

**Maine Board of Dental Examiners  
Board Meeting Minutes  
January 22, 2010**

The Board convened at 9:08 a.m.

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

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

**Also Present:** Kneka Smith, M.P.H.; Bonnie Vaughan, IPDH, Michelle Gallant, RDH; Mike King; John Bastey; David Wicks, DDS; Howard Bates, DMD; Stephen Smith, DDS; Emily French; Chris Gagne; Sabrina Toye, RDH; Tod Twichell, DDS; Durward Humphrey, CEO, Katahdin Valley Health Center; Dennis Smith, Assistant Attorney General and Teneale Johnson, Executive Secretary

**Dental Hygiene Subcommittee Report:** Ms. LaVallee provided the following report to the Board. The Subcommittee interviewed two dental hygienists for licensure. Ms. Angela Estes and Ms. Kirsti Preo. The Subcommittee recommended that Ms. Estes be issued a dental hygiene license. In addition, once she has held her local anesthesia permit for two years in New Hampshire, the Subcommittee recommends that she be issued a Maine local anesthesia permit based on endorsement. Dr. Cohen made a motion to accept the recommendation. Dr. Moyer seconded the motion and it passed unanimously. The Subcommittee recommended that Ms. Preo be issued a Maine dental hygiene license. Dr. Zois made a motion to accept the recommendation, which was seconded and it passed unanimously.

The Board previously reported to the Subcommittee that they do not request applicants by endorsement to supply a copy of their NERB scores when applying for a Maine dental license, and requested whether they would agree to be consistent with the Board. The Subcommittee agreed and recommended that applicants applying for a Maine dental hygiene license by endorsement do not need to supply a copy of their NERB scores. Dr. Cohen made a motion to accept the recommendation of the Subcommittee. Dr. Zois seconded the motion and it passed unanimously.

The Subcommittee had a conversation concerning continuing education credits for individuals in a dental hygiene Bachelor's degree program. Their suggestion was to invite representatives from UCB and UNE to meet with the Subcommittee to discuss what courses are taken and the category of continuing education that should be granted. Dr. Zois made a motion to accept the recommendation. Dr. Higgins seconded the motion and it passed unanimously.

The Subcommittee had a discussion concerning whether the Subcommittee should be involved in the interview process of Independent Practice Dental Hygienist's. According to the statute, the Board is required to review the applicants. Dr. Cohen made a motion to invite the Subcommittee to take part in all future interviews and make an effort to schedule them in the morning. Dr. Moyer seconded the motion and it passed unanimously.

**Meeting with UNE representative Kneka Smith, MPH** – Ms. Smith provided an overview of the training model that will be in place for the University of New England, College of Dental Medicine. The school plans to enroll its first DMD class (40 students) in the Fall of 2012 with the graduation date being Spring 2016. Ms. Smith reported several items within the Dental Practice Act that may cause concern for the dental program as follows:

- Licensing: Will the faculty of the dental school be required to obtain a license and if so, will it need to be a full license? (i.e. faculty licensure?)
- Continuing education: Individualized remediation would be available to licensees. Would the Board's current rules allow UNE to be a continuing education provider?
- Advertising: Does the current rules/statutes apply to dental schools and/or external sites concerning advertising requirements? Will all students names need to be included on any signage or advertising?
- Unlawful practice: Can individuals practice under the auspices of the dental school?

Dr. Higgins made a motion to develop a Subcommittee of two or three members to work with UNE on putting together any rule and or statute changes needed, and bring it back to the Board for review within the next two years. Ms. Denk seconded the motion and it passed unanimously.

**December 11, 2009 Minutes:** Ms. Denk noted grammatical errors within the minutes. Dr. Theriault noted that a dentist's name was spelled incorrectly. Dr. Cohen made a motion to accept the minutes as amended. Ms. Denk seconded the motion and it passed unanimously.

**Secretary/Treasurer's Report:** Dr. Zois presented the report and noted that a payment was made towards legal services during the month of December 2009. Dr. Moyer made a motion to accept the report. Dr. Cohen seconded the motion and it passed unanimously.

**Correspondence:** The Board accepted the information as an FYI.

**President's Desk:**

- A. Records Review for Consent Agreements: What does the Board wish to do when the Complaint Officer reviewing the cases in compliance with a consent agreement, finds that a particular licensee is not adhering with certain standards? A letter will be sent to the licensee. If the records are still inadequate, the Complaint Officer will inform the full Board. In addition, when requesting the patient records, Board staff will ask them to provide typewritten transcripts.
- B. UNE Dental School Ad Hoc Planning Committee for statute and rule changes needed as they relate to the dental school: Dr. Higgins made a motion that Dr. Cohen, Dr. Moyer and Dr. Theriault be appointed to the ad hoc committee. Dr. Zois seconded the motion and it passed unanimously. Staff will obtain the dates that Ms. Kneka Smith is available to meet.

