

COMMONWEALTH OF MASSACHUSETTS

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

September 3, 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 Dental Intern and Faculty Limited Licensure Matters Oral Report: Stakeholders Meeting re: PHDH New E-Mail Addresses for Board Members Facility Inspection Form Update Staff Action—Late Renewals/ Unlicensed Practice Electronic Signatures on Dental Records Aspen Dental Advertising Concern Dental Assisting Regulations Update PDO Application Review	Memos, Reports	B. Young, S. Leadholm, V. Berg
10:30	IV	REVIEW OF GENERAL SESSION MINUTES Amendment of General Session Minutes of April 3, 2013 General Session of July 16, 2014		
10:40	V	COMPLAINT RESOLUTION—PENDING BOARD MATTERS DEN-2014-0080: Dr. Robert Sheehan DEN-2014-0081: Dr. Eric Shapiro DEN-2014-0082: Dr. Craig Saltzman DEN-2014-0083: Dr. Gregory Odierna DEN-2014-0095: Dr. Shawn Record DEN-2013-0207: Erika Johnson, RDH DEN-2013-0206: Dr. Nily Abramovitz SA-INV-5061: Dr. Yuan Yao DEN-2013-0146: Alexez LaMountain, RDH DEN-2013-0147: Dr. Jonathan Trecker DEN-2013-0148: Dr. Marcus Lopez DEN-2013-0149: Kristin Tetler, RDH DEN-2013-0150: Dr. Russell Harrington DEN-2013-0151: Dr. Francis Powers DEN-2013-0152: Dr. Kevin Rubin DEN-2013-0153: Dr. Matthew Clark	Investigation Reports, Memos	E. Mulligan L. Seeley- Murphy K. O'Connell

11:05	VI	PROBATION MATTERS Request for Board Approval of Monitor: DN-08-007 et al.: Dr. Joseph Hart Request to Discontinue Spore Testing Requirement: DEN-2011-0013 et al.: Dr. Raffi Merjik	Memos	K. Fishman
11:20	VII	FLEX SESSION		
11:30	VIII	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 purpose 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, a public officer, employee, staff member or individual. Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. Specifically, the Board will discuss and evaluate Good Moral Character as required for applicants for licensure. Specifically, the Board will review prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the July 16, 2014 meeting.		
1:30	IX	M.G.L. c.112, §65C SESSION—CLOSED TO THE PUBLIC		
	X	ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
September 3, 2014

Present: Dr. Cynthia Stevens, Board Chair; Dr. Stephen DuLong; Dr. Keith Batchelder; Dr. John Hsu; Dr. David Samuels; Ms. Kathleen Held, M.Ed.; Ms. Jacyn Stultz, RDH; Dr. Ward Cromer, Ph.D.; Ms. Ailish Wilkie, C.P.H.Q.; Ms. Lois Sobel, RDH, Board Secretary; Dr. Milton Glicksman; Ms. Diane Grondin, CDA, Dental Assistant Advisor

Absent: None

Dr. John Hsu arrived at 8:50 AM and left the meeting for the day at 1:20 PM.

Atty. Berg left the meeting at 10:50 AM.

Ms. Jacyn Stultz left the meeting at 11:25 AM and returned at 1:15 PM.

Dr. David Samuels left the meeting at 11:35 AM and returned at 11:40 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; OPP Investigators Sarah Millar, Eileen Mulligan, Kathleen O'Connell, Lisa Seeley-Murphy and Barbara Yates; and Probation Monitor Karen Fishman

Motion: At 8:38 a.m., to commence the meeting

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Lois Sobel

Vote: Unanimous

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

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Lois Sobel

Vote:

In Favor: Dr. Stephen DuLong; Dr. David Samuels;
Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer

Opposed: None

Abstain: Dr. Cynthia Stevens

Administrative Matters:

