

New Hampshire Board of Dental Examiners

Declaratory Ruling: Right of a patient to refuse recommended treatment and the corresponding right of a licensee to decline to continue treating the patient

This declaratory ruling is issued to the Petitioners with respect to the particular circumstances and facts discussed herein and represents a holding of the Board on those circumstances and facts for Petitioner only.

BACKGROUND

On or about May 28, 2016, the Board received a complaint from M/M Chan, alleging that their dentist recommended that their two children receive screening dental radiographs. The complaint alleged that the dentist advised them that he would be practicing below a standard of care if the this treatment was not performed. The complaint further alleged that the dentist also said that if his recommendations were not followed, he would no longer provide dental care for the children.

After consideration of the complaint at its July 11, 2016 meeting, the Board dismissed the complaint as not constituting a violation of RSA 317-A, the Dental Practice Act.

M/M Chan filed a petition for declaratory ruling, asking the Board to:

- rule that dentist licensees have a legal and ethical obligation to continue to provide care for patients at the level a patient allows by giving informed consent, in accordance with accepted principles of patient autonomy, and that the dentist licensee may not deny care or otherwise coerce patients to give informed consent for any procedure, including screening radiographs; and
- require a dentist license, if unable to provide care at a level acceptable to a patient, to be ethically obligated to find a dentist licensee who will provide the care the patient requests.

LAW AND ETHICS

It is not a violation of RSA 317-A, the Dental Practice Act, to treat the patients described in the petition absent screening dental radiographs. The Board of Dental Examiners does not, however, have the authority to require a dental practitioner to provide care to a patient who declines procedures that the practitioner deems advisable.

DECLARATORY RULING

At its October 3, 2016 meeting, the Board voted that Dr. Achong could treat the patients described in the petition without taking screening dental radiographs, without violating RSA 317-A, the Dental Practice Act. The Board does not, however, have the authority to require Dr. Achong to provide dental services to a patient who declines procedures which he deems advisable.

Further, the Board does not have the authority to require a dentist licensee, if unable to provide care at a level acceptable to a patient, to find a dentist licensee who will provide the care the patient requests.

Voted as approved by the Board on November 7, 2016.

Signature: Constance N. Stratton, Executive Director
Constance N. Stratton, Executive Director
Authorized Representative for the Board