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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

TIME: 9:03 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room C
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

January 17, 2020

State Board of Dentistry
January 17, 2020

ALSO PRESENT:

James L. Robbins, D.M.D., Executive Director, Office
Anesthesia Evaluation Program, Pennsylvania Society
of Oral & Maxillofacial Surgeons
Joan Burke, CDA, EFDA, President-elect, Pennsylvania
Dental Assistants Association
Morgan Plant, Government Relations Consultant,
Pennsylvania Dental Hygienists' Association
Rita A. Tempel, D.D.S., American Academy of Cosmetic
Dentistry
Kathleen Bumpers, Manager, Government Relations,
Pennsylvania Dental Association
Lane Benson, RDH, PHDHP
Mary Edna Leedy, RDH
Scott Hudimac, D.D.S., MAGD, President, Pennsylvania
Academy of General Dentistry
Steve Neidlinger, CAE, Executive Director,
Pennsylvania Academy of General Dentistry
Lorena Cockley, D.D.S., MAGD, Pennsylvania Academy of
General Dentistry
Margaret Durkin, Bravo Group
Katherine Dangler, D.D.S., MAGD, Vice President,
Pennsylvania Academy of General Dentistry
Joyce Kasunich, D.M.D.
Joseph Chipriano Jr., D.M.D.
Tyler Burke, Milliron & Goodman, LLC
Peter J. Ross, D.M.D., President, Pennsylvania Academy
of Pediatric Dentistry
Barry Darocha, D.M.D., MAGD, FICOI
Keith Bell, D.D.S.
James Seitz, D.M.D.
Mark Weglos, D.M.D.
Norman Tabas, D.D.S.
Tony Pasquale, D.D.S.
Michael Kaner, D.D.S., MAGD, JD, Pennsylvania Academy
of General Dentistry
Richard Knowlton, D.M.D., MAGD, FADI
George Hom, D.D.S.

1 ***

2 State Board of Dentistry

3 January 17, 2020

4 ***

5 The regularly scheduled meeting of the State
6 Board of Dentistry was held on Friday, January 17,
7 2020. John F. Erhard III, D.D.S., Chairman, called
8 the meeting to order at 9:03 a.m.

9 K. Kalonji Johnson, Acting Commissioner of
10 Professional and Occupational Affairs, was not present
11 at the commencement of the meeting. A quorum was
12 noted to be present.

13 ***

14 Approval of minutes of the November 15, 2019 meeting

15 CHAIRMAN ERHARD:

16 The first item on the agenda is approval
17 of the minutes from our last meeting on
18 November 15.

19 Are there any additions or
20 corrections?

21 [The Board discussed corrections to the minutes.]

22 CHAIRMAN ERHARD:

23 Any other additions or corrections? May
24 I have a motion to approve the minutes
25 as amended?

1 MS. HUGHES:

2 So moved.

3 DR. SEID:

4 Second.

5

6 All in favor? Opposed, same sign. Two
7 abstentions, Dr. Matta and Dr. Seid.

8 [The motion carried. Dr. Matta and Dr. Seid abstained
9 from voting on the motion.]

10 ***

11 Report of Prosecutorial Division

12 [Kimberly A. Adams, Esquire, Board Prosecutor,
13 presented the Consent Agreement for File No. 19-46-
14 005260.]

15 ***

16 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,
17 presented the VRP Consent Agreement for File No. 19-
18 46-016697.]

19 ***

20 [Peter D. Kovach, Esquire, Senior Prosecutor in
21 Charge, presented the Consent Agreements for Case No.
22 18-46-010647 and Case No. 18-46-010650.]

23 ***

24 [Christopher K. McNally, Esquire, Board Prosecutor,
25 presented the Consent Agreements for File Nos. 16-46-

1 11363 & 18-46-011936.]

2 ***

3 [Andrew S. Matta, D.M.D., Amber Sizemore, Esquire,
4 Office of Attorney General, and Alice Hart Hughes,
5 Esquire, Public Member, exited the meeting at
6 9:28 a.m. for recusal purposes.]

7 ***

8 [Christopher K. McNally, Esquire, Board Prosecutor,
9 presented the Consent Agreements for File Nos. 18-46-
10 011346 & 19-46-006427 and File Nos. 18-46-011347 & 19-
11 46-006428.]

12 ***

13 [Andrew S. Matta, D.M.D., Amber Sizemore, Esquire,
14 Office of Attorney General, and Alice Hart Hughes,
15 Esquire, Public Member, re-entered the meeting at
16 9:36 a.m.]

17 ***

18 [Christopher K. McNally, Esquire, Board Prosecutor,
19 presented the Consent Agreement for Case No. 19-46-
20 015708.]

21 ***

22 [David N. Smith, Esquire, Board Prosecutor, presented
23 the Consent Agreement for File No. 19-46-006168.]

24 ***

25 [R. Ivan Lugo, D.M.D., expressed his concern with

1 cases failing a spore test and not being considered a
2 communicable disease.

3 Mr. Jarabeck explained that he has no control
4 over patient notification or access to records, which
5 is determined by the Philadelphia Department of Health
6 or county- or city-based agencies. He addressed the
7 process and categories of risk of transmission, where
8 category A would be high risk with the recommendation
9 for the doctor to provide patient notification and
10 considered category B, which is a lower level that has
11 not occurred through the Philadelphia Department of
12 Health or through the Pennsylvania Department of
13 Health and is very limited.

14 Mr. Jarabeck stated information is received from
15 a sister agency, and the evidence is submitted to an
16 expert, Dr. Louis DePaola, at the University of
17 Maryland, who provides a report.

18 Dr. Lugo understood all of the procedures but
19 believed considering a spore not communicable was
20 scientifically wrong.]

21 ***

22 Introduction of Board and Audience

23 [Chairman Erhard requested the introduction of Board
24 and audience members.]

25 ***

1 Department of Health and Human Services Presentation
2 [Mana Mozaffarian, D.M.D., Chief Dental Officer of
3 Pennsylvania, Department of Health and Human Services,
4 provided a brief summary of her professional
5 background. She entered the practice of
6 prosthodontics and cosmetic dentistry because of the
7 challenges, where medically complex patients and
8 medical-dental integration issues were not being
9 addressed appropriately. She joined a general
10 practice residency (GPR) program at a local trauma
11 center, which prompted her interest in public health
12 dentistry, helping her understand the medical side of
13 information and the need for a patient versus a want
14 for a patient.

15 Dr. Mozaffarian worked with correctional systems
16 and academia, where she taught at the University of
17 the Pacific, University of Pennsylvania, and Temple
18 University Dental School, anywhere from being a
19 preclinical instructor to being the only general
20 dentist introduced into the oral surgery department to
21 work with oral surgeons and predoctoral dental
22 students to teach the difference between when it is
23 safe to conduct a comprehensive approach in a more
24 traditional dental setting versus initiating a
25 referral, where the care should be in a hospital

1 setting.

2 Dr. Mozaffarian mentioned her undergraduate
3 degree, looking at systems, efficiencies, and cost
4 effectiveness. She noted becoming involved with a
5 managed-care organization in Pennsylvania and was
6 currently working with medical-dental integration.
7 She discussed periodontal disease and its effects on
8 overall health, especially with the Medicaid
9 population not being addressed with any treatment.

10 Dr. Mozaffarian outlined her current projects,
11 including periodontal disease and working off of
12 evidence-based information and literature, where
13 complete smoking cessation is three times more likely
14 with a dental practitioner versus medical.

15 Dr. Mozaffarian addressed public health dental
16 hygiene practitioners (PHDHPs), noting the practice to
17 be a great way to help those without any oral access
18 to a dental provider. She commented that having
19 access to a PHDHP would provide individuals with a
20 chance for a referral to see a dentist.

21 Dr. Mozaffarian noted the importance of having
22 dental professionals that are appropriately trained,
23 as well as additional facilities that can provide all
24 levels of care and not just the most aggressive
25 solution of an operating room. She mentioned dental

1 schools and professionals coming together to provide
2 access for individuals, but there are still many areas
3 within Pennsylvania where access is basically
4 impossible.

5 Dr. Jaspan commented that periodontists in the
6 state will be very happy to work with her and was
7 pleased she identified the need for periodontal care
8 in the Medicaid population.

9 Dr. Sullivan questioned whether Dr. Mozaffarian
10 would be looking at issues with Medicaid
11 reimbursement. Dr. Mozaffarian explained that it
12 would take time, due to the different layers and
13 individuals who are not currently even connected with
14 each other, to comprehensively understand how each
15 piece was trickling down and impacting the frontlines
16 of the people who are providing the care.]

17

18 Office Anesthesia Evaluation Program Presentation
19 [James L. Robbins, D.M.D., Executive Director, Office
20 Anesthesia Evaluation, Pennsylvania Society of Oral &
21 Maxillofacial Surgeons, notified the Board of changes
22 made to improve the Office Anesthesia Program
23 delegated to the Society of Oral & Maxillofacial
24 Surgeons. He provided a brief summary of his
25 professional and educational background.

1 Dr. Robbins assumed the position of Executive
2 Director of the Office Anesthesia Evaluation program
3 in 2019 and was attempting to improve organization, as
4 well as increase the number of evaluators representing
5 different specialties and practices of dentistry. He
6 informed the Board of his presenting an evaluator
7 course in Pittsburgh on February 22, 2020, and at the
8 Pennsylvania Society of Oral & Maxillofacial Surgeons
9 (PSOMS) Annual Meeting in April.

10 Dr. Robbins noted that during the anesthesia
11 evaluation program, anesthesia courses have been
12 arranged for all permit holders of anesthesia, where
13 either a restricted or unrestricted permit is
14 available for CE credits for anesthesia requirements
15 to all anesthesia permit holders.

16 Dr. Robbins mentioned reactivating the Anesthesia
17 Advisory Committee, which is an integral part to
18 running of the Anesthesia Evaluation program, by
19 discussing and finalizing situations that arise
20 related to keeping the evaluation process up-to-date
21 and issues that involve the standard of care and
22 patient safety.

23 Dr. Robbins explained the evaluation process,
24 where all evaluations are scheduled by the regional
25 directors, and all applications are reviewed by him.

1 He thanked Christine and Lisa for their help in
2 expediting the process.

3 Dr. Robbins mentioned the creation of a new
4 website strictly for the Office Anesthesia Evaluation
5 program that all anesthesia permit holders can utilize
6 concerning anesthesia matters. Individuals are
7 directed by a link from the PSOMS website to the
8 anesthesia website at paaneseval.org. He stated
9 payments can be made online directly to the anesthesia
10 program, as well as scheduling and obtaining a request
11 for provisional approval.

12 Dr. Robbins noted that evaluations are still
13 recorded on paper and stored by the Executive Director
14 of PSOMS. He stated new certificates will be issued
15 gradually over the course of the year.

16 Dr. Robbins addressed an issue where the
17 evaluation program could only contact members who are
18 either restricted permit I or unrestricted permit
19 holders. He requested the state Board send a letter
20 to all dentists in Pennsylvania indicating that if the
21 dentist is performing sedation dentistry, not just
22 nitrous oxide, which also requires a permit, the
23 dentist must apply for at least a restricted permit I
24 due to having no direct access.

25 Dr. Robbins requested the Board's permission to

1 contact all dentists, starting six months prior to
2 their expiration date to avoid the issue of
3 individuals not having their evaluation prior to that
4 six-year period.

