



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 5, 2016

Board Members Present:

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

Staff Present:

Ms. Elaine Hugunin, Executive Director
Ms. Nancy Chambers, Deputy Director
Ms. Mary DeLaat, Assistant Attorney General
Ms. Terry Bialostosky, Investigations Supervisor
Ms. Yubeka Riddick, Program & Project Specialist
Ms. Dee Woodard, Legal Assistant

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

Agenda Item No. 3 PRESIDENT'S REPORT

- A. VACANT

Agenda Item No. 4 Executive Director's Report

- A. Summary of current events that affect the Arizona State Board of Dental Examiners
No current events reported
- B. Reminders for Board members when speaking during Board meetings

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Ms. Hugunin reminded Board members about speaking during Board meetings. She stated the former court reporting company informed the Board they will no longer provide services to the Board. When Ms. Hugunin inquired as to the reasons services were being terminated, the following reasons were given: Board Members continue to speak over each other. Court reporters were challenged transcribing with multiple people speaking at once. Terminology was very difficult. A new court reporter has been hired. Court Reporters are hired to transcribe during formal interviews.

- C. Approval for Executive Director and Board President to attend the mid-year American Association of Dental Administrators and American Association of Dental Boards. The mid-year meeting is April 10 – April 11, 2016 in Chicago, IL.

Upon MOTION by Ms. Crevier, second by Dr. Waite, the Board voted to APPROVE the Executive Director and Board President to attend the mid-year American Association of Dental Administrators and American Association of Dental Boards, April 10-11, 2016 in Chicago, IL. MOTION PASSED UNANIMOUSLY.

- D. Discussion on delivery of Board Materials

Due to the considerable feedback regarding the materials loaded on the Oracle Cloud, the Board has reverted back to the previous method using flash drives (with book marks). In the future there is a possibility materials will be used via Oracle Cloud, when upgrades are implemented to this program.

- E. Review and discussion regarding the Commission on Dental Competency Assessments (CDCA), formerly the Northeast Regional Board (NERB), administration of the Patient Centered Curriculum Integrated Format and American Board of Dental Examiners (ADEX) examination.

No Board Action taken.

- F. Review, discussion and approval for Executive Director to attend Yuma study club May 19, 2016.

Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to APPROVE the Executive Director to attend the Yuma study club May 19, 2016. MOTION PASSED UNANIMOUSLY.

- G. Review on proposed legislation

There are several proposed bills listed on the agenda which are presented for information. As you know these are proposed and most likely will not resemble this language by the time it moves out of the various Committees and some may not make it through the process. Of interest to the Board, the following proposed bills are in your material:

1. HB 2501 - Relating to the transfer of Health Profession Regulatory Boards to the Department of Health Services. The department of health services succeeds to the administrative authority of the following health profession regulatory boards in the following fiscal years: In Fiscal year 2018-2019 - State board of dental examiners.

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The proposed language is vague; however, a group of stakeholders are meeting with Representative Carter on a weekly basis to discuss the details.

2. SB 1443 – Amending Section 32-3214 and Title 32, Chapter 32, Article 1 adding several sections to health profession regulatory boards.

Many of the amendments in this bill were already added to the Dental Practice Act last legislative session. One of these is requiring that all non-disciplinary sanctions will be placed on the regulatory board's website. It also requires regulatory boards to establish a confidential monitoring program for licensees who have a medical, psychiatric, psychological or behavioral health disorder that may impact the licensee's ability to safely practice or perform health care tasks.

3. SB 1110 - Amending Section 32-1210, Annual Report.

Ms. Chambers and I were at the Capitol on Wednesday to hear this bill. It allows the annual report to be sent electronically to the Governor's Office.

4. SB 1283 – Amending Section 32-2606, Arizona Revised Statutes; relating to the controlled substances prescription monitoring program.

This relates to the controlled substances prescription monitoring program. It would require mandatory use of the program by health professionals.

5. SB 1524 – Amending Title 9, Chapter 7, Article 4, Arizona Revised Statutes, by adding section 9-841; Amending Title 11, Chapter 11.

This states that agencies may not take any action that increases the regulatory burdens on a person under certain situations.

