



## PRESIDENT'S MESSAGE

by Ronald Short, DMD

**T**he smoke has cleared somewhat on Senate Bill 390 dealing with Dental

Practice ownership. The bill has passed the Legislature by a substantial majority. In general, the bill changes the Dental Practice Act to allow the ownership and operation of Dental Practices by government entities such as County Health Departments, Federally Qualified Community Health Centers and non-profit charitable organizations. Provisions are also made for the transition of the practice of a deceased or disabled owner-dentist. Multi-practitioner dental practices must name an actively licensed dentist as dental director who shall be responsible for the clinical practice of dentistry and the overall quality of patient care rendered in the clinic.

This helps many clinics performing necessary dental services to be in compliance with the law. This is a much needed and long overdue change in the law. The Oregon Board of Dentistry has been studying these problems for several years with its sub-committee on ownership and has also encouraged and served on the Oregon Dental Association's taskforce on ownership.

Not included in SB 390, but recommended by the ODA taskforce and supported by the OBD, was a provision for minority ownership of Dental Practices to enable sole practitioners or small partnerships to take advantage of financing opportunities and for estate and tax planning. This was heavily opposed by the ODA as a result of opposition at the annual ODA House of Delegates.

OBD has been questioned and criticized for having a different position than the ODA. It is not necessary or required that OBD and ODA share the same opinion on all issues. Differences of opinion, properly expressed, are good for provoking thought and discussion and are vital for our Republic form of Government.

As individuals and board members we make decisions based on our knowledge of the issue at hand, our colleagues' and friends' advice, our past experiences and our own "gut" feelings. Since these items are not the same for any two of us, we all make slightly different decisions.

I was heavily lobbied regarding the Board's position on the minority shareholder issue. Opponents to this proposal insisted that the individual dentist must be protected from pressure exerted by outside interests such as non-dentist minority owners. As I recall, 49% or less ownership of anything doesn't give much control.

(continued on page 4)

## WHAT'S INSIDE

New Board Member .....	2
A Case Study .....	3
Caution .....	3
Disciplinary Actions .....	5-9
2003 Legislative Session and the Dental Practice Act .....	10

**Our Mission:** *The mission of the Oregon Board of Dentistry is to assure that the citizens of the state receive the highest possible quality oral health care.*

## NEW BOARD MEMBER



**R**odney Nichols, DMD, joined the Board in May 2003. Dr. Nichols is a native of Montana but readily claims Oregon as home. "Like many Oregonians I have been accused of having moss growing on my north side," he states, "but I won't claim to be a webfoot for obvious reasons."

Raised in Salem, he attended South Salem High School then received his undergraduate degree in microbiology at Oregon State University. He obtained his dental degree from University of Oregon Health Sciences Center (now OHSU) and continued there to complete a residency in Oral and Maxillofacial Surgery. He is a Diplomate of the American Board of Oral and Maxillofacial Surgery.

Past teaching experience includes appointments in the Departments of Oral and Maxillofacial Surgery and Oral Pathology at OHSU but he currently maintains a private practice in Milwaukie.

Dr. Nichols is on the medical staff at several Portland area hospitals including Legacy Portland Hospitals (Good Samaritan Hospital and Medical Center and Emanuel Hospital and Health Center) as well as Mount Hood Medical Center. He currently serves as the section chairman for Oral and Maxillofacial Surgery at Legacy Portland Hospitals and was the OMS division chairman at Holladay Park Hospital.

Like many Board members, Dr. Nichols has been active in organized dentistry including serving on the ODA Government Relations Council and the Strategic Governance Task Force as well as recently completing his tenure as President of the Clackamas County Dental Society. He is a Past President of the Oregon Society of Oral and Maxillofacial Surgery and is on the Executive Board of the Western Society of Oral and Maxillofacial Surgery. Dr. Nichols also represents District VI of the American Association of Oral and Maxillofacial Surgeons on the AAOMS Committee for Hospital and Inter-Professional Affairs (CHIA).