5 Dr. Matta referred to anesthesia updates that
6 were in 49 Pa. Code Chapter 33, Subchapter E. He
7 referred to Dr. Robbins's point regarding oral versus
8 intravenous (IV), where he indicated the use of
9 nitrous and other medication gets into a conscious
10 sedation level on the restricted permit. He suggested
11 providing a clarification of the code.

12 Dr. Robbins mentioned presenting this to the
13 Anesthesia Committee of the State Board seven years
14 ago. It was defined as any form of stacking, which is
15 giving an oral medication sequentially to different
16 oral medications, where an oral medication with
17 nitrous oxide oxygen is considered stacking and
18 requires a restricted permit I.

19 Dr. Robbins noted that certain drugs are also
20 prevented from being given by the restricted permit I
21 holder, such as ketamine and propofol, because it was
22 determined these medications do not provide the margin
23 of safety as very little can go a very long way and
24 could go beyond a moderate sedative into a deep
25 sedative state very easily depending on the patient's

1 age, metabolism, and multiple other factors. He
2 stated everything now is determined by margin of
3 safety as in the language.

4 Dr. Robbins stated working with regional
5 directors gets matters finalized within two months,
6 where older evaluations may be delayed to deal with
7 the more pressing ones.

8 Dr. Robbins offered to provide the Board with
9 minutes from Advisory Committee Meetings for their
10 review of issues the committee handles. He noted that
11 many dentists utilize oral sedation, but those who
12 have been in practice out of a residency program for
13 an extended period of time may not have started an IV
14 in years.

15 Dr. Robbins stated the committee addressed and
16 made sure dentists have intraosseous (IO) access in
17 their emergency cart in case of an emergency. He
18 discussed the mandatory practice for all restricted I
19 and unrestricted permit holders to have IO access
20 available, because even individuals, who are competent
21 in starting IVs, may have difficulty during a cardiac
22 arrest.

23 Dr. Robbins further explained his reinstating
24 of the certificate that had been in process for years
25 and stopped because of time constraints, which clearly

1 identifies that it is the Pennsylvania Society of Oral
2 & Maxillofacial Surgeons. It would be a certificate
3 indicating the date of the evaluation and completion.

4 Ms. Burns also explained the certificate was
5 issued by PSOMS, not the Board. It would be a
6 certificate that provides the licensee's name and the
7 date of their evaluation, which was previously under
8 the direction of Dr. Lindner. She referred to PSMOS
9 as a peer review organization authorized under the
10 Board's regulations to provide clinical evaluations
11 and office inspections.

12 Dr. Robbins stated the certificate, reflecting
13 their last day of evaluation, could be hung on the
14 wall.]

15 ***

16 Report of Board Chairman

17 [John F. Erhard III, D.D.S., Chairman, requested all
18 comments be made through the Chair and all Board
19 members identify themselves when making a comment.

20 Chairman Erhard requested that his comment be
21 relayed to the Commissioner's Office requesting better
22 communication in order to keep the Board apprised of
23 changes.

24 Chairman Erhard requested the status of
25 outstanding regulations be placed on the agenda for

1 every meeting.

2 Chairman Erhard announced his recent attendance
3 at the Commission on Dental Competency Assessments
4 (CDCA) Annual Conference in Nashville with Donna
5 Murray and Jennifer Unis Sullivan. He noted a
6 roundtable discussion with four Chairs from about 35
7 states. He provided an overview of other states'
8 changes, practices, and procedures.]

9

10 [K. Kalonji Johnson, Acting Commissioner, Bureau of
11 Professional and Occupational Affairs, entered the
12 meeting at 10:34 a.m.]

13

14 [Ted Stauffer, Executive Secretary, Bureau of
15 Professional and Occupational Affairs, exited the
16 meeting at 10:34 a.m.]

17

18 [Dr. Seid encouraged the Board to look at the work
19 being done in telemedicine, where practitioners are
20 required to be licensed in the state where the patient
21 is receiving service. She commented that
22 teledentistry allows an individual to provide care
23 from another state to a patient in Pennsylvania. She
24 also suggested reviewing the technology differences
25 and records that may be video or electronic, instead

1 of paper.

2 Chairman Erhard noted it to be interesting to
3 hear individuals from 35 other states and their
4 comments, mentioning that it would take a full-time
5 job as a dental Board to delve into each one of those
6 issues individually.]

7 ***

8 Report of Board Counsel

9 [Jackie Wiest Lutz, Esquire, Board Counsel, addressed
10 House Bill 2110 introduced on December 9, 2019, and
11 referred to the Professional Licensure Committee. She
12 explained that the legislation would require all
13 applicants for health-related licenses to complete
14 training in implicit bias and cultural competence.
15 The Board would then be required to promulgate
16 regulations if legislation passed, possibly through
17 continuing education. She provided the definitions of
18 cultural competence and implicit bias.

19 Ms. Lutz referred to Senate Bill 572/Act 111 of
20 2019, which is now law. This legislation requires
21 prescribers, issuing a prescription for the treatment
22 of chronic pain with a controlled substance containing
23 an opioid, to assess whether the individual has taken
24 or is currently taking a prescription drug for
25 treatment of a substance use disorder before the first

1 prescription.

2 Ms. Lutz stated providers would have to discuss
3 risks of addiction and nonopioid treatment options
4 available for treating chronic pain. The provider
5 would also be required to review and sign a treatment
6 agreement form. She mentioned the legislation also
7 requires a urine drug test to detect the use of
8 nonprescribed drugs prior to the issuance of the
9 initial prescription for chronic pain, unless in the
10 professional judgement of the prescriber, it is not
11 necessary based on the prescriber's assessment that
12 the individual had not taken or was not taking a
13 prescription drug for treatment of a substance use
14 disorder. She noted, if the prescriber makes this
15 determination, the prescriber must document in the
16 individual's record why a baseline urine drug test was
17 not necessary.

