

COMMONWEALTH OF MASSACHUSETTS

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

July 6, 2016
239 Causeway Street ~ Room 417 A&B
Boston, Massachusetts 02114

AGENDA

Time	#	Item	Exhibits	Contact
8:30 a.m.	I	CALL TO ORDER, DETERMINATION OF QUORUM, AND APPROVAL OF AGENDA		
8:32	II	M.G.L.c.112, §65C SESSION (closed to the public)		
9:15	III	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 an individual with respect to the Good Moral Character requirement for initial licensure. Specifically, the Board will discuss and evaluate licensees' petitions for waiver of continuing education and for reinstatement of licensure. Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients.		
11:00	IV	PETITIONS FOR REINSTATEMENT OF LICENSURE 1. DEN-2012-0027: Dr. Brian Mangano 2. DEN-2010-0066: Dr. Keith Salvatori	Memos	S. Leadholm

11:15	V	COMPLAINT RESOLUTION—PENDING BOARD MATTERS <ol style="list-style-type: none"> DEN-2015-0036: Dr. Kevin Guze DEN-2015-0037: Dr. Daria Hornung DEN-2015-0038: Dr. Helen Bishara DEN-2015-0039: Dr. William Murthy DEN-2015-0040: Dr. Avraham Shainhouse DEN-2015-0041: Anna Drewniak, RDH DEN-2015-0042: Valentina Hinova, RDH DEN-2015-0140: Dr. Robert Viventi DEN-2015-0100: Dr. Brian Thomas DEN-2016-0002: Dr. Richard Thomas DEN-2016-0003: Dr. Kevin Thomas 	Investigation Reports	D. Taylor, L. Seeley-Murphy E. Mulligan
1:00 p.m.	VI	REVIEW OF MINUTES OF JUNE 1, 2016 COMPLAINT COMMITTEE MEETING—GENERAL SESSION	Draft Minutes	B. Young
1:10	VII	ADMINISTRATIVE MATTERS <ol style="list-style-type: none"> Steering Committee Meeting of CDCA GMC Licensure Report Probation Monitor Report Audit Inspection Report/Possible Board Action Staff Action Policy—Malpractice/Licensing Revised Staff Action Policy—Unlicensed Practice Complaint Committee Memo Opioid Prescribing Education—Update Regulatory Review Update Legislative Update—Advanced Practice DH Letter to Attorney General's Office 	Memos, Minutes	S. DuLong, L. Sobel, J. Stultz, B. Young, L. DiFabio, S. Leadholm, K. Batchelder
2:45	VIII	FLEX SESSION		
3:00		ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
July 6, 2016

Present: Dr. Stephen DuLong, Board Chair; Ms. Ailish Wilkie, Board Secretary; Dr. Paul Levy; Ms. Lois Sobel, RDH; Dr. Patricia Wu; Ms. Jacyn Stultz, RDH; Dr. Keith Batchelder; Dr. Cynthia Stevens; Ms. Kathleen Held

Absent: Dr. John Hsu; Dr. Ward Cromer

Board Staff Present: Barbara A. Young, Executive Director; Samuel Leadholm, Esq., Board Counsel; Dr. Liliana DiFabio, Supervisor of Investigations; Chief Prosecuting Attorney Jodi Greenburg; OPP Investigators Sarah Millar, Eileen Mulligan, Kathleen O'Connell, Lisa Seeley-Murphy, Danielle Taylor and Barbara Yates.

Ms. Ailish Wilkie arrived for the meeting at 10:07 a.m.

Motion: At 8:30 a.m., to commence the meeting and to adopt the proposed agenda for today's meeting.

Motion Made By: Ms. Lois Sobel

Second: Dr. Cynthia Stevens

Vote: Unanimous

Dr. DuLong welcomed the newest Board member Dr. Patricia Wu and asked her to introduce herself to the Board. Dr. Wu stated she was honored to become a part of the Board noting she is a general dentist who practices dentistry in Malden, MA.

Motion: At 8:33 a.m., to enter a M.G.L. c.112, §65C Session

Motion Made By: Ms. Lois Sobel

Second: Dr. Cynthia Stevens

Vote: Unanimous

At 8:50 a.m., Dr. DuLong 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. 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 before adjourning the meeting for the day.

