

**Maine Board of Dental Practice
Board Meeting Minutes
July 19, 2019**

The meeting convened at 8:02 a.m.

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

Member Absent: Dr. Todd Ray

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

Review/Ratification of Decision and Order – Case No. 18-87:

Following the adjudicatory hearing on June 14, 2019, the licensee presented a motion to dismiss which was taken under advisement. Following the Board's review of the motion, including the State's response to the licensee's motion, Dr. Zajkowski made a motion to deny the licensee's motion to dismiss the case. Ms. Young seconded the motion. Vote 7-0 in favor. (Dr. Davis abstained)

Following the Board's review, Dr. Zajkowski made a motion to accept the Decision and Order as amended. Ms. Young seconded the motion. Vote 7-0 in favor. (Dr. Davis abstained)

Minutes – June 14, 2019: Following the Board's review of the draft minutes, Dr. Zajkowski made a motion to approve the minutes as drafted. Ms. Young seconded the motion. Vote 8-0 in favor.

Board Chair Report:

- Travel moratorium – Dr. Davis made a motion to remove the moratorium of travel on a case by case basis. Ms. Foster seconded the motion. Vote 8-0 in favor.
- ADEX Meeting – Dr. Davis made a motion to approve Dr. Morse's travel and attendance at the upcoming ADEX meeting. Dr. Dunbar seconded the motion. Vote 8-0 in favor.
- Board Investigator Position – Dr. Morse provided a brief update that Therese Cahill will be filling the Board Investigator position as acting capacity.

- Article – “Will silver diamine fluoride significantly impact the standard of care for caries prevention/treatment in the United States?” as published in the *Compendium*, Volume 40, No. 1, January 2019. The Board briefly discussed the article and accepted the information as an FYI.
- 2020 Meeting Dates – The following were selected dates for the 2020 board meetings: January 10, February 7, March 13, April 10, May 15, June 12, July 17, August 14, September 11, October 9, November 6, and December 4. All meeting dates are subject to change.

Application for Dental Radiography Licensure – Erica Couture: After a review and discussion of the application materials, including Ms. Couture’s disclosures of criminal conduct, Kathryn Young made a motion to table the application requesting additional information from the applicant. The additional information is specific to the disposition of two criminal charges in 2017, as well as a request for the applicant to obtain an MPHP assessment based on disclosing Operating Under the Influence arrests and convictions. Dr. Davis seconded the motion. Vote 8-0 in favor.

Application for Dental Radiography Licensure – Katie Rines: After a review and discussion of the application materials, including a disclosure of criminal conduct, Dr. Dunbar made a motion to grant a dental radiographer license to Ms. Rines. Dr. Davis seconded the motion. Vote 8-0 in favor.

Application for Dental Radiography Licensure – Katrina Couto: After a review and discussion of the application materials, including Ms. Couto’s disclosure of criminal conduct, Dr. Davis made a motion to preliminarily deny the application for licensure and offer a consent agreement. The terms of the consent agreement would include: a.) an admission to misrepresentation of the criminal conduct; b.) a warning; c.) five-year probation; d.) civil penalty of \$50.00 to be paid within 90 days; and e.) notification to the board within five days of any arrest. Ms. Foster seconded the motion. Vote 8-0 in favor.

Application for Dental Radiography Licensure – Tiffany Bennett: After a review and discussion of the application materials presented, including an assessment from the Maine Medical Professionals Health Program (the “MPHP”), Dr. Dunbar made a motion to preliminarily deny the application and offer a consent agreement to include the following: a.) a license probation of one year; and b.) Board approval of the MPHP Monitoring Agreement within 30 days of the executed agreement. Ms. Jowett seconded the motion. Vote 8-0 in favor.

Case Items:

Request to Amend Consent Agreement – Case Nos. 16-21, 11-21, and 12-31: After a review and discussion of the information, Dr. Dunbar made a motion to deny the request to amend the consent agreement. Ms. Young seconded the motion. Vote 8-0 in favor.

Request to Terminate Consent Agreement – Case No. 09-39: After a review and discussion of the compliance documents and a request from the licensee that the consent agreement be terminated, Dr. Zajkowski made a motion to approve the reports, and release the licensee from the consent agreement. Dr. Davis seconded the motion. Vote 8-0 in favor.

Request to Terminate Consent Agreement – Case No. 15-7: After a review and discussion of the compliance documents and a request from the licensee that the consent agreement be terminated, Ms. Foster made a motion to approve the reports, and release the licensee from the consent agreement. Dr. Zajkowski seconded the motion. Vote 8-0 in favor.

Case Items – Compliance Reporting

Review of Consent Agreement Compliance Documentation – Case No 19-1: After a review and discussion of the compliance documents submitted to the Board, which included a copy of the signed Monitoring Agreement and reports from the MPHP for the months of June and July 2019, Dr. Zajkowski made a motion to accept the documentation. Dr. Davis seconded the motion. Vote 8-0 in favor.

The Monitoring Agreement includes a provision that the licensee have a peer monitor. Following their review of the proposed monitor, Dr. Davis made a motion to approve the monitor. Dr. Zajkowski seconded the motion. Vote 8-0 in favor.

Request to Terminate Consent Agreement – Case No. 06-126: After a review and discussion of the compliance documents and a request from the licensee that the consent agreement be terminated, Dr. Dunbar made a motion to approve the reports, and release the licensee from the consent agreement. Dr. Zajkowski seconded the motion. Vote 8-0 in favor.

