



Montana Dental Association

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January 17, 2012

Representative Tom Berry
Chair
Economic Affairs Interim Committee
PO Box 157
Roundup, MT 59072-0157

Dear Chairman Berry:

In preparation for the January 20 meeting of the Economic Affairs Interim Committee, I have reviewed the letter from Mr. Allen Castell, president of the Denturist Association of Montana, posted on the Committee's agenda website. His letter criticizes the actions taken by the Board of Dentistry as ineffective in meeting the demands of the denturists association and the Montana Dental Hygienists Association to statutorily reorganize the regulation of dental care. Without belaboring the issue before the Committee, I feel compelled to respond to several statements made by Mr. Casteel.

Mr. Casteel would have the Committee believe that dentists comprise an unfair majority because there are five dentists and five non-dentists. Equal numbers don't make a majority, but he also contradicts himself. Earlier in his letter, he states that the president of the Board votes only in the case of a tie. As this is so, when a dentist is the president of the Board, in reality there are five non-dentists and only four dentists able to cast votes. Dentists are in the minority. If the four dentists voted similarly, at least one of the two public members, the two hygienists or the denturist would need to join them in order for a majority to adopt a motion.

He states that "the record reflects the public members (of the Board of Dentistry) overwhelmingly side with the dentists". I am unsure to what "record" Mr. Casteel refers, since an exhaustive review of the minutes of the Board from 2007 to present dispels his allegation (please see the attached). Public members frequently do not agree with dentists on decisions by the Board (for that matter, the dentists often don't agree with each other). His overall position is confusing and it calls into question the integrity of public members as unbiased representatives of the public good.

Mr. Casteel also alleges that since the American Dental Association opposes denturistry and the Montana Dental Association is a constituent of the ADA, "It is unrealistic to expect that denturists will ever get a fair shake out of this board (Board of Dentistry)".

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This logic is flawed. Neither the MDA nor the ADA appoints the members of the Board; the Board is not accountable to the MDA or the ADA; and neither the MDA nor the ADA dictates what positions members of the Board must take. Again and without proof, his allegation calls into question the integrity of all members of the Board.

Further, MDA retains its "states rights" and its autonomy from the ADA. MDA is not mandated to follow the policies of the ADA. Despite the ADA's 2001 policy opposing the practice of dentistry, MDA has never attempted to overturn the 1984 decision of Montana voters to establish the lawful practice of denturists. MDA has advocated only that denturists meet established standards of care that protect the health and safety of Montana patients.

The sole regulatory purpose of the Board is to protect the safety of patients, and not to interfere with the lawful practices of denturists, hygienists or dentists. There are bona fide professional differences of interpretation about what Board actions will or will not be in the best interest of patient safety, but that is the only rationale that the Board is expected to use in its decisions.

MDA supports the Board action to establish standing committees for dentistry and dental hygiene because it will improve this regulatory process. We look forward to all three professions working together to implement this system.

Sincerely,



Dr. Robert A. Neill
President

Cc. Members, Economic Affairs Interim Committee
Members, Montana Board of Dentistry
Mr. Allen Casteel, LD, President, Montana Denturists Association
Ms. Kim Dunlap, RDH, President, Montana Dental Hygienists' Association
Board of Directors and Executive Committee
Mr. David Hemion, CAE, Executive Director
Mr. Greg Van Horssen, lobbyist
Ms. Pat Murdo, EAIC staff

Enc.

Board of Dentistry Regulatory History (2007-2011) Affecting Denturists and Dental Hygienists

Allegations have been voiced repeatedly by dental hygienists and denturists that the Board of Dentistry is “controlled by” and “dominated by” dentists to the detriment of dental hygienists and denturists and, further, that the dentist members of the Board are a “majority” and act as a “controlling faction” of the Board.

These allegations lack substantiation and inhibit efforts to improve the regulation of dental care.

Decisions of the Board effecting denturists and hygienists are made by the entire Board, not by a “faction”, as alleged. A review of the minutes of the Board (2007 through 2011 minutes, as available online) indicates that a “controlling faction” of dentists on the Board does not act to thwart the lawful goals of denturists and hygienists. In fact, evidence shows that dentists have supported Board decisions that better enable denturists and hygienists to become licensed and to practice within their scopes of practice. There are bona fide differences of professional interpretation about what is or is not in the best interest of patient safety, therefore Board has not approved every request for rules or actions sought by denturists or dental hygienists. To the point, these were decisions made by the Board, not by a faction of dentists, and some requested actions were determined to be outside the authority of the Board to make.

