

**AGENDA**  
**CONNECTICUT STATE DENTAL COMMISSION**

**Wednesday, January 26, 2022 at 1:00 PM**  
**Department of Public Health**  
**410 Capitol Avenue, Hartford Connecticut**

**CALL TO ORDER**

**I. MINUTES**

December 8, 2021

**II. OFFICE OF LEGAL COMPLIANCE**

A. Jeffrey Cavalieri, D.D.S. - Petition No. 2019-1182  
*Presentation of Consent Order – Linda Fazzina, Staff Attorney, DPH*

**III. NEW BUSINESS**

A. Declaratory Ruling  
*Requirements for Use of Unattended Cardiorespiratory Portable Monitors, a/k/a Portable Monitors, to Aid in Diagnosis and Treatment of Sleep Apnea*

**ADJOURN**

This meeting will be held REMOTELY.

**State Dental Commission via Microsoft Teams**

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 860-840-2075 - Phone Conference ID: 448 536 273#](#)

*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**  
**December 8, 2021**

The Connecticut State Dental Commission held a meeting on December 8, 2021.

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COMMISSION MEMBERS PRESENT:	Peter Katz, DMD, Chairman Sarita Arteaga, DMD Monica Cipes, DMD Deborah Dodenhoff, RN Craig Fontaine, Esq. Mark Longobardi, DMD Anatoliy Ravin, DDS
COMMISSION MEMBERS ABSENT:	Barbara Ulrich
ALSO PRESENT:	Olinda Morales, Hearing Office, DPH (Counsel for the Commission) Jeffrey Kardys, Administrative Hearings Specialist, DPH

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Dr. Katz called the meeting to order at 1:00 p.m. All participants were present via the Microsoft TEAMS application.

**I. MINUTES**

The minutes from the October 13, 2021 and October 27, 2021 meetings were reviewed approved on a motion by Dr. Katz, seconded by Mr. Fontaine.

**II. NEW BUSINESS**

A. Respondent's Motion to reopen hearing  
Frank Podrasky, DDS – Petition No. 2021-390

Attorney Mary Alice Moore Leonhardt was present on behalf of Frank Podrasky, DDS. Staff Attorney Joelle Newton was present on behalf of the Department of Public Health. The Commission heard argument from Attorney Moore Leonhardt and Attorney Newton regarding a motion filed by respondent to reopen a hearing in petition No. 2021-390 which was held on August 30, 2021.

Following discussion and advice from counsel for the Commission, Dr. Katz made a motion, seconded by Dr. Ravin, to deny respondent's motion to reopen the hearing. The motion to deny passed unanimously.

**III. MEETING DATES FOR 2022**

The following meeting dates were scheduled for 2022: All meetings will begin at 1:00 p.m.

January 29, 2022

April 20, 2022

June 8, 2022

September 21, 2022

December 7, 2022

All meetings will be held remotely until further notice..

**IV. ADJOURN**

As there was no further business the meeting was adjourned at 1:39 p.m.

Respectfully submitted,  
Peter Katz, DMD - Chairman  
Connecticut State Dental Commission

## CONSENT ORDER COVER SHEET

In Re: Jeffrey Cavalieri, D.D.S.

