

**Maine Board of Dental Practice
Board Meeting Minutes
December 8, 2017**

The meeting convened at 9:16 a.m.

Members Present: Drs. Lisa Howard; Stephen Morse; Glen Davis; Paul Dunbar; and Mark Zajkowski; Ms. Nancy Foster, RDH, EFDA; Ms. Tracey Jowett, RDH; and Ms. Kathryn Young, LD

Member Absent: Ms. Rowan Morse, Public Member

At 9:16 a.m., the Subcommittee on Denturists and Board of Dental Practice convened a Combined Meeting for the following initial complaint presentation:

Complaint 17-70:

Dr. Davis was recused from the following matter.

The Subcommittee voted to enter executive session at 9:22 a.m. Pursuant to 1 M.R.S. Section 405(6)(F) so that the Subcommittee and Board could discuss information gathered in Complaint 17-70, which is confidential pursuant to 10 M.R.S. Section 8003-B.

Mr. Adkins made a motion to come out of executive session at approximately 9:45 a.m. Mr. Merrill seconded the motion and it passed unanimously. Mr. Merrill made a motion to recommend that the Board refer the matter to the Office of the Attorney General to further investigate allegations of unlicensed practice of denturism and dentistry in violation of 32 M.R.S. §18304 and which presents the immediate risk of public harm.

This matter involves the long-term practice by an unlicensed individual of producing full dentures, partial dentures, splints, relining, adjustments, and repairs for patients who may not realize that this individual is not licensed. Standards of care relevant to the practice of dentistry and denturism include utilizing the Center for Disease Control and Prevention's Guidelines for Infection Control in Dental Health-Care Settings, and utilizing OSHA standards related to blood borne pathogens training to ensure protection of the public. Failure to utilize those standards when providing dental services constitutes immediate public safety concerns to not only the patients involved, but employees at the workplace.

Mr. Adkins seconded the motion and it passed with Dr. Dunbar recused as the Complaint Officer, and Dr. Davis recused.

The Board voted on the Subcommittee's recommendation on Complaint Case 17-70. Dr. Morse made a motion to accept the above recommendation to refer the matter to the Office of the Attorney General. Ms. Foster seconded the motion and it passed with Dr. Dunbar recused as the Complaint Officer, and Dr. Davis recused.

The combined meeting ended and the Board meeting resumed.

Discussion of Title 10 M.R.S. § 8003(5)(E) – Letters of Guidance:

Assistant Attorney General Andrew Black provided an overview of the law which allows the Board to issue a letter of guidance to a licensee. Historically, the Board has utilized letters of guidance when recommending the dismissal of a complaint case that does not warrant disciplinary action, yet may present an opportunity for the Board to further educate a licensee regarding dental practice regulations. AAG Black explained that the Board can also issue a letter of guidance outside of the complaint process. A letter of guidance has no findings of fact, and is used to provide guidance to a licensee. A letter of guidance can remain in the licensee's file for up to ten years; and is a formal public document that can be used at a hearing should the individual engage in similar conduct within the set timeframe.

Subcommittee on Dental Hygienists Report: Ms. Spearin provided the Subcommittee of Dental Hygienists report to the Board as follows:

- The Subcommittee approved its minutes of the November 17, 2017 meeting.
- The Executive Director provided the Subcommittee members with an update on legislative, rulemaking, and other issues.
- The Subcommittee Reviewed a Public Health Supervision Notification and Letter for Ms. Judith Jones, RDH. Ms. Jones reported that she provided services on two dates without filing the appropriate notification to the Board. The Subcommittee recommends that the Board send her a letter of guidance, pursuant to Title 10 8003 (5)(E), that she be reminded of the requirements outlined in Board Rule, Chapter 2, section 3(d) which would remain in her file for a period of two years, and that a copy of the letter be sent to the supervising dentist. Dr. Zajkowski made a motion to accept the Subcommittee

recommendation. Dr. Dunbar seconded the motion and it passed unanimously.

- Finally, the Subcommittee reviewed an application for dental hygiene licensure and a local anesthesia permit for Ms. Kristine Kennedy. Ms. Kennedy disclosed a criminal conviction and provided documentation surrounding the events. The Subcommittee recommends that the Board table the applications and request further information from the applicant. Dr. Davis made a motion to accept the Subcommittee recommendation. Dr. Zajkowski seconded the motion and it passed unanimously.

