

**Maine Board of Dental Examiners  
Board Meeting Minutes  
May 21, 2010**

Meeting convened at 9:12 a.m.

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

**Board Member Absent:** Dr. Philip Higgins, Jr.

**Also Present:** Stacey Petry; Kelly Turner; Joseph Benedetto, DDS; John Bastey, Maine Dental Association; Michelle Gallant, RDH; Bonnie Vaughan, IPDH; Mark V. Franco, Esquire; Roman Gavrilman, DMD; Cassandra Hurley; Robert Turner, DMD; Jennifer Herbert; Maryam Shomali, DMD; Lynn Warner; Dennis Smith, AAG, and Teneale Johnson

**Dental Hygiene Subcommittee Update:** Ms. LaVallee reported that the Dental Hygiene Subcommittee would like to recommend that the Board grant licensure to Galen Northway, RDH, and Jennifer Bearor, RDH. Dr. Cohen made a motion to accept the Subcommittee's recommendation. Dr. Zois seconded the motion and it passed unanimously. The Subcommittee also discussed a request for continuing education credit from Chelsea Huntington, RDH. Initially, the Continuing Education Subcommittee reviewed the request but not all agreed. Ms. LaVallee reported that the CE Subcommittee agreed now that "Politics in Public Health" and "Marketing of Health Care Services" are worth category II credit. No motion was needed.

**Minutes April 9, 2010:** Ms. Denk noted some corrections needed. Dr. Cohen made a motion to accept the minutes as amended. Ms. Denk seconded the motion and it passed unanimously.

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

**Correspondence:** The Board accepted this information as an FYI

**Secretary's Desk:**

- Preliminary Agenda – accepted as an FYI
- Continuing Education Approval List – accepted as an FYI

**Adoption of Proposed Rules:**

**Chapter 1:** No comments were received - Dr. Cohen made a motion to adopt Chapter 1. Mr. Buxton seconded the motion and it passed unanimously.

**Chapter 4:** No comments were received – Dr. Cohen made a motion to adopt Chapter 4. Ms. Denk seconded the motion and it passed unanimously.

**Chapter 5:** Comment received from Mr. Dan Walker on behalf of Robert Palermo, LD. Dr. Cohen made a motion to accept the comment, recognizing that the written draft of the rule would include appropriate military training as an equivalent to the education required and made a motion to adopt Chapter 5. Dr. Moyer seconded the motion and it passed unanimously.

**Chapter 9:** Comment received from the Maine Dental Association stating that section II.V should read “licensed denturist” instead of “licensee.” Mr. Buxton made a motion to accept the comment and make the change. Dr. Zois seconded the motion and it passed unanimously.

II.W.3 – Board staff commented on whether certain words should have been deleted. Dr. Cohen made a motion to delete “in each patient of record dental chart.” Dr. Moyer seconded the motion and it passed unanimously. Dr. Cohen made a motion to adopt Chapter 9 with the above amendments. Ms. Denk seconded the motion and it passed unanimously.

**Chapter 14:** No comments were received – Dr. Cohen made a motion to adopt Chapter 14. Ms. Denk seconded the motion and it passed unanimously.

AAG Smith will put together the Basis Statement and Response to Comments document for review and approval by Dr. Theriault.

**Interview for Radiography License:** Cassandra Hurley – Dr. Cohen made a motion to grant Ms. Hurley a Maine dental radiography license. Dr. Moyer seconded the motion and it passed unanimously.

**Secretary’s Desk – Continued:**

**Temporary License guidelines** – Title 10, §8003 (5)(G) reads: Notwithstanding any other provision of law, any bureau, office, board, or commission within or affiliated with the department may issue a temporary license for a period of six months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state.

1. Does the Board want verification of professional schooling? –Yes
2. Does the Board want verification of clinical examination? – No
3. Does the Board wish to have certification from any other state or province in which they are licensed, which should note no disciplinary action? – Yes
4. Does the Board want the permit to be renewable? – Yes
5. Does the Board want the applicant to complete the Jurisprudence Exam? – Yes

6. What does the Board want as the fee for this type of license? Board staff was asked to recommend what the fee should be for this license.

The above information will be added to the Board's list of possible rule changes.

