

**OREGON BOARD OF DENTISTRY
MINUTES
JANUARY 31, 2003**

MEMBERS PRESENT: Jean Martin, DDS, MPH, President
 Ronald Short, DMD, Vice President
 Melissa Grant, DMD
 Eugene Kelley, DMD
 Linda Lee, RDH
 George McCully, DMD
 Richard Swart, Public Member

STAFF PRESENT: Jo Ann Bones, Executive Director
 Paul Kleinstub, DDS, MS, Dental Director/Chief Investigator
 Daryll Ross, Investigator
 Harvey Wayson, Investigator
 Tonaya Craft, Office Specialist

ALSO PRESENT: Lori Lindley, Esq., Assistant Attorney General

Call to Order: The meeting was called to order by the President at 7:30 a.m. at the Board office; 1515 SW 5th Avenue, Suite 602, Portland, Oregon.

EXECUTIVE SESSION: The Board entered into Executive Session pursuant to ORS 192.606 (1)(f), (h) and (k); ORS 676.165, ORS 676.175 (1), and ORS 679.320 to review records exempt from public disclosure, to review confidential investigatory materials and investigatory information, and to consult with counsel.

REVIEW OF NEW COMPLAINTS, COMPLETED INVESTIGATIONS, PREVIOUS CASES REQUIRING BOARD ACTION, AND LICENSURE APPLICATION ISSUES

The Board reviewed summaries of new complaints and reviewed completed investigation reports and related investigatory materials. A Licensee appeared in Executive Session to discuss pending disciplinary matters in case number 2002-0265.

PERSONAL APPEARANCES AND COMPLIANCE ISSUES

Licensees appeared in Executive Session pursuant to their Consent Orders in case numbers 2001-0120, 1993-0183, 2001-0111, 1999-0197, and 1997-0091.

OPEN SESSION: The Board returned to Open Session.

UNFINISHED BUSINESS

Dental Hygiene and Dental Assisting Rules

At its meeting on December 6, 2002, the Board voted to allow dental hygienists and dental assistants to dispense and administer fluoride and antimicrobial agents such as Peridex, and to apply bleaching agents. The Board instructed staff to work with Board counsel to review existing rules and recommend necessary changes. A review of existing rules showed that dental hygienists and dental assistants may currently administer or dispense fluoride, topical anesthetic and desensitizing agents per OAR 818-042-0040(6). Existing rules also allow dental hygienists to administer and dispense

antimicrobial solutions or resorbable antimicrobial agents per OAR 818-035-0030(5). Dr. Martin asked Ms. Lee whether these issues arose out of Dental Hygiene Committee work. Ms. Lee explained that this discussion was the result of a letter from a dentist that the Board reviewed at its meeting on December 6, 2002, asking the Board to consider a rule change to allow licensed dental hygienists and expanded function dental assistants to dispense and/or apply in-office bleaching to patients, with or without light activation. Board discussion at that time expanded the consideration to include other drugs.

After discussion, the Board identified three separate issues to refer to the Rules Committee: (1) Application of bleaching agents by dental assistants and dental hygienists, (2) Dispensing and administering of antimicrobial agents by dental assistants, and (3) Prescribing of fluoride by dental hygienists.

NEW BUSINESS

Dr. Martin announced that Ms. Bones will retire as Executive Director of the Board of Dentistry, effective February 28, 2003. However, she has agreed to work in the capacity of "Interim Executive Director" as a temporary employee until a replacement can be found. Dr. Gary Allen asked if there are currently any candidates. Dr. Martin replied that the search process has not yet begun.

ASSOCIATION REPORTS

Oregon Dental Association

Janet Peterson, DMD, said the ODA will be requesting that the legislature move the x-ray certification process from Health Services to the Board. Also, the ODA has asked for an amendment to House Bill 2240 regarding Dental Hygienists supervising Dental Assistants. Dr. Peterson explained that the concern was whether dental hygienists should be able to supervise all dental assistants. Since some assistants are trained in areas that dental hygienists are not, the ODA does not support the change. The ODA also wants to leave the definition of Dental Hygiene as it is, specifying that Dental Hygienists work under the general supervision of a dentist.

