

**Maine Board of Dental Examiners  
Board Meeting Minutes  
April 9, 2010**

**The Board convened at 9:06 a.m.**

**Board Members Present:** Drs. Denise Theriault, Jerrold Cohen, Philip Higgins, Jr., David Moyer and Charles Zois; Ms. Susanne LaVallee, RDH, Ms. Darlene Collins-Harden, RDH and Ms. Diane Denk

**Board Member Absent:** William Buxton, LD

**Also Present:** Bonnie Vaughan, IPDH; Michelle Gallant, RDH; Lori Mitchell, RDH; Don Carrigan, WCSH-TV; Denise Nadeau, DDS; Nelson Henry, DMD; Mark Franco, Esquire; Praveen Pavuluru, DMD; John Bastey, Maine Dental Association; Terry Sokoloff, DDS; Jan Sokoloff; Sonali Patel, DDS; Kathie Norwood, Executive Director, Downeast Health Services; Patrick Falco; James Smith, Esquire; Dennis Smith, AAG and Teneale Johnson

**Joint Interview with Dental Hygiene Subcommittee**

Independent Practice Dental Hygiene License – Lori Mitchell, RDH

**Dental Hygiene Subcommittee Update:** Ms. LaVallee reported that the Dental Hygiene Subcommittee interviewed Ms. Maureen Johnson for a Maine dental hygiene license and recommend that she be issued a license. Dr. Moyer made a motion to accept the Subcommittee's recommendation. Dr. Zois seconded the motion and it passed unanimously.

The Subcommittee also recommends that the Board revisit chapter 2, Section II. B. 2.n. which states, "Take impressions for athletic mouth guards, and custom fluoride trays" as an allowable procedure under Public Health Supervision. The Subcommittee would like further clarification and requests that it be discussed at the Board's next meeting.

**Complaint 10-18** – The Subcommittee reviewed the new complaint letter recently sent to this licensee concerning her non-compliance with a consent agreement. Staff was asked to contact the licensee and encourage her to reconnect with the appropriate individuals and adhere to her consent agreement. Dr. Cohen made a motion to accept the recommendation. Ms. Denk seconded the motion, it passed with Ms. LaVallee recused, and Dr. Higgins recused as the Complaint Officer.

**Minutes March 19, 2010:** Dr. Higgins made a motion to accept the minutes as written. Dr. Cohen seconded the motion and it passed with Dr. Zois abstaining.

**Secretary/Treasurer's Report:** Ms. Denk made a motion to accept the report. Dr. Cohen seconded the motion and it passed unanimously.

**Correspondence:** Accepted as an FYI

**President's Desk:**

**Review of New Local Anesthesia Examinations:** The Board needs additional time to review the amended examinations and agreed to table this item.

**Secretary's Desk:**

**2010 Board Meeting Date:** The Board agreed to change its June meeting from the 18<sup>th</sup>, to Monday, June 14, 2010 due to four members being unavailable. Ms. Collins-Harden will not be available for the June 14<sup>th</sup> meeting. Staff will amend the date for the previously scheduled informal conference.

*The Board ended its regular agenda items in order to convene an adjudicatory hearing at approximately 10:00 a.m. and resumed the regular agenda items at approximately 3:15 p.m.*

**Regular Meeting Continued**

**Interviews:**

Interview with Praveen Pavuluru, DMD, NERB Consultant Examiner

Patrick Falco, DDS

**Decisions on Previous Interviews:**

Dr. Higgins made a motion to grant **Ms. Lori Mitchell** an IPDH license based on meeting the appropriate requirements. Ms. Denk seconded the motion and it passed unanimously.

Dr. Zois made a motion to submit **Dr. Praveen Pavuluru's** name as a NERB Consultant Examiner. Ms. LaVallee seconded the motion and it passed unanimously. The letter will also highlight Dr. Pavuluru's willingness to perform weekday examinations.

Dr. Cohen made a motion to grant **Dr. Patrick Falco** a Maine dental license. Dr. Zois seconded the motion and it passed unanimously.