6. SB 1509 – Amending Section 36-2903.12 Arizona Revised Statutes relating to the Arizona Health Care Cost Containment System.

This is an AHCCCS proposed bill that addresses informed consent.

7. SB 1421 – Amending Section 41-1279.03 Arizona Revised Statutes relating to the Auditor General.

This bill will require the Auditor General during an audit to review the use of administrative funds and per diem compensation and reimbursement of expenses for each employee of the agency and each member of the Board.

- H. 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

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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.

The list of each complaint terminated was in the additional information as stated under Agenda Item 2.

Agenda Item No. 2 PUBLIC COMMENT ON CASES

Complainant MH was present and spoke about case no. 201500209 (Agenda Item 15A).
Complainant KS was present and spoke about case no. 201500057 (Agenda Item 13A).
Complainant MM was present and spoke about case no. 201500220 (Agenda Item 15B).
Complainant EG was present and spoke about case no. 201500153 (Agenda Item 16A).
Complainant RP was present and spoke about case no. 20150000194 (Agenda Item 16B).
Complainant SKH was present and spoke about case no. 20150000229 (Agenda Item 16F).
Complainant HG was present and spoke about case no. 201500211 (Agenda Item 17A).
Complainant RCB was present and spoke about case no. 201500223 (Agenda Item 17B).
Complainant MR was present and spoke about case no. 201500203-ED (Agenda Item 23A).
Complainant MSM was present and spoke about case no. 201500204-ED (Agenda Item 23B).
Complainant EH was present and spoke about case no. 201500226-ED (Agenda Item 23D).

Additional materials for agenda items 4E, 4Gi-vii, 13A, 15B, 16D, 17C, and 4H were provided in the Board's materials.

Agenda Item No. 6. PERSONNEL ISSUES

- A. Dee Woodard – Legal Administrator.
Introductions of Ms. Woodard were made to the Board.

Agenda Item No. 8 REQUEST FOR ACTION ON LICENSURE BY EXAMINATION

- A. Samantha Grace Ibrahim, RDH - Failure to disclose on application an arrest for criminal damage in 2014.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to GRANT licensure to Ms. Ibrahim. MOTION PASSED UNANIMOUSLY.

- B. Parvin Singh Dhaliwal, DDS - Disclosure of a misdemeanor conviction, for music piracy, downloading and sharing music and video files which has been set aside.

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to GRANT licensure to Dr. Dhaliwai. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 9 REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL
Clinical Examination taken more than five years ago**

- A. Dr. Jacek Wojciech Wolniak - Board Approved Exam-NPDB lists one malpractice settlement that is less than ten years and over \$10,000.00.

Upon MOTION by Dr. Waite, second by Ms. Hardy, the Board voted to GRANT licensure to Dr. Wolniak. MOTION PASSED UNANIMOUSLY.

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- B. Dr. Cathleen Toshie Arima - 1982 California State Dental Exam prior to a regional. Dr. Arima was not present at the Board Meeting.

Upon MOTION by Mr. Greer, second by Mr. Hardy, the Board voted to GRANT licensure to Dr. Arima. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 10. REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL
Clinical Examination taken more than five years ago**

The following applicants for licensure by credential have, as part of their application, had a detailed report prepared by a Board-recognized organization and forwarded to the Board on their behalf. The Board will review, discuss and take action on the following applications.

- A. VACANT

**Agenda Item No. 11 REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL
Clinical Examination taken less than five years ago**

The following applicants for licensure by credential have submitted documentation of successful completion of a clinical examination taken less than five years. The Board will review, discuss and take action on the following applications.

- A. Dr. Ivey Daniell Agee- 2015 SRTA Exam

Upon MOTION by Dr. Waite, second by Mr. Greer, the Board voted to GRANT licensure to Dr. Agee. MOTION PASSED UNANIMOUSLY.

