

**Maine Board of Dental Examiners  
Board Meeting Minutes  
November 19, 2010**

The Board convened at 8:58 a.m.

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

**Board Member Absent:** Darlene Collins-Harden, RDH

**Also Present:** John Bastey, Maine Dental Association; John Merrill, LD; Bonnie Vaughan, IPDH; Michelle Gallant, RDH; Nancy Lacroix, RDH; Sharyl Porter, RDH; Kurt Bechtel; Leland Bechtel; Richard Sewall, DDS; Macy Hyvonen; DMD; Cathy Kasprak, IPDH; Katti Webb; IPDH; Joan Davis, IPDH; Sabrina Toye, RDH; Tamsyn Frothingham, RDH; Mary Lynne Murray-Ryder, RDH; Salvadore P??; Bev Litchfield, RDH; Dennis Smith, Assistant Attorney General; Lynn Warner, Board Assistant and Teneale Johnson, Executive Secretary

**Denturist Subcommittee Update:** Dr. Cohen reported that the Subcommittee recommended that the Board dismiss complaint 10-30, as there was no violation of the Dental Practice Act. Dr. Moyer made a motion to accept the report from the Denturist Subcommittee relating to complaint 10-30. Dr. Zois seconded the motion, it passed with Mr. Buxton recused and absent from the room, and Dr. Theriault recused as the Complaint Officer.

The Subcommittee reviewed documentation from an individual requesting whether his denturist degree from Trillium College in Toronto, Canada, would qualify him to obtain a license in Maine. The Subcommittee also relayed that the International Federation of Denturists (IFD) has not approved this program and, therefore, they do not believe the Board should recognize the degree at this time. Dr. Higgins made a motion to send a letter to the individual who made an inquiry regarding the Board's rules that a denturism degree program must be reviewed and approved by both the IFD and the Maine Board. Because this program is not, he currently does not qualify for a Maine denturist license. Dr. Zois seconded the motion and it passed unanimously.

**Interviews for Independent Practice Dental Hygiene Licensure:**

Nancy Lacroix, RDH  
Sharyl Porter

Dr. Higgins made a motion to grant an IPDH license to **Ms. Nancy Lacroix** once her application file is complete. Ms. Denk seconded the motion and it passed unanimously. Dr. Cohen made a motion to grant an IPDH license to **Ms. Sharyl Porter** once her application file is complete. Dr. Zois seconded the motion and it passed unanimously.

**Minutes October 22, 2010:** Dr. Higgins made a motion to accept the minutes as amended. Dr. Zois seconded the motion and it passed with Dr. Cohen recused.

**Informal Conference Complaint 10-31 – R. Sewall/L. Bechtel:** Dr. Zois made a motion to enter executive session at 9:42 a.m. Ms. Denk seconded the motion and it passed unanimously. The Complainant alleged that the licensee acted unprofessionally at his dental appointment. Dr. Zois made a motion to come out of executive session at 10:06 a.m. Mr. Buxton seconded the motion and it passed unanimously. Dr. Zois made a motion to dismiss the complaint and issue the licensee a letter of concern regarding the licensee's failure to address the patient in an appropriate manner, directing the licensee to address each patient in an appropriate manner and recommending that vital signs be taken on patients, particularly when administering local anesthetics. The motion was seconded, it passed with Dr. Higgins opposed, and Dr. Moyer recused as the Complaint Officer.

**Complaint 06-020 Follow up Report:** The Board reviewed a quarterly report concerning a licensee under a Board Decision and Order. The supervising dentist requested that he submit the reports monthly to the Board instead of quarterly. Dr. Higgins made a motion to send a letter to the supervising dentist indicating that the Board has no objection to receiving monthly reports in lieu of quarterly reports and that he can communicate the written reports directly to the Board without submitting them to the licensee beforehand. Mr. Buxton seconded the motion and it passed with Dr. Theriault recused as the Complaint Officer.

**Complaint 10-27 R. Smith/B. Morin:** The complainant alleged that the licensee extracted the incorrect tooth. Dr. Higgins made a motion to dismiss the complaint and issue a letter of guidance to the licensee, regarding his extraction of the wrong tooth, and recommending that he always verify the correct tooth prior to extraction or prior to performing any dental treatment. Dr. Theriault seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**Complaint 10-30 W. Buxton/L. Desjardins-King:** Dr. Cohen made a motion to accept the Denturist Subcommittee recommendation to dismiss complaint 10-30, as there was no violation of the Dental Practice Act. The letter to the complainant will indicate that the denturist, against whom the complaint was filed, never saw or treated the patient in question. Dr. Zois seconded the motion, it passed with Mr. Buxton recused, and Dr. Theriault recused as the Complaint Officer. In follow up to this complaint, one of the Denturist Subcommittee members wanted to relay his concerns with the individual that filed this complaint.

