

## Consumers for Dental Choice

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*Working for Mercury-Free Dentistry*

Harold E. Dunbar, Chief Deputy Attorney General  
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Dear Chief Deputy Attorney General Dunbar:

Thank you – and thank you to Chief Deputy Attorney General Devlin, Health Care Section, and to Agent Brewster, Civil Rights Enforcement Section – for speaking with me about our discrimination complaint against the Pennsylvania Dental Association (PDA) and its local chapter, the Philadelphia County Dental Society (PCDS). Attached, as we discussed, are (1) the written joint statement of the Pennsylvania Dental Association and Philadelphia County Dental Society dated February 11 (see statement's third-to-last paragraph) and (2) a take-it-or-leave-it consent form (the patient may not change it), forcing people with disabilities to submit to the neurotoxic mercury amalgam while the able-bodied enjoy a choice of non-mercury dental fillings.

### A prima facie case of discrimination against the disabled exists

PDA and PCDS state on their respective websites that the patient (or parent/guardian) decides what kind of filling material will be used in their mouths or the mouths of their children.<sup>i</sup> For the disabled, PCDS spokesman Dr. Andrew Mramor<sup>ii</sup> is clear that the dentist decides what material the disabled patient will receive: “it is imperative that we [the dentists] have the option of amalgam.” Holding up his own North Philadelphia clinic as an example, he advocates rejecting patients with intellectual and/or developmental disabilities if the guardian refuses to sign a consent form allowing amalgam: “[I]f a guardian flatly refuses amalgam...we will not see the patient.”

As we explained in the complaint dated 23 February, no medical reason exists that necessitates amalgam for children with disabilities. First, countless dentists already using non-mercury alternative filling materials for people with disabilities. Second, entire countries ban all use of amalgam in children – all children, including children with disabilities. The PDA/PCDS spokesman testified that they make exceptions for children with disabilities, but he is mistaken. For example, the Swedish government mandates that “[f]rom 1 June 2009, it will be prohibited to use dental amalgam in ordinary dental care in Sweden and there will be a total ban to use it in the dental care of children and youth.”

### The investigation is in the public interest for the following reasons

1. The right to choose their own filling materials is incredibly important to many parents because amalgam is composed about 50% mercury, a virulent neurotoxin. The U.S. Food and Drug Administration warns that amalgam could damage the developing brains of children: “Dental amalgam also releases low levels of mercury vapor ... The developing neurological systems in fetuses and young children may be more sensitive to the neurotoxic

effects of mercury vapor." No studies have proven it safe for young children, the unborn, or people who already have neurological damage, FDA admits. Additionally, many parents rationally fear that, even if mercury played no role in their children's disabilities in the first place, an additional exposure of this neurotoxin is a risk not worth taking. It is reasonable for parents, as a precautionary measure, to reject amalgam and insist on alternative filling materials – and it is doubtless their right to do so.

2. The PDA and the PCDS are promoting the use of strong-arm tactics to coerce consent from people with disabilities: While PDA and PCDS respect able-bodied people's right to make their own personal health decisions regarding filling materials, they force people with disabilities or their parents to face a cruel Hobson's choice: "consent" to mercury amalgam or no dental care at all – not so much as a tooth cleaning.
3. The PDA and the PCDS are encouraging dentists to deny dental care to people with disabilities: Under the PDA/PCDS promoted policy, access to dental care for disabled children is severely limited and possibly non-existent for those who exercise their right to refuse amalgam, as acknowledged by the PDA and PCDS: Patients with disabilities who refuse amalgam must "find another dental home which is a challenge as few facilities are equipped to treat these individuals." This is especially true in the low income, mostly minority communities of North Philadelphia. To make matters worse, PDA and PCDS's statement emboldens even more dentists to deny care to people with disabilities who refuse amalgam, limiting their access to dental care even further. Hence, the disabled and their parents are either deprived of their right to make this basic health decision or they get no treatment at all.

That a consumer group, rather than an individual victim, first complained need not delay an investigation

Consumers for Dental Choice is speaking up about this appalling discrimination because the victims are not in a position to do so. First, the disabled and their parents do not know that choice exists for the able-bodied – dentists are not informing them of the right that they intend to deny. Here's an analogy: the victim of race / religious / sexual orientation discrimination in rental housing would not know he/she is victimized when the landlord says no vacancies exist; only if the victim is fortuitous enough to have a plainclothes investigator of the dominant group (white / Christian / straight) go in next and be offered a vacant apartment would the discrimination be discovered.

Second, *the dental societies admit to rejecting children as patients because their parents refuse to consent to amalgam*; indeed, they gloat about their power over patients. According to the PDA/PDCS written statement: "At our clinic, we have had several parents refuse amalgam." Later in that paragraph, the PDA/PDCS says, "We will not see (that) patient."

Sincerely,

Charles G. Brown  
National Counsel  
4 March 2010  
(footnotes on page 3)

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<sup>i</sup> The Pennsylvania Dental Association, Dental Filling Facts,  
<http://www.padental.org/AM/Template.cfm?Section=Search&TEMPLATE=/CM/HTMLDisplay.cfm&CONTENTID=4472> ; David A. Tecosky, Restorative Materials Brochure Requirement for Dentists Practicing in Philadelphia,  
<http://74.125.113.132/search?q=cache:hooqiL21dLoJ:www.philcodent.org/professional/restorative-materials.aspx+amalgam+site:http://www.philcodent.org/&cd=3&hl=en&ct=clnk&gl=us>;

<sup>ii</sup> Dr. Mramor is not only a member of the board of the Philadelphia County Dental Society, but was singled out to be trained by the PDA as their “spokesperson” to promote and protect amalgam usage, a point then broadcast to the membership. (Tecosky, Philadelphia County Dental Society: President’s Message, <http://74.125.113.132/search?q=cache:hXFXVBl-1jUJ:www.philcodent.org/members/message.aspx+Mramor+site:www.philcodent.org&cd=1&hl=en&ct=clnk&gl=us>). In this capacity, he spoke at the health board meeting on February 18 as a representative of PDA/PCDS (only representatives were permitted to speak at the meeting per the written instructions of the health board).