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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF DENTISTRY  
VIA VIDEOCONFERENCE**

TIME: 10:33 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

November 20, 2020



1 \*\*\*

2 State Board of Dentistry

3 November 20, 2020

4 \*\*\*

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
6 9:00 a.m. the Board entered into Executive Session  
7 with Dana M. Wucinski, Esquire, Board Counsel, for the  
8 purpose of conducting quasi-judicial deliberations on  
9 a number of matters currently pending before the Board  
10 and to receive the advice of counsel. The Board  
11 returned to open session at 10:30 a.m.

12 \*\*\*

13 The regularly scheduled meeting of the State  
14 Board of Dentistry was held on Friday, November 20,  
15 2020. R. Ivan Lugo, D.M.D., M.B.A., Chairperson,  
16 called the meeting to order at 10:33 a.m.

17 Brice D. Arndt, D.D.S., was not present at the  
18 commencement of the meeting.

19 \*\*\*

20 [Dana M. Wucinski, Esquire, Board Counsel, noted the  
21 meeting was being recorded, and those who remained  
22 were consenting to being recorded.]

23 \*\*\*

24 [Brice D. Arndt, D.D.S., entered the meeting at  
25 10:35 a.m.]



1 Groody, aye; Ms. Hughes, aye; Dr.  
2 Jaspan, aye; Dr. Mountain, aye; Dr.  
3 Sullivan, aye; and Ms. Sizemore, aye.

4 [The motion carried unanimously.]

5 \*\*\*

6 [Dana M. Wucinski, Esquire, Board Counsel, noted the  
7 Board entered into Executive Session before the  
8 meeting and discussed all of the consent agreements  
9 presented. She also noted the Board requested a  
10 presentation on agenda Item No. 2.]

11 \*\*\*

12 Report of Prosecutorial Division

13 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,  
14 on behalf of Julia A. Feld-Caralle, presented the  
15 Consent Agreement for Case No. 16-46-14913.]

16 \*\*\*

17 Report of Board Counsel

18 [Dana M. Wucinski, Esquire, Board Counsel, noted items  
19 18 through 23, 28, and 29 were also discussed during  
20 Executive Session.

21 Ms. Wucinski referred to 16A-4682, noting the  
22 annex and preamble drafted by Ms. Lutz regarding  
23 General Revisions for the Board's review and  
24 discussion at the January Board meeting. She  
25 suggested the Board discuss changes with the permanent

1 Board Counsel once assigned.

2 Dr. Jaspan mentioned that the General Revisions  
3 state that cardiopulmonary resuscitation (CPR) must be  
4 performed in-person in a clinical situation and  
5 questioned what would be acceptable during COVID-19.

6 Ms. Burns informed the Board that the current  
7 waiver concerning the requirement for upcoming  
8 renewals must be modified through the Governor's  
9 Office. She recommended all check the Board's website  
10 for any updates regarding the existing waiver.

11 Ms. Burns explained that the current CPR waiver  
12 requires the didactic component to be completed for  
13 CPR, but it does not restrict the completion of that  
14 CPR course to the American Heart Association or the  
15 American Red Cross. So individuals have been  
16 permitted to complete other online CPR certification  
17 courses in lieu of the American Heart Association  
18 (AHA) or American Red Cross certifications that have  
19 the live component.

20 Chairperson Lugo questioned whether the live  
21 components were modified, noting colleagues who  
22 performed CPR by an online component and a manikin  
23 component.

24 Ms. Burns mentioned spikes in COVID causing  
25 availability to become less existent but stated the

1 waiver team Ms. Wucinski is a member of is examining  
2 the issue.

3 Dr. Funari addressed a problem in the anesthesia  
4 realm, where in order to qualify for advanced  
5 cardiovascular life support (ACLS) and pediatric  
6 advanced life support (PALS), an individual needs the  
7 American Heart Association. If the requirement for  
8 in-person training is not waived, anybody who needs to  
9 have ACLS and PALS for anesthesia requirements are in  
10 a bind.

11 Ms. Burns agreed that there is no provision for  
12 any such waiver or online requirements to do a PALS or  
13 ACLS course that is required for the anesthesia permit  
14 holders and suggested Ms. Wucinski take that back to  
15 the waiver team for consideration as well.

16 Chairperson Lugo suggested another option by  
17 extending the renewal process.

18 Ms. Wucinski referred to 16A-4633 regarding  
19 public health dental hygiene practitioner (PHDHP)  
20 practice sites. She stated the regulation is  
21 scheduled for consideration and action on December 3,  
22 2020, at the Independent Regulatory Review  
23 Commission's (IRRC) public meeting. She announced she  
24 will be attending with Regulatory Counsel, Cynthia  
25 Montgomery, and will report back.

1 Ms. Wucinski noted the State Board of Dentistry's  
2 outstanding regulations as Ms. Lutz drafted for the  
3 Board's review. She noted the list of committees, the  
4 Sunshine Act, and Recusal Guidelines for the Boards  
5 review. She also noted the status of cases report for  
6 the Board's knowledge of where disciplinary matters  
7 currently stand.]

8

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9 Report of Board Chairperson

10 [R. Ivan Lugo, D.M.D., M.B.A., Chairperson, addressed  
11 substantially equivalent requirements for licensure in  
12 Pennsylvania. He mentioned the importance of  
13 understanding the term and what the Board considers  
14 substantially equivalent in other jurisdictions. He  
15 stated the Board has to ensure people are protected  
16 and have knowledge to move forward in times like this  
17 where health care workers, particularly in the dental  
18 field, are so exposed to a coronavirus infection.