Petition No. 2019-1182

1. Jeffrey Cavalieri of Rocky Hill, Connecticut (hereinafter "respondent") was issued license number 007966 to practice dentistry on November 2, 1993. He graduated from the University of Pennsylvania in 1992.
2. Respondent has been subject to prior discipline in Petition No. 2013-221 (Summary Suspension Order issued by the Connecticut State Dental Commission ("the Commission") on May 20, 2013 and a subsequent Memorandum of Decision ordered by the Commission on October 24, 2013 ("the MOD") placed respondent's license on probation for five years with requirements for therapy, random alcohol and drug screens, coursework, and an infection control monitor, based upon findings that respondent abused or utilized to excess marijuana and that he failed to maintain a sterile practice. Respondent satisfied the terms of the terms of the MOD, effective October 24, 2018). Respondent has also been subject to prior discipline in Petition No. 2004-0908-002-070 (Consent Order that included a reprimand, a permanent restriction on prescribing controlled substances for himself, family, or friends outside of the scope of his practice and probation to complete coursework in proper prescribing practices.)
3. The Department opened this petition after receiving a complaint from a former patient alleging that respondent improperly prepared a bridge for her, leaving an open margin. Pursuant to Connecticut General Statutes § 19a-14(a)(12)(C), the petitioner has submitted a written statement (see attached facsimile dated January 14, 2022),
4. On or about February 19, 2018, respondent provided care to patient #1 that included delivery and cementation of a bridge spanning tooth #12 to #14. The Department alleges that respondent's care or treatment for patient #1 failed to meet the standard of care in that respondent failed to (a) check for interproximal marginal seal; and/or (b) document in patient #1's medical record that the margins were inspected and found sealed.
5. The proposed Consent Order includes the following disciplinary terms:
  - Reprimand
  - Civil penalty of five hundred dollars (\$500.00)
  - Six-month probationary period to complete coursework in documentation, pre-approved by the Department.
6. The Department and respondent respectfully request that the Commission approve and accept the attached Consent Order to resolve this petition.

TO; MS FAZZINA

FROM; [REDACTED]

MY RESPONSE VIA FAX , 3 PAGES INCLUDING  
COVER PAGE

1/14/2022

## MY RESPONSE

Connecticut General Statutes, Chapter 379 states "The Commissioner of Public Health, with advice and assistance from the Dental Commission, may issue regulations to,,,insure proper dental care and protection to the public health, considering the convenience and welfare of the patient...". When I first read these words, I was hopeful. In reading the negotiated consent decree. I am not given my pain, suffering and inconvenience. Previous discipline has proven to be ineffective. To summarize;

PETITION # 2004-0908-002-070; Consent order issued by Connecticut State Dental Commission and signed by Respondent on 3/1/2006 for prescribing controlled substances to a member of his family and himself during 2002,2003, and 2004. "With respect to controlled substances that respondent prescribed to himself, said controlled substances were for medical purposes which were outside the scope of his practice". For this offense, the Commission reprimanded and restricted Respondent's license, placed him on 1 year probation, and ordered course work.

PETITION #2013-331: On 5/20/2013 the minutes of the Office of Licensure Regulation and Compliance unanimously passed a motion for a Respondent's Summary Suspension because "respondent represents an immediate danger to public health and safety". On 10/24/2013 the Dental Commission concluded " Respondent's testimony was not credible". "The Department sustained it's burden of proof that on several occasions in April 2013, Respondent abused marijuana, and that such abuse affected Respondent's ability to practice dentistry safely and effectively." Further, the Commission determined Respondent's office was "unsterile and unsanitary". The Commission suspended Respondent's license for 3 months, placed him on probation for 5 years with the requirement he enter therapy with "a psychiatrist or psychologist" He was ordered to undergo random urine testing for alcohol/drugs and further coursework.

**OSMAN v. CAVALIERI & COLUMBIA DENTAL:** I offer this complaint for the sole purpose of demonstrating the Respondent's continued difficulty with bridge work despite his coursework from previous violations. Paragraph #11 of the Complaint states "On or about October 7, 2014, the plaintiff, suffered from severe swelling in the right side of his face and was diagnosed with dental abscess resulting in the removal of the fixed bridge place by defendant's surgical extraction, bone grafting, and root canal." This injury is like mine.

My injury resulted in additional MD and DDS visits. The negotiated Consent Order does not begin to address my injury. Many of the points in the attached negotiated Consent Order are similar to those given to the Respondent in the past. In my opinion, to no apparent effect. I feel he should be given a summary suspension, not stayed, pending an administrative board hearing in order to protect Connecticut citizens. I cannot agree to a negotiated consent decree that gives the Respondent continued access to the very population it is empowered to protect. As to the fine, I do not care if it's \$0. or \$5000. The Respondent should receive a penalty that reflects the physical damage done to me and reduces the chance of injury to others. In my view this Consent Decree does neither.

Respectfully,

A large rectangular area of the page is completely blacked out, obscuring a handwritten signature.

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**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
HEALTHCARE QUALITY AND SAFETY BRANCH**

In re: Jeffrey Cavalieri, D.M.D.

