

# New Jersey State Board of Dentistry

May 2, 2001

## Public Meeting Minutes

The meeting was called to order at 10:00 A.M. by Dr. Barbara Rich, President of the Board.

### **OPEN PUBLIC MEETINGS ACT NOTICE:**

Read by Kevin Earle, Executive Director.

### **ATTENDANCE:**

The following members of the Board were in attendance: Dr. Valentine Bloch; Dr. Emil Cappetta; Dr. Anthony Chibbaro; Patricia Delaney, RDH; Mrs. Helen Huber; Dr. John Ricciani; Dr. Barbara Rich; Dr. Arnold Rosenheck; Dr. Abraham Samansky.

### **ADDITIONAL ATTENDEES WERE:**

Nancy Costello Miller, Deputy Attorney General; Rhonda Pope Stephens, Deputy Attorney General; Bernadette Dudek, Div. Rep.; Michael Dominach, Paralegal; Cecilia Moreira, Management Assistant.

### **ABSENT AND/OR EXCUSED:**

Mr. Louis Cardenas; Dr. William Orlacchio

### **APPROVAL OF MINUTES:**

April 4, 2001 - Approved as amended.

### **FROM EXECUTIVE SESSION:**

1. Dental Consultant Reg. - Board members were advised that the proposal was being reviewed by Governor's office.

### **COMMITTEE REPORTS:**

#### **PENDING APPLICATIONS:**

1. Jennifer Juhasz - Application for a dental hygiene license by N.E.R.B. past five years. The Board in a motion by Ms. Delaney seconded by Mrs. Huber approved this application.

Dr. Shahid R. Shahiz - He took the NERB exam in 1995 and passed the restorative sections, but failed the periodontic, crown and bridge and endodontic sections. He is planning to retake NERB but indicates that NERB has a five year limit on taking this exam. He is questioning whether he may be allowed to retake only the sections that he failed, and once passing these sections, qualify for New Jersey licensure. The Board tabled this matter to the next meeting.

The Board in a motion by Ms. Delaney, seconded by Dr. Bloch approved the Secretary's Report.

### **EXECUTIVE DIRECTOR'S REPORT:**

Oral & Maxillofacial Radiology - The Board reviewed the revised application prepared by Executive Director Kevin Earle to be used by licensees when applying for a specialty permit. The Board in a motion by Ms. Delaney, seconded by Dr. Chibbaro approved this application form.

Dr. Kantor has applied for a specialty permit in Oral & Maxillofacial Radiology. The Board commented that the ADA guidelines will be followed. Dr. Bloch requested that this matter be tabled to the next meeting to allow time to review

the "scope of this specialty".

Dr. Norman Kurtzman - The Board reviewed Dr. Kurtzman's request for approval of the following supervisors in accordance with the Board's Consent Order:

- Mark Perecman, D.M.D.

- Larry Paul, D.D.S.

The Board in a motion by Dr. Chibbaro, seconded by Ms. Delaney approved his request.

Dr. Kevin Ward - The Board reviewed a copy of Steven S. Simring's, M.D., M.P.H. Curriculum Vitae. In accordance with the Board's Consent Order, Dr. Ward will be referred to Dr. Simring for evaluation.

Update by Kevin Earle, Executive Director on the June 1st meeting to take place in Atlantic City. The public session part of the meeting will take place from 11:00 A.M. to 11:45 A.M. The presentation will follow.

## **APPEARANCES:**

11:30 A.M. - Dr. Dominick Marvilli - Inquiry concerning his application for a New Jersey dental license. Dr. Marvilli appeared without counsel. He agreed to proceed without counsel. A certified shorthand reporter was available to take sworn testimony.

Dr. Marvilli answered affirmatively to the question of whether his license has been subject to action in another state. In his explanation, he stated that his license was suspended in New York for one year beginning December 24, 1997. He asserted that the primary cause of the suspension was his failure to cooperate with an investigation. He was involved in a partnership whereby the other licensees would use his Medicaid provider number for billing purposes. The other two licensees were barred from Medicaid. Although he was not the treating dentist, these two licensees would write his name on the claim forms. An audit conducted by Medicaid revealed billing errors. The penalty was paid by all three dentists involved in the practice.

At the conclusion of all questioning the hearing was ended.

After discussing this matter the Board in a motion by Dr. Bloch, seconded by Dr. Chibbaro approved his application for a New Jersey Dental license.

Mark Gelber, D.M.D. - This hearing was adjourned and will be rescheduled.

