

State Board of Dentistry Explores Nonpunitive Remediation for Dental Health Professionals

By Bonnie L. Fowler, Public Member

The State Board of Dentistry has begun the process of exploring ways in which it can use its disciplinary authority to more fully support the standard of clinical competency – the “standard of care” – determined by the dental community in Pennsylvania. The goal of the board is to develop a nonpunitive, remedial form of discipline that would include referral for assessment and retraining for practitioners (dentists, dental hygienists and expanded function dental assistants) found to display clinical deficiencies, thus allowing them to remain in the profession.

Through Section 4.1(a) of Pennsylvania’s Dental Law, the board has the authority to discipline for unprofessional conduct, defined as “any departure from, or failure to perform to, the standard of acceptable and prevailing dental care.” Through currently existing procedures, the board exercises its disciplinary responsibility by issuing reprimands, assessing fines, and enacting suspensions and the revocation of licenses. And, in many instances, a fine and/or a reprimand is the appropriate sanction for a violation of the Dental Law. However, in a “standard of care” case, a fine or reprimand will not *ensure* that the clinical competency of the licensee will improve – even when accompanied by a requirement for continuing education.

In a number of states, including Colorado, California and New York, boards governing the practice of health care professionals have available to them a complete range of options that allow them to more effectively match violations with disciplinary action – including nonpunitive discipline. Here in Pennsylvania, this option is already in place for the State Board of Medicine, and is in development for the State Board of Nursing.

What has been needed for dentistry is a mechanism that can be used by the State Board of Dentistry to facilitate the rehabilitation of dental professionals who consistently practice below the standard of care. In addition the program could have the potential to offer a pathway back into practice for practitioners with lapsed licenses over

an extended period of time.

With the goal of assuring Pennsylvanians the highest levels of safety and competency in their dental health care, the State Board of Dentistry Chairman Dr. **John V. Reitz**, D.D.S., along with **Basil L. Merenda**, Commissioner of the Bureau of Professional and Occupational Affairs, initiated a process to explore alternatives to punitive disciplinary measures for violations of the Dental Law related to clinical competency.

As the first step in this direction, Chairman Reitz, Commissioner Merenda, State Board of Dentistry member **Douglas P. Marinak**, D.D.S., **Lisa M. Burns**, board administrator and **Christopher P. Grovich**, Esq., board counsel, met with representatives of the Pennsylvania Medical Society to discuss the “Lifeguard Program” operated by the Pennsylvania Medical Society Foundation. The Lifeguard Program has been successful in providing assessment and remediation for medical physicians requiring remediation or retraining, as well as, those re-entering the field following an extended absence.

Chairman Reitz has also been in communication with representatives of the Pennsylvania Dental Association and the Pennsylvania Academy of General Dentistry to elicit their input; met in Washington with chairs of dental boards in other states to discuss their goals and concerns with respect to remediation and retraining of dental health professionals as a form of nonpunitive disciplinary action, and spoke with the deans of all three Pennsylvania dental schools to determine their participation.

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At the July 31 meeting of the State Board of Dentistry, a distinguished panel offered a presentation on various aspects of an effective approach to the remediation of dental health professionals alleged to exhibit deficiencies in their clinical competency.



- Photo courtesy of Col. Edmund D. Effort, D.D.S.

At the table from left to right are Denis F. Kinane, dean, University of Pennsylvania; Andrew J. Kwasny, D.M.D., M.S.D., president, Pennsylvania Dental Association; Kerry Maloney, Esq., prosecuting attorney, State Board of Medicine; Cynthia K. Montgomery, Esq., regulatory counsel, State Board of Dentistry; and Dan Martell, D.D.S., M.A.G.D., president, Academy of General Dentistry.

Kerry Maloney, senior prosecutor for the State Board of Medicine described the process employed in the development and successful implementation of the Lifeguard Program for licensees under the State Board of Medicine. **Paul J. Jarabeck**, prosecuting attorney for the State Board of Dentistry, discussed the Voluntary Recovery Program and the Disciplinary Monitoring Unit, both arms of the Professional Health Monitoring Program, and ways in which they would be distinguished from a remediation/retraining program focused on correcting clinical deficiencies.

Andrew J. Kwasny, D.M.D., M.S.D., president of the Pennsylvania Dental Association, voiced the perspective of PDA membership, including support for referral to a remediation program if a licensed dentist makes that determination. **Dan Martell**, D.D.S., M.A.G.D., president of the Pennsylvania Academy of General Dentistry, described the Peak Program conducted by the Academy of General Dentistry and the opportunities that exist for remediation/retraining on multiple levels, based on individual needs.

Denis F. Kinane, dean of the School of Dentistry, University of Pennsylvania, posed questions about the ability of educational institutions participating in remediation/retraining of dental health professionals to assure that individuals actually meet particular standards of practice, and what would happen if an individual did not meet the standard. Dr. Kinane also raised the issue of remediation for ethics violations, and was assured by Commissioner Merenda that those cases would continue to move through the customary disciplinary processes, and would *not* be categorized as clinical deficiencies.

Dr. Thomas Braun, the dean of the Dental School at the University of Pittsburgh, and **Dr. Lisa Deem**, the Associate Dean for Admissions and Student Affairs at the Kornberg School of Dentistry discussed their schools' potential involvement in a program.

The State Board of Dentistry is committed to obtaining and carefully analyzing information on best practices from other states and other organizations that have developed effective methods for assuring that all members of the dental health community – patients and practitioners – have available to them the resources and remedies necessary to assure trust in the safety and quality of dental health care in Pennsylvania.

Regular updates on this issue will appear in the board's newsletter as the board moves forward in developing an effective method of applying non-punitive disciplinary action for practitioners with demonstrated clinical deficiencies.

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