Meeting Notice

Missouri Dental Board

December 3, 2010 10:00 a.m.

Associated Industries of Missouri
3234 W. Truman Boulevard
Jefferson City, Missouri

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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: Chapter 610.021, Subsections (1), (3), (5), (7), (13), (14), and Chapters 324.001.8 and 324.001.9 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 be aware that according to Missouri law, the Board can have open discussion and votes only on items included on the open agenda. If there is a topic you would like included on the open agenda, please notify the Board office not less than forty-eight (48) hours prior to the start of the meeting.

Please see the attached tentative agenda for this meeting.

cc: Members, Missouri Dental Board
Members, Advisory Commission for Dental Hygienists
Loretta Schouten, Attorney-at-Law
Tina Crow Halcomb, Attorney-at-Law
Office of Administration
Vicki Wilbers, Executive Director, Missouri Dental Association
President, Missouri Dental Association
President, Missouri Dental Hygienists’ Association
Missouri Dental Assistants’ Association
Missouri Dental Assistants Educators
Jane Rackers, Director, Division of Professional Registration
Open Agenda
Missouri Dental Board

December 3, 2010 10:00 a.m.

Associated Industries of Missouri
3234 W. Truman Boulevard
Jefferson City, Missouri

Friday, December 3, 2010

1. 10:00 a.m. Call to Order Dr. Titterington
2. Roll Call Dr. Aubert
3. Approval of the Agenda Dr. Titterington
4. Review of the Advertising Statute and Rule Dr. Titterington
   - 332.321.2(14), RSMo.
   - 20 CSR 2110-2.110 Addressing the Public –Dentists
   - Public Comments
5. Review of 20 CSR 2110-2.114 Patient Abandonment Dr. Titterington
6. Adjournment
The open meeting of the Missouri Dental Board was called to order by Dr. Paul P. Titterington, President, at approximately 10:04 a.m. on Friday, December 3, 2010 at the Associated Industries of Missouri, 3234 West Truman Boulevard, Jefferson City, Missouri.

**BOARD MEMBERS PRESENT:**
Dr. Paul P. Titterington, President  
Dr. Mark F. Saladin, Vice President  
Dr. Eric J. Aubert, Secretary  
Dr. Kevin D. Wallace, Member  
Ms. Patricia A. Lepp, R.D.H., Member

**STAFF MEMBERS PRESENT:**
Brian Barnett, Executive Director  
Bonnie Mengwasser, Licensing Supervisor

**GUESTS PRESENT:**
Deborah K. Polc, R.D.H., Advisory Commission for Dental Hygienists  
Ms. Vicki Wilbers, Executive Director, Missouri Dental Association  
Mark Zust, D.D.S., President-Elect, Missouri Dental Association  
F. Stanley Hall, D.D.S.  
J.C. Standlee, D.D.S., Missouri Dental Association  
Lori A. Bruce, R.D.H., 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 THE AGENDA**
A motion was made by Dr. Saladin and seconded by Dr. Aubert to approve the open agenda as written. The motion carried unanimously.

**REVIEW OF THE ADVERTISING STATUTE AND RULE**
Mr. Barnett reported that there is somewhat of a national movement to see licensing boards be less restrictive in terms of advertising regulations. Dr. Zust reported that this issue was recently discussed during a Missouri Dental Association (MDA) Board meeting, and their resolution is that the MDA supports the Missouri Dental Board in its
efforts to simplify the advertising statute and rule. Dr. Zurst would like to see the Board's language mirror what Kansas law currently states because it is very simple. One of the Board's concerns with regard to the Kansas law is the requirement that the Board approve advertisements before they are used.

Dr. Wallace asked the Board if the first sentence in 332.321.2(14), which states "Use of any advertisement or solicitation that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed," would be sufficient. Ms. Lepp asked what Dr. Wallace's intentions are with regard to the advertising rule if the Board chooses to eliminate everything from the statute except the first sentence. Dr. Wallace asked what else would be needed in terms of a rule that isn't already spelled out in the first sentence of the statute.

In an effort to protect the public, Ms. Lepp believes that general practitioners should continue to be required to use a disclaimer. Ms. Lepp feels that, especially with regard to orthodontics, patients should be made aware of whether the dentist is a general practitioner or a specialist. Dr. Wallace believes it is unfair to require that general dentists use a disclaimer because their dental license authorizes them to practice all aspects of dentistry.

