

# DLANY Newsletter

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## MESSAGE FROM THE PRESIDENT

In keeping with our expansive vision for DLANY, we are thrilled to announce the First Annual DLANY Weekend in Saratoga.

We at DLANY recognize the value of our growing membership and the need to encourage, gatherings of professionals from throughout our industry. DLANY Weekend in Saratoga is an opportunity for current and future members to learn from each other's experience and to use that experience in the ongoing development of strategies to foster education and public awareness in the dental lab industry. The assets our members represent are innumerable, and are crucial to our continued efforts in achieving the ever higher goals we envision for DLANY.

With this in mind, we believe the venue and atmosphere of DLANY Weekend in Saratoga should be one conducive to the strengthening of communications among members. We therefore decided the experience of historic Saratoga and all it has to offer, including two classes in the morning at the Saratoga Race Track to earn CDT credits, along with the wide array of exciting activities and elegant accommodations planned for the occasion will serve that end...as well as a taste of what the future holds for DLANY.

And since growing membership is instrumental in DLANY's long term success, we are offering special promotional packages for new members. Existing members should instruct interested guests to contact DLANY for more information.

All details of the impressive agenda are contained in this issue and we urge members to make reservations early, as there is limited space.

Meanwhile I am eagerly looking forward to seeing all of you, and hope to meet many more during what promises to be the start of a great DLANY tradition.

Sincerely,  
Gary Spadaro  
President

## FEATURED IN THIS MONTH'S ISSUE

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# Collecting Sales Tax From Your Dentist Customers

Back in February of 2003, auditors from the NY State Department Of Tax and Finance, Division Of Sales Tax Compliance, appeared at the offices of a large NYS dental lab, a division of a much larger out of state dental lab corporation. No one in management or in accounting department knew they were coming. They simply arrived and asked to review three days worth of outgoing invoices—that is, a random selection of three days billing. They chose the 3 dates that they wanted to review, and they looked at all of the bills issued to the lab's customers on those three days.

What were they looking for?

They were looking to see if the lab had properly charged Sales Tax on the sales-taxable items sold to their accounts.

Because state auditors want to check to make sure that labs, like this one audited, are properly collecting sales tax, a similar scenario could happen to you.

This particular lab was charging and collection sales tax as required by state law, and so it was not at all a problem for them if the state wanted to audit their compliance.

Where problems arise is in the definition of what is and what is not subject to the NYS sales tax. That's when it gets sticky, as it did for this particular lab. Nineteen months after the day that the state auditors arrived, this lab is still in discussion with the State Department of Tax & Finance regarding the results of the state's audit of their sales tax records. The issues surrounding what is, and what is not, validly subject to sales tax in NYS are so contentious that this lab not only appealed the auditors' definitions, but recently took the matter to an even higher, third level of appeal, namely to a State Advisory Opinion Board. The lab is awaiting this Board's ruling so they can close the assessment and make payment on whatever claims are ultimately decided in the State's favor (as to where they should have charged and collected sales tax on items sold to their dentists).

Simply put, the disputes stems from just one question—of all the products which dental labs manufacture for dentists, which are, and which are not, subject to NYS sales tax?

If labs could know the answer to this question with some

definitive clarity, it would be an easy matter of adding the tax to customer invoices, collecting the tax when bills are paid, and forwarding the collected taxes to the state. What is not easy, is knowing where you charge the dentist sales tax and where you don't.

To the extent there is one; the general rule of thumb is: "anything that replaces a body part of a limb is non-taxable, and everything else the lab makes is taxable." Sounds simple enough.

But wait! A laminate...taxable item or not? The lab being audited by NYS feels strongly that it is a body part replacement—it replaces the finish, the veneer that was once on the tooth. The State Auditors ruled that no, it's just cosmetic and therefore taxable.

