

Dr. Kalman Becomes New QCDS President

QCDS held its 2013 installation at Russo's On The Bay in Howard Beach, with an attendance nearing 250.

The evening started with QCDS President Doron Kalman and NYSDA Past President Dr. Chad Gehani greeting guests as they entered a beautiful cocktail hour, with everyone enjoying the ambiance of the venue. Emcee Dr. Prabha Krishnan did a fabulous job organizing the evening and keeping everything running smoothly. Henry Schein Vice President Steve Kess gave the invocation. He spoke very endearingly of Dr. Gehani's exemplary and tireless efforts in dentistry, saying that, "Dr. Gehani is often not given the credit he deserves for elevating the dental profession to where it is today," as he puts his heart and soul into our profession and sacrifices so much to make a difference for all dentists.

Dr. Rekha Gehani, member and former chair of the State Board of Dentistry, thanked everyone for their support and individually welcomed all the dignitaries and special guests. Among the attendees were Congresswoman Grace Meng and her husband, Dr. Wayne Kye; Senator Jose Peralta; Senator Adriano Espaillat; ADA Past President Bill Calnon; NYSDA President Deborah Weisfuse; NYSDA Executive Director and ADA Past President Mark Feldman, ADA Trustee Steve Gounardes, NYSDA trustees; component presidents from several neighboring components; a majority of State Council chairs; as well as a veritable who's who of names within NYSDA.

Congresswoman Meng spoke to the audience and congratulated the line officers and Dr. Gehani for their advocacy, service and accomplishments in organized dentistry as well as



Newly QCDS President Dr. Doron Kalman stirred members with a moving address at the 2013 installation dinner held at Russo's On The Bay in Howard Beach.

their efforts in protecting the public. She went on to make her first proclamation as a congresswoman by making January 12th "Queens Count Dental Society Day"! She applauded Dr. Gehani for his selfless efforts in promoting unity and elevating the profession to reflect the wide diversity not only in ethnicity but also gender.

Dr. Weisfuse installed the officers and also spoke to the au—Continued on page 10

Dr. Chad Gehani Receives Lentchner Award

The Emil Lentchner Award is QCDS's highest honor. There have been years when there have not been any candidates who received this most honorable recognition. This year, the QCDS Board of trustees unanimously approved the Honors Committee recommendation that Dr. Chad Gehani be the recipient. Dr. Gehani is known not only throughout Queens and New York State, but known



Dr. Gehani accepts Lentchner Award from Drs. Greenberg, Gounardes & Orlian

equally as well at the ADA level and internationally. He has been honored by countless organizations, including QCDS, and receiving the Lentchner

award is another reminder of how much he has done for the membership and the profession.

Having held every officer position at

QCDS, Dr. Gehani also has an extensive and impressive list of service at the state and national level. He has served as a member of NYSDA's Council on Nominations, Board of Governors, Executive Committee and EDPAC, as well as state chair for the Council on Membership and Communications. From 2005-2011 Dr. Gehani served as a Board of Director for the New York State Dental Foundation. As NYSDA president, Dr.

Gehani implemented several programs including Loan Forgiveness and the New Dentist Conference, which were

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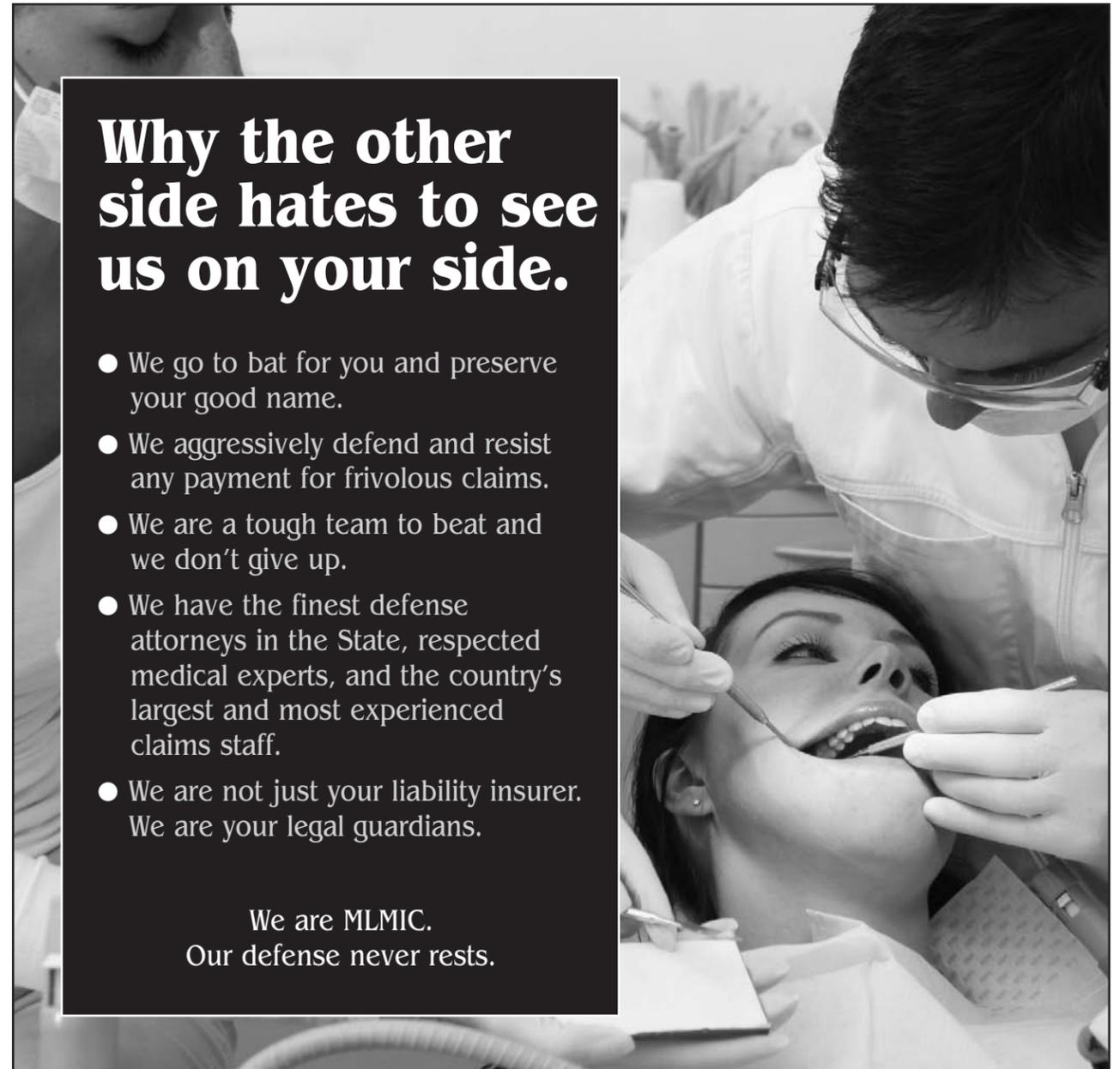
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From the President



An Opportunity and A Mission

By Dr. Doron Kalman

EDITOR'S NOTE: This column contains excerpts from President Kalman's acceptance address following his installation as QCDS president.

