



April 3, 2023, BoDE Public Meeting Minutes

Dental Examiners Board

Apr 3, 2023 at 8:30 AM EDT

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

Attendance

Present:

Members: Roger Achong, Puneet Kochhar, Howard Ludington, Virginia Kapetanakis Moore, Jay Patel, Lisa Scott, Linda Tatarczuch

Guests: Mark Abel, Jessica Whelehan - Board Administrator, Chris Senko - Board Administrator, Mike Auerbach, Tommy Burk, Sheri Phillips - Board Counsel, Liz Eaton - Board Counsel (remote), Lindsey Courtney - OPLC Executive Director, Joan Fitzgerald, Dwayne Thibeault, John Zdanowicz (remote)

Absent:

Members: John Giraldo, Muhenad Samaan

Puneet Kochhar arrived at 8:56 am.

I. Call to Order

Howard Ludington called the meeting to order at 8:47 am.

II. Approval of Public Minutes

A. March 6, 2023, public session

Motion:

Approve the minutes as submitted.

Motion moved by Linda Tatarczuch and motion seconded by Jay Patel. Motion passed unanimously.

III. OPLC and/or Board Administration Updates

Puneet Kochhar asked for any updates regarding the change in renewals for licensees overseen by the Board of Dental Examiners. Jessica Whelehan, Board Administrator, informed the Board that the change in renewal date had not yet been rolled out to dental licensees, and, as such, current RDH renewals were reflecting the previous statute, and showed that licenses would be good through April 30, 2025.

Puneet Kochhar also asked for an update regarding whether facility inspections/comprehensive evaluations were being completed as he believed that there had been an insurance issue and that no progress was being made. Jessica replied that she could not speak to the insurance issue, but she knew that inspections/evaluations were being scheduled and completed, noting that there was one such inspection/evaluation for the Board to review on today's agenda.

IV. Old Business

A. NH Dental Society Update - Mike Auerbach

Mike Auerbach provided the following update:

- We are getting close to our Annual Meeting, which takes place 18-20 May at the Inn at Church Landing in Meredith. We have quite an amazing lineup of clinical and non-clinical CE for the entire team, along with fun social and networking events and our Annual Awards ceremony. I hope you all will attend.
- Last week, I met with OPLC leadership to relay the increasing number of concerns we are receiving from Member dentists about delays in license applications and site inspections. The adult dental Medicaid benefit is now online, and patient demand is extremely high across all practice modalities. Dentists need to be able to meet this demand, hiring staff and associates who are able to get right to work. I've been told by license applicants that they have been waiting for months for license approval, and that the schedule for site inspections for specialists seeking anesthesia permits is so backed up that new associates are not able to see patients for months. The implications of this enormous problem are clear – these delays impact access to oral healthcare. I will keep this Board informed about the NHDS's initiatives on this issue, and we encourage this Board to join us in aggressively addressing these issues.
- We are receiving a growing number of complaints from Member dentists about the in-office behavior of clinical consultants who are contracted to assist during dental procedures. Among the complaints are bullying staff, aggressively lobbying staff on political issues, and insisting they be referred to as "doctor" in the medical setting. Additionally, some members have informed me that one such consultant strongly urged staff to improperly dispose of controlled substances (even when staff reminded them of proper state and federal protocols) and that they have been solicited by such consultants to use their facilities for purposes other than dental care. I am directly referring the affected dentists to OPLC to file formal complaints if they so desire, and I am also sharing the complaints I receive with OPLC for their information. The NHDS is advising all

of our Members to remain committed to the state and federal government's rules of office operation and the Code of Professional Conduct. These dental office consultants are not subject to the rules or disciplinary parameters of the Board of Dental Examiners, but I am informing this Board because such incidents confuse and impact staff subject to this Board's oversight and could result in inadvertent licensure violations and even threaten patient safety, all of which are important concerns for this Board.

· Thank you.

Howard Ludington asked Mike to explain what he meant by "consultants"; Mike responded that he was referring to people licensed by other Boards who come into dental offices to assist, such as nurses or CRNAs. Howard Ludington pointed out that the Board of Dental Examiners would not be able to take action on these matters, and questioned why Mike was informing the Board as there was already a clear process in place regarding complaints. Mike stated he just wanted the Board of Dental Examiners to be aware of any potential issues. Howa Ludington asked Jessica Whelehan about any delays with licensing; Jessica responded that typically delays are experienced when the applicants do not ensure all required documents and materials are submitted in a timely fashion, and without these materials, the Board is unable to take any action, as the application is simply not complete.

