

COMMONWEALTH OF MASSACHUSETTS

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

November 4, 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- Administrative Fines & CE Audits: James Lavery, Director DHPL B- Nominations for Board Chair and Secretary C- Pending Investigations Statistics D- GMC Licensure Report E- Staff Action Policy: Out-of-State Discipline When Mass. License Has Expired	Memos, Attachments	S. Leadholm, L. DiFabio, B. Young
9:20	IV	REVIEW OF PROPOSED CHANGES TO 234 CMR	Memo, Attachments	S. Leadholm
10:15	V	COMPLAINT RESOLUTION: PENDING BOARD MATTERS A-DEN-2014-0015: Dr. Thomas Jacoby B-DEN-2014-0058: Dr. Paul Freedman C-DEN-2014-0030: Dr. George Fenzell D-DEN-2014-0059: Dr. William Lenkaitis E-DEN-2014-0060: Marsha Ford, RDH F-DEN-2014-0061: Lynn Campion, RDH G-DEN-2014-0062: Dr. Charles Braga H-SA-INV-7790: Dr. Neale Eckstein I-SA-INV-7949: Dr. Gregory Stanley	Investigative Reports, Attachments	K. O'Connell, S. Millar, L. Seeley- Murphy
11:00	VI	FLEX SESSION		
11:05	VII	M.G.L.c.112, §65C SESSION (closed to the public)		
12 Noon		LUNCH BREAK		

1:00 p.m.	VIII	<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>		
3:00		ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
November 4, 2015

Present: Dr. David Samuels, Board Chair; Ms. Ailish Wilkie, Board Secretary; Dr. Paul Levy; Ms. Kathleen Held; Dr. Stephen DuLong; Dr. Ward Cromer; Dr. John Hsu

Absent: Dr. Cynthia Stevens; Ms. Lois Sobel, RDH; Ms. Jacyn Stultz, RDH; Dr. Keith Batchelder

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 8:50 a.m.

Dr. Ward Cromer left the meeting for the day at 2:13 p.m.

Ms. Ailish Wilkie left the meeting for the day at 2:57 p.m.

Motion: **At 8:32 a.m., to commence the meeting and to adopt the proposed agenda for today's meeting.**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Kathleen Held

Vote:

Unanimous

Administrative Matters:

A. Administrative Fines and CEU Audits

DHPL Division Director James Lavery updated the Board on DPH/DHPL's efforts to institute administrative fines for regulatory violations and CEU auditing of all licensees.

1. Administrative Fines

Mr. Lavery stated he agreed with the Board's interest in assessing monetary fines for regulatory violations but noted the Board currently does not have the statutory authority to assess fines. To date, only the boards of pharmacy, community health workers and genetic counselors have that authority. Mr. Lavery noted the Board could fine a licensee for unlicensed practice but realized most of these cases are referred to the Attorney Generals' Office for possible prosecution in superior court. Mr. Lavery advised the Board that DPH/DHPL may seek a legislative solution to this issue in 2016 and if granted, would require the BORID to draft new regulations to implement the legislation. Mr. Lavery stated the Board would need to be fair and balanced in assessing fines and to provide timely notice to the licensees that may be fined.

Ms. Wilkie asked if a schedule had been set yet by DPH/DHPL; Mr. Lavery replied no as a review of other states practices, statutes and policies must be completed first. Dr. Samuels thanked Mr. Lavery for providing an update and asked Mr. Lavery to keep the Board posted on any developments. Ms. Wilkie asked if it would be permissible for Board members to contact legislatures on this issue; Atty. Leadholm advised the Board members they cannot draft legislation or actively participate in this process as a Board member. However, Mr. Lavery suggested Board members may do so in their individual capacity; Atty. Leadholm agreed but advised the Board the determination of "individual capacity" is not that clear.

2. CEU Audits

Mr. Lavery informed the Board that DPH/DHPL would not be undertaking any new IT projects in the foreseeable future due to budgetary constraints. Further, Mr. Lavery stated the Board cannot just pick which company it would like to work with such as GL Solutions but rather DPH/DHPL would need to accept bids from multiple vendors through a RFR. Mr. Lavery stated the OPP (Office of Public Protection) plans on starting random CEU audits in the spring of 2016 but noted an audit of 10% of the approx. 7000 licensed dentists could result in 700 new complaints. Mr. Lavery suggested the Board might need to adopt a new staff action authority policy to efficiently handle the anticipated complaints for non-compliance. Ms. Young noted the Board originally voted to begin auditing hygienists but that project never started due to insufficient resources, i.e. staff. Dr. Samuels noted that more than half of the dentists who come before the Board on pending complaints are found to be deficient in CEUs.

