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SPRING 2005

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New Challenges for 2005



Immediate Past - President
Lynda L. Sabat

It has been an honor to serve as President of the Ohio State Dental Board (Board) this last year and to be a member of the Board for the past ten years! The people with whom I have had the pleasure of serving with over the years, have been a dedicated group of individuals committed to the mission of the Board. And that mission is not one to speak of cavalierly.

Being on the Board charged with regulating the profession is often not a popular position to hold. The Board's mission is clear: protection of the public. Board members must put their personal agendas aside in order to be an effective Board member.

The members I have worked with over the years take this charge seriously. Issues such as licensure requirements, scope of practice issues, and standards of care are addressed thoroughly and recommendations are made based upon what the members believe

to be best for Ohio's dental consumers.

The year 2004 proved to be an interesting and challenging year. The Board doubled in size. Our QUIP program was launched. Coronal polish-ing for certified dental assistants was finalized. Licensure requirements, specifically the examina-tion requirement was, and still is, a hot issue.

Historically it has been the job of the Board to determine appropriate requirements for licensure. As Board members, we are involved and very familiar with the examination process. The process enables the Board to determine who is minimally qualified to practice in Ohio, which is an important Board function. The Board believes that dentistry is a science and an art. Education requires didactic training (science) along with perfecting the hands-on skills (art) to effectively treat our patients. We have all been familiar with fellow students and colleagues who may have excelled academically but have lacked the ability to perfect the hands-on skills to effectively treat patients. Because of this reality, a third party independent assessment is critical to the licensure process. This examination is the only time a candidate for licensure is required to perform what he or she has learned in dental school, without the benefit of guidance and direction from faculty

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and staff of the dental school itself. This is also critical in a profession where many practice in private offices, with little to no oversight.

The Board MUST assure to the public that those licensed in Ohio are minimally qualified to practice dentistry. The examination by far is the best tool for this assessment. For licensure in Ohio, an applicant can take any one of the regional board examinations. NERB has adopted a Curriculum Integrated Format that allows students to take portions of the examination during the fourth year of dental school, thus allowing them to remediate, if necessary, prior to graduation.

PGY1 has been proposed as an alternative to the licensure examination requirement. The Board's primary concern with this approach is the complete elimination of an independent assessment of skills. Also, concerns exist because many PGY1 programs are not standardized. These programs are tied to the schools, who are responsible for teaching the students, therefore their bias is inherent. Further, this approach does not allow for mobility from state to state. It seems that the only dental students who would opt for an additional year are the ones who cannot pass the licensure examination. Otherwise, a two day examination versus an additional year of training seems a more practical choice for one who wants to receive licensure and begin practicing as soon as possible.

However, the most compelling reason to not consider an alternative

pathway to licensure is the advent of the national dental examination. The Board is working with the American Association of Dental Examiners (AADE) to create a national licensing examination that would be accepted by all 50 states in the nation, thus allowing complete mobility for licensed dentists in the United States. This goal is achievable with hard work and patience. I am excited to be a member of the AADE American Dental Licensure Examination Committee (ADLEC). This committee is comprised of representatives from all the regional boards and independent states, educators, and members of organized dentistry and dental hygiene. It has thus far been a tremendous experience working with these individuals towards a consensus as to what a national licensure examination must entail to satisfy national licensure standards. The process is working towards independent outcome assessment, autonomous from collateral self-interests and politics. It will be a great day when an Ohio dental license qualifies you for licensure in Florida, South Carolina and California.

In 2001, the Board was successful in passing legislation that allowed it to create and implement a Quality Intervention Program (QUIP). The Board sought legislative approval to move forward with this program. The purpose of the program is to allow dentists to remediate, through education and training, in areas designated by the Quality Intervention Panel of Experts to be below the accepted standards for the profession.

This program gives the Board some discretion in terms of formal discipline. Budget and staffing issues kept the Board from moving forward with the program sooner, and we are excited to have the program up and running. Approximately ten dentists are currently participating in the program.

Ohio is the only dental board in the nation with a program of this kind.

The Board has also streamlined the dental assistant radiographer licensure process. Administrative rule changes will allow accredited sponsors or programs to administer an examination in addition to the already used and accepted examination administered by the Dental Assisting National Board (DANB). This will provide more flexibility to the radiographer applicant. Most importantly, this in effect results in applicants being licensed in a more timely fashion.

It is also important to note that over the recent years, Board committees have evolved and have come to include members from various areas such as the professional associations, educational institutions, insurance industry, etc, to provide valuable input into Board recommendations.

The Board looks forward to another challenging year, and it will continue to make changes and improvements to ensure that the public is protected, and that the professions of dentistry and dental hygiene are benefited by an ongoing reputation for integrity, trust and professionalism.

MEET THE ASSISTANT DIRECTOR



Rebecca K. Hockenberry, Esq.