18 Ms. Lutz stated the Department of Health has the
19 primary responsibility for promulgating regulations
20 related to opioid treatment and agreements for chronic
21 pain. The licensing Boards are responsible for
22 enforcing the act. She commented that any complaints
23 filed against a professional for violating the
24 legislation would come before the Board via a consent
25 agreement or formal hearing. She noted that

1 prescribers have an obligation to establish a baseline
2 on the patient before prescribing.

3 Acting Commissioner Johnson mentioned a
4 discussion with the Board of Medicine and Board of
5 Osteopathic Medicine Board where concerns were
6 expressed related to treatment of situations involving
7 extenuating circumstances and the desire to work with
8 the Department of Health in providing feedback during
9 the promulgation period concerning the treatment of
10 acute pain.

11 Acting Commissioner Johnson reached out to health
12 representatives on those Boards and suggested the
13 department's Policy Office work with their policy
14 office to bring the concerns of those Boards to light.
15 He offered the Board of Dentistry to also provide
16 feedback and use this timeline to make comments known
17 publically.

18 Dr. Jaspan stated the wording in the legislation
19 does not include the situation of acute pain or
20 postoperative pain.

21 Dr. Funari believed the legislation targeted
22 those practitioners, who were managing chronic pain
23 patients. It did not include a practitioner trying to
24 deal with acute pain and needing to touch base with
25 the managing practitioner. He stated practitioners

1 doing their job when prescribing a controlled
2 substance would go to the Prescription Drug Monitoring
3 Program (PDMP) for somebody who is in some type of
4 chronic pain management program, which will lead them
5 to the prescriber.

6 Acting Commissioner Johnson commented that the
7 Board of Medicine and Board of Osteopathic Medicine
8 expressed concern over exposure to discipline, because
9 medical emergency provisions in the bill did not
10 entirely address that. Since the boards were not
11 actually drafting those regulations, the boards wanted
12 to make sure the Department of Health understood the
13 entire context of medical emergencies. He noted that
14 the Boards took out the word immediate and used time-
15 sensitive threat.

16 Dr. Lugo suggested counsel provide the
17 Regulations/Legislative Review Committee with changes
18 that are happening in a chronological order, so the
19 committee could have more preparation time and be more
20 conscious and educated on the matters being voted on.

21 Ms. Lutz explained the legislative process, where
22 the appropriate department is asked to conduct a
23 legislative analysis and reach out to interested
24 stakeholders. She noted not being the agency in
25 charge of regulating these agreements and enforcing

1 the requirements of the act. The Board is only
2 responsible for imposing discipline and investigating
3 if complaints are filed against a practitioner, who is
4 charged with violating any of the provisions
5 determined by the statute and as regulated by the
6 Department of Health.

7 Ms. Lutz questioned whether Dr. Seid knew when
8 the Department of Health would be promulgating the
9 regulations in order to be placed on the agenda. She
10 also mentioned, when temporary regulations go through
11 the full regulatory review process, there is a time
12 for public comment, which is when the Board could
13 potentially write to the Department of Health and note
14 their concerns.

15 Dr. Seid will investigate the process for
16 communication between the two separate agencies on
17 regulations.

18 Ms. Lutz referred to outstanding regulations,
19 noting the need for revisions and updates. She
20 advised that the Regulations/Legislative Review
21 Committee should meet in advance of the regular Board
22 meeting. She addressed the General Revisions package
23 and suggested lifting Act 41 language out because of
24 regulatory counsel issues to get that package moving
25 forward.

1 Ms. Lutz noted the Child Abuse Reporting
2 Requirement regulation would soon be delivered as
3 final rulemaking. She mentioned Ms. Montgomery was
4 working on those and used the State Board of Dentistry
5 for the first batch. If these regulations go through,
6 all of the other boards would follow the same similar
7 format.

8 Ms. Lutz addressed PHDHP regulations, where there
9 were many concerns regarding the location that was
10 added for the offices or clinics of physicians. She
11 suggested focusing on not eliminating that section,
12 but restricting it to clinics or offices of a
13 physician in a medically-deprived area.

14 Dr. Seid referred to Pa. Code § 10.2(b) regarding
15 the definition of a medically-deprived area. The
16 definition was based upon criteria published in
17 Federal Register 1585 (1978). She asked for
18 clarification and recommended choosing the definition
19 of medically-deprived area that the Department of
20 Health under the Federal regulations defines as a
21 dental provider shortage area.

22 Dr. Lugo suggested utilizing Dental Health
23 Professional Shortage Area (HPSA), which is the
24 language recognized at the federal, state, and local
25 levels. It would be better understood by policy and

1 the general public.

2 Acting Commissioner Johnson questioned whether
3 the HPSA definition and the requisite statute within
4 the Pennsylvania Code referenced one in the same. Ms.
5 Lutz noted that to be the focus of discussion at the
6 November meeting and pulled the areas that are defined
7 by the Department of Health to be in the medically-
8 deprived, underserved areas of the Commonwealth for
9 the Board's review.

10 Dr. Seid stated the Department of Health is
11 required to conduct a state health assessment and
12 provide a concise definition of access to care and how
13 underserved area is defined, noting possible confusion
14 if not defined clearly.

15 Ms. Lutz stated, if the proposed regulation
16 refers to the section of the code where the Department
17 of Health defines medically deprived or dental health
18 professional shortage areas, the regulation would be
19 the notice to the licensee as to the section of the
20 Commonwealth to be covered by this particular
21 provision of our regulation. Dr. Funari suggested
22 changing the terminology to dental shortage areas and
23 creating a document defining that in the state of
24 Pennsylvania.

25 Dr. Sullivan expressed a concern with areas that

1 change every year and may no longer be defined as an
2 area of dental need.

3 Ms. Lutz explained that, as those areas would
4 change, the regulation would refer to the Department
5 of Health Pennsylvania Code's definition of dental
6 health professional shortage areas.