Dr. Samuels suggested hiring an outside vendor to undertake this project might save money and time in the long run. Atty. Leadholm advised the Board a replacement of the current software platform might be required resulting in increased costs. Dr. Samuels suggested using the current software platform if it has the capacity to track CEU compliance; Mr. Lavery agreed and stated that is one facet of this project that is currently under review. Ms. Young suggested OPP change the way it investigates staff assignments, i.e. only ask licensees for proof of the mandatory CEUs. Dr. DiFabio asked if the plan also included hiring new staff; Mr. Lavery replied that is also under consideration.

B. Nominations for Board Chair and Board Secretary

Ms. Young reminded the Board its next election for Board Chair and Board Secretary is scheduled for the December meeting.

Ms. Young informed the Board she received an email from Dr. Keith Batchelder nominating Dr. David Samuels for Board Chair.

Ms. Young informed the Board she received an email from Ms. Lois Sobel nominating Dr. Stephen DuLong for Board Chair and Ms. Jacyn Stultz for Board Secretary.

Dr. Samuels nominated Ms. Ailish Wilkie for Board Secretary; Ms. Wilkie accepted the nomination.

Dr. Ward Cromer nominated Dr. Stephen DuLong for Board Secretary; Dr. DuLong respectfully declined the nomination.

Ms. Young stated she will include the nominated members on the agenda for the December 2015 Board meeting. Dr. Hsu reminded the Board it voted in the past to prohibit voting by absentee ballot; Atty. Leadholm agreed stating the Board voted that if a member wants to vote in the election, then the member must be present at the election. Dr. DuLong asked if it was permissible for a member to participate remotely by phone call in the election; Atty. Leadholm advised the Board it voted to accept remote participation but he would need to check if that approval included elections.

Motion: To not accept absentee ballots for voting in Board elections

Motion Made By: Dr. Ward Cromer

Second: Ms. Kathleen Held

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

C. Pending Investigation Statistics

Dr. DiFabio presented the Board with a chart indicating the pending complaints, staff assignments, etc. Dr. DiFabio noted there has been a 30% increase in the number of complaints filed compared to last year. Dr. Levy asked about the no. of complaints from several years ago; Dr. DiFabio replied that in 2004 approx. 100 complaints were filed each year but now more than 300 complaints are filed per year on average. Dr. DiFabio noted that an increase in the no. of permit applications has resulted in an increase in the no. of complaints. Ms. Wilkie asked if Mr. Lavery was aware of this statistic; Dr. DiFabio replied yes. Ms. Wilkie asked, on average, what is the length of time needed to investigate a complaint; Dr. DiFabio stated that is difficult to answer as it is dependent upon the type of complaint filed but the goal is to present a complaint to the Board within one year.

Ms. Young noted this is a good time to raise the issue of reactivating the Board's complaint committee. Dr. Samuels asked if doing so would save the investigators' time; Dr. DiFabio replied it would noting that currently a staff assignment needs to be brought before the Board for a determination whether to open a formal complaint resulting in noticing the licensee and lengthier investigations. Dr. DiFabio suggested the complaint committee could handle this decision thereby shortening the investigation and speeding up the resolution of a complaint.

Dr. Cromer asked why the complaint committee ceased to function; Dr. Samuels said he called former Board Chair Dr. Mina Paul for an explanation but she could not remember why it stopped meeting. Ms. Wilkie stated she also doesn't recall why the committee stopped meeting. Mr. Mills noted the committee stopped meeting in 2007. Dr. Samuels asked Ms. Young to include this issue in the agenda for the Dec. 2015 meeting.

Dr. DuLong noted the complaint committee must be composed of three Board members and suggested an abbreviated investigative report be prepared for each case to be considered by the committee. Ms. Young suggested scheduling the complaint committee once per quarter. Dr. Hsu asked if licensees would be noticed to appear; Atty. Leadholm advised licensees would be noticed to appear if the case involved a review of patient records.