Subcommittee on Denturists Report: Dr. Davis provided a report to the Board of the Subcommittee on Denturists meeting.

- The Subcommittee approved its June 9, 2017 meeting minutes.
- The Executive Director provided the Subcommittee members with an update on legislative, rulemaking, and other issues.

Dr. Morse made a motion to accept the Subcommittee's report. Dr. Zajkowski seconded the motion and it passed unanimously.

Board Chair Report:

- Article Discussion "Ethics in the Modern Age of Dentistry" written by Richard C. Engar, DDS, FAGD, *AGD Impact*, October 2017. The members briefly discussed the article.
- Reading Assignment for Future Meeting

Executive Director's Report:

- Legislative Update: Ms. Vaillancourt is drafting an Informational Letter that will be distributed to licensees reporting on the newly enacted legislation during the 128th First Regular Session. The Board and its legal counsel discussed the applicability of the new law requiring dentists who are authorized to prescribe medications to develop an opioid prescribing policy by January 1, 2018. Ms. Vaillancourt reminded members that the legislative session will soon convene, and will update members regarding legislative activity that is being monitored.

- Rulemaking Update: Ms. Vaillancourt reported that the proposed rules for continuing education and the licensing chapters are currently being reviewed by the Office of the Governor. The Rules Committee is scheduled to meet in January 2018; and Chapter 14 and Chapter 21 will likely be reviewed together.
- Adjudicatory Hearing Schedule – The Board is scheduled to hold an adjudicatory hearing on two dates in December.
- Financial Report: Ms. Vaillancourt will invite Rachel Hendsbee to a future meeting to go over the board’s budget.
- Statute Review – This is a standing agenda item to go over the Board’s authorizing statute at a future meeting.
- Government Evaluation Act will be due in 2018: Ms. Vaillancourt reported that the planning for this report need to begin now for that effort.
- American Dental Education Association (ADEA): Ms. Vaillancourt reported that she recently received correspondence from the ADEA which included a PowerPoint presentation. The presentation covered information and data collected on topics such as dental school enrollment, dental school debt, employment, pathways to licensure, etc. various dat.
- Federation of Associations of Regulatory Boards (FARB) Conference: Ms. Vaillancourt reported that there is a FARB Conference coming up in January 2018, and the Board has been encouraged to send more than one member. Part of the FARB conference will include a board member training component. Dr. Morse made a motion that the Board approve up to three people to attend this conference. Dr. Dunbar seconded the motion and it passed unanimously.
- Dental Assisting National Board (DANB) Publication: Ms. Vaillancourt reported that the DANB recently disseminated a report on the national trends in the regulation of dental assistants.
- American Association of Dental Boards (AADB) Tele-Seminar on 12/14/2017: Ms. Vaillancourt reported an upcoming teleseminar which will examine and analyze the state regulations of dental assistants.

- Communication from New York University Lutheran and its AEGD Residency Program in combination with the University of New England College of Dental Medicine: Ms. Vaillancourt reported that the Board was notified in writing that four resident dentists, who were placed at the University of New England's College of Dental Medicine recently resigned from the program. The information was accepted as an FYI.
- Delegation Chart: Ms. Vaillancourt will be drafting a policy for the Board to consider that outlines the parameters to its authority to delegate to staff the review and approval of applications, and requests to return to active status. Board staff will be working with legal counsel to bring forth the current delegation chart to ensure that it is prescriptive, and that the chart be reviewed every two years.

Applications for Review:

Application for Deep Sedation/General Anesthesia Permit Renewal –

Mark Britten, DMD: Dr. Britten submitted his application which indicated that there was a period of time in which his ACLS certification was not current. Dr. Morse made a motion to grant the permit renewal for Dr. Britten. Dr. Dunbar seconded the motion. Dr. Morse then amended the motion that a letter of guidance be issued to Dr. Britten which reminds him to maintain his ACLS certification continuously in accordance with Board Rule, Chapter 14, and that the letter remain in his file for three years. Dr. Davis seconded the amendment. The amended motion passed unanimously.

