

**Maine Board of Dental Practice
Board Meeting Minutes
April 5, 2019**

Convened at 9:06 a.m.

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

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

Minutes – March 15, 2019: Dr. Zajkowski made a motion to accept the minutes as presented. Dr. Davis seconded the motion. Vote 8-1 in favor. (Dr. Ray abstained)

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

- The Subcommittee reviewed and approved its minutes from the March 15, 2019 meeting.
- Review of Application Delegation Chart: Following the Subcommittee and Board's review of the Application Review Delegation Chart, Dr. Dunbar made a motion to accept the chart as amended which allows for board staff to offer a consent agreement to resolve cases involving reinstatement applications and disclosure of unlicensed practice. Dr. Davis seconded the motion. Vote 9-0 in favor.
- Dental Hygiene Renewal Application Review – Jennifer Smart, RDH: The Subcommittee's recommendation included a preliminary denial of Ms. Smart's application for renewal based on her failure to disclose information related to the criminal conduct question. The recommendation included offering the licensee a consent agreement to resolve the matter with the following terms: a warning; a license probation for a period of one (1) year during which the licensee shall enter into a monitoring agreement with the Maine Medical Professionals Health Program for a period no less than six (6) months and follow any MPHP recommendation. The licensee will be required to submit a final report from the MPHP regarding the completion of the monitoring agreement. The Board adopted the Subcommittee's recommendation.

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

- The Subcommittee reviewed and approved its minutes from the March 15, 2019 meeting.
- Review of Application Delegation Chart: The Board had reviewed and voted on the delegation chart when it received the Report from the Subcommittee on Dental Hygienists.
- Review of Maine Denturist Qualifying Examination – The Subcommittee’s recommendation included that the Board approve the examination content as presented. Dr. Davis made a motion to accept the Subcommittee’s recommendation to approve the Maine Denturist Qualifying examination. Dr. Zajkowski seconded the motion. Vote 9-0 in favor.

Review/Ratification of Decision and Order – Bruce I. Milzman, D.D.S.:

After a review and discussion of the decision and order, and Dr. Milzman’s request to allow additional time to reimburse the Board for payment of costs, Dr. Zajkowski made a motion to approve the decision and order as amended, allowing Dr. Milzman 360 days for repayment of costs to the Board. Dr. Dunbar seconded the motion. Vote 8-1 in favor. (Dr. Ray abstained)

Application for Dental Radiography Licensure – Tiffany Bennett: After a review and discussion of the application materials, including the applicant’s disclosure of criminal conduct, Dr. Zajkowski made a motion to table the application and refer Ms. Bennett for an assessment with the Maine Medical Professionals Health Program (“MPHP”). The assessment shall be submitted to the Board no later than May 12, 2019. Dr. Dunbar seconded the motion. Vote 9-0 in favor.

Application for Dental Radiography Licensure – Ashton Maurice: After a review and discussion of the application materials, including the applicant’s disclosure of a student loan default, Dr. Davis made a motion to approve Ms. Maurice’s application for licensure. Dr. Ray seconded the motion. Vote 8-1 in favor. (Dr. Zajkowski recused)

Future Agenda Item for Discussion – work with counsel to bring forward information on default of student loans for license types, except for dental radiographers.

Dr. Dunbar made a motion to remove the student loan default question for the dental radiography initial application and renewal. Dr. Davis seconded the motion. Vote 9-0 in favor.

Application for Dentist Licensure – Request to Withdraw Application -

Gregory Calleia, DDS: After a review and discussion of the information, Dr. Dunbar made a motion to accept Dr. Calleia's request to withdraw his application for dentist licensure. Dr. Zajkowski seconded the motion. Vote 9-0 in favor.

