

**Board of Dental Examiners
Board Meeting Minutes
May 8, 2009**

The Board convened at 9:06 a.m.

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

Also Present: Mary Garrepy, RDH, Paul M. Levasseur, LD, John Bastey, Maine Dental Association, Lindsay Schuster, DMD, Gaston To'olo, DMD, Eugene Kim, DDS, Jennifer Bruey, Amanda Field, Mary Benner, Daniel Armstrong, DMD, Dennis Smith, AAG and Teneale Johnson

Dental Hygiene Subcommittee Update:

Ms. Garrepy reported that the Subcommittee recommends the Board reinstate **Linda Thibodeau**'s dental hygiene license. Dr. Cohen made a motion accepting the recommendation. Ms. Blaisdell seconded the motion and it passed unanimously. Ms. Garrepy relayed that **Renee Lincoln** would be invited in for an interview with the Subcommittee concerning her dental hygiene application and the fact that she graduated in 2003, but has not practiced dental hygiene since that date. Ms. Garrepy reported that the Subcommittee would recommend that Ms. **Lisa Clark**'s dental hygiene license be reinstated after her file is complete. Dr. Cohen made a motion to accept the Committee's recommendation. Ms. Denk seconded the motion and it passed unanimously. The Subcommittee also reviewed a letter from Ms. Mary Lynne Murray-Ryder, RDH concerning her request to modify the PHS Standing Orders form that BANA testing not be limited to adult patients. A letter will be sent to Ms. Murray-Ryder stating that the form can be modified as needed. Ms. Garrepy reported that the Subcommittee had received further information that it requested from an applicant for license renewal. The licensee was interviewed the previous month. The Subcommittee recommends that the Board renew **Roxanne Horne**'s license. Ms. Blaisdell made a motion to accept the Subcommittee's recommendation. Ms. LaVallee seconded the motion and it passed unanimously. The Subcommittee also reviewed a dental hygiene practicum for Ms. Shanna Soucy, RDH. Ms. Soucy was not sure whether she needed to complete a PHS notification form for her practicum, or if it fell under the University College at Bangor as part of her Bachelor Degree program. Dr. Cohen made a motion stating that Ms. Soucy should complete the PHS notification form. Dr. Zois seconded the motion and it passed unanimously.

The Board further discussed whether there should be some type of permit available for an education practicum. The Board agreed to add the issue to possible rule-changes and to invite the Director of the dental hygiene program, Ms. Bernice Mills, from the University of New England, as this is the only DH program that will be going to a 4-year program and would potentially need this type of permit.

Ms. Garrepy reported that she would be retiring this summer and will not be submitting her name for reappointment when her term expires on August 11, 2009.

Denturist Subcommittee Update:

Mr. Buxton reported that the Subcommittee had reviewed and approved its January and February 2009 minutes. In addition, it reviewed **Complaint 09-17** concerning a patient who alleged that the licensee provided an inadequate denture and left him in pain. The Committee recommended the Board dismiss the complaint as no violation of the Dental Practice Act. Dr. Cohen made a motion to accept the Subcommittee's recommendation. Ms. Denk seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer.

E-mail from Nicole Rooney, Office of Maine Care Services Re: PHS Hygienists, Dental Homes, and Provider Billing: Ms. Rooney posed the following questions to the Board:

1. Can PHS entities employ a Dentist?: The Board does not recognize PHS "entities", only the PHS providers who are licensed dental hygienists.
2. If yes, how would this distinguish a PHS entity from a General Dentist Practice? Can PHS own a dental practice? PHS status belongs to an individual licensed dental hygienist, and a dental hygienist cannot own a dental practice.
3. Because the PHS is the entity enrolled with Maine Care, they are considered the "Billing Provider". They would be the provider billing Maine Care for the Supplemental payment but as PHS, they cannot bill for the oral exam, as it is not within the scope of their license, correct? PHS hygienists cannot bill for the supplemental payment, period, as they are not considered a dental home. PHS hygienists can provide oral inspections and therefore can bill for such.
4. Finally, does it pass the straight face test that a dentist in Auburn can truly provide a Dental Home to members miles and miles away? Could this provider within reasonable expectations, deliver emergency services to these "patients of record" miles away during a workday where he works full time in another practice? If the individual is not a Maine Care provider, this does not appear to pass the straight face test.

Dr. Higgins made a motion to answer the questions as above and request that she identify the hygienist(s), the entity and the dentist(s) in question so that the Board can ask them to voluntarily come in to meet with the Board to clarify the issues. Dr. Moyer seconded the motion and it passed unanimously.

