



ARIZONA STATE BOARD OF DENTAL EXAMINERS

4205 North 7th Avenue, Suite 300 • Phoenix, Arizona 85013

Telephone (602) 242-1492 • Fax (602) 242-1445

www.dentalboard.az.gov

MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING April 1, 2016

Board Members Present:

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

Board Members Absent:

Robert B. Taylor, DDS

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. 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

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 2

No current events reported

B. VACANT

C. Review, discussion and possible action regarding pre-approval of Dental Ethics course provided by Jeffrey Tonner

Upon MOTION by Mr. Greer, second by Dr. Sorensen, the Board voted to APPROVE the Dental Ethics course provided by Jeffrey Tonner. MOTION PASSED UNANIMOUSLY.

D. Arizona Anesthesia Solutions, Joseph A. Rodriguez, CRNA – Review, discussion and possible action regarding approval of Arizona Anesthesia Solutions' course "Advanced Airway Management In Dental Surgery" specifically for Arizona Administrative Code R4-11-1304(B)(4)(c).

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to APPROVE the Arizona Anesthesia Solutions provided by Mr. Rodriguez. MOTION PASSED UNANIMOUSLY.

E. Maribel Granados, RDH - Review, discussion and possible cancellation of Dental Hygiene license H008386 issued in error.

The Board has a memo explaining Dental Hygiene License H008386 and was issued in error. Board staff acknowledged they were in error when issuing this license this is the only time this had occurred. Ms. Granados has been informed of the error. She was given the opportunity to surrender her license back to the Board and she refused to do so. The Board may consider canceling her license since it was issued in error. Board staff has taken preventive measures to ensure this error does not occur again.

Upon MOTION by Ms. Hardy, second by Ms. Crevier, the Board voted to CANCEL License H008386 issued in error to Ms. Granados. MOTION PASSED UNANIMOUSLY.

F. Board Approved Clinical Examinations – Review, discussion and possible approval of all Dental and Dental Hygiene clinical examinations of another state, United States territory, District of Columbia or regional testing agency.

Director Hugunin addressed the Board asking Board members to approve all Dental and Dental Hygiene clinical examinations of another state, United States territory District of Columbia or regional testing agency. Effective April 3, 2016, there was an amendment to the rules and clinical exams were affected, the purpose of this is just to clean up the record.

Mr. Kevin Earle addressed the Board. He stated he spent some time at MidWestern University speaking with students and they are somewhat disconcerted regarding clinical licensure exams. In some states we are seeing some contraction of what exams they will accept. This has prompted a letter and a visit from the Executive Director from the American Dental Association and also collectively with the American Dental Education Association urging states to be more open to acceptance of other examinations. One point of clarification is if an applicant from Louisiana, for example, wants to work here in Arizona for a while, and ultimately wants to return home to Louisiana where the Commission on Dental Competency Assessment exam is accepted, they must take a different exam. Mr. Earle recommends there be no credentialing fee attached to this exam. Examinations are extremely expensive and potentially a barrier for students who are coming out of dental school with \$400,000 in debt. He would recommend there be some clarification attended to whatever the Board's motion is

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 3

here today, if those examinations are acceptable than there would be no credentialing fee attached to it unless there's some misunderstanding that this applicant has.

Upon MOTION by Ms. Hardy, second by Dr. Waite, the Board voted to APPROVE all Dental and Dental Hygiene Clinical Examinations in the United States. Dr. Foster OPPOSED. MOTION PASSED.

- G. Review, discussion and possible action regarding request from the Arizona Dental Association and the Arizona Dental Hygiene Association for a fee reduction; Review, discussion, and possible action on requesting exemption to proceed with rule changes to AAC Title 11, Chapter 4, Article 4 (Fees)

Director Hugunin addressed the Board. The Board is in receipt of a letter from the Arizona Dental Association and Arizona Dental Hygiene Association requesting a reduction in the renewal fees and a plan be developed to reduce the fund balance. Ms. Chambers and Ms. Hugunin's memo to the Board concurs with the Associations recommendations that renewal fees be reduced, and to also assess credentialing fees, jurisprudence fees, and convenience online fees to be eliminated as well. This aligns with Governor Ducey's vision of lowering regulatory barriers to license portability. Additionally, reductions could be made in the additional office permits for anesthesia and consideration be made for address penalty fees. In regard to the fund balance; at least two years of operating expenses must be maintained to position the Board for any potential litigation or unknown costs that may occur. Additionally, recent legislative changes will have an impact on the budget; the Board has not had the years to operationalize or experience them. The Board cannot budget negatively to draw down on the fund balance; we are appropriated for a certain amount. Board staff cannot go in and spend part of that as part of the operating budget. However, we can request additional appropriations for projects. These would be related to technology enhancements which are significant projects. Board staff also discussed a comprehensive plan to request reclassification of positions within the agency; other agencies have done that to continue to support and improve the professionalism of staff, and also to retain high performing employees. These projects take a significant amount of time to complete and get through the right hoops to get them approved. Lastly, an exemption for opening the fees section of rules was requested last year and was not approved. However, Board staff is requesting the Board to direct staff to request an exemption in the rule making to open the fees section of the rules. Mr. Earle has already approached the governor's office on this. Additionally, direct Board staff to conduct a comprehensive analysis to encompass potential fee reductions in all areas of the Dental Boards fees to be presented at the June 2016 Board Meeting.