Ms. Bones said that Frank Mussell, the Board's former Assistant Attorney General, had suggested changing the definition so that it was not in conflict with ORS 680.200 (Limited Access Permits). ORS 680.150 specifies that Dental Hygienists employed by a dentist work under general supervision.

Oregon Dental Hygienists' Association

The ODHA had no report.

Oregon Dental Assistants Association

Mary Harrison, President of the ODAA, reported that she receives a lot of calls from dental offices and dental staff about confusion over the Dental Assisting National Board and what kinds of questions they are able to answer. Ms. Harrison said she spoke with Cindy Durley, DANB's Executive Director, and indicated that the ODAA will publish information about dealing with DANB in its newsletter. She said that she hopes this will clear up the confusion.

COMMITTEE AND LIAISON REPORTS

WREB Examiner and Committee Reports

- WREB Board of Directors
Dr. Martin reported that Dr. Johnson attended the WREB Board of Directors meeting in Phoenix, Arizona, on January 11, 2003. A copy of the Minutes of the meeting was provided for Board review. Dr. Martin said that WREB is still looking at alternative ways of testing. She said that there is some pressure from the rest of the country to move beyond using live patients. She said that 2003 exam candidates will have the option to choose two out of three restorations in the Operative exam: Direct Composite, Direct Amalgam, or Indirect Gold.

Standing Committee and Liaison Reports

- American Association of Dental Administrators, American Association of Dental Examiners.

Ms. Bones noted that there are mid-year meetings in March for the AADA and the AADE. She explained that the Board will not have any representatives at these meetings. The agenda for the AADE meeting is included with the correspondence for Board review.
- Anesthesia Committee
A synopsis of the Anesthesia Committee's recommended changes to Division 26 was provided for Board review. Dr. Kelley noted that wherever possible, the committee relied on the definitions and recommendations contained in the "American Dental Association Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists" as adopted by the American Dental Association House of Delegates, October 2002. Recommendations include:
 - Major Changes
The definition of "Minimal Conscious Sedation" is changed so that it is not restricted to the type of agents used, to be more consistent with the definition used by the ADA for sedation that produces a minimally depressed level of consciousness. The titles of Class 2 and Class 3 permits are changed to "Conscious Sedation" and "Deep Sedation," respectively, and definitions are changed to parallel the ADA Guidelines. Definitions are added for "anxiolysis" and "titration." A new rule is added to allow dental hygienists and dental assistants to provide care to patients under Conscious Sedation (Class 2) that are appropriate for the scope of practice of the hygienist or assistant, with some conditions. The life support training and certification requirement for a Class 3 permit is changed from "Health Care Provider BLS/CPR" to "ACLS or PALS, whichever is appropriate for the patient being sedated." Also, the training needed to maintain a current BLS/CPR certificate will no longer be counted as part of the required four hours of C.E. listed for renewal of Class 1 or Class 2 Permits. The hours would still count toward the Board's requirement for a minimum of three hours in medical emergencies.
 - Minor Changes
The committee included a statement in the rules that drugs and techniques used to produce sedation shall carry a margin of safety wide enough to prevent unintended deeper levels of sedation. The Board's policy regarding "anxiolysis only" has been incorporated in the rule to clarify that it is the Board's intent that when a sedative is provided for "anxiolysis only," then no anesthesia permit is required. The requirement that Health Care Provider BLS/CPR certification be obtained from the American Heart Association has been changed to include "or equivalent." He said that there are American Red Cross Professional Rescuer courses that are commensurate with AHA courses.

- Housekeeping

Dr. Kelley said that the committee also made some grammatical changes; language in each permit level rule regarding monitoring, documentation and discharge has been moved slightly to be sequentially appropriate; language regarding the use of “assistants” and “monitors” was changed for readability and to be consistent with the ADA Guidelines. A definition was added for anesthesia monitors to insure consistency throughout the rules.

Dr. Martin asked how the new rules will affect the practice of “sleep dentistry.” Dr. Kelley explained that the committee found that, rather than using one pill, practitioners were titrating patients using multiple pills over a period of hours. He said this practice is of great concern to the committee and generated much discussion. The Anesthesia Committee feels that the revised provisions and definitions for a Class 2 permit will adequately protect the public and if practitioners are taking their patients to deeper levels of sedation, then they will need to obtain a higher level permit. Dr. Ken Waddell, who practices “sleep dentistry,” served on the Anesthesia Committee and provided valuable information and insights. He is supportive of the full committee’s recommendations.