**Secretary's Desk:**

- A. Preliminary Agenda for Upcoming Months - Dr. Theriault stated that she would like Dr. Margaret Palmer to attend the Maine Medical Professionals Health Program's annual report meeting in February.
- B. Board staff asked whether a postcard could be mailed as a final notice, instead of mailing the whole renewal packet to individuals who have not submitted a renewal. Dr. Moyer made a motion to send a postcard as the final notice, which indicates that the forms can be obtained online or they can call and request the forms from the Board office. Dr. Higgins seconded the motion and it passed unanimously.
- C. Dr. Richard Crawford Anesthesia Renewal – Dr. Higgins made a motion to prorate Dr. Crawford's inspection fee for a two-year period, inspect him at one of the practice locations and if adequate, issue a permit, which would expire April 2012. This will allow him and all other permittees within the same practice, be inspected during the same year. Dr. Cohen seconded the motion and it passed unanimously.
- D. The Board previously requested that staff obtain a prescription monitoring report on a patient who had reported inappropriate behavior of one of our licensee's. The Board agreed not to request the report.
- E. LD 1608 "An Act To Establish an Office of Administrative Law Judges for Licensing Boards": The Board initially discussed sending a letter to the BRED Committee letting them know that Board members could be available at a future work session should they have questions about the Board's complaint process.

Dr. Moyer made a motion to send a letter to the Commissioner of Professional and Financial Regulation letting her know of the Board's willingness to send a representative to a work session when it has been scheduled and would welcome an invitation. Dr. Zois seconded the motion and it passed unanimously.

- F. Board staff reported that a request has come in from a dental practice that all dental radiographers receive the new license template so that they alike. Dr. Higgins made a motion that individuals can be issued the new type of license, but if they are not due to renew yet, they would be charged a \$15.00 duplication fee. Dr. Cohen seconded the motion and it passed unanimously.
- G. Dr. Zois made a motion to enter executive session to review and discuss confidential information. Ms. Denk seconded the motion and it passed unanimously. Dr. Zois made a motion to come out of executive session at 12:01 p.m. Dr. Cohen seconded the motion and it passed unanimously. Dr. Higgins made a motion to issue a Board generated complaint against a licensed dentist based upon alleged inappropriate prescribing practices. Dr. Cohen seconded the motion and it passed unanimously.

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

**Request for Continuing Education Extension – W.B., DDS:** Dr. Cohen made a motion to grant Dr. B. an extension until March 31, 2010 to report the credits needed to renew his Maine dental license. Dr. Moyer seconded the motion and it passed unanimously. The licensee will be notified that the credits earned cannot be used during the next renewal cycle.

**Request for Continuing Education Extension – P.B., DMD:** Dr. Higgins made a motion that Dr. B be granted an extension to report his CE to March 31, 2010. The licensee will also be asked to provide a syllabus or synopsis of the Aspen Orientation Program courses for the Board's review. Ms. Denk seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – P.B., DDS:** Dr. Higgins made a motion to grant Dr. B an extension until March 1, 2010 to provide proof of current CPR certification. Dr. Zois seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – R.G., DMD:** The licensee did not provide a completed application form. He has requested an extension of time to provide his CPR certification. The Board discussed whether they would like to invite the licensee in to speak with them concerning his application for renewal of his dental license. The Board tabled this item until later in the day.

**Request for CPR Certification Extension – E.G., DMD:** Dr. Higgins made a motion to grant Dr. G an extension until March 1, 2010 to provide proof of current CPR certification. Dr. Cohen seconded the motion and it passed unanimously.

**E-mail from Heather Hollcraft Re: Indiana License Verification/Survey; Possible Future Method for Maine License Verification:** Dr. Cohen made a motion stating that yes; this is an acceptable method for license verification. Dr. Higgins seconded the motion and it passed unanimously.

**Letter from Hiram Garber, DMD Re: Request for a Lower Fee for Inactive/Retired Licensees:** The Board asked staff to provide a report at the next meeting on how many inactive licensees there are.

**Request for Continuing Education Extension – J.I., DDS:** Dr. Higgins made a motion that Dr. I be granted an extension of time to submit additional credits to renew his dental license. The licensee will be reminded that CPR certification can be listed on the CE log for three category I credits. Dr. Cohen seconded the motion and it passed unanimously.