Mr. Earle, Executive Director for the Arizona Dental Association addressed the Board. There is some concern that the dollars sitting in the Dental Board fund could potentially be used for other purposes. In 2009, \$3,000,000.00 was swept from the Dental Board fund. The Board went into the Dental Practice Act with the goal of fixing the fees designated in statute providing the Board the opportunity to be proactive in lowering those fees. The addition to the Dental Practice Act of three words "no more than" whatever the designated fee is no more than. The Board continues to generate a surplus of around \$700,000.00 per year. Mr. Earle thinks that this is excessive and he urges the Board to take serious consideration to substantially reducing fees. The burden has fallen over the last several years on the existing licensee population. The \$700,000.00 has now accumulated to over \$4.3 million dollars. There does not appear to be a way in the statute to draw down on that fund, to be able to bring it down to a reasonable level. He respectfully disagrees that the Board needs two years of operating funds. He does believe having that money in the fund is excessive. He is supportive of the projects that need to be attended to and if a request for appropriations goes to the legislature, he would be highly supportive of any infrastructure changes or upgrades in the professionalism of Board staff so the Agency can do a better job of servicing the public.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 4

Mr. Earle has spoken to the Governor's office who would look favorably upon a rules package that would reduce this burden on licensees. He would also suggest that a collaborative process as the Board starts to develop these regulations.

Upon MOTION by Mr. Greer, second by Dr. Waite, the Board voted to request and EXEMPTION and Board Staff to conduct an ANALYSIS for the appropriate fees. MOTION PASSED UNANIMOUSLY.

- H. Sun West Dental - Case No. 201500229 - Review, discussion and possible action regarding opening an investigation alleging fraud.

At the February 5, 2016 Board meeting during public comment on cases, a wife of the patient in this case made allegations of fraud by a business entity. This was not included in the original complaint nor did she provide documents at that time to support this allegation. The Internal Investigative Review Committee reviewed the material the wife provided at the February Board Meeting. There is no evidence that fraud was committed. Board staff recommends the Board take no further action.

NO ACTION TAKEN

- I. Review and discussion on Proposed Legislation

- i. 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

Director Hugunin addressed the Board. The bill was scheduled to be heard by the appropriations committee; however, the Governor pulled this bill. We were told the Governor did not like the amendments. Most significantly the amendment he did not like would require the auditor general to conduct a study prior to any transfers to the Department of Health Services. Rather than an independent study, the Governor has elected to do his own study, which will be ready for the next legislative session. The Legislature has not yet adjourned and there is always the possibility something could arise again regarding this matter. The Senate was not supportive of this bill as it moved through the process due to the many amendments to the bill.

- ii. SB 1443 – Amending Section §32-3214, Arizona Revised Statutes and amending Title 32, Chapter 32, Article 1 by adding sections §32-3221 and §32-3222 relating to Health Profession Regulatory Boards

As previously reported this bill will require all Regulatory Boards to place their non-disciplinary actions on their websites and audio record their meetings. This bill will also limit the number of terms to two terms. A Board Member may not be reappointed until they have not been on the board for a time period of at least two terms. It also requires each Board to establish a confidential program for monitoring licensees who are chemically dependent and also for those licensees who have a medical, psychiatric, psychological or behavioral health disorder that may impact the licensees ability to

practice. Board staff will need to amend its current contract with Sucher and Greenberg to expand to the medical, psychiatric, psychological or behavioral health monitoring which the Board staff has previously done.

- J. 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 2.

Agenda Item No. 2 PUBLIC COMMENT ON CASES

Complainant JK was present and spoke about case no. 201500264 (Agenda Item 14D).
Complainant MH was present and spoke about case no. 201500209 (Agenda Item 23A).
Complainant AG was present and spoke about case no. 201500219 (Agenda Item 25A).
Complainant EG was present and spoke about case no. 201500153 (Agenda Item 16A).

Additional materials for agenda items 4G, 4H, 4J, 5C, 15D, 23A, and 25A were provided in the Board's materials.