Complaint 07-50: – The Board reviewed a quarterly follow up report and accepted it as an FYI. Dr. Higgins agreed to review these reports quarterly unless there are any issues. Dr. Theriault was recused and left the room.

Complaint 07-62: – The Board reviewed a quarterly follow up report and accepted it as an FYI. Dr. Higgins agreed to review these reports quarterly unless there are any issues.

Complaint 09-10: – The complainant in this case alleged that the dentist extracted a permanent tooth instead of the deciduous tooth. Dr. Cohen made a motion to invite the licensee in for an informal conference to discuss why she did not admit to removing the incorrect tooth and questions surrounding her surgical skills. Ms. LaVallee seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Complaint 09-11: – The complainant in this case alleged that a crown was prepared on tooth #19 but was treatment planned to have a crown on tooth #15. Dr. Higgins made a motion to invite the licensee in for an informal conference to discuss informed consent, treatment planning, ethics, and risk management. Dr. Zois seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 09-12: – The complainant in this case alleged that the dental bridge did not fit correctly and he was not happy with the level of treatment provided. Dr. Higgins made a motion to invite the licensee in for an informal conference to discuss (1) Failure of bridgework a short time after placing it – decay under bridge several months later; (2) Informed Consent for extraction of wisdom tooth; (3) Questionable diagnosis of a possible cyst (there does not appear to be one). Dr. Zois seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Complaint 09-14: – The complainant in this case alleged that the denture made by the licensee was loose which resulted in her losing the denture and the patient requested the licensee to make another denture at no cost. Mr. Buxton made a motion to dismiss the complaint as no violation of the Dental Practice Act. Dr. Zois seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 09-15: – The complainant in this case alleged the licensee provided inadequate treatment of her son's deciduous teeth. 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 with Dr. Moyer recused as the Complaint Officer.

Complaint 09-16: – The complainant in this case alleged that the licensee provided inadequate treatment concerning her denture. Dr. Theriault made a motion to dismiss the complaint as no violation of the Dental Practice Act. Dr. Higgins seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Complaint 09-19: This is a Board-generated complaint based on his apparent failure to comply with a previous consent agreement involving completion of continuing education. Dr. Cohen made a motion to table the complaint until the Board receives written documentation that –the licensee has successfully completed the courses in question. Dr. Zois seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer. The Board will revisit the complaint at its June 12, 2009 meeting.

Complaints 06-20, 07-10 and 07-126 Follow-Up: The Board accepted this information as an FYI.

Complaint 08-37: The Board held an informal conference with the licensee in this case during its April 2009 meeting. The licensee has requested another meeting with the Board to discuss the complaint further. Dr. Moyer made a motion to rescind the previous decision to offer the licensee a consent agreement, table the complaint, and request that the licensee take a pre-approved course in fixed prosthetics (preferably a hands-on course). The Board will untable the complaint in six months with the intent to issue the licensee a letter of guidance if the recommended fixed prosthetic course is completed. Dr. Zois seconded the motion and it passed with Dr. Higgins and Mr. Buxton opposed, Ms. LaVallee abstained and Dr. Cohen recused as the Complaint Officer.

Interview for Licensure: Lindsay Schuster, DMD

Review of Renewal Application for B.G., DMD Re: Malpractice claims reported on renewal for permit to administer general anesthesia and deep sedation. The Board took no action as the licensee had already reported the information on his previous license renewal.

Request from Dr. J.B. Re: Request for Home-Study Course Approval for Consent Agreement Compliance: Dr. Higgins made a motion to approve Dr. B's request to successfully read a textbook concerning treatment planning. Dr. B will be required to submit a synopsis in a manner acceptable to the Complaint Officer prior to September 3, 2009. Dr. Moyer seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Letter from Dr. Denise Nadeau Re: Request to Amend the Board Decision Concerning Repayment of Costs: Dr. Nadeau reported that she had voluntarily left her employment and requested that the Board suspend the required payments of \$187 per month for the repayment of costs incurred in processing complaints 06-20-07-10 and 07-126. Dr. Higgins made a motion to not grant Dr. Nadeau's request to suspend the monthly payments. Ms. Blaisdell seconded the motion and it passed with Drs. Moyer, Zois, and Ms. Denk abstaining, and Dr. Theriault recused from the motion.

