

Memo

To: NJDHA
From: Paul J. Bent
CC: Becky Pugh / Russell F. Bent
Date: March 7, 2016
Re: NJ State Board of Dentistry Public Session

On Wednesday, March 2nd, I had the pleasure of attending the meeting of the NJ State Board of Dentistry Public Session. The meeting was held at the Board Office in Newark and covered the following:

I. APPROVAL OF MINUTES: February 17, 2016 – Approved with minor changes.

II. COMMITTEE REPORTS:

A. Applications: There were no applications to review.

B. Continuing Education: There were no CE applications to review.

III. REGULATIONS:

1. Proposed regulation - Limited Registered dental assistant in orthodontics (LRDA-O).

Prior to discussion of the above proposed regulation, Division staff first talked about Sunset Review and the following “timeline” was given:

- April 1, 2016 – Date by which they would like to receive comments from outside organizations.
- April 6, 2016 – Date for Board to begin review of existing regulations.
- August, 2016 – Finalize Board review.
- February, 2017 – Have draft regulations preparation completed.
- March through May, 2017 – Final Board approval for publication.
- Fall, 2017 – Review of public comments and final adoption.
- January 5, 2018 – Date by which Sunset Review regulations must be readopted.

Staff gave the Board several options to review the existing regulations including; individual members review specific sections; existing committee structure does review; or establish an ad hoc committee to perform the review.

The Board decided to establish an ad hoc committee to do the review comprised of five board members.

As for the LRDA-O, staff reported that this dates back to January of 2014 and that, while the Board had prepared a rule proposal, staff at the Governor’s office asked for the Board to seek additional comment before publication. The Board sent out letters to various organizations and schools in December asking for comment. They received five letters in response, the majority questioning the need for this proposal.

The Board voted to refer this back to the Regulations Committee for review.

IV. BOARD OF DENTISTRY - FY2016 Budget Report (Half-Year).

Every six months division staff prepares a budget update for the individual boards. In this update, it was noted that things are “tight” do to the “assessments” that were levied against the Board of Dentistry in the previous fiscal year.

At that time the Board lost \$2 million. Staff estimates that an additional \$1.2 million has been taken in the current budget cycle.

These funds, which are coming from all of the licensure boards in various amounts, are being used to support the State Police.

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

1. Dr. Carmen Cicalese – 50 year old disabled female patient having a root canal under local anesthesia reported becoming dizzy. The Board accepted as informational.

2. Dr. Richard Kessler – 44 year old female reportedly felt nauseas and had an elevated blood pressure following radiographs. The Board accepted as informational.

3. Dr. Benjamin Pomeranc – A male patient under local anesthesia became “tense”. The Board accepted as informational.

4. Jennifer M. Brooks, RDH/Dr. Thomas W. Schneider - 66 year old male patient under local anesthesia experienced a “vaso-vagal” episode. The Board accepted as informational.

Note: Board staff appeared to rush through these and did not provide the level of detail they usually do.

VI. ORDERS/SETTLEMENT LETTERS FILED WITH THE BOARD:

1. Dr. Lester Abrevaya - Settlement Letter filed on January 26, 2016.
2. Dr. Anna Padva-German - Order Reinstating License filed on January 28, 2016.
3. Dr. Hyon K. Yoo - Settlement Letter filed on February 1, 2016.
4. Dr. Carl L. McGloster - Consent Order filed on February 8, 2016.
5. Dr. Judd Garson - Consent Order of Restrictions on Licensure filed on February 17, 2016.

All five were accepted as informational with no details given.

VII. OTHER MATTERS:

1. Information concerning Rutgers Dental Hygiene AAS Program vs. the Certification option. Board staff has noted a “shift” in how transcripts from Rutgers appear with regard to RDH applications. In some cases the transcripts are showing a degree program (associates) while in others

they show "certificate". It is the staff's understanding that the "certificate" designation is being used when the degree is from somewhere else, however, in all cases the applicants have earned a degree.

The Board noted that the current RDH class is a bachelor's level program and that a bachelor's degree will be noted on transcripts in the future.

The Board accepted this as informational.

2. Letter from Dr. John K. Bixby requesting the Board's opinion on a possible business plan in the treatment of people who are suffering from Sleep Breathing Disorders. Dr. Bixby is part of a mixed group of health professionals treating patients with sleep breathing disorders. His role in this group will be to fabricate oral appliances. Such fabrication would occur at the patients "facility". He is seeking confirmation that this is permissible under the practice act.

The Board, for this and item #3 below, has moved this to the Sleep Apnea Committee for review.

3. Inquiry from Sally Gallagher, RPSGT, RST, Director of Compliance and Regulatory PERSANTE questioning the role of a dentist in ordering or performing sleep studies. Ms. Gallagher asks several questions including, "Can a dentist write a script ordering a sleep study?"

The Board can respond immediately that the answer is no, a dentist cannot write a script for a sleep study. This letter and the other questions asked have been referred to the Sleep Apnea Committee for review.

4. Letter from Peter D. Deutsch, Esq. concerning "Provision of Professional Employer Services of Dental Practices." Mr. Deutsch, who was present at this Board meeting, is seeking confirmation that a dental practice can enter into an employee leasing arrangement with a Professional Employer Organization (PEO) in which the dentist and staff become "co-employees" between the PEO and the dental practice.

At first, the Board was confused as it sounded as if the PEO was acting as a "temp agency" providing employees on demand. That is not the case. What this is, and it is established in law, is a contract between a PEO and

a dental practice where the PEO handles all the back office needs (payroll, benefits, taxes, etc.) as directed by the owner of the practice. As was explained, they sort of do what ADT does but beyond. The PEO is often able to offer better rates for health insurance and the like because they group all of the various companies they have contracts with and shop for the best deals among insurers.

It was further confirmed that, while employees are considered "co-employees", the PEO does not seek out employees for any particular practice and the only employees they cover are those the practice brings to them.

Lastly, Mr. Deutch explained that the reason he is seeking confirmation from the Board that this is legal is his client is looking to expand in this area but the dental practices are hesitant and would like to see something from the Board that it is permissible.

The Board is going to review what was presented and staff indicated that a letter may be drafted but it would be focused on what had been presented to the Board.

Handout:

One handout was presented to the Board. It was a dentist seeking relief from a final order of discipline the Board had issued. This item was moved to Executive Session with no further information being provided.

VIII. APPEARANCES:

1. 11:00 A.M. - Dr. Robert Karasek - Appearance concerning his request for reinstatement of license following Consent Order of Voluntary Surrender of Licensure filed on November 20, 2015.

IX. ADJOURNMENT: