

**Board of Dental Examiners
Board Meeting Minutes
June 12, 2009**

The Board convened at 9:20 a.m.

Board Members Present: Drs. Denise Theriault, Jerrold Cohen, Philip Higgins and Charles Zois, Ms. Kristine Blaisdell, RDH and Ms. Susanne LaVallee, RDH and Mr. William Buxton, LD (Ms. Diane Denk, Public Member arrived midday)

Board Members Absent: Dr. David Moyer

Also Present: Mary Garrepy, RDH; Bonnie Vaughan, IPDH; John Bastey, Maine Dental Association; David Wicks, DDS; Abdul Waheed, DMD; Steven Shutts; Glen Knock, DDS; Paula Mooney; Howard Bates, DMD; Mary Jane Hanlon Rogers, DMD; Francine C. Fox; Linda Wacholtz, RDH; James Mooney; Christina Blanco; Margaret Sullivan, RDH; Robert Beaudry, DDS; Prabhjot Hallen, DMD; John Trefethen, DDS; Wayne Yee, DDS; Sarah Herd, DDS; Jay Wietecha, DMD; David Pier, DMD; Dennis Smith, AAG and Teneale Johnson

Dental Hygiene Subcommittee Update:

Ms. Mary Garrepy reported the Subcommittee's recommendation that the Board issue a dental hygiene license to Ms. Renee Lincoln upon completion of her file. Dr. Cohen made a motion to accept the Subcommittee's recommendation. Ms. LaVallee seconded the motion and it passed unanimously. Ms. Garrepy reported that the Subcommittee would send a letter to Ms. Claudia Spera indicating that the Board cannot evaluate her dental hygiene education and cannot accept the education as it is not CODA approved. Ms. Garrepy also relayed that a letter would be sent to Ms. Katti Webb, IPDH reminding her of the difference concerning scope of practice under the rules for Public Health Supervision and the Laws relating to the Independent Practice of Dental Hygiene.

The Subcommittee also reviewed three complaints as follows:

Complaint 09-21: This is a Board generated complaint based on information obtained by a licensed dentist, which involves a licensed dental hygienist calling in a narcotic prescription for herself and a family member. The Subcommittee recommended that the Complaint Officer and Board Counsel draft a consent agreement for the Subcommittee and Board's review at the August meeting. Dr. Cohen made a motion to accept the recommendation. Dr. Zois seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer.

Complaint 09-24: The complainant in this case alleged that her former employee violated Board Statute, 32 M.R.S., Chapter 16 §1100, Use of Former Employers' Lists; Scope of Duties. The Subcommittee reviewed the complaint and voted to recommend that the Board dismiss the complaint as no violation of the Dental Practice Act. Dr. Cohen made a motion to accept the Subcommittee's recommendation. Dr. Zois seconded the motion, it passed with Ms. Blaisdell recused, and Dr. Higgins recused as the Complaint Officer.

Addition: Dr. Higgins made a motion to have the Board develop a Subcommittee to work on developing a daylong educational program aimed at clarifying and discussing IPDH, PHS, Public Health clinics, and Maine Care. Dr. Cohen seconded the motion and it passed unanimously.

Complaint 09-25: The complainant in this case alleged that the licensee acted unprofessionally during a patient visit, and relayed inflammatory information about the complainant. The Subcommittee recommended that the Board invite the licensee in for an informal conference to be held jointly to discuss alleged unprofessional conduct. Dr. Cohen made a motion to accept the recommendation. Ms. LaVallee seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer.

The Board presented a certificate of appreciation to Ms. Garrepy as it was her last meeting.

Minutes:

April 3, 2009 - Dr. Cohen made a motion to accept the minutes as written. Dr. Higgins seconded the motion and it passed with Ms. LaVallee abstained.

May 8, 2009 – Dr. Cohen made a motion to accept the minutes as amended. Dr. Higgins seconded the motion and it passed unanimously.

Secretary/Treasurer’s Report: Dr. Cohen made a motion to accept the report. Dr. Zois seconded the motion and it passed unanimously.