19 Chairperson Lugo discussed the educational  
20 component of substantially equivalent, where an  
21 individual graduated from an American Dental  
22 Association (ADA)-accredited school and passed what  
23 was called, up until July, the National Dental Board  
24 Examination Part I and II while still in dental school  
25 and dental hygiene school.

1           Chairperson Lugo commented that the exam had been  
2 overhauled and starting in July 2020 up until July  
3 2022, the National Dental Board Examination Part I and  
4 Part II will be a new exam called the Integrated  
5 National Board Dental Examination. He mentioned the  
6 importance of ensuring regulations and names that will  
7 be included in the preamble and the annex are  
8 consistent with the new changes.

9           Chairperson Lugo noted that a clinical component  
10 is required for substantial equivalency in  
11 Pennsylvania by the Commission on Dental Competency  
12 Assessments (CDCA), Western Regional Examining Board,  
13 Council of Interstate Testing Agencies, Southern  
14 Regional Testing Agency, or Central Regional Dental  
15 Testing Service for dentists and dental hygienists.

16           Chairperson Lugo noted that Pennsylvania has  
17 become its own testing and accrediting agency for  
18 expanded function dental assistants and play a dual  
19 role when it comes to clinical competency and the  
20 determination of competency when it comes to clinical  
21 skill set.

22           Chairperson Lugo addressed committees, noting  
23 that Act 41 will now be under the Regulations/  
24 Legislative Review Committee.

25           Chairperson Lugo announced having a cochair on

1 the committees to allow for the work of each committee  
2 to move forward independent of the business of the  
3 Board member. He requested Dr. Arndt, Ms. Murray, and  
4 Ms. Fowler join him on the Regulations/Legislative  
5 Review Committee, along with Ms. Hughes to consider  
6 matters related to Act 41 and Act 43.

7 Chairperson Lugo requested Dr. Mountain join Ms.  
8 Groody and cochair the Licensure Committee with Act 41  
9 issues and expanded function dental assistants (EFDAs)  
10 and accreditation of programs in Pennsylvania. He  
11 also requested Dr. Jaspan, Dr. Casey, Ms. Murray, and  
12 Ms. Sizemore join that committee.

13 Chairperson Lugo requested Dr. Sullivan join Ms.  
14 Hughes as the cochair for the Probable Cause Screening  
15 Committee, along with Ms. Sizemore and Dr. Matta.

16 Chairperson Lugo addressed the Communications  
17 Committee, noting Ms. Fowler's term is up, and she  
18 requested another role. He requested Ms. Hutcheson  
19 take that role and Ms. Sizemore cochair that  
20 committee, along with Dr. Casey.

21 Chairperson Lugo requested Ms. Murray cochair the  
22 Traditional and Emerging Practice Committee with Dr.  
23 Matta and all of the others to remain on that  
24 committee. He stated dentistry is going through a  
25 tremendous change in the digital side, noting the

1 importance of clarifying digital technology and the  
2 scope of practice and who is designated to be able to  
3 perform traditional dentistry and digital dentistry.

4 Chairperson Lugo stated there is too much work at  
5 the Board level, noting the committees have been  
6 designed for input from the public and different  
7 professions to be able to evaluate relevant policies  
8 and recommendations and to obtain the point of view of  
9 different stakeholders.]

10 \*\*\*

11 Report of Commissioner - No Report

12 \*\*\*

13 Report of Board Administrator - No Report

14 \*\*\*

15 Probable Cause Screening Committee

16 [Alice Hart Hughes, Esquire, Secretary, Public Member,  
17 reported the committee considered two items since the  
18 last meeting.]

19 \*\*\*

20 Scope of Practice Committee

21 [Joel S. Jaspan, D.D.S., noted the committee has not  
22 formally met. He informed the Board that the dental  
23 community was not aware that a dental hygienist cannot  
24 use nitrous oxide in Pennsylvania and must be  
25 administered totally by the dentist.

1           Chairperson Lugo suggested clarification by the  
2 Communications Committee to increase information and  
3 communication for licensees. He commented that the  
4 idea is to be able to report strategy and action plans  
5 to the Board when it meets rather than discuss  
6 committee work during the Board meeting.

7           Ms. Wucinski cautioned the Board against having  
8 four members on the Probable Cause Screening Committee  
9 due to quorum issues.

10          Dr. Funari commented that a dentist administering  
11 nitrous oxide in the state of Pennsylvania must have a  
12 restricted permit II and is not something that could  
13 be delegated.]

14

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15 For the Board's Information/Discussion

16 [Lisa M. Burns, Board Administrator, noted placing  
17 information presented at the last meeting from the  
18 Western Regional Examining Board (WREB) back on the  
19 agenda, because the Board never had any formal  
20 discussion as to whether the Board would reconsider  
21 the WREB exam based on the additional information  
22 provided and presented by WREB at the last meeting.]

23

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24 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
25 11:21 a.m. the Board entered into Executive Session

1 with Dana M. Wucinski, Esquire, Board Counsel, for the  
2 purpose of conducting quasi-judicial deliberations on  
3 a number of matters currently pending before the Board  
4 and to receive the advice of counsel. The Board  
5 returned to open session at 11:35 a.m.]

