MEETING OF THE ARIZONA
STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
MARCH 31, 2017

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

Staff Present:
Ms. Elaine Hugunin, Executive Director
Ms. Nancy Chambers, Deputy Director
Ms. Mary DeLaat Williams, Assistant Attorney General
Ms. Terry Bialostosky, Investigations Supervisor
Ms. Sherrie Biggs, Licensure Manager
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. 3 PRESIDENT’S REPORT – Dr. Gregory A. Waite

A. Review, discussion and possible action regarding the Board becoming a member of American Board of Dental Examiners (ADEX) and the Commission on Dental Competency Assessments (CDCA)

Dr. Waite reported that currently in Arizona statute, the Western Regional Examining Board (WREB) is the examination accepted by the Board. He said the other examinations are accepted for licensure by credential with a $2,000.00 fee. Dr. Waite stated the Board needs to be diligent as a state in determining what examinations are accepted for future dentists, and determine if the Board will accept non-patient examinations. Dr. Waite stated there are some students, not a high percentage, who may not be prepared to practice dentistry, and
that is the purpose of the examinations. Dr. Waite said member States which belong to WREB have input with the examination process and content. Dr. Waite stated it would be beneficial for the Board to have representation at American Board of Dental Examiners (ADEX) and the Commission on Dental Competency Assessments (CDCA). Dr. Waite stated it’s important for the Board to have input of the content in the examination process.

Dr. Taylor stated the Board should be concerned with the protection of the public. He has participated in giving examinations, with an examination group and there had been some issues in the past where some of the participating entities were not prepared in giving the examinations to the dental students.

Ms. Hardy stated she agreed with Dr. Waite. When the Board accepts the examination by credential, the Board is allowing the dental student to come into the state. She stated if the Board is not allowed to take part in the examination, the Board does not have a say as to what the examination is, but still allows the new graduates to come into the state of Arizona and practice. She said this does a disservice to the Board by not having a vote on the examination process for new dentists who are practicing in Arizona.

Upon MOTION by Dr. Waite, second by Ms. Crevier, the Board voted the Arizona Dental Board will BECOME a member state of American Board of Dental Examiners (ADEX) and the Commission on Dental Competency Assessments (CDCA). MOTION PASSED UNANIMOUSLY.

Agenda Item No. 4 EXECUTIVE DIRECTOR’S REPORT

Additional materials for agenda items 4Evii, 4G, 4F, 4H, 13A and 20A were provided in the Board’s materials.

A. Summary of current events that affect the Arizona State Board of Dental Examiners

Executive Director Hugunin thanked Board members - Ms. Hardy, Dr. Taylor, Dr. Flowers and Mr. Greer, whose terms have expired, for graciously attending the Board meeting.

B. Status update on Monitored Aftercare Treatment Program and Assessments

Director Hugunin stated Board staff was currently working with the State Procurement Office regarding the contract for the Monitored Aftercare Treatment Program. The Dental Board has a five-year contract with Dr. Sucher and Dr. Greenberg to provide assessments and monitoring for licensees who may have substance abuse or dependency issues. Dr. Sucher’s and Dr. Greenberg’s contract will be expiring in September 2017 and a new Request for Proposal (RFP) will need to be developed to again go out for bid. She stated the Board is required to have a contract even though the only funds the Dental Board expends are those used to pay for expert witness testimony. The Medical Board’s contract with Dr. Sucher and Dr. Greenberg is also expiring in December 2017. Director Hugunin said she and Ms. Bialostosky met with a State Procurement Officer representative and Medical Board staff to explore whether or not there can be some collaboration in the contracts. At the present time the contract for assessments and monitoring is one contract; however, there have been some comments over the last few years questioning whether or not there is a conflict if the individual conducting the assessment is also responsible for monitoring. She stated two contracts will be developed; one for assessments and one for monitoring. Board staff is working on Request for Information documents as well as the RFPs and drafts have been provided to the State Procurement Office.

