

**NEW HAMPSHIRE BOARD OF DENTAL EXAMINERS  
121 S. FRUIT ST., SUITE 302  
CONCORD, NH 03301-2412**

**MONDAY October 7, 2019**

**Dental Hygienists Committee Meeting – 1:30 p.m.**

**Board Meeting – 3:00 p.m.**

The October 7, 2019, public portion of the meeting of the New Hampshire Board of Dental Examiners was called to order at 3:00 p.m. by Puneet Kochhar, DMD with the following members present:

Puneet Kochhar, DMD, President  
Dennis Hannon, DDS, Vice President  
Muhenad Samaan, DMD  
Nilfa Collins, DMD  
Tara Levesque-Vogel, DMD  
Lisa Scott, RDH  
Linda Tatarczuch, MSW, Public Member  
Ellen Legg, RDH  
Jay Patel, DDS (arrived at 3:55 p.m.)

Attendees: Lindsey Courtney, J.D., Director, Division of Health Professions  
Jeanne Clement, Administrative Assistant  
JD Lavallee, Board Counsel  
Rebecca Ricard, Board Counsel

Review of the minutes of the September 9, 2019, Board Meeting - Upon a motion by Dr. Vogel which was seconded by Linda Tatarczuch, the Board voted unanimously to accept the minutes as written.

**ADMINISTRATIVE**

1. Dental Hygienists Committee

- (a) Minutes of September 9, 2019 Dental Hygienists Committee Meeting (FYI) - Upon a motion by Dr. Vogel, which was seconded by Lisa Scott, RDH, the Board voted unanimously to accept the DHC minutes as written.
- (b) Dental Hygienists Committee Comments. Dr. Kochhar informed the Board that it was the last meeting for Margaret Ray, RDH. Dr. Kochhar thanked Margaret for her service on behalf of the Board and Committee members.
- (c) #19-244 - DHC Memo in Response to Board's 8/5/19 Request with ADA Listing of Direct Access States – Margaret Ray, RDH discussed the report that public health supervision was sufficient based on the statistics provided.

2. NH Dental Hygienists' Association Comments - Myra Nikitas, RDH presented the comments to the Board:

- The Fall Symposium CE was held on October 5, 2019, at the Derryfield Country Club in Manchester, New Hampshire. As part of the Symposium, Lory Laughter, RDH, MS presented a CE course, "Inflammatory Diseases; It's Not Just Perio Anymore." The course qualified for 0.5 non clinical CEUs + 4.0 clinical CEUs
- NHDHA is preparing for two upcoming CE courses:
  - On October 17, 2019, Erin Kierce, RDH, BA, MS, MPH and Jenna Schifflbein, MPH, CHES will present: "Is Your Office in Compliance? A review of Clinical Compliance for the Dental Provider" and "A Shot to Prevent Cancer: The Dental Professional's Role in Preventing HPV Cancers." The course will qualify for 2.0 Clinical CEUs.
  - On November 7, 2019, Dr. Echternach, DDS, will present: "SDF for the Dental Team." The course will qualify for 2.0 Clinical CEUs.
- NHDHA is working to fill classes for next year's CEUs. NHDHA is also actively trying to get hygienists to register for an NPI number.

3. Dental Society Comments –

- Executive Director Michael Auerbach attended the ADA meeting in San Francisco. Topics at the ADA meeting included community water fluoridation, do-it-yourself dentistry, third party payors, student debt, and recruiting dentists.
- The NHDS Fall/Winter Business Meeting and CE will be held November 8, 2019, at the Grappone Center in Concord, New Hampshire.
- Mr. Auerbach discussed there is a pressing need for qualified dental assistants in New Hampshire. There needs to be a set of modules for training dental assistants. Discussion held regarding developing regional training program and the ADA program ADAPT. Mr. Auerbach stated the new NHDS President, Lindsey Jackson, DMD has stressed the need to develop a rural dental pipeline and attracting current/new dentists to New Hampshire, particularly to rural New Hampshire. Dr. Jackson has been touring the state, discussing dental assisting, fostering leadership, student debt, community water fluoridation, and issues pertaining to SmileDirectClub.
- Mr. Auerbach discussed that HB 250 was referred back to committee last year and stated Rep. Jeudy should be invited to the Board meeting so that issues could be discussed. The legislative subcommittee convened last week and medical personnel asked critical questions. Language was changed at the subcommittee level so that the Board of Dental Examiners would be required to report consumer complaints on a quarterly basis to DHHS. The legislation will now proceed to the overall committee. Rep. Jeudy was not present at the committee hearing. The Board discussed that it had sent two letters to Rep. Jeudy asking him to attend a Board meeting and he has not attended.
- Lisa Scott, RDH discussed establishing mentoring programs in offices as a way to train and recruit dental assistants. Discussion ensued regarding educating licensees regarding requirements for dental assistants.