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 BY EXAMINATION

- A. Dr. Chandni K. Patel – Disclosure of conviction for shoplifting in 2009. Dr. Patel was present before the Board to answer questions.

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

- B. Dr. Saba Sadeghi - Denied licensure in California. Dr. Sadeghi was present before the Board to answer questions.

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

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

- A. Dr. Richard Jay Handelman - Board Approved Exam; Discipline on Colorado license. Dr. Handelman was present before the Board to answer questions.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 6

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

- B. Dr. Loretta Noble Babalmoradi - Board approved Exam; Discipline on Kentucky license. Dr. Babalmoradi was not present to address the Board.

Upon MOTION by Dr. Waite, second by Mr. Greer, the Board voted to GRANT licensure to Dr. Babalmoradi. 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. VACANT

Agenda Item No. 12 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):

Agenda Item No. 12A - CASE NO. 201500153 – Dr. Mark D. Brannon

This case was on the Consent Agenda for February 5, 2016 for non-disciplinary continuing education. It was pulled for discussion regarding whether or not the treatment rose to the level of unprofessional conduct and if it should be changed to discipline and include restitution. The Board voted to table this case until the April 1, 2016 Board meeting to allow Ms. Corcoran the opportunity to discuss offering a refund to the patient. The Board has documentation that Dr. Brannon did offer a refund to the patient; however, the patient rejected the offer requesting additional money. The Board needs to act on this case as to whether or not to accept the previous non-disciplinary consent agreement or elevate it to discipline and include restitution. If the latter is approved Dr. Brannon will have the opportunity to have a Formal Interview before the Board.

Ms. Corcoran, attorney for Dr. Brannon, is present and addressed the Board. Ms. Corcoran stated she has been in continual negotiations with the patient. As of Wednesday, March 30, 2016 they have come to an agreement to settle the entire case. She has contacted the patient's father, who wanted more money than the original amount of the cost of the crowns. Ms. Corcoran stated they will settle this, they just have to write the release language. Dr. Brannon will refund additional money over what the Board had recommended. She requested that the Board allow the non-disciplinary consent agreement go forward as recommended.

Upon MOTION by Dr. Sorensen, second by Ms. McClain, the Board voted to ACCEPT the non-disciplinary consent agreement. Dr. Hauer OPPOSED. MOTION PASSED.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 7

Agenda Item No. 12B - CASE NO. 201300256 – Dr. Kelly B. Wettstein

Board members reviewed the reports provided by Affiliated Monitors, Inc.

NO ACTION TAKEN

Agenda Item No. 13 PETITION TO REHEAR – Roll Call Vote is required

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

Agenda Item No. 13A - CASE NO. 201500106 – Dr. Peter J. Lee

Mr. Jeffrey Tonner, attorney for Dr. Lee is present and addressed the Board.

Dr. Lee has had no issues in his record before. He had a case where 22 crowns were placed and at least one dentist thought that they all needed to be repaired. Last time there was a split vote on that. He read the comments and part of the split vote was how would the Board know if non-discipline is ordered and Dr. Lee will complete it. The Board ordered Dr. Lee to complete 12 hours of hands on CE in a dental school where he in fact, has done 16 hours. In addition to that he has completed an extra 14 hour course which had specifics to just this issue. Also, in rough numbers there was a \$22,000 restitution which he paid in January 2016. In fact, on the civil case in this, there is a vehicle called an offer of judgement where the plaintiff has been offered to settle this case for more money and that remains open until today. The patient is going to accept that as well, and he will actually get more than \$22,000. There was a previous case before you with the same crown and bridge, with a petition to rehear and the Board reduced that. Some of the comments regarding that case stated that was different because that only involved one crown and this case involved 22 crowns. His response to this is this is the luck of the draw. The other case, that patient was lucky, her case was one tooth, he is unlucky because his involves 22 crowns. If the situation had been reversed, would the other doctor have been any worse of a dentist. Mr. Tonner feels that both doctors are the same type of people. Both need help, and both received help. Mr. Tonner states he looks at this as an analogy of two bakers who don't know to put yeast in the bread, when one has a loaf of bread that is bad and one has 22 loaves that are bad, obviously the customer refunds will be different but they both need the same training. And in fact in this case, she received 3 hours of regular continuing education. Dr. Lee has now taken 16 plus, 14 hours which would be 30 hours of CE. His recommendation in this case is grant our petition, take the order and turn it into a non-disciplinary CE, and remove the restitution from the order. Restitution can only be ordered if there is unprofessional conduct. Lastly, the doctor is working in California and has been for a while. He submitted a letter of resignation, and he would like to voluntarily withdraw his Arizona license.

Dr. Foster is the Lead Board Member.