C. Dr. James B. Edwards – Case No. 201300222 – Review, discussion and possible action to dismiss without prejudice.
Director Hugunin stated the Internal Investigative Review Committee's memo requested the Board to consider dismissing Case No. 201300222 without prejudice against Dr. Edwards as he has relocated to California.

Upon MOTION by Mr. Greer, second by Dr. Taylor the Board voted to DISMISS Case No. 201300222 without prejudice against Dr. Edwards. MOTION PASSED UNANIMOUSLY.

D. Dr. Michael Wassef – Case No. 201400061 – Status Update – For Information Only

Director Hugunin stated Dr. Wassef had complied with the Interim Order issued by the Board on March 20, 2014, which required him to obtain an inpatient substance abuse evaluation. An investigation is still open regarding the allegations of abuse of prescribing privileges and over prescribing which will be presented to the Board when complete. She said the Board was in receipt of a confidential memo and may elect to go into confidential executive session; however, there was no further action.

E. Update on Proposed Legislation – Review, discussion and possible action regarding current proposed legislation for the 2017 session

i. SB 1362 – Dental Board; dentists; dental hygienists

Director Hugunin reported on SB1362 – Dental Board; dentists; dental hygienists. This bill is the Association's omnibus bill which was discussed in detail, specifically related to Affiliated Practice and waiver of fees for a three-year period for renewals. This bill continues to move through the Legislature. She stated that Board staff will have a significant amount of work to do to implement the many changes that will result to the Dental Practice Act if the bill is passed.

ii. SB 1452 – Health profession regulatory boards

Director Hugunin reported on SB1452 – Health profession regulatory boards. This bill makes changes to all health regulatory boards' regulations (i.e., place non-disciplinary actions on the website with the exception of letters of concern or advisory letters) and some other changes. The Dental Board currently posts all non-disciplinary actions for a period of five years including letters of concern. The Board will be required to pay for programming changes to remove the letters of concern and any non-disciplinary actions previously posted as the effective date for this section in law is January 1, 2018.

iii. SB 1437 – Agencies; review; GRRC; occupational regulation

Director Hugunin reported on SB1437 – Agencies; review; GRRC; occupational regulation. She said this bill continues to move through the Legislature. Senator Barto believes this will address the Federal Trade Commission (FTC) issues by utilizing the Governor’s Regulatory Review Council. She said she was unsure if the Governor supports this as proposed.

iv. HB 2307 – Controlled substances prescription monitoring program

Director Hugunin reported on HB2307 – Controlled substances prescription monitoring program (CSPMP). This bill continues to move through the Legislature and will minimize the amount of information the Dental Board is required to provide the Pharmacy Board for purposes of the Controlled Substances Prescription Monitoring Program.
v. HB 2372 – Public Benefits; fee waivers; requirements

Director Hugunin reported on HB 2372 – Public Benefits; fee waivers; requirements. This bill continues to move through the Legislature. As stated at the last Board meeting, this bill will have a significant impact on the Board’s revenues. The bill provides for the waiver of application fees for new applicants if their income is 200% above the poverty level. This will require significant Board staff time to implement and there has been no guidance by the Governor’s Office as to how all regulatory Boards will be able to determine whether the applicant qualifies for the waiver. She said she has been told by our Joint Legislative Budget Committee (JLBC) analyst that this could impact 24% of the Dental Board’s revenues. Director Hugunin stated she and Ms. Chambers do have concerns given the potential combined impact of this with the fee waiver and other fee reductions.

vi. HB 2494 – Dental Board Expenditures Limitation repeal

Director Hugunin reported on HB 2494 – Dental Board Expenditures Repeal. This bill was not assigned after it was heard by the House Health Committee. She said she did follow up with legislative staff and ascertained that it probably was not assigned based on the Dental Association’s omnibus bill as the language to repeal was within their legislation. The Dental Board’s bill was picked up as a striker to provide indemnity for people who are trying to get a minor child or dog out of a vehicle.

vii. HB 2271 – Occupational licensing; military members

Director Hugunin reported on HB 2271 – Occupational licensing; military members. The Governor has signed this bill which requires regulatory agencies to consider a veteran’s relevant military experience, education, and training for the purpose of satisfying similar requirements when issuing licenses, certifications, or other registrations. She said she and Ms. Chambers will be meeting with military recruiters to discuss dental career paths, specifically dental assistants and expanded function dental assistants.

