

COMMONWEALTH OF MASSACHUSETTS

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

October 7, 2015
239 Causeway Street ~ Room 417 A&B
Boston, Massachusetts 02114

AGENDA

Time	#	Item	Exhibits	Contact
8:30 a.m.	I	CALL TO ORDER		
8:31	II	DETERMINATION OF QUORUM AND APPROVAL OF AGENDA		
8:32	III	ADMINISTRATIVE MATTERS A- Review of Advisory Ruling on Electronic Signatures B- Dental Students Working as Dental Assistants C- Nomination of Board's ADEX Representative D- NELDA Certification by DANB E- GMC Licensure Report	Memos, Attachments	S. Leadholm, B. Young
8:50	IV	REVIEW OF PROPOSED CHANGES TO 234 CMR	Memo, Attachments	S. Leadholm
10:00	V	REVIEW OF MINUTES OF PRIOR MEETINGS A- General Session of May 6, 2015 B- General Session of June 3, 2015	Draft Minutes	B. Young
10:10	VI	COMPLAINT RESOLUTION: PENDING BOARD MATTERS A-DEN-2013-0169: Mary Howlett, RDH B-DEN-2013-0170: Dr. Michael Scanlon C-SA-INV-7738: Nel's Dental Lab D-DEN-2014-0011, Kelly Monihan, RDH E-DEN-2014-0019: Dr. Nicholas DiNinno, Jr F-DEN-2014-0027: Dr. Nicholas DiNinno, III G-DEN-2015-0027: Lisa Stefanoni, RDH H-DEN-2015-0028: Dr. William Jantzen I-DEN-2015-0029: Dr. Meenal Kaur J-DEN-2015-0030: Dr. Nanette DeMonteverde K-SA-INV-6707: Dr. Mary Qian	Investigative Reports, Attachments	E. Mulligan, B. Yates, L. Seeley- Murphy
11:30	VII	PROBATION MATTERS A-Notice of Violations: DEN-2011-0188: Dr. Robert Gilbride B-Request for Reinstatement: DEN-2012-0140: Dr. Ronald Bidinger C- Request for Extension: DEN-2014-0023: Dr. Michael Sargent	Memos, Attachments	K. Fishman
11:50	VIII	FLEX SESSION		
12:00 Noon		LUNCH BREAK		

1.00 p.m	IX	<p>EXECUTIVE SESSION (closed to the public)</p> <p>The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) for the purposes 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 an 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 the Good Moral Character of applicants for licensure.</p>		
4.15	X	<p>M.G.L. c.112, §65 C SESSION (closed to the public)</p>		
4.30		<p>ADJOURNMENT</p>		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
October 7, 2015

Present: Dr. David Samuels, Board Chair; Ms. Ailish Wilkie, Board Secretary; Dr. Paul Levy; Dr. Ward Cromer; Ms. Lois Sobel, RDII; Ms. Kathleen Held; Ms. Jacyn Stultz, RDII; Dr. Stephen DuLong; Dr. John Hsu; Dr. Keith Batchelder

Absent: Dr. Cynthia Stevens

Staff Present: Barbara A. Young, Executive Director; Jeffrey Mills, Assistant Executive Director; 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.

Dr. John Hsu arrived at 9:00 a.m. and left the meeting for the day at 2:50 p.m.

Ms. Lois Sobel left the meeting for the day at 3:00 p.m.

Ms. Ailish Wilkie left the meeting for the day at 3:50 p.m.

Dr. Paul Levy left the meeting for the day at 3:50 p.m.

Dr. Stephen DuLong left the meeting for the day at 4:03 p.m.

Motion: At 8:33 a.m., to commence the meeting and to adopt the proposed agenda for today's meeting.

Motion Made By: Dr. Stephen DuLong

Second: Dr. Paul Levy

Vote: Unanimous

Administrative Matters:

A. Electronic Signatures

Ms. Stultz asked for clarification on the Board's policy regarding electronic signatures on patient records. Ms. Stultz noted that in some software programs, such as Dentrix, a drop down menu will list all licensees in an office and the treatment provider will select the appropriate name and "sign" the patient record. Ms. Stultz asked if this was an acceptable signature. Dr. DuLong asked if the licensee selected as treatment provider can be changed; Ms. Stultz replied yes it can be changed and a treatment provider could sign a patient's record as someone else. Dr. Batchelder noted this is a glitch in the software and that no alternative method is available.

