

Board of Dental Examiners
Board Meeting Minutes
February 6, 2009

The Board convened at 9:05 a.m.

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

Board Member Absent: Dr. Denise Theriault

Also Present: Pam Cahill, Maine Dental Association; David Wicks, DDS; Bonnie Vaughan, RDH; Howard Bates, DMD; John Bastey, Maine Dental Association; George J. O'Donnell, DMD; Nelson Henry, DMD; Roger Katz, Esquire; David Tyler, DDS; Linda Wacholtz, RDH; Mary Lynn Murray-Ryder, RDH; Elizabeth Vizentin, DDS; Ramin Najafi, DDS; Glenn McCrum, Aspen Regional Manager; James L. Schmidt, DMD; Denise Nadeau, DDS; Mark Franco, Esquire; Louise King, DMD; Dennis Smith, AAG and Teneale Johnson, Executive Secretary

Dr. Higgins welcomed new Board member Dr. Charles Zois who replaced Dr. Jeffrey Fister whose term ended.

Dental Hygiene Subcommittee Update: Ms. Mary Garrepy reported that the Subcommittee recommended the Board grant a license to Marianne Goding. Dr. Cohen made a motion to accept the recommendation and grant Ms. Goding a license upon completion of her file. Ms. Denk seconded the motion and it passed unanimously. Ms. Garrepy also reported that the Subcommittee recommends extensions of time to obtain continuing education as follows:

Recommend extension of 60 days to **Rebecca Looney** in order to obtain 12 credits: Dr. Cohen made a motion to grant an extension as requested for Ms. Looney. Dr. Moyer seconded the motion and it passed unanimously. The Subcommittee recommended an extension of 60 days to **Lisa Walsh** in order to obtain her CPR certification. Dr. Cohen made a motion to accept the Subcommittee's recommendation and grant Ms. Walsh an extension of 60 days. Dr. Moyer seconded the motion and it passed unanimously. The Subcommittee recommended a 60-day extension of time for **Magan Salsbury** to obtain two additional credits in order to renew her license. Dr. Cohen made a motion to accept the Subcommittee's recommendation and granted Ms. Salsbury the extension. Dr. Moyer seconded the motion and it passed unanimously. The Subcommittee recommended a 60-day extension of time for **Ann-Marie Fiorentino** to obtain 12 credits. Dr. Cohen made a motion to accept the recommendation and grant Ms. Fiorentino the extension. Dr. Moyer seconded the motion and a discussion ensued concerning the amount of credits needed. The motion passed unanimously. The Subcommittee recommended a 60-day extension of time in order for **Amy Kotz** to obtain six credits. Dr. Cohen made a motion to accept the recommendation and grant Ms. Kotz and extension of time to complete her continuing education requirements. Dr. Moyer seconded the motion and it passed unanimously.

The Subcommittee tabled a request for a continuing education extension for Ms. Lisa Kimball, RDH in order to request additional information concerning the need for 30 credits.

The Subcommittee reviewed three reinstatements of local anesthesia permit requests from the following individuals: Sherry Ritchie, RDH, Christi Stevens, RDH, and Susan Dupuis, RDH. The Subcommittee recommended reinstatement of all three permits. Dr. Moyer made a motion to accept the recommendation. Dr. Cohen seconded the motion and it passed unanimously.

Minutes:

October 22, 2008 – Ms. Denk made a motion to accept the minutes as written. Dr. Cohen seconded the motion and it passed unanimously.

November 14, 2008 – Dr. Cohen made a motion to accept the minutes as written. Ms. Denk seconded the motion and it passed unanimously.

November 21, 2008 – Dr. Cohen made a motion to accept the minutes as written. Dr. Moyer seconded the motion and it passed unanimously.

Secretary/Treasurer's Report: Ms. Blaisdell reported that the Board is on track with revenue and expenditures. The Board also discussed the money that will be swept prior to June 30, 2009. Dr. Cohen made a motion to accept the report. Dr. Moyer seconded the motion and it passed unanimously.

