

**OHIO STATE DENTAL BOARD**  
**Board Meeting**  
**December 4th and 5th, 2002**

**M I N U T E S**

The Ohio State Dental Board (Board) met in room 1960, 19<sup>th</sup> floor of *The Vern Riffe Center for Government and the Arts*, 77 South High Street, Columbus, Ohio, on December 4th, 2002 beginning at 3:00 p.m. Board members present were:

Eleanore Awadalla, D.D.S., Secretary  
Scott Borgemenke  
William J. Lightfoot, D.D.S.  
T. Michael Murphy, D.D.S.  
Lynda L. Sabat, R.D.H.  
Paul Vesoulis, D.D.S.

Edward R. Hills, D.D.S., President was not in attendance.

The following guests were also in attendance: Mary Crawford, Esq. and Rebecca Hockenberry, Esq., Assistant Attorneys General, Stacy Wendt and Dennis Burns, D.D.S. of the *Ohio Dental Association* (ODA), Linda Hewetson, R.D.H. of the *Ohio Dental Hygienists' Association* (ODHA), Barron Farrier, CCDC III of the Ohio Physicians Effectiveness Program (OPEP), Lili C. Reitz, Esq., Executive Director, Michael Everhart, Assistant Director, Jayne A. Rasmussen, Licensing Coordinator, Malynda Franks, Executive Secretary, and other guests.

**CALL TO ORDER**

Dr. Lightfoot extended greetings to everyone and called the meeting to order at 3:05 p.m.

**EXECUTIVE SESSION**

***Motion by Dr. Awadalla, second by Mr. Borgemenke, to move the Board into executive session pursuant to Ohio Revised Code Section 121.22(G)(3) to confer with counsel on matters that are the subject of imminent or pending court action.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot invited Ms. Reitz, Mr. Everhart, Ms. Crawford, and Ms. Hockenberry to attend the executive session.

## **OPEN SESSION**

At 4:15 p.m., the Board resumed open session. Dr. Lightfoot approved the agenda for the afternoon as presented with the notation that the Chair may modify the agenda due to extenuating circumstances.

## **REVIEW OF THE NOVEMBER BOARD MEETING MINUTES**

The Board reviewed the minutes of the November 6th and 7th, 2002 Board meeting.

***Motion by Ms. Sabat, second by Mr. Borgemenke, to approve the November 6th and 7th, 2002 Board meeting minutes as presented.***

Roll call vote.

Motion carried unanimously.

## **REVIEW OF LICENSE APPLICATION(S)**

### **REGIONAL BOARD DENTAL HYGIENE APPLICATION(S)**

The following person has applied for a dental hygiene license, based on successful completion of a regional board examination, National Board examination, and the Ohio examination on the statute and regulations:

Tonya R. Schwartz

***Motion by Ms. Sabat, second by Dr. Awadalla, to approve Ms. Schwartz's regional board dental hygiene license application pending receipt of a passing score on the jurisprudence examination.***

Roll call vote.

Motion carried unanimously.

## **FOREIGN TRAINED DENTAL APPLICATION(S)**

The Board reviewed the licensure application for Dr. Shahin Shahgoli, a 1996 graduate of the *Ludwig-Maximillians University*, in Munich, Germany. Dr. Shahgoli has received a certificate from the *University of Rochester Eastman Dental Center* for completion of two years advanced general dentistry education. Additionally, he has taken and passed the North East Regional Board, Inc. examination for New York only. Dr. Shahgoli is currently enrolled in the Oral and Maxillofacial Surgery residency program at *Lincoln Hospital* in New York. He holds current licenses in New York, Illinois and Michigan.

