

**MAINE BOARD OF DENTAL EXAMINERS
BOARD MEETING MINUTES
November 13, 2009**

The Board convened at 9:04 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; Michelle Gallant, RDH; James Belleau, Esquire, Martin J. Dunn, DMD; David Wicks, DDS; William Gould, DDS; Carol Eisenberg, Esquire; Howard Bates, DMD; Gerald Vermette, DDS; Christopher Taintor, Esquire; Dennis Smith, AAG, and Teneale Johnson

New Board Member: Dr. Theriault welcomed new Board member Ms. Darlene Collins-Harden, RDH. Ms. Collins-Harden replaces Ms. Kristine Blaisdell whose term expired.

Dental Hygiene Subcommittee Update: Ms. Vaughan announced that Ms. Susanne LaVallee was elected as the new Secretary to replace Ms. Kristine Blaisdell, who is no longer on the Board of Dental Examiners. Ms. LaVallee reported that the Subcommittee interviewed three individuals. The first, Ms. Cynthia Bradbury is applying for a local anesthesia permit by endorsement. The Subcommittee recommends that the Board issue her a local anesthesia permit by special endorsement. Dr. Moyer made a motion to accept the recommendation. Dr. Zois seconded the motion and it passed unanimously. Ms. Abigail Kuhn was interviewed in order to convert her inactive dental hygiene license to active. The Subcommittee recommends that Ms. Kuhn be issued an active dental hygiene license. Dr. Moyer made a motion to accept the recommendation. Ms. Denk seconded the motion and it passed unanimously. Ms. Glenda Milliman was interviewed for a dental hygiene and a local anesthesia permit by endorsement. The Subcommittee recommended that Ms. Milliman be issued a Maine dental hygiene license and a permit to administer local anesthesia. Dr. Zois made a motion to accept the recommendation. Ms. Denk seconded the motion and it passed unanimously.

Complaint 07-55 Follow-Up: A letter was sent to the licensee concerning non-compliance with his consent agreement dated March 30, 2009. As of this date, the licensee has not responded to the letter. Dr. Cohen made a motion to initiate a complaint against licensee for non-compliance with the consent agreement. Ms. Denk seconded the motion, it passed with Mr. Buxton, Dr. Higgins recused, and Dr. Moyer recused as the Complaint Officer.

Complaint 09-34 S. Morse/C. Rockwell: The Complainant in this case alleged that the licensee was going to dismiss her as a patient for non-payment. There was a letter received back indicating that the complaint has been resolved between the former associate of the practice and the complainant. Dr. Zois made a motion to dismiss the complaint as no violation of the Dental Practice Act. Dr. Cohen seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Complaint 09-40 R. Raymond/F. Patterson: The complainant alleged that the licensee refused to treat him due to his high blood pressure and he did not believe that it was right. Dr. Moyer made a motion to dismiss the complaint as no violation of Dental Practice Act. Ms. Denk seconded the motion. The letter to the complainant will indicate that dentists, dental hygienists and dental assistants are trained in their schooling to perform a basic physical and history in order to establish baseline blood pressures on patients. The Board did not invent the policy, and it is not the only entity in the world of medicine and dentistry that follows this appropriate standard of care, which our licensees must adhere. The motion passed with Dr. Cohen recused as the Complaint Officer.

Informal Conference Complaint 08-38 – M. Dunn/P. Mortelliti: Ms. Denk made a motion to enter executive session at 9:43 a.m. Dr. Zois seconded the motion and it passed unanimously. The complainant in this case alleged that the licensee was charging for surgical extractions on multiple patients, although only simple extractions were performed. The licensee was present and represented by Counsel James Belleau, Esquire. Dr. Zois made a motion to come out of executive session at 10:55 a.m. Mr. Buxton seconded the motion and it passed unanimously. Dr. Moyer made a motion to dismiss the complaint with a letter of guidance stating that the licensee should be recording techniques used within a surgical procedure in the patient chart. Dr. Higgins seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer.

Informal Conference Complaint 09-2: Dr. Zois made a motion to enter executive session at 11:02 a.m. Ms. Denk seconded the motion and it passed unanimously. The complainant in this case alleged that the licensee did not take care of his teeth and jaw and the removal of his amalgam fillings did not relieve his depression. The licensee was present and represented by Counsel Christopher Taintor, Esquire. Ms. Denk made a motion to come out of executive session at 12:28 p.m. Dr. Zois seconded the motion and it passed unanimously. Dr. Higgins made a motion to offer the licensee a consent agreement whereby he would agree that he in fact is in violation of the previous consent agreement, which stated that he would not diagnose or treat mercury toxicity. The licensee would agree to five-year probation with the following conditions: (a) Allow the announced or unannounced office inspections by the Board or its designee(s) and (b) Agree to cease and desist treating any and all patients for mercury toxicity or mercury removal for the benefit of non-dental issues. Dr. Zois seconded the motion for purposes of discussion. Dr. Higgins amended the motion to include a section within the agreement stating that immediate suspension of his license will occur if he violates any of the conditions. Dr. Zois seconded the amendment to the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Informal Conference Complaint 08-43: Dr. Zois made a motion to enter executive session at 1:13 p.m. Dr. Cohen seconded the motion and it passed unanimously. The complainant in this case alleged that the licensee acted unprofessionally when treating her son. The licensee was present and represented by Counsel, Carol Eisenberg, Esquire. The Board came out of executive session at 1:45 p.m. Dr. Higgins made a motion to dismiss the complaint as not rising to the level of a violation of the Dental Practice Act and issue a letter of guidance reminding the licensee of the following: 1.) All monitoring of nitrous oxide is to be done by a permitted staff person or the dentist; 2.) The Board expects appropriate diagnostic radiographs prior to invasive procedures such as extractions; and 3.) The Board recognizes that there have been significant