Initial Case Presentations:

Case No. 15-33: A complaint was filed against a dentist alleging that the licensee allowed the dental assistant to perform a dental impression for a partial denture repair which was not a delegable procedure. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the case. Dr. Davis seconded the motion. Vote 7-1 in favor. (Ms. Jowett recused; Dr. Dunbar abstained)

Case No. 18-15: A complaint was filed against a dentist alleging that the licensee failed to provide a copy of the HIPAA policy upon request of the patient's parent. After a review and discussion of the materials presented, Ms. Foster made a motion to dismiss the complaint and issue a letter of guidance which would remain on file for five years and will remind the licensee of a dentist's responsibility to provide a copy of the policy to patients upon request. Ms. Young seconded the motion. Vote 8-0 in favor. (Dr. Dunbar abstained)

Case No. 18-34: A complaint was filed against a dentist alleging that the licensee failed to schedule an immediate appointment for a painful tooth, licensee billed for services already paid by the patient, and that the licensee terminated the patient from care. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the complaint and issue a letter of guidance which would remain on file for five years, and will remind the licensee that they have an obligation to make reasonable arrangements for an established patient's emergency dental care. In addition, a licensee should ensure that they have effectively communicated practice policies to their patients regarding payment of services. Dr. Davis seconded the motion. Vote 8-0 in favor (Dr. Dunbar abstained)

Case No. 18-35: A complaint was filed against a dentist alleging that supervised staff breached patient confidentiality by discussing missed payments for a dental procedure in front of other patients, and alleges that the patient's shared cost of the procedure was not accurate. After a review and discussion of the materials presented, Ms. Young made a motion to dismiss the case. Dr. Davis seconded the motion. Vote 8-0 in favor. (Dr. Dunbar abstained)

Case No. 18-37: A complaint was filed against a dentist alleging that the patient's tooth restorations completed by the dentist should have lasted longer. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the case. Dr. Davis seconded the motion. Vote 8-0 in favor. (Dr. Dunbar abstained)

Case No. 17-55: A complaint was filed against a dentist alleging that the dentist failed to provide appropriate treatment with regards to extractions, and did not provide appropriate infection or pain control. After a review and discussion of the materials presented, Dr. Dunbar made a motion to dismiss the case. Ms. Foster seconded the motion. Vote 8-0 in favor. (Dr. Davis abstained)

Case No. 18-40: A complaint was filed against a dentist alleging that the patient's immediate denture placed by the dentist, and three restorations performed by the dentist were substandard. After a review and discussion of the materials presented, Ms. Foster made a motion to dismiss the case. Ms. Young seconded the motion. Vote 8-0 in favor. (Dr. Davis abstained)

Case No. 18-51: A complaint was filed against a dentist alleging that the licensee failed to provide the patient with comprehensive examinations while under the dentist's care for many years. After a review and discussion of the materials presented, Dr. Dunbar made a motion to dismiss the case and issue a letter of guidance which would remain on file for five years and will remind the licensee that they should be performing comprehensive examinations including the use of dental radiographs on a periodic basis to ensure proper assessment, evaluation, diagnosis and treatment of oral health conditions. Ms. Foster seconded the motion. Vote 8-0 in favor. (Dr. Davis abstained)

Addition: Following its review of the above case, Ms. Foster made a motion to initiate a complaint against the patient's new treating provider to request further information regarding the comprehensive treatment planning, and the alleged failure to take radiographs prior to extensive restorative treatment. Dr. Ray seconded the motion. Vote 8-0 in favor. (Dr. Davis abstained)

Case No. 16-63: A complaint was filed against a dentist alleging that the licensee was dishonest during an implant consultation stating that the patient's referring dentist was unable to restore the tooth following the implant procedure as the referring dentist utilizes an alternate implant system. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the case. Ms. Foster seconded the motion. Vote 8-0 in favor. (Dr. Zajkowski abstained)

Case Nos. 18-95: A complaint was filed against a dentist alleging that the licensee improperly extracted teeth as part of a referral to fit an immediate denture. After a review and discussion of the materials presented, Ms. Foster made a motion to dismiss the case and issue a letter of guidance which would remain on file for five years and will remind the licensee that it is a fundamental standard of practice for a consulting dentist and a referring dentist to be clear in their respective roles and responsibilities to avoid an undesirable outcome for the patient. Ms. Jowett seconded the motion. Vote 8-0 in favor. (Dr. Zajkowski abstained)

