



January 9, 2023, BoDE Public Meeting Minutes

Dental Examiners Board

Jan 9, 2023 at 8:30 AM EST

@ OPLC - 7 Eagle Square, Concord, NH 03303 - Meeting in person required - Public

Attendance available via Zoom

<https://us02web.zoom.us/j/87485332355?pwd=di9idW10MElqOXROWldrZkp4eUkxZz09>

Attendance

Present:

Members: John Giral, Puneet Kochhar, Howard Ludington, Virginia Kapetanakis Moore, Jay Patel, Linda Tatarczuch

Guests: Jessica Whelehan - Board Administrator, Jenna Wilson - Board Administrator, Mike Auerbach (remote), Sheri Phillips - Board Counsel, Lauren Warner - Board Counsel

Absent:

Members: Roger Achong, Muhenad Samaan, Lisa Scott

I. Call to Order

Puneet Kochhar, President, called the meeting to order at 8:45 am.

II. Approval of Public Minutes

A. December 5, 2022, public session

Motion:

Approve the minutes from the December 5, 2022, public session as submitted.

Motion moved by Howard Ludington and motion seconded by Linda Tatarczuch.

Motion passed unanimously.

III. OPLC and/or Board Administration Updates

A. Submit/Complete 2023 RSA 15-A Form

Jessica Whelehan, Board Administrator, reminded the members present to complete their RSA 15-A form before leaving.

B. Representative McGuire meeting

Puneet Kochhar informed the Board that he and Board member Howard Ludington would be attending a meeting this afternoon at the request of Representative Carol McGuire, if the Board approved. The Board was being asked to come and discuss the results of the Performance Audit that was made public in November, 2022, by the Office of the Legislative Budget Assistant.

C. CDCA/WREB, Dallas, Tx, meeting

Puneet Kochhar discussed the CDCA/WREB meeting that he and Virginia Moore has just returned from. He stated that the two main discussion topics he had been a part of were the potential for a Dental Compact, and the 2-provider requirement for pediatric anesthesia. He stated that many states seemed to require 2-providers, but had an allowance carved out for oral surgeons. Dr. Kochhar also noted that these meetings would be changed to the autumn in 2024, with 2023 occurring online.

Virginia Moore stated that she had participated in a the first ever hygienist's round table.

Motion:

Allow Puneet Kochhar and Howard Ludington to represent the Board at the meeting with Representative McGuire on January 9, 2023.

Motion moved by Puneet Kochhar and motion seconded by Jay Patel. Motion passed unanimously.

IV. Old Business

A. NH Dental Society Update - Mike Auerbach

Mike Auerbach provided the following comments:

- The NHDS is preparing to send a delegation to Boston for Yankee Dental Congress later this month. The three-day event will offer a wide range of in-person CE for New Hampshire dentists. I encourage each of you, if you plan to attend, to come by the NHDS State Lounge on the floor of the BCEC.
- Last spring, the NHDS – at the direction of our President, Dr. Berkal – established a Task Force on Wellness. As you, across the country, dental professionals are under an extraordinary amount of pressure, and attention to wellness is a growing national concern. This Task Force is working on compiling and sharing with all dental professionals the available resources they need to integrate wellness into their overall health regimen.
- We are preparing a delegation to send to the ASDA First District Annual Meeting in February. There, we hope to engage dental students from all over New England and help build pipelines between students and New Hampshire.
- Finally, on behalf of the NHDS, I would like to wish each of you a happy New Year!

B. Dental Hygiene Committee Update - No Items

Jessica Whelehan noted that there was no current update, however, she wanted the Board to consider the DHC, their schedule, and their tasks, when discussing the LBA Performance Audit, as the DHC was something that the LBA Audit Team had expressed some very clear views on.

The Board discussed the Final Report on the Performance Audit. The Board initially planned to discuss the Dental Hygiene Committee in February; however, the Board ultimately decided that the DHC should be tasked with considering Observations 25 and 26 of the LBA Performance Audit, as those specifically dealt with hygienist related materials. Jessica noted that she would first need to draw

up some proposed schedules for the DHC and asked that the Board be patient while she worked to reconvene the DHC.

C. Anesthesia laws and rules discussion - Tabled to February 2023 meeting

The Board briefly discussed this topic, with Attorney Sheri Phillips noting that there was no quick and easy solution regarding the matter of those currently licensed oral surgeons who fell under the blanket exemption for 2-provider anesthesia. She provided a variety of potential pathways the Board could take. Puneet Kochhar asked Dr. Ludington to bring a list of the criteria needed to qualify for an exemption, noting that the last list Dr. Ludington presented did not actually allow for a single provider to provide anesthesia and was not an exemption at all. Dr. Ludington stated he would work on the criteria. Dr. Ludington elaborated that he would develop a set of criteria for anesthesia being delivered to patients aged 8 and up but noted that he felt strongly that there should always be more than 1 provider if the patient was under the age of 8 years.