- The Board discussed that there is a deficit in the NHTI budget because overall enrollment is down. The dental hygiene program has lost two faculty members. Any further losses of faculty could affect accreditation for the dental hygiene program. Margaret Ray, RDH clarified that enrollment in the dental hygiene program at NHTI is up, but that overall community college enrollments are down. The dental hygiene is more expensive than other programs. As enrollment in community college decreases, it could impact the dental hygiene program.
4. Commission on Dental Competency Assessments (CDCA) Comments - Dr. Vogel reported that they had not yet received information about the annual meeting. The meeting will be held in January, so the notice should arrive soon. Dr. Kochhar reported that he had recently returned from Rutgers University, where it was a smooth exam. Ellen Legg, RDH has the Massachusetts College of Pharmacy examination coming up in November. Others have examinations in the winter. Discussion ensued regarding upcoming examinations.
  5. Board Office Comments - Lindsey Courtney, JD, Director of Health Professions reported that John Cafasso is no longer with OPLC. OPLC has hired his replacement, who will be at the next meeting. Lindsey Courtney discussed the status of the contract with Margaret Ray, RDH, and the potential need for an RFP. Lindsey Courtney is conferring with legal. Lindsey Courtney thanked Margaret Ray, RDH for her service on behalf of OPLC.
  6. Teleconference Call with Attorney Emily Wein re: Teledentistry - #19-245, also #19-187 - Discussion held with Attorney Wein regarding teledentistry. Dr. Kochhar posed two questions to Attorney Wein: 1) How did she get involved in teledentistry; and 2) why should teledentistry be different?

Attorney Wein reported that she has been doing healthcare regulatory work for approximately sixteen years. During the last five years, she has focused exclusively on telehealth. She had clients interested in telehealth and became involved with ATA and eventually introduced to the teledentistry association.

Attorney Wein gave a general background about what is happening in telemedicine. Attorney Wein reported that there is a growing number of professional licensing boards that are promulgating regulations specific to tele-practice, including teledentistry. She has not done a comprehensive fifty state survey, but she is aware that 5-8 states are proposing or have adopted teledentistry rules. Teledentistry rules can be similar to telemedicine rules.

Attorney Wein shares the view that the practice of dentistry should not change because the practice is done in a virtual or digital platform. Most of the time there is a specific rule or regulation that states the standard of practice applies equally to in-person and teledentistry. The onus is on the practitioner to determine whether he or she can properly meet the standard of care using a remote platform. Attorney Wein discussed that she cannot render an opinion on standard of care, but her personal opinion is that someone should have the opportunity to utilize a virtual platform to the extent it is clinically safe.

Discussion regarding access issues that are impacting pediatric dentistry in particular. Dr. Kochhar asked how teledentistry improves access to care if the dentist is limited to making a diagnosis and referral. Attorney Wein provided examples of how access can be improved with teledentistry—a dentist providing teledentistry could determine via pictures and videos

whether a patient needed to come into the office or whether the patient needed to remain on an antibiotic regimen if an infection had worsened. Attorney Wein reported she is not as familiar with some of the alignment kits but sometimes a provider could check in with pictures. Attorney Wein discussed that certain types of services do not need personal attendance.

Dr. Kochhar posed the question why the Board would need to write different rules. Attorney Wein stated that, in most ways, she agreed that there was no need to write rules. Attorney Wein discussed that, if the same standard of care applies, there is nothing to write, except to clear up misconceptions regarding a provider's ability to practice teledentistry. Attorney Wein offered that the Board could adopt a rule stating there is "nothing to prohibit the practice of" teledentistry as long as the provider complies with the same standards.

Attorney Wein reported that some states do have different opinions as to how a patient provider relationship is formed. Some states very much regulate how to establish a patient relationship: some states require a video to establish a patient/provider relationship, not just pictures. Some states require synchronous real-time connection in order to provide clinical services. Attorney Wein stated that if the provider believes he or she can establish a patient/provider relationship, the provider should be able to do so.

Attorney Wein reported that some states require informed consent prior to providing telehealth or teledentistry. This is similar to the informed consent for a procedure but more generic. Generally, the notice provides the patient with information as to who to contact in the event of an emergency outage and where the patient could go to find in-person care. Some states require consent form to have numbers of licensing board to render complaints to.

Attorney Wein discussed that, as modalities are developing quickly, rules from the states are becoming outdated. Maryland, for example, had to rewrite its telemedicine rules, which had become antiquated. Sometimes state rules specifically require that a patient and provider need to identify themselves to the other. Attorney Wein discussed this may not be necessary; standard of care dictates that you need to know who you are talking to.

Attorney Wein discussed that lawyers prefer definitiveness when advising clients. When rules are silent as to telemedicine, lawyers must use context clues and case law to advise clients as to what is permissible. It would be very helpful to have clarify that teledentistry is permitted to the extent standard of care is complied with.

