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 Department of Public Health
 Bureau of Health Professions Licensure
 Board of Registration in Dentistry
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COMMONWEALTH OF MASSACHUSETTS

**NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
 BOARD OF REGISTRATION IN DENTISTRY**

July 5, 2017
 239 Causeway Street ~ Room 417 A&B
 Boston, Massachusetts 02114

AGENDA

Time	#	Item	Exhibits	Contact
8:30 a.m.	I	CALL TO ORDER, DETERMINATION OF QUORUM, AND APPROVAL OF AGENDA		
8:31	II	ADMINISTRATIVE MATTERS 1. Board Policy: NPDB Malpractice Settlements 2. Application for Dental License by Credential: Dr. Jennifer Lipiec 3. Application for Dental License by Credential: Dr. Russell Taylor 4. Re-visit Audit Inspection Report: Smile Boston 5. WREB Format Change in 2018 6. Probation Monitor Monthly Report 7. Review of Minutes—General Session of June 7, 2017 8. Review of Minutes and Approval of Recommendations—Complaint Committee General Session of June 7, 2017	Sample Settlement, Application, Attachments, Memo, Reports, Draft Minutes	S. Leadholm B. Young, K. Fishman
9:30	III	PROBATION MATTER Termination of Probation: DEN-2012-0119: Dr. Robin Eliasberg-Lowenstein	Petition, Memo	K. Fishman
9:40	IV	COMPLAINT RESOLUTION 1. DEN-2016-0071: Rita Eksoozian Melvin, RDH 2. DEN-2017-0005: Dr. Joseph Daley 3. DEN-2017-0003: Cathy Grinham, RDH	Investigation Reports	B. Yates, E. Mulligan, L. Seeley-Murphy
10:00	V	FLEX SESSION		
10:10		BREAK		

10:15	VI	EXECUTIVE SESSION (closed to the public) The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) for the purposes of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against an individual. Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients.		
11:00	VII	ADJUDICATORY SESSION (closed to the public)		
11:15		ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
July 5, 2017

Present: Dr. Stephen DuLong, Board Chair; Dr. Keith Batchelder; Dr. Patricia Wu; Ms. Jacyn Stultz, RDH; Dr. Paul Levy; Ms. Lois Sobel, RDH; Dr. Ward Cromer

Absent: Ms. Ailish Wilkie, Board Secretary; Dr. John Hsu; Ms. Kathleen Held; Dr. Cynthia Stevens

Board Staff Present: Barbara A. Young, Executive Director; Jeffrey Mills, Asst. Executive Director; Samuel Leadholm, Esq., Board Counsel; Dr. Liliana DiFabio, Supervisor of Investigations; OPP Investigators Eileen Mulligan, Kathleen O’Connell, Lisa Seeley-Murphy, Danielle Taylor, Sarah Millar and Barbara Yates.

Ms. Jacyn Stultz arrived for the meeting at 9:16 a.m.

Motion: **At 8:30 a.m., to commence the meeting and to adopt the proposed agenda for today’s meeting**

Motion Made By: Ms. Lois Sobel

Second: Dr. Paul Levy

Vote: Unanimous

I. Administrative Matters:

A. Board Policy: National Practitioner Data Bank (NPDB) Malpractice Settlements

Ms. Young asked the Board to consider adopting a staff action policy that sets a time limit and/or monetary minimum amount regarding NPDB reports for malpractice settlements. Ms. Young noted that often a settlement comes years after than the incident that led to the filing of a malpractice suit and that patients often do not report the malpractice suit or settlement directly to the Board. Dr. Batchelder asked if the NPDB reports are provided free; Ms. Young replied they are.

Motion: To adopt a Staff Action Policy that states Board staff shall open a complaint upon the notification of malpractice settlements of \$25,000.00 or greater

Motion Made By: Dr. Keith Batchelder

Second: Dr. Ward Cromer

Vote: Unanimous

B. Request for Consideration of an Application for Initial Licensure as a Dentist by Credential – Executive Director Barbara A. Young, RDH

--In the Matter of Dr. Russell A. Taylor

The applicant was not present for the discussion and vote of the Board on this matter.

Discussion: After the presentation by Ms. Young, Dr. DuLong noted this is the first application for initial licensure during his tenure as Chair where the applicant has not submitted passing scores on a clinical competency exam such as the CDCA/NERB or WREB but has submitted a passing score on the Canadian OSCE exam. Dr. DuLong noted the Board previously had declined to consider such applications and asked if the Board has the authority to change its requirements for initial licensure.

Dr. Cromer noted the Board, by approving this application, may be changing its precedent and suggested the Board adopt a policy on how to handle these applications; Dr. DuLong agreed noting the landscape regarding licensure qualifications is changing across the US. Ms. Young suggested the policy could indicate these applications would be considered by the Board on a case-by-case basis.

Dr. DuLong noted California will soon start accepting the CDCA/NERB exam in 2019. Dr. DuLong also suggested the Board needs to avoid inconsistency, e.g. by requiring a minimum of 5 yrs. of active clinical practice. Ms. Young asked if this issue should be considered the Board's regulatory review workgroup; Mr. Mills agreed noting the workgroup has yet to tackle 234 CMR 4.00.