steps taken on his part concerning infection control and dental radiographs. Dr. Cohen seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

Complaint 08-37 J. Griffee/S. Shutts: The Board previously tabled this complaint on May 8, 2009 and asked the licensee to complete a pre-approved prosthetics course within six months. The licensee has forwarded his proof of completion of the required course. Dr. Moyer made a motion to untable the complaint. Ms. Denk seconded the motion and it passed with Dr. Cohen recused as the Complaint Officer. Dr. Higgins made a motion that the complaint be dismissed with a letter of guidance stating that the Board has concerns about his prosthetic technique concerning the nature of full crown treatment planning and completion. The licensee will be reminded that appropriate occlusal consideration, design and fabrication of the prosthetic appliance must meet the standard of care. Dr. Moyer seconded the motion and it passed with Dr. Theriault opposed, Dr. Higgins abstained and Dr. Cohen recused as the Complaint Officer.

Minutes: October 16, 2009 – The Board made several changes to the minutes of this meeting as follows: Page 2: reimburse the complainant “for subsequent services required for the patient” Dr. Higgins made the motion which was seconded and passed with Dr. Moyer, Ms. LaVallee, Ms. Collins-Harden and Mr. Buxton abstained. Page 3 Addition to agenda: “no later than the morning of the Board meeting date”. Dr. Higgins made the motion to amend this item. Dr. Dr. Cohen seconded the motion, it passed with Dr. Moyer, Ms. LaVallee, Ms. Collins-Harden and Mr. Buxton abstained. Page 6 add “of practice” under the item regarding Mr. Adams. Ms. Denk made a motion to accept the minutes as amended. Dr. Zois seconded the motion, it passed with Ms. LaVallee, Ms. Collins-Harden, Mr. Buxton, and Dr. Moyer abstained.

Secretary/Treasurer Report: Dr. Cohen made a motion to elect Dr. Zois as the Secretary/Treasurer for the remainder of 2009. Dr. Moyer seconded the motion and it passed unanimously.

President’s Desk:

Complaint Officer for Dental Hygiene Subcommittee: Dr. Moyer made a motion to elect Dr. Cohen as the Complaint Officer for the Dental Hygiene Subcommittee. Ms. LaVallee seconded the motion and it passed unanimously.

Slate of Officers for 2010: Dr. Cohen made the following motion on the Board Officers for 2010: Dr. Theriault, President, Dr. Higgins, Vice President, Dr. Moyer, Complaint Officer along with Dr. Cohen (up until June 2010), and Dr. Zois as the Secretary/Treasurer. Mr. Buxton seconded the motion and it passed unanimously.

Secretary’s Desk:

- A. The Board reviewed the State of Maine Policies concerning allowable meal reimbursements. The Board previously tabled their review of one of the anesthesia team member’s expense voucher in order to review the State’s Policy. Dr. Higgins made a motion to reimburse this licensee in this particular instance. The Board will forward a copy of the State’s Reimbursement Policies to all Anesthesia Review members with a

note indicating that in light of the current economic conditions, the Board voted to make them aware of this policy. Dr. Cohen seconded the motion and it passed unanimously.

- B. Possible policy - When a complaint is filed against a dental auxiliary, which involves the dentist of the practice in some way, and the Board votes to issue a letter of guidance, do you wish to have a policy that, when appropriate, these letters be copied to the dentist of record so they are also aware of the Board's guidance? Dr. Cohen made a motion to make this a policy. Ms. Denk seconded the motion and it passed unanimously.
- C. Board members were reminded that they should be putting together some language to present to the Business, Research and Economic Development Committee in January concerning the new denturist legislation that was passed this past session.

LD 710 – An Act to Allow Qualified, Licensed Denturists to Practice to the Level of Their Educational Training, and

LD 565 – Resolve, to Direct the Board of Dental Examiners to Review the Definition of “Edentulous Arch” in the Rules Governing Denturists.

Board staff will research what the actual Board's vote was on LD 565 so that can be included in the report back to the BRED Committee.