Motion: At 8:51 a.m., to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)

Motion Made By: Dr. Cynthia Stevens

Second: Ms. Lois Sobel

Vote: Unanimous

The Board took its morning recess at 9:55 a.m. and resumed the meeting at 10:04 a.m.

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0027: Dr. Brian Mangano

Request for Reinstatement after Suspension

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

Discussion: On behalf of Ms. Fishman, Ms. Young informed the Board the licensee has successfully completed all terms of his Consent Agreement and is eligible for reinstatement as of August 1, 2016.

Ms. Stultz suggested another inspection of the licensee's office be conducted prior to reinstating the licensee's license to practice. Ms. Young asked the Board if it would grant her the authority to determine if the licensee is in compliance after the inspection is completed.

Motion: To reinstate the licensee's license effective August 1, 2016

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

Complaint Resolution – Board Counsel Samuel Leadholm, Esq.

--In the Matter of DEN-2010-0066: Dr. Keith Salvatori

Petition for Reinstatement

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

Discussion: Atty. Leadholm advised the Board the licensee has complied with all terms of his consent agreement and is requesting his license be reinstated.

Motion: **To reinstate the licensee's license effective August 1, 2016**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Cynthia Stevens

Discussion (cont'd): Ms. Wilkie asked if the licensee had any complaints pending in other states; Atty. Leadholm replied the other states acted after Mass. reported its sanction to the National Practitioner's Data Bank.

Vote: Unanimous

Complaint Resolution – Investigator Danielle Taylor

--In the Matter of DEN-2015-0036: Dr. Kevin A. Guze

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

Allegation(s): Infection Control and Regulatory Violations

Discussion: Ms. Taylor informed the Board this licensee is a periodontist and the owner of a large group practice. Ms. Sobel asked if the licensee moved the sinks into each operatory during the office renovations; Ms. Taylor replied no. Dr. Levy asked if the licensee used hand sanitizers; Ms. Taylor replied yes.

Dr. Batchelder noted the practice owner is responsible for ensuring staff completes the requisite CEUs but Ms. Wilkie disagreed.

Motion: **To dismiss the complaint as no evidence of violation found with an advisory letter on the Board's regulations regarding infection control and posting of licenses.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

Discussion (cont'd): Dr. Stevens suggested a difference approach is warranted if the Board compares cases but Ms. Wilkie disagreed noting the sanction is often based upon the egregiousness of the violations.

Vote: Unanimous

Complaint Resolution – Investigator Danielle Taylor

--In the Matter of DEN-2015-0038: Dr. Helen Bishara

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

Allegation(s): Infection Control and Regulatory Violations

Discussion: Ms. Taylor informed the Board this licensee was an associate dentist at the practice owned by Dr. Guze but no longer holds a Mass. dental license.

Ms. Taylor also stated this licensee claimed she only worked temporarily for Dr. Guze. Dr. DuLong noted the licensee took a pharmacy course and believed this course was an acceptable alternative to an effective pain mgmt. course.

Motion: To offer a Consent Agreement for Stayed Probation for 3 Months to include the following required coursework:

- 3 Hours: Safe and Effective Opioid Prescribing and Pain Management

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

Motion Made By: Dr. Keith Batchelder

Second: None

Discussion (cont'd): Ms. Taylor informed the Board the licensee completed an acceptable opioid prescribing/pain mgmt. course in June 2016.

Motion: To dismiss the complaint as no evidence of violation found with an advisory letter on the Board's regulations regarding infection control and posting of licenses.

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Discussion (cont'd): Atty. Leadholm advised the Board it should determine the advisory letter ground for each licensee.

Amended Motion: **To dismiss the complaint as no evidence of violation found with an advisory letter on the Board's regulations regarding 234 CMR 5.15 and 234 CMR 6.15.**

Amended Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

Vote: **In Favor:** Dr. Stephen DuLong, Dr. Keith Batchelder; Dr. Paul Levy; Dr. Patricia Wu; Dr. Cynthia Stevens; Ms. Ailish Wilkie; Ms. Kathleen Held; Ms. Jacyn Stultz
Opposed: Ms. Lois Sobel
Abstain: None

Complaint Resolution – Investigator Danielle Taylor

--In the Matter of DEN-2015-0039: Dr. William U. Murthy

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

Allegation(s): Infection Control and Regulatory Violations

Discussion: Ms. Taylor informed the Board this licensee is an orthodontist at the practice owned by Dr. Guze who only worked 9 days at the practice between January to June 2015.

