Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Public Health

Bureau of Health Professions Licensure

Board of Registration in Dentistry

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February 2, 2022

MARYLOU SUDDERS

Secretary

MARGRET R. COOKE

Commissioner

CHARLES D. BAKER

Governor

KARYN E. POLITO

Lieutenant Governor

Via WebEx from 250 Washington Street

# Boston, Massachusetts 02108

# **AGENDA**

If you need reasonable accommodations in order to participate in the meeting, contact the DPH ADA Coordinator Kevin Lovaincy, Phone: 617-937-9947, in advance of the meeting. While the Board will do its best to accommodate you, certain accommodations may require distinctive requests or the hiring of outside contractors and may not be available if requested immediately before the meeting.

General Session is open to the public and may be viewed and/or heard via WebEx.

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Access Code: 2533 702 6413 Attendee ID: #

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| Time | # | Item | Exhibits | Contact |
| 8:30 a.m. | **I** | **CALL TO ORDER, DETERMINATION OF QUORUM, AND** APPROVAL OF AGENDA |  |  |
| 8:32 | **II** | **EXECUTIVE SESSION (closed to the public)**The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) for the 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.Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve medical records and information of patients. |  |   |
| 9:30 | **III** | ADMINISTRATIVE MATTERS1. SRTA Update of Statistics for Dental Exams
2. Board Concerns: “Patient First” Legislation
3. Challenge of IELTS Score Requirement: Dr. Fernanda Dante Martinez de Freitas, Applying for Limited Dental Licensure
4. Staff Action Authority GMC Licensure Report
5. Review of General Session Minutes of January 5, 2022
 | Memos, Application, Report, Draft Minutes | B Young |
| 10:15 | **IV** | PROBATION MATTER 1. Probation Monthly Report
 | Report | K Fishman |
| 10:20 | **V** | COMPLAINT RESOLUTION: PENDING BOARD MATTERS1. SA-INV-17144: Dr. John Gentile
2. SA-INV-17145: Dr. John Gentile
3. SA-INV-17774: Dr. John Gentile
4. DEN-2020-0050: Vanessa Figueroa, RDA
5. SA-INV-15614: Dr. David Shulman
6. DEN-2020-0092: Dr. Neide Machado Coutinho
7. DEN-2020-0122: Dr. Virginia Shahinian
 | Investigation Reports, Memos, Attachments | D El-MajdoubiR HeardE Mulligan |
| 11:00 | **VI** | **FLEX SESSION**  |  |  |
| 11:15 | **VII** | **REVIEW OF PROPOSED REGULATIONS:** **234 CMR 2.00, 5.00, 6.00, and 7.00** | Proposed Regulations, Comments Received  | N ErtelB Young |
| 12:45 |  | **ADJOURNMENT** |  |  |

**MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY**

**250 Washington Street, Boston, MA 02108**

**GENERAL SESSION MINUTES**

**February 2, 2022**

**Present:**  Dr. Michael Scialabba, Board Chair; Dr. Thomas Trowbridge, Board Secretary;

Dr. Patricia Wu; Dr. Richard T. Miller, Dr. Seema Jacob; Ms. Jacyn Stultz, RDH; Ms. Stacy Haluch, RDH, Ms. Jennifer McKeon, RDH, CDA; Ms. Ailish Wilkie

**Absent:** None

**Board Staff Present:** Barbara A. Young, RDH, Executive Director; Jeffrey Mills, Asst. Executive Director; Noah Ertel, Esq., Board Counsel; Heather Engman, Esq., Chief Board Counsel; Dr. Liliana DiFabio, Supervisor of Investigations; OPP Investigators Kathleen O’Connell, Deborah El-Majdoubi, Rhonda Heard and Eileen Mulligan; Probation Department Coordinator Karen Fishman

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| **Motion:** | **At 8:33 a.m., to adopt the proposed agenda for today’s meeting** |
| **Motion Made By:** | Ms. Jacyn Stultz |
| **Second:** | Dr. Richard T. Miller |
| **Vote:** | Unanimous |

