



## ARIZONA STATE BOARD OF DENTAL EXAMINERS

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### MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING FEBRUARY 2, 2018

#### **Board Members Present:**

Gregory A. Waite, DDS, President  
Robert H. Foster, DDS, Vice President  
Robert B. Taylor, DDS  
Darren L. Flowers, DMD  
Howard J. Sorensen, DDS  
Heather N. Hardy, RDH  
Marilyn J. McClain, RDH  
Mr. Charles E. Jackson  
Mr. Joshua Greer  
Ms. Carole A. Crevier

#### **Absent:**

Lisa B. Bienstock, DMD

#### **Staff Present:**

Ms. Elaine Hugunin, Executive Director  
Ms. Nancy Chambers, Deputy Director  
Ms. Mary DeLaat Williams, Assistant Attorney General  
Ms. Sherrie Biggs, Licensure Manager  
Ms. Terry Bialostosky, Investigations Supervisor  
Ms. Dee Woodard, Legal Administrator

#### **NOTICE:**

Roll Call votes are recorded and provided as an attachment to these minutes pursuant to A.R.S. §32-3205 which reads "If a disciplinary action requires a vote of Board members, the health professional regulatory Board shall conduct that vote by roll call. The Board shall maintain a record of each member's vote. This section does not prohibit a Board from using a Consent Agenda."

#### **GENERAL BUSINESS**

##### **Agenda Item No. 1      CALL TO ORDER, INTRODUCTIONS AND ANNOUNCEMENTS**

Dr. Waite called the meeting to order at 8:00 a.m.

##### **Agenda Item No. 2      PUBLIC COMMENT ON CASES**

Complainant TJK was present and spoke about case no. 201700134 (Agenda Item 13A).  
Complainant AA was present and spoke about case no. 201700173 (Agenda Item 13B).  
Complainant DB was present and spoke about case no. 201700193 (Agenda Item 13C).  
Complainant BM was present and spoke about case no. 201700161-ED (Agenda Item 20A).  
Complainant JB was present and spoke about case no. 201700198-ED (Agenda Item 20C).

##### **Agenda Item No. 3      PRESIDENT'S REPORT – Dr. Gregory A. Waite**

- A. President's report from the annual Commission on Dental Competency Assessments (CDCA) meeting.

Dr. Waite reported he and Ms. Hardy attended the annual Commission on Dental Competency Assessments' meeting and represented the Board. He stated WREB made several changes to the examination. He said several states in attendance stated they would revisit the WREB examination to determine whether the examination would be accepted based on the changes that had been made. Dr. Waite stated the main change that had been made was if a dentist passed the operative section by doing one class two restoration, and if passed, nothing else has to be done. Dr. Waite stated the American Board of Dental Examiners (ADEX) is pushing to be the only examination done for the country. He said New York does not issue licenses except through a residency program and Delaware administers its own examination. Dr. Waite said of the 48 states in the United States there are only four states that do not accept the ADEX examination. Dr. Waite stated a question was brought up at the meeting on how state boards calibrate the inspectors sent out to the offices to inspect anesthesia, Occupational Safety and Health Administration (OSHA) violations, and infection control. Director Hugunin stated to the best of the Board's ability, the inspectors are calibrated before inspecting site locations. Dr. Waite stated many states are considering a certification process for dental assistants. He stated Massachusetts currently licenses dental assistants and recommended not issuing licenses as it puts too much work on Board staff. Dr. Waite also reported there was some discussion on opioid issues, dental therapists, anesthesia and specialty issues.

Ms. Hardy reported while attending the Steering Committee meeting someone spoke about the licensure issue with the ADA pushing the Objective Structured Clinical Examination (OSCE) in the school setting versus licensing Boards administering the examination. She stated several Boards in other states such as the Medical Board, Nursing Board, Physical Therapy Board, Occupational Therapy Board do not administer their examinations. She stated the Canadians perform the OSCE examination, they have different standards than the United States, all Canadian schools teach the same curriculum. She stated medicine and podiatry use OSCE programs. She stated medical professionals are credentialed in hospitals utilizing Board certification. Dr. Waite stated there are currently 11 pathways to licensure in dentistry for the state of Arizona. Dr. Waite stated the WREB examination is a current requirement in the Arizona statutes. He said WREB is a good examination, and the administration of the examination is done very well.

**Agenda Item No. 4 EXECUTIVE DIRECTOR'S REPORT – Ms. Elaine Hugunin**

Additional materials for agenda items 4C, 4Bv, 4F, 4G, 13D, 14C and 21A, were provided in the Board's materials.

- A. Summary of current events that affect the Arizona State Board of Dental Examiners (This is the time for the Board President or Executive Director to give a brief summary on current events that affect the Board. It is informational only and no discussion may occur.)

Director Hugunin welcomed the Board and the public to the new location, 1740 West Adams Street, Phoenix, AZ 85007, Board Room B.