AADE Membership Renewal: Dr. Cohen made a motion to renew the agency only for this coming year. Dr. Zois seconded the motion and it passed unanimously.

President’s Desk: Dr. Cohen made a motion to enter executive session at 9:53 a.m. for purposes of legal advice. Dr. Higgins seconded the motion and it passed unanimously. Dr. Cohen made a motion to come out of executive session at 9:55 a.m. Dr. Theriault seconded the motion and it passed unanimously.

Interview for radiography licensure: Christina Blanco

August Board Meeting: Due to recent actions taken by the Governor concerning the State Budget, the Board needed to change its August meeting date, which was scheduled for August 7, 2009 as this will be a mandatory State shut-down day. Dr. Higgins made a motion to reschedule the meeting to August 21, 2009. Dr. Cohen seconded the motion and it passed with Ms. Blaisdell abstained.

Interview for IPDH licensure – Margaret Sullivan, RDH: The Board determined that Ms. Sullivan currently does not qualify for the Independent Practice Dental Hygiene, as she does not have enough clinical practice hours under the supervision of a licensed dentist. Dr. Higgins made a motion to refund Ms. Sullivan’s application fee of \$100. Mr. Buxton seconded the motion and it passed unanimously. Dr. Cohen made a motion to deny the application for IPDH licensure based on the lack of hours needed. Dr. Higgins seconded the motion and it passed unanimously.

Motion on Interviewee – Christina Blanco: Dr. Higgins made a motion to issue Ms. Blanco a dental radiography license. Dr. Zois seconded the motion and it passed unanimously after further discussion.

Interview for dental licensure – Robert Beaudry, DDS: Dr. Cohen made a motion to issue Dr. Beaudry's license upon completion of his application file. Ms. LaVallee seconded the motion and it passed unanimously.

Complaint 08-34 – D. Tyler/S. Webber: Dr. Higgins made a motion to untable Complaint 08-34. Dr. Cohen seconded the motion and it passed unanimously. Dr. Higgins made a motion to dismiss the complaint. The licensee in this case was asked to comply with several items, which included undergoing a neuropsychiatric evaluation, continuing to engage in counseling and provide reports to the Board, and implement the recommendations of Dr. Cathy Turbyne who performed an inspection of Dr. Tyler's dental office at the Board's request. Dr. Tyler has complied with all of the Board's requests. Dr. Cohen seconded the motion to dismiss the complaint and it passed unanimously.

Letter from Dr. David Tyler, DDS Re: Practice closure and license withdrawal: Dr. Cohen made a motion to accept the withdrawal of Dr. Tyler's dental license. Ms. LaVallee seconded the motion and it passed unanimously.

Complaint 09-18 – J. Hahn/P. Corrao: The complainant in this case alleged that the licensee refused to treat him based on his ability to pay for treatment. Dr. Cohen made a motion to dismiss the complaint as no violation of the Dental Practice Act. Dr. Zois seconded the motion and it passed unanimously.

Complaint 09-19 – A. Mully/the Board: This is a Board generated complaint based on non-compliance with a consent agreement relating to continuing education that the Board requested he complete. The Board tabled the complaint until today and asked that the licensee provide proof of his attendance at the two courses in question. Dr. Cohen made a motion to untable the complaint, dismiss the complaint and notify the licensee that he is now in compliance with the consent agreement. The licensee will be issued a letter of guidance indicating that the Board encourages him that all future dealings with the Board are dealt with promptly. Mr. Buxton seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer.

Dr. Higgins made a motion to go into executive session at 11:03 a.m. Dr. Cohen seconded the motion and it passed unanimously. The Board came out of executive session at 11:03 a.m. The Board asked AAG Smith to comment on the licensee's footnote provided on the response concerning the following complaint, which concern the potential of bias by Board members. AAG Smith iterated that if any of the Board members do not feel that they can participate fairly in any case, then they should recuse themselves.