Dr. Kelley referred to a letter from Steven Duffin, DDS, also a member of the Anesthesia Committee, expressing his opinion that the Board should require a Class 3 permit for any practitioner providing sedation to children under the age of 12, with the exception of Nitrous Oxide. The committee did not feel that elevating the level of permit required was necessary, and that it may create undue hardship on practitioners, leading to issues with access to care.

Dr. McCully moved and Dr. Grant seconded that the Board accept the recommended rule changes, and move them to Rulemaking. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

- Communications Committee

The Communications Committee met January 16, 2003. A draft copy of the Minutes was provided for Board review. Dr. Grant said the committee felt the newsletter was going well. She said that Dr. McCully expressed the desire for more articles to be submitted and that Mr. Swart suggested Board Member profiles be included in future newsletters. She said that Ms. Bones reported on the status of the Bill of Rights and Consumer Tips project. Consumer Tips and Frequently Asked Questions have been added to the website but no specific patient Bill of Rights has been developed. Dr. Grant suggested that the Consumer Tips be developed as a brochure for dentists to make available to patients.

Dr. Grant referred to a draft copy of a “Welcome” letter that the Communications Committee approved, reminding new licensees of some key points including keeping up with C.E. requirements, keeping good patient records, and maintaining clear communication with patients. It is the committee’s intention that this letter be sent to all new licensees. Dr. Martin suggested adding a point to remind licensees to keep their contact information current and of the importance of being able to receive Board communications including License and Permit Renewal Applications. Ms. Lee suggested making reference to the fact that the Dental Practice Act is a changing document, and reminding Licensees to keep current on it. Dr. Kelley suggested adding a reminder to document diagnoses along with PARQ. The Board expressed its full support for further development and distribution of this letter with all new and renewal licenses.

Dr. McCully asked the audience for suggestions on the newsletter. Ms. Fletcher suggested adding the phrase, "Share It With Your Staff."

- **Enforcement Committee**

Dr. Martin provided an update on the Mentoring project. She said that under Ms. Lee's leadership, the committee explored a variety of ways to set up mentoring relationships for licensees in need of remedial training. She said that DAS, Risk Management, was asked about State liability coverage and it was determined that the State's insurance will not cover mentors under this project.

Dr. Martin suggested that Dr. Kelley, Chair of the Enforcement Committee, reconvene the committee to discuss with the ODA ways in which this project may still be implemented.

EXECUTIVE DIRECTOR'S REPORT

Budget Report

A report showing expenditures and revenue through December 2002 was provided for Board review. Ms. Bones said that the 18-month report is important because of its conjunction with the legislative session. It provides an opportunity for legislators to look at the Board's "real life" spending in comparison to what it has asked for. She said that revenues and expenditures are on track.

Board and Staff Speaking Engagements

- Paul Kleinstub, DDS, and Jo Ann Bones spoke to the senior dental students at OHSU on January 15, 2003.
- On January 22, 2003, Dr. Kleinstub spoke to dentists employed by Gentech Dentist at the request of Dr. Watanabe.

2201 Legislative Session

- **Agency Budget**
Ms. Bones said the Governor's Recommended Budget for the Board for 2003-05 is \$4,495 less than the agency request. She said she expects the agency's final budget for 2003-05 may be slightly lower because Governor Kulongoski has announced that state employee salaries will be frozen in the new biennium. Ms. Bones said the budget hearing is scheduled for February 10, 2003, at 8:30 a.m. She and Dr. Short will present the budget to the Joint Ways and Means Subcommittee on Education.
- **X-Ray Operator Training – LC 782**
Ms. Bones said Governor Kulongoski did not forward the Board's legislative concept for X-ray Operator Training to the legislature.
- **Board Housekeeping and Minor Program changes – LC 852**
Ms. Bones said this concept has been introduced as House Bill 2240.
- **Senate Bill 270**
Ms. Bones said that the Senate Committee of Judiciary, at the request of AFSCME, a union representing some state employees, sponsored Senate Bill 270. The bill exempts dentists practicing emergency dentistry, and dentists working for state agencies and providing limited services, from disciplinary action by the Board. Ms. Bones asked the Board if it wants to take a position on this bill or remain neutral. After discussion, Dr. Kelley moved, and Dr. Short seconded, that the Board oppose Senate Bill 270. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye. Ms. Bones will provide Board members with names and addresses for the Senate Human Resources Committee and members will send individual letters.