A. Limited License Licensure Issue

Atty. Berg and Ms. Young reported that during a review of clinic licensure, including whether limited licensees were permitted to write prescriptions on behalf of their patients, with the Mass. drug control staff and DPH Bureau of Health Care Safety and Quality staff, it was discovered that there was some concern regarding the educational qualifications of limited licensees who were graduates of non-CODA accredited, foreign dental school programs and the statutory requirements for limited license licensure. Specifically, M.G.L. c.112, §§45A and 46 required limited license licensure applicants to submit satisfactory proof to the Board that the applicant had received a diploma or degree from a “reputable dental college” as that term is defined in §46. Among other requirements, pursuant to §46, the applicant’s dental school program must culminate in a doctor of dental medicine, doctor of dental surgery or doctor of dental science degree. However, most of the applicants had received other than a DMD or DDS degree; generally speaking, the foreign trained dental school program awarded a Bachelor of Dental Surgery (BDS) or other similar degree. A decision was made to temporarily hold the approval of limited license applications where the applicant received a degree other than a DMD or DDS degree so the matter could be brought to the Board’s attention with all due haste. Ms. Berg submitted an Advisory Ruling and Staff Action Policy for the Board’s consideration that, if adopted, would permit a limited licensee to acquire his/her own Mass. Controlled Substance Registration (MCSR) and would authorize the Executive Director to review applications for limited license licensure and to approve those applications if the applicant has submitted satisfactory proof of the completion of a dental school program that is the equivalent of a standard CODA-accredited dental school program in the United States. Further, if the Executive Director had concerns about the content of the applicant’s dental school curriculum, then the Executive Director would defer the application for the consideration of the full Board at its next available meeting.

Several Board members expressed their concern and dismay of the decision to temporarily hold the approval of limited license licensure applications given the immediate harm to community health centers and clinics across the Commonwealth. Dr. Glicksman noted he was quite concerned that Board staff had acted in this manner without first

consulting the Board. Dr. Samuels suggested that if a situation such as this arises in the future, he’d prefer to have Board staff bring the matter to the full Board as soon as possible even if that meant calling for an emergency meeting of the Board.

Dr. Glicksman expressed dismay indicating that numerous limited licensees were not able to work and scores of patients went without treatment due to the decision of Board staff and asked why the Board had not been consulted prior to the decision. Ms. Berg noted that once the issue was discovered, Board staff acted as quickly as possible to address the issue, to draft an advisory ruling and staff action policy and to bring the matter to the Board for its consideration. Further, Ms. Berg noted it was possible the Board may have decided to take a different course once the issue was discovered, i.e. not accept the proposed Advisory Ruling and Staff Action Policy. Dr. Glicksman stated he approves of the proposed solution to this situation but indicated this situation should not happen again. Ms. Berg indicated the only way to prevent this type of situation to arise again in the future would be to call for an emergency meeting of the Board. Dr. Cromer noted he supports Dr. Glicksman's statements and opined the situation to be an egregious example of the public not being served. Dr. Glicksman suggested the Board issue a letter of apology to all affected limited licensees and/or community health centers; all Board members agreed that such a letter is appropriate given the disruption in patient care that resulted from the decision to temporarily suspend the issuance of new limited licenses and renewal limited licenses.

Dr. Samuels noted the timing of this decision was problematic as several clinics and community health centers, as well as the dental schools, were preparing for a new year and proposed Dr. DuLong and two other faculty member dentists from the Boston-area schools be appointed by the Board to review the limited license licensure applications from foreign-trained dentists.

Ms. Grondin noted the limitations imposed by the statutes but asked why the Board couldn't accept a passing score on the NERB clinical exam in lieu of the requisite DMD or DDS degree. Dr. Hsu suggested the Board accept an applicant's degree if the applicant's foreign dental school program had been accredited by the World Health Organization in lieu of the requisite DMD or DDS degree.