*At 8:34 a.m., Dr. Scialabba announced that the Board will meet in a closed session as authorized 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 first 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 the treatment of patients. The 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 its General Session before adjourning the meeting for the day.*

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| **Motion:** | **At 8:35 a.m., to enter an Executive Session pursuant to** **M.G.L. c. 30A, §21(a)(1)** |
| **Motion Made By:** | Ms. Jacyn Stultz |
| **Second:** | Dr. Thomas Trowbridge |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Richard T. Miller, Dr. Patricia Wu, Dr. Seema Jacob, Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**Opposed:** None**Abstain:** None |

 *Ms. Ailish Wilkie joined the meeting at 8:52 a.m.*

*The Board took its morning recess at 10:08 a.m. and resumed its meeting at 10:18 a.m.*

**Administrative Matters:**

 **1. Review of the Good Moral Character Staff Action Report**

Ms. Young submitted her report for those initial licensure applications approved between 1/5/22 and 2/2/22 pursuant to BORID Staff Action Policy 14-01. The Board had no questions for Ms. Young.

**2. Review of the General Session Minutes of the Board Meeting on January 5, 2022**

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| **Motion:** | **To approve the General Session Minutes of the January 5, 2022, Board meeting** |
| **Motion Made By:** | Dr. Michael Scialabba |
| **Second:** | Dr. Richard T. Miller |
| **Vote:**  | **In Favor:** Dr. Michael Scialabba, Dr. Patricia Wu, Dr. Richard T. Miller, Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**Opposed:** None**Abstain:** Dr. Thomas Trowbridge, Ms. Ailish Wilkie*(Dr. Seema Jacob was not present for the vote of the Board.)* |

**Complaint Resolution – Investigator Eileen Mulligan**

**--In the Matter of SA-INV-17144: Dr. John J. Gentile**

*Dr. Richard T. Miller and Ms. Stacy Haluch recused themselves from the discussion and vote of the Board on SA-INV-17144: Dr. John J. Gentile.*

*The licensee and Thomas Bright, Esq. was present, via WebEx, for the discussion and vote of the Board on this matter. The licensee answered all questions as appropriate.*

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| **Issue:** | Unable to obtain records |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. Mulligan informed the Board the patient complainant was unable to contact the licensee to request copies of her records as the licensee had closed his practice. Ms. Mulligan noted the licensee informed all of his patients in July 2020 that he would be moving to a new practice location but the patient was still unable to reach the licensee at the new location as the licensee didn’t actually join the new practice until several months later. Ms. Mulligan noted the records were eventually released to the patient. Dr. Wu asked if the patient is satisfied, the licensee replied she is.  |
| **Motion:** | **To not open a formal complaint as no evidence of violation found.** |
| **Motion Made By:** | Dr. Patricia Wu |
| **Second:** | Ms. Ailish Wilkie |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Patricia Wu, Dr. Seema Jacob, Ms. Jennifer McKeon, Ms. Ailish Wilkie**Opposed:** None**Abstain:** None |

*(Ms. Jacyn Stultz was not present for the vote of the Board.)*

**Complaint Resolution – Investigator Eileen Mulligan**

**--In the Matter of SA-INV-17145: Dr. John J. Gentile**

*Dr. Richard T. Miller and Ms. Stacy Haluch recused themselves from the discussion and vote of the Board on SA-INV-17145: Dr. John J. Gentile.*

*The licensee and Thomas Bright, Esq. was present, via WebEx, for the discussion and vote of the Board on this matter. The licensee answered all questions as appropriate.*

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| **Issue:** | Unable to obtain records |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. Mulligan informed the Board this patient complainant, husband of the patient complainant in the last matter, was also unable to contact the licensee to request copies of his records as the licensee had closed his practice. Ms. Mulligan noted the patient eventually received copies of his records from the licensee. |
| **Motion:** | **To not open a formal complaint as no evidence of violation found.** |
| **Motion Made By:** | Ms. Ailish Wilkie |
| **Second:** | Dr. Patricia Wu |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Patricia Wu, Dr. Seema Jacob, Ms. Jennifer McKeon, Ms. Jacyn Stultz, Ms. Ailish Wilkie**Opposed:** None**Abstain:** None |