- B. Andrea Nemeth, RDH-2015 CITA Exam

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to GRANT licensure to Ms. Nemeth. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 12 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

Agenda Item No. 7 COMMITTEE REPORTS

- A. Continuing Education Audit for Dentists Committee – Dr. Robert Foster

- i. Upon recommendation from the Continuing Education Audit for Dentists Committee, the Board voted to approve the CE Audit responses from the following: Additional information was requested

- a. Dr. Bruce Thomas Aahrens - with a letter stating CE used in this audit may not be used for the next renewal
- b. Dr. Dennis E. Hanna
- c. Dr. David W. Ho

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- d. Dr. George P. Spine III - with a letter stating CE used in this audit may not be used for the next renewal
- e. Dr. Daniel Wolter - with a letter stating CE used in this audit may not be used for the next renewal

Upon MOTION by Dr. Foster, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for agenda items 7aia-e – Dr. Aahrens, Dr. Hanna, Dr. Ho, Dr. Spine, and Dr. Wolter are now in compliance. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 5 ASSISTANT ATTORNEY GENERAL’S REPORT FOR BOARD DIRECTION & POSSIBLE ACTION

A. Administrative Appeals

- i. Dr. Brent Tyler Robison v. ASBDE (Case No. 201000301) (Maricopa County Superior Court Case LC2013-000484) – Status Update
The Court of Appeals affirmed the Board’s Order. Dr. Robison can still file a petition to review with the Arizona Supreme Court.
- ii. Dr. Michael Wassef v. ASBDE (Case No. 201400061) (Maricopa County Superior Court Case LC2014-000547-001) – Status update
The case has been briefed and is under advisement. Dr. Wassef has filed an appeal with the Court of Appeals and has requested a stay. The court did grant Dr. Wassef a stay under the condition of twice month urinalysis testing.
- ii. Dr. Rosalyn D. Keith v. ASBDE (Case No. 201300291/201400004) (Maricopa County Superior Court Case LC2015-000017-001) – Status update
A final decision was made by the court Dr. Keith’s license has been revoked.

CONSENT AGENDA

The following items were pulled from the Consent Agenda either at the request of a Board Member or by the public. These items will be discussed individually:

Cases pulled from the Consent Agenda:

Agenda Item No. 15A	Case No. 201500209	Dr. Mu-Hun Kim
Agenda Item No. 15B	Case No. 201500220	Dr. Michael D. Margolis
Agenda Item No. 15C	Case No. 201500262	Dr. Christine M. Kopsky
Agenda Item No. 16A	Case No. 201500153	Dr. Mark D. Brannon
Agenda Item No. 16F	Case No. 201500229	Dr. Joshua Earl Cadwell

Agenda Item No. 15 – CASES RECOMMENDED FOR DISCIPLINARY CONSENT AGREEMENTS

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to IMPOSE the Disciplinary Continuing Education Consent Agreements on the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Action
D.	201500266	Dr. Mark L. Moss	
E.	201500298	Dr. William S. Hickman	

Agenda Item No. 16 – CASES RECOMMENDED FOR NON-DISCIPLINARY CONTINUING EDUCATION CONSENT AGREEMENTS – CONSENT AGENDA

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to IMPOSE the Non-Disciplinary Continuing Education Consent Agreements on the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Action
B.	201500194	Dr. Stephen J. Conrad	4 hours of non-disciplinary continuing education in the area of risk management
C.	201500215	Dr. Ehsan Pourshirazi	6 hours of non-disciplinary continuing education in the area of record keeping
D.	201500217	Dr. Skylar Alan Lighthall	6 hours of non-disciplinary continuing education in the area of sedation in elderly patients
E.	201500224	Dr. Franklin T. Nguyen	6 hours of non-disciplinary continuing education in the area of Infectious Disease Control

Agenda Item No. 17 – CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN – CONSENT AGENDA

Upon MOTION by Dr. Foster, second by Mr. Greer, 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	Action
A.	201500211	Dr. Ehsan Pourshirazi	“Dr. Pourshirazi should use a rubber dam when performing root canal treatment”
B.	201500223	Dr. Rodger S. Sears	“Dr. Sears should maintain records that are clear, concise and understandable”
C.	201500230	Arrowhead Smiles at Ismile Implant and Surgical Center	“Arrowhead Smiles at Ismile Implant and Surgical Center records should be clear, concise and understandable”
D.	201500251	Dr. Robert D. Sundberg	“Dr. Sundberg should ensure that his records are clear, concise and legible”
E.	201500296	Jerome C. Cutler	“Dr. Cutler should be aware of the rules and regulations governing the practice of dentistry in the state of Arizona”