Case No. 18-96: A complaint was filed against a dentist licensee alleging improper immediate denture fabrication. After a review and discussion of the materials presented, Ms. Foster made a motion to dismiss the case and issue a letter of guidance which would remain on file for five years and will remind the licensee that it is a fundamental standard of practice for a consulting dentist and a referring dentist to be clear in their respective roles and responsibilities to avoid an undesirable outcome for the patient., and to obtain and record a complete record of patient information to avoid an incomplete record which may negatively impact patient care.. Dr. Dunbar seconded the motion. Vote 8-0 in favor. (Dr. Zajkowski abstained)

Case No. 16-82: A complaint was filed against a dentist alleging that the licensee incorrectly placed implants resulting in the patient having the implants removed with subsequent grafting to restore the damage. After a review and discussion of the materials presented, Ms. Foster made a motion to set the matter for an adjudicatory hearing based upon treatment that was below the standard of care with regards to implant placement, incompetence in the ability to place implants appropriately, failure to practice to the standard of care, and failure to provide complete patient records upon receipt of multiple requests. Dr. Ray seconded the motion. Vote 8-0 in favor. (Dr. Zajkowski abstained)

Case No. 18-83: A complaint was filed against a dentist alleging that the dentist did not follow up post-operatively to address the patient's healing complications. The patient also alleges that the dentist did not provide copies of the patient's records timely, and once the records were produced that they were incomplete. After a review and discussion of the materials presented, Ms. Foster made a motion to set the matter for an adjudicatory hearing based upon treatment that was below the standard of care, failure to provide records timely to the patient and the Board, improper treatment, and the lack of performing/documenting a differential diagnosis. Ms. Jowett seconded the motion. Vote 8-0 in favor. (Dr. Zajkowski abstained)

Ms. Foster made a motion to offer the licensee a consent agreement to resolve case numbers 16-82 and 18-83 in addition to other pending matters with the licensee. The consent agreement would include the licensee's acceptance of the Board's findings of the allegation and the terms would include the following: A license surrender for a period of no less than two (2) years, and a reprimand. Dr. Ray seconded the motion. Vote 8-0 in favor. (Dr. Zajkowski abstained)

Announcement from Andrew Black, Assistant Attorney General

- Assistant Attorney General Black relayed to the Board that AAG LaRose would be leaving the Attorney General's office and that this was her last meeting with the Board.

Executive Director's Report:

- Board Rule – Chapter 7: The Board reviewed the timeline and the public hearing to receive comments for the proposed rule is tentatively set for May 24, 2019.
- Rulemaking Update: The Rules Committee will meet on a future date to review chapters 14 and 21.
- Legislative Update: The following is a list of dentally related bills for the 129th legislative session as of this date:
 - LD1303 – “An Act to Establish a State Board of Dental Hygiene”
 - LD 688 – “An Act to Set Maine Dental Provider Licensing Fees”
 - LD519 – “An Act to Expand Adult Dental Health Insurance Coverage”
 - LD 1161 – “An Act to Restrict the Use of Mercury in Dental Fillings in State-funded Dental Procedures”
 - LD1441 – “An Act to Align the Laws Governing Dental Therapy with Standards Established by the American Dental Association Commission on Dental Accreditation”
- Financial Report: The Board accepted the report as an FYI.
- Licensing Data: The Board accepted the report as an FYI.

Board Rule – Chapter 19 “Practice Requirements”: The Board reviewed and discussed the draft rule and will perform another review of the draft once board staff has made the amendments requested.

E-mail notification dated March 15, 2019 from Dr. Mark Zajkowski RE:
Patient Transport: Following its review and discussion of the notification, the information was accepted as an FYI.

The following items were accepted as an FYI:

- Continuing Education Approval Report
- Preliminary Agenda for Upcoming Meetings
- Case Management Report

Dr. Davis made a motion to adjourn the meeting at 2:10 p.m. Ms. Foster seconded the motion. Vote 8-0 in favor.