

## **Facts vs. Misinformation/Misunderstandings regarding the Harrington Case**

**This case originated with the State of Oklahoma Health Department.** They had been working on the case approximately three months before contacting the State Board of Dentistry.

The State Health Department is the agency that makes the sole determination of whether or not a public notification shall be made concerning a potential HIV, Hepatitis C or any other type of communicable disease type infection that is a threat to the public health of the citizens of the State of Oklahoma.

**Neither the Oklahoma Dental Board, nor the Director has any authority or ability to make any determination as to a public health notification.** In the Harrington matter the **Oklahoma Dental Board, and/or the Director DID NOT make a request or have any say whatsoever** in the determination of the Health Department to make a public notification of persons to be tested for HIV, Hepatitis B or Hepatitis C.

**The press conference was initiated by the State Department of Health. The State Department of Health released Dr. Harrington's name as part of the public notification** to alert people that if they had been to his office they needed to get tested. Again, that decision was outside the control of the Dental Board.

It is our understanding that the State Health Department has only done two notifications of a potential Hepatitis C "cluster" case in a medical office in the past twelve years. The first one was in Norman in 2002 where approximately 12 people were infected by Hepatitis C by a certified registered nurse anesthetist that was reusing needles in a medical clinic. The Norman case when announced required the Norman Regional Hospital to notify people that had been patients from 1999 to 2002 that they could have contracted Hepatitis C. The mass concern and media attention of the Harrington case was first encountered in that case from 2002 and was a good predictor of what was going to happen. Google James Hill or Jerry Lewis and Hepatitis C for additional information.

**The public notification WAS NOT MADE because someone alleged they got Hepatitis C at Dr. Harrington's office.** In fact, the index patient referred to in the statement of complaint did not know how he/she got it. The State Health Department had a three-month long investigation to determine many factors including the potential places of contraction before they contacted the State Dental Board for assistance.

Although we do not know all the factors that went into the decision of the State Department of Health to do the notification this was a very seriously thought out decision based on scientific data and risk factors as identified by medical standards of epidemiology and the spreading of contagious diseases. It is also our understanding that the State Department of Health sought advice from the Centers for Disease Control concerning this situation before making a decision as to a public notification. There is

additional information that we cannot share at this time and other factors that we are not privy to that were other determining factors of the State Department of Health for them to believe the need for a public notification existed. Despite the fact that the public notification was not requested by us, we support the decision of the State Department of Health as they are the experts regarding epidemiology and contagious disease infections in regard to public safety.

The day after the site visit to Dr. Harrington's office, the Board of Dentistry Director and the Chief Investigator met with high level officials at the State Department of Health to discuss the process and reaction of the public notification. They believed they had to do the public notification. **It was also expressed by the State Department of Health at that time that based on their investigation and analysis that there was an extremely high risk of potential contagious infections that could be occurring there and asked the Board of Dentistry to assist and intervene as soon as possible.** The State Department of Health also advised at that time that they needed some time to set up the testing and facilities for what they expected to be a high potential of hysteria due to the extremely large number of persons that would be notified that they needed to be tested for HIV, Hepatitis B and C.

Upon leaving that meeting, phone calls were made from the Board of Dentistry to the Board President and the two Review Panel members and a determination was made that there existed a need to have an emergency license suspension hearing. The violations of basic infection control, record keeping by the Board of Dentistry investigators alone warranted a potential emergency licensee suspension, however the State Department of Health's determinations compounded that situation.

**Never have any statements been made to the media that the Board of Dentistry investigators ARE or ARE NOT going to present charges to the Tulsa County District Attorney against Dr. Harrington.** The questions posed by the media were in this form:

1. So nothing is going to happen to the assistants, right? Answer: no, they are not licensed with us, however they could be charged with practicing dentistry without a license which is a felony in Oklahoma.
2. So the Board isn't going to do anything about this right? Same answer as above.
3. Well what can happen to them? Same answer as above.
4. Is there a criminal charge they can be charged with? Same answer as above.
5. What is the penalty for practicing dentistry without a license in Oklahoma? Answer 1-4 years and up to \$10,000 fine.
6. Well can the doctor be charged with anything? Answer: yes that is a possibility. He could potentially be charged with allowing or assisting with the unauthorized practice of dentistry which is also a felony.

