

**NH BOARD OF DENTAL EXAMINERS**

**7 Eagle Square - Hearings Room**

**CONCORD, NH 03301-4980**

**MONDAY, May 2, 2022**

**PUBLIC BOARD MEETING MINUTES**

The May 2, 2022, public session of the meeting of the New Hampshire Board of Dental Examiners was called to order at 1:13 pm by Jay Patel, DDS, with the following members present:

Jay Patel, DDS	(JP)	
Howard Ludington, DDS	(HL)	
Virginia Moore, RDH	(VM)	
Puneet Kochhar, DMD, President	(PK)	*arrived at 1:19 pm
John Girald, DMD	(JG)	
Lisa Scott, RDH	(LS)	

Absent:

Muhenad Samaan, DMD	(MS)
Roger Achong, DMD	(RA)
Linda Tatarczuch, Public Member	(LT)

Attendees present:

Sheri Phillips, Jessica Whelehan, Jenna Wilson, Mike Auerbach, Mark Abel, Dwayne Thibeault, Rudy Pavlesich, Chandler Jones, Myra Nikitas, Shannon Mills, Jessica Kallipolites, Heather Kelley, Edith Chiasson, Lindsey Courtney

Zoom teleconferencing technology was in use for this electronic meeting through <https://us02web.zoom.us/j/87485332355?pwd=di9idW10MElqOXROWldrZkp4eUkxZz09>.

\*All votes are unanimous unless otherwise noted.

1. **Review of Public Minutes** –

- A. **April 4, 2022** – Upon motion from LS and second from HL, the Board voted to accept the minutes as presented; JP abstained.
- B. **April 18, 2022** – Upon motion from LS and second from HL, the Board voted to accept the minutes as presented; JP and JG abstained.

2. **OPLC Office Comments** –

- A. **Prometric Testing – Heather Kelley** – Heather Kelley, Director, OPLC Finance discussed switching the jurisprudence exam from ClassMarker to Prometric for one year, and then putting the testing contract out to bid. Upon motion from LS, second from VM, the Board

voted to allow Prometric to run the jurisprudence exam, acknowledging that they will have to review the test questions for accuracy in the process.

- B. Administrative Law Training** – Jessica Whelehan, Board Administrator, reminded the Board to complete the Administrative Law Training that she had distributed via email on April 11, 2022, so that they could ask legal counsel any questions they may have.
- C. Dental Investigators Myra Nikitas, RDH, CPHDH, and Shannon Mills, DDS** – Jessica Kallipolites, Director, OPLC Division of Enforcement, introduced Myra Nikitas and Shannon Mills as the newly contracted Dental Investigators. Each investigator briefly introduced themselves. The Board asked that Enforcement ensure that they have an OPLC staff member attend any meetings or interviews that they investigators are sent to as a matter of safety. Jessica Kallipolites stated that she would make sure an OPLC staff member from Enforcement was present.
- D. 2022 Lapsed Licenses** – Jessica Whelehan informed the Board that approximately 250 dentists had failed to timely renew, and had lapsed as of Sunday, May 1, 2022. Jessica explained that she had asked Lindsey Courtney, Executive Director, OPLC, and Edith Chiasson, Administrator, OPLC Licensing and Customer Support, to speak with the Board about this development. Lindsey Courtney said that the Board essentially had three pathways forward: they could ask those lapsed to do the reinstatement as it currently stands, a weeks long or months long process, they could ask those lapsed to do a variation of the reinstatement process, relying on the dental waiver rule to determine what standard needed to be met, or they could consider issuing an emergency rule to address the matter, although she did not think it rose to the level of an emergency. Sheri Phillips, Board Counsel, stated that she had also discussed this matter at the DOJ, and it did not seem to rise to the level of an “emergency rule”. Edith Chiasson addressed the Board, stating that this would no doubt keep the licensing staff busy, especially as the graduation season was just beginning. PK and other Board members expressed feelings that although the lapsing of so many licenses would have a large effect, RSA 317-A:13 made it clear that even if there was an issue with communication from OPLC regarding the renewal, it was the licensee’s responsibility to renew by April 30, 2022, and to offer blanket forgiveness would set a dangerous precedent in for subsequent renewals. HL, expressing concern over public safety and the number of people affected by this (patients, staff members), said he felt that the applicants for reinstatement needed to prove that they had completed all of the requirements for renewal, such as the 40 CEUs, before they should be reinstated. Edith Chiasson asked if it was possible to extend the renewal period; PK stated that the Board was unable to waive statutes, and because the expiration date was in statute, not rule, they could not extend it. PK said he felt that a blanket fix was not appropriate, and they needed to treat each application/applicant on a case-by-case basis. Shannon Mills asked to address the Board and stated that this also meant that all of these dentists would be dropped by New England Delta Dental, as well as their malpractice insurance. Lindsey Courtney suggested the Board ask reinstatement applicants to complete the reinstatement application but have them request a waiver from some of the requirements, such as the criminal background check, or the letter of verification, as this required time to complete, and the timeliness of reinstatement was at the forefront of this discussion right now. Lindsey then suggested that they have a “cattle call” meeting, which would require applicants requesting the waiver to attend a meeting scheduled in the next week or two, and to address the Board directly, explaining why they lapsed, and why they had good cause to have some of the reinstatement requirements waived. Upon motion from HL, second from PK, the Board voted to hold a “cattle call” meeting on Friday, May 6, 2022, at 12:00 pm (noon), to review the reinstatement applications and waivers, and to meet

