

**Maine Board of Dental Practice  
Board Meeting Minutes  
May 17, 2019**

The meeting convened at 8:35 a.m.

**Members Present:** Drs. Stephen Morse; Glen Davis; Paul Dunbar; Todd Ray; and Mark Zajkowski; Nancy Foster, RDH, EFDA; and Tracey Jowett, RDH, IPDH

**Members Absent:** M. Lourdes Wellington, Public Member; and Kathryn Young, LD

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

**Minutes – April 5, 2019:** Following their review of the draft minutes, Dr. Zajkowski made a motion to approve the minutes as amended. Dr. Davis seconded the motion. Vote 7-0 in favor.

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

- The Subcommittee reviewed and approved its minutes from the April 5, 2019 meeting.
- The Subcommittee reviewed and accepted as an FYI, the continuing education approval report and the preliminary agenda for upcoming meetings.
- Public Health Supervision Notification – Barbara LaVallee, RDH: The Subcommittee recommended that Ms. LaVallee be issued a letter of guidance, reminding her of her requirement to file notifications with the Board prior to providing public health hygiene services pursuant to Board Rules, Chapter 2. The letter of guidance will remain in the licensee’s file for a period of five (5) years. The recommendation was adopted by the Board.
- Application for Dental Hygiene License Renewal – Jennifer Smart, RDH: The Subcommittee recommended that the Board deny Ms. Smart’s request to withdraw her license renewal application, and to offer her an alternate consent agreement. The terms of the consent agreement are: a. admission to violating the reporting requirements pursuant to 32 M.R.S. § 18352, b. a warning; c. surrender her dental hygiene license, and d. agree not to reapply for licensure for a period of five (5) years. The Board adopted the Subcommittee’s recommendation.

- Case No. 19-23: The Subcommittee recommended that the Board accept the proposed consent agreement to resolve the allegation of unlicensed practice involving the administration of local anesthesia beyond the expiration date of the permit. The Board adopted the Subcommittee's recommendation.
- The Board members briefly discussed revising the delegation chart to remove the requirement that the Board ratify proposed consent agreements.

**Review and Ratification of Proposed Consent Agreement - Case Nos. 18-79 and 19-1:** Following their review, Dr. Davis made a motion to accept the consent agreement as drafted. Dr. Dunbar seconded the motion. Vote 7-0 in favor.

**Applications for Review:**

- Tiffany Bennett – dental radiography: At its April 5, 2019 meeting, the Board voted to table its review of Ms. Bennett's application for licensure and request that she obtain an assessment with the Maine Medical Professionals Health Program (MPHP) based on her criminal conviction disclosure(s). Board staff reported that Ms. Bennett is willing to enroll with the MPHP, but that the MPHP's formal recommendation identifying the duration of her enrollment is pending review of additional information. Following the Board's review and discussion, Ms. Foster made a motion to authorize Board staff to issue a preliminary denial based on the applicant's criminal conviction(s), and to enter into a consent agreement with the applicant for licensure. The terms of the consent agreement would be a. an admission, b. a warning, and c. a period of probation no less than one year which would be commensurate with the MPHP recommendations pursuant to a monitoring agreement. Vote 7-0 in favor.
- Carmen Bernardini – 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 Ms. Bernardini a dental radiography license. Dr. Zajkowski seconded the motion. Vote 6-0 in favor. (Ms. Foster recused)
- Janie L. Gerrish – dental radiography: After a review and discussion of the application materials, including Ms. Gerrish's disclosure that she had taken dental radiographs prior to obtaining a license, Dr. Davis made a motion to preliminarily deny the application and offer a consent agreement which would include an admission to practicing without a license, with the following conditions: 1) a warning, and 2) a civil penalty of \$50.00 to be paid within ninety (90) days. Ms. Foster seconded the motion. Vote 7-0 in favor.

Following further discussion, Ms. Jowett made a motion to send a letter of guidance to the supervising dentist regarding the allowance of unlicensed practice. Dr. Zajkowski seconded the motion. Both motions were withdrawn. Dr. Dunbar made a motion to send a letter of information to the supervising dentist. Dr. Davis seconded the motion. Both motions were withdrawn. The Board agreed to discuss this topic further during its review of the draft rules later in the day.