- B. Current Proposed Legislation – Review, discussion and possible action regarding current proposed legislation for the 2018 session

Director Hugunin stated the Legislature was in session and there were many bills that had been dropped which may impact the Dental Board. She stated many of the bills may not make it through the process and those that were discussed with the Board most likely would be

amended by the end of the Legislative session. Director Hugunin stated in her lobbying role, she had met with several Representatives and Senators, along with the Medical Board and Nursing Board Executive Directors. Almost all of the legislators she met with wanted to discuss the mid-level provider bill and asked if the Board had an opinion, she informed them that the Board was neutral.

i. HB 2402 – Dental Board; teeth whitening services

Director Hugunin stated this bill is regarding the Dental Board and teeth whitening services. This amends A.R.S. §32-1231 which details persons not required to be licensed as well as add definitions for teeth whitening materials, equipment and services.

ii. SB 1031 – health professionals; penalties; prohibition

Director Hugunin stated this bill is regarding health professionals, penalties and prohibition. She stated this was an interesting bill which stated that an agency of the State may not punish a health professional if a patient declined any testing; a procedure or the recommendation of the health professional including a transfer of care.

iii. SB 1184 – state compact; temporary professional licenses

Director Hugunin stated this bill is regarding state compact and temporary professional licenses. She stated she had heard that this was a result of ALEC (American Legislative Exchange Council) which Legislators throughout the United States attended. She stated the dental profession does not have a national licensing compact like the medical and nursing professions. This legislation, if passed, would apply to any state that adopts uniform compact language. She stated there was discussions in Idaho, North Dakota, South Dakota, Wyoming and Nebraska regarding this type of legislation. Director Hugunin stated the Executive Director from South Dakota informed her that there was also a bill in South Dakota that would exempt the Dental Board from a national compact for all professions. She stated the Arizona bill allows an agency to issue a temporary permit to expedite licenses when an individual moves from one state to another, and that licensure portability is a national issue.

iv. SB 1377 – Dental therapy; licensure; regulation

Director Hugunin stated this bill is regarding dental therapy, licensure, and regulation. She stated this adds another type of licensee to the Dental Practice Act and detailed the scope of their practice. She stated the proposed language is added to A.R.S. §32-1231 which states: any person practicing dental therapy in the discharge of official duties on behalf of the United States Government, including the United States Department of Veterans Affairs, the United States Public Health Service and the Indian Health Service and Tribal Health programs authorized pursuant to public law 93-638 was not required to be licensed. Director Hugunin stated the scope of practice must be defined in the Dental Practice Act in order that Medicaid dollars can be obtained. She stated the bill also provided that an applicant must have graduated from a dental therapy education program that is accredited by or is in the process of becoming accredited by the American Dental Association Commission on Dental Accreditation, and is offered through an accredited higher education institution recognized by the United States Department of Education. Director Hugunin stated presently there is not a school that has been accredited although the Minnesota program was going through the CODA process. She stated the Board would sign in as neutral when the bill is heard by the House Health Committee, and that the bill now had 30 co-sponsors.

v. HB 2001 – Controlled substances; regulation; appropriation

Director Hugunin stated this bill is regarding controlled substances, regulation, and appropriation. She stated the bill was signed by the governor and she provided the 68 page bill to the Board with a summary. She stated many of the pages related to changing each of the practice acts for those professionals who prescribed controlled substances. Director Hugunin said she had received several calls from licensees regarding this and had spoken with the other Executive Directors with licensees who had been impacted by the bill. She stated there are several key items one of which is requiring electronic prescribing which may be costly to many licensees to implement; however, there is a delayed implementation date and a longer implementation date for rural areas. She stated the bill required regulatory Boards to notify licensees to query the Controlled Substance Prescription Monitoring Program (CSPMP) on each patient prior to prescribing a controlled substance. The bill will require licensees to query the CSPMP prior to prescribing a controlled substance; it modifies continuing education requirements and at some point, the rules in the Dental Practice Act will need to be changed. In addition, it requires pharmacists to check the CSPMP prior to dispensing an opioid or benzodiazepine.

- vi. HB 2129 – DHS; Radiation regulatory Boards, repeal
- vii. HB2257 – Radiation regulatory Boards; repeal; DHS
- viii. HB 2403 – Athletic Trainers; regulation; repeal
- ix. HB 2405 – Board of Barbers; repeal
- x. HB 2406 – Behavioral Health Board; regulation; repeal
- xi. HB 2407 – Dispensing Opticians; repeal of regulation
- xii. HB 2408 – Board of Funeral Directors; repeal
- xiii. HB 2409 – Massage Therapy; regulation; repeal
- xiv. HB2410 – Geologists; landscape architects; regulatory repeal
- xv. HB 2411 – Homeopathic Physicians Board; repeal

Director Hugunin stated agenda items 4Bvi through 4Bxv – these bills propose to repeal the Boards listed which included Radiation regulatory boards; Athletic Trainers; Board of Barbers; Behavioral Health Board; Dispensing Opticians; Funeral Directors; Massage Therapy; Homeopathic; Geologists and landscape architects. Director Hugunin stated that the bill regarding the Behavioral Health Board would not be heard by the Senate or House Health Committee.

- xvi. HB 2207 – Public meetings; audiovisual recordings; posting

Director Hugunin stated this bill would require Boards to videotape all their meetings as well as post all final decisions, orders and actions taken by the Board within five days after a Board meeting. She stated not only was this costly but very difficult to be in compliance with given the timeframes. Director Hugunin stated the bill required that the final decisions, orders and actions be retained on the Board's website for at least five years which conflicts with Senator Barto's bill which passed last year.

