

Dentist Can Criticize Fillings With Mercury

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Trumbull dentist Mark Breiner, who has campaigned for decades about the health risks inherent in mercury-laced amalgam fillings, has won a First Amendment battle to do so without risking his license to practice.

The state Department of Public Health recently agreed to amend a consent decree it entered into with Breiner in 2001, changing it to permit Breiner to speak publicly and write commentary pieces about his belief that amalgam fillings can cause a panoply of health risks.

"I can say whatever I want in public and not have to worry," a victorious Breiner said Wednesday.

Breiner has long been at loggerheads with the health department, which has twice threatened to remove his license because of his controversial advocacy.

Breiner in 2001 entered a consent decree with the department to stop an effort to take his license, agreeing that he would no longer advise his patients to have their amalgam fillings - often referred to as "silver" fillings - removed. But the department felt an opinion piece Breiner wrote for the Connecticut Post in 2002 violated that decree.

In his commentary, written on the heels of a mercury spill in a Monroe high school science laboratory, Breiner reiterated his longstanding dispute with the American Dental Association over whether amalgam fillings are safe.

The state health department responded by informing Breiner that the commentary piece appeared to violate the 2001 consent decree, but that health officials would take no further action against his license if he agreed not to write any more opinion pieces about amalgam fillings or pending legislation.

Breiner not only disagreed, he enlisted the aid of the Connecticut Civil Liberties Union and sued the department, claiming it was violating his free speech rights.

"I could have said I won't speak out any more on this topic. I could have capitulated," Breiner said. "But that's not my nature.

"They're trying to get mercury out of everything," Breiner said. "You can't even get a mercury thermometer in this state. And they're saying the only safe place to have it is in someone's mouth? I've seen thousands of people who've elected to remove mercury from their mouths and thousands who have gotten better from all sorts of symptoms. It's a disservice to the public to keep them in the dark or to try to misinform them."

The modified consent decree now specifies that nothing in it "shall be construed as prohibiting [Breiner] from communicating to others, including members of the press or private individuals ... or writing or publishing op-ed pieces or articles, or speaking at a public forum or not-for-profit educational seminar about his opinions relating to amalgam fillings."

Breiner is still barred, however, from recommending that patients have amalgam fillings removed. "I do not have free speech within the confines of my office," Breiner said. "When you have a license, you forfeit certain freedoms."

Breiner may state his views in advertisements for his practice, but the consent decree mandates that he add the caveat that his opinions "are not shared by traditional dentists and physicians, the Connecticut Department of Public Health, the Connecticut State Dental Commission or the American Dental Association, all of whom have concluded that there is insufficient scientific evidence to establish that the removal of amalgam fillings cures and/or alleviates symptoms of any disease or condition."

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Article Last Updated:

A victory in state for free speech

Connecticut Post

Mark Breiner, a Trumbull resident who practices dentistry in Orange, has won a significant free speech victory over the state Department of Public Health.

Breiner is an outspoken opponent of amalgam dental fillings that contain the toxic substance mercury.

For years he has locked horns with the state agency and the American Dental Association and Connecticut State Dental Association on the issue, contending that amalgam restorations pose health risks for consumers.

In 2002, he authored an OpEd essay for the Connecticut Post's Forum section that argued that very point. It was written following a minor uproar that followed the evacuation and closing of Masuk High School in Monroe after a mercury spill in one of the school's science labs.

However, the DPH swooped down on Breiner, saying his essay violated a consent decree the agency entered into with him in 2001 which, under threat of loss of his license, required the dentist to no longer advise his patients to have amalgam restorations replaced.

With the help of the Connecticut Civil Liberties Union, Breiner sued the agency for violating his free speech rights and the DPH has now agreed to amend the decree and permit Breiner to speak publicly and write about the amalgam controversy.

In essence it returns Breiner's voice to a debate that is key to Connecticut. The Connecticut General Assembly in 2002 approved legislation which, as of a year ago, bans mercury in the state from just about any product where its use includes any risk of entering the environment.

The law currently prohibits sale of any product, with the exception of mercury vapor lighting, that contains 250 parts per million of mercury. The state Department of Environmental Protection is charged with phasing in the law and promulgating regulations to enforce it. However, the department has yet to definitively tackle the thorny and highly contentious dental amalgam issue.

Whether one agrees or not with Breiner's argument, he must enjoy under the U.S. Constitution's First Amendment the right to express his opinions. It's a victory for open debate on this issue that the Department of Public Health has modified its attempt to gag Breiner.

Date July 14, 2005
Time 10:31 AM - 10:31 AM
Station WTIC-AM Radio
Location Hartford, Conn.
Program 1080 News

ANGELA DIAS, anchor:

A Connecticut dentist, who's been outspoken about what he contends are health risks in mercury-based dental fillings, can continue to speak out. Mark Breiner has reached a settlement with state public health officials, who had threatened to pull his license.

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Date July 14, 2005
Time 12:00 PM - 12:30 PM
Station News 12 Connecticut
Location Norwalk, Conn.
Program Afternoon Edition

REBECCA SURRAN, anchor:

An agreement will allow a dentist, with offices in Orange, to speak out on the issue of dental fillings that contain mercury. The State Department of Public Health reversed its position, and will now allow Dr. Mark Breiner to speak publicly and write commentaries about his belief that mercury amalgam fillings can cause medical problems. Breiner sued the department after health officials threatened to pull his license over the issue.

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Date July 14, 2005
Time 04:35 PM - 04:35 PM
Station WFCR-FM Radio
Location Amherst, Mass.
Program WFCR News

GEORGE GOODRICH, anchor:

A dentist from Orange, Connecticut has regained the right to speak out on the issue of mercury-based dental fillings. Dr. Mark Breiner claims there are health problems tied with mercury-based amalgam fillings, which does--which puts him at odds with the medical establishment. Breiner has entered a consent--had entered a consent decree in 2001 with the State Department of Public Health, which said he would no longer advise his patients to have their amalgam fillings removed. But the agency felt an opinion piece Breiner wrote for the Connecticut Post, had violated that decree and they threatened to revoke his license. The DPH has now agreed to modify the decree, allowing Breiner to speak publicly about the amalgams--the amalgam fillings that may cause medical problems.

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