**Informal Conference**

**Complaint 09-27:** The licensee was present with counsel, Mark Franco, Esquire. Dr. Zois made a motion to enter executive session at 3:50 p.m. Ms. Denk seconded the motion and it passed unanimously. Dr. Moyer made a motion to come out of executive

session at approximately 4:50 p.m. Dr. Higgins seconded the motion and it passed unanimously. This complaint was initiated by the Board based on a report obtained through the Prescription Monitoring Program. The Board invited the licensee in to discuss the following concerns: 1) How the incidents of drug diversion by office staff occurred; and 2) What the licensee has done to ensure that it will not be repeated. Dr. Moyer made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. Ms. LaVallee seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

**Meeting with Downeast Health Services Representative and Interview for Full**

**Licensure:** The Board invited Ms. Kathie Norwood in to speak with it following her request for two temporary dental permits. The Board was concerned about the purpose of the permits. Ms. Norwood stated that it is not the clinic's intent or desire to rotate dentists through the clinic. She was misinformed about the process for dental licensure in Maine. The Board President previously granted a provisional temporary license to Dr. Patel under Title 10 of the Maine Revised Statutes, which will expire today. Therefore, the Board will have to address whether to extend that temporary license.

**Sonali Patel, DDS:** The Board then interviewed Dr. Patel. Dr. Cohen made a motion to grant an extension of her temporary license for up to six months or until she obtains a full Maine dental license. Dr. Higgins seconded the motion and it passed unanimously. Dr. Higgins made a motion stating that Dr. Patel must successfully pass the Jurisprudence Examination within three months. Dr. Moyer seconded the motion and it passed unanimously. Dr. Higgins made a motion that Dr. Patel will not need to sit for another interview when her application file is complete. Dr. Moyer seconded the motion and it passed unanimously.

**Complaint 08-6** – The former licensee in this case entered into a consent agreement with the Board on August 12, 2009. His legal counsel is requesting that the consent agreement be modified by deleting the requirement of probation or decreasing its length. His client has run into difficulty with insurance providers in Massachusetts due to his license probation in the State of Maine, which the Massachusetts Dental Board has mirrored. Dr. Moyer made a motion to amend the consent agreement by ending the period of probation and issuing the licensee a reprimand. Ms. LaVallee seconded the motion and amended it to include an acknowledgement in the amended consent agreement that states the Board retains the right to consider his prior disciplinary history, including the facts within the amended consent agreement, in determining whether or not to grant or deny any future application from the licensee for reinstatement of his Maine dental license. The motion passed with Dr. Higgins recused as the Complaint Officer.

**Complaint 09-2:** The Board previously held an informal conference with this licensee, and voted to offer the licensee a consent agreement in order to resolve the complaint. The licensee's legal counsel has submitted a revision to the proposed consent agreement for the Board's review. Dr. Higgins made a motion stating that the Board does not accept

the proposed amendment to the consent agreement offered. Dr. Cohen seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 10-7 D. Meeuwsen/A. Delano:** The complainant alleged that the dentist did not wait for the anesthesia to take effect before performing a dental procedure on her child and did not prescribe the child antibiotics at her request. Dr. Cohen 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. Moyer recused as the Complaint Officer.

**Complaint 10-10 J. Sevey/B. Lavalley:** The complainant alleges that the licensee did not inform her that she would need to return for a denture adjustment, which resulted in her denture fracturing after twenty months. Dr. Zois made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. The patient is responsible for some of his/her aftercare. Ms. Collins-Harden seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

**Secretary's Desk Continued:**

**Regulatory Fairness Board Hearing** – The Board was informed that there would be a hearing of the Regulatory Fairness Board (RFB) sometime in May (possibly May 27) in which the Dental Board will be discussed. In addition, dentists who have reported their concerns to the RFB will be invited to attend. Staff will express the Board's willingness to attend the meeting and would request Commissioner Head's permission to send Dr. Higgins to the hearing in order to answer any questions about the Board's processes. Dr. Higgins will not discuss any individual cases. If the RFB inquires about specific cases, the Board would be happy to provide any publicly available documents upon request.

