



## Board of Dental Examiners Public Minutes

Dental Examiners Board

Monday, December 2, 2024, at 8:30 AM EST

### Attendance:

**Present:** Virginia Kapetanakis Moore, RDH – Vice President and acting President (VM) Mark D. Abel, DMD, MD (MA), Roger Achong, DMD, MS (RA), Angela Boyle RDH (AB), Daniel H. De Tolla, DDS, MD (DD), H.J. Ludington, DDS, MsD (HL), & Linda Tatarczuch, MSW (LT).

**Absent:** Puneet Kochhar, DMD – President (PK), Jay Patel, DMD (JP)

**Staff:** Carson Hansford – Board Administrator, Elizabeth Eaton, Esq. – Board Counsel, Rahkiya Medley, Esq. – Board Counsel.

**The Board took a break from 10:46AM- 11:10AM**

### Minutes:

#### I. Call to Order

VM called the meeting to order at 8:30 AM

#### II. Remote Participation

LT participated remotely under the Board’s standing order.

#### III. Non-Meeting with Attorney Eaton

The Board went into a non-meeting from 8:30AM to 9:10AM

#### IV. Approval of Public Minutes

Motion: Upon a motion by HL and a second by RA the Board voted to table the minutes to allow for the appropriate changes to be made via roll call. *Roll Call: 7-0-0.*

#### V. Public Comment

##### A. Daniel DeTolla, DMD, MD. (Oral Testimony accompanied by a written testimony)

Daniel DeTolla spoke to closing the gap between the Board and the public. He cited that there were a lot of things the Board and the public agree on. He thanked Dr. Ludington and Dr. Burke for their efforts on the rules. He testified that he felt pressured into voting on the rules as presented at the November Board meeting. He testified that those who are low income will be the one who will suffer the consequences of these rules. He testified that the model language provided by the AAOMS, ASDA and AAP, is the correct path forward and would like the Board to review the model language.

Motion: Upon a motion by DD and a second by HL the Board voted to request rulemaking support from the O.P.L.C. for possibility of amending Den 304 based off public comment provided to the Board via roll call. *Roll Call: 7-0-0*

##### B. Christina McCann Letter, DMD (written testimony)

Christina McCann testified she has concerns regarding the elimination of moderate sedation by pediatric dentists. She expressed that there are many circumstances in which she may decide to use moderate sedation on a pediatric patient. She testified that the tragedy that led to the passage of Caleb’s law did not involve moderate sedation, stating moderate sedation by a board-certified pediatric dentist is a safe and reliable practice. She expressed worries that not allowing moderate sedation on pediatric patients could leave the patient with lifelong dental anxiety.

**C. American Association of Oral and Maxillofacial Surgeons (AAOMS) (Written Testimony)**

The AAOMS through a letter from J. David Morrison, DMD and Thomas F. Burk, DMD, MD stated The New Hampshire Board of Dental Examiners has fundamentally failed in its duty to protect public health and ensure safe, equitable access to care by a means of advancing Den 304 as written. AAOMS testified that the Board disregarded public comment and the needs of vulnerable young patients, prioritizing individual interests over scientifically supported standards. Rather than safeguarding the public, the Board's actions will directly hinder access to essential dental and anesthesia services, endangering the health and lives of the very patients it is entrusted to protect. On behalf of the 9,000 members of the American Association of Oral and Maxillofacial Surgeons (AAOMS) – including the 52 members of the New Hampshire chapter practicing in the state – AAOMS strongly condemns the Board's actions. AAOMS stated the Board of Dental Examiners has broken all trust with the dental community it is meant to serve.

**D. American Academy of Pediatric Dentistry (AAPD) (Written Testimony)**

The AAPD through a letter from Scott Smith, D.D.S., M.S., and Kristine Marie Trontz, D.D.S., expressed deep disappointment in the New Hampshire Board of Dental Examiners' actions relating to Den 304. The AAPD testified that The Board has essentially authorized the creation of a monopoly-based system that allows one group of providers to dominate the use of sedation. The lack of transparency, the lack of supporting evidence, and the contradiction with the ADA educational guidelines suggest this process has been a transaction of convenience by a dental board that no longer understands its primary function and commitment to residents of the state. The AAPD testified that New Hampshire has put its children in harm's way with the passing of Den 304.