**Complaint Resolution – Investigator Eileen Mulligan**

**--In the Matter of SA-INV-17774: Dr. John J. Gentile**

*Dr. Richard T. Miller and Ms. Stacy Haluch recused themselves from the discussion and vote of the Board on SA-INV-17774: Dr. John J. Gentile.*

*The licensee and Thomas Bright, Esq. was present, via WebEx, for the discussion and vote of the Board on this matter. The licensee answered all questions as appropriate.*

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| **Issue:** | Unable to obtain records |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. Mulligan informed the Board this patient complainant, son of the previous two complainants, was also unable to contact the licensee to request copies of his records as the licensee had closed his practice. Ms. Mulligan noted the patient eventually received copies of his records from the licensee. |
| **Motion:** | **To not open a formal complaint as no evidence of violation found.** |
| **Motion Made By:** | Ms. Ailish Wilkie |
| **Second:** | Dr. Patricia Wu |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Patricia Wu, Dr. Seema Jacob, Ms. Jennifer McKeon, Ms. Jacyn Stultz, Ms. Ailish Wilkie**Opposed:** None**Abstain:** None |

**Complaint Resolution – Investigator Deborah El-Majdoubi**

**--In the Matter of DEN-2020-0050: Vanessa Figueroa, RDA**

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

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| **Issue:** | Unlicensed practice by a dental assistant |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. El-Majdoubi noted the licensee is alleged to have practiced on an expired license from 11/1/17 to 2/14/20 but the licensee denies the allegations. However Ms. El-Majdoubi noted the licensee’s dentist employer confirms the licensee worked one day per week as a dental assistant from 11/1/17 to Sept. 2018. Ms. El-Majdoubi indicated the dentist employer provided copies of the licensee’s payroll records that confirmed the licensee’s employment during this time period. Further Ms. El-Majdoubi noted the licensee admitted she practiced after Sept. 2018 and her new dentist employer states she did not practice as a dental assistant until her license was reinstated in February 2020. Ms. El-Majdoubi also noted the licensee was deficient CEUs for the 2015-2017 licensure cycle.  |
| **Motion:** | **To offer a Consent Agreement for Stayed Probation for 6 Months to include the completion of the following remedial coursework:*** **3 Hours: Ethics**
* **1 Hour: Risk Management**
* **Stayed probation period may be terminated early by the licensee upon evidence of the successful completion of the coursework and ethics/jurisprudence exam as stated.**

**If this agreement is not accepted by the licensee, the matter will be referred to prosecution.** |
| **Motion Made By:** | Dr. Thomas Trowbridge |
| **Second:** | Ms. Jacyn Stultz  |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Patricia Wu, Dr. Seema Jacob, Dr. Richard T. Miller, Ms. Jennifer McKeon, Ms. Jacyn Stultz, Ms. Stacy Haluch, Ms. Ailish Wilkie**Opposed:** None**Abstain:** None |

**Complaint Resolution – Investigator Deborah El-Majdoubi**

**--In the Matter of SA-INV-15614: Dr. David Shulman**

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

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| **Issue:** | Violation of general practice standards (failure to maintain a MCSR) |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. El-Majdoubi noted the licensee’s MCSR was discovered to have expired during an inspection of the licensee’s office as part of an application for a facility permit. However Ms. El-Majdoubi noted the licensee had retired from active clinical practice, in dentistry, in December 1999 but had continued to work at this practice as a dental hygienist. Ms. El-Majdoubi noted the licensee’s dental license has since expired. Dr. Scialabba asked if the licensee had a valid DEA registration; Ms. El-Majdoubi replied she did not know but Dr. Trowbridge noted the licensee indicated he did not in his response to this complaint. Dr. Trowbridge asked what is meant by the licensee stating he only does prophys; Dr. Wu agreed noting the licensee is licensed as a dentist.  |
| **Motion:** | **To not open a formal complaint as no evidence of violation found with an advisory letter on the continuing education requirements.** |
| **Motion Made By:** | Dr. Thomas Trowbridge |
| **Second:** | Dr. Michael Scialabba |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Richard T. Miller, Ms. Stacy Haluch, Ms. Jennifer McKeon**,** Ms. Ailish Wilkie**Opposed:** Dr. Patricia Wu**Abstain:** Dr. Seema Jacob, Ms. Jacyn Stultz |