Petition No. 2019-1182

**CONSENT ORDER**

WHEREAS, Jeffrey Cavalieri, D.M.D. of Rocky Hill, Connecticut (hereinafter "respondent") has been issued license number 007966 to practice dentistry by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 379 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. On or about February 19, 2018, respondent provided care to patient #1 that included the delivery and cementation of a bridge spanning tooth #12 to #14. Respondent's care or treatment for patient #1 failed to meet the standard of care in that respondent failed to: (a) check for interproximal marginal seal; and/or (b) document in patient #1's medical record that the margins were inspected and found sealed.
2. The above-described facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes §20-114, including, but not limited to §20-114(a)(2).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before the Connecticut State Dental Commission (hereinafter "the Commission"), this Consent Order shall have the same effect as if proven and

ordered after a full hearing held pursuant to Connecticut General Statutes §§19a-10, 19a-14 and 20-114.

NOW THEREFORE, pursuant to Connecticut General Statutes §§19a-14, 19a-17 and 20-114, respondent hereby stipulates and agrees to the following:

1. Respondent waives respondent's right to a hearing on the merits of this matter.
2. Respondent's license number 007966 to practice as a dentist in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of five hundred dollars (\$500.00) 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 at the time respondent submits the executed Consent Order to the Department.
4. Respondent's license shall be placed on probation for a period of six (6) months under the following terms and conditions: respondent shall attend and successfully complete a course in documentation, pre-approved by the Department. Within fifteen (15) 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 course. Respondent's probation shall terminate upon the Department's written satisfaction of the successful completion of the coursework required by this paragraph.
5. All correspondence and reports are to be addressed to:

Lavita Sookram, R.N., Nurse Consultant  
Practitioner Compliance and Monitoring Unit  
Department of Public Health  
410 Capitol Avenue, MS #12HSR  
P.O. Box 340308  
Hartford, CT 06134-0308

6. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
7. Respondent shall comply with all state and federal statutes and regulations applicable to respondent's licensure.
8. Respondent shall pay all costs necessary to comply with this Consent Order.
9. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
  - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
  - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
  - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 9a above to demonstrate to the satisfaction of the Department that respondent has complied with the terms of this Consent Order or, in the alternative, that respondent has cured the violation in question.
  - d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, respondent shall be entitled to a hearing before the Commission which shall make a final determination of the disciplinary action to be taken.
  - e. Evidence presented to the Commission by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

10. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Commission.
11. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department.
12. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Commission.
13. Respondent understands that this Consent Order is a public document.
14. Respondent understands and agrees that the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Commission in which respondent's compliance with this Consent Order or with Connecticut General Statutes §20-114, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank maintained by the United States Department of Health and Human Services.
15. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a dentist, upon request by the Department, for a period not to exceed forty-five (45) days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said forty-five (45) day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation

shall be considered by the Commission and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes §§ 4-182(c) and 19a-17(c). The Department and respondent understand that the Commission has complete and final discretion as to whether a summary suspension is ordered.

16. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
17. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Respondent agrees that this Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards and respondent waives any right to seek reconsideration or modification of this Consent Order pursuant to Connecticut General Statutes §4-181a without the express consent and agreement of the Department. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that respondent may have under the laws of the State of Connecticut or of the United States.
18. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
19. Respondent permits a representative of the Department to present this Consent Order and the factual basis for this Consent Order to the Commission. Respondent understands that the Commission has complete and final discretion as to whether this executed Consent

Order is approved or accepted. Respondent hereby waives any claim of error that could be raised that is related to or arises during the course of the Commission's discussions regarding whether to approve or reject this Consent Order and/or a Commission member's participation during this process, through the Commission member's review or comments, including but not limited to bias or reliance on evidence outside the administrative record if this matter proceeds to a hearing on a statement of charges resulting in a proposed decision by the Commission and/or a panel of the Commission and a final decision by the Commission.

20. Respondent has consulted with his attorney prior to signing this document.
21. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the State's Attorney's Office where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only and is not intended to affect any civil or criminal liability or defense.
22. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

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I, Jeffrey Cavalieri, D.M.D. have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

  
Jeffrey Cavalieri, D.M.D.

