



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING APRIL 6, 2018

Board Members Present:

Gregory A. Waite, DDS, President
Robert H. Foster, DDS, Vice President
Robert B. Taylor, DDS
Darren L. Flowers, DMD
Howard J. Sorensen, DDS
Lisa B. Bienstock, 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. Sherrie Biggs, Licensure Manager
Ms. Terry Bialostosky, Investigations Supervisor
Ms. Dee Woodard, Legal Administrator

NOTICE:

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

GENERAL BUSINESS

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

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

Agenda Item No. 2 PUBLIC COMMENT ON CASES

Complainant AK was present and spoke about case no. 201700210 (Agenda Item 13B).
Complainant LW was present and spoke about case no. 201700225 (Agenda Item 14B).
Complainant RM was present and spoke about case no. 201700233-ED (Agenda Item 20C).
Complainant SB was present and spoke about case no. 201700235-ED (Agenda Item 20D).
Complainant LK was present and spoke about case no. 201700238-ED (Agenda Item 20E).
Complainant DB was present and spoke about case no. 201700170 (Agenda Item 22B).

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

None to report

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

Additional materials for agenda items 4J, 4L, 5B, 13A, 13E, 14C and 20F, were provided in the Board's folders.

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

None to report

- B. Review, discussion and possible approval for the Executive Director, Board President, and Assistant Attorney General to attend the American Association of Dental Boards (AADB) meeting in Chicago, IL, September 22 – 23, 2018

Upon MOTION by Dr. Taylor, second by Ms. Crevier, the Board voted to APPROVE the Executive Director, Board President and Assistant Attorney General to attend the American Association of Dental Boards (AADB) meeting in Chicago, IL. September 22 – 23, 2018. MOTION PASSED UNANIMOUSLY.

- C. Executive Order 2018-02 – Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer Service Oriented Agencies – For Information Only

Director Hugunin stated this was for information. She said the Board was given a copy of Executive Order 2018-02 as well as guidelines to complete the report. The Executive Order asked the Board to identify opportunities to decrease barriers to licensing as well as identify opportunities for veterans who may receive training in the services.

- D. SmileDirectClub, LLC – Review, discussion, and possible action regarding SmileDirectClub, LLC

Director Hugunin stated at the February 2, 2018 Board meeting, Board staff sent business entity requests to Smile DirectClub and requested a description of their business model. The business has provided this as well as a list of Arizona dentists employed with Smile DirectClub, LLC. Director Hugunin stated the Board has not received any complaints. She stated she had queried her peers throughout the United States, and there are no complaints. She stated the other Dental Boards have not taken any action at this time.

Mr. Jackson stated he had concerns regarding Smile DirectClub. He asked the Board if the Board had to wait for an issue or a complaint to arise before taking any action. Mr. Jackson questioned if an accurate diagnosis can be made by looking a picture taken by a cell phone.

Discussion ensued.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to TAKE NO ACTION. Mr. Jackson OPPOSED. MOTION PASSED.

- E. Dr. Vincent Arthur Martinez – Case No. 201700169 – Review, discussion and possible action regarding dismissing this case without prejudice.

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Director Hugunin stated the Board was given a memo stating Dr. Martinez' license was revoked on December 18, 2017. She said Dr. Martinez does not maintain an active license so the Board may wish to consider dismissing the case without prejudice.

Upon MOTION by Ms. Crevier, second by Mr. Greer, the Board voted to DISMISS Case No. 201700169 without prejudice. MOTION PASSED UNANIMOUSLY.

- F. Update on Proposed Legislation – Review, discussion and possible action regarding current proposed legislation for the 2018 session

Director Hugunin stated the Legislature had heard many bills, some of which were presented to the Board at the February 2018 Board meeting, which did not move forward. Director Hugunin gave an update on some that were still in process.

- i. HB 2207 – Public meetings; audiovisual recordings; postings

Director Hugunin stated thanks to Senator Barto a meeting was held with the sponsor of this bill; three Executive Directors, including herself, legislative council and the Goldwater Institute met to discuss the feasibility of this bill. She stated a significant amendment was made requiring the Department of Administration to conduct a study to determine the cost of requiring all regulatory agencies to videotape their meetings. Director Hugunin stated letters of concern are excluded from the posting of final actions which was consistent with Senator Barto's bill which passed last legislative session.