- C. D0411 – Review, and discussion regarding HbA1c in-office point of service testing for diabetes

Director Hugunin stated Board staff received inquiries and emails regarding dentists performing testing for diabetes on their patients while in the office. She stated she had been in contact with other states regarding this issue and the majority do allow diabetes testing. The American Dental Association had established a code which enabled dentists to charge for the test equipment and their time. The Board may wish to consider directing staff to research whether a substantive policy statement would be appropriate and report back at a future Board meeting.

Mr. Greer directed Board staff to research whether a substantive policy statement would be appropriate.

- D. Dr. Roy Daniels – Review, discussion and possible action on opening an investigation for disclosure of a felony conviction.

Director Hugunin stated Dr. Daniels timely reported a felony charge. She stated he paid his fines and restitution required. She stated felony convictions must be reviewed by the Board as it may constitute grounds for discipline. Board staff recommended the Board consider taking no action.

Ms. McClain stated she wanted the Board to open an investigation.

Ms. Hardy stated there was a thorough investigation completed by the police department. She stated Dr. Daniels did have a serious error in his judgement; however, this was not affecting his ability to practice dentistry.

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to TAKE NO ACTION on Dr. Daniels felony conviction. MOTION PASSED. Ms. McClain OPPOSED.

- E. Smile Direct Club – Review, discussion and possible action regarding services provided by Smile Direct.

Director Hugunin stated Board staff was in receipt of a complaint from the Attorney General's Office regarding Smile Direct Club. She stated Board staff received other calls primarily from orthodontists asking for an opinion regarding Smile Direct's model. She stated Board staff may not render opinions or interpret the law. Director Hugunin stated she had spoken with many of her peers regarding this topic and most have been unable to obtain patient names or other information to proceed with any investigation against Smile Direct Club. She stated she had recently come across a lawsuit filed by Smile Direct Club against the Michigan Dental Association as a result of their publications regarding its practice and from reading this she believed there are no patient complaints. She stated this was presented to the Board for information and any action the Board believed was necessary. Director Hugunin stated without patient names it may be difficult to pursue any investigation.

Mr. Jackson stated his concern was for the public receiving orthodontic treatments by non-licensed individuals.

Dr. Taylor stated he had a concern with the public not receiving adequate information. He stated he was concerned with the advertisements, Smile Direct states they are making true statements, but the public doesn't really know if it is true or not.

Director Hugunin stated Board staff could send a more detailed correspondence requesting the names of licensed dentists in Arizona who are currently working for Smile Direct Club.

Ms. Hardy stated she would like to know if there were licensed dentists in Arizona who are treating patients currently employed with Smile Direct Club.

Dr. Foster questioned Ms. Williams inquiring if this was technically illegal. He asked if it was illegal practicing dentistry without a license. Ms. Williams stated it was for the Board to decide once all of the information had been gathered.

Ms. Williams stated there were two components to this matter, first was this a registered business entity, and secondly are there individuals practicing dentistry without a license.

Discussion ensued.

Upon MOTION by Dr. Taylor, second by Mr. Jackson, the Board voted to pursue this matter further with staff sending Smile Direct another letter specific to whether they are a business entity registered with the state, what is their practice, and what dentists are currently providing diagnosis and treatment planning and if any of those dentists are licensed in the state of Arizona, and bring this matter back to the Board in the future. MOTION PASSED UNANIMOUSLY.

- F. Expanded Function Dental Assistants – Review, discussion and possible action regarding correspondence from the Arizona Dental Association and EFDA applicant Carrie Gaunt.

Director Hugunin stated the Board was in receipt of correspondence from the Arizona Dental Association regarding Ms. Carrie Gauntt, an Expanded Function Dental Assistant (EFDA) candidate by credential. She stated Board staff acted appropriately as there are no provisions in the statute for denial or hearings related to this matter. Ms. Gauntt's application was not complete, it was not denied. Director Hugunin stated the statutes were followed with respect to her credentials and as Mr. Earle had indicated, it may have been the intent but as written, Ms. Gauntt does not qualify. Board staff believed the statutes need to be amended. Director Hugunin stated in the event the Board believes she does not qualify, they may wish to consider providing Ms. Gauntt an opportunity for a hearing before the Board or at the Office of Administrative Hearings if she so chooses.

Mr. Kevin Earle, Executive Director, Arizona Dental Association (AZDA), was present and addressed the Board. He stated the Association realized there was a flaw in the Dental Practice Act when they created the Expanded Function Dental Assistant (EFDA) program. He stated accommodations need to be made for students who had credentials from other states who qualify to be licensed in Arizona. Mr. Earle stated Ms. Gauntt was an Expanded Function Dental Assistant for many years in Ohio. She attended a CODA accredited dental program. Mr. Earle stated Ms. Gauntt is a Restorative Functions Dental Assistant, and a Certified Preventive Functions Dental Assistant. Mr. Earle stated the whole issue is a distinction without a difference. Mr. Earle stated Ms. Gauntt has demonstrated the competency by the number of restorations she has completed in Arizona under the supervision of the licensed dentist. Mr. Earle stated Ms. Gauntt is a member of the faculty for the Phoenix program. He stated the Board would not find a more qualified candidate for the Expanded Function Dental Assistant program.

