Berg, Esq., Chief Board Counsel; Samuel Leadholm, Esq., Board Counsel; Dr. Liliana DiFabio, Supervisor of Investigations; OPP Investigators Sarah Millar, Eileen Mulligan, Kathleen O'Connell, Lisa Seeley-Murphy and Barbara Yates; and Probation Monitor Karen Fishman

Motion: At 8:30 a.m., to commence the meeting

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Kathleen Held

Vote: Unanimous

Motion: To adopt the proposed agenda for today's meeting but reorder the presentation of cases (no longer first come, first served) to accommodate the Board members list of cases to be considered.

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Kathleen Held

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Dr. John Hsu; Ms. Kathleen Held; Ms. Ailish Wilkie;
Opposed: None
Abstain: Dr. Cynthia Stevens

At 8:34 a.m., Dr. Stevens announced that the Board will meet in closed session as authorized pursuant to M.G.L. c. 30A, §21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than the professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Specifically, the Board will meet in Executive Session and will discuss and evaluate the Good Moral Character as required for registration of pending applicant(s) for licensure. Additionally, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. The Board will also approve prior Executive Session minutes in accordance with M.G.L. c. 30A, §22(f). Executive Session is closed to members of the public, except as provided for in M.G.L. c. 30A, §21(a) (1). At the conclusion of the Executive Session, the Board will return to open session.

Motion: At 8:35 a.m., to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Kathleen Held

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

The Board took a morning recess at 10:10 a.m. and resumed at 10:18 a.m.

Motion: At 11:18 a.m., to leave Executive Session

Motion Made By: Dr. David Samuels

Second: Ms. Ailish Wilkie

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Administrative Matters:

A. Dental Assistant Regulations – Update

Ms. Young and Atty. Berg reported the proposed dental assistant regulations are nearing completion and the Board is awaiting final approval of the proposed fees from administration and finance. Atty. Berg stated that if the Board decides to meet in August, the dental assistant regulations might be presented to the full Board for possible promulgation.

B. BORID Meeting – August 13, 2014

Ms. Young informed the Board that should it decide to meet in August, then the meeting would begin at 9:30AM (instead of the customary 8:30AM) as the nursing board needs to meet at 9:00AM that morning for approx. 30 minutes to promulgate the emergency regulations pertaining to the hydrocodone-only extended release medications that are not in an abuse deterrent form. Ms. Young also stated that if staff learned the dental assistant regulations were not ready for consideration at the Aug. 13th meeting, then she would notify Dr. Stevens for a decision on whether to cancel the meeting.

C. Hydrocodone-Only Extended Release Medications that are not in an Abuse Deterrent Form

Atty. Berg reminded the Board it promulgated the emergency regulations at its meeting on May 7, 2014, and stated since then the regulations have undergone a further review by DPH and other boards. Atty. Berg reported the Board of Registration in Medicine (BORIM) changed the language of the emergency regulations at its June 25th meeting and recommended the Board adopt the changes as made by BORIM and vote to make the changes permanent. Atty. Berg stated there has been an ongoing collaboration between the Dept. of Public Health and several boards seeking to finalize these emergency regulations. Atty. Berg also reported no testimony was offered or received by the Board at its June 13, 2014, public hearing on the emergency regulations.

Ms. Berg reviewed the proposed amendments below:

- Substituting “have failed” with “are inadequate” for the requirement that the physician make a determination that “other pain management treatments have failed” at 234 CMR 5.06 (4)(a);
- Inserting “patient’s data through the” into 234 CMR 5.06 (4)(a) to clarify the requirement that the licensee check the online Prescription Monitoring Program;
- Inserting “pursuant to 247 CMR 9.04 (8)(c)” after the requirement “Supply a letter of medical Necessity as required by the Board of Registration in Pharmacy” in 234 CMR 5.06 (4)(d) and deleting the language “that includes the patient’s diagnoses and treatment plan, verifies that other pain management treatments have failed, indicates

- that a risk assessment was performed and that the licensee and the patient have entered into a Pain management Treatment Agreement” from that section; and
- Inserting into 234 CMR 5.06 (4)(c) the text “unless a Pain Management Treatment Agreement is not clinically indicated due to the severity of the patient’s medical condition.”