Annual Statistical Report

A spreadsheet showing workload statistics for 2002 was provided for Board review.

CORRESPONDENCE

Letter from Stephen Persichetti, DDS, OHSU, thanking Jo Ann Bones and Paul Kleinstub, DDS, for the presentation they made to the senior dental students on January 15, 2003.

Letter from Kenneth LeVos, DDS, requesting that the Board reconsider accepting the NERB dental examination as a credential for licensure. The Board instructed Ms. Bones to thank Dr. LeVos for his comments. Dr. Gary Allen expressed his support for the Board accepting the NERB as a credential for licensure and asked if the Board has any plans to re-open discussions on this issue. Dr. Martin indicated that the Board has no such plans at this time.

Letter from Debra J. Jasmer, RN, requesting that the Board adopt a rule to allow parents of minors the right to be present during non-sterile dental procedures. The Board expressed that it is up to the individual practitioner who he or she allows in the operatory during procedures. Ms. Fletcher pointed out that when she receives questions regarding this issue at the ODA, she replies that it is called an "operatory" for a reason and that, in fact, these are sterile conditions that need to be protected for the sake of the patient.

Letter from Dr. Paul G. Sims, Member of the AADE Award Selection Committee, requesting nominations for Citizen of the Year. Dr. Martin said that anyone who has a nomination should contact Ms. Bones.

Letter from Dr. Ronald Maitland, President, AADE, presenting the program for the 2003 AADE Mid-Year Meeting and Forum on Examinations to be held March 23 and 24, 2003 in Chicago.

Letter from Dr. Laura Neumann, Interim Secretary, ADA Joint Commission on National Dental Examinations, Associate Executive Director, Education, providing information regarding the National Dental Examiners' Advisory Forum which will be held on March 25, 2003 in Chicago. The ADA will reimburse travel and per diem for one Board member to attend this meeting. As noted earlier in the meeting, no representative of the Board will be attending this meeting or the AADE meeting.

Letter from Dr. Leon Assael, Chairman, ADA Council on Dental Education and Licensure, providing actions of the 2002 ADA House of Delegates and Council-related information.

LICENSURE AND EXAMINATION

Ratification of Licenses Issued

Dr. McCully moved and Dr. Kelley seconded that licenses issued be ratified as published. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

Dental Hygienists

H4576	Heather A. Ferguson, R.D.H.	December 03, 2002
H4577	Mary A. Halik, R.D.H.	December 03, 2002
H4578	Audrey Tran Ly, R.D.H.	December 11, 2002
H4579	Julie L. Dinh, R.D.H.	December 11, 2002

H4580	Darla R. Branson, R.D.H.	December 14, 2002
H4581	Lorraine E. Ortiz, R.D.H.	January 08, 2002

Dentists

D8193	Klaus D. Wolfram, D.D.S.	November 26, 2002
D8194	John L. Covert, D.D.S.	November 26, 2002
D8195	Judah S. Garfinkle, D.M.D.	December 03, 2002
D8196	William C. Donlon, D.M.D.	December 03, 2002
D8197	Randy Beemer, D.D.S.	December 11, 2002
D8198	Leslee C. Timm, D.D.S.	December 11, 2002
D8199	Richard L. Saunders, D.D.S.	December 12, 2002
D8201	Navjot S. Khurana, D.M.D.	December 12, 2002
D8202	Jere P. Bartoletti, D.D.S.	December 17, 2002
D8203	Julie R. Fagundes, D.D.S.	December 19, 2002
D8206	Seoungjoon Kim, D.D.S.	January 2, 2003
D8207	Timothy J. Moore, D.D.S.	January 2, 2003
D8208	Daniel S. Goldberg, D.M.D.	January 8, 2003
D8210	Abraham Ghorbanian, D.D.S.	January 9, 2003
D8211	Emine C. Loxley, D.M.D.	January 16, 2003
D8212	Eric M. George, D.M.D.	January 16, 2003
D8213	Todd Wedeking, D.D.S.	January 16, 2003