**Complaint Resolution – Investigator Rhonda Heard**

**--In the Matter of DEN-2020-0092: Dr. Neide Machado Coutinho**

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

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| **Issue:** | Employment of an unlicensed dental assistant |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. Heard informed the Board the licensee is alleged to have employed a dental assistant who practiced on an expired license from 11/1/19 to May 2020 but noted the licensee denies the allegation and provided copies of her employment records that indicate the dental assistant at issue stopped working for the licensee in March 2018. Ms. Heard did not the licensee failed to compete the mandatory infection control course during the 2018-2020 licensure cycle but completed an acceptable course in July 2021. |
| **Motion:** | **To dismiss the complaint as no evidence of violation found with an advisory letter on the continuing education requirements.** |
| **Motion Made By:** | Dr. Thomas Trowbridge |
| **Second:** | Dr. Richard T. Miller |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Richard T. Miller, Dr. Seema Jacob, Dr. Patricia Wu,Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**,** Ms. Ailish Wilkie**Opposed:** None**Abstain:** None |

**Complaint Resolution – Investigator Rhonda Heard**

**--In the Matter of DEN-2020-0122: Dr. Virginia Shahinian**

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

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| **Issue:** | Employment of an unlicensed dental assistant |
| **Materials Reviewed:** | Investigative report with attachments |
| **Discussion:**  | Ms. Heard informed the Board the licensee is alleged to have employed a dental assistant who practiced on an expired license from 11/1/18 to November 2019 but noted the licensee denies the allegation as the dental assistant at issue only worked for the licensee for three months from Sept. to December 2018. Ms. Heard noted the licensee eventually rehired this dental assistant in May 2020 after the dental assistant’s license had been reactivated. |
| **Motion:** | **To dismiss the complaint as no evidence of violation found.** |
| **Motion Made By:** | Dr. Thomas Trowbridge |
| **Second:** | Dr. Michael Scialabba |
| Vote: | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Richard T. Miller, Dr. Seema Jacob, Dr. Patricia Wu,Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**,** Ms. Ailish Wilkie**Opposed:** None**Abstain:** None |

**Administrative Matters (cont’d):**

**3. Probation Dept. Monthly Report**

 Mr. Mills submitted the monthly probation report for the period of 12/28/21 to 1/26/22 on behalf of Probation Dept Coordinator Ms. Karen Fishman. The Board had no questions for Mr. Mills or Ms. Fishman.

**4. “Patients First” Legislation – MGL c. 111, s. 228**

 Dr. Trowbridge noted that on Jan. 3rd or 4th, all dentists received notice from DPH regarding this new legislation and that the Mass. Dental Society is concerned about the impact of this legislation on dentists. Dr. Trowbridge noted the biggest question is are dentists actually included in the group of healthcare providers that must follow these directives. Ms. Young replied it appears dentists are included as evidenced by the specific mention of dentists in the legislation and the notice for patients. Atty. Ertel advised the Board the governing authority is the statute itself and not memos drafted by DPH. Atty. Ertel noted the legislation does specifically reference dentists. Ms. Young agreed and noted there is no limitation on practice locations, i.e. this legislation applies to all dentists regardless of where they practice. Dr. Trowbridge agreed and asked if the Board is to be the agency charged with enforcing these requirements. Atty. Engman replied the Board would assess monetary fines for violations and stated she, Atty. Ertel, Ms. Young and Board staff will draft a guidance document for the Board’s consideration.

