

**Open Minutes
Missouri Dental Board
Policy Review Committee**

April 30, 2003 7:00 p.m.

**Best Western Capital Inn
1937 Christy Drive
Jefferson City, Missouri**

The open meeting of the Missouri Dental Board's Policy Review Committee was called to order by Dr. Rolfe McCoy, Chairperson, at approximately 7:15 p.m. on Wednesday, April 30, 2003, at the Best Western Capital Inn, 1937 Christy Drive, Jefferson City, Missouri.

COMMITTEE MEMBERS PRESENT:

Dr. Rolfe C. McCoy, Committee Chairperson
Dr. John L. Sheets, Member
Ms. Patricia A. Lepp, Member
Ms. Maxine Thompson, Member

BOARD MEMBERS PRESENT:

Dr. Larry W. Jackson, President

STAFF MEMBERS PRESENT:

Sharlene Rimiller, Executive Director
Vickie Coffman, Executive I

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
Dr. Guy S. Deyton, Missouri Dental Association
Ms. Debbie Gerecke, Missouri Advisory Commission for Dental Hygienists
Ms. Lee Ann Turnbaugh, Missouri Dental Assistants Association
Dr. Ercell Miller, Missouri Dental Association
Ms. Barb Harding, Legal Counsel for MoANA
Ms. Sallie Poepel, MoANA
Ms. Debbie Stover, John Bardgett & Associates

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 Ms. Thompson and seconded by Dr. Sheets that the agenda be approved as printed. Motion carried unanimously.

ERCELL L. MILLER, D.D.S.

Dr. Miller met with the Policy Review Committee (PRC) to discuss his proposal for a new category of licensure for retired licensees. Dr. Miller reviewed his curriculum vitae with the PRC and outlined his proposal that would create a Senior licensure status upon reaching age seventy-two (72) or fifty (50) years as a licensed dentist, whichever date occurs first. The Senior licensee would retain the same license number for life with no renewal fee. Continuing education would be voluntary on the licensee's part. The licensee would be permitted to perform only a reversible procedure with a Senior license status. Dr. Miller said that this type of licensure status would be deserved for all the dentists that have spent a lifetime in dentistry. The PRC questioned Dr. Miller about the type of reversible procedures that could be performed under this type of licensure status. Dr. Miller provided some examples.

Dr. Deyton addressed the PRC and stated that this proposal is not unlike what the PRC has previously looked into, with the exception of compensation for services provided. Another proposal is a retired license without continuing education but it would be to work only in charitable settings. Dr. Deyton also commented that it would be difficult to balance the Board's need to assure the protection of the public with the benefit of creating easier access for retired professionals to volunteer their services. He also said it is worthwhile to explore a new category of licensure with some limitations, but expressed some concern about the use of "reversible" and "irreversible" terminology. Dr. Deyton said that the definition changed in the early 1990's and there are differences in opinion as to what is reversible and irreversible.

Dr. Lippert strongly encouraged the PRC to look into a retired licensure status for dentists. He noted that expanded function dental assistants can take a weekend course and are allowed to perform a reversible procedure, such as those mentioned by Dr. Miller, and they are not required to earn continuing education hours. Dr. Lippert also noted that Dr. Miller's proposal would not be mandatory for all licensees when they reach this stage. The dentist would have to apply for the Senior license status.

Dr. McCoy questioned the effect of medical malpractice coverage for those dentists that elect a retired licensure status, such as what Dr. Miller has proposed. Dr. Lippert mentioned that dentists are allowed to practice in public health settings without medical malpractice insurance coverage.

Ms. Thompson spoke in favor of such a proposal but suggested that the fee for the license be set at a token amount and that it not be a free license. There is always a cost associated with issuing a license and Ms. Thompson thought that there should be a minimal fee to help support that cost. Dr. Lippert explained that such a license would be issued for life and would be non-renewable.

Dr. McCoy concluded this discussion at 7:50 p.m. and said that he would put a PRC member on point for this issue at the end of the meeting. That person is to study the issue more fully and come back at the next meeting with some suggestions and/or recommendations. It was thought that the Board would need to seek a legislative change in order to do what Dr. Miller is proposing.

WELL BEING COMMITTEE

The PRC reviewed Nanci Wisdom's draft Well Being Rules dated April 23, 2003. Ms. Wisdom said that she has taken the RFP into consideration as well as all of the discussions by the Board in drafting these rules. Ms. Lepp stated that "impaired dentists and dental hygienists" is used throughout the draft and she questioned if that is the terminology that should be used in the rules. Ms. Wisdom said the wording should change back to "dental professional". Ms. Lepp also suggested that the term "board" be defined in the rule as the Missouri Dental Board. It was suggested that the Well Being Committee take a look at the draft but Dr. McCoy said he did not want to wait until October for that review to take place. Ms. Wisdom was asked to send a copy of the draft to all the Board members after the changes have been made so they can be reviewing it at the same time as the Well Being Committee. Dr. McCoy stated that the PRC will look at the final draft of the rules at the July meeting and hopefully pass them on to the full Board at that time.

