

**Board of Dental Examiners  
Board Meeting Minutes  
September 18, 2009**

The Board meeting convened at approximately 9:00 a.m.

**Board Members Present:** Drs. Denise Theriault, Jerrold Cohen, Philip Higgins and Charles Zois, Ms. Kristine Blaisdell, RDH and Mr. William Buxton, LD; and Ms. Diane Denk, Public Member, Dr. Moyer arrived at approximately 11:00 a.m.

**Board Members Absent:** Ms. Susanne LaVallee

**Also Present:** John Bastey, Maine Dental Association; Frances Miliano, Executive Director, Maine Dental Association; Danielle Furgeson, RDH, UMA, Dental Health Programs; Diane Blanchette, RDH, UMA, Dental Health Programs; Bonnie Vaughan, IPDH; Howard Bates, DMD; James Belleau, Esquire; Julie Breau; Elizabeth Archer, DMD; Brett Witham, Esquire; Heather Gran; Michael Doe, DMD; Terrie Andersen; Dennis Smith, AAG and Teneale Johnson, Executive Secretary

**Dental Hygiene Subcommittee Update:** Ms. Blaisdell provided the report to the Board as she has been elected as the new Secretary of that Committee. The Subcommittee interviewed J. W. concerning a “yes” response reported on her license application. The Subcommittee recommended that Ms. W. be granted a Maine dental hygiene license. Dr. Cohen made a motion to accept the recommendation. Dr. Zois seconded the motion and it passed unanimously. The Subcommittee also reviewed Complaint 09-31 and recommended that the Board dismiss the complaint as no violation of the Dental Practice Act. Dr. Cohen made a motion to accept the recommendation. Ms. Denk seconded the motion and it passed with Dr. Higgins recused as the Complaint Officer. The Subcommittee also requested that the Board make available the “Maine Dental Hygiene Report” submitted to the American Association of Dental Examiners to the Maine Dental Hygiene Association. Dr. Cohen made a motion to make that report available to all interested parties. Ms. Blaisdell seconded the motion and it passed unanimously.

**Report of Ad Hoc Committee Meeting:** Mr. Buxton relayed the amendments made to the proposed certificate of oral condition, which include: a schematic for the upper and lower arches as a second side of the document; a place to indicate the location of rest seats and guide planes; and the name of the dental office for follow-up periodontal care.

The Board reviewed the letter submitted by the Maine Dental Association concerning fully tissue borne partial dentures next to or attached to an implant, and its concern that it might be done without a certificate of oral condition signed by a dentist. Dr. Cohen made a motion that the Board immediately add the following to the Board Policy list: Any partial denture construction done by a licensed denturist must have a valid signed certificate of oral condition. This item will also be placed on the list of possible rule changes. The motion was seconded and it passed unanimously.

Upgrade curriculum for partial dentures: Professor Vakalis of George Brown College has agreed to coordinate the provision of the review courses. Dr. Cohen made a motion to accept the Ad Hoc Committee's recommendation for the upgrade curriculum educational requirements for partial denture construction. Ms. Blaisdell seconded the motion and it passed unanimously.

**Meeting with Diane Blanchette, RDH and Danielle Fergeson, RDH:** Ms. Blanchette and Ms. Fergeson asked to meet with the Board concerning Ms. Fergeson's upcoming application for EFDA Certification to ensure that Ms. Fergeson will not need to complete any additional education or training prior to her application. Ms. Fergeson will soon be completing the Skill Tech program in Vermont, which is the program upon which the Maine EFDA is modeled. When the program is instituted in the Fall of 2010, Ms. Fergeson will be the lead instructor. In completing the application, Ms. Fergeson will need to undergo a Maine background check as part of the application.

They also briefly discussed the distance Certified Dental Assistant program through the University College at Bangor.

**Complaint 09-26:** This complaint was dismissed on August 21, 2009, with a letter of guidance concerning the licensee's informed consent being inadequate concerning surgical procedures. The licensee has amended his form and has sent a copy of the new informed consent form that he is utilizing. The Board accepted the information as an FYI.

**Minutes:** July 7, 2009 – Dr. Theriault made a motion to accept the minutes of July. Dr. Zois seconded the motion, it passed with Dr. Cohen, and Ms. Denk abstained.

**Secretary/Treasurer's Report:** Ms. Blaisdell reported that the Board is on track. Dr. Cohen made a motion to accept the Secretary/Treasurer's report. The motion was seconded and it passed unanimously.