6

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7 MOTIONS

8 MS. WUCINSKI:

9                   Having returned from Executive Session,  
10                   I believe the Board would entertain a  
11                   motion to reject as too lenient the  
12                   proposed Consent Agreement at Case No.  
13                   16-46-14913.

14 DR. FUNARI:

15                   I'll make that motion.

16 CHAIRPERSON LUGO:

17                   Second?

18 DR. ARNDT:

19                   Second.

20 CHAIRPERSON LUGO:

21                   Call the question.

22

23                   Dr. Arndt, aye; Dr. Casey, aye; Ms.  
24                   Fowler, aye; Dr. Funari, aye; Ms.  
25                   Groody, aye; Ms. Hughes, aye; Dr.

1                   Jaspan, aye; Dr. Mountain, aye; Ms.  
2                   Murray, aye; Ms. Sizemore, aye; and Dr.  
3                   Sullivan, aye.

4 [The motion carried unanimously.]

5   \*\*\*

6 MS. WUCINSKI:

7                   I believe the Board would entertain a  
8                   motion to approve the following Consent  
9                   Agreements at Case No. 18-46-002472,  
10                  Case No. 17-46-05440, Case No. 17-46-  
11                  014182, Case No. 19-46-001003, Case No.  
12                  20-46-003233, Case No. 20-46-005716,  
13                  Case No. 18-46-012402 & 20-46-010377,  
14                  Case No. 19-46-012239, Case No. 19-46-  
15                  018603, and Case No. 19-46-008690.

16 DR. FUNARI:

17                   I'll make that motion.

18 CHAIRPERSON LUGO:

19                   Is there a second?

20 DR. MOUNTAIN:

21                   Second.

22 CHAIRPERSON LUGO:

23                   Thank you.

24

25                   Dr. Arndt, aye; Dr. Casey, aye; Ms.

1 Fowler, aye; Dr. Funari, aye; Ms.  
2 Groody, aye; Ms. Hughes, aye; Dr.  
3 Jaspan, aye; Dr. Mountain, aye; Ms.  
4 Murray, aye; Ms. Sizemore, aye; and Dr.  
5 Sullivan, aye.

6 [The motion carried unanimously. The Respondent's  
7 name in Case No. 18-46-002472 is Eric D. Williams,  
8 D.D.S.; Case No. 17-46-05440, Biju Cyriak, D.D.S.;  
9 Case No. 17-46-014182, Avraham A. Weiner, D.D.S.; Case  
10 No. 19-46-001003, Thomas John Bach, D.M.D.; and Case  
11 No. 20-46-003233, M. Yazan Aljraki, EFDA. Case No.  
12 20-46-005716 is a VRP Agreement. The Respondent's  
13 name in Case Nos. 18-46-012402 & 20-46-010377 is Maria  
14 Helena Barboza, D.M.D.; Case No. 19-46-012239,  
15 Rochelle Lee Fuls aka Rochelle Lee Jessamine; Case No.  
16 19-46-018603, Frank J. Makoczy, D.D.S.; and Case No.  
17 19-46-008690, Gaetano A. Catone, D.M.D.]

18 \*\*\*

19 MS. WUCINSKI:

20 Going back to agenda item 10, I believe  
21 the Board would entertain a motion to  
22 approve the Consent Agreement at Case  
23 No. 19-46-001703 and noting that Dr.  
24 Arndt abstained.

25 CHAIRPERSON LUGO:

1 So moved. Could I have a second?

2 MS. HUGHES:

3 Second.

4 CHAIRPERSON LUGO:

5 Call the question.

6

7 Dr. Arndt, abstain; Dr. Casey, aye; Ms.

8 Fowler, aye; Dr. Funari, aye; Ms.

9 Groody, aye; Ms. Hughes, aye; Dr.

10 Jaspan, aye; Dr. Mountain, aye; Ms.

11 Murray, aye; Ms. Sizemore, aye; and Dr.

12 Sullivan, aye.

13 [The motion carried. Dr. Arndt abstained from voting

14 on the motion. The Respondent's name is Gerald

15 Awadzi, D.M.D.]

16

\*\*\*

17 MS. WUCINSKI:

18 I believe the Board would entertain a

19 motion to approve the Consent Agreement

20 at Case No. 20-46-010778 and noting that

21 Dr. Matta, attorney Sizemore, and

22 attorney Hughes are all recused.

23 CHAIRPERSON LUGO:

24 So moved.

25 MS. GROODY:

1 Second.

2 CHAIRPERSON LUGO:

3 Thank you. Call the question.

4

5 Dr. Arndt, aye; Dr. Casey, aye; Ms.

6 Fowler, aye; Dr. Funari, aye; Ms.

7 Groody, aye; Dr. Jaspan, aye; Dr.

8 Mountain, aye; Ms. Murray, aye; and Dr.

9 Sullivan, aye.

10 [The motion carried. Dr. Matta, Ms. Sizemore, and Ms.  
11 Hughes recused themselves from deliberations and  
12 voting on the motion. The Respondent's name is Amy  
13 Renaey Seybert.]

14

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15 Motion to Enter Default and Deem Facts Admitted

16 MS. WUCINSKI:

17 Moving on to agenda item 18. I just  
18 wanted to note that this item is moved  
19 based on the Consent Agreement that has  
20 been approved by the Board at Case No.  
21 19-46-012239.