Application for Dental License Reinstatement – Daniel Schechter,

DMD: Dr. Morse made a motion to enter executive session at 12:06 p.m. pursuant to 1 M.R.S. Section 405 (6)(F) so that the Board could discuss information related to Dr. Schechter's application for reinstatement of his Maine dental license, which is confidential pursuant to 22 M.R.S. § 1711-C(2). Ms. Foster seconded the motion and it passed with Ms. Young recused. Dr. Morse made a motion to come out of executive session at 12:33 p.m. Ms. Foster seconded the motion and it passed with Ms. Young recused.

Dr. Zajkowski made a motion to table the application for reinstatement and to request that the licensee obtain a formal assessment with the Maine Medical Professionals Health Program. Dr. Morse seconded the motion and it passed unanimously.

Review of Proposed Consent Agreement – Complaint Nos. 15-2; 15-11; 15-22; 15-23; 15-45; 15-50; 15-53; and 16-36: The Board had previously voted to offer a consent agreement to the licensee to resolve the above cases. Assistant Attorney General James Bowie was present for the review of the proposed agreement which was amended by the licensee’s counsel and now before the Board for its ratification. Ms. Young made a motion to accept the proposed consent agreement as presented. Dr. Morse seconded the motion and it passed with Dr. Dunbar recused as the Complaint Officer and Dr. Davis, Ms. Jowett, and Dr. Zajkowski abstaining from the motion.

Initial Complaint Presentation – Complaint 17-23: The complainant alleged that the licensee did not provide her with a timely referral which resulted in delayed oral cancer treatment. Following the presentation and review of the records for the case, Dr. Davis made a motion to offer this licensee a consent agreement for failure to diagnose, failure to refer, failure to perform a biopsy, and failure to explore a differential diagnosis. The agreement should include: 1) a reprimand; 2) a license suspension of six months which would begin once the agreement is fully executed; 3) admission to the violations; 4) require that all CBCT images be interpreted by a Board-certified radiologist and that a report of the reading be kept in the patient’s file; 5) 18 hours of continuing education that has been pre-approved by the Complaint Officer to be completed within the six-month license suspension. All courses must include an exit examination and cannot be used towards license renewal, to shall include the following a.) 6 hours on CBCT reading and interpretation; b.) 6 hours on differential diagnosis, including head and neck pathology; c.) 3 hours on record keeping; and d.) 3 hours on ethics.

Dr. Davis withdrew his motion. Ms. Foster made a motion to offer a consent agreement with the above findings and sanctions, and require that proof of the continuing education be received prior to the end of the six-month license suspension. If the consent agreement offer is not signed by the licensee, the matter will be set for an adjudicatory hearing. Dr. Morse seconded the motion and it passed with Dr. Dunbar recused as the Complaint Officer.

Proposed Rule – Chapter 14 “Rules for Use of Sedation and General Anesthesia”: The Board discussed the newly adopted rule and the need for further clarification, including the review of the 2016 ADA Guidelines. The Board is tasking the Rules Committee to continue the work on Board Rule Chapter 14, as well as any changes to Board Rule, Chapter 21.

E-mail dated November 21, 2017 from Representative Paul Chace

RE: Blood Pressure Check and Informed Consent: Representative Chace wanted to educate the Board and licensees on the issues of informed consent. Ms. Young made a motion that Ms. Vaillancourt send a letter to the Representative outlining the Board's response which includes explaining that the Board's existing statutes and rules do not identify regulations specific to the taking of patient blood pressure readings. However, that does not preclude a licensed dentist to implement best practices in assessing a patient's overall health when developing a dental treatment plan. The collection of patient information related to medical histories, dental histories, and patient examinations are necessary to ensure proper patient care, and to ensure patient safety.

However, there are times when the Board's regulations are very specific to patient monitoring as outlined in Board Rule, Chapter 14 entitled "Rules for the Use of Sedation and General Anesthesia." This chapter outlines the regulations to be followed when dentists are administering and utilizing local anesthesia, nitrous oxide analgesia, moderate and deep sedation, and general anesthesia. Recording and monitoring patient vital signs such as blood pressure readings are not only required in certain dental procedures, but necessary to ensure patient safety. Dr. Morse seconded the motion and it passed unanimously.

Dr. Morse made a motion to adjourn at 2:45 p.m. Dr. Davis seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson
Executive Secretary