# GEORGIA BOARD OF DENTISTRY Conference Call 2 Peachtree St., N.W., 6<sup>th</sup> Floor Atlanta, GA 30303 April 9, 2021 10:00 a.m.

# The following Board members were present:

Dr. Tracy Gay, President Dr. Michael Knight Dr. Glenn Maron Ms. Misty Mattingly Mr. Mark Scheinfeld Dr. Debra Wilson

#### Staff present:

Eric Lacefield, Executive Director Kirsten Daughdril, Senior Assistant Attorney General Max Changus, Assistant Attorney General Kimberly Emm, Attorney Brandi Howell, Business Support Analyst I

#### Visitors:

Dr. Jay Lloyd Trevor W. Staton Trevor E. Miller Dr. Carol Lefebvre Chip McVea

#### **Open Session**

Dr. Gay established that a quorum was present and called the meeting to order at 10:05 a.m.

#### **Introduction of Visitors**

Mr. Lacefield asked the visitors on the call to send an email via the "Contact Us" portal on the website if he/she would like his/her name reflected as being in attendance in the minutes.

Mr. Mark Scheinfeld made a motion and Dr. Michael Knight seconded and the Board voted to enter into **Executive Session** for the purpose of receiving legal advice as authorized under O.C.G.A. §§ 50-14-1(e)(2)(c), 50-14-2(1). Voting in favor of the motion were those present who included Dr. Tracy Gay, Dr. Michael Knight, Dr. Glenn Maron, Ms. Misty Mattingly, Mr. Mark Scheinfeld, and Dr. Debra Wilson.

#### **Executive Session**

The Board requested legal advice regarding Emergency Rule 150-3-0.2-.11 Regional Examination for Dentists.

No votes were taken in Executive Session. Dr. Gay declared the meeting back in Open Session.

#### **Open Session**

#### Miscellaneous:

**Emergency Rule 150-3-0.2-.11 Regional Examination for Dentists:** The Board recommended tabling this matter until legal advice from the Attorney General's office is received.

## Approval of Minutes

Dr. Wilson made a motion to approve the Public and Executive Session minutes from the March 5, 2021 Conference Call. Dr. Maron seconded and the Board voted unanimously in favor of the motion.

## **Report of Licenses Issued**

Dr. Maron made a motion to ratify the list of licenses issued. Dr. Knight seconded and the Board voted unanimously in favor of the motion.

## **Petitions for Rule Waiver or Variance**

**Rule Variance Petition from Dr. Alexandra Shehata:** The Board discussed this rule petition that was granted with conditions at the Board's March meeting. Dr. Shehata requested the Board reconsider her petition without conditions. Dr. Maron made a motion to grant the variance based on the special circumstances related to the COVID-19 pandemic. The Board also finds that Dr. Shehata provided adequate justification for the variance since she successfully passed the ADEX clinical examination, which involved a live patient. The variance is granted with the condition that Dr. Shehata agrees to take and successfully negotiate the Anterior Class III Composite Preparation and Restoration portion on a live patient with CRDTS or another Board recognized exam once these exams are administered again. Dr. Knight seconded and the Board voted unanimously in favor of the motion.

**Rule Variance Petition from Dr. Belinda Phan, DN012216:** Dr. Maron made a motion to table this petition until the Board's May meeting. Dr. Knight seconded and the Board voted unanimously in favor of the motion.

**Rule Variance Petition from Dr. Jay Lloyd:** Dr. Maron made a motion to grant the variance based on the special circumstances related to the COVID-19 pandemic. The Board also finds that Dr. Lloyd provided adequate justification for the variance since he successfully passed the 2020 ADEX clinical examination, which involved a live patient. Dr. Knight seconded and the Board voted unanimously in favor of the motion.