Dr. Batchelder initiated the discussion by opining that poor planning on the part of the FDA and the administration “does not an emergency create.” Ms. Wilkie responded by noting that Massachusetts did not have a role in approving this medication, but rather that the FDA approved it despite its own advisory board voting against it and that Massachusetts is just trying to address the situation created by that approval as best it can.

Ms. Wilkie also inquired about whether the change from “failed” to “inadequate” would be more vague. Ms. Berg responded by noting that “inadequate” corresponds to the FDA approved indications for use and that the term “failed” raised questions of how the failure would be determined or proved.

Motion: **To adopt the proposed amendments to the emergency regulations and to make the regulations permanent.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Ms. Jacyn Stultz; Dr. John Hsu; Ms. Kathleen Held; Ms. Ailish Wilkie
Opposed: None
Abstain: Dr. Cynthia Stevens; Dr. Keith Batchelder

D. PGY1 Legislation – Update

Ms. Young informed the Board the Joint Committee on Health Care Financing voted to send the PGY1 legislation (HB 2080 and S996) back to committee for further investigation and study effectively ending the consideration of these bills for this legislative session.

E. Proposed Policy on Board Staff Disposition of Selected Complaints

Atty. Leadholm submitted a proposed discipline policy to the Board per its request. In the proposed policy, Atty. Leadholm drafted language authorizing Board staff to review and dispose of staff assignments and complaints pertaining to the unlicensed practice of dental hygiene and to the employment by dentists of unlicensed dental hygienists.

Dr. Batchelder suggested the Board extend the policy to include the unlicensed practice of dentists and dental assistants. Dr. Samuels asked about timelines, i.e. what happens if a licensee is not licensed for 6 months? One year? Two years? Mr. Mills replied that each

licensee is granted a 90-day grace period to renew their license online and must pay a late fee; after 90-days, a licensee must submit a reactivation application to board staff that includes other requirements, such as a passing score on the ethics/jurisprudence exam. Also, Mr. Mills stated these licensees have complaints opened against them for unlicensed practice and those complaints are typically resolved by the Board with a consent agreement for a reprimand. Mr. Mills further stated that if a licensee's license had lapsed for more than 5 years, then the licensee must retake the NERB exam.

Atty. Leadholm noted that any repeat offender would not be handled by board staff but rather that licensee's application for renewal would be brought to the Board. Dr. Samuels noted that this policy is acceptable if a licensee is seeking to renew his/her license within the next renewal cycle; however, if it is more than 2 years, then the Board needs to review the renewal application.

Atty. Leadholm suggested he revise the proposed policy incorporating the Board's suggestions and proposed bringing the revised policy back to the Board at its next scheduled meeting; the Board members unanimously agreed.

F. Proposed Policy on Electronic Signatures

Atty. Leadholm raised the issue of policy development to the Board concerning the use of electronic signatures in maintaining patient records. Atty. Leadholm explained the Mass. Dental Society requested on behalf of a member dentist whether or not an electronic signature could be used to sign a patient's medical or dental history form. Atty. Leadholm noted the Board's regulations are silent on this accord.

Dr. Samuels noted that all forms in his practice are signed electronically by his patients; Dr. Batchelder agreed. Atty. Leadholm stated he would draft a proposed policy incorporating the Board's suggestions and proposed bringing the policy to the Board at its next scheduled meeting; the Board members unanimously agreed.

G. Flex Session

1. Dr. Stevens informed the Board she'd like to begin the process of reviewing the August 2010 amendments to 234 CMR in the fall as she and other Board members have become aware that there are inconsistencies and omissions in the current version of the regulations that need to be addressed. Dr. Stevens stated she'd be forming workgroups to address the various sections of the regulations and hopes each Board member will be willing to participate.

2. Dr. Samuels voiced concern with a recent TV advertisement of Aspen Dental. In the ad, Dr. Samuels noted Aspen Dental was offering free services to patients without dental insurance coverage and expressed his concern that these advertisements might be inappropriate and misleading. Dr. Samuels asked Ms. Young to follow up on this issue and report back to the Board; he also referred Ms. Young to an email sent to her a few months ago by another licensed dentist expressing the same concerns.

