

COMMONWEALTH OF MASSACHUSETTS
NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF REGISTRATION IN DENTISTRY

September 17, 2014
239 Causeway Street ~ Room 417 A&B
Boston, Massachusetts 02114

AGENDA

Time	#	Item	Exhibits	Contact
8:30	I	CALL TO ORDER		
8:31	II	DETERMINATION OF QUORUM AND APPROVAL OF AGENDA		
8:32	III	ADMINISTRATIVE MATTERS Review/Promulgation of Dental Assistant Regulations Review/Adoption of Policy re: Public Health Dental Hygienists Good Moral Character Licensure Report Limited Licensure Report Discussion: Board Elections	Memos, Reports	B. Young, S. Leadholm, V. Berg
12:00	IV	APPLICATION FOR DENTAL HYGIENE LICENSURE BY A DENTAL STUDENT Dr. Paola Andrea Hurtado-Buckley REACTIVATION APPLICATION FOR DENTAL LICENSURE Dr. Jacinthe Giroux, DN20084	Application, Memo	B. Young
12:20	V	RECONSIDERATIONS OF PRIOR BOARD ACTIONS DEN-2014-0082: Dr. Craig Saltzman DEN-2014-0083: Dr. Gregory Odierna	Memos, Investigation Reports, Attachments	S. Leadholm
12:30	VI	CONSIDERATION OF PENDING CRIMINAL CHARGES DEN-2014-0010: Dr. Roger Desilets DEN-2012-0200: Dr. Melvin Ehrlich	Memos	S. Leadholm
12:45	VII	PROBATION MATTER DEN-2010-0171: Dr. Italo Lozada	Memo	K. Fishman
12:55	VIII	FLEX SESSION		
1:00	IX	ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
September 17, 2014

Present: Dr. Cynthia Stevens, Board Chair; Ms. Lois Sobel, RDH, Board Secretary;
Dr. Stephen DuLong; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz, RDH;
Ms. Kathleen Held, M.Ed.; Ms. Diane Grondin, CDA, Dental Assistant Advisor

Absent: Dr. Keith Batchelder; Dr. David Samuels; Dr. Ward Cromer, Ph.D.; Ms. Ailish Wilkie,
C.P.H.Q.

Dr. John Hsu arrived at 9:08 AM.

Staff Present: Barbara A. Young, Executive Director; Jeffrey Mills, Assistant Executive
Director; Vita Berg, Esq., Chief Board Counsel; Samuel Leadholm, Esq., Board Counsel; Dr.
Liliana DiFabio, Supervisor of Investigations; Ms. Karen Fishman, Probation Monitor

Motion: **At 8:31 a.m., to commence the meeting**

Motion Made By: Ms. Lois Sobel

Second: Dr. Stephen DuLong

Vote: Unanimous

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

Motion Made By: Ms. Lois Sobel

Second: Dr. Stephen DuLong

Vote: Unanimous

Administrative Matters:

1. Amendments to 234 CMR – Dental Assistant Licensure

Atty. Berg and Atty. Leadholm reported that the proposed amendments to 234 CMR are ready for the Board's consideration and promulgation. Atty. Leadholm provided the Board with a memo detailing the following: the statutory background of the proposed amendments, the

summary of changes, changes to 234 CMR 2.03, 4.10, 4.11, 5.11, summary of proposed changes that were considered and rejected, clerical and format changes and requested action. Atty. Leadholm also provided the Board with a chart indicating a summary of the public comments that were received in 2011.

Atty. Berg noted the Board has been provided a copy of the “red-lined” version of the proposed amendments, dated August 27, 2014, that indicates the original wording of the proposed amendments submitted for public comment in 2011 and the changes/amendments that have been recommended following the comment period.

Dr. Stevens asked each Board member to refer to the “red-lined” version of the proposed amendments, dated August 27, 2014, and indicated she would proceed with the review section by section, line by line. Further, Dr. Stevens asked each Board member to announce to the Board any questions they had and to note any possible errors, typos or suggested corrections to the text as she proceeded section by section, line by line; all Board members agreed.

a. 234 CMR 2.00

- Page 1 No changes
- Page 2 2.03 – change the definition of CODA by deleting the wording “of the American Dental Association.”

Motion: To remove the wording “of the American Dental Association” from the definition of CODA and all other references to CODA in the proposed amendments, as appropriate.