Secretary's Desk:

Legislative Update:

LD 13 – “An Act to Expand the Diagnostic Functions of Independent Practice Dental Hygienists” The Board is o.k. with an IPDH owning and taking x-rays, but they believe the bill should read how the IPDH will use the x-ray. Ask PFR to represent the Board's opinion on the bill. The Board feels that it needs to stipulate what function of radiographic information is gathered and used. Put undo responsibility on the IPDH. Dr. Cohen made a motion to direct acting president, Dr. Higgins to contact PFR in an appropriate manner to question the exact wording of this bill and relay that the Board is not opposed to what the board thinks is the intent of the bill, but concerned with some of the wording. Ms. Blaisdell seconded the motion and it passed unanimously.

LD 18 – “An Act to Ensure Access to Maine Care Services” Ms. Pam Cahill, who was an audience member reported that this particular bill was voted Ought Not to Pass at the public hearing on February 5, 2009.

LD 233 – “An Act to Include Independent Practice Dental Hygienists in Maine Care”

Teeth Whitening in the Maine Mall: Ms. Blaisdell reported that she went to the mall and did not locate a kiosk on the day she was there. Dr. Moyer did indicate that he has seen a sign for a dental lab performing teeth whitening services. He will try to obtain more information on the services provided.

Mid-Level providers: Dr. Higgins reported that there would be a follow-up meeting, which he would be unable to attend and requested whether another Board member could attend. Dr. Cohen offered to attend the follow-up meeting.

Denturist Subcommittee Update: Mr. Buxton reported that the Subcommittee reviewed a request for extension of time from Stephen Judge, LD in order to obtain an appropriate CPR certification and recommended a 60-day extension. Ms. Blaisdell made a motion to accept the recommendation, which was seconded by Ms. LaVallee and passed unanimously.

Nancy Hathaway, RDH for IPDH Licensure: Ms. Hathaway asked that the Board reconsider its decision of issuing her an IPDH license based on additional information she provided. Dr. Cohen made a motion to grant Ms. Hathaway an IPDH license. Mr. Buxton seconded the motion and it passed unanimously.

Informal Conference Complaint 08-21: J. Willis/K. McLaughlin: Ms. LaVallee made a motion to enter executive session at 10:12 a.m. Ms. Denk seconded the motion, it passed with Ms. Blaisdell, and Dr. Cohen recused from the informal conference. The complainant alleged that the licensee was rude and unprofessional. Ms. Denk made a motion to come out of executive session at 10:50 a.m. Dr. Higgins seconded the motion and it passed with Ms. Blaisdell, and Dr. Cohen recused from the informal conference. Ms. Denk made a motion to dismiss the complaint as no violation of the Dental Practice Act, and issue a letter of guidance in which the Board highly recommends that the licensee develop appropriate strategies for dealing with difficult patients/clients and strategies for dealing with anger and frustration. Mr. Buxton seconded the motion and it passed with Dr. Cohen and Ms. Blaisdell recused, Dr. Higgins recused as complaint officer and Dr. Zois opposed to the motion.

Letter from Dr. Simmons Re: Radiography Applicant A.R.: Applicant did not contact Maine Medical Professionals Health Program for referral. Dr. Moyer made a motion to untable the application for licensure for A.R and preliminarily deny the application for licensure. Dr. Higgins seconded the motion and it passed unanimously. This decision is based upon failure to undergo a substance abuse evaluation with the MPHP at the Boards request.

Letter from Simmons Re: Failure to Follow through with Recommendations Radiography Applicant T.A.: Dr. Cohen made a motion to untable T.A.'s radiography renewal application. Ms. Blaisdell seconded the motion and it passed unanimously. Dr. C made a motion to preliminarily deny T.A.'s renewal application due to the lack of compliance and possible history of substance abuse. The motion was seconded and it passed unanimously.