***Motion by Mr. Borgemenke, second by Dr. Vesoulis, to approve Dr. Shahgoli's Foreign trained license application for dental licensure in Ohio only.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot took a moment to introduce the Board. He introduced himself as an orthodontist from Columbus. He then introduced the other Board members: Dr. Eleanore Awadalla, the Board Secretary, a general dentist from Toledo, Dr. T. Michael Murphy, an oral and maxillofacial surgeon from Marion, Dr. Paul Vesoulis, a general dentist from Toledo, Ms. Lynda Sabat, the Board's dental hygienist member from Brecksville and Mr. Scott Borgemenke the Board's public member from Columbus.

## **CRITERIA APPROVAL INTERVIEW(S)**

### **John J. Bigby, D.D.S.**

The only applicant for criteria approval interview with the Board was John J. Bigby, D.D.S., a 1997 graduate of the *University of Texas Health Science Center* in San Antonio, Texas. He is currently licensed in Texas and has been practicing since his initial licensure there. He took and passed the *Western Regional Examining Board (WREB)* examination in 1997. Dr. Bigby explained to the Board that he currently holds an Ohio dental residency license as he is attending an endodontics residency program at *The Ohio State University College of Dentistry*. However, he stated that he wishes to obtain a full license in order to practice part-time. Dr. Bigby informed the Board that he has an opportunity to practice and is considering remaining in Ohio after completion of his residency as has family located in the Cleveland area.

***Motion by Mr. Borgemenke, second by Dr. Vesoulis, to approve Dr. John J. Bigby's criteria approval application for licensure as a dentist in the state of Ohio.***

Roll call vote.

Motion carried unanimously.

## **REINSTATEMENT INTERVIEW(S)**

### **Edward L. Ruch, D.D.S.**

The only applicant for reinstatement interview with the Board was Edward L. Ruch, D.D.S., whose license was suspended for failure to renew on January 1, 2002. Dr. Ruch informed the Board that he has been retired from clinical dentistry for a number of years but most recently has been teaching dentistry at *Case Western Reserve University*. He stated that he had temporarily resigned from teaching until he could formally reinstate his dental license in order to continue teaching. Dr. Ruch is current in his continuing education requirements.

***Motion by Ms. Sabat, second by Mr. Borgemenke, to approve Dr. Edward L. Ruch's reinstatement application for licensure as a dentist in the state of Ohio.***

Roll call vote.

Motion carried unanimously.

## **ENFORCEMENT REPORT**

### **PERSONAL APPEARANCES**

#### **Scott D. Schumann, D.D.S.**

Mr. Everhart informed the Board that this was Dr. Schumann's third appearance before the Board and that he was appearing this month at their request.

Dr. Schumann informed the Board that he spends each day doing the next right thing. He stated that he has been participating in aftercare, Narcotics Anonymous (NA) meetings, and urine screenings as required by the terms of his consent agreement with the Board. He stated that since his return to treatment he feels more confident that he is on the right road to recovery.

When questioned by the Board regarding his practice, Dr. Schumann stated that it is continuing to go downhill since no one is currently in the practice working. He stated that he has received messages from some of his patients indicating that they are waiting on him to return to practice to have dental work performed. Dr. Schumann stated that the pending dental work was mostly crowns and wisdom teeth extractions since another dentist has been performing emergency treatment for his patients during his suspension from practice. He informed the Board that he would attempt to rebuild his practice by sending out recall notices if the Board approved reinstatement of his license to practice dentistry. Dr. Schumann stated that he already has front desk help lined up, but he would have to hire a new dental assistant if the Board reinstated him at this time.

Board members commented that practicing dentistry can be very stressful and questioned how Dr. Schumann would handle the stress if he were permitted to return to practice. Dr. Schumann informed the members that while dentistry is stressful he enjoys it greatly. He stated that he has learned to talk about the stressful things in his life with the appropriate people and not keep it bottled up inside. He stated that he has a sponsor and a personal counselor, in addition to his girlfriend, to help him keep everything in perspective. He stated that he takes it all one day at a time.

Board members mentioned that his relapse had partially been due to the failing relationship between himself and his practice partner and questioned the status of that relationship. Dr. Schumann informed the members that his partner's attitude had changed once they discussed his decision to leave the practice and start a new office. He stated that he would work no longer than six (6) months in the current practice environment.

