

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY  
239 Causeway Street, Boston, MA 02114  
Room 417  
April 2, 2014  
AGENDA

8:30 a.m. Call to Order

A. Review of Minutes

--General Session February 19, 2014

B. Administrative Matters

--Dental Assisting Regulations Update

8:45 a.m. C. "Flex Session"

9:00 a.m. D. Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2013-0098: Patricia Hamilton, RDH

--In the Matter of DEN-2013-0097: Dr. Carmine Morreale

--In the Matter of DEN-2013-0134: Dr. Carmine Morreale

--In the Matter of DEN-2013-0133: Dr. Richard Varerin

E. Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of DEN-2014-0004: Dr. Chelsea Perry

F. Complaint Resolution—Investigator Eileen Mulligan

--In the Matter of DEN-2013-0088: Dr. Maurice Zylber

--In the Matter of DEN-2013-0098: Dr. Gary Stiller

--In the Matter of SA-INV-4540: Dr. Mark Wisniewski

G. Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2013-0131: Julie Martin, RDH

--In the Matter of DEN-2013-0132: Dr. Joseph Yamin

9:45 a.m. H. Executive Session (closed to the public)

-P. 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.

Specifically, the Board will discuss and evaluate the Good Moral Character as required for registration for a pending applicant for licensure.

Specifically, the Board will discuss and evaluate petitions from licensees requesting waiver of continuing education licensure renewal requirements, pursuant to 234 CMR 8.07 (c), (d), and/or (e).

Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients.

Q- M.G.L.c.112, § 65C Session (closed to the public)

S.

Adjournment

*NEXT MEETING: May 7, 2014*

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, 5<sup>th</sup> 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  
April 2, 2014

**Present:** Dr. Cynthia Stevens, Chair; Ms. Lois Sobel, RDH, Secretary; Dr. Milton Glicksman; Dr. Stephen DuLong; Dr. David Samuels; Ms. Kathleen Held, M.Ed.; Ms. Jacyn Stultz, RDH; Ms. Ailish Wilkie, C.P.H.Q.; Ms. Diane Grondin, CDA, Dental Assistant Advisor

**Absent:** Ward Cromer, Ph.D.; Dr. John Hsu; Dr. Keith Batchelder

**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 Eileen Mulligan, Kathleen O'Connell, Lisa Seeley-Murphy and Barbara Yates; Probation Monitor Karen Fishman; Administrative Staff Genevieve Schaefer, Rosibel Rogers and Ana Bienvenu

**Motion:** At 8:33 a.m., to commence the meeting

**Motion Made By:** Ms. Lois Sobel, RDH

**Second:** Ms. Ailish Wilkie

**Vote:** Unanimous

Dr. Cynthia Stevens, Chair welcomed the newest Board Member, Ms. Kathleen Held, M.Ed. to the meeting and asked Ms. Held to introduce herself and provide some details regarding her training and professional history. Ms. Held informed the Board she has worked in the field of dentistry as a dental assistant for several years and is currently working full-time as an educator at the Boston University Goldman School of Dentistry where she teaches dental students how to best utilize dental assistants in their work.

**Motion:** To adopt the proposed agenda for today's meeting.

**Motion Made By:** Ms. Ailish Wilkie

**Second:** Ms. Lois Sobel

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; Dr. David Samuels; Ms. Kathleen Held, M.Ed.; Ms. Jacyn Stultz, RDH; Ms. Ailish Wilkie  
**Oppose:** None  
**Abstain:** Dr. Cynthia Stevens

**Motion:** **To adopt General Session Board Minutes of February 19, 2014.**

**Motion Made By:** Ms. Lois Sobel

**Second:** Dr. Stephen DuLong

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Ailish Wilkie  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens; Dr. David Samuels; Ms. Kathleen Held

**Administrative Matters:**

**A. Dental Assistant Regulations (Update)**

Ms. Berg advised the Board that the proposed dental assisting regulations are currently under review by the Executive Office of Health and Human Services (EOHHS) and that review should be completed in the near future. Ms. Berg advised the Board that she, Executive Director Barbara A. Young and Ms. Dianne Grondin, Dental Assistant Advisor met as requested by the Board to reconcile inconsistencies in the proposed regulations with regards to the supervision by the Dept. of Higher Education, the Dept. of Elementary and Secondary Education, the Division of Professional Licensure, etc. of dental assisting programs.

