

AGENDA
CONNECTICUT STATE DENTAL COMMISSION

Wednesday, December 16, 2020 at 1:00 PM
Department of Public Health
410 Capitol Avenue, Hartford Connecticut

CALL TO ORDER

- I. **MINUTES**
September 16, 2020 and November 19, 2020

- II. **NEW BUSINESS**
 - A. Proposed Memorandum of Decision
Michael Greene, DDS – Petition No. 2017-1126

- III. **NEW BUSINESS**
Meeting date for 2021

ADJOURN

This meeting will be held by video conference.

State Dental Commission Meeting via Microsoft Teams

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[+1 860-840-2075](#) - United States, Hartford

Phone Conference ID: 976 628 90#

The following minutes are draft minutes which are subject to revision and which have not yet been adopted by the Board.

**CONNECTICUT STATE DENTAL COMMISSION
MINUTES OF MEETING
September 16, 2020**

The Connecticut State Dental Commission held a meeting by video conference on September 16, 2020.

COMMISSION MEMBERS PRESENT:	Peter Katz, DMD, Chairman Sarita Arteaga, DMD Monica Cipes, DMD Deborah Dodenhoff, RN Mark Longobardi, DMD Steven Reiss, DDS Barbara Ulrich Robert Zager
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COMMISSION MEMBERS ABSENT:	Anatoliy Ravin, DDS
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Dr. Katz called the meeting to order at 1:00 p.m.

I. MINUTES

The minutes from the July 29, 2020 meeting were reviewed and unanimously approved on a motion by Mr. Zager.

II. NEW BUSINESS

A. Amend Memorandum of Decision

Ammar Idlibi, DMD – Petition No. 2016-640

Assistant Attorney General Daniel Shapiro was present for this matter.

Dr. Reiss made a motion, seconded by Ms. Dodenhoff to adopt the amended Memorandum of Decision as written.

III. OLD BUSINESS

Non-patient based clinical licensure examinations

Dr. Katz reported that on September 3, 2020 the Commissioner of the Department of Public Health requirements for clinical competency licensure examinations adopted by the Commission on July 29, 2020.

IV. JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS

Cataldo Leone, DDS and David Waldschmidt, PhD of the Joint Commission on National Dental Examinations were present to present information regarding the Dental Licensure Objective Structured Clinical Examination (DLOSCE) and to take questions from the Commission.

Assistant Attorney General Kerry Colson was present to provide counsel to the Commission.

The Commission will make determination at a future date whether to make a recommendation to the Department of Public Health as to use of the DLOSCE.

V. ADJOURN

As there was no further business the meeting was adjourned at 2:20 p.m. on motion by Mr. Zager

Respectfully submitted,
Peter Katz, DMD
Connecticut State Dental Commission

The following minutes are draft minutes which are subject to revision and which have not yet been adopted by the Board.

**CONNECTICUT STATE DENTAL COMMISSION
MINUTES OF MEETING
November 19, 2020**

The Connecticut State Dental Commission held a meeting by video conference on November 19, 2020.

COMMISSION MEMBERS PRESENT:	Peter Katz, DMD, Chairman Sarita Arteaga, DMD Monica Cipes, DMD Deborah Dodenhoff, RN Mark Longobardi, DMD Steven Reiss, DDS Anatoliy Ravin, DDS Barbara Ulrich Robert Zager
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COMMISSION MEMBERS ABSENT:	None
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Dr. Katz called the meeting to order at 9:05 a.m.

I. FACT FINDING

Declaratory Ruling Proceeding– Sleep Apnea

The Commission conducted fact-finding in the matter of a petition for declaratory ruling filed by the American Academy of Dental Sleep Medicine regarding the treatment of sleep apnea with oral appliance therapy

Dr. Katz made a motion, seconded by Mr. Zager, that it is it within a dentist's scope of practice to dispense unattended cardiorespiratory portable monitors (hereinafter "portable monitors") when ordered by physicians for patients at risk for sleep apnea and the test results are provided to a physician for interpretation and diagnosis. The motion passed with all in favor except Ms. Dodenhoff who was opposed.

Dr. Katz made a motion, seconded by Dr. Longobardi, that it is not within a dentist's scope of practice to order portable monitors for patients identified by the dentist as being at risk for sleep apnea and the test results are provided to a physician for interpretation and diagnosis. The motion passed unanimously.