7 Dr. Lugo noted the importance of clarifying the
8 definition of the needs of dental people in
9 Pennsylvania concurrent with the definition of
10 Department of Health, federal government, and agencies
11 that addressed this in a public sector.

12 Dr. Casey mentioned having a collaboration
13 agreement with these certain areas.

14 Ms. Lutz stated the regulation passed through the
15 proposed rulemaking cycle and received hundreds of
16 comments. The final rulemaking package addressed
17 those comments. She cautioned that expanding it and
18 requiring collaborative agreements would cause the
19 process to have to start anew, because that was not
20 part of the scope of the regulation as it was
21 promulgated in its proposed form.

22 Ms. Lutz mentioned considering the issues as a
23 grandfathered type of attitude of the Board. Once the
24 regulation was in print and defined by the Department
25 of Health, if a practitioner opens shop in a dental

1 shortage area and then 10 years later the area is
2 determined not to be a dental shortage area anymore,
3 the grandfathered approach could define the areas
4 based on when the shop opened.

5 Dr. Funari addressed one of the public comments
6 regarding establishing a dental home. He noted a
7 dental home was not a hygiene procedure and a cursory
8 exam, but a full exam and progress being made on
9 improving that overall dental health of the
10 individual. He mentioned possibly limiting hygienists
11 to one exam and one cleaning, unless the patient seeks
12 the dental care and there is documentation of it. He
13 noted his reluctance to set up in an area where
14 population may surge initially but is going to drop
15 off quickly because of no follow-on dental care.

16 Chairman Erhard noted not being comfortable with
17 this as a solution of access to care and preferred to
18 have a solution to total access to care. He stated
19 treating dental disease and relieving pain would be
20 more than just an exam and getting your teeth cleaned.
21 He did not want to create a false sense of security in
22 the public.

23 Ms. Lutz stated hygienists are already doing
24 services in established areas by statutes and by
25 regulation, and this regulation would be adding sites

1 where public health dental hygiene practitioners may
2 do the work that the legislature had already
3 determined could be done without the supervision of a
4 dentist. She noted that comments and concerns are
5 good suggestions about these collaborative agreements
6 as a basis to maybe further encourage patients to go
7 to a dentist after being initially treated, but that
8 was beyond the scope of this regulation.

9 Ms. Lutz commented that the Board could consider
10 drafting another separate regulation to expand on
11 these practice sites if this regulation is passed.
12 She stated the Board would have to take a vote to
13 either go forward or hold off until the correct
14 language for the dental shortage areas and the correct
15 location was decided.

16 Dr. Funari questioned whether inserting language
17 limiting it to one exam and cleaning would be possible
18 for recommended dental treatment. The patient could
19 not return for another cleaning until there had been
20 some effort to connect with a dental home and to
21 address the disease as diagnosed. The possibility of
22 putting in a requirement for a Memorandum of
23 Understanding (MOU) was discussed.

24 Dr. Lugo mentioned that the clause of no
25 supervision by a dentist was not the standard in the

1 United States and somewhat unique to Pennsylvania,
2 which adds an additional level of complexity on
3 creating legislation.

4 Dr. Lugo noted concerns with wording in the
5 drafted final preamble and suggested modifications by
6 not using wording that reflects sides. He also
7 commented that he was not ready to move forward with
8 the language reflected in this regulation. He
9 mentioned working with Ms. Lutz' predecessor and
10 bringing issues to the committee that needed
11 addressed.

12 Ms. Hughes noted Board Counsel has an obligation
13 on behalf of this Board to respond to the opposition
14 presented by the stakeholders, Independent Regulatory
15 Review Commission (IRRC), and the House Oversight
16 Committee in drafting the preamble.

17 Acting Commissioner Johnson mentioned that the
18 regulation was amended in 2015 and the importance of
19 being able to distill an action that resembles a
20 binary choice between voting for or against this
21 regulation. He cautioned that the individual who were
22 present in 2015 considered 2020. He stated this could
23 move out of the Board's purview, and the Board would
24 be dealing with regulations that would have been
25 forced upon them by the legislature because the act

1 would be amended to ensure the regulations are
2 promulgated.

3 Acting Commissioner Johnson noted it to be the
4 Board's responsibility to make a decision as to
5 whether or not to move forward or table this
6 indefinitely until its concerns were met with all of
7 the stakeholders. The language could essentially be
8 started from scratch.

9 Ms. Lutz commented that the Board was not ready
10 to vote yet due to not being satisfied with the
11 preamble and desired that changes be made to the
12 annex. She requested the Board email any tweaks or
13 concerns with the language before the next meeting.
14 She noted she will not be at the next meeting.

15 Dr. Funari noted, for the record, his frustration
16 of patients who constantly come back and do not seek
17 the care because of seeing people go from tooth decay
18 to needing a root canal or taking teeth out that could
19 have been saved.

20 Dr. Seid noted the current shortage designation
21 list can be found on www.health.pa.gov. She noted
22 that Senator Vance changed the word institution to
23 site in the legislation, which directed the Board to
24 promulgate regulations.

25 Ms. Lutz stated the Board can vote on being in

1 favor of this regulation moving forward with the minor
2 changes that were discussed and considered at the
3 March meeting or the Board as a whole was not ready or
4 willing to have further discussion.

5 Chairman Erhard suggested tabling this and
6 respectfully asking Dr. Lugo and his committee to
7 entertain this assignment to determine whether the
8 language could be rewritten in the regulation.

9 Acting Commission Johnson mentioned that the
10 regulation deals specifically with expansion of
11 locations, and the Board had to stay within the
12 purview of that regulation. He noted the Board should
13 vote today on dental-deprived areas as opposed to
14 medically-deprived areas.

15 Dr. Seid recommendation voting on the dental
16 health care professional shortage area versus the
17 medically-underserved area and bringing the dentist
18 part back to the committee.]

