

## **Meeting Notice**

### **Missouri Dental Board**

**November 22, 2004**                      **7:00 p.m.**  
**Missouri Dental Board Office**  
**3605 Missouri Boulevard**  
**Jefferson City, Missouri 65109**

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Missouri Dental Board, 3605 Missouri Boulevard, Jefferson City, Missouri 65109 or by calling 573-751-0040 to ensure available accommodations. The text telephone for the hearing impaired is (800) 735-2966.

Except to the extent disclosure is otherwise required by law, the Missouri Dental Board is authorized to close meetings, records and votes, to the extent they relate to the following: Sections 610.021 (1), (3), (5), (7), (13) and (14), RSMo, and Section 620.010.14 (7), RSMo.

The Missouri Dental Board may go into closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

Please see attached tentative agenda for this meeting.

cc:        Members, Missouri Dental Board  
          Nanci Wisdom, Attorney-at-Law  
          Kristi Flint, Assistant Attorney General  
          Laurie Morris, Office of Administration  
          Dr. Jacob Lippert, Executive Director, Missouri Dental Association  
          President, Missouri Dental Association  
          President, Missouri Dental Hygiene Association  
          President, Missouri Dental Assistants Association

## Open Agenda

### Missouri Dental Board Conference Call Meeting

**November 22, 2004 7:00 p.m.**  
**Division of Professional Registration**  
**3605 Missouri Boulevard**  
**Jefferson City, Missouri 65109**

1. Call to Order Dr. Aubert
2. Roll Call Ms. Thompson
3. Approval of Agenda Dr. Aubert
4. Vote on Final Orders of Rulemaking Dr. Sheets
  - a. 4 CSR 110-2.070 Fees (Proposed Amendment)
  - b. 4 CSR 110-2.080 General Anesthesia (Rescission)
  - c. 4 CSR 110-2.181 Parenteral Conscious Sedation (Rescission)
  - d. 4 CSR 110-4.010 Definitions
  - e. 4 CSR 110-4.020 Conscious Sedation
  - f. 4 CSR 110-4.030 Conscious Sedation Manual
  - g. 4 CSR 110-4.040 Deep Sedation/General Anesthesia
5. Proposed Rule on Improper Influence on Professional Judgment Dr. McCoy
6. Request for Opinion Dr. Sheets
  - History and Physical Examinations by Dentists and Oral Surgeons
7. Motion to go into Closed Session Dr. Sheets
8. Adjournment

**Open Minutes  
Missouri Dental Board**

**Telephone Conference Call  
November 22, 2004                      7:00 p.m.**

**Missouri Dental Board Office  
3605 Missouri Boulevard  
Jefferson City, Missouri 65109**

The telephone conference call meeting of the Missouri Dental Board was called to order by Dr. Eric Aubert, President, at approximately 7:05 p.m. on Monday, November 22, 2004. The conference call meeting originated from the Dental Board Office at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

**BOARD MEMBERS PRESENT:**

Dr. Eric J. Aubert, President  
Dr. John L. Sheets, Vice President  
E. Maxine Thompson, Secretary  
Dr. Rolfe C. McCoy, Member  
Dr. Larry W. Jackson, Member  
Dr. H. Fred Christman, III, Member  
Patricia A. Lepp, RDH, Member

**STAFF MEMBERS PRESENT:**

Sharlene Rimiller, Executive Director  
Bonnie Mengwasser, Executive I

**LEGAL COUNSEL PRESENT:**

Nanci Wisdom, Private Legal Counsel  
Kristi Flint, Assistant Attorney General

**GUESTS PRESENT:**

Dr. Chuck Poeschel, Missouri Dental Association  
Dr. Guy Deyton, Missouri Dental Association  
Deb Henderson, R.D.H., Missouri Dental Hygienists' Association  
Chris Stewart, Oral Health Network of Missouri  
Karen Dent, Oral Health Network of Missouri  
Susan Wilson, Northwest Health Services  
Joe Pierle, Missouri Primary Care Association

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

## **APPROVAL OF AGENDA**

A motion was made by Dr. McCoy and seconded by Dr. Christman that the agenda be approved as written. Motion carried unanimously.

## **FINAL ORDERS OF RULEMAKING**

The Board reviewed the sedation rules that appeared in the October 15, 2004 issue of the Missouri Register and addressed the comments that were received.