- Darcy Golzbein – dental radiography: After a review and discussion of the application materials, including Ms. Golzbein’s disclosure of criminal conduct, Dr. Zajkowski made a motion to grant a dental radiographer license to Ms. Golzbein. Dr. Dunbar seconded the motion. Vote 7-0 in favor.
- Denise Shea – dental radiography license reinstatement: After a review and discussion of the application materials which included her disclosure of practicing dental radiography after the license expiration date, and her failure to disclose an arrest/conviction on her applications filed with the Board, Dr. Zajkowski made a motion to preliminarily deny Ms. Shea’s application for licensure and offer a consent agreement. The terms of the consent agreement would include: a. an admission to violating the criminal conviction disclosure and unlicensed practice, b. a warning, and c. payment of a civil penalty in the amount of \$150.00 to be paid within ninety (90) days. Ms. Foster seconded the motion. Vote 7-0 in favor.
- Shaheen Awan, DMD – dentist: After a review and discussion of the application materials including a disclosure regarding a complaint, Dr. Davis made a motion to grant a dentist license to Dr. Awan upon receipt of proof that she has completed a hands-on CPR training certification course. Dr. Zajkowski seconded the motion. Vote 7-0 in favor.
- Christopher Freeman, DMD – dentist: After a review and discussion of the application materials, Dr. Davis made a motion to grant a dentist license to Dr. Freeman. The motion included that a letter be sent to Dr. Freeman requesting further information regarding the practice model of Swanky Smiles. Dr. Dunbar seconded the motion. Vote 7-0 in favor.
- Paul M. Kaplan, DMD – dentist: After a review and discussion of the application materials, including lawsuit disclosures, Dr. Zajkowski made a motion to grant a dentist license to Dr. Kaplan. Dr. Davis seconded the motion. Vote 7-0 in favor.
- Judith Meyers, DDS – dentist: After a review and discussion of the application materials, including a request to withdraw the application, Dr. Davis made a motion to grant Dr. Meyer’s request. Dr. Zajkowski seconded the motion. Vote 7-0 in favor.

- Namita Khandelwal – moderate parenteral sedation: Following a review and discussion of the incomplete application materials, and a report from Board staff that they have been unable to reach the applicant, Dr. Zajkowski made a motion to administratively close the application. Dr. Dunbar seconded the motion. Vote 7-0 in favor.

**Initial Case Presentations:**

**Case No. 18-39:** A complaint was filed against a dentist alleging that the complainant's spouse had a restoration completed and the dentist did not inform them of the composite materials to be used. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the case. Dr. Zajkowski seconded the motion. Vote 6-0 in favor. (Dr. Dunbar abstained)

**Case No. 18-60:** A complaint was filed against a dentist alleging that the licensee refused to treat her child after they were referred to the licensee for further treatment. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the case. Dr. Zajkowski seconded the motion. Vote 6-0 in favor. (Dr. Dunbar abstained)

**Case No. 18-69:** A complaint was filed against a dentist alleging that the licensee refused to provide them with an antibiotic. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the case. Dr. Davis seconded the motion. Vote 6-0 in favor. (Dr. Dunbar abstained)

**Case No. 18-71:** A complaint was filed against a dentist alleging that a restoration completed by the dentist failed within a year and that the dentist refused to repair the restoration. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the case. Dr. Davis seconded the motion. Vote 6-0 in favor. (Dr. Dunbar abstained)

**Case No. 18-74:** A complaint was filed against a dentist alleging poor communication between the patient, the licensee, and the referring provider with regards to a restoration following placement of an implant. After a review and discussion of the materials presented, Dr. Davis made a motion to dismiss the case. Ms. Foster seconded the motion. Vote 6-0 in favor. (Dr. Dunbar abstained)

**Case No. 19-29:** A complaint was filed with the Board which did not identify a dentist, but requested that the Board to inform all dentists that they should be informing their patients of the potential harm from taking too much over the counter medication (i.e. Advil, Tylenol). After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the case. Dr. Davis seconded the motion. Vote 7-0 in favor.

**Case Items – Compliance Reporting:**

**Review of Consent Agreement Compliance Documentation – Case No. 06-126:**

After a review and discussion of the compliance documents submitted to the Board, which included reports of medication administered, and monthly reporting from the MPHP for December 2018 through April 2019, Dr. Zajkowski made a motion to accept the documentation. Ms. Foster seconded the motion. Vote 7-0 in favor.

**Review of Consent Agreement Compliance Documentation – Case No. 09-39:**

After a review and discussion of the compliance documents submitted to the Board, which included monthly reporting from the MPHP for the months of December 2018 through April 2019, Dr. Zajkowski made a motion to accept the documentation. Dr. Davis seconded the motion. Vote 7-0 in favor.

**Review of Consent Agreement Compliance Documentation – Case No. 12-14:**

After a review and discussion of the compliance documents submitted to the Board, which included reports of attendance of self-help meetings for the months of April 2017 through March 2019, Dr. Zajkowski made a motion to accept the documentation. Ms. Foster seconded the motion. Vote 7-0 in favor.

**Review of Consent Agreement Compliance Documentation – Case No. 15-7:**

After a review and discussion of the compliance documents submitted to the Board, which included reports of attendance of self-help meetings and monthly MPHP reports for the months of December 2018 through April 2019, Ms. Foster made a motion to accept the documentation. Dr. Dunbar seconded the motion. Vote 7-0 in favor.

