

Meeting Notice

Missouri Dental Board Policy Review Committee

August 19, 2005 ~~ 1:00 p.m.

**Days Inn
I-70 Exit 124
1900 I-70 Drive S.W.
Columbia, Missouri**

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 Policy Review Committee of 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) and (8), RSMo.

The Policy Review Committee of the Missouri Dental Board may go into closed session at any time during the meeting. When 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
Laurie Morris, Office of Administration
Dr. Jacob Lippert, Executive Director, Missouri Dental Association
President, Missouri Dental Association
President, Missouri Dental Hygienists' Association
President, Missouri Dental Assistants' Association

Posted: 08/10/05
4:00 p.m.

Open Agenda

Missouri Dental Board Policy Review Committee

August 19, 2005 1:00 p.m.

**Days Inn
I-70 Exit 124
1900 I-70 Drive S.W.
Columbia, Missouri**

- | | | |
|----|--|--------------|
| 1. | Call to Order | Dr. McCoy |
| 2. | Roll Call | Ms. Thompson |
| 3. | Approval of Agenda | Dr. McCoy |
| 4. | 4 CSR 110-2.110 – Addressing the Public – Dentists | Dr. McCoy |
| | • Review Proposed Changes and Consider Comments | |
| 5. | Other Agenda Items | Dr. McCoy |
| 6. | Adjournment | |

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

August 19, 2005 1:00 p.m.

**Days Inn
1900 I-70 Drive S.W.
Columbia, Missouri**

The open meeting of the Missouri Dental Board's Policy Review Committee (PRC) was called to order by Dr. Rolfe McCoy, Chairperson, at approximately 1:00 p.m. on Friday, August 19, 2005, at the Days Inn, 1900 I-70 Drive S.W., Columbia, Missouri.

COMMITTEE MEMBERS PRESENT:

Dr. Rolfe C. McCoy, Committee Chairperson
Ms. Patricia A. Lepp, R.D.H., Member
Ms. Maxine Thompson, Member

COMMITTEE MEMBERS ABSENT:

Dr. Larry W. Jackson, Member

STAFF MEMBERS PRESENT:

Sharlene Rimiller, Executive Director

GUESTS:

Dr. Guy Bates, Jr., Missouri Dental Association
Dr. Ed McAllister, Missouri Dental Association
Dr. Mary Gadbois, Cherry Hill Dental
Michelle Gadbois, Cherry Hill Dental
Dr. Chuck Poeschel, Missouri Dental Association
Josh Flory, Columbia Tribune
Dr. Fred Christman, Member, Missouri Dental Board
Dr. J.C. Standlee, Missouri Dental Association
Dr. Jacob Lippert, Missouri Dental Association
Dr. Russell Harrison

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.

4 CSR 110-2.110 – ADDRESSING THE PUBLIC - DENTISTS

The Policy Review Committee (PRC) met for the purpose of hearing comments on its proposed changes to the Missouri Dental Board's rule on advertising. The following is a summary of the comments received.

Posted: 08/10/05
4:00 p.m.

Dr. Guy Bates, representing the Missouri Dental Association, referenced his e-mail to the PRC dated August 12, 2005. He reported on the results of an e-mail survey among the Missouri Dental Association (MDA) Board of Trustees. The general consensus was that all rules should apply equally to both general dentists and specialists alike, the rules should not be relaxed, and improved methods of enforcement must be found. The MDA understands that the Board does not have the funding or available staff to enforce the rules on all advertising that is non-compliant. A possible solution suggested was an increase in licensing fees that would enable the Board to hire more investigative staff to effectively enforce the rules. Another suggestion was getting the word out that advertising violators who are disciplined are reported to the National Practitioner's Data Bank (NPDB). It was noted that the Board does not have the physical space for another employee in the Board office.