Motion Made By: Dr. Milton Glicksman

Second: Ms. Lois Sobel

Discussion: Dr. Glicksman noted the ADA and CODA are in the process of redefining their relationship and will likely separate. He suggested deleting the qualifier “of the American Dental Association” to more accurately reflect their current and future relationship. Atty. Berg asked if there was any other CODA affiliate; Dr. Glicksman replied no. Atty. Berg also asked if the Board intended this change to include all references to CODA in the regulations; the Board indicated yes.

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

- Page 2 2.03 – change the definition of Certified Assistant by deleting the word “currently.”

Motion: **To remove the word “currently” from the definition of Certified Assistant**

Motion Made By: Dr. Milton Glicksman

Second: Ms. Kathleen Held

Discussion: Ms. Grondin suggested the Board not remove this wording given the concerns the Board has expressed in the past regarding infection control violations, esp. those violations allegedly committed by dental assistants, i.e. not conducting weekly spore testing, not maintaining spore testing logs, etc. Dr. Glicksman noted the regulations call for mandatory infection control courses to be completed by all licensees. Dr. DuLong noted the removal of the word “currently” will affect what is required from dental assistants at the time of their initial licensure.

Ms. Young noted that it was her understanding the Board granted a grace period to all licensees when the regulations were last amended in August 2010 and suggested the Board consider this again if and when a complaint comes before the Board about a dental assistant after the registration deadline of January 1, 2015. Ms. Young noted it is very likely all dental assistants will not be registered by the January 1, 2015, deadline given the volume of anticipated applications and the difficulty in getting the word out to all dentists and dental assistants currently practicing.

Dr. DuLong agreed noting the Board did take this into consideration when reviewing complaints against dentists and hygienists after the August 2010 regulations went into effect.

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

- Page 3 2.03 – change the definition of Expanded Function Dental Assistant by deleting the word “currently.”

Motion: **To remove the word “currently” from the definition of Expanded Function Dental Assistant**

Motion Made By: Dr. Stephen DuLong

Second: Dr. Milton Glicksman

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

- Page 4 No changes
- Page 5 No changes
- Page 6 No changes
- Page 7 No changes
- Page 8 No changes

b. 234 CMR 4.00

- Page 1 In the headings, change “CDA-“ to “CA” as typographical error
- Page 2 4.03 (8) – Dr. DuLong asked if this section would also include those circumstances where a licensee was charged with a crime but found not guilty; Atty. Berg advised that an applicant would be required to inform the Board of any criminal action even if the applicant was acquitted or found not guilty
- Page 3 No changes
- Page 4 No changes
- Page 5 No changes
- Page 6 No changes
- Page 7 No changes
- Page 8 No changes
- Page 9 No changes
- Page 10 4.10 (2)(a) – remove the phrase “24 credits”

Motion: **To remove the phrase “24 credits” from the language setting the minimum units of educational coursework**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Kathleen Held

Vote: **In Favor:** Dr. Milton Glicksman; Dr. John Hsu; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Lois Sobel

Opposed: None

Abstain: Dr. Cynthia Stevens

- Page 16 No changes
- Page 17 No changes
- Page 18 No changes
- Page 19 No changes
- Page 20 No changes

The Board took a morning recess at 10:32 a.m. and resumed at 10:40 a.m.

c. 234 CMR 5.00

- Page 1 Title page – to amend the title by including reference to dental assistants

Motion: To amend the title of 234 CMR 5.00 from the current version “Requirements for the Practice of Dentistry and Dental Hygiene” to “Requirements for the Practice of Dentistry, Dental Hygiene and Dental Assisting”

Motion Made By: Ms. Lois Sobel

Second: Dr. Stephen DuLong

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

- Page 2 No changes
- Page 3 5.06 (4) – Ms. Young asked if this was the correct wording of the recent emergency regulations adopted by the Board at an earlier meeting regarding the hydrocodone-only extended release medications that is not in an abuse deterrent form; Atty. Berg advised that this is the correct language
- Page 4 No changes
- Page 5 No changes
- Page 6 No changes
- Page 7 No changes
- Page 8 5.11, task # 5 – change the level of supervision required of an OJT from “D” to “N/A”

Motion: To change the level of supervision required of an OJT dental assistant from “D” to “N/A” on task #5