Letter from Dr. John Willis Re: Mid-Level Provider Education: The Board accepted the letter as an FYI.

Letter from Cora Lapuz Re: Request for Test Administrators at UNE and UMA: Dr. Cohen and Dr. Moyer stated that they were both available to assist and to inform Ms. Lapuz.

Letter from Laurie Carter, DDS, PhD. Re: Guidelines for Cone Beam Computed Tomography (CBCT): Ms. Carter posed the following questions:

1. Who can own a CBCT unit in your state? Is it considered a dental or medical device?
2. Who can operate the CBCT unit in your state? What qualifications must these individuals possess?
3. Who can interpret the scan and write a report accompanying in the imaging study?
4. Who can bill for the scans?

The Board will respond to Dr. Carter stating that Maine has a few dentists utilizing this unit and that we will further discuss her questions and respond in the next few months. Dr. Moyer will speak with Dr. Daniel Armstrong who utilizes the CBCT, and will ask him to attend a future meeting.

Letter from Dr. Robert Turner Re: Due Process: The Board reviewed a letter drafted by AAG Smith as a potential response. Dr. Moyer made a motion to accept the letter as written. Ms. Blaisdell seconded the motion and it passed unanimously.

Meeting with Dr. George O'Donnell Re: Request for Consent Agreement Modification: Dr. O'Donnell asked to speak with the Board about the request for a CA amendment as it related to the proof of liability insurance and his dental license. Dr. Cohen agreed to accept the proposed Consent Agreement amendment. Ms. LaVallee seconded the motion and it passed unanimously.

Proposed Consent Agreement for Complaint 08-24: The licensee requested that his proposed Consent Agreement be amended as it related to a continuing education course relating to an acceptable technique in denture construction. Dr. Moyer made a motion to delete the requirement of a course in denture fabrication. Ms. Denk seconded the motion, it passed with Dr. Higgins opposed, Mr. Buxton recused and Dr. Cohen recused as the Complaint Officer. Dr. Moyer made a motion to accept the Consent Agreement as amended. Ms. Blaisdell seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer Dr. Zois abstained and Mr. Buxton recused from the motions.

E-mail Request from P.M., DMD Re: Modification to Testing Requirement: P.M. requested that his random testing be reduced to once every two weeks instead of once per week due to costs. Dr. Cohen made a motion to deny his request for less testing, and follow the recommendation of Dr. Simmons to revisit the request in six months. Ms. Denk seconded the motion and it passed unanimously.

The Board also reviewed the report from the primary care physician of the above licensee. Dr. Cohen made a motion that if allowable, the Board will forward this report to P.M.'s other providers and encourage communication between the providers. Ms. Denk seconded the motion and it passed unanimously.

Letter from Dr. Matthew Zweig Re: Obligations to Patients Referred by IPDH's: Dr. Zweig posed the following question:

Sirs,

An independent hygienist refers a patient to me, I do the required treatment and then the patient returns to the independent hygienist for recall appointments. I may not see that patient again to monitor the treatment, home care, etc. Where does my responsibility for that patient begin and end ?

The Board agreed that the responsibility would begin and end with the treatment procedure and the sequela unless that patient chooses to become a patient of record of your practice. The Board agreed to add this item to Secretary's Desk to draft a possible policy.

Addition: Dr. Cohen made a motion to enter executive session at 1:00 pm for purposes of legal advice. Ms. Denk seconded the motion and it passed unanimously. Dr. Cohen made a motion to come out of executive session at 1:06 p.m. Ms. Denk seconded the motion and it passed unanimously.

