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 Department of Public Health
 Bureau of Health Professions Licensure
 Board of Registration in Dentistry
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COMMONWEALTH OF MASSACHUSETTS

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

June 7, 2017
 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		
8:31	II	REGULATORY REVIEW OF 234 CMR 6.00, ADMINISTRATION OF ANESTHESIA AND SEDATION	Draft Regulations	S. Leadholm
8:45	III	COMPLAINT RESOLUTION--PENDING BOARD MATTER DEN-2016-0021: Jessica Godbout, RDH	Investigation Report	B. Yates
8:50	IV	ADMINISTRATIVE MATTERS <ol style="list-style-type: none"> 1. Board Meeting Dates CY 2018 2. Yankee Dental Congress 2018 3. Advisory Ruling on CE for Exam Monitoring 4. Bureau Staff Action Policy: Referrals to Attorney General's Office 5. Reactivation of Dental Licensure: Dr. Richard Huot 6. GMC License Report 7. Probation Monitor Monthly Report 8. Review of Minutes—General Session of May 3, 2017 	Calendar, Memos, Letter, Reports, Draft Minutes	J. Mills B. Young S. Leadholm K. Fishman
9:35	V	FLEX SESSION		
9:40	VI	VIOLATION OF PROBATION DEN-2012-0115: Dr. Ricky Smith	Memo and Attachments	K. Fishman
9:50	VII	SANCTIONS HEARING: DEN-2013-0199—DR. M. HANIF BUTT	Memo, Attachments	S. Leadholm
10:20	VIII	ADJUDICATORY SESSION (closed to the public)		
10:50	IX	M.G.L. c. 112, §65C SESSION (closed to the public)		

		(AGENDA CONTINUED OVERLEAF)		
11:00	X	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 a Probation matter concerning the physical condition or mental health, rather than professional competence, of a Licensee. Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients.		
12:15 p.m.		ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
June 7, 2017

Present: Dr. Stephen DuLong, Board Chair; Ms. Ailish Wilkie, Board Secretary; Ms. Jacyn Stultz, RDH; Dr. Paul Levy; Ms. Lois Sobel, RDH; Dr. Cynthia Stevens

Absent: Dr. Keith Batchelder; Dr. John Hsu; Dr. Ward Cromer; Dr. Patricia Wu; Ms. Kathleen Held

Board Staff Present: Barbara A. Young, Executive Director; Jeffrey Mills, Asst. Executive Director; Samuel Leadholm, Esq., Board Counsel; Dr. Liliana DiFabio, Supervisor of Investigations; OPP Investigators Eileen Mulligan, Kathleen O'Connell, Lisa Seeley-Murphy, Danielle Taylor and Barbara Yates.

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

Motion Made By: Dr. Paul Levy

Second: Ms. Jacyn Stultz

Vote: Unanimous

I. Administrative Matters:

A. Regulatory Review: 234 CMR 6.00 – Administration of Anesthesia and Sedation

Atty. Leadholm informed the Board he had updated sect. 6.00 based upon the Board's comments from its last meeting including such items as an application for an anesthesia/sedation permit by credential. Atty. Leadholm also noted he included language that would require licensees to update the Board in writing if there is a change in their practice, e.g. if a dentist decides to downgrade the level of anesthesia/sedation administered from moderate sedation to nitrous oxide oxygen, then the dentist must notify the Board in writing of this change in practice.

Motion: To adopt 234 CMR 6.00 as revised

Motion Made By: Dr. Paul Levy

Second: Ms. Ailish Wilkie

Vote: Unanimous

B. Request for Consideration of an Application to Reactivate an Expired Dental License – Executive Director Barbara A. Young, RDH

--In the Matter of Dr. Richard A. Huot, DN16894

The applicant was present for the discussion and vote of the Board on this matter.

Discussion: After the presentation by Ms. Young, the Board opted not to discuss this matter.

Motion: To approve the applicant's application to reactivate his expired dental license

Motion Made By: Ms. Jacyn Stultz

Second: Ms. Ailish Wilkie

Vote: Unanimous

C. Complaint Resolution – Investigator Barbara Yates

--In the Matter of DEN-2016-0021: Jessica Godbout, RDH

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

Allegation(s): Out of State Discipline

Discussion: Ms. Yates informed the Board the licensee's license to practice in NH was suspended by the NH dental board due to positive urine screens in violation of an agreement between the NH dental board and the licensee.