Dental Faculty

DF0011	Kamran Haghighat	November 27, 2002
DF0012	Hani Eid	November 27, 2002

Prosthodontic Specialty Exam

A Prosthodontic Specialty Examination was conducted on December 14, 2002 at the Board office. The candidate failed the examination and submitted an appeal for review of the examination to the Chief Examiner within the time frame required. The Chief Examiner reported that there was no error in the examination and recommended that the Board not change the applicant's grade. Dr. Grant moved and Dr. McCully seconded that the Board accept the recommendation of the Chief Examiner, that Candidate Alberto Ambard not be granted a license to practice the specialty of Prosthodontics. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

Request to Reinstate Expired License

OAR 818-021-0085(4) requires that before a license that has expired for more than one year can be reinstated, the applicant must complete a number of steps. One of the requirements for reinstatement is that the applicant "pass any other qualifying examination as may be determined necessary by the Board after assessing the applicant's professional background and credentials."

The license of Karen Hancock-Marshall, RDH, expired on September 30, 2000. Ms. Hancock-Marshall has been practicing dental hygiene in Washington and would like to reinstate her Oregon license. All appropriate fees and paperwork have been received, and there are no negative reports in the NPDB or HIPDB databases. Dr. McCully moved and Dr. Kelley seconded that Ms. Hancock-Marshall's license be reinstated with no requirement for further examination. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

Limited Access Permit – Clarification on Time Frame to Accept Coursework

ORS 680.200 requires that applicants for a Limited Access Permit present evidence satisfactory to the Board of at least 5,000 hours of supervised dental hygiene practice within the previous five years. The statute does not specify a time limitation for the required 40 classroom hours of coursework from a formal, post-secondary educational institution be completed. It has been staff interpretation that the same five year time period applies to the education component as to the clinical practice requirement. An applicant has requested that the Board review this issue and accept coursework completed more than five years prior to application for the Limited Access Permit. After discussion, the Board agreed that the statute should be interpreted literally and that there is no time limit in which to complete the educational requirement for the Limited Access Permit.

OTHER BUSINESS

Articles and News of Interest (No Action Necessary)

- State Legislative Report, January 2003
- State Legislative Report, December 2002
- AADE, "The Bulletin," Winter 2002

Administrative Rules

Dr. Martin said the Board needs to immediately make changes regarding two sets of rules. The first pertains to OAR 818-021-0011 and 0025, Licensure Without Further Examination. In July 2002 the Board adopted a temporary rule repealing the requirement that applicants applying for licensure by credential have passed the National Board examinations. The rule expired on January 12, 2003, and the Board needs to adopt a permanent rule. This can be done "effective upon filing" after appropriate notice is given. A copy of the proposed rule changes was provided for Board review. Dr. McCully moved and Dr. Kelley seconded that the Board permanently adopt rule change. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

The second rule change pertains to OAR 818-042-0050, 0060 and 0120, X-ray Operator Training and Certification. These rules need to be amended to eliminate conflicts with the Department of Human Services rules which are in the process of being adopted. A copy of the proposed changes for both DHS rules and changes recommended by staff to the Board's rules was provided for Board review. Changes include the elimination of the "push the button" phrase, so that students in approved instructional programs may take x-rays, and the addition of language specifying that applicants for x-ray certification must meet the requirements established by the Department of Human Services. Dr. Kelley moved and Dr. Short seconded that the Board adopt the proposed rule changes. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye. Ms. Bones said Board staff will assure that the appropriate publication and notice is provided and the rule amendments will subsequently be filed with the Secretary of State, probably in mid-April.