D. 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 9/30/15 and 10/29/15:

Chantal Scimemi	Dental Assistant (OJT)	DA06150
Max Corona	Dental Assistant (OJT)	DA06151
Ceri Santos	Dental Assistant (OJT)	DA06152
Brittany Scanlon	Dental Assistant (CA)	DA06219
Kerry Whalen	Dental Assistant (OJT)	DA06402
George Barjolo	Dental Assistant (FTDA)	DA06460

Dr. DuLong asked how the renewal process was proceeding for dental assistant licenses; Ms. Young replied that 888 dental assistant licenses expired on 10/31/15.

E. Staff Action Policy: Out-of-State Discipline When Mass. License Has Expired

Atty. Leadholm advised the Board that Board staff receives reports from the National Practitioner Data Bank (NPDB) each month on discipline by other state licensing boards. Atty. Leadholm stated he is seeking guidance on what to do with those reports when the Massachusetts license is expired and provided a proposed staff action policy for the Board's consideration.

Atty. Leadholm advised the Board 234 CMR 9.05 states the Board can still discipline a licensee even if the licensee's license is expired.

Motion: To Adopt the Proposed Staff Action Policy: Reports of Out-of-State Discipline Related to Licensees with Expired Licenses, Licensure Policy 15-__

Motion Made By: Dr. John Hsu

Second: Dr. Stephen DuLong

Vote: Unanimous

F. Review of Proposed Changes to 234 CMR 2.00

Atty. Leadholm submitted the proposed changes to 234 CMR 2.00 to the Board noting that this section may need to be revised again when the regulatory review workgroup's review of 234 CMR 6.00 and/or 7.00 are completed.

Motion: To approve 234 CMR 2.00 as amended

Motion Made By: Dr. John Hsu

Second: Dr. Stephen DuLong

Dr. DiFabio asked if "dental services" was included in the definition of Mass. Health; Atty. Leadholm replied it was not as the Mass. Health definition of medical services includes dental services. Dr. Samuels suggested adding "dental services" anyway; Atty. Leadholm advised the Board it should adopt the definition as it has been defined by Mass. Health.

Vote: Unanimous

Motion: To refer the proposed changes to 234 CMR 2.00 to the Executive Office of Health and Human Services for approval

Motion Made By: Dr. John Hsu
Second: Ms. Ailish Wilkie
Vote: Unanimous
Motion: **To schedule the proposed changes to 234 CMR 2.00 for public hearing if approved by the Executive Office of Health and Human Services**

Motion Made By: Dr. John Hsu
Second: Ms. Ailish Wilkie
Vote: Unanimous

G. Flex Session

1. Ms. Held asked if a dentist could earn CEUs for acting as a preceptor for dental students in the same manner as a dentist earns CEUs for teaching. Ms. Held noted dentists have supervised dental students overseas and suggested dentists should earn CEUs for this work. Ms. Young noted 234 CMR 8.00 is silent as to work undertaken by dentists and/or dental students overseas. Atty. Leadholm advised the Board that there is a category in 8.00 that approves CEU credit for pro bono services offered by licensees. Mr. Mills stated that is correct but noted the licensee must provide those services within Massachusetts. Dr. Samuels asked if a dentist who supervises dental students within Massachusetts in underserved areas would also be entitled to receive CEU credits; Mr. Mills replied yes. Dr. DuLong suggested that if a dentist is teaching dental students outside Massachusetts, including overseas, then the dentist should be able to earn CEUs for that work. Dr. Samuels suggested the regulatory review workgroup will review this CEU issue when it tackles 234 CMR 8.00.

2. Ms. Wilkie asked if any Board member had received a phone call, as she had, from someone who was soliciting feedback on dental coverage throughout Massachusetts. Dr. Samuels replied no one was to his knowledge. Ms. Young suggested Ms. Wilkie consider changing her home phone no.

3. Dr. Cromer asked what happened to the licensure application from two months ago that the Board deferred; Ms. Young replied that matter will likely be scheduled for the Dec. board meeting.

4. Dr. Samuels noted he provided statistics from Board staff at a recent meeting of MDS dentists but noted the no. of permits has increased by the power point presentation he used did not reflect this increase. Ms. Young apologized noting she provided the data to Dr. Samuels and had likely underestimated the no. of active permits.