Old Business:

- A. Subcommittee to research the Dental Practice Act and make recommendation for changes needed prior to the first class beginning at the Dental Program at UNE – Dr. Higgins reported a little progress on this item.
- B. Dr. Higgins is also working on having a consultant review the appropriate protocols concerning the administration of Versed in an oral dental setting.
- C. Workshop for Anesthesia Team Members – Dr. Theriault asked Dr. Moyer to put something together for some evening in February or March of 2010.
- D. Brainstorming discussion with various professional societies – A letter will be sent to the various Professional Societies to let them know that a Board member could be available to them for meetings to discuss professional issues, questions or concerns about the Dental Practice Act. Discussions would be limited to what can be discussed in a public forum.

Professional Boundaries, Inc. Presentation:

PBI, Inc. offered to provide a presentation to the Board concerning their boundaries and ethics courses that are available to licensees. Dr. Moyer indicated that he would be in Georgia during a week in December. Board staff will check to see whether there would be a course available for him to take in person.

EFDA Applicant – Katharine J. Noble: Dr. Higgins made a motion to send Ms. Noble a letter, which indicates that after reviewing all materials submitted, she does not qualify for an EFDA Certificate in this State. She is welcome to forward documentation showing any training and experience from her military service which would need to indicate what the training involved. Ms. Denk seconded the motion and it passed unanimously. A copy of the Board's rules concerning EFDA's will be forwarded with this letter.

E-mail from PHS Hygienist Re: Prescribing Preident for a Nursing Home Patient: Dr. Cohen made a motion stating that she should ask the patient's medical doctor to prescribe it or ask the physician of record or the dentist of record for the facility. Dr. Moyer seconded the motion and it passed unanimously.

Letter from CODA Re: Request for Board Participation of Site Visit for Penobscot Community College Health Center: The Board accepted the information as an FYI.

Letter from PHS Dental Hygienist Re: Assistance Locating a Supervising Dentist for PHS Project: Dr. Cohen made a motion suggesting that she ask her current employer or other dentists in her area. Dr. Zois seconded the motion and it passed with Ms. LaVallee recused.

Letter from Licensee R.M. Re: Consent Agreement Fulfillment: The licensee is aware that the consent agreement is still in force with the Board, even though his contract with the MMPHP may not be. Information accepted as an FYI.

Investigative Report from Tammy Steuber, Paralegal for Health and Human Services Re: Licensee: A motion was made to initiate a Board complaint against the licensee based on the information reviewed. Dr. Higgins seconded the motion and it passed with Dr. Cohen recused, as he will be the assigned Complaint Officer.

Letter from David J. Simmons, M.D., FACP Re: Resignation: Dr. Simmons sent a letter to the Board notifying them that he has resigned as Medical Director of the Maine Medical Association, Medical Professional Health Program. A letter will be sent to Dr. Simmons thanking him for helping us grow as a Board and meet the needs of some of our licensees. His expertise will be missed.

Letter from Licensee P.M. Re: Missing Quarterly Report: This licensee was sent a letter previously, concerning missing reports, which he is required to submit to the Board per his consent agreement. Dr. Cohen made a motion to accept the most recent report received from the licensee's primary care physician, as the missing quarterly reports for July and October. Dr. Moyer seconded the motion and it passed with Dr. Theriault recused. Dr. Moyer made a motion stating that if and when the offered consent agreement amendment is received signed by this licensee, the Acting Board President will be asked to execute the document. Dr. Cohen seconded the motion and it passed with Dr. Theriault recused.

Letter from Licensee J.E. Re: Acceptance of Position on the MMA/MMPHP Advisory Committee: Dr. Higgins made a motion to amend the licensee's consent agreement in the

appropriate manner in order to allow him to participate on the advisory committee. Ms. LaVallee seconded the motion and it passed unanimously.

E-mail from Daniel Eccher Re: Proposed Rule Changes Governing the Prescription Monitoring Program: Dr. Theriault made a motion stating that the Board is in favor of the proposed changes to the rules. Dr. Moyer seconded the motion and it passed unanimously.

E-mail from Lesley Graham Re: Storage of Referrals Never Acted Upon by Potential Patients: Ms. Graham asked whether their office is required to keep copies of patient records who were referred for treatment, but the patient never followed through with the referral. Dr. Higgins made a motion stating that the Board does not consider these individuals patients of record and would have no problem with them disposing of them appropriately. A proper protocol would be to send a letter to the referring office indicating that the patient never followed through. Dr. Zois seconded the motion and it passed unanimously.

E-mail from Dental Licensee re: Conscious Sedation: The licensee indicated his confusion as to what he is allowed to do under the new moderate sedation rules and whether he would now need a permit to administer sedation. The licensee will be referred to the rule and suggest that he may wish to fill out the educational waiver if applicable with the deadline being February 11, 2010. He will also be referred to the section of the rule relating to appropriate administration to children 13 and under. The motion passed unanimously.

Medical Malpractice Payment Report Re: Former Licensee J.K.: The Board asked staff to forward a copy of the report to the Massachusetts Dental Board.

Dr. Cohen made a motion to adjourn at 3:49 p.m. Ms. Denk seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson
Executive Secretary