

**Maine Board of Dental Practice  
Board Meeting Minutes  
March 15, 2019**

The meeting convened at 8:31 a.m.

**Members Present:** Drs. Stephen Morse, Glen Davis, Paul Dunbar, and Mark Zajkowski; Ms. Nancy Foster, RDH, EFDA; Tracey Jowett, RDH, IPDH; Kathryn Young, LD; and M. Lourdes Wellington

**Member Absent:** Dr. Todd Ray

**Also Present:** Adria LaRose, Assistant Attorney General; Andrew Black, Assistant Attorney General; Teneale Johnson, Executive Secretary; and Penny Vaillancourt, Executive Director

**Minutes – February 8, 2019:** Ms. Young made a motion to accept the minutes as amended. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Zajkowski abstained.

**Subcommittee on Dental Hygienists Report:** Ms. Grenier reported the following:

- The Subcommittee reviewed and approved its minutes from the February 8, 2019 meeting.
- The Subcommittee reviewed and accepted as an FYI, the continuing education approval list and the preliminary agenda for upcoming meetings.
- Application for Local Anesthesia Practice Authority Reinstatement – Anne Mattsson, RDH: The Subcommittee’s recommendation to grant the reinstatement of Ms. Mattsson’s local anesthesia practice authority, and to generate a complaint regarding the disclosure of unlicensed practice was adopted by the Board.
- Application for Dental Hygiene Licensure – Cynthia O’Donnell, RDH: The Subcommittee’s recommendation to grant Ms. O’Donnell a dental hygiene license was adopted by the Board.
- Delegation Chart – The Subcommittee’s recommendation to delegate to Board staff, the ability to approve a reinstatement application filed by a dental hygienist, who is otherwise qualified to practice with the authority, but who discloses in the application unlicensed practice of the authority. The delegation will also include the ability of board staff to

initiate a complaint to further investigate the disclosure of the unlicensed practice.

**Delegation Chart:** Board staff will revise the delegation chart to include a draft protocol for board staff to follow when offering consent agreements to resolve cases involving reinstatement applications and disclosures of unlicensed practice.

### **Applications for Review**

- **William Liverseidge – dental radiography:** After a review and discussion of the application materials, including the applicant’s disclosure of criminal conduct, Dr. Dunbar made a motion to grant Mr. Liverseidge a dental radiography license. Dr. Zajkowski seconded the motion. Vote 8-0 in favor.
  
- **Jessica Schmidt -dental radiography:** After a review and discussion of the application materials presented, including an assessment from the Maine Medical Professionals Health Program (“the MPHP”), Dr. Zajkowski made a motion to grant a dental radiographer license to Ms. Schmidt. Ms. Young seconded the motion. Vote 8-0 in favor.
  
- **Robert Beebe, DDS – dentist reinstatement:** After a review and discussion of the application materials, including the applicant’s disclosure of criminal conduct, Dr. Dunbar made a motion to grant the reinstatement of Dr. Beebe’s dentist license. Ms. Foster seconded the motion. Vote 8-0 in favor.

**Department of Professional and Financial Regulation – Remarks by Anne L. Head, Commissioner:** Commissioner Head provided an update regarding changes in the Governor’s Office since her last visit to the Board, including a recently issued Executive Order regarding state agencies and the rulemaking process. She provided remarks related to legislative initiatives that either directly or indirectly impact professional and occupational licensing boards. Commissioner Head noted that she and her Director of Financial Services have been in discussions with the Board’s Executive Director regarding efforts to stabilize the Board’s finances with the goal of maintaining the current level of services, and to hire a Board Investigator. In closing, Commissioner Head noted that she hopes to identify additional board member training opportunities and will keep the Board apprised of any efforts.

**Adjudicatory Hearing – Case No. 19-9 – Bruce I. Milzman, D.D.S.:**

An adjudicatory hearing was held to consider Dr. Milzman's appeal to the Board's preliminary denial of his dentist license application based upon the allegation the he engaged in misrepresentation by failing to disclose certain criminal background information on his application for licensure.