Director Hugunin stated there are no provisions in the statute for an appeal process, and this should be amended in the statute at some point.

Ms. Williams, Assistant Attorney General, said there was no requirement in the statute that required the Board to issue a permit or a license. She stated this was not on the same path as a license or permit denial, the statutes don't give any grounds for denying applicants. She stated the Board did send a letter to Ms. Gauntt outlining what the deficiencies were. She said it was appropriate for the Board to review.

Ms. Hardy stated she and Dr. Foster sit on the Hygiene Committee; they review course work from hygiene students who want to transfer from other colleges into Arizona to get their anesthesia license. She stated many of them may have taught anesthesia in their colleges in

addition to passing a WREB exam. She stated the students did not have the required courses that Arizona laws dictated the students have and as a result a denial was issued. Ms. Hardy stated the Board's hands may be tied depending on what the requirements are for Arizona.

Mr. Greer asked Mr. Earle what he is asking the Board to do. Mr. Earle stated temporary or permanent cement was the distinction for the type of cement that was being used by dental assistants from Ohio. Mr. Earle stated the Board had the authority to make the decision to qualify Ms. Gauntt as an Expanded Function Dental Assistant in Arizona and issue her a certificate.

Director Hugunin stated this is the first applicant for Expanded Function Dental Assistant for Arizona. She stated board staff did follow the proper protocol, and sent Ms. Gauntt correspondence stating specifically what did not make her qualify. Director Hugunin stated A.R.S. §32-1291(01) needs to be clarified. Currently, the application must provide both a.) evidence of currently holding or having held within the proceeding 10 years of license, registration, permit, or certificate issued by another state or jurisdiction in the United States authorizing the performance of the expanded functions specified in subsection B of this section. b.) proof acceptable to the Board of clinical experience in the expanded functions listed in subsection B. Director Hugunin stated section (a) is where there is a deficiency from Ms. Gauntt.

Mr. Greer stated Ms. Gauntt believed she complied with subsection (b); she currently holds a license, registration or certificate issued by Ohio. Ms. Williams stated the Board must determine whether or not Ms. Gauntt met the qualifications.

Ms. Gauntt was present to address the Board. She stated she had her instruction in topical fluoride, she had her certified preventive exam from DANB. She stated the Board had instructed DANB to issue the exams for EFDA. Ms. Gauntt stated she was certified in fluoride through DANB. Dr. Flowers questioned Ms. Gauntt what was different about the placement of prefabrication and cementation of crowns. Ms. Gauntt stated she was only legally allowed to seat crowns with temporary cement in Ohio. Dr. Flowers stated he did not see a problem if Ms. Gauntt had a certificate issued to her in the cementation of crowns.

Mr. Earle stated there was a flaw in the statute. He stated when the EFDA language was first adopted they did not think about allowing students to come into Arizona by credential. He stated the statute was amended a year ago. Ms. Gauntt stated in August 2017, she submitted her paperwork to DANB, she stated DANB communicated with the Board. At first, DANB was not sure how to interpret the current statute. Ms. Gauntt stated she is EFDA certified.

Upon MOTION by Ms. McClain, second by Dr. Flowers, the Board voted to ACCEPT the credentials of Ms. Gaunt for the state of Arizona for the Expanded Function Dental Assistant program. Dr. Taylor, Mr. Greer, and Dr. Foster OPPOSED. Dr. Sorensen RECUSED. MOTION PASSED.

- G. Review and discussion regarding the Executive Director Complaint Terminations. Pursuant to A.R.S. § 32-1263.03(C), the Executive Director has provided a list of each complaint terminated under A.R.S. § 32-1263.03(A) to the Board. The list of complaints is confidential pursuant to A.R.S. § 32-1207(A)(3). The Board may vote to go into Executive Session on this agenda item, pursuant to A.R.S. § 38-431.03(A)(2), to discuss and consider records exempt by law from public inspection, including the receipt and discussion of information or testimony that is confidential by State or Federal law.

**Agenda Item No. 5 ASSISTANT ATTORNEY GENERAL'S REPORT – Mary DeLaat Williams, AAG**

A. Administrative Appeals

- i. Dr. Sathish Bhadra Chari v. ASBDE (Case No. 201500190) (Maricopa County Superior Court Case LC2017-000082) – Status update

Ms. Williams stated the Board was provided the minute entry with the Superior Court's decision in Dr. Chari's case. She stated the Superior Court did affirm the Board's Order against Dr. Chari. Ms. Williams stated she had not seen an appeal for Dr. Chari; however, he may still be within the timeline to appeal his case.

