

**Maine Board of Dental Examiners
Board Meeting Minutes
July 16, 2010**

The Board convened at 8:50 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; Ms. Diane Denk, Public Member and Mr. William Buxton, LD

Also Present: John Bastey, Maine Dental Association; Bonnie Vaughan, IPDH; Anthony Altieri, DMD; Howard Bates, DMD; David Wicks, DDS; Michelle Kingman, CDA; Nicole Schobel; David Drohan, DDS; Ramiz Chaudhry, DDS; Jeffrey Walawender, DDS; Rosemarie Sheline, DDS; Katherine Scholand, DDS; Felicia Smith; Lynn Warner; Dennis Smith, AAG; and Teneale Johnson, Executive Secretary.

Ms. Denk reported that she may not be available for the August meeting.

Denturist Subcommittee Update: Dr. Cohen reported to the Board that the Denturist Subcommittee reviewed the amended consent agreement that was offered to the licensee in this complaint and recommended that the Board accept it. Dr. Cohen made a motion to accept the Subcommittee's recommendation. Dr. Moyer seconded the motion, it passed with Mr. Buxton recused, and Dr. Theriault recused as the Complaint Officer.

Dental Hygiene Subcommittee Update: Ms. LaVallee reported to the Board that the Dental Hygiene Subcommittee interviewed two applicants for licensure: Ms. Sheila Ciappetta and Ms. Samantha Holland, both of whom the Subcommittee recommended for licensure. Dr. Moyer made a motion to accept the recommendation and issue Ms. Ciappetta an active dental hygiene license. Ms. Denk seconded the motion and it passed unanimously. Dr. Moyer made a motion to issue Ms. Holland a dental hygiene license. Ms. LaVallee seconded the motion and it passed unanimously.

The Subcommittee also reviewed advertising concerning Independent Practicing Dental Hygienists. Ms. Pamela Gilbert has listed "tooth whitening" and "athletic mouth guards" as services provided at her IPDH practice. Ms. Bernadette Kozak lists the name of her practice as Fryeburg Family Dental. The Subcommittee discussed the fact that the current statutes or rules do not allow an independent practice dental hygienist to deliver tooth whitening services in his/her office. The IPDH may advise a patient or recommend to a patient an over-the-counter tooth whitening product. Dr. Moyer made a motion to send a letter to Ms. Pamela Gilbert letting her know that an IPDH may advise a patient on the proper use of over-the-counter tooth whitening products or recommend over-the-counter tooth whitening products, but that delivering such a product would not be within their scope of practice. The motion was seconded and it passed unanimously. The Board also discussed placing a statement on the Board's website concerning its position regarding tooth whitening services by IPDHs.

Ms. LaVallee made a motion stating that it is within the scope of practice for an IPDH to take impressions for and deliver athletic mouth guards to patients under the current statute. Dr. Cohen seconded the motion stating that he believes that this was the intent of the statute. The Board also discussed the fact that a patient does not wear an athletic mouth guard for an extended period. The motion passed with Dr. Higgins opposed.

Dr. Higgins made a motion to send a letter to Ms. Kozak letting her know that the Board office recently received a telephone call from a concerned citizen regarding the name of her new practice and the confusion that she thought a new dentist had opened up a practice in town. Ms. Kozak will be asked to suggest a solution to the problem and respond to the Board. Dr. Moyer seconded the motion and it passed unanimously.

Dr. Higgins will draft a policy concerning tooth whitening services for the Board's review.

Several Board members, a Subcommittee member and Ms. Warner have been working on putting together a grid that outlines what procedures dental hygienists, dental assistants and EFDA's can do under their current scope of practice. Ms. LaVallee asked that the full Board and Subcommittee meet to discuss this at a separate meeting so that the information can be finalized. No meeting was scheduled.

Informal Conference Complaint 10-2: Dr. Zois made a motion to enter executive session at 9:56 a.m. Ms. Denk seconded the motion and it passed unanimously. The complainant alleged that the licensee did not perform treatment for which she was charged. The Board asked the licensee to come in to discuss the following areas of concern: anesthetic technique, endodontic treatment and crown and bridge technique. Dr. Zois made a motion to come out of executive session at 10:52 a.m. Ms. Denk seconded the motion and it passed unanimously. Dr. Cohen made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act, but issue the licensee a letter of guidance in regards to keeping more accurate records, specifically concerning pre-treatment periodontal recordings and anesthesia recordings. Ms. Denk seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Meeting with Dr. David Drohan: Dr. Drohan asked to meet with the Board to clarify the qualifications needed in order for someone to be eligible for a temporary resident permit. Dr. Drohan reported that the residency program at Penobscot County Dental is currently the only CODA - accredited residency program in Maine. The residents are working under the 100% direct supervision of licensed Maine dentists. Dr. Higgins made a motion that the board reconsider its previous decision to not grant a resident permit to an individual who has not successfully completed each section of a clinical competency examination. Dr. Zois seconded the motion and it passed unanimously. At its June 2010 meeting, the Board did not grant Dr. Eric Visser a permit based on his failure to pass one section of the WREB examination. At that time, the Board decided to hold applicants for residency permits to the same standards required for a full dental license. During its subsequent discussion with Dr. Drohan, the Board discussed that there should be a different standard for full licensure (i.e. complete passage of an examination), but that for the purposes of the resident permit in this case the Board would be satisfied with a dental resident applicant passing all but one of the sections of a board-recognized