First, I want to express how honored I feel to have the opportunity to serve as the next president of the Queens County Dental Society. I understand the trust and responsibility the office represents, and I pledge to represent the Queens County Dental Society, it's 1,000-plus members, the New York State Dental Association, and the American Dental Association to the best of my ability.

I would like to begin by thanking each and every one of you, distinguished leaders from the American and New York State Dental Associations, all of our neighboring local components, ethnic dental societies, local politicians, colleagues, and the QCDS staff for their continued support. And, special thanks go to Bill Bayer, our Executive Director.

Thanks to our donors, too, who have been so generous this year and without whom this event would not be possible.

I would like to thank the staff members of my office for working so hard and making every day at my practice possible, and my family and friends who have supported me in my career and all other endeavors.

I want to thank my beautiful daughters, Maya and Talya, who inspire me to be the best person I can be. Their beauty and energy is, as they say, "... the wind beneath my wings."

Last but not least, I would like to give special thanks to my wife, Ronit. She has been my wife for 22 years and my best friend for almost three decades! Thank you for organizing this special evening, among everything else that you organize in my life! Without the continued support of these three beautiful ladies, I would not be standing here tonight.

When I immigrated to New York with my family at age 14, I could not have imagined being a dentist or being honored as the president of a dental society. The key to the uniquely successful story of American immigration is its deliberate and self-confident policy of patriotic assimilation: America welcomes newcomers and individuals from various ethnic and racial backgrounds and they can become, in every sense of the term, American. This process of assimilation is possible because in the U.S. we value with respect and acceptance of people from diverse backgrounds. This is also the pillar of the Queens County Dental Society. The members of our society, like those of Queens County itself, come from a

plethora of ethnic and racial backgrounds, and are composed of many immigrants like myself. Yet, at the same time that our society is so diverse, it is also strongly united.

We, the members of QCDS, take this American ideal of coming together even further in that we demonstrate that together we can accomplish far greater goals than we each could have on our own. In the words of Henry Ford, "Coming together is a beginning; keeping together is progress; working together is success." I strongly believe that the diversity represented by the members of our society positions us to productively address the unmet and unknown challenges facing the dental profession and patient care.

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on our own.”

As incoming president for 2013, one of my goals is to increase membership involvement. The demographics of dentistry are changing, and we must engage more dentists from diverse backgrounds, ethnicities and gender. We must also reach out to other local dental societies. We are all working for similar goals, and together we can accomplish much more in our mission to address the dental health needs of diverse patient populations, including new immigrants.

We practice dentistry in an environment that often seems under siege from third-party payers, OSHA, malpractice liability shortages, and corporate control of dental offices. Furthermore, now that we know that the Affordable Care Act (ACA) is a reality, we also must realize that health care in the U.S. will be transformed. The impact of this legislation on the dental community is not very clear, but it is very likely to have strong implications for our patient care and the practices we manage as small business owners. The only way to make sure the interests of dentists and our patients are met is through organized dentistry. We can only be effective when we are all united in our mission.

In closing, my goal for the upcoming year is to provide effective leadership to our society and to motivate more dentists to become members of the Queens County Dental Society. I plan to reach out to other organizations and encourage more dentists to join our society by promoting cutting-edge and inspiring continuing education courses. Finally, I plan to promote greater involvement of our members in volunteer outreach programs in our community. Our efforts to improve dental health care in this community are especially important in this post-Sandy year.

I look forward to this coming year as your president and I thank the society's membership for granting me this great responsibility.



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A QCDS Scrapbook

Queens Councilman Recognizes Fialkoff Study Club's Foundation for a Drug-Free World NYC Program

Queens Councilman Daniel J. Halloran presented a City of New York Proclamation to the Foundation for a Drug-Free World New York Chapter and the Fialkoff Foundation for a Drug-Free World NYC Program at the Fialkoff Dental Study Club.

Dr. Bernard Fialkoff founded the study club in the mid '90s and more recently founded the Fialkoff Foundation for a Drug-Free World NYC Program (www.drugfree-world.org) by running the community service program through his office and educational group.

In 2012, Dr. Fialkoff's office presented more than 100 free drug education events to New York City schools, after-school programs and community centers.

In 2006, Meghan Fialkoff, Community Affairs Director at Dr. Fialkoff's office, founded the New York Chapter of Foundation for a Drug-Free World. Together, they have presented more than 300 free drug education events, pledging in more than 30,000 students as "Drug Free Marshals" in the past six years. Councilman Halloran's presentation acknowledged their work and the significance of professionals taking part in vital programs like these.

Councilman Halloran read the proclamation, which states, "In keeping with the customs of the members of the Council of the City of New York to honor our most distinguished individuals and organizations for their outstanding contributions to the City of New York, it is a privilege to pay tribute to the Foundation for a Drug-Free World New York Chapter and the Fialkoff Foundation for a Drug-Free World NYC Program."

The proclamation continues to add, "Dr. Bernard Fialkoff, Founder of the Fialkoff Foundation for a Drug-Free World NYC Program and Meghan Fialkoff, Director of the Foundation for a Drug-Free World NY are exceptional community leaders and catalysts for change in the field of education and drug prevention, who have helped enable thousands of children to become real future leaders of the City. They have truly enriched our City with their dedication, service and leadership...."

Dr. Bernard Fialkoff said, "The success of any program begins with the individual. Any worthwhile activity begins with individuals then spreads to local groups, the city, the state and then nationally. Many professionals are speaking about how the negative environment is affecting our practices. This program helps children to stay off

of street drugs and has gotten positive results. We are proud that Councilman Halloran is acknowledging this program and taking a lead role in helping to change all of the downturn that has occurred in the last few years. As professionals, we can feel proud to live up to our purpose of helping our community and improving their lives. What better way there is to show this and to do this than to help the very children who will in short order, be in charge of our area."