 Dr. Wu noted there is no way for a dentist to know what another dentist charges for services rendered; Dr. Trowbridge agreed but noted that information is not actually required by this legislation. Dr. Jacob asked if someone within DPH would be willing to talk to the Board. Dr. Wu asked if the effective date could be deferred until the Board gets clarification; Ms. Young replied that is not possible as the effective date is 1/1/22. Atty. Ertel advised the Board DPH already held a public comment period and the governor’s office is not likely to change the requirements as the legislation is now law. Dr. Scialabba opined dental insurance is not a health plan but rather a dental benefit noting that dental insurance co.’s are not monitored by the insurance commissioner except for Delta Dental.

**5. Reconsideration of Approval of the Southern Regional Testing Agency**

**(SRTA) Manikin-Based Clinical Competency Exam for Dentists and Dental Hygienists**

*No representative on behalf of SRTA was present for the Board’s discussion.*

 Dr. Scialabba noted SRTA’s statistics on passing rates of their manikin-based exam vs. the patient-based dental exam is only 10%; Ms. Young agreed and asked if that 10% difference is significant. Dr. Scialabba replied it is noting that if an applicant opted to take the manikin-based exam, the applicant had a higher chance of passing the exam. Atty. Ertel asked if there could be another explanation; Ms. Stultz replied there could be noting the Board has no idea about SRTA’s sample size. Dr. Scialabba suggested the Board consider not accepting the SRTA exam at all as only 83% of test takers passed the posterior restoration section. Atty. Ertel asked if the concern is with the quality of the SRTA; Dr. Scialabba replied an 82% vs. 100% passing rate is not the same.

 The Board members agreed to defer the consideration of this matter until the next Board meeting on Wednesday, March 2nd so that representatives from SRTA may participate.

**6. Request for Waiver of Passing Score of “90” or higher on the TOEFL exam –**

**by Executive Director Barbara A. Young, RDH**

**In Re: Dr. Fernanda Dante Martinez de Freitas**

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

 Ms. Young noted the applicant for initial licensure as a limited license dental intern has scored an overall band score of “8.0” on the TOEFL Essentials exam and is requesting the Board accept her score in lieu of the required score of “90” or higher on the TOEFL iBT exam. Ms. Young noted the Board has accepted TOEFL iBT scores of “88” and “89” in the past, a more rigorous exam than the TOEFL Essentials exam, and has yet to accept the TOEFL Essentials exam.

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| **Motion:** | **To not accept the applicant’s score of “8.0” on the TOEFL Essentials exam in lieu of the required score of “90” or higher on the TOEFL iBT exam.** |
| **Motion Made By:** | Ms. Jacyn Stultz |
| **Second:** | Ms. Stacy Haluch |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Richard T. Miller, Dr. Seema Jacob, Dr. Patricia Wu,Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**,** **Opposed:** None**Abstain:** None*(Ms. Ailish Wilkie was not present for the Board’s vote.)* |

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**Flex Session:**

1.Ms. Young noted the two courses scheduled to be offered by the Board at the Yankee Dental Congress on Saturday, January 29th were cancelled due to the storm and suggested the Board consider offering a webinar at a later date to the Mass. Dental Society. Dr. Trowbridge replied he thought that was a great idea and would follow up with the MDS. Ms. Young noted that if the MDS decides to offer webinars, the courses will likely be at night.

2. Dr. Trowbridge asked if any decisions have been made about returning to in-person Board meetings. Ms. Young replied yes noting the governor’s order extending the use of virtual meetings instead of in-person meetings as required by the Open Meeting Law is scheduled to end in late April 2022. However Ms. Young noted the logistics of returning to in-person meetings is problematic now that we have moved our entire office to 250 Washington Street and meeting space is at a premium.

*The Board members recessed for lunch at 12:00 p.m. and resumed the meeting at 12:22 p.m.*

**Administrative Matters (cont’d):**

**7. Proposed amendments to 234 CMR 2.00, 5.00, 6.00 and 7.00**

 Dr. Trowbridge asked how the Board should handle the public comments submitted; Ms. Young suggested reviewing each comment to see if the Board should adopt the recommendations or not.