Atty. Anthony Cichello, representing the Mass. League of Community Health Centers, addressed the Board stating the League represents 49 community health centers and 37 dental clinics in the Commonwealth that employ 85 limited licensees who schedule over 190,000 patient visits each year. Atty. Cichello reported these limited licensees have, on average, at least 5 years of clinical experience and suggested the Board consider grandfathering the renewal applicants. Further, Atty. Cichello opined the Board not read the statutes so narrowly as the statutes do not state the individual applicant must have earned a DMD or DDS degree. Atty. Cichello noted the decision to temporarily suspend the approval of limited license applications has affected his clients by:

- Prohibiting the practice of dentistry by experienced dentists;
- Severely reducing the livelihood of practicing dentists;
- Severely impacting the availability of dental treatment to MassHealth clients;
- Increasing the waiting time for appointments for all patients;
- Implicating the immigration status of several dentists;

- In conclusion, Atty. Cichello suggested the Board grandfather renewal applicants, minimize any delay in approving limited license applications and not set the criteria for approval too narrowly.

Dr. Friedland of the Harvard School of Dental Medicine addressed the Board noting Harvard fully screens its applicants for limited license dental intern and dental faculty positions prior to the submission of an application for licensure. Further, Dr. Friedland suggested the Board not read the applicable statutes so narrowly.

Mr. David White on behalf of the Mass. Dental Society addressed the Board stating the association is in agreement with the positions of the CHC and Mass. League.

Second: Dr. Milton Glicksman

Discussion: Ms. Berg advised the Board it has no jurisdiction/authority over the terms/conditions of the MCSR registration program, only the DCP may amend the provisions.

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

Motion: **To immediately approve any pending application for renewal of a limited license**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Ailish Wilkie

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

Motion: **To approve the proposed Staff Action Policy and to return the Policy to the Board for its consideration and possible amendment at the Oct. 1, 2014, Board meeting**

Motion Made By: Dr. David Samuels

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

The Board took a morning recess at 9:52 a.m. and resumed at 10:05 a.m.

B. Public Health Dental Hygiene - Update

Ms. Young updated the Board on the stakeholder meeting held on July 11, 2014, regarding concerns the dental hygiene community and the Massachusetts Dental Hygiene Association has over the Board's recent consideration of the PHDH process. Ms. Young reported she met with Ms. Kathy Pelullo and Mr. Charles Glick of the MDHA and Ms. Marlene Barnett of the DPH Office of Oral Health. Ms. Pelullo and Mr. Glick noted several concerns on behalf of the public health dental hygiene community, including:

- Is the Board seeking to terminate the practice of public health dental hygiene? Ms. Pellulo recalled the opposition to the practice of public health dental hygiene in the early days and noted she was fearful this issue was being raised again. Ms. Young reported the Board is not seeking to fundamentally alter the practice of public health dental hygiene but rather to address inconsistencies and misunderstandings that have arisen regarding what is required and/or permitted.
- The practice of regularly submitted reports by practicing public health dental hygienists is cumbersome and time-consuming. Ms. Young noted the reporting requirement by practicing public health dental hygienists does not involve the Board as those reports must be submitted to the DPH Office of Oral Health (OOH). Ms. Barnett noted the OOH is willing to discuss this issue in greater detail with the public health dental hygiene community to come up with a workable solution to the reporting requirements.
- The cost of securing an individual permit for a portable dental operation or mobile dental facility by public health dental hygienists is prohibitive. Ms. Pelullo stated the permits cost \$500 each and that figure is too expensive for the typical public health dental hygienist. Ms. Young noted the permitting fee is actually \$180 and is renewable every two years.
- The requirement that each public health dental hygienist secure his/her own PDO or MDF permit is unclear. Ms. Young advised that this specific issue is under consideration by the Board as evidence was introduced that approx. 42 public health dental hygienists are approved MassHealth providers but only 22 individuals have secured permits. Ms. Young noted the Board is concerned that they do not know who these hygienists are, where they are practicing and on whom and under the supervision of which dentist. Further, testimony was introduced to the Board that one public health dental hygienist and her two business partners employ 10 public health dental hygienists and all 13 employees are operating under one permit.