Application for Deep Sedation/General Anesthesia Permit – Christopher S. Maller, DMD: After a review and discussion of the application materials, Ms. Foster made a motion to table the review in order to make an additional request to the licensee to provide information regarding personnel and their certifications. Dr. Davis seconded the motion. Vote 8-0 in favor.

Application for Deep Sedation/General Anesthesia Permit – Ronald

Berube, DDS: After a review and discussion of the application materials, Dr. Zajkowski made a motion to table the review in order to make an additional request for the licensee to provide a current PALS certification. Dr. Davis seconded the motion. Vote 8-0 in favor.

Follow up on Case No. 18-87: After a discussion of the licensee's testimony during the adjudicatory hearing held on June 14, 2019, Dr. Zajkowski made a motion to issue a board generated case based on the false testimony provided at the hearing, and falsified documents submitted to the Board. The motion included that a consent agreement be offered to the licensee to include the following: a.) a reprimand; b.) admission of false testimony and documents; c.) a thirty-day license suspension; and d.) completion of a behavioral assessment by the MPHP. Dr. Dunbar seconded the motion. Vote 7-1 in favor. (Ms. Wellington opposed).

If the licensee chooses not to accept the consent agreement offer, Ms. Foster made a motion to authorize Board Staff to move the matter to district court. Dr. Davis seconded the motion. Vote 8-0 in favor.

Adjudicatory Hearing – Case No. 19-25 – Jennifer L. Smart:

An adjudicatory hearing was held to consider Ms. Smart's appeal to the Board's preliminary denial of her dental hygiene renewal application based upon the allegation that she failed to report a conviction within 10 days, and the alleged misuse of alcohol which may result in services being performed that endanger the health and safety of patients.

After the evidence was presented by the parties, and after the Board's deliberations, Dr. Davis made a motion that by a preponderance of the evidence, Ms. Smart failed to report a criminal conviction to the Board within ten days pursuant to 32 M.R.S. § 18352(1)(B). Dr. Dunbar seconded the motion. Vote 8-0 in favor.

Based on the preponderance of the evidence, Dr. Zajkowski made a motion that it is more likely than not, that Ms. Smart's misuse of alcohol may result in performing services in a manner that endangers the health or safety of patients. Ms. Young seconded the motion. Vote 8-0 in favor.

Based upon this conclusion, Dr. Zajkowski made a motion to renew Ms. Smart's dental hygiene license with the following conditions: a.) issuance of a warning; b.) payment of a \$50.00 civil penalty within 90 days; c.) payment of recovered costs up to \$1,000 to be paid within twelve months; d.) report any

arrests within 10 days of the occurrence; e.) enter into a monitoring agreement with the MPHP which must be pre-approved by the Board and submitted within 30 days of the decision and will include monthly reporting to the board; and f.) a license probation of one year. Ms Young seconded the motion. Vote 8-0 in favor.

Initial Case Presentations:

Case No. 17-33: A complaint was filed against a dentist alleging that the licensee did not appropriately inform the patient of a periodontal condition that had developed over a period of time. 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 effective communication, obtaining and recording a complete record such as vital signs and blood pressure readings, and accurate documentation of patient examinations as reflected in billing records. Ms. Jowett seconded the motion. Vote 7-0 in favor. (Dr. Zajkowski abstained)

Case No. 17-46: A complaint was filed against a dentist alleging that after multiple injections of local anesthetic performed by a dental hygienist that the patient still endured pain during a deep scaling. 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. Zajkowski abstained)

Case No. 17-51: A complaint was filed against a dentist alleging that the licensee unnecessarily provided endodontic treatment and crown placement. 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 effective communication when establishing and maintaining trust in a provider-patient relationship. Ms. Jowett seconded the motion. Vote 7-0 in favor. (Dr. Zajkowski abstained)

Continuing Education Pre-Approval Request – “A Dental Review” UNE

CDM Annual Preceptor Training: Following its review and discussion of the materials submitted, Dr. Davis made a motion to approve the request for pre-approval of the continuing education activity. Dr. Dunbar seconded the motion. Vote 8-0 in favor.

Petition to Maine Board of Dental Practice to Enforce Fact Sheet Law

Received July 8, 2019: Following its review and discussion of the correspondence and accompanying materials, Dr. Zajkowski made a motion to send a letter acknowledging the request and to clarify that the proposal would

require state agency rulemaking, which includes an opportunity to provide comment to the Board during a public hearing. . Dr. Davis seconded the motion. Vote 8-0 in favor.

Executive Director's Report:

- Legislative Update: An informational letter will be mailed to licensees regarding newly enacted legislation during the 129th First Regular Legislative Session. The Board will be convening a work group pursuant to Public Law 2018, c. 388 to propose statutory changes to the definitions of supervision and a identify a definition for teledentistry.
- Rulemaking Update: The Rules Committee will reconvene at a future date to be announced.
- Financial Report: The Board accepted the report as an FYI.
- Licensing Data Report: The Board accepted the report as an FYI.
- License Report – Delegation to Board Staff: The Board accepted the report as an FYI.
- Other: Board staff sought clarification regarding the types of information to be collecting as part of the application process when determining completion of a one-year residency program in lieu of passing all components of a regional examination.

Dr. Davis made a motion to adjourn at 6:01 p.m. Ms. Jowett seconded the motion. Vote 8-0 in favor.