**Take Impressions and Delivery of athletic mouth guards under PHS** – Chapter 2, Section 2, “allow a PHS hygienist to take impressions and deliver athletic mouth guards.” The Board agreed to add this item to its list of possible rule changes

**Interview for Dental Licensure:** Maryam Shomali, DMD

**Informal Conference Complaint 09-52 – R. Gavrilman/K. Norton:** Dr. Cohen made a motion to enter executive session at 10:02 a.m. Dr. Zois seconded the motion and it passed unanimously. The Complainant alleged that the licensee was rude during her appointment. The Board asked the licensee to come in for the informal conference to discuss the complaint filed against him and to discuss his dental license renewal, including his continuing education. Dr. Zois made a motion to come out of executive session at 10:34 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 suggesting that he document all patient contacts in the future as well as clinical treatment. Dr. Zois seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

In addition, Dr. Cohen made a motion stating that upon receipt of documentation of the proper number of credits submitted, Dr. Theriault be authorized to issue the renewal of his dental license for the 2010-2011 biennium. Any credits used for this renewal cannot be used for the next renewal. Dr. Zois seconded the motion and it passed with Dr. Moyer recused as the complaint officer.

**Dr. Maryam Shomali:** Dr. Cohen made a motion to grant Dr. Shomali a dental license upon completion of her application file. Ms. Denk seconded the motion and it passed unanimously.

**Secretary's Desk – Continued:**

**Addition:** The Maine Dental Association along with the Maine Oral Health Program requested that the Board include a document along with its newly issued dental licenses. The document informs new licensees of the tax credit available in Maine. Dr. Cohen made a motion to include the document along with the new licenses. Ms. Denk seconded the motion and it passed unanimously.

**Initial Presentation of Complaints:** A slight amendment was made to the document. Ms. Denk made a motion to accept the amended version of the document. Dr. Zois seconded the motion and it passed unanimously.

**Complaint 07-46 – Consent Agreement Follow-Up:** The licensee in this case reported that he is having issues with insurance companies denying participation with their plans due to his consent agreement with the Board and his license probation. This particular licensee has completed all of his requirements, but still has a license probation until February 2013. Mr. Buxton made a motion to terminate the consent agreement for this licensee effective this day. Dr. Zois seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Board staff was asked to include the Consent Agreement Effective Date on the first page of each Agreement.

**Complaint 08-2:** The Board received a request through the Commissioner's Office of the Department of Professional and Financial Regulation, from the patient who filed this complaint in 2008. The Board tabled its review last month in order for the Complaint Officer to review the case and all materials again and report to the Board, to determine its rationale for dismissing it previously. Dr. Cohen made a motion to respond to the complainant that the Board has determined that there was in fact a treatment plan and that the original treatment plan would have allowed for more retention, which appeared to be explained to the patient, but at the patient's request, the treatment plan was adjusted in order to reduce the cost. In addition, the Board has reviewed the materials and determined that it does not appear that the dentist ignored the patient as they alleged. Ms. Denk seconded the motion, it passed with Mr. Buxton recused, and Dr. Theriault recused as the Complaint Officer.

**Complaint 09-12:** The Board offered a proposed consent agreement to the licensee in order to resolve the complaint. The licensee's counsel submitted a counter proposal for the Board's review and approval. The Board agreed to adjust some items in the proposal. Dr. Cohen made a motion to authorize AAG Smith to modify the proposed Consent Agreement, have it reviewed by the Complaint Officer, and forward it to the licensee's counsel. Ms. Denk seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 09-48 J. Crowley/The Board:** This is a Board-generated complaint based upon report from the Department of Health and Human Services concerning a wrong site oral surgery procedure. Dr. Theriault made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. Dr. Moyer seconded the motion, it passed with Ms. Denk opposed, and Dr. Cohen recused as the Complaint Officer.

**Interview for Dental License Reinstatement:** Robert C. Turner, DMD

**Interview for Dental Radiography Licensure:** Jennifer Herbert

**Motions on Previous Interviews:**

Dr. Cohen made a motion to offer **Dr. Turner** a consent agreement whereby the Board would agree to reinstate his dental license with specific conditions. Dr. Zois seconded the motion and it passed unanimously.

Dr. Cohen made a motion to grant a dental radiography license to **Ms. Herbert**. Dr. Zois seconded the motion and it passed unanimously.

**Old Business:**

- ◆ Meeting with Kneka Smith of UNE Dental School: Drs. Theriault, Cohen and Moyer reported that they had met with Ms. Smith and went over some statute changes that may be necessary in order to allow dentists employed by UNE to obtain a “Faculty License/Permit” which would allow them to practice within the school setting (including satellite locations). The individual would have to hold a current dental license within the U.S. or Canada in order to qualify for the license/permit. Dr. Theriault will bring the draft changes to a future meeting for the Board’s review. The draft will also include the ability to issue Faculty licenses/permits to hygienists and denturists as well.
  
- ◆ The Board agreed to leave the local anesthesia examination reviews on Old Business.

**Complaint 10-5 K. Bryant/D. Bouthot:** The complainant alleged that the licensee did not perform certain procedures, for which he was charged, and asks that the Board review the financial records for accuracy. The Board determined that it do not appear to be any charges that were inappropriate. 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. Theriault recused as the Complaint Officer.