The basis for the appeal was excessive penalties and findings of fact were capricious, arbitrary or an abuse of discretion and the decision was not justified by the evidence. The pertinent facts are that in March and April 2013, Dr. Lee seated crowns. No post-delivery x-rays were taken, except for April 2013. Dr. Foster reviewed the x-ray from April 2013 and there are open margins visible on the x-ray, approximately a year post seat. Dr. Lee failed to perform a comprehensive diagnosis treatment plan necessary to plan out an occlusal scheme. There is no periodontal charting yet there was a diagnosis of periodontal maintenance. Radiographs show the majority of restorations done by Dr. Lee had deficiencies such as open margins and short margins. The crowns were actually shorter than the margins by a considerable amount. Over contoured restorations were rough and of exceedingly poor quality. Many virgin teeth were cut down to do full crowns and there was gross over treatment. Dr. Foster states the treatment resulted in bite imbalances which created an anterior open bite, especially protrusive, and poor

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 8

or no lateral or arterial guidance. Most if not all of these restorations will need to be redone. Dr. Foster recommends a denial of the petition to rehear.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to DENY the Petition to Rehear. Dr. Sorensen OPPOSED, Dr. Flowers OPPOSED. MOTION PASSED.

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

A petition before the Supreme Court is still pending.

- ii. Dr. Michael Wassef v. ASBDE (Case No. 201400061) (Maricopa County Superior Court Case LC2014-000547-001) – Status update

The Attorney General's brief is due on April 18, 2016.

B. Discussion regarding Attorney General Office new policy regarding the provision of independent legal advice

In the past if the Attorney General's office was participating in a formal hearing case they would bring in someone from the Solicitor General's Office. The policy has changed. The Independent Advice Duties have now been moved to the Licensing and Enforcement Section. The experienced attorneys will be taking turns going to the various Boards when there is a need for independent advice. There will be a pool of three attorneys that will come before the Boards to give the Board advice.

C. Legal advice regarding advertising as a specialist rules

The Board was provided a memo for information purposes

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. 14A	Case No. 201500190	Dr. Sathish Bhadra Chari
Agenda Item No. 15A	Case No. 201500242-AO	Dr. Thien C. Pham
Agenda Item No. 15B	Case No. 201500243	Dr. Jared Spencer Smith
Agenda Item No. 16A	Case No. 201500239	Dr. Keith H. Eskanos

**Agenda Item No. 14 - 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 Ms. Crevier, the Board voted to IMPOSE the Disciplinary Continuing Education Consent Agreements on the following cases on the Consent Agenda.
MOTION PASSED UNANIMOUSLY

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 9

Item No.	Case No.	Licensee	Comments
B.	201500210	Dr. Mark L. Moss	
C.	201500261	Dr. Michael C. Fair	
D.	201500264	Dr. Trent Wilsey Smallwood	

Agenda Item No. 15 – CASES RECOMMENDED FOR NON-DISCIPLINARY CONTINUING EDUCATION CONSENT AGREEMENTS CONSENT AGENDA – Roll Call Vote is required

Upon MOTION by Dr. Foster, second by Ms. Crevier, 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
C.	201500265	Dr. Clark E. Melstrom	6 hrs of crown and bridge
D.	201500272	Dr. Earl L. Lord	6 hrs of diagnosis and treatment planning of complete immediate dentures

Agenda Item No. 16 – CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN CONSENT AGENDA – Roll Call Vote is required if case is pulled

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

Item No.	Case No.	Licensee	Action
B.	201500295	Dr. Richard L. Traugh	“Dr. Traugh’s records should be clear, concise, and legible.”
C.	201500263	Dr. Gary A. Schoenrock	“Dr. Schoenrock should use appropriate, and current x-rays when placing implants.”

Agenda Item No. 17 – CASES RECOMMENDED FOR TERMINATION CONSENT AGENDA – Roll Call Vote is not required

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

Item No.	Case No.	Licensee	Action
A.	201500254	Dr. Allen B. Ewell	Terminate per patient letter
B.	201500276	Dr. Anthony J. Kohler	Terminate per patient letter
C.	201500282	Dr. Adam John Battaglia	Terminate per patient letter

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 10

**Agenda Item No. 18 – CASES RECOMMENDED FOR DISMISSAL CONSENT AGENDA –
Roll Call Vote is not required**

Item No.	Case No.	Licensee	Action
A.	VACANT		

**Agenda Item No. 19 – MALPRACTICE AND ADVERSE OCCURRENCE REPORTS, AND
DISCIPLINARY ACTION IN ANOTHER STATE CONSENT AGENDA –
Roll Vote is required if case is pulled**

Item No.	Case No.	Licensee	Comments
A.	VACANT		

Agenda Item No. 20 – APPROVAL OF CONSULTANTS AND EXAMINERS - CONSENT AGENDA

A. Dr. Julie Chandler – Dental Consultant

Upon MOTION by Dr. Foster, second by Dr. Waite, the Board voted to APPROVE Dr. Chandler as a dental consultant. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 21 – APPROVAL OF MINUTES – CONSENT AGENDA

Upon MOTION by Ms. Crevier, second by Dr. Waite, the Board voted to APPROVE the following minutes. MOTION PASSED UNANIMOUSLY.

