

**NH BOARD OF DENTAL EXAMINERS**

**7 Eagle Square - Hearings Room**

**CONCORD, NH 03301-4980**

**MONDAY, February 7, 2022**

**PUBLIC BOARD MEETING MINUTES**

The February 7, 2022, public session of the meeting of the New Hampshire Board of Dental Examiners was called to order at 3:07 pm by Puneet Kochhar, DMD, President of the Board, with the following members present:

Puneet Kochhar, DMD, President	(PK)
Muhenad Samaan, DMD	(MS)
Lisa Scott, RDH	(LS)
Howard Ludington, DDS	(HL)
Roger Achong, DMD	(RA)
Virginia Moore, RDH	(VM)
Linda Tatarczuch, Public Member	(LT)
Jay Patel, DDS	(JP) – arrived at 3:24 pm

Absent:

John Girald, DMD	(JG)
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Attendees present:

Sheri Phillips, Jessica Whelehan, Jenna Wilson, Mike Auerbach, Dwayne Thibeault, Steve Grady (via Zoom), Nicole Gaffen (via Zoom), Barbara Stowers, Mark Abel, Chandler Jones, Peter Reich

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 –January 3, 2022** - Upon motion from MS and second from RA, the Board voted to accept the minutes.

2. **Update Dental Hygienist Committee (DHC)**– Barbara Stowers, Chair of the DHC, reported that the DHC had begun looking at rules, and would have a comment/question during the rules hearing at 3:30 pm. Barbara also stated that the DHC had welcomed new member Jacqueline Harrison, RDH. It was noted that Jacqueline would likely be taking the roll of Chair as soon as the next meeting. Upon motion from LS, and second from HL, the Board voted to accept the update and the DHC minutes from the January 3, 2022, meeting.

3. **NH Dental Hygiene Association** – Barbara Stowers provided the update for NHDHA, stating they had an upcoming class titled “Spring Symposium” which was scheduled to take place, in person, at the Derryfield in Manchester on March 12, 2022.

4. **Dental Society Report** – Mike Auerbach provided the following update:

- The NHDS is receiving a number of calls from Member dentists whose paper prescriptions are being turned away by area pharmacies due to the new law, despite the rules for the new e-prescription law not being written yet. Additionally, most dentists in New Hampshire report that they do not prescribe controlled substances more than five times a year, which means that they must pay onerous monthly software costs to comply. The NHDS is offering our assistance to the Board to avoid further issues associated with the new law.
- We are receiving calls from a growing number of dentists who, because of the pandemic, were unable to obtain live CE during the current licensure period. There were few such programs offered and, when they were available, they occurred during periods of COVID spikes. The NHDS proposes creating a single, twice/month list of dentists seeking a hardship waiver under these circumstances, enabling the Board to streamline the number of waiver requests they will inevitably receive between now and the end of the biennium.
- The 2022 NHDS Annual Meeting is currently scheduled for 18-21 May in Meredith. We will be welcoming such speakers as RADM Tim Ricks, former ADA Executive Director Dr. Kathleen O’Loughlin and a wide range of other distinguished CE presenters, all of whom will be providing courses for the entire team. A formal “save the date” is going out this week.

**5. Board Office Comments**

A. Board Administrator Jessica Whelehan did not have any updates to provide.

**6. Discussion**

A. The Board discussed the upcoming Dental renewals, with special attention paid to the fact that Dentists were reporting issues locating and/or attending live, in-person classes. With only 40% of the required CEUs allowed to be virtual, dentists had been reaching out to the Board through OPLC, to the Board members themselves, and to the NHDS expressing their concerns. Upon motion from HL, second from LS, the Board voted to issue an emergency ruling editing Den 403.07 (h) to change the 40% to 100%, which would allow Dentists to obtain and submit up to 100% virtual CEUs for the Dentist renewal cycle ending April 30, 2022; RA and VM opposed.