Motion: **To dismiss the complaint without prejudice as no evidence of violation found.**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Lois Sobel

Vote: Unanimous

Complaint Resolution – Investigator Danielle Taylor

--In the Matter of DEN-2015-0040: Dr. Avraham Y. Shainhouse

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

Allegation(s): Infection Control and Regulatory Violations

Discussion: Ms. Taylor informed the Board this licensee is periodontist at the practice owned by Dr. Guze.

Motion: **To dismiss the complaint as no evidence of violation found with an advisory letter on the Board's regulations regarding 234 CMR 5.15 and 234 CMR 6.15.**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Ailish Wilkie

Vote: Unanimous

Complaint Resolution – Investigator Danielle Taylor

--In the Matter of DEN-2015-0041: Anna M. Drewniak, RDH

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

Allegation(s): Infection Control and Regulatory Violations

Discussion: Ms. Taylor informed the Board this licensee works as a dental hygienist at the practice owned by Dr. Guze and she completed only 6 of the requisite 20 CEUs. However, Ms. Taylor stated the licensee has since completed 23 CEUs online. Ms. Wilkie asked if the licensee is missing 4 CEUs from live course; Ms. Taylor replied yes. Ms. Sobel noted the licensee renewed her license when she was short 14 CEUs.

Motion: **To offer a Consent Agreement for Stayed Probation for 3 Months to include the completion of 4 live CEUs and a recommendation the licensee include proof of the successful completion of all CEUs for the current licensure cycle.**

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

Motion Made By: Dr. Keith Batchelder

Second: Ms. Ailish Wilkie

Vote: Unanimous

Complaint Resolution – Investigator Danielle Taylor

--In the Matter of DEN-2015-0042: Valentina Hinova, RDH

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

Allegation(s): Infection Control and Regulatory Violations

Motion: To offer a Consent Agreement for Stayed Probation for 3 Months to include the completion of 10 live CEUs.

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

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Jacyn Stultz

Vote: **In Favor:** Dr. Stephen DuLong, Dr. Keith Batchelder; Dr. Paul Levy; Dr. Patricia Wu; Dr. Cynthia Stevens; Ms. Ailish Wilkie; Ms. Lois Sobel; Ms. Jacyn Stultz
Opposed: Ms. Kathleen Held
Abstain: None

Complaint Resolution – Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2015-00140: Dr. Robert Viventi

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

Allegation(s): Employment of an Unlicensed Dental Hygienist

Motion: To offer a Consent Agreement for Stayed Probation for 6 Months to include the completion of 12 CEUs including the following mandatory courses:

- Safe and effective opioid prescribing/pain management
- Infection control
- Basic Life Support for Healthcare Providers.

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

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Cynthia Stevens

Vote: Unanimous

Complaint Resolution – Investigator Eileen Mulligan

--In the Matter of DEN-2015-0100: Dr. Brian R. Thomas

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

Allegation(s): Employment of an Unlicensed Dental Hygienist

Motion: To dismiss the formal complaint as no evidence of violation found with an advisory letter on the required course on safe and effective opioid prescribing/pain mgmt. and the regulations regarding practicing while licensed.

Motion Made By: Ms. Lois Sobel

Second: Dr. Cynthia Stevens

Vote: **In Favor:** Dr. Stephen DuLong, Dr. Keith Batchelder; Dr. Paul Levy; Dr. Patricia Wu; Dr. Cynthia Stevens; Ms. Kathleen Held; Ms. Lois Sobel; Ms. Jacyn Stultz
Opposed: Ms. Ailish Wilkie
Abstain: None

Complaint Resolution – Investigator Eileen Mulligan

--In the Matter of DEN-2016-0002: Dr. Richard K. Thomas

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

Allegation(s): Employment of an Unlicensed Dental Hygienist

Motion: To dismiss the formal complaint as no evidence of violation found with an advisory letter on the required course on safe and effective opioid prescribing/pain mgmt. and the regulations regarding practicing while licensed.