**Rule Variance Petition from Dr. Shirwa Hassan:** The Board discussed this request for a variance of Rule 150-7-.04(1)(c). Ms. Emm explained that the Board would need to consider if it would accept Dr. Hassan's time in residency because the requirement of full-time clinical practice is mandated by law. She further explained that time in a residency is excluded per the Board's rule. Dr. Maron made a motion to grant the variance based on Dr. Hassan successfully passing the NERB clinical examination in 2013, practicing as a general dentist for six years in Ohio, along with being engaged in a full-time endodontic residency since 2019. Dr. Wilson seconded. Discussion was held by the Board. Mr. Scheinfeld suggested the Rules Committee review Rule 150-7-.04 to determine why an individual's time in residency is not considered when applying for licensure by credentials. The Board agreed. Dr. Maron added that he is currently in the process of drafting language for the Rules Committee regarding specialists. With no further discussion, the Board voted unanimously in favor of the motion.

**Rule Variance Petition from Dr. Matthew Yeung:** Dr. Knight made a motion to grant the variance based on the special circumstances related to the COVID-19 pandemic. The Board also finds that Dr. Yeung provided adequate justification for the variance since he successfully passed the 2019 ADEX clinical examination, which involved a live patient. Ms. Mattingly seconded and the Board voted in favor of the motion, with the exception of Dr. Maron who opposed.

**Rule Variance Petition from Dr. Trevor Slaton:** Dr. Maron commented that he is in favor of granting this variance, but would like the minutes to reflect that it is not fair to those individuals that the Board previously denied. Dr. Wilson and Ms. Mattingly agreed. Dr. Gay commented that the Board does need to be consistent when considering each petition. With no further discussion, Dr. Maron made a motion to

grant the variance based on the special circumstances related to the COVID-19 pandemic. The Board also finds that Dr. Slaton has provided adequate justification for the variance since he successfully passed the 2019 ADEX clinical examination, which involved a live patient. Dr. Wilson seconded and the Board voted unanimously in favor of the motion.

**Rule Variance Petition from Dr. Victoria Menendez:** Dr. Maron made a motion to grant the variance based on the special circumstances related to the COVID-19 pandemic. The Board also finds that Dr. Menendez has provided adequate justification for the variance since she successfully passed the 2020 ADEX clinical examination, which involved a live patient. Dr. Wilson seconded and the Board voted unanimously in favor of the motion.

**Rule Waiver Petition from Dr. Michael Reardon:** Dr. Maron made a motion to table the petition pending further discussion of Dr. Reardon's application in Executive Session. Mr. Scheinfeld seconded and the Board voted unanimously in favor of the motion.

#### **Appearance**

Dr. James Smithson spoke to the Board regarding his rule petition that was denied by the Board at its February 2021 meeting. Dr. Smithson's petition was denied; however, the Board did vote to offer him a pathway to licensure with the condition that he agrees to take and successfully negotiate CRDTS or another Board recognized exam once the exams are administered again. Dr. Gay inquired as to when Dr. Smith passed the ADEX examination. Dr. Smithson responded that he passed ADEX in 2016. He added that he practiced for three (3) years prior to entering an endodontics residency and passed the Class II and Class III composite preparation and restorative portions on live patients. Mr. Scheinfeld made a motion for the Board to overturn its previous denial and grant the variance. Dr. Maron seconded and the Board voted unanimously in favor of the motion.

Dr. Gay commented that the Board has two (2) appearances scheduled for Executive Session and suggested the Board proceed with items in Executive Session while there is still a quorum. Mr. Lacefield suggested the Board set an exact time for Open Session to resume so the public can rejoin the call. The Board recommended ending Executive Session at 12:00 p.m. so that the public can rejoin.

Mr. Mark Scheinfeld made a motion and Dr. Glenn Maron seconded and the Board voted to enter into **Executive Session** in accordance with O.C.G.A. § 43-1-19(h)(2), § 43-11-47(h), and § 43-1-2(k) to deliberate and receive information on applications, investigative reports, the Assistant Attorney General's report. Voting in favor of the motion were those present who included Dr. Tracy Gay, Dr. Michael Knight, Dr. Glenn Maron, Ms. Misty Mattingly, Mr. Mark Scheinfeld, and Dr. Debra Wilson.

#### **Executive Session**

#### **Appearances**

- N.J.C.
- S.B.

#### Licensure Overview Committee Appointments/Discussion Cases

- K.D.M.
- F.E.S.
- H.H.

#### **Applications**

- K.R.T.
- K.C.