### **President's Desk:**

**Discussion regarding guidelines when a PHS or IPDH entity closes and/or stops providing services:** The entity/individual should notify all applicable contracted sites of their closure or their discontinuation of services. The Board agreed to put the practice closure guidelines into Chapter 9 of the rules.

**Report of patient records review for Dr. S.:** Dr. Theriault reported that the records review is going well and the records are improving. FYI

**Minutes – August 21, 2009:** The Board made an amendment to the August minutes.

**Update on 09-26 above –** Dr. Zois made a motion to include a cover letter with the letter of guidance to be issued to the licensee in this complaint, as it has not yet been sent. The cover letter would indicate that the Board has received a copy of his new informed consent forms and that the Board has determined them satisfactory and to thank him for complying with the Board's request. Ms. Denk seconded the motion, it passed with Dr. Higgins recused, and Dr. Cohen recused as the Complaint Officer.

Dr. Cohen made a motion to accept the August minutes as amended. Ms. Denk seconded the motion and it passed unanimously.

**Secretary Desk:**

**Moderate Sedation/Three Live Patients:** The Board agreed that Chapter 14, Section IV. B. needs to be amended to allow a moderate sedation permittee to administer moderate sedation – while acting as an instructor - to no more than three patients within a Board- approved educational setting

**Old Business:**

The Board agreed to remove one of its items on Old Business.

**Subcommittee for research of the DPA concerning changes needed to comply with having a dental school in Maine:** Dr. Higgins has been in contact with Ellen Beaulieu, of the University of New England who indicated that they have just hired an administrator from the new Arizona dental school. Ms. Beaulieu will contact Dr. Higgins when she has spoken to new administrator concerning whether any rule changes need to be made.

**Review of what is normal protocol concerning the administration of Versed in an oral dental setting:** Dr. Higgins indicated that he has not yet contacted a consultant concerning this and the Board agreed to keep the item on old business.

**Subcommittee for the development of a daylong educational program aimed at clarifying and discussing IPDH, PHS, Pubic Health Clinics and Maine Care.** Dr. Higgins indicated that he would be speaking with Bonnie Vaughan.

**Case Milestone Report:** There has been an increase of instances where licensees' have been scheduled for an informal conference, and at the last minute, the licensee and/or counsel for the licensee is asking for the conference to be postponed, which changes the Board's agenda greatly. AAG Smith explained to the Board that Informal conferences are invitations, not formal hearings, and that requests for continuances for civil and criminal cases are routinely granted where a party is seeking or has only recently obtained legal counsel.

Dr. Moyer arrived at 11:00 a.m.

**Proposed Rule Change List:**

**Chapter 2** – (Concerning the administration of local anesthesia by licensed dental hygienists) II, J should be amended to read as follows:” under the direct supervision of a licensed dentist or licensed medical or osteopathic physician within a hospital or clinical setting, by performing the following.....”

**Chapter 3** – Allow dental assistants to place temporary crowns with temporary cement – o.k. as drafted

**Chapter 4** – Summary: O.K. as drafted

**Chapter 1** - # 34 “Practice of Denturism. should read: “The taking of denture impressions and bite registration for the purpose of or with a view to the making, producing, reproducing, construction, finishing, supplying, altering or repairing of a denture to be fitted to an edentulous or partially edentulous arch or arches.” B. should read: “The fitting of a denture to an edentulous or partially edentulous arch or arches, including the making, producing, reproducing, constructing, finishing, supplying, altering and repairing of dentures, without performing alteration to natural or reconstructed tooth structure.” C will remain as is.

**Chapter 4** – Last page “J” and denturist who holds a diploma from a board approved denturist program: The new law regarding partial dentures states that individuals who have not received a diploma from a post-secondary denturism educational institution approved by the International Federation of Denturists, and the Maine Board of Dental Examiners, cannot practice partial denture construction.

**Chapter 5** – I.5. O.K. as drafted; III. O.K. as drafted; IV. O.K. as drafted; Item V. typographical error “reproducing”:

- A. Any individual who possesses a license to practice Denturism in this state prior to  
...
- B. After October 1, 2009, any individual who does not possess a license to practice in this state and who applies for a license to practice in this state, shall be required to, in addition to, passage of the examination, have a diploma and be graduates of a Board approved denturism postsecondary institution, which includes the...