A. February 5, 2016 – Board Meeting Minutes

Agenda Item No. 22 – REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS – CONSENT AGENDA

Upon MOTION by Dr. Sorensen, second by Mr. Greer. The Board voted to APPROVE the following appealed cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201500291-ED	Dr. Suneeta Annamareddy	Approve Termination
B.	201600011-ED	Dr. Anthony J. Oliveri	Approve Termination

END OF CONSENT AGENDA

FORMAL INTERVIEW

**Agenda Item No. 23B Case No. 201500269
Dr. Minseok Kang**

Dr. Kang was sworn in by the court reporter. Mr. Jeffrey Tonner, attorney for Dr. Kang, was present to address the Board.

On December 2, 2015, the Board received a complaint against Dr. Kang regarding complications during or after treatment, and inadequate oral surgery. Dr. Kang has chosen to appear in front of the Board for a

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 11

Formal Interview and has been notified that he may have committed Unprofessional Conduct under A.R.S. §32-1201.01(14).

Dr. Sorensen is the Lead Board Member.

Dr. Kang's experience and education was provided by Mr. Tonner. After graduation from dental school in 2012, Dr. Kang was accepted as an oral and maxillofacial resident at Carl Foundation Hospital in Herbanna, IL. This is a fully accredited four year program approved by the American Dental Association Council and Dental Education. During his special training, he assisted in approximately 30 sinus lifts. Dr. Kang completed six months of training and then voluntarily left and began practicing general dentistry. Dr. Kang attended the Theilsen Advanced Implant Course over four days in February 2013 and the Global Dental Implant Academy live patient surgery training course over four days in June of 2014. Among other developed skills, he performed four sinus lifts as the primary surgeon under instructor supervision. As for his private practice he estimates he performed 10 sinus lifts before the one in question.

Dr. Sorensen questioned Dr. Kang about a sinus lift. Dr. Kang responded that there are a couple of different ways to gain vertical dimension for the patient who has been wearing dentures for a long time. For maxillary, vertical the sinus goes down to the extraction site and will lose more bone. The floor gets thinner and to place implants the choice is imminent. He has no other choice but to place a denture or an implant. He can increase the vertical dimension with a sinus lift. There are a couple different approaches to that. One is the lateral approach, which is to go in the side, or crestal approach with an extraction immediately. Both procedures work fine. Dr. Kang's patients prefer the crestal sinus lift because it uses the extraction site. (Inaudible) needs to be there to get to the Schneiderial membrane which is the membrane of the sinus. You gently lift in both procedures and gain the spaces, and insert the bone graft. Then you let it heal and gain the vertical dimension, or you can place the implant immediately. In this patient's case, this was not possible and there were some complications with the extractions. After the extraction, the sinus floor was not there, and the x-ray and Computed Tomography Scan show there was no floor at all. Dr. Kang stated that is why he discussed with the patient he would have to perform a sinus lift, and that is what happened. After the extraction, he did lift the membrane and followed the protocols of the sinus lift. A bone graft was done properly and the sinus had a complete closure.

Dr. Sorensen asked Dr. Kang if he typically uses the Piezo in his surgery procedures. Dr. Sorensen asked Dr. Kang to give an explanation of a Piezo procedure. Dr. Kang explained if the instrument touches the membrane it will never tear. Piezo is an instrument that is ultrasonic and uses ultra sound to gently remove the hard material that is resisting the movements Peizo will never tear the soft membrane, but will cut through the hard bone structure.

For the record, the patient, per her letter said she sought medical attention, and was provided antibiotics from a provider in New York. Dr. Kang stated she did not receive medical treatment. Dr. Kang stated she was able to self-prescribe her own medication and has been on Keflex for two years. The patient came back to the office after she returned from her trip on March 5th, it was the 2nd time he saw her. There was no mention of the trip to the emergency room on the visit. Dr. Sorensen asked Dr. Kang if a referral to a specialist was made after the postoperative complications.