- R.H.H.
- M.C.C.
- B.M.W.
- J.A.S.
- B.M.L.
- M.D.R.
- T.M.C.
- M.T.S.
- P.E.G.
- D.T.R.
- A.S.M.
- R.L.D.
- N.B.Y.
- K.B.R.
- R.P.D.
- N.A.I.
- N.A.
- K.L.K.

## Investigative Committee Report – Dr. Glenn Maron

Report presented:

• DENT190469

# <u>Attorney General's Report – Mr. Max Changus</u>

Mr. Changus presented the following consent orders for ratification:

- C.S.S.
- S.C.

#### Executive Director's Report – Mr. Eric Lacefield No report.

## Legal Services – Ms. Kimberly Emm

- C.W.
- D.R.
- S.P.
- D.C.L.

No votes were taken in Executive Session. Dr. Gay declared the meeting back in Open Session.

## **Open Session**

# **Correspondence from Laney Kay**

The Board considered this correspondence from Ms. Kay requesting the Board consider making its Temporary Continuing Education Policy for 2020-2021 a permanent change. Ms. Mattingly suggested referring this matter to the Rules Committee for consideration. The Board agreed.

## Correspondence from Dr. Jessica G. Loumeau

The Board considered this correspondence from Dr. Loumeau requesting the Board reconsider reciprocating with Florida for licensure by credentials. Mr. Scheinfeld inquired as to whether or not the Board had been in discussion with Florida regarding this matter. Ms. Emm responded by stating that she was not aware of such. The Board directed staff to respond to Dr. Loumeau by stating that Board Rule 150-7-.04(2) reads: "Only those applicants licensed and currently engaged in full-time clinical practice, as defined in subsection (1)(c) of this rule, in a state that has a credentialing law similar to the licensure by credentials law in Georgia will be considered by the board for a provisional license by credentials. Applicants from states not issuing licenses by credentials are ineligible." Additionally, it is the Board's understanding that Florida does not grant licensure by credentials.

## **Correspondence from Suzette S. Escoe**

The Board considered this correspondence regarding live Zoom courses Ms. Escoe completed during 2020-2021. In her inquiry, Ms. Escoe asked if the courses she completed would be counted under the Board's Temporary Continuing Education Policy for 2020-2021. In response, the Board stated that the courses would be acceptable.

## **Correspondence from Dr. Britney Lewis**

The Board considered this correspondence from Dr. Lewis concerning language in Rule 150-14-.04(c) which reads, "Administration of an injectable pharmacologic for the functional or cosmetic enhancement of the gums, cheeks, jaws, lips, the oral cavity and associated tissues is a procedure which can be performed by a dentist in connection with a dental procedure in a dental treatment setting." Dr. Lewis's inquiry asked whether or not associated tissue exclude treatment of crow's feet, the glabellar complex, and administration of botox to the forehead. Dr. Lewis further inquired about specific language in the rule that states, "…in connection with a dental procedure in a dental treatment setting." Dr. Lewis asked if this language implied that a treatment must be treatment planned in conjunction with a dental procedure, following a comprehensive dental exam, or at the same time of another dental procedure. After discussion, Dr. Maron stated that he would review this matter and report back to the Board in May. Mr. Changus commented that the Board had previously discussed this topic and that he would review the matter as well.

## Correspondence from Dr. Kannan Ramar, American Academy of Sleep Medicine

The Board considered this correspondence regarding dental scope of practice and sleep apnea concerns. In Dr. Ramar's letter, he request the Board adopt language clarifying the scope of practice for dentists in Georgia in relation to the use of home sleep apnea tests. In response, the Board directed staff to respond to Dr. Ramar by referring him to the Board's policy which states, "Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person's sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment do not fall within the scope of dentistry. It is the position of the Board that a dentist may not order a sleep study. Home sleep studies should only be ordered and interpreted by a licensed physician. Therefore, only under the orders of a physician should a dentist fabricate a sleep apnea appliance for the designated patient and conduct only those tasks permitted under O.C.G.A. Title 43, Chapter 11."

