

NEW JERSEY STATE BOARD OF DENTISTRY

PUBLIC SESSION MINUTES

BOARD OFFICE  
NEWARK, NEW JERSEY(Somerset Room)

JUNE 2, 2010

ATTENDANCE: The following members were in attendance:  
Steven Brisgel; Emil Cappetta, DMD; Sheila Dashkow, DMD; Peter DeSciscio, DMD; Herbert Dolinsky, DDS; Maxine Feinberg, DDS; Alexander Hall, DMD; Beverly Kupiec, RN, Ph.D.; John Ricciani, DMD

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

ABSENT AND/OR EXCUSED: Lydia David, DMD; Arnold Rosenheck, DMD

NOTE: The meeting was called to Order at 10:00 A.M. by the President of the Board, Dr. Emil Cappetta.

A moment of silence was observed for Michael Dominach, Board paralegal, who passed away on May 31, 2010.

**I. APPROVAL OF MINUTES:** May 5, 2010 - Approved as amended

**II. EXECUTIVE DIRECTOR'S REPORT**

A-2672 - requires health care professionals to notify patients of the end of health benefits coverage during course of treatment in certain circumstances.

In a motion by Dr. Feinberg, seconded by Dr. DeSciscio, the Board opposed this legislation. The Board noted it appears to be related to efforts to cause health care professionals to offer services at negotiated rates. Dental plans are designed based on actuarial guidelines that impose insurance maximums to regulate premiums. The dentist enters into these contractual arrangements based on the same actuarial risks based on insurance maximums. Not allowing a dentist to charge their "usual & customary" fee after the patient has reached his or her maximum gives the dentist an unfair disadvantage from collecting fees that actuarially allows the "usual & customary" charge. If the dentist is not allowed to charge his or her "usual and customary" fee after reaching the patient maximum, then there should be no patient maximum in the insurance coverage policy.

### III. REGULATIONS

1. Maryann Sheehan, Regulatory Analyst - Maryann Sheehan met with DAG Miller and Executive Director Eisenmenger to discuss the Board's response to Executive Order #2, which requires all state agencies to review their regulations to highlight rules that are burdensome to business, inconsistent with federal standards, and violate the common sense principles of rule making. Ms. Sheehan suggested modifications to the patient record rule regarding use of computers for records and certain rules regarding reinstatement. The Board approved the recommendations and directed Ms. Sheehan to forward the report through the appropriate channels.
2. Inquiry from the New Jersey Dental School concerning the retention of models made by students. The Board requested that the question be submitted in writing. On a motion by Dr. Dolinsky, seconded by Dr. Feinberg, the Board indicated it would be open to a policy that would accept at least three digital photographs of the each model not used for definitive treatment, and place the images in the patient record. Those models may then be discarded.
3. Discussion concerning the use of Sargenti Paste. Acting Director Sharon Joyce responded to a legislative inquiry concerning whether the Board has any position on the use of Sargenti Paste by dental professionals. The Board tabled this item for discussion at the meeting to be held on June 16, 2010.
4. The Board requested that Maryann Sheehan add one additional provision to the "Sunset" proposal. Specifically, the Board wishes to add language to the scope of practice of registered dental assistants to permit them to place sealants, similar to the provision in the dental hygienist regulation located at N.J.A.C. 13:30-1A.2(a)(4).

### IV. COMMITTEE REPORTS

#### 1. Credentials:

Dr. Robert Louis - Application for reinstatement of license. The Board reviewed information that he pled guilty to three counts of attempted Medicaid fraud. The Board determined that he must appear and bring true copies of the official documents (indictment, judgment of conviction, transcript of sentencing, etc.). The Board office will also contact the Alabama Board of Dentistry for any public information available about Dr. Louis.

Dr. Timothy Moriarty - Application for a resident permit. The Board approved this application, pending receipt of a certified transcript from the dean of the dental school and official test scores.

Dr. Frederick Ballard - Application for license by endorsement. The Board determined that he must appear to answer questions related to the criminal history background check. The Board also requests that he bring copies of his test scores.

Dr. John Ruggieri - Application for a dental license. The Board moved to Executive Session for discussion. The Board approved this application.

Dr. Maksim Serebro - Application for a dental license. The Board approved this application, pending receipt of certified transcript from the dean of the dental school.

Dr. Joanne Tobias - Application for reinstatement of license. The Board requests more information, specifically, Dr. Tobias must submit proof of completion of continuing education, and a full explanation about the conviction for insurance fraud. The Board will also contact New York State to see if Dr. Tobias has any disciplinary action in that state.

Dr. Murray Cohen - Application for a dental license. The Board approved this application.

Ryan Scally - Application for a resident permit. The Board approved this application, pending receipt of a certified transcript from the dean of the dental school and official test scores.

Gina Scibetta (RDH) - Application for a hygiene license. The Board approved this application.

2. Continuing Education:

The committee recommends approval of 17 courses and denied 4 requests.

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

Additional information requested:

1. Dr. David L. Sykes - The Board took this as informational.

New reports:

1. Dr. Jorge E. Vallego - The Board took this as informational.
2. Dr. Sergey Drutsko - The Board took this as informational.
3. Dr. Keith Richmond - The Board took this as informational.
4. Dr. Mark K. Szierer - The Board took this as informational.