C. Email Addresses

Atty. Berg advised the Board that each member now has access to the state's email system and provided each member with their temporary password and logon information. Atty. Berg advised the Board the state's email system will be used to provide each member with important information such as weather updates, meeting dates, etc. but will not be used to disseminate the packets for each meeting as the system is not secure. Atty. Berg also stated the primary purpose for recommending each Board member use to state email system is for preservation of Board communications pursuant to the public records laws.

D. Inspection Form

Ms. Young informed the Board the proposed inspection form is nearly complete and will be resubmitted to the Board for its consideration and approval at the Oct. 1st Board meeting.

E. Proposed Policy on Board Staff Disposition of Selected Complaints

Atty. Leadholm submitted a proposed staff action policy to the Board per its request at the July 2014 meeting. In the proposed policy, Atty. Leadholm drafted language authorizing Board staff to review and dispose of staff assignments and complaints pertaining to the unlicensed practice of dental hygiene and dentistry and to the employment by dentists of unlicensed dental hygienists.

Motion: To adopt the proposed Staff Action Policy regarding the disposition of staff assignments and complaints pertaining to the unlicensed practice of dental hygiene and dentistry and to the employment of unlicensed dental hygienists by dentists

Motion Made By: Dr. John Hsu

Second: Dr. Ward Cromer

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels;
Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

F. Proposed Policy on Electronic Signatures

Atty. Leadholm submitted a proposed Advisory Ruling regarding the use of electronic signatures by dental providers per the Board's request at the July 2014 meeting.

Motion: To approve and issue the proposed Advisory Ruling regarding the use of electronic signatures by dental providers

Motion Made By: Dr. David Samuels

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels;
Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

G. Aspen Dental advertisements

Ms. Young provided a copy of a letter, dated July 22, 2014, sent to Mr. Robert A. Fontana, CEO and President of Aspen Dental Management, Inc. in Syracuse, NY advising the company of the Board's advertising regulations in consideration of Aspen Dental's recent TV and newspaper ads for "free exams/x-rays" to uninsured new patients. Dr. Samuels noted the concern is not with the ads themselves but with the content of the ads stating offering free services to uninsured new patients is illegal. Atty. Leadholm asked Dr. Samuels and the Board for clarification on which law they believe Aspen Dental has violated. Atty. Berg advised the Board that the injured party appears to be those insurance companies who have contracted with dentists to provide services to the insurance company's subscribers and consequently, it is up to the insurance companies to complain about Aspen Dental's advertising practices.

H. PDO applications

Ms. Young informed the Board she had expected to present three PDO permit applications to the Board for its consideration but the applications are not complete so the item has been removed from the agenda.

I. Dental Assistant regulations

Ms. Young noted each Board member was provided a copy of the proposed dental assistant regulations for their consideration. However, given the pressing issue regarding limited licenses, Ms. Young asked the Board to consider holding off on discussing, and promulgating, the proposed regulations until the Sept. 17th or Oct. 1st meeting. Ms. Young also informed the Board she will be sending invitations to the numerous stakeholders to observe the Board's deliberations and needs time to do so.

Motion: To go forward with a meeting on Wednesday, Sept. 17, 2014, at which time the Board will discuss, and promulgate as appropriate, the proposed amendments to the regulations at 234 CMR regarding licensure of dental assistants

Motion Made By: Dr. Stephen DuLong

Second: Dr. Keith Batchelder

Discussion: Dr. Batchelder suggested the Board permit members who cannot attend the Sept. 17th meeting to participate remotely or to submit written comment. Atty. Berg advised the Board it had previously adopted remote participation by an absent Board member but reminded the Board that the remote participant cannot be counted as part of quorum. Further, Atty. Berg advised the Board a quorum of Board members must be present in the Board meeting room for deliberation and voting purposes.