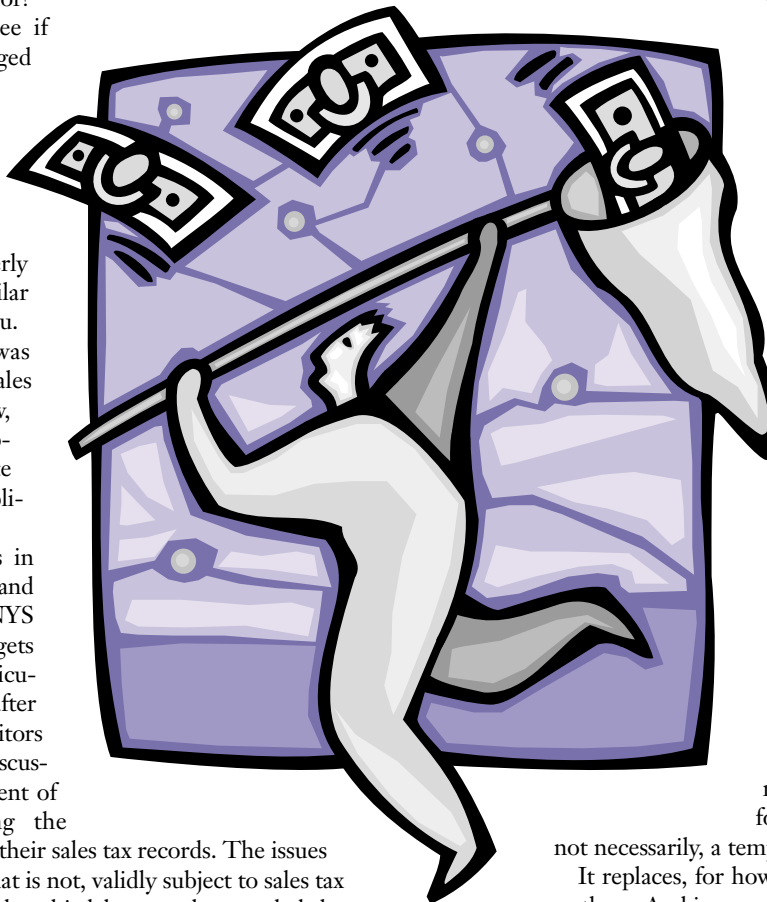
That's just one of the many examples. Some items are easy to call—a denture clearly replaces a body part, and so there's no dispute there—it's non-taxable. But what about a bleaching tray? Specifically one made with a doctor's prescription as being necessary for the patients health? The audited lab held its non-taxable. The Auditors said taxable.

There there's the really heated issue of a temporary. Here, the audited lab insisted on the principle that a temporary is on fact a replacement for a body part, albeit though

not necessarily, a temporary replacement.

It replaces, for however long, the body part that was there. And in some cases, "however long" can be a fairly long time. —No say the State's Auditors. A temporary is no a replacement but is the fixing part of a fixing process, they say. According to their criteria, items that are taxable for sales tax purposes include:

- Model
  - Laminate
  - Inlay
  - Onlay
  - Bleaching tray
  - Anything not a part of the final product
- And so you can see how the debate goes on.



*Continued on Page 8*

# DLANY Heads to Saratoga!

FRIDAY, JULY 29 & SATURDAY, JULY 30, 2005

DLANY is thrilled to announce a two-day event in Upstate New York's most beautiful city. Located approximately 30 miles north of Albany, Saratoga is the perfect place to spend a summer weekend, and DLANY is happy to host you.

The weekend's festivities will take place at Saratoga Gaming and Raceway, and are open to existing members, as well as welcoming new members.

The event will begin on Friday, July 29, 2005 and continue through Saturday, July 30, 2005. You won't want to miss a minute of great food and drink, exciting entertainment, and beautiful accommodations wherever you go. In an effort to accommodate hectic summer schedules, DLANY is offering three package options, each for single AND double attendance. Bring a companion and enjoy a weekend of relaxation and fun.

## FRIDAY, JULY 29, 2005

DLANY will kick off the weekend by hosting a lavish dinner at "The Racino," overlooking Saratoga's Harness Track, the most beautiful half-mile track in the country. Get a little taste of Las Vegas right here in Upstate New York. Enjoy an impressive seafood buffet, an evening of harness racing, gaming machines, and live entertainment provided by "Good for Soul." DLANY will also contribute complementary \$5 vouchers for gaming machines, where you can earn points on your "Players' Club" cards and redeem points for food and gifts. The Racino will provide a cash bar, strictly for DLANY guests. Having too much fun? DLANY will provide a shuttle from The Racino to the Saratoga Springs Hilton Garden Inn. Conveniently located in the heart of historic downtown Saratoga, the Hilton is in a prime location for shopping, sightseeing, and relaxing strolls through city streets and parks. DLANY has reserved rooms for those wishing to stay for Saturday's activities.

