Open Minutes
Missouri Dental Board
Policy Review Committee

April 25, 2002 7:00 p.m.

Tan-Tar-A Resort Hotel
State Road KK
Osage Beach, Missouri

The open meeting of the Missouri Dental Board's Policy Review Committee was called to order by Dr. Guy Deyton, Chairperson, at approximately 7:05 p.m. on Thursday, April 25, 2002, at the Tan-Tar-A Resort Hotel, State Road KK, in Osage Beach, Missouri.

COMMITTEE MEMBERS PRESENT:
Dr. Guy S. Deyton, Committee Chairperson
Dr. Rolfe C. McCoy, Member
Ms. Patricia A. Lepp, Member
Ms. Maxine Thompson, Member

BOARD MEMBERS PRESENT:
Dr. Oswald L. Thomas, Member

STAFF MEMBERS PRESENT:
Sharlene Rimiller, Executive Director

LEGAL COUNSEL PRESENT:
Rikki Jones, Assistant Attorney General
Nanci Wisdom, Private Legal Counsel

GUESTS:
Dr. Jacob Lippert, Missouri Dental Association
Lori Bruce, RDH, Missouri Dental Hygienists' Association
Mary Lou Young, Missouri Dental Assistants Association
Dr. Dan Haney, Missouri Dental Association
Dr. K. L. Young, Missouri Dental Association
Anna Lippert, Alliance of the ADA Liaison to ADA Well Being Committee
Fran Tourdot, Advisory Commission for Dental Hygienists

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
Following introductions, a motion was made by Dr. McCoy and seconded by Ms. Lepp that the agenda be approved with the addition of an item to discuss the deep

sedation/general anesthesia proposed rule with representatives of the Missouri Association of Nurse Anesthetists (MoANA). Motion carried 4 to 0.

DEEP SEDATION/GENERAL ANESTHESIA

The Policy Review Committee (PRC) met with Mr. Gary Clark, Ms. Julie Stone and Mr. Frank Susman to talk about MoANA's position with regard to the latest draft of the Board's proposed rule on deep sedation/general anesthesia. Mr. Clark expressed MoANA's opposition to the latest draft of the rule. Since it was not clear whether Mr. Clark was working from the Board's latest draft, Dr. Deyton asked that he outline the content of MoANA's concerns. Mr. Clark spoke of three specific areas of concern in the proposed rule.

One area of concern is the new proposed section (3), which says that no dentist shall prescribe deep sedation/general anesthesia agents unless the dentist possesses a deep sedation/general anesthesia permit. Dr. Deyton explained that it is the Board's intent to require a dentist to be permitted if s/he is ordering the drugs for the anesthesia, even if the dentist uses someone else to actually administer the anesthesia.

The second concern is the language in section (4), which says that if the primary administrator of deep sedation/general anesthesia is a CRNA, the dentist must also prescribe the anesthesia services. Mr. Susman said that MoANA's overriding concern about this rule is that the safety factors are the lowest standards of care as far as the equipment and what is required in any outpatient facility. Mr. Clark said that Mr. Susman's comments are in reference to section (6) (F) of his draft, which says "Have and maintain a properly equipped facility, including the capability of delivering positive pressure oxygen, blood pressure and electrocardiographic (ECG) monitoring and pulse oximetry, and personnel capable of handling procedures and emergencies incident to the administration of deep sedation/general anesthesia". Mr. Clark said what is missing is Co2 as well as temperature monitoring and an oxygen analyzer.

The third concern is when the permitted dentist doesn't have someone else actually administering the anesthesia. In this situation, the dentist is acting both as the anesthesia provider and the person doing the dental work. Mr. Susman indicated that in no other situation is the anesthesia provider also the person doing the procedure. According to Ms. Stone, in other freestanding surgical facilities, the operator is rarely ever required to have anesthesia knowledge, skills, education and experience. Mr. Susman says the rule is too strict to require the dentist to be permitted if the dentist is using another qualified provider to administer the anesthesia.

With regard to the first concern outlined by Mr. Clark, Mr. Susman pointed out that part of the problem is the inappropriate use of the word "prescribe". According to Mr. Susman, under federal and state law, the giving of the anesthesia agents is not prescribing. Prescribing only occurs when the giving of the prescription is not immediately administered to the ultimate user of the medication. Therefore, Mr. Susman said that the position of MoANA is that prescribing is not the word to be used in this context. It was noted that CRNAs have no prescriptive authority. Ms. Stone offered

the following compromise language; “the controlled substances used specifically for the purpose of conducting the deep sedation/general anesthesia during the operative period will be obtained through the legal authority, or the DEA permit, of the requesting dentist.” Ms. Wisdom pointed out that one of the problems with using the word “request” instead of “prescribe” is in Section 332.361.2, RSMo. According to Ms. Wisdom, the only thing a dentist can do with a controlled substance according to this statute is possess, have under his control, prescribe, administer, dispense or distribute. She questioned what word could be used in a situation when the dentist is using a CRNA to administer the controlled substances for deep sedation/general anesthesia that would be in accordance with this statute.