Barron Farrier, CCDC III of Ohio Physician's Effectiveness Program (OPEP) informed the Board that Dr. Schumann is in compliance with the terms of his consent agreement since his relapse to the best of his knowledge. He stated that the OPEP has no concerns regarding relapse at this stage in Dr. Schumann's recovery.

Dr. Awadalla stated that at the last meeting the Board had questioned if he had support and then asked Dr. Schumann if he had brought his girlfriend along with him to the meeting, as was previously suggested. Dr. Schumann introduced his girlfriend indicating that she is not and never has been a "user". Mr. Farrier stated that at this point in Dr. Schumann's recovery everything was fundamental. He stated that Dr. Schumann's primary concern is to stay clean with or without any supplemental support.

Dr. Awadalla commented that if the Board reinstated Dr. Schumann's license at this time it would be the last time. Dr. Murphy noted that Dr. Schumann had also held a Conscious Sedation Permit prior to his suspension. He questioned whether the Board should withhold Dr. Schumann's sedation privileges and reinstate only his dental license at this time.

***Motion by Dr. Awadalla, second by Dr. Murphy, to reinstate the dental license only of Scott D. Schumann, D.D.S. to practice dentistry in the state of Ohio subject to the probationary terms of his consent agreement with the Board.***

Discussion ensued wherein Dr. Awadalla explained to Dr. Schumann that the Board was only reinstating his dental license at this time as there were concerns regarding ease of access to other narcotics that the Conscious Sedation Permit would allow. However, she indicated that if all went well and Dr. Schumann remained on the road to recovery with no subsequent relapses, the Board would discuss this aspect at a personal appearance in six (6) months.

Roll call vote.

Motion carried unanimously.

## **REVIEW OF PROPOSED CONSENT AGREEMENT(S)**

The Board reviewed one (1) Proposed Consent Agreement.

**Craig M. Gentile, D.D.S.**

***Motion by Dr. Murphy, second by Ms. Sabat, to approve the proposed consent agreement for Craig M. Gentile, D.D.S., license number 30-02-0686.***

Roll call vote:

- Dr. Awadalla – Yes
- Mr. Borgemenke - Yes
- Dr. Lightfoot – Abstain
- Dr. Murphy – Yes
- Ms. Sabat – Yes
- Dr. Vesoulis – Yes

Motion carried.

## **ENFORCEMENT UPDATE**

Mr. Everhart reported that there were five (5) cases pending hearings of which three (3) have been scheduled and that there were currently five (5) cases under appeal. He stated that there were nineteen (19) licensees currently under suspension.

Mr. Everhart indicated that there were thirty-two (32) cases listed that had been investigated and reviewed by the Board Secretary and were now recommended to be closed.

Due to the requirement in Chapter 4715.03(D) of the Ohio Revised Code, that "The board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members..." Mr. Everhart reviewed the cases to be closed with the Board.

The following cases are to be closed:

02-18-125	02-48-588	02-18-165	02-57-579
02-18-166	02-48-586	02-18-175	02-09-593
02-16-224	02-31-600	02-31-262	02-12-599
02-25-288	02-57-592	02-51-513	02-02-590
02-51-531	02-32-603	02-84-552	02-32-604
02-72-568	02-31-610	02-72-564	02-25-611
02-45-582	02-31-620	02-73-581	02-09-602
02-86-576	02-57-626	02-30-587	02-57-625

Prior to a vote to close the above listed cases, Dr. Lightfoot inquired as to whether any of the Board members had any personal knowledge that the cases that were being voted on today involve either themselves or a personal friend.

Roll call: Dr. Awadalla - No  
Mr. Borgemenke - No  
Dr. Lightfoot - No  
Dr. Murphy - No  
Ms. Sabat - No  
Dr. Vesoulis - No

Dr. Lightfoot then called for a motion to close the cases and approve the enforcement report.