Subscribed and sworn to before me this 6<sup>th</sup> day of December 2021.

6<sup>th</sup> day of December 2021.

Notary Public or person authorized by law to administer an oath or affirmation *Peter Aldano*

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 14th day of January 2022, it is hereby accepted.

Christian Andersen

Christian D. Andresen, MPH, Section Chief  
Practitioner Licensing and Investigations Section  
Healthcare Quality and Safety Branch

The above Consent Order having been presented to the duly appointed agent of the State Dental Commission on the \_\_\_\_\_ day of \_\_\_\_\_ 2021, it is hereby ordered and accepted.

## Connecticut State Dental Commission

**STATE OF CONNECTICUT  
CONNECTICUT STATE DENTAL COMMISSION**

Re: Declaratory Ruling:

Requirements for Use of Unattended Cardiorespiratory Portable Monitors, a/k/a Portable Monitors, to Aid in Diagnosis and Treatment of Sleep Apnea

PETITIONER: The American Academy of Dental Sleep Medicine

**DECLARATORY RULING  
PROPOSED MEMORANDUM OF DECISION**

*Procedural Background*

On or about January 15, 2020, Nancy L. Addy, D.D.S., President of the American Academy of Dental Sleep Medicine (“AADSM”) (“Petitioner”) filed a request for a declaratory ruling with the Connecticut State Dental Commission (the “Commission”), on behalf of AADSM, to clarify the scope of practice of Connecticut dentists with respect to the treatment of sleep apnea with oral appliance therapy (“the Petition”). Commission (“Comm.”) Exhibit (“Ex.”) 1. On January 23, 2020, the Department of Public Health Hearing Office inquired whether the Petitioner was willing to waive the time requirements under Conn. Gen. Stat. § 4-176. Comm. Ex. 2.

On January 24, 2020, the former Commissioner of the Department of Public Health (“Commissioner”) Renee Coleman-Mitchell informed the Commission that in accordance with Conn. Gen. Stat. § 19a-14(f)(2), the Commission will be issuing a proposed decision, and the Commissioner or her designee will be issuing a final decision in this matter. Comm. Ex. 3.

On January 24, 2020, the AADSM agreed to waive the time requirements for the Commission to issue a decision in this case. Comm. Ex. 4

On April 22, 2020, the Commission unanimously voted to issue a Declaratory Ruling on the Petition regarding the following questions:

- 1. Is it within a dentist’s scope of practice to dispense portable monitors when ordered by physicians for patients at risk for sleep apnea? The test results are provided to a physician for interpretation and diagnosis.**

- 2. Is it within a dentist's scope of practice to order portable monitors for patients identified by the dentist as being at risk for sleep apnea? The test results are provided to a physician for interpretation and diagnosis.**
- 3. Is it within a dentist's scope of practice to use a portable monitor to help determine the optimal effective position of a patient's oral appliance?**
- 4. If a dentist does not use a portable monitor to determine the optimal effective position, is it within a dentist's scope of practice to order a portable monitor to verify the effectiveness of an oral appliance? The test results are provided to a physician for interpretation and diagnosis.**

Comm. Ex. 5.

On May 5, 2020, a Notice of Declaratory Ruling Proceeding was published in the *Connecticut Law Journal* giving notice of the Commission's intention to issue a declaratory ruling in accordance with Conn. Gen. Stat. § 4-176. Comm. Exs. 5 and 6.

On April 29, 2020, Anthony Dioguardi, D.M.D., Diplomate of the Board of Dental Sleep Medicine requested standing to participate in the hearing. Comm. Ex. 7.

On June 1, 2020, the Connecticut State Dental Association ("CSDA") petitioned the Commission to participate in the hearing as an intervenor, with the right to inspect and copy documents and other evidence and conduct cross examination of witnesses. Comm. Ex. 8.

On June 23, 2020, the Commission issued a Ruling in which it ordered all parties and intervenors to prefile their testimony and any supporting documentary evidence by July 15, 2020 and rebuttal testimony by July 29, 2020. The Ruling also scheduled a video conference hearing for August 5, 2020. On June 23, 2020, the Commission also granted Dr. Dioguardi intervenor status without the right of cross examination and granted the CSDA intervenor status with the right to inspect and copy documents and other evidence and to conduct cross examination of witnesses. Comm. Ex. 9.