Ms. Wilkie asked if the software is set up so that the licensee needs to provide a specific password to sign in; Ms. Stultz replied yes, each treatment provider is given their own sign in code. Dr. Samuels suggested each treatment provider sign off when done with treatment so the next treatment provider is required to sign in but noted this is likely not practical in a busy dental office. Atty. Leadholm advised the Board a new vote is not required as the Board previously voted to adopt a policy regarding electronic signatures. Ms. Stultz noted she just wanted to confirm "signature" does not only mean a signature done in cursive.

B. Dental Students Working as Dental Assistants

Dr. DuLong asked for clarification on whether a dental student, working at an approved externship as a dental assistant, must acquire a dental assisting license. Dr. Samuels suggested that is not required in the same manner as a dental hygiene or dental assisting student working as an assistant at an approved externship. Ms. Young asked about dental students working as dental assistants for their fellow dental students during clinical board examinations. Dr. DuLong noted dental students also work as assistants during the clinical board exams esp. since the CDCA changed its schedule for board exams noting the exams are now held during the academic year.

Atty. Leadholm advised the Board it may consider a motion/vote on this issue but Dr. Samuels disagreed. Dr. DiFabio asked about dental students working in a private practice; Ms. Held replied that is not generally done. Dr. DuLong agreed a vote on this issue would be better.

Motion: To permit dental students to work as dental assistants at externships approved by their respective dental schools

Motion Made By: Dr. Stephen DuLong

Second: Ms. Kathleen Held

Vote: Unanimous

C. ADEX Representative

Ms. Young informed the Board it recently received a notice from ADEX regarding their upcoming meeting in Nov. 2015 and asked for the Board to nominate its ADEX representative. Ms. Young suggested the Board reappoint Dr. Milton Glicksman to be its ADEX representative as he had been the Board's representative in the past and might be interested in continuing that position.

Motion: **To nominate Dr. Milton Glicksman as the Board's ADEX Representative**

Motion Made By: Ms. Kathleen Held

Second: Dr. Paul Levy

Vote: Unanimous

D. DANB's New NELDA (National Entry Level Dental Assistant) Certification

Ms. Young informed the Board it had received notice, through DANB's quarterly publication the *Certified Press*, Vol. 34, Issue, 3, that DANB recently announced a new certification category – the National Entry Level Dental Assistant – and that she had received a request from the business manager of the BUSDM whether this newest category would satisfy the requirements for licensure as a certified assistant. Ms. Young noted this category did not exist at the time the Board drafted and promulgated its amended regulations in Oct. 2014 regarding dental assistant licensure. Dr. Batchelder asked if the Board had been contacted by DANB. Ms. Young replied it had not. Ms. Stultz noted the level of education required for this new category is not clear.

Motion: **To not accept DANB's new NELDA (National Entry Level Dental Assistant) Certification as sufficient for licensure as a Certified Assistant pursuant to 234 CMR**

Motion Made By: Ms. Kathleen Held

Second: Dr. Stephen DuLong

Vote: Unanimous

E. Report from Executive Director Barbara A. Young regarding Licensure of Applicants with Good Moral Character Issues

Pursuant to BORID Policy 14-01, the following licenses were issued between 9/2/15 and 9/24/15:

Dr. Daniel J. Zaffetti	Dentist	DN1857076
Raisa C. Rainha	Dental Hygienist	DII88919
Angie M. Vilorio	Dental Assistant (OJT)	DA05958
Carlos Salazar	Dental Assistant (OJT)	DA06015
Danielle N. DiRusso	Dental Assistant (OJT)	DA06042
Daisy Garcia	Dental Assistant (OJT)	DA06043

F. Review of Proposed Changes to 234 CMR

Chief Board Counsel Vita Berg and Board Counsel Samuel Leadholm submitted red-lined and blue-lined versions of 234 CMR to the Board for its consideration noting proposed changes to sections 4.00, 5.00 and 8.00. Atty. Leadholm noted his proposed changes were highlighted in red and Atty. Berg's proposed changes were noted in blue. Atty. Berg explained these proposed changes will codify the Board's VALOR Act policy, enrollment as required in MassHealth and required pain management continuing education among other requirements. Atty. Berg noted sections 6.00 and 7.00 are currently under review by the Board's regulatory review workgroup and permission will likely be granted to the workgroup to continue its efforts.