***Motion by Dr. Vesoulis, second by Mr. Borgemenke, to approve the enforcement report and close the above thirty-two (32) cases.***

Roll call vote: Dr. Awadalla - Yes  
Mr. Borgemenke - Yes  
Dr. Lightfoot - Yes  
Dr. Murphy - Yes  
Ms. Sabat - Yes  
Dr. Vesoulis - Yes

Motion carried.

Dr. Lightfoot thanked Mr. Everhart for his assistance with the *Enforcement Report*.

## **RECESS**

***Motion by Dr. Murphy, second by Mr. Borgemenke, that the Board recess the meeting until Thursday morning, December 5th, 2002 at 9:00 a.m.***

Roll call vote.

Motion carried unanimously.

## **MEETING RESUMED**

The Ohio State Dental Board (Board) met in room 1960, 19<sup>th</sup> floor of *The Vern Riffe Center for Government and the Arts*, 77 South High Street, Columbus, Ohio, on December 5<sup>th</sup>, 2002 beginning at 9:00 a.m. Board members present were:

Eleanore Awadalla, D.D.S., Secretary  
William J. Lightfoot, D.D.S.  
T. Michael Murphy, D.D.S.  
Lynda L. Sabat, R.D.H.  
Paul Vesoulis, D.D.S.

Edward R. Hills, D.D.S., President and Scott Borgemenke were not in attendance.

The following guests were also in attendance: Mary Crawford, Esq. and Rebecca Hockenberry, Esq., Assistant Attorneys General, Stacy Wendt and Dennis Burns, D.D.S. of the *Ohio Dental Association* (ODA), Connie Clark, R.D.H. and Linda Hewetson, R.D.H. of the *Ohio Dental Hygienists' Association* (ODHA), Lili C. Reitz, Esq., Executive Director, Michael Everhart, Assistant Director, and Malynda Franks, Executive Secretary.

## **CALL TO ORDER**

Dr. Lightfoot extended greetings to everyone and called the meeting to order at 9:45 a.m. He then informed the attendees that the Board would continue the agenda beginning with the committee reports.

## **ANESTHESIA COMMITTEE REPORT**

### **REVIEW OF PROVISIONAL ANESTHESIA AND CONSCIOUS SEDATION PRIVILEGES**

Dr. Murphy stated that the following individuals have submitted applications for Conscious Sedation Permits. He explained that the applications were reviewed by the Anesthesia Committee and are recommended for approval of provisional privileges while awaiting facility evaluations by the Board's Anesthesia Consultant:

Dr. Stacey M. Blume - Cincinnati, Ohio  
Dr. Terry L. Hughes - Delaware, Ohio

***Motion by Dr. Murphy, second by Ms. Sabat, to approve temporary conscious sedation privileges for these two (2) applicants.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot thanked Dr. Murphy for the Anesthesia Committee report.

## **COMMUNICATIONS COMMITTEE REPORT**

### **NEWSLETTER**

Ms. Reitz informed the Board that the draft of the Winter 2002 Newsletter was complete and would be mailed in two (2) weeks. She stated that the newsletter included the Enforcement Report for the past year, as well as, articles on new policies, staff, dental assistant radiographer licensure, and recognition of the dental forensic team from Ohio.

Dr. Lightfoot thanked Ms. Reitz for the Communications Report.

## **EDUCATION COMMITTEE REPORT**

### **REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR APPLICATION(S)**

Ms. Sabat stated that the following person/organization has applied for approval as a biennial sponsor of continuing education for the 2002-2003 biennium and has been recommended by the Education Committee for approval:

Imad Nouneh, D.D.S., M.S.

***Motion by Ms. Sabat, second by Dr. Murphy, to approve Dr. Nouneh's application for Biennial Sponsorship of continuing education for the 2002-2003 biennium.***

Roll call vote.

Motion carried unanimously.