F. Auditor General Performance Report – Status Update – For Information Only

Director Hugunin stated the Board has successfully complied with all of the recommendations as a result of the Auditor General Performance Report. She gave kudos to Board staff and to the Board members for their excellent teamwork in completing this endeavor.

G. Executive Order 2017-03 – Internal Review of Training Requirements, Continuing Education, Fees and Processes

Director Hugunin stated a new Executive Order was issued which requires the Board to provide a detailed report regarding training requirements, continuing education, fees and processes. She said this will require significant staff time to prepare this prior to June 30, 2017.

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 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 4.

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

Complainant NA was present and spoke about case no. 201600173 (Agenda Item 13C)

**Agenda Item No. 5  ASSISTANT ATTORNEY GENERAL’S REPORT – Mary DeLaat Williams, Assistant Attorney General**

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 Dr. Chari filed an appeal in March, 2017 for Case No. 201500190. She said the process has begun on defending the Board’s decision.

**Agenda Item No. 6  PERSONNEL ISSUES**

A. VACANT

**Agenda Item No. 7  COMMITTEE REPORTS**

A. VACANT

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

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

A. Dr. Todd Robert Holton – Discipline on Oregon license

Dr. Holton was present to answer questions from the Board.

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

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

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

A. VACANT

**ACTION ON CASES**

**Agenda Item No. 10  ACTION ON PREVIOUS ACTION**

**Agenda Item No. 10A – CASE NO. 201600052 – Olivia Lerma, R. D. H.**

Director Hugunin contacted Anne Froedge, Assistant Attorney General, via conference call, who served as the independent advisor for case no. 201600052.

Ms. Williams, Assistant Attorney General, stated the Board was presented with a Motion to Deem Allegations Admitted in this matter. The Board moved this case to Formal Hearing as a result of Ms. Lerma’s failure to comply with an interim board order to obtain a substance abuse evaluation. Ms. Lerma had agreed to a voluntary suspension of her license pending the evaluation and any recommended
treatment. Ms. Lerma did not comply and did not get the evaluation. Board staff made many attempts to work with Ms. Lerma to complete the evaluation but was not successful. Ms. Williams stated the Board served the complaint and notice of hearing on December 29, 2016, and it was mailed to Ms. Lerma’s address of record with the Board. The correspondence was mailed both certified mail as well as regular delivery. Both mailings were returned to the Board as return to sender, unable to forward. Ms. Williams stated Ms. Lerma did not provide the Board with an updated address. She stated those were the addresses the Board was legally required to serve Ms. Lerma at, and under the law, Ms. Lerma has been legally served because the correspondence was mailed to the address of record. Ms. Lerma has not answered the Board complaint. Ms. Williams stated under the Board statute A.R.S. §32-1263(H) the allegations and charges in the case are deemed admitted. Ms. Williams stated her first request was for the Board to grant Motion to Deem.

Upon MOTION by Dr. Taylor, second by Ms. McClain, the Board voted to GRANT the Motion to Deem in case no. 201600052, Olivia Lerma, R. D. H. MOTION PASSED UNANIMOUSLY.

Ms. Williams stated the State requests the Board to issue an Order in this matter, and the Board was provided a copy of the complaint. Ms. Williams asked the Board to adopt the factual allegations as the findings of fact, the charges as the conclusions of law, and to revoke Ms. Lerma’s hygiene license.

Upon MOTION by Dr. Taylor, second by Ms. McClain, the Board voted to ACCEPT the factual allegations as the findings of fact and the charges as the conclusions of law, and REVOKE Ms. Lerma’s hygiene license H7083. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 10B – CASE NO. 201600125 – Dr. Robert C. Bingham

Director Hugunin stated the Board conducted a Formal Interview with Dr. Bingham regarding Case No. 201600125 at the February 3, 2017 Board meeting. As a result of the meeting there is a proposed disciplinary Board Order for the Board to approve.