Motion: **To approve the applicant's application for initial licensure as a dentist by credential**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

C. Request for Consideration of an Application for Initial Licensure as a Dentist by Credential – Executive Director Barbara A. Young, RDH

--In the Matter of Dr. Jennifer E. Lipiec

The applicant was not present for the discussion and vote of the Board on this matter.

Discussion: Ms. Young informed the Board this applicant is also seeking initial licensure as a dentist by credential and has not taken or passed a clinical competency exam such as the CDCA/NERB or WREB but has also submitted a passing score on the Canadian OSCE exam.

Motion: **To approve the applicant's application for initial licensure as a dentist by credential**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Ward Cromer

Vote: Unanimous

D. Re-Visit Audit Inspection Report: Smile Boston

Dr. Steven Spitz and Vincent Dunn, Esq. were present for the discussion and vote of the Board on this matter. Atty. Dunn provided the Board members with a letter from Ms. Sara Suarez, Account Manager of SMS Inc. (Sterilizer Monitoring Systems), dated June 30, 2017. The licensee answered all questions as appropriate.

Ms. Young explained to the Board that this matter was originally considered by the Board as the result of an audit inspection conducted by Investigator Danielle Taylor several months ago. Ms. Young indicated the Board voted to open complaints against Dr. Spitz and the associate dentists/auxiliary staff employed by Dr. Spitz based, in part, on incomplete or missing spore test results and that is why the matter has been included in today's agenda for review by the Board.

Ms. Young noted the letter provided by Atty. Dunn and Ms. Taylor's continued investigation reveals the no. of missing spore tests is less than that originally presented to the Board. Dr. Batchelder suggested closing the complaints against the employees and asked if the staff mailed the spore tests to SMS and then the tests expired or if the staff mailed expired tests to SMS. Dr. Wu asked who is responsible for submitting spore tests; Dr. Spitz replied he is but noted there was an error by one of his dental assistants. Dr. Spitz stated he was notified by SMS three weeks later that some of the tests had expired.

Dr. Batchelder asked if the company would not process the spore tests if it was expired; Dr. Spitz replied yes. Dr. Levy noted Dr. Spitz was trying to do the right thing and suggested the Board dismiss the complaints with an advisory letter on improved infection control protocols and procedures; Dr. Wu agreed noting it was not the case where this office failed to submit any tests.

Motion: **To rescind the Board vote to open complaints against all associate dentists and dental auxiliaries employed by Dr. Steven Spitz**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous

Motion: **To dismiss the complaint against Dr. Steven Spitz with an advisory letter on the infection control regulations.**

Motion Made By: Dr. Paul Levy

Second: Dr. Patricia Wu

Vote: Unanimous

D. WREB Format Change in 2018

Dr. DuLong noted the process for licensing dentists across the US is in disarray noting many states are changing their requirements for licensure. Dr. DuLong noted that when he first joined the Board, only passing scores on the NERB exam were acceptable but now there are multiple ways to acquire a license. Dr. DuLong suggested more alternative pathways, such as

PGY1 programs, may become acceptable but in some instances, a statutory fix may be required first. Dr. DuLong stated the proposed changes to the WREB exam involve a minor change to the restorative section and the periodontal section, previously required, is becoming optional. Mr. Mills suggested making the periodontal section required to keep it in line with other clinical competency exams such as the CDCA/NERB. Dr. DuLong also noted the prosthodontic section is becoming optional.

Motion: **To require a passing score on the periodontal section of the WREB clinical competency exam for initial licensure**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: Unanimous (Ms. Jacyn Stultz abstained)

Motion: **To require a passing score on the prosthodontic section of the WREB clinical competency exam for initial licensure**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: **In Favor:** Dr. Keith Batchelder; Dr. Patricia Wu; Ms. Jacyn Stultz
Opposed: Dr. Stephen DuLong; Dr. Paul Levy
Abstain: Ms. Lois Sobel; Dr. Ward Cromer

E. Probation Monitor Monthly Report

Mr. Mills presented the monthly probation report from Ms. Karen Fishman. The Board had no questions or concerns about the monthly report.

F. Review of the General Session Minutes of June 7, 2017

Motion: **To approve the General Session Minutes of the June 7, 2017, Board meeting**

Motion Made By: Ms. Lois Sobel

Second: Ms. Jacyn Stultz

Vote: **In Favor:** Ms. Jacyn Stultz; Dr. Stephen DuLong; Dr. Paul Levy;
Ms. Lois Sobel
Opposed: None
Abstain: Dr. Patricia Wu; Dr. Ward Cromer; Dr. Keith Batchelder

G. Review of the General Session Minutes of June 7, 2017, Complaint Committee

Motion: **To approve the General Session Minutes of the June 7, 2017, Complaint Committee meeting**

Motion Made By: Ms. Lois Sobel

Second: Dr. Paul Levy

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Paul Levy; Ms. Lois Sobel
Opposed: None
Abstain: None