On July 1, 2020, the Commission issued a Notice of Hearing in this matter. Comm. Ex. 10.

On July 7, 2020, a Notice of Hearing was published in the *Connecticut Law Journal* giving notice of the Commission's hearing for August 5, 2020 in accordance with Conn. Gen. Stat. §§ 4-166 et seq. and 4-176. Comm. Ex. 11.

On September 13, 2020, the Commission continued the hearing to October 14, 2020. Comm. Ex. 12.

The hearing was held on October 14, 2020, the parties and intervenors provided exhibits and pre-filed testimony, which they adopted under oath during the hearing, and the witnesses were available for questioning and cross examination. Party Exs. A, B, Intervenor Ex. 1A-1H; Tr. pp. 11-76. Neither the Petitioner nor the CSDA appeared with legal counsel at the hearing.

By law, a declaratory ruling constitutes a statement of agency law, which is binding upon those who participate in the hearing and may also be utilized by the Commission, on a case-by-case basis, in future proceedings before the Commission concerning the practice of dentistry. This Declaratory Ruling addresses the scope of practice of Connecticut licensed dentists with respect to the use of unattended cardiorespiratory portable monitors, a/k/a portable monitors, to aid in diagnosis and treatment of sleep apnea under Conn. Gen. Stat. § 20-123(a).

### **Ruling**

Conn. Gen. Stat. § 20- 123(a) sets forth the scope of practice of dentistry and provides, in relevant part that:

The practice of dentistry or dental medicine is defined as the diagnosis, evaluation, prevention or treatment by surgical or other means, of an injury, deformity, disease or condition of the oral cavity or its contents, or the jaws or the associated structures of the jaws. The practice of dentistry does not include: (1) The treatment of dermatologic diseases or disorders of the skin or face; (2) the performance of microvascular free tissue transfer; (3) the treatment of diseases or disorders of the eye; (4) ocular procedures; (5) the performance of cosmetic surgery or other cosmetic procedures other than those related to the oral cavity, its contents, or the jaws; or (6) nasal or sinus surgery, other than that related to the oral cavity, its contents or the jaws.

Conn. Gen. Stat. § 20-123(b)(4) further provides:

No person other than a person licensed to practice dentistry under this chapter shall: . . .

(4) Directly or indirectly, by any means or method, furnish, supply, construct, reproduce or repair any prosthetic denture, bridge, appliance or any other structure to be worn in a person's mouth, except upon the written direction of a licensed dentist, or place such appliance or structure in a person's mouth or attempt to adjust such appliance or structure in a person's mouth, or deliver such appliance or structure to any person other than the dentist upon whose direction the work was performed....

The Commission relied on the training and experience of its members in this Proposed Declaratory Ruling in making the decision listed below with respect to each of the four questions presented by this Petition. *Pet v. Department of Health Services*, 228 Conn. 651, 670 (1994).

The record before the Commission establishes the following collaborative arrangement between dentists and physicians with respect to obstructive sleep apnea that this ruling is based on. Physicians are responsible for evaluating and diagnosing obstructive sleep apnea and prescribing the most appropriate treatment options. CSDA Exs. B, D, E; October 14, 2020 Hearing Transcript, p. 20. Dentists may refer at risk patients for obstructive sleep apnea to physicians for diagnosis, evaluation and treatment based on a patient's history and clinical examination of the patient's oral cavity or its contents. CSDA Exs. A, D; October 14, 2020 Hearing Transcript, pp. 15, 40.

When oral appliance therapy is prescribed by a physician through written or electronic order for patients with obstructive sleep apnea, a dentist may evaluate the patient for the appropriateness of fabricating a suitable oral appliance.<sup>1</sup> CSDA Ex. B; October 14, 2020 Hearing Transcript, pp. 47-48. If deemed appropriate, a dentist may fabricate an oral appliance. CSDA Ex. B. Dentists who provide oral appliances monitor and adjust the oral appliance for treatment efficacy as needed. Id. Follow-up sleep testing by a physician should be conducted to confirm the treatment efficacy of the oral appliance therapy for obstructive sleep apnea. CSDA Exs. B, D, E; October 14, 2020 Hearing Transcript, pp. 16, 28, 29.

