

NEW JERSEY STATE BOARD OF DENTISTRY
PUBLIC SESSION MINUTES
NEWARK, NEW JERSEY
SEPTEMBER 16, 2015

NOTE: The Public Session was called to order by President Emil Cappetta, DDS.

ATTENDANCE: The following members were in attendance:

Joseph Battaglia, DMD; Shirley Birenz, RDH; Emil Cappetta, DDS; Elizabeth Clemente, DDS; Peter Clemente, DMD; Nicholas C. DeRobertis, DMD; Herbert Dolinsky, DDS; Steven Goldstein, DDS; Roger Kriete, DMD; Richard D. Riva, DDS

OTHER ATTENDEES: Deputy Attorneys General Miller and Goulding; Executive Director Jonathan Eisenmenger; Cecilia Moreira Senior Management Assistant

ABSENT/EXCUSED: Beverly Kupiec, PhD, RN

I. APPROVAL OF MINUTES: September 2, 2015 - Approved as amended.

II. COMMITTEE REPORTS:

A. Regulations Committee

Regulatory Analyst Rachel Glasgow appeared before the Board to discuss the comments and questions from the Office of Administrative Law concerning the dental hygiene proposed regulations.

After discussing the issues presented the Board determined not to make any changes to the proposed regulation.

During discussion of the dental hygiene regulations, some members of the Board posed questions concerning the current general list of delegable duties to dental assistants.

The Board determined to table the proposal to the next meeting for further review.

B. Continuing Education:

The Board in a motion by Dr. Battaglia, seconded by Dr. DeRobertis, approved the continuing education committee recommendations.

III. FORMAL HEARING:

1. 8:30 A.M. - Dr. Anthony Mancino - In the Matter of the Suspension or Revocation of Anthony Mancino, DMD. Board to consider the Initial Decision of Administrative Law Judge Ken R. Springer, and to decide to accept, reject or modify that decision.

Dr. Mancino appeared with counsel, Stephen Schechner, Esq., and Andrea Glazer, Esq., DAG Gelber appeared on behalf of the State of New Jersey.

Mr. Schechner, Ms. Glazer, and DAG Gelber placed their arguments on the record. Mr. Schechner requested that Dr. Mancino be permitted to speak during the argument phase. The Board moved to Executive Session for advice of counsel.

Upon return to Public Session, the Board denied the request to have Dr. Mancino speak at this time.

The Board in a motion by Dr. DeRobertis, seconded by Dr. Battaglia, moved to Executive Session for deliberations.

After a thorough review of the initial decision, the exceptions to the initial decision, the reply to the exceptions, the arguments of counsel, and the record created in this matter, the Board has accepted certain findings of fact and modified others.

The Board accepts those findings based on credibility of lay witnesses. The Board has reviewed testimony of the three experts and has assessed the conclusions of those experts after having examined the record, including radiographs and models, and Dr. Mancino's testimony and expert's testimony. To the extent the Board's review has caused the Board to reject or modify some findings of Judge Springer, it has done so.

The Board found that Dr. Mancino had not performed comprehensive dental examinations, had violated the 1999 consent order, and had failed to maintain adequate patient records.

As to deviations from standard of care. The Board modified Judge Springer's conclusions for patient J.D.G.. The Board did not accept the determination that use of a triple tray technique in 1995 was a substantial deviation. The failure to take vertical demension studies was a moderate not substantial deviation. The Board after thorough review of the record, declined to find a deviation related to other identified treatment.

As to patient S.C. the Board accepted the Judge's determination that Dr. Mancino performed unnecessary dental work and that he cemented a bridge despite evidence of pathology. The Board rejected the finding that Dr. Mancino's treatment necessitated root canal therapy.

The Board accepted the finding that Dr. Mancino's treatment of JB deviated from the standard of care. Although the Board accepted the finding in the Initial Decision related to breach of confidentiality, it declined to find it as a basis for discipline. The Board, deferring to the Administrative Law Judge's findings of credibility, accepted findings related to pressuring and harassing patients.

On a motion by Dr. DeRobertis, seconded by Dr. E. Clemente, the Board accepts, rejects and modifies these findings. The findings provide a basis for discipline under N.J.S.A. 45:1-21 (c), (d), (e) and (h).

Having found a basis for discipline, the Board moved immediately to a hearing on mitigation of the sanction to be imposed.

Dr. Mancino testified about his practice and his view of the allegations. Jack Mancino, brother of Dr. Mancino, and Suzanne Brand, Dr. Mancino's dental assistant also testified on his behalf. After taking testimony, the Board moved to executive session for deliberations.

On return to public session, the Board, on a motion by Dr. DeRobertis, seconded by Dr. Riva, modified the sanction recommended by the ALJ, and imposed the following:

- Respondent's license is suspended for three years, four months of which is to be served as an active suspension, and the remainder stayed, to be served as a period of probation.
- The Board assesses the following penalties:
 - \$10,000 for failing to do comprehensive examinations
 - \$20,000 for maintaining inadequate records, which is both a regulatory violation and constitutes repeated acts of negligence
 - \$20,000 for gross and repeated acts of negligence in care of three patients
 - \$20,000 for violating the 1999 Consent Order
 - \$10,000 for professional misconduct
- The Respondent shall pay restitution in the amount of \$7,700 to patient J.B., and restitution in the amount of \$56,000 minus the cost of the root canal therapy to patient S.C. Restitution shall be paid within 45 days.
- Respondent shall pay a portion of the costs of the State's investigation, litigation and attorney's fees in the amount of \$85,000.
- Penalties and costs shall be payable within 18 months.

The active suspension shall commence in forty-five days to provide the opportunity for Dr. Mancino to wind down his practice and put current active patients in a stable condition. Prior to his return to practice, the Board will provide guidance to respondent on compliance with the terms of the 1999 Consent Order, and will impose other conditions for monitoring the practice.

A written Order detailing the Board's findings will be issued.

2. 11:00 A.M. - Dr. Andrew Maron - In the Matter of the Suspension or Revocation of Andrew Maron, DDS. Order to Show Cause Notice of Hearing and Notice to file Answer.

Dr. Goldstein is recused.

The return date of the Order to Show Cause was today. Dr. Maron was not served with the papers until September 11, 2015. Dr. Cappetta, President of the Board, determined to adjourn today's hearing date and to reschedule it for Monday September 21, 2015 to be heard before a committee of the Board, with the committee's decision subject to ratification at the Board's October 7, 2015 meeting.

IV. OTHER MATTERS:

1. Dr. Ahkiah Allen - The Board reviewed Dr. Allen's request for exemption and/or permission to complete all of the continuing education credits by home study due to maternity leave. After discussing this matter, the Board in a motion by Dr. Goldstein, seconded by Dr. E. Clemente, denied Dr. Allen's request.

- V. ADJOURNMENT:** The Board adjourned the Public Session and moved to Executive Session for advice of counsel and review of open matters (investigations and deliberations). When and if action is taken, it will be reported in Public Session.