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: **In Favor:** Dr. Stephen DuLong, Dr. Keith Batchelder; Dr. Paul Levy; Dr. Patricia Wu; Dr. Cynthia Stevens; Ms. Kathleen Held; Ms. Lois Sobel; Ms. Jacyn Stultz
Opposed: Ms. Ailish Wilkie
Abstain: None

Complaint Resolution – Investigator Eileen Mulligan

--In the Matter of DEN-2016-0003: Dr. Kevin M. Thomas

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

Allegation(s): Employment of an Unlicensed Dental Hygienist

Motion: To dismiss the formal complaint as no evidence of violation found with an advisory letter on the required course on safe and effective opioid prescribing/pain mgmt. and the regulations regarding practicing while licensed.

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: **In Favor:** Dr. Keith Batchelder; Dr. Paul Levy; Dr. Patricia Wu; Dr. Cynthia Stevens; Ms. Kathleen Held; Ms. Lois Sobel; Ms. Jacyn Stultz
Opposed: Ms. Ailish Wilkie
Abstain: Dr. Stephen DuLong

Review of the General Session Minutes of the June 1, 2016, Complaint Committee Meeting

Atty. Leadholm advised the Board it must defer the consideration of the General Session Minutes of the June 1st Complaint Committee meeting as only one of the three Board members (Dr. David Samuels, Dr. John Hsu and Ms. Jacyn Stultz) who participated in the June 1st Complaint Committee meeting is present at today's Board meeting (Ms. Jacyn Stultz) and a majority of the Complaint Committee meeting members must be present to review and to adopt the proposed minutes. Accordingly, the review of the minutes was deferred until the next Board meeting on September 7, 2016.

Administrative Matters:

A. Steering Committee Meeting of the CDCA

Dr. DuLong informed the Board the issue of indemnification of Board members was raised at the last steering committee meeting noting the issue may be resolved by case law as a written explanation from the governor is not likely.

The Board recessed for lunch at 12:05 p.m. and resumed the meeting at 1:02 p.m.

B. Regulatory Review Update – Chief Board Counsel Vita Berg

Atty. Berg informed the Board the administrative review of the proposed changes to 234 CMR 2.00, 4.00, 5.00, 8.00 and 9.00 has been completed by the Executive Office of Administration and Finance. Atty. Berg noted some slight changes were made and the next step is to present the proposed changes to public hearing to receive public comment. Atty. Berg noted the following changes:

a. 234 CMR 2.00

Most grammatical changes made but one substantive change was made to the definition of Mass Health to accurately reflect Mass Health's own definition. Ms. Sobel suggested changing "NERB" to "CDCA" on page 2 but Atty. Berg advised the statement is acceptable as indicated. Atty. Leadholm advised the Board the print highlighted in red has been previously reviewed and approved by the Board and the print highlighted in blue is new changes to be reviewed and approved by the Board. Ms. Stultz noted the American Red Cross standards are acceptable but noted the Board also accepts the American Heart Assoc. standards for basic life support training. Atty. Leadholm noted the two programs are slightly different and suggested adding the American Red Cross to this section.

Atty. Berg also noted "substance abuse disorder" is now termed "substance use disorder" and the changes have been made to reflect this rewording. Atty. Berg further noted a definition of severability has been added.

Motion: To adopt 234 CMR 2.00 as amended

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

b. 234 CMR 4.00

Atty. Berg noted 234 CMR 4.00 has been amended to reflect the statutory changes in M.G.L. c.94C. Mr. Mills suggested page 3 should reflect training in Basic Life Support (BLS) or CPR/AED but Atty. Berg replied that change has already been made.

Atty. Berg also noted the reference to Mass. Health has also been updated to reflect the current definition of Mass. Health. Atty. Leadholm noted the reference to "on probation" as a requirement for reinstatement has been removed as no one applies for reinstatement once probation is successfully completed.

Motion: To adopt 234 CMR 4.00 as amended

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

c. 234 CMR 5.00

Atty. Berg noted the section regarding a patient is an emancipated minor has been removed. Dr. Batchelder asked if this inquiry must be included in treatment records and if it must be asked of every patient. Atty. Berg replied it was removed from (3)(a)(5) and added to (3)(a)(2).

Dr. DiFabio asked if the changes to 5.15(3) will include emergency equipment. Dr. Batchelder noted it would be easier for licensees to comply if it said emergency drug kit and emergency equipment but Atty. Berg advised reworking this section from the beginning is not a good idea. Dr. Batchelder noted it is tough to define what comprises an emergency drug kit so why not stated current emergency medicaments and equipment.