examination and the fact that the individual dental resident applicant would be practicing under 100% direct supervision of a Maine licensed dentist. Dr. Higgins made a motion to issue a temporary resident permit to Dr. Eric Visser. Ms. LaVallee seconded the motion and it passed unanimously.

Interview with Applicant for Dental Radiography License: Ms. F.S.

Complaints: Initial Complaint Presentation was read to the Board and audience members prior to beginning the review of the following complaints:

Complaint 10-19 O. Akinsanya/S. Curtis: The complainant alleged that the office took excessive x-rays and the patient felt that the licensee was rushed when asked a question. The Board stated that the radiographs taken were normal, and feels that the insurance company is partly to blame for this complaint. Dr. Higgins made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. Ms. Collins-Harden seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 10-20: The complainant alleged that the licensee provided substandard care concerning the administration of nitrous oxide during her dental appointment. Dr. Higgins made a motion to invite the licensee in for an informal conference to discuss his anesthetic technique including record keeping involved and whether or not his nitrous oxide machine(s) have been calibrated. The Board will request that the licensee bring a copy of any reports on his nitrous oxide machine(s). Dr. Cohen seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Complaint 10-21 R. Berube/L. Grondin: The complainant alleged that the licensee would not provide him with proper pain medication upon his 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 10-22 J. Willis/A. Rand: The complainant alleged that the licensee spoke to the child inappropriately. Ms. LaVallee made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. Dr. Cohen seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer.

Complaint 10-23 A. Boak/K. Rich: The complainant alleged that the licensee hurt the child and acted inappropriately. Dr. Zois 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.

Complaint 06-21: Dr. Theriault provided an update to the Board concerning her review of patient records from the licensee who entered into a consent agreement with the Board on January 12, 2007. Dr. Theriault is concerned with the record keeping of the licensee, the fact that the licensee could not locate some of the patient records that were selected and he did not

include all of the requested records. The Board agreed to send a letter to the licensee concerning the above.

Mr. Buxton left the meeting at 12:17 p.m.

Complaint 09-47: This is a Board generated complaint. The Board has still not received proof of completion of the medical emergencies course that was required by consent agreement. Ms. Denk made a motion to send a letter to the licensee's legal counsel asking for verification of the final course requirement. Upon receipt, the Board will be able to act upon its request to address the complaint. Ms. LaVallee seconded the motion, it passed with Dr. Cohen abstained, Dr. Higgins recused, and Dr. Moyer recused as the Complaint Officer.

Request from Dr. Robert Schaedel for Anesthesia Member Appointment: Dr. Moyer made a motion to appoint Dr. William Benzing to the Anesthesia Committee. Ms. Denk seconded the motion and it passed unanimously.

Post Complaint Survey for Licensee and Complainant: The Board agreed to table this item until the September Board meeting.

Dental Reinstatement Applicant – Dr. T.G.: Dr. Theriault reported that this individual's dental license had lapsed on January 1, 2010, although the licensee did not realize it until recently. As with previous situations, Dr. Higgins made a motion to issue a complaint against the licensee for practicing without a license. Dr. Cohen seconded the motion and it passed unanimously.

Letter from Cathryn R. Stratton, Medical Professionals Health Program Re: Dentist Nominations: Ms. Stratton requested that the Board approve Dr. Jack Ellis, Dr. Jerr Roberts and Dr. Michael Sloan to sit on the Medical Professionals Health Committee for the contract year of July 1, 2010 through June 30, 2011. Dr. Moyer made a motion to approve the individuals for participating on the Medical Professionals Health Committee. Ms. LaVallee seconded the motion and it passed unanimously.

E-mail from Licensee Re: Standard of Care for Frequency of Doctor Exams for Patients of Record: The licensee inquired on what the standard of care is for the frequency of dental exams on all patients of record. Dr. Higgins made a motion to send a letter stating that the Board expects the licensee to use their dental expertise in determining when it is appropriate for each individual patient of record to have a recall dental exam. Dr. Cohen seconded the motion and it passed unanimously.