**Review of Consent Agreement Compliance Documentation – Case No. 18-73:**

After a review and discussion of the compliance documents submitted to the Board, which included dates of contacts with their MPHP case manager and therapist, along with copies of self-reports for the months of January through April 2019, Dr. Dunbar made a motion to accept the documentation. Dr. Davis seconded the motion. Vote 7-0 in favor

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

After a review and discussion of the compliance documents submitted to the Board, which included a log of controlled substances for the months of February and March 2019, Ms. Foster made a motion to accept the documentation. Dr. Zajkowski seconded the motion. Vote 7-0 in favor.

**Executive Director’s Report:**

- Legislative Update: Board staff is finalizing its implementation efforts to fully transition permits, licenses and authorities based on the 128<sup>th</sup> Second Regular Legislative session. Board staff will continue to monitor legislation in the 129<sup>th</sup> First Regular Legislative session in coordination with the Commissioner’s Office.
- Rulemaking Update: The Rules Committee will reconvene in the Fall/Winter of 2019. A rulemaking hearing is scheduled for Friday, May 24, 2019 regarding the proposed changes to Board Rules, Chapter 7.
- Financial Report: The Board accepted the report as an FYI.
- Licensing Data Report: The Board accepted the report as an FYI.
- Other: Ms. Vaillancourt provided information to the Board concerning the following items:
  - UMA Dental Hygiene Presentation – April 9<sup>th</sup>
  - MaineCare Dental Advisory Committee meeting – May 8<sup>th</sup>
  - MPHP Biennial Conference – June 13<sup>th</sup>
  - Military and Veterans’ Resource Fair – DPFR – June 17<sup>th</sup>

**E-mail from James Griffith DDS dated March 11, 2019 RE: Response to Board’s Request:** After a review and discussion of the materials presented, the Board accepted the information as an FYI.

**Criminal Conduct Disclosure dated March 25, 2019; Richard Crawford, DMD:** After a review and discussion of the materials presented, Ms. Jowett made a motion to send a letter to Dr. Crawford requesting that he obtain an assessment with the MPHP. Ms. Foster seconded the motion. Vote 7-0 in favor.

**Letter dated April 2, 2019 from the HC/IFS committee RE: LD 558:** The committee is requesting that the Board report back on or before January 15, 2020, whether the Board feels changes should be made to the current opioid continuing education requirement.

**E-mail from Barclay Damon dated April 8, 2019 RE: Digital Scanning; Scope of Practice:** The correspondence from Barclay Damon is requesting clarification of whether a dental hygienist can utilize digital scanning equipment as part of their scope of practice. Following a thorough discussion, the Board concluded that the statute is silent on the use of digital scanner equipment, but anticipates addressing the use of digital equipment/devices via the administrative rulemaking process.

**Communication from the Office of MaineCare Services dated April 12, 2019**

**RE: Retroactive coverage of interim caries medicament:** Ms. Vaillancourt requested clarification from the Board regarding the use of silver diamine fluoride (SDF).

The following items were accepted as an FYI:

- E-mail dated April 5, 2019 from New Hampshire Board of Dental Examiners RE: Docket No. 19-2
- Letter dated April 29, 2019 from IDEA committee RE: Government Evaluation Act
- Letter dated May 2, 2019 from Senator Carpenter RE: LD 1161
- MPHP Biennial Conference – June 13, 2019
- Continuing Education Approval Report
- Preliminary Agenda for Upcoming Meetings
- Case Management Reports

**Rulemaking Items:**

Chapter 1 “Definitions”:

Chapter 2 “Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities”

Chapter 3 “Qualifications for Expanded Function Dental Assistant Licensure”

Chapter 4 “Rules Relating to the Practice of Denturism”

Chapter 5 “Qualifications for Denturist Licensure”

Chapter 6 “Rules for Radiation Barriers”

Chapter 8 “Advertising”

Chapter 9 “Unprofessional Conduct”

- The Board requested that the following be placed in the draft proposed rule:  
Failure of a licensee to ensure an individual working under your supervision holds the appropriate license or authority.

Chapter 10 “Qualifications for Dental Radiography Licensure”

Chapter 11 “Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licenses and Authorities”

Chapter 12 “Qualifications for Dentist Licensure”

Chapter 15 “Mortality or Significant Health Incidents in a Dental Office”

Chapter 16 “Rules for Independent Practice Dental Hygienists to Process Dental Radiographs”

Chapter 18 “Qualifications for Initial and Renewal of Registrations”

Chapter 19 “Practice Requirements”

- The Board requested that the following be placed in the draft proposed rule:
  - Expressed consent of any restorative material or irreversible procedure (expressed consent can be either oral or written);

- Responsibility for Emergent care – licensees shall make reasonable appropriate emergent care available to their patients.

Dr. Davis made a motion to adjourn at 3:34 p.m. Ms. Foster seconded the motion. Vote 7-0 in favor.