**Agenda Item No. 6 PERSONNEL ISSUES**

A. VACANT

**Agenda Item No. 7 COMMITTEE REPORTS**

A. Dental Hygiene Committee – Heather N. Hardy, RDH

- i. Review, discussion and possible action regarding the 2017 Dental Hygiene Continuing Education Audit responses. Upon recommendation from the Dental Hygiene Committee, the Board may consider approval of the CE Audit responses from the following:

- |                               |                                |
|-------------------------------|--------------------------------|
| a. Emilia Andujo, RDH         | i. Shirley M. Wall, RDH        |
| b. Amy Lynn Arnold, RDH       | j. LaShell C. Fitterer, RDH    |
| c. Jenine M. Blondeau, RDH    | k. Cori Alyce Hendricks, RDH   |
| d. Wendi L. Campa, RDH        | l. Misty Cherie Matsumura, RDH |
| e. Denise Marie Cartier, RDH  | m. Steven John Smith, RDH      |
| f. Lisa M. Lynch, RDH         | n. Marisela Venegas, RDH       |
| g. Chantal L. McIver, RDH     | o. LaNae Rodgerson, RDH        |
| h. Laurie Michele Murphy, RDH |                                |

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board to APPROVE the CE Audit responses for agenda items 7A.i.a through 7A.i.o. MOTION PASSED UNANIMOUSLY.

***ACTION ON LICENSING***

**Agenda Item No. 8 REQUEST FOR ACTION ON LICENSURE**

The Board will review, discuss and take action on the following applications:

A. VACANT

**Agenda Item No. 9 REQUEST FOR ACTION ON APPLICATION(S) FOR RENEWAL OF LICENSE**

**Roll Call Vote *is required***

The Board will review, discuss and take action on the following renewal applications:

A. VACANT

***ACTION ON CASES – 9:00 AM***

The Board president reserves the right to change the order of items on the agenda, except for public hearing set for a specific time. The Board may vote to go into Executive Session to discuss and consider records exempt by law from public inspection, including the receipt and discussion of information or testimony that is confidential by State or Federal law on agenda items 10A, pursuant to A.R.S. §38-431.03(A)(2).

**Agenda Item No. 10 ACTION ON PREVIOUS ACTION – Roll Call Vote is required**

The Board will review, discuss and may vote to take action on the previous action for the following case(s):

Item No.	Case No.	Licensee	Comments
	VACANT		

**Agenda Item No. 11 PETITION TO REHEAR – Roll Call Vote is required**

The Board will review, discuss and vote to take action on the Petition(s) for Rehearing or Review for following case(s). If GRANTED, the Board may remand for a rehearing or conduct an immediate rehearing/review and determination.

Item No.	Case No.	Licensee	Comments
	VACANT		

***CONSENT AGENDA – 9:00 AM***

**Cases pulled from the Consent Agenda:**

<b>Agenda Item No.</b>	<b>12A</b>	<b>Case No. 201500275 – 201700215</b>	<b>Dr. John M. McLaughlin</b>
<b>Agenda Item No.</b>	<b>14A</b>	<b>Case No. 201700180</b>	<b>Dr. Marshall W. Hanson</b>
<b>Agenda Item No.</b>	<b>14C</b>	<b>Case No. 201700209</b>	<b>Dr. Lidieth R. Libby</b>
<b>Agenda Item No.</b>	<b>14D</b>	<b>Case No. 201700227</b>	<b>Dr. Eric P. Wendelschafer</b>

**Agenda Item No. 12 CASES RECOMMENDED FOR DISCIPLINARY CONSENT AGREEMENTS  
 CONSENT AGENDA – Roll Call Vote is required**

The Board will review, discuss and may vote to take action on the Consent Agreements for the following case(s):

Upon MOTION by Dr. Foster, second by Dr. Sorensen, the Board voted to ACCEPT the Disciplinary consent agreement for the following case on the consent agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
B.	201700216	Ms. Jennafer M. Long, RDH	

**Agenda Item No. 13 CASES RECOMMENDED FOR NON-DISCIPLINARY CONTINUING EDUCATION CONSENT AGREEMENTS  
 CONSENT AGENDA**

Upon MOTION by Dr. Foster, second by Dr. Taylor, the Board voted to ISSUE a Non-Disciplinary Continuing Education Consent Agreement on the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700134	Dr. Maryam Beyramian	3 hours of CE in record keeping
B.	201700173	Dr. Douglas S. Pospisil	3 hours of CE in record keeping
C.	201700193	Dr. Jay H. Spiegel	4 hours of CE in risk management

**Agenda Item No. 14 CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN  
 CONSENT AGENDA**

Upon MOTION by Dr. Foster, second by Ms. Hardy, the Board voted to ISSUE a Letter of Concern for the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
B.	201700204	Dr. Forrest J. Filippi	"Dr. Filippi should have complete documentation of the diagnosis."