**Chapter 9** – Letter T: O.K. as drafted; Letter U: O.K. as drafted

**Meeting with James Smith, Esquire, Hearing Officer Re: Complaint 06-13:** The Kennebec County Superior Court vacated the Board’s Decision dated October 12, 2007, and remanded it back to the Board for a new hearing concerning Complaint 06-13. The purpose of this meeting is at the Court’s directive. All Board members were introduced. Ms. Denk, Dr. David Moyer and Dr. Charles Zois were recused from the review of the complaint, which began at 12:30 p.m. Neither attorney participated although present in the room. Hearing Officer James E. Smith, Esquire relayed what he believed are the options available to the Board which are to: 1) dismiss the complaint and not incur any further expenses; 2) refer the complaint to the Attorney General’s office and recommend that it be filed with the Maine District Court; or three 3) offer the licensee a consent agreement; (one was previously offered). Dr. Cohen stated that his opinion would be that the Board dismiss the complaint. Dr. Higgins indicated that he would reluctantly agree with Dr. Cohen. Mr. Buxton concerned that the decision to dismiss the complaint is not necessarily in the best interest of Maine citizens. Ms. Blaisdell made a motion to dismiss complaint 06-13. Dr. Higgins seconded the motion and it passed unanimously. The meeting concerning complaint 06-13 concluded at 12:52 p.m.

**UV Teeth Whitening at Sun Tan city:** The Board reviewed a brochure obtained at Sun Tan City concerning “Twilight Teeth”. Dr. Higgins made a motion to send a letter to this company indicating that it has come to our attention that they may be providing a dental service, which constitutes practicing dentistry without a license. If you are practicing dentistry without appropriate licensure, you could be subject to prosecution by the Office of the Attorney General. Dr. Cohen seconded the motion and it passed unanimously. AAG Smith will review the letter.

**Denturist Curriculum for Mills Grae University Re: Formal Review/Approval As an Educational Provider:** The Board discussed the fact that the curriculum appears to be a postgraduate degree for medical Denturist for already licensed denturists. Dr. Cohen made a motion to not grant recognition to the curriculum from Mills Grae University. Dr. Higgins seconded the motion for purposes of discussion. The motion was amended to include that until a legitimate entity has accredited their Denturist program, the Board will not reconsider its decision. The motion passed unanimously.

**Certificate of Oral Condition:** Dr. Cohen made a motion to accept the certificate as recommended and developed by the Ad Hoc Committee. Mr. Buxton seconded the motion and it passed unanimously.

**Informal Conference Complaint 09-10:** The complainant in this case alleged that the licensee pulled a permanent tooth and did not notify her of the mistake. The licensee was present with Counsel Brett Witham, Esquire. Dr. Higgins made a motion to enter executive session at 1:27 p.m. Dr. Zois seconded the motion and it passed unanimously. The complainant in this case remained in the room along with the complainant’s friend. The Board came out of executive session at approximately 2:20 p.m. Dr. Cohen made a motion to offer the licensee a Consent Agreement that would state that removal of the wrong tooth is a violation of the Dental Practice Act, and falls below the standard of care. As discipline, the licensee would agree to a two-year probation, and must complete a Complaint Officer pre-approved course in oral surgery related to diagnosis, treatment, and recognition of dental anatomy. If the licensee is unable to locate an appropriate course, she may have to contact a dental school to formulate a course, which would be at her expense. Dr. Zois seconded the motion. The motion was amended to include that in signing the agreement; the licensee would admit to the facts of the case and agree that the actions taken, resulted in irreparable harm to the patient. The licensee will have nine months to complete the course. The motion passed with Dr. Moyer recused as the Complaint Officer.

**Informal Conference - Complaint 09-11:** The complainant in this case alleged that the licensee treated the incorrect tooth. Ms. Denk made a motion to enter executive session at 2:32 p.m. Dr. Higgins seconded the motion and it passed unanimously. Ms. Denk made a motion to come out of executive session at 2:58 p.m. Dr. Zois seconded the motion and it passed unanimously. Dr. Moyer made a motion to table the complaint and ask that the licensee complete a pre-approved course in dental risk management and a pre-approved course in treatment planning. The Board will review the complaint again in nine months with the intent of dismissing the complaint and issuing the licensee a letter of guidance. The complaint could be reviewed prior to nine months, if proof of completion of the courses is received. Ms. Denk seconded the motion, it passed with Drs. Higgins, Zois, Theriault opposed, and Dr. Cohen recused as the Complaint Officer.