22

\*\*\*

23 Proposed Adjudication and Order

24 MS. WUCINSKI:

25 I believe the Board will entertain a

1 motion to adopt as final the proposed  
2 Adjudication and Order for Amanda S.  
3 Neiswender, EFDA, Case No. 19-46-008664  
4 and noting that Dr. Matta and attorney  
5 Sizemore are both recused.

6 DR. FUNARI:

7 I'll make the motion.

8 CHAIRPERSON LUGO:

9 Thank you. Second?

10 DR. ARNDT:

11 Second.

12 CHAIRPERSON LUGO:

13 Thank you. Call the question.

14

15 Dr. Arndt, aye; Dr. Casey, aye; Ms.  
16 Fowler, aye; Dr. Funari, aye; Ms.  
17 Groody, aye; Ms. Hughes, abstain; Dr.  
18 Jaspan, aye; Dr. Mountain, aye; Ms.  
19 Murray, aye; and Dr. Sullivan, aye.

20 [The motion carried. Dr. Matta and Ms. Sizemore  
21 recused themselves from deliberations and voting on  
22 the motion. Ms. Hughes abstained from voting on the  
23 motion.]

24

\*\*\*

25 Final Adjudication and Order

1 MS. WUCINSKI:

2 Moving on to item 20. I believe the  
3 Board will entertain a motion to adopt  
4 as final the draft Adjudication and  
5 Order in the case of Dawn Marie Mita,  
6 EFDA, Case No. 17-46-02614.

7 MS. GROODY:

8 I'll make the motion.

9 CHAIRPERSON LUGO:

10 Thank you. Second?

11 DR. JASPAN:

12 Second.

13 CHAIRPERSON LUGO:

14 Thank you. Call the question.

15

16 Dr. Arndt, aye; Dr. Casey, aye; Ms.

17 Fowler, aye; Dr. Funari, aye; Ms.

18 Groody, aye; Ms. Hughes, aye; Dr.

19 Jaspan, aye; Dr. Mountain, aye; Ms.

20 Murray, aye; Ms. Sizemore, aye; and Dr.

21 Sullivan, aye.

22 [The motion carried unanimously.]

23

\*\*\*

24 Miscellaneous

25 MS. WUCINSKI:

1 I believe the Board would entertain a  
2 motion to deny Justin Whiting, D.D.S.,  
3 M.D., as Dr. Kevin Wade Burton's  
4 practice monitor, as his experience is  
5 in oral surgery as opposed to general  
6 dentistry.

7 CHAIRPERSON LUGO:

8 Motion?

9 DR. FUNARI:

10 I'll make the motion.

11 CHAIRPERSON LUGO:

12 Thank you. Second?

13 DR. MOUNTAIN:

14 Second.

15 CHAIRPERSON LUGO:

16 Thank you. Call the question.

17

18 Dr. Arndt, aye; Dr. Casey, aye; Ms.  
19 Fowler, aye; Dr. Funari, aye; Ms.  
20 Groody, aye; Ms. Hughes, aye; Dr.  
21 Jaspan, aye; Dr. Mountain, aye; Ms.  
22 Murray, aye; Ms. Sizemore, aye; and Dr.  
23 Sullivan, aye.

24 [The motion carried unanimously.]

25

\*\*\*

1 MS. WUCINSKI:

2 I believe the Board would entertain a  
3 motion to deny the request of Andrew P.  
4 Kuzma, D.M.D., to accept the continuing  
5 education in ethics, risk management,  
6 and dental law from Dentaltown in lieu  
7 of the JERM exam and to direct the Board  
8 administrator to provide further  
9 guidance consistent with the discussions  
10 in Executive Session, noting that Dr.  
11 Sullivan is recused.

12 MS. GROODY:

13 I'll make the motion.

14 CHAIRPERSON LUGO:

15 Thank you.

16 DR. ARNDT:

17 I second the motion.

18 CHAIRPERSON LUGO:

19 Call the question.

20

21 Dr. Arndt, aye; Dr. Casey, aye; Ms.  
22 Fowler, aye; Dr. Funari, aye; Ms.  
23 Groody, aye; Ms. Hughes, aye; Dr.  
24 Jaspan, aye; Dr. Mountain, aye; Ms.  
25 Murray, aye; and Ms. Sizemore, aye.

1 [The motion carried. Dr. Sullivan recused herself  
2 from deliberations and voting on the motion.]

3 \*\*\*

4 MS. WUCINSKI:

5 I believe the Board would entertain a  
6 motion to approve the draft Delegation  
7 Order for all immediate temporary  
8 suspensions.

9 CHAIRPERSON LUGO:

10 Motion?

11 DR. FUNARI:

12 I'll make the motion.

13 MS. FOWLER

14 Second.

15 CHAIRPERSON LUGO:

16 Call the question.

17

18 Dr. Arndt, aye; Dr. Casey, aye; Ms.  
19 Fowler, aye; Dr. Funari, aye; Ms.  
20 Groody, aye; Ms. Hughes, aye; Dr.  
21 Jaskan, aye; Dr. Mountain, aye; Ms.  
22 Murray, aye; Ms. Sizemore, aye; and Dr.  
23 Sullivan, aye.

24 [The motion carried unanimously.]

25 \*\*\*

1 Review of Applications

2 MS. WUCINSKI:

3 Moving on to agenda item 28. I believe  
4 the Board would entertain a motion to  
5 grant the Application to Practice as an  
6 Expanded Function Dental Assistant of  
7 Kasandra Vazquez, EFDA, under Act 41.