Dr. Katz made a motion, seconded by Mr. Zager that it within a dentist's scope of practice to use a portable monitor, provide the dentist is appropriately trained, to help determine the optimal effective position of a patient's oral appliance. The motion passed with all in favor except Ms. Dodenhoff and Dr. Reiss who were opposed.

Dr. Katz made a motion, seconded by Ms. Dodenhoff, that if a dentist is not appropriately trained and does not use a portable monitor to determine the optimal effective position of a patient's oral appliance, is it not within a dentist's scope of practice to order a portable monitor to verify the effectiveness of the oral appliance and the test results are provided to a physician for interpretation and a determination of therapeutic effectiveness. The motion passed

II. OLD BUSINESS

Dental Licensure Objective Structured Clinical Examination (DLOSCE)

Non-patient based clinical licensure examinations

Dr. Katz made a motion, seconded by to table deciding on the use of this examination for one year to allow for feedback on its use in other jurisdictions.

III. NEW BUSINESS

Digital Impressions

The Commission discussed the taking of digital impression by dental hygienist and dental assistants.

Dr. Katz mad a motion, seconded by Dr. Reiss, that the Commission issue a declaratory ruling, regarding the following :

May licensed dental hygienists in the State of Connecticut take digital impressions of the teeth for the purpose of fabricating crowns, bridges and implants or for orthodontic treatments under General Statutes § 20-126?

May licensed dentists in the State of Connecticut delegate to dental assistants and expanded function dental assistants the taking of digital impressions of the teeth for the purpose of fabricating crowns, bridges or implants or for orthodontic treatments under General Statutes § 20-112a?

The motion passed unanimously.

Dr. Katz made a motion, seconded by Dr. Longobardi, to issue the declaratory ruling, without further proceedings, at a meeting to scheduled for January 14, 2021. The motion passed unanimously.

IV. ADJOURN

As there was no further business the meeting was adjourned at 2:20 p.m. on motion by Mr. Zager

Respectfully submitted,
Peter Katz, DMD
Connecticut State Dental Commission

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



Deidre S. Gifford, MD, MPH
Acting Commissioner

Ned Lamont
Governor
Susan Bysiewicz
Lt. Governor

CONNECTICUT STATE DENTAL COMMISSION

November 2, 2020

Michael Greene, DDS
11 Asylum Street, Suite 401
Hartford, CT 06103

VIA EMAIL ONLY (mlgreenedds@gmail.com)

David Tilles, Staff Attorney
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340308
Hartford, CT 06134-0308

VIA EMAIL ONLY

RE: Michael Greene, DDS - Petition No. 2017-1176

PROPOSED MEMORANDUM OF DECISION

Attached is the proposed Memorandum of Decision in the above referenced matter. Pursuant to § 4-179 of the Connecticut General Statutes, both parties will be afforded the opportunity to present oral argument before the Connecticut State Dental Commission. The Commission will consider this proposed Memorandum of Decision at a meeting to be held after December 16, 2020.

If you wish to exercise this opportunity to present oral argument, please notify this office no later than **December 1, 2020**.

FOR: **CONNECTICUT STATE DENTAL COMMISSION**

BY: /s/ Jeffrey A. Kardys

Jeffrey A. Kardys, Administrative Hearings Specialist/Board Liaison
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c: Olinda Morales, Hearing Officer
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**STATE OF CONNECTICUT
CONNECTICUT STATE DENTAL COMMISSION**

Michael Green, D.D.S.
License no. 0070209

Petition No.: 2017-1126

MEMORANDUM OF DECISION

Procedural Background

The Department of Public Health (“Department”) presented the Connecticut State Dental Commission (“Commission”) with a Statement of Charges brought against Michael Green, D.D.S. (“Respondent”) dated May 16, 2019. Board Exhibit (“Bd. Ex.”) 1. The Statement of Charges and the Notice of Hearing were sent to Respondent by certified mail, return receipt requested, and first class mail on October 10, 2019. The Notice of Hearing directed Respondent to appear on December 11, 2019, before a duly authorized panel (“panel”) of the Commission for a hearing on the allegations contained in the Charges.¹ The panel included Steven Reiss, DDS, Anatoliy Ravin, DDS, and Robert Zager, Public Member. Bd Ex. 1.