### **4 CSR 110-2.070 – Fees**

A motion was made by Dr. McCoy and seconded by Dr. Christman to accept the proposed amendment to the rule as published. Motion carried unanimously.

### **4 CSR 110-4.010 – Definitions**

Several comments were received regarding the Board's definition of Nurse Anesthetist. The Missouri Society of Anesthesiologists (MSA) believes that the title "Nurse Anesthetist" should be just an "advanced practice nurse" as defined in Chapter 335, RSMo. The Missouri State Medical Association (MSMA) believes that the definition should be made more concise by simply requiring that individual to be a certified registered nurse anesthetist recognized as an advanced practice nurse and licensed in accordance with Chapter 335, RSMo. The Missouri Association of Nurse Anesthetists (MoANA) believes that the Board's definition is ambiguous because the Missouri State Board of Nursing does not "license" advanced practice nurses such as nurse anesthetists. MoANA says that advanced practice nurses, such as registered nurse anesthetists, apply for "recognition" from the Missouri State Board of Nursing and are granted recognition by such Board. They want a more accurate definition. A motion was made by Dr. McCoy and seconded by Dr. Christman to accept the rule as published. Dr. Deyton suggested the Board change the definition of nurse anesthetist to "[a nurse recognized or] **advanced practice nurse** licensed by the Missouri State Board of Nursing, who is certified to administer anesthesia by a nationally recognized certifying body approved by the Missouri State Board of Nursing in accordance with Chapter 335, RSMo." Dr. McCoy withdrew his motion. A motion was made by Ms. Lepp and seconded by Ms. Thompson to accept Dr. Deyton's suggested amendment to the definition of nurse anesthetist. Motion carried 6 to 1. Dr. Jackson voted against the motion.

Dr. Phillip W. Strain commented in opposition to the Board's definition of anxiolysis. He questions the use of any drug that can produce anxiolysis in a patient without the potential to diminish the ability to think, speak or respond. Dr. Strain argues that a drug and dosage which provides anxiolysis in one patient will produce conscious sedation in another patient. Dr. Alan R. Brown commented that the American Dental Association (ADA) through its Committee on Anesthesia published its recommended definitions for use by each State Board, should those bodies choose to establish rules relating to sedation. He said that according to the ADA's Committee on Anesthesia, the definition of anxiolysis should include, "The administration of a single dose of medication for any given dental appointment, at a dose level no higher than that recommended by the manufacturer for the purpose of obtaining an unsupervised level of reduction in anxiety,

sedation or sleep. (eg., at home, or even when out driving a car)” Dr. Deyton said that the Board’s response to Dr. Strain’s comment could be that the Board recognizes that any drug can diminish a patient’s ability to think, speak or respond, but the attending dentist must use his best professional judgment in determining the appropriate dosage given the patient’s medical history and individual circumstances. The Board agreed with that response.

The MSA recommended a change to the definition of “Physician anesthesiologist”. They feel that the terminology is redundant and stated that by definition, an anesthesiologist is a physician who specializes in the practice of anesthesiology. The MSA recommend that the Board change all references of “Physician anesthesiologist” in the rules to “anesthesiologist”. A motion was made by Ms. Lepp and seconded by Dr. Christman to remove the word “physician” from the definition of an anesthesiologist as well as from all the sedation rules throughout the text. Motion carried unanimously.

The MSA recommended the addition of a new definition for an “Anesthesiologist assistant” and provided a definition from Section 334.400, RSMo. The MSMA recommended that the Board include anesthesiologist assistants to the list of qualified sedation providers in section (1)(S). A motion was made by Ms. Lepp and seconded by Dr. Sheets not to add a definition for anesthesiologist assistants. Motion carried unanimously.

The MoANA recommended that the Board remove the term “employed” from the definition of Sedation Team commenting that qualified sedation team members are not usually employees of a dental office. MoANA recommends that the Board use a word such as “engaged” or “utilized” to substitute the word “employed” to more accurately reflect the status of qualified sedation team members. A motion was made by Ms. Lepp and seconded by Ms. Thompson to leave the term “employed” in the definition. Motion carried unanimously.

The Missouri Society of Anesthesiologists (MSA) believes the Board’s use of the terminology “conscious sedation” needs to be replaced (or be followed in parentheses in all uses) by Moderate Sedation/Analgesia. A motion was made by Ms. Lepp and seconded by Ms. Thompson to leave the definition as published. Motion carried unanimously.

