



## February 6, 2023, BoDE Public Meeting

### Minutes

Dental Examiners Board

Feb 6, 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: Roger Achong, Puneet Kochhar, Howard Ludington, Virginia Kapetanakis Moore, Jay Patel, Muhenad Samaan, Lisa Scott, Linda Tatarczuch

Guests: Mark Abel, Jessica Whelehan - Board Administrator, Jenna Wilson - Board Administrator, Mike Auerbach, Tommy Burk, Liz Eaton - Board Counsel, Sarah Finne (remote), Chris King, Sal Malik, Dwayne Thibeault

#### Absent:

Members: John Giraldo

#### I. Call to Order

Meeting scheduled to begin at 8:30 am. If a voting member has been allowed to attend remotely, identify that member, have them check that they can clearly hear and be heard, and that they are alone in the room. Note that all votes must be via roll call vote if any voting member is attending remotely.

Puneet Kochhar, President, called the meeting to order at 8:42 am.

#### II. Approval of Public Minutes

##### A. January 9, 2023, public session

#### Motion:

Approve the minutes as submitted.

Motion moved by Howard Ludington and motion seconded by Jay Patel. Motion passed; Muhenad Samaan, Roger Achong, and Lisa Scott recused.

#### III. OPLC and/or Board Administration Updates

##### A. Staffing change

Jessica Whelehan, Board Administrator, informed the Board that she had accepted the Rules and Legislative Liaison position within OPLC, and would be transitioning into that role over the next few months. She stated she had enjoyed

working with the Board immensely and was happy to state that her new role would mean she was still working with the Board, albeit in a different capacity. Jenna Wilson, Board Administrator, informed the Board that she had also accepted a new position, and as her new position was at another agency, this would be her last meeting with the Board.

#### IV. Old Business

##### A. Testing

Dr. Kochhar asked if any of the Board members had done any testing; the Board members had not done so. Dr. Kochhar said it was his first time testing with the manikin, and 80 people had been tested, and 21 procedure failures had been identified.

##### B. NH Dental Society Update - Mike Auerbach

- Last week, NHDS testified against SB.91, which proposes to lift the blanket exemption for oral surgeons for the sedation of young children. During our conversation with Sen. Innis, he revealed that he was unaware that the Board was still working on this issue from a rulemaking standpoint. During the hearing, Sen. Innis's representative stated that the bill's sponsors hope that dialogue will continue between the legislature, the Board, the dentists and all relevant stakeholders and recommended that the bill be referred back to committee, to be taken up in the fall. Despite the NHDS's recommendation that it be voted ITL, the Committee voted to refer the bill back to committee, which means that there remains two fronts – the BoDE and the legislature -- on which this issue is being discussed.
- In January, the NHDS sent a delegation to Yankee Dental Congress. Among the many activities there, NHDS hosted a networking event for dental students to meet with NHDS Members.
- Over this past weekend, NHDS sent a delegation of new dentists to the ASDA First District Annual Meeting in Connecticut. NHDS presented to the group on public health dentistry and the benefits of starting a dental career in New Hampshire.
- Preparations are underway for the NHDS Annual Meeting on 18-20 May at Meredith, NH. NHDS is happy to announce that ADA Executive Director Dr. Ray Cohlma will be on hand to swear in the new NHDS Board during the Awards Ceremony.

##### C. Dental Hygiene Committee Update

###### 1. DHC 2023 Schedule update

Jessica Whelehan informed the Board that she was in the process of confirming a schedule for the DHC, at which time they would be given their assignments, as discussed at the January 2023, meeting. She stated that one proposed schedule had already been rejected but was hopeful the most recent proposal would work for a majority of the DHC.

##### D. Anesthesia laws and rules discussion

###### 1. Dr. Ludington's rule change proposal

The Board discussed the rule change proposal. presented by Howard Ludington, Board member, at length. The proposed changes, intended to

detail the process through which oral surgeons would be able to obtain an exemption from the 2-provider requirement set forth in statute, also made it clear that there would be 2-providers required for cases involving patients aged 8 years and under. The Board took input from the guests present. Dr. Malik was able to confirm for the Board that the term "Board eligible" and "Board certified" were used interchangeably by the American Board of Oral and Maxillofacial Surgery, as both terms are used in the proposed rules. The Board continued to proceed through the proposed changes, line by line, with assistance from Board members and the meeting guests. Liz Eaton, Board Counsel, inquired about the rules changes the Board had already drafted, that were awaiting legislative changes first, as she recalled that those rules already addressed the rule number in question, if not the exemption topic in particular. The Board confirmed that they had already drafted a large packet of changes. Liz suggested the Board work at integrating these new proposed changes into the already completed draft rules, which would allow them to then enact everything together as interim rules once the legislation passed. The Board declined this suggestion and continued editing the drafted rule change. Dr. Kochhar asked Dr. Finne to prepare some research/comments for the next meeting regarding the impact lifting the blanket exemption would have in terms of access to care.