In the future, the Board President can respond to inquiries such as this and place the response in the Board's correspondence tab for the following meeting.

E-mail from Dental Licensee Re: General Anesthesia Services: Dr. Mark Lucier inquired as to whether he can provide anesthesia services in his pediatric dental office, under the care of a licensed anesthesiologist or a certified registered nurse anesthetist, and if so, what is required of

him. The Board discussed the fact that this was permitted, and that his office will need an on-site inspection. The Board agreed to send a letter indicating that the practice is permitted and also mention that an anesthesiologist and a CRNA have their own scope of practice and their own minimum standards that they must follow.

The Board agreed to table the following items until the August Meeting: Memo from Dr. Higgins Re: PHS/IPDH issues and E-mail from Sharon Hannan Re: Expansion of Duties for Certified Dental Assistants.

Interviews for Dental Licensure:

Dr. Ramiz Chaudhry, DDS
Dr. Rosemarie Sheline, DDS
Jeffrey Walawender, DDS
Katherine Scholand, DDS

Motions on Interviews for Licensure:

Dr. Higgins made a motion to issue a dental radiography license to **Ms. Felicia Smith**. Dr. Moyer seconded the motion and it passed unanimously. Dr. Moyer made a motion to issue a dental license to **Dr. Ramiz Chaudhry** upon completion of his application file. Ms. LaVallee seconded the motion and it passed unanimously. Dr. Higgins made a motion to issue a dental license to **Dr. Rosemarie Sheline** upon completion of her application file. Ms. Denk seconded the motion and it passed unanimously. Dr. Moyer made a motion to issue a license to **Dr. Jeffrey Walawender** upon completion of his application file. Ms. Denk seconded the motion and it passed unanimously. Dr. Cohen made a motion to issue a dental license to **Dr. Katherine Scholand** upon completion of her application file. Dr. Zois seconded the motion and it passed unanimously.

Minutes: **May 21, 2010** – Dr. Cohen made a motion to accept the minutes as amended by Ms. Denk. Dr. Moyer seconded the motion and it passed unanimously. **June 14, 2010** – Dr. Cohen made a motion to accept the minutes as amended by Ms. Denk. Dr. Moyer seconded the motion and it passed unanimously.

Secretary/Treasurer's Report: Dr. Zois reported that Board staff recently needed to complete the work program for fiscal year 2011. Because the Board voted to increase its contribution to the Maine Medical Professionals Health Program from \$10,000 to \$20,000, there needed to be some funds taken from other sources in order to add to this contribution. Dr. Higgins made a motion to accept the report. Dr. Moyer seconded the motion and it passed unanimously.

President's Desk: The Board agreed to table the item until the August meeting.

Secretary's Desk:

Would the Board be willing to hold an Informal Conference by Telephone? The Board agreed that this would not be appropriate.

2011 Board Meeting Dates: The Board set the first few dates for meeting in 2011: January 21; February 11; and March 11. The Board will decide the remaining dates in September.

Follow up on Complaint 09-2: The Board requested that AAG Smith send a letter to the licensee's legal counsel asking if the individual is willing to sign the offered consent agreement.

Addition: AAG Smith provided an update to the Board concerning a consent agreement that the Board asked him to draft in order to reinstate the dental license of Dr. R.T. The consent agreement has not yet been sent to the applicant, but information has been received from the Maine Medical Professionals Health Program indicating that he is under contract, although he has not undergone any of the testing as of this date due to paperwork not yet completed. The Board asked AAG Smith to draft and send the consent agreement to Dr. R.T. but that RT would not be issued a license until it receives proof that RT is fully enrolled in the MMPHP and undergoing monitoring and testing.

Dr. Bicuspid.com Website Article "Maine Dentists Allege Unfair Treatment by Dental Board": Dr. Higgins made a motion to send a letter to the Chairman of the Regulatory Fairness Board and copy Commissioner Anne Head and the Governor, to relay the Board's disappointment that a member of the RFB seems to be intent on continuing to re-try cases that have been adjudicated by the Board, and ask that he provide a response. Dr. Cohen seconded the motion and it passed unanimously.

Dr. Higgins made a motion to send a letter to the Maine Dental Association, asking for time on their Executive Board agenda on September 30, 2010. This would be to make our members available to discuss their concerns about the complaint process and to speak to them about the inappropriate use of the president's position concerning a recent national article. Dr. Cohen seconded the motion and it passed unanimously. Both Dr. Higgins and Dr. Cohen stated that they could be available at the MDA Board's executive meeting on September 30, 2010.

Ms. Denk made a motion to adjourn at 2:39 p.m. Ms. Collins-Harden seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson

Executive Secretary