Dr. Sorensen stated the patient's treatment plan was for a root canal treatment. The patient objected to having a root canal treatment, she preferred to have an extraction and implant. The patient left for a trip to New York for two weeks post surgery. During extraction, the maxillary did fracture. It was documented very well, it was placed and repositioned at no cost to the patient. Prior to the ear, nose and throat evaluation the patient had multiple curettages completed by a periodontist. No biopsy was done on the supposed foreign body. This body was not evident in any of the radiographs prior to the periodontist curetaging the sinus cavity. A refund was given to the patient.

A refund was paid in the amount of \$6,922.00, and the patient wanted \$25,000 on top of that. Mr. Tonner stated the patient refused to sign a release form in this case, at the date of the surgery and postoperatively. The sinus is intact. The patient had a dental fistula, which in his understanding is a hole

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 12

in the roof of the mouth. Dr. Kang closed it once, and it happened again. The patient went to see a periodontist and he closed it three times without success. Finally, the patient went to see a subsequent doctor who closed it successfully. The only issue was that he took out a bone fragment. He didn't say which one it was and, he doesn't say that caused the infection. Mr. Tonner stated he doesn't believe this rises to the level of unprofessional conduct and he recommended the Board dismiss this case.

Dr. Kang stated he completed all of the postoperative exams and there were no indications of infection at the time of the exams. Infection was brought up after March when the patient went to the periodontist. He refunded all of the money the patient paid and he tried his best to provide the best of care to her.

Dr. Sorensen stated secondary infections can happen because there are many variables. Maxillary sinus lifts are within the scope of practice. The patient did have a secondary infection. The subsequent treating doctor did state for the record the fistula closed on its own. Dr. Sorensen stated this case does not rise to the level of unprofessional conduct and made a motion to dismiss the case.

Upon MOTION by Dr. Sorensen, second by Mr. Greer, the Board voted to DISMISS case No. 201500269. MOTION PASSED UNANIMOUSLY.

FORMAL INTERVIEW

Agenda Item No. 24A Case No. 201500256 Dr. Omaima S. Samain

Dr. Samain was sworn in by the court reporter. Mr. Jeffrey Tonner attorney, for Dr. Samain presented an opening statement to the Board.

There are two types of crown and bridge cases for our purposes. For our case the lack of a better term is a technical one. Everyone agrees the crown needs to be done, but the dentist does something wrong in doing it, creating an open margin. This case is not that. This case is really a treatment planning case.

On November 4, 2014 the Board received a complaint against Dr. Samain alleging she placed an inadequate bridge and a permitted illegal conduct. Dr. Samain has chosen to appear in front of the Board for a Formal Interview and she has been advised she may have committed Unprofessional Conduct under A.R.S. 32-1201(14) and (24) and a violation of A.R.S. 32-1264(A).

Dr. Foster is the Lead Board Member.

Dr. Samain stated she attended school at New York University Dental School and graduated in 1999, she did her residency in Las Vegas for two years, and moved to Arizona to practice nine years ago. She practiced in Utah for a short time, the remainder of her time practicing in Arizona.

Dr. Foster questioned Dr. Samain on what kind of education in fixed prosthodontics she had. Dr. Samain stated she took classes in Connecticut in prosthetics. Dr. Foster asked Dr. Samain about talking to the patient about the various options, and a bridge was one of the options she gave the patient. Dr. Samain stated the patient presented to her with a bridge on teeth no. 10 to 14. The patient had the bridge for 12 years. The patient wanted exactly what she currently had already. Dr. Samain said she stated to the patient what her options were, but the patient refused all of the options except a bridge. Dr. Foster asked Dr. Samain what her opinion was in placing a bridge. Dr. Samain said she discussed all of the options and what the success would be with the new bridge. Dr. Samain said she informed the patient the new bridge would not be as successful as the previous bridge due to teeth being extracted. Dr. Foster asked Dr. Samain if the outcome was risky why would she proceed with the bridge? Dr. Samain stated the patient was adamant a bridge was what she wanted. Dr. Samain said she would not do a bridge on her mom or her sister. Dr. Samain said usually this works well with patients if she uses this explanation as to why she doesn't want to perform a certain procedure if there is a risk there. This patient refused Dr. Samain's recommendations and asked for a bridge. Dr. Samain was asked if she has ever refused to

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 13

perform a service on a patient if she didn't feel the outcome would be successful. Dr. Samain stated she has refused service on a case basis.

Mr. Jackson asked Dr. Samain if a refund was given to the patient. Dr. Samain said the patient never asked her for a refund.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted this rose to the level of unprofessional conduct, and a violation of record keeping. Ms. Hardy OPPOSED, Dr. Flowers OPPOSED, Mr. Jackson OPPOSED, Mr. Greer OPPOSED, and Dr. Sorensen OPPOSED. MOTION FAILED.