## Correspondence from Dr. Keyanni Shaw

The Board considered Dr. Shaw's request for an appearance to discuss her denied rule petition. Dr. Gay commented that Dr. Shaw could resubmit her petition for reconsideration. Dr. Shaw, who was on the call, responded by stating that she had previously resubmitted her petition and it had been denied. She added that the Board previously granted variances for situations that are the same as her own. She continued by

stating that she felt she was getting the "run around" and was hoping to appear before the Board to discuss it further. The Board recommended scheduling Dr. Shaw for the next available appearance.

#### **Correspondence from Emma Paris, GDA**

The Board considered this correspondence from Ms. Paris regarding the frequency and limitations of new dental codes D1354, D1355, D2928, D0604, and D0605. The Board directed staff to respond to Ms. Paris by stating that the Board does not create rules or provide guidance on insurance coding.

## **Correspondence from Shawn Mathew**

The Board considered this correspondence regarding slot preparations. In his inquiry, Mr. Mathew requested a definition of "slot preparation". In response, the Board directed staff to respond to Mr. Mathew by referring him to Rule 150-3-.01(7)(g), which states that examination scores from slot preparations of restorative dentistry shall neither be accepted nor recognized by the Board. Additionally, the Board suggested Mr. Mathew contact the Dental College of Georgia for assistance with his request for a definition of a slot preparation.

## **Correspondence from Dr. Robert A. Finkel**

The Board considered this correspondence regarding sleep screening and oral sleep appliance titration by dentists. In response, the Board directed staff to respond to Dr. Finkel by referring him to the Board's policy which states, "Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person's sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment do not fall within the scope of dentistry. Therefore, the prescribing of sleep apnea appliance does not fall within the scope of the practice of dentistry. It is the position of the Board that a dentist may not order a sleep study. Home sleep studies should only be ordered and interpreted by a licensed physician. Therefore, only under the orders of a physician should a dentist fabricate a sleep apnea appliance for the designated patient and conduct only those tasks permitted under O.C.G.A. Title 43, Chapter 11."

#### Correspondence from Dr. James C. Ragain, The University of Tennessee

The Board viewed this correspondence for informational purposes only.

## **Correspondence from Marc Wolfe**

The Board considered this correspondence regarding Rule 150-8-.01 and the Board's Guidelines for Practice Closure. Ms. Emm stated that Rule 150-8-.01(q) discusses termination of dentist/patient relationship and subsection (q)(2) states that the dentist who is the owner or custodian of the patient's records shall provide notice of at least fourteen (14) days prior to the date of termination. She explained that in the scenario described in Mr. Wolfe's correspondence, the dentist is selling his practice, but is going to be hired as an associate of the buyer and as such, asked if the dentist still required to notify the patients as treatment is not being discontinued. After discussion was held, the Board directed staff to respond by stating that if the dentist/patient relationship is maintained and the dentist is continuing to provide care, a notification is not required.

## <u>General – Dr. Tracy Gay</u>

No report.

## **Rules Committee Report**

The Board recommended tabling consideration of Rule 150-11-.01 Specialties, Rule 150-3-.09 Continuing Education for Dentists, Rule 150-5-.05 Requirements for Continuing Education for Dental Hygienists, and Rule 150-5-.03 Supervision of Dental Hygienists until the May meeting.

**Rule 150-13-.01 Conscious Sedation Permits:** Dr. Maron made a motion to post Rule 150-13-.01 Conscious Sedation Permits. Ms. Mattingly seconded and the Board voted unanimously in favor of the motion.

**Rule 150-5-.03 Supervision of Dental Hygienists:** Ms. Mattingly requested the Board consider the amendment proposed by the Rules Committee and not table discussion until the May meeting. Ms. Mattingly stated that the proposed amendment recommended by the Rules Committee defines "Experience" as a minimum of 500 hours of hands-on treatment of patients within the twenty-four (24) month period immediately post-graduation from an accredited dental hygiene program. She further stated that House Bill 154 requires a dental hygienist performing dental hygiene services under general supervision to have at least two (2) years of experience in the practice of dental hygiene. Ms. Mattingly added that was the intent when the bill was created and the previous language proposed by the Board restricted what was put forth in the bill.