Dr. Bates commented that the most blatant overstating of non-specialty interest areas is cosmetic dentistry. He does not feel that the public understands that cosmetic dentistry is not a specialty. Based on his own experience, Dr. Bates has had patients ask for their records to be transferred because they want to go to a cosmetic dentist. He noted that there is no definition for cosmetic dentistry and the public is confused. Ms. Thompson commented that the term Invisiline is another area that has the public confused. Dr. Standlee pointed out that there are other areas that are taking on national public advertising campaigns and the public associates those that are advertising in these areas as someone who is a specialist. He also pointed out that these are product brand names and not a service and questioned if the disclaimer requirement would apply.

Dr. McCoy asked for feedback on the following three issues:

1. Making the rules apply equally to general dentists and specialists;
2. Disclaimers on advertising non-specialty interest areas; and
3. Discipline for those that violate the rules.

Dr. Bates asked that there also be some feedback about specialists that advertise non-specialty interest areas, such as implants. If a general dentist advertises that s/he does implants, the dentist must include a disclaimer that says implants are a non-specialty interest area that requires no specific educational training to provide this service. However, it was thought that when oral surgeons advertise implants, they do not need to include a disclaimer because they have more education and training and are better qualified to place them. This is what the MDA means about the rules applying equally to general dentists and specialists alike. They do not want to see this happen.

Dr. Russell Harrison, a specialist in periodontics, testified that implants have been considered part of the didactics of the periodontic residencies for a long time (at least fifteen years) and it is required. Therefore, it is recognized that periodontists put in implants as a matter of their background and training. Dr. Harrison said

that he is not sure he should have to have a disclaimer in his advertisement if he offers implants but then he is not convinced that any dentist should include a disclaimer in their advertising. It was noted that the rules are for the protection of the public and not necessarily what is easiest for the licensee. The question was asked again about whether there should be a distinction made in the rule between general dentists and specialists advertising a non-specialty interest area, such as implants, and whether the non-specialty interest area was a part of a specialist's residency training or if it was just a weekend course. Dr. Harrison felt that any dentist, general or specialist, who has extensive training in any area of dentistry, has a right to advertise his/her qualifications.

Dr. McCoy asked if anyone has an objection to the requirement that all general dentists that advertise must state in the ad that they are general dentists providing the services. Dr. Gadbois commented that she has a telephone listing that just has "Cherry Hill Dental". Would she be required to say this is a practice of general dentistry if she is not advertising any specific services? Dr. McCoy commented that Dr. Gadbois should have the name of the dentist(s) in the advertisement but whether or not the advertisement is an announcement of services and must have the words "general dentistry" is not a question he can answer. However, he did state that everyone seems to be in agreement that any announcement of services by a general dentist must state that the dental practice is one of general dentistry.

Returning to the discussion about disclaimers in advertisements of non-specialty interest areas, Dr. McCoy asked if everyone is in agreement that general dentists and specialists advertising non-specialty areas must have the disclaimer and that the rule not include the "laundry list". Dr. Gadbois asked if there was any way to list all of the non-recognized specialties. The general consensus was "no". She also asked if it was possible to change the size requirements for the disclaimer. An example was provided regarding her 30 second radio or television advertisement where the word "bleaching" is used. Dr. Gadbois said that 15 seconds of the 30 second commercial was used up with the disclaimer. Dr. McCoy said this example is one of the reasons it could be beneficial to do away with the laundry list. When the rule was amended in 2000, bleaching and teeth whitening were in its infancy and now it is commonplace at most dental offices. Dr. McCoy mentioned that the Board does not have the staff to police all advertising by dentists and only those advertisements received by way of a complaint or a random review by the Board's investigators are brought to the Board's attention for appropriate action.