Dina Anagnopoulos, attorney for Dr. Bingham was present and addressed the Board. Ms. Anagnopoulos stated Dr. Bingham took four hours of continuing education in risk management during November 2016; she asked the Board to accept the four hours of continuing education and stated she would provide the Board with a legible copy of the certificate of completion.

Dr. Waite stated the Board’s major concern was the completion of the 18 hours of continuing education of hands on training in a dental school setting. Dr. Waite stated the four hours of risk management taken by Dr. Bingham could be accepted.

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the Board Order and ACCEPT the four hours of continuing education in risk management taken by Dr. Bingham in November 2016. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 11A  PETITION TO REHEAR

A. VACANT

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:

<table>
<thead>
<tr>
<th>Agenda Item No.</th>
<th>Case No.</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>13B</td>
<td>201600172</td>
<td>Dr. Yara Salem</td>
</tr>
<tr>
<td>13C</td>
<td>201600173</td>
<td>Dr. David Kloss</td>
</tr>
<tr>
<td>13D</td>
<td>201600196</td>
<td>Dr. Salim Shafi</td>
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</tbody>
</table>
Agenda Item No. 17A Case No. 201600200-MP Dr. Amber N. Angel
Agenda Item No. 17B Case No. 201600202-MP Dr. Juan Carlos Valencia

Cases ADJUDICATED:

Agenda Item No. 12 CASES RECOMMENDED FOR DISCIPLINARY CONSENT AGREEMENTS
CONSENT AGENDA

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

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Case No.</th>
<th>Licensee</th>
<th>Comments</th>
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</thead>
<tbody>
<tr>
<td>A.</td>
<td>201700019</td>
<td>Dr. Matthew E. Nelson</td>
<td>3 hours of CE in ethics</td>
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</tbody>
</table>

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 case on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

<table>
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<th>Item No.</th>
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<th>Comments</th>
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<tbody>
<tr>
<td>A.</td>
<td>201600170</td>
<td>Dr. Hugh T. Keeffe</td>
<td>3 hours of CE in record keeping</td>
</tr>
</tbody>
</table>

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

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

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<tr>
<th>Item No.</th>
<th>Case No.</th>
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<th>Comments</th>
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</thead>
<tbody>
<tr>
<td>A.</td>
<td>201600159-MP</td>
<td>Dr. Ronald K. Thompson</td>
<td>“Dr. Thompson should record completely all treatment provided to the patient.”</td>
</tr>
<tr>
<td>B.</td>
<td>201700010</td>
<td>Suncoast Dental, Inc.</td>
<td>“Suncoast Dental, Inc. should not retain funds for services not completed.”</td>
</tr>
</tbody>
</table>

Agenda Item No. 15 CASES RECOMMENDED FOR TERMINATION
CONSENT AGENDA

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

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<th>Item No.</th>
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<tbody>
<tr>
<td>A.</td>
<td>201600195</td>
<td>Dr. Mark D. Voigt</td>
<td>Terminate per patient</td>
</tr>
<tr>
<td>B.</td>
<td>201600207</td>
<td>Dr. Gianira I. Lopez</td>
<td>Terminate per patient</td>
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<tbody>
<tr>
<td>C.</td>
<td>201700003</td>
<td>Dr. John Alan Garza</td>
<td>Terminate per patient</td>
</tr>
<tr>
<td>D.</td>
<td>201700009</td>
<td>Dr. Jared M. Mayer</td>
<td>Terminate per patient</td>
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<tr>
<td>E.</td>
<td>201700018</td>
<td>Dr. Nicholas Benjamin LaFeber</td>
<td>Terminate per patient</td>
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Agenda Item No. 16 CASES RECOMMENDED FOR DISMISSAL
CONSENT AGENDA

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<tr>
<td>A.</td>
<td>VACANT</td>
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Agenda Item No. 17 MALPRACTICE AND ADVERSE OCCURRENCE REPORTS, AND DISCIPLINARY ACTION IN ANOTHER STATE
CONSENT AGENDA