3. Dr. Samuels asked Ms. Young to follow up on the status of a licensed dentist, a periodontist, who recently began practicing on Cape Cod. Dr. Samuels stated he believed this periodontist had been incarcerated and had lost his license to practice dentistry in NH as a result.

4. Dr. Samuels asked Ms. Young if there had been any meetings scheduled yet for the subcommittee on dental insurance consultants, i.e. the DentaQuest utilization review issue. Ms. Young apologized and stated she had yet to contact the subcommittee members for good dates/times and suggested she would seek to schedule a meeting for a date/time in Sept. after the summer vacation season ended.

5. Dr. Batchelder stated he would like to recognize the OPP investigators for the outstanding work they do on behalf of the Board and to offer a hearty thank you. The Board agreed and gave the investigators a round of applause in appreciation for their work and dedication to the Board.

6. Ms. Held thanked Mr. Mills for reorganizing the agenda to accommodate the Board's packet as she found it much easier to follow the agenda case-by-case as listed in their packets instead of following the first come, first served method. The other board members agreed and asked Mr. Mills and Ms. Young to use this format at all future meetings.

The Board recessed for lunch at 12:15 p.m. and resumed at 12:53 p.m.

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2014-0068: Dr. Bruce R. Russell

The licensee was not present for the discussion and vote of the Board on this matter.

The Board reviewed 26 photographs taken of the licensee's office by OPP investigators.

Allegation: Infection Control Violations

Discussion: Investigator Seeley-Murphy reminded the Board they requested OPP investigators inspect the licensee's office at a previous board meeting.

Ms. Wilkie asked if the licensee was continuing to practice dentistry; Ms. Seeley-Murphy replied the licensee is currently not practicing as he signed an agreement not to practice until his pending cases were resolved. However, Ms. Seeley-Murphy noted the licensee may have violated the terms of that agreement not to practice when he allegedly wrote a prescription for a patient.

Ms. Stultz asked if the licensee employees any staff; Ms. Seeley-Murphy indicated the licensee does not employ a hygienist or assistant but his wife occasionally works as a receptionist at the office.

Atty. Leadholm advised the Board they may offer the licensee a consent agreement for a Voluntary Surrender or seek to suspend the licensee's license for a period of time but if the licensee refused, they may refer the case to prosecution. Dr. DuLong noted if the licensee does not agree to voluntarily surrender his license, then prosecution should go forward with a summary suspension.

Atty. Berg asked if the prescription allegedly written by the licensee was a new prescription or a refill; Ms. Seeley-Murphy indicated it was unclear. Dr. Samuels noted it's not likely the licensee has been seeing patients but rather wrote a prescription for a patient of record.

Dr. Batchelder suggested a re-inspection of the licensee's office would be appropriate esp. when considering the possible delays in resolving these cases legally.

Dr. Stevens suggested a cease and desist order might be appropriate but Ms. Young informed the Board it does not have any statutory or regulatory authority to issue cease and desist orders.

Dr. Samuels suggested the Board offer the licensee a consent agreement for a voluntary surrender; Atty. Berg advised the Board it may go forward with this offer but the Board should also determine if the licensee has violated the terms of the agreement not to practice.

Motion: **To offer a Consent Agreement for a Voluntary Surrender and in the alternative if the licensee rejects the offer, to refer the case to prosecution and to issue an order to show cause.**

Motion Made By: Dr. David Samuels

Second: Ms. Ailish Wilkie

Discussion (cont'd): Ms. Wilkie asked the likely timeframe for the resolution of these cases; Atty. Berg advised the Board it can ask for these cases to be expedited by prosecution.

Amended Motion: To amend the offer to include a request an expedited order to show cause.

Amended Motion Made By: Dr. David Samuels

Discussion (cont'd): Ms. Wilkie asked if the prescription had been issued after the licensee agreed not to practice; Atty. Berg advised that if there is concrete evidence the licensee did write a prescription after he agreed not to practice, then that would be sufficient grounds for summary suspension but the evidence would need to be presented to the Board first for the Board to determine if the evidence is sufficient.

Dr. Samuels expressed concern that the licensee may not be amenable to rehabilitation; Dr. DuLong stated he was not as concerned about the licensee writing a prescription after he agreed not to practice as he was about the possibility the licensee has been treating patients and recommended a second inspection be conducted as soon as possible.

Dr. Batchelder asked if it was possible to conduct a second inspection this week; Ms. Seeley-Murphy indicated it was.

Atty. Berg advised a motion to send the cases to prosecution would be appropriate and in the alternative, to authorize prosecution to accept a Consent Agreement for a Voluntary Surrender.

Amended Motion: To refer the cases to prosecution and, in the alternative, to authorize prosecution to accept a Consent Agreement for a Voluntary Surrender from the licensee.

Amended Motion Made By: Dr. David Samuels

Second: Ms. Ailish Wilkie

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu

Opposed: None

Abstain: Dr. Cynthia Stevens

Discussion (cont'd): Ms. Young asked the Board what it would like to do with the other pending matters against the licensee.

Atty. Leadholm suggested the Board incorporate both cases into this case. Atty. Berg suggested a motion to consolidate all three pending cases would be appropriate.

Motion: **To Consolidate All Three Pending Cases against the Licensee.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. John Hsu

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Kathleen O’Connell

--In the Matter of SA-INV-5611: Dr. Ilya Sherman

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Advertising Violations

Discussion: After the presentation of the complaint by Investigator O’Connell, the Board opted to not discuss the matter.

Motion: **To not open a complaint as no evidence of violation found.**

Motion Made By: Dr. Ward Cromer

Second: Dr. John Hsu

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Kathleen O’Connell

--In the Matter of DEN-2013-0159: MaryCelie DeJesus, RDH

The licensee was not present for the discussion and vote of the Board on this matter.

Allegations: Unlicensed Practice of Dental Hygiene

Discussion: After the presentation of the complaint by Investigator O'Connell, the Board opted to not discuss the matter.

Motion: **To offer a Consent Agreement for a Reprimand.**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. David Samuels

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Kathleen O'Connell

--In the Matter of DEN-2013-0160: Dr. Rahman Ullah

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Unlicensed Practice of Dental Hygiene by an Employee

Discussion: Investigator O'Connell informed the Board that MaryCelie DeJesus, RDH indicated this licensee was her employer but the evidence revealed Ms. DeJesus was not employed by this licensee.

Motion: **To dismiss the complaint as no evidence of violation found.**

Motion Made By: Dr. David Samuels

Second: Dr. Ward Cromer

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Kathleen O’Connell

--In the Matter of DEN-2013-0161: Dr. Ekta Sagar

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Unlicensed Practice of Dental Hygiene by an Employee

Discussion: Investigator O’Connell informed the Board this licensee did employ MaryCelie DeJesus, RDH but stated he was unaware Ms. DeJesus’s license had lapsed. Further, the licensee stated he immediately suspended Ms. DeJesus when he was informed by the board that Ms. DeJesus’s license had expired.

Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**

Motion Made By: Dr. David Samuels

Second: Dr. Ward Cromer

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Kathleen O’Connell

--In the Matter of DEN-2014-0029: Dr. Greg C. Rosenblatt

The licensee was not present.

Allegation: Infection Control Violations

Discussion: Atty. Leadholm advised the Board this matter has been removed from today’s agenda and will be presented to the Board for its consideration at the next Board meeting.

Complaint Resolution – Investigator Sarah Millar

--In the Matter of DEN-2014-0021: Dr. Walter Melevsky

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Out of State Discipline from the State of Maine

Discussion: Investigator Millar submitted her investigative report to the Board for its consideration and reported the licensee's license to practice dentistry in Maine had been revoked by the State of Maine Board of Dental Examiners on or about March 4, 2014. Further, Ms. Millar informed the Board the licensee held a current license to practice in Massachusetts but did not actually practice in Massachusetts.