Linda Tatarczuch stated she is concerned for patient safety and issues of accountability. Linda Tatarczuch asked how they would make sure that we continue to provide the citizens of New Hampshire the assurance that the dentists they are contracting with for a service are licensed as the same level as other dentists who provide hands-on services. Attorney Wein responded that, in telehealth, the general rule is that the practitioner must be licensed in the state where the patient is receiving services. Linda Tatarczuch inquired whether it would be the teledentist's obligation to have a contractual relationship with a physical dentist in the state where the patient was receiving services. Attorney Wein stated that it would not necessarily be required. If the teledentist believed the patient needed to be seen by a dentist in person, the teledentist should tell them that.

Call ended at 4:05 pm.

After the call, the Board discussed teledentistry. Dr. Vogel expressed difficulties with writing rules on teledentistry, especially with new and updated technologies. Dr. Kochhar discussed informed consent. Dr. Vogel discussed the requirement that an in-person exam be done, by rule, 1 time per year. The Board discussed whether the teledentistry examination could meet

that requirement. Ellen Legg, RDH stated there is confusion regarding who the patient is with at the time of procedure. Typically, it would be the hygienist, who can perform the exam with the dentist watching. Alternatively, the hygienists could record the examination and send digitally to the dentist. Ellen Legg, RDH expressed that it would not be the patient doing an examination at home. Dr. Vogel stated that sometimes the patient could be receiving teledentistry at home, such as with SmileDirect, when the pictures are done at home.

Ellen Legg, RDH stated that the rules the Board has in place now do not necessarily need to be changed per Attorney Wein. Dr. Patel asked what would prevent a provider from sitting on a lounge chair and skyping into hygiene exams. Dr. Kochhar stated that if it is safe for someone to perform teledentistry outside the state, it is safe for someone to sit at home in New Hampshire and not go into the office. Dr. Kochhar discussed the need to write rules and requested that Lindsey Courtney place the item on the agenda for upcoming meetings (15 minutes to write rules).

7. Concerns re: HB 250 relative to oral prophylaxis for dental patients - #19-246 - The Board discussed waiting for the committee to consider the issue. The Board expressed that they should have more Board representation. Dr. Vogel noted that sometimes they find out the day prior, which is difficult. They do not have a conduit to tell them when meetings are upcoming. There is a need for communication from the Board Office. If there is a way to be notified, Ellen Legg, RDH would attend. Lindsey Courtney offered to let them know.
8. Follow-up re: Dr. Richard Harold's Opioid Course - #19-247, also #19-219 - The Board discussed that they had approved Dr. Harold's course, but that he does not have a three-hour course. One option is to not approve. Another option is to approve for two hours and then someone would have to obtain another hour of CE. The Board discussed that the latter option would be complicated. The Board discussed that Dr. Harold should ask Massachusetts Dental Social for a three-hour certificate. If he obtains that, the Board will approve the course. If he does not obtain the three-hour certificate, they cannot approve. Dr. Hannon moved that the Board contact Dr. Harold and have him ask the certifying agency if it could issue a three-hour certificate for his course. Dr. Vogel seconded. The Board voted unanimously to approve the motion.
9. Jurisprudence Exam – Question #51- #19-248 – Lisa Scott, RDH discussed the need to change question #51. Lisa Scott, RDH moved to change the wording for jurisprudence exam #51 from removing tactics to removing matrices. Dr. Vogel seconded the motion. The Board voted unanimously in favor of the motion.
10. Memo – Change in CE Audit Process - #19-249 - Jeanne Clement discussed the decision from the June meeting that the Board was going to give licensees the opportunity to get all the CE courses done by the end of April and then in mid-May conduct the random audits. Under this scenario, those being audited would need to submit documentation in 30 days. This is problematic because some people may not have updated BLS-HCP. Jeanne had asked JD to weigh in as to what to do if a licensee requests for an extension. Jeanne asked whether the

Presiding Officer could extend the deadline or whether the request for an extension needed to be brought to the full Board. Dr. Kochhar stated that the licensee could ask for a waiver, but the rules do not provide for an extension of the time to complete CEs, when the CEs need to be completed by the end of March. If the licensee has not completed the CEs by the end of March, the licensee has not complied. If the licensee requests a waiver it needs to come back to the entire board.

Jeanne asked whether the Board staff should automatically send a notice to show cause if the licensee does not provide documentation within thirty days as required. The Board discussed that, under the rules, if the licensee does not respond within thirty days, the licensee must be called in for a hearing. Discussion held regarding the Board's reason to change the timing of the audit to ensure that people are being audited after courses are required to be completed.