234 CMR 4.00:

1. The proposed changes incorporates the reference to MGL c. 94C, §18(e) however Atty. Berg noted a pending bill S. 2020 may include additional changes to §18(e) if passed. Dr. Samuels noted that pain management courses vary greatly; Atty. Berg agreed noting the Board has recognized one course to date on pain management as offered by the BUSDM. Ms. Held noted other states are dealing with the opioid crisis as well but have not yet addressed how to deal with the crisis. Dr. Samuels noted it spoke well for Massachusetts in that our state is trying to get ahead of the problem. Dr. Hsu asked if any information had been provided from the medical field such as from ER doctors; Atty. Berg informed the Board legislation has been proposed that would limit the no. of doses a provider could prescribe.

2. Atty. Berg noted the proposed changes to 4.14(5) would codify the VALOR act including the waiver of any fees and requisite CEUs.

3. Atty. Berg noted that enrollment in MassHealth as non-treatment providers has been required since 2012 but MassHealth has yet to promulgate its regulations and should complete that process shortly. Ms. Held asked if a Mass. licensee works outside Massachusetts, would that licensee still have to enroll with MassHealth; Atty. Berg replied yes as the statute is over-inclusive. Atty. Berg noted that pursuant to the Affordable Care Act, any patient who received a prescription or order for durable medical goods cannot fill that prescription/order unless the prescribing/ordering dentist is a MassHealth approved provider or a MassHealth ordering/referring provider. Atty. Berg noted the proposed changes to 4.03(11) and 4.04(16) that incorporate these requirements. Ms. Young noted this requirement does not affect limited licensees. Atty. Berg also noted the proposed changes to 4.14(1) as this requirement also affects all licensees seeking licensure renewal. Ms. Young noted this requirement goes into effect once MassHealth completes the promulgation of its regulations; Atty. Berg agreed stating that if MassHealth has not completed its process by March 31, 2016, then these proposed changes will be removed from 234 CMR.

4. Mr. Mills noted 4.11(4) requires a passing score on the TOEFL exams for all dental assistants who received their dental assisting education in a language other than English. However, Mr. Mills noted that should be removed as the Board does not accept any foreign dental assisting programs for licensure. Atty. Leadholm agreed noting 4.11(4) will be removed and the remaining sections re-numbered.

5. Atty. Leadholm noted that some of the language has been changed to reflect current situations. i.e. NERB will be changed to CDCA in 4.04(7)(b). Dr. DuLong asked about states where a portfolio submitted by the applicant, such as in California, is acceptable for licensure in lieu of a passing score on a clinical competency exam. Mr. Mills noted that is not acceptable in Massachusetts. Dr. DuLong also asked about Minnesota's acceptable of passing scores on the Canadian clinical competency exam; Mr. Mills noted that is not acceptable either in Massachusetts.

6. Mr. Mills suggested changing the period from six months to one year in 4.04(4) and 4.07(6) to be consistent with health insurance policies regarding physical exams.

7. Ms. Wilkie asked about the term "filed" under 4.04(12); Atty. Leadholm stated "filed" is referring to any criminal action taken against an applicant. Ms. Wilkie asked if that meant even if an applicant was unaware criminal charges had been sought against the applicant.

8. Ms. Young asked about the passing score of "90" on the TOEFL exam v. the individual scores on each section as they do not mathematically agree with each other. Mr. Mills reported conducting research on this issue for the Board in 2011/2012 per the Board's request. Atty. Leadholm suggested bringing this topic to the Board at a future meeting for its consideration and possible amendment.

9. Ms. Stultz suggested removing the phrase " for the Professional Rescuer" from 4.08(9).

234 CMR 5.00:

1. Atty. Leadholm noted the proposed changes as follows:

- a. Each public health dental hygienist will be required to secure a permit;
- b. Any copies of radiographs made must be of diagnostic quality;
- c. Electronic signatures are permissible;
- d. Regulations regarding advertising will be broadened to include public health dental hygienists; and
- e. Clarification of language used in some sections.