**Addition to Agenda - Blue Sheet Assignment/Complaint 08-2:** The complainant in this case sent a letter to Governor Baldacci requesting assistance with her dental complaint, which was previously dismissed by the Board on June 27, 2008. The Board agreed to review its rationale for dismissing the complaint. Dr. Higgins made a motion to send a response to the Governor's office indicating the Board's intent to review its rationale for dismissing the complaint, and provide a report back to the complainant following its May 21, 2010 meeting. Dr. Zois seconded the motion and it passed with Dr. Theriault recused as the Complaint Officer.

**E-mail from Brian Carlsen, RE: Granting CE's to Participants of Dental Charity Events:** Dr. Cohen made a motion not to accept this activity for continuing education credits. Dr. Zois seconded the motion and it passed unanimously.

**Secretary's Desk Continued:**

**Subcommittee on Review of Continuing Education:** Dr. Theriault made a motion to add Dr. Zois to the CE Subcommittee. Dr. Cohen seconded the motion and it passed unanimously. Staff will send all continuing education requests to Dr. Zois.

**Temporary Licenses/Title 10 – (Establish Guidelines):** The Board agreed to table this item to its May 21, 2010 meeting.

**Update from Dr. Higgins RE: Consent Agreement Quarterly Report Compliance:** The Board accepted the update as an FYI.

**Update on Dr. Higgins' meeting with Maine AGD Members:** The Board accepted the update as an FYI.

**ACLS Online Courses:** A licensee who is looking into applying for a moderate sedation permit questioned whether the online ACLS courses would be acceptable and whether the Board would put a list together of acceptable courses. The Board agreed that it should be the licensee's responsibility to locate an appropriate course. Dr. Cohen made a motion that online ACLS courses are not acceptable and that ACLS must be taken in person. Dr. Zois seconded the motion and it passed unanimously.

**Can a Licensed Dentist Apply for a Sedation Permit In order to Administer Sedation to Another Licensed Dentist's Patients?:** Yes, this is allowable according to Chapter 14 of the Board's Rules.

**Old Business:** All items were accepted as FYI's

**E-mail from Deborah Vallance Re: Further Dental Coverage Questions:** Ms. Vallance previously posed a question to the Board, to which the Board responded. She now has the following questions as a result of the Board's response: (1) Would it be unethical for a dentist to refuse to treat a patient for a service that the patient could afford, rather than a more expensive service that the dentist recommended? (2) Just to clarify, what the Board is saying is that patients have no rights at all in this situation other than to choose another dentist. (3) Explain the Board's previous response in light of ADA Code of Professional Ethics Section relating to the Principle of Beneficence. The Board voted to respond by indicating that the American Dental Association's Principles of Ethics and Code of Professional Conduct Section 4.A., Patient Selection, permits dentists to exercise reasonable discretion in selecting patients for their practices.

**E-mail from Licensee Re: Sedation:** The licensee asked what she needs to do in order to sedate children. The Board voted to refer her to Chapter 14 of the Board's rules. The licensee also questioned what she would need to do in order to take her patients to the operating room for dental procedures. The Board voted to refer her to her malpractice carrier and her local hospital to discuss possible privileges.

**Request from Licensee for Relief of Testing:** The licensee, who is under consent agreement, requested relief from testing during a planned vacation. The licensee has already received approval from the PHP. Dr. Cohen made a motion to grant her request for relief of testing. Dr. Moyer seconded the motion and it passed unanimously.

**E-mail from Greg RE: Questions Concerning Foreign Trained Dentists:** “Greg” stated that the Board should amend its rules for licensure and allow foreign-trained dentist to obtain licensure in Maine due to the shortage of dentists. Dr. Higgins will draft a response to this individual.

