

**Maine Board of Dental Examiners
Board Meeting Minutes
April 3, 2009**

The Board convened at 8:51 a.m.

Board Members Present: Drs. Denise Theriault; Philip Higgins Jr., Jerrold Cohen; David Moyer; Charles Zois; Ms. Kristine Blaisdell, RDH; Mr. William Buxton, LD; and Ms. Diane Denk, Public Member

Board Member Absent: Ms. Susanne LaVallee, RDH

Also Present: Ms. Bonnie Vaughan, RDH; Ms. Mary Garrepy, RDH; Mr. John Bastey, Maine Dental Association; Mr. Mark Franco, Esquire; Dr. Olugbenga Akinsanya; Dr. Justin Griffee;

Dental Hygiene Subcommittee Update: Ms. Garrepy reported that they had an interview with Roxanne Horne, RDH for licensure and agreed to table her renewal application until receipt of additional paperwork. The Subcommittee also reviewed renewal paperwork for Ms. Jessica Turgeon, RDH that was submitted late due to a staff office error with dates. The Subcommittee recommended that the Board renew Ms. Turgeon's dental hygiene license without penalty. Dr. Cohen made a motion to accept the recommendation and renew her license. Ms. Denk seconded the motion and it passed unanimously.

Minutes: January 9, 2009: Dr. Higgins made a motion to accept the minutes as written. Dr. Cohen seconded the motion, it passed with Dr. Theriault, and Dr. Zois abstaining.

Secretary/Treasurer's Report: Ms. Blaisdell reported to the Board two options of whether or not to increase the Board's contribution to the Maine Medical Professionals Health Program. Dr. Cohen made a motion to keep its contribution of \$10,000 at this time due to the possible revenue shortfall projected for FY 2011. The motion was seconded and it passed unanimously. Ms. Blaisdell reported what her recommendation would be for caps on licensee fees in the Board Statutes. Dr. Cohen made a motion to accept the report. Dr. Moyer seconded the motion and it passed unanimously.

Informal Conference:

Complaint 08-42: Dr. Higgins made a motion to enter executive session at 9:10 a.m. Dr. Moyer seconded the motion and it passed with Dr. Cohen recused as Complaint Officer. The complainant alleged that the licensee suggested a treatment plan for an elderly person that was excessive based on her age and medical history. The licensee was present and represented by Mr. Mark V. Franco, Esquire. Dr. Moyer made a motion to come out of executive session at 10:13 a.m. Ms. Denk seconded the motion and it passed unanimously. Dr. Higgins made a motion to table the complaint for a period not

to exceed six months. During this period, the Board requested the licensee to voluntarily complete pre-approved courses in risk management, treating the medically compromised patient and treatment of the geriatric patient. Dr. Moyer seconded the motion and it passed with Dr. Cohen recused as Complaint Officer.

Informal Conference:

Complaint 08-37: A motion was made to enter executive session at 10:29 a.m. Dr. Higgins seconded the motion and it passed unanimously. The complainant alleged that treatment provided on a crown was done improperly. The licensee was present and represented by Mr. Mark V. Franco, Esquire. A motion was made to come out of executive session, which was seconded and passed unanimously. Dr. Higgins made a motion to offer the licensee a Consent Agreement whereby he would admit that treatment provided in relation to tooth number 2 fell below the standard of care. The licensee would be required to provide proof of successful completion of pre-approved courses in the following areas: 1.) A prosthetics course that would include appropriate crown and bridge preparation, interocclusal records and laboratory communications. The course(s) would need to be completed within six months of the final signature on the Consent Agreement. Dr. Moyer seconded the motion and it passed with Dr. Cohen recused as Complaint Officer.

Complaint 08-35: The licensee was not able to attend the Informal Conference and was rescheduled for June 2009.