5. Ms. Young reminded the Board members she is waiting for each of their certificates indicating completion of the mandatory ethics training. Ms. Young asked each Board member to send her a copy of their certificate, if they haven't already done so, by Nov. 30, 2015.

6. Ms. Young informed the Board the anticipated start date for inspections of all facilities that hold current facility B permits is January 1, 2016.

7. Ms. Young informed the Board she had received several phone calls from licensees asking about a recent letter from Mass. Health that was sent to all licensed dentists. Ms. Young stated that to her knowledge Mass. Health had yet to promulgate its regulations so it would be premature to require all dentists to provide proof of registration with Mass. Health as a predicate to licensure renewal. Ms. Young stated that if Mass. Health does not complete its regulatory process on or before Jan. 1, 2016, when the portal for online licensure renewal begins, then this requirement will be pushed back to the next renewal cycle in Jan. 2018.

8. Ms. Young informed the Board she attended a press conference at the state house held by Sen. Harriett Chandler, sponsor of the pending bill on advanced practice dental hygienists, on October 27, 2015.

Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of DEN-2014-0015: Dr. Thomas M. Jacoby

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

- Allegation:** Employment of an unlicensed dental hygienist
- Discussion:** Ms. O'Connell noted the licensee employed a dental hygienist whose license had expired. Further, Ms. O'Connell noted the licensee did not take the mandatory infection control and pain management courses for the 2010-2013 licensure cycle but has since completed both courses.
- 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
- Discussion:** Atty. Leadholm asked if the proposed dismissal would also include an advisory on mandatory CEUs.
- Amended Motion:** **To dismiss the formal complaint as no violation found with an advisory letter on employing licensed hygienists and on CEU compliance.**

**Amended Motion
Made By:**

Ms. Ailish Wilkie

Second:

Dr. Stephen DuLong

Vote:

In Favor: Dr. David Samuels; Ms. Ailish Wilkie; Dr. Paul Levy;
Ms. Kathleen Held; Dr. Stephen DuLong; Dr. Ward Cromer;
Dr. John Hsu
Opposed: None
Abstain: None

Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2014-0058: Dr. Paul R. Freedman

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

Allegation:

Infection Control Violations

Discussion:

Ms. Millar informed the Board the licensee did not provide verification of any corrective action regarding infection control violations and did not complete the mandatory CEUs in infection control and pain management for the 2012-2014 licensure cycle.

Dr. DuLong noted he was most concerned about the licensee's practice of keeping all patient records at his home; Ms. Millar stated no patient records were located in the licensee's dental office. Ms. Held questioned what would happen if a patient was seen as an emergency, i.e. how does the licensee access the patient's health history.

Ms. Wilkie asked about the licensee's staff; Ms. Millar stated the license has one OJT dental assistant who has worked for him for 20+ years and he does not employ a hygienist. Ms. Held asked if the licensee lives in the same bldg. as his dental office; Ms. Millar replied she did not know.

Dr. DuLong suggested offering the licensee a consent agreement for stayed probation for 30 days with proof of infection control remediation. Dr. Cromer suggested resolving this matter until the licensee provides proof of remediation. Dr. Samuels suggested a 6 month probationary period is preferable esp. if CEUs were to be included.

Ms. Wilkie noted Ms. Millar has asked the licensee for his response for a year to no avail; Ms. Millar informed the Board she requested documents from the licensee three times.

Dr. DiFabio suggested a re-inspection of the licensee's office might be appropriate. Ms. Young suggested the re-inspection be unannounced.

Motion:

To defer resolution of this matter until after an unannounced re-inspection of the licensee's dental office can be undertaken by OPP.

Motion Made By:

Dr. Ward Cromer

Second:

Dr. John Hsu

Vote:

In Favor: Dr. David Samuels; Dr. Paul Levy; Dr. John Hsu; Ms. Kathleen Held; Dr. Stephen DuLong; Dr. Ward Cromer;
Opposed: Ms. Ailish Wilkie
Abstain: None

Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2014-0030: Dr. George M. Fenzell

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

Allegation: Criminal Activity

Discussion: Ms. Millar informed the Board the licensee was recently convicted of federal tax evasion and incarcerated. Dr. Cromer asked if there was any evidence of an impact on the licensee's dental practice; Ms. Millar replied no. Ms. Wilkie asked why this matter was not heard in executive session; Atty. Leadholm advised the Board the information about the licensee's criminal matter is public information.