**E. Nadarajah Ganeshkumar, DMD (written testimony)**

Nadarajah Ganeshkumar testified in opposition to changing Den 304. Nadarajah testified in favor of expanding guidelines that allow pediatric dentists to utilize moderate sedation for patients under the age of nine. Nadarajah stated that the proposed guidelines would prohibit dentists from using moderate sedation on patients eight and under. Nadarajah stated that New Hampshire adopting these regulations hurts the dental community potentially making it more difficult to recruit and attract new dentists. Ganeshkumar urged the Board to reconsider the proposed restrictions on moderate sedation for pediatric dentists.

**F. Zachary Schonfield, DDS, MD (written testimony)**

Zachary Schonfield testified to his concerns relating to Den 304. Schonfield testified to the training received by Oral and maxillofacial surgeons. He expressed disappointment that an oral surgeon's specific and unique training is not recognized. He is upset in the bill they are being included alongside providers that do not have comparable training in the state. He recalled several concerning phone calls from Dentists where CRNA's regarding bleeding concerns on patients that should never have been treated in an office setting. Zachary testified that. The two-provider model fails to recognize the importance of having a provider that is knowledgeable in case selection. As an oral and maxillofacial surgeon, oral surgeons are trained to look at not just a surgical procedure, but the entire patient and their unique background in relation to this particular procedure. This regulation fails to recognize the clinical judgement that is instilled as a part of the training. He testified that he had concerns about access to care, stating the new regulations will increase wait times. He urged the Board to look at the medications being used stating there are great benefits to moderate sedation. He asked the state to carefully consider and listen to the recommendations of those who have this background of both the surgical and the anesthetic side, especially given that they are consistent with those from CODA.

**G. Mindy Hall, DDS (Oral Testimony)**

Mindy Hall testified in opposition to Den 304. She testified that if these changes go into effect, there will be as major deterrent to new practitioners. She spoke to tabling the current rules until more collaboration can be made between the dental community and the Board of Dental Examiners.

**H. Johnathan Bean, DMD (Oral Testimony)**

Johnathan Bean represented himself as a city of Manchester, New Hampshire official. He testified in opposition to Den 304. He apologized and acknowledged he is coming in late in the discussion. He testified to the issues potential created with outpatient care in hospitals, he testified that there were little to oral surgeons available to work in hospital settings.

**I. Michael Auerbach, New Hampshire Dental Society (Oral Testimony)**

Michael Auerbach represented he was the New Hampshire Dental Society's (NHDS) Executive Director. He testified in opposition to the rules as written, he stated that these rules are going to increase costs and limit time to receive care. He testified that he does not see the need for these rules. He offered himself as a resource to discuss further.

**J. James Spivey, D.D.S, M.S., (Oral Testimony)**

James Spivey testified in opposition to Den 304. He expressed his concerns about the facility permit. He was further concerned about dentists not providing sedation being responsible for maintaining drugs he believed the provider should be the one responsible for maintaining the medication. He is not in agreement with a hygienist not being able to draw and give medication. He wants E.F.D.As to be able to administer sedation drugs. He offered himself as a resource to the Board to continue to work on these rules.

**K. Peter Reich, DMD (Oral Testimony)**

Peter Reich testified in opposition to Den 304. He testified to his experience as an oral surgeon. He testified two providers when operating on a child is not more effective than one provider doing the anesthesia and the operation. He asked the Board to prove how these rules are safer, he testified that there are no other states that have the requirements that the Board of Dental Examiners is proposing.

**L. Thomas Burke DMD, MD. (Oral Testimony)**

Thomas Burke represented himself as an oral surgeon and president of NH OMS. He testified that he is disappointed in the Boards November decision relating to Den 304. He stated he is going to resubmit the information for consideration. He testified that many of the tragedies in the new were due to an error on the practitioner's behalf, not the delivery method. He states DEN 304 creates more hardship; he urges the Board to adopt the AAMOS rules. He testified that were adopted in Ohio.

**M. Johnathan Norris via Natline Laucious (Oral Testimony)**

Nataline Laucious represented herself as a New Hampshire pediatric representative and read a letter from Johnathan Norris. In the letter Johnathan wrote against Den 304. He believes the current rules as presented would create significant challenges by reducing access to care and increase cost to families. He further testified that Medicaid patients do not have access to C.R.N.A.s, he also cited regional disparities throughout New Hampshire. He requested the Board reconsider the rules.