Ms. Young asked if the licensee has provided any proof she's completed the requisite 20 CEUs; Ms. Yates replied she has spoken with the licensee's attorney noting the licensee and/or her attorney have yet to respond to this request. Ms. Wilkie asked Ms. Yates if she's only talked to the licensee's attorney; Ms. Yates replied she noting the attorney stated the licensee has no desire to return to practice in Mass.

Atty. Leadholm noted there is no evidence the licensee has or is practicing in Mass. so a summary suspension is not appropriate. Atty. Leadholm suggested the Board consider offering the licensee a consent agreement for a voluntary surrender with a provision the licensee's Mass. license will not be reinstated until the NH dental board reinstates her license to practice in NH.

Motion: **To offer a Consent Agreement for a Voluntary Surrender with a provision the licensee's Mass. dental hygiene license will not be reinstated until the NH dental board reinstates her license to practice in NH**

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

Motion Made By: Ms. Jacyn Stultz

Second: Dr. Paul Levy

Vote: Unanimous

D. Proposed Board Meeting Dates for 2018

Mr. Mills provided the Board with a list of proposed dates for 2018; the Board has no issue with the proposed dates. Ms. Wilkie did ask Mr. Mills to send an updated list for the 2018 Complaint Committee meetings specifically requesting the Board members scheduled to attend each Complaint Committee meeting be identified; Mr. Mills agreed to do so.

E. Yankee Dental Congress – 2018

Ms. Young informed the Board she had been contacted by the Mass. Dental Society with a request for the names of those Board members willing to participate in the BORID Update session on Saturday, January 27, 2018. Ms. Stultz, Ms. Wilkie, Ms. Sobel and Dr. DuLong volunteered to participate. However Dr. DuLong noted the current Board chair typically participates and he would be glad to do so again if he's re-elected Board chair.

F. CEUs Obtained from Monitoring a Clinical Exam

Atty. Leadholm provided the Board with a written summary of its discussion at its last meeting regarding CEUs being awarded by dental schools that host a clinical competency exam such as the CDCA/NERB exam. Atty. Leadholm advised the Board this announcement would be posted on the Board's website as an advisory ruling if the Board adopts the summary.

Ms. Wilkie noted the summary lists "NERB" when the actual name is now "CDCA:" Atty. Leadholm agreed but noted the Board's current regulations refer to the "NERB" exam. Ms. Wilkie suggested adding language that indicates the clinical exam is a "clinical licensing exam." Mr. Mills noted Dr. Trowbridge also suggested adding a provision for specialty exams; Atty. Leadholm agreed but noted an entity must issue a CEU certificate and there is no evidence such a certificate is issued for specialty exams to date.

Dr. DuLong asked how this advisory ruling will be disseminated to licensees; Ms. Young replied she will send the advisory ruling to the Mass. Dental Society and Ms. Wilkie replied she will send the advisory ruling to the CDCA.

Motion: To Adopt the Proposed Advisory Ruling on CEUs Obtained from Monitoring a Clinical Licensing Exam, as revised

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Jacyn Stultz

Vote: Unanimous

G. Proposed Bureau Staff Action Policy 17-02: Referrals to the Office of the Attorney General

Atty. Leadholm provided the Board with a proposed policy regarding referrals to the Office of the Attorney General noting this proposed policy is being adopted by the other Board within the Bureau of Health Professions Licensure. Dr. DuLong noted this policy would also apply to those licensees where the Board had no jurisdiction over the licensee; Atty. Leadholm agreed it would.

Motion: To Adopt the Proposed Bureau Staff Action Policy 17-02:
Referrals to the Office of the Attorney General

Motion Made By: Dr. Cynthia Stevens

Second: Ms. Lois Sobel

Vote: Unanimous

H. GMC Licensure Report – Executive Director Barbara A. Young, RDH

Pursuant to BORID Policy 14-01, the following licenses were issued between 5/3/17 and 6/7/17:

Tracie R. Ducharme	Dental Assistant (FTDA)	DA09253	issued 5/1/17
Lenise Ferdinand	Dental Assistant (FTDA)	DA09317	issued 5/19/17
Amber L. Labrecque	Dental Hygienist	DH89280	issued 5/10/17

I. Probation Monthly Report for Period of 4.20.17 to 5.22.17

Mr. Mills submitted Ms. Fishman's monthly probation report to the Board. The Board had no questions for Mr. Mills or Ms. Fishman.