The Foundation for a Drug-Free World is a nonprofit public benefit corporation that empowers youth and adults with factual information about drugs so they can make informed decisions and live drug-free. No one, especially a young person, likes to be lectured about what he or she can or cannot do. The foundation provides the facts that empower youth to choose not to take drugs in the first place through free educational events and curriculum. Through a worldwide network of the foundation's volunteers, 56 million educational handouts have been distributed, tens of thousands of drug awareness events have been held in some 120 countries and "Truth About Drugs" public service announcements have been aired on 275 television stations. These materials and activities have helped people around the world learn about the destructive side effects of drugs and thereby make the decision for themselves to not use them.

Metlife Financial Services donated to Dr. Fialkoff's drug education program and presented a check at the November Fialkoff Dental Study Club meeting. The Spanish American Medical Dental Society held an informational seminar for dentists and professionals who are interested in learning more about the program in January.

The study club has an audience of 50-100 dentists each month. It focuses on raising dental excellence, standards and camaraderie in the New York boroughs. Dr. Fialkoff has a periodontal, dental implant and cosmetic laser surgery office for more than 31 years on 56-03 214th Street in Bayside. The office website and blog, which shows study club photos and bulletins, and other community activities of the office, is www.baysidedentist.com. Dr. Fialkoff also has a web page devoted to the drug education program at: <http://baysidedentist.com/our-office/community-drug-education-program>.

Be sure to check the QCDS website for the latest Society events and news: www.qclds.org

Real Estate Ownership Is Attractive Again

By Lewis J. Altfest, Ph.D., CFA, CFP®

Nothing in investments stays the same. For example, for many years real estate was considered a highly attractive investment. This opinion was especially widespread during the decade or so before the recent crash in housing prices. During those years we often heard our dental clients (and others) say that although stock prices might fluctuate, housing prices would never go down. As a result, many chose to live in the biggest house they could afford and make real estate a significant part of their investment portfolio.

Of course, we all know what has happened since then. The bubble has burst. Housing prices and real estate values have plummeted—in some markets by as much as 50

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percent. Now, however, things are changing again. The time has come for dentists to buy or upgrade their first homes, consider buying a vacation home, and purchase buildings to house their practices. Why? Following the sharp declines noted above, we have begun to see evidence of modest increases in home prices, and these increases may well continue—provided the economy continues on its path to recovery.

In addition, retail and office vacancy rates remain relatively high. The continuing softness in the commercial market presents opportunities for substantial price appreciation in the coming years.

Why the turnaround? The biggest precipitating factor is that the cost of ownership is relatively low. Aside from the drop in real estate prices themselves, borrowing costs have dropped sharply, with the average rate on a 30-year fixed mortgage now standing at 3.59 percent, according to Bankrate.com. That means dentists with strong earnings and good credit scores are perfect candidates for lower mortgage rates. For those who say they will wait until the economy improves further, the present low rates are temporary. Interest costs could well be two or three percentage points higher by as early as next year.

Having said that, real estate values are not expected to increase sharply. After a possible above-average gain for a short period, I believe residential real estate will return to normal annual increases in prices, equivalent to the rate of inflation, or moderately above that level for commercial space. The fact that stocks are closing in on a new high while real estate is not indicates that further appreciation is likely if the economy continues to make progress.

As a dentist, you can take advantage of the attractive

investment environment for real estate by buying or refinancing a home, or by purchasing office space rather than leasing it. The continuing softness in both the residential and commercial real estate markets means that you will likely find a large pool of both houses and offices available at reasonable prices. The combination of reasonable ownership costs, tax benefits, the likelihood of price appreciation, and hedge against inflation means real estate should again be part of your investment portfolio.

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QCDS Installs President Dr. Doron Kalman and New Slate of Officers at Annual Dinner

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dience regarding the future of dentistry and her task force and its efforts to stay in the forefront of technology. She discussed how NYSDA will be leading the way during these changing times. Dr. Kalman gave his presidential address, stating his goals including his wish to increase membership. He thanked his wife, family and staff for their help and expressed his gratitude to QCDS Executive Director William Bayer and the QCDS staff for their tireless efforts and help.

Dr. Alvin Orlian, chairman emeritus of Flushing Hospital Medical Center and a QCDS past president, presented Dr. Gehani with the Emil Lentchner award, QCDS's highest honor. He spoke of Dr. Gehani's loyalty and integrity, citing how much he has done for dentists and dentistry. Dr. Gehani accepted the award to a standing ovation. It was clear that he

was truly touched by the honor. Dr. Gehani's service to QCDS over the years has been unrivaled and his accomplishments locally as well as nationally have been well noted. He is respected by local and national leaders, as well as the general membership.

Senators Peralta and Espaillat presented Drs. Kalman and Gehani with proclamations. Both were obviously surprised, as well as honored by the gesture. To top off the evening, NYSDA President-Elect, Joel Friedman installed the ICDE Officers.

Executive Director Bayer worked hard behind the scenes to make sure all went well and everyone had a great time.

QCDS also appreciates the corporate and individual sponsors for their support as well as Ronit Kalman.



Dr. Weisfuse installs Dr. Kalman as QCDS President



Dr. Weisfuse installs QCDS line officers Drs. Yang, Huang, Garrett, Shetty and Anvar



Dr. Krishnan hosts the program



Dr. Beatriz Vallejo accepts plaque from Dr. Kalman in recognition of her year as president



Congresswoman Grace Meng presents Queens Day Proclamation to Drs. Kalman and Gehani



Bearded brothers, Executive Directors Bill Bayer and Dr. Paul Markowitz



Dr. Kalman with wife, Ronit, and daughters



Steve Kess, Henry Schein V.P. offers invocation



Dr. Caruso joined by Dr. and Mrs. Kalman with Steve Kess and Dr. Joel Friedman



ADA Past President Dr. William Calnon addresses guests



Dr. Kalman's office staff join him and Mrs. Kalman

Dr. Chad Gehani Receives QCDS' Highest Recognition, The Annual Emil Lentchner Award

—Continued from page 1

very successful in helping new dentists throughout the state! He is equally well known and well liked at the ADA, where he has served on the Committee on International Programs and Development, Council on Membership, National Summit on Diversity, and chair of the New York State Tripartite Grass Roots Membership Initiative, to name just a few of his services and achievements. The list goes on and on and could easily fill this entire Bulletin! It should be noted also that Dr. Gehani holds fellowships in the Pierre Fauchard Academy, the International College of Dentists and the American College of Dentists. He also holds a position at Flushing Hospital as Chair of the Department of Endodontics. At New York University College of

Dentistry he holds a position of associate clinical professor for the Department of Endodontics.

