

Testimony of Mark McClure to the U.S. House of Representatives

May 29, 2003

Chairman Dan Burton: john.rowe@mail.house.gov
Congresswoman Diane Watson: richard.burton@mail.house.gov
Subcommittee on Human Rights and Wellness
United States House of Representatives

Dear Chairman Burton and Congresswoman Watson:

I am Dr. Mark McClure, a licensed dentist in Maryland. Based on extensive research into this area, I became a mercury-free dentist. I continue to focus on cutting-edge dentistry through research, writing, and working with colleagues across the nation. I am Provost at Capital University of Integrated Medicine.

The licensing agency for dentists in Maryland is the state Board of Dental Examiners, an agency charged with protecting consumers from dentists, not the other way around. But a state law gives indirect control over the board to the Maryland State Dental Association. The Association assembles dentists to vote on a list of dentists' names to go to the Governor. Then, the Governor MUST choose from that list.

A majority of the dental board is dentists. By controlling the nominating process for selecting dentists, organized dentistry controls who gets on the board and who does not. The Governor could not choose a critic of organized dentistry if he wanted to. He could not reform the board from within, for example, by choosing mercury-free dentists. None ever get nominated by the Maryland State Dental Association.

With a majority of dentists chosen through the dental association, and even the elected Governor of the state powerless by law to change things, the dental board has adopted the pro-mercury agenda of the American and Maryland dental associations. The Board secretly adopted a resolution that allowed the Board to silence mercury-free dentists. The word "secretly" is correct, because Judge Stuart Berger, Circuit Court for Baltimore City, found that the dental board violated the state Open Meetings Act by secretly adopting the "regulation." *Dental Amalgam Mercury Syndrome, Inc., v. Maryland State Board of Dental Examiners*, Case No. 24-C-99-005861 (Baltimore City: Judge Berger) (2000)

The Board repeated the rule making proposing to enact the ADA gag rule into a state regulation. With an open process, hundreds of consumers objected to a rule which violates the First Amendment rights of dentists and keeps consumers in the dark. Not a single written comment in support of the rule was made. The Board had an oral hearing, again facing overwhelming disapproval. Ignoring the consumers of Maryland, the dental board adopted the gag rule.

In recent years, the Board did investigations, and brought charges, against mercury-free dentists for being mercury free. These cases stopped only after the filing

of *McClure v. Maryland State Board of Dental Examiners* in the United States District Court in May 2001. The case received major coverage in the *Wall Street Journal*. At the initial hearing, Judge Davis warned that he would not tolerate a pattern, a “mosaic,” of enforcement of a rule that limited the free speech rights of dentists. Enforcement of the gag rule stopped, and ultimately the Court ruled the issue not yet ripe for decision.

It is regretful that cases had to be filed in both state and federal court to deter the dental board from enforcing its gag rule. But the rule is still on the books, and therefore could of course be utilized again.

Sincerely,

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