Complaints:

Complaint 07-55: Accepted as an FYI

Complaint 08-34: Accepted as an FYI

Complaint 08-38: This is a complaint filed by a former associate to this practice who alleged that the licensee is billing for surgical extractions when he is performing simple extractions. Ms. Blaisdell made a motion to invite the licensee in for an informal conference to discuss billing practices for surgical versus non-surgical extractions, and the company policy concerning billing, treatment planning, and extraction referral. Dr. Moyer seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 09-2: The complainant alleged that the licensee failed to diagnose dental issues during the removal of his amalgam fillings. Dr. Cohen made a motion to invite the licensee in to discuss standards of care concerning diagnostics, and possible diagnosis/treatment of medical conditions, including prescribing supplements. Dr. Theriault seconded the motion, it passed with Ms. Blaisdell recused, and Dr. Moyer recused as Complaint Officer.

Complaint 09-6: The complainant in this case alleged that the licensee did not address her pain. Dr. Moyer made a motion to invite the licensee in for an informal conference concerning informed consent, pain control, emergency coverage, failure to diagnose, post operative treatment, and the licensee's current thoughts about mercury toxicity and treatment of mercury toxicity. Ms. Denk seconded the motion, it passed with Dr. Higgins recused, and Dr. Cohen recused as the Complaint Officer.

Complaint 09-8 J. Cons/E. Chardo: The Complainant alleged that the licensee gave him improper information about insurance coverage. Dr. Theriault made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. Dr. Zois seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 09-9 S. Chapman/T. Bearor: The Complainant alleged that the licensee performed a filling on a tooth that she was not aware was being done. Dr. Cohen made a motion to dismiss the complaint as no violation of the Dental Practice Act with a letter of guidance expressing the Board's concern regarding the lack of any pre-operative radiographs and the lack of documentation of informed consent in the record. The motion was seconded and it passed with Dr. Moyer recused as the Complaint Officer.

Interview for IPDH License: Renee Synott, RDH:

Complaint 09-13 T. Towle/C. Fortier: The complainant in this case alleged substandard care concerning her denture. Dr. Moyer made a motion to dismiss the complaint as no violation of Dental Practice Act. Dr. Zois seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

President's Desk:

1. Clarification between the Board Policy list and Chapter 12 of the Board's Rules for dental licensure by endorsement: The policy list states that no applicant for dental license by endorsement can be licensed without first successfully completing a regional or state examination. Dr. Higgins made a motion to eliminate number 12 under licensing on the Policy list as it contradicts what Chapter 12 of the Boards Rules state. Ms. Denk seconded the motion and it passed unanimously.
2. Dr. Theriault asked that the Board members review the current policy list to determine whether anything should be removed or added to the list of possible rule changes. She suggested that the policy relating to the guidelines for closing a practice be added to the rule change list.
3. Dr. Cohen also suggested adding to the list of possible rule-changes, the elimination of the DSCE/CSCE as an additional licensure requirement.

4. Review and determination of continuing education credits for newly combined presentation concerning IPDH and PHS sponsored by the Maine Dental Hygiene Association (presenters Dr. Fister and Ms. Blaisdell). Dr. Moyer made a motion stating that the presentation should be granted 1 category I credit and 2 category II credits. Dr. Cohen seconded the motion and it passed unanimously. A letter confirming the decision will be sent to the MDHA.
5. A letter will be sent to each member of the Anesthesia Team clarifying that there needs to be two inspectors during each site inspection and the inspectors must obtain the names and credentials of all assistants. They should also be listing out the emergency drugs present at the inspection on the form. The Board also agreed to hold a workshop for Anesthesia Team Members after the Moderate Sedation forms have been completed.

Secretary's Desk:

Preliminary Agenda for upcoming Board meetings:

Dr. Higgins out on August meeting
Dr. Moyer out on October meeting
Ms. Blaisdell out part of May meeting

Legislative Update:

LD 1215 "An Act to Correct Administrative Procedures Regarding the Dental Care Access Credit" This bill is proposed to correct some administrative errors made at its original inception. Dr. Higgins made a motion stating that the Board is in support of this bill as a way to increase access to dental care in the State. The motion was seconded and it passed unanimously.

LD 1229 "Resolve, Directing the Department of Health and Human Services to Extend Maine Care Dental and Oral Health Services": Dr. Cohen made a motion stating that the Board is in support of this bill. Dr. Moyer seconded the motion and it passed unanimously.