The PRC discussed the MDA's suggestions for changes to 110-2.110 (6). Dr. Bates said that the MDA is not convinced that advertisements of recognized specialties by general dentists need the disclaimer as long as the advertisement says that the dental practice is one of general dentistry. The disclaimer requirement in Section 332.321.2 (14) (f), RSMo was discussed in light of this suggestion. The statute requires a disclaimer to list all the dentists in the dental practice that are not licensed in Missouri as specialists in the advertised dental

specialty. The question was asked of whether it is sufficient to just reference the statute in the rule, or if the statutory requirements should be repeated in the rule. Most agreed that it needs to be repeated in the rule. With regard to advertising specialty areas not recognized by the American Dental Association (ADA), it was noted that the statute says these ads are considered false, misleading or deceptive and no mention is made of being able to advertise these services with a disclaimer. Ms. Lepp questioned if there is a difference in the terms specialty areas not recognized by the ADA as it is written in the statute and non-specialty interest areas as it is written in the rule. She pointed out that the PRC wanted to keep the terms consistent when it proposed the changes in section (7) of the rule. In discussing the proposed changes to section (7) of the rule, Dr. Bates said that the MDA is not agreeable to limiting the disclaimer requirement to just general dentists, even with the sentence at the end that says specialists may advertise specialty areas not recognized by the ADA if training in the non recognized specialty area(s) was an integral part of their specialty training curriculum. It was suggested that the disclaimer apply to all dentists alike but that the last part of the disclaimer be eliminated. The disclaimer would then read, "(list specialty areas not recognized by the ADA) (is/are) specialty area(s) not recognized by the ADA." Dr. Standlee suggested that the rule say, "Any advertisement of services that are recognized specialties need a disclaimer by anyone that is not a specialist in that service."

Dr. McCoy asked the PRC members and guests what they believe is appropriate discipline for violations of the advertising statutes and rules. It was noted that the Board's policy was that for the first violation, a licensee would receive a non-disciplinary letter of concern. The second violation would be an automatic invitation to appear before the Board. The third violation would be referred to legal counsel to begin disciplinary proceedings. Dr. McCoy asked for feedback on what would be appropriate discipline for licensees that have repeatedly violated the advertising statutes and regulations. Typically, the discipline has been a period of probation with terms including an ethics continuing education course. Ms. Lepp questioned if a Letter of Censure would capture a licensee's attention. A Letter of Censure is discipline and is reportable to the NPDB. It was suggested again that the Board educate licensees about the consequences of discipline reportable to the NPDB. There was some discussion that probation reported to the NPDB could preclude a licensee from participating in certain insurance programs. There was also some discussion of whether discipline is appropriate if it is a licensee who is filing the complaint. The question was whether it then becomes a matter of competition instead of public protection. The PRC stated that if a complaint is filed and it is a valid complaint, it doesn't matter who filed the complaint, they are all treated the same. After further discussion, probation seemed to be the agreed upon discipline for repeated violations of the advertising statutes and regulations.

Dr. Harrison addressed the PRC and asked for a response to the following situation. A person graduates from UMKC School of Dentistry with a certification in a recognized specialty. This person has a license to practice dentistry in

Missouri but does not have a specialty license. The question is whether this dentist can advertise to the public that s/he is a specialist in the field of his/her specialty training. Dr. Harrison said that he thought the dentist could advertise that s/he is licensed and that they are board certified in their specialty. The PRC pointed out to Dr. Harrison that it is considered false, misleading, or deceptive to advertise that a person is a specialist or use the phrase "limited to the specialty of" unless that person holds a valid Missouri license evidencing that the person is a specialist in that area. Dr. Harrison also questioned the licensure examination accepted in Missouri. He questioned if the candidate has the ability to approach the examining entity and ask for statistics on the validation of the exam. The PRC assured Dr. Harrison that CRDTS can provide any candidate with evidence that their examinations are valid. Dr. Harrison also questioned the validity of the Board's jurisprudence examination but there was no discussion, and Dr. McCoy reminded the guests of the purpose of today's meeting.

In conclusion, Dr. McCoy stated that the PRC will meet again on October 14th in Kansas City and in the meantime, the PRC will review the comments and suggestions from today's meeting and perhaps have a draft rule ready for review in October.

ADJOURNMENT

There being no further business to be brought before the PRC at this time, Dr. McCoy declared the meeting adjourned at approximately 2:40 p.m.

Respectfully submitted,

Sharlene Rimiller, Executive Director

Approved by Board on: _____