D. Message to licensees regarding unprofessional behavior - response from NH Dental Society

The Board reviewed the letter from the NH Dental Society; Puneet Kochhar asked if anyone wanted to discuss the letter. Howard Ludington stated he wanted to discuss the letter, elaborating that he was not trying to point fingers at anyone in particular when he voted to send the message about unprofessional behavior, but he did feel that although the message was not directed at everyone who received it, people needed to know about the issue. Puneet Kochhar noted that the letter from the NHDS said that there had been recent changes to the renewal process, and that this was in fact not the case; he went on to say that nothing had changed with the renewal process during this cycle, and that the NHDS President should not offer unsolicited advice. It was noted that the Board wished that the PHP message had included some sort of letterhead; Jessica Whelehan, Board Administrator, reminded the Board that there was no way to put letterhead in the PHP system, that attachments could not be sent, and that the sender was clearly identified in the "from" line, as well as the subject line of the message. The Board asked Jessica to make sure OPLC was aware of their concerns regarding the limitations of the PHP system. Drs. Ludington and Kochhar, citing the letter from the NHDS, asked Mike Auerbach, NHDS Executive Director, if the NHDS was prepared to take a list of all of the dentists who had not behaved professionally, and to handle these cases accordingly? Mike responded that the NHDS would be more than happy to hold those dentists accountable, under their own bylaws. Both Jessica Whelehan and Attorney Sheri Phillips stated that lists would not be provided to the NHDS; Sheri noted that giving a list to the NHDS was likely an ethics violation in and of itself, and Jessica noted that she would not provide a list because she felt that the NHDS did not support her or

her position, and she was not comfortable exposing herself in that manner. John Giraldo proposed that the Board let the matter rest. Dr. Kochhar stated that the NHDS was misinformed about the renewal process, as well as what the Board was able to do regarding ethics violations of this matter, and that the Board should respond to the NHDS in kind, with a written letter. Dr. Kochhar also expressed incredulity that the NHDS had suggested the Board should "thank licensees for their kindness". Virginia Moore volunteered to draft a response letter to the NHDS.

Motion:

Approve the course, noting that it does not meet the 3 CEU hour requirement set forth in rule.

Motion moved by Puneet Kochhar and motion seconded by Jay Patel. Motion passed unanimously.

- E. Kenneth Minasian, DMD, Lic #01488 - Opioid CEUs

Motion:

Accept the Opioid CEUs in partial fulfillment of the Settlement Agreement dated 10/03/2022, with the payment and essays still pending.

Motion moved by Puneet Kochhar and motion seconded by Howard Ludington. Motion passed unanimously.

- F. Jonathan Bean - Opioid course approval (additional information)
- G. John Giraldo - Inactive to Active CEUs
- H. LBA Audit - Final Report

For discussion/planning purposes - to be on every agenda moving forward

 [Board of Dental November 2022.pdf](#)

Motion:

Accept the CEUs as completion of the requirements to go from inactive to active.

Motion moved by Puneet Kochhar and motion seconded by Jay Patel. Motion passed; John Giraldo recused.

- V. Licensure Approval

- A. Dentist Applications

- 1. Dentist Applications Approved and Pending

 [Dentist apps A and P through 1.4.23.pdf](#)

Motion:

Ratify the list of licenses approved and pending.

Motion moved by Puneet Kochhar and motion seconded by John Giraldo.
Motion passed unanimously.

Puneet Kochhar asked the Board to consider the licensing process moving forward, noting that the LBA Performance Audit had highlighted the fact that the decision regarding licensure should not be delegated to a single Board member. Jessica Whelehan, Board Administrator, suggested that the Board develop a set of criteria that would allow OPLC to approve applications, rather than have all applications go to the Board at their once-a-month meeting. Dr. Kochhar stated he did not believe that was allowed, based on the feedback in the LBA Performance Audit. Jessica Whelehan and Attorney Sheri Phillips elaborated that this is a practice used by other Boards, and it involves creating a set of non-discretionary criteria, meaning that if all the boxes are checked, the license is issued, but if there were any question at all, the application would come before the Board. Sheri specifically referenced RSA 310-A:1-d, IV, which reads, "All boards, councils, and commissions may issue standing orders delegating non-discretionary tasks to staff of the office of professional licensure and certification." The Board discussed this option, and Jessica provided examples such as the Allied Health Governing Boards. Jay Patel to review the checklist that licensing is using when gathering the application information, and to attempt to develop criteria for "fast-track" licensing.

2. Rudolph Lantelme, DDS - Initial Application for Licensure and waiver request

Motion:

Approve the waiver request and approve the application for licensure by endorsement.

Motion moved by Howard Ludington and motion seconded by Puneet Kochhar. Motion passed unanimously.

3. Jonathan Palazzo, DMD, Lic #03381 - Botox

Motion:

Approve the application for licensure.

Motion moved by Puneet Kochhar and motion seconded by Jay Patel.
Motion passed; Howard Ludington opposed.

4. Kateryna Latypova, DMD - Initial Application for Licensure, Registration Form, and explanation

Motion:

Accept the certificate showing 8 hours of Botox training.

Motion moved by Puneet Kochhar and motion seconded by Howard Ludington. Motion passed unanimously.