Motion Made By: Ms. Lois Sobel

Second: Ms. Jacyn Stultz

Discussion: Ms. Sobel expressed concern that an OJT dental assistant, without any proper training or education, might give inappropriate information to a patient while conducting dietary screening for dental disease prevention and control.
Dr. Hsu noted that 90% of his patients are obese and that his place of employment has a dietician on staff but patients can still buy soda or candy anywhere they choose

Vote: **In Favor:** Ms. Lois Sobel; Ms. Jacyn Stultz; Dr. Stephen DuLong
Opposed: Dr. Milton Glicksman; Ms. Kathleen Held; Dr. John Hsu

(Tie Vote)

Dr. Cynthia Stevens voted no

(Motion Failed)

- Page 8 5.11, task #24 – change the level of supervision required of a certified assistant and formally trained dental assistant from “D” to “G”

Motion: **To change the level of supervision required of a certified assistant and formally trained dental assistant from “D” to “G” on task #24**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Lois Sobel

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

- Page 9 5.11 – Heading: typographical error noted on the category “CDA” as it should be written as “CA”
- Page 9 5.11, task #48 – to include the phrase “use diagnostic and periodontic non-cutting lasers” as a delegable duty for RDHs only and to change the level of supervision for RDHs from “G” to “D” and to include the language “N/A” for all other categories, including PHDHs

Motion: To include the phrase “use diagnostic and periodontic non-cutting lasers” as a delegable duty for RDHs only and to change the level of supervision required for RDHs from “G” to “D” and to include the designation “N/A” for all other categories, including PHDHs, in 5.11 as task #48

Motion Made By: Dr. Milton Glicksman

Second: Ms. Kathleen Held

Discussion: Dr. Hsu noted that since task #48 was to be included in the delegable duties chart, then the tasks would need to be re-numbered

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

Motion: To re-number the delegable duties chart to include task #48 as originally written

Motion Made By: Dr. John Hsu

Second: Dr. Stephen DuLong

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

- Page 10 No changes
- Page 11 No changes
- Page 12 No changes
- Page 13 No changes
- Page 14 No changes
- Page 15 No changes
- Page 16 No changes

d. 234 CMR 8.00

- Page 1 8.02 (4) – typographical error noted as (a) was tacked on to the end of (4) but no (b) is included; eliminate (a) and include sentence in body of (4)
- Page 2 No changes
- Page 3 8.05 (3)(b)(1) – include dental assistant in the language crediting dental assistants with CEUs for participation in research or employment as an appointed faculty member

Motion: **To include dental assistant in the language crediting dental assistants with CEUs for participation in research or employment as an appointed faculty member in 8.05 (3)(b)(1)**

Motion Made By: Ms. Lois Sobel

Second: Dr. John Hsu

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

- Page 4 No changes
- Page 5 No changes
- Page 6 No changes

e. 234 CMR 9.00

- Page 1 No changes
- Page 2 No changes
- Page 3 No changes
- Page 4 No changes
- Page 5 No changes
- Page 6 No changes
- Page 7 9.06 – heading; change the title of 9.06 to include dental assisting

Motion: **To amend the current heading of 9.06 to include dental assisting**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Kathleen Held

Vote: **In Favor:** Dr. Milton Glicksman; Dr. John Hsu; Dr. Stephen

DuLong; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Lois
Sobel
Opposed: None
Abstain: Dr. Cynthia Stevens

- Page 8 No changes

Motion: To adopt the proposed amendments to 234 CMR, as set forth in the draft reviewed on this date by the Board with the changes discussed and voted on during this meeting, and to promulgate the proposed amendments to 234 CMR forthwith

Motion Made By: Ms. Lois Sobel

Second: Dr. John Hsu

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

2. Public Health Dental Hygiene - Update

Ms. Sobel suggested the Board table this issue until the next BORID meeting on Wednesday, Oct. 1st so Board staff may invite Dr. Brett Martin of Mass Health, Mr. Ned Robinson-Lynch and Ms. Marlene Barnett of DPH's Office of Oral Health and Ms. Kathy Pelullo to further address the Board on this issue. Ms. Young asked for clarification on what the Board expected to hear from Dr. Martin, Mr. Robinson-Lynch and Ms. Barnett as all three had previously addressed the Board. Dr. Samuels noted he did not expect to gain any new information as the issue had already been explored by the Board.