Agenda Item No. 18 – CASES RECOMMENDED FOR TERMINATION – CONSENT AGENDA

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

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Item No.	Case No.	Licensee	Action
A.	201500244	Dr. Parisa Shahnava	Per patient letter
B.	201500250	Dr. Sanjay Nigam	Per patient letter
C.	201500258	Dr. Matthew D. Kennedy	Per patient letter

Agenda Item No. 19 – CASES RECOMMENDED FOR DISMISSAL – CONSENT AGENDA

Item No.	Case No.	Licensee	Comments
A.	Vacant		

Agenda Item No. 20 – MALPRACTICE, ADVERSE OCCURANCE REPORTS, AND DISCIPLINARY ACTION IN ANOTHER STATE – CONSENT AGENDA

A. VACANT

Agenda Item No. 21 – APPROVAL OF CONSULTANTS AND EXAMINERS – CONSENT AGENDA

A. VACANT

Agenda Item No. 22 – APPROVAL OF MINUTES – CONSENT AGENDA

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to APPROVE the following minutes. MOTION PASSED UNANIMOUSLY.

- A. December 4, 2015 – Board Meeting Minutes
- B. December 4, 2015 – Executive Session Meeting Minutes for Agenda Item 10A
- C. December 4, 2015 – Executive Session Meeting Minutes for Agenda 6 B & C

Agenda Item 23 – REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS – CONSENT AGENDA

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

Item No.	Case No.	Licensee	Comments
A.	201500203-ED	Dr. Joe W. Pearson	
B.	201500204-ED	Dr. Sathish Bhadra Chari	
C.	201500206-ED	Dr. David A. Borba	
D.	201500226-ED	Dr. Ryan T. Stanger	
E.	201500227-ED	Dr. Michael J. Gibbons	

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Item No.	Case No.	Licensee	Comments
F.	201500248-ED	Dr. Brooke A. Zoumbaris	

END OF CONSENT AGENDA

**Agenda Item No. 16A Case No. 201500153
Dr. Mark D. Brannon**

This case was pulled by a member of the Board and the public. Ms. Corcoran, attorney for Dr. Brannon, was present.

A Board member pulled the case. There were many open margins on the crowns (six of them). The Board is going to say six crowns need to be replaced, there should be restitution. If restitution is going to be assessed, disciplinary action would have to be taken. The recommendation was made to offer a Disciplinary Consent Agreement with restitution. If the Consent Agreement is not accepted a Formal Interview will be offered to Dr. Brannon.

Upon MOTION by Dr. Hauer for a Disciplinary consent agreement, six hours of continuing education in crown and bridge and restitution.

Ms. Corcoran addressed the Board - The radiographs which are seen looks radiolucent are not actual margins being short or open. It has to do with the cement which he does not use anymore. Clinically he never found any issues with the margins. The patient progressed through treatment; she started in 2011, and stayed with him for five years. The patient never had any break down with the crowns in terms of ceramic issues or decay around the margins. In terms of actual harm to the patient, she still has these crowns and they are doing fine. A non-disciplinary consent agreement is appropriate. Dr. Brannon worked the treatment plans for over a year. The patient was completely inconsistent with coming back for three month hygiene recalls, and sometimes not coming back for two years. Ms. Corcoran does not see any basis in this case necessarily for discipline or restitution. A Board member said there are cements that are radiolucent, and there composites that are radiolucent that look like decay, but are not because they did not show up on the radiograph.

Ms. Corcoran asked the Board if she talked to Dr. Brannon and he voluntarily offered to refund the amount of the crowns, would the Board consider continuing with the non-disciplinary consent agreement. The Board members stated yes.

The Board discussed issuing a disciplinary consent agreement to include restitution in the amount of: \$4860.00 and 6 hours continuing education in crown and bridge.

Dr. Hauer WITHDREW his motion and TABLED Case No. 201500153 until April 1, 2016, second by Dr. Flowers. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16F Case No. 201500229
Dr. Joshua Earl Cadwell**

This case was pulled by a member of the Board. It was recommended that a fraud investigation be opened against the Business Entity. A Board member inquired whether it is appropriate to prescribe medication for shingles. Dr. Palmer stated the allegation of fraud was not in the initial complaint.

Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to APPROVE the Non-Disciplinary consent agreement for 6 hours of continuing education in record keeping. Ms. Crevier, Mr. Jackson and Dr. Hauer OPPOSED. MOTION PASSED.

The Board directed staff to investigate the Business Entity associated with the original complaint.

Agenda Item No. 15C Case No. 201500262
Dr. Christine M. Kopsky

Upon MOTION by Ms. Crevier, second by Dr. Sorensen the Board voted to APPROVE the Disciplinary Consent Agreement. Dr. Flowers RECUSED. MOTION PASSED UNANIMIOUSLY.

Agenda Item No. 15B Case No. 201500220
Dr. Michael D. Margolis

This case was pulled by a member of the Board. The Board discussed the lack of consent or no documentation of any consent for the surgery on tooth number 13 or for the extraction on tooth number 30. With his past history, and repeated occurrences of issues in record keeping, a recommendation was made to increase the Administrative Penalty to \$5,000.00.

Upon MOTION by Dr. Flowers, second by Dr. Foster, the Board voted to MODIFY the consent agreement and increase the Administrative Penalty to \$5,000.00. Dr. Taylor RECUSED. Dr. Greer, Dr. Waite and Dr. Sorensen OPPOSED. MOTION PASSED UNANIMIOUSLY.

Agenda Item No. 15A Case No. 201500209
Dr. Mu-Hun Kim

This case was pulled by a member of the Board. A motion was made to modify consent agreement and for restitution to be added. If Dr. Kim does not accept, he will be invited to a Formal Interview. Dr. Palmer asked Mr. Greer if restitution is determined, what the specifics would be. Mr. Greer said he could not tell him.

Upon MOTION by Mr. Greer, second by Dr. Sorensen, MOTION PASSED UNANIMOUSLY.

Agenda Item No. 17D Case No. 201500251
Dr. Robert D. Sundberg

Ms. Williams advises the Board at this point the Board they have already voted on Agenda Item No. 17, the Board may listen to what the attorney has to say, if the Board changes their mind they would have to VACATE their previous vote and re-look at it.

Ms. Anagnopolos, Attorney for Dr. Sundberg, presented a statement to the Board. Ms. Anagnopolos stated the complaint in this case revolves around allegations by the patient that Dr. Sundberg performed work that fell below the standard of care. The IIRC found that there was no deviation from the standard of care, and there was no harm to the patient; however, the IIRC was critical of Dr. Sunberg's records and for his failure to document details of his treatment. Dr. Sundberg has started to incorporate using templates in his records. He is modifying his practice and remedying the issue of his record keeping.

The Board stated they had ruled on this matter, and stated the Letter of Concern is appropriate.

The Board TOOK NO FURTHER ACTION.

The consent agenda vote will remain in effect.

Agenda Item No. 13 ACTION ON PREVIOUS ACTION

Agenda Item No. 13A Case No. 201500057
Dr. Christine M. Kopsky

Upon MOTION by Dr. Sorensen, second by Dr. Waite, the Board voted to ACCEPT the proposed Board Order from the December 4, 2015 Formal Interview, and VACATE Finding of Fact No. 24 from the proposed order. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13B Case No. 201500106
Dr. Peter J. Lee

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to ACCEPT the proposed Board Order from the Formal Interview held at the December 4, 2015 Board Meeting. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13C Case No. 201500186
Dr. Walter J Denham

The Board was presented with a memo from the Internal Investigative Review Committee recommending the Board consider vacating their previous vote to offer Dr. Denham a non-disciplinary consent agreement, and to dismiss the case as the Board made its determination on incorrect information. Dr. Denham did not perform a root canal on the patient nor did he break a file in the tooth.

Upon MOTION by Dr. Sorensen, second by Ms. Hardy, the Board voted to VACATE the previous vote of imposing the non-disciplinary consent agreement, and DISMISS the case. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 28 – Future Agenda Items

Agenda Item No. 29 – Next Meeting Date – April 1, 2016

Agenda Item No. 30 – Adjournment

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

Dr. Hauer adjourned the meeting at 9:57 AM.

Minutes APPROVED at the April 1, 2016 Board Meeting.

Elaine Hugunin, Executive Director