**7. Other New Business and Inquiries**

A. The Board reviewed an initial proposal for newly proposed rule Den 404 “Interim Waiver Rule” and associated waiver application. This rule would address the changes to RSA 318:47-c, III(a)(5), which requires dentists to submit e-prescriptions for controlled substances. Upon motion from PK, second from HL, the Board voted to accept the initial proposal and application as submitted and to initiate the interim rulemaking process.

\* At 3:32 pm, PK opened a public rules hearing for 301 (various) and Den 403.07 (amount of virtual CEUs accepted), asking for any public comment. Barbara Stowers asked for clarification regarding live, in-person, and live webinars, asking if live webinars counted as in-person as they frequently required active participation from the group. PK stated that live webinars did not count as live, in-person. The hearing was closed at 3:56 pm.

B. The Board reviewed Den 302.06 Dental Assistant Qualifications initial proposal. Upon motion from MS, second from HL, the Board voted accept the initial proposal as presented and initiate the rulemaking process.

C. The Board reviewed an inquiry from Kent Horsley, DDS, asking if the manikin exam he had taken, which did not include perio, would satisfy Den 301.02 (a)(8)b. which states that a dentist

needs to have taken and passed American Board of Dental Examiners (ADEX) examination, or other similar U.S. regional or state board clinical examination for dentists, including a clinical periodontal/scaling component. Upon motion from MS, second from JP, the Board voted to inform Dr. Horsley that he would need to take a the perio portion of an ADEX/CDCA/WREB exam, and that he could take the manikin version.

D. The Board reviewed the e-prescribing waiver request from Shauna Gauthier, DMD. With an interim rule in process, the Board asked Board Administrator Jessica Whelehan to email Dr. Gauthier to inform her that the Board was not yet able to grant the waiver but are developing the rules that would allow them to do so.

E. The Board reviewed the e-prescribing waiver request from multiple dentists at Lindner Dental. With an interim rule in process, the Board asked Board Administrator Jessica Whelehan to email Lindner Dental to inform them that the Board was not yet able to grant the waiver but are developing the rules that would allow them to do so.

## **8. Licensure and Reports -**

A. The Board reviewed the OPLC Dentists applications approved and pending document.

B. The Board reviewed the OPLC Hygienist applications approved and pending document.

C. The Board reviewed a waiver request submitted by Christine Kwon, DMD, regarding her passage of the WREB exam in both 2018 and 2019. After discussion regarding past practice and the fact that the WREB had not been accepted during those years because of an unresolvable issue with the scoring, a motion was made by HL to approve the waiver request, with a second from LS for discussion. The Board further discussed this waiver request; a vote was taken, with all 8 members present opposing the approval of the waiver. The motion to approve the waiver did not carry.

D. The Board reviewed an application submitted by Satyajeet Bhide, DDS, with a waiver request asking for exemption from the requirement for a certified copy of a birth certificate or a notarized photocopy of a valid passport (Den 301.02(d)(2)b.) and a waiver request to accept the SRTA test as an equivalent test to the ADEX (Den 301.02(a)(8)b.). Dr. Bhide, attending via Zoom, was asked to explain why he was unable to obtain either a certified copy of his birth certificate or a notarized photocopy of a valid passport. Dr. Bhide explained that the hospital he was born at, in India, was no longer in existence, and he had not been successful in obtaining a certified copy. He did state he had tried to get a notary public to notarize a photo copy of his original birth certificate, but the notary public had refused. He did not feel comfortable mailing his original birth certificate as he felt it unlikely he would be able to relace it if it got lost in the mail. He also explained that he did not have a current passport as he simply did not travel out of the United States, and because it had been expired for some time, he was having trouble trying to renew it as well. Furthermore, because of the ongoing pandemic, he did not feel comfortable flying from VA to NH to present his birth certificate in person. Upon motion from PK, second from HL, the Board voted to approve the waiver request for the birth certificate/passport requirement due to the impossibility of Dr. Bhide accomplishing those tasks; RA opposed. The Board then reviewed the SRTA scores. Upon motion from PK, second from HL, the Board voted to approve the waiver request and accept the SRTA scores; VM abstained. It was also noted that the Board has, historically, accepted SRTA scores as they have been found to be substantively equivalent to ADEX. The Board did ask the Dr. Bhide email an updated BLS-HCP card, as the one on file had expired in January of 2022.