J. Review of the General Session Minutes of May 3, 2017

Motion: To approve the General Session Minutes of the May 3, 2017,
Board meeting

Motion Made By: Ms. Lois Sobel

Second: Ms. Jacyn Stultz

Vote: **In Favor:** Dr. Stephen DuLong; Ms. Jacyn Stultz;
Dr. Paul Levy; Ms. Lois Sobel; Dr. Cynthia Stevens
Opposed: None
Abstain: Ms. Ailish Wilkie

K. Flex Session

1. Atty. Leadholm advised the Board that Board staff will not approve licensure applications and issue licenses without proof of graduation from an accredited dental school reminding the Board of its discussion from its last meeting concerning the Sept. graduation date of the BUSDM advanced standing graduates. Dr. DuLong the dental school has not received any

updates from BU's administration and none are expected. Dr. DuLong noted BU is committed to their graduation schedule of May/September/January.

2. Dr. DuLong noted the controversy continues regarding the ADA's recent decision to draft its own OSCE noting the AADB and state licensing boards generally oppose the ADA's decision. Dr. DuLong opined this decision also implicates states' rights to make their own decisions regarding what determines clinical competency for licensure. Dr. DuLong noted the ADA is basically a trade organization representing dentists and that the ADA plans on rolling out its OSCE in approx. three years.

Ms. Young informed the Board this issue regarding the OSCE will likely come before the Board at its July meeting as the Board has received a licensure application from a dentist in NY and California based, in part, on passing scores on the Canadian OSCE. However Dr. DuLong noted the Board denied similar licensure application years ago to a dental anesthesiologist because the applicant did not take a clinical competency exam. Ms. Wilkie noted the Board's regulations define competency as a passing score on a clinical competency exam; Atty. Leadholm agreed noting the Board always has the authority to interpret its own regulations. Dr. DuLong noted the Board has denied these applications in the past. Ms. Wilkie expressed concern with reviewing these applications on a case-by-case basis. Dr. Levy suggested adding this possibility to the Board's revised regulations but Atty. Leadholm noted the Board's work on 234 CMR 4.00 has been completed and has already been sent for public comment/approval.

3. Dr. DuLong noted the ADA issued a position paper on tele dentistry approx. one year ago and suggested the Board review this document. Dr. DuLong noted the ADA recommends the dentist participating in tele dentistry be licensed in both states. Dr. DuLong stated he will provide a copy of the ADA's position paper to the Board for its review.

4. Ms. Wilkie asked about the recent news report that someone at the Harvard School of Dental Medicine was found dead. Dr. DuLong replied he heard it was an employee who was possibly the victim of a suicide.

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0115: Dr. Ricky Smith

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

Allegation(s): Violation of Probation

Discussion: Ms. Fishman noted the licensee was to complete all terms of his consent agreement by 3/30/17 but to date the licensee has only provided the ethics and jurisprudence exam. Ms. Fishman noted she gave the licensee the opportunity to cure but the licensee still failed to respond so she sent the licensee a notice of violation of probation.

Ms. Fishman noted that is when she heard from the licensee's attorney who stated the licensee was getting the remedial coursework pre-approvals ready. Ms. Fishman stated the licensee completed 14 CEUs of online coursework on 5/2/17 and only one live course but she has yet to receive any course descriptions.

Ms. Wilkie asked why the licensee took so long to respond; Ms. Fishman replied she did not know but Atty. Sopp noted the licensee recently had surgery and was out of work for 8 months. Atty. Sopp provided proof the licensee completed a two-day endo course at the BUSDM on Nov. 3 and Nov. 4, 2016 (approved by the Board). Ms. Fishman noted the licensee also completed a 3 hour course at the YDC in Jan. but the course was not pre-approved. Ms. Stultz noted the licensee has a pattern of not following the rules and asked why; Atty. Sopp replied he believed the licensee was having financial issues.