He has served as a mentor to new (and not so new) dentists as they started their careers. Even as NYSDA president, he kept himself accessible, a fact that was not missed when he gave his presidential speech and gave out his personal phone number to everyone, with a promise of returning calls within 24-hours. He has also worked hard for patients, especially those who face financial and access issues. Dr. Gehani was instrumental in preserving adult Medicaid in New York State.

Dr. Gehani has also lectured around the world, including presentations at the ADA, QCDS, Greater New York Dental

Meeting, Greater Long Island Dental Meeting, Commonwealth Dental Association, Spanish American Medical and Dental Society, and many others. He has also received the "Best Teacher Award" from the International College of Dentists and was honored by the organization for his global contributions to the dental profession.

At the QCDS installation, Dr. Gehani accepted his award from presenter Dr. Alvin Orlian, a QCDS past president and previous recipient of the same award. Dr. Orlian said he was proud to present the award to "the most deserving" dentist he knew.

Dr. Gehani had the privilege of knowing and working with Dr. Lentchner and learned much from him. He stated, "I

am both humbled and honored by the recognition of my colleagues at QCDS in awarding me this high honor. We are an extended family and I cherish their support and encouragement over the years. I thank them all very much."

Dr. Gehani was also congratulated by Senators Peralta and Espaillat when they both honored him by presenting him with a senatorial proclamation. Dr. Gehani said he was surprised by the gesture and humbly accepted it. His wife, Rekha, equally surprised, watched with pride. Dr. Gehani spent the rest of the evening being congratulated and thanked by almost the entire audience and then danced with his wife.



Senators Peralta and Espaillat present Proclamations to Drs. Kalman & Gehani



ICDE officers present Dr. Caruso with Certificate of Appreciation



Dr. Gehani and guests



Drs. Gehani and Weisfuse with Chinese American Dental Association



Well wishers join Dr. Gehani

Exploring the Consequences of an Office of Professional Discipline Penalty Investigation

Amy T. Kulb

In our litigious society, complaints by dental patients and other sources to the Office of Professional Discipline (OPD) are on the rise. The receipt of a letter from OPD requesting a patient's record will cause you to experience a wide range of emotions. You may be absolutely confident that your treatment of a patient was appropriate and that your record is beyond reproach. On the other hand, you may be understandably frustrated and disappointed that a patient on whom you worked so hard to achieve an excellent outcome has now reported you to OPD. Additionally, you may be greatly concerned about the time, effort and expense involved in navigating the OPD process. Anxiety about the eventual outcome of this process can weigh heavily upon you.

Hypothetically, the patient may allege that a crown did not fit properly and needed to be replaced, or that root canal treatment was unsatisfactory, requiring further treatment. This allegation triggers a report to OPD. A member of the State Board of Dentistry will then review your records and those of the patient's subsequent dentist. If this Board expert concludes that the crown had an open margin or that the root canal filling was short of the apex, he or she may recommend that you be suspended, but with the suspension stayed while you remain on probation. In addition, the expert reviewer may recommend that you promptly complete remedial coursework.

After this OPD investigation has concluded, the OPD attorney assigned to prosecute the case will send you a letter explaining the "findings" made by the State Board of Dentistry reviewer and propose that you enter into a settlement agreement to resolve the charges brought by the Board.

Although you are certain that the complaint and charges are unfounded, you may initially breathe a sigh of relief when the OPD attorney assures you that the proposed settlement of the investigation does not involve an "actual" suspension of your license, allowing you to practice dentistry without interruption. Because you believe you can now conclude this matter with no further repercussions and can avoid a negative impact on your finances and practice by contesting the charges at a hearing, you quickly opt to settle the matter.

The settlement agreement you are being asked to sign is embodied in a "Consent," which states in fine print that this Consent will be a "matter of public record." It does not elaborate further. After you sign the Consent, it is then signed by the State Board expert reviewer and the Board of Regents. An "Order" is issued and then sent to you, describing

what you must do in accordance with the settlement. To your dismay, the Order is posted on OPD's website. Suddenly, during the ensuing days and weeks, you are barraged with letters from the New York State Office of the Medicaid Inspector General (OMIG), the U.S. Department of Health and Human Services (HHS), all of the insurance plans with which you participate, hospitals with which you are associated, and, sometimes, even the Drug Enforcement Agency and the Workers Compensation Board. All of these letters state that the agency or entity is either terminating, or proposing to terminate, your participation as a provider or your privileges.

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strongly recommended that you consult with, and retain, experienced counsel upon receiving the initial letter from OPD requesting the patient's record. Certainly, you should do so before accepting any settlement. From the very beginning of the investigation, your goal should be to demonstrate to the Board's reviewer that your evaluation of the patient was complete, your treatment plan was appropriate, and the dental work was completed properly and in a timely fashion. All of this must be documented in your dental record, including your conclusion that the patient had an acceptable outcome. Counsel can review your record with you and determine whether you should additionally prepare a narrative and/or obtain a consultant's report to submit to the reviewer, if he or she takes exception to any aspect of your care and treatment. By submitting a specific response, you may be able to provide a satisfactory explanation for the Board member's "findings." You can also request an opportunity to discuss the case in person with the Board member at an informal settlement conference. If you do so, your counsel can both prepare this presentation with you and accompany you to the conference. The assistance of counsel at this stage of the OPD investigation can provide an opportunity for the recommended

How could this have happened? Unexpectedly, the Consent you signed with counsel, which was supposed to have concluded this matter has now turned your professional life upside down. In reality, any penalty imposed by OPD can, and does, have far-reaching consequences affecting the many relationships you have with a variety of payors and others who are essential to your practice and livelihood.

Every dentist must be made aware of how essential it is to properly respond to an OPD investigation in order to deal appropriately with the very significant collateral consequences described below. Because your livelihood is at stake, it is

penalty to be mitigated or the charges dropped, which would lessen or avoid collateral consequences.

