

ANTI-MERCURY CONSUMERS ASK COURT TO STOP 11TH HOUR DENTAL BOARD COVER-UP

*Dental Board, Facing Extinction, Tries to Rush Through
Misleading Fact Sheet on Mercury in Dental Fillings;
Cover up of the "M" word continues*

Los Angeles, CA, Monday, July 16, 2001 -- Consumers concerned about the health risks of the toxin Mercury in dental fillings have asked the California Superior Court for a Temporary Restraining Order to block the state Dental Board from holding an 11th hour meeting on Wednesday -- on the eve of their extinction -- to adopt a misleading Fact Sheet that would cover-up the dangers of Mercury in dental fillings.

The suit was filed in Superior Court in Van Nuys today by attorneys Shawn Khorrami and Charles G. Brown, representing the group Consumers for Dental Choice. The suit names Dr. Kit Neacy, chairwoman of the Dental Board and a Covina dentist, and other board members.

“With their 11th hour meeting, the right of consumers to petition their government is being denied,” said attorney Shawn Khorrami, speaking at an 11:00 a.m. press conference at the Van Nuys courthouse. “The stated mission of the Dental Board of California is ‘to protect the California consumer.’ But their arrogant attempt to ram-through a Fact Sheet that covers-up the dangers of Mercury in dental fillings -- at the very moment that the Legislature is voting to shut them down -- is callous and blatantly anti-consumer. This board has its head in the guillotine, and all it can think to do is to say, ‘Let them eat Mercury.’”

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 today, and then will 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

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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 TRO 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 is supposed to replace a meeting that 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 American Dental Association, 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.

“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. Now, as a parting gift to the ADA, the Dental Board is trying to sneak in a final meeting without even giving proper notice to the

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public. The Board is making a last, desperate effort to hide the ‘M’ word from the public.”

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 proposes 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, is no doubt applauding this 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 is shutting 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. Now they are having a ‘lobbyists-only’ meeting at an inaccessible hotel at the San Francisco Airport.”

“We hope that the court will stop the Dental Board from taking this last-minute, anti-consumer action, and 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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