

NEW JERSEY STATE BOARD OF DENTISTRY
PUBLIC SESSION MINUTES
NEWARK, NEW JERSEY
APRIL 2, 2014

NOTE: The Public Session Agenda was called to order at 10:00 A.M. by Acting President, Shirley Birenz, RDH

ATTENDANCE: The following members were in attendance:
Shirley Birenz, RDH; Lydia David, DMD; Peter DeSciscio, DMD; Nicholas C. DeRobertis, DMD; Herbert Dolinsky, DDS; Roger M. Kriete, DMD; Beverly Kupiec, RN, PhD; Richard D. Riva, DDS

OTHER ATTENDEES: Deputy Attorneys General Miller and Oo; Jonathan Eisenmenger, Executive Director; Cecilia Moreira, Senior Management Assistant

ABSENT AND/OR EXCUSED: Emil Cappetta, DDS

I. APPROVAL OF MINUTES: March 19, 2014 - Approved as amended.

II. COMMITTEE REPORTS:

A. Applications:

1. Meghna Desai and Deep Mukesh Desai - Inquiry questioning whether they qualify for a New Jersey dental license. They are senior students at University of Buffalo. They took the WREB exam in March 2014 and the DSE examination component of NERB on March 8, 2014.

After discussing the issue, the Board noted that the regulations state that the NERB exam, which is administered by ADEX, is the recognized clinical examination.

2. Candace Clause Austin - The Board reviewed a request for the requirements necessary to reinstate her dental hygiene license.

The Board determined that she must successfully complete the refresher course prior to obtaining her dental hygiene license.

B. Continuing Education:

1. Burlington County Dental Study Club - Request for approval of a course entitled "Pain Management."

The Board referred this matter to a committee consisting of Dr. Riva, Dr. Dolinsky, Dr. Cappetta and Ms. Birenz for review and report back to the Board.

III. ADOPTED AMENDMENTS: N.J.A.C. 13:45A-27, 27.3, 27.4, 27.8, and 27.9 - New Jersey Uniform Prescription Blanks Program - NJPB Printing Specifications. Rachel D. Glasgow, Regulatory Analyst and Matt Wetzel, Acting Manager for NJ Drug Control Unit, discussed the adopted amendments.

IV. PROPOSED LEGISLATION/REGULATIONS:

1. A-606 - Provides civil immunity to licensed health care professionals who provide care at health care facilities for no compensation.
On a motion by Dr. DeRobertis, seconded by Dr. Kriete, the Board supports this bill as it may help improve the access to care for individuals with limited access to care. The vote was 6-0 with 2 abstentions (Dr. Riva and Dr. Kupiec).
2. A-1254 - Requires certain civil actions against certain licensed persons to be brought within two years.
On a motion by Dr. Dolinsky, seconded by Dr. Riva, the Board voted to take no position on this bill.
3. A-2332 - Requires public body to publish notice of public meeting on official Internet website.
On a motion by Dr. DeSciscio, seconded by Dr. DeRobertis, the Board supported this legislation.
4. S-614 - Reduces statute of limitations for certain medical malpractice liability actions to four years.
On a motion by Dr. Dolinsky, seconded by Dr. Riva, the Board voted to take no position on this legislation.
5. S-681 - Provides for issuance of certificate of rehabilitation to certain offenders with substance abuse disorders.
On a motion by Dr. DeRobertis, seconded by Dr. David, the Board voted to support this legislation.
6. S-682 - Establishes process to bar certain health care providers from receiving reimbursement under PIP.
On a motion by Dr. Riva, seconded by Dr. DeRobertis, the Board took no position at this time; the Board requests that the sponsor be contacted to obtain more information about the intent of the legislation and the other means that could be used to address the issues involved.
7. The Rules and Regulations committee also reported on the proposal for the dental hygiene scope of practice. Specifically, the committee recommends amending the proposal to include the "use of a curing light" under general supervision, with the recognition that it is necessary to use a curing light when performing sealants on patients.

8. A-2460 - Waives certain licensing fees for veterans and spouses of veterans applying for licensure by reciprocity.

On a motion by Dr. Riva, seconded by Dr. DeRobertis, the Board supports this legislation with amendment - that the individual receives a waiver of only the first licensing fee following discharge from active duty. The Board also requests a report from the Division's Fiscal office on the impact of such waivers on Board's budget.

V. FORMAL COMPLAINT AND ANSWER:

1. Dr. Jack Gelb - On a motion by Dr. Riva, seconded by Dr. DeRobertis, the Board deemed this a contested case and determined to transfer this matter to the Office of Administrative Law for a hearing.
2. Dr. Ira Klemons & Dr. Janet Crain - On a motion by Dr. DeRobertis, seconded by Dr. Riva, the Board deemed this a contested case and determined to transfer this matter to the Office of Administrative Law for a hearing. It is also noted that there are attachments to the answers filed by one of the parties. The Board noted this is not evidence, unless and until it is properly entered into the record before the OAL judge.