The part that caused the overwhelming confusion in this matter was the headlines that were attached to the associated press story that stated that the Board was requesting or

pushing the District Attorney to file charges. That headline was written by an editor in Chicago who never spoke to any person at the Board of Dentistry and edited the story by the reporter that wrote it. The following morning the Daily Oklahoman wrote the opposite headline stating that the Board of Dentistry wasn't going to seek charges against the dentist. Neither of the headlines are correct. The stories, if read, all stated that no decision had been made and that we had a lot of other issues to determine before anyone could even begin discussing that portion of this case. Further it was repeated numerous times that no charges had been given to the District Attorney for review.

**The Statement of Complaint when filed is a matter of public record. This is not a choice, it is the law.** It was important that this be issued at the time of the State Department of Health's public notification for several reasons. The goal of the Board of Dentistry is to make sure the information is disseminated as correctly as possible. If we had not issued the statement of complaint until several weeks later, the misinformation and rumors and accusations against the Board would have been the primary stories. From the very first press conference on, one of the regular questions has been, "How could this happen?", "Why didn't the Board catch this?" "Why didn't the Board catch this during an inspection?" **Not one time since this case started has the Board of Dentistry staff requested a press conference or contacted a reporter asking for an interview. All interviews have been responses to questions, improper information and wrongful accusations.** If we had not responded and later released the complaint, the accusations would have been, well the Board made up a lot of the issues in the complaint to cover themselves. Since we responded to the media and answered questions, we were able to convey to them that by Oklahoma law, we are not allowed to do independent or random inspections. We are only allowed to work by a complaint. Each complaint is reviewed by two review panel members and either an investigations follows or it is closed as not being a charge in which the Board has the authority in which to act or it is determined that there was not a violation. Under the Oklahoma Dental Act, a statement of complaint must be filed at least ten days before the Board can take an action on anyone. In addition to the State Dental Act, the Board also falls subject to the Administrative Procedures Act. Any action on a license issued by the Board is an Administrative Court Action. By law, these are filed, notice is given and each document is a public record.

**Can this happen to me and my practice?** This is an extremely rare circumstance. Again, the State Department of Health is the body that decides a public notification. In the Harrington case and the Norman case in 2002, neither one were based on an allegation from a person that they obtained Hepatitis C from their medical provider. Each case had an independent investigation from the State Department of Health personnel that led them to the conclusion of where the potential infection site was.

**How can I prevent this from ever happening to me?** This answer is simple. Hire good staff members that are licensed, permitted and trained. Make sure they are aware of the laws as much as you. Your staff members can make or break your career. Always pay attention and have a checks and balances system for both you and your staff. Whatever you allow your staff to have control over, YOU are still responsible for under the law.

Follow the basic safety guidelines for infection control in a dental office as recommended by the Centers for Disease Control. If you have a question, please call the Board and we will help you.

**The duty of the State Board of Dentistry is the safety of the public. The Board takes that duty very seriously. It is a hard duty and not always popular amongst peers or the public.** The current issue surrounding Dr. Harrington is an unfortunate and extremely rare circumstance. Regardless of what the Board does, they are either accused of “protecting their own” by the public or “picking on someone that didn’t do anything” by friends of the accused dentist.

Oklahoma is a great state and we believe that something good can hopefully come out of something bad. We are working very closely with legislators to set a new standard for safety in a dental office that will be followed by other states.

Brad Hoopes, D.D.S.  
Board President  
3300 Chandler Rd. Ste 111  
Muskogee, OK 74403  
[mvhoopes@hotmail.com](mailto:mvhoopes@hotmail.com)

Susan Rogers, Esq.  
Executive Director  
Oklahoma Board of Dentistry  
Office: (405) 524-9037  
[Susan.Rogers@dentistry.ok.gov](mailto:Susan.Rogers@dentistry.ok.gov)