Dr. Nichols notes his interest in serving on the Board stems from his activity on the credentials

committees of Holladay Park Hospital and Legacy Portland Hospitals where he has been a committee member, chairman and vice chairman of the committees during the past 20 years. "Assessing the qualifications of the professional staff for membership and granting privileges to perform procedures has become much more complicated and important as the nature of the medical staff has changed. We have moved away from small community based facilities to much larger corporate institutions with a more transient and diverse medical staff of many specialties," he states. "The Board functions much like a credentials committee in a hospital, trying to assure that the patient receives care from qualified and competent practitioners with adequate training and current expertise."

Dr. Nichols' past experience with the Board includes being an examiner for the OMS specialty examination and serving on the Board's Anesthesia Advisory Committee.

In addition to his professional interests Dr. Nichols enjoys golf and exploring the many wonders of Oregon. On a sunny day you may also find him cruising the two-lane back roads on his H-D Road King Classic or hiking the trails in Portland's Forest Park. ■

### BOARD MEMBERS

**Ronald Short, DMD, President**  
*Klamath Falls — Term expires 2004*

**George McCully, DMD, Vice-President**  
*Eugene — Term expires 2004*

**Melissa Grant, DMD**  
*Portland/Salem — Term expires 2005*

**Kenneth Johnson, DMD**  
*Corvallis — Term expires 2005*

**Linda Lee, RDH, MBA**  
*Lake Oswego — Term expires 2005*

**Jean Martin, DDS, MPH**  
*Canby — Term expires 2006*

**Rodney Nichols, DMD**  
*Milwaukie — Term expires 2007*

**Ellen Potts, RDH, BS**  
*Portland — Term expires 2006*

**Richard "Rick" Swart**  
Public Member  
*Enterprise — Term expires 2006*

## A CASE STUDY

The Board received a complaint alleging that a dentist, for an extended period, had failed to complete continuing education courses as required by the Board.

In accordance with Oregon law which requires that the Board conduct an investigation of any complaint received regarding a licensee, the Board opened an investigation. A review of the dentist's licensing file revealed that the doctor had certified on his past three renewal applications that he had completed the 40 hours of required C.E. during the licensure periods.

The dentist was asked to provide verification that he had completed the C.E. hours that he certified having completed. After several attempts to gather the required information, a list was submitted. A review of all courses, study clubs, video tapes, and local component meetings listed revealed that the doctor had not completed the required three hours in medical emergencies, had not taken and passed any of the tests required when using videotapes or journals for C.E., and was short several hours in two of the previous licensure periods. The doctor also did not have a current and valid Health Care Provider BLS/CPR certification required to maintain a Class 1 anesthesia permit.

As a resolution to this matter, the doctor agreed to enter into a Consent Order with the Board in which he agreed to be reprimanded, to pay a civil penalty in the amount of \$1,000 within 12 months, to complete the hours of C.E. that he had certified to but had not taken, and to provide ten hours of community service in the form of unremunerated direct patient dental care.

(The Board requirement for C.E. is minimal – less than two hours per month for dentists, and only one hour per month for dental hygienists – and C.E. can be obtained from a variety of sources. The Board also has a policy that if a licensee has completed at least 75% of the required C.E. by the end of the renewal period, a 60 day extension can be granted upon request. Falsely certifying that all C.E. has been completed when it has not is a violation of the Dental Practice Act and subject to disciplinary action.) ■

*The carpule in the syringe is labeled 2% lidocaine. As you begin to inject, can you be sure that lidocaine is what the patient will receive?*



The Board recently reviewed a case where a patient received an inferior alveolar injection from a carpule containing sodium hypochlorite. The patient was treated at an emergency room, and fortunately, has recovered completely.

One dentist in this office used a “refilled carpule technique” to place bleach in anesthetic carpules for use in endodontic irrigation. Assistants were directed to remove the labels from anesthetic carpules and refill them with sodium hypochlorite. These carpules were to be kept in a clearly marked envelope for “endodontic use only.” This practitioner felt that the system in place was error proof.

**The only error-proof system is to NEVER fill an injectable carpule with anything other than the labeled contents or a medication intended for injection.**

The injury to this patient was painful and frightening. The anxiety and concern experienced by the dentist was, no doubt, unforgettable. All were lucky that the patient's injury wasn't worse.