**Continued from Above – Request for CPR Certification Extension – R.G., DMD:** Dr. Moyer made a motion to table the request until the February meeting. Dr. Zois seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – M.K., DMD:** Dr. Higgins made a motion to grant Dr. K. an extension until February 15, 2010 to provide proof of her current CPR certification. Dr. Cohen seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – W.N., DDS:** Dr. Higgins made a motion to grant Dr. N. an extension until January 31, 2010 to provide proof of his current CPR certification. Dr. Moyer seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – R.R., DDS:** Dr. Higgins made a motion to grant Dr. R. an extension until January 31, 2010 to provide proof of his current CPR certification. Dr. Moyer seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – N.R., DMD:** Dr. Higgins made a motion to grant Dr. R. an extension until January 31, 2010 to provide proof of his current CPR certification. Dr. Moyer seconded the motion and it passed unanimously.

**Request for Continuing Education Extension – J.T., DDS:** Dr. Higgins made a motion to grant Dr. T. an extension until January 31, 2010 to report his continuing education credits in order to renew his Maine dental license. Dr. Moyer seconded the motion and it passed unanimously.

**Request for CPR Certification Extension – K.W., DMD:** Dr. Moyer made a motion to grant an extension until March 1, 2010 for Dr. W. to provide proof of his current CPR certification. Dr. Zois seconded the motion and it passed unanimously.

**Interviews for Licensure:**

Sabrina Toye, RDH for IPDH licensure

Stephen Smith, DDS (License Reinstatement)

Tod Twichell, DDS

Emily French, dental radiography licensure

**Request for CPR Certification Extension – D.Z., DMD:** Dr. Higgins made a motion to grant Dr. Z. an extension until January 31, 2010 to provide proof of his current CPR certification. Dr. Moyer seconded the motion and it passed unanimously.

**Request to Recognize Reiki Training as Continuing Education Credit Towards Dental License Renewal – D.N., DDS:** The licensee has requested that her Reiki Training be accepted towards the CE needed to renew her dental license. If not, she is requesting an extension of time to obtain additional credits needed. Dr. Cohen made a motion to grant up to ten category II credits for the Reiki training. Dr. Moyer seconded the motion, it passed with Drs. Higgins, Zois opposed, and Theriault recused. Dr. Cohen made a motion to table the petition for an extension one-month and request that Board staff audit the credits and hours listed on the log including whether the risk management course was part of the licensee's Decision requirement and whether it states if it can be used towards continuing education for license renewal. Dr. Zois seconded the motion and it passed with Dr. Theriault recused.

**License Renewal F.H. and Consent Agreement Compliance:** Board staff provided an update on the licensee's consent agreement with the Board. The probation period has ended, but the licensee has not provided copies of patient records for review as required, but he also has not practiced in the State of Maine since receiving his Maine license. Dr. Cohen made a motion to renew Dr. H.'s dental license as long as he has provided a signed copy of his CE log. Dr. Zois seconded the motion and it passed unanimously.

**Motions on Interviews for Licensure:**

**Dr. Stephen Smith** – Dr. Moyer made a motion to issue Dr. Smith a license pending completion of his application file. Dr. Cohen seconded the motion and it passed with Dr. Zois recused.

**Ms. Emily French** – Dr. Moyer made a motion to grant Ms. French a dental radiography license. Dr. Higgins seconded the motion and it passed with Ms. Denk opposed.

She should have answered yes to the registration form question “Has any state or jurisdiction ever taken any disciplinary action against your license to practice?” Dr. Cohen made a motion to amend the question as follows: “Has any state or jurisdiction ever taken any disciplinary action against your license to practice any occupation or profession? (i.e. fine, reprimand, modification, suspension, revocation).” Dr. Zois seconded the motion and it passed unanimously.

**Dr. Tod Twichell** – Dr. Higgins made a motion to grant Dr. Twichell a Maine dental license. Ms. Denk seconded the motion and it passed unanimously.

**Ms. Sabrina Toye, RDH:** Dr. Higgins made a motion that Ms. Toye not be granted an IPDH license at this time based on the qualifications she provided and the current licensure requirements as set by statute. The motion was seconded and it passed unanimously.

**Letter from Peter M. Davis, DMD Re: Information Request:** Dr. Davis posed questions to the Board, which they will respond to as follows:

**Question 1:** With the FDA’s ruling in July of 2009 that mercury, “levels released by dental amalgam are not high enough to cause harm to patients” and thus the restorative material has been officially deemed “safe”, is the requirement for providing the amalgam warning in the dental office still required by the Board? **Answer 1:** The amalgam brochure and poster requirement became effective beginning July 1, 2002 with M.R.S. 32 § 1094-C, dentists are required by statute to make the brochure and poster publicly available. This would be a legislative change to alter from the current practice. **Question 1A:** If so, is it required by “amalgam free” offices?: **Answer 1A:** A copy of the statute will be provided to the licensee.

**Question 2:** It has come to our attention that several tanning salons are now offering tooth-whitening procedures outside of a dental setting or independent of a licensed dental provider. Several other states such as Kansas have deemed these activities to be “dental procedures” and prohibit them from being performed by non-licensed individuals. What is the Maine Board’s position on this matter? **Answer 1:** The Maine Board of Dental Examiners states that tooth whitening procedures are considered the purview of licensed dentists. The Board does not have any jurisdiction over non-licensees. We are also unaware of what materials these entities are using.

**Question 3:** With the recent economic downturn, many dentists have found large numbers of patients have become voluntarily “inactive” within their practices due to job or dental benefits loss, forcing the dentist to take on new patients in order to keep their practices viable. A foreseeable problem will arise in the future (1-2 years from now) as these large numbers of patients decide to resume care when the economy rebounds.

During this interim period many practices will have “filled” the void in their patient roster with new patients and may not be able to accommodate those who wish to return in a timely fashion. In the Board’s opinion, how long should a patient be voluntarily “inactive” before the dentist can consider that person no longer a “patient of record” and thus not be open to abandonment issues should they be unable to accommodate them back in to the practice? **Answer 3:** A licensee may sever patient of record status at any time as long as they are following appropriate guidelines.

**Question 4:** There has been some rumor as to the Board’s consideration of a measure prohibiting all but oral surgeons from prescribing anti-anxiety medications such as diazepam to their patients. Is there any validity to this rumor? If so, if a dentist is licensed by the DEA to dispense this drug, under what authority does the state/board supersede federal authority? **Answer 4:** This rumor is untrue.

**Question 5:** In conjunction with the above, there is a 1/16/04 mandate prohibiting all but oral surgeons from administering BOTOX. Again, if a general dentist, with the proper training, is dually licensed to prescribe BOTOX, under what authority does the state/board have to limit the practice to oral surgeons as long as the practitioner adheres to treating only those parts of the anatomy that fall under the formal definition of “dentistry”? **Answer 5:** This is coming up under proposed rule changes and cannot be addressed at this time.

**Question 6:** Should the above limitations be imposed by the Board on general dentists, please advise of any other areas of dentistry that the Board anticipates being either limited or outright prohibited to general dentists in the foreseeable future as numbers of our clients are currently pursuing very costly and time consuming fellowships and the like in areas such as implantology in order to provide better and more comprehensive treatment for their patients. Their fear is that their ability to perform procedures for which they have spent hundreds of hours training and tens of thousands of dollars in tuition will be for naught in this state. **Answer 6:** Unable to answer this question.

**Question 7:** With regard to specialists, general dentists are seeing more and more instances where Endodontists, periodontists, oral surgeons and the like are performing restorative procedures that fall outside the limits of their specialty. A recent example is that of a general dentist referring his patient to a local oral surgeon for an extraction and the patient returning with not only an implant, but a crown as well. None of the restorative work done by surgeon was communicated to, much less treatment planned by the referring restorative dentist. At this time, we have no interest in filing complaints or exposing any of these individuals for this practice as our clients are handling them privately on a case by case basis, however, it would be helpful for the board to elucidate exactly what the scope of practice is for each of the dental specialties in writing. **Answer 7:** A licensed dentist in this state may perform any dental procedures within their scope of practice.

Dr. Moyer made a motion to draft a letter back to the licensee with the above responses and bring the letter back to the February meeting for review. Dr. Cohen seconded the motion and it passed unanimously.

**Request to Waive the Late Fee from Dr. James Rule:** Dr. Cohen made a motion not to collect the late fee from Dr. Rule based on the circumstances provided. Ms. Denk seconded the motion and it passed unanimously.

**Dental License Renewal R.B., DDS with “Yes” Response:** Dr. Cohen made a motion to renew Dr. B’s dental license. Dr. Moyer seconded the motion and it passed unanimously.

**Dental License Renewal J.B., DDS with “Yes” Response:** Dr. Moyer made a motion to table this renewal and request information from the Pennsylvania Dental Board. Dr. Zois seconded the motion and it passed with Dr. Cohen recused.

**Dental License Renewal M.L., DDS with “Yes” Response:** Dr. Moyer made a motion to renew Dr. L’s license upon completion of the paperwork. Dr. Zois seconded the motion and it passed with Ms. Denk abstained.