A. See pulled cases
B. See pulled cases

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

A. VACANT

Agenda Item No. 19 APPROVAL OF MINUTES
CONSENT AGENDA

A. February 3, 2017 – Board Meeting Minutes

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to APPROVE the February 3, 2017 Board Meeting Minutes. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 20 REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS
CONSENT AGENDA

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the following appealed Executive Directors Terminations on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

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<tbody>
<tr>
<td>A.</td>
<td>201600155-ED</td>
<td>Dr. Luz D. Tobias</td>
<td></td>
</tr>
<tr>
<td>B.</td>
<td>201600193-ED</td>
<td>Dr. Mark W. White</td>
<td></td>
</tr>
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***END OF CONSENT AGENDA***

Agenda Item No. 21. FORMAL INTERVIEW CASES
CASES PULLED FROM CONSENT AGENDA

Agenda Item No. 13B Case No. 201600172
Dr. Yara Salem

This case was pulled by Mr. Jeffrey Tonner, attorney for Dr. Salem. Mr. Tonner stated he pulled the case to inform the Board Dr. Salem took three hours of record keeping given by him on March 10, 2017. Mr. Tonner asked the Board to accept the continuing education taken by Dr. Salem in this case.

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to ACCEPT the non-disciplinary consent agreement for case no. 201600172 and APPROVE the continuing education course of record keeping taken by Dr. Salem on March 10, 2017. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13C Case No. 201600173
Dr. David Kloss

This case was pulled by Dr. Flowers to RECUSE. Mr. Jeffrey Tonner, attorney addressed the Board and stated Dr. Kloss took three hours of record keeping given by him on March 10, 2017.

Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to ACCEPT the non-disciplinary consent agreement for case no. 201600173 and APPROVE the continuing education course of record keeping taken by Dr. Kloss on March 10, 2017. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13D Case No. 201600196
Dr. Salim Shafi

This case was pulled by Dr. Taylor to RECUSE.

Upon MOTION by Dr. Sorensen, second by Mr. Greer, the Board voted to ACCEPT the non-disciplinary consent agreement for case no. 201600196. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 17A Case No. 201600200-MP
Dr. Amber N. Angel

This case was pulled by Mr. Greer who stated he pulled the case because Dr. Angel pulled the wrong teeth. Mr. Greer stated after reviewing the records it appears Dr. Angel was supposed to pull primary teeth, but pulled permanent teeth instead. He stated this case warranted an investigation. Dr. Foster agreed with Mr. Greer.

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to OPEN an investigation. MOTION PASSED UNANIMOUSLY

Agenda Item No. 17B Case No. 201600202-MP
Dr. Juan Carlos Valencia

This case was pulled by Mr. Greer who stated there was a large settlement in this case. Mr. Greer stated he was concerned after reading the National Practitioner Data Bank (NPDB) report which stated there was major permanent injury to the patient. Dr. Palmer stated the NPDB report summarized exactly what happened to the patient in this case, there was endodontic treatment performed and the patient experienced complications. Dr. Sorensen stated on occasion this happens with endodontic treatments.
The patient was treated with antibiotic therapy as well as pain management therapy. Dr. Sorensen stated that the patient received a substantial payment and he did not see any reason to take any further action in this case.

Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to TAKE NO ACTION on case no. 201600202-MP. Mr. Greer OPPOSED. MOTION PASSED.

FORMAL INTERVIEW

Agenda Item No. 22A  Case No. 201600123
Dr. Michael D. Margolis

Director Hugunin stated the Board received a complaint on July 21, 2016, against Dr. Margolis alleging inadequate dental implants, billing irregularities, inadequate diagnosis and treatment planning, inadequate oral surgery, inadequate crown and bridge and use of non-FDA approved drugs. The Internal Investigative Review Committee asked Dr. Margolis to surrender his license or appear before the Board for a Formal Interview. Subsequent to this, the patient submitted a letter requesting that the complaint be terminated. This case was on the Board’s February 3, 2017, Board consent agenda for terminate per patient letter. It was pulled by a Board member and a motion passed to invite Dr. Margolis to a Formal Interview and if he declined, the case would be forwarded for a formal hearing. Dr. Margolis has been noticed that he may have committed unprofessional conduct under A.R.S. §32-1201.01(14), (15), (16), and (24) and a violation of A.R.S. §32-1264(A).