Many systems are available for endodontic irrigation—none of them expensive. Please use them. Spare yourself and your patients even the smallest chance that your injection will cause unintended, and avoidable, harm. It bears saying again:

**NEVER fill an injectable carpule with anything other than the labeled contents or a medication intended for injection. ■**

*Jean Martin, DDS. MPH*

**PRESIDENT'S MESSAGE** *(Continued from page 1)*

Does that also include influence from spouses and family members even if they are not shareholders?

The licensee has the legal and moral obligation to practice acceptable dentistry on all patients regardless of any external influence to do otherwise from any source including employers, 3<sup>rd</sup> party payers, spouses and families, and anyone else so inclined to exert such influence. Otherwise, the licensee's license is in jeopardy!

It is not the duty of the OBD to protect licensees from external pressure to practice bad dentistry. It is the duty of the Board to protect the public from bad dentistry done by the licensees. If the licensee cannot resist outside influences, the licensee should not be practicing dentistry or should, at the least, make whatever changes are necessary to escape the influence.

The Legislature and the dental community have now spoken. It remains illegal for any dentist to allow a non-dentist to hold any shares of a dental clinic except for those practices enabled by SB 390. The Oregon Board of Dentistry will now begin enforcement of the section of the Dental Practice Act which limits the ownership of Oregon dental practices to Oregon licensed dentists only. This will involve those dentists with Professional Corporations or LLCs who have non-dentist owners of stock or shares, etc. This issue has been referred to the Board's Enforcement Committee for study and recommendation of enforcement procedures and penalties for violation. I urge all Oregon licensed dentists to immediately review their practice organization to ensure that it is in compliance with the law.

"I love the man that can smile in trouble, that can gather strength from distress, and grow brave by reflection. 'Tis the business of little minds to shrink, but he whose heart is firm, and whose conscience approves his conduct, will pursue his principles unto death."- THOMAS PAINE ■

**TRANSITIONS**

*Jo Ann Bones*

**A**fter more than 30 years as an employee of the State of Oregon and the last seven years as Executive Director of the Board of Dentistry, I have decided to retire from State service and see what the next phase of my life holds for me. The years with the Board have been a time of learning, challenge, growth, and fun. I have met many wonderful people and had the privilege of serving the dental community and the public with a terrific staff and many dedicated Board members and volunteers. Together we have made many significant improvements in the Dental Practice Act and rules of the Board and I am very proud to have been a part of that progress. I have a great respect for the time, effort and expertise that Board members contribute to their profession and encourage every licensee to be a part of this process.

Albert Schweitzer said, "I don't know what your destiny will be, but one thing I do know: the only ones among you who will be really happy are those who have sought and found how to serve." I have found my years of service to the State of Oregon and the Board of Dentistry to be very gratifying and extend my heartfelt THANKS to all who made this time so rewarding and successful. Best wishes to all who read this. I hope your career is as rewarding and happy for you as mine has been for me. Hopefully, this is not "Good-bye" but only "So long, until we meet again." ■

**QUESTIONS?** Call the Board office at 503-229-5520 or e-mail your questions to us at [information@oregondentistry.org](mailto:information@oregondentistry.org).

## DISCIPLINARY ACTIONS TAKEN BETWEEN NOVEMBER 1, 2002 AND MAY 3, 2003

**Note:** *In the November issue of the newsletter the Disciplinary Actions were erroneously labeled as actions taken between October 1, 2001 and April 30, 2002 when in fact they were actions taken between May 1, 2002 and October 30, 2002. We regret the error.*

### Unacceptable Patient Care ORS 679.140(1)(e)

**Case #2002-0190** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to obtain informed consent prior to extracting a tooth and failed to document the administration of nitrous oxide. Aware of his right to a hearing, the Licensee voluntarily entered into a Consent Order in which the Licensee agreed to be reprimanded and to comply with the Dental Practice Act and rules of the Board.

**Case #2001-0063** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to document care and treatment for a patient. In order to resolve the matter, the Licensee voluntarily entered into a Consent Order in which the Licensee agreed to be reprimanded and to comply with the Dental Practice Act and rules of the Board.