Motion: **To dismiss the complaint as no evidence of violation found.**

Motion Made By: Dr. David Samuels

Second: (None)

Discussion (cont'd): Atty. Leadholm advised the Board on cases of reciprocal discipline, it must first determine if the grounds for the out-of-state discipline are present here and if so, should the Board offer the licensee a similar resolution as the out-of-state case. Atty. Leadholm also advised the Board that the State of Maine voted to revoke the licensee's license and to deny his right to renew his license in the future.

Ms. Wilkie expressed concern that if the Board dismissed the complaint, then the licensee would be allowed to practice in Massachusetts when the Board knew how serious the infection control violations were at the licensee's Maine office.

Dr. Cromer suggested the Board follow suit of the other state. Dr. Batchelder asked if the licensee could practice in Massachusetts and if the licensee would have to notify the Board first. Atty. Leadholm and Mr. Mills stated there is no requirement in Massachusetts that a licensee inform the Board of his/her practice location before beginning to practice dentistry.

Atty. Leadholm suggested the Board offer the licensee a Consent Agreement for a Voluntary Surrender and in the alternative if the licensee rejects that offer, to refer the case to prosecution.

Motion: To offer a Consent Agreement for a Voluntary Surrender and in the alternative if the licensee rejects the offer, to refer the case to prosecution.

Motion Made By: Dr. David Samuels

Second: Dr. Ward Cromer

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Sarah Millar

--In the Matter of SA-INV-5058: Dr. Oscar S. Dupriest

The licensee was not present for the discussion and vote of the Board on this matter.

Dr. John Hsu recused himself from the discussion and vote of the Board on Complaint SA-INV-5058.

Allegation: Patient Abandonment

Discussion: After the presentation of the complaint by Investigator Millar, the Board opted to not discuss the matter.

Motion: To not open a complaint as no evidence of violation found.

Motion Made By: Dr. David Samuels

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Sarah Millar

--In the Matter of SA-INV-5060: Dr. Maurice G. Theberge

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Patient Abandonment

Discussion: After the presentation of the complaint by Investigator Millar, the Board opted to not discuss the matter.

Motion: **To not open a complaint as no evidence of violation found.**

Motion Made By: Dr. Ward Cromer

Second: Dr. John Hsu

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Sarah Millar

--In the Matter of DEN-2013-0135: Dr. Walter S. Krawczyk

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Unlicensed Practice of Dentistry

Discussion: Ms. Wilkie noted the Board typically offers a consent agreement for a reprimand on these types of cases.

Atty. Leadholm advised the Board the licensee completed the requisite courses in infection control and pain management in the wrong licensure cycle and that the licensee would have to retake these courses to count for the current licensure cycle.

Mr. Mills informed the Board the licensee did renew his license in June 2013.

Motion: **To offer a Consent Agreement for a Reprimand with the successful completion of requisite courses including courses in infection control and pain management for the 2012-2014 licensure cycle.**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Stephen DuLong

Discussion (cont'd): Ms. Young noted there is no way to monitor any licensee's compliance with requisite CEU courses on a consent agreement for reprimand. Atty. Leadholm suggested the Board consider offering the licensee a consent agreement for probation so that the licensee's compliance can be assessed.

Dr. Hsu suggested the cover letter state the licensee's completion of courses in infection control and pain management in June 2013 may be credited to the 2012-2014 licensure cycle and that the licensee must retake these courses for the current licensure cycle.

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Sarah Millar

--In the Matter of DEN-2013-0173: Anne Hinko Peddie, RDH

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Unlicensed Practice of Dental Hygiene

Discussion: Investigator Millar presented her report to the Board for its consideration and noted the licensee had not completed the requisite course in infection control during the 2011-2013 licensure cycle. However Ms. Millar informed the Board the licensee did complete a course in infection control after the March 31, 2013, renewal deadline.