**Letter from Meredith Davis, DMD RE: ADA Code for Drill Free Treatment for Incipient Decay:** The Board voted to respond indicating that it does not regulate ADA codes and that she should check with the American Dental Association.

**Response to Comments-Proposed Chapter 21, “Use of Controlled Substances for the Treatment of Pain”:** Joint Rule: motion to adopt the rule. Dr. Cohen made a motion to adopt the rule as proposed. Dr. Moyer seconded the motion and it passed unanimously. Dr. Moyer made a motion to adopt the Basis Statement and Response to Comments. Dr. Cohen seconded the motion and it passed unanimously

**Invitation from Rev. Rick L. Stoops, Pastor of the First United Pentecostal Church of Augusta, ME to Join Congregation Members for “Professional Sunday”:** FYI

**E-mail from Kevin Golden, Aspen Re: Release of X-ray:** Mr. Golden stated that they had a patient come in for a consultation who brought his/her own x-ray. Mr. Golden asked whether they be required to keep the x-ray brought in by the patient for their record, or keep a copy and return the original to the patient? Dr. Higgins made a motion stating it would be appropriate in this scenario to keep a copy for their records and return the original to the patient or the originating office. When supplying duplicate radiographs to a patient or other dental office, they should be of good quality. Dr. Moyer seconded the motion and it passed unanimously.

**Draft Verbiage for the Policy Related to Continuing Education - Chapter 13 (B) (4) (a, b, c) and Chapter 13 (C) (4) (a, b, c):** Dr. Cohen made a motion to accept the policy as drafted which is an interpretation of the rule. Dr. Moyer seconded the motion and it passed unanimously. This item should be placed on the list of rule changes as well.

**Draft CE log/Draft Hygiene Cover Letter to Accompany 2010 Renewal Application:** The Board voted to accept it as amended and remove any reference to internships or specialty degree programs for dental hygienists

**Follow Up on Dental License Renewal for Licensee:** This licensee reported a “yes” response on his license renewal. The licensee is still awaiting further documentation to forward to the Board, which relates to the “yes” response. Dr. Moyer made a motion to table this information until the next meeting or until the additional paperwork has been received. Ms. LaVallee seconded the motion and it passed unanimously.

**Follow Up on Dental License Renewal for Licensee:** The Board previously tabled this renewal in order to request further information from the Pennsylvania Dental Board. Dr.

Zois made a motion to untable the license renewal. Ms. LaVallee seconded the motion and it passed unanimously. Dr. Zois made a motion to renew Dr. B.'s license. Ms. Denk seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

**Information on Standard of Care Issue:** The Board received a copy of a letter sent to Aspen Dental regarding treatment performed by an Aspen dentist. The Board accepted the information as an FYI.

**E-mail from Byron Escoe, DDS FAGD RE: Definition of Standard of Care as it Relates to Exams:** Dr. Escoe posed the following questions: (1) What is the standard of care regarding the frequency of exams? **Answer:** The Board believes it is the professional's judgment to determine the frequency for a periodic exam for each individual patient, which may vary. (2) What standard regarding exams are independently practicing hygienists required to adhere to and what is the standard of care they are required to follow? **Answer:** IPDH's are not performing exams, they are performing oral inspections and if they should find any areas concern, the Board would expect them to refer to an appropriately trained dentist for a complete exam.

**Addition to Agenda:** The Board received a report from the Medical Professionals Health Program of a positive test result for a licensee. Dr. Margaret Palmer of the PHP also provided results of her research in this area, and is certain that the licensee has not used a prohibited substance. Dr. Higgins made a motion to send a letter to the licensee stating that they have reviewed the report and Dr. Palmer's response to the report, and it is not something the Board is concerned about and therefore will take no action. The Board will encourage the licensee to follow Dr. Palmer's suggestion not to use alcohol-based hand gels or any other substances that may cause a false positive. Dr. Zois seconded the motion and it passed unanimously.

Dr. Cohen made a motion to adjourn at 8:32 p.m. Dr. Zois seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson  
Executive Secretary