**9. Public Health Supervision Program –**

- A. Upon motion from LS, second from LT, the Board voted to accept the Summary Report from the Merrimack County Nursing Home.
- B. Upon motion from LS, second from MS, the Board voted to approve the program application submitted by Myra Nikitas, RDH, CPHDH, and Andrew Locke, DMD, on behalf of the Nashua Smiles program.

**10. Anesthesia/Sedation permits and update –**

- A. Upon motion from PK, second from HL, the Board voted to accept the recommended pass of the Nashua Facility Inspection for Benjamin Farr, DDS, thus issuing his permit to administer GA/DS.
- B. Upon motion from PK, second from JP, the Board voted to accept the recommended pass of the Bedford Facility Inspection for Benjamin Farr, DDS, thus issuing his permit to administer GA/DS.
- C. Upon motion from PK, second from LS, the Board voted to accept the notification that Greg Aprilliano has been approved to administer GA/DS for host dentists Roger Achong, DMD, Patrick Capozzi, DDS, and Danielle Hinton, DDS (approved on January 26, 2022)

**11. Other Informational/Old Business –**

There was no old business to discuss.

**12. Scheduled Hearings -**

- A. At 3:32 pm, PK opened a public rules hearing for 301 (various) and Den 403.07 (amount of virtual CEUs accepted), asking for any public comment. Barbara Stowers asked for clarification regarding live, in-person, and live webinars, asking if live webinars counted as in-person as they frequently required active participation from the group. PK stated that live webinars did not count as line, in-person. The hearing was closed at 3:56 pm.

**13. ASEC Discussion and Strategy –**

- A. The Board briefly discussed the ASEC information available to them on the FTP.
- B. The Board discussed a letter sent to RA by Dr. Mark Abel, newly elected Chair of the ASEC, and Chair of NH OMS Society (the New Hampshire component state society of the AAOMS). This letter has detailed 3 things that the NH OMS Society was expecting from the NH Board of Dental Examiners: 1) An OMS-specific ASEC, whose members must be AAOMS members/fellows, and who will complete the inspections evaluations other NH oral and maxillofacial surgeons using the AAOMS OAE as their guidelines; 2) use of a simulated, scenario-based testing of the OMS membership, in accordance with the OAE (no more live-patient evaluations); and 3) the ability to hold their own OMS-specific ASEC meetings in the evenings after 5:00 pm. PK asked Dr. Abel to discuss the letter as it appeared that Dr. Abel was asking for permission to only inspect other oral surgeons and exclude anyone else. Dr. Abel confirmed that this was in fact the case. PK explained that the ASEC is an extension of the NH Board of Dental Examiners, and as such, they can not pick and choose who they evaluated. PK elaborated that the oral surgeons were allowed to have their own group of evaluators, and could call themselves whatever they chose, but if they were the ASEC that is associated with the NH Board of Dental Examiners they would not be allowed to decide who they evaluated. Attorney Sheri Phillips also expressed concern that refusing to evaluate a group of people had dangerous implications, bringing up the North Carolina Dental/Anti-Competitive case, and also stating that this was part of the reason the ASEC was needing to go through so much