LD 1212 "An Act to Clarify the Role of Public Comment in the Agency Decision-Making Process": This bill was tabled until Board Counsel was available.

LD 710 "An Act to Allow Denturists to Practice to the Level of Their Educational Training": Drs. Higgins, Cohen, Moyer, Theriault and Zois voted neither for nor against the original text of LD 710. Mr. Buxton voted against the original text of LD 710. Drs. Higgins, Cohen, Moyer, Theriault and Zois voted neither for nor against the amendment to LD 710 submitted on behalf of the Maine Association of Licensed Denturists. Mr. Buxton voted in favor of the amendment to LD 710.

The Board's position on 710 is neither for nor against the original or amended bill.

LD 519 "An Act to Expand the Diagnostic Function of Denturists":

In favor: 0
Against: 5
Neither for nor against: 3

LD 565 "An Act to Define "Edentulous Arch" in the Laws Governing Denturists"

In Favor: 1
Against: 5
Neither for nor against: 2

LD 1212 "An Act to Clarify the Role of Public Comment in the Agency Decision-making Process": The Board is not in support of this bill as it causes concern that such a bill may not accurately reflect the position of the public or the dental professionals that this Board governs.

IPDH Policy of Referrals: Dr. Cohen made a motion to accept the policy as written, and add it to the IPDH application, the Board Policy list and the Announcement page of the Board's website. The motion was seconded and it passed unanimously.

Vote on IPDH Interviewee - Renee Synott, RDH: The Board will send a letter to the Massachusetts Board asking whether Ms. Synott was issued a blanket-type consent agreement. The Board will also request a copy of the complaint issued against her along with a copy of the investigative report that preceded the consent agreement. Dr. Higgins made a motion to table Ms. Synott's application for licensure in order to obtain further information including proof of the additional hours needed to qualify for an IPDH license. Ms. Synott will need to provide these additional hours within 90 days. Dr. Theriault seconded the motion and it passed unanimously.

Report of Follow Up Investigation: Dr. Moyer made a motion to send a letter to the licensee, pointing out that the Board does have a policy concerning the amount of time that a dentist is required to be in the office. The Board is generally pleased with the report but would like to make a point that it understands that it may be early, however, request that he should either be back to work at 60% of the time or be able to provide coverage for his office at that amount within 6 months. Ms. Denk seconded the motion and it passed with Dr. Theriault recused.

Dr. Cohen made a motion to enter executive session at 3:53 p.m. for purposes of getting legal advice. Dr. Moyer seconded the motion and it passed unanimously.

Dr. Higgins made a motion that the Board generate a complaint against licensee T.S., and ask that he respond to what appears to be improper prescribing practices. The licensee will be asked to indicate the reasons why he prescribed what he did and the quantity that he did for patients MK, DK, JA and JM and provide complete records for the patients. Ms. Denk seconded the motion and it passed with Dr. Cohen recused, as he will be the Complaint Officer for this case.

Request for Waiver of Dental Hygiene Renewal Fee N.L., RDH: The Board previously tabled the request and voted to untable the request at this meeting. Dr. Cohen made a motion to waive the renewal fee of \$175.00 for licensee, N.L. and waiver of fee: Dr. Cohen made a motion to waive the renewal fee for N.L. Ms. Denk seconded the motion, it passed with Dr. Higgins and Dr. Theriault recused, and Mr. Buxton abstaining.

Radiography Applicant M.B. with “Yes” Response: Dr. Moyer made a motion to invite M.B. in for an interview to discuss the “yes” response on the license application. Dr. Zois seconded the motion and it passed unanimously.

Letter from Randy Thivierge, DDS Re: Former RDH Employee: Dr. Thivierge reported that a former employee had called in an unauthorized prescription for a narcotic. Dr. Cohen made a motion to initiate a Board generated complaint against the licensed dental hygienist for the alleged acquiring of drugs by deception. Dr. Moyer seconded the motion and it passed with Dr. Higgins recused, as he will be the Complaint Officer.

E-mail from Bernice Cogshell Re: AADE Citizen of the Year for 2009: The Board accepted the information as an FYI.