8 CHAIRPERSON LUGO:

9 Motion?

10 DR. ARNDT:

11 So moved.

12 CHAIRPERSON LUGO:

13 Thank you. Second?

14 DR. JASPAN:

15 Second.

16 CHAIRPERSON LUGO:

17 Call the question.

18

19 Dr. Arndt, aye; Dr. Casey, aye; Ms.

20 Fowler, aye; Dr. Funari, aye; Ms.

21 Groody, aye; Ms. Hughes, aye; Dr.

22 Jaspán, aye; Dr. Mountain, aye; Ms.

23 Murray, aye; Ms. Sizemore, aye; and Dr.

24 Sullivan, aye.

25 [The motion carried unanimously.]

1 \*\*\*

2 MS. WUCINSKI:

3 Finally, I believe the Board would  
4 entertain a motion to grant the  
5 Application for a License to Practice as  
6 a Dentist of Roshni Patel, D.M.D., under  
7 Act 41.

8 CHAIRPERSON LUGO:

9 Could I have a motion?

10 MS. GROODY:

11 I'll make the motion.

12 CHAIRPERSON LUGO:

13 Second?

14 DR. MOUNTAIN:

15 Second.

16 CHAIRPERSON LUGO:

17 Thank you. Call the question.

18

19 Dr. Arndt, aye; Dr. Casey, aye; Ms.

20 Fowler, aye; Dr. Funari, aye; Ms.

21 Groody, aye; Ms. Hughes, aye; Dr.

22 Jaspan, aye; Dr. Mountain, aye; Ms.

23 Murray, aye; Ms. Sizemore, aye; and Dr.

24 Sullivan, aye.

25 [The motion carried unanimously.]

1 \*\*\*

2 [The Board recessed from 11:50 a.m. until 12:00 p.m.]

3 \*\*\*

4 Appointment - Act 53 of 2020 Presentation

5 [K. Kalonji Johnson, Commissioner, Bureau of  
6 Professional and Occupational Affairs, stated Act 53  
7 was passed in June 2020 to modernize the Criminal  
8 History Records Information Act (CHRIA), which is the  
9 statutory provision that guides boards and commissions  
10 in considering a prior criminal history in making  
11 determinations on granting or refusing a license and  
12 discipline for an active licensee.

13 Commissioner Johnson explained that Act 53 puts  
14 the burden on either the individual or the Board to  
15 determine whether criminal history in question  
16 implicates public safety. He stated the burden is put  
17 upon the applicant to prove that they are not a threat  
18 to public safety, or the burden falls upon the Board  
19 or prosecutorial division to prove the individual is a  
20 danger to the public and potentially their patients.

21 Commissioner Johnson requested the Board consult  
22 with each other to determine whether the list can be  
23 published or whether there were any amendments to make  
24 the list more comprehensive. He emphasized that the  
25 list was not final, and there would be more

1 opportunities to engage the public and make changes to  
2 the list as the Act goes through the regulatory  
3 process.

4 Commissioner Johnson stated Act 53 requires him  
5 to publish the list by December 27, 2020; consult with  
6 the Board; and provide forums to allow business  
7 members within the regulated profession to provide  
8 feedback and allow stakeholders to provide comment.

9 Cynthia K. Montgomery, Esquire, Deputy Chief  
10 Counsel/Regulatory Counsel, Department of State,  
11 informed the Board that she was assisting Commissioner  
12 Johnson in meeting his statutory duties under Act 53.  
13 She stated all 29 boards will have their own list.  
14 She noted the deadline in the Act for Commissioner  
15 Johnson to publish a notice of the completion of the  
16 list is December 27, 2020, but hoped for the  
17 publication in the December 26, 2020 edition in the  
18 *Pennsylvania Bulletin*.

19 Ms. Montgomery noted receiving no comments after  
20 sending a notice to interested parties and  
21 stakeholders on October 22. She stated Commissioner  
22 Johnson has the duty to publish the schedule of  
23 criminal convictions that may constitute grounds to  
24 refuse to issue, suspend, or revoke a license or  
25 certificate.

1 Ms. Montgomery stated all sexual offenses listed  
2 under § 3113(d) of Act 53 had been included, noting a  
3 licensing board may not issues a license or permit or  
4 allow an individual to practice as a health care  
5 practitioner if an individual has been convicted of a  
6 sexual offense.

7 Ms. Montgomery referred to § 3113(e) regarding  
8 crimes of violence, where an individual may receive a  
9 license if 3 years have elapsed since incarceration or  
10 3 years elapsed from imposition of the sentence, the  
11 individual has remained conviction-free, and  
12 demonstrates significant rehabilitation.

13 Ms. Montgomery stated the Board has to make a  
14 finding that licensure of the individual does not pose  
15 a substantial risk to the health and safety of the  
16 individual's patients or the public or a substantial  
17 risk of further criminal convictions.

18 Ms. Montgomery referred to crimes identified by  
19 Board counsel as directly related to the dental  
20 profession and provided a definition of "directly  
21 relates." She addressed rebuttable presumption, where  
22 individuals convicted of crimes on the list of  
23 offenses directly related to the profession would pose  
24 a substantial risk to the health and safety of their  
25 patients, clients, or the public or a substantial risk

1 of further criminal convictions. She mentioned the  
2 applicant or licensee would have to demonstrate they  
3 do not pose such a risk.