5. Paul Dyrkacz, DMD, Lic #04719 - Waiver Request (Facility Inspection - application already approved by Dr. Roger Achong)

The waiver request from Dr. Dyrkacz, regarding the facility inspection required for anesthesia/sedation permits, sparked a lengthy discussion. The Board asked why the inspections had not yet begun, as the RFA had already gone through, and the inspectors had been chosen. Jessica Whelehan, Board Administrator, informed the Board that she had been working with Finance and Enforcement to help move the process along, and that they were in the process of reviewing and approving the policies which would detail the internal and external processes needed for this program. Attorney Sheri Phillips asked Jessica why the inspections and evaluations had stopped; Jessica responded that the inspections and evaluations had never resumed, as the contractors had only been met with in October of 2022, and the policies were still being finalized. Sheri stated that it was not clear that the inspections/evaluations had not already been resumed. Puneet Kochhar asked Jessica why they were waiting on policies, and what the policies were needed for. Jessica explained that the policies would detail how the applications and the money were handled by OPLC and would also provide guidance for the contractors in the field, providing a framework for their inspections and evaluations. Dr. Kochhar asked Jessica why such a policy was necessary; Jessica responded that the policies were needed in order to avoid the type of situation that had been highlighted in the LBA Performance Audit, a situation in which the inspections and evaluations may or may not have

been handled appropriately, with fees changing hands in a less than legal manner. Dr. Kochhar and Sheri expressed concerns about the policies and noted that they felt that OPLC was placing the public in danger by not inspecting facilities or performing comprehensive evaluations. Dr. Kochhar asked if the new forms would be used for the inspections/evaluations. Jessica stated that the contractors would be using the old forms as checklists. Dr. Kochhar asked for clarification regarding why they would be using the old forms as the Board had put in a lot of work on rewriting the rules surrounding anesthesia/sedation, and they had also submitted new forms. Jessica reminded the Board that they had agreed to halt rulemaking while they sought the legislative changes needed in order to enact the rules in the way they had written them. These legislative changes include things such as the ability to permit facilities, and to create ASEC in statute. Dr. Kochhar strongly voiced his opinion that the Board had never agreed to halt rulemaking. Jessica reminded Dr. Kochhar and the Board that the entire Board had agreed to halt rulemaking when Attorney Lauren Warner had come in to explain their options. She said that it was the meeting at which Attorney Sheri Phillips had presented one option for a pathway forward, and Attorney Lauren Warner had presented another option, and the Board had opted to take Attorney Warner's pathway. Jessica also reminded the Board that this was all documented in minutes that they had approved. Dr. Kochhar voiced disbelief that the Board had agreed to this or that it was in the minutes. Jenna Wilson, Board Administrator, displayed the August 1, 2022, Public Meeting Minutes, which support what Jessica was saying to the Board. Dr. Kochhar and Sheri asked that someone from OPLC come to the meeting, when possible, to explain why there was delay in getting the inspections scheduled, and where they stood in terms of the legislative changes and rulemaking. Attorney Lauren Warner was able to join the meeting briefly and informed the Board that she had been in contact with Hether Kelley, OPLC Finance, who had informed her that they simply needed to finalize the language of the blast PHP message, send the PHP message, and then they would begin scheduling. She also noted that the policies were being finalized. Attorney Warner then stated that Dr. Ludington had been able to find a sponsor for the proposed legislative changes, and the bill has been submitted. She noted that the calendar has been pushed out, but it was expected that the Office of Legislative

Services would soon issue the bill text. The Board thanked Attorney Warner for her update.

Motion:

Approve the waiver request and issue the GA/DS permit.

Motion moved by Puneet Kochhar and motion seconded by John Giraldo.
Motion passed; Howard Ludington abstained.

B. Hygienist Applications

1. Hygienist Applications Approved and Pending

 [Hygienist apps A and P through 1.4.23.pdf](#)

Motion:

Ratify the list of licenses approved and pending.

Motion moved by Linda Tatarczuch and motion seconded by Puneet Kochhar. Motion passed unanimously.

VI. Non-Public Session

Motion:

Conduct a Non-Public session for the purpose of discussing investigations of alleged licensee misconduct and other confidential Board business. Such a non-public session is authorized by RSA 91-A:3, II (c), RSA 91-A:3 II (e), RSA 91-A:5, IV, Lodge v. Knowlton, 119 N.H. 574 (1978), and the Board's executive and deliberative privileges.

Motion moved by Puneet Kochhar and motion seconded by Virginia Kapetanakis Moore.
Motion passed unanimously by roll call vote at 10:11 am.

VII. Resume Public Session

Public session resumed at 10:28 am.

VIII. Seal the Minutes of the Non-Public Session

Motion:

Seal the minutes of the non-public session to maintain the privacy of the items discussed in non-public session pursuant to RSA 91-A:3, II (c), on the grounds that public disclosure may adversely affect the reputation of a person other than a Board member or render the proposed action ineffective.

Motion moved by Linda Tatarczuch and motion seconded by Howard Ludington. Motion passed unanimously.

IX. Adjourn meeting

Meeting adjourned at 11:40 am.