Interviews for Licensure:

Eugene Kim, DDS
Jennifer Bruey., Radiography Applicant
Gaston To'olo, DMD

Motions on Interviews for Licensure:

Dr. Higgins made a motion to grant **Dr. Lindsay Schuster** a dental license upon completion of her application file. Ms. LaVallee seconded the motion and it passed unanimously. Dr. Cohen made a motion to grant **Dr. Gaston To'olo** a dental license after June 15, 2009 and upon

completion of his license application file. Dr. Moyer seconded the motion and it passed unanimously. Dr. Higgins made a motion to grant **Dr. Eugene Kim** a dental license upon completion of his application file. Dr. Moyer seconded the motion and it passed unanimously. Dr. Cohen made a motion to grant **Ms. Jennifer Bruey** a dental radiography license. Dr. Moyer seconded the motion and it passed unanimously.

Review of Proposed Consent Agreement for Re-Licensure for Terrie Andersen, Dental Radiographer: Dr. Cohen made a motion to direct the Board President to sign the Consent Agreement. Ms. Blaisdell seconded the motion and it passed unanimously.

Interview for Dental Radiography License Renewal: Mary Benner, RAD

Ms. Blaisdell left the meeting at approximately 1:30 p.m.

E-mail from Gene Kramer, JCNDE Re: Pass/Fail Policy for Dental and Dental Hygiene National Boards: The Board rules are not in need of change as they state “passing grade”.

Letter from Walter Carroll, OMSNIC Re: Indemnity Payment: The Board discussed whether they wanted to review the patient records in the case mentioned. Dr. Higgins made motion stating that no further action was needed. Dr. Cohen seconded the motion and it passed unanimously.

Addition: The Board voted to bring the dentist registration form to the June meeting to review the malpractice question.

Letter from Dr. David Drohan, DDS Re: Dental General Practice Residency: The Board reviewed a previous letter at their March 2009 meeting and responded recently stating that the individuals would need to apply for a full licensure. Dr. Drohan’s most recent letters dated April 21 and May 7 ask for clarification of the provisions to allow the resident to practice as they proceed to become licensed. The Board discussed whether it feels that these people should be licensed/permitted in some way. The Board asked Dr. Higgins to contact Dr. Drohan by telephone and ask whether the individuals are eligible for full licensure. The Board wanted Dr. Drohan to know that upon an appropriate request, the Board may choose to waive the fee for licensure, if cost is an issue. According to statutes, the Board cannot issue a permit to these residents at this time. The Board tabled this item until Dr. Higgins returned from speaking with Dr. Drohan.

Interview for Licensure: Amanda Field, Radiography Applicant

Motions on Interviews for Licensure:

Dr. Cohen made a motion to grant **Ms. Mary Benner** renewal of her dental radiography license. Ms. LaVallee seconded the motion and it passed with Dr. Higgins abstained. Dr. Cohen made a motion to grant **Ms. Amanda Field** a dental radiography license. Dr. Zois seconded the motion and it passed unanimously.

E-mail from Carole Bailey Gass Re: Hygienists Utilizing the Velscope: Ms. Gass posed the following questions:

1. Can our hygienists do the screenings and charge for them under indirect supervision?
2. Can our hygienists refer a patient to an oral surgeon for a second opinion evaluation if they find an area that looks suspicious? (They would not be making a diagnosis... simply referring for further evaluation. In some cases, a doctor may be out of the area on vacation. Our thinking is that it would NOT be in the patient's best interest to have to wait for the doctor to get back in town before being referred out for evaluation that is more extensive if something suspicious has been noted.
3. We have a camera that attaches to the Velscope to enable our providers to take a picture of any suspicious-looking areas. We also have forms that allow pictorial charting of the location of suspicious findings. Would one or the other be sufficient or required for sending with a patient who is being referred to an oral surgeon for a second opinion? Or would we just keep the photo on file and send a copy of the charting showing its location?

The Board unanimously agreed that what Ms. Gass has described is not within the scope of dental hygiene practice. The clinical judgment required for the Velscope would be with the licensed dentist who has the highest level of training to make the decision whether to refer a patient. The dental hygienist may use the Velscope to perform an "oral inspection", but must present the information gained to the attention of the supervising dentist so that he/she may use their judgment for possible referral.

Meeting with Daniel J. Armstrong, DMD Re: Cone Beam Computed Tomography:

The Board previously reviewed a request from Laurie Carter, DDS, PhD concerning the Board's guidelines for Cone Beam Computed Tomography (CBCT). The Board did not feel comfortable answering the questions, without first speaking with a licensed dentist who uses this technology. 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 the imaging study?
4. Who can bill for the scans?