Complaint 09-22 – R. Moore/D. Forti: The complainant in this case alleged the licensee failed to adequately sedate and did not stop the dental procedure upon her request. Dr. Cohen made a motion to dismiss the complaint as no violation of the Dental Practice Act. Mr. Buxton seconded the motion and further discussion followed with the motion passing with Ms. LaVallee and Dr. Higgins opposed and Dr. Theriault recused as the Complaint Officer.

Addition: Dr. Cohen made a motion to direct the acting President, Dr. Higgins, to contract with a consultant of his choice, preferably an oral surgeon or anesthesiologist and ask for the appropriate

protocols concerning the administration of Versed in an oral dental setting. Mr. Buxton seconded the motion and it passed with Dr. Theriault recused.

Interviews for Dental Licensure: Mary Jane Hanlon-Rogers, DMD and Prabhjot Hallen, DMD

Ms. Diane Denk arrived at the meeting at 12:32 p.m.

Rule making: (decisions on whether to keep the items on the list)

- 1 – Administration of local anesthesia by a licensed dental hygienist under the supervision of a Medical Doctor: **Leave on** (limit to hospital settings) (Chapter 2)
- 2 – Disruptive dentist: **Leave on** (under unprofessional conduct, conduct that interferes with the delivery of patient care, (copy of BOLIM's statute). (Chapter 9)
- 3 – Placement of temporary crowns with temporary cement by dental assistants: **Leave on** (Chapter 3)
- 4 and 8 – Dermal fillers: **Leave on**
- 5 – A built in exemption for a CODA approved dental program concerning equipment and inspections relating to anesthesia and sedation administration. **Leave on** (Example: Chapter 14 - The Board of Dental Examiners would accept the inspection and approval of equipment and facilities of CODA approved institution in lieu of its own office inspection.) Does the board envision that the dentists teaching in a CODA school hold a permit to administer anesthesia and/or sedation? Will the dental students need a permit as well?)

The Board will address the new laws, which resulted from LD 710 and LD 565 concerning denturism.

Interview for Reinstatement of Dental License: John Trefethen, DDS

Motions on Interviews for Licensure:

Dr. Cohen made a motion to issue a dental license to Dr. Hanlon-Rogers upon completion of her file. Dr. Zois seconded the motion and both motions were withdrawn. Dr. Cohen made a motion to table the application and request that **Dr. Hanlon-Rogers** provide documentation concerning the malpractice settlement in addition to completion of her application file. Ms. LaVallee seconded the motion and it passed with Ms. Denk recused.

Dr. Cohen made a motion to grant a dental license to **Dr. Prabhjot Hallen** upon completion of his application file Ms. LaVallee seconded the motion and it passed with Ms. Denk recused.

Dr. Cohen made a motion to grant reinstatement of **Dr. John Trefethen's** dental license upon completion of his application file. Dr. Higgins seconded the motion and it passed unanimously.

Informal Conference Complaint 08-35:

Dr. Higgins made a motion to enter executive session at 1:23 p.m. Ms. Denk seconded the motion and it passed unanimously. The complainant in this case alleged that the licensee provided an inadequate crown. Dr. Higgins made a motion to come out of executive session at 1:56 p.m. Dr. Zois seconded the motion and it passed unanimously. Dr. Higgins made a motion to table the complaint for 6 months and ask that the licensee complete two pre-approved courses as follows: 1. Risk Management and 2. Management of Fixed Prosthetics, which would preferably be a hands-on course. Upon receipt of completion of the two courses, the Board will revisit the complaint, but no later than December 2009, with the intent to dismiss the complaint. Dr. Theriault seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Informal Conference Complaint 09-6:

Ms. Denk made a motion to enter executive session at 2:19 p.m. Dr. Zois seconded the motion and it passed unanimously. The complainant in this case alleged that the licensee did not address her post-operative pain. Dr. Zois made a motion to come out of executive session at 2:48 p.m. Ms. Blaisdell seconded the motion and it passed unanimously. Dr. Zois made a motion to table the complaint for six (6) months and ask the licensee to complete a pre-approved Risk Management course. The Board will revisit the complaint, but no later than December 2009, with the intent to dismiss the complaint. Ms. Blaisdell seconded the motion and it passed with Ms. LaVallee and Ms. Denk opposed, Dr. Higgins recused and Dr. Cohen recused as the Complaint Officer.