### **REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR RENEWAL APPLICATION(S)**

Ms. Sabat stated that the following person/organization has applied for renewal approval as a biennial sponsor of continuing education for the years 2002-2003 and has been recommended by the Education Committee for approval:

Keith Lemmerman, D.M.D.

***Motion by Ms. Sabat, second by Dr. Vesoulis, to approve Dr. Lemmerman's application for biennial sponsorship of continuing education for the 2002-2003 biennium.***

Roll call vote.

Motion carried unanimously.

### **REVIEW OF SUBSTANCE ABUSE CONTINUING EDUCATION COURSE(S)**

Ms. Sabat informed the Board that the following sponsor has submitted an application for the substance abuse continuing education course. She stated that the Education

Committee has reviewed the course, determined that it fulfills all the necessary requirements, and has recommended the following course for approval:

Department of the Army, U.S. Department of Defense  
"Theories of Addiction and the Progression of the Disease" - M. Morgan, DCSW,  
LCSW, MSWAC

***Motion by Ms. Sabat, second by Dr. Murphy, to approve this application for substance abuse continuing education course.***

Roll call vote.

Motion carried unanimously.

## **REVIEW OF RADIOGRAPHY INITIAL TRAINING PROGRAM(S)**

Ms. Sabat stated that the following permanent continuing education sponsor has applied to present initial training programs to dental assistant radiographer applicants/licenseses and has been recommended for approval by the Education Committee:

Lorain County JVS Adult Career Center  
"7 Hour Radiography Program for Dental Assisting"

***Motion by Ms. Sabat, second by Dr. Murphy, to approve this radiographer initial training program.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot thanked Ms. Sabat for her report.

## **LAW AND RULES REVIEW COMMITTEE REPORT**

Dr. Lightfoot informed the Board that the Law and Rules Review Committee had met the previous day to complete the rule review for this year in order to finalize changes made to new and amended rules prior to submission to the full Board for initial filing consideration. He stated that the Committee had received a complete packet yesterday of all the changes and recommendations made to date. However, he stated that copies distributed immediately prior to today's session of the Board meeting were further changes made during yesterday's committee meeting.

Dr. Lightfoot informed the Board that one (1) of the changes had been to the Definitions rule 4715-3-01(L) regarding the delegation of duties within Special Need Programs. He stated that the changes made for dental hygienists grouped together those duties performed prior to or after the patient is seen by the supervising dentist. In addition, he stated that delegable duties for expanded function dental auxiliary (EFDA) had been added as an additional paragraph.

Continuing on, Dr. Lightfoot explained that these revisions completed the substantive changes on the new and amended rules and that the Committee was submitting all the work for the past year for the consideration of the Board. He noted that staff would be proofreading the rules for any final grammatical and/or technical changes prior to filing with the Joint Committee on Agency Rule Review (JCARR). Dr. Lightfoot reminded the members of the rule filing process wherein testimony would be heard and received during the public rules hearing held by the Board in February. He stated that at that time the Board could further choose to amend the rules based on the testimony given before final filing them with JCARR. Dr. Lightfoot stated that JCARR would then hold its rules hearing and the effective rule dates would be reflective of any further changes or amendments based on testimony received during their hearings.

***Motion by Dr. Lightfoot, second by Dr. Vesoulis, to rescind ohio administrative code rules 4715-5-03 and 4715-9-03 and to initial file newly proposed administrative code rules 4715-5-01.1, 4715-5-03, 4715-9-02.1, 4715-9-03, 4715-40-01, 02, 03, 04, 05, 06, 07, and 08 and to initial file no-change and amended rules 4715-3-01, 4715-5-01, 4715-5-02, 4715-5-04, 4715-5-05, 4715-5-06, 4715-5-07, 4715-5-08, 4715-9-01, 4715-9-05, 4715-11-01, 4715-11-02, 4715-11-03, 4715-11-04, and 4715-20-02.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot concluded his report by informing the Board that the Committee would meet again in January with a new notebook to begin working on the rules for the next rule review year.