**Motion:**

Have an edited version of the drafted proposed rule changes for Board review at the March meeting, as well as the information obtained by/through Dr. Finne; Dr. Kochhar to prepare the edited draft.

Motion moved by Puneet Kochhar and motion seconded by Lisa Scott.

Motion passed; Howard Ludington and Virginia Moore opposed.

E. Draft response to NHDS

**Motion:**

Approve the draft response to NHDS and issue a signed copy, on letterhead

Motion moved by Puneet Kochhar and motion seconded by Virginia Kapetanakis Moore. Motion passed; Muhenad Samaan opposed.

F. Kenneth Minasian, DMD, Lic #01488 - Statement to Board

The Board reviewed the documents, noting that an attempt to meet the requirements set forth in the settlement agreement had been made; however, the fees had not been paid as the check had been returned by the bank.

**Motion:**

Hold a disciplinary hearing for a failure to meet the requirements of the settlement agreement dated October 3, 2022. Jessica Whelehan advised that the hearing would not be until the May or June meetings based on recent staffing changes.

Motion moved by Muhenad Samaan and motion seconded by Howard Ludington.  
Motion passed unanimously.

G. LBA Audit - Final Report

1. Application checklist draft

**Motion:**

Approve the dentist application checklist, as amended, and the hygienist application checklist, as amended, to be used as a non-discretionary tool so that licensing at OPLC may issue licenses in a more stream-lined fashion, and following the recommendations of the LBA Audit.

Motion moved by Puneet Kochhar and motion seconded by Lisa Scott.  
Motion passed; Howard Ludington and Muhenad Samaan opposed.

2. LBA Audit - Observation 1

The Board discussed Observation 1, noting that it called for more oversight and feedback over OPLC. One area in particular that was discussed was the matter of the orientation that Board members may or may not have gone through when first joining the Board. The suggestion was made that there should be rules in place which detailed exactly what would be presented to new Board members, how the materials would be presented, and by whom (OPLC). Liz Eaton and Jessica Whelehan informed the Board that getting that specific was unwise, as it locked every single one of the listed items into place as a requirement, even if the requirements changed over time.

**Motion:**

Request that all Board Orientations be run by OPLC, on behalf of the Board, and that at this time they include a minimum of the Administrative

Law Training (when made available) all required documentation for employment/Boad membership, and a link to the current laws and rules.

Motion moved by Jay Patel and motion seconded by Muhenad Samaan.  
Motion passed unanimously.

3. Future Observation discussions

Dr. Kochhar advised he would be assigning observations to each Board member, and one to two observations would be discussed at each meeting. He also reminded the Board, and the Board Administrator, that Representative McGuire had asked for proof, in the form of minutes, that the items mentioned in the audit were being addressed. Jessica stated she would make sure the approved minutes from January were emailed to Representative McGuire.

V. New Business

A. Nashua Smiles Summary Report form

**Motion:**

Accept the Summary Report form.

Motion moved by Lisa Scott and motion seconded by Virginia Kapetanakis Moore. Motion passed unanimously.

VI. Rules Review and other Legislative Topics

A. Update on Dental Legislation

Lauren Warner, OPLC Board Counsel, spoke with the Board regarding SB147 and SB91. She explained that SB147 had been presented at Senate Executive Departments and Administration, but as no member of the Board had attended to assist with explaining dental anesthesia and what the Board was seeking, the committee had tabled the item to February 8, 2023. Lauren stressed that a Board member needed to be there to discuss SB147 with the committee, or there was a very real risk that the bill would not move forward. Lauren then explained that SB91 was being sent for study, in spite of recommendations that it is not moved forward.

**Motion:**

Authorize at least one Board member to speak to Senate ED&A, with notes provided by Dr. Kochhar and Jessica Whelehan, on behalf of the NH Board of Dental Examiners.

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

VII. Licensure Approval

A. Dentist Applications

1. Dentist Applications Approved and Pending

Item to be added once report is available.

Jessica Whelehan noted that the report was not available this month to a software issue.

B. Hygienist Applications

1. Hygienist Applications Approved and Pending

Item to be added once report is available.

Jessica Whelehan noted that the report was not available this month to a software issue.

VIII. 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 Muhenad Samaan and motion seconded by Howard Ludington.  
Motion passed unanimously by roll call vote at 1:32 pm.

IX. Resume Public Session

Public session resumed at 2:41 pm.

X. 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 Lisa Scott and motion seconded by Jay Patel. Motion passed unanimously.

XI. Adjourn meeting

Meeting adjourned at 3:00 pm.