Motion: To adopt 234 CMR 5.00 as amended

Motion Made By: Dr. Keith Batchelder

Second: Dr. Cynthia Stevens

Vote: Unanimous

d. 234 CMR 8.00

Atty. Leadholm noted changes to 8.02(2) were added by the Executive Office of Administration and Finance. Mr. Mills noted the reference to webinar should be removed by 8.05(2) but Atty. Leadholm advised the Board's regulatory review workgroup proposed the changes as indicated and those changes were previously approved by the Board.

Motion: To adopt 234 CMR 8.00 as amended

Motion Made By: Ms. Lois Sobel

Second: Dr. Paul Levy

Vote: Unanimous

e. 234 CMR 9.00

Atty. Berg informed the Board the DHPL used this section as a model for all other boards within DHPL. Atty. Berg asked the Board for guidance on 9.03(1)(H) asking if it should state a licensee will be subject to discipline for failing to comport with CDC/OSHA or should it state

CDC or OSHA. Dr. Batchelder replied the Board has no jurisdiction regarding OSHA violations but Atty. Leadholm noted the Board may discipline a licensee for OSHA violations as long as OSHA has first found a licensee in violation.

Atty. Berg noted 9.04(8) does not change the liability to a third party. Further, Atty. Berg noted 9.06(3) changed to reflect if the board chair or executive director must recuse, then the next most senior is responsible and it adds a 30-day limit. Ms. Wilkie noted 9.06(3)(b) is confusing asking if it means next most senior means the board secretary or next most senior board member. Atty. Berg replied the Board can adopt a policy defining what it means by next most senior member but Dr. Batchelder disagreed stating it should be clearly defined in the regulations. Ms. Wilkie suggested the Board needs to prevent a licensee from challenging an adverse ruling issued by the wrong party on behalf of the Board.

Motion: To adopt 234 CMR 9.00 as amended

Motion Made By: Ms. Lois Sobel

Second: Dr. Cynthia Stevens

Vote: Unanimous (Dr. Batchelder voted no to oppose)

C. GMC Licensure Report - Executive Director Barbara A. Young

Pursuant to BORID Policy 14-01, the following licenses were issued between 6/2/16 and 7/6/16:

Kelli Ann Miller	Dental Hygienist	DH89022	Issued effective 6/6/16
Gayea Rosenbusch	Dental Hygienist	DH89039	Issued effective 6/14/16
Deanna DeJardin	Dental Assistant (EFDA)	DA08199	Issued effective 6/16/16

D. Probation Monthly Report for Period of 5/24/16 to 6/23/16 – Probation Monitor Karen Fishman

On behalf of Ms. Fishman, Ms. Young submitted Ms. Fishman's monthly probation report to the Board.

E. Audit Inspection Report

Dr. DiFabio provided the Board with a spread sheet indicating the results of the audit inspections completed to date by the Office of Public Protection (OPP). Dr. Batchelder noted some licensees took longer to remediate deficiencies found in their respective practices.

Dr. DiFabio noted Dr. Boynton has yet to respond noting he is selling his dental practice due to his medical issues. Ms. O'Connell noted Dr. Boynton let them into inspect his office on their second visit. Ms. Wilkie asked the last time Dr. Boynton saw patients; Ms. O'Connell replied not within the last few months. Dr. Batchelder suggested opening a complaint against Dr. Boynton.

Motion: **To open a formal complaint against Dr. Clancy Boynton for regulatory violations**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: Unanimous

Dr. DiFabio asked if a complaint should also be opened against Dr. Boynton's dental assistant. Ms. Wilkie asked how long the assistant worked for Dr. Boynton; Ms. O'Connell replied twelve years.

Motion: **To open a formal complaint against Dr. Clancy Boynton's dental assistant for regulatory violations**

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Jacyn Stultz

Vote: Unanimous (Ms. Lois Sobel abstained)

Dr. Batchelder also noted serious deficiencies were found during the inspection of Dr. Robert Orenstein's office and suggested opening a complaint against Dr. Orenstein.

Motion: **To open a formal complaint against Dr. Robert Orenstein for regulatory violations**

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Jacyn Stultz

Vote: Unanimous

Ms. Taylor informed the Board Dr. Orenstein employed two hygienists: one full-time who recently left the practice and one part-time since 2015. Also, Ms. Taylor stated Dr. Orenstein employed an unlicensed dental assistant but that dental assistant also recently left the practice and Dr. Orenstein has hired a new dental assistant. Further, Ms. Taylor informed the

Board Dr. Orenstein also retained Dr. Patrick McCarty to provide anesthesia/sedation to Dr. Orenstein's patients. Dr. Levy asked about the level of responsibility due from an independent contractor such as Dr. McCarty.