with the applicants. Upon motion from HL, second from PK, the Board voted to send an email blast to NH dentists informing them that they would need to complete the reinstatement application (available for download from the OPLC website), proof of 40 CEUs completed during the biennium, and a written waiver. This would need to be in by no later than 12:00 pm (noon) on Thursday, May 5, 2022. Upon motion by HL, second by PK, the Board voted to require the applicants to pay the full reinstatement fee of \$225 and the registration fee of \$365, in the form of bank check or money order, but noted that the applicants could bring it with them when they came to the meeting. Mike Auerbach, NH Dental Society, informed the Board that he would send an email to the NHDS members immediately, informing them of the Board's decision.

- E. Anesthesia Permit Renewal Issue – Mark Abel** – Dr. Mark Abel, Chair of the ASEC, asked to discuss an issue he had just discovered, which was that he had not renewed his anesthesia permit because it was not clear to him that he had been required to do so. Dr. Abel provided the renewed dental license which had been emailed to him several weeks ago, which did list his anesthesia permit. The license also showed the expiration date for the license, and he had interpreted this to mean that his permit had the same expiration date. Jessica Whelehan asked Dr. Abel if he had paid the renewal fee for his permit, or received a separate email with the permit itself, as it was a separate document. He stated he had not. He also said that there had not been any indication whatsoever that he needed to do a separate renewal for the permit. Jenna Wilson, Board Administrator, had reached out to Matt Geoffroy, DoIT, who had been able to provide the screen that presented at renewal for those who held permits on their license. The screen did detail the fact that the permit(s) would need to be renewed after the license had been renewed first. Jessica Whelehan acknowledged that the way the permit was listed as an attribute on the license allowed for confusion regarding the expiration date, however, she pointed out that the necessity to renew the permits was in rule as well. Dr. Chandler Jones, Vice-Chair of the ASEC, stated that he had renewed his permit, and had seen the notice on the renewal website when he logged in, but did express concerns that it was a rather cumbersome process. Upon motion from HL, second from JG, the Board voted to have Board Administrator Jessica Whelehan reach out to those dentists who had let anesthesia permits lapse as of April 30, 2022, and to have her extend their renewal period if they required it.

3. **Licensure** –

- A. **Dentist Applications Approved and Pending** - The Board reviewed the OPLC Dentist applications approved and pending document.
- B. **Hygienist Applications Approved and Pending** - The Board reviewed the OPLC Hygienist applications approved and pending document.
- C. **Ziad Al Hennawi, DDS, initial application and waiver request** – Upon motion from PK, second from HL, the Board voted to deny the waiver request, and therefore the license application, from Ziad Al Hennawi citing a failure to meet the requirements of rule Den 301.02 (i) (1), (2), and (3), and RSA 317-A:8, as the applicant did not graduate from a CODA approved school.
- D. **Kiirsten Finn, DMD – Botox certificate** – Upon motion from PK, second from HL, the Board voted to accept the training certificates and grant Dr. Finn the ability to perform procedures using Botox.

- E. **Tulsi Patel – Dental Radiology waiver request** – Upon motion from PK, second from JG, the Board voted to approve the waiver request, allowing credits earned in the Dental Hygiene program at NHTI to count towards the POI and ICP prerequisites for Dental Radiology for the Dental Assistant.

