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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: 10:31 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

May 14, 2021

State Board of Dentistry
May 14, 2021

BOARD MEMBERS:

K. Kalonji Johnson, Commissioner, Bureau of
Professional and Occupational Affairs
R. Ivan Lugo, D.M.D., M.B.A., Chairperson
Brice D. Arndt, D.D.S.
Shawn M. Casey, D.M.D.
Godfrey Joel Funari, M.S., D.M.D.
Theresa A. Groody, EFDA
Alice Hart Hughes, Esquire, Secretary, Public Member
Joel S. Jaspan, D.D.S.
Andrew S. Matta, D.M.D.
LaJuan M. Mountain, D.M.D.
Donna L. Murray, R.D.H.
Amber Sizemore, Esquire, Office of Attorney General
Jennifer Unis Sullivan, D.M.D., J.D.

BUREAU PERSONNEL:

Dana M. Wucinski, Esquire, Board Counsel
Shana M. Walter, Esquire, Board Counsel
Paul J. Jarabeck, Esquire, Board Prosecution Liaison
Peter D. Kovach, Esquire, Senior Prosecutor in Charge
Timothy J. Henderson, Esquire, Board Prosecutor
Lisa M. Burns, Board Administrator
Theodore Stauffer, Executive Secretary, Bureau of
Professional and Occupational Affairs

1 ***

2 State Board of Dentistry

3 May 14, 2021

4 ***

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

12 ***

13 [Theodore Stauffer, Executive Secretary, Bureau of
14 Professional and Occupational Affairs, reminded
15 everyone that the meeting was being recorded, and
16 those who remained on the line were giving their
17 consent to be recorded.]

18 ***

19 The regularly scheduled meeting of the State
20 Board of Dentistry was held on Friday, May 14, 2021.
21 R. Ivan Lugo, D.M.D., M.B.A., Chairperson, called the
22 meeting to order at 10:31 a.m.

23 ***

24 Introductions

25 [Chairperson Lugo requested the introduction of Board

1 members.]

2

3 Approval of minutes of the March 12, 2021 meeting

4 CHAIRPERSON LUGO:

5 Could I have a motion to approve the
6 March 12 minutes?

7 MS. HUGHES:

8 So moved.

9 DR. ARNDT:

10 Second.

11 CHAIRPERSON LUGO:

12 Any corrections or amendments to the
13 minutes?

14 [The Board discussed corrections to the minutes.]

15

16 Any other comments for the minutes?

17 Call the question to approve the
18 minutes. We could all say aye. Any
19 nays?

20 [The motion carried unanimously.]

21

22 Report of Prosecutorial Division

23 MS. WALTER:

24 Pursuant to Section 708(a)(5) of the
25 Sunshine Act, the Board entered into

1 Executive Session for the purpose of
2 conducting quasi-judicial deliberations
3 on a number of matters that are
4 currently pending before the Board and
5 to receive advice of counsel.

6 Number 2 on the agenda is Case No.
7 20-46-011803 from which Ms. Hughes, Ms.
8 Sizemore, and Dr. Matta were recused.

9 I believe the Board would entertain
10 a motion to approve the Consent
11 Agreement.

12 DR. FUNARI:

13 I make that motion.

14 CHAIRPERSON LUGO:

15 Could I have a second?

16 MS. GROODY:

17 Second.

18 DR. ARNDT:

19 Second.

20 CHAIRPERSON LUGO:

21 Call the question.

22

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

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

4 [The motion carried. Ms. Hughes, Dr. Matta, and Ms.
5 Sizemore recused themselves from deliberations and
6 voting on the motion. The Respondent's name at Case
7 No. 20-46-011803 is Samantha V. Logsdon.]

8 ***

9 MS. WALTER:

10 Number 3 on the agenda is Case No. 16-
11 46-03910.

12 I believe the Board would entertain
13 a motion to approve the Consent
14 Agreement.

15 DR. FUNARI:

16 I make that motion.

17 DR. JASPAN:

18 Second.

19 CHAIRPERSON LUGO:

20 Call the question. Everybody in favor
21 say aye. Any nays?

22 [The motion carried unanimously. The Respondent's
23 name at Case No. 16-46-03910 is Paul David Solomon,
24 D.D.S.]