Interview for Dental Licensure: Dr. Elizabeth Vizentin

Request for Meeting and Consent Agreement Modification Re: Nelson Henry, DMD: Ms. Blaisdell and Dr. Moyer were recused from the meeting. Dr. Henry requested that the Board agree to fully restore his dental license and his ability to provide oral surgery procedures, even though part of his Agreement has not been met. Dr. Henry asked the Board to accept his word that things will be different, and indicated that he is pursuing a job opportunity in Madawaska. Dr. Cohen made a motion not to amend the second amendment to the Consent Agreement relating to Complaint 06-21 which was signed on October 10, 2008. Ms. LaVallee seconded the motion, it passed with Ms. Blaisdell, and Dr. Moyer recused.

Meeting with Dr. Victoria Matthews Re: Patient Records Located at former Maine Oral Health Solutions Practice Locations: The Board requested Dr. Matthews attend this meeting to discuss patient records of the former Garcelon Dental Clinic in Augusta and the Penobscot Bay Children's Dental Center in Belfast and her knowledge of their whereabouts. Dr. Matthews indicated that as far as she was aware, the patient records of the Augusta location were now located at the new Kennebec Valley Dental Clinic, which is located in the same building, which is run by Kimberly Gordon, RDH. Dr. Matthews was not aware of the location of the records of the former Belfast location. The Board stated that being the last known treating dentist of these practices, she should attempt to locate the patient records and notify the Board of her findings.

The Board agreed to invite Ms. Kimberly Gordon, RDH to the next Board meeting to discuss her knowledge of the location of the former practice patient records.

Interview for Dental Licensure: Dr. Ramin Najafi

Meeting with Dr. James Schmidt Re: Initial Licensure Requirements: Dr. Schmidt asked to address the Board on behalf of himself and the Maine Dental Association requesting that the Board

remove the initial licensure requirements of the NERB DSCE. The Board agreed to write a letter to NERB asking for an update on the psychometric evaluation between the DSCE and Part II of the National Board. Dr. Cohen made a motion to review this in the next round of rule-changes and to inform NERB of the Board's intent on removing this requirement for initial licensure. Ms. LaVallee seconded the motion and it passed unanimously.

Meeting with Dr. James Schmidt Re: York County Community College EFDA Program

Update: Dr. Schmidt indicated that there were twelve students who have completed all of their didactic training and a huge amount of clinical training. After their completion of the 240 hours of training, they have six months to take the clinical competency exam, which is both clinical and written and includes a class II and a class III restoration, which can be either amalgam or composite. Dr. Higgins asked if the format of the final examination was acceptable to the Board. Dr. Cohen made a motion stating that the standard of care evaluation put forth by the York County Community College is acceptable for the final examination for Maine EFDA certification. Ms. Denk seconded the motion and it passed unanimously. Dr. Higgins also stated that this final examination would now be the standard for Maine certification.

Letter from Dr. Louise Desjardins-King Re: Quarterly Supervising Dentist Report on D.N.,

DDS: As required, Dr. Desjardins-King provided a report to the Board concerning dental licensee D.N. The report was acceptable to the Board and did not need action.

Complaint 08-34 Follow-Up Re: Additional Reports Received: The Board requested further information from the licensee following an Informal Conference held on December 12, 2008. The licensee has been compliant with the Board's requests in seeking treatment and moving forward with treatment recommended. Dr. Cohen made a motion to table the complaint for five months and revisit at that time. The Board will ask the licensee to continue to provide monthly reports indicating his continuance with the anger management counseling and to provide the Board with proof that Dr. Turbyne's recommendations for OSHA compliance have been implemented. Ms. LaVallee seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

- The following are complaints filed by the same individual against three separate dentists. The complainant claims that his partial does not fit correctly since his treatment by these three individuals and that a crown provided by them was inadequate.