Dr. Samuels opined this is an ethics issue for the Board. Atty. Leadholm advised the Board when a licensee renews his/her dental license, the licensee is asked if he/she is compliant with all state tax laws but is silent as to federal tax laws. Atty. Leadholm advised the Board it can offer a consent agreement for a voluntary surrender until all of the criminal matters are resolved and give the licensee the ability to reapply for reinstatement. Further Atty. Leadholm advised the Board there is no requirement a criminal conviction must relate directly to a licensee's dental practice.

Dr. Levy suggested suspending the licensee's license until the licensee is released from incarceration and permitting the licensee to apply for reinstatement once released. Atty. Leadholm advised the Board a voluntary surrender is preferable and the licensee might be more inclined to accept a voluntary surrender over a suspension. Dr. Samuels noted he is undecided as to what to do in this case noting the licensee has no history of complaints.

Motion: **To offer a Consent Agreement for a Voluntary Surrender for the duration of the licensee's incarceration with a provision the licensee may apply to have his license reinstated upon his release from custody.**

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

Motion Made By: Dr. Ward Cromer

Second: Ms. Kathleen Held

Amended Motion: To offer a Consent Agreement for a Voluntary Surrender as previously stated and to place the licensee's license on probation for 3 years after his license is reinstated.

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

Amended Motion Made By: Dr. John Hsu

Second: Dr. Paul Levy

Discussion (cont'd): Dr. Cromer suggested 3 years' probation is too long and recommended a 2 year probationary period. Dr. DuLong asked what would happen if the licensee rejected the offer; Atty. Leadholm advised the Board the matter would then be referred to prosecution.

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

Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2014-0059: Dr. William E. Lenkaitis

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

Allegation: Infection Control Violations

Discussion: Ms. Millar informed the Board the licensee failed to provide verification of corrective action and failed to submit proof of CEU compliance. Ms. Young stated she had spoken to the licensee several times and he reported he had been caring for his sick wife as the reason he did not take any CEU courses.

Motion: To offer a Consent Agreement for a Probation for 6 Months to include the completion of 35 deficient CEUs for the 2013-2015 licensure cycle including mandatory coursework on infection control and pain management.

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

Motion Made By: Dr. John Hsu

Second: Dr. Stephen DuLong

Discussion (cont'd): Atty. Leadholm asked about requiring compliance with a plan of corrective action; Dr. Samuels agreed and suggested the probationary period be extended.

Amended Motion: To offer a Consent Agreement for a Probation for 1 Year to include the completion of 35 deficient CEUs for the 2010-2014 licensure cycle including mandatory coursework on infection control and pain management and proof of the successful completion of a plan of corrective action.

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

Amended Motion Made By: Dr. Ward Cromer

Second: Dr. Stephen DuLong

Discussion (cont'd): Ms. Wilkie suggested adding 3 hours remedial coursework in risk management and ethics. Dr. DuLong asked how many CEUs must the licensee complete by the next expiration date of 3/31/16; Ms. Millar replied 75 CEUs (35 for the 2012-2014 cycle and 40 for the 2014-2016 cycle).

Vote:
In Favor: Dr. John Hsu
Opposed: Dr. David Samuels; Dr. Stephen DuLong;
Dr. Paul Levy; Ms. Ailish Wilkie; Ms. Kathleen Held;
Dr. Ward Cromer
Abstain: None

(Motion Failed)

Motion: To offer a Consent Agreement for a Probation for 1 Year to include the completion of 35 deficient CEUs for the 2010-2014 licensure cycle including mandatory coursework on infection control and pain management, proof of the successful completion of a plan of corrective action, proof of 40 CEUs for the 2014-2016 licensure cycle and to include the following remedial coursework:

- 3 Hours: Ethics
- 3 Hours: Risk Management

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

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

Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2014-0060: Marsha M. Ford, RDH

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

Allegation: Infection Control Violations

Discussion: Ms. Millar informed the Board this hygienist worked part-time at Dr. Lenkaitis' office for 14 years and had not taken the mandatory course on infection control let her CPR/Basic Life Support certification lapse. Dr. Levy noted the licensee was only deficient by 2 CEUs.