Mr. Susman also suggested that the training required by a dentist to be permitted for deep sedation/general anesthesia is considerably less than that required for an anesthesiologist or a CRNA. This compounds the problem with the dentist doing both the anesthesia and the procedure at the same time. A CRNA’s training involves a 2-½ year postgraduate education program. The course of study is that prescribed by their Council on Accreditation. There are a specific number of minimum case requirements, techniques, specialty anesthetics and pain management prior to the graduate taking their certification examination. The course content is very much like what is in the first couple of years of medical school. Dr. Deyton questioned how they figure that training is more than a deep sedation/general anesthesia permitted dentist, which is a four-year post graduate program in dental school and a post-graduate residency program, the shortest of which is two years. According to Mr. Clark, the difference is the concentration of study in anesthesia. Dr. Deyton suggested that the post graduate curriculum of both programs be evaluated before any further unsubstantiated statements are made regarding who has the most training in anesthesia. Regardless, Dr. Deyton stated that the Dental Board has never taken the position that the CRNA training is inferior or that they are not prepared to deliver anesthesia services.

Mr. Susman concluded by saying that the CRNAs are concerned about the last sentence in section (4) of their draft, which says, “If the primary administrator of deep sedation/general anesthesia is a CRNA, the dentist must also prescribe the anesthesia services.” He said there should not be a distinction made here for just the CRNA and that it should be the same for any qualified anesthesia provider. After summarizing their other concerns, Mr. Susman agreed to memorialize all of their comments in a letter to the Board very soon. Dr. Deyton pointed out that no action has been taken on the proposed rule since the JCAR hearing in November. He said that the Board takes all testimony offered seriously and will look forward to the written documentation for future consideration of the rule.

ETHICS COURSE

Dr. McCoy reported that the UMKC School of Dentistry is sponsoring an ethics course the last week in May. Barry Danneman will report at the Board’s July meeting on the progress of how the course is developing. Dr. McCoy said there are two objectives to the course. There is the ethics portion and then there needs to be something available for the Board to send its disciplined licensees to. Dr. McCoy also talked about an

examination that is being developed but the developers have lost their funding so it is not known at this time what will happen. Dr. McCoy questioned if the Board could require disciplined licensees to take and pass this test. Legal counsel agreed that if passage of a specific test were outlined in the terms of discipline, it wouldn't be a problem as long as the test is available and it is not cost prohibitive. A motion was made by Dr. McCoy and seconded by Ms. Lepp that the PRC agree that this is something that he should continue to pursue with the school. Motion carried 4 to 0.

WELL BEING COMMITTEE

Ms. Lepp reported that Ms. Wisdom has been working on draft rules to govern the Well Being Program. At this time, the draft rules are not ready for public discussion. Ms. Wisdom mentioned that she might be prepared to involve the PRC in some attorney/client discussion of the rules in closed session.

CONTINUING EDUCATION

Dr. Deyton reported that the Board has been asked to clarify what qualifies for continuing education credit in terms of someone writing an article and that article being published. He also asked that there be some clarification on what qualifies for continuing education credit when someone writes a course that other people take for credit. The third situation that Dr. Deyton added to this discussion is to seek clarification on what qualifies for continuing education credit for the presenter of the course. And if the course is taught more than once, how much credit should be awarded? Dr. Deyton explained that some of the people who are taking the time to teach the MDA courses for the Expanded Functions Dental Assistant are spending two days in preparation of teaching the course. The person that writes some of this course work spends 10 to 15 hours preparing for each hour of course work given. Dr. Deyton said that those who author articles spend about one hour preparation time for each page of any non-scientific article. It was noted that the current rule allows two hours credit for licensees who give presentations relating to dentistry through a Board approved sponsor and this is for each hour of the original presentation. For subsequent presentations of the same material, the rule allows up to sixteen hours per year.

Dr. McCoy also mentioned the fact that the CRDTS examiners spend a considerable amount of time in preparing for the Board's certifying examination. He suggested that the rule should provide continuing education credits for examiners in preparation and administration of the examination. Dr. Deyton suggested that this is another area that could be explored by the PRC and suggested that the PRC write up some guidelines on what should be acceptable for earning continuing education credit and present that list to the Board for approval.