Dr. Alan Brown submitted several comments regarding the definitions rule, but later made the statement that “those opinions are not so serious as to warrant holding up the activation of the rule as written.” Ms. Wisdom suggested the Board acknowledge Dr. Brown’s comments but consider his statement that he doesn’t want to hold up the rule. A motion was made by Ms. Lepp and seconded by Dr. McCoy that the Board acknowledge Dr. Brown’s comments and respond by saying that the Board agrees with his comments on the definition of “anxiolysis” but disagrees with adding a definition for “combined anesthesia.” Motion carried unanimously.

A motion was made by Dr. McCoy and seconded by Ms. Lepp to accept the proposed definitions rule with the changes as indicated, i.e., change the definition of anxiolysis, nurse anesthetist, and remove the word “physician” before anesthesiologist in this rule as well as from all the sedation rules. Motion carried unanimously.

#### **4 CSR 110-4.020 – Conscious Sedation**

Mrs. Rimiller informed the Board that she believed there was an error made in section (1) of this rule. There is a provision in this section of the rule that exempts dentists from obtaining a conscious sedation permit if prescribing or administering schedule II drugs for anxiolysis and/or pain control. A motion was made by Ms. Lepp and seconded by Dr. Christman to remove “schedule II” from the sentence in section (1). Motion carried unanimously.

The MoANA recommended adding the “Council of Accreditation of Nurse Anesthetist Education Programs (CANAEP)” to subsection (6)(A) as an approved accrediting program for post graduate curriculums to satisfy the requirements for a dentist to obtain a conscious sedation permit. A motion was made by Ms. Lepp and seconded by Dr. Sheets not to include the suggested language. Motion carried unanimously.

The American Association of Oral and Maxillofacial Surgeons (AAOMS) recommended adding the “Commission on Dental Accreditation (CODA)” to subsection (6)(A) as an accrediting body for post graduate curriculums which satisfy educational requirements for a parenteral conscious sedation permit. A motion was made by Ms. Lepp and seconded by Dr. Christman not to include the suggested language. Motion carried 6 to 1. Dr. Jackson voted against the motion.

The MoANA recommended adding the “non-dentist certification must be approved by their respective licensing authority” to section (7)(A)3. A motion was made by Ms. Lepp and seconded by Dr. Christman to accept the recommended change. Motion carried unanimously.

The MoANA recommended changing the word “protocols” in section (7)(A)5 to “guidelines.” Dr. Deyton informed the Board that the American Heritage Dictionary defines protocol as “a plan for a course of medical treatment.” A motion was made by Ms. Lepp and seconded by Dr. Christman to leave the word as protocols. Motion carried 6 to 0. Dr. Sheets wasn’t present for the vote.

The MoANA recommended including “post-operative management” to the list of written protocols for sedation of dental patients in section (7)(A)5e requiring pre-operative patient evaluation and selection prior to conscious sedation. A motion was made by Ms. Lepp and seconded by Dr. Christman not to add the recommended language. Motion carried 6 to 0. Dr. Sheets wasn’t present for the vote.

The MoANA recommended substituting the word “competency” with “credentials” or “qualifications” in section (7)(B). A motion was made by Dr. Christman and seconded by Ms. Lepp to leave the word as competency. Motion carried unanimously.

The MSA pointed out a misspelled word in section (18) of the proposed rule. The correct spelling is methohexital. A motion was made by Dr. Sheets and seconded by Dr. Christman to correct the spelling error. Motion carried unanimously.

The MoANA recommended changing the word “order” to “request” in section (4) as it relates to the act of prescribing the anesthesia services. A motion was made by Ms. Lepp and seconded by Dr. Christman to leave the word as order. Motion carried unanimously.

The MSA recommended changing the educational requirements to obtain a conscious sedation permit in section (6)(B) and other parts of the proposed rule to include an ACLS course and fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation. A motion was made by Ms. Lepp and seconded by Ms. Thompson not to include the recommended language. Motion carried unanimously.

The Missouri State Medical Association (MSMA) recommended adding the following language to subsection (4): “when the anesthesia provider (a nurse anesthetist or anesthesia assistant) is supervised by an anesthesiologist or an anesthesiologist personally performs the anesthetic, anesthesia related medical decision making is performed by the anesthesiologist.” A motion was made by Ms. Lepp and seconded by Dr. Sheets not to add the recommended language. Motion carried unanimously.