Upon MOTION by Mr. Jackson, second by Dr. Sorensen, the Board voted to impose a non-disciplinary consent agreement 4 hours in risk management, and 3 hours of record keeping. Ms. Crevier OPPOSED, Dr. Waite OPPOSED, Ms. McClain OPPOSED, Dr. Foster OPPOSED, and Dr. Hauer OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Sorensen, second by Mr. Jackson, the Board voted to impose non-disciplinary consent agreement for 6 hours in continuing education in crown and bridge, 4 Hours in risk management, and 3 hours in record keeping. Ms. Crevier OPPOSED, Dr. Waite OPPOSED, Ms. McClain OPPOSED, Dr. Foster OPPOSED and Dr. Hauer OPPOSED. MOTION FAILED.

Upon MOTION by Ms. Crevier, second by Ms. McClain, the Board voted to FIND unprofessional conduct A.R.S. §32-1201(14) and (24) and a violation of A.R.S. §32-1264(A). Ms. Hardy OPPOSED, Mr. Jackson OPPOSED, Mr. Greer OPPOSED, and Dr. Sorensen OPPOSED. MOTION PASSED.

Upon MOTION by Dr. Foster, second by Ms. McClain, the Board voted to IMPOSE 18 hours of hands on training in a dental school setting in the area of crown and bridge, restitution to the patient, and 3 hours of continuing education in ethics training. Ms. Hardy OPPOSED, and Mr. Jackson OPPOSED. MOTION PASSED.

FORMAL INTERVIEW

Agenda Item No. 25A Case No. 201500219 Dr. Jaleh Keyhani

Dr. Keyhani was sworn in by the court reporter. Ms. Katherine Corcoran, attorney for Dr. Keyhani was present to address the Board.

Ms. Corcoran stated this case was treatment that happened three years ago. This case is unusual in the sense that it's not very often that she has a Board matter which a letter is in the record by a Dr. Cooperman MD, DDS out of California stating he considers himself an expert, and what Dr. Keyhani did in her treatment was within the standard of care. The Board consultant made several concessions in the summary and within the report in terms of treatment of the patient by Dr. Keyhani. She made the correct decisions for tooth by tooth. If the patient would have returned to Dr. Keyhani, she would have treated the patient appropriately.

On August 28, 2015, the Board received a complaint alleging billing irregularities, failure to diagnose, complications during or after treatment, unnecessary treatment, inadequate dental implants, and inadequate oral surgery. Dr. Keyhani has chosen to appear in front of the Board for a Formal Interview. Dr. Keyhani has been advised she may be in violation of unprofessional conduct under A.R.S. §32-1201.01(14).

Dr. Waite is the Lead Board Member.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 14

Dr. Waite questioned Dr. Keyhani and asked her to state her education for the record. Dr. Keyhani attended Ohio State University Dental School, completed residency in Texas at University of Baylor in Houston. She finished her residency in 1997, and began practicing in Arizona in 2003.

Dr. Waite stated Dr. Keyhani diagnosed the entire case from one panoramic x-ray. Dr. Waite asked Dr. Keyhani if she ever considered taking any other types of x-rays other than a panoramic x-ray.

Dr. Sorensen asked Dr. Keyhani what her residency was in and she stated oral and maxillofacial surgery where she attended a four year program.

Dr. Keyhani stated the failure of this case was due to the fact that the patient was non-compliant. The patient was not forthcoming with pertinent information regarding her medical issues.

Dr. Waite stated the diagnosis and treatment planning of this case were completely inappropriate. The patient presented with pain of the upper left area, and from March 15th to August 27th had bilateral tori reduction, ten teeth extracted, two sinus lifts, and is still having issues, problems, and concerns. Dr. Waite stated this case does rise to the level of unprofessional conduct per A.R.S. §32-1201.01(14).

Upon MOTION by Dr. Waite, second by Mr. Greer the Board voted to FIND unprofessional conduct based on A.R.S. §32-1201.01(14). MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Waite, second by Ms. McClain the Board voted to ORDER the following DISCIPLINARY SANCTIONS 12 hours of Continuing Education in Treatment and Planning in a dental school setting in the area of complex cases, two years of probation monitoring quarterly to review (X-Rays, Records, and Treatment Plans) 6 hours of Continuing Education in Record Keeping to be completed in 6 months, Full Restitution to the patient, and \$2000.00 administrative penalty. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 23A – Case No. 201500209 - Dr. Mu-Hun Kim

Upon MOTION by Dr. Hauer, second by Dr. Waite the Board voted to go into EXECUTIVE SESSION for legal advice MOTION PASSED.

****EXECUTIVE SESSION****

RETURN TO OPEN Session

Dr. Kim is not present at the Board Meeting to discuss this case. Dr. Kim is currently in bankruptcy proceedings. The Board would like to see if Dr. Kim will follow through with his bankruptcy proceedings. At the June 3, 2016 if Dr. Kim has not finished his bankruptcy proceedings, the Board can move forward with the Disciplinary Consent Agreement and Restitution.