Dr. Margolis was sworn in by the court reporter. David Williams, attorney for Dr. Margolis, was present and addressed the Board.

Mr. Williams stated the case presented two issues. There were two separate phases of the treatment for this patient. He said the first phase was a general indictment of the cavitation work completed. The second issue was the placement of the implants performed by Dr. Margolis. Mr. Williams stated Dr. Margolis recognized there was an issue with the placement of the implants. He said Dr. Margolis; without Board command, unilaterally went out and took additional training to correct, educate himself, and make sure that these implant issues do not become an issue in the future. He said Dr. Margolis completed over 130 hours of implant placement training through the SCLAR Institute, the Misch Institute, and he was only a few classes away from obtaining a designation as a diplomate in implantology. Mr. Williams stated after reviewing the consultant’s report and the Internal Investigative Review Committee (IIRC) report there seems to be a general indictment of the type of biological dentistry, or integrative dentistry that Dr. Margolis practices. He said that sets a very dangerous precedent for the Board. He said when trying to identify the standard of care as “X” the Board is essentially regulating out of the profession an entire sub-practice of dentistry, which then puts the Board in a very gray area of regulating the type of anti-competitive behavior that was set out in the North Carolina Federal Trade Commission (FTC) opinion from the Supreme Court just a few terms ago. Mr. Williams stated after reviewing the IIRC report, it’s essentially a general indictment of the very type of dentistry Dr. Margolis practices. Mr. Williams stated in the past, Dr. Waite recognized that there is a segment of the population that seeks out this type of dental care. He said Dr. Margolis makes it very clear and is upfront with his patients. He provides extensive education about the professional difference of opinion between this Board and some of the practices of traditional dentistry and the type of biological dentistry performed by Dr. Margolis. Mr. Williams stated he would like to make one point about the disclaimer on the informed consent form. In the consultant’s report and the IIRC report, there is a statement that Dr. Margolis practices outside the standard of care. He said that is a gross mischaracterization of the informed consent form. He stated the form is not a liability, and it’s not an admission that Dr. Margolis practices outside of the standard of care. He said it is simply a statement that Dr. Margolis believes that biological dentists generally believe past extraction sites, root canal teeth, and a mouthful of fillings can be harmful to a patient’s health. He said that statement is supported by scientific peer review studies submitted to the Board for review. Mr. Williams stated if the Board wanted to get into a philosophical debate on biological dentistry and traditional dentistry it would be a slippery slope he didn’t think the Board would want to go down.
Dr. Margolis addressed the Board. He stated the complaint arose from the implants he performed on the patient. He stated at the time he believed the placement of the implants were correct and the patient complained to him food was catching around tooth no. 19. He was more than willing to work with the patient to correct the problem. Dr. Margolis stated the patient arrived late to her appointment and did not tell him there was a problem until the end of the appointment. He stated he was leaving town and he informed the patient he would see her when he came back. Dr. Margolis stated the patient became angry and stormed out of the office. He stated he made numerous telephone calls to the patient but she wouldn’t return his calls. Dr. Margolis stated he contacted the physician who referred the patient to him and he stated another dentist was going to fix the implants. He stated he informed the dentist he was willing to work with the patient to resolve her complaint, but the dentist informed Dr. Margolis he would take care of it. Dr. Margolis stated in hindsight he can see what he did wrong in the patient’s case. He said that was the reason he settled with her. He said his insurance carrier paid the patient, and he paid $25,000 to contribute to the settlement. Dr. Margolis stated he believed he owed the patient for the implants he placed as well as the pain and suffering she incurred. Dr. Margolis addressed the billing irregularities from the complaint; he said there were two distinct issues. The first was the allegation of improper coding. He stated the procedures were billed using the codes he determined best described the procedures. Dr. Margolis stated since that time he has taken coding and billing courses from Midwestern University and the new Current Dental Terminology (CDT) 2017 has come out with more accurate coding that describes the surgical procedures he performed. Dr. Margolis stated the other billing irregularities were simply mistakes. He stated at the time he was treating the patient he had two dental assistants and one of the assistants had a drug problem. He said he discovered there was simple charting and billing issues the dental assistant did not catch. Dr. Margolis stated he is ultimately responsible for all the billing issues and he simply didn’t catch them. He stated that was the reason he personally contributed and paid out of his own pocket for the settlement for the patient. Dr. Margolis stated the remaining issues with regards to metals in the mouth, removal of root canaled teeth, the titanium implant, and the surgery of the avascular necrosis, are all part of the holistic alternative philosophy. He stated everything is grounded in science. He stated he recognizes that not all dentists believe in or trust the validity of the studies backing these beliefs. Dr. Margolis stated these philosophies are grounded in solid peer review science.