If, however, the case is not resolved, either during the OPD investigation or at an informal settlement conference, it then proceeds forward. If you consent to settle with OPD, or you are found guilty of professional misconduct after a hearing or a penalty is imposed based upon a criminal conviction or disciplinary action by another state, an Order pursuant to any settlement agreement you make is then issued by the Board of Regents. This Order is both posted on the OPD website and reported to the National Practitioner Data Bank (NPDB). Your disclosure of this Order is also required when you apply or reapply for privileges, or when you provide credentialing information to hospitals and insurance networks. Experienced counsel can assist you to determine what entities will likely be affected by the Order, as well as help you navigate any collateral consequences that arise.

One of the most immediate, certain, and significant consequences to you is that all OPD Orders are now reviewed by the New York State Office of the Medicaid Inspector General (OMIG). This occurs regardless of whether the OPD matter is related to Medicaid or whether the dentist is a Medicaid provider. The OMIG has the authority to place the dentist on the Medicaid Disqualified Individuals (DQ) list. Being placed on the DQ list not only bars you from directly participating in Medicaid, but also from participating with privately administered Medicaid managed care entities. It further bars you from employment by, or affiliation with, any other individual or entity that

participates in, or receives funds from, Medicaid. This includes group dental practices, hospitals, and any other Article 28 facility. This action may also impact other privileges that require "good standing" with Medicaid, such as hospital or academic appointments. Further, when your name is placed on the Medicaid DQ list, entities that administer insurance benefits for hundreds of prescription plans place an "edit" in their system. Regardless of whether the patient is a Medicaid beneficiary, at the time the patient presents your prescription to a pharmacy, payment for that prescription will be denied.

Therefore, for all these reasons, before you agree to any settlement with OPD, your counsel should request approval from the OMIG that the proposed OPD penalty not result in your placement on the DQ list. If the OMIG does place you on the DQ list, you can challenge this action in court. Several recent court decisions have held that the OMIG's DQ list is "arbitrary," due to the fact that these consequences go far beyond the OPD penalty.¹

Additionally, all OPD Orders are reviewed by the U.S. Department of Health and Human Services (HHS), which oversees Medicare. If the matter involves any underlying conviction for healthcare fraud, a felony or a misde-

meanor, HHS is required to exclude the dentist for a mandatory period of five years. Further, HHS can extend the exclusion for fraud to ten, 15, or even 20 years, depending upon the circumstances. If your license is suspended by OPD, that is considered to be a basis for exclusion by HHS. Although there are no Medicare benefits for dental services, exclusion by HHS bars you from participation in, or reinstatement by, any state's Medicaid Program and bars the submission of any eligible claims to any Medicare carrier for services you provide. The HHS exclusion extends to benefit programs for Federal employees and can entirely disqualify your participation with any insurance networks that administer such programs under their network umbrella. The New York State Workers Compensation Board (WCB) also reviews OPD Orders. The WCB will request that you provide an explanation of the OPD penalty and can then seek to suspend or terminate your participation to evaluate and/or provide services to Workers Compensation claimants as it sees fit.

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Further, within a short time after the OPD Order is issued, you can expect to be contacted by most, if not all, of the insurance networks and plans with which you participate. They initially will request an explanation of what occurred. Your rights and responsibilities are governed by the provider agreement. Generally, the plan can elect to terminate the contract, or submit the Order and your response to a peer or credentialing committee. If your participation with a specific plan or plans is crucial to your practice, you should evaluate this with counsel during the OPD process and, thereafter, in responding to the inquiry.

Many other significant privileges can be impacted by an OPD Order, such as: DEA registration; licensure in another state or in another profession; hospital and academic appointments; and continuation of professional liability coverage or the imposition of a premium surcharge. Therefore, these also require careful consideration and the assistance of counsel throughout the process. OPD Orders are also a basis for proceedings by the Council on Ethics of the New York State Dental Association. An OPD Order can result in censure, probation, suspension, or your expulsion as a member of NYSDA. If you are a defendant in a malpractice case or other litigation, opposing counsel may seek to introduce the OPD Order into evidence. Thus, you must always promptly advise your defense counsel of the pendency or existence of an OPD Order.

In the unlikely event that you also face criminal charges, it is essential that you understand that in New York State, all criminal convictions, regardless of the level of the offense or the relationship or lack thereof to professional practice, are considered by definition to be professional misconduct.

—Continued on page 18

Getting Financially Organized for Your Heirs

By Michael Markhoff, Esq.

Even with a formal estate plan in place, it is a good idea to organize your personal paperwork and inform your heirs of basic decisions and wishes that will facilitate the settlement of your estate after your death.

You can ensure that your preferences for funeral arrangements will be followed, friends and family who are important to you may be notified of your death, and items with sentimental value may be properly passed on. Without organized financial records, it will be difficult for your heirs to locate all of your assets, with the risk that certain stocks, bonds, partnership interests, bank accounts, real estate, or insurance policy benefits may go unclaimed.

An organized way to address these concerns is to prepare a personal letter of instruction that covers the following items:

The Rationale for your Estate Plan

Your letter of instruction is where you can discuss why you distributed your estate in the manner you did. You can give a general overview of your estate plan, or you can discuss your plan in specific detail, explaining to your heirs how each asset will be distributed. If you have selected only one of your heirs as executor or trustee, you might explain in your letter the reasons why you chose that individual and why you did not choose another. You might also explain any significant lifetime gifts that you made to some of your heirs.

Itemized List of Assets, Important Contacts

Include in your letter of instruction an itemized list of all of your assets and the location of all important documents concerning those assets. Prepare a list of all checking and savings accounts, including the bank name, account numbers and individuals on the account. You should also list any real estate or cooperative apartments that you own, including the details of any mortgages. Provide the details for insurance policies, including policy numbers, effective dates, levels of coverage and policy location. Also list your automobiles and their titles, and your outstanding debts.

List the names, addresses, and telephone numbers of important individuals your heirs may need to contact, including employers, attorneys, accountants, insurance agents, investment managers and financial planners.

Personal Papers and Account Statements

Indicate where personal records are kept, including your birth certificate, marriage certificate, divorce or separation agreements, diplomas, military records, and naturalization records. At a minimum, you should keep at least three years of bank and brokerage account statements, tax returns and cancelled checks, and you should indicate where these are kept.