Discussion was held regarding Rule 150-7-.05 requiring 1000 hours of full-time clinical practice for each twelve month period for the last two years. Dr. Gay commented that requiring 500 hours in twenty-four (24) months was not much experience. Ms. Mattingly responded by stating that the dentist has the option to allow the dental hygienist to work under general supervision or not. She continued by stating she provided information to the Rules Committee that showed most states do not define what "Experience" is. Ms. Mattingly stated that "Experience" is usually determined by the supervising dentist.

Ms. Suzanne Newkirk, who was on the call, spoke to the Board. Ms. Newkirk stated that there are only three (3) states in the country that do not allow a dental hygienist to work under general supervision. She continued by stating that, of the forty-seven (47) that do authorize general supervision, forty-two (42) of them do not require any hours/experience before a dental hygienist works under general supervision. Ms. Newkirk stated that in looking at what is usual and customary across the country, no hours are required, but because House Bill 54 required a minimum of two (2) years, members of the Rules Committee agreed 500 hours was sufficient for the dentist to make a determination as to if he/she wanted to allow the dental hygienist to work under supervision or not.

Dr. Gay expressed his concerns over the requirement of 500 hours. Ms. Mattingly suggested amending the language to require 1000 hours. She added that the reason it was proposed as 500 hours was due to the pandemic. Dr. Gay commented that he was only worried about the individuals that just graduated as those graduates do not have the same experience as someone who had practiced for twenty (20) years. Ms. Mattingly suggested amending the rule to require 1000 hours preceding graduation. Ms. Emm explained that the Board can vote to post the rule as amended and then the proposed rule will be sent to the Attorney General's office to review for authority. Dr. Gay stated that he was in agreement with the suggestion. There being no further discussion, Ms. Mattingly made a motion to post Rule 150-5-.03 Supervision of Dental Hygienists as amended. Dr. Wilson seconded and the Board voted unanimously in favor of the motion.

A motion was made by Dr. Maron, seconded by Mr. Scheinfeld, and the Board voted that the formulation and adoption of these rule amendments does not impose excessive regulatory cost on any licensee and any cost to comply with the rule amendments cannot be reduced by a less expensive alternative that fully accomplishes the objectives of the relevant code sections.

In the same motion, Board also voted that it is not legal or feasible to meet the objectives of the relevant code sections to adopt or implement differing actions for businesses as listed at O.C.G.A § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of these rule amendments will impact every licensee in the same manner, and each licensee is independently licensed, owned and operated and dominant in the field of dentistry.

**O.C.G.A. 43-1-34.1 Expedited license by endorsement for military spouses:** Mr. Lacefield commented that this law is currently in effect as of January 1st. Mr. Scheinfeld commented that this law created a third category of licensure and the draft of the applications have been posted to Sharepoint for the Board's consideration. Mr. Lacefield commented that the Board would also need to consider the application fee.

Mr. Lacefield stated that the Board would need to discuss what exam is considered "substantially similar". Dr. Gay responded by stating that he thinks the exam would be considered on an individual basis. Mr. Scheinfeld stated that the Rules Committee had extensive discussions on this matter and added that the Board does not have any discretion on what clinical examination the individual passed to become licensed. Mr. Changus commented that there is still a question as to whether or not the exam given would be "substantially similar," and that is in the law under (b)(2) of the statute. Ms. Emm commented that it would not necessarily matter if the individual passed the exam yesterday or years ago. She added that the clinical exam had to be substantially similar to what the Board requires. Ms. Emm continued by stating that the intent of the bill was to make it easier for military members and spouses to move around the country and obtain a license without any barriers.

With no further discussion, Dr. Wilson made a motion to approve the applications as presented and set the application fee for dental licensure by endorsement to \$3025 and the application fee for dental hygiene licensure by endorsement to \$1025. Ms. Mattingly seconded and the Board voted unanimously in favor of the motion.

**Rules Committee Minutes:** Ms. Mattingly made a motion to approve the minutes from the March 26, 2021 Rules Committee Conference Call. Dr. Wilson seconded and the Board voted unanimously in favor of the motion.