**Agenda Item No. 15 CASES RECOMMENDED FOR TERMINATION  
 CONSENT AGENDA**

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to TERMINATE the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700094	Dr. Korinne M. Grieger	Terminate Per Patient
B.	201700167	Dr. Jamie B. Woodfill	Terminate Per Patient
C.	201700185	Dr. Benjamin M. Berschler	Terminate Per Patient
D.	201700197	Dr. Mark S. Montana	Terminate Per Patient

**Agenda Item No. 16 CASES RECOMMENDED FOR DISMISSAL  
 CONSENT AGENDA**

Item No.	Case No.	Licensee	Comments
A.	VACANT		

**Agenda Item No. 17 MALPRACTICE AND ADVERSE OCCURRENCE REPORTS, AND DISCIPLINARY ACTION IN ANOTHER STATE  
 CONSENT AGENDA**

- A. Dr. Kenneth E. Danyluk – Malpractice Report Recommendation – Take No Action

Upon MOTION by Ms. Crevier, second by Ms. Hardy, the Board voted to ACCEPT the recommendation to Take No Action on agenda item 17A. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 17.1 CASES RECOMMENDED FOR APPROVAL OF CONTINUING EDUCATION AUDIT AND ISSUANCE OF LETTER OF CONCERN  
 CONSENT AGENDA**

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to ISSUE a Letter of Concern for agenda items 17.1A through 17.1C. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700234	Dr. David J. Jones	“Dr. Jones should be aware of the Board’s continuing education renewal requirements.”
B.	201700241	Dr. Chad Colby Gage	“Dr. Gage should respond in a timely manner to his licensing Board and should know the continuing education requirements for license renewal.”
C.	201700242	Dr. Andrew Douglas Lewis	“Dr. Lewis should be aware of the Board’s continuing education renewal requirements.”

**Agenda Item No. 18 APPROVAL OF CONSULTANTS AND EXAMINERS  
 CONSENT AGENDA**

- A. Farzam Maleki, DDS – Dental Consultant

Upon MOTION by Dr. Taylor, second by Ms. Hardy, the Board voted to APPOINT Dr. Farzam Maleki as a Dental Consultant. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 19 APPROVAL OF MINUTES  
 CONSENT AGENDA**

- A. December 1, 2017 – Board Meeting Minutes
- B. December 1, 2017 – Executive Session Board Meeting Minutes
- C. December 18, 2017 – Special Board Meeting Minutes
- D. December 18, 2017 – Executive Session Board Meeting Minutes

Upon MOTION by Dr. Taylor, second by Ms. Hardy, the Board voted to APPROVE the December 1, 2017 Board meeting minutes, the December 1, 2017, Executive Session minutes, the December 18, 2017, Special Board meeting minutes, and the December 18, 2017 Executive Session minutes. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 20 REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS**

Upon MOTION by Dr. Taylor, second by Ms. Hardy, the Board voted to APPROVE the following appealed Executive Directors Terminations on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700161-ED	Dr. Charles B. Jakobsen	
B.	201700196-ED	Dr. Michael G. Greenberg	
C.	201700198-ED	Dr. Hudson S. Johnston	

**\*\*\* END OF CONSENT AGENDA \*\*\***

*FORMAL INTERVIEW*

**Agenda Item No. 21 FORMAL INTERVIEW Case No. 201700259  
 Dr. Gregory J. Valacich**

Director Hugunin stated the Board was in receipt of a memo summarizing the seven months Board staff had been working with Dr. Valacich and his attorney. Dr. Valacich signed a confidential stipulated interim order for a substance abuse evaluation/treatment and practice restriction on July 31, 2017. Dr. Valacich did enter into residential treatment and although they recommended additional time beyond the 30 days he chose to leave the program. Director Hugunin stated within a few days of discharge Dr. Valacich relapsed. Dr. Valacich's attorney was told that he must either re-enter treatment or obtain an assessment at a Board approved facility, rather than comply in accordance with his order, Dr. Valacich entered into an out-patient program not approved by Dr. Sucher or by the Board which was in violation of the Board Order. Director Hugunin stated Dr. Sucher reviewed the material and after many months Dr. Valacich did obtain an evaluation and the Board has copies of the results from the evaluation. She stated it was recommended Dr. Valacich obtain 60-90 days in-patient treatment. Board staff had attempted to maintain the confidentiality of Dr. Valacich's Interim order; however, he chose not to comply and appear before the Board for a Formal Interview.

Dr. Gregory Valacich was present and sworn in by the court reporter and addressed the Board.

Mr. Greer was the Lead Board Member.

Mr. Sigberto Celaya, Attorney, for Dr. Valacich was present and addressed the Board. He stated on January 7, 2018, he filed a response to the complaint with the Board which outlined the process which brought them before the Board. He stated the complaint alleged Dr. Valacich was noncompliant with an Interim Board Order, by not participating in a comprehensive in-patient substance abuse treatment. Mr. Celaya stated Dr. Valacich disclosed a Driving Under the Influence (DUI) citation in June 2017. He said Dr. Valacich voluntarily participated in a health assessment by Dr. Sucher who recommended 30 days of treatment in an in-patient facility. Dr. Valacich was successfully discharged from the facility. Mr. Celaya stated Dr. Valacich suffered a relapse upon discharge. He was given two options, he could surrender his license or return to treatment for 60 days. He said this was a difficult decision for Dr. Valacich who has worked for 37 years in dentistry. Mr. Celaya stated Dr. Valacich made the decision to obtain more treatment. He decided to enter an eight week intensive out-patient program. He stated this program was recommended by the facility where Dr. Valacich underwent the 30 days of inpatient treatment, and was recommended as an aftercare program. Mr. Celaya stated Dr. Valacich is currently in phase two of the out-patient program and he was two weeks away from completion. Mr. Celaya stated Dr. Valacich over the past four months had been attending Alcoholics Anonymous (AA) meetings, working the 12 step