Ms. Berg also advised that EOHHS has asked for an impact statement from the Division of Health Professions Licensure (DHPL) as to the financial impact on DHPL if the regulations are promulgated. Ms. Berg further advised DHPL and Board staff await a decision from EOHHS whether the changes to the proposed regulations, made since the public hearings were held, will require a second public hearing before promulgation.

**B. Opioid Workgroup (Update)**

Ms. Wilkie advised the Board that she has been invited to attend a national opioid conference, as the Board's chosen representative, in Atlanta, GA, in two weeks and will provide an update at the next scheduled Board meeting.

**C. Flex Session**

Dr. Glicksman reported he received an advertisement from a dentist who appears to flaunt the Board's authority in the advertisement; Dr. Glicksman stated he found the tenor of this

advertisement to be disturbing and stated he would bring the advertisement to the May 7, 2014, Board meeting for consideration by all Board members.

Dr. Samuels inquired about the Board's decision to form a workgroup to examine the temporary dental license statute, M.G.L. c. 112, §45B, and what, if any, regulations should be promulgated to increase the no. of temporary licenses issued to dentists in Massachusetts. The Board agreed to add this item to the agenda for the May 7, 2014, Board meeting.

Dr. Samuels also inquired about the Board's earlier decision to form a workgroup to investigate the utilization review issues raised by a group of orthodontists who filed complaints against four orthodontists employed by DentaQuest, the contracted MassHealth vendor, alleging the four orthodontists were practicing dentistry without a license. Dr. Samuels noted the Board had agreed to form this workgroup but the workgroup has yet to meet. The Board agreed to revisit this issue at the May 7, 2014, Board meeting.

Ms. Young reported she has contacted the Mass. Office of Oral Health (OOH) regarding the public health dental hygienist and Permit M process and hopes to invite representatives from the OOH to address the Board at the May 7, 2014, Board meeting.

Dr. Stevens reminded the Board of the June 12, 2014, NERB steering committee meeting and encouraged any interested Board member to attend the meeting. Ms. Wilkie asked what the purpose of the meeting is; Dr. DuLong replied the committee invites all states who participate in the NERB to meet with dental educators and NERB staff to work on the standards of testing implemented by NERB. Dr. Stevens stated she, Ms. Sobel, Dr. Mina Paul and Dr. Myron Alukian are members of the Massachusetts delegation to NERB. Ms. Stultz stated she is also attending the meeting as a dental educator.

### **Complaint Resolution—Investigator Lisa Seeley-Murphy**

#### **--In the Matter of DEN-2013-0098: Patricia A. Hamilton, RDH**

*Dr. David Samuels recused himself from deliberation and vote of the Board on Complaint DEN-2013-0098: Patricia A. Hamilton, RDH*

**Allegation:** Practicing dental hygiene on an expired license

**Discussion:** Investigator Seeley-Murphy submitted her report to the Board for its consideration. Ms. Wilkie asked if the licensee's check had been cashed; Ms. Grondin noted that it had been cashed but the licensee had not been notified. Mr. Mills reminded the Board the licensee had renewed her license in October 2011, several months after her license had expired in March 2011. Ms. Wilkie noted the licensee reactivated her license in May 2013 and did submit the requisite CEU certificates and that she appears up to date.

Ms. Wilkie suggested the Board focus on what happened between March and October 2011 but suggested that might be difficult given the apparent miscommunication between the licensee and Board staff.

**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:** Ms. Ailish Wilkie

**Second:** Dr. Stephen DuLong

**Vote:**  
**In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution—Investigator Lisa Seeley-Murphy**

**--In the Matter of DEN-2013-0097: Dr. Carmine L. Morreale**

*Dr. David Samuels recused himself from the deliberation and vote of the Board on Complaint DEN-2013-0097: Dr. Carmine L. Morreale*

*The Licensee was not present for the deliberation and vote of the Board on this matter.*

**Allegation:** Employer of a dental hygienist practicing on an expired license

**Discussion:** Investigator Seeley-Murphy submitted her report to the Board for its consideration. Ms. Wilkie asked if the two cases involving this licensee on today's agenda should be combined; Dr. Stevens suggested each should be considered separately as they deal with different issues.