Discussion ensued regarding the CE audit process. Dr. Patel agreed to assist. Dr. Samaan is available on Fridays. Jeanne will provide an official checklist. The Board will take turns coming in. As to the automatic show-cause hearing, the Board discussed that the Board office would issue a show cause hearing automatically. If someone requests a waiver, it would need to come to the entire board for a vote. The Board discussed that the notice of hearing should state what the rule states. Dr. Vogel moved to permit the Board office to automatically issue show cause hearings for a licensee's failure to comply with the thirty-day timeframe to produce audit materials. Dr. Patel seconded the motion. The Board voted unanimously to approve the motion.

11. Informational (emailed previously)
  - AADB Weekly Update – September 6, 2019.
  - AADB Weekly Update – September 13, 2019

## LICENSURE AND REPORTS

### 1. DENTIST APPLICATIONS APPROVED

Maryssa A. Allen, DMD	Annie Le, DMD
Bassel Boulos, DMD	Andrew S. Matta, DMD
Khalid S. El-Shewemi, DMD	Hai T. Truong, DMD
Grace Hannawi-Tadros, DMD	Rabie A. Youssef, DMD

### 2. HYGIENIST APPLICATIONS APPROVED

Farah Benoit, RDH	Gabriella A. Trombley, RDH
Lisa M. DePriest, RDH	Stephanie L. Viveiros, RDH
Jessika M. Lane, RDH	Alison M. Witty, RDH
Bridget M. Martin, RDH	

3. PUBLIC HEALTH SUPERVISION

- (a) Public Health Summary Reports Chart - #19-250 - On a motion made by Dr. Vogel and seconded by Linda Tatarczuch, the Board voted to approve all of the Public Health Summary Reports and to send letters of appreciation to the following reporting agencies:

- Mid-State Health Center
- Seacoast Healthy Grins
- Smiles for Strafford County
- Sullivan County Dental Initiative

At 4:15 p.m., the Board voted by roll call to recess the public meeting for the purposes of consulting with legal counsel. At 5:15 p.m., the Board voted by roll call to resume public session.

4. DENTAL STUDENT PROGRAM REPORT

- (a) Follow-up letter from John Ahern, DDS with questions regarding the Board's vote on September 9th - #19-251, also #19-243 - (Dr. Kochhar recused) -

Discussion that the issue is that the dentist is not on the premises to supervise students, it is just the hygienist. Dr. Collins stated the rules do not state that hygienists can supervise dental students. Under RSA 317-A:21 (e) and Den 402.03, hygienists can supervise dental assistants, not dental students. Dr. Collins stated that if the rules permitted hygienists to supervise dental students, it would be fine, but if it is not in the rules, it is not allowed. Dr. Collins stated the solution is to require Dr. Ahern to be on-site with his students. Dr. Vogel moved that the Board respond to Dr. Ahern that, according to RSA 317-A:21 (e), the statute does not authorize the hygienists to supervise dental students. Dr. Collins seconded. The Board voted unanimously to approve the motion.

Discussion ensued regarding prior correspondence permitting students to be supervised by Ms. Powers, a hygienist. Discussion held regarding the September 4, 2018, and October 1, 2018, letter. The October 1, 2018, letter from the Board simply accepted the dental student report; it did not state the Board approved a dental hygienist to supervise dental students. Discussion held regarding information in the dental student report.

Dr. Collins clarified that in 2018, the Board did not specifically answer Dr. Ahern's question. The Board agreed to proceed with the letter as previously approved.

5. ANESTHESIA/SEDATION

- (a) #19-252 – Anesthesia/Sedation Evaluation Chart - Upon motion by Dr. Vogel, which was seconded by Lisa Scott, RDH, the Board voted unanimously to approve the following:
- Comprehensive Evaluation for Moderate Sedation Unrestricted permit – Mindy Hall, DMD

- Facility Inspection for administration of General Anesthesia/Deep Sedation at multiple NH locations - CRNA Dr. Rudolph Pavlesich
- (b) #19-260 - Application for General Anesthesia/Deep Sedation permits - Upon motion by Lisa Scott, RDH, which was seconded by Dr. Vogel, the Board voted to approve the application for General Anesthesia/Deep Sedation Permits for Patrick McCarty (2 locations), with Dr. Crowley's recommendations. Dr. Collins abstained.

At 5:38 p.m., pursuant to RSA 91-A:3, the Board voted by roll call to go out of public session and into non-public session because public disclosure may render a proposed action ineffective or adversely affect the reputation of a person other than a Board member.

At 6:26 p.m., the Board voted by roll call to go out of non-public session and into public session.

At 6:25 p.m., Dr. Vogel moved to seal the non-public minutes. Dr. Collins seconded the motion. The Board voted unanimously to maintain the privacy of the items discussed in non-public session pursuant to RSA 91-A:3, 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

Dr. Kochhar adjourned the meeting at 6:27 p.m.