25 ***

1 MS. WALTER:

2 Number 4 on the agenda is Case No. 19-
3 46-010394 from which Ms. Hughes, Ms.
4 Sizemore, and Dr. Matta are recused.

5 I believe the Board would entertain
6 a motion to accept the Consent
7 Agreement.

8 CHAIRPERSON LUGO:

9 Motion?

10 DR. FUNARI:

11 I make the motion.

12 DR. JASPAN:

13 Second.

14 CHAIRPERSON LUGO:

15 Call the question. Any nays?

16 [The motion carried. Ms. Hughes, Ms. Sizemore, and
17 Dr. Matta recused themselves from deliberations and
18 voting on the motion. The Respondent's name at Case
19 No. 19-46-010394 is Donald Joseph Rother Jr., D.D.S.]

20 ***

21 MS. WALTER:

22 Number 5 on the agenda is Case No. 20-
23 46-001839.

24 I believe the Board would entertain
25 a motion to approve the Consent

1 Agreement.

2 CHAIRPERSON LUGO:

3 Could I have a motion?

4 DR. FUNARI:

5 I make the motion.

6 DR. MOUNTAIN:

7 Second.

8 CHAIRPERSON LUGO:

9 Call the question. All in favor, say
10 aye. Anyone oppose?

11 [The motion carried unanimously. The Respondent's
12 name at Case No. 20-46-001839 is Bruce Gordon Fay,
13 D.M.D.]

14 ***

15 Report of Board Counsel - Motion to Enter Default and
16 Deem Facts Admitted

17 MS. WALTER:

18 I believe the Board would grant the
19 Motion to Enter Default and Deem Facts
20 Admitted for Ira M. Klemons, D.D.S. at
21 Case No. 15-46-07808 and to direct Board
22 Counsel to draft an Adjudication and
23 Order consistent with discussions in
24 Executive Session.

25 CHAIRPERSON LUGO:

1 Motion?

2 DR. ARNDT:

3 Motion.

4 DR. FUNARI:

5 Second.

6 CHAIRPERSON LUGO:

7 Everyone for it, say aye. Any nays?

8 [The motion carried unanimously.]

9

10 Report of Board Counsel - Proposed Adjudication and
11 Order

12 MS. WALTER:

13 Agenda item 8. I believe the Board
14 would entertain a motion to adopt the
15 Proposed Adjudication and Order for
16 Gregory John Keiser, D.M.D. at Case No.
17 20-46-001176, noting Dr. Matta, attorney
18 Sizemore, attorney Hughes, and Dr.
19 Sullivan are all recused.

20 DR. ARNDT:

21 So moved.

22 DR. FUNARI:

23 Second.

24 CHAIRPERSON LUGO:

25 Call the question. Everyone for it, say

1 aye. Any nays?

2 [The motion carried. Dr. Matta, Ms. Sizemore, Ms.
3 Hughes, and Dr. Sullivan recused themselves from
4 deliberations and voting on the motion.]

5 ***

6 Report of Board Counsel - Final Adjudications and
7 Orders

8 MS. WALTER:

9 Moving on to agenda items 9 and 10. I
10 believe the Board would entertain a
11 motion to approve as final the following
12 draft Adjudications and Orders: No. 9,
13 Eugene Myung Ko, D.D.S. at Case No. 20-
14 46-006034 and No. 10, Daniel P.
15 Schechter, D.M.D. at Case No. 20-46-
16 008886.

17 DR. FUNARI:

18 I make the motion.

19 MS. GROODY:

20 Second.

21 CHAIRPERSON LUGO:

22 Call the question. All in favor, say
23 aye. Any nays?

24 [The motion carried unanimously.]

25 ***

1 Report of Board Counsel - Miscellaneous

2 MS. WALTER:

3 Moving on to agenda item 11. I believe
4 the Board would entertain a motion to
5 grant the commonwealth's appeal of the
6 hearing examiner's Order Compelling
7 Discovery for James Norman Cooper,
8 D.D.S. at Case No. 17-46-01134, to
9 compel the production of documents.

10 CHAIRPERSON LUGO:

11 Could I have a motion?

12 DR. JASPAN:

13 So moved.

14 DR. MOUNTAIN:

15 Second.

16 CHAIRPERSON LUGO:

17 Call the question. All those in favor,
18 say aye. Any nays?

19 [The motion carried. Ms. Hughes opposed the motion.]

20 ***

21 Review of Applications

22 MS. WALTER:

23 I believe the Board would entertain a
24 motion to provisionally deny to practice
25 as a dentist of Jessica K. Corriel at

1 agenda item 17.