Rebecca K. Hockenberry, Esq., has been serving as the Assistant Director of the Ohio State Dental Board (Board) since April 2004. In this position, she is second in command to the Executive Director, and she has the direct responsibility to oversee the Board's Enforcement Division. Additionally, Ms. Hockenberry serves as the Board's office manager.

Ms. Hockenberry, a native of Mansfield, Ohio, brings to the Board experience as an Assistant Attorney General who represented the Board for two years, as well as significant experience in the legal and human resources professions. Ms. Hockenberry received her Juris Doctor degree from Capital University Law School, and her Bachelor of Business Administration from Ashland University.



Supervision of Residents

Secretary
Edward R. Hills, DDS

The Board recently filed rule revisions that passed the scrutiny of the Joint Commission on Agency Rule Review. One rule in particular clarifies the supervision of dental residents in a dental facility. The purpose of this clarification is to ensure that dental residents are being properly supervised, and are not being utilized in satellite offices, clinics, and the like, without appropriate supervision by a licensed dentist. The supervising dentist is required to be present at the facility at all times when patients are being treated.

The Board's rule clarification is not intended to be seen as adversely impacting what currently takes place in American Dental Association accredited residencies. The Board has no intention of interfering with dental resident supervision while the resident is on medical rotation or supporting medical services, etc. These supervision guidelines are set forth under

the ADA accreditation standards for residency

To make this clear, the definition for "Under the direction of" is as follows:

4715-3-01(M)(4):

"Under the direction of" – pursuant to R.C. 4715.16(A), acts are deemed to be under the direction of a licensed dentist when performed in a dental facility wherein a licensed dentist is physically present at all times during the performance of such acts and the acts are performed pursuant to his control and oversight. Acts are also deemed to be under the direction of a licensed dentist when performed in connection with residency programs approved by the American dental association commission on dental accreditation and operated in accordance with the guidelines for the supervision of residents as set forth in the accreditation standards.

NEW OFFICERS – Congratulations!

In March, the following Board officers were elected:

PAUL VESOULIS, DDS, President
GREGORY A. MCDONALD, DDS, Vice President
EDWARD R. HILLS, DDS, Secretary

BOARD ADOPTS POLICY REGARDING PATIENT RECORDS



Executive Director
Lili C. Reitz, Esq.

At its March meeting, the Board adopted a policy regarding patient records, to clarify its position regarding the ownership and release of patient records. It states as follows:

The American Dental Association calls upon dentists to follow high ethical standards which have the benefit of the patient as their primary goal. To that end, the Board adopts the following policy regarding patient records.

Currently, the Dental Practice Act does not specifically address the issue of ownership and release of patient records. However, based on relevant law and other source material, it is the Board's position that a dentist must release a copy of the patient record upon request of the patient or the patient's parent/legal guardian. Failure to do so could be a potential violation of the standard of care for the profession, which is grounds for discipline pursuant to Ohio Revised Code 4715.30 (A)(7).

Record, defined:

For purposes of this policy, a patient record includes any docu-

ment or combination of documents that pertains to a patient's medical/dental history, diagnosis, prognosis, or medical/dental condition, and that is generated and maintained in the process of the patient's dental treatment. Patient records include:

- ✓ medical/dental history
- ✓ written progress notes
- ✓ radiographs
- ✓ models
- ✓ billing information
- ✓ insurance claims

A patient record should not include:

- care related to another patient
- peer review/quality assurance information/documents
- correspondence/notes from attorneys
- aberrant/deviant statements

Ownership:

Patient records belong to the treating practitioner, however, the patient has an absolute right to a copy of his/her patient records.

Providing copies of records:

A dentist has the ethical obligation on request of the patient, the patient's parent/legal guardian, or the patient's subsequent treating dentist with appropriate patient authorization and release, to furnish copies of patient records. This can be done either gratuitously or for a nominal, reasonable cost for copying. The copies, including dental x-rays and the like, should include any and all

information as will be beneficial for the future uninterrupted, consistent treatment of the patient.

Costs:

This obligation to provide a copy of records exists whether or not the patient's account is paid in full. Since the patient has an absolute right to a copy of his/her records, a dentist may not ignore a request for records due to an unpaid balance for services rendered. Further, a dentist cannot demand payment for copies up front. The dentist may add the fee for copies to the unpaid balance, and include this in any claim for reimbursement, but records cannot be held hostage for payment of any kind.

Ramifications:

It is the Board's position that failure of a dentist to provide to a patient a copy of his/her records is unethical. Further, failure to do so could be a potential violation of the standard of care for the profession, which is grounds for discipline pursuant to Ohio Revised Code 4715.30 (A)(7).