Complaint 08-36: B. Escoe/S. Shutts: After their review and determining that this dentist did not render any treatment with the crown(s) or the partial, Ms. Denk made a motion to dismiss this complaint, as the licensee had not violated the Maine Dental Practice Act. Dr. Moyer seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 08-37: The licensee in this case provided the original full crown preparation and treated the patient two times. The licensee in his response, offered to see the patient again and offer whatever alternatives he can. Dr. Moyer made a motion to invite the licensee in for an informal conference to discuss the office policies on diagnosis and treatment planning. Ms. Denk seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 08-35: Dr. Moyer made a motion to invite the licensee in for an informal conference to discuss diagnosis and treatment of this patient, miscommunication with colleagues, continuity of care and clinic policy at the time of treatment. Ms. LaVallee seconded the motion and it passed with Cohen recused as the Complaint Officer.

Complaint 08-40: This is a Board-generated complaint based upon the licensee not renewing his license in a timely manner. Dr. Cohen made a motion to offer a Consent Agreement whereby the licensee would admit to practicing without properly renewing his dental license and ordering him to pay a fine for \$500. He would also be agreeing to answer any re-licensure questions appropriately. Mr. Buxton seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

The Board also voted to add a sentence to the new licensee letters indicating the expiration date of the license. **UPDATE: The expiration date already exists in the letter to the new licensee.**

Complaint 08-42: The complainant in this case felt that the licensee had provided an unreasonable treatment plan. Dr. Moyer made a motion to invite the licensee in for an informal conference to discuss treatment planning, patient management, billing issues, and the office policy within this particular practice. Ms. Denk seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Review of Chapter 7: The Board reviewed chapter 7 in order to submit it as a proposed rule change to the Secretary of State's Office. Dr. Moyer made a motion to open Chapter 14 for the limited purpose of changing the initial application fee to \$500 for a moderate sedation permit to ensure the internal consistency between chapters 7 and 14. Dr. Cohen seconded the motion and it passed unanimously.

Votes on Interviewees:

Dr. Moyer made a motion to grant a dental license to **Dr. Elizabeth Vizentin** once her application file is complete. Ms. LaVallee seconded the motion and it passed unanimously.

Dr. Moyer made a motion to grant **Dr. Ramin Najafi** a dental license once his application file is complete. Ms. Denk seconded the motion and it passed with Dr. Cohen abstained.

IPDH Advertisement: The Board reviewed an advertisement from a newspaper for an IPDH practice, which indicated "oral examinations" as an available service. The IPDH also noticed the error herself prior to this meeting and notified the Board of her correction to the advertisement, which now states "oral inspections". Dr. Higgins made a motion to send a letter to the IPDH in question; thanking her for making the changes and agreeing that the proper wording should be oral inspections as stated in the IPDH scope of practice. Dr. Cohen seconded the motion and it passed unanimously.

E-mail from Dr. Aaron Palmer asking the following questions:

- 1.) If properly trained and certified, could I administer dermal filler injections in the oral and perioral region at my office?

- 2.) If properly trained and certified, would the board object to myself administering dermal filler injections at a day spa, not under my dental license?

Dr. Cohen made a motion stating that only an oral and maxillofacial dentist may perform these types of procedures. If Dr. Palmer were to perform in any way or any place, he would be working under his dental license and therefore subject to potential violations of the Board Statutes and/or Rules. Ms. Blaisdell seconded the motion and it passed unanimously.

ADEX Educational Open Forum; 2009 AADE Mid-Year Meeting; and National Dental Examiners' Advisory Forum: The Board agreed to ask Dr. Theriault if she would be willing to attend if she is available.

Letter from Mark Kaplan, LD: Mr. Kaplan sent a letter to the Board informing them that he would be creating a mobile denturist unit to visit prospective patients at their desired location to treat them for their denture needs.

Letter from Cindy Boling of Professional Boundaries, Inc.: Staff was asked to place the information into the file as a tool to use for boundary issues. A letter will also be sent to Ms. Boling asking if we could send our public member to attend the course at no charge to see if it is something the Board could use in the future.

The Board voted to adjourn the regular meeting at 3:56 p.m.

Respectfully Submitted,

Teneale E. Johnson
Executive Secretary