**Cases #2001-0139 and #2002-0104** Based on two investigations involving at least two patients, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to take post-treatment radiographs following the placement of posts, failed to take diagnostic radiographs to evaluate post-treatment pain in a patient and placed a restoration when there was no dental justification. Aware of his right to a hearing, the Licensee entered into a Consent Order with the Board in which the Licensee agreed to be reprimanded and to pay a civil penalty in the amount of \$1,500.00.

**Case #2002-0049** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that, for multiple patients on multiple

occasions, a dentist failed to document a description of the examination and diagnosis, failed to document periodontal charting, failed to document "PARQ;" failed to document the name, quantity and strength of drugs administered; repeatedly failed to document a diagnosis to justify treatment provided for patients, misrepresented a fee by billing for services performed on a date other than the date stated on the bill for purposes of invoking insurance coverage, and failed to document the date and description of services provided. Aware of his right to a hearing, the Licensee entered into a Consent Order in which the Licensee agreed to be reprimanded, to be placed on indefinite probation but for not less than five years, to pay a civil penalty in the amount of \$5,000.00, to complete a Board- approved course in record keeping within one year and to perform 80 hours of Board-approved community service in the form of unremunerated direct patient dental care within one year.

**Case #2001-0120** Based on an investigation, the Board issued a Notice of Proposed License Revocation alleging that, for multiple patients on multiple occasions, a dentist performed scaling and root planing without a dental justification, provided unacceptable care when performing planing and scaling, failed to document diagnosis of periodontal disease, submitted bills to insurance companies for services that were not provided on the date billed for, and misrepresented facts and made untrue statements to the Board during its investigation. Aware of her right to a hearing, the Licensee voluntarily entered into a Consent Order with the Board in which the Licensee agreed to be reprimanded, to a license suspension of one year with 11 months stayed and with the remaining suspension of 30 consecutive days to be completed within one year; to be placed on probation for ten years, to pay total restitution of \$668.40 to three different patients, to pay total restitution of \$2,542.00 to three different insurance companies, to pay a civil penalty in the amount of \$15,000.00, to provide 120 hours of community service in the form of unremunerated direct dental

(continued on page 6)

**DISCIPLINARY ACTIONS** *(Continued from page 7)*

care within three years, to appear before the Board at a frequency determined by the Board but initially two times per year; and, for a period of ten years, to practice dentistry only as an employee of a dental practice in which the Licensee has no ownership interest or management involvement.

**Case #2002-0123** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to diagnose and document caries evident on dental radiographs and failed to document "PARQ" or its equivalent when obtaining informed consent. Aware of his right to a hearing, and wishing to resolve this matter, the Licensee entered into a Consent Order with the Board in which the Licensee agreed to be reprimanded, to make a restitution payment to the patient in the amount of \$984.00 within 90 days, and to pay a civil penalty of \$1,000.00 within 30 days.

**Cases #1999-0211, #2000-0152 and #2000-0197** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that for multiple patients over a period of time a dentist failed to document diagnoses to justify initiating orthodontic treatment, initiated orthodontic therapy when a panoramic radiograph taken prior to initiating treatment showed generalized moderate to severe bone loss, failed to document diagnoses of periodontal disease, failed to document diagnoses to justify treatment provided; failed to document and diagnose root resorption, loosening teeth, and ongoing bone loss resulting from orthodontic treatment; failed to consult with or refer a patient to a periodontist when bone loss and increasing pocket depths was noted; failed to seek consultation or make referrals when complex orthodontic relationships were diagnosed; after treating two patients for multiple years the patients had no change in the initial conditions that the dentist originally diagnosed; attempted to non-surgically correct an orthodontic condition that required surgical correction and failed to document that informed consent was obtained prior to initiating treatment. Aware of his right to a hearing, and wishing to resolve these matters, Licensee entered into a Consent Order with the Board in

which he agreed to cease performing any orthodontic services and to not resume the performance of orthodontic services until after demonstrating proficiency to the Board.

**Case #2002-0290** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to diagnose and document periodontal disease indicated by increasing periodontal probings and radiographic evidence of bone loss and failed to document "PARQ" or its equivalent. Aware of his right to a hearing and wishing to resolve the matter, the Board and Licensee entered into a Consent Order in which the Licensee agreed to be reprimanded and to make a restitution payment to the patient in the amount of \$2,000.00 within 30 days.