**Motion:** To offer a Consent Agreement for Stayed Probation for 3 Months.

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

**Motion Made By:** Dr. Stephen DuLong

**Discussion (cont'd):** Ms. Sobel asked if the Board should include remedial courses on infection control and pain management. Ms. Seeley-Murphy stated the licensee was enrolled in a master track program and thought the program covered those courses. Dr. Glicksman stated he completed that program and it did not include those courses.

**Amended Motion:** To include courses as follows in the proposed Consent Agreement:

**3 Hours: Infection Control**  
**3 Hours: Pain Management**

**Amended Motion Made By:** Dr. Stephen DuLong

**Second:** Ms. Lois Sobel

**Discussion (cont'd):** Ms. Wilkie asked if it was appropriate to consider consolidating both cases prior to voting on the motion. Ms. Berg advised the Board that it may consider both pending cases at the same time as there is no requirement each be considered separately just that the Board needs to be clear on what it is offering the licensee and why.

**Vote:**  
**In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution – Investigator Lisa Seeley-Murphy**

**--In the Matter of DEN-2013-0134: Dr. Carmine L. Morreale**

*Dr. David Samuels recused himself from the deliberation and vote of the Board on Complaint DEN-2013-0134: Dr. Carmine L. Morreale*

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

**Allegations:** Administering nitrous oxide-oxygen sedation without a facility permit

**Discussion:** Investigator Seeley-Murphy submitted her report to the Board for its consideration. Ms. Seeley-Murphy informed the Board the licensee admitted to administering nitrous oxide-oxygen without a facility permit stating she was unaware she needed any such permit. Ms. Seeley-Murphy noted the licensee admitted she has been administering nitrous oxide-oxygen since 1986. Ms. Wilkie asked if it was known how often the licensee administered nitrous oxide-oxygen; Ms. Seeley-Murphy stated the licensee informed her she did so approx. 2000 times per year.

Ms. Berg suggested the Board consider consolidating both complaints and offering the licensee a single proposed Consent Agreement.

**Motion:** **To Consolidate Both Pending Cases (DEN-2013-0097 and DEN-2013-0134) and to Offer a Consent Agreement for Probation for 3 Months to include the following course work:**  
**6 Hours: Risk Management**  
**3 Hours: Infection Control**  
**3 Hours: Pain Management**

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

**Motion Made By:** Ms. Lois Sobel

**Discussion (cont'd):** Ms. Berg advised that if one proposed Consent Agreement is offered to the licensee, then that Consent Agreement will contain both docket no's (DEN-2013-0097 and DEN-2013-0134).

Dr. Glicksman noted the nitrous oxide-oxygen issues are similar to what's going on with opiate and infection control courses; Dr. Glicksman suggested the Board needs to do a better job in informing the dental community of the CEU requirements as he is concerned each case coming before the Board often involves non-compliance by a licensee with the infection control and/or pain management requirements. Dr. Stevens concurred and stated the Board needs to reinforce what is required by the regulations adopted by the Board in August 2010.

Ms. Sobel noted conferences such as the Yankee Dental Congress and organizations such as the Mass. Dental Society are trying to educate the dental community by publicizing the requirements.

Ms. Young noted she participated in two such educational programs at the Yankee Dental Congress in January and at Mt. Ida College a few weeks ago.

Ms. Seeley-Murphy noted this licensee completed a MDS-sponsored in-house inspection on July 11, 2013, but violations were found when the investigators inspected the licensee's office on July 22, 2013.

**Second:** Ms. Ailish Wilkie

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** Dr. Milton Glicksman  
**Abstain:** Dr. Cynthia Stevens

### **Complaint Resolution – Investigator Lisa Seeley-Murphy**

#### **--In the Matter of DEN-2013-0133: Dr. Richard J. Varnerin**

*Dr. David Samuels recused himself from the deliberation and vote of the Board on Complaint DEN-2013-0133: Dr. Richard J. Varnerin*

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

**Allegation:** Administering nitrous oxide-oxygen sedation without a facility permit

**Discussion:** Investigator Seeley-Murphy submitted her report to the Board for its consideration. Ms. Seeley-Murphy reported this licensee is an associated dentist of the previous licensee.

**Motion:** To offer a Consent Agreement for Stayed Probation for 3 Months, to include the following additional continuing education courses:  
6 Hours: Risk Management  
3 Hours: Infection Control  
3 Hours: Pain Management

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

**Motion Made By:** Ms. Ailish Wilkie

**Discussion (cont'd):** Dr. Glicksman noted this case is more serious in that this licensee is deficient by 32 credits in CEU's. Ms. Held noted most licensees keep a calendar to track their attendance at CEU courses and should be able to provide verification to the Board. Dr. DuLong noted the licensee told a CPR/BLS course in July 2013 and asked if the licensee took a similar course in 2011; Ms. Seeley-Murphy replied he licensee said he did so but could save the record of attendance.

Ms. Wilkie asked how long a licensee must retain records of CEU attendance; Ms. Seeley-Murphy replied that as of August 2010, a licensee must keep records of CEU courses for two renewal cycles or four years, prior regulations required licensees to keep the records for 3 yrs.

Atty. Vincent Dunn, in attendance, addressed the Board stating the earlier version of the regulations required licensees to keep their CEU records for 3 yrs. or until their license is renewed.

**Amended Motion:** To offer a Consent Agreement for Stayed Probation for 6 Months, to include completion of the deficient CEU's (32 Hours) and the following additional continuing education courses:  
6 Hours: Risk Management  
3 Hours: Infection Control  
3 Hours: Pain Management

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

**Amended Motion Made By:** Dr. Milton Glicksman

**Second:** Ms. Lois Sobel

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution – Investigator Kathleen O'Connell**

**--In the Matter of DEN-2014-0004: Dr. Chelsea Elizabeth Perry**

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

**Allegation:** Infection Control violation  
**Discussion:** Investigator O'Connell submitted her investigative report to the Board for its consideration.

**Motion:** **To offer a Consent Agreement for Probation for 3 Months, to include the following additional continuing education courses:**  
**6 Hours: Risk Management**  
**3 Hours: Infection Control**  
**If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.**

**Motion Made By:** Dr. Milton Glicksman

**Second:** Ms. Ailish Wilkie

**Discussion (cont'd):** Dr. DuLong noted the licensee's office is open every other week and asked if the licensee is required to perform spore testing while the office is closed. Ms. O'Connell stated she asked the licensee for a copy of her schedule and stated that if an office is closed, then no records of spore testing are required to be produced.

Dr. Samuels asked if the licensee could reuse the remedial infection control course, if the licensee accepts the proposed consent agreement, to fulfill the biennial continuing education requirements. Ms. Young replied that, generally speaking, is not permitted as a licensee cannot "double-dip" when it comes to CEU's. Ms. Berg advised the Board that the probation monitor will keep record of the licensee's participation in remedial continuing education courses and that the Board can check the licensee's CEU compliance when she comes up for license renewal in two years.

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution – Investigator Eileen Mulligan**

**--In the Matter of DEN-2013-0088: Dr. Maurice Zylber**

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

**Allegation:** Administering Nitrous Oxide-Oxygen Without Proper Permits

**Discussion:** Investigator Mulligan submitted her investigative report to the Board for its consideration. Ms. Mulligan informed the Board the licensee's individual permit expired in 2008 and he did not apply for or receive a facility permit for the administration of nitrous oxide-oxygen.

Dr. DuLong opined this case is different from an earlier case in that this licensee is fully aware of the requirements for an individual permit and facility permit but chose not to renew either permit.

Ms. Mulligan stated the licensee admitted to the oversight and also noted the licensee has completed the requisite 40 hours of continuing education courses but failed to take courses in infection control and pain management.

**Motion:** **To offer a Consent Agreement for Stayed Probation for 3 Months, to include the following additional continuing education courses:**  
**3 Hours: Infection Control**  
**3 Hours: Risk Management**  
**3 Hours: Pain Management**  
**If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.**

**Motion Made By:** Dr. Milton Glicksman

**Second:** Dr. David Samuels

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

### **Complaint Resolution – Investigator Eileen Mulligan**

#### **--In the Matter of DEN-2013-0089: Dr. Garv M. Stiller**

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

**Allegation:** Administering Nitrous Oxide-Oxygen Without a Facility Permit

**Discussion:** Investigator Mulligan submitted her investigative report to the Board for its consideration. Ms. Mulligan informed the Board the licensee is compliant with all CEU requirements.

Dr. Samuels noted this licensee's case is different from the prior case that of his associate, as this licensee has completed all required CEU courses.

**Motion:** To offer a Consent Agreement for Stayed Probation for 3 Months.

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

**Motion Made By:** Ms. Ailish Wilkie

**Second:** Dr. David Samuels

**Vote:**  
**In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution – Investigator Eileen Mulligan**

**--In the Matter of SA-INV-4540: Dr. Mark Wisniecki**

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

**Allegation:** Inappropriate Use of a Multi-Dose Vial of Anesthetic

**Discussion:** Investigator Mulligan submitted her investigative report to the Board for its consideration.

Dr. Glicksman asked if the licensee has done anything illegal; Ms. Mulligan replied it does not appear the licensee has violated the Board's regulations. Dr. Glicksman recommended the Board not open a formal complaint against this licensee.

Ms. Wilkie asked what is the appropriate standard of care with regards to the use of multi-dose vials. Ms. Mulligan reported the licensee disposed of all medicaments upon receiving notice the medicaments had been recalled by the pharmaceutical manufacturer. Dr. DiFabio noted that no patient records were requested by the OPP with regards to this case.

Dr. Glicksman noted that some medicaments are only available in multi-dose vials. Ms. Stultz noted the treatment proposed by the licensee has not been approved by the FDA but is used in Europe.

Ms. Sobel noted the treatment proposed by the licensee is done at MGH as part of migraine therapy. Ms. Berg advised the Board to consult with the Board of Registration in Pharmacy regarding BORP's requirements for use and maintenance of multi-dose vials.

Dr. Samuels suggested Ms. Mulligan gather information on the correct usage and handling of multi-dose vials.

**Motion:** To Postpone Consideration of this matter until a consultation with the Board of Registration in Pharmacy can be completed.

**Motion Made By:** Dr. David Samuels

**Second:** Ms. Lois Sobel

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution – Investigator Sarah Millar**

**--In the Matter of DEN-2013-0131: Julie A. Martin, RDH**

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

**Allegation:** Practicing Dental Hygiene on an Expired License

**Discussion:** Investigator Millar submitted her investigative report to the Board for its consideration.

Ms. Wilkie noted she was troubled by the fact the licensee practiced dental hygiene for 6 yrs. without a license.

**Motion:** To offer a Consent Agreement for Probation for 6 Months, to include the following additional continuing education courses:  
6 Hours: Infection Control  
6 Hours: Risk Management

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

**Motion Made By:** Ms. Lois Sobel

**Second:** Dr. Stephen DuLong

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

**Complaint Resolution – Investigator Sarah Millar**

**--In the Matter of DEN-2013-0132: Dr. Joseph J. Yamin**

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

**Allegation:** Violation of General Practice Standards (Permitting a Dental Hygienist to Practice Dental Hygiene on an Expired License)

**Discussion:** Investigator Millar submitted her investigative report to the Board for its consideration and noted this licensee employed the dental hygienist considered in the prior case.

Ms. Held questioned whether this licensee was aware of the Board's rules and regulations and whether this licensee has his dental assistants practicing beyond what's permitted by the regulations.

Dr. Glicksman noted a licensed hygienist can complete all tasks typically completed by dental assistants per the Board's regulations. Dr. DuLong noted the hygienist may not need a valid license if he/she is only completing the delegable duties of a dental assistant but is required to hold a valid license if performing the tasks of a hygienist.