19 ***

20 CHAIRMAN ERHARD:

21 The suggestion from Dr. Seid seems to be
22 if we made this one change on the dental
23 shortage area and leave everything else
24 the same, we should vote on that now.

25 DR. SEID:

1 I so move.

2 CHAIRMAN ERHARD:

3 We need a second.

4 MR. JOHNSON:

5 Second.

6 CHAIRMAN ERHARD:

7 Groody, aye; Hughes, aye; Jaspán, aye;
8 Murray, aye; Mountain, aye; Sizemore,
9 aye; Lugo, aye; Matta, aye; Sullivan,
10 aye; Casey, aye; Funari, aye; Seid, aye;
11 Johnson, aye.

12 [The motion carried unanimously.]

13 ***

14 [Ms. Lutz clarified that the motion was to replace
15 designated medically underserved areas/populations
16 with designated dental health professional shortage
17 areas.]

18 Ms. Lutz requested the committee review the
19 preamble for any language changes and communicate with
20 her via email, so she could prepare a draft for final
21 adoption at the March meeting.]

22 ***

23 [The Board recessed from 12:30 p.m. until 12:46 p.m.]

24 ***

25 Report of Board Counsel (Continued)

1 [Jackie Wiest Lutz, Esquire, Board Counsel, referred
2 to 16A-4628 regarding General Revisions. She
3 mentioned Regulatory Counsel had issues with including
4 Act 41 language in this package, and if the Act 41
5 language is lifted from the regulation, those
6 revisions would have to be made to the preamble. She
7 noted the removal of the definition of home state and
8 changing the Pennsylvania Licensing System (PALS) to
9 online application.

10 Dr. Jaspan referred to the preamble of the
11 General Revisions draft regarding a restricted
12 facility dental license, where the Board would require
13 applicants for a restricted faculty license to have
14 completed a specialty dentistry program or advanced
15 dental training in a clinical field as approved by
16 CODA of the American Dental Association. He
17 questioned, if somebody wants a restricted facility
18 license to teach general dentistry or restorative
19 dentistry, who is not a dental specialist, do they not
20 meet this?

21 Ms. Lutz referred to Section 11.11(a)(3) of the
22 Dental Act regarding a restricted faculty license, has
23 successfully completed a specialty dentistry program
24 or advanced dental training in a clinical field that
25 is approved by the Commission on Dental Accreditation

1 of the American Dental Association.

2 Dr. Jaspan referred to § 33.105a regarding
3 inactive status and questioned whether individuals are
4 required to return their license if they are not
5 practicing anymore following retirement.

6 Ms. Lutz noted that it states the licensee or
7 certificate holder shall immediately return all
8 licensure, certification, documents, including
9 anesthesia permits to the Board and may not practice
10 in the Commonwealth until the license or certificate
11 is reactivated. She mentioned a desire for that
12 language to be removed.]

13 ***

14 DR. SEID:

15 I would like to strike the licensee or
16 certificate holder shall immediately
17 return all licenses, certificates, and
18 documents, including anesthesia permits
19 to the Board.

20 MS. HUGHES:

21 Second.

22 CHAIRMAN ERHARD:

23 All in favor of that? Opposed, same
24 sign.

25 [The motion carried unanimously.]

1 ***

2 [Dr. Funari questioned whether there had been any
3 complaints before the Board regarding dental
4 advertisement and holding oneself out to be a
5 specialist.

6 Chairman Erhard mentioned that the Board
7 investigated this about a year ago, where individual
8 were normally recognized as specialists with CODA
9 training but now other organizations were granting
10 specialty certificates.

11 Dr. Casey commented that a general dentist who
12 wants to perform orthodontics must identify that they
13 are a general dentist but limited to the practice of
14 orthodontics.

15 Dr. Matta stated that CODA was considered as
16 being an American Dental Association (ADA) and not
17 necessarily more creditable than other associations.
18 He noted the Board took a position, and the Federal
19 Trade Commission was the one that upheld the position.

20 Ms. Lutz referred to 16A-4634 regarding Fees
21 regulation.]

22 ***

23 MS. LUTZ:

24 Is anyone interested in making a motion
25 to release an exposure draft of the

1 annex of the fee regulation package to
2 interested parties and stakeholders?

3 DR. LUGO:

4 So moved.

5 DR. CASEY:

6 I'll second.

7 CHAIRMAN ERHARD:

8 On the question, any discussion? All in
9 favor? Opposed, same sign.

10 [The motion carried unanimously.]

11 ***

12 [Jackie Wiest Lutz, Esquire, Board Counsel, referred
13 to 16A-4621 regarding Anesthesia Updates being
14 released to interested parties and stakeholders.

15 Chairman Erhard suggested tabling the regulation
16 for further review and updates at a regulatory meeting
17 for vote by May.

18 Ms. Burns noted a regulatory committee meeting
19 prior to the March meeting regarding the PHDHP and a
20 proposed regulatory committee meeting regarding the
21 anesthesia regulation before the May meeting.

22 Ms. Lutz noted the anesthesia discussion had to
23 be in a public session because the actual regulation
24 language would be discussed, which is the annex. She
25 noted the teleconference is to make the language in

1 the preamble read as desired by the Board.

2 Ms. Lutz noted Status of Cases information in the
3 agenda packet for the Board's information.]

4 ***

5 Report of Acting Commissioner Johnson - No Report

6 ***

7 Report of Board Administrator - No Report

8 ***

9 Report of Act 41 - No Report

10 ***

11 Report of Expanded Function Dental Assistant - No
12 Report

13 ***

14 Licensure Committee - No Report

15 ***

16 Newsletter Committee - No Report

17 ***

18 Probable Cause Screening Committee

19 [Amber Sizemore, Esquire, Office of Attorney General,
20 stated the committee recently met and reviewed five
21 matters.]