2 CHAIRPERSON LUGO:

3 Motion?

4 DR. FUNARI:

5 I make the motion.

6 DR. CASEY:

7 Second.

8 CHAIRPERSON LUGO:

9 All those in favor, say aye. Any
10 opposed, say nay.

11 [The motion carried unanimously.]

12 ***

13 Report of Board Counsel - Status of Regulations

14 [Dana M. Wucinski, Esquire, Board Counsel, noted
15 general revisions at 16A-4628 for the Board's review.
16 She informed the Board she would be working on the
17 General Revisions and begin moving those along after
18 completion of the final rulemaking for the dental
19 fees.

20 Ms. Wucinski mentioned General Revisions were
21 previously on the Board's agenda after Jackie Lutz had
22 worked on those. She reported an issue with the
23 corporation section under § 33.217 and whether the
24 Board can actually do that because of the Pennsylvania
25 Licensing System (PALS) and because it requires an

1 application fee. She noted placing it on the agenda
2 for the Board's review.

3 Chairperson Lugo encouraged Board members to
4 thoroughly review the documents and revisions to
5 ensure all are up to date.

6 Ms. Wucinski requested Board members contact her
7 via email with any additions or further explanations
8 that may be needed in the preamble to ensure an
9 accurate reflection of updates.

10 Ms. Groody suggested rewording the paragraph
11 regarding exam scores for clarity, noting that
12 expanded function dental assistants (EFDAs) can only
13 apply to the Board to take the exam and dentists and
14 hygienists that have five years to report their scores
15 after the exam.

16 Ms. Groody referred to the reactivation section,
17 where the Board feels that since EFDA programs have
18 120 hours of clinical experience, they think that is
19 the solution. She provided an example, where somebody
20 is out of practice for 10 years as an EFDA and would
21 need to get clinical practice, the Board in this
22 writing is saying the student could go to a college
23 and get a clinical site, noting it is unrealistic to
24 expect a school to let a stranger in to get their
25 clinical.

1 Ms. Walter noted House Resolution 68 regarding a
2 study of the availability of dental services in
3 underserved areas to study the options for improving
4 access to care, such as mobile and teledentistry.

5 Ms. Walter noted Senate Bill 554 regarding
6 notification of Board meetings and specifics regarding
7 the content of agendas and changing agendas. She
8 stated these are specific requirements the legislation
9 proposes regarding how boards and commissions conduct
10 their meetings.

11 Ms. Wucinski noted House Bill 1094 regarding the
12 Professional Licensees Illegal Employment Act,
13 requiring any department or administrative board under
14 the Bureau of Professional and Occupational Affairs
15 (BPOA) to revoke the license of any individual or
16 business who knowingly hires an unauthorized alien in
17 connection with the profession in which the licensee
18 is licensed. She stated it was last referred to the
19 Professional Licensure Committee on April 5, 2021.

20 Ms. Wucinski noted House Bill 1176 regarding
21 resolving implicit bias in health care. She stated
22 the legislation would ensure health care providers are
23 providing inclusive care and requires all health-
24 related boards under the Department of State to
25 complete implicit bias training as part of each

1 professions continuing education requirements.

2 Chairperson Lugo questioned whether dental
3 institutions would also be required to include that
4 legislation as part of a requirement or whether it is
5 just a licensing requirement.

6 Ms. Wucinski explained that it would be required
7 continuing education.

8 Ms. Hughes expressed concern and mentioned prior
9 discussion regarding increasing continuing education
10 requirements because the continuing education social
11 issues dilute the number of hours devoted to practice.

12 Dr. Jaspan commented that the Board of Dentistry
13 has over 30 hours of clinical continuing education,
14 not including the child abuse courses or CPR courses
15 that are mandated and suggested placing this in that
16 realm.

17 Ms. Wucinski mentioned that it is going to depend
18 on how the regulations are ultimately written if it
19 passes.]

20 ***

21 Correspondence

22 [Dana M. Wucinski, Esquire, Board Counsel, referred to
23 correspondence from the American Academy of Sleep
24 Medicine (AASM) regarding a policy issue related to
25 home sleep apnea testing and recommended the Board

1 declare that ordering and administering home sleep
2 apnea tests is outside of the scope of practice for
3 dentists in Pennsylvania.