**Case #2002-0282** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist seated a crown with a defective mesial margin, failed to document "PARQ" or its equivalent after obtaining informed consent, failed to document a diagnosis of periodontal disease or to do periodontal probings although radiographs showed evidence of bone loss and heavy subgingival calculus, failed to document a diagnosis to justify placing crowns on two teeth prior to preparing the teeth for crowns, failed to document the name of the local anesthetic administered, and failed to document that impressions were taken or that temporary crowns were placed. Aware of his right to a hearing, in order to resolve this matter the Licensee voluntarily signed a Consent Order in which he agreed to be reprimanded, to make a restitution payment to the patient in the amount of \$680.00 within 60 days, and to complete a Board-approved course in record keeping within one year.

**Case #2002-0143** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to document a diagnosis of caries in several teeth for a period of at least five years and failed to restore caries that were diagnosed until four years after the diagnosis. Aware of his right to a hearing, in order to resolve this matter

(continued on page 7)

the Licensee voluntarily signed a Consent Order in which the Licensee agreed to be reprimanded and to make a restitution payment to the patient in the amount of \$2,500.00 within 120 days.

**Case #2002-0244** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist seated a crown with deficient margins. Aware of her right to a hearing, in order to resolve this matter the Licensee voluntarily signed a Consent Order in which she agreed to be reprimanded and to pay a civil penalty in the amount of \$1,000.00 within 30 days.

**Case #2003-0003** Based on an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist perforated through the buccal surface of a tooth while attempting to locate the canal openings of the roots while initiating endodontic therapy on the tooth. Aware of his right to a hearing, the Licensee voluntarily entered into a Consent Order in which he agreed to be reprimanded, to successfully complete at least five hours of Board-approved hands-on education in endodontics, five hours of Board-approved education in diagnosis and treatment planning and a Board-approved course in record keeping within one year.

**Case #2003-0073** Based on the results of an investigation, the Board issued a Notice of Proposed Disciplinary Action alleging that a dentist failed to diagnose and document that restorations placed in two teeth were defective, placed composite buildups in teeth with deficient contacts and contours, failed to treat the DL canal of a tooth while completing endodontic therapy in the tooth, failed to document "PARQ" or its equivalent after obtaining informed consent, failed to document that local anesthetic was administered to the patient and failed to document the name of the endodontic fill material used to complete endodontic therapy in the two teeth. Aware of his right to a hearing, and in order to resolve this matter, the Licensee entered into a Consent Order with the Board in which the Licensee agreed to be reprimanded, to make a restitution payment to the patient in the amount of \$875.00 within 60 days, and to complete at least

14 hours of a Board-approved hands-on course in restorative dentistry, at least six hours in diagnosis and treatment planning, and a Board-approved record keeping course within one year.

### Unprofessional Conduct

**Case #2003-0023** A dental hygienist voluntarily advised the Board of the Licensee's abuse of and addiction to, or dependence on alcohol and prescription drugs. The Licensee also advised the Board of pending criminal charges regarding tampering with drug records and forgery. Licensee was subsequently convicted of one count of tampering with drug records. Aware of her right to a hearing, the Licensee voluntarily entered into a Consent Order in which the Licensee agreed to be placed on indefinite probation for at least five years; to not use alcohol, controlled substances or mood altering drugs unless prescribed by a licensed practitioner for a bona fide medical condition; to adhere to and complete all aspects of any treatment and recovery plan recommended by a Board-approved care provider; submit to a Board-approved random, supervised urinalysis testing program; to personally appear before the Board or its designated representative at a frequency to be determined by the Board but initially three times per year, and assure that the Board always has the most current information regarding Licensee's address, phone number and employment information.

**Case #2003-0149** Based on a report received by the Board that a dentist may have been treating patients while impaired, a dentist acknowledged that he was addicted to, dependent upon or self-abused alcohol. Aware of his right to a hearing, the Licensee voluntarily entered into a Consent Order in which the Licensee agreed to be reprimanded, to be placed on indefinite probation for at least five years, to not use alcohol, controlled substances or mood altering drugs at any time unless prescribed by a licensed practitioner for a bona fide medical condition, to adhere to and complete all aspects of any treatment and recovery plans recommended by a Board-approved care provider, to submit to a Board-approved, random, supervised urinalysis testing program at Licensee's expense with a

(continued on page 8)

**DISCIPLINARY ACTIONS** *(Continued from page 9)*

frequency of testing initially at a minimum of 24 tests per year, to appear before the Board or its designated representative at a frequency to be determined by the Board but initially at least three times per year, and to assure that the Board always has the most current addresses, phone numbers and employment information regarding the Licensee.