Motion: To open a formal complaint against Dr. Patrick McCarty for regulatory violations

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Cynthia Stevens

Vote: Unanimous (Dr. Paul Levy opposed)

Motion: To open formal complaints against Dr. Robert Orenstein's two dental hygienists for regulatory violations

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: Unanimous

Dr. Batchelder suggested sending a thank you letter to Dr. Deborah Himeloch and Dr. Michael Buccino (audit inspection #4589 only) for their compliance with the audit inspection and regulatory requirements.

Motion: To send thank you letters to Dr. Deborah Himeloch and Dr. Michael Buccino (audit inspection #4589 only)

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: Unanimous

Ms. Stultz suggested sending an advisory letter to each dentist in the mid-level group but Dr. Batchelder disagreed. Ms. Stultz asked if the licensees had explanations for their inconsistent spore testing; Ms. Taylor replied the licensees stated it was either an expired strip or due to a change in auxiliary staff. As to Dr. Steven Spitz, Ms. Wilkie asked over what time period his office had inconsistent spore testing.

Motion: To open formal complaints against Dr. Steven Spitz and his three dental assistants for regulatory violations

Motion Made By: Ms. Jacyn Stultz

Second: Ms. Ailish Wilkie

Amended Motion: To open formal complaints against Dr. Steven Spitz's two licensed dental assistants:

- Carlos Salaza DA06015
- Natalie Brewster DA07892

**Amended Motion
Made By:**

Ms. Jacyn Stultz

Second: Ms. Ailish Wilkie

Vote: Unanimous (Dr. Paul Levy abstained)

Motion: To open formal complaints against the following licensees associated with Dr. Steven Spitz:

- Dr. Noah Orenstein DN1856344
- Dr. Susan Han DN1855274
- Dr. Victoria Kaplan DN1855781
- Nicole Savoia, RDH DH87175
- Alyson McElroy, RDH DH87876
- Leah Cormier, RDH DH88155
- Nida Vietas-Purins, RDH DH11426

Motion Made By: Dr. Keith Batchelder

Second: Ms. Kathleen Held

Vote: Unanimous (Ms. Lois Sobel and Ms. Jacyn Stultz abstained)

Motion: To open a staff assignment against Dr. Patrick McCarty for regulatory violations found at the practice of Dr. Steven Spitz

Motion Made By: Dr. Keith Batchelder

Second: Ms. Ailish Wilkie

Vote: Unanimous

Dr. DiFabio informed the Board during the audit inspection of Dr. Lilia Fiat's dental practice, Dr. Fiat and her hygienist Danielle Brown, RDH admitted Ms. Brown had administered nitrous oxide oxygen to Dr. Fiat's patients.

Motion: **To open formal complaints against Dr. Lilia Fiat and Danielle Brown, RDH for regulatory violations, to wit: a hygienist administering nitrous oxide oxygen (practicing beyond scope)**

Motion Made By: Ms. Lois Sobel

Second: Dr. Cynthia Stevens

Vote: Unanimous

F. Staff Action Policy – Malpractice/Licensing

Atty. Leadholm advised the Board it received an application for a dental license by credential and the applicant had included a copy of a National Practitioner Data Bank self-query report that disclosed a malpractice settlement but no state action was noted by the state licensing board. Dr. Levy asked where the \$25,000 ceiling came from; Atty. Leadholm replied that amount was suggested by Dr. David Samuels.

Motion: **To adopt the proposed Staff Action Licensing Policy 15-01: Staff Action Authority concerning National Practitioner Data Bank reports of malpractice settlements**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Kathleen Held

Vote: Unanimous (Ms. Lois Sobel opposed)

G. Staff Action Policy – Unlicensed Practice

Atty. Leadholm submitted a proposed revision to the Board's current Staff Action Discipline Policy 14-03: Board Staff Disposition of Selected Complaints that permits a licensee to cure his/her CEU deficiency within 90 days of notice to the licensee.