Motion: To table the discussion of the PHDH issue until the next BORID meeting on Wednesday, October 1st and to instruct Board staff to invite Dr. Brett Martin, Mr. Ned Robinson-Lynch, Ms. Barnett and Ms. Pelullo to address the Board on that date

Motion Made By: Ms. Jacyn Stultz

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. Milton Glicksman; Dr. John Hsu; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Lois Sobel

Opposed: None
Abstain: Dr. Cynthia Stevens

3. Good Moral Character/Limited Licensure Report

a. In the Matter of Dr. Mohamed Ahmed Amer, License No. DN1856737

Ms. Young reported that the Board received an application for licensure as a dentist from Dr. Amer on August 1, 2014. Dr. Amer disclosed a civil speeding infraction from Sept. 2011 for which he was assessed a \$150 fine. A CORI check revealed no pending criminal matters or convictions. Ms. Young informed the Board Dr. Amer's licensure application was approved, per the Board's policy, on Sept. 4, 2014.

b. Limited Licensure Report

Ms. Young provided the Board with a list of limited licensees that had been issued for the period Sept. 3, 2014, to Sept. 9, 2014; the list detailed the name and license no. of the limited licensee as well as the issuance date, effective date, dental school program, country of origin and degree awarded for each limited license issued.

4. Board Elections

Ms. Young informed the Board Dr. Samuels had called her asking if the Board had determined when it would next hold its elections for Board Chair and Board Secretary. Ms. Young stated she checked the minutes from the January 2014 meeting, when the elections for the current chair and secretary were held, but the minutes did not reflect when the elections would next be held. Ms. Young also stated she believed the custom of the Board was to hold the elections in September; Dr. DuLong suggested September was too early and recommended the Board hold its elections each year in January.

Motion: **To hold the next elections for Board Chair and Board Secretary in January 2015 and every January thereafter.**

Motion Made By: Dr. Stephen DuLong

Second: Dr. John Hsu

Vote: **In Favor:** Dr. Milton Glicksman; Dr. John Hsu; Dr. Stephen DuLong; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Lois Sobel

Opposed: None
Abstain: Dr. Cynthia Stevens

5. Consideration of an Application for Licensure as a Dental Hygienist by a Dental Student – Executive Director Barbara A. Young, RDH

--In the Matter of Dr. Paola Andrea Hurtado-Buckley

The licensee was present for the discussion and vote of the Board on this matter and addressed the Board answering all questions as appropriate.

Dr. Stephen DuLong recused himself from the discussion and vote of the Board on this matter; Ms. Kathleen Held informed the Board she did not feel she had a conflict of interest with regards to this matter as she works at the BUSDM but has not had any interaction with the applicant and is not involved in supervising the applicant's current employment.

Motion: **To Approve Applicant's Application for Licensure as a Dental Hygienist by a Dental Student**

Motion Made By: Dr. Milton Glicksman

Second: Dr. John Hsu

Discussion: Ms. Sobel noted the applicant is already licensed as a limited licensee and stated she thought this provision only applied to dental students yet to earn their DMD or DDS degree. Ms. Sobel also noted she felt the Board was setting a dangerous precedent by permitting this applicant, and others, to be licensed as a dental hygienist.

Dr. Hurtado-Buckley noted she had passed the WREB and also passed the periodontal post-graduate program at the BUSDM.

Dr. Glicksman noted the Board was not permitting the applicant to become a dental hygienist but rather it is allowing the applicant to become licensed as a dental hygienist.

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

**6. Consideration of an Application for Licensure to Reactivate an Expired Dental
License – Executive Director Barbara A. Young, RDH**

--In the Matter of Dr. Jacinthe Giroux, DN20084

The licensee was present for the discussion and vote of the Board on this matter and addressed the Board answering all questions as appropriate.

Discussion: Dr. DuLong asked the licensee what happened to cause her to delay renewing her license in a timely manner.

Dr. Giroux stated she had gotten divorced, her father died, and her ex-husband had taken all of their money. She also said she moved as a result of the divorce and did not notify the Board of her new address so she did not receive the renewal notification from the Board.

Dr. Glicksman asked the licensee if she had practiced dentistry while her license was expired; the licensee said she had. Dr. Glicksman also asked the licensee if she was the same Dr. Giroux who had published articles on behalf of EDIC; the licensee said she was the same person.

Ms. Stultz asked the licensee when she stopped practicing dentistry; Dr. Giroux replied that she stopped working the day she talked to Ms. Young. Ms. Stultz also asked the licensee if her license had been posted at her place of employment; Dr. Giroux said it was not posted as far as she knew.