- ii. HB 2001 – Controlled Substances; regulation; appropriation

Director Hugunin stated Ms. Williams provided information to the Board. She said the Dental Board's home page has links to the FAQs provided by the Pharmacy Board regarding this bill.

- iii. SB 1377 – Dental therapy; licensure; regulation

Director Hugunin stated she and Ms. Chambers attended four different Committee meetings at which this bill was heard. She said there had been several amendments made since the bill was first presented to the Board; most recently it was presented as a striker bill. She said one of the amendments would correct the statute regarding Expanded Function Dental Assistants which was presented to the Board at the February 2, 2018, Board meeting. She said to date, it had not been to the legislature floor.

- iv. SB 1470 – Sunrise Process

Director Hugunin stated this bill changed the sunrise process which required a sunrise application be assigned to a Committee rather than the Committee of Reference. She stated this could possibly make it easier for health professionals to expand their scope of practice.

- v. SB 1436 – Prohibition; criminal history; occupational regulation

Director Hugunin stated this bill allows a person to petition an agency for a determination as to whether the person's criminal record will disqualify the person from receiving a license.

- G. Review, discussion and approval for Executive Director to attend AZDA fall conference September 14 -15, 2018 in Tucson, Arizona.

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Upon MOTION by Dr. Sorensen, second by Ms. Hardy, the Board voted to APPROVE the Executive Director to attend the AZDA fall conference September 14 – 15, 2018 in Tucson, AZ. MOTION PASSED UNANIMOUSLY.

- H. Recognition of outgoing Board Members: Mr. Joshua Greer, Dr. Darren Flowers, and Dr. Robert Foster.

Director Hugunin stated she was informed by the Governor's office three new Board member appointments had been made, and should be finalized before the June 1, 2018 Board meeting. Director Hugunin thanked Mr. Greer, Dr. Flowers and Dr. Foster for their service to the Board.

- I. Review, discussion and possible action regarding proposed Agency Substantive Policy Statement for Diabetes Testing and Reporting.

Director Hugunin stated at the February 2, 2018 Board meeting, the Board directed staff to research and develop a proposed Substantive Policy Statement regarding diabetes testing and reporting in dentist's office.

Upon MOTION by Dr. Taylor, second by Mr. Greer, the Board voted to APPROVE the Substantive Policy Statement regarding diabetes testing and reporting in dentist's office. MOTION PASSED UNANIMOUSLY.

- J. Review, discussion and possible action regarding proposed Agency Substantive Policy Statement for Arizona Opioid Epidemic Act.

Director Hugunin stated as a result of HB 2001, a proposed Substantive Policy Statement regarding the continuing education requirement in the Arizona Opioid Epidemic Act has been provided to the Board.

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to APPROVE the Substantive Policy Statement for Arizona Opioid Epidemic Act. MOTION PASSED UNANIMOUSLY.

- K. Review, discussion and approval to request rulemaking exemption from Executive Order 2018-02 for Article 12, Continuing Dental Education and Renewal Requirements

Director Hugunin stated Board staff asked the Board to consider directing staff to request a rulemaking exemption from Executive Order 2018-02 for Article 12, Continuing Dental Education and Renewal Requirements. She said although the current language requiring continuing education in chemical dependence satisfied HB 2001, at some point the rules should be clearer and other changes within this Article need to be made.

Upon MOTION by Dr. Taylor, second by Mr. Greer, the Board directed staff to REQUEST a rulemaking exemption from Executive Order 2018-02 for Article 12, Continuing Dental Education and Renewal Requirements. MOTION PASSED UNANIMOUSLY.

- L. 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.

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

A. Administrative Appeals

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

Ms. Williams, Assistant Attorney General stated the appeal for Case No. 201500190 was abandoned. She said the Board Order for Case No. 201500190 had been affirmed.

B. Legal Advice Memorandum regarding the Arizona Opioid Epidemic Act

Ms. Williams stated she provided this information to the Board if the Board had any questions from the Opioid Epidemic Act.