B. Dental Hygiene Committee Update

1. DHC Minutes - No Items
2. NH Dental Hygienists Association Update - No Items

Joan Fitzgerald, RDH, CPHDH, informed the Board that the American Dental Hygienists Association was celebrating their 100th anniversary, and would be hosting a convention to include many classes. She said the convention was open to anyone associated with the dental field, not just hygienists.

C. LBA Audit - Final Report

The Board continued work on the LBA Audit report by beginning to go through the Board's Practice Act to address any issues. The Board noted the following: RSA 317-A:3 indicates that there shall be no more than one Board member who is an employee of a dental or dental hygiene school; the Board may be in violation of that RSA.

RSA 317-A:12 references fee setting, but that now falls under OPLC; Jessica Whelehan explained that the RSA may not have been updated by Gencourt, even though the change is in place.

RSA 317-A:18 references fines; Sheri Phillips, Board Counsel, explained that fines were still the Board's prerogative.

RSA 317-A:18, VII states that complainants shall be given the opportunity to comment on proposed settlements.

Motion:

Send a memo to enforcement asking if, pursuant to RSA 317-A:18, VII, complainants are given the opportunity to comment on proposed settlement agreements.

Motion moved by Puneet Kochhar and motion seconded by Roger Achong.

Motion passed unanimously.

The Board continued discussing both their practice act and the LBA Performance Audit. It was noted that the Audit had taken exception to the fact that hygienists are technically licensed, but referred to as registered. The Board discovered that the use of the term "Registered Dental Hygienist", or "RDH" was throughout both the Practice Act and the rules, and would require a major overhaul if the Board decided to change this title.

The Board discussed the note in the Audit that the Board was including some stakeholders, while excluding others.

Motion:

Change the agenda to include a section for "Stakeholder comments", and not be specific to which stakeholder. The Board also wishes these comments to be submitted, in writing, so that they may be added to the agenda for review, and then the Board may choose to discuss the comments if needed at the meeting.

Motion moved by Howard Ludington and motion seconded by Lisa Scott. Motion passed unanimously.

The Board noted that Criminal Background Checks were in place, meaning that section of the Audit did not need to be addressed any further.

The Board, discussing comments in the Audit about a lack of rules regarding opioid prescribing, felt that their rules already addressed opioids, specifically rule Den 503.

The Board noted that the Audit had cited concerns over a lack of rules regarding portability for military service members and their spouses.

Motion:

Assign John Giraldo, once returned from Florida, to the task of addressing portability for military service members and their spouses.

Motion moved by Puneet Kochhar and motion seconded by Roger Achong.
Motion passed unanimously.

The Board discussed dental students, after their third year, who may want licensure as a registered hygienist. The current rules do not have a mechanism for this that the Board is comfortable with. The Board discussed the fact that there is potential loophole in that a dental student who qualifies may then cease dental school without graduating, and still retain a dental hygiene license. The Board agreed that there may need to be an additional type of license added to address this issue. Virginia Moore stated she would work on developing some language for review at the next meeting. Jay Patel said he would work on writing a rule that would address dentists who wish to give up their dentist licensure and move to hygiene.

The Board discussed references in the audit to performing root cause analysis, specifically when speaking about reciprocal action. Sheri Phillips advised the Board that it would likely be sufficient to refer cases for investigation, covering the root cause analysis. Jay Patel will work on language to address this issue.

Puneet Kochhar asked that Board members review and be ready to discuss observations 5 and 6 at their May meeting.

V. New Business

- A. CEU course approval request - Daniel Cameron Braasch, DMD, Lic #03982

Motion:

Inform the licensee that, pursuant to rule Den 403.06 (a), the Board shall not pre-approve courses.

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

- B. Clarification on CEU requirements - rule Den 403.07

Motion:

Inform the licensee that, pursuant to rule Den 403.07 (g), only 50% of CEUs may be from online sources.

Motion moved by Howard Ludington and motion seconded by Jay Patel. Motion passed unanimously.

- C. NH Professionals Health Program - inquiry regarding fee - Daniele West, RDH, Lic #02857

Motion:

Inform the licensee that OPLC has fee setting authority, as previously stated, and all licensees pay the NHPHP fee.