Safe Deposit Box, Disposition of Personal Items

Indicate where any safe deposit box is located and what is contained in the box. You should note where the key is kept and who has access to the box. You might also consider adding a family member as a co-signatory to the safe deposit box in order to facilitate quick access to the box following death.

All well drafted Wills contain a clause designating the beneficiaries of your personal tangible property. You might, however, wish to give your executor some further guidance as to how you would like such personal items distributed, including jewelry, photographs, personal collections, pets and furniture.

You should be sure to check your homeowner's insurance riders for any scheduled jewelry or other items that you might like certain heirs to receive.

Funeral Arrangements, Updating Periodically

Your letter of instruction should also include your preferences for funeral arrangements, including whether you want a religious or secular service, whether you want flowers or donations to charity, whether you want to donate your organs or body to medical institutions and where you would like to be buried or how your remains should be disposed of. These are items your heirs may feel uncomfortable asking about, but knowing your specific wishes can be a great relief and can be helpful in avoiding conflict after your death. You might also list any friends or family you would like contacted after your death.

As it is good advice to have your will reviewed periodically, you should also review and update your personal letter of instruction from time to time as your thoughts on these subjects can change over time. Finally, be sure to keep your personal letter of instruction in a place where heirs can find it immediately after your death.

Michael Markhoff, Esq., is a partner at the White Plains, NY law firm of Danziger & Markhoff LLP. This firm is a business and tax-oriented law firm that has been representing dentists in the New York metropolitan area for over 50 years. Mr. Markhoff can be reached at (914) 948-1556 or by email at mmarkhoff@dmlawyers.com

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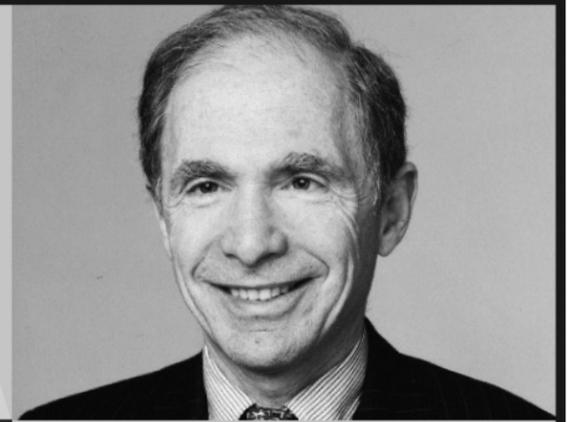


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The Consequences of an Office of Professional Discipline Penalty

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Therefore, you can expect the OPD to commence proceedings and impose a penalty against you after a criminal conviction. Convictions are also reviewed by Medicaid and Medicare. If they are related to healthcare fraud or the use of controlled drugs, this likely mandates your exclusion by OMIG and HHS.

Further, when applying for privileges or in providing information for use in credentialing for employment, insurance participation, hospital privileges, and malpractice insurance, you must disclose them. Therefore, you must consider the potential impact of these collateral consequences on your career when you decide whether to agree to a criminal plea bargain offer.

Suspension or termination for cause by a hospital, educational program, or insurance network can also result in your being reported to the NPDB, OPD or, in certain instances, to law enforcement. The OMIG posts Medicaid Final Audit Reports, Sanctions and Decisions After Hearings on its website. An investigation by OPD or law enforcement could be generated from that posting, as well.

In conclusion, when OPD imposes a disciplinary penalty on you, it often has far-reaching financial or other consequences, to your dental practice. Therefore, it is never too early to seek the guidance and assistance of experienced counsel when initially faced with an investigation by OPD, an insurance audit, or in the unlikely event of a criminal matter.

Amy T. Kulb is a partner in Jacobson Goldberg & Kulb, LLP, a law firm in Garden City, NY. She began her career with OPD. In her private practice, from 1986 to the present, she concentrates on representing dentists in matters with OPD and Medicaid, audits, and other professional practice issues. She can be reached at (516) 222-2330 or at akulb@jngllp.com.

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Did You Know American and State Dental Associations Offers Legal Contract Analysis?

New York State Dental Association (NYSDA) and the American Dental Association offer a legal analysis of participating provider agreement contracts and management services company agreements for association members. This analysis provides highlights of clauses in the contract that dentists are likely to have concerns about and highlights portions that require additional information.

As with any legal document, NYSDA advises that contracts be reviewed with an attorney in order to understand its implications on the dentist's practice and professional license. A contract that requires the dentist to pay a percentage of the practice fees or to arrange the transfer of the account from the professional corporation to an MSO are practices which have been viewed as violations of New York State Education law by the State Education Department. If a dentist in New York State were to engage in these practices, it would presumably leave the dentist subject to possible professional discipline by the State Education Department.

Currently, in New York State, management services organizations are limited by State education law from owning or operating dental practices and from sharing the fees gen-

erated by a dental practice. An MSO can purchase hard, material assets from a dental practice and lease those back to the dentist. However, again, the dentist cannot make reimbursement to the MSO in the form of a percentage of fees from the practice. The specific language is contained in Article 133 of the New York State Education Law and Regent's Rules Part 29.

In addition to consultation with an attorney, NYSDA considers it advisable for dentists to request that the New York State Education Department review such contracts prior to signing when questions arise about the potential for unprofessional conduct practices.

Contract analyses are objective and do not address specific areas of New York State law. The analysis can be used as a starting point for the dentist's discussion about the contract with his/her own attorney.

NYSDA members have access to its Legal Services Panel, a free service. To receive an analysis for an unsigned contract you are now negotiating, send a copy of the contract agreement to: NYSDA, Attn: Contract Analysis Service, 20 Corporate Woods Boulevard., #602 Albany, NY 12211

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Update on Electronic Prescribing

Q. Can I get an update on Electronic Prescribing?

A. NYSDA is in the process of providing more detailed information, but the quick and simple answer is that for two years electronic prescribing of controlled substances will be optional and then after that two year period all prescriptions, both for controlled substances and even ordinary prescriptions will have to be done electronically by all prescribers. There will really be no relevant exceptions. The two year deadline is tied to when the regulations become final and they are already a little bit behind schedule, so we are looking at April, 2015 now as the earliest likely target date for mandatory electronic prescribing for everyone. But people should be in-



vestigating options well in advance of that date. The controlled substance part is the hard part because the security and computer system requirements for that must follow the United States Drug Enforcement Administration regulations on that and they are extremely strict. A good place to start turning for help are the Regional Extension Centers run by the New York

eHealth Collaborative – the public-private partnership group that is developing electronic health technology systems and rules for New York. They accredit and approve various vendors of electronic health record and electronic prescribing systems. While these systems are mainly physician oriented at this point, they are glad to provide help to dentists who are interested in the subject too.