**Complaint 10-8 I. Hamati/A. Szabo:** Dr. Cohen reported that this complaint has been dismissed administratively because the complainant filed it originally against the wrong dentist.

**Complaint 10-9 P. Triggiani/The Board:** This was a Board generated complaint based on a report of alleged inappropriate prescribing. Dr. Zois made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act and issue a letter of concern regarding the inappropriate prescribing for a family member. Ms. Denk seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 10-11 F. Rosenberg/L. Boisvert:** The complainant alleged that the licensee provided an inadequate denture that keeps falling out. According to the patient records, it was recommended that the patient have implants to help support the lower denture, which the patient opted not to do. Mr. Buxton 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 10-12 K. Chadbourne/A. Mihill:** The complainant alleged that she received poor treatment while at this clinic. The wait time was too long and the doctor and assistant were hurried and unfocused. Dr. Cohen made a motion to dismiss the complaint, as there was no violation of the Dental Practice Act. A letter will be sent to the clinic advising them to copy radiographs prior to giving them out. Dr. Zois seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 10-13 A. Agrawal/A. Szabo:** The complainant alleged that the licensee should have referred her to a specialist prior to beginning root canal treatment. Dr. Zois 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 10-16:** The complainant in this case telephoned the Board office the day prior to the meeting and requested that the complaint not be presented at this time, as he would be forwarding additional information regarding the complaint. Ms. Denk made a motion to table the complaint until the June meeting, at the complainant's request. The complainant will be asked to forward the information by June 1, 2010, which will then be forwarded to the licensee. Ms. LaVallee seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 10-17 R. Moore/L. Murry:** The complainant alleged that the licensee and staff did not treat her child appropriately during or after the dental procedure. 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. Theriault recused as the Complaint Officer.

**Complaint 06-21:** The Complaint Officer provided follow up reports regarding the licensee. The Board will ask the licensee that when he provides patient records, that he also provide a typewritten transcript.

**Complaint 10-18:** Dr. Cohen made a motion to table this complaint until the June meeting when the Complaint Officer will be present. Dr. Moyer seconded the motion and it passed with Ms. LaVallee recused.

**President's Desk:**

- ◆ The Board entered executive session at 2:40 p.m. Dr. Zois made a motion to come out of executive session at 2:46 p.m. Dr. Cohen seconded the motion and it passed unanimously. The Board briefly discussed the upcoming Regulatory Fairness Board Hearing where Drs. Theriault and Higgins and possibly Ms. Denk will be speaking about the Board's complaint process.

- ◆ Dr. Cohen made a motion stating that the Board adopt a policy that a letter be written to the Governor's Appointment Secretary offering to be a resource for them during the appointment process. (i.e. whether an individual's license is in good standing; and how long the individual has been licensed, etc.) Dr. Zois seconded the motion and it passed unanimously.
  
- ◆ Addition: The Board discussed a complaint resolution survey used by the Board of Medicine. The Medical Board uses this to get input from the licensees and complainants on the processes used during the complaint process. The Board discussed whether it would be something that the Dental Board might want to start utilizing, although it could not be used for statistics, only for input. The Board will obtain the survey sent to complainants and bring it back to a future meeting.
  
- ◆ Position Statement for IPDH vs. PHS – The Board tabled this item until the June meeting.

**Case Milestone Report:** Dr. Moyer made a motion to administratively close complaint 05-42 as a result of a previous action taken against this former licensee concerning complaint 05-29. Dr. Zois seconded the motion and it passed with Dr. Cohen recused.

**Letter from James Sparaga, DMD Re: Dental Clinics:** Dr. Sparaga sent a letter to the Board indicating that area dental clinics are operating unethically. Dr. Theriault made a motion to send a letter to Dr. Sparaga stating that this issue is not within the Board's jurisdiction. Dr. Cohen seconded the motion and it passed unanimously.

**E-mail from Deborah Vallance Re: Insurance Coverage and Patient Rights:** The Board reviewed the additional e-mail from this individual. A letter will be drafted in response for Dr. Theriault's signature.

**E-mail from Ann Curtis, UMA Dental Health Program Re: Employment of Dental Assistants by IPDH's:**

(1) Can an IPDH employ a dental assistant? – Yes, they can.

(2) If so, what tasks can a dental assistant perform? Dr. Moyer made a motion stating that the dental assistants employed by an IPDH would not be able to do what is listed in chapter 3; this only refers to delegable duties by dentists. Dr. Cohen seconded the motion and it passed unanimously.

Ms. LaVallee made a motion to put into the next possible rule change list, what duties dental assistants may perform under the supervision of an IPDH or a Denturist. (Chapter 3) Dr. Moyer seconded the motion and it passed unanimously.