Dr. Barry Brace filed two comments in regard to the proposed rule. In his first comment, Dr. Brace expressed his concern that the Board did not create a special conscious sedation permit for pediatric sedation. Dr. Deyton’s response was that during the course of the twenty-four (24) committee hearings and/or open board meetings held on the conscious sedation proposed rules, there was some testimony about the greater risks of pediatric sedation. However, it was the consensus of those that provided testimony that the existing training and site requirements in the proposed rules are adequate and a separate pediatric sedation permit is not necessary to safeguard the public. A motion was made by Ms. Lepp and seconded by Dr. Sheets to accept Dr. Deyton’s response to Dr. Brace’s comment and not create a separate permit for pediatric sedation. Motion carried unanimously. Dr. Brace is also opposed to the requirement in sections (5) and (6) requiring the dentist to complete an Advanced Cardiac Life Support (ACLS) course for enteral and parenteral conscious sedation permits. A motion was made by Ms. Lepp and seconded by Dr. Christman to respond to Dr. Brace by telling him that ACLS training is not a requirement because section (6)(B) requires ACLS or 15 hours of board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation. Motion carried unanimously.

A motion was made by Dr. Sheets and seconded by Dr. Christman to accept the proposed conscious sedation rule with the changes as indicated, i.e., remove “schedule II” from section (1), remove “physician” from section (4) and section (11)(E), include the

MoANA language in section (7)(A)3, and correct the misspelled word in section (18). Motion carried 6 to 0. Dr. Aubert wasn't present for the vote.

#### **4 CSR 110-4.030 – Conscious Sedation Guidelines**

The MoANA requested clarification on the relationship of ASA classifications and site certificates. Ms. Lepp suggested that the Board strike "the proposed office sedative technique" from section (4)(C) and insert "utilize parenteral conscious sedation." A motion was made by Dr. Sheets and seconded by Ms. Thompson to leave section (4)(C) as written. Motion carried 6 to 0. Dr. Aubert wasn't present for the vote.

The MoANA recommended that in section (6)(B)3, the Board change the language "documentation of nothing by mouth" to "documentation of oral intake". A motion was made by Dr. McCoy and seconded by Dr. Christman to leave the language as written. Motion carried 5 to 1. Ms. Lepp voted against the motion. Dr. Aubert wasn't present for the vote.

The MoANA recommended that in section (6)(B)4C that instead of requiring documentation of vital signs at a minimum of every fifteen (15) minutes throughout the procedure, the Board change it to every five (5) minutes. A motion was made by Ms. Lepp and seconded by Dr. Sheets to leave the language as written. Motion carried 6 to 0. Dr. Aubert wasn't present for the vote.

The MoANA recommended that section (7)(B)3 be clarified to recognize the independent training and licensure of the non-dentist team members and that those team members' credentials do not need to be obtained from one of the Missouri Dental Board approved providers. They suggested the Board include that the "certification of non-dentists must be approved by their respective licensing authority." A motion was made by Ms. Lepp and seconded by Dr. McCoy to include the recommended language in parenthesis at the end of the sentence. Motion carried 6 to 0. Dr. McCoy wasn't present for the vote.

The MoANA recommended that sections (7)(D) and (E) be amended to include EKG monitoring. A motion was made by Ms. Lepp and seconded by Dr. Sheets to leave the language as written. Motion carried unanimously.

The MoANA recommended that the Board include a requirement in section (10)(G) for the availability of a generator or other backup power source for the equipment. A motion was made by Ms. Lepp and seconded by Dr. McCoy to leave the language as written. Motion carried unanimously.

The MoANA pointed out a typo in section (12)(D)1 that references subsection (1)(Q). The correct reference should be subsection (1)(S). A motion was made by Ms. Lepp and seconded by Dr. Christman to correct the error. Motion carried unanimously.

The MoANA pointed out a misspelled word in section (15)(C)2 of the proposed rule. The correct spelling is “labatol.” The Board agreed with MoANA and will correct the spelling error.