Motion: **To adopt the amended Staff Action Discipline Policy 14-03: Board Staff Disposition of Selected Complaints**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

H. Complaint Committee – Refinement on Protocol

Atty. Leadholm submitted a proposed refinement to the Board's policy regarding minutes from the Complaint Committee and ratification of the Complaint Committee's recommendations.

Motion: To adopt the revised Complaint Committee protocols

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

I. Opioid Prescribing Education – Update

Ms. Young informed the Board she had collaborated with Dr. Paul Guarente, Associate Dean for Clinical Affairs at the BUSDM regarding the documentation BUSDM graduates need to provide at initial licensure regarding training on safe and effective opioid prescribing/pain management. Ms. Young provided the Board with a letter drafted by Dr. Guarente that states BUSDM graduates receive training that comports with the M.G.L. c. 94C requirements on opioid prescribing/pain management through three specific courses in their dental curriculum. Ms. Young stated she consulted with Atty. Leadholm and decided to adopt evidence of the required training from BUSDM graduates as long as the applicant provides an official copy of their BUSDM transcript that includes the coursework described by Dr. Guarente.

Dr. DuLong stated this resolution was well accepted by BUSDM but might present a problem for other dental school graduates; Ms. Young agreed but noted she has not been contacted by any other dental school to date. Ms. Stultz informed the Board Mt. Ida College is in the midst of drafting a similar course.

J. Legislative Update – Advanced Practice Dental Hygienist

Ms. Young informed the Board the final version of the budget submitted to Gov. Baker for approval did not include the provision regarding advanced practice dental hygiene that was attached to the Senate's budget. Atty. Leadholm advised the Board this pending legislation is defeated for the current legislative session but will likely be re-introduced when the Senate and House open for business again in the fall of 2016.

K. Letter to Attorney Generals' Office

Dr. Batchelder submitted a proposed letter to the Attorney Generals' Office (AGO) detailing the Board's dissatisfaction with the recent resolution of Dr. Donald Sydor's case by the AGO.

Motion: **To adopt the proposed letter as drafted and to send the letter to the AGO**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Kathleen Held

Vote: **In Favor:** Dr. Keith Batchelder; Dr. Cynthia Stevens; Ms. Kathleen Held
Opposed: Ms. Ailish Wilkie; Dr. Paul Levy; Dr. Stephen DuLong
Abstain: Ms. Lois Sobel; Ms. Jacyn Stultz; Dr. Patricia Wu

(Motion failed)

L. Flex Session

- a. Ms. Wilkie asked about the email Board members received from Ms. Young about their experience with opioid abuse; Ms. Young replied she had been directed by DPH to ask each Board member for a statement about their individual experience with the opioid epidemic per a request that was received from the governor.
- b. Mr. Mills informed the Board it had received an updated from the AADB about their annual meeting and seeking nominations for AADB positions.
- c. Mr. Mills informed the Board it had just received a copy of the updated pediatric guidelines for anesthesia/sedation and that he will submit this latest version to the regulatory review workgroup. Dr. Batchelder noted the Board will likely see a rise in the no. of dental anesthesiologists applying for permits and suggested the Board needs to figure out what to do with subcontractors such as dental anesthesiologists retained by dentists. Dr. DuLong noted Dr. Patrick McCarty has informed the Board he provides his own equipment but Dr. DuLong noted that may not be the case with other dental anesthesiologists.
- d. Ms. Stultz informed the Board in the Alabama legislature recently passed a bill providing anti-trust immunity to its dental board as written in an article in the latest AADB newsletter. However Atty. Leadholm advised the Board immunity is created by the judiciary and not by the legislature. Dr. Batchelder noted there is an active anti-trust suit in Texas regarding the use of tele dentistry.
- e. Ms. Young asked for conformation from the Board members as to which Board members will be staying for the next Complaint Committee (CC) meeting on Sept. 7, 2016. Ms. Sobel, Dr. Stevens and Dr. Hsu stated they will participate in the next CC meeting. Atty. Leadholm suggested a fourth Board member be on tap as an alternate. Dr. DiFabio suggested the CC move its schedule up to every month but Ms. Young noted the Board cannot vote on a revised schedule today as it is in flex session.

Board of Registration in Dentistry
General Session Minutes
July 6, 2016
(Adopted by the Board October 5, 2016)

Motion: At 3:20 p.m. to adjourn the meeting for the day

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Lois Sobel

Vote: Unanimous

Respectfully submitted,

Ms. Ailish Wilkie, Board Secretary

Date