A question was raised as to whether the writing of a journal article is the same as presenting an approved course. The PRC will take this matter up with legal counsel in closed session. Dr. Deyton closed this discussion by saying that the Board might very well see in this next review period that some people are taking the teaching credits for granted. Therefore, there needs to be clarification soon so that there will still be time left to earn credits that are not approved under the current rule.

RULE ON ADDRESSING THE PUBLIC

The PRC reviewed Dr. Deyton's proposed changes to the Board's rule on addressing the public. Dr. Deyton also asked the PRC to carefully examine his draft checklist for reviewing advertisements, announcements and web pages. He said that in his opinion the Board needs to communicate more effectively with its licensees about what constitutes appropriate advertising. The checklist represents the nuts and bolts of the proposed rule changes.

Ms. Bruce questioned if the rule and the checklist address dental hygienists. The rule does not address dental hygienists and Dr. Deyton suggested that might be an area worth further consideration in light of the recently passed legislation. Ms. Bruce mentioned that in the state she came from, there was a rule in place that said dental hygienists could not advertise independently from their dentist employer.

A motion was made by Dr. McCoy and seconded by Ms. Lepp that the PRC move the discussion of the proposed amendment to the rule on addressing the public on to the full Board for consideration. Motion carried 4 to 0.

The PRC considered the request received from Dr. Russ Harrison to amend the rule on addressing the public. Specifically, Dr. Harrison is asking that the Board delete section (3) (B) entirely and replace it with his suggested language and also add a new section (3) (D). The recommended changes relate to advertising one or more specialties. One of Dr. Harrison's suggested changes would allow a dentist to advertise more than one specialty if the dentist is appropriately licensed. The second issue Dr. Harrison addresses is advertising a specialty if the dentist does not hold a specialty license. The PRC tabled further discussion of Dr. Harrison's request at this time and will consult with legal counsel in closed session.

LEGISLATION

Mrs. Rimiller informed the PRC that it needs to consider the Board's legislative agenda for FY-03. She stated that the draft proposals are generally due by the end of July. As a result, Mrs. Rimiller said that the PRC needs to have their recommendations to the Board as soon as possible so that the Board can make its decision on legislation by no later than its July meeting. Since it is not known what will pass from the legislation that is pending before the General Assembly at this time, the PRC considered other proposals relating to the unauthorized practice of dentistry, licensure of foreign trained graduates and expedited hearings. The PRC was not supportive of any measure that changes the credentialing requirements of foreign-trained dentists. Ms. Jones referenced the Healing Arts statute relating to the unauthorized practice of medicine and surgery. The intent of this statute is to cover telemedicine, Internet medicine and any type of practice outside the state by a practitioner to a patient in Missouri and to say when that is appropriate or prohibitive. The Texas Dental Board recently passed similar legislation according to Dr. Deyton. Ms. Wisdom questioned if the PRC would want to authorize a dentist located outside of Missouri not to be licensed if the dentist is participating in a utilization review. At Dr. Deyton's suggestion, the PRC agreed to meet

by telephone conference call after the end of the current legislative session but well in advance of the July meeting for the sole purpose of discussing legislation. The PRC will schedule the telephone conference call meeting at Saturday's open meeting. Dr. Deyton asked the associations to make their opinions known on the expedited hearing proposal.

Dr. Lippert provided the PRC with a brief update on pending legislation. During the discussion on the laser proposal, Ms. Bruce mentioned that she recently found out that dental hygienists are using lasers in their practice. Ms. Bruce said that she was approached by a dental hygienist with regard to the Missouri Dental Association's laser proposal on the question of whether that proposal, if enacted, would prohibit the use of lasers by dental hygienists. It was suggested that this might be something that the Advisory Commission can take up in the future.

DENTAL ASSISTING RULE

The PRC considered a date for future discussion of the Board's dental assisting rule. Dr. Deyton said the PRC should begin the process of evaluating all the comments received from the ad hoc committee meeting. Mary Lou Young asked to be included in that process. She provided the PRC with a copy of Iowa's rules. The PRC agreed that on the next teleconference meeting, an agenda would be determined as to when to begin review of this process.

PRC TASK LIST

The PRC moved the dental assisting rule forward on the task list and will maintain the tasks on continuing education for further discussion. Dr. Lippert requested that the entire Well Being Committee be involved in the deliberations regarding the rules on Well Being.

CLOSED SESSION

A motion was made by Dr. McCoy and seconded by Ms. Lepp to move into closed session pursuant to section 610.021 (1) 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. Motion carried 4 to 0.

ADJOURNMENT

The PRC returned to open session for adjournment. A motion was made by Dr. McCoy and seconded by Ms. Lepp that this meeting adjourn. Motion carried 4 to 0. The meeting adjourned at approximately 10:30 p.m.

Respectfully submitted

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Sharlene Rimiller, Executive Director

Approved by Board on: _____