2. Mr. Mills noted the delegable duties chart at 5.11(46) must be amended noting PHDHs are permitted to do scaling/root planing. Ms. Young noted MassHealth records indicate PHDHs are billing for scaling/root planing. Atty. Leadholm asked the Board if it approved PHDHs to do scaling/root planing in a public health setting; Dr. Batchelder stated he thought it would okay but Dr. Samuels noted a dentist must first diagnose a patient with a periodontal condition before scaling/root planing can be done. Ms. Held asked if PHDHs are diagnosing teeth as caries free. Ms. Stultz suggested that a PHDH working in a public health setting who has a collaborative agreement with a dentist that spells out the method of communication with the dentist should be permitted to do scaling/root planing if authorized by the collaborative dentist. Dr. Batchelder asked if a PHDH can do a scaling/root planing under topical anesthetic without the supervision of the collaborative dentist; Ms. Stultz suggested yes as the patient could present with gingivitis but Dr. Samuels disagreed noting the patient requires a diagnosis of periodontal disease with notation of current pocket depths and loss of gingival attachment. Dr. Batchelder asked if a PHDH can deliver topical anesthesia without the direct supervision of a dentist; Dr. Levy suggested a PHDH not be permitted to do so esp. in case an emergency arises. Ms. Young suggested this topic could be discussed in greater detail by the regulatory review workgroup. Dr. DuLong asked if diagnosis/treatment planning a delegable duty for PHDHs; the Board replied no.

Motion: To remove “scaling/root planing” from the delegable duties chart at 234 CMR 5.11 for PHDHs only and to refer this issue to the regulatory review workgroup for further consideration

Motion Made By: Dr. Stephen DuLong

Second: Dr. Keith Batchelder

Amended Motion: To remove “scaling/root planing” as detailed in the prior motion from task no. 46 and to create a new line item, task no. 47 for “scaling/root planing,” in the delegable duties chart of 5.11

Amended Motion Made By: Dr. John Hsu

Second: Dr. Keith Batchelder

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

3. Ms. Young asked if it was the Board's intent to require all PHDIs to acquire a permit pursuant to 5.08(1)(e). Ms. Stultz asked if an individual license is issued to each PHDI; Ms. Young replied no as each PHDI is already licensed as a hygienist. Ms. Stultz asked if the proposed changes would require each PHDI to own their own equipment; Ms. Young replied no stating an individual PHDI may share equipment with other PHDIs. Ms. Stultz asked why this proposed change is necessary; Dr. Samuels replied that currently the Board does not know what each PHDI is doing and where and with what equipment. Dr. Batchelder suggested the Board must protect the public and not make the process onerous for PHDIs. Ms. Stultz asked what the end goal of the Board is by adopting these proposed changes. Dr. Hsu noted that the use of portable equipment may give rise to infection control issues.

Motion: **To adopt the proposed changes as indicated in the red-line version of 234 CMR 5.08(1)(e)**

Motion Made By: Dr. Keith Batchelder

Second: Dr. John Hsu

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

234 CMR 8.00:

Ms. Young noted the regulatory review workgroup completed its review of 8.00. Mr. Mills noted the workgroup suggested increasing the no. of acceptable self-study courses to 75% in 8.05(2). Ms. Wilkie asked if this included home study courses; Dr. Levy suggested it would if the home study course included an exam that needed to be mailed in for grading to earn credit. Atty. Leadholm suggested the Board could accept the workgroup's recommendations or set their own percentage of acceptable self-study courses. Mr. Mills noted the workgroup felt online webinar courses are equivalent to or better than live courses. Dr. Batchelder noted most states accept only 50%; Ms. Stultz stated that if most states only accept 50% self-study courses, then why would Mass. increase it to 75%.

Motion: **To refer the proposed changes to 234 CMR to the Executive Office of Health and Human Services for approval**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Ailish Wilkie

Vote: Unanimous

Motion: **To schedule the proposed changes to 234 CMR for public hearing if approved by the Executive Office of Health and Human Services**

Motion Made By: Dr. Stephen DuLong

Second: Dr. John Hsu

Vote: Unanimous

The Board took its morning recess at 10:30 a.m. and resumed the meeting at 10:40 a.m.

Complaint Resolution—Investigator Eileen Mulligan

--In the Matter of DEN-2013-0169: Mary Howlett, RDH

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

Allegation: Unlicensed Practice of Dental Hygiene

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

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Kathleen Held

Discussion: Ms. Wilkie noted the expectation is a licensee will make up the deficient CEUs as this licensee did and asked what is the Board's practice regarding this situation. Atty. Leadholm advised the Board it typically offers a licensee who practiced on an expired license a consent agreement for a reprimand if the licensee had completed any deficient CEUs. In the event the licensee did not make up the deficient CEUs, Atty. Leadholm stated the licensee is typically offered a consent agreement for probation with conditions that include remedial coursework and/or satisfaction of the deficient CEUs.

Dr. Levy asked if there were any mitigating factors present in this licensee's case; Ms. Mulligan stated none that she was aware of.