Ms. Young informed the Board she has informed Dr. Giroux a complaint against her will be opened for practicing dentistry on an expired license.

Motion: **To reactivate the licensee's expired dental license, effective immediately**

Motion Made By: Dr. Milton Glicksman

Second: Dr. John Hsu

Discussion: Ms. Stultz noted the licensee is still short on the requisite CEUs; Dr. Giroux replied she has been working on that issue and has submitted certificates of completed courses to Ms. Young

Dr. Hsu noted the Board will deal with the missing CEUs issue when the complaint comes before it.

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

7. Reconsideration of Prior Board Actions – Samuel Leadholm, Esq.

a. --In the Matter of DEN-2014-0082: Dr. Craig Saltzman

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

Atty. Leadholm reminded the Board it first heard this complaint at its meeting on September 3, 2014, in general session and sanctioned the licensee for being short on the requisite CEUs. Atty. Leadholm noted the Board offered the licensee a consent agreement for one year's stayed probation with remedial coursework. However, the licensee took a pain management course on 8/14/14 at the BUSDM for 6.5 credits; Atty. Leadholm asked the Board if they wanted the licensee to complete any other coursework in pain management or if this course was sufficient.

Ms. Stultz asked which licensure cycle this course would apply to; Atty. Leadholm noted the course would apply to the 2014-2016 licensure cycle.

Ms. Sobel noted the licensee was deficient in 23 CEUs. Mr. Mills noted the Board's regulations do not specifically require a pain management course; Atty. Leadholm concurred stating the requirement for that course can be found in 94C.

Dr. Glicksman asked if the Board credits the licensee for this recent pain management course would he be finished with his remedial coursework; Atty. Leadholm stated yes. Ms. Sobel noted she is concerned the licensee might try to "double-dip" in using the course for more than one licensure cycle.

Motion: **To grant the licensee credit for his completion of the requisite pain management course on 8/14/14 in the 2012-2014 and 2014-2016 licensure cycles.**

Motion Made By: Dr. Milton Glicksman

Second: Ms. Lois Sobel

Discussion (cont'd): Ms. Stultz expressed concern that if the Board agrees to do this for this licensee, then the Board may be setting an unnecessary precedent.

Atty. Leadholm noted it would have been better if the Board knew about the licensee's pain management course before it offered the licensee a consent agreement.

Vote: **In Favor:** Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Lois Sobel; Dr. Stephen DuLong

Opposed: None

Abstain: Dr. Cynthia Stevens;

b. --In the Matter of DEN-2014-0083: Dr. Gregory Odierna

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

Atty. Leadholm noted this request for reconsideration involves the same set of facts and circumstances as the previous case involving Dr. Saltzman.

Motion: To grant the licensee credit for his completion of the requisite pain management course on 8/14/14 in the 2012-2014 and 2014-2016 licensure cycles.

Motion Made By: Dr. Milton Glicksman

Second: Ms. Lois Sobel

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

8. Consideration of Pending Criminal Charges – Samuel Leadholm, Esq.

a. --In the Matter of DEN-2014-0010: Dr. Roger Desilets

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

Atty. Leadholm informed the Board the licensee's criminal case is still pending and requested the Board move the case from his consideration to prosecution for monitoring purposes only.

Dr. Glicksman asked why prosecution would only be monitoring the complaint; Atty. Leadholm replied that prosecution is more capable of conducting an investigation into the basis for the complaint and that this is typically not the responsibility of board counsel.

Ms. Grondin asked if the licensee was still practicing dentistry; Atty. Leadholm stated it is unknown if the licensee is practicing dentistry. Ms. Stultz noted the criminal case involves an incident that allegedly occurred in 2011. Mr. Mills noted the licensee did report the criminal charge as required by the regulations.

Motion: To refer the case to prosecution

Motion Made By: Ms. Lois Sobel

Second: Dr. Milton Glicksman

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

b. --In the Matter of DEN-2012-0200: Dr. Melvin Ehrlich

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

Atty. Leadholm informed the Board the licensee's criminal case is still pending and requested the Board move the case from his consideration to prosecution for monitoring purposes only.