The MoANA recommended that the Board substitute “anesthesia provider” for “doctor” used in the sample informed consent in section (16). A motion was made by Ms. Lepp and seconded by Dr. Sheets to change the language to “the anesthesia provider will inject the sedative” and delete the words “in a tube connected to a vein in my arm.” Motion carried unanimously.

A motion was made by Dr. McCoy and seconded by Dr. Christman to accept the proposed rule on guidelines for administration of conscious sedation with the changes as indicated, i.e., allowing the appropriate licensing authority to certify non-dentists to monitor conscious sedation, deleting the word physician in (9)(A), correcting the misspelled word in (15), and revising the language in the sample informed consent. Motion carried unanimously.

#### **4 CSR 110-4.040 – Deep Sedation/General Anesthesia**

The MoANA recommended the Board change the word “order” to “request” in section (4) as it relates to the act of prescribing the anesthesia services. A motion was made by Dr. McCoy and seconded by Ms. Thompson to leave the word as order. Motion carried unanimously.

The MoANA recommended that in sections (6)(D)2 and (13)(D), the Board include the Advanced Cardiac Life Support (ACLS) course as a life support certification option for the dentist and the anesthesia team members as a requirement to obtain and renew a site certificate. The Board agrees with MoANA and will include ACLS in the recommended sections.

A motion was made by Dr. McCoy and seconded by Ms. Lepp to accept the proposed rule on deep sedation/general anesthesia with the changes as indicated, i.e., delete the word “physician” in section (4) and add ACLS to sections (6)(D) and (13). The Board noted that some of the comments filed on this rule have been addressed in the discussion of the previous rules with the same or similar language. Motion carried unanimously.

#### **PROPOSED RULE ON IMPROPER INFLUENCE ON PROFESSIONAL JUDGMENT**

Dr. McCoy reported to the Board on the minor changes Dr. Deyton and Ms. Lepp made to the proposed rule. Section (b) will now read “Any person or entity not licensed to practice dentistry by the Missouri Dental Board or any dentist entering into any contract, partnership or other agreement or arrangement which allows any person other than a dentist any one or more of the following rights, powers or authorities shall be presumed to have violated the provisions of the section 332.071(11), RSMo. 332.071 (11), RSMo defines undue influence as controlling, attempting to control, influencing...” The words “of the dentist” were deleted from the end of the sentence in sections (b)(2) and (b)(6). Section (b)(14) will now read “penalizing a dentist, hygienist or assistant for reporting

violations of a law regulating the practice of dentistry.” The last change is in section (c)(9) replacing the words “the dentist’s” with “his or her.” After some discussion, a motion was made by Dr. Christman and seconded by Ms. Lepp to table further discussion on this rule until the next meeting to give the Board an opportunity to consult with legal counsel. Motion carried unanimously.

### **REQUEST FOR OPINION**

Mrs. Rimiller received a letter from Greensfelder, Hemker & Gale, P.C. requesting the Board’s opinion on dentists and oral surgeons conducting history and physical examinations in a hospital setting. Dr. Sheets believes oral surgeons are allowed to do history and physical examinations and that AAMOS has provided the appropriate response. It was also noted that hospitals establish their own guidelines regarding provider privileges. Ms. Flint recommended that the Board not give specific answers to the law firm’s questions, but to simply refer them to the statute. A motion was made by Dr. Christman and seconded by Dr. Sheets to table further discussion on this item until the next Board meeting. Motion carried 6 to 0. Dr. Jackson wasn’t present for the vote.

### **CLOSED SESSION**

A motion was made by Dr. Sheets and seconded by Ms. Thompson to move into closed session pursuant to section 610.021 (1) and (3) and section 620.010.14 (7) RSMo, for the purpose of discussing general legal actions, causes of action or litigation and any confidential or privileged communications between the Board and its attorney and investigative reports and/or complaints. Those voting yes: Dr. Aubert, Dr. Sheets, Ms. Thompson, Dr. McCoy, Dr. Jackson, Dr. Christman and Ms. Lepp. Motion carried 7 to 0.

### **ADJOURNMENT**

There being no further business to be brought before the Board at this time, a motion was made by Ms. Thompson and seconded by Dr. McCoy that this meeting adjourn. Motion carried unanimously. The meeting adjourned at approximately 10:58 p.m.

**Respectfully submitted,**

**Bonnie Mengwasser, Executive I**

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**Sharlene Rimiller, Executive Director**

**Approved by Board on: \_\_\_\_\_.**