Motion: To dismiss the formal complaint as no evidence of violation found with an advisory letter on the regulations regarding mandatory CEU compliance and infection control protocols.

Motion Made By: Dr. Paul Levy

Second: Ms. Ailish Wilkie (withdrawn)

Second: Dr. John Hsu

Discussion (cont'd): Dr. DuLong noted the licensee practiced for 14 years and should be held responsible for the infection control violations.

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

(Motion Failed)

Discussion (cont'd): Dr. DuLong asked if there was any precedent for this situation; Atty. Leadholm advised the Board has offered either stayed probation or probation on other similar cases depending upon the length of employment. Dr. Samuels noted the Board typically holds an employee less culpable than the dentist employer.

Motion: **To offer a Consent Agreement for Stayed Probation for 6 Months.**

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

Motion Made By: Dr. Paul Levy

Second: Ms. Kathleen Held

Amended Motion: **To offer a Consent Agreement for Stayed Probation for 6 Months to include the following remedial coursework:**

- **3 Hours: Risk Management**
- **3 Hours: Ethics**

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

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. Stephen DuLong

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

Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2014-0061: Lynne M. Campion, RDH

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

Allegation: Infection Control Violations

Discussion: Ms. Millar informed the Board this hygienist also worked part-time for Dr. Lenkaitis.

Motion: **To offer a Consent Agreement for Stayed Probation for 6 Months to include the following remedial coursework:**

- **3 Hours: Risk Management**
- **3 Hours: Ethics**

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

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

Motion Made By: Dr. Stephen DuLong

Second: Ms. Ailish Wilkie

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

Complaint Resolution—Investigator Sarah Millar

--In the Matter of DEN-2014-0062: Dr. Charles R. Braga

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

Allegation: Infection Control Violations

Discussion: Ms. Millar informed the Board this licensee, a periodontist, worked one day per month for Dr. Lenkaitis.

Motion: **To dismiss the formal complaint as no evidence of violation found with an advisory letter on the regulations regarding infection control protocols.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Stephen DuLong

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of SA-INV-7790: Dr. Neale Eckstein

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

Allegation: Business Practice Issues

Discussion: Ms. Seeley-Murphy informed the Board there was no evidence the licensee actually treated the patient complainant.

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

Motion Made By: Dr. Ward Cromer

Second: Dr. John Hsu

Discussion (cont'd): Dr. DuLong opined it was very obvious the licensee is using patient information for collection purposes as the licensee is not applying the “red flag rule” appropriately. Dr. DuLong noted licensees are not required to collect patient SSNs or drivers’ license info. Atty. Leadholm asked if the licensee was violating the ADA’s ethical standards regarding patient information. Dr. Samuels opined the licensee’s behavior may not be ethical but it is not a Board issue.

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

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of SA-INV-7949: Dr. Gregory J. Stanley

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

Allegation: Failure to Release Patient Records

Discussion: After the presentation by Ms. Seeley-Murphy, the Board opted not to discuss the matter.

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

Motion Made By: Dr. Stephen DuLong

Second: Dr. Ward Cromer

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

The Board took its morning recess at 10:54 a.m. and resumed the meeting at 11:04 a.m.

Motion: **At 11:05 a.m., to enter a M.G.L. c.112, §65C Session**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. John Hsu

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

Motion: **At 12:10 p.m., to leave the M.G.L. c.112, §65C Session**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Stephen DuLong

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

The Board recessed for lunch at 12:11 p.m. and resumed its meeting at 12:52 p.m.

At 12:53 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 adjourn the meeting for the day.

Motion: **At 12:54 p.m., to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Stephen DuLong

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

Motion: **At 3:13 p.m., to leave Executive Session and to adjourn the meeting**

Motion Made By: Dr. Paul Levy

Second: Dr. John Hsu

Vote:

In Favor: Dr. David Samuels; Dr. Paul Levy;
Ms. Kathleen Held; Dr. Stephen DuLong; Dr. John Hsu

Opposed: None

Abstain: None

Respectfully submitted,

Ms. Ailish Wilkie, Board Secretary

Date