Motion: **To offer a Consent Agreement for a Reprimand with a letter informing the licensee that the course she completed in infection control may only be applied to the 2011-2013 licensure cycle; the licensee must retake this course during the 2013-2015 licensure cycle.**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. John Hsu

Second: Dr. Keith Batchelder

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Investigator Sarah Millar

--In the Matter of DEN-2013-0174: Dr. Frank R. Walsh

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Unlicensed Practice of Dental Hygiene by an Employee
Discussion: Investigator Millar submitted her investigative report to the Board for its consideration and stated this licensee was the dental employer of Ms. Peddie.
Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**
Motion Made By: Dr. John Hsu
Second: Dr. Stephen DuLong
Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Permit M Applications – Asst. Executive Director Jeffrey Mills

--In the Matter of Shalini Lahoty, RDH

The applicant was present for the discussion and vote of the Board on this application and addressed the Board answering all questions as appropriate.

Discussion: Mr. Mills informed the Board it has previously considered Ms. Lahoty's application but denied the application as the collaborative dentist's license to practice dentistry was suspended at the time Ms. Lahoty submitted her original application.

Mr. Mills also informed the Board Ms. Lahoty had resubmitted her application with a new collaborative dentist.

Motion: To approve the Permit M application of Ms. Lahoty.

Motion Made By: Dr. John Hsu

Second: Dr. Keith Batchelder

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0190: Dr. Aswini K. Jagadeesh

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Licensee's Motion for Reconsideration/Early Termination of his Stayed Probation

Discussion: Ms. Fishman informed the Board the licensee had completed all terms of his Consent Agreement for Stayed Probation and was requesting an early termination of the probationary period. Ms. Fishman stated the licensee informed her he was moving out of state and the new state will not issue a license to him while he is on a stayed probation.

Ms. Held questioned whether the licensee's completion of the required remedial courses early was sufficient grounds for terminating his stayed probation.

Dr. Batchelder noted the Board does not have any evidence from the alternative licensing state confirming the licensee's claim that it will not issue him a license while he is on probation.

Ms. Wilkie noted that even if the licensee's claim was true, the Board has not terminated a probationary period early.

Dr. Cromer noted the Board gave the licensee one year to complete the remedial courses but he did so early.

Dr. Batchelder noted that if the Board does not vote to terminate the licensee's probation, then it may be seen as interfering with the licensee's right to free trade; Dr. Samuels and Dr. DuLong disagreed with this assessment.

Ms. Young asked the Board to consider its purpose in placing the licensee (and other licensees) on probation – remediation or punishment?

Dr. DuLong stated that if a licensee is offered stayed probation, then it is considered remediation by the Board.

Motion: **To reduce the term of the licensee's stayed probation period.**

Motion Made By: Dr. Stephen DuLong

Second: (none)

Motion: **To vacate the licensee's stayed probation period effective today.**

Motion Made By: Dr. David Samuels

Second: Dr. Keith Batchelder

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu

Opposed: None

Abstain: Dr. Cynthia Stevens

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0007: Dr. Ean James

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation: Violation of Terms of Consent Agreement for Stayed Probation

Discussion: Ms. Fishman informed the Board the licensee agreed to a Consent Agreement for 6 Months Stayed Probation, effective May 1, 2013. However, Ms. Fishman stated the licensee had violated the terms of the consent agreement, specifically by failing to comply with the continuing education course requirements. Ms. Fishman suggested the Board withdraw the Stayed Probation and place the licensee on Probation for 6 Months per the terms of the original consent agreement.

Dr. Batchelder suggested the Board places the licensee on probation and include an additional remedial course in risk management.

Motion: **To find the licensee in violation of his original Consent Agreement for 6 Months Stayed Probation and to place the licensee on Probation for 6 Months with the following additional coursework:**

- **2 Hours: Risk Management**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. David Samuels

Second: Dr. John Hsu

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu
Opposed: None
Abstain: Dr. Cynthia Stevens

Discussion (cont'd): Attorney Leadholm asked for clarification on the effective date of the licensee's probation noting that 6 months from the earliest release date would have been May 31, 2014. The Board unanimously decided the licensee's 6 months probationary period was effective immediately.

Motion: **At 2:45 p.m., to adjourn the meeting**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Ailish Wilkie

Vote:

In Favor: Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. John Hsu

Opposed: None

Abstain: Dr. Cynthia Stevens

Respectfully submitted,

Dr. Cynthia Stevens, Board Chair

Date