program with his sponsor, he resumed using a Soberlink device, and was prescribed medication which he indicated was working well for him. Mr. Celaya stated on January 22, 2018, Dr. Valacich submitted a clean urinalysis to J2 Labs in Tucson, AZ. Mr. Celaya stated Dr. Valacich has immense support from his family; his wife attended the Board meeting and was present to support her husband. He stated Dr. Valacich's former employer would welcome him back with open arms once his issues with the Board had been resolved. Mr. Celaya stated when Dr. Valacich sought out-patient treatment he wasn't doing it with malicious intent, or deliberately going against the Board's recommendations. He stated Dr. Valacich was seeking treatment that worked for him, and found that in the out-patient program. Mr. Celaya stated Dr. Valacich had remained sober for over four months. He stated Dr. Valacich has never had a disciplinary action with the Board. He stated the criminal matter which gave rise to the DUI had been resolved and all DUI allegations were dismissed with prejudice. Mr. Celaya stated Dr. Valacich asked the Board to consider the information, and be allowed to return to the practice of dentistry under the guidelines of the five-year monitored aftercare program endorsed by the Board.

Dr. Valacich thanked the Board for the opportunity to state why he was fit to practice and should be allowed to practice dentistry. He stated for over five years he had been battling various physical problems which resulted in three surgeries over four years. He stated during that time it was challenging for him which brought depression. Dr. Valacich stated in July 2017 he had spinal fusion surgery, he now is pain free and his depression is gone. He stated life is a joy living again. Dr. Valacich stated he had made some poor decisions which brought him to this point. He stated he was unable to follow Dr. Sucher's recommendation for 60 to 90 days following his relapse due to financial reasons, and the rehabilitation facility was not a good fit for him which forced him to search for alternatives. He stated he discovered an out-patient facility in Tucson. He stated he had a much better and enlightening experience at this program. He stated he learned he did have a substance abuse problem, and he had come to terms with that revelation. Dr. Valacich stated after four months of hard work, and clean and sober living he had found a new purpose in life. He stated he wished to practice dentistry again, reestablish relationships with his patients and co-workers. Dr. Valacich stated he realized he had made a mistake and apologized for presenting this case to the Board. He stated he understood he must prove himself to the Board, his patients, and his family. He stated he was taking significant measures to earn the trust back. Dr. Valacich stated he understood he would require monitoring for the remainder of his dentistry career, and he accepted it. He stated he hoped the Board would give him the opportunity to resume his career in dentistry and be a productive citizen in his community.

Mr. Greer stated on March 19, 2016, Dr. Valacich was stopped for suspicion of DUI. He asked Dr. Valacich if that was correct, Dr. Valacich stated correct. Mr. Greer asked Dr. Valacich what happened. Dr. Valacich stated he lives out in the country, he doesn't have recycling pickup. He stated he attended church, went to dinner, and had a few beers. He stated his wife did not finish her beer, he placed the beer in the truck cup holder and was driving to the recycling facility a few miles from his home. He stated he saw lights, and thought there was an accident but, instead it was a sobriety check point. He stated the officers saw the open container of beer in his vehicle. Dr. Valacich stated he was removed from the truck and given a breathalyzer test, and they had him walk the sobriety line. He stated he did not do well walking the sobriety line and suffered a panic attack. He stated the police drew blood from him, and then he was transported to the Sherriff's Department. Dr. Valacich stated he blew a .023. He stated the DUI was dismissed when he initially appeared in court, pending the results of the blood test. He stated it took a year for the results from the blood test, which showed multiple drugs present. Mr. Greer asked Dr. Valacich did he contact the Board when the charges were re-filed against him and he said yes he did, and he contacted Dr. Sucher. Mr. Greer asked Dr. Valacich what were Dr. Sucher's recommendations. Dr. Valacich stated Dr. Sucher recommended 30 days minimum in an in-patient facility. Mr. Greer asked Dr. Valacich did he go to the in-patient program, and Dr. Valacich answered yes he did. Dr. Valacich stated he entered treatment on August 2, 2017. Mr. Greer asked Dr. Valacich if he had sleeping problems while he was at the treatment facility; he answered yes he did. He stated he had insomnia from the men snoring at the program and that he did not get a lot out of the program. Mr. Greer asked Dr. Valacich how long he was at the in-patient treatment facility; he said he was there for 31 days. Mr. Greer asked Dr. Valacich to explain what caused his relapse. Dr. Valacich stated he was sleep deprived, his wife went to a wedding and he was feeling overwhelmed. He stated he went to the store and bought some beer, drank a

