

NEW JERSEY STATE BOARD OF DENTISTRY
PUBLIC SESSION MINUTES
NEWARK, NEW JERSEY
NOVEMBER 6, 2013

NOTE: The Public Session Agenda was called to order at 10:00 A.M. by President,
Sheila Dashkow, DDS

ATTENDANCE: The following members were in attendance:

Shirley Birenz, RDH; Sheila Dashkow, DDS; Lydia David, DMD; Nicholas
C. DeRobertis, DMD; Peter DeSciscio, DMD; Herbert Dolinsky, DDS;
Roger M. Kriete, DMD; Beverly Kupiec, RN, PhD; Richard D. Riva, DDS

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

ABSENT AND/OR EXCUSED: Emil Cappetta, DDS; Maxine Feinberg, DDS

I. APPROVAL OF MINUTES: October 16, 2013 - Approved as amended.

II. COMMITTEE REPORTS:

Applications:

1. Dr. Hari Desai - Application for a dental license. Reconsideration of the Board's previous decision that NERB must be taken. On October 16, 2013 the Board determined that because Dr. Desai took a clinical examination it does not consider comparable, he did not qualify for licensure by credentials. Dr. Desai submitted a letter from WREB describing the examination he completed. Dr. Desai also appeared at the meeting. Dr. Desai requested that if the Board would not accept the WREB exam, that he be allowed to retake only the portions of the WREB exam that he did not obtain a score of 75% or higher. The Board directed him to contact NERB/ADEX to determine whether NERB/ADEX will allow him to take only those sections. In addition, the Board also discussed the possibility of having a psychometrician evaluate the scores and exams for NERB and WREB to determine if they were comparable. Dr. Desai would like to know the costs involved prior to approving this review process.
2. Christine Bullock-Berger, RDA - Request for reinstatement of her registered dental assistant registration. Ms. Bullock-Berger's registration expired in February 2007. The Uniform Enforcement Act requires that she complete the initial examination required for licensure, that is the NJ Expanded Functions examination, and submit proof of completing the continuing education credits (for two renewal periods). If she takes a refresher course, those hours can be applied towards the continuing education requirements.

3. Lisa Nothe, RDA - Request for reinstatement of her registered dental assistant registration that expired in February 2009. The Uniform Enforcement Act requires that she submit proof that she has completed the continuing education required for two biennial renewal periods. The Board also recommends that she complete a refresher course.
4. Dawn Watson, RDH (Hand-out) - Request for reactivation of her license from inactive status. She has been on inactive status since 2005. The Board recommended that she complete the refresher course she submitted prior to reactivating her license.

III. FY2013 BOARD OF DENTISTRY BUDGET REPORT (Final)

The Board took the report as informational.

IV. PROPOSED REGULATION:

1. SUBCHAPTER 1A. DENTAL HYGIENISTS - Regulatory Analyst Rachel Glasgow presented the regulatory proposal for the changes to the scope of practice of dental hygienists. The Board in a motion by Dr. Kriete, seconded by Dr. DeRobertis, formally withdrew the previous proposal that was considered on August 14, 2013, and proposed the list of the permitted activities of a registered dental hygienist to indicate the activities that must be performed under the direct supervision of a dentist. The Board in a motion by Dr. Kriete, seconded by Dr. DeRobertis, approved the proposed regulation.
2. NJDA Petition for Rulemaking - The regulations committee recommends that the Board refer the matter to the committee for deliberations. The Board in a motion by Dr. Kriete, seconded by Dr. DeRobertis, approved this request.
3. S-2875 (Hand-out) - Proposed legislation requires prescribers and pharmacists to check the prescription monitoring program prior to prescribing and dispensing Schedule II drugs. This legislation would amend current statute to require prescribers to (1) register for the PMP, and (2) run a PMP search for their patients prior to prescribing a Schedule II CDS.

After discussing the issues involved, the Board tabled the legislation for further discussion at its meeting on November 20, 2013. In its discussions the Board expressed concerns about the amount of work, and paperwork, that could be involved with complying with this legislation in a busy dental office. The Board stated that it was concerned that the program as currently designed may not effectively address the public health concerns it is intended to address. The Board also notes that it would likely be supportive of additional efforts to encourage registration in the program, but does not support this contemplated requirement to perform these searches as described in this legislation. The Board was also concerned with how the contemplated law may be enforced against prescribers who failed to perform the required searches.

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

1. Dr. Pedro E. Parente - The Board moved this matter to Executive Session for deliberation.
2. Dr. Hardick Shah - Received as informational.

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

1. Dr. Young Kim - On September 4, 2013, the Board reviewed a request to lift restrictions on his license placed by Order filed on July 25, 2012. The Board moved this matter to Executive Session for deliberation.
Upon return to public session, the Board determined to obtain additional information. Dr. Kim will be requested to provide a specific statement about which licensed dentist(s) are currently serving as monitor(s).
2. Dr. Nicholas Breen - Request from the PAPNJ that the Board remove the restrictions from Dr. Breen's license. The Board moved this matter to Executive Session for deliberation. Upon return to public session, the Board determined to table this matter and requests that Dr. Breen provide additional information.
3. Christine Tunnicliffe, RDH - Report from PAPNJ with a request for removal of restrictions imposed by Consent Order filed on December 5, 2008. The Board moved this matter to Executive Session for deliberation.
Upon return to public session, the Board determined that an Order Removing Restrictions be prepared to vacate the Consent Order noting the representation that she will continue to be monitored by PAPNJ.
4. Dr. Melinda Wagner - Report from the PAPNJ with a request for removal of restrictions imposed by Consent Order filed on March 16, 2011. The Board moved this matter to Executive Session for deliberation.
Upon return to public session, the Board determined that an Order Removing Restrictions be prepared to vacate the Consent Order noting the representation that she will continue to be monitored by PAPNJ.