CE Courses

Pre-registration is required for all continuing education courses, except General Membership Meetings

Tuesday, March 5 6:15 p.m.

General Membership Meeting 2 C.E. Credits

7:00 P.M.: "Allowable Tax-deductible Pension Plan/Contribution Seminar"

Instructor: Robin Weingast

8:00 P.M.: Sleep Apnea and TMJ/D Appliances

Friday, March 8 9:00 a.m.

Risk Management 4 C.E. Credits

Areas to be discussed include professional liability, record keeping, patient history, informed consent, patient access to records, patient relations, confidentiality, peer review, and more. The objective is to provide licensee with knowledge of laws and regulations as well as methods to avoid or resolve patient conflicts.

Course qualifies for malpractice policy discount offered by most insurance companies.

Instructor: Dr. Kenneth Treitel

Tuition: ADA member/staff \$135. Non-ADA member: \$260

Friday March 15 9:00 a.m.

Infection Control 4 C.E. Credits

Topic: Infection Control

In the past this course has had an overwhelming positive response from those clinicians and their staffs who earnestly want to stay informed of the latest infection control recommendations out there, and does so through the eyes and thoughts of a speaker-clinician who well understands the nature and demand of the everyday dental practice. Bring your entire staff and satisfy OSHA's annual staff training requirements. Course qualifies for relicensure.

Instructor: Safety Compliance Services

Tuition: ADA member \$85/staff \$85. Non-ADA member: \$260

Friday March 22 9:00 a.m.

Update on Medical Emergencies 6 C.E. Credits

Topic: "Update on Medical Emergencies or How To Save A Life, Including Your Own"

This seminar is given in a multimedia format with a hands-on segment showing drug administration, using real drugs, in real syringes, on simulated models. There also is interactive audience participation (on a volunteer basis) to facilitate the learning experience. This presentation will review the prevention, preparations, recognition, and the management of medical emergencies—which can and do occur—anywhere and at anytime.

Attendees will receive a comprehensive hand-out. Individual pages within this hand-out can be used and copied for learning purposes by the doctor for his or her staff. Many doctors have benefited by bringing their dental team. Dr. Pompa incorporates an approach using a color-coded system, with each color de-

pecting different emergencies. Every participant will receive these color coded guides, with algorithms depicting each condition and its suggested management.

After attending this presentation, the participant will leave with considerable medical knowledge, along with a simple approach that can provide life-saving skills. Participants will bridge the gap between the didactic knowledge presented and the ability to manage an actual crisis. This will be accomplished by describing real emergency scenarios, and then reviewing the recognition and management protocols for each crisis. This will be done in an open group format as case presentation discussion.

Class begins promptly at 9:00 a.m. Registration is at 8:30 a.m.

Instructor: Daniel G. Pompa, D.D.S.

Tuition: ADA member: \$40. Non-ADA member: \$75

Tuesday, April 2 6:15 p.m.

General Membership Meeting 2 C.E. Credits

7:00 P.M.: Oral Pathology Update – 2013

Topic: This course will be presented using both lecture format as well as use of clinical pathologic correlations. The CPC format will allow the participant to analyze cases based on clinical and radiographic findings, and then formulate a differential diagnosis. Discussion on how the dentist, generalist and specialist, proceeds with the work-up and diagnosis of each case will represent the main focus. Common pathologic processes of the oral soft tissues and jaws and several rare diseases that emphasize the scope of pathological processes affecting the oral region will be highlighted.

The attendee will have a better understanding of a variety of common conditions that affect the oral soft and hard tissues, and will be introduced to some rare clinical conditions. The participants, upon completion of the sessions, will more confidently formulate a differential diagnosis that will allow for the appropriate diagnostic approaches and treatment

Instructor: John E. Fantasia D.D.S.

Friday April 5 9:00 a.m.

Prosthetic and Surgical Considerations for Dental Implants 3 C.E. Credits

Topic: This Course will give basic ideas about dental implant for doctors who desire to learn implant dentistry with practical clinical information and techniques. This course includes a one hour hands-on session.

Instructor: Dr. David Chong

Tuition: ADA member \$255. Non-ADA member: \$50

Friday April 12 9:00 a.m.

CPR- Certification 4 C.E. Credits

Topic: Basic Cardiac Life Support

Certification will cover 1 and 2 rescuer CPR, Heimlich Maneuver, child CPR and AED. The ability to recognize the sig-

nals of a heart attack and provide stabilization of the victim at the scene of a cardiac arrest is a priceless commodity. Life over death may some day become a reality to someone you know or care for. Be prepared to help save a life.

Class begins promptly at 9:00 a.m.

Registration at 8:30 a.m.

Instructor: Eric Zalewski, BLS instructor

Tuition: ADA member/staff: \$105. Non-ADA member: \$260

Sunday, May 5 9:00 a.m.

Creating Natural Looking Implant Retained Prosthesis 4 C.E. Credits

Topic: Creating Natural Looking Implant Retained Prosthesis

Natural looking implant retained prosthesis are beautiful and functional when they follow smile design principles and replicate nature. This presentation makes the process easy and predictable and is presented in a step-by-step method. The process provides the wow patient experience and is enjoyable for the dentist.

Instructor: Dr. Arnold Liebman

Tuition: ADA member \$25. Non-ADA member: \$50

Tuesday, May 7 6:15 p.m.

General Membership Meeting 2 C.E. Credits

7:00 P.M.: How to Avoid Dental Malpractice Lawsuits

Topic: Program will focus on practical suggestions to dentists on steps they can take in their day-to-day practice to avoid legal actions and complaints to the Department of Education (OPD) and/or make defending them easier for their defense attorney. Turning a complainer away; keeping a detailed contemporaneous chart, informed consent, the internet, and liability for the acts of ones partners, employees or independent contractors are some of the topics to be covered

Instructor: Robert A. Rosenfeld, Esq.

8:00 P.M.: to be announced

Sunday May 19 9:00 a.m.