**N. Lily Hu, DMD (Oral Testimony)**

Lily Hu testified in opposition to Den 304, Lily submitted a letter to the OPLC for the Boards consideration. She testified that the rules would hinder access to care, citing the exceptions for patients under 9 being removed in the proposal. She urged the Board to adopt the recommendations from the AAMOS. She pointed out potential errors in the rules, citing the issues with the pediatric pad requirements. She expressed concerns relating to qualified providers no longer being able to would not be able to treat patients they currently are treating.

**O. Nicholas Theberge, DDS (Oral Testimony)**

Nicholas Theberge testified that the rules presented interfere with his ability to Live Free or Die, he stated that his office will not comply with the rules as drafted as he will no longer be treating patients if the new rules were put into effect. He hopes the board reconsiders the rules, so he does not have to transfer patients to other providers.

**P. Virginia Kapetanakis Moore RDH (Oral Testimony)**

Virginia Kapetanakis Moore testified to the fact that people came in late to the process. She expressed her frustrations with the help the board had requested. She testified that the Board had requested help for more inspectors, help on the rules and all the calls went unanswered. She expressed gratitude to those who had stepped forward but wished they had done so when the Board could still make changes to the rules, rather than right before the Board crossed the finish line.

**VI. Division Director Bethany Cottrell 9:00 AM**

**A. Discussion on Inspector Training**

Bethany spoke to the Board about the changes coming to the Office relating to inspections for license, inspections will be moving out of enforcement and into licensing.

**VII. Christina McCollough Communications Administrator 9:30AM**

**A. Introduction**

Christina McCollough was unavailable.

**VIII. Required Reporting**

**A. Anesthetists Performing in Dental Offices**

Board Tabled.

**IX. Rules with Tina Kelley 10:00AM**

**A. Den 300 Various**

1. Final Proposal
2. Addendums to Applications
3. Summary of Public Comment

Motion: Upon a motion by HL and a second by RA the Board voted to file as amended via roll call.

*Roll Call: 7-0-0*

**B. Den 400**

1. Initial Proposal

Motion: Upon a motion by HL and a second by RA the Board voted to approve as amended via roll call. *Roll Call: 7-0-0*

**C. Den 500**

1. Den 500 Conditional Approval Request

Motion: Upon a motion by HL and a second by Ra the Board voted to approve the conditional approval request via roll call. *Roll Call: 7-0-0*

**D. Den 100**

1. Adopted Text
2. Adoption Cover Letter

Motion: Upon a motion by HL and a second by DD the Board voted to adopt via roll call. *Roll Call: 7-0-0*

**E. Rule Tracker**

Board Noted.

**X. Legislative Topics**

**A. Legislative Update - Board Counsel, Elizabeth Eaton**

1. Hygiene Anesthesia Permit- RSA Change

- a. LSR 2025-0338- Prime Sponsor: Jaci Grote, relative to the practice of dental hygiene
- 2. DMD or DDS for Dentist Initial Licensure- RSA Change

**XI. OPLC and/or Board Administration Update**

**A. OPLC FY 2024 Annual Report**

Board Noted.

**B. Input Requested from US Department of Veterans Affairs**

Motion: Upon a motion by VM and a second by RA the Board voted to have AB put together a letter for the VA via roll call. *Roll Call: 7-0-0*

**C. PLC 313 Rule Support Request**

Motion: Upon a motion by VM and a second by HL the Board voted to submit a request for rulemaking via roll call. *Roll Call: 7-0-0*

**XII. Licensure**

**A. Active Licenses 10.21 through 11.18**

Informational No Action Needed

Board Noted.

**XIII. Committee Reports**

**A. ASEC**

ASEC's next meeting is December 17<sup>th</sup> at 2:00PM. ASEC is going to be working on scenarios.

**B. Hygiene**

The Hygiene committee has not met in a long time as they have not been assigned homework from the Dental Board. The consensus from the Board is that they would like them to be more proactive rather than reactive.

Motion: Upon a motion by AB and a second by MA the Board voted to appoint Angela Boyle, RDH to the Hygiene committee via roll call. *Roll Call: 7-0-0*

**XIV. Non-Public Session**

Motion: Upon a motion by HL and a second by VM the Board voted to enter 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 via roll call. *Roll Call: 7-0-0*

**XV. Seal the Minutes of the Non-Public Session**

Motion: Upon a motion by VM and a second by HL the Board voted to 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 via roll call. *Roll Call: 7-0-0*

**XVI. Adjourn Meeting -**

The Board Adjourned at 2:09PM