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

Complaint Resolution—Investigator Eileen Mulligan

--In the Matter of DEN-2013-0170: Dr. Michael J. Scanlon

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

Allegation: Employment of an Unlicensed Dental Hygienist

Discussion: After the presentation by Ms. Mulligan, the Board opted not to discuss the matter. Ms. Mulligan informed the Board this licensee was the employer of Ms. Howlett.

Motion: **To dismiss the formal complaint as no violation found with an advisory letter on employing licensed hygienists.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

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

Complaint Resolution—Investigator Barbara Yates

--In the Matter of SA-INV-7738: Nel's Dental Lab

No representative from Nel's Dental Lab was present for the discussion and vote of the Board on this matter.

Allegation: Unlicensed Practice of Dentistry

Discussion: Ms. Yates informed the Board a complaint had been received by an individual who claimed staff at the Nel's Dental Lab in Fall River, MA was treating patient.

Motion: **To refer the matter to the Attorney Generals' Office for possible prosecution of practicing dentistry without a license.**

Motion Made By: Dr. Stephen DuLong

Second: Dr. John Hsu

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

Complaint Resolution—Investigator Barbara Yates

--In the Matter of DEN-2014-0013: Kelly Moynihan, RDH

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

Allegation: Unlicensed Practice of Dental Hygiene

Discussion: Ms. Yates informed the Board the licensee was unable to produce a copy of her certification in Basic Life Support for Healthcare Providers or CPR/AED but has since completed a BLS course. Ms. Yates also informed the Board this licensee worked for approx. 9 months without a valid license.

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

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Dr. John Hsu

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

Complaint Resolution—Investigator Barbara Yates

--In the Matter of DEN-2014-0019: Dr. Nicholas J. DiNinno, Jr.

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

Allegation: Administration of Nitrous Oxide-Oxygen Without a Valid Permit

Discussion: Ms. Yates informed the Board the licensee's facility permit for the administration of nitrous oxide-oxygen had been issued to the licensee's previous address but when the licensee moved to a new location, he did not reapply for a permit but continued to renew his facility permit over the course of three licensure cycles.

Dr. Levy asked if a new inspection is required if a licensee moves his/her practice location; Ms. Yates replied that is determined on a case-by-case basis and depends on whether an inspection was completed previously and when. Ms. Yates also stated the licensee had not completed the required CEU course on infection control but has since taken an infection control course.

Motion: **To dismiss the formal complaint as no evidence of violation found with an advisory letter on the regulations regarding facility permits and/or site inspections.**

Motion Made By: Dr. Keith Batchelder
Second: Dr. Paul Levy
Vote: **In Favor:** Dr. David Samuels; Ms. Ailish Wilkie; Dr. Paul Levy;
Dr. Ward Cromer; Ms. Kathleen Held; Ms. Jacyn Stultz;
Ms. Lois Sobel; Dr. John Hsu; Dr. Keith Batchelder;
Dr. Stephen DuLong
Opposed: None
Abstain: None

Complaint Resolution—Investigator Barbara Yates

--In the Matter of DEN-2014-0027: Dr. Nicholas J. DiNinno, III

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

Allegation: Administration of Nitrous Oxide-Oxygen Without a Valid Permit

Discussion: Ms. Yates informed the Board this licensee was an associate dentist and recent graduate of dental school.

Ms. Wilkie asked if it was possible this licensee received wrong information or was confused about what was required while still in dental school. Dr. DuLong replied that is not likely as dental students are typically told coursework on anesthesia while in school is not accepted by the Board in lieu of acquiring the necessary permits.

Motion: **To dismiss the formal complaint as no evidence of violation found with an advisory letter on the regulations regarding facility permits and/or site inspections.**

Motion Made By: Dr. Paul Levy

Second: Dr. Keith Batchelder

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2015-0027: Lisa D. Stefanoni, RDH

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

Allegation: Unlicensed Practice of Dental Hygiene

Discussion: Ms. Seeley-Murphy informed the Board the licensee was also deficient 10 CEUs for the 2013-2015 licensure cycle but is working on completing the missing CEUs. Atty. Leadholm asked how long the licensee practiced dental hygiene on an expired license; Ms. Seeley-Murphy replied approx. 4 years.

Dr. Levy opined this violation is more egregious given the length of time the licensee practiced on an expired license esp. combined with the fact she failed to complete the requisite CEUs. Ms. Seeley-Murphy stated the licensee explained she had moved and did not get the renewal notice in the mail. Dr. Samuels stated the Board needs to be consistent and suggested probation was appropriate.