22 ***

23 Regulations/Legislative Review Committee

24 [R. Ivan Lugo, D.M.D., reiterated there would be a
25 committee meeting through a conference call and a May

1 full public meeting.]

2 ***

3 Scope of Practice Committee

4 [Andrew S. Matta, D.M.D., announced the committee
5 would set a date for a meeting to discuss
6 teledentistry and digital scanning.]

7 ***

8 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
9 1:28 p.m. the Board entered into Executive Session
10 with Jackie Wiest Lutz, Esquire, Board Counsel, for
11 the purpose of conducting quasi-judicial deliberations
12 on a number of matters currently pending before the
13 Board and to receive the advice of counsel. The Board
14 returned to open session at 2:32 p.m.]

15 ***

16 [K. Kalonji Johnson, Acting Commissioner, Bureau of
17 Professional and Occupational Affairs, exited the
18 meeting at 12:30 p.m.]

19 ***

20 [Andrew S. Matta, D.M.D., and Joel S. Jaspan, D.D.S.,
21 exited the meeting during Executive Session.]

22 ***

23 MOTIONS

24 MS. SIZEMORE:

25 I move to accept the Consent Agreement

1 for File No. 19-46-005260.

2 MS. HUGHES:

3 Second.

4 CHAIRMAN ERHARD:

5 On the question?

6

7 Groody, aye; Hughes, aye; Murray, nay;
8 Mountain, aye; Sizemore, aye; Lugo, aye;
9 Sullivan, aye; Casey, aye; Funari, aye;
10 Seid, aye; Erhard, aye.

11 [The motion carried unanimously. The name of the
12 Respondent is John Kim, D.M.D. Ms. Murray opposed the
13 motion.]

14

15 DR. MOUNTAIN:

16 I move to accept the Consent Agreement
17 for File No. 19-46-016697.

18 MS. HUGHES:

19 Second.

20 CHAIRMAN ERHARD:

21 On the question?

22

23 Groody, aye; Hughes, aye; Murray, aye;
24 Mountain, aye; Sizemore, aye; Lugo, aye;
25 Sullivan, aye; Casey, aye; Funari, aye;

1 Seid, aye; Erhard, aye.

2 [The motion carried unanimously.]

3 ***

4 MS. MURRAY:

5 I move to accept the Consent Agreement
6 for File No. 18-46-010647.

7 MS. GROODY:

8 Second.

9 CHAIRMAN ERHARD:

10 On the question?

11

12 Groody, aye; Hughes, aye; Murray, aye;
13 Mountain, aye; Sizemore, aye; Lugo, aye;
14 Sullivan, aye; Casey, aye; Funari, aye;
15 Seid, aye; Erhard, aye.

16 [The motion carried unanimously. The name of the
17 Respondent is Asif A. Lala, D.M.D.]

18 ***

19 MS. HUGHES:

20 I move to accept the Consent Agreement
21 for File No. 18-46-010650.

22 MS. GROODY:

23 Second.

24 CHAIRMAN ERHARD:

25 On the question?

1

2

Groody, aye; Hughes, aye; Murray, aye;

3

Mountain, aye; Sizemore, aye; Lugo, aye;

4

Sullivan, aye; Casey, aye; Funari, aye;

5

Seid, aye; Erhard, aye.

6

[The motion carried unanimously. The name of the

7

Respondent is Blane R. Hamilton, D.D.S.]

8

9

MS. GROODY:

10

I move to accept the Consent Agreement

11

for File No. 16-46-11363 & 18-46-011936.

12

DR. SEID:

13

Second.

14

CHAIRMAN ERHARD:

15

On the question?

16

17

Groody, aye; Hughes, aye; Murray, aye;

18

Mountain, aye; Sizemore, aye; Lugo, aye;

19

Sullivan, aye; Casey, aye; Funari, aye;

20

Seid, aye; Erhard, aye.

21

[The motion carried. The name of the Respondent is

22

Michael Carl Rogers, D.D.S. Dr. Erhard recused

23

himself from deliberations and voting on the motion.]

24

25

DR. SEID:

1 I move to accept the Consent Agreement
2 for File Nos. 18-46-011346 & 19-46-
3 006427.

4 DR. FUNARI:

5 Second.

6 CHAIRMAN ERHARD:

7 On the question?

8
9 Groody, aye; Hughes, recuse; Murray,
10 aye; Mountain, aye; Sizemore, recuse;
11 Lugo, aye; Sullivan, aye; Casey, aye;
12 Funari, aye; Seid, aye; Erhard, aye.

13 [The motion carried. The name of the Respondent is
14 Tuyet-Ba Trieu, D.D.S. Ms. Hughes and Dr. Sizemore
15 recused themselves from deliberations and voting on
16 the motion.]

17 ***

18 DR. SEID:

19 I move to accept the Consent Agreement
20 for File Nos. 18-46-011347 & 19-46-
21 006428.

22 DR. FUNARI:

23 Second.

24 CHAIRMAN ERHARD:

25 On the question?

1

2

Groody, aye; Hughes, recuse; Murray,

3

aye; Mountain, aye; Sizemore, recuse;

4

Lugo, aye; Sullivan, aye; Casey, aye;

5

Funari, aye; Seid, aye; Erhard, aye.

6

[The motion carried. The name of the Respondent is

7

Thiba Triet, D.D.S. Ms. Hughes and Dr. Sizemore

8

recused themselves from deliberations and voting on

9

the motion.]

10

11

DR. FUNARI:

12

I move to accept the Consent Agreement

13

for File No. 19-46-015708.

14

DR. SULLIVAN:

15

Second.

16

CHAIRMAN ERHARD:

17

On the question?

18

19

Groody, aye; Hughes, recuse; Murray,

20

aye; Mountain, aye; Sizemore, recuse;

21

Lugo, aye; Sullivan, aye; Casey, aye;

22

Funari, aye; Seid, aye; Erhard, aye.