The Commission's determination with respect to each of the four questions is as follows:

1. Is it within a dentist's scope of practice to dispense portable monitors when ordered by physicians for patients at risk for sleep apnea? The test results are provided to a physician for interpretation and diagnosis.

Answer: Yes. If a physician has determined the use of an unattended cardiorespiratory portable monitor (portable monitor) is the appropriate means to diagnosis obstructive sleep apnea for patients at risk for sleep apnea and orders such monitor to be dispensed by a dentist, a dentist may dispense the monitor as part of the collaborate process in screening at-risk patients for sleep apnea as such condition may relate to physical abnormalities in the oral cavity or its contents. The physician is

responsible for interpreting the test results of the portable monitor and for making any diagnosis and treatment decision based on such results. Therefore, it is within a dentist's scope of practice to dispense portable monitors, when ordered by physicians for patients at risk for sleep apnea, and the test results are provided to the physician for interpretation and diagnosis.

2. Is it within a dentist's scope of practice to order portable monitors for patients identified by the dentist as being at risk for sleep apnea? The test results are provided to a physician for interpretation and diagnosis.

Answer: No, 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 the physician for interpretation and diagnosis, without a request by a physician. The dentists should refer such patients to a physician for evaluation and diagnosis. The physician is responsible for prescribing the portable monitor and determining whether such device is an appropriate method of diagnosis. October 14, 2020 Hearing Transcript, p. 78.

3. Is it within a dentist's scope of practice to use a portable monitor to help determine the optimal effective position of a patient's oral appliance?

Answer: Yes, it is within a dentist's scope of practice to use a portable monitor to help determine the optimal effective position of a patient's oral appliance, provided the dentist is properly trained. Dentists are permitted to furnish, construct, supply, reproduce or repair an appliance or other structure worn in a person's mouth or place such appliance or structure in a person's mouth or attempt to adjust such appliance in a person mouth. Conn. Gen. Stat. § 20-123(b)(4). Oral appliances for obstructive sleep apnea must be positioned properly in the patient's mouth to achieve airway patency and not create unwarranted side effects such as temporomandibular joint pain and tooth movement caused by over protrusion. October 14, 2020 Hearing Transcript, p. 51. Using a portable monitor for titration assists the dentist in effectively adjusting the oral appliance to determine optimal effective position and prevents over protrusion. Id., p. 52, 73, 82-83, 84-85. In such situation, the dentist is

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<sup>1</sup> Oral appliance therapy is an appropriate treatment for mild and moderate obstructive sleep apnea and severe sleep apnea when a continuous positive airway pressure therapy is not tolerated by the patient. CSDA Ex. B; October 14, 2020 Hearing Transcript, pp. 47-48.

not providing the portable monitor results to diagnosis the patient but is using the results to measure the position of the oral appliance. Id. 54, 55-56.

4. If a dentist does not use a portable monitor to determine the optimal effective position of a patient's oral appliance, is it within a dentist's scope of practice to order a portable monitor to verify the effectiveness of an oral appliance? The test results are provided to physicians for interpretation and therapeutic effectiveness is determined by physicians.

Answer: No, if the dentist is not appropriately trained in the use of, and does not use a portable monitor to determine optimal effective position of a patient's oral appliance, it is not within the dentist's scope of practice to order a portable monitor to verify the effectiveness of the oral appliance when the test results are provided to a physician for interpretation and therapeutic effectiveness is determined by a physician. Once the oral appliance is fabricated by the dentist, the patient should be referred to the physician for retesting and evaluation of the efficacy of the oral appliance. If necessary, the physician should refer the patient back to the dentist to adjust the oral appliance. This is because the method of determining the therapeutic effectiveness of the oral appliance for sleep apnea patients should remain with the physician, who is responsible for diagnosis, treating, and evaluating obstructive sleep apnea.

Based on the foregoing, the Commission issues this Proposed Declaratory Ruling as set forth above.

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Date

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Peter Katz, D.M.D., Chairperson  
Connecticut State Dental Commission