## SATURDAY, JULY 30, 2005

It's opening weekend at the races! Join DLANY in a climate controlled luxury box at Saratoga Race Course for the entire day of racing. DLANY will host two clinicians in the morning and participants will receive CDT credits. What a great way to earn your credits, while betting the horses and enjoying the lavish food and drink the racecourse has to offer. Enjoy the day with DLANY at Saratoga Racecourse. Who knows...you might make back the money you spent on the trip!

## PACKAGES AND PRICES

**The Ultimate Package**—includes ALL activities slated for BOTH days, including dinner Friday night at The Racino and Harness Track, accommodations at the Hilton Garden Inn, and the luxury box at Saratoga Racecourse on Saturday.

*Single: \$550 Double: \$650*

**The Deluxe Package**—includes dinner Friday night at The Racino and Harness Track, and the luxury box at the Flat Track on Saturday.

*Single: \$300 Double: \$400*

**The Premium Package**—includes the luxury box at Saratoga Raceway on Saturday.

*Single: \$200 Double: \$300*

Call 1-877-DLANY65  
for reservations!



# Time Clocks and Time Cards

## An Interview with the Department of Labor's Mr. Simonetti

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A lab technician received some advice from an attorney to the effect that he was being 'ripped off' by his employees—specifically, he was told he should have been paid overtime during all the years he worked at the lab. With the help of the attorney, the worker filed a law suit against the lab.

The worker started logging time, and on the basis of the log he kept for a number of weeks, his attorney calculated that he was owed O/T pay of \$55,000. They brought their case before the NY State Department of Labor (DOL).

Upon investigation, DOL's immediate questions the owners were:

- Where's your time clock?
- Where are your time cards?

Some DLANY members are discussing issues pertinent to the payment of overtime wages to dental laboratory technicians. In conjunction with the discussions, a question arose regarding time clocks.

We would like to know whether there are specific references in the NYS labor laws to time clocks. Are there specific rules, regulations or statutes requiring the use of time clocks or time cards?

Mr. Simonetti's comment:

"The law in New York state does not require the use for time clock, or any other recording device for that matter."

The only thing required of the employer is that they "keep accurate time records showing daily and weekly hours worked" for each non-exempt employee.

The employer is free to keep these records any way they choose—"they could be written on paper napkins, if that's what it takes, or a grade school composition book."

And, the records can be taken down in one way, "and then transferred to a book or log showing the daily and weekly hours worked for each non-exempt employee...not even time cards" are required.

On the other hand, "if you're not going to

have time cards, or some form of time cards, or some equivalent, than you'd better have the evidence of the daily and weekly hours worked." One could argue that "some kind of time cards would be necessary to keep the accurate records that are required. A time card is better than a slip of paper or composition book. With time cards, you have better evidence."

"Having a time clock doesn't necessarily solve all the problems for the employer. We've had cases like where the employee says the time clock was there, but she didn't punch out because she was told she could leave at 5 and get paid until 6, so she never bothered to punch out all those years."

"If you go to our WebSite, under Regulations, and look under 'miscellaneous'—lab technicians are classified by DOL under 'miscellaneous'—you should be able to find 'Outlines Of The Requirements' for your industry, the dental lab industry, the dental lab industry. I will print these out for you, and mail them to you."

"In the future, if you have additional questions about this or other topics, call the following number any Monday thru Friday, 8:30 to 4:30.

Investigators Desk  
Garden City Office  
Labor Standards  
(516) 228-3946

You do not have to ask for anyone in particular. Anyone who answers the number, the Investigators Desk, should be able to help you."



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# Pricing Partnerships

## A Dentist Speaks Out On Communications Between Dentists and Labs and On ‘Pricing Partnerships’—An Innovative Approach To Securing The Future Of The Dental Lab Business



By Carl Cazalet, DMD

There's a shake-up going on in this (dental lab) industry and, as is standard in any industry shake-up, some will prosper and some will go by the way-side. The future for the labs is that they will consolidate.

Whereas Outsourcing just isn't going to disappear from the scene any time soon, quality work with lower pricing will mean that some labs will slowly go away as other labs take away their market share. While some small local labs will always hold on to some work in cases where dentists prefer the close personal working relationship they provide, others—arguably, the lion's share of the mom and pop labs—will gradually give way to larger labs, all part of an industry-wide shake-up that is inevitably coming to the dental lab business. And so, we will end-up only with the industry leaders—namely, those who, regardless of small, mid-size or large, will survive as a result of technological savvy, quality of product, hard work and forging pricing-partnerships with their dentists.”