**Addition to Agenda:** Based on the Board's review of the above complaint, the Board voted to generate a complaint against the dentist who provided treatment in the case. Dr. Cohen made a motion to generate a complaint. Dr. Moyer seconded the motion, it passed with Mr. Buxton recused, and Dr. Theriault recused as the Complaint Officer.

**Complaint 10-37 R. Berube/S. Karczewski:** The complainant alleged that the Office Staff and Dentist treated his family members inappropriately. Dr. Cohen 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 10-42 J. Tozer/P. Kennedy:** The complainant alleged that the licensee provided inadequate treatment, which resulted in the loss of a dental bridge. Dr. Cohen 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 10-46 T. Anderson/W. Faulkner:** The complainant alleged that the licensee provided an inadequate partial denture. 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 08-3 Follow Up Information:** The Board reviewed proof of completion of continuing education for this licensee. The Board accepted the information as an FYI.

**Complaint 10-20:** In order to resolve this complaint following an informal conference with the licensee and his attorney, the Board forwarded a proposed consent agreement. The licensee's attorney submitted a request for changes to the proposed agreement. The Board agreed to change the language in the proposed agreement from "and the performance of surgery" to "and the performance of an invasive dental procedure." Dr. Higgins made a motion to instruct counsel to forward the amended agreement to the licensee's counsel. Dr. Cohen seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**President's Desk:**

1. Dr. Theriault asked that the Board consider adding the following to the list of possible rule changes, the allowance of dental assistants to perform cold tooth vitality tests under direct supervision, as long as the dentist confirms the results. Dr. Cohen wanted it on the record that he was against this being added to the scope of practice for dental assistants.
  
2. Follow up from Anesthesia/Sedation Ad Hoc Committee meeting: The Committee hopes to bring forth recommendations to the Board that will simplify the on-site evaluation process for both the permit holders and the inspectors. There will also be changes recommended for the evaluation forms. The Board has not received an on-site evaluation form for a moderate sedation permit holder, and has been unable to locate any copies of the evaluation form. Staff will inquire with one more office to see if they have a copy or if the inspector recalls the inspection and if so, whether there were any issues. Dr. Higgins made a motion to have Dr. Theriault follow through with the information obtained in order to grant the full permit if appropriate. Dr. Cohen seconded the motion and it passed unanimously.

**Interview for Dental Licensure: Macy Hyvonen, DMD**

**Letter from Elizabeth Doherty, IPDH Re: Out of State Insurance Companies:** Ms. Doherty wrote asking for assistance on how she may be able to solve the issue of Insurance Companies not recognizing her services as an independent practicing dental hygienist. Dr.

Higgins made a motion to send a letter to Ms. Doherty providing some suggestions would be for her not to accept any insurance benefits and to collect the money from the patient and have the patient obtain reimbursement directly from their insurance carrier. The Board would ask that she also inform her patients on what that will mean for them. Another option would be to contact the patients' employers and ask that the wording in their insurance contracts be amended to include IPDH's. Dr. Zois seconded the motion and it passed with Dr. Cohen recused.

**Informal Conference Complaint 10-41 – M. Reynolds/D. Maheux:** Dr. Zois made a motion to enter executive session at 1:32 p.m. Ms. Denk seconded the motion and it passed unanimously. The complainant alleged that the licensee performed endodontic services that fell below the standard of care. Dr. Cohen made a motion to come out of executive session at 2:06 p.m. Dr. Zois 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. Mr. Buxton seconded the motion, it passed with Dr. Theriault and Dr. Higgins opposed, and Dr. Moyer recused as the Complaint Officer.

**Motion on Interview for Dental Licensure:** Dr. Cohen made a motion to grant a dental license to **Dr. Macy Hyvonen** upon completion of her file. Ms. LaVallee seconded the motion and it passed unanimously.

**Interview for Dental Licensure:** Oleg Zusin, DDS  
Dr. Moyer made a motion to grant a license to **Dr. Oleg Zusin**. Dr. Zois seconded the motion and it passed unanimously.

**E-mail from Ted Morgan, DDS Re: Transfer of Radiographs Between Dentists:** Dr. Higgins made a motion to respond to Dr. Morgan stating that all dental radiographs or their copies must be of diagnostic quality and it would be the responsibility of the original office to see that they are. The Board takes no position on the format that they are placed only that they be of usable quality. Dr. Zois seconded the motion and it passed unanimously.

**E-mail from Lauren Meyers, NYU Outreach Program Re: Feedback from the MBDE:**  
Dr. Higgins made a motion to respond stating that the Board has heard nothing but positive feedback as a result of the recent Outreach Program conducted in Machias. Dr. Cohen seconded the motion and it passed with Dr. Moyer abstained.