After the evidence was presented by the parties and after the Board's deliberations, Dr. Dunbar made a motion that, by a preponderance of the evidence, Dr. Milzman engaged in misrepresentation in obtaining a license from the Board in violation of 32 M.R.S. § 18325(1)(A). Dr. Davis seconded the motion. Vote 8-0 in favor.

Based upon this conclusion, the Board voted to grant Dr. Milzman a dental license with the following disciplinary sanctions: a Reprimand; a license probation of two (2) years during which time Dr. Milzman shall obey all Board statutes and rules; and an assessment of the costs of the investigation and hearing not to exceed \$3,000.00, to be paid ninety (90) days of the date of the Decision and Order. Dr. Dunbar made the motion, which was seconded by Dr. Davis. Vote 8-0 in favor.

**Initial Case Presentations:**

**Case No. 16-97:** A complaint was filed against a dentist alleging that the licensee was unprofessional and provided substandard care with regards to a partial denture. After a review and discussion of the materials presented, Ms. Foster made a motion to dismiss the complaint. Dr. Davis seconded the motion. Vote 7-0 in favor. Dr. Paul Dunbar recused.

**Case No. 16-115:** A complaint was filed against a dentist alleging that the licensee performed an unnecessary deep cleaning, and did not adjust the occlusion following a restoration. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint. Dr. Zajkowski seconded the motion. Vote 7-0 in favor. Dr. Paul Dunbar recused.

**Case No. 16-99:** A complaint was filed against a dentist alleging improper billing. After a review and discussion of the materials presented, Ms. Young made a motion to dismiss the complaint. Dr. Davis seconded the motion. Vote 7-0 in favor. Dr. Paul Dunbar recused.

**Case No. 16-101:** A complaint was filed against a dentist alleging improper billing and unnecessary treatment. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint. Ms. Young seconded the motion. Vote 7-0 in favor. Dr. Paul Dunbar recused.

**Case No. 16-121:** A complaint was filed against a dentist alleging that the licensee performed treatment that the patient did not want as it was not covered by their insurance. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint. Dr. Zajkowski seconded the motion. Vote 7-0 in favor. Dr. Paul Dunbar recused.

**Case No. 16-49:** A complaint was filed against a dentist alleging that excessive treatment was rendered. After a review and discussion of the materials presented, Ms. Young made a motion to dismiss the complaint. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

**Case No. 16-50:** A complaint was filed against a dentist alleging that excessive fees were charged and that an office visit was unnecessary. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the complaint. Ms. Young seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

**Case No. 16-95:** A complaint was filed against a dentist alleging the licensee provided substandard care. After a review and discussion of the materials presented, including the records which indicated that this dentist did not treat the patient, Dr. Dunbar made a motion to dismiss the complaint. Ms. Jowett seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

**Case No. 16-102:** A complaint was filed against a dentist alleging that the licensee did not perform appropriate maintenance on the dental equipment, and that treatment for a patient was inappropriate. After a review and discussion of the materials presented, Ms. Young made a motion to dismiss the complaint. Dr. Zajkowski seconded the motion. Dr. Glen Davis recused.

**Case No. 16-110:** A complaint was filed against a dentist alleging that the licensee does not appropriately utilize an Expanded Function Dental Assistant (EFDA) staff member, and that the office does not provide appropriate safety equipment. After a review and discussion of the materials presented, Ms. Jowett made a motion to dismiss the complaint. Ms. Young seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

*After a review of the above two complaints, the Board voted to send a letter to the complainant requesting additional clarification regarding the information that was provided in the correspondence, including current practice information.*

**Case No. 16-123:** A complaint was filed against a dentist alleging that the licensee's office had thrown the patient's dental bridge away following an appointment. According to the licensee, the bridge was unrepairable and was

disposed appropriately. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the complaint. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

**Case No. 18-87:** This case was initially presented to the Board at its January 11, 2019 meeting, and at the request of the licensee's counsel it was re-presented to the Board. After a review and discussion of the materials presented, including a letter from the licensee's attorney, Dr. Dunbar made a motion that the Board maintain its previous decision which is to offer the licensee a consent agreement with the following terms: a warning, a civil penalty of \$150.00 to be paid within ninety (90) days; and a requirement to complete three continuing education credits on ethics and professionalism pre-approved by the Complaint Officer, to be completed within ninety (90) days. Ms. Foster seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