**Dental License Renewal L.K., DMD with “Yes” Response:** Dr. Cohen made a motion to renew Dr. K’s dental license and make the licensee aware that the specialty listed on the renewal form is not ADA or Board recognized. Dr. Zois seconded the motion and it passed unanimously.

**E-mail from Lisa Morris, Ph.D. Re: X-rays:** Dr. Cohen made a motion stating that there is a form for a patient to sign if requesting no x-rays although the dentist is risking his professional license by not practicing to the standard of care. The dentist has every right to refuse treatment if the patient refuses x-rays. Dr. Zois seconded the motion and it passed unanimously.

**Information Re: Advertising of a Denturist Utilizing “Dr.”:** Dr. Higgins made a motion that a letter be sent to the licensee indicating that this is not appropriate and request that he provide proof of when it has been corrected. Dr. Cohen seconded the motion and the motions were withdrawn. Dr. Higgins made a motion to refer this information to the Denturist Subcommittee for a recommendation to the Board. Dr. Cohen seconded the motion and it passed unanimously.

**E-mail from Margaret Palmer, Ph.D. Re: MPHP Missed Test Policy:** The Board accepted this information as an FYI.

**Letter from Kathryn Young, LD, Maine Association of Licensed Denturists Re: Response to Proposed Attendance at Future Denturist Society Meeting:** The Board accepted the letter as an FYI and will await a new set of dates that they wish to have a Board member attend.

**Memo from Gene Kramer, JCONDE Re: 2010 NDEAF:** Board staff will complete the form and indicate that no Board members will be able to attend.

**E-mail from Bayley Milton, AADB Re: Scope of Practice Survey Questions:** Response will indicate that the Board is addressing the issues currently during their re-le change process and that they are interested in the survey results. The Board will answer the survey at a later date.

**Request for Continuing Education Extension L.S., DDS:** Dr. Higgins made a motion to grant Dr. S an extension to provide the additional 29 credits by March 1, 2010. Ms. LaVallee seconded the motion and it passed unanimously.

**Dental Renewal F.H., DMD with “Yes” Response:** Board staff is attempting to obtain a copy of the Consent Agreement with the Massachusetts Dental Board. Dr. Cohen made a motion to table the renewal for Dr. H. Dr. Moyer seconded the motion and it passed unanimously.

**Licensee Withdrawals – Retirement:** Send thank you letter to the individuals who indicated their retirement.

**LD 1551, “An Act to Further Regulate the Communications of Members of Public Bodies”:** The Board briefly discussed this item.

**Complaint 08-2 Follow Up:** The complainant sent a letter asking the Board to re-open the complaint, which was dismissed June 2008. Dr. Cohen made a motion not to re-open the complaint, as there was not sufficient new evidence to do so. Dr. Zois seconded the motion, it passed with Ms. LaVallee, and Ms. Denk opposed and Dr. Theriault recused as the Complaint Officer.

**Complaint 08-7 Follow Up:** The Board sent a letter to the licensee who was not in compliance with his Consent Agreement. Dr. Higgins made a motion that Dr. V’s license be renewed as he is now in compliance with the Consent Agreement. Dr. Zois seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 09-38:** The complainant in this case alleged that the licensee made her undergo extreme discomfort during her dental appointment, and her crown work was defective. Dr. Moyer made a motion to invite the licensee in for an informal conference to discuss alleged ethical violations, pain control issues, record keeping, risk management, crown and bridge failure, etc. Ms. LaVallee seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

**Complaint 09-43: R. Sawyer/T. D’Alfonso** – The complainant in this case and the following case (09-44) alleged that the two providers within the same facility treated him unprofessionally. Dr. Higgins made a motion to dismiss complaint 09-43 as no violation

of the Dental Practice Act with a letter of guidance reminding the licensee that all conversations be germane to the situation and respectful of all patients. Dr. Cohen seconded the motion, it passed with Dr. Zois recused, and Dr. Moyer recused as the Complaint Officer.

**Complaint 09-44: P. Chretien/T. D'Alfonso** – Dr. Higgins made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. Dr. Cohen seconded the motion, it passed with Dr. Zois recused, and Dr. Moyer recused as the Complaint Officer.

**Complaint 09-46: W. Whitney/D. Olszewski** – The complainant alleged that the treating dentist did not inform him of what his insurance would pay for certain procedures. Dr. Cohen 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. Moyer recused as the Complaint Officer.

Dr. Cohen made a motion to adjourn at 4:04 p.m. Ms. Denk seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson  
Executive Secretary