Disclaimer:

Nothing in this policy supercedes the confidentiality requirements outlined in the Health Insurance Portability and Accountability Act. Further, this policy does not apply to records subpoenaed for Ohio State Dental Board investigation/enforcement purposes as those requests are exempted from the protections under HIPPA.

Ohio Administrative Code Update

Changes Effective April 7, 2005

The Ohio State Dental Board (Board) made amendments to Ohio Administrative Code (OAC) sections 4715-12-02 and 4715-12-04. The amendments were made to further simplify the licensure process for dental assistant radiographers. These amended rules permit Board-approved Permanent Sponsors who provide the seven-hour initial training course for dental assistant radiographers to now apply to provide the examination necessary for licensure. Those dental assistants attempting to obtain a radiography license via the training and examination method now have two (2) examination options available; a Board-approved examination through the initial training course provider, or the computerized Radiation, Health, and Safety (RHS) examination offered by the Dental Assisting National Board (DANB) at Pearson Professional Testing Centers.

The Board also filed thirteen (13) additional amended rules. Two rules were corrected to reflect

statutory changes enacted by Senate Bills 51, 80 and 86. These changes addressed (1) the definition of dental license candidates who are “graduates of unaccredited dental colleges located outside the United States” (OAC 4715-3-01), and (2) language in the volunteer certificate rule, OAC 4715-22-01, to mirror changes that were made in the statute.

Additionally, the following rules were changed as follows:

OAC 4715-5-05 *Use of general anesthesia and deep sedation*: changed to correctly reflect one of the three educational modalities in which a licensed dentist may pursue an anesthesia permit;

OAC 4715-17-01 *Notice of regular and special meetings of the Ohio State Dental Board*: amended to permit electronic mail (E-mail) notification for Board meetings; and

OAC 4715-20-01 *Patient and personnel protection*: amended to include hand hygiene methods for infection control as defined and recommended in the Centers for Disease Control and Prevention’s “Guidelines For Infection Control in Dental Health-Care Settings – 2003”.

The final eight (8) rules regarding enforcement were changed to better the administrative hearing processes of the Board.

A current copy of the Dental Practice Act, Chapter 4715 of Ohio Revised and Administrative Codes effective April 7, 2005, which includes all of the above changes may be downloaded from the Board’s website at www.dental.ohio.gov.

JURISPRUDENCE EXAM NOW OFFERED ON-LINE

The Ohio State Dental Board (Board) has approved both the dental and dental hygiene jurisprudence exams, along with an answer sheet and an affidavit attesting to the applicant’s completion without assistance, be posted to the Board’s website.

Providing the examinations in this manner will allow applicants to complete the examination at their convenience, as well as save the Board printing and mailing costs for the Dental Practice Act, the examinations and answer sheets.

The Board’s newly amended rules are tentatively scheduled to go into effect sometime in early April. The jurisprudence examinations will be posted to the website to coincide with the posting of the most current laws and rules.

Substance Abuse Policies Protect Dentists, Patients

Drug, alcohol troubles can damage safety, reduce efficiency

By Keith Kerns, Esq. ODA Director of Legal & Legislative Services

October 2004, ODA Today

(Reprinted by permission)

As employers and health care providers, dentists have an obligation to provide a safe environment for the delivery of dental care to their patients and a safe working environment for employees. One way to help ensure the safety of the dental office is to establish a written office policy addressing employee substance abuse.

Substance abuse is a growing problem in nearly all areas of society, including unfortunately, dentistry. Over the past several years, the Ohio State Dental Board has witnessed an increase in the number of licensees battling impairment issues. Employees with impairment problems are a risk not only to themselves, but also to other employees and your patients.

The establishment of a written policy on substance abuse will help protect the dental office by outlining the expectations to all employees and setting the consequences of any employee action contrary to those expectations. This serves as a strong deterrent for employees and benefits dentist employers.

Employees with impairment problems tend to be less productive, less reliable and prone to greater absenteeism, all of which result in increased cost to the dental office and inferior delivery of dental services.

Employer dentists also have an additional incentive to develop such a policy with the recent adoption of a new state law.

House Bill 223, effective Oct. 13, affects the operation of workers' compensation law to create a rebuttable presumption that an employee injury which occurs while that employee was under the influence of drugs or alcohol was in fact caused by drugs or alcohol. More simply stated, an employee will have to prove

that the drugs or alcohol did not cause the workplace accident if they are shown to be under the influence at the time or refuse to take part in a drug test.

A written substance abuse policy can help dentist employers take advantage of these new state provisions.

When developing a written policy, dental offices should consider including the following issues:

- ✓ A purpose statement that outlines the reasons for the establishment of the policy.
- ✓ A policy statement that clearly outlines the expectations for employees. For instance, the policy can directly state that the sale, purchase, transfer, or unauthorized possession or consumption of alcohol on employer property is prohibited and that reporting to work or working under the influence of illegal drugs or alcohol is also prohibited.
- ✓ An outline of the disciplinary consequences for violation of the policy statement up to and including termination.
- ✓ Procedures for testing of employees.
- ✓ A statement of confidentiality for employees undergoing testing.