So says Carl V. Cazalet, DMD, a 1990 graduate of The University Of Pennsylvania Dental School, who has opened and then sold four very successful/profitable dental office practices over the past 14 years and currently serves as a consultant to other dentists on management issues, opening offices, systems to run dental practices and general dental practice advice.

In assessing the impact of the industry shake-up that he sees underway and taking over dentistry, Dr. Cazalet views events from two vantage points—that of the dentist's office and that of the dental lab.

### Industry Shake- Up: From The Dental Practice Viewpoint

From the perspective of the dentist's chair, Cazalet believes the biggest changes in the profession of the past fifteen years are first and foremost in the area of materials technology—the bonding agents, what we can do with porcelain, the aesthetics of the practice.

The second biggest change, Cazalet opines, is the impact that dental insurance has had on the profession. “The way (the role of dental insurance) fluctuates from region to region and how that affects the prosperity of dentistry has been an interesting trend worth noting,” Dr. Cazalet remarks.

As an example, Cazalet points to “the New York (City) area, (where) close to 100% of the sizable dental practices find themselves in a position where they have to accept just about every insurance arrangement that comes down the pike, (while) in the Albany area, that number is 50% at best.”

Third and finally, “one of the biggest things we're seeing these days in dentistry that's having a big impact on our profession is the cycle of older guys retiring and not enough younger dentists coming up the ranks to take their place.”

When Cazalet walked out of dental school 15 years ago, “there was a glut of younger dentists” and it was relatively easy to sell a practice, as there were many younger doctors eager to buy. Today, the law of supply and demand is on the side of the youngsters—so much so that when they apply for admission to a practice, they interview the established dentist, not the other way around. However, as more and more young people see that dentistry looks like a good place to make a good living, more and more will enter the field, and after about another 10 to 15 years, the supply/demand curve will turn the other way again—“this seems to be an historical trend that comes in regular cycles,” Dr. Cazalet notes.

### Industry Shake-Up: From The Dental Lab Viewpoint

In addition to those three big changes, there's another phenomenon taking place in the dental world today, and it's a touchy subject. Most dentists won't talk about it, or even acknowledge its existence. It's the elephant-in-the-room that few are willing to recognize.

Fortunately, Carl Cazalet will to discuss it. He begins by saying, “This is a huge thing.” And here's how it goes:

“There's a lot of porcelain and bonding work out there—the aesthetics of dentistry—where the labs are ahead of the curve. ...They (the labs) know the materials much better than the dentists do. They know the chemistry and the background of the material better than the dentists. The public doesn't know about the background technology, nor do they care. All they want to know about is the aesthetics—what's going to make me look good. The dentist doesn't know about the latest product that's going to make their patient look good—in fact, the dentist knows little or nothing about the latest product or technology in aesthetics until someone mentions it, and then they ask their lab about it, and their lab tells them how it works, what it can do, what it's made of, etc.”

To put this into an historical perspective, Cazalet points out that “fourteen years ago there weren't many options. The lab was just a flat service—not much partnership between the dentist and the lab was needed. A crown was a crown, was a crown. Every lab was the same.”

But today, all that has changed. Today, “so much of the dentist's work is judged by the aesthetics which their lab can provide—it's the aesthetics that the patients evaluate.”

As a result, whether the dentist wants to admit it or not, the lab is “the dentist’s # 1 partner, right up there with the dental office staff.”

### **What’s A Lab To Do?—Recommendation # 1**

To serve as the veritable “# 1 Partner” to the dentist, Dr. Cazalet recommends that “labs learn how and begin to communicate with the dentist on a wholly new level where they’ve not communicated before...they have to communicate as a partner in a partnership...they have to communicate what they have, what they can do.”

If Cazalet could address a Convention Hall filled with lab owners and dentists, he’d like to tell them, more than anything else, his # 1 piece of advice—which is:

“Dentists should be much more open to communication and suggestions from the labs. ... For example, on the lab slip, the prescription slip, ‘the standard comments and suggestions’ category needs to be greatly expanded and needs to work both ways. It should go back and forth between dentist and lab, with the labs having a lot to say to the dentist, as well as vice versa.”

“Further, dentists need to recognize what the labs don’t like more than anything else outside of dollars and cents issues, which is, namely, that labs don’t like receiving less than quality work, not to say shoddy work, from the dentist, and then being told, ‘Just hurry up and get the case done.’ It is amazing how well labs perform with ‘the fudge factor’—that’s where labs take poor quality work from the dentist and make something out of it that’s really a surprisingly good piece, considering what they were given to work with.”