Ms. Rimiller reported briefly to the PRC on the RFP for the Well Being Committee. The bids were due in OA on April 25th. After the bids are evaluated and sent back to OA, the award should be made and everything will become public at that time. Mrs. Rimiller said that the evaluation process should not take long, perhaps not more than a couple of weeks but long before the June 30th expiration date of the current contract.

DEEP SEDATION/GENERAL ANESTHESIA AND CONSCIOUS SEDATION

Mrs. Rimiller informed the PRC of recent developments regarding the rulemaking process on the deep sedation/general anesthesia and conscious sedation proposed rules. The proposed rules, as approved by the Board, have been in the review process at the Division level for several months. Part of the delay has been questions raised regarding the fiscal notes. Another delay has been the fact that the staff reviewing the proposed rules has been very involved in legislation and budget and rulemaking has not been a top priority. Mrs. Rimiller reported that she had thought the issues with the fiscal notes were resolved after they were completely re-written but now there is a new set of concerns and suggestions that have been made by Division staff.

Mrs. Rimiller also reported on the hearing that was held on April 29th on HB 729 in the Professional Registration Committee. The bill clarifies the Board's authority to regulate anesthesia in a dental office. At the hearing, Dr. Lippert spoke in favor of the legislation and former Senator Klarich spoke in opposition to the bill. A spokesperson for the Nurse Anesthetists also spoke in opposition to the bill. Their primary concern is with section 4 of the bill that states, "Any person who prescribes, administers, or participates in the administration of deep sedation or general anesthesia or conscious sedation in a dental setting and is not licensed by the board shall do so in accordance with rules

promulgated by the board and is subject to the control and supervision of the treating dentist as set forth in rules by the board.”

The PRC reviewed the Division’s comments and suggestions on the proposed rules, as well as Dr. Deyton’s responses. Dr. Deyton addressed the PRC and said that he is not sure that the staff reviewing the proposed rules really understands the process with regard to the site evaluations and once they understand the process, they will realize that their suggestions are not appropriate. Mrs. Rimiller explained that part of the reasoning for the common expiration date is to get the renewal process into PROMO. This would allow CRR processing of the renewals. Additionally, it is much more difficult to project the costs of the rule in the fiscal note with the staggered renewal dates. Dr. Deyton said that the site evaluation tied to the renewal is a major protection for the citizens and to take that protection could be dangerous. Dr. Deyton also commented that he thought the Board’s general anesthesia committee members would really argue against divorcing the site evaluation from the permit renewal. If the Board plans to seriously consider the suggested changes by the Division with regard to the site evaluations, Dr. Deyton suggested that the Board consult with the committee members again.

Dr. Deyton asked the PRC to consider the comments and suggestions of the Division staff with regard to the proposed rule on Conscious Sedation. He said it was never the Board’s intent to tie site evaluations to permit renewals for conscious sedation and he thought with some minor changes, the Board and the Division could agree on the Conscious Sedation rule and move it forward. A motion was made by Ms. Lepp and seconded by Ms. Thompson that the PRC move the Conscious Sedation proposed rule forward to the full Board with the suggested changes of the Division. Motion carried unanimously. Dr. Deyton offered to make the changes and have a hard copy for the Board’s review tomorrow.

It was the consensus of the PRC that the proposed rule on Deep Sedation/General Anesthesia and the comments and suggestions of the Division regarding the proposed rule be tabled at this time. Dr. McCoy appointed a committee to meet with the Division rulemaking staff by telephone conference call to discuss the issues. The committee members consist of Dr. McCoy, Dr. Sheets, Dr. Jackson and Dr. Deyton.

ADVISORY COMMISSION FOR DENTAL HYGIENISTS

Dr. McCoy informed the PRC that the Advisory Commission is going to be making a recommendation to the full Board on a proposal to rescind and readopt all the rules. The purpose of this proposal is to separate the rules into different chapters by profession and make them more user friendly to read. The rules on dentists will be one chapter, the rules on dental hygienists another chapter, the rules on dental assistants one chapter, and one chapter for general rules that apply to everyone. Dr. McCoy asked the PRC for its opinion regarding this matter. Ms. Lepp informed the PRC that the Advisory Commission has agreed to withdraw the rules if at any time they become controversial. Mrs. Rimiller informed the PRC that this project will be very labor intensive because it is likely that new fiscal notes will have to be prepared for each rule

that is being re-adopted and that the project may have to extend over a long period of time. Ms. Gerecke said that the Advisory Commission understands the process and knows that it will require a lot of staff time but the end result will make the project worthwhile. It was suggested that this item be added to the agenda for when the committee meets with the Division to discuss the deep sedation/general anesthesia rule. There were no opinions expressed by the PRC regarding this matter at this time, other than to ask the committee to discuss the matter with the Division staff at the deep sedation/general anesthesia conference call meeting.