Agency Head Financial Transactions

Dr. Martin said that Department of Administrative rules and Board Policy 818-413-015, establish accountability and control standards for the review and approval of various leave, purchasing and travel reimbursement claims by agency heads. These policies require that Board's annually review these transactions for the agency head. Copies of these policies were provided for board review, along with a summary of the Executive Director's paid leave and financial transactions during the calendar year 2002. Dr. Martin said that she personally reviewed all of the transactions for the Executive Director and was impressed by the care taken to keep costs down. She said that she appreciates the level of checks and balances used within the system and feels that the Board can,

with confidence, accept the leave reports and financial transactions incurred by Ms. Bones during 2002. Dr. Martin moved and Dr. McCully seconded that the Board approve the Agency Head Financial Transactions for 2002. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

Specialty Exam Process

Dr. Martin said the Board needs to determine what path to take with regard to specialty exams. She said there are fewer applicants for specialty exams, in part because of credentialing. Specialty communities are small, and it is difficult to give anonymous examinations. She emphasized a need for standardization, and outlined four possible paths for the Board to consider: (1) maintain the current specialty examination procedures, (2) discontinue specialty examinations, (3) look to NERB for specialty examinations, or (4) change the specialty examination process by adopting absolute standards, and share protocol and grading criteria with candidates. Dr. Martin said that option (2), discontinuing specialty exams, would mostly impact recent graduates from specialty programs who did not complete their dental education in an ADA accredited program.

After discussion, the Board agreed to support option four, making changes to the current specialty examination protocols, and to refer this issue to the Licensing, Standards and Competency Committee for further study and recommendations. Dr. Martin said this process must include the specialty organizations.

MINUTES

Dr. McCully moved and Dr. Kelley seconded that the Minutes of the December 6, 2002 meeting be approved as published. The motion passed with Dr. Short, Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, and Mr. Swart voting aye.

EXECUTIVE SESSION: The Board entered into Executive Session pursuant to ORS 192.606 (1)(f), (h) and (k); ORS 676.165, ORS 676.175 (1), and ORS 679.320 to review records exempt from public disclosure, to review confidential investigatory materials and investigatory information, and to consult with counsel.

OPEN SESSION: The Board returned to Open Session.

ENFORCEMENT

CONSENT AGENDA

2003-0088, 2003-0115, 2003-0090, 2003-0118, and 2003-0094: Dr. McCully moved and Dr. Kelley seconded that these cases be closed with a finding of No Further Action, per the Staff recommendations. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

COMPLETED CASES

2002-0289, 2002-0172, 2003-0075, 2003-0059, 2003-0053, 2003-0025: Dr. Short moved and Ms. Lee seconded that the Board close these matters with a finding of No Violation of the Dental Practice Act or no further action, per the recommendations. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0009 Ms. Lee moved and Mr. Swart seconded that the Board close this matter with a determination of No Further Action. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0278 Dr. Kelley moved and Ms. Lee seconded that the Board close this matter with a Letter of Concern addressing the issues of ensuring that, when informed consent is obtained, PARQ or its equivalent is documented in the patient records, and that all treatment that is provided is accurately documented in the patient records. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0013 Dr. Grant moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issues of ensuring that when informed consent is obtained, PARQ or its equivalent is documented in the patient records and that all treatment that is provided is accurately documented in the patient records. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0244 Mr. Swart moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that a crown fits prior to dismissing the patient. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0281 Dr. McCully moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that when dental assistants provide services the appropriate level of supervision is exercised. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0272 Ms. Lee moved and Mr. Swart seconded that the Board close the matter with a determination of No Further Action. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0051 Dr. Kelley moved and Ms. Lee seconded that the Board close the matter with a Letter of Concern wherein the Board directs that the Licensee assure that he no longer write prescriptions for any drugs for any person. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0290 Dr. Grant moved and Mr. Swart seconded that the Board issue a Notice of Proposed Disciplinary Action and offer the Licensee a Consent Order in which the Licensee would agree to be reprimanded and make a \$2000.00 restitution payment to the patient. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. Short, and Mr. Swart voting aye. Dr. McCully voted no.

2002-0283 Mr. Swart moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issues of ensuring that when obtaining informed consent, the Licensee documents PARQ or its equivalent in the patient records, identifies the treatment provider when providing treatment, documents the use of local anesthetic, and documents prescriptions that are written. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0259 Dr. McCully moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern reminding the Licensee that it is his responsibility to assure employees under his supervision who perform special tasks are properly certified or licensed to do so. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0045 Ms. Lee moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that when informed consent is obtained prior to providing treatment, PARQ or its equivalent is documented in the patient record, and ensure that a newly seated crown fits prior to dismissing the patient. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0253 Dr. Kelley moved and Mr. Swart seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that emergency care is available for patients currently receiving treatment. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0021 Dr. Grant moved and Dr. McCully seconded that the Board close the matter with a finding of No Violation for either Respondent. The motion passed with Dr. Grant, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye. Dr. Kelley recused himself.