The hearing convened on January 8, 2020. The hearing was conducted before the panel in accordance with *Conn. Gen. Stat.* (“Statutes”) Chapter 54, and §19a-9a-1 *et seq.* of the Regulations of Connecticut State Agencies (“the Regulations”). Respondent appeared *pro se*; Attorney David Tilles represented the Department. Both the Department and Respondent had the opportunity to present evidence, conduct cross-examination, and provide argument on all issues.

Respondent Answered the Charges on the record during the hearing on January 8, 2020. Transcript pages (“Tr., pp.”) 5-6, 21-23.

All panel members involved in this decision attest that they have either heard the case or read the record in its entirety. The Commission reviewed the panel’s proposed final decision in accordance with the provisions of § 4-179 of the Statutes. This decision is based entirely on the record and the specialized professional knowledge of the Commission in evaluating the evidence. *See Conn. Gen. Stat. § 4-178; Pet v. Department of Health Services*, 228 Conn. 651, 666 (1994). To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc., v. S & H Computer Systems, Inc.*, 605 F. Supp. 816 (Md. Tenn. 1985).

¹ Due to inclement weather, the hearing was rescheduled to January 8, 2020. Bd. Ex. 3.

Allegations²

1. In paragraph 1 of the Charges, the Department alleges that Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut dentist license number 007029.
2. In paragraph 2 of the Charges, the Department alleges that Respondent provided care to Patient 1 at various times between on or about December 4, 2012 and on or about September 23, 2016. On or about September 13, 2016, Respondent began, but did not complete root canal treatment on tooth #30 and/or #18. In the course of that work, a file, or part of a file, broke off and was retained in the canal. Respondent's care for Patient 1 failed to meet the standard of care in one or more of the following ways:
 - a. he failed to take pre-operative x-rays of tooth 30 and/or 31; and/or tooth 18 and/or 19;
 - b. he failed to obtain and/or document informed consent and consent to treat the root canal at tooth 30 and/or 18 and/or failed to document treatment planning for tooth 30 and/or 18;
 - d. he failed to recognize and/or remove the retained file and/or treat the tooth with the retained file.
3. In paragraph 3 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, § 20-114(a)(2).

Findings of Fact

1. Respondent is the holder of Connecticut dentist license number 007029. Tr., p. 5.
2. Respondent provided care to Patient 1 at various times between on or about December 4, 2012 and on or about September 23, 2016. Tr., p. 6.
3. On or after November 18, 2014, Respondent performed a root canal on tooth 30 and/or 18 on Patient 1 in which a file broke off and was retained in the canal. Department Exhibits ("Dept. Exs.") 2, 5; Tr., pp. 23, 31, 32, 45, 46.

² During the hearing, the Department moved to amend the Statement of Charges by:

- adding "and/or tooth 18 and/or 19" to allegation 2 a. Tr., pp. 9
- adding "and/or 18" to allegation 2 and 2b.
- withdrawing allegation 2c.

Respondent did not object the Department's motion. The Board granted the Department's motion to amend. Tr., pp. 18-24.

4. Prior to the root canal, Respondent failed to take pre-operative x-rays of tooth 30 and/or 31, and/or 18 and/or 19. Dept. Exs. 2, 5; Tr., pp. 21, 22, 45.
5. Prior to the root canal, Respondent failed to obtain and/or document informed consent and consent to treat the root canal at tooth 30 and/or 18. Dept. Exs. 2, 5; Tr., pp. 22, 23.
6. Prior to the root canal, Respondent failed to document treatment planning for tooth 30 and/or 18. Dept. Ex. 2, 5; Tr., pp. 22, 23.
7. Following the root canal, Respondent recognized a retained file in the tooth. Tr., pp. 23, 31, 32.
8. After the root canal, Respondent provided care to Patient 1 on February 19, 2015, December 3, 2015, September 13, 2016, and September 29, 2016. Dept. Exs. 2, 5; Tr., p. 46.
9. On September 13, 2016, Respondent took an x-ray of the treated area and gave Patient 1 an antibiotic. Dept. Ex. 2; Tr., p. 46.
10. After the root canal, Respondent failed to remove the retained file and/or treat the tooth with the retained file. Dept. Exs. 2, 5; Tr., pp. 23, 46, 47.
11. The testimony of Stephen Charles DiBenedetto, DDS is reliable and credible. Tr., pp. 24-48.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727, 739-40 (2013).