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels;
Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu
Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held;
Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

J. Amendment to General Session Minutes of April 3, 2013

Mr. Mills explained to the Board that during a recent investigation, it was discovered the general session minutes of the April 3, 2013, meeting were incorrect in that the wrong treating and/or subsequent dentist was indicated in the investigative report.

Motion: **To adopt the amendments to the General Session Minutes of April 3, 2013**

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens; Dr. David Samuels

K. General Session Minutes of July 16, 2014

Motion: **To adopt the General Session Minutes of July 16, 2014**

Motion Made By: Dr. John Hsu

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels; Dr. Keith Batchelder; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens; Ms. Lois Sobel; Dr. Milton Glicksman

L. Flex Session

1. Ms. Young reported that Dr. Samuels has informed her he will not be able to attend the next Board meeting on Sept. 17th so she will cancel the proposed DentaQuest/Utilization Review

subcommittee meeting previously scheduled to begin immediately after the Sept. 17th BORID meeting.

2. Dr. Stevens proposed forming a Regulatory Review subcommittee to begin the process of reviewing the Board's August 2010 amendments to 234 CMR as several inconsistencies, omissions, etc. have been discovered during the last four years. Dr. Stevens asked for volunteers to participate in this subcommittee; Ms. Sobel, Ms. Wilkie and Ms. Held volunteered. Ms. Young asked the remaining Board members to contact her directly if they're interested in volunteering as well.

Complaint Resolution—Investigator Eileen Mulligan

--In the Matter of DEN-2014-0080: Dr. Robert Sheehan

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

Allegation: Infection Control Violations

Discussion: Investigator Mulligan asked each Board member to return their copy of the investigative report as the patient's name was included in the report in violation of HIPAA; the Board members were given a redacted copy of the investigative report.

Dr. Cromer asked if the company brought in by the licensee, Dynamic Dental, to address their infection control issues was reputable; Dr. Glicksman replied yes to a degree.

Dr. Samuels noted the licensee appeared to be defending his refusal to wear gloves during patient treatment despite this act being a violation of the Board's regulations.

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

- 6 Hours: Infection Control

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. David Samuels

Second: Dr. Stephen DuLong

Discussion (cont'd): Ms. Wilkie asked if photographs had been taken of the licensee's office during the inspection; Ms. Mulligan replied she had.

Dr. Glicksman noted this dentist is an associate dentist in a large group practice and suggested Stayed Probation for 1 year might be more appropriate.

Amended Motion: **To offer a Consent Agreement for Stayed Probation for 1 Year to include the following remedial coursework:**

- **6 Hours: Infection Control**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Amended Motion Made By: Dr. Milton Glicksman

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Eileen Mulligan

--In the Matter of DEN-2014-0081: Dr. Eric Shapiro

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

Allegation: Infection Control Violations

Discussion: Investigator Mulligan informed the Board this licensee is a co-owner of the large group practice that employed Dr. Sheehan.

Ms. Sobel suggested this licensee also be required to take a remedial course in risk management as he is one of the practice owners.

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

- 6 Hours: Infection Control
- 6 Hours: Risk Management

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. Milton Glicksman

Second: Dr. John Hsu

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: Dr. Stephen DuLong
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Eileen Mulligan

--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.

Allegation: Infection Control Violations

Discussion: Investigator Mulligan informed the Board this licensee is another co-owner of the large group practice that employed Dr. Sheehan.

Ms. Mulligan also noted this licensee is deficient in the requisite 40 CEUs for license renewal.

Motion: To offer a Consent Agreement for Stayed Probation for 1 Year to include the following remedial coursework:

- 6 Hours: Infection Control
- 6 Hours: Risk Management
- Successful completion of missing CEUs including a course in pain management

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Ms. Lois Sobel

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Eileen Mulligan

--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.