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

- D. Advanced Education in General Dentistry Program - Harvard School of Dental Medicine

Motion:

Inform Dr. Zdanowicz that RSA 317-A:20, III (d) allows for the type of practice he is requesting, under the title of residency. The Board does ask that someone associated with the program complete the Dental Residency Program Reporting Form for tracking purposes. Additionally, the Board thanks Dr. Zdanowicz and the Harvard School of Dental Medicine for their work.

Motion moved by Puneet Kochhar and motion seconded by Roger Achong. Motion passed unanimously

- E. Webster at Rye - Summary Report Form

Motion:

Accept the summary report form.

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

VI. Rules Review and other Legislative Topics

A. 10:00 am: Update on 2023 legislation - OPLC Board Counsel

Liz Eaton, Board Counsel, attending remotely, provided updates on HB655 and HB2, explaining that HB655 had been adjusted to mainly address the restructuring of OPLC. The Board asked for specific updates regarding their 4 concerns cited last month (1 - The Board has concerns with OPLC's ability to vet complaints as they are not subject matter experts; 2 - the Board has concerns with military and military spouse reciprocity, and would also like further clarification on the term 'jurisdiction'; 3 - the Board is concerned that the repeal of the investigation/discipline section of their practice act does not appear to be addressed anywhere in HB655; 4 - the Board is concerned that there is nothing regarding reciprocal discipline in HB655.). Executive Director Lindsey Courtney joined the meeting to address those 4 specific concerns. Lindsey explained that the Boards will always have the "final say" on complaints, as it is only the Board who may ultimately dismiss complaints. Lindsey acknowledged that military and military spouse reciprocity was an issue that needed to be detailed. Puneet Kochhar said that this issue had come up in the audit as well and the Board would be reviewing it. Linda Tatarczuch asked for clarification on the term "jurisdiction", stating she felt it was too broad. Lindsey explained that this term was generally accepted as it encompassed territories and areas such as Washington DC. She acknowledged that it could also allow any "area" to seek licensure but noted that the Board had the ability to go through and determine which jurisdictions were similar in terms of licensure requirements. Regarding investigations and the lack of a definition of misconduct, Lindsey advised the Board to consider putting these definitions and requirements into rule.

Lindsey and Liz explained that HB2 had been gutted and any current language did not have an impact on the Board of Dental Examiners.

The Board asked for an update on SB147. Lindsey stated that there had been a hearing last week, but no one from the Board had attended. The Board informed Lindsey they would vote to send someone moving forward, and asked that they be notified as soon as possible when the next work session was posted.

Motion:

Approve any available Board member to attend work sessions and represent the Board's position on SB147.

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

Motion passed unanimously.

VII. Licensure Approval

A. Applications approved and pending through 3/24/23

Motion:

Ratify the applications approved.

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

B. Dentist Applications

1. Cybil Geiss, DMD - initial application for licensure via endorsement

Motion:

Approve the application for licensure.

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

2. Amanada Hallinan, DMD, Lic #03592 - Botox request and certificates

Motion:

Approve the application for licensure.

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

3. Aimee Joyce Wright, DMD, Lic #04605 - Botox request and certificate

Motion:

Approve the application for licensure.

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

4. Lily Hu, DMD, Lic #04161 - Dental Anesthesia Facility Inspection/Comprehensive Evaluation, and question from Inspector/Evaluator Dan Rice

Motion:

Approve the Facility Inspection and Comprehensive Inspection, and inform Enforcement (Kathleen Tierney) that the Board is satisfied with Dan Rice's submission, and does not require additional work/items.

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

C. Hygienist Applications

1. Kimberly Butler, RDH, Lic #03306 - application for renewal

Motion:

Approve the application for renewal.

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

2. Sheila Cox, RDH, Lic #02211 - application for renewal

Motion:

Approve the application for renewal.

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

3. Anne Sleeper, RDH, CPHDH, Lic #01051 - application for renewal

Motion:

Approve the application for renewal.

Motion moved by Lisa Scott and motion seconded by Puneet Lochhar. Motion passed unanimously.

4. Erin Fluck, RDH, Lic #02516 - renewal request

Motion:

Approve the request for an extension, allowing the licensee until May 30th, 2023, to gather the required CEUs and complete the renewal process.

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

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 Linda Tatarczuch and motion seconded by Puneet Kochhar. Motion passed unanimously by roll call vote at 10:44 am.

IX. Resume Public Session

Public session resumed at 11:24 am.

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 Virginia Moore and motion seconded by Puneet Kochhar. Motion passed unanimously by roll call vote at 10:44 am.

XI. Adjourn meeting

Puneet Kochhar adjourned the meeting at 1:08 pm.