few and thought that he would still be able to pass his breathalyzer test. He stated he thought if he drank early enough it would not come back on the monitor but it did. He stated after that he just gave up. Mr. Greer asked Dr. Valacich if he recalled what the terms of the Interim Board Order were and he answered no, he did not recall. Mr. Greer asked Dr. Valacich if he had any understanding of what the terms of the Interim Board Order were; he answered he was not sure. Mr. Greer asked Dr. Valacich did he understand that the terms of the Interim Board Order prohibit him from practicing dentistry for a period of time and Dr. Valacich said yes. Mr. Greer asked Dr. Valacich did he understand he would be prohibited until the Board reviewed the results of the substance abuse evaluation, action would be based upon the results, Dr. Valacich answered yes. Mr. Greer asked Dr. Valacich if he understood he was to comply with the recommendations of the Board's medical director, Dr. Sucher, Dr. Valacich answered yes. Mr. Greer asked Dr. Valacich what Dr. Sucher's recommendations were; he said 60 to 90 more days back at the in-patient treatment facility. Dr. Valacich stated his insurance would not pay for the treatment, and he said he found a better place for treatment in his opinion. Dr. Valacich stated the out-patient program is an intensive out-patient therapy program that patients attend four days per week. He stated the quality of therapy the therapist provided was far better than what was offered at the in-patient treatment facility. Dr. Valacich stated the out-patient program was an eight week program that he attends five days per week, and attends an Alcoholic Anonymous (AA) meeting on Sundays. He stated he attends the out-patient program Monday thru Friday for three hours per day, and the AA meeting was an hour. Mr. Greer asked Dr. Valacich what type of treatment is provided at the out-patient program. Dr. Valacich responded that he said he met with psychiatrists, nutritionists, nurse practitioners, and an individual therapist. He stated the program taught him strategies for dealing with temptations of using substances. He stated he learned about his disease and how to manage and cope with the disease including accepting he has the disease. Dr. Valacich stated he was attending a ten week program, which was basically the same as the eight week program he attended. He stated he meets with an individual therapist once a week to discuss how he is doing with his sobriety. Mr. Greer asked Dr. Valacich if he was he attending AA meetings, Dr. Valacich answered he was attending meetings daily. Dr. Valacich stated he believed he had received the recovery treatment he needed. He stated he received very poor treatment at the in-patient treatment facility and he was not willing to go back that facility. Mr. Greer asked Dr. Valacich if he is currently drinking alcohol and he said he had not drunk any alcohol for over 140 days. Mr. Greer asked Dr. Valacich if he is using the Soberlink and he said yes. Mr. Greer stated there was a positive test on January 31, 2018. Dr. Valacich stated he blew a .04 into the breathalyzer as a result of spilling hand sanitizer on his hands. He stated he immediately contacted Cigna to report what had happened and that, he had two negative tests in the same day. Mr. Greer asked Dr. Valacich about the positive test on January 9, 2018 which was a .009. Dr. Valacich stated he was not aware of that positive test.

Mr. Jackson asked Dr. Valacich what the difference was in his treatment at the in-patient facility and the out-patient program. Dr. Valacich stated the therapists at the out-patient program are better and that the in-patient facility was consistently inconsistent. He stated that the in-patient treatment facility would have a plan for the week but would never follow the plan and the facility was not well run.

Dr. Sorensen stated there are multiple treatment facilities to choose from. He asked Dr. Valacich why his focus was on the previous treatment facility. Dr. Valacich stated he did not want to leave the state of Arizona to receive treatment and the facility he initially went to is the only treatment facility in Arizona.

Mr. Celaya stated Dr. Valacich did not trust the staff conducting the evaluations. He stated Dr. Valacich was mis-diagnosed at the treatment facility with a medical condition. Mr. Celaya stated Dr. Valacich was skeptical of a facility that gave him a false diagnosis of a life threatening condition.

Ms. Crevier asked Dr. Valacich if he was taking any medication for his other medical issues. Dr. Valacich answered with a list of medications. Ms. Crevier asked Dr. Valacich what his coping strategies were. He stated he has sponsors and friends he can contact; he meditates, and he has the support from his family. Ms. Crevier asked Dr. Valacich would he be willing to obtain treatment at an in-patient facility and he said he did not feel he needed it.



**Agenda Item No. 14C                      Case No. 201700209  
Dr. Lidieth R. Libby**

This case was pulled by Ms. Hardy. Ms. Hardy stated that she knew Dr. Libby made corrections to the treatment records but she did not, as was stated, alter them. She was just adding to them. She got in the middle between a divorced family. To issue a Letter of Concern is overkill and Dr. Libby recognized this was everything that happened. She got caught up in something that was unfortunate.

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to DISMISS Case No. 201700209. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 14D                      Case No. 201700227  
Dr. Eric P. Wendelschafer**

The case was pulled by Mr. Greer to RECUSE.

Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to ISSUE a Letter of Concern for Case No. 201700227 on the Consent Agenda. Mr. Greer RECUSED. MOTION PASSED.

***CALL TO THE PUBLIC***

Consideration of comments from the public. Those wishing to address the Board need not request permission in advance. The Board may ask staff to review a matter or may ask that a matter be put on a future agenda. The Board shall not discuss or take action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. A.R.S. § 38-431.01(H).

**Agenda Item No. 22    MEMBERS OF THE PUBLIC**

**Agenda Item No. 23    FUTURE AGENDA ITEMS**

**Agenda Item No. 24    NEXT MEETING DATE – April 6, 2018**

**Agenda Item No. 25    ADJOURNMENT**

Upon MOTION by Dr. Taylor, second by Dr. Sorensen, the Board voted to ADJOURN the Board meeting. MOTION PASSED UNANIMOUSLY.

Dr. Waite adjourned the Board meeting at 10:36 a.m.