In accordance with Conn. Gen. Stat. § 20-114(a)(2):

The Dental Commission may take any of the actions set forth in section 19a-17 for any of the following causes: . . . (2) proof that a practitioner has become unfit or incompetent or has been guilty of cruelty, incompetence, negligence or indecent conduct toward patients. . .

The Commission finds that the Department met its burden of proof with respect to allegations 1, 2a, 2b, and 2d.

With regard to allegation 1 of the Charges, Respondent admits that he is, and has been at all times referenced in the Charges, the holder of Connecticut dental license number 007029. Tr., p. 5. As such, the Department sustained its burden of proof.

With regard to the allegations in paragraph 2 of the Charges, Respondent admits that he provided care for Patient 1 between December 4, 2012 and September 23, 2016, that he began, but did not complete, root canal treatment on tooth 30 and/or 18, and in the course of that work, a

file, or part of a file, broke off and was retained in the canal. Tr., p. 6. As such, the Department sustained its burden of proof.

With regard to allegation 2a of the Charges, although Respondent denies that he failed to take pre-operative x-rays of tooth 30 and/or 31; and/or tooth 18 and/or 19; the Department met its burden of proof with respect to this allegation. Respondent claims that his records show that he took x-rays for Patient 1 on October 24, 2013, for the root canal he performed on Patient 1 on November 18, 2014. Tr., pp. 42-44. The Commission finds Respondent's claim is not credible. Dept. Ex. 2, 4. The Department's witness, Stephen Charles DiBenedetto, DDS, testified that a pre-operative x-ray taken a year or three years prior to a root canal does not meet the standard of care. A pre-operative x-ray should be taken prior to the procedure. Tr., pp. 43-45. He testified that Respondent's records are devoid of any pre-operative x-rays or any reference in the patient's chart to a pre-operative x-ray, and that the failure to do a pre-operative x-ray before a root canal is a violation of the standard of care. Tr., pp. 29-31. Dr. DiBenedetto's testimony is corroborated by his consultation report and Respondent's patient record. Dept. Exs. 2, 5. Therefore, a preponderance of the evidence establishes that Respondent failed to take pre-operative x-rays in violation of Conn. Gen. Stat. § 20-114(a)(2).

With regard to allegation 2b of the Charges, Respondent admits that he failed to obtain and/or document informed consent and consent to treat the root canal at tooth 30 and/or 18, and/or failed to document treatment planning for tooth 30 and/or 18. Tr., pp. 22, 23. Dr. DiBenedetto testified that the standard of care requires documentation of informed consent for root canal treatment and documentation of treatment planning with a patient. Dept. Ex. 5; Tr., p. 31. Therefore, Respondent's failure to obtain and/or document informed consent and consent to treat the root canal and his failure to document treatment planning constitutes a violation of Conn. Gen. Stat. § 20-114(a)(2).

With regard to allegation 2d of the Charges, Respondent denies that he failed to recognize the retained file, but admits that he failed to remove the retained file and/or treat the tooth with the retained file. Tr., p. 23. Respondent claims Patient 1 would show up to his office when she was in pain, but she did not have time for treatment. He claims she did not return until after his practice was closed.³ Dept. Ex. 4; Tr., pp. 52, 53. Dr. DiBenedetto testified that the Respondent's patient chart indicates that Respondent recognized there was a piece of file in the tooth, and that even in the exercise of due care, it can occur and does not qualify as a deviation

³ Respondent testified that he now works three days a week in a dental practice. Tr., p. 56.

from the standard of care. Dept. Exs. 3, 5; Tr., pp. 31, 32. However, he added that the standard of care requires the dentist to immediately contact the patient and devise a plan of treatment; there was nothing, however, in Respondent's records to indicate that he took these steps. Tr., pp. 32, 33. Dr. DiBenedetto testified that regardless of the dates offered by Respondent to explain his failure to remove the file, Respondent failed to document in his chart any communication with the Patient or entries that the Patient refused treatment, failed to show up, or didn't return. Tr., p. 47. Therefore, a preponderance of the evidence establishes that Respondent failed to meet the standard of care by failing to remove the retained file or treat the tooth with the file in violation of violation of Conn. Gen. Stat. § 20-114(a)(2).