DENTAL ASSISTING

Dr. McCoy explained to the PRC that he brought this item forward from the task list to get a better idea of what needs to be done in order to address the task of educating dental assistants about the Board's statutes and regulations. Ms. Lee Ann Turnbaugh presented to the Board and said that knowledge of the dental statutes and regulations should be a part of the education for dental assistants. She reported that the State of Vermont has a jurisprudence examination requirement for dental assistants. It was noted that dental assistants are not registered in Vermont. The dentist has a requirement in that state to notify the Board when s/he hires a dental assistant. Ms. Lepp suggested that perhaps the jurisprudence examination could be a requirement for completion of the EFDA course work, such as in the basic skills exam. Dr. Deyton commented that the Board has the ability to approve the basic skills exam and if it wanted to, establish a standard to require that the test include questions over the Dental Board statutes and rules. Dr. Deyton also explained that he had written into the curriculum of all the MDA EFDA courses a review of what dental assistants can and cannot do in a dental office. It was noted, however, that there are providers for the EFDA courses other than the Missouri Dental Association. Ms. Turnbaugh informed the Board that it should be the responsibility of the dentist to make sure his/her dental assistants know what services they can and cannot provide.

MANAGEMENT SERVICE ORGANIZATIONS

The PRC reviewed the proposed legislation regarding management service organizations. Dr. Deyton reported on the progress of what has come to be known as the ownership bill. It is anticipated that House Bill No. 564 will be amended on the Senate Floor to add this language. Dr. Lippert reported that Joe Pierle's organization is opposed to the language as it is currently written.

LEGISLATION

Dr. Sheets asked the PRC to consider legislation that updates the definition of the practice of dentistry to keep up with the changing scope of oral and maxillofacial surgery. The PRC reviewed the information provided by Dr. Sheets from the American Association of Oral and Maxillofacial Surgeons. Dr. Sheets also noted that the American Dental Association (ADA) changed their definition of dentistry in 1997. When looking at changes to the definition of the practice of dentistry, the ADA recommends two key elements are included. One is to include the words "associated structures" and the other is to include a statement or sentence emphasizing that dentists could perform procedures that were within the scope of their education. Dr. Lippert reported that in the

other states where this legislation has been introduced, there have been big fights from the plastic surgeons. He said that this type of legislative effort will require getting dentists to the capitol to lobby and traditionally that has been a difficult task. Before the PRC makes its legislative recommendations to the full Board, Dr. Sheets was asked to consult with the oral surgeons to make sure they would be ready to assist in getting the legislation passed.

The PRC also reviewed the legislation passed by the Board of Healing Arts last year relating to the retention of medical records. Mrs. Rimiller asked if the PRC is interested in pursuing similar language with regard to dentistry. There was not enough interest from the PRC to pursue this proposal and it was moved off the PRC's task list at this time.

Mrs. Rimiller mentioned that the Board will need to have its legislative package together to present to the Division by the end of July. This means that the PRC will need to present their recommendations to the full Board by no later than the July meeting.

PRC TASK LIST

The PRC reviewed its prioritized task list and made the following changes:

- The proposed legislation relating to management service organizations (the ownership bill) will remain the top priority;
- Second is the proposed rules regarding the Well Being Committee;
- Third are the rules on deep sedation/general anesthesia and conscious sedation;
- Items 4 and 5 were combined, which is consideration of a new licensure status for retired licensees and consideration of a renewal rule that is to include provisions for reinstatement of an inactive license;
- The new item 5 will be Dr. Sheets' proposal to update the definition of the practice of dentistry; and
- The new item 6 is the item to explore mechanisms for educating dental assistants.

After moving Item #8 from the task list (review of the dental hygiene rule for course approval) and Item #11 (mandatory reporting), the remaining items on the task list will be renumbered in the same order. It was the consensus of the PRC to recommend to the full Board that the Item on mandatory reporting be referred to the Advisory Commission for Dental Hygienists.

ADJOURNMENT

There being no further business to be brought before the PRC at this time, a motion was made by Ms. Thompson and seconded by Dr. Sheets that this meeting adjourn. Motion carried 4 to 0. The meeting adjourned at approximately 9:55 p.m.

Respectfully submitted

Sharlene Rimiller, Executive Director

Approved by Board on: _____