**Case #2003-0056** A dental hygienist advised the Board of a history of alcohol abuse, of a conviction of careless driving and of the Licensee's current treatment and recovery program. The Board is authorized under the Dental Practice Act to discipline Licensees for unprofessional conduct which includes addiction to, dependency on, or self abuse of alcohol or drugs. Aware of her right to a hearing, the Licensee voluntarily entered into a Consent Order in which the Licensee agreed to be placed on indefinite probation for not less than five years; to not use alcohol, controlled substances or mood altering drugs at any time unless prescribed by a licensed practitioner for a bona fide medical condition; to adhere to and complete all aspects of any treatment and recovery plans recommended by a Board-approved care provider; to submit to a Board-approved, random, supervised urinalysis testing program at Licensee's expense with a frequency of testing initially at a minimum of 24 tests per year; to appear before the Board or its designated representative at a frequency to be determined by the Board but initially at least three times per year, and to assure that the Board always has the most current addresses, phone numbers and employment information regarding the Licensee.

**Applicant Issues 679.060(4)**

**Case #2003-0064** Based on information provided in an application for a license to practice dentistry in which the Applicant admitted to having been convicted of an offense, misdemeanor or felony which could have resulted in imprisonment, the Board conducted an investigation and determined that the Applicant had been found guilty of one count of Giving False Information Police. In addition, on the application the Applicant responded "No" to the question, "Have you ever used or possessed a

controlled substance in a manner that violated a federal, state or local law?" The Board's routine background check revealed that the Applicant had been arrested and charged with an offense involving controlled substances. Applicant initially repeatedly denied the evidence contained in the record in an attempt to deceive the Board. The Board determined that Applicant willfully made false statements to the Board in a material record and that the Board had legal cause to deny the Applicant's application for licensure. In order to resolve the matter, Applicant and Board entered into a Consent Order in which the Board agreed to issue a dental license to Applicant on the condition that the Applicant agree to be reprimanded, to pay a civil penalty in the amount of \$1,000.00, to provide 20 hours of community service in the form of unremunerated direct patient dental care and to appear before the Board or its designated representative at a frequency to be determined by the Board but initially at a frequency of two times per year for a period of two years.

**Case #2002-0176** Subsequent to an investigation based on information received regarding an application for licensure which revealed that the Applicant had pled nolo contendere to a felony violation of the Welfare and Institutions Code in another state and disciplinary action by that state's dental licensing Board, the Oregon Board issued a Notice of Proposed Denial of Application. Applicant did not request a hearing and the Board subsequently issued a Default Order denying Applicant a license in Oregon.

**Case #2003-0052** A dentist submitted an application for licensure without further examination. The Board's subsequent investigation determined that the dentist had practiced dentistry in Oregon for more than two months prior to submitting the application. The Board determined that the Applicant engaged in prohibited practices by practicing dentistry without a license and determined that it had legal cause to deny Applicant's application for licensure. In order to resolve the matter, the Board and Applicant entered into a

(continued on page 9)

**DISCIPLINARY ACTIONS** *(Continued from page 10)*

Consent Order in which the Board agreed to issue Applicant a license on condition that the Applicant agree to be reprimanded, to be placed on probation for five years, to pay a civil penalty in the amount of \$1,000.00 within 30 days and to provide 40 hours of community service in the form of unremunerated direct patient dental care within six months.