The Board concluded that: an appropriately licensed dentist and/or physician can own a CBCT unit; appropriately trained and licensed dentists, physicians and radiologic technicians can operate the unit; and appropriately, licensed and trained dentists and/or physicians can interpret the results of the scan. Ms. Carter will also be asked what they are doing with information they are gathering.

Revisit: Letter from Dr. David Drohan, DDS Re: Dental General Practice Residency:

Penobscot Community Dental Center, the office of Dr. Drohan, called the Board office back to let the Board know that according to him the potential residents have taken an exam but did not state whether they have passed. Dr. Drohan's concern is that if they were to apply for full licensure, they may not have it in time. The Board concluded that it is restricted by what the statute will allow, but if the residents have graduated from an accredited school and successfully passed an approved examination, and if all other required paperwork is in order, their licensure could be acted upon at the Board's June 12, 2009 meeting. This information will be relayed to Dr. Drohan.

Addition to Agenda: The Board agreed to add to its list of possible rule-changes, the ability to issue temporary permits to individuals practicing in a residency within the State.

Letter from Robert Turner, DMD Re: Completion of Program: A letter will be sent to Dr. Turner stating that the Board would be willing to revisit this matter when it receives the following documentation: (1) Confirmation from the Physicians Health Program (now called the Medical Professionals Health Program) that he is currently enrolled in and in full compliance with the provisions of that program; and (2) Confirmation that he has been evaluated and deemed currently fit to return to the active practice of dentistry.

Letter from Norman Lajoie, DDS Re: Retirement: The Board agreed to send a letter to Dr. Lajoie thanking him for his services to Maine citizens.

Minutes: Dr. Higgins made a motion to accept the February 6, 2009 Board meeting minutes. Mr. Buxton seconded the motion and it passed with Dr. Theriault abstained. Dr. Higgins made a motion to accept the Adjudicatory Hearing minutes of February 6, 2009. Ms. LaVallee seconded the motion and it passed unanimously. Dr. Higgins made a motion to accept the March 6, 2009 Board meeting minutes. Dr. Moyer seconded the motion and it passed unanimously.

Secretary/Treasurer's Report: The Board voted to table the report until the June meeting when Ms. Blaisdell is in attendance.

President's Desk:

1. The Board agreed to schedule any conferences, hearings or interviews for the Board, to begin at 9:30 a.m.
2. Dr. Theriault asked the Board members if they would want to wait to meet with an ADEX representative until after ADEX has held its annual meeting, which is scheduled for June 13, 2009. The Board agreed to meet with the representative as scheduled on June 12, 2009.
3. The Board reviewed an e-mail from a licensee concerning a patient issue and another dental practice. A letter will be sent to the dentist who posed the inquiry stating that the Board has no information and only has the authority to investigate patient treatment issues under the umbrella of the complaint process.

Secretary's Desk:

Legislative Update: The Board completed the Legislative Appraisal Form for LD 565, "**An Act to Define "Edentulous Arch"**". Dr. Higgins made a motion to accept the form as completed and submit it to the Department of Professional and Financial Regulation. Dr. Moyer seconded the motion and it passed unanimously.

Letter from Ms. Rebecca Farnum, Esquire Re: Record Review Update: Dr. Theriault had previously relayed to Ms. Farnum's client, Dr. T.S. that he should be completing a separate informed consent form for patients who return on a future date for a procedure rather than updating a previous one. Ms. Farnum questioned why Dr. Theriault had made this recommendation, as it does not state so in the Board's Statutes and/or Rules. The Board agreed and a letter will be sent to Ms. Farnum, stating that each tooth has a different set of problems/concerns; therefore, each tooth removed should have a separate consent form.

Addition-Moderate Sedation Education: Dr. Moyer reported that he recently attended an ADSA annual meeting and asked whether any courses exist for moderate sedation that includes the three live patient contacts in their education. He was informed that there are not any courses currently of that nature. Dr. Higgins made a motion to invite an Academy of General Dentistry member in to speak with them about whether they can work with the Board to provide the appropriate live patient experiences for potential permittees. Discussion would include their willingness to provide continuing education under the auspices of the Maine AGD, and then provide documentation that an applicant has completed that portion of the education. Dr. Theriault seconded the motion and it passed unanimously.

Secretary's Desk:

Update from Professional Boundaries, Inc. Re: Request to allow Public Member to Attend CE Course: The Company has agreed to pay the tuition costs for Ms. Denk to attend one of its courses held in Atlanta, Georgia in August. Staff will look into submitting an out of state travel and air reimbursement request for Ms. Denk.

Dr. Higgins made a motion to adjourn at 5:26 p.m. Ms. Denk seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson
Executive Secretary