## Sedation Committee Report – Dr. Glenn Maron

Dr. Maron reported that the Sedation Committee was unable to meet earlier that morning due to a lack of a quorum. He stated that one item that needs to be discussed by the Committee is what medications can and cannot be used for different levels of sedation. He further stated that the sedation rules currently do not list what medications can or cannot be used and the medications themselves are not a premise for a level of sedation. Dr. Maron commented that he hoped to have this clarified when the Committee is able to meet.

#### Attorney General's Report – Mr. Max Changus

No report.

Executive Director's Report – Mr. Eric Lacefield No report.

## Legal Services – Ms. Kimberly Emm

No report.

Dr. Maron made a motion to approve all recommendations based on deliberations made in Executive Session:

## **Appearances**

٠	N.J.C.	Denied Dental Credentials Applicant	Uphole
٠	S.B.	Denied Dental Hygiene Credentials	Overtu

Uphold denial Overturn denial and approve application

# Lic

Licensure Overview	Committee Appointments/Discussion Cases	
• K.D.M.	Dental Hygiene Licensee	Refer to the Department of Law
• F.E.S.	Dental Licensee	Refer to the Department of Law
• H.H.	Request to terminate probation	Table pending receipt of additional information
<b>Applications</b>		
• K.R.T.	Dental Exam Applicant	Approved application
• K.C.	Dental Exam Applicant	Approved application
• R.H.H.	Dental Exam Applicant	Approved application
• M.C.C.	Dental Exam Applicant	Approved application
• B.M.W.	Dental Exam Applicant	Approved application
• J.A.S.	Dental Exam Applicant	Approved application
• B.M.L.	Dental Exam Applicant	Overturn denial and approve application
• M.D.R.	Dental Credentials Applicant	Overturn denial and approve application
• T.M.C.	Moderate Parenteral Conscious Sedation	Approved evaluation
• M.T.S.	Moderate Parenteral Conscious Sedation	Approved evaluation
• P.E.G.	Moderate Parenteral Conscious Sedation	Approved evaluation
• D.T.R.	Moderate Parenteral Conscious Sedation	Approved evaluation
• A.S.M.	General Anesthesia	Approved evaluation
• R.L.D.	General Anesthesia	Schedule to meet with the
		Licensure Overview Committee
• N.B.Y.	Moderate Enteral Conscious Sedation	Approved application
• K.B.R.	Dental Reinstatement Applicant	Denied application
• R.P.D.	Dental Reinstatement Applicant	Approved application
• N.A.I.	Dental Hygiene Reinstatement	Refer to Legal Services
• N.A.	Dental Hygiene Reinstatement	Approved application
• K.L.K.	Dental Hygiene Reinstatement	Approved application

### Investigative Committee Report - Dr. Glenn Maron

Report presented:

<b>Complaint Number</b>	Allegations	Recommendation
DENT190469	Quality of Care/Substandard Practice	Close with No Action

<u>Attorney General's Report – Mr. Max Changus</u> Mr. Changus presented the following consent orders for ratification:

- C.S.S. Public Consent Agreement for Licensure
- Public Consent Agreement for Licensure • S.C.

## **Executive Director's Report – Mr. Eric Lacefield**

No report.

## Legal Services – Ms. Kimberly Emm

•	C.W.	Request regarding consent order	Schedule to meet with the
			Licensure Overview Committee
•	D.R.	Request for modification to	Approved request

- consent order regarding CE S.P.
- D.C.L.
- Request to terminate probation
- Request for extension regarding continuing education required per

**Consent Order** 

Approved request Approved extension one year extension

Dr. Knight seconded and the Board voted unanimously in favor of the motion.

## Miscellaneous

Dr. Gay reminded the board members that an emergency meeting may be necessary once legal advice from the Attorney General's office has been received regarding Emergency Rule 150-3-0.2-.11 Regional Examination for Dentists.

With no further business, the Board meeting adjourned at 1:07 p.m.

The next scheduled meeting of the Georgia Board of Dentistry will be held via conference call on Friday, May 7, 2021, at 10:00 a.m. at the Department of Community Health's office located at 2 Peachtree Street, N.W., 6th Floor, Atlanta, GA 30303.

Minutes recorded by Brandi Howell, Business Support Analyst I Minutes edited by Eric R. Lacefield, Executive Director