Allegation: Infection Control Violations

Discussion: Investigator Mulligan informed the Board this licensee is another co-owner of the large group practice that employed Dr. Sheehan.

Ms. Mulligan also noted this licensee is deficient in the requisite 40 CEUs for license renewal.

Motion: **To offer a Consent Agreement for Stayed Probation for 1 Year to include the following remedial coursework:**

- **6 Hours: Infection Control**
- **6 Hours: Risk Management**
- **Successful completion of missing CEUs including a course in pain management**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Ms. Lois Sobel

Second: Ms. Ailish Wilkie

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Eileen Mulligan

--In the Matter of DEN-2014-0095: Dr. Shawn Record

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

Allegation: Infection Control Violations

Discussion: Investigator Mulligan informed the Board this licensee is another co-owner of the large group practice that employed Dr. Sheehan.

Ms. Mulligan also noted this licensee is not deficient in the requisite 40 CEUs for license renewal.

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

- 6 Hours: Infection Control
- 6 Hours: Risk Management

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2013-0207: Erika Johnson, RDH

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

Allegation: Unlicensed Practice of Dental Hygiene

Discussion: Dr. DuLong suggested this licensee be offered a consent agreement for stayed probation instead of a consent agreement for a reprimand.

Motion: To offer a Consent Agreement for a Reprimand.

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. John Hsu
Second: Dr. Milton Glicksman
Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer;
Opposed: Dr. Stephen DuLong
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2013-0206: Dr. Nily Abramovitz

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

Allegation: Employment of an Unlicensed Dental Hygienist
Discussion: Investigator Seeley-Murphy informed the Board this licensee was the employer of Erika Johnson, RDH
Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**
Motion Made By: Ms. Ailish Wilkie
Second: Ms. Lois Sobel
Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Jacyn Stultz; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong
Opposed: None
Abstain: Dr. Cynthia Stevens

Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of SA-INV-5061: Dr. Yuan Yao

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

Allegation: Failure to Release Patient Treatment Records

Discussion: After the presentation of the complaint by Investigator O'Connell, the Board opted to not discuss the matter.

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

Motion Made By: Dr. Milton Glicksman

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of DEN-2013-0146: Alexez Lamountain, RDH

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

Allegation: Unlicensed Practice of Dental Hygiene

Discussion: Atty. Leadholm asked if the licensee failed to inform her employer(s) of her expired license for 20 days after she discovered her license had expired. Dr. Batchelder asked if the licensee actually practiced dental hygiene during those 20 days. Ms. O'Connell responded it was unknown if the licensee practiced during the 20 days between her discovery and her notification to her employer(s).

Motion: To offer a Consent Agreement for a Reprimand.

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. John Hsu

Second: Dr. Milton Glicksman

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong
Opposed: None
Abstain: Dr. Cynthia Stevens; Ms. Kathleen Held
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O’Connell

--In the Matter of DEN-2013-0147: Dr. Jonathan Trecker

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

Allegation: Employment of an Unlicensed Practice Dental Hygienist

Discussion: Investigator O’Connell informed the Board this licensee was the employer of Alexez Lamountain, RDH

Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations and a recommendation on the successful completion of a continuing education course on infection control.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Milton Glicksman

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O’Connell

--In the Matter of DEN-2013-0148: Dr. Marcus Lopez

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

Allegation: Employment of an Unlicensed Practice Dental Hygienist

Discussion: Investigator O'Connell informed the Board this licensee was a co-employer of Alexez Lamountain, RDH

Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**

Motion Made By: Ms. Ailish Wilkie

Second: Dr. John Hsu

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of DEN-2013-0149: Kristin Tetler, RDH

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

Allegation: Unlicensed Practice of Dental Hygiene

Discussion: After the presentation of the complaint by Investigator O'Connell, the Board opted to not discuss the matter.