Motion: **To offer a Consent Agreement for a Probation for 6 Months to include the completion of 10 deficient CEUs for the 2013-2015 licensure cycle.**

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Motion Made By: Dr. Paul Levy

Second: Ms. Ailish Wilkie

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2015-0028: Dr. William E.D. Jantzen

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

Allegation: Employment of an Unlicensed Dental Hygienist

Discussion: After the presentation by Ms. Seeley-Murphy, the Board opted not to discuss the matter. Ms. Seeley-Murphy informed the Board this licensee was the employer of Ms. Stefanoni and that the licensee was 7.5 CEUs deficient for the requested licensure cycle.

Motion: **To offer a Consent Agreement for Stayed Probation for 3 Months to include the completion of the deficient 7.5 CEUs.**

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

Amended Motion: **To offer a Consent Agreement for Stayed Probation for 6 Months to include the completion of the deficient 7.5 CEUs.**

Stayed probation period may be terminated early by the licensee upon evidence of the successful completion of the deficient CEUs.

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Amended Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2015-0029; Dr. Meenal Kaur

Dr. John Hsu and Dr. Paul Levy recused themselves from the discussion and vote of the Board on complaint DEN-2015-0029; Dr. Meenal Kaur.

The licensee and Joel Rosen, Esq. were present for the discussion and vote of the Board on this matter. The licensee answered all questions as appropriate.

Allegation: Unlicensed Practice of Dentistry

Discussion: Ms. Seeley-Murphy informed the Board the licensee was deficient in CEUs but has since remediated the deficiency.

Ms. Wilkie asked how long the licensee practiced dentistry on an expired license; Ms. Seeley-Murphy replied approx. 1 year.

Ms. Stultz asked the licensee why he did not renew his license; the licensee replied he didn't realize his license had lapsed but once discovered, he renewed it immediately.

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

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Jacyn Stultz

Discussion (cont'd): Dr. DuLong asked when renewal notices are mailed; Mr. Mills replied renewal notices are mailed to all licensees approx. 90 days before the licenses are scheduled to expire.

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2013-0030: Dr. Nanette Demonteverde

Dr. Paul Levy recused himself from the discussion and vote of the Board on complaint DEN-2013-0030: Dr. Nanette Demonteverde.

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

Allegation: Employment of an Unlicensed Dentist

Discussion: After the presentation by Ms. Seeley-Murphy, the Board opted not to discuss the matter. Ms. Seeley-Murphy informed the Board this licensee was the employer of Dr. Kaur and that this licensee did not complete the requisite CEUs in infection control and pain management but has since remediated that issue.

Motion: **To dismiss the formal complaint as no violation found with an advisory letter on employing licensed dentists and CEU requirements.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Stephen DuLong

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of SA-INV-6707: Dr. Mary Q. Qian

The licensee and Darrell Mook, Esq. were present for the discussion and vote of the Board on this matter. The licensee elected not to answer any questions posed by the Board.

Allegation: Business Practice Issues (Failure to Acquire Mobile Permit)

Discussion: Ms. Seeley-Murphy informed the Board this licensee is the dental director of Transcare Mobile Health Services and agreed to suspend their operations until they receive the requisite permits. Further, Ms. Seeley-Murphy stated the business is not wholly owned by a licensed dentist so the matter was referred to DPH Health Care Quality for possible licensure as a clinic. In April 2015, HICQ informed Ms. Seeley-Murphy the company was in full compliance.

Dr. Levy asked if the company was compliant with weekly spore testing; Ms. Seeley-Murphy said the spore testing was done sporadically. Dr. Samuels asked if this business was owned by a podiatrist; Ms. Seeley-Murphy replied yes noting the podiatrist hired the associate dentists.

Motion: **To open a formal complaint as possible violation found.**

Motion Made By: Ms. Ailish Wilkie
Second: Dr. Stephen DuLong
Discussion (cont'd): Ms. Wilkie asked if any other employees held the required permit; Ms. Seeley-Murphy replied no. Dr. Batchelder suggested opening a complaint against the other licensees for failure to conduct weekly spore testing as required. Dr. Samuels agreed noting each licensee will likely have different levels of culpability.