Order

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stat. §§ 19a-17 and 20-114(a), the Commission hereby issues the following order:

1. Respondent shall pay a civil penalty of two thousand dollars (\$2,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty (30) days of the effective date of this Decision.
2. Respondent's license number 007029 to practice dentistry in the State of Connecticut is hereby placed on probation for a period of one (1) year during which time Respondent shall comply with the following terms and conditions:
 - a. Within the first four (4) months of the probationary period, Respondent shall attend and successfully complete the following coursework, pre-approved by the Department:
 - i. in-person coursework in Root Canals;
 - ii. in-person coursework in Informed Consent;
 - iii. in-person coursework in Patient Records;
 - iv. in-person coursework in Treatment Planning;
 - v. in-person coursework in Standard of Care; and,
 - vi. on-line coursework in Imaging.

Within thirty (30) days of the completion of such coursework, Respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such courses.

- b. No later than fifteen (15) days from the effective date of this Decision, Respondent shall submit to the Department for its pre-approval, the name of a dentist licensed in Connecticut ("practice monitor") who, at Respondent's expense, will review all of Respondent's patient records, created or updated during the probationary period. Within ten (10) days of the Department's approval, Respondent shall provide the monitor with a copy of this Decision. Respondent shall cause the monitor to confirm receipt of this Decision within ten (10) days after he has received the Decision.
 - i. Respondent's monitor shall meet the Respondent not less than once a week for the entire probationary period.
 - ii. The monitor shall have the right to monitor Respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the monitor in providing such monitoring.
 - iii. Respondent shall be responsible for providing written monitor reports directly to the Department monthly for the entire probationary period. Such monitor reports shall include documentation of dates and durations of meetings with Respondent, number and a general description of the patient records and patient medication orders and prescriptions reviewed, additional monitoring techniques utilized, and statement that Respondent is practicing with reasonable skill and safety.
3. All correspondence and/or other communication with the Department and/or Commission required pursuant to this Order shall be sent to:

Lavita Sookram, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

Ms. Sookram may also be contacted at the following e-mail address:
Lavita.Sookram@ct.gov.

4. Respondent shall be responsible for all costs associated with satisfaction of the terms of this Memorandum of Decision.
5. This Memorandum of Decision shall become effective upon signature of the Commission Chairperson.

Connecticut State Dental Commission

By: _____
Peter Katz, DMD, Chairperson

_____, 2020.

STATE OF CONNECTICUT
STATE DENTAL COMMISSION

In re: Michael Greene, D.D.S.

Petition No. 2017-1126

November 10, 2020

DEPARTMENT'S REQUEST FOR MODIFICATION OF THE PROPOSED
MEMORANDUM OF DECISION

The Department of Public Health requests a modification of Paragraph 2.a. as follows:

1. For each subject (items i. through vi., see Appendix A), please specify the number of hours or Continuing Dental Education equivalent credits.
2. For each subject, please specify whether respondent must make a successful demonstration, with particular importance given to the subjects of root canals and imaging; and what demonstration would be required and who would judge it.
3. For each subject, please indicate whether the Commission would accept a tutorial rather than a "course"; if so, what parameters would guide the tutorial?

The Department notes further that it is unaware of any in-person courses at the present time, and would be grateful for any information the Commission has in that regard.

The Department makes this request in view of two conditions; (1) the paucity of in-person courses at the present time, and (2) respondent's history of several prior disciplinary orders with continuing education requirements.

Respectfully submitted,



DEPARTMENT OF PUBLIC HEALTH

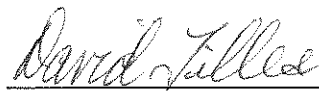
By David Tilles, Staff Attorney

860-509-7640

david.tilles@ct.gov

CERTIFICATION

I hereby certify that on this 10th day of November 2020 I sent a copy of this Request to the Public Health Hearing Office by e-mail to jeffrey.kardys@ct.gov and to Dr. Michael Greene, D.D.S. by e-mail to mlgreenedds@gmail.com.



David Tilles

APPENDIX A

- a. Within the first four (4) months of the probationary period, Respondent shall attend and successfully complete the following coursework, pre-approved by the Department:
 - i. in-person coursework in Root Canals;
 - ii. in-person coursework in Informed Consent;
 - iii. in-person coursework in Patient Records;
 - iv. in-person coursework in Treatment Planning;
 - v. in-person coursework in Standard of Care; and,
 - vi. on-line coursework in Imaging.