Complaint 06-21 Follow-Up: Dr. Cohen made a motion to request that the licensee have Dr. Cathy Turbyne, as an agent of the Board, conduct a follow-up office inspection at his new dental office in Windham. The Board will also recommend that the licensee forward 10 patient records from his Windham practice and 10 records from his Madawaska practice for review by the Complaint Officer. This shall be provided quarterly beginning July 2009 through the remainder of his consent agreement. In addition, Dr. Theriault and the Board's Investigator, Karen Packard, RDH will be setting up an inspection of the new practice location in Madawaska in the next few months. Ms. LaVallee seconded the motion, it passed with Ms. Blaisdell recused, and Dr. Theriault recused as the Complaint Officer.

Interview for Licensure: Wayne Yee, DDS

Meeting with Maine Academy of General Dentistry President Dr. Jay Wietecha and Dr. David

Pier Re: Moderate Sedation education requirements: The MAGD has a sub-committee that deals specifically with moderate sedation. The Board requested a representative of the Maine Academy of General Dentistry to come in and speak about options that they might have available to accommodate the new educational requirement of the three live patient observations. Dr. Pier offered three options as follows: 1. Telephone mentoring program; 2. Multiple dentists come in to same office each providing sedation (three at a time); or 3. Treat a pt with anxiolysis in their own office but utilize the moderate sedation protocols.

Take the Board's proposal back to the subcommittee and bring back proposal for a model and approximate number they might be able to accommodate. The Board is in hopes to review the prospective proposal at its August 2009 meeting.

Interview for Licensure: Dr. Sarah Herd

Motions of Licensure Interviews: Dr. Higgins made a motion to grant Dr. Wayne Yee a dental license upon completion of his application file. Dr. Cohen seconded the motion and it passed unanimously. Dr. Theriault made a motion to grant Dr. Sarah Herd a dental license upon completion of her application file. Ms. LaVallee seconded the motion and it passed unanimously.

Rule Making Continued:

#6 – Definition of an edentulous arch: **Leave on (August or September meeting**)**

#7 – Elimination of DSCE/CSCE for licensure: **Leave on**

#9 – Residency Program Requirements – Can a person practice in Maine at a residency if they hold a license in another state or province: **Leave on**

#10 – Denturist Education concerning Partials- LD 710: **Leave on (August or September meeting**)**

#11 – Guidelines for closing a practice: Take off list

Possible statute changes: **Leave on** (permits for residency and increase on licensee fee caps)

Letter from Farid Hakimzadeh, DDS Re: Continuing Education Course Requirement: Dr. Higgins made a motion to send the licensee a letter thanking him for sending verification of the education and that this verification does satisfy section 9.a.iv.b of the consent agreement dated August 4, 2006. Dr. Cohen seconded the motion and it passed unanimously.

Legislative Appraisal Forms for LD 710 and LD 421: The Board accepted the information as an FYI.

E-mail from Martha Kurilec, DMD Re: Request for Temporary License for Job Corps: Dr. Kurilec asked for a temporary license in order to provide dental care at the Job Corps in Limestone, Maine. Dr. Higgins made a motion to issue a special permit to Dr. Kurilec to serve at the job corps site for a period of three months upon proof of licensure in another state and completed temporary permit application. The entity will need to submit a request for additional time if needed. Dr. Theriault seconded the motion and it passed unanimously.

E-mail from Terrie Andersen Re: Request for Provider Approval: Dr. Higgins made a motion to accept and approve the provider as requested. Dr. Cohen seconded the motion and it passed unanimously.

Moderate Sedation Level II Qualifying Course Materials from Duquesne University: The Board accepted the information as an FYI.

E-mail from June Toole, RDH Re: Glucose Testing: Dr. Higgins made a motion stating that the Board has no problem with a licensed dental hygienist performing glucose testing as a screening tool to determine whether to treat the patient that day, and will consider it an update to the patient's medical history. Dr. Cohen seconded the motion and it passed unanimously.