“The labs should—must!—begin to learn how to say things like, ‘On the next time you see this particular type of case, what about trying (this) or, alternatively, what about trying (that). Also, you ordered (this), but, next time, maybe you could use (that) instead, or maybe (this) approach would work better.”

“Dental schools teach dentists how to critique their work. Dentists must begin to recognize that the labs know their work better than they themselves do. Hence, they must begin to accept, indeed to ask for and embrace, healthy critique from the labs.”

“Dental labs have to learn that the biggest thing the dentists don’t like when it comes to working with their lab, is the lack of adequate tracking information about their cases. Dentists want real time, up to the minute tracking information on each piece that they have ordered:

- was it checked-in at the lab,
- what is its status, where is it in the process of being made,
- what is the shipping information,
- what’s the ETA (expected time of arrival),
- what can I tell the patient in terms of an appointment for fitting their piece.”

The lab that can come up with a computer system for issuing this kind of real time tracking information, daily, directly to the dental office, about each case, is the lab that’s going to make gazillions of dollars selling its process to other labs, because the dentists are going to want it, are going to demand it, once the word gets around that it’s out there.

### **What’s A Lab To Do?—Recommendation # 2?**

The dentists’ concerns are about quality of product and communication.

Thus, it comes as much of a surprise to the lab world, where outsourcing is such a hot topic, when a dentist like Carl Cazalet says, “I don’t think dentists care all that much about outsourcing.” In fact, he goes even further, adding quite confidently, “I know they don’t (care much about Outsourcing).”

The dentists’ attitude is, “As long as the product comes out the same or better, if the quality is good, the quality is good.” In the way that Cazalet sums it up, “The dentist’s concerns are about quality and communication and price.”

And speaking of price—“Because the dentists know that outsourcing saves a lot of money, they want a piece of the action. Thus far, it seems that the labs have been withholding this information.”

Dr. Cazalet has a suggestion for lab owners.

“I suggest that the labs get the pricing information out there in the open, and enter into pricing-partnerships with the dentists, whereby they both reap the financial benefits of outsourcing.”

If a lab chooses to outsource, Cazalet recommends that they send their dentist customers a letter, to the effect:

We are now outsourcing our work to (location). We are confident of the quality which we will be able to provide you from this source, and as part of our quality control process, we ask you to give us feed back on each piece. In return, we will be giving you a discount of (amount), which represents our passing along to you a portion of the savings we reap through this outsourcing arrangement.

In this manner, Cazalet believes, “the labs (will be) put(ing) the dentists more in the loop” regarding what’s going on with outsourcing.

### **Improving The Comfort Level**

From the dentists’ perspective, the future for the lab business rests in the labs’ ability to build and grow a new comfort level with dentists. This comfort level includes the quality of the work, the personalized Quality Control over each piece, the ‘chemistry’ or ‘fit’ of both pieces and personalities, the personal, natural relationship that has grown out of the years of working together. But the future will depend on more than just these traditional loyalty factors.

Going forward, the comfort level between labs and dentists will hinge on new-found levels of communication, where lab and dentist relate to each other as Partners in a business partnership.

This new partnership will involve unprecedented levels of feed-back, critique, advice, sharing of information/knowledge that labs have, which dentists, frankly, do not have, and of tracking information, heretofore not available.

And, the future of the dental lab will include Pricing-partnerships between labs and dentists, a reality that is crying out to be defined.

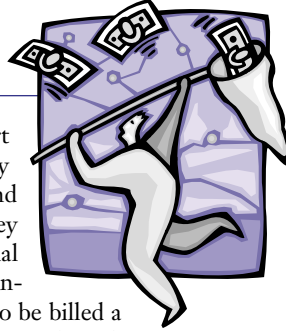
Arguably, one could say that the future for the lab industry depends on its success in forging a new type of partnership with dentists, partnerships which embrace all the old loyalty factors, plus wholly new levels of relating—of communicating and of pricing.

Dr. Carl Cazalet welcomes discussion of his theory on “Pricing Partnerships” and other issues of communications between dentists and lab owners. He can be reached at (518) 368-4507 or by e-mail at ccazalet@aol.com.

# Collecting Sales Tax From Your Dentist Customers

Continued from Page 2

The lab argues that models are part of the process of replacing a body part, just as with prosthetics, and therefore should not be taxable—they are changed separately from the final product only as a customer convenience because the customers prefer to be billed a la carte. But in essence, it's part of the final product.