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

Motion: **To open formal complaints against all licensees (except for Dr. John Ducimo) for possible infection control violations.**

Motion Made By: Ms. Ailish Wilkie
Second: Dr. Paul Levy
Vote: **In Favor:** Dr. David Samuels; Ms. Ailish Wilkie; Dr. Paul Levy; Dr. Ward Cromer; Ms. Kathleen Held; Ms. Jacyn Stultz; Ms. Lois Sobel; Dr. John Hsu; Dr. Keith Batchelder; Dr. Stephen DuLong
Opposed: None
Abstain: None

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2011-0188: Dr. Robert Gilbride

--RE: Notice of Probation Violation

Vincent Dum, Esq. was present on behalf of the licensee for the discussion and vote of the Board on this matter.

Discussion: Ms. Fishman informed the Board the licensee failed to complete the required CEUs per the terms of his consent agreement by the June 2015 deadline. Ms. Fishman stated the licensee did complete a pain management course and had been approved for other courses. Ms. Fishman recommended the licensee's probationary period be extended to March 31, 2016, so that he may complete the required remedial coursework and the 40 CEUs required for licensure renewal.

Atty. Dunn informed the Board the licensee's mother had become ill and keeping up with his required coursework got away from him. Further Atty. Dunn stated he had not been informed by the licensee that Ms. Fishman had sent the licensee a violation notice.

Motion: **To find the licensee in violation of the terms of his consent agreement and to extend the licensee's probationary period until March 31, 2016, with the following conditions:**

- **Successful completion of all remedial coursework as stated in the consent agreement; and**
- **Successful completion of 40 CEUs as required for licensure renewal.**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

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

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0140: Dr. Ronald Bidinger

--RE: Request for Reinstatement

Dr. David Samuels recused himself from the discussion and vote of the Board on complaint DEN-2012-0140: Dr. Ronald Bidinger.

Vincent Dunn, Esq. was present on behalf of the licensee for the discussion and vote of the Board on this matter.

Discussion: Ms. Fishman informed the Board the licensee was compliant with all terms of his consent agreement and his practice was regularly monitored by Dr. David Russell resulting in good reports.

Atty. Leadholm advised the Board the licensee was to have his license suspended until Oct. 19, 2015, to be followed by a probationary period. Ms. Young asked why the matter was brought forward if the licensee had fully complied with the terms of the consent agreement; Atty. Dunn stated the consent agreement and the Board's regulations state the licensee must petition the Board for reinstatement after a term of suspension.

Motion: **To terminate the licensee's suspension, effective 10/19/15, and to reinstate the licensee to a probationary period per the terms of his consent agreement.**

Motion Made By: Dr. Stephen DuLong

Second: Dr. Ward Cromer

Vote: **In Favor:** Ms. Ailish Wilkie; Dr. Paul Levy; Dr. Ward Cromer; Ms. Kathleen Held; Ms. Jacyn Stultz; Ms. Lois Sobel; Dr. John Hsu; Dr. Keith Batchelder; Dr. Stephen DuLong
Opposed: None
Abstain: None

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2014-0023: Dr. Michael G. Sargent

--RE: Request for Extension

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

Discussion: Ms. Fishman informed the Board the licensee is requesting an extension of his probationary period in order to complete a 3 hour infection control course scheduled to be offered in Oct. 2015.

Motion: **To extend the licensee's stayed probationary period by 3 months or until Oct. 2015 so that the licensee may complete a requisite course in infection control. The stayed probation period may be terminated early by the licensee upon evidence of the successful completion of the requisite infection control course.**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Ward Cromer

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

G. General Session Minutes of May 6, 2015

Motion: **To adopt the General Session Minutes of May 6, 2015**

Motion Made By: Dr. Stephen DuLong

Second: Dr. Paul Levy

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

J. General Session Minutes of June 3, 2015

Motion: **To adopt the General Session Minutes of June 3, 2015**

Motion Made By: Dr. Stephen DuLong

Second: Dr. Keith Batchelder

Dr. Samuels noted the discussion on what to do with licensure applications involving GMC issues was not included in the minutes for the June 3rd meeting; Mr. Mills replied he believed that discussion took place at the July 1st meeting.

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

Flex Session:

1. Dental Assistant Licensure Ms. Young informed the Board numerous applicants for dental assistant licensure had yet to submit missing items and that board staff has repeatedly contacted these applicants to request the missing documents. Ms. Young stated many applicants appear to be ignoring these requests or are taking an inordinate amount of time in submitting the requested items. Ms. Young suggested a "drop dead" date be selected by the Board, i.e. all

dental assistants must be licensed by xx/xx/xx date. Dr. Batchelder agreed that a drop dead date is necessary but the Board must fully inform dentists and dental assistants of the consequences of non-compliance first. Dr. Samuels agreed but noted approx. 85% of all licensed dentists are members of the Mass. Dental Society who has regularly informed dentists of what is required for dental assistant licensure. Dr. Samuels suggested sending all licensed dentist a blast email.