Atty. Sopp noted the licensee is seeking an extension of his probationary period in order to complete all required remedial coursework; Ms. Wilkie suggested extending his probationary period until the end of the next YDC in early 2018.

Motion: To extend the licensee's probationary period to 2/1/18

Motion Made By: Dr. Paul Levy

Second: Dr. Cynthia Stevens

Discussion (cont'd): Ms. Stultz noted the licensee has been noncompliant to date and suggested the licensee be required to provide proof he's registered for the 2018 YDC by Oct. 2017. Atty. Leadholm advised the Board it has the option to suspend the licensee's license if he is not in compliance as of 2/1/18.

Vote: Unanimous

Sanctions Hearing – Board Counsel Samuel Leadholm

-- In the Matter of DEN-2013-0199: Dr. M. Hanif Butt

The licensee, Gerard Butler, Esq. and Rezwin Heda, Esq. were present for the discussion and vote of the Board on this matter.

Discussion:

Atty. Leadholm informed the Board the licensee's liability has already been established noting the licensee and his attorneys as well as Prosecuting Attorney Eugene Langner are present to argue their respective positions as to the sanction to be imposed by the Board. Atty. Leadholm noted each side has been given 10 mins. to present their side.

Atty. Langner informed the Board one of the licensee's attorneys practices in a law firm owned by Atty. Langner's stepmother. Atty. Langner stated he felt he could appropriately represent the Board as there was no conflict in his opinion but thought it prudent to bring this issue to the Board's attention. Dr. DuLong replied it was okay for Atty. Langner to proceed.

Atty. Butler stated the licensee had been misled by an unlicensed dentist and has been paying for this mistake for nearly four years. Atty. Butler noted it was alleged the licensee intentionally deceived the Board and committed fraud but the prosecution did not move forward on claims of intentional deceit or fraud. Atty. Butler stated the licensee admits he did not read the Board's regulations on licensure noting the prosecution is seeking a three-year probationary period which is the same time as that offered by the Board two years ago. Atty. Butler stated the licensee is seeking a stayed probation noting the licensee is committed to serving the underserved population in Somerville. Atty. Butler noted a probationary period may adversely affect the licensee's ability to treat Mass. Health clients and that all goals of the Board will be accomplished through a stayed probation.

Atty. Langner noted it was initially alleged the licensee knowingly hired an unlicensed dentist but the administrative hearing officer deemed the licensee's intent irrelevant. Atty. Langner noted this issue is not necessarily a mitigating factor and noted the licensee's claim that a probationary period will adversely affect the licensee's ability to treat the underserved population was previously claimed by the licensee.

The Board took its morning recess at 10:10 a.m. and resumed its meeting at 10:15 a.m.

Motion: At 10:16 a.m., to enter an Adjudicatory Session

Motion Made By: Dr. Cynthia Stevens

Second: Ms. Ailish Wilkie

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Ms. Jacyn Stultz;
Dr. Paul Levy; Ms. Lois Sobel; Dr. Cynthia Stevens;
Ms. Ailish Wilkie
Opposed: None
Abstain: None

Motion: At 10:40 a.m., to enter a M.G.L. c.112, §65C Session

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Paul Levy

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Ms. Jacyn Stultz;
Dr. Paul Levy; Ms. Lois Sobel; Dr. Cynthia Stevens;
Ms. Ailish Wilkie
Opposed: None
Abstain: None

At 10:56 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 an open session and then adjourn the meeting for the day.

Motion: At 10:57 a.m., to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Jacyn Stultz

Board of Registration in Dentistry
General Session Agenda & Minutes
June 7, 2017
(Approved by the Board on July 5, 2017)

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Ms. Jacyn Stultz;
Dr. Paul Levy; Ms. Lois Sobel; Dr. Cynthia Stevens;
Ms. Ailish Wilkie
Opposed: None
Abstain: None

Motion: **At 12:46 p.m. to adjourn the meeting for the day**

Motion Made By: Dr. Cynthia Stevens

Second: Ms. Jacyn Stultz

Vote: Unanimous

Respectfully submitted,

Ms. Ailish Wilkie, Board Secretary

Date