4 Ms. Wucinski also referred to a letter from the
5 American Academy of Dental Sleep Medicine (AADSM)
6 noting the AASM inaccurately represented the AADSM's
7 position on the issue and claim it could be within the
8 scope of practice if the dentists are properly
9 trained. She noted it falls under the Board's scope
10 of practice and is found under the "practice of
11 dentistry" and provided a definition of the "practice
12 of dentistry" within the act.

13 Ms. Wucinski commented that she did not think it
14 fell into the Board's scope of practice. The Board
15 was being asked to issue a policy statement, noting
16 the Board generally does not issue policy statements.
17 She mentioned that any legislative movement to change
18 the scope of practice for dentists to include parts of
19 the head and neck not addressed currently in the
20 statute is something that can be addressed at that
21 time.

22 Chairperson Lugo commented that this is an area
23 of dentistry that has been increasing and growing in
24 the treatment of sleep apnea, and there are oral
25 appliances that are used as part of the treatment if

1 other options have failed or the patient cannot
2 tolerate a continuous positive airway pressure (CPAP)
3 machine.

4 Chairperson Lugo stated the area has
5 traditionally been under medicine, and dentists have
6 been working in collaboration with physicians. He
7 mentioned that one of the issues is the appliances
8 cause a shift in teeth and malocclusion, and the
9 medical tests should be under the purview of a
10 dentist. He noted it to be a growing area in
11 dentistry and more dentists are becoming a sleep
12 medicine provider or partnering with physicians.

13 Chairperson Lugo suggested continuing
14 conversations in the Scope of Practice Committee and
15 sending it to committee for additional comments. He
16 mentioned the American Dental Association (ADA) and
17 other organizations note that it is important to be
18 able to monitor and titrate that particular oral
19 appliance while using the home test for sleep apnea.
20 He noted there are a lot of questions about the
21 relationship and interaction and who is accountable
22 for what.

23 Dr. Arndt noted the importance of looking at what
24 is best for the public and thinks a dentist should be
25 able to screen for it, but the physician should be the

1 prescriber.

2 Dr. Arndt mentioned that physicians in other
3 states are now making the oral appliances and do not
4 have the training nor the background and is an issue
5 as to whether that should stay within the dental
6 field.

7 Chairperson Lugo commented that dentists are
8 trained to deal with what would change dental facial
9 feature structure and bone structure and requested Dr.
10 Matta take the issue into the scope of traditional and
11 emerging practice and add it to the preliminary agenda
12 to be approved for the next meeting.

13 Dr. Funari worked hand-in-hand with the medical
14 specialists regarding sleep apnea. He noted the
15 importance of being able to appropriately assess the
16 ordered test and make the appropriate diagnosis that
17 goes beyond just looking for an improvement in the
18 apnea-hypopnea index (AHI) number, which could put the
19 public at jeopardy and someone at legal liability.

20 Dr. Funari mentioned that all of his cone-beam
21 computed tomography (CBCT) scans are read by a
22 radiologist because of areas he may not be trained to
23 interpret that could have a significant impact on the
24 patient. He leaves it up to the physicians to order
25 the test, interpret it, and works hand-in-hand coming

1 up with a treatment plan, whether it be surgery or
2 orthopedic devices.

3 Chairperson Lugo noted that the cochair agreed to
4 put the issue on the preliminary agenda for approval
5 of that committee and bring it back to the full
6 Board.]

7 ***

8 Report of Commissioner - No Report

9 ***

10 Report of Board Chairperson - No Report

11 [R. Ivan Lugo, D.M.D., M.B.A., Chairperson, reiterated
12 what was mentioned in Executive Session and in the
13 committee, where every cochair must have an agenda
14 that is preapproved and to also ensure consensus
15 amongst the committee so the time and date can be set.
16 He noted it has to be published, so it requires time
17 in advance for preapproval of the agenda to comply
18 with the public meeting.]

19 ***

20 Report of Commissioner - No Report

21 ***

22 Report of Board Administrator - No Report

23 ***

24 [Godfrey Joel Funari, M.S., D.M.D., questioned whether
25 Board meetings would be going back to in-person

1 meetings in the near future.

2 Commissioner Johnson stated, in light of the
3 Centers for Disease Control and Prevention (CDC)
4 recommendations, there was still the question of the
5 metrics the Governor had required with regard to
6 occupancy and masking by Memorial Day weekend. He
7 noted not having much information with respect to
8 Board meetings but would probably have a clearer
9 picture after the middle of next week. He stated the
10 department will notify all Board members and licensees
11 with regard to the new paradigm.]