Letter from Cathy Turbyne, RDH, MS, EdD. Re: Legalities Surrounding a Dental Hygiene Only Practice: Dr. Turbyne asked whether it is legal for a dentist to own a dental hygiene only practice. Dr. Higgins stated that it is the Board’s opinion that if a dental licensee owns a practice providing dental services, it is a dental practice not a dental hygiene practice. Only an IPDH can own a dental hygiene practice. Dr. Cohen seconded the motion and it passed unanimously.

Letter from Gaston To’Olo, DMD Re: Request to Waive DSCE Requirement: Dr. Higgins made a motion stating that on June 6, 2009, Dr. To’Olo will have three years of practice and will qualify for licensure by endorsement. It has been the policy of the Board to issue a license to applicants who have three years of practice in another state, and to waive the NERB DSCE so long as all other qualifications have been met. Dr. Cohen seconded the motion and it passed unanimously.

Addition to Rule-making list: The Board agreed to modify the current rule regarding licensure by endorsement for dentists by adding an ability to waive the NERB DSCE.

Templates for New License Renewal: The Board agreed to move forward with the new license templates.

Letter from Catherine Bunin-Stevenson, DMD Re: Level I Permit for Moderate

Sedation: The major group that is providing the educational training does not currently include the five “live” patient experiences as required in the new rule. The Board agreed to put this back on the May agenda in order to speak with an anesthesia committee member who is an enteral sedationist. Dr. Higgins made a motion to send a letter to the licensee stating that the Board appreciated her bringing this to its attention and the Board will be investigating the possibility of live patient experiences with current permitted sedationists, perhaps within the State. Dr. Cohen seconded the motion and it passed unanimously.

Dr. Moyer said that he would try to obtain further information at the upcoming ADSA meeting on courses that include the 5 live patient contacts.

Ms. Denk left the meeting at 4:50 p.m.

2009 Possible Rule changes:

The Board asked that the elimination of the NERB DSCE from any licensure requirements be included on the rule-change list. The Board asked that one-hour be set aside at the June meeting to develop proposed rule changes.

Moderate Sedation-Anesthesia Committee Minutes and Moderate Sedation On-Site

Inspection Form: There were three amendments made to the inspection forms. The Board requested Ms. Warner to make the changes and forward it to Dr. Higgins for review. Dr. Theriault made a motion to accept the forms as amended. Ms. Blaisdell seconded the motion and it passed unanimously.

Review of Draft Sedation Applications and On-Site Inspection Forms: The Board accepted the applications and forms as submitted.

E-mail from Robert Limoges, DMD, MAGD Re: Moderate/Deep Sedation Rules:

Dr. Limoges asked if he were to hold a Level 1 moderate sedation permit could he employ a nurse anesthetist to administer parenteral sedation medicaments. Dr. Higgins made a motion stating that if a nurse anesthetist is administering parenteral sedation medicaments then the licensed dentist must hold a level II moderate parenteral sedation permit. Dr. Cohen seconded the motion and it passed unanimously.

Radiography Applicant Tanya Steeva Re: H.S. Diploma Translation: Dr. Cohen made a motion to grant Ms. Steeva a Radiography license. Dr. Higgins seconded the motion and it passed unanimously.

E-mail from Greg Sbraccia Re: Self-Administered Teeth Whitening & Legal

Questions: Dr. Cohen stated that the teeth whitening procedure as presented in this letter

is a dental procedure and only a licensed dentist can do it. Dr. Theriault seconded the motion and it passed unanimously.

Letter from David Narramore, DMD Re: ADEX and SRTA: The information will be added to the June book for the ADEX meeting.

Letter from Robert Erickson, DMD Re: Patient Mortality: Dr. Higgins made a motion to send a letter to the licensee and request his understanding of this event along with information surrounding the incident. A copy of Dr. Erickson's letter will be sent with the letter. Dr. Cohen seconded the motion and it passed with Mr. Buxton recused.

Dr. Cohen made a motion to adjourn at 5:22 p.m. The motion was seconded and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson
Executive Secretary