4 Ms. Montgomery noted the list is to provide  
5 transparency in the process, where individuals seeking  
6 licensure know what crimes could be an impediment to  
7 licensure. She also noted the statute provides the  
8 list be used in preparing preliminary determinations  
9 under § 3115, where an individual would have their  
10 criminal history reviewed in advance and a preliminary  
11 determination made as to whether their criminal  
12 history may be an impediment to licensure.

13 Ms. Montgomery commented that the Board would  
14 review the list when an individual asks for a  
15 preliminary determination. She stated crimes on the  
16 list could potentially be an impediment to licensure,  
17 and crimes not on the list would mean it did not  
18 appear that the crime would be an impediment to  
19 licensure.

20 Ms. Montgomery noted the list is also used in  
21 determining discipline and in determining whether to  
22 grant or deny a license or an applicant. She noted  
23 individuals may still be granted a license even if a  
24 crime is on the list.

25 Ms. Montgomery explained a two-stage process for

1 evaluating criminal history record information by  
2 determining if the crime is directly related to the  
3 profession, where there would be a rebuttable  
4 presumption. She addressed the second stage, which is  
5 an individualized assessment based on the facts and  
6 circumstances set forth in § 3113(c).

7 Ms. Montgomery emphasized that the Board may  
8 still see crimes that do not appear on the list,  
9 noting that the Board is not limited in any way. She  
10 mentioned that the list was curated by Ms. Lutz  
11 working together with the prosecution division after  
12 reviewing the statute, Act 53, and history of  
13 applications.

14 Dr. Jaspan recommended including hate crimes to  
15 the list, unless it were under terrorism or another  
16 category.

17 Commissioner Johnson mentioned ethnic  
18 intimidation as the most correlated crime, which could  
19 be added to the list.

20 Chairperson Lugo questioned whether cybersecurity  
21 made it to the list of crimes directly related to the  
22 profession of other boards.

23 Ms. Wucinski noted cybersecurity to probably not  
24 be directly related to the profession but could still  
25 be used if someone came before the Board and

1 determined to be related to the profession. She noted  
2 the list did have fraudulent business practices  
3 because that relates to business.

4 Chairperson Lugo mentioned the clinical  
5 management system that has financial and personal  
6 information, where an individual that has the ability  
7 to hack a system repeatedly can get access to personal  
8 data, financial data, and forensic data. He stated  
9 digital dentistry is now keeping CT scans, which can  
10 replicate the bone structure and an individual's  
11 physical being. He noted the importance of  
12 safeguarding personal health information in digital  
13 dentistry.

14 Commissioner Johnson commented that crimes not on  
15 the list could still be brought to the Board for  
16 consideration. He stated the question becomes whether  
17 the presumption falls upon the state or the individual  
18 to prove that implication in public safety when making  
19 the determination of whether a license should be  
20 granted, suspended or revoked.

21 Ms. Montgomery referred to Title 18 Pa.C.S. § 7611  
22 regarding unlawful use of computer and other computer  
23 crimes. She also referred § 7615(a)(3) regarding  
24 computer trespass, which is actually the hacking.

25 Ms. Hughes questioned whether individuals would

1 come before the Board for discipline if an offense is  
2 not on the list and would the Board be prohibited from  
3 disciplining or denying a license based on retail  
4 theft.

5 Ms. Montgomery explained that the legal effect of  
6 the list shifts the burden to the applicant or  
7 respondent. She referred to rebuttable presumption,  
8 where an individual convicted of one of the offenses  
9 would pose a significant risk to the public health or  
10 safety of patients or a significant risk of further  
11 criminal convictions. She stated the individual has  
12 the burden of convincing the Board that they would not  
13 be a risk.

14 Ms. Montgomery referred to Act 53 § 3113(c),  
15 where the Board would do an individualized assessment  
16 and consider all of the criteria if the crime were not  
17 on the list.

18 Mr. Jarabeck explained that matters will be  
19 reviewed by looking at the crime to make a  
20 determination, but the Board would still have use of  
21 mental and physical examinations that may provide a  
22 matter forward. He noted the requirement to review  
23 criminal cases under the lens of what Act 53 provides,  
24 not only in terms of applicants but also for  
25 licensees.

1 Ms. Montgomery noted Act 53 more of a procedural  
2 statute that sets forth the procedure for the Board to  
3 follow in evaluating an individual's criminal history.  
4 She stated the list is to provide notice to the  
5 public, licensees, and potential applicants of the  
6 types of crimes the Board has deemed to be directly  
7 related to the profession. She noted crimes not on  
8 the list could still be considered through criteria  
9 set forth in § 3113.

10 Ms. Montgomery explained that the purpose of Act  
11 53 is transparency and to have a clear process for  
12 applicants and licensees. She noted the list is going  
13 to be part of the best practices guide for individuals  
14 to follow in navigating the system in getting a  
15 license notwithstanding a criminal history.

16 Ms. Montgomery noted the addition of ethnic  
17 intimidation and computer trespass.

18 Dr. Sullivan stated the Board does not typically  
19 provide advisory opinions and questioned how an  
20 individual could be ensured after completing dental  
21 school and coming back through the Board that they are  
22 going to be accepted as long as nothing else has  
23 changed from the time they applied for the advisory  
24 opinion.

25 Ms. Montgomery explained that the Act provides an

1 applicant or individual with a criminal history who,  
2 based on their review of the best practices guide and  
3 the published list, is unable to determine whether  
4 their criminal record would preclude the issuance of a  
5 license or certificate may file a petition for  
6 preliminary review with the licensing Board.