**VI. COMPLETION OF PRIM-E PER THE BOARD'S ORDER**

1. Dr. James J. TenBrook - Dr. Tenbrook completed the PRIM-E pursuant to the terms of the Consent Order filed 1/6/2010. The Board took this as informational.

**VII. INQUIRY IN FOLLOW-UP TO THE BOARD'S ORDER**

1. Dr. Alan A. Schwartz - Dr. Schwartz entered an interim consent order with the Board on 8/5/2009, which required him to complete remedial education, among other terms and conditions. He is requesting relief from completing a course in pharmacology due to personal financial constraints. The Board is willing to consider alternative, remedial education to fulfill this requirement. The Board president directed that Dr. Schwartz submit a proposal with a course or courses to fulfill this requirement.
2. Dr. Jonathan Friedman - Dr. Friedman, through counsel, sought clarification of permissible activities as set in Board's directives. This inquiry was withdrawn from consideration.
3. Dr. Nicholas F. Breen - Dr. Breen was offered a Consent Order of Reinstatement on or about May 13, 2010 following the suspension of his license in 2007. Dr. Breen asks to complete the continuing education courses after his license is reinstated. The Board requests additional information prior to making a determination, including - how many credits Dr. Breen has already completed; proof that he is practicing in Pennsylvania; and a plan for completing the remainder of the total of 80 credits he is required to complete to reinstate his license.

**VIII. CONSIDERATION OF INITIAL DECISION RECEIVED FROM THE OFFICE OF ADMINISTRATIVE LAW**

1. Dr. Patrick Bamgboye - Judge Solomon issued an initial decision on May 4, 2010, dismissing the case after finding the Attorney General had not demonstrated gross malpractice. The judge's decision may be adopted, modified or rejected by the Board within forty-five days, unless an extension is granted. The Board received a submission of limited exceptions from DAG Ehrenkrantz. No response from Mr. Tanner has been received.

On a motion by Dr. Feinberg, seconded by Dr. Hall, the Board will request an extension for a final decision from the Office of Administrative Law. The Board will also schedule a public hearing for an argument on the exceptions for the meeting to be held on July 7, 2010.

**IX. PROVISIONAL ORDER OF DISCIPLINE TO BE FINALIZED**

1. Dr. Wayne T. Faber - Dr. Faber was issued a Provisional Order of Discipline on August 5, 2009. After no response was received, the Board sent a notice that the Provisional Order of Discipline would be placed on the Board's agenda for finalization. No response was received.

On a motion by Dr. Dolinsky, seconded by Dr. Feinberg, the Board went into executive session for deliberation. The Board returned to public session.

On a motion made by Dr. Feinberg, seconded by Dr. DeSciscio, the Board determined to finalize the order as written.

**X. ORDERS/SETTLEMENT LETTERS/PENALTY LETTERS FILED BY THE BOARD IN THE MONTH OF APRIL 2010**

1. Dr. Irina Lekht - Settlement letter filed on April 26, 2010.
2. Dr. Dennis M. Keller - Uniform penalty letter filed on April 27, 2010.
3. Christine Tunncliffe, RDH - Consent order modifying restrictions on license filed on May 5, 2010.
4. Dr. Donald Dobrowolski - Order granting unrestricted license filed on May 17, 2010.
5. Dr. Jerome Hodlofski - Order granting unrestricted license filed on May 18, 2010.
6. Dr. Gennadiy Benyaminov - Order of reinstatement filed on May 19, 2010.
7. Dr. Brian G. Depetris - Consent Order filed on May 19, 2010.
8. Dr. Helena Devaris - Consent order of voluntary surrender of license filed on May 19, 2010.
9. Antonio Mauricio Baptista - Settlement letter filed on May 18, 2010.

**XI. OTHER MATTERS**

1. Correspondence from Lucy Achenback, dental hygienist, from Middlesex County College, concerning the development of a refresher course for dental hygienists license reinstatement. The Board directed the executive director to send a response letter thanking her, and explaining that the Board is researching the issue. The Board office will also contact several schools in the region about the curriculum for a refresher course.
2. Inquiry from Jeanine Arango questioning whether a registered dental assistant can perform a supra-gingival polish with a rubber cup pumice on a rotary slow speed hand piece prior to bonding brackets. Pursuant to **N.J.A.C. 13:30-2.4(a)(12)**, registered dental assistants may perform this treatment, as long as it is only performed with a slow-speed hand piece, under the direct supervision of a dentist who has directed that this treatment be performed in this fashion.
3. Dr. Eugene R. Casagrande - Request for clarification with regard to the dental hygiene regulations as it relates to computer-controlled local anaesthetic delivery systems. Upon review, the Board determined that the computerized delivery systems he cited are fine, but hygienists may only perform blocks that are permitted by regulation. Specifically, the blocks that are not allowed are the AMSA, P-ASA, and a V-2 block through the greater palatal foramen.
4. Information concerning the DANB development of Certified Preventive Assistant Exam. This was received as informational. The Board referred this to the Rules and Regs committee to consider adding these skills/treatments to the scope of practice regulations for dental assistants.

5. NERB - Request for review of a list of licensees requesting consideration as a consultant member to NERB. Upon review of the information submitted, the Board recommends the two hygienists but does not recommend the two dentists.
6. Copy of The Bulletin from the American Association of Dental Boards. This was received as informational.

## **XII. ADJOURNMENT**

In a motion by Dr. Feinberg, seconded by Dr. Cappetta, the Board moved to Executive Session at 11:15 A.M.