

NEW JERSEY STATE BOARD OF DENTISTRY

PUBLIC SESSION MINUTES

BOARD OFFICE
NEWARK, NEW JERSEY

MAY 15, 2013

NOTE: The Public Session meeting was called to order by Dr. Herbert Dolinsky at 10:00 A.M. The Board initially met as a committee for lack of a quorum. Ms. Birenz arrived at 10:10 A.M. at which time a quorum was present.

ATTENDANCE: The following members were in attendance:
Shirley Birenz, RDH; Emil Cappetta, DMD; Lydia David, DMD; Nicholas C. DeRobertis, DMD; Herbert Dolinsky, DDS; Roger M. Kriete, DMD

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

ABSENT AND/OR EXCUSED: Sheila Dashkow, DDS; Peter DeSciscio, DMD; Maxine Feinberg, DDS; Beverly Kupiec, RN, PhD; Richard D. Riva, DDS

I. Mr. Steven Brisgel - The Board received notification dated May 14, 2013 from Mr. Brisgel indicating that he is resigning from the Board effective immediately. The Board thanks Mr. Brisgel for his contribution as a member of the Board and wished him well.

II. **APPROVAL OF MINUTES:** May 1, 2013 - The committee recommends approval.

III. COMMITTEE REPORTS:

1. Applications:

- A. Dr. Pooja Mukhatyar - Application for a dental license by credentials. Tabled from previous meeting. The Board had requested additional information concerning the CRDTS exam Dr. Mukhatyar took in 2010. The Board confirmed that this exam was not administered by ADEX in 2010 and Dr. Mukhatyar does not have the five years of practice in one single state. The committee indicates that Dr. Mukhatyar does not meet the requirements for a dental license in New Jersey by credentials.
- B. Dr. Junad Khan - Application for Limited Teaching Certificate. Tabled from previous meeting. The committee reviewed additional information provided by Dr. Khan and Dean Ceil Feldman. Dr. Khan will be teaching at UMDNJ in the Department of Orofacial Pain. The committee recommends approval of this application. Dr. Khan will be reminded that he is precluded from practicing in the faculty practice.

- C. Dr. Bruce Steven Fine - Application for enteral sedation permit. The committee denied this application because the course taken by Dr. Fine did not meet the 40 hour requirement as set forth in NJAC 13:30-8.4(f). The forty (40) hours of didactic training must be at a Board approved, post-doctoral course at an accredited dental school, in a hospital-based program or in a college or university clinical setting.
- D. Irina Pokhis, DH - Application for reinstatement of her dental hygiene license. Ms. Pokhis has not practiced dental hygiene in 16 years. Her New Jersey dental hygiene license expired in 1997. The committee recommends that Ms. Pokhis take a refresher course, complete two hours of continuing education credits in periodontics and two hours in pharmacology, and completes the Law and Jurisprudence exam. The courses cannot be taken online.
- E. Dr. Ian Zlotolow (Hand-out) - Application for a dental license. Dr. Zlotolow completed the Kentucky Board exam, which the committee indicates is comparable to NERB. Dr. Zlotolow has been in California for at least the last five years. The committee recommends this application for license by credentials be processed in normal course.

IV. PROPOSED LEGISLATION:

1. A-2882 - Requires professional boards to provide credits toward requirements for licensure for veterans with substantially equivalent training. The Board took no position in this matter.

V. PROVISIONAL ORDER OF DISCIPLINE TO BE FINALIZED:

1. Carlo J. Porcaro, DMD - The Board reviewed a copy of the Provisional Order of Discipline filed on January 16, 2013 and responses from Dr. Porcaro and Andrea Glaser, Esq., counsel for Dr. Porcaro. The Board moved to Executive Session for deliberations.

The Board returned to public session. After considering the mitigation submitted by Dr. Porcaro and counsel, the Board in a motion by Dr. DeRobertis, seconded by Dr. Kriete, finalized the Provisional Order of Discipline with modifications. The Board noted that Dr. Porcaro has now complied with the subpoena for the records, therefore, the suspension of license will not take effect. The Board determined to sustain the \$5,000 penalty for Dr. Porcaro's failure to cooperate with the Board as evidenced by his failure to initially provide records and his failure to appear on the return date of the subpoena.

The Board in a motion by Dr. DeRobertis, seconded by Dr. Cappetta, approved the committee recommendations.

NOTE: Shirley Birenz arrived at this time. A quorum is now present. The Board ratified the committee recommendations.

VI. FORMAL HEARING:

1. 10:20 A.M. - Ewa Marcinkiewicz-O'Brien, D.D.S. - In the Matter of the Suspension or Revocation of the License of Ewa Marcinkiewicz-O'Brien, D.D.S., to Practice Dentistry in the State of New Jersey.

Deputy Attorney General Wendy Leggett-Faulk appeared on behalf of the Attorney General. Neither Dr. Marcinkiewicz-O'Brien nor Kevin G. Roe, Esq., counsel for the doctor appeared despite notice and service of papers.

The Board in a motion by Dr. Kriete, seconded by Dr. DeRobertis, moved to proceed in default.

DAG Faulk entered materials into evidence which included, Order to Show Cause filed on May 6, 2013, her letter brief to the Board dated May 3, 2013, the Verified Complaint filed on May 6, 2013 and DAG Faulk's certification consisting of supporting documents including certified police reports. Also marked into evidence was proof that these materials were received by Dr. Marcinkiewicz-O'Brien and Mr. Roe, Esq. DAG Faulk reported that no subsequent information has been received from either the dentist or counsel.

DAG Faulk urged the Board to temporarily suspend Dr. Marcinkiewicz-O'Brien license to practice dentistry. She also urged the Board of Pharmacy and DEA be notified.

The Board in a motion by Dr. DeRobertis, seconded by Dr. David, move to executive session for deliberations.

The Board returned to public session. The Board in a motion by Dr. DeRobertis, seconded by Dr. Kriete, determined that Dr. Marcinkiewicz-O'Brien's conduct demonstrates a clear and imminent danger to the public. The Board will, therefore, enter an order immediately temporarily suspending her license to practice dentistry. A written Order will follow.

VII. OTHER MATTERS:

1. Dr. Roben Brookhim - Update by Deputy Attorney General Nancy Miller concerning the receiver. The Board approved the receiver publishing a notice in the Star Ledger to advise people of manner to retrieve their patient records. The Board will discuss at a future meeting what should be done with the remaining records that have not been claimed.

VIII. 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.