

## **DENTAL BOARD BACKS DOWN ON MERCURY COVER-UP**

*Agrees not to vote Wednesday to adopt misleading Fact Sheet*

Los Angeles, CA, Wednesday, July 18, 2001 -- The state Dental Board, facing the threat of a Temporary Restraining Order, has backed down and agreed not to hold a vote tomorrow to adopt a Fact Sheet that Consumers for Dental Choice considers a cover-up of the dangers of Mercury in Dentistry.

Consumers concerned about the health risks of the toxin Mercury in dental fillings filed a request for a T.R.O. on Monday morning (Case #LCO56869). The suit was filed in Superior Court in Van Nuys by attorneys Shawn Khorrami and Charles G. Brown, representing Consumers for Dental Choice.

Deputy Attorney General Kimberlee King, representing the Dental Board in the T.R.O. case, proposed an agreement whereby the Board may hold its scheduled meeting tomorrow but would not take a vote on the Fact Sheet. Consumers for Dental Choice contends that the proposed Fact Sheet minimizes the significant medical dangers of Mercury, one of the most toxic of elements.

The lawsuit will not be withdrawn until after the Dental Board meeting is held tomorrow and the Board postpones the Fact Sheet vote to its prospective August meeting. Consumers for Dental Choice believes that before that meeting can take place, the Board will have been put out of business by the State Legislature and Governor Davis (SB26).

“This agreement will prevent the Dental Board -- on the eve of their extinction -- from adopting a blatantly misleading Fact Sheet that would cover-up the truth about the dangers of Mercury,” attorney Khorrami said.

“For nine years, the Dental Board has violated the law by failing to tell consumers, especially pregnant women and children, about the risks of Mercury amalgam,” said attorney Brown. “Then, as a parting gift to the American Dental Association, the Dental Board was trying to sneak in a final meeting without even giving proper notice to the public. With today’s agreement, the Dental Board’s latest attempt to hide the ‘M’ word from the public has failed.”

Background on the legal case and the Mercury issue

The state Dental Board is on the verge of being put out of business by the California Legislature for malfeasance. SB26, which would eliminate the board effective immediately, passed the State Assembly on Thursday, July 12 by a vote of 66 to 8. It will be taken up by the State Senate for an expected concurrence vote soon, and then be sent to Governor Gray Davis. The author of the bill, Sen. Liz Figueroa (D-Fremont), has called the Dental Board's refusal to adopt a proper Fact Sheet to advise dentists and their patients of the dangers of Mercury in dental fillings "the straw that broke the camel's back" in terms of the board's unwillingness to function in the public interest.

The two legal causes of action in the lawsuit are:

- (1) that board president Neacy and other board members violated provisions of the state's Bagley-Keene Open Meeting Act;
- (2) the time and location of the meeting are a violation of consumers' First Amendment rights.

Proceeding with and taking actions at the meeting is contrary to the state law that ensures citizen participation in state government decision-making, the request for a T.R.O. asserts. The lack of proper public notice, and the location and time of the meeting, effectively prevents public input. The meeting is scheduled for 5:00 p.m. on Wednesday at the Westin Hotel at San Francisco Airport -- a time and place that virtually eliminates public participation.

(The Wednesday meeting replaces a meeting the Board had scheduled for the morning of June 14 in downtown Los Angeles, and which the Board canceled on June 12 after anti-Mercury consumers filed suit against the California and American Dental Associations.)

"The California Dental Board remains in the pocket of the ADA, which hides the fact that amalgam fillings are half mercury, a very toxic substance," said attorney Brown, the former West Virginia state Attorney General who is leading the national legal fight against Mercury in dentistry. "Instead of warning consumers that the word "silver" filling is deceptive -- because they have much more Mercury than silver -- the Dental Board refuses to tell consumers about these risks."

The Dental Board has been required by law (authored in 1992 by then-State Senator Diane Watson) to adopt a Dental Materials Fact Sheet about the risks and efficacies of dental materials. The principal dental material at issue is Mercury-based dental fillings, also known, deceptively, as "silver" fillings. For nine years, the Board has refused to implement this law.

Increased consumer interest and concern about the dangers of Mercury resulted in the Dental Board finally addressing this issue. Since December 1999, the Board has promised, through resolutions and other decisions, that the members of Consumers for Dental Choice, the leading national coalition fighting for the right of consumers to know

the risks of Mercury-based dental fillings, would be permitted full and fair participation before the Board prior to final adoption of the Fact Sheet.

The Fact Sheet the Board had proposed to adopt suddenly materialized on the day (June 26) that the State Assembly Health Committee considered the bill (SB26) to put the Dental Board out of business (the committee voted to pass the bill anyway, 7 to 1).

The proposed Fact Sheet violates all of the following:

- (1) the statute, because it continues to avoid describing the risks of mercury amalgam;
- (2) the bid specifications adopted by the Board in March 2000, because it does not address vulnerable sub-populations such as children and pregnant women;
- (3) the Board resolutions of December 1999 on this subject, because it does not provide advice on determining consumer sensitivity to mercury amalgam;
- (4) the written promises the Board made to its licensees in its June 2000 newsletter, because it does not urge Proposition 65 warnings for mercury in dental offices.

“The American Dental Association, which receives payments from Mercury amalgam manufacturers as part of its ‘Seal of Acceptance’ program, no doubt applauded the Dental Board’s final effort to protect their interests,” said Anita Vazquez Tibau, a leader of Consumers for Dental Choice. “But consumers should be worried. The Dental Board tried to shut out consumers by refusing to give proper notice and having the meeting at a location inaccessible to most of them. Last month, the Board cut and ran rather than face us in Los Angeles. Then they intended to have a ‘lobbyists-only’ meeting at an inaccessible hotel at the San Francisco Airport.”

“We are glad that the Dental Board has been prevented from taking this last-minute, anti-consumer action, and we hope that the State Legislature and Governor Davis will act to put this anti-consumer board out of business so that the rights and interests of the people of California can be protected.”

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