**Case #2003-0065** A dentist submitted an application for licensure in Oregon. On the application the Applicant responded, “No” to the question, “Has there been any disciplinary action, pending or final regarding any dental or dental hygiene license you now hold or have ever held?” The Board’s investigation revealed that the Applicant had been disciplined by another state dental board. During an interview with the Board’s investigator, the Applicant denied having been disciplined by another state dental licensing board. The Board determined that the Applicant engaged in prohibited practices when he willfully made false statements to the Board in a material regard. The Board further determined that it had legal cause to deny the Applicant’s application for licensure. In order to resolve the matter, the Board and the Applicant entered into a Consent Order in which the Board agreed to issue a dental license to the Applicant on the condition that Applicant agree to be reprimanded, to pay a civil penalty in the amount of \$1,000.00 within six months, and to provide ten hours of unremunerated community service in the form of direct patient dental care within six months.

**Case #2003-0209** A dental hygienist submitted an application for licensure in Oregon. With the application, the Applicant submitted information related to two arrests for driving under the influence of intoxicants. The Board’s subsequent investigation revealed that the Applicant had pled guilty in another state to operating a vehicle while impaired on two separate occasions. Applicant acknowledged abusing alcohol and advised that she had entered a recovery program. Based on the results of the investigation, the Board determined that legal cause existed to deny the Applicant’s application for licensure. In order to resolve the matter, the Board and Applicant entered

into a Consent Order in which the Board agreed to issue the Applicant a license to practice dental hygiene on the condition that she agree to be placed on indefinite probation for not less than five years; to not use alcohol, controlled substances or mood altering drugs at any time unless prescribed by a licensed practitioner for a bona fide medical condition; to continue with regular attendance at Alcoholics Anonymous and continue regular contact with an AA sponsor, to advise the Board within 72 hours of any alcohol related relapse or any substantial failure to participate in any recommended recovery program, and to appear before the Board or its designated representative at a frequency to be determined by the Board but initially at least three times per year. ■

**BOARD STAFF**

Tonaya Craft, *Office Specialist*  
[Tonaya.Craft@oregondentistry.org](mailto:Tonaya.Craft@oregondentistry.org)

Teresa Haynes  
*Licensing and Examination Manager*  
[Teresa.Haynes@oregondentistry.org](mailto:Teresa.Haynes@oregondentistry.org)

Sharon Ingram, *Executive Assistant*  
[Sharon.Ingram@oregondentistry.org](mailto:Sharon.Ingram@oregondentistry.org)

Paul Kleinstub, DDS, MS  
*Dental Director and Chief Investigator*  
[Paul.Kleinstub@oregondentistry.org](mailto:Paul.Kleinstub@oregondentistry.org)

Daryll Ross, *Investigator*  
[Daryll.Ross@oregondentistry.org](mailto:Daryll.Ross@oregondentistry.org)

Harvey Wayson, *Investigator*  
[Harvey.Wayson@oregondentistry.org](mailto:Harvey.Wayson@oregondentistry.org)

The Board office is open from 7:30 a.m. to 4:30 p.m. Monday through Friday except State and Federal holidays.  
Phone: 503-229-5520 Fax: 503-229-6606

## 2003 LEGISLATIVE SESSION AND THE DENTAL PRACTICE ACT

Several pieces of legislation have been passed by the 2003 Legislature which make changes to the Dental Practice Act and should be noted by all licensees. These changes include several housekeeping matters to update the Dental Practice Act to more appropriately reflect or better define the licensing and examination process.

### Changes effective immediately include:

#### **Oral Health Screenings**

Under the general supervision of a dentist, dental hygienists and dental assistants may perform oral health screenings after training and screening protocols are adopted by the Board of Dentistry. Screening results may be made to the individual or to the parents or guardians of minors needing referral for a diagnosis. These reports will not be considered a diagnosis for purposes of the Dental Practice Act.

#### **Supervision of Dental Assistants**

A Dental Assistant may be supervised by a Dental Hygienist who is performing dental hygiene functions. In a dentist's office, this would be at the discretion of the dentist. For purposes of Limited Access Permit Dental Hygienists, the change allows the LAP to engage the services of a dental assistant to assist in providing dental hygiene care in the performance of LAP services.

#### **Education for Limited Access Permit**

Dental Hygienists who wish to obtain a Limited Access Permit may now get the required additional education hours from programs accredited for other health professional programs (such as nursing) in addition to CODA accredited programs.

Also, the list of required education has been modified to reflect that LAP dental hygienists may work with students and incarcerated adults in addition to geriatric and disabled populations.