*The Board recessed at 1:43 p.m. for the Subcommittee on Denturists to hold its meeting. The Board reconvened at 1:57 p.m.*

**Subcommittee on Denturists Report:** Mr. Gareth Coward reported the following:

- The Subcommittee reviewed and approved its minutes from the June 15, 2018 meeting.
- The Subcommittee reviewed and accepted as an FYI, the continuing education approval list and the preliminary agenda for upcoming meetings.
- Case No. 18-24: The Subcommittee's recommendation to dismiss Case No. 18-24 was adopted by the Board.
- Case No. 18-26: The Subcommittee's recommendation to dismiss Case No. 18-26 was adopted by the Board.
- Case No. 18-27: The Subcommittee recommendation to dismiss Case No. 18-27 was adopted by the Board.
- Mr. Coward reported that Ms. Young will be the Subcommittee Chair for 2019, and that he was appointed as Subcommittee Secretary.

**Initial Case Presentation – Continued:**

**Case No. 16-74:** A complaint was filed against a dentist alleging that the dental hygienist did not use an appropriate lead apron when performing a

panoramic image of her child. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint, and issue a letter of guidance which would remain on file for five (5) years. The letter of guidance will remind the licensee of the appropriate use of a thyroid shield (extension) when performing panoramic images. Ms. Foster seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 17-48:** A complaint was filed against a dentist alleging excessive treatment was performed, and questioned whether previous treatment was warranted. After a review and discussion of the materials presented, Dr. Dunbar made a motion to dismiss the complaint. Dr. Davis seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 17-21:** A complaint was filed against a dentist alleging that the licensee caused a disfigurement to the patient's mouth when removing a mucocele. After a review and discussion of the materials presented, Dr. Davis made a motion to offer the licensee a consent agreement with the following terms: A reprimand; a license probation of twenty-four (24) months which would include conditions to complete an assessment through the American Association of Dental Boards (AADB) on their clinical skills and ability, and follow any recommendation made. The licensee would be directed to obtain the initial assessment within ninety (90) days of the executed agreement. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 16-72:** A complaint was filed against a dentist by a referring provider, alleging that substandard treatment was rendered to their shared patient, by leaving retained roots following an extraction. After a review and discussion of the materials presented, Dr. Dunbar made a motion to dismiss the complaint. Dr. Davis seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 16-73:** A complaint was filed against a dentist by a referring provider, alleging that substandard treatment was rendered for their shared patient, by leaving retained roots following an extraction. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 18-38:** A complaint was filed against a dentist alleging pain following an extraction, and that the licensee did not properly manage the patient's pain. After a review and discussion of the materials presented, Ms. Foster made a motion to dismiss the complaint. Dr. Davis seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 16-93:** A complaint was filed against a dentist alleging that the licensee caused an injury to the patient's tongue during a procedure, and to the patient's face when an instrument was dropped. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint. Ms. Foster seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 16-96:** A complaint was filed against a dentist alleging that the hygienist had left a piece of a broken instrument in the patient's mouth following the patient's appointment. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint, and issue a letter of guidance which would remain on file for five (5) years, educating the licensee that a practice protocol be put into place regarding documentation of these types of situations and that radiographs be taken when appropriate. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 18-81:** A complaint was filed against a dentist alleging that the licensee continued with treatment of a child when the child was in distress. After a review and discussion of the materials presented, Dr. Dunbar made a motion to offer the licensee a consent agreement based on the unlicensed practice of moderate sedation. The consent agreement would include an admission to practicing without a permit, a warning, and a civil penalty of \$50.00 to be paid within sixty (60) days. Dr. Davis seconded the motion. Vote 7-0 in favor. Dr. Mark Zajkowski recused.

**Case No. 18-18:** A complaint was filed by a spouse of a patient, against a dentist for failing to reimburse for treatment that was not completed due to the patient's death. Prior to notice of the complaint being sent to the licensee, the Board learned that the dentist had passed away. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the complaint. Dr. Zajkowski seconded the motion. Vote 8-0 in favor.