2002-0263 Mr. Swart moved and Dr. McCully seconded that the Board close the matter with a Letter of Concern reminding the Respondent that when she is applying for specialty certification, she ascertain that she completes all phases required of her toward final certification. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0016 Dr. McCully moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that when informed consent is obtained, PARQ or its equivalent is documented in the patient records. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0254 Dr. Kelley moved and Dr. McCully seconded that the Board close the matter with a finding of No Violation of the Dental Practice Act. The motion passed with Dr. Grant, Dr. Kelley, Dr. McCully, Dr. Short, and Mr. Swart voting aye. Ms. Lee recused herself.

2002-0269 Dr. Grant moved and Dr. Short seconded that the Board close the matter against Respondent #1 with a Letter of Concern addressing the issue of ensuring that when errors are noted in documentation of treatment, the errors are properly identified as such. Close the matter with a finding of no violation for Respondent #2. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0222 Mr. Swart moved and Ms. Lee seconded that the Board issue a Notice of Proposed Disciplinary Action and offer the Licensee a Consent Order incorporating a restitution payment of \$3,950.00 paid to the minor patient's family per standard protocols. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2003-0004 Dr. McCully moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that when obtaining informed consent prior to providing treatment, PARQ or its equivalent must be documented in the patient record. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0206 Ms. Lee moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issues of ensuring that when obtaining informed consent to provide treatment, PARQ or its equivalent is documented in the patient record; that current health histories are obtained; and that all treatment provided to a patient is accurately documented in the patient record. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0248 Dr. Kelley moved and Dr. Short seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that when pathology is diagnosed on a radiograph, the treatment that is provided properly addresses the problem. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0282 Dr. Grant moved and Mr. Swart seconded that the Board issue a Notice of Proposed Disciplinary Action and offer the Licensee a Consent Order in which the Licensee would agree to be reprimanded, to make a restitution payment of \$680.00 to the patient, and to take a Board approved three hour course in record keeping. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. Short, and Mr. Swart voting aye. Dr. McCully voted no.

2003-0008 Mr. Swart moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issues of insuring that when obtaining informed consent prior to providing treatment, PARQ or its equivalent is documented in the patient records and that all requirements for maintaining a Class 1 anesthesia permit are met. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. Short, and Mr. Swart voting aye. Dr. McCully voted no.

2002-0268 Dr. McCully moved and Dr. Kelley seconded that the Board close the matter with a Letter of Concern addressing the issue of ensuring that all treatment provided to a patient is documented in the patient records. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

PREVIOUS CASES REQUIRING FURTHER BOARD ACTION

1999-0157 Dr. Kelley moved and Dr. Short seconded that the Board close the matter for Respondent #1 with a Letter of Concern addressing the issue of ensuring that when doing elective cosmetic surgical procedures, a consultation and thorough examination are done far enough in advance so as to be able to evaluate the appropriateness of the procedure, properly evaluate the patient's suitability for the operation and compliance with post-operative instructions, and allow for an adequate discussion of the indications, alternatives and risks as part of the process of eliciting informed consent. For Respondent #2 close the matter with a Letter of Concern addressing the issue of ensuring that when doing elective cosmetic surgical procedures, a consultation and thorough examination are done far enough in advance so as to be able to evaluate the appropriateness of the procedure and the patient's compliance with post-operative instructions, to properly evaluate the patient's suitability for the operation, and to allow for an adequate discussion of the indications, alternatives and risks as part of the process of eliciting informed consent. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. Short, and Mr. Swart voting aye. Dr. McCully recused himself.

1990-0114 ET AL Dr. Grant moved and Mr. Swart seconded that the Board offer an Amended Consent Order changing points in the Licensee offered Consent Order –

Page 2: Strike the third paragraph beginning "Whereas, by agreeing to the entry of this..."

Page 3, Sec 2: Strike entire paragraph and replace with, "The Licensee shall cease performing any endodontic procedures, including pulpotomies, for the remainder of his dental career."

Page 3, Sec 4: Add definition of "group practice" to the section. That definition should read, "two or more licensed dentists working in a single setting."