Office policy manuals are an excellent tool for employers to set expectations for employees and protect employers' business interests, and dentists should strongly consider the inclusion of a substance abuse policy as part of this manual.

A sample substance abuse policy that incorporates these considerations is available in the members' only section of the ODA website at:

www.oda.org/membersonly/files/prsa.cfm

ODA member dentists should feel free to obtain this policy as a general guidance but as with all legal documents, are strongly encouraged to seek the advice of their own attorneys prior to implementation.

Have you retired? Have you moved?

Each licensee is required to notify the Ohio State Dental Board in writing of any change in address or employment within ten days after such change has taken place. See Ohio Revised Code §§ 4715.14(C) and 4715.24(C). Written notices may be submitted by mail to the Ohio State Dental Board at 77 South High Street, 18th Floor, Columbus, Ohio 43215-6135 or by facsimile at (614) 752-8995.

Advertising Specialty Service

Based on the number of complaints the Board receives in this area of advertising, the following rules must be kept in mind regarding advertising specialty services:

- A dentist may not state that he is a specialist, or specializes in any branch of dentistry, or limits his practice to any branch of dentistry or area of practice, or is a diplomate, or is an orthodontist, oral surgeon, oral or maxillofacial surgeon, periodontist, pedodontist, pediatric dentist, endodontist, prosthodontist, oral pathologist, or public health dentist, or any other statement indicating he is a specialist, unless the dentist has complied with the rules allowing specialty designation.
 - ★ To be recognized as a specialist in the state of Ohio, the specialty must be one approved by the American Dental Association (ADA). **Implantology and cosmetic dentistry are not ADA recognized specialties.**
 - ★ The dentist must limit his practice to the indicated specialty area.
 - ★ In order to hold oneself out as a specialist, the dentist must have completed an (ADA) accredited post-doctoral education program for each specialty, or the dentist must be a diplomate of the national certifying board of a specialty recognized by the ADA.
- A dentist who is recognized as a specialist must avoid any inference that general dentists associated with him in practice are specialists.
- Only those with appropriate education and training as set forth herein may use the terms “specialist”, or refer to themselves as specialists in one of the ADA recognized specialty areas, or use any combination or similar terms.
- The term “diplomate” can only be used by one who has passed the qualifying certifying examination for an ADA recognized specialty. However, a dentist that has been granted diplomate status by a bona fide national organization not recognized by the ADA as a certifying board based upon training, experience and examination may use the term so long as a disclaimer is included stating “the (name of organization granting diplomate status) is not recognized as a specialty board by the Ohio State Dental Board or the ADA.”
- A general dentist is not prohibited from announcing to the public that he renders specific types of services, including specialty services, so long as the announcement/advertisement includes the phrase “general dentist” no less prominently than the types of other services offered.

Farewell to Lynda L. Sabat, RDH



After serving 10 years on the Board, Ms. Lynda L. Sabat's term expires on April 6, 2005. Ms. Sabat has served the Board with commitment and dedication. She spent the last year as only the second dental hygienist in Board history to serve as President. She has also served the Board signifi-

cantly well as Chair of the Education Committee. In that role, she worked to streamline renewal review processes, continuing education sponsor approval processes, and dental assistant radiographer licensure & renewal processes. Also in her 10 years on the Board, she has served as Chair of the Waiver Committee, and has been a long standing member of the Law and Rules Review Committee

In her years on the Board, Ms. Sabat has been a strong advocate for the Board and its mission to protect the public. She has also been very active at the national level as a member of the American Association of Dental Examiners, Inc. (the national organization comprised of members of dental boards across the United States), and as a member and examiner for the North East Regional Board of Dental

Examiners, Inc. Ms. Sabat is currently a member of the AADE American Dental Licensure Examination Committee (ADLEC). This committee's purpose is to create and implement a national dental and dental hygiene examination for licensure that would be accepted in all states in the United States.

Ms. Sabat has given significant time and effort to promote the Board and fulfill its mission, and her work is truly appreciated by the Board. Ms. Sabat has served the Board, the profession and the public in a professional and committed manner. Her dedication, along with the friendships she has made, will be truly missed. The Board hopes to continue to benefit from her knowledge and assistance in the future. We wish only the best for Ms. Sabat in all of her future endeavors.



Printed on recycled paper

Total Copies printed 14,500
Unit Cost \$.????
Publication Date 4/05

PRSR1 STD
U.S. Postage
PAID
Permit No. 6965
Columbus, OH

77 South High Street, 18th Floor
Columbus, Ohio 43215-6135