**Meeting with Terrie Andersen, Radiographer:** Ms. Andersen requested a meeting with the Board concerning her Consent Agreement and the amount of testing she is currently required to undergo through the Medical Professional Health Program. The consent agreement dated May 8, 2009, required Ms. Andersen for the first sixty days to submit to random testing once per week. Thereafter, she is required to submit random testing once per month. The MPHP has only reduced the testing to twice per month due to several questionable tests. Dr. Higgins made a motion that the Board send a letter to the MPHP asking them to indicate whether there is any reason why the testing cannot be reduced as stated in the agreement. The motion passed unanimously and a copy will be sent to Ms. Andersen.

**Complaint 09-32:** The complainant alleged that she was not allowed to have a cleaning for her child, without the dentist doing an examination. Dr. Cohen made a motion to dismiss the complaint as no violation of the Dental Practice Act. Dr. Zois seconded the motion, it passed with Dr. Higgins recused, and Dr. Moyer recused as the Complaint Officer.

**Review of Request from Cheri Skilling of Plane Smile, LLC Re: Advertising:** Dr. Cohen made a motion to state that the Board reviewed her request to place an advertisement and determined that her request more closely represents an Independent Practice Dental Hygiene practice, not services provided under Public Health Supervision status and request that she not place the advertisement. Dr. Zois seconded the motion and it passed unanimously.

**Request from Robert Rosenberg, DDS Re: Extension of Time to Obtain CEU's:** Dr. Moyer made a motion to grant an extension of time until February 15, 2009 for Dr. Rosenberg to complete his continuing education requirements for renewal. Dr. Theriault seconded the motion and it passed unanimously.

**Chapter 11 Revision LD 1193: Joint rule relating to opiate prescribing:** Dr. Moyer made a motion to accept the draft as a common rule. Dr. Cohen seconded the motion and it passed unanimously. The proposed rule will be going to a public hearing in which the Board will need some representation at that hearing.

**E-mail from Patty Croyley Re: Access to Patient Records from Prevention Partners:** Ms. Croyley is attempting to locate records for a person seen at a free dental clinic held through Prevention Partners, Inc. Dr. Higgins made a motion to send a letter back to Ms. Croyley, instructing to send a request to PPI by certified mail/return receipt requested, and include the patient name, the date the patient was seen and the address that the records should be sent. If they have attempted this already, or they receive no response to their request, the Board will attempt to obtain the records from the entity themselves. Dr. Moyer seconded the motion and it passed with Ms. Blaisdell recused.

**Information Concerning Advertising without Dentist Name:** Dr. Higgins made a motion to send a letter to the entity, El-Shaddai Dental Associates, P.C. indicating the portion of the rules relating to advertising and the need for identification of all licensees. The licensee will be asked to respond back to the Board when they have complied with the request. Dr. Moyer seconded the motion and it passed unanimously.

**Addition:** H.C., RDH submitted a request for assistance in locating a supervising dentist for her Public Health Supervision status. Dr. Higgins made a motion to table the request until after the suspense date of a proposed consent agreement to resolve complaint 09-21. The request will be re-presented at the Board's October meeting. Ms. Blaisdell seconded the motion and it passed unanimously.

**E-mail from Ted Rothstein, DDS Re: Orthodontic Jaw Wiring for Weight Control:** Dr. Rothstein will be giving a lecture and wanted to inquire as to whether the Maine Board allows this under the scope of practice for an orthodontist. Dr. Higgins made a motion stating that this procedure would not be within the scope of practice for dentists in the State of Maine at this time. Dr. Theriault seconded the motion and it passed unanimously.

**Letter from Joseph Rannazzisi, U.S. Department of Justice Re: Emergency Oral Prescriptions:** The Board accepted this information as an FYI.

**Rule Changes – Continued:**

**Chapter 11** – O.K. as drafted

**Chapter 12** – O.K. as drafted, although the Board agreed to remove the new Roman numeral IV relating to residency program requirements and wait until the next Legislative session to see what happens with the Board's legislative proposal.

**Chapters 14** – Hospitals licensed by the State of Maine or CODA approved clinical settings are exempt from an on-site facility and equipment inspection.

Dr. Higgins made a motion to adjourn at 4:35 p.m. The motion was seconded and it passed unanimously.

Respectfully Submitted,

*Teneale E. Johnson*  
Executive Secretary