**VII. CORRESPONDENCE IN FOLLOW-UP TO THE BOARD'S ORDER/
SETTLEMENT LETTER:**

1. Dr. Francisco Esparza - Dr. Esparza agreed in a Consent Order filed on August 31, 2010 to make restitution, and pay penalties and costs. Pamela Mandel, Esq., submitted a letter to explain why he has not complied with the payments. Dr. Esparza has requested a schedule to make these payments. The Board moved to Executive Session for deliberation. Upon return to Public Session, the Board determined to draft a Consent Order to approve the proposed schedule, and impose a \$5,000 penalty if Dr. Esparza fails to comply.
*See November 20, 2013 minutes.
2. Jaime H. Tapia (Unlicensed) - Mr. Tapia responded to a proposed Settlement Letter with a proposed payment schedule. The Board accepted the payment plan.

VIII. ORDERS FILED WITH THE BOARD:

1. Dr. Michael Panitch - Consent Order filed on October 8, 2013. Received as informational.
2. Dr. Stephen A. Beukas - Consent Order of Revocation filed on October 8, 2013. Received as informational.
3. Dr. Jack Altomonte - Settlement Letter filed on October 9, 2013. Received as informational.
4. Dr. Lawrence Piekarsky - Interim Consent Order filed on October 16, 2013. Received as informational.
5. Dr. Ahmad Sedehi - Consent Order filed on October 16, 2013. Received as informational.

IX. OTHER MATTERS:

1. Inquiry from Arthur Meisel, Esq., New Jersey Dental Association, inquiring whether a registered dental assistant can perform, without hand instrumentation, a supra-gingival polishing using a rubber cup with pumice and a rotary slow speed hand piece.

On June 2, 2010, the Board stated that pursuant to N.J.A.C. 13:30-2.4(a)(12) and (34), registered dental assistant 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. This procedure is NOT to be considered a prophylaxis. The Board indicated that these procedures can be done and reaffirms that it does not include a prophylaxis.

2. Inquiry from Lara Maresca, RDA, questioning whether ITERO Scanner, for study models and Invisalign, can be done without the dentist being present in the office.
The scope of practice of a registered dental assistant does not include this procedure.
*See November 20, 2013 minutes.
3. Invitation to Participate on Commission on Dental Accreditation Site Visits. No members are available to participate in these site visits.
4. WREB - Fall 2013 Newsletter. This was received as informational.

X. APPEARANCES:

1. 1:00 P.M. - Deputy Attorney General John D. Hugelmeyer - Discussion concerning designation of a representative (and an alternate), who will be authorized to execute certifications in support of obtaining access to the Prescription Monitoring Program information.

DAG Hugelmeyer appeared with Division Consumer Affairs Deputy Director Maryann Sheehan to inform the Board about the Prescription Monitoring Program, and request that the Board designate an official representative and an alternate who will be authorized to execute certifications in support of obtaining access to the prescription monitoring information. DAG Hugelmeyer stated that this is a statutory provision to safeguard protected health information. The Board designated Executive Director Jonathan Eisenmenger in consultation with the President and/or Vice-President of the Board as the designated official representative, and the Board's counsel in consultation with the President and/or Vice-President as the alternate.

2. 2:00 P.M. - Hipolito Solano (Unlicensed) - Administrative Complaint - Notice of Motion for Default and Default Judgment.

Mr. Solano appeared without counsel. Deputy Attorney General Bindi Merchant appeared on behalf of the State.

Mr. Solano was informed of his right to retain an attorney to represent him in this matter. Mr. Solano acknowledged that he has been advised of his right to counsel, has waived that right, and in settlement of the matter voluntarily entered into a Consent Order to include that he will cease and desist from practicing dentistry and a \$5,000 stayed penalty for five years. If during the five year period, he is found to engage in the unlicensed practice, the total amount will be due immediately. If at the end of the five year period, he has not violated the agreement, the \$5,000 will be vacated. The Board assessed \$2,500 in attorney fees. Payment of the fees shall be made in twenty five monthly installments of \$100.

XI. HANDOUT:

1. Request from James Lassiter, Jr., D.D.S. - The Board reviewed a letter from Dr. Lassiter indicating that on November 12, 2013 he will be participating in screenings for children on the Colgate Van. His New Jersey license expires on October 31, 2013 and he is planning on placing it on retired status. On a motion by Dr. Dolinsky, seconded by Dr. Riva, the Board granted Dr. Lassiter permission to complete his last appointment on November 12, 2013.
2. The Board congratulates Dr. Maxine Feinberg on her new position as President-Elect to the American Dental Association. The Board expressed its sincere admiration for this stellar achievement.

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.