Motion: **To offer a Consent Agreement for a Reprimand.**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Dr. John Hsu

Second: Dr. Milton Glicksman

Vote: **In Favor:** Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz; Dr. David Samuels

Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of DEN-2013-0150: Dr. Russell Harrington

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

Allegation: Employment of an Unlicensed Practice Dental Hygienist

Discussion: Investigator O'Connell informed the Board this licensee was an employer of Kristin Tetler, RDH.

Ms. O'Connell noted this licensee had not taken the requisite CEU course in pain management.

Motion: **To offer a Consent Agreement for Stayed Probation for 3 Months with notice to the licensee that he may not use his recently completed course in pain management during the 2014-2016 licensure cycle.**

If this agreement is not accepted by Licensee, the matter will be referred to Prosecution.

Motion Made By: Ms. Ailish Wilkie

Second: Dr. Milton Glicksman

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O'Connell

--In the Matter of DEN-2013-0151: Dr. Francis Powers

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

Allegation: Employment of an Unlicensed Practice Dental Hygienist

Discussion: Investigator O'Connell informed the Board this licensee was a co-employer of Kristin Tetler, RDH

Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**

Motion Made By: Ms. Ailish Wilkie
Second: Dr. Stephen DuLong
Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O’Connell

--In the Matter of DEN-2013-0152: Dr. Kevin Rubin

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

Allegation: Employment of an Unlicensed Practice Dental Hygienist
Discussion: Investigator O’Connell informed the Board this licensee was a co-employer of Kristin Tetler, RDH
Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**

Motion Made By: Ms. Lois Sobel
Second: Ms. Ailish Wilkie
Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution—Investigator Kathleen O’Connell

--In the Matter of DEN-2013-0153: Dr. Matthew Clark

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

Allegation: Employment of an Unlicensed Practice Dental Hygienist

Discussion: Investigator O'Connell informed the Board this licensee was a co-employer of Kristin Tetler, RDH

Motion: **To dismiss the complaint with an advisory letter on the regulatory requirements regarding employee/employer compliance with all Board regulations.**

Motion Made By: Ms. Ailish Wilkie

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DN-08-007, et al: Dr. Joseph Hart

The licensee was not present for the discussion and vote of the Board on these matters.

Discussion: Ms. Fishman reminded the Board they had previously considered the pending complaints against the licensee at prior Board meetings and had directed the licensee to submit the name and curriculum vitae of a substitute practice monitor for the Board's consideration. To that end, Ms. Fishman submitted the CV of Dr. Peyman Beigi per the request of the licensee.

Dr. Cromer noted Dr. Beigi's CV was woefully brief and provided very little information and opined Dr. Beigi would be an inadequate monitor; Dr. Cromer suggested the Board consider appointing former Board member Dr. David Russell as the practice monitor for the licensee.

Dr. Hsu noted the practice monitor should be a periodontist and not a general practitioner as Dr. Beigi appears to be. Dr. Samuels noted the licensee is not a periodontist and the practice monitor was chosen primarily to review the licensee's record keeping procedures and the new monitor should continue in the same manner.

Dr. Batchelder opined the Board needs more information about Dr. Beigi before selecting him as the new practice monitor for the licensee.

Atty. Leadholm advised the Board it has delegated the authority to approve an expert to review CV's and/or evaluate the proposed expert's competency to one specific Board member on other cases in the past. Atty. Leadholm also advised the Board it can direct Ms. Fishman to contact Dr. Beigi for additional information and to report her findings to the Board at its next scheduled meeting.

Motion: To table the decision until the Sept. 17, 2014, meeting at which time the Board will receive an update from Ms. Fishman.

Motion Made By: Dr. Milton Glicksman

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2011-0113, et al: Dr. Raffi Merjik

The licensee was not present for the discussion and vote of the Board on these matters.

Discussion:

Ms. Fishman informed the Board the licensee is in compliance with the terms of his Consent Agreement but he recently sold his dental practice and is working as an associate at his former practice until Sept. 1, 2014. Ms. Fishman also stated that the licensee plans on leaving the state shortly thereafter and is seeking to have paragraph 6D of his Consent Agreement vacated. Ms. Fishman further reported the licensee has stated he will continue to abide by the other terms of his Consent Agreement.