4. **ASEC Discussion and strategy** –

- A. **Proposed two-provider change** – The Board reviewed multiple letters submitted which express opposition to the Board requiring two providers be present for moderate or deep sedation administration to children under the age of 13. PK noted that RSA 317-A:12, XII-a, (g), (1), (2), and (3) already mandated that a dedicated anesthesia provider be present, in addition to the dentist performing the procedure, when GA/DS was being administered. Dwayne Thibeault noted that the Board had issued a blanket exemption to this requirement, as allowed by the statute. Jessica Whelehan found the exemption, from 2019, that indicated that the exemption was “automatic for Board Eligible/Board Certified Anesthetists or Oral Maxillofacial Surgeons.”. Dwayne Thibeault presented some documents he had brought from the American Academy of Pediatrics (AAP) and the American Academy of Pediatric Dentistry (AAPD) that indicated that these two groups endorsed having a dedicated provider when GA/DS was being administered. The documents also highlighted the fact that, because of the continuum of sedation, those administering moderate sedation also needed to be able to rescue a patient from GA/DS. HL stated he felt that there should be a statute change that mandated the same two-provider rules for moderate sedation as well. PK expressed concern that this would affect too many providers as the current statute addressed GA/DS for pediatrics, not adults, so the Board needed to consider whether or not this was necessary for all moderate sedation administration, or just on pediatric patients.
- B. **Facility/Host Permits** – PK presented the two forms he had been working on following the April 18, 2022, meeting. The two forms, the dental anesthesia facility permit, and the dental anesthesia host permit, were discussed. PK asked the Board if they felt that someone holding a facility permit also needed a host permit if they wanted to use the services of a CRNA or MD, and argued that this was redundant as the facility permit meant everything was already inspected and known to be there. Jessica Whelehan stated she felt that a host permit should be required, even if the facility already has a facility permit, as this allowed the Board to have a better grasp of who was administering what type of anesthesia, and where

\*The Board entered into non-meeting at 5:21 pm.

\*The Board resumed Public Session at 5:57 pm.

5. **OPLC Office Comments (Continued)** –

- A. **2022 Lapsed Licenses (Continued)** – The Board, after being made aware of the fact that several of the dentists who had lapsed had reached out to their local representatives, who had in turn reached out to the governor’s office, discussed their previous decision to have a “cattle call” meeting on Friday, May 6, 2022. Upon motion from JG, second from HL, the Board voted to no longer require applicants for an expedited waiver from the reinstatement requirements appear in person. The Board stated they would still require that the paper application, including the photo and notary section, be completed, and that payment, written

waiver request, and proof of CEUs be received, all by 12:00 pm (noon) on Thursday, May 5, 2022, in order to be considered for the expedited waiver from reinstatement requirements. If dentists missed this deadline, they would be required to complete a full reinstatement, to be reviewed once all required materials were received and placed before the Board at a regularly scheduled meeting. Mike Auerbach stated he would send a revised email to the NHDS members as he had already emailed them the Board's previous vote.

6. **ASEC Discussion and strategy (continued)** –

- A. **Facility/Host Permits (continued)** – PK asked the Board to resume their previous conversation regarding whether facilities needed a host permit and a facility permit. Based on the previous discussion, the Board decided that it would better serve public safety to have multiple permits at one facility, as it would allow the Board to better track the administration of anesthesia in NH dental offices. PK suggested that the facility permit, and the host permit be combined into one document; the Board agreed. PK said he would begin drafting this document and would have it before the Board at the June meeting. Jessica Whelehan suggested changing the language of the permit that identified the dental anesthesia provider as the “on-site” qualified dentist, and instead saying that anesthesia would be provided by a qualified dentist, as many offices have multiple dentists that work in the practice, and therefore may provide anesthesia in multiple locations. This would also cover providers that were mobile dental providers, such as Lily Hu. The Boars agreed that this change made sense.
- B. **Proposed changes to Den 304** – The Board reviewed the changes that PK had submitted, following the April 18, 2022, meeting. The Board continued to address changes, specifically with regard to the Mortality reports, requiring reporting of hospital admission, and continued the discussion regarding two providers being present. On motion from PK, second from HL, the Board voted to accept their rough draft of Den 304, and to send the draft to Tina Kelley, OPLC rules. PK informed Jessica Whelehan that he would have the rules to her as soon as possible.

At 6:46 pm, pursuant to RSA 91-A:3, and upon motion from PK, second by HL, the Board voted unanimously by roll call vote to go out of public session and into a non-public session for the purpose of discussing investigations of alleged licensee misconduct and as authorized by RSA 91-A:3, II (c), RSA 91-A:3, II (e), and Lodge v. Knowlton, 119 N.H. 574 (1978).

At 7:10 p.m., upon motion by PK, and second by HL, the Board voted unanimously by roll call to go out of non-public session and into public session.

Upon motion by HL, second by PK, the Board voted unanimously to seal the non-public minutes and 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.

At 7:11 p.m., PK adjourned the meeting.