## **POLICY COMMITTEE REPORT**

Dr. Awadalla informed the Board that the Policy Committee had one (1) policy for consideration of approval; Policy Regarding The Use Of Sargenti Paste And Other Paraformaldehyde-Containing Endodontic Filling Materials And Sealers (Appendix A). She stated that the Dental Board was concerned that dentists in the state are still using Sargenti paste. She stated that the Board had attempted to implement a policy in 1992

regarding the discontinuation of use of Sargenti paste but was met with opposition from the Ohio Dental Association.

Dr. Awadalla stated that she has researched and discussed the subject in depth with the *American Association of Endodontists* (Association) and feels that the Board must take action to prevent its use based on scientific findings that it is harmful to the patient. Based on the research and the Boards mission to protect the public, she stated that she was seeking approval of the policy regarding discontinuation of use of Sargenti paste. She then read the proposed policy to the Board members.

***Motion by Dr. Awadalla, second by Dr. Murphy, to approve the Policy Regarding The Use Of Sargenti Paste And Other Paraformaldehyde-Containing Endodontic Filling Materials And Sealers.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot thanked Dr. Awadalla for her report.

## **TREATMENT CENTER APPROVAL COMMITTEE REPORT**

Dr. Lightfoot informed the Board that there has been no activity for the Treatment Center Approval Committee since the last Board meeting.

## **WAIVER COMMITTEE REPORT**

### **REVIEW OF HEPATITIS B WAIVER RENEWAL REQUEST(S)**

Ms. Sabat informed the Board that the Waiver Committee had reviewed one (1) Hepatitis B Waiver Request renewal application and recommended approval of a one (1) year waiver based on medical reasons. The Waiver Committee recommended a waiver for the following individual:

Sandra Preble

***Motion by Ms. Sabat, second by Dr. Awadalla, to approve the application for Hepatitis B waiver renewal for one (1) year for Sandra Preble.***

Roll call vote.

Motion carried unanimously.

Dr. Lightfoot thanked Ms. Sabat for her report.

### **SECRETARY'S EXPENSE REPORTS**

Dr. Awadalla reported by stating that she had spent in excess of twenty (20) hours per week attending to Board business.

***Motion by Dr. Lightfoot, second by Dr. Vesoulis, to approve the Secretary's expense report.***

Roll call vote.

Motion carried unanimously.

### **OFFICE EXPENSE REPORT**

The report of the Board expenditures was reviewed.

***Motion by Dr. Murphy, second by Ms. Sabat, to approve the office expense report and approve payment of the October Board bills.***

Roll call vote.

Motion carried unanimously.

### **EXECUTIVE DIRECTOR'S REPORT**

#### **DENTAL BOARD LOGO**

Ms. Reitz began by stating that she only had two (2) items to report. She stated that at the last Board meeting in November it had been suggested that the color purple be used in the new logo as it was representative of dentistry. Therefore, she stated that she had requested the designer prepare samples of the design utilizing both blue and purple. She then passed around the drafts of the new logo and requested their decision.

The Board members agreed to the blue and green logo as new representation of the Dental Board. Ms. Reitz stated that she would pursue processing the change for the Board's letterhead, envelopes, newsletter, etc.

## **BOARD BUDGET**

Ms. Reitz informed the Board that even small agencies such as the Dental Board were being impacted by the statewide budget crisis. She stated that while the current year the Board's operating expense is at a deficit, the overall two (2) year cycle allows the Board to cover its expenses via incoming revenues such as licensure and renewal fees. Ms. Reitz explained that the regulatory board funds are distributed through the state's 4K9 Fund. She explained that all the licensing boards pay their expenses within a set budget every cycle and any overages are accrued within the 4K9 Fund. Ms. Reitz informed the members that the licensing boards had been informed by the Office of Budget and Management (OBM) that \$4,000,000 would be transferred out of the 4K9 Fund and into the General Revenue Fund in order to assist the state in balancing the budget. She informed the Board members that approximately \$96,000 of the total \$4,000,000 was funding contributed through licensing and renewal fees from the Dental Board.