Upon MOTION by Ms. Hardy, second by Ms. Crevier the Board voted to TABLE this matter until the June 3, 2016 Board Meeting. Greer OPPOSED, Waite OPPOSED, McClain OPPOSED, Sorensen OPPOSED, Hauer OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Sorenson, second by Mr. Greer the Board voted to ACCEPT the Disciplinary Consent Agreement. Ms. Hardy OPPOSED, Mr. Jackson OPPOSED, Dr. Foster OPPOSED. MOTION PASSED.

Agenda Item No. 15A – Case No. 201500242-AO – Dr. Thien C. Pham

This case was pulled by a Board member who stated he thought this case did not warrant a non-disciplinary consent agreement and recommended this case be dismissed. After reviewing the consultant's report, he stated the consultant was going above and beyond what a consultant should do.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 15

He states the consultant's job is to see if the records are in place, if there is adequate advanced cardiac life support that has taken place, and the patient was appropriately taken care of.

Another Board member pulled the case because he states this case does rise to the level of non-disciplinary continuing education for Dr. Pham. All of the information was not provided by Dr. Pham for the patient records for the Internal Investigative Review Committee to do an accurate review. He said it is difficult to chart everything when an emergency arises; however, there were discrepancies with who all were present when the emergency occurred. He had concerns with the protocol that took place during the emergency.

Dr. Pham and his attorney Mr. Smith were present and addressed the Board. Dr. Pham addressed the Board members concerns regarding the emergency. Dr. Pham stated he was present, an endodontist was there, as well as an assistant when the emergency occurred. When Dr. Pham got the code, the assistant stepped out to call 911, the endodontist stepped out to get the automated defibrillator. The oral surgeon came in during the emergency. Dr. Pham said the proper protocol is to begin chest compressions immediately which he did.

Mr. Smith, attorney for Dr. Pham, addressed the Board. He said the consultant read Dr. Pham's response to the emergency. The consultant did not say Dr. Pham performed below the standard of care, ultimately Dr. Pham performed within the standard of care. Mr. Smith asked the Board to consider dismissing this case as it is appropriate.

A Board member asked Dr. Pham if his protocol requires anyone to act as a scribe in an emergency situation to record what is transpiring during the emergency. Dr. Pham stated this was one of his first cases working with this group. He said he had never worked with these dentists before. This was his first time running a code by himself. As part of his protocol now, he has a sheet that he gives to someone to start recording a timeline of what is transpiring.

Upon MOTION by Dr. Sorenson, second by Ms. McClain the Board voted to DISMISS case No. 201500242-AO. Mr. Jackson OPPOSED, Dr. Foster OPPOSED. MOTION PASSED.

Agenda Item No. 16A – Case No. 201500239 - Dr. Keith Eskanos

Case No. 201500239 was pulled by a Board member.

Upon MOTION by Dr. Waite, second by Ms. Hardy the Board voted to ACCEPT the Letter of Concern for Dr. Eskanos. Mr. Jackson RECUSED. MOTION PASSED.

Agenda Item No. 14A – Case No. 201500190 - Dr. Sathish Bhadra Chari

This case was pulled by a Board Member.

Upon MOTION by Dr. Flowers, second by Dr. Waite the Board voted to MODIFY the consent agreement by IMPOSING a \$2000.00 Administrative Penalty, 12 hours of hands training in endodontics training in a dental school setting. Limit practice in endodontics until complete, 4 hours of Continuing Education in Risk Management, 6 hours of Continuing Education in Crown and Bridge, 6 hours of Orthodontics hands on training in a dental school setting. Limit practice in orthodontics until complete, 3 hours of Continuing Education in Record Keeping. If he declines, Dr. Chari will be invited for a formal interview. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 15B – Case No. 201500243 - Dr. Jared Spencer Smith

This case was pulled by a Board Member. The Board discussed issuing a letter of concern as it did not rise to the level of non-disciplinary continuing education.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

April 1, 2016

PAGE 16

Upon MOTION by Ms. Hardy, second by Dr. Sorensen the Board voted to CHANGE the non-disciplinary continuing education consent agreement and issue to a LETTER OF CONCERN stating Dr. Smith should record anesthetic used and include diagnosis in his treatment plan. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 28 – Future Agenda Items

- A. Consultant Fees
- B. Conduct an Analysis regarding statute changes

Agenda Item No. 29 – Next Meeting Date – June 3, 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 12:35 PM.

Minutes APPROVED at the April 1, 2016 Board Meeting.

Elaine Hugunin, Executive Director