Ms. Young noted that 234 CMR 5.07 permits a hygienist to complete all the delegable duties of a dental assistant. Dr. Samuels noted the dentist employer may not be wrong if he is only having his hygienist complete the delegable duties of a dental assistant and that fact may affect his vote on this matter.

Ms. Sobel opined all licensees are required to maintain their licenses as part of their professional responsibilities. Mr. Mills stated that the Board typically dismisses the complaint against the dentist employer with an advisory letter in the case of a dental hygienist practicing dental hygiene on an expired license.

**Motion:** **To offer a Consent Agreement for Stayed Probation for 3 Months.**

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

**Motion Made By:** Ms. Ailish Wilkie

**Second:** Dr. Milton Glicksman

**Vote:** **In Favor:** None

**Opposed:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held

**Abstain:** Dr. Cynthia Stevens

**(Motion Failed)**

**Motion:** **To dismiss complaint as no evidence of violation with advisory letter on regulatory requirement regarding licensure.**

**Motion Made By:** Dr. David Samuels

**Second:** Dr. Milton Glicksman

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens; Ms. Jacyn Stultz

**Discussion (cont'd):** Dr. DuLong suggested the dental hygienist may be willing to give up his/her dental hygiene license if he/she is only completing those tasks typically assigned to a dental assistant.

Ms. Sobel noted the dental hygienist at issue in these cases did seek to renew her dental hygiene license.

Dr. Samuels noted the licensees always have the right to reject the proposed consent agreements and ask for show cause hearings on the complaints. Ms. Berg advised the Board to consider other similarly situated cases they've considered in the past. Ms. Wilkie replied that she did and none of those situations are applicable here.

*At 10:10 a.m., Dr. Stevens announced that 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 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 discuss and evaluate the Good Moral Character as required for registration for a pending applicant 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 for the sole purpose of entering into another closed session pursuant to M.G.L. c. 112, §65C. The Board will not hear any additional matters in open session on this date.*

**Motion:** **At 10:11 a.m., to enter Executive Session, under Purpose 1 of the Open Meeting Law, and to announce to the public that the Board will not return to General Session today.**

**Motion Made By:** Dr. David Samuels

**Second:** Dr. Milton Glicksman

**Roll-Call Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held  
**Opposed:** None  
**Abstain:** Dr. Cynthia Stevens

*The Board took its morning recess at 10:11 a.m. and resumed the meeting at 10:24 a.m.*

*The Board remained in Executive Session from approx. 10:11 a.m. to 1:50 p.m.*

*The Board recessed for lunch at 12:35 p.m.*

*The Board resumed its meeting after lunch at 1:15 p.m.*

**Motion:** At 1:50 p.m., to leave Executive Session

**Motion Made By:** Dr. Stephen DuLong

**Second:** Ms. Ailish Wilkie

**Vote:** Unanimous

**Motion:** At 1:51 p.m., to enter M.G.L.c.112, §65C Session

**Motion Made By:** Ms. Ailish Wilkie

**Second:** Ms. Lois Sobel

**Vote:** Unanimous

*The Board remained in M.G.L. c. 112, §65C Session from approx. 1:51 p.m. to 2:15 p.m.*

**Motion:** At 2:15 p.m., to leave M.G.L.c.112, §65C Session

**Motion Made By:** Dr. David Samuels

**Second:** Ms. Lois Sobel

**Vote:** Unanimous

**Motion:** At 2:16 p.m., to adjourn the meeting

**Motion Made By:** Ms. Ailish Wilkie

**Second:** Dr. David Samuels

**Vote:** **In Favor:** Ms. Lois Sobel; Dr. Milton Glicksman; Dr. Stephen DuLong; ; Dr. David Samuels; Ms. Jacyn Stultz; Ms. Ailish Wilkie; Ms. Kathleen Held

**Opposed:** None

**Abstain:** Dr. Cynthia Stevens

Respectfully submitted,

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Lois Sobel, RDH, Secretary

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Date