change following Dr. Crowley's run as Chair. Dr. Abel said that he understood, but still had some concerns. He specifically asked for guidance from the Board regarding when the ASEC should meet, how often they should meet, what they should do at the meetings, and also asked that the Board consider giving him a smaller group to work with as the current membership of 18, meaning a quorum of 9, was proving difficult to get together for a meeting. PK said he was unable to change the number of members on ASEC as there were no rules regarding ASEC membership at this point, but that they would take Dr. Abel's comments into consideration. PK also expressed that he did not know if late night meeting could be accommodated. Board Administrator Jessica Whelehan stated that for 3 or 4 months the OPLC would be willing to work with the ASEC, allowing meetings to begin as early as 7:30 am, or to go as late as 6:00 pm. She noted, however, that this was not a sustainable practice as the Department of Administrative Services, Division of Personnel, was beginning to really put pressure on agencies to make sure their employees were working during the prescribed business hours, which for OPLC were from 8:00 am to 4:00 pm. Dr. Abel again stressed the importance of having a smaller group, explaining that he would personally reach out to each and every member of the ASEC to determine who was willing and able to participate in regular meetings, during business hours. Dr. Abel again asked what the Board needed from the ASEC, expressing concerns over the number of evaluations that would be due, as well as those that were past due, noting that it was a huge lift for the evaluators currently on the ASEC. Dr. Abel also noted that he had instructed fellow oral surgeons who were interested in being an evaluator to reach out to Board Administrator Jessica Whelehan; Jessica conformed that she has received many offers to assist. Dr. Abel asked if it would be possible to have those other oral surgeons help with the evaluations. PK said that the Board needed help catching up on the past due evaluations, noting that Board Administrator Jessica Whelehan had provided the Board with an ongoing list of evaluations. Jessica took this opportunity to request that PK and the Board address the issue of past due evaluations at this meeting, that they look at the table and discuss how these should be assigned and carried out so that the catch-up may begin. PK acknowledged this request. Dr. Peter Reich, member of the ASEC, spoke up and explained that the letter from Dr. Abel was not exactly clear at the ASEC meeting in January, but now that he understood the intent of the letter he also understood why it would not work for an extension of the Board. He did express concerns over the amount of work that each of the ASEC members would be tasked with while attempting to complete the past due evaluations as well as the evals due in 2022, as well as the hardship and loss of work time due to the length of time the evals required; this sentiment was echoed by Dr. Abel and Dr. Chandler Jones, newly elected Vice Chair of the ASEC. PK stated that the evals no longer required live-patient, that it could be simulated, which would cut down on time. PK again stressed the fact that help was needed catching up on past evals. Dr. Jones expressed his thoughts about the system that has been used in the past, stating that the evaluators used to be tasked with reaching out to the permit holder. This was changed several years ago, putting the onus on the permit holder to reach out to the evaluators who had been assigned to their permit. Dr. Jones felt that this led to permit holders not feeling as though they had to reach out because the Dental rules do not have any type of recourse or consequence for those who do not get a comp eval within the listed time limit. Dr. Jones felt that part of the reason for the backlog was the transition to OPLC, but also the fact that there was no way for the Board to hold permit holders accountable. Jessica agreed with Dr. Jones, again stressing the fact that the Board needed to review the past due evaluations today and begin to come up with a process for getting the evaluations assigned and completed. Dr. Abel said he was willing to keep working with the Board, as the Chair of the ASEC, but had concerns over the fact that he did not think documents were getting to the Board, referencing a presentation he had given in the first half of 2021. PK confirmed that the Board had not received that presentation; Jessica elaborated that it was because the ASEC had not been able to meet to review the presentation, as Dr. Crowley had hoped for, and had therefore been unable to recommend it go to the Board. PK explained that the Board was in possession of the other documents that had been forwarded, including rules changes recommendations. Dwayne Thibeault, CRNA, brought up the fact that the

Florida Dental Board sent a permit holder another type of Anesthesia provider to perform the evaluations; however, he did note that the fee that the Board was paying the evaluators would not be enough to have him do such work, if the Board decided to go that way. Dwayne also suggested, as he has at several meetings previously, that the Board may want to consider modeling their process after another state such as Massachusetts. Dwayne expressed his opinion that one of the benefits to a system such as the one used by Massachusetts was that not every single dentist or location was evaluated; rather, the permit holders and/or providers attested to the required items and skills, and the Board was then able to inspect at random, or to inspect if reports of issues came in. PK thanked everyone for their input.

C. The Board briefly reviewed the Current Anesthesia Sedation list, which includes the table and detailed list of past due evals. PK stated this was informational.

At 4:49 pm, pursuant to RSA 91-A:3, and upon motion from PK, second by LS, 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 7:13 p.m., upon motion by PK, and second by LS, the Board voted unanimously by roll call to go out of non-public session and into public session.

Upon motion by PK, second by HL, 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 7:14 p.m., PK adjourned the meeting.