Page 3, Sec 4(B)(i): Strike wording, "...review the records of at least five (5)..." and replace with "...review the records of all patients treated by Licensee..."

Page 3, Sec 4(B)(i): Strike the last sentence, "If the supervising dentist does not..."

Page 4, Sec 4(B)(ii): Strike the entire sentence and replace with, "The supervising dentist is to report to the Board of Dentistry if Licensee has performed any endodontic procedures."

Page 4, Sec 5: Strike, "...in exchange for the Board's issuance of a Class 2 anesthesia permit to Licensee," and replace with, "...and will not apply for a Class 2 anesthesia permit."

Dr. McCully moved and Dr. Kelley seconded to amend the motion with respect to Page 4, Section 5, whereby the entire sentence is struck and replaced with, "Licensee will relinquish his Class 3 permit and not apply for any anesthesia permit." The motion to amend the motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

The amended motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2000-0227 Mr. Swart moved and Dr. McCully seconded that the Board rescind the Board's previous vote to issue a Notice of Proposed Disciplinary Action and provide the Licensee an opportunity to respond to the allegations. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2000-0191 Mr. Swart moved and Dr. McCully seconded that the Board rescind the Board's previous vote to issue Notices of Proposed Disciplinary Action and provide the Licensees an opportunity to respond to the allegations. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2000-0262 Ms. Lee moved and Dr. Kelley seconded that the Board reject the Licensee's offer and let stand the Notice of Proposed Disciplinary Action and the offer of the Consent Order as voted by the Board on 6/28/02, and return the unsolicited \$1,000 check. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. Short, and Mr. Swart voting aye. Dr. McCully voted no.

2002-0124 Dr. McCully moved and Dr. Short seconded that the Board grant the Licensee a 60-day extension, until 3/18/03, to complete the ten hours of community service. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0265 Dr. McCully moved and Dr. Short seconded that, with respect to Respondent #2, the Board rescinds its previous vote to issue a Notice of Proposed Disciplinary Action, and instead issue a Letter of Concern assuring that with respect to issues of employees under Licensee's control, Licensee should assure that employees hold appropriate licenses for the treatment they will provide. The motion passed with Ms. Lee, Dr. Martin, Dr. McCully, and Dr. Short voting aye. Dr. Grant and Mr. Swart voted no. Dr. Kelley recused himself.

Dr. McCully moved and Dr. Short seconded a motion affirming the action of Dr. Martin in delaying issuance of the Notice of Proposed Disciplinary Action in light of Licensee's request to appear before the Board on 1/31/03. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2000-0270 & 2001-0108 Dr. Kelley moved and Dr. Short seconded that the Board reject the Licensee's offer to settle and set a hearing date. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

1997-0182 ET AL Dr. Grant moved and Dr. Short seconded that the Board lift the suspension of Licensee's dental license and reinstate him to practice dentistry in Oregon. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2000-0189 Mr. Swart moved and Dr. McCully seconded that the Board rescind the Board's previous vote to issue a Notice of Proposed Disciplinary Action and provide the Licensee an opportunity to respond to the allegations. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

2002-0149 Mr. Swart moved and Dr. Kelley seconded that the Board accept the proposed resolution and issue a very strongly worded Letter of Concern wherein the Board directs that the Licensee assure that all required licenses and certifications are current for the duties performed and that the Licensee maintain complete and accurate patient records of treatment provided; warns the Licensee that misleading the Board is a violation of the Dental Practice Act; and advises the Licensee that the actions brought by the Board were as a result of Licensee's initial complaint and no other. The amended motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

LICENSING ISSUES

2003-0065 Dr. McCully moved and Dr. Kelley seconded that the Board issue the Applicant a dental license on the condition that he agree to the terms of a Consent Order incorporating a reprimand, a \$1,000.00 civil penalty payable in six months, and 10 hours of community service within six months, per the standard protocols. The motion passed with Dr. Grant, Dr. Kelley, Ms. Lee, Dr. McCully, Dr. Short, and Mr. Swart voting aye.

ADJOURNMENT

The meeting was adjourned at 4:35 p.m.

Approved by the Board March 21, 2003

Jean A Martin, DDS, MPH

President

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