Ms. Grondin noted the licensee's request appears redundant because he could continue to submit spore test results from his new practice regardless of its location. Dr. Hsu noted that if the licensee is a new associate dentist at that practice, he may not have access to the spore testing records. However Dr. Glicksman noted that his status as an associate dentist should not matter, he is still responsible to ensure weekly spore testing.

Atty. Leadholm advised that Board it will continue to have jurisdiction over the licensee if he chooses to keep his Mass. license active. Dr. Glicksman noted that even if the licensee moves to another dentist, his license will still be on probation with the Board.

Dr. Hsu suggested the Board only waive the requirement of weekly spore test reports if the licensee can establish he is not working as a dentist.

Motion:

To Modify the licensee's Consent Agreement to state the licensee is not obligated to provide copies of weekly spore test results if he is not employed as a dentist and the licensee is required to notify the Board of any future employment as a dentist, in his own practice or in the practice of another licensed dentist, within 7 days of beginning that employment.

Motion Made By:

Dr. John Hsu

Second:

Ms. Lois Sobel

Vote:

In Favor: Dr. David Samuels; Dr. Keith Batchelder; Dr. Milton Glicksman; Dr. John Hsu; Ms. Lois Sobel; Ms. Ailish Wilkie; Dr. Ward Cromer; Dr. Stephen DuLong; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

At 12:08 PM, Dr. Stevens 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 to be immediately followed by a M.G.L. c.112, §65C closed session. Specifically, the Board will meet in Executive Session and will discuss and evaluate the Good Moral Character as required for registration of pending applicant(s) for licensure. Additionally, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. The Board will also approve prior Executive Session minutes in accordance with M.G.L. c. 30A, §22(f). Executive Session is closed to members of the public, except as provided for in M.G.L. c. 30A, §21(a) (1). At the conclusion of the Executive Session and the §65C session, the Board will not return to open session but will adjourn for the day.

Motion: At 12:10 PM, to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)

Motion Made By: Ms. Lois Sobel

Second: Ms. Ailish Wilkie

Vote: **In Favor:** Dr. Stephen DuLong; Dr. David Samuels; Dr. John Hsu; Dr. Keith Batchelder; Dr. Milton Glicksman; Ms. Lois Sobel; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Ward Cromer
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Ms. Jacyn Stultz

The Board recessed for lunch at 1:20 PM and resumed the meeting at 2:05 PM.

Motion: At 3:08 PM, to leave Executive Session

Motion Made By: Dr. Stephen DuLong

Second: Dr. David Samuels

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Milton Glicksman; Ms. Lois Sobel
Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Dr. John Hsu

Motion: At 3:09 PM, to Enter M.G.L. c. 112, §65C Session

Motion Made By: Dr. David Samuels

Second: Ms. Ailish Wilkie

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Milton Glicksman; Ms. Lois Sobel

Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Dr. John Hsu

Motion: **At 4:10 PM, to leave M.G.L. c. 112, §65C Session**

Motion Made By: Ms. Lois Sobel

Second: Dr. Stephen DuLong

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Milton Glicksman; Ms. Lois Sobel

Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Dr. John Hsu

Motion: **At 4:11 PM, to adjourn the meeting**

Motion Made By: Dr. Stephen DuLong

Second: Ms. Lois Sobel

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Ward Cromer; Dr. David Samuels; Dr. Keith Batchelder; Ms. Jacyn Stultz; Ms. Kathleen Held; Ms. Ailish Wilkie; Dr. Milton Glicksman; Ms. Lois Sobel

Opposed: None
Abstain: Dr. Cynthia Stevens
Absent: Dr. John Hsu

Respectfully submitted,

Ms. Lois Sobel, RDH Board Secretary

Date