23

[The motion carried. The name of the Respondent is

24

Harold Joseph Harper. Ms. Hughes and Dr. Sizemore

25

recused themselves from deliberations and voting on

1 the motion.]

2

3 MS. SIZEMORE:

4

I move to accept the Consent Agreement
5 for File No. 19-46-006168.

6

MS. GROODY:

7

Second.

8

CHAIRMAN ERHARD:

9

On the question?

10

11

Groody, aye; Hughes, recuse; Murray,

12

aye; Mountain, aye; Sizemore, aye; Lugo,

13

aye; Sullivan, aye; Casey, aye; Funari,

14

aye; Seid, aye; Erhard, recuse.

15

[The motion carried. The name of the Respondent is

16

Daron T. Kovac, D.M.D. Ms. Hughes and Dr. Erhard

17

recused themselves from deliberations and voting on

18

the motion.]

19

20

DR. SEID:

21

In the case of William Ryan Kisker,

22

D.M.D., File No. 18-46-02340, I move

23

that the Board grant the Motion to Enter

24

Default and Deem Facts Admitted and that

25

Board counsel be directed to prepare an

1 adjudication and order in accordance
2 with our discussion in executive
3 session.

4 MS. GROODY:

5 Second.

6 CHAIRMAN ERHARD:

7 On the question?

8

9 Groody, aye; Hughes, aye; Murray, aye;
10 Mountain, aye; Sizemore, aye; Lugo, aye;
11 Sullivan, aye; Casey, aye; Funari, aye;
12 Seid, aye; Erhard, aye.

13 [The motion carried unanimously.]

14

15 DR. FUNARI:

16 In the case of Jennifer L. Kormuth, Case
17 No. 18-46-006379, I move that the Board
18 grant the Motion to Enter Default and
19 Deem Facts Admitted and that Board
20 counsel be directed to prepare an
21 Adjudication and Order in accordance
22 with our discussion in executive
23 session.

24 DR. SULLIVAN:

25 Second.

1 CHAIRMAN ERHARD:

2 On the question?

3

4 Groody, aye; Hughes, aye; Murray, aye;
5 Mountain, aye; Sizemore, aye; Lugo, aye;
6 Sullivan, aye; Casey, aye; Funari, aye;
7 Seid, aye; Erhard, aye.

8 [The motion carried unanimously.]

9

10 DR. CASEY:

11 I move that the Board adopt the hearing
12 examiner's proposed Adjudication and
13 Order in the Case of Julie Marie Fuson,
14 R.D.H., Case No. 18-46-03564, and direct
15 Board counsel to prepare for its final
16 order.

17 MS. HUGHES:

18 Second.

19 CHAIRMAN ERHARD:

20 On the question?

21

22 Groody, aye; Hughes, aye; Murray, aye;
23 Mountain, aye; Sizemore, aye; Lugo, aye;
24 Sullivan, aye; Casey, aye; Funari, aye;
25 Seid, aye; Erhard, aye.

1 [The motion carried unanimously.]

2 ***

3 DR. SULLIVAN:

4 I move that the Board adopt the hearing
5 examiner's proposed Adjudication and
6 Order in the Case of Jackie Johns
7 Costello, D.M.D., File No. 16-46-13676,
8 and direct Board counsel to prepare the
9 Board's final order.

10 MS. SIZEMORE:

11 Second.

12 CHAIRMAN ERHARD:

13 On the question?

14
15 Groody, aye; Hughes, aye; Murray, aye;
16 Mountain, aye; Sizemore, aye; Lugo, aye;
17 Sullivan, aye; Casey, aye; Funari, aye;
18 Seid, aye; Erhard, aye.

19 [The motion carried unanimously.]

20 ***

21 DR. LUGO:

22 I move that the Board adopt the final
23 Adjudication and Order as presented by
24 Board counsel in the case of Kathleen
25 Mullen, D.M.D., File No. 19-46-005485.

1 MS. SIZEMORE:

2 Second.

3 CHAIRMAN ERHARD:

4 On the question?

5

6 Groody, aye; Hughes, aye; Murray, aye;
7 Mountain, aye; Sizemore, aye; Lugo, aye;
8 Sullivan, aye; Casey, aye; Funari, aye;
9 Seid, aye; Erhard, aye.

10 [The motion carried unanimously.]

11 ***

12 Adjournment

13 [John F. Erhard III, D.D.S., Chairman, concluded the
14 meeting at 2:43 p.m., noting the next scheduled
15 meeting on March 13, 2020.]

16 ***

17 [There being no further business, the State Board of
18 Dentistry Meeting adjourned at 2:43 p.m.]

19 ***

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CERTIFICATE

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



Evan Bingaman,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF DENTISTRY
REFERENCE INDEX

January 17, 2020

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8	9:03	Official Call to Order
9		
10	9:06	Approval of Minutes
11		
12	9:07	Report of Prosecutorial Division
13		
14	9:45	Introduction of Board and Audience
15		
16	9:50	Appointment - Mana Mozaffarian, D.M.D., Chief Dental Officer, Commonwealth of 17 Pennsylvania
18		
19		
20	10:02	Appointment - James L. Robbins, D.M.D., 21 Executive Director, Office Anesthesia 22 Evaluation Program, Pennsylvania 23 Society of Oral & Maxillofacial 24 Surgeons
25		
26	10:26	Report of Board Chairman
27		
28	10:43	Report of Board Counsel
29		
30	12:30	Recess
31	12:46	Return to Open Session
32		
33	12:46	Report of Board Counsel (Continued)
34		
35	1:26	Report of Committees
36		
37	1:28	Executive Session
38	2:32	Return to Open Session
39		
40	2:32	Motions
41		
42	2:43	Adjournment
43		
44		
45		
46		
47		
48		
49		
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