7 Ms. Montgomery stated a preliminary decision is  
8 limited to a declaration of whether the conviction  
9 falls within the set of convictions on the list that  
10 were determined to be directly related to the  
11 profession, and the individual will be notified. She  
12 noted the individual has the ability to present  
13 evidence set forth using the factors in § 3113(c) if  
14 it is directly related.

15 Ms. Montgomery noted individuals will receive a  
16 determination that it does not appear the crime would  
17 be an impediment to licensure if a crime is not on the  
18 list, but things can change by the time they complete  
19 dental school or dental hygiene school and ultimately  
20 apply for a license. She stated individuals applying  
21 for a preliminary determination would do so through  
22 the Pennsylvania Licensing System (PALS).

23 Ms. Montgomery noted the preliminary  
24 determination will be attached to their application  
25 when they apply for a license, and their entire

1 criminal history is still reviewed.

2 Chairperson Lugo commented that dental assistants  
3 in the Commonwealth of Pennsylvania are not licensed  
4 and wanted to know how to ensure a full reach of the  
5 dental clinical team.

6 Ms. Montgomery explained that the Board is  
7 limited to what is in the statute, which would require  
8 an amendment. She stated a legislative initiative  
9 could be drafted if the Board decides dental  
10 assistants should be licensed or certified.

11 Ms. Wucinski addressed crimes of violence as  
12 outlined in the statute, where anyone convicted of a  
13 crimes of violence may receive a license if at least 3  
14 years have passed since the conviction. She noted  
15 individuals with a sexual offense that is on the list  
16 will never receive a license. She stated individuals  
17 convicted of crimes related to the profession have the  
18 rebuttable presumption.

19 Commissioner Johnson stated the initial analysis  
20 would be conducted by Board Counsel. He emphasized  
21 that not seeing a conviction on the list did not mean  
22 that a conviction would not be considered by at least  
23 Board counsel. He stated it also did not mean that  
24 the criminal history would not be considered in  
25 reviewing the overall fitness for licensure. The Act

1 will shift the burden to the applicant or Board  
2 counsel to determine whether that implication of  
3 public safety affects the determination for licensure.

4       Chairperson Lugo questioned whether cases should  
5 be assigned to a committee as they come in rather than  
6 a presentation at the Board meetings so the Board  
7 could have time to look at that and whether  
8 independent assessments are going to be performed in  
9 collaboration with the Board.

10       Ms. Wucinski noted the Board could have a  
11 committee, but cases will come before the Board  
12 because the Board has to deny them.

13       Commissioner Johnson noted a question fielded  
14 from Q&A relating to the crime for third-degree murder  
15 of an unborn child that related to abortion.

16       Ms. Wucinski noted the crime to be more of a  
17 violent offense when the mother is murdered and the  
18 baby dies. She noted adding that to the Board of  
19 Medicine list of crimes related to the profession.

20       Mr. Jarabeck recommended additions to the crimes  
21 that may be related to the profession since the  
22 initial review with Ms. Lutz.

23       Mr. Jarabeck referred to Title 18 Pa.C.S. § 3922  
24 regarding theft by deception and recommended the  
25 addition of Title 18 Pa.C.S. § 3921, theft by unlawful

1 taking or disposition.

2 Mr. Jarabeck referred to Title 18 Pa.C.S. § 4101  
3 regarding forgery, noting this may happen in terms of  
4 insurance and payment.

5 Mr. Jarabeck mentioned prior discussion  
6 concerning computer crimes and identity theft, noting  
7 that to dovetail with Title 18 Pa.C.S. § 4120,  
8 identity theft and potentially the criminal use of a  
9 communications facility under Title 18 Pa.C.S. § 7512.

10 Mr. Jarabeck referred to Title 18 Pa.C.S. § 4911,  
11 tampering with public records or information in the  
12 context of somebody filing or applying for Medicaid  
13 reimbursement and the documentation has been altered,  
14 changed, or touched in a manner which shows there was  
15 some type of tampering.

16 Mr. Jarabeck referred to Title 18 Pa.C.S. § 4904  
17 regarding unsworn falsification to authorities, where  
18 individuals are verifying the truth of what is  
19 provided when it is submitted as part of their  
20 application to the Board.

21 Mr. Jarabeck referred to drug trafficking  
22 offenses and recommended Title 35 P.S. § 780-  
23 113(a)(37) be added.

24 Mr. Jarabeck suggested putting those forth as  
25 being directly related to the profession, but it does

1 not mean that everything on that list is specifically  
2 related to the profession and would require analysis  
3 and review.

4 Ms. Wucinski agreed with all of the additions  
5 except theft by unlawful taking or disposition.]

6 \*\*\*

7 COMMISSIONER JOHNSON:

8 I would humbly ask for that vote today.  
9 Certainly, if the Board is voting to  
10 accept the list as amended based on  
11 discussions today, I would be more than  
12 pleased with that result.

13 CHAIRPERSON LUGO:

14 Can I entertain a motion from the Board,  
15 anyone?

16 DR. MOUNTAIN:

17 I make the motion.

18 MS. MURRAY:

19 Second.

20 CHAIRPERSON LUGO:

21 Thank you. Call the question.

22 [The Board discussed the motion. The Board agreed to  
23 the addition of ethnic intimidation, unlawful use of  
24 computer and other computer crimes under § 7611, and  
25 computer trespass under § 7615(a)(3). The Board

1 decided to take a separate vote concerning theft by  
2 unlawful taking or disposition under § 3921.]