Here are the facts.

Dentists are not the majority on the Board of Dentistry. By a simple headcount, there are five dentists, two public members, two dental hygienists and one denturist. Five dentists on a board of ten is not a majority. The Montana dental board is the only one in the country that is NOT composed of a majority of dentists. The president of the Board votes only in a tie. When the president is a dentist, the number of dentists able to vote is only four, a minority of the Board.

Dentists have repeatedly voted for Board actions that support licensure and policy positions sought by denturists and dental hygienists. Here is a summary of Board actions, summarized from the minutes, that affect the regulation of denturists and dental hygienists.

Denturist Issues.

- Denturist Exam - On February 16, 2007, the Board supported development of a new denturist licensure examination that will allow Montana denturists to take the licensure examination in the United States and not be required to travel to Canada, where the exam is currently given.
- Denturist Exam – On February 16, 2007, adopted a policy to allow denturist interns to take the denturist examination prior to completion or after completion of the internship. The motion was made and seconded by dentists.

- Denturist Education by Distance Learning – On December 7, 2007 the Board was asked to allow denturists to fulfill licensure education requirements by attending classes offered in a distance learning program, rather than being subject to the expense and inconvenience of attending in person at an institution in Toronto, Canada. The Board approved the request.
- Dentures Over Implants – On June 6, 2008 the Board approved recommendations of its Denturist Committee, as requested by denturists, to allow denturists to fit prosthesis over dental implants. The motion was made and seconded by dentists. Three dentists and two public members voted with the majority of the Board for the motion. A public member made a subsequent motion to create rules regulating overdentures and partials. At its December 12, 2008 meeting, after hearing comment for and against a new rule controlling the fitting of dentures over implants, the Board failed to pass a motion to amend the rules. Two Board members (the denturists and a hygienist) voted for the motion, four dentists voted against and the public member abstained.
- Denturist Referrals – On June 5, 2009 the Board defeated a motion made by a dentist to approve a rule specifying how referrals between dentists and denturists should be handled. A dentist and a public member voted for the motion. Two dentists, a denturist and a dental hygienist voted against the motion.
- Denturists Board – On January 6, 2011 the Board approved a motion to oppose SB 101. The bill would have created a Denturist Board. Seven members of the Board voted for the motion (one public member, one hygienist, and five dentists). One public member opposed the motion. A hygienist abstained. The denturist member of the Board was absent. The bill subsequently died.

Dental Hygienist Issues.

- Dental Hygiene Diagnosis – On February 16, 2007 the Board approved a motion (made by a dentist) to approve the concept of dental hygiene diagnosis and begin the rule-making process. On December 7, 2007 the Dental Hygiene Committee recommended that the Board adopt a rule allowing hygienist to perform dental hygiene diagnosis. Only one dentist opposed the motion. At the March 7, 2008 meeting the hygienist chair of the Committee stated the proposed rule was not clear to everyone, may conflict with statute (37-4-401) and a change to statute is where the change should take place.
- Added Sites for Limited Access Permits - On March 7, 2008 the Board approved a request to add Great Falls Rescue Mission as a site where hygienists with Limited Access permits (LAP) could provide services without supervision of a dentist. The motion was seconded by a dentist. On March 13, 2009 the Board approved a request to add Paris Gibson Education Center as a LAP site.

- Limited Access Permits - On June 16, 2008 the Board adopted a rule requiring hygienists applying to work under a Limited Access Permit (LAP) to provide the name and location of the facility where they intended to work. Although representatives of the Montana Dental Hygienists' Association objected, the Board's attorney explained the LAP statute and indicated the rule was necessary to comply with enforcement audits.
- Hygienist Sealant Bill - On December 17, 2010 the Board failed to approve a motion by a dental hygienist to support SB 2. This bill would have expanded the scope of practice of hygienists by allowing them to place dental sealants on children in schools without the prior examination of the child by a dentist. A hygienist and a denturist voted for the motion. One dentist voted against. The two public members and one dentist abstained. The Board then approved a motion not to take a position on SB 2 (For: two public members, a denturist, a dentist; Opposed: a dentist and a hygienist). On January 6, 2011 the Board defeated a motion to oppose SB 2. One dentist voted with the two public members and the two hygienists against the motion. Four dentists voted for the motion. The bill subsequently died in the Senate.