Dr. Samuels also asked what the possible consequences would be for the dentists and dental assistants. Atty. Leadholm advised the Board a complaint would be opened against the dental employer and, depending upon the facts and circumstances of each case, the dentist would likely receive a stayed probationary period or a dismissal with an advisory letter. Dr. DuLong asked what would happen if a dentist hired an unlicensed hygienist. Dr. Batchelder expressed concern that board staff might not be equipped to handle the influx of new cases/applications. Ms. Stultz stated she believed there was still confusion in the dental community as to what is required of dental assistants. Ms. Wilkie agreed that a blast email to all licensed dentists should be undertaken and suggested a notice be included in the renewal info given to dentists.

Dr. Samuels suggested a draft copy of the blast email be drafted and submitted to the Board for its consideration prior to disseminating it to all licensed dentists.

2. Monetary Fines/CEU Audit – Dr. Samuels informed the Board Division Director Jim Lavery has agreed to appear before the Board at its Nov. 4th meeting to discuss the Board's concerns about assessing monetary fines for regulatory violations and DIPL's efforts in conducting random CEU audits.

3. List of Open Complaints/Staff Assignments Ms. Wilkie asked if a list of the no. of open/pending complaints and staff assignments could be given to the Board. Dr. DiFabio said she would speak to Mr. Lavery regarding Ms. Wilkie's request and report back to the Board at the Nov. 4th meeting.

4. CODA and Dental Hygiene Schools – Ms. Stultz informed the Board that CODA notified all dental hygiene schools that all hygiene programs, in states that permit delegable duties, must teach those duties to clinical competence no later than Jan. 1, 2016. For example, Ms. Stultz stated that if a state permits a hygienist to remove sutures or use lasers, then the CODA-accredited schools in that state must teach these tasks to clinical competence in order to maintain their CODA accreditation. Ms. Stultz stated that several hygiene program directors expressed their belief that this issue should be resolved the state dental boards. Dr. Batchelder noted that if a dental hygiene school is not under the supervision of a dental board, then how is that board to resolve the issue. The Board members agreed this is a CODA issue and not one that can be resolved by individual state boards. Dr. DuLong agreed noting that instruction on the proper use of lasers is not part of a standard dental school curriculum.

The Board recessed for lunch at 12:10 p.m. and resumed its meeting at 12:56 p.m.

5. November 4th BORID meeting Ms. Young and Dr. Samuels informed the Board it will be recognizing Dr. Milton Glicksman and Ms. Diane Grondin for their years of service to the BORID and the citizens of the Comm. at the Nov. 4th meeting. Dr. Samuels stated lunch will also be served and asked each Board member to let him or Ms. Young know as soon as possible if they will attend the Nov. 4th meeting.

At 12:57 p.m., Dr. Samuels 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 enter an M.G.L. c.112, §65C Session and then adjourn the meeting for the day at the conclusion of the M.G.L. c.112, §65C Session.

Motion: At 12:58 p.m., to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

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

Motion: At 4:04 p.m., to leave Executive Session

Motion Made By: Dr. Keith Batchelder

Second: Dr. Ward Cromer

Vote: **In Favor:** Dr. David Samuels; Dr. Ward Cromer; Ms. Kathleen Held; Ms. Jacyn Stultz; Dr. Keith Batchelder
Opposed: None
Abstain: None

Motion: At 4:05 p.m., to enter a M.G.L. c.112, §65C Session

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: **In Favor:** Dr. David Samuels; Dr. Ward Cromer;
Ms. Kathleen Held; Ms. Jacyn Stultz; Dr. Keith Batchelder
Opposed: None
Abstain: None

Motion: **At 4:18 p.m., to leave the M.G.L. c.112, §65C Session and to Adjourn**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Ward Cromer

Vote: **In Favor:** Dr. David Samuels; Dr. Ward Cromer;
Ms. Kathleen Held; Ms. Jacyn Stultz; Dr. Keith Batchelder
Opposed: None
Abstain: None

Respectfully submitted,

Ms. Ailish Wilkie, Board Secretary

Date _____