**Case No. 18-56:** A complaint was filed against a dentist alleging substandard care was provided regarding five crowns. The licensee is subject to a consent agreement with the Board dated January 5, 2018, whereby they agreed to never practice dentistry in the State of Maine. After a review and discussion of the materials presented, Dr. Davis made a motion to administratively dismiss the complaint without prejudice as the individual is no longer licensed. Should they become licensed in the future, the case could be revisited. Ms. Jowett seconded the motion. Vote 8-0 in favor.

**Case Items – Compliance Reporting:**

**Review of Decision and Order Compliance Documentation – Case No. 15-8:**

After a review and discussion of the compliance documentation, the Board directed staff to continue to work with the former licensee to obtain full compliance with the Decision and Order dated January 8, 2016.

**Review of Consent Agreement Compliance Documentation – Case Nos. 16-67, 17-57, and 18-4:**

After a review and discussion of the compliance documents submitted to the Board, which included proof of continuing education completed, Ms. Foster made a motion to accept the compliance documentation. Dr. Davis seconded the motion. Vote 8-0 in favor.

**Review of Consent Agreement Compliance Documentation – Case No. 18-93:**

After a review and discussion of the compliance documents submitted, which included a protocol on inventory for controlled substances, Dr. Davis made a motion to accept the documentation. Dr. Zajkowski seconded the motion. Vote 8-0 in favor.

**Review of Consent Agreement Compliance Documentation – Case No. 16-32:**

After a review and discussion of the compliance documents submitted to the Board, which included proof of continuing education completion, Ms. Jowett made a motion to accept the documentation. Dr. Dunbar seconded the motion. Vote 7-0 in favor. Dr. Glen Davis recused.

**Board Chair Report:** Dr. Morse presented a draft communication which he would like to forward to all licensees concerning the progress the Board has made over the last few years. The Board agreed that the communication be sent.

**Executive Director’s Report:**

- Legislative Update: Board staff is finalizing the transitioning of permits/licenses based on last legislative session. The following is a list of dentally related bills for the 129<sup>th</sup> legislative session as of this date:
  - LD 519 “An Act to Expand Adult Dental Health Insurance Coverage”
  - LD 688 “An Act to Set Maine Dental Provider Licensing Fees.”
  - LD 1082 “An Act To Provide for Alternative Pain Treatment before Treatment with Opioids.”
  - LD 1161 “An Act To Restrict the Use of Mercury in Dental Fillings in State-funded Dental Procedures.”
  - LD 1303 “An Act To Establish the State Board of Dental Hygiene.”



- Rulemaking Update: The Rules Committee will reconvene in May or June. Dr. Davis made a motion to appoint Ms. Jowett as a hygiene member of the Committee. Dr. Dunbar seconded the motion. Vote 8-0 in favor.
- Financial Report: The Board accepted the report as an FYI.
- Licensing Data: The Board accepted the report as an FYI.
- Continuing Education – Chapter 13: Ms. Vaillancourt requested clarification whether the Board will continue to accept HIPAA training and the child abuse reporter training mandated by the Maine Department of Health and Human Services as qualifying activities pursuant to Board Rule, Chapter 13. The Board concluded that the content of these activities qualifies in accordance with Board Rule, Chapter 13.
- Other: Ms. Vaillancourt provided information to the Board concerning the following items:
  - Maine Medical Association Wellness Summit – April 10, 2019;
  - DOCS Postcard Mailer – Clarification information was sent to all licensed dentists;
  - Executive Order regarding state agency rulemaking.

**Rulemaking Items:**

- Board Rules, Chapter 7 “Establishment of Fees”: Dr. Zajkowski made a motion to propose Board Rules, Chapter 7 as amended with the denturists fees increased to \$200 for renewal. Dr. Davis seconded the motion. Vote 7-1 in favor. (Ms. Foster opposed)

The following items were accepted as an FYI:

- Letter dated February 2, 2019 from Dr. Pankaj Thakker RE: State Board of Dentistry of Pennsylvania Consent Agreement and Order
- Notification of Patient Transfer by EMS from Dr. Michael Dowling
- Continuing Education Approval List
- Preliminary Agenda for Upcoming Meetings
- Case management Report

Ms. Foster made a motion to adjourn the meeting at 4:37 p.m. Dr. Davis seconded the motion. Vote 8-0 in favor.