#### **Confidentiality of Investigative Information**

Statutory language was added to provide an exception to the confidentiality of investigative information so that the Board may divulge information to treatment providers in situations where a licensee has been found to have a substance abuse problem and the Board, licensee and treatment providers need to work closely in order to assist the licensee in their recovery.

#### **Board Jurisdiction over a License**

Language was added to the statute to clarify that the Board retains jurisdiction of a license for up to four years notwithstanding expiration, suspension, revocation, surrender or retirement of the license. Since a retired or expired license can be brought back to active status for a period of four years, the Board needs to have clear statutory authority over the license for that period.

#### **Housekeeping Changes (a sample)**

Added to definition of "state" to include the states and territories of the United States and the District of Columbia.

Repealed the statute that stated that if anyone appends the designation "DDS," "DMD," or the word "dentist" after a person's name for advertising purposes, it is prima facie evidence that the person is practicing dentistry.

Repealed the requirement that examinations be conducted under oath administered by the Board and repealed the requirement that applications for examination be received by the Board 45 days prior to the date of the examination. (Since the Board uses CRDTS and WREB for the clinical exams, these requirements were outdated and unnecessary.)

Amended the law to allow the Board to adopt rules regarding remedial training requirements for applicants who fail the clinical examination three times.

**Changes effective January 1, 2004 include:**

**Ownership of Dental Practices**

Certain entities may now legally operate a dental clinic and engage in the practice of dentistry. These entities include local government agencies, Federally Qualified Community Health Centers, nonprofit charitable corporations (501(c)(3)) providing dental services by volunteer licensed dentists, and institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association.

Changes to the law also allow for the orderly transition of a dental office upon the disability or death of an owner dentist by allowing certain persons (such as an executor, personal representative or guardian) to retain an ownership interest for 12 months. Upon request, the Board may extend this 12-month period.

*The law does not allow, and it remains an illegal practice, for a dentist to form or maintain a business relationship that allows any ownership by a non-dentist; i.e., allowing a non-dentist to own a percentage of a Professional Corporation.*

**Dental Director**

The same bill that made the changes regarding ownership (SB 390) also amended the statute to require that any entity that owns or operates a dental office or clinic must name an actively licensed dentist as its dental director who shall have responsibility for the clinical practice of dentistry in the dental office or dental clinic.

**Administration of Local Anesthesia for Certain Electrology Procedures**

Dentists may administer local anesthesia for a patient who is going to have hair removed from the lip area by a licensed electrologist. This is an amendment to ORS 680.500 which allows dentists to administer local anesthesia for a person who is having permanent lip color applied by a licensed tattoo artist. ■

**FAREWELL TO  
EUGENE O. KELLEY, DMD**

**W**e wish to extend a huge “Thank You” to Dr. Eugene Kelley for his contributions to the Board of Dentistry and the citizens of Oregon. Dr. Kelley served as a member of the Board for the past eight years. During his tenure on the Board Dr. Kelley served many roles including as President in 1999 and for many years as Chair of the Board’s Anesthesia Committee and has acted as Chief Examiner for many Board specialty exams over the years. Under Dr. Kelley’s leadership, the Board’s anesthesia rules were completely revised and new rules adopted in 1998. The work of the Anesthesia Committee is an important component of the Board’s mandate to protect the public and even after his service as a Board member, Dr. Kelley has agreed to continue to serve as a member of the Anesthesia Committee. His long career as a practicing Oral and Maxillofacial Surgeon followed by his term as Acting Chair of the Oral Surgery Department at OHSU School of Dentistry adds great expertise and depth of knowledge to the work of the Board. His presence as an active Board member will be missed but his continued assistance will be greatly appreciated. ■

**SCHEDULED BOARD MEETINGS**

<b>2003</b>	<b>2004</b>
● July 25, 2003	● January 23, 2004
● September 19, 2003	● March 19, 2004
● November 21, 2003	● May 14, 2004
	● July 9, 2004
	● September 17, 2004
	● November 19, 2004



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**Mail or Fax to: OREGON BOARD OF DENTISTRY**  
1515 SW 5th Avenue, Suite 602  
Portland, OR 97201-5449  
Phone: (503) 229-5520  
Fax: (503) 229-6606