**E-mail from Susan Cohen Re: Questions Concerning Dental Office Requirements:** Ms. Cohen posed the following questions to State Dental Boards:

- A. Are emergency medical kits, AED's and Positive pressure oxygen required for general practice – if so what contents in the kit?
- B. For conscious sedation, what are the special requirements?
- C. Are amalgam separators required?
- D. Is a State CLIA Waiver necessary for in office finger stick testing using CLIA WAIVED DEVICES (such as Bayer's A1C Now)?

The Board voted to responds as follows:

- A. Dental offices are expected to have emergency equipment and know how to utilize it.  
In addition, at this point in time there is no requirement for AED's in the dental office.
- B. A copy of Board Rule Chapter 14 will be forwarded.
- C. Amalgam separators are required in Maine.
- D. No, a state CLIA waiver is not necessary in Maine dental offices.

**E-mail from Jo Craven McGinty, NY Times Re: Continuing Education Questions:** Ms. McGinty posed questions regarding the continuing education requirements for dentists. Dr. Higgins made a motion to refer this individual to the Board's website for a copy of Chapter 13 of the Board's rules. Dr. Zois seconded the motion and it passed unanimously.

**E-mail from Amanda Sasseville Re: Radiographs and ICON:** Ms. Sasseville posed the following questions to the Board:

- A. What is the state law on how often x-rays need to be taken?
- B. Can an EFDA or RDH place ICON? (An ICON representative informed their office that Hygienists and EFDA's could place ICON.)
- C. Does the Maine Dental Board see adding more procedures that an EFDA can do, upon additional training?

Dr. Higgins made a motion to respond as follows, which was seconded by Dr. Cohen and passed unanimously:

- A. There are no guidelines on the frequency that x-rays should be taken, this is up to the individual dentist and the individual patient.
- B. ICON is considered a restorative procedure. EFDA's or RDH's are not permitted to perform this procedure.
- C. There is no movement by the Board to change the scope of practice for an EFDA.

**Review of General Anesthesia On-Site Inspection** C.S. Maller, DMD: The Board voted to issue the permit for this practice location.

**Letter from Robert S. Schaedel, DMD, MD Re: Resignation as Anesthesia Committee Chair Position:** Dr. Cohen made a motion to send a thank you letter to Dr. Schaedel. Dr. Dr. Moyer seconded the motion and it passed unanimously.

**Review of Level I On-Site Inspection Evaluation:** Being the individual who reviews the on-site inspection forms, Dr. Theriault wanted to know what the Board's feeling was on when a permit should be revoked, extended or granted. As long as everything under the objective findings is found to be positive in nature and there are no deficiencies, then the permit should be granted.

**Review of Licensee Consent Agreement Compliance:** The Board reviewed information relating to a licensed dentist under a current consent agreement. Dr. Higgins made a motion to issue an immediate suspension of this dentist license based on two recent arrests and failure to meet conditions outlined in the consent agreement dated July 16, 2010. Dr. Cohen seconded the motion, it passed with Mr. Buxton recused, and Dr Theriault recused as the Complaint Officer.

**Complaint 10-20 Continued from above:** In the proposed agreement to solve this complaint, the licensee would be required to successfully complete a closed-book jurisprudence examination within six months. The licensee contacted the Board office on this day, asking to take the exam as he was in the area. Dr. Higgins made a motion stating that the Board applauds the licensee's willingness to get things done, but because the agreement has not been finalized, the Board did not feel it was appropriate for him to take the exam at this time. Dr. Cohen seconded the motion and it passed with Dr. Moyer recused as the Complaint Officer.

**The following items were accepted as FYI's:**

- ◆ Letter from Paul Zimmerman, DDS, MDA re: Thank you to the MBDE for attendance at the September 30, 2010 MDA Executive Board Meeting
- ◆ Listing of Maine Caduceus Meetings
- ◆ Memo from Dr. Laura Neumann, Sr. VP, JCONDE, re: 2011 National Dental Examiners' Advisory Forum (NDEAF)
- ◆ AGD Transcript-Quarterly Newsletter for State Dental Boards-October 2010 issue
- ◆ Memo from The Dental Assisting National Board re: DANB Announces 2010-2011 Board Directors and Officers
- ◆ E-mail from John Bastey, MDA Re: Issued Dental Licenses from 2008 - 2010
- ◆ Newspaper article, "PBMC Leading Efforts to Help Maine Care Patients Get Dental Care"
- ◆ E-mail from Dr. Laura Neumann, Interim Secretary & Sr. Vice President, JCONDE re: Vacancies on National Board Test Construction on Committees for 2012
- ◆ Portland Press Herald Article, "Dentists Services At No Charge Give Hurting Mainers Something to Smile About"
- ◆ E-mail from Bayley Milton, Administrator, AADB Re: 11/02/10 NPDB Executive Committee Meeting Report w/Excerpts of Presentations

Dr. Cohen made a motion to adjourn at 3:15 p.m. Dr. Zois seconded the motion and it passed unanimously.

Respectfully Submitted,

Teneale E. Johnson  
Executive Secretary