**A. 234 CMR 2.00**

 Dr. Trowbridge noted dental assistants only assist and should not screen patients; Ms. Stultz agreed esp. with regards to on the job trained (OJT) dental assistants. Mr. Mills noted the definitions refer to two different types: auxiliaries are dental hygienists (DHs) and dental assistants (DAs) but the definition of screen does not mention which auxiliary. Dr. Trowbridge noted the definition of a dental screen is included in 2.00 but is not listed in the delegable duties chart in 5.00. Ms. Stultz asked about the crossed out sections with regards to public health dental hygienists (PHDHs). Mr. Mills replied the definition of PHDH has shifted to another section in the regulations. Ms. Young asked what the next step is; Atty. Engman replied the Board should vote to accept the proposed regulations as stated and to refer the regulations for further administrative review. But Ms. Young asked if that process has already been completed; Atty. Engman replied not yet noting that process must be completed after the Board considers the public comments.

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| **Motion:** | **To accept the proposed changes to 234 CMR 2.00 as stated and to refer 234 CMR 2.00 for further administrative review.** |
| **Motion Made By:** | Dr. Thomas Trowbridge |
| **Second:** | Ms. Stacy Haluch |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Thomas Trowbridge, Dr. Richard T. Miller, Dr. Seema Jacob, Dr. Patricia Wu,Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**,** **Opposed:** None**Abstain:** None*(Ms. Ailish Wilkie was not present for the Board’s vote.)* |

**B. 234 CMR 5.00**

 Ms. Young noted the expansion of the delegable duties chart is the biggest change to this section of 234 CMR. Dr. Scialabba suggested there is no way to confirm an individual’s radiation health and safety training (RHS) if that training occurs at a non-CODA accredited program. Ms. Stultz asked if these proposed changes conflict with the radiation control program’s requirements; Ms. Young replied there is no conflict. Mr. Mills asked if dental assistants (DAs) who have practiced for more than 10 yrs. should be grandfathered in; Ms. Young replied no as there have been significant technical changes in the last few years. Drs. Scialabba and Trowbridge agreed. Mr. Mills asked what percentage of a dentist’s practice, if he/she practices a dental specialty, must be committed to that practice; Ms. Young noted the workgroup that drafted these proposed changes also struggled with that issue. Atty. Ertel advised the Board the governing issue is not the % of practice a dentist dedicates to that specialty but rather whether the dentist holds a specialty; Dr. Scialabba agreed noting there is yet to be a board-recognized specialty in implants.

 Mr. Mills asked if a licensee’s name tag must list the licensee’s first and last name; Ms. Stultz replied there is confusion in dental offices right now as to what is required. Dr. Miller indicated some individuals in his practice are concerned they will be stalked in social media if they are required to list their first and last names on a name tag but Ms. Young noted an individual is likely to be stalked in they participate in social media. Atty. Ertel noted the public has the right to know their treatment provider’s name. Dr. Trowbridge opined the focus should be on what the individual does and not on the name of the individual. Dr. Trowbridge asked if BORIM has a similar requirement; Atty. Engman replied medical professionals are required to wear an ID that contains a photo and the individual’s full name. Dr. Wu noted that dental offices are already required to keep copies of everyone’s license on site so the public may learn the full name of an employee.

234 CMR 5.05(3) – the Board agreed to change the wording to “name as listed on license, professional title and function.”

234 CMR 5.06(1) – Mr. Mills asked if “most recent CDC Guidelines” should be changed but Dr. Trowbridge remembers former Board Counsel Sam Leadholm informing the Board that open ended references are not acceptable.

234 CMR 5.09(1) – a public comment suggested removing the term “in nature” but Ms. Young and Atty. Engman replied that term should stay as it is a qualifier for the section.

234 CMR 5.09(3) – a public comment suggested the regulation should include a definition of didactic and hands on for qualification to practice as a PHDH. Ms. Young noted this is not included in the statute, MGL c. 112, s. 51 but Mr. Mills noted definitions are included in 234 CMR 7.00.

234 CMR 5.10 – a public comment expressed concern about the costs to PHDHs for obtaining an individual permit. But Ms. Young noted she and former Board counsel met with representatives of the Mass. Dental Hygiene Association several years ago to explain the Board does not and will not require each PHDH to purchase their own equipment and that equipment sharing is acceptable.