Dr. Lightfoot thanked Ms. Reitz for her report.

## **CORRESPONDENCE**

Dr. Lightfoot informed the Board that there were no correspondences for review at this time.

## **ANYTHING FOR THE GOOD OF THE BOARD**

## **ADVERTISING ISSUES**

Mr. Everhart directed the Board members to a copy of an advertisement that the Board had received and the Board Secretary had reviewed. He indicated that the words "in most cases" appeared in very small print below the words "no shots; no drills; it's pain-free!" regarding the subject of Dental Laser Technology which he believed was misleading to the public. He stated that he had spoken to the individual dentist regarding this advertisement and in addition to the wording in question, had already informed them that all printed advertisements must include the first and last name of the owner of the dental practice. He stated that the owner dentist had agreed to include his name in the advertisement, however the owner had expressed resistance with regards to changing the size of the typeface for the wording in question.

Dr. Awadalla contributed by stating that in many cases, the Board receives advertising complaints from fellow dentists. She requested clarification and direction on how the Board would like to see these types of issues addressed.

Dr. Vesoulis commented that the use of Laser technology by itself was virtually pain-free. However, he stated that only in a minimal number of cases is the procedure able to be completed merely with a laser. He stated that in most cases the dentist had to complete the procedure utilizing a round bur which could cause some pain. Further, he stated that laser manufacturers recommended completion of these procedures with another instrument. Therefore, he stated that the words "in most cases" was incorrect as it was only in a few cases that the procedure performed was pain-free through the use of lasers only.

Ms. Sabat referenced the Code of Professional Conduct 5.F. of the American Dental Association's Principles of Ethics and Code of Professional Conduct which states:

"Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect."

Ms. Sabat then read from Advisory Opinion 5.F.2., which states in pertinent part:

"...statements shall be avoided which would:

- a. contain a material misrepresentation of fact
- b. omit a fact necessary to make a statement considered as a whole not materially misleading,
- c. **be intended or be likely to create an unjustified expectation about results the dentist can achieve,** and
- d. contain a material, objective representation, whether express or implied, that the advertised services are superior in quality to those of other dentists, if that representation is not subject to reasonable substantiation.

Subjective statement about the quality of dental services can also raise ethical concerns. In particular, statements of opinion may be misleading if they are not honestly held, if they misrepresent the qualifications of the holder, or the basis of the opinion, **or if the patient reasonably interprets them as implied statements of fact. Such statements will be evaluated on a case by case basis, considering how patients are likely to respond to the impression made by the advertisement as a whole.** The fundamental issue is whether the advertisement, taken as a whole, is false or misleading in a material respect."

[emphasis added].

Further, Ms. Reitz referred to Ohio Administrative Code 4715-13-03(E) regarding False, fraudulent, or misleading statements.

Concluding the discussions, the Board members agreed to send warning letters indicating violation of the Dental Practice Act and noting the ADA Code of Ethics to the dentist in question and in these types of cases.

## **ACCESS TO CARE**

Dr. Awadalla informed the members of a document that she had received from a dental practice in NorthWest Ohio, regarding the access to care issue. She read the document as follows:

"35%-40% of my practice is Medicaid. We see Medicaid patients every day of the week.

We treat 30-40 patients per day. Four days per week. We are currently booked at least 3 months ahead for first time visits and Dr. Whittaker is booked 2 1/2 months ahead for restorations. We are also booked 3 months ahead for dental surgery. (95% of which is Medicaid children with severe dental decay and abscessed teeth). To our knowledge, we are the only dentist in NorthWest Ohio who routinely treats (both in our office and in the operating room) Medicaid children with special needs.

For a six month period, we were not taking new or referred Medicaid children because our own patients were on a 10 page waiting list. We were routinely called by Medicaid families who were referred by dentists who were willing to do cleanings but did not want to do restorations.