12

13 Scope of Traditional and Emerging Practice

14 [Andrew S. Matta, D.M.D., stated the committee
15 recently met and discussed dental hygienists and use
16 of lasers. He stated Ms. Wucinski highlighted the
17 current regulations for dentists under § 33.215 and
18 would be a matter of creating more clarification of
19 the delegation of the duties of the use of the laser
20 to individuals, such as a dental hygienist. He noted
21 Ms. Murray recommended having an academy provide a
22 presentation to the Board and would set that up for a
23 future meeting.

24 Dr. Matta mentioned that specific considerations
25 around the clarity of supervision of the dentists

1 around the procedure was noted by committee members
2 with particular attention to how this would apply to
3 public health dental hygienists.

4 Dr. Matta noted discussion regarding dental
5 hygienists and nitrous oxide, noting nitrous oxide is
6 a permit that requires a specific license that dental
7 hygienists are not able to currently receive and is
8 outside their scope.

9 Dr. Matta stated the matter of the dentist and
10 their monitoring of the patient directly or indirectly
11 during the administration of nitrous oxide therapy was
12 a matter that would be reviewed. He mentioned Dr.
13 Funari was looking to update the anesthesia regulatory
14 guidelines and other areas of anesthesia and would
15 include updates with anything with nitrous oxide.

16 Dr. Matta noted Dr. Funari will review comparable
17 regulations with other states and provide an update.
18 He noted recommendations would be reviewed for
19 regulatory updates that may be needed to further
20 clarify the monitoring of patients receiving nitrous
21 oxide.

22 Dr. Matta addressed administration of
23 vaccinations and diagnostic tests, noting Pennsylvania
24 is under an emergency order that allows health care
25 providers, including dentists, to provide COVID-19

1 vaccinations. He mentioned that several states,
2 including Pennsylvania, have proposed legislation that
3 would potentially broaden the scope of practice of a
4 dentist to include vaccinations and tests.

5 Chairperson Lugo noted the committee is
6 requesting a presentation from the academy concerning
7 dental hygienists and the use of lasers.

8 Ms. Murray will contact the association to
9 request to present on September 10, 2021.

10 Ms. Groody informed the Board that the Dental
11 Assisting National Board (DANB) has many states that
12 have certification for nitrous monitoring for dental
13 assistants and nothing to do with EFDA. She noted
14 Pennsylvania has no regulation for dental assistants.

15 Dr. Matter offered to add something on that topic
16 for the next Scope of Practice Committee for possibly
17 July.

18 Chairperson Lugo mentioned whitening and Botox
19 need brought back to counsel and should be included in
20 the preliminary agenda.]

21

22 For the Board's Information/Discussion

23 [Lisa M. Burns, Board Administrator, announced she
24 moved into the Acting Division Chief for the Health
25 Licensing Division full-time and will be overseeing

1 the Board administrator.

2 Chairperson Lugo congratulated Ms. Burns on a
3 well-deserved promotion and wish her the best on
4 behalf of the Board.]

5 ***

6 [R. Ivan Lugo, D.M.D., M.B.A., Chairperson, noted the
7 next scheduled Board meeting date is July 16, 2021.
8 He mentioned the Board will be notified of any changes
9 from a virtual meeting to an in-person meeting in
10 Harrisburg.]

11 ***

12 Adjournment

13 CHAIRPERSON LUGO:

14 Motion to adjourn.

15 DR. CASEY:

16 I'll second that.

17 CHAIRPERSON LUGO:

18 Everybody in favor, say aye.

19 [The motion carried unanimously.]

20 ***

21 [There being no further business, the State Board of
22 Dentistry Meeting adjourned at 11:24 a.m.]

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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

May 14, 2021

	TIME	AGENDA
1		Executive Session
2		Open Session
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11	10:31	Official Call to Order
12		
13	10:31	Introduction of Board Members
14		
15	10:34	Approval of Minutes
16		
17	10:36	Report of Prosecutorial Division
18		
19	10:41	Report of Board Counsel
20		
21	10:44	Review of Applications
22		
23	10:45	Report of Board Counsel (Continued)
24		
25	10:58	Correspondence
26		
27	11:14	Report of Committees
28		
29	11:21	For the Board's Information/Discussion
30		
31	11:24	Adjournment
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