Similarly, the lab contends, if such items are not exempt as medical devices, then they fall under that manufacturers' exemption because the product cannot be made without them—they are integral to the manufacturing of the end product—just as you can't make them without an oven or porcelain brush, so likewise with a model.

At this point, the audited lab has no idea how the audit will turn out. Apparently, there is nothing in "black and white" that labs or even the state auditors themselves can turn to for the answers—in fact, in the case of this audited lab, the auditors themselves, back in February of this year, agreed to do some digging and talk to some people clear up the difference of opinion that arose in a conference with the lab.

In the case of the audited lab we're discussing here, what the lab knows for sure is this— that it has cost their corporate office quite a bit of money in legal fees and in local CPA representation to deal with the state auditors and defend their rights against the claims being made.

In July of this year, this lab sent letters to all of its doctor customers advising them that:

- as a result of an audit performed by the NYS Sales Tax Division, some dental products and services that you purchase from us are now subject to NYS sales tax.
- currently the taxable products are: orthodontic appliances, TMJ appliances, night guards, bleaching trays, temporaries and laminates, in addition to all resale products like impression material, george gauge, shade guides, and so forth.
- consequently, we are obligated by NYS law to withhold sales tax from you and to remit the tax on your behalf to state sales tax division.

Here's the insidious part of this whole gray area surrounding sales tax on dental lab products:

No lab can use another lab's experience as a basis for knowing what is and it not taxable. A given auditor may rule one way for a particular lab, while another auditor may rule differently for some other lab. Hence, we learn whether an item is taxable or not, only item by item, one at a time, as ruling are made by individual auditors on particular lab audits.

For DLANY members only, DLNAY will provide periodic updates on the on-going NYS sales tax discussions, through direct mail to its members, and as needed, DLANY will be available to work with DLANY members, personally, in making their way through the maze of issues surrounding the collection of sales tax from their dentist customers.

## Let Us Know!

You may have noticed some of the recent changes in our newsletter. The question is: how do you feel about them? Do you like what we're doing? Is there anything you'd like to see more of or less of?

Let us know at [newsletter@dlany.org](mailto:newsletter@dlany.org)

## BusinessDevelopmentAssociates

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### LABORATORY VALUATIONS

*Do you know what your lab is worth?*

At some point every business owner need to document the value of his or her business. Whether it is for Transfer of Ownership, Sale of the business, Insurance purposes, Estate matters, or just curiosity, Business Development Associates specializes in comprehensive business valuation reports for Dental Laboratories. Because we specialize, the cost is reasonable, the service is quick, and confidentiality is assured. To discuss your needs or for more information, contact:



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## 2005 Dental Dates<sup>SM</sup>

**AUGUST 5-6, NEW YORK, NY**

**GNYDM 2005 Summer Program Exhibits**

Marriott Marquis Hotel

**Info:** [www.gnydm.com](http://www.gnydm.com)

**SEPTEMBER 23 & 24, TARRYTOWN, NY**

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Westchester Marriott Hotel

**Info:** Megan Eiser • 518-355-3183 • [Congress@dlany.org](mailto:Congress@dlany.org)

FOR ADDITIONAL LISTINGS VISIT

**[www.dlany.org](http://www.dlany.org)**

## PALLADIUM

Prices based on London Price Fix  
2nd Wednesday of the month

Months	2004 \$ troy oz	2005 \$ troy oz	'05/ '04 + or (-)
Jan.	219.00	189.00	-30.00
Feb.	236.00	182.03	-53.97
March	264.00	197.99	-66.01
Apr.	320.00	198.00	-122.00
May	241.00	188.00	-53.00
June	228.00	186.00	-42.00
July	224.00		
Aug.	214.50		
Sept.	209.00		
Oct.	212.00		
Nov.	213.00		
Dec.	207.75	180.00	-27.75

## GOLD

Prices based on Englehard gold fabricated price  
2nd Wednesday of the month

Months	2004 \$ troy oz	2005 \$ troy oz	'05/ '04 + or (-)
Jan.	419.50	424.15	+4.65
Feb.	427.44	423.35	-4.09
March	421.66	435.00	+13.34
Apr.	419.03	426.13	+7.1
May	402.67	419.25	+16.58
June	407.57	419.00	+11.43
July	435.53		
Aug.	424.81		
Sept.	436.22		
Oct.	443.54		
Nov.	433.40		
Dec.	431.92	471.16	+39.24

# Congress:2005

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