Motion: **To adopt the recommendations of the June 7, 2017, Complaint Committee meeting**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Paul Levy; Ms. Lois Sobel
Opposed: None
Abstain: None

H. Complaint Resolution – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0119: Dr. Robin Eliasberg-Lowenstein

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation(s): Infection Control Violations

Discussion: Ms. Fishman reported the licensee is in compliance with all terms of her Consent Agreement for Probation and suggested the Board terminate the licensee's probationary period

Motion: **To terminate the licensee's probationary period due to compliance with all terms of the Consent Agreement for Probation**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Ward Cromer
Vote: Unanimous (Ms. Jacyn Stultz abstained)

I. Flex Session

1. Dr. Batchelder announced to the Board that is resigning from the Board effective immediately and today is his last meeting as he is moving to NH and can no longer serve on the Board. Dr. DuLong thanked Dr. Batchelder for his service and dedication to the Board and the public.
2. Mr. Mills provided the Board with an update that was posted on the Dr.Bicuspid.com website that indicates the US EPA will lift its hold on finalized standards to reduce the discharge of mercury and other metals in wastewater from dental practices into municipal sewage treatment plants on June 14, 2017. The rule will go into effect on July 14, 2017, with a compliance date for dental offices of July 14, 2020.

Complaint Resolution – Investigator Barbara Yates

--In the Matter of DEN-2016-0071: Ms. Rita Eksoozian Melvin, RDH

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation(s): Out of State Discipline

Discussion: Ms. Yates informed the Board the licensee had been disciplined by the NH dental board due to the licensee lacking competence necessary to perform scaling and root planing. Ms. Yates stated the licensee does not practice in NH but works full-time in Massachusetts and is a 2013 graduate of dental hygiene school.

Dr. DuLong asked about the terms of the NH agreement; Atty. Leadholm advised the Board it can discipline the licensee for the same terms or reprimand the licensee.

Motion: **To dismiss the complaint against the licensee**

Motion Made By: Ms. Jacyn Stultz

Second: Dr. Paul Levy

Vote: Unanimous

Complaint Resolution – Investigator Eileen Mulligan

--In the Matter of DEN-2017-0005: Dr. Joseph O. Daley, Jr.

The licensee was not present for the discussion of this matter by the Board.

Allegation(s): Employment of an Unlicensed Dental Hygienist

Discussion: Ms. Young informed the Board this matter was mistakenly included in the agenda as the complaint qualifies for resolution pursuant to the Board's Staff Action Policy 14-02.

Complaint Resolution – Investigator Lisa Seeley-Murphy

--In the Matter of DEN-2017-0003: Ms. Cathy J. Grinham, RDH

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation(s): Infection Control Violations

Discussion: Ms. Seeley-Murphy informed the Board the complaint relates to the licensee's failing to submit spore tests to a testing company in a timely manner as part of her practice as a public health dental hygienist.

Dr. Batchelder asked if the licensee also practices as a dental hygienist; Ms. Seeley-Murphy replied the licensee does but only sporadically. Atty. Leadholm asked if there were any weeks when the licensee was not working; Ms. Seeley-Murphy replied she did not know.

Dr. Levy asked if any of the spore tests submitted by the licensee failed; Ms. Seeley-Murphy replied no.

Motion: **To dismiss the complaint as no evidence of violation found with an advisory letter on infection control regulations.**

Motion Made By: Ms. Jacyn Stultz

Second: Dr. Keith Batchelder

Vote: Unanimous

The Board took its morning recess at 9:47 a.m. and resumed its meeting at 9:56 a.m.

At 9:56 a.m., Dr. DuLong announced that the Board will meet in closed session as authorized pursuant to M.G.L. c. 30A, §21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than the professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Specifically, the Board will meet in Executive Session and will discuss and evaluate the Good Moral Character as required for registration of pending applicant(s) for licensure. Additionally, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. Executive Session is closed to members of the public, except as provided for in M.G.L. c. 30A, §21(a) (1). At the conclusion of the Executive Session, the Board will enter a closed Adjudicatory Session before returning to an open session and adjourning the meeting for the day.

Motion: At 9:57 a.m., to enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1)

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Ms. Jacyn Stultz; Dr. Paul Levy; Ms. Lois Sobel; Dr. Keith Batchelder; Dr. Patricia Wu; Dr. Ward Cromer
Opposed: None
Abstain: None

Motion: At 10:31 a.m., to enter an Adjudicatory Session

Motion Made By: Ms. Lois Sobel

Second: Dr. Paul Levy

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Ms. Jacyn Stultz; Dr. Paul Levy; Ms. Lois Sobel; Dr. Keith Batchelder; Dr. Patricia Wu; Dr. Ward Cromer
Opposed: None
Abstain: None

Motion: At 10:36 a.m. to adjourn the meeting for the day

Motion Made By: Ms. Lois Sobel

Second: Ms. Jacyn Stultz

Vote: Unanimous

Board of Registration in Dentistry
General Session Agenda & Minutes
July 5, 2017
(Approved by the Board on Sept. 6, 2017)

Respectfully submitted,

Ms. Ailish Wilkie, Board Secretary

Date