E-mail from Elizabeth Vizentin, DMD Re: Request for Board's Position on Electronic Records vs. Paper Records: Dr. Higgins made a motion stating that the Board has no position on electronic records, however the Board expects the records to be complete, factual and available to the patients upon request for copies thereof. Ms. Denk seconded the motion and it passed unanimously.

Letter from Randall Manning, MBA, Executive Director, Board of Medicine Re: LD 1193, Resolve to Establish Uniform Protocols for the Use of Controlled Substances: Back on August agenda. The Board of Medicine will be informed that Dr. Higgins would be able to attend the meeting if scheduled for July 21.

Response to Board Request from Dr. R.M. Re: Patient incident: Dr. Cohen made a motion to request a post-mortem report to include a toxicology report if available. This item will remain on the agenda, pending request for materials. Ms. Denk seconded the motion and it passed unanimously.

Letter from Dr. J.C. Re: Advertising: Dr. C. forwarded an article and an advertisement for the Board's review as he felt it may cause some confusion to the public concerning general dentists performing specialty services. Dr. Higgins made a motion to send the licensees a letter stating that it was brought to our attention that a recent article may cause some confusion, and though the Board finds no significant issue, it does wish to remind them to be clear to the lay public, that they are in fact general dentists that offer these specialized services. Ms. Denk seconded the motion and it passed unanimously.

Reinstatement of Maine Dental License – for Dorina Kramer, DDS: Dr. Cohen made a motion to reinstate Dr. Kramer's license upon completion of the application file. Ms. Denk seconded the motion and it passed unanimously.

Review of Questions on Dental Registration Form Concerning Malpractice Settlements: The Board voted to address the questions at its August meeting and have available, a copy of the registration form from the Board of Licensure in Medicine.

Maine Bar Journal Article Re: Administrative Procedures Act: The Board accepted the information as an FYI.

Additional Information Received from Marc Fecteau, of Maine Care in Response to the Board's Request: The Board requested names of the public health supervision individuals involved with submitting billing for the supplemental payment. Dr. Higgins made a motion to invite the individuals mentioned, to voluntarily appear and speak with the Board to clarify any issue. A copy of the original request for information from Ms. Nicole Rooney will be sent with the invitation. Staff will first obtain the dates and places that the incidents occurred. Dr. Cohen seconded the motion and it passed with Ms. Blaisdell recused.

Dental Application for PCDC Resident – Jeremy Jones, DMD: Dr. Theriault made a motion to request that Dr. Jones be invited in for an interview. Ms. Denk seconded the motion and it passed unanimously.

Dental Application for PCDC Resident – Ronald Smith, DMD: Dr. Higgins made a motion to instruct staff to issue Dr. Smith a dental license upon completion of his application file. Ms. Denk seconded the motion and it passed unanimously.

Additional Information Received Re: Application for IPDH License – Renee Synnott, RDH: Dr. Cohen made a motion to grant Ms. Synnott an IPDH license. Ms. Denk seconded the motion and it passed unanimously.

Request for Temporary Permit for Dr. Windy Thompson: Community Dental requested a waiver of the interview for Dr. Windy Thompson, as it had been just over a year since she completed the NERB examination. Dr. Thompson was looking to obtain her license quickly in order to apply for a Visa. They were told that the interview could not be waived under the circumstances provided. Community Dental then requested if a temporary permit to practice could be issued. It was decided that a temporary permit may not work for purposes of getting a Visa and requested the Board send a letter stating that it appears that Dr. Thompson does meet the qualifications for a dental license, with the exception of a personal interview, which will be scheduled for August 21, 2009.

Addition to List of Possible Rule Changes: The ability to perform an interview by other means, at the Board's discretion. (web conferencing; audio conferencing)

Letter from Hiram Garber, DMD Re: Notice of Retirement: The Board agreed to send its retirement letter to Dr. Garber.

Dr. Cohen made a motion to adjourn at 5:48 p.m. Ms. Denk seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson
Executive Secretary