Dr. Sorensen was the lead Board Member.

Dr. Sorensen asked Dr. Margolis where he obtained his education. Dr. Margolis stated he attended the University of Texas at Capitol University where he earned a degree as an integrated physician and has practiced dentistry in Arizona since 1984. Dr. Sorensen asked Dr. Margolis to describe his practice. Dr. Margolis stated he practices integrative biological dentistry. He stated he evaluates the patients just like traditional dentists do, he said he ensures the periodontal health is there, he takes x-rays. He said he looks for hidden bone disease and possible procedures that may cause infection in the mouth.

Dr. Sorensen questioned Dr. Margolis regarding the patient. Dr. Margolis stated he treated the patient’s husband and he was very happy with the services he received. Dr. Sorensen asked Dr. Margolis what the patient’s chief complaint was. Dr. Margolis stated the patient presented to him and was not feeling well. She was clenching her teeth and had allergies, and she had a very clean mouth. He stated the patient wanted to remove the metals and the root canaled teeth from her mouth.

Dr. Waite questioned Dr. Margolis and asked if he always recommended the removal of amalgam in his patients. Dr. Margolis stated no he did not, he said he is not going to do something that is going to hurt his patients. He said he gives the patient their options. Dr. Waite stated there was no record of complaint from the patient with alloys or metals. Dr. Waite stated there was no record for the removal of two crowns. Dr. Margolis stated the patient had a reaction to the metal, and the reason the crowns were removed, this is what the patient requested, to have the crowns removed. Dr. Waite stated it wasn’t in the records; which meant it didn’t happen. Dr. Waite stated there was nothing in the records showing the patient having issues with teeth no. 14, 15, 18 and 19 and specifically asking Dr. Margolis to extract those teeth. Dr. Margolis stated the patient did ask him to extract the teeth but it was not in his records, and he said he agreed with Dr. Waite if it was not written in the records it didn’t happen. Dr. Waite asked Dr. Margolis if
there was one dental school in this country that teaches how he practiced. Dr. Margolis stated not that he knew of.

Dr. Sorensen stated Dr. Margolis practices a type of dentistry that’s deceptive to patients. He said the patients may be chronically ill and be tricked into thinking that their cause in illness can be treated through dental treatment by removing different metals or teeth. Dr. Sorensen stated this deeply concerned him and he did not believe the patient was better off from the treatment she had been given by Dr. Margolis.

Upon MOTION by Dr. Sorensen, second by Mr. Greer, the Board voted to FORWARD case 201600123 for a Formal Hearing for inadequate dental implants, billing irregularities, inadequate diagnosis and treatment planning, inadequate oral surgery and inadequate crown and bridge for the possible suspension or revocation of Dr. Margolis’ dental license. Dr. Taylor is RECUSED. MOTION PASSED UNANIMOUSLY.

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).

23. MEMBERS OF THE PUBLIC

24. FUTURE AGENDA ITEMS

25. NEXT MEETING DATE – June 2, 2017

26. ADJOURNMENT

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

Dr. Waite adjourned the meeting at 10:49 am.