## **FILED ORDERS:**

**Norman H. Kurtzman, D.D.S**      **DI 10377**

Order of Reinstatement filed on April 4, 2001; based upon the information submitted, the Board has determined that respondent may have his license reinstated subject to the conditions outlined in the Reinstatement Order. **ORDERED;** Respondent shall be subject to random urine monitoring no fewer than four times a month, continue in counseling not less than once a week, attend support groups not less than four times per month, shall not possess any controlled dangerous substance except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause, use triplicate prescription pads, shall not practice as a solo practitioner, supervision by a dentist licensed by the Board and pay costs associated with this matter.

**Ariel Gutierrez (unlicensed)**

Order filed on April 4, 2001: **ORDERED;** permanently enjoined from offering or performing any act or acts constituting the practice of Dentistry in the State of New Jersey unless and until he is licensed and registered, enjoined

from the employment of false pretense by engaging or offering to engage in any activity within the practice of dentistry in the State of New Jersey, civil penalty of \$500 and investigative costs of \$1700.

## **DEPUTY ATTORNEY GENERAL'S REPORT:**

The Board reviewed a memorandum from Nancy Costello Miller, Deputy Attorney General along with a letter from Joel Weaver, DDS, Ph.D. concerning the proposal on "Nitrous Oxide - Monitoring by Hygienists". The Board also discussed the appeal filed by the NJDA concerning this proposal. A revised draft proposal which incorporates the changes suggested by the Board was distributed. The Board tabled this matter to the May 16th agenda to allow sufficient time for review.

The Board reviewed a memorandum from Nancy Costello Miller, Deputy Attorney General, informing the Board that the Appellate Division affirmed the Board's promulgation of the diagnostic testing regulation, N.J.A.C. 13:30-8.22. A copy of the opinion was included. The Board took this as informational.

## **INCIDENT REPORTS:**

Hopeton Hibbert, DDS  
Robert A. Frascella, DDS  
Dr. Jerome Silverstein

The Board took this as informational.

## **MISCELLANEOUS REQUESTS FOLLOWING DISCIPLINARY ACTION:**

Michael F. Parise, DDS - The Board reviewed his request that the requirement of supervision be lifted. Dr. Parise submitted letters of support from Dr. Shnaps, Dr. Keene, Dr. Caraballo and lab results. The Board in a motion by Dr. Bloch, seconded by Mrs. Huber requested that copies of the actual urine test reports be obtained.

Roy McTernan, DMD - The Board reviewed his request that restrictions placed on his license be lifted. The Board in a motion by Dr. Bloch, seconded by Mrs. Huber approved the following changes:

- Urine monitoring reduced to twice per month on a random basis
- CDS privileges are reinstated but licensee must use triplicate prescriptions and provide copies to the Board on a quarterly basis.
- Requirement of supervision will be maintained.

## **OTHER MISCELLANEOUS REQUESTS:**

The Board reviewed a letter from Douglas G. Sanborn, General Counsel for Delta Dental concerning "Dental Consultant Regulations". He indicated that Delta Dental is proposing a legislative solution to the issues surrounding dental claim reviews. Mr. Meisel, Executive Director for NJDA responded that this initiative is not adequate to protect the public and should not distract the Board from the extreme importance of adopting the regulation, since benefit plans under ERISA control would be exempt from State jurisdiction.

Mark N. Heiberger, DDS - The Board reviewed a letter questioning whether "a unregistered dental assistant can apply the barrier and cure the mask material in the Britesmile Bleaching procedure". The Board determined that this procedure cannot be performed by an unregistered assistant.

AADE - Letter concerning "ADA 2000 Resolution 64H". This was taken as informational. - The Board requested that all information available concerning this matter be obtained from ADA before the ADA and AADE annual meetings.

The Board reviewed a letter from Arthur Meisel, Executive Director for NJDA along with a list of additional proposed Expanded Duties for Dental Auxiliaries. The Board referred this matter to the Regulations Committee.

The Board in a motion by Ms. Delaney, seconded by Dr. Bloch determined that both the June 6th and the June 20th meetings will take place as scheduled in addition to the June 1st meeting in Atlantic City.

Anthony B. Spain, D.M.D. - The Board reviewed information referred by OIFP which indicates that this dentist was convicted of one count of falsifying records. The Board in a motion by Dr. Samansky, seconded by Ms. Delaney determined that a Provisional Order of Discipline be prepared to include two year suspension, one year active and a \$10,000 penalty.

Discussion concerning Limited Registered Dental Assistants and Limited Orthodontic Assistants statutes and regulations. The Board suggested that Cynthia Durley from the Dental Assisting National Board be advised that the statute has a self-executing Sunset provision for the three month internship and has not been renewed. Any candidate who had begun training before the expiration may continue the program and if successfully completed will be registered.

DAG Nancy Costello Miller will review this regulation to determine whether any action is required on the part of the Board.

## **ADJOURNMENT:**