Infection Control 4 C.E. Credits

Topic: Infection Control

In the past this course has had an overwhelming positive response from those clinicians and their staffs who earnestly want to stay informed of the latest infection control recommendations out there, and does so through the eyes and thoughts of a speaker-clinician who well understands the nature and demand of the everyday dental practice. Bring your entire staff and satisfy OSHA's annual staff training requirements. Course qualifies for relicensure.

Instructor: Safety Compliance Services

Tuition: ADA member \$85/staff \$85. Non-ADA member: \$260

Study Clubs March - April

Dr. Fialkoff Study Club

CONTACT DR. FIALKOFF (718) 229-3838

Mar 12 7:00 -10:00 p.m.

Topic: "How To Get More Patients To Say 'Yes' Inside Your Office"

Speakers: Dr. Charles W. Martin, D.D.S.

Location: 47-10 Bell Blvd. Bayside

Apr 9 7:00 -10:00 p.m.

Topic: "Myofunctional Therapy: When, Why and How the Myofunctional Therapist can support the Dental Professional In Overall Diagnosis and Treatment"

Speakers: Dr. Nader Azizi, D.D.S.

Location: 47-10 Bell Blvd., Bayside

Kalman Oral Surgery and Implant Study Club

CONTACT DORIS REYHAN (718) 897-6400

Apr 24 6:30-9:00 p.m.

Topic: "Screw vs. Cement Retained Implant Restorations"

Speaker: Dr. Terry Y. Lin

Location: 60-70 Woodhaven Blvd., Unit C-2, Elmhurst

NYC Interdisciplinary Study Club

CONTACT CARLY (917) 675-0109

Mar 20 6:30-9:30 p.m.

Topic: "Indirect Restorative Material Selection For the Contemporary Cosmetic Dentist"

Speaker: Jeffrey Shapiro D.D.S.

Location: Dopo Teatro
West 44th Street, New York

New York Hospital Queens Study Club

CONTACT PAMELA WILLIAMS (718) 670-1419

April 15 7:15 p.m-9:15 p.m.

Topic: "Updates in Sepsis"

Speaker: Sorana Segal-Maurer, M.D.

Location: Cardiac Rehabilitation Center-Conference RM
174-11 Horance Harding Expwy, Fresh Meadows

Glen Head Study Club

CONTACT DR. LEWIS (718) 326-1212

March 6 7:00-10:30 p.m.

Topic: "Henry Schien Dental Presents: Practice Profitability Growth and Efficiency"

Speaker: Kim Diamond, Dental Technology Specialist

Location: IL Bacco Restaurant
253-24 Northern Blvd., Little Neck

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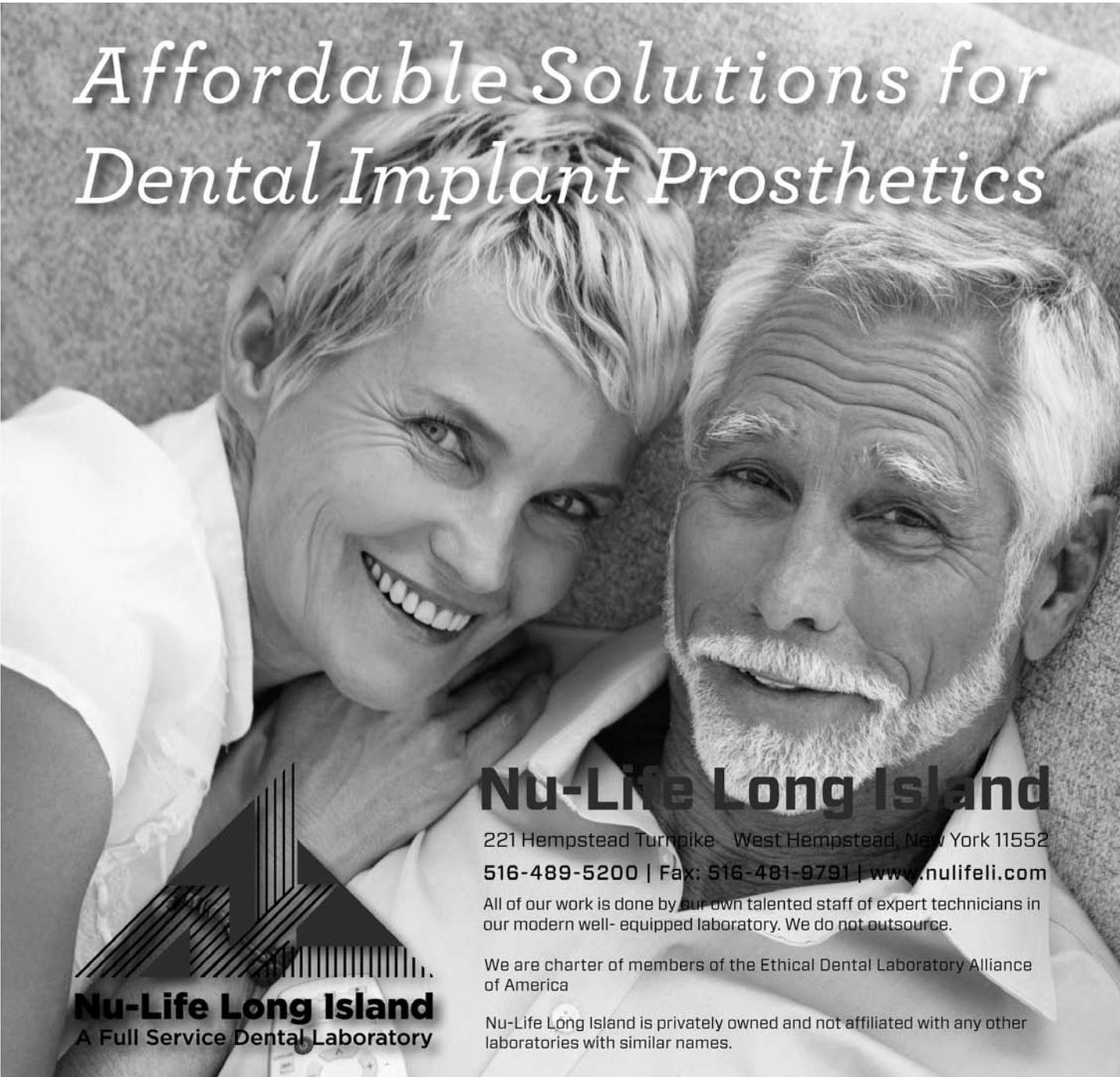
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