3 \*\*\*

4 MS. WUCINSKI:

5 The addition of § 4101 forgery, § 4120  
6 identity theft, § 7512 criminal use of a  
7 communication facility, § 4911 tampering  
8 with public records or information,  
9 § 4904 unsworn falsification to  
10 authorities, and all of the drug  
11 trafficking offenses.

12 I need a motion to add those things  
13 to the related list.

14 CHAIRPERSON LUGO:

15 I need a motion.

16 MS. MURRAY:

17 I make a motion to accept the list with  
18 the amendments discussed.

19 CHAIRPERSON LUGO:

20 Second?

21 DR. JASPAN:

22 Second.

23 CHAIRPERSON LUGO:

24 Call the question.

25

1 Dr. Arndt, aye; Ms. Fowler, nay; Dr.  
2 Funari, aye; Ms. Groody, aye; Ms.  
3 Hughes, nay; Dr. Jaspán, aye; Dr.  
4 Mountain, aye; Ms. Murray, aye; Ms.  
5 Sizemore, nay; and Dr. Sullivan, aye.

6 [The motion carried. Ms. Fowler, Ms. Hughes, and Ms.  
7 Sizemore opposed the motion.]

8 \*\*\*

9 MS. WUCINSKI:

10 The only remaining offense for the Board  
11 to decide is theft by unlawful taking or  
12 disposition.

13 Is there a motion to keep this off  
14 the list?

15 DR. SULLIVAN:

16 I make a motion to keep it off the list.

17 CHAIRPERSON LUGO:

18 We need a second. No second?

19 DR. JASPAN:

20 Second.

21 CHAIRPERSON LUGO:

22 Call the question.

23

24 Dr. Arndt, aye; Ms. Fowler, aye; Dr.  
25 Funari, nay; Ms. Groody, aye; Ms.

1 Hughes, nay; Dr. Jaspan, aye; Dr.  
2 Mountain, aye; Ms. Murray, aye; Ms.  
3 Sizemore, nay; and Dr. Sullivan, aye.  
4 [The motion carried. Dr. Funari, Ms. Hughes, and Ms.  
5 Sizemore opposed the motion.]

6 \*\*\*  
7 [Ms. Montgomery informed the Board that a notice of  
8 the availability of the list must be completed by  
9 December 27, 2020, and then Commissioner Johnson has  
10 the responsibility to promulgate it as proposed  
11 rulemaking. She noted the list will go out for public  
12 comment along with all 28 lists from the other boards  
13 and promulgated within 2 years as final rulemaking as  
14 required under the statute.]

15 \*\*\*

16 Adjournment

17 CHAIRPERSON LUGO:

18 Could I entertain a motion to adjourn  
19 the meeting?

20 DR. MOUNTAIN:

21 I motion to adjourn the meeting.

22 DR. SULLIVAN:

23 Second.

24 CHAIRPERSON LUGO:

25 Thank you.

1 [The motion carried unanimously.]

2 \*\*\*

3 [There being no further business, the State Board of  
4 Dentistry Meeting adjourned at 1:30 p.m.]

5 \*\*\*

6  
7 CERTIFICATE

8  
9 I hereby certify that the foregoing summary  
10 minutes of the State Board of Dentistry meeting, was  
11 reduced to writing by me or under my supervision, and  
12 that the minutes accurately summarize the substance of  
13 the State Board of Dentistry meeting.

14  
15  
16 

17 Derek Richmond,  
18 Minute Clerk  
19 Sargent's Court Reporting  
20 Service, Inc.

21  
22  
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24  
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26

STATE BOARD OF DENTISTRY  
REFERENCE INDEX

November 20, 2020

|    | TIME  | AGENDA                                 |
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| 1  |       |  |
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| 3  |       |  |
| 4  |       |  |
| 5  |       |  |
| 6  |       |  |
| 7  |       |  |
| 8  | 9:00  | Executive Session                      |
| 9  | 10:30 | Open Session                           |
| 10 |       |  |
| 11 | 10:33 | Official Call to Order                 |
| 12 |       |  |
| 13 | 10:34 | Introduction of Board Members          |
| 14 |       |  |
| 15 | 10:39 | Approval of Minutes                    |
| 16 |       |  |
| 17 | 10:39 | Report of Prosecutorial Division       |
| 18 |       |  |
| 19 | 10:56 | Report of Board Counsel                |
| 20 |       |  |
| 21 | 11:06 | Report of Board Chairperson            |
| 22 |       |  |
| 23 | 11:20 | Report of Committees                   |
| 24 |       |  |
| 25 | 11:21 | For the Board's Information/Discussion |
| 26 |       |  |
| 27 | 11:21 | Executive Session                      |
| 28 | 11:35 | Open Session                           |
| 29 |       |  |
| 30 | 11:35 | Motions                                |
| 31 |       |  |
| 32 | 11:48 | Review of Applications                 |
| 33 |       |  |
| 34 | 11:50 | Recess                                 |
| 35 | 12:00 | Return to Open Session                 |
| 36 |       |  |
| 37 | 12:00 | Appointment - Act 53 of 2020           |
| 38 |       | Presentation                           |
| 39 |       |  |
| 40 | 1:30  | Adjournment                            |
| 41 |       |  |
| 42 |       |  |
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