VI. REQUEST FOR MODIFICATION TO THE BOARD'S ORDER:

1. Dr. Nicholas Breen - The Board reviewed correspondence from the Professional Assistance Program requesting modification to the Board's Reinstatement Order filed on June 17, 2010. On a motion by Dr. Riva, seconded by Dr. DeRobertis, the Board determined to release Dr. Breen from the remaining requirements. An Order Removing Restrictions will be drafted, with the understanding that Dr. Breen will remain enrolled in the advocacy program with the PAP.
2. Dr. Walter Bilotta - The Board reviewed correspondence from the Professional Assistance Program requesting a reduction in Dr. Bilotta's follow-up visits to a quarterly frequency. On a motion by Dr. Riva, seconded by Dr. DeRobertis, the Board determined to accept the recommendations of the PAP.

VII. REPORTS SUBMITTED PURSUANT TO N.J.A.C. 13:30-8.8:

1. Dr. Joshua R. Braunstein - Moved to executive session. The Board determined that additional information be obtained.
2. Dr. Hani Braidy - Received as informational.
3. Dr. Jonathan Glatt & Dr. Joseph Oleske - Received as informational.
4. Dr. Sunita Merriman - Moved to executive session. Received as informational.
5. Dr. George E. Lambrino - Received as informational.

6. Dr. Judah E. Malka - Moved to executive session. The Board determined that additional information be obtained.
7. Dr. Alan Gold & Dr. Purav Patel (Hackensack Mountainside Dental Clinic) - Moved to executive session. The Board determined that additional information be obtained.
8. Dr. Sanford J. Shifman - Received as informational.

VIII. FILED ORDERS BY THE BOARD:

The following Orders were received as informational:

1. Jamie H. Tapia (Unlicensed) - Settlement Letter filed on February 19, 2014
2. Dr. Usha V. DeSai - Consent Order filed on February 19, 2014
3. Dr. Stephen T. Deehan - Consent Order filed on March 5, 2014
4. Dr. Lawrence Piekarsky - Consent Order filed on March 5, 2014
5. Dr. Anup Muduli - Consent Order of Voluntary Surrender of Licensure filed on March 5, 2014
6. Dr. Anthony J. Ermocida - Consent Order Voluntary Surrender of Licensure filed on March 5, 2014
7. Dr. Leonor Ordaz - Consent Order of Voluntary Surrender filed March 17, 2014.
8. Dr. Alexander Kim - Consent Order filed on March 20, 2014.
9. Dr. Raymond L. Pacholec - Consent Order Granting Unrestricted License filed on March 26, 2014.

IX. OTHER MATTERS:

1. Inquiry from Mary Plut, dental hygienist, questioning whether hygienists are permitted to administer local anesthesia under direct supervision for a dentist's restorative patient even if the hygienist is not seeing that patient for root planing. The Board determined that this is acceptable.
2. Danielle Barry (Handout) - Inquiry questioning whether a dental hygienist may apply a topical anesthetic or sulcular anesthetic, such as Oraquix under "general supervision" that is when a dentist is not physically present? The Board determined this is acceptable.
3. Groupon - DAG Miller reported on her research and legal analysis concerning Groupon and other similar advertising programs. DAG Miller noted that while certain fee structures could be considered fee splitting, it could also be considered the reasonable cost of advertising. Because the Board should make its policy decision on the issue after fully considering both arguments, she asked that the matter be referred to the regulations committee. The Board noted that until the issue is resolved, in the absence of unusual circumstances, it would not cite licensees for violation of the fee splitting regulation for participating in Groupon type advertisements.

X. HANDOUT:

1. Letter from Russel McIntyre, Th.M., indicating that PRIM-E will no longer accept any licensees other than professionals involved in clinical medicine. The Board in a motion by Dr. Dolinsky, seconded by Dr. Kriete, determined that a letter be sent requesting that PRIME reconsider its decision.
2. Executive Director Jonathan Eisenmenger discussed the national Special Olympics that will be taking place in June. A number of dentists will be volunteering and will be providing dental screenings for the participants prior to the actual athletic events. The Dental Practice Act does not authorize this to be performed by dentists who do not possess a New Jersey dental license. The Board noted that it will work with these individuals to facilitate the licensing process.

XI. FORMAL HEARING:

1. 10:00 A.M. - In the Matter of the Suspension or Revocation of the License of **Jennifer Lamphier, DMD** to Practice Dentistry in the State of New Jersey. This hearing was adjourned because a consent order was filed with the voluntary surrender of Dr. Lamphier's license, deemed a temporary suspension.

XII. ADJOURNMENT: The Board adjourned the Public Session and moved to Executive Session for advice of counsel and review of open matters (investigations and deliberations). When and if action is taken, it will be reported in Public Session.