At the current time, we are again accepting new Medicaid patients and receive approximately 5-10 calls per week for new patients. We receive approximately 3-5 calls per week from patients who were seen by other dentists but were referred to us for restorations. In addition, because the Department of Job and Family Services do not list us as a pediatric dentist, we receive 5-10 calls per week from adults who were given our phone number in error.

At least two to three times per week and sometimes more often, we see Medicaid children who were previously seen by numerous dentists who would not do any work on them even though they were in pain. The reasons given range from : "We don't do restorations on children this young; we do not accept Medicaid; our instruments are the wrong size to do children; we don't do restorations on children even though we will clean, give fluoride treatment and exams on Medicaid children; the child needs to be sedated, you need to see Dr. Whittaker" (Even though we do not offer this service in our office). These are the children who make up at least one half of our surgery patients because they've been put off by so many dentists.

Seeing Medicaid patients one day a year ("Give Kids a Smile Day") is a pittance of an attempt to get treatment for the underserved children in Ohio. Why can't these same dentists see these children 364 days a year?"

Dr. Awadalla concluded by stating that she hoped that the Board kept in mind the comments and opinions expressed in the document and many others when confronted with opposition to the new language proposed at the public rules hearing in February.

## **2003 BOARD MEETING SCHEDULE**

Ms. Reitz requested a review of the Board meeting dates that were scheduled for 2003. She stated that some of the members had conflicts with the currently selected dates. Board members discussed possible meeting dates for the year 2003 and decided on the following:

January 15-16	July 9-10
February 12-13	September 10-11
March 19-20	November 5-6
April 30-May 1	December 3-4
June 4-5	

With the exception of the September meeting, all meetings will begin at 3:00 p.m.

## **ADJOURN**

***Motion by Dr. Murphy, second by Ms. Sabat, to adjourn the meeting until Wednesday, January 15<sup>th</sup>, 2003, at 3:00 p.m.***

Roll call vote.

Motion carried unanimously.

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Edward R. Hills, D.D.S.  
President

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Eleanore Awadalla, D.D.S.  
Secretary

# APPENDIX A

POLICY REGARDING THE USE OF SARGENTI PASTE AND OTHER  
PARAFORMALDEHYDE-CONTAINING ENDODONTIC FILLING MATERIALS  
AND SEALERS

Preamble: The purpose of this policy is to clarify the Board's position regarding the use of Sargenti Paste and other paraformaldehyde-containing endodontic filling materials and sealers.

The Ohio State Dental Board (Board) is responsible for ensuring that the care delivered to Ohioans meets the accepted standards for the profession. In fact, pursuant to Ohio Revised Code 4715.30 (A) (7), the Board can discipline a dentist for:

Providing or allowing dental hygienists or other practitioners of auxiliary dental occupations.....to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results.

The Board, along with the American Association of Endodontists, is of the position that the use of paraformaldehyde-containing endodontic filling materials and sealers falls below the accepted standards for the profession. These materials, such as Sargenti pastes, N-2, N-2 Universal, RC-2B, or RC-2B White are deemed to be unsafe. Extensive scientific research has proven that paraformaldehyde-containing endodontic filling materials and sealers can cause irreversible damage to tissues near the root canal system including the following:

- Destruction of connective tissue and bone
- Intractable pain, paresthesia and dyesthesia of the mandibular and maxillary nerves
- Chronic infections of the maxillary sinus

Further, it has been demonstrated that the damage from the use of these materials is not necessarily confined to tissues near the root canal. Research indicates that the active ingredients of these filling materials and sealers have been found to travel throughout the body, infiltrate the blood, potentially causing damage to lymph nodes, adrenal glands, kidney, spleen, liver and brain.

Safe and effective root canal materials and sealers are available. In light of the availability of safe and effective alternatives, the Board recommends against the use of paraformaldehyde-containing endodontic filling materials and sealers because the use of such is below the accepted standards for the profession.

(December 5, 2002)