20 CSR 2110-2.110 Addressing the Public –Dentists
The Board reviewed each paragraph in the advertising rule to determine which information should be taken out and which information should remain. With regard to section (1), Mr. Barnett asked the Board if the first sentence, which states "For the purpose of these rules, advertising shall mean any communication, whether oral or written, between a dentist or other entity acting on behalf of one (1) or more dentists and the public," would be sufficient. Mr. Barnett feels it isn't necessary to list what the different types of advertisements are since the first sentence says "advertising means any communication..." Mr. Barnett would like the Board's advertising rules to only regulate communications in which a specific service is being advertised. Dr. Zurst questioned why the Board would want to define advertising in the rule because there is already a publicly-accepted definition.

Mr. Barnett suggested the Board consider rescinding the entire rule and put forth a legislative proposal to make some adjustments to the statute.

Dr. Wallace asked the Board to look closely at sections (4), (9), (10) and (11) of the rule. Mr. Barnett asked the Board to look at these issues in terms of if they would be covered if the statute simply stated a licensee can't advertise in a way that is fraudulent, false, misleading or deceptive.

Mr. Barnett asked if there is anything in the current advertising rule that the Board would like to include in the statute if it were to rescind the rule. Ms. Lepp would like to see the first sentence of section (6), which states "Any announcement of services by a general practitioner shall state in a prominent manner that the dental practice is one of general dentistry," to be included in the statute.
Dr. Hall asked what the Board’s thoughts are with regard to section (8) of the rule. Mr. Barnett stated that as long as a licensee and/or the dental office has the necessary permit and/or site certificate to provide deep sedation/general anesthesia services, s/he should be allowed to advertise those services; if not it would be “false, deceptive or misleading” for him/her to do so. Dr. Wallace is concerned that if section (8) is removed, it could cause a drastic increase in the number of sedation advertisements, which in turn, could potentially put the public at greater risk because they may be unnecessarily sedated for a procedure. Dr. Hall believes that the public has traditionally been under the impression that the only way they can be sedated during a dental procedure is in an oral surgeon’s office. Dr. Hall stated that the plus to being able to advertise sedation services is, for those members of the public who are truly terrified of going to the dentist, to be made aware that their dental procedures can be performed in a general dentist’s office while under sedation.

332.321.2(14)
Mr. Barnett asked if the Board felt it necessary to keep any of the language in the current statute other than the first sentence, which states “Use of any advertisement or solicitation that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.” The Board considered the need for a general dentistry disclaimer.

A motion was made by Dr. Saladin and seconded by Dr. Aubert to forward a legislative proposal to the Division for consideration that would eliminate everything but the first sentence in 332.321.2(14). The motion carried unanimously.

If the proposed statute change is approved by the Division and the Department, the Board’s intention is to rescind 20 CSR 2110-2.110 at the same time.

Dr. Zust would like the Board to keep sections (1), (2), (3), (13) and (14) of 20 CSR 2110-2.110, rather than rescinding the entire rule because he’s afraid that without a rule, the dental community’s perception will be that the Board is no longer going to regulate advertising.

REVIEW OF 20 CSR 2110-2.114 PATIENT ABANDONMENT
Dr. Wallace asked if the MDA still has concerns about patient abandonment. Dr. Zust explained that some members of the MDA have expressed concerns with regard to the mobile dental units that go to the schools and do an exam, cleaning and fluoride treatments on Medicaid children, and then when those same children return to their dentist, that dentist isn’t able to get reimbursed for the treatment provided because the mobile dental unit has already billed Medicaid for those services.

Mr. Barnett explained that the Board has previously discussed developing language to more closely regulate mobile dental units. During the Board’s discussions on this issue, the Board members had decided that all dentists, whether working in a mobile dental unit or in a traditional dental office, are held to the same standards under the current statutes and regulations, so there wasn’t a need for a specific regulation.
Dr. Zust feels that the patient abandonment rule doesn’t address what he believes to be the true meaning of patient abandonment. Dr. Zust would like the rule to address those situations when, after a treatment plan is formulated, the treating dentist decides to no longer provide service to a patient, and doesn’t give the patient another option for finishing the treatment.

The Board then discussed whether it is considered patient abandonment when a dentist diagnoses the need for a particular treatment and refers that patient to another licensee, who in turn chooses not to treat the patient for one reason or another.

It was the consensus of the Board to take no action on this matter.

**ADJOURNMENT**

There being no further open business to be brought before the Board at this time, a motion was made by Dr. Saladin and seconded by Dr. Aubert that this meeting adjourn. The motion carried unanimously. The meeting adjourned at approximately 1:13 p.m.

Respectfully submitted,

Bonnie Mengwasser, Licensing Supervisor

Brian Barnett, Executive Director

Approved by the Board on: April 16, 2011