

Dr. Yank: Washington Prison Dentist Nearly Kills Patient

by Rick Anderson

If anyone really needed another reason to fear the dentist, Dr. Joel Diven provided it one day in May 2006, when a state prisoner climbed into his dental chair with a toothache.

State investigators say Diven, 72, a Department of Corrections dentist at McNeil Island Corrections Center, wrenched out part of a jawbone rather than a tooth, tearing open the roof of the prisoner's mouth, then froze as the prisoner faced the possibility of bleeding to death. A second dentist also froze, along with a dental assistant. Another assistant saved the day, taking over Diven's patient, shouting commands to the doctor, and calling for emergency aid. She told investigators that what she'd witnessed was "torture... barbaric."

"I believe it was an isolated incident," says the Corrections Department's Health Services director, Marc Stern, "and we had no indication until then that Dr. Diven could not provide standardized care."

But former McNeil prisoner Paul Wright, the editor of *Prison Legal News*, which reports regularly on prison medical errors, says, "Diven is no exception to doctors in the DOC." In fact, Diven worked on Wright's own teeth when he was serving a 17-year sentence for murdering a Federal Way drug dealer in 1987—but without incident. Wright was released in 2003 and now lives in Vermont.

Diven has retired as a DOC dentist after 17 years, and his state license was revoked after the incident. Yet he could someday return to his general dentistry practice in Pierce County, officials acknowledge, and he apparently wants to. In March, 2007, the Gig Harbor dentist petitioned the Washington State Dental Quality Assurance Commission to allow him to reapply for his license within a year. The state turned down that request but did agree he could reapply in five years, when he's nearly 78.

"We have no idea why [the commission] went for five years," says Donn Moyer, spokesperson for the state Department of Health, who notes that the decision was made "behind closed doors." Moyer says the state has received one other complaint against Diven, but the case was closed without action because "our investigation determined that no violation of rules we enforce had been found."

Stern, the prison system's health director for four years, says Diven at least will never again work for the DOC, which has run into legal problems in the past for hiring questionable medical and dental doctors. Memorable among them was a practitioner at the women's prison in Purdy who, according to a 1993 lawsuit, tried to remove a prisoner's mole with a Bic lighter and a paper clip, and a prison dentist known as Dr. Yank who, in one 1998 case, pulled 16 teeth from one prisoner in eight visits, "yanking them so quickly they [were] just snapping off," the prisoner said.

Testimony about the newest Dr. Yank was similarly startling. According to public records and interviews, Diven was working on prisoner Lawrence Hembd, 37, a felon from Kitsap County, at the McNeil dental clinic on May 24, 2006. Attempting to pull an upper molar with a forceps, Diven yanked out a half-dollar-sized piece of upper jawbone, tearing away soft palate and opening a fissure to the sinus cavity. Blood and mucus poured out Hembd's mouth and nose. After his distressed dental assistant froze and the second dentist (also since retired, says Stern) balked, his dental assistant, Amy Booth, stepped in.

With blood flowing onto the floor and the patient moaning and twisting in the chair, Booth handed Diven a scalpel, feeling surgery was necessary. She said that in fact Diven had pulled out only jawbone and that the tooth was still intact. "I felt this was torture. This was barbaric and the worst thing I have ever seen," she later told a dental board investigator. Diven ignored her directions and offers of assistance, and as Hembd continued to bleed out, Diven strangely began to study his dental chart, she said. Booth packed Hembd's mouth with gauze and, ignoring Diven's silence, called for emergency assistance. The other dental aide told investigators that Diven was red-faced and shaking. He "became angry when the tooth would not move... his anger was unbelievable."

Hembd was rushed by boat to the mainland—where an ambulance transporting him got into a wreck, delaying his arrival at a Tacoma hospital. He was then transferred to Harborview Medical Center in Seattle for emergency surgery. Health director Stern says Hembd has

recovered today, but if Booth and the emergency crews had not done their jobs, Hembd could have died. "It was serious; he needed a transfusion to help save him," says Stern.

Neither Diven nor his attorney responded to requests for comment. Public records show Diven admitted to an investigator that he hadn't X-rayed the tooth that day and took no apparent precautions after Hembd told him he'd taken a large dose of aspirin for his pain the night before, which would have thinned his blood. "He did not express remorse," the investigator said of the onetime Navy doctor. The dental board issued its final order in the case in March, 2007, finding that Diven "failed to exercise any professional judgment, and failed to exercise any crisis management." The board said Diven also improperly changed Hembd's dental records after the incident, claiming Hembd had given his consent for the extraction.

The state Health Department says it doesn't systematically track prison-dental complaints, but Stern insists that care has improved since he took over as prison health director in 2003. "We responded swiftly to this incident, took [Diven] offline, and there was no attempt to cover it up, which I would not stand for." Medical care in the prison system was recently centralized under him, Stern says, and the DOC has created new statewide medical, dental, pharmacy, nursing, and behavioral health directors who report to him and DOC secretary Harold Clarke. "I like to believe things are getting better and, anecdotally at least, people tell me they are." ■

[This article originally appeared in the *Seattle Weekly*. Reprinted with Permission. PLN has reported extensively on systemic medical neglect within the Washington Department of Corrections as well as at McNeil Island.]

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