**E-Mail from Susan Wells Vaughan Re: Questions About Triazolam Use:** Ms. Vaughan submitted an e-mail survey to various dental boards with questions surrounding

the use and regulation of Triazolam/Halcion as a dental sedative. The Board voted to respond to the survey.

**Letter from Brett D. Witham, Esquire RE: Preliminary Denial of License F.H.:**

The Board voted to preliminarily deny the license renewal for Dr. F.H. at their meeting on February 19, 2010. The licensee's counsel has submitted a request for a Hearing. The Board did not need to address this item. Staff will set the matter for a hearing.

**Draft Verbiage "Administrative Complaint Procedures":** Dr. Moyer made a motion to adopt the overview of the complaint process for inclusion with all appropriate complaint mailings. Dr. Cohen seconded the motion and it passed unanimously.

**Letter from Licensee Regarding Request to Extend the Education and Training**

**Waiver for a Moderate Sedation Permit:** The licensee stated that she was not aware of the timeframe involved with the education and training waiver form relating to the new Moderate Sedation permits. She is a pediatric dentist, and would like to be able to obtain a moderate sedation permit, but is requesting that the deadline of February 11, 2010, be extended. The Board asked that staff forward an application form to her, as she will most likely qualify for the moderate sedation permit based on her pediatric training.

**E-mail from Licensee Re: Request for Guidance:** The licensee asked for guidance on a minor patient she referred to a specialist and the parent has not brought the child to the specialist for care. Dr. Moyer made a motion stating that the licensee should call child protective services regarding the follow up care needed for the patient. Dr. Zois seconded the motion. Dr. Moyer amended the motion that she should first contact the patient's parent one more time, stating that the child should be seen by the specialist by a certain date, and if not, child protective services would be contacted. Dr. Zois seconded the amendment to the motion and it passed unanimously.

**Letter from Licensee Re: Special Permit for Pediatric Dentist:** Dr. Timothy Oh is requesting a temporary permit for Dr. Travis Nelson who is a pediatric dentist in the State of Washington. Dr. Cohen made a motion to grant Travis Nelson a temporary permit under that statute for individuals who practice within a specialty once his application is complete and the appropriate fee is paid. Dr. Zois seconded the motion and it passed unanimously. Dr. Oh has also requested the appropriate application forms to complete for the New York Residents and Faculty who will be coming to his facility to practice. The Board asked that staff listen to the portion of the meeting when Dr. Oh and others attended to discuss the outline of the program in order to determine the appropriate type of permit needed. This will be brought back for review at the June meeting.

**Draft Decision from Adjudicatory Hearing on April 9, 2010:** The participating Board members reviewed the draft decision for Dr. Denise Nadeau. Ms. LaVallee made a motion to accept the draft decision and ask that Dr. Cohen sign it. Mr. Buxton seconded the motion, it passed with Drs. Theriault, Moyer and Zois and Ms. Darlene Collins-Harden, and Ms. Diane Denk recused.

**Follow up on Dental License Renewal K.M.:** The Board previously tabled this renewal in order to obtain further information. Dr. Cohen made a motion to renew Dr. M's dental license. Dr. Zois seconded the motion and it passed unanimously.

**Letter from Licensee Re: Moderate Sedation Permit/Three Live Patient**

**Observations:** Dr. Cohen made a motion to approve Dr. Whitney Wignall's office as suggested by Dr. Megan Lucier as an approved educational setting. Dr. Zois seconded the motion and it passed unanimously.

**Letter from Licensed Denturist Re: Request for a Letter from the Board to Present to George Brown College Listing the Requirements for the Partial Denture Courses:**

The course in question is one of the actual courses involved in the George Brown diploma program. Mr. Buxton made a motion stating that the Board accepts the course as equivalent to what has already been approved. Dr. Zois seconded the motion and it passed unanimously. Mr. Buxton made a motion to write a letter to George Brown College outlining what the requirements are for individuals to be able to practice the new expanded scope of denturism in Maine. Dr. Cohen seconded the motion and it passed unanimously.

**Letter from Licensee Re: Retirement from Dentistry:** Dr. Moyer made a motion to send a thank you letter to the licensee for his service to Maine citizens. Dr. Theriault seconded the motion and it passed unanimously.

**Number of Newly Licensed Dentists Licensed in Maine (1997-2009) Provided by John Bastey, Maine Dental Association:** The Board briefly discussed the graph provided by Mr. Bastey which noted an increase in the amount of newly licensed dentists in the last ten years.

Dr. Cohen made a motion to adjourn at 4:42 p.m., which was seconded and passed unanimously.

Respectfully Submitted,

Teneale E. Johnson  
Executive Secretary