234 CMR 5.11 – a public comment suggested removing the option of licensure as an expanded functions dental assistant (EFDA) but Ms. Stultz noted this is currently not an issue as the Board has decided to form a workgroup to revisit the requirements for EFDA licensure.

234 CMR 5.13 – a public comment suggested OJT dental assistants be prohibited from reviewing patients’ medical histories but Dr. Scialabba noted he did just that when he worked as a nurse’s aide in a hospital ER. Dr. Scialabba also noted the dentist employer is responsible for the OJT dental assistant’s practice in reviewing medical histories. Mr. Mills asked if PHDHs do brush biopsies and use lasers; Ms. Stultz replied hygienists have been trained to do so. But Mr. Mills asked who trained the hygienists; Ms. Stultz replied hygienists have been using low frequency lasers to disinfect pockets prior to scaling/root planning for years. But Ms. Young noted that if the Board changes this regulation, that change will negate the Board’s current policy on the use of lasers by dentists and hygienists. Ms. Haluch noted a PHDH can do a brush biopsy and user a laser if the written collaborative agreement includes one or both procedures.

234 CMR 5.14(3) – a public comment suggested hygienists should be prohibited from administering vaccines but Ms. Young noted that issue has already been addressed, and approved, by the Board.

234 CMR 5.15 – Dr. Scialabba asked if the term “scan” should be added to what composes a patient’s record. Ms. Stultz noted the issue is adding scans for impressions to the delegable duties chart for hygienists and assistants. But Ms. Young noted 5.13 expressly prohibits hygienists and assistants from taking final impressions. Ms. Stultz noted a dental assistant can scan a patient’s mouth if the dentist approves. Dr. Scialabba agreed but suggested using the term “digital imaging” instead of “scan.” The Board agreed to add “digital impressions under the direct supervision of a dentist” to the delegable duties chart for hygienists, PHDHs and assistants and to add this task as a new task in the chart.

234 CMR 5.20(1) and (2)(a) – a public comment suggested removing the term “dental auxiliary” and adding “PHDH” as that is how it is listed in 5.20(1) but Dr. Scialabba noted the term dental auxiliary already includes hygienists and PHDHs. Dr. Scialabba suggested adding it to 2.00 but Mr. Mills replied that is not a good idea as a PHDH is not a license type. The Board agreed to strike “PHDH’ from 5.20(1) and to add “dental auxiliary.”

*Dr. Thomas Trowbridge left the meeting for the day at 2:00 p.m.*

*Dr. Seema Jacob left the meeting for the day at 2:09 p.m.*

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| **Motion:** | **To accept the proposed changes to 234 CMR 5.00 as stated and to refer 234 CMR 5.00 for further administrative review.** |
| **Motion Made By:** | Dr. Michael Scialabba |
| **Second:** | Ms. Stacy Haluch |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Richard T. Miller, Dr. Patricia Wu, Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**,** **Opposed:** None**Abstain:** None*(Ms. Ailish Wilkie, Dr. Thomas Trowbridge and Dr. Seema Jacob were not present for the Board’s vote.)* |

*Due to the lateness of the hour, the Board decided to defer its consideration of 234 CMR 6.00 ad 7.00 until its next meeting on Wednesday, March 2, 2022.*

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| **Motion:** | **At 2:22 p.m. to adjourn the meeting** |
| **Motion Made By:** | Ms. Stacy Haluch |
| **Second:** | Dr. Michael Scialabba |
| **Vote:** | **In Favor:** Dr. Michael Scialabba, Dr. Richard T. Miller, Dr. Patricia Wu, Ms. Stacy Haluch, Ms. Jacyn Stultz, Ms. Jennifer McKeon**,** **Opposed:** None**Abstain:** None*(Ms. Ailish Wilkie, Dr. Thomas Trowbridge and Dr. Seema Jacob were not present for the Board’s vote.)* |

Respectfully submitted,

Barbara A. Young, RDH

Executive Director

Date: February 28, 2022