Ms. Stultz asked if the licensee ever signed the voluntary agreement not to practice dentistry; Atty. Leadholm stated the agreement was offered by Marsha Bird, prior board counsel but the licensee refused. Ms. Stultz asked that if a licensee refuses to sign a voluntary agreement not to practice, then shouldn't the complaint be returned to the Board for further action; Atty. Leadholm stated he was unsure what the former custom entailed and asked the Board for guidance on how to proceed now.

Dr. DuLong noted the Board cannot act unless and until the licensee is convicted of the criminal charges and further noted an earlier case what a licensee was accused of illegally selling narcotics who was acquitted at trial.

Motion: **To refer the case to prosecution**

Motion Made By: Dr. John Hsu

Second: Ms. Lois Sobel

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

9. Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2010-0171: Dr. Italo Lozada

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

Ms. Fishman informed the Board that the licensee is making three (3) requests for reconsideration related to the Post-Suspension Consent Agreement for Probation he entered into with the Board, effective May 14, 2014. First, the licensee is requesting that the Board extend the time he has to complete the first four clinical assessments to be performed by a Board-approved clinical monitor pursuant to paragraph 3 (c) (i) of the Agreement. (At its meeting on July 16, 2014, the Board approved Dr. Abraham W. Haddad to serve as the Clinical Monitor.) Such request is being made due to the licensee's difficulty in having patients to work on at his Massachusetts office. Specifically, the licensee contends that he has very few patients at this time due to insurance policy cancellations, which were caused by the suspension of his license to practice dentistry. The licensee has applied for reinstatement of these insurance policies, but at this time has only been reinstated by United Health Care. Second, the licensee requests that the Board allow such clinical assessments to be performed by the Clinical Monitor at the licensee's Rhode Island office due to this lack of patients in Massachusetts. Finally, the licensee is

requesting guidance on the content of the Clinical Monitor's reports to be submitted to the Board.

Ms. Stultz asked if the licensee has any idea on when he can complete the assessments; Ms. Fishman stated the licensee said it would be quicker if the Board would permit him to complete the assessments at his Rhode Island office. Atty. Leadholm advised the Board that if any problems arise during the assessment at the licensee's Rhode Island office, then this Board would have no jurisdiction over the problems. Dr. Stevens suggested providing the licensee extra time would be more reasonable. Ms. Fishman noted the licensee will be on probation for one year.

Motion: **To extend the requirement of 4 assessments within the first 4 months after the effective date of the consent agreement by 3 months.**

Motion Made By: Dr. John Hsu

Second: Dr. Milton Glicksman

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

Motion: **To deny the licensee's request to have the assessments completed at the licensee's Rhode Island dental office.**

Motion Made By: Dr. John Hsu

Second: Dr. Stephen DuLong

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

Discussion (cont'd): Ms. Fishman reminded the Board it approved the licensee's monitor at the July 2014 meeting.

Atty. Leadholm advised the Board Dr. Samuels came up with the monitoring guidelines per the Board's direction and is waiting to review the first monitoring report; if the report is insufficient, then it will likely be brought before the Board for clarification on what is to be required/included in the reports.

Dr. DiFabio asked why scaling/root planing was included in the list of procedures to be observed; Dr. Glicksman responded the Board wants an observation of the licensee's practice and standard of care.

10. Flex Session

a. Ms. Young reported that Dr. Samuels called her to ask a question on pro bono services posed to Dr. Samuels by the Mass. Dental Society. Apparently the MDS is seeking to encourage its members to offer pro bono dental services to veterans on Veterans Day. MDS was asking about the propriety of this effort. Dr. Samuels informed Ms. Young he told the MDS he had no problem with this and expected the Board would not either as long as the participating dentists followed the standard of care, i.e. HIPAA notification, complete medical histories, informed consent, etc. Ms. Young informed the Board she agreed with Dr. Samuels's assessment. Dr. Glicksman noted he too was approached by the MDS and had basically the same response as Dr. Samuels.

b. Dr. Stevens suggested the Regulatory Review and Utilization Review/DentaQuest subcommittees meet on different days than the scheduled BORID meetings. Ms. Young stated she hoped to schedule the first of these subcommittee meetings for late October or November after the dental assistant application process is running smoothly. Ms. Young stated she will contact each interested Board member for good dates and times in the next few weeks.

Motion: At 12:45 PM, to adjourn the meeting

Motion Made By: Dr. Milton Glicksman

Second: Ms. Kathleen Held

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

Respectfully submitted,

Ms. Lois Sobel, RDH Board Secretary

Date