Agenda Item No. 6 PERSONNEL ISSUES

A. VACANT

Agenda Item No. 7 COMMITTEE REPORTS

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

- i. Review, discussion and possible action regarding the 2017 Dental Hygiene Continuing Education Audits. Upon recommendation from the Dental Hygiene Committee, the Board may consider approval of the CE Audit responses from the following:
 - a. Mary Ann Anderson, RDH
 - b. Emily A. Gibbons, RDH
 - c. Lisa Michelle Urwin, RDH
 - d. April Dawn Peyer, RDH
 - e. Jodi L. Merrill, RDH

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for 7Aia – 7Aie. MOTION PASSED UNANIMOUSLY.

B. Continuing Education Audit for Dentists Committee – Dr. Robert Foster

- ii. Review, discussion and possible action regarding the 2017 Dental Continuing Education Audits. Upon recommendation from the Continuing Education Audit for Dentists Committee, the Board may consider approval for the CE Audit responses from the following:
 - a. Dr. Lois Maro
 - b. Dr. Shahab Ardalan
 - c. Dr. David Rickard Ostler
 - d. Dr. Olivia Ria Flores Tamayo

Upon MOTION by Dr. Foster, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for 7Biia – 7Biid. MOTION PASSED UNANIMOUSLY.

ACTION ON LICENSING

Agenda Item No. 8 REQUEST FOR ACTION ON LICENSURE

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

- A. Dr. Richard Victor Eidelson – Discipline on New York and Pennsylvania licenses; disclosure of malpractice actions.

Dr. Taylor stated he was worried about the five malpractice disclosures made by Dr. Eidelson. Director Hugunin stated the malpractice occurred prior to 1996. Ms. Hardy stated Dr. Eidelson did not have any discipline on his license for over 21 years.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to GRANT licensure to Dr. Eidelson. Ms. Crevier, and Dr. Foster OPPOSED. MOTION PASSED.

- B. Carly Marie Beard, RDH – Conviction for facilitation of trafficking in stolen property.

Ms. Beard was present and addressed the Board. She stated she made a mistake; she was mixed up with the wrong crowd. Ms. Beard stated she was not proud of what she did, but she was proud of how far she had come. She said she had taken all of the steps to rectify her mistake, and she completed all of the court ordered steps that included probation, restitution, random drug testing and fines. Ms. Beard stated she took steps on her own that included drug treatment rehabilitation; she attended Narcotics Anonymous and completely changed all of her behaviors. Ms. Beard stated her life now has completely changed; she owns her own home, she has two beautiful children, she is currently pregnant, and will be married at the end of 2018. Ms. Beard stated she had overcome many obstacles to become a dental hygienist, and she hoped this would be the light at the end of the tunnel for her.

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

- C. Amber Marie Roberts, RDH – Conviction for possession of a controlled substance with intent to deliver.

Ms. Roberts was present and addressed the Board. She stated 13 years ago she was 18 years old, and was involved with the wrong boy. She stated she was at an apartment where a drug bust occurred, and she was arrested for possession of a controlled substance. Ms. Beard stated this incident has haunted her and this is a constant reminder, and an embarrassment to her. She stated she was doing everything she possibly could to become a dental hygienist. Ms. Beard stated she is registered in Texas as a dental assistant since 2009. Ms. Beard stated she is a dental assistant in Arizona and has had no disciplinary actions. She stated she completed the dental hygiene program with good grades. She said she is a single mother, and has never had a drug problem. She stated to become a dental hygienist is her dream career.

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

Agenda Item No. 9 REQUEST FOR ACTION ON APPLICATION(S) FOR RENEWAL OF LICENSE
Roll Call Vote *is required*

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

- A. VACANT

ACTION ON CASES – 9:00 AM

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

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

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

Item No.	Case No.	Licensee	Comments
A.	VACANT		

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

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

Item No.	Case No.	Licensee	Comments
A.	VACANT		

CONSENT AGENDA – 9:00 AM

Cases pulled from the Consent Agenda:

Agenda Item No.	13A	Case No. 201700165	Dr. Aaron B. Kleiner
Agenda Item No.	13B	Case No. 201700210	Dr. Chitra N. Gidwani
Agenda Item No.	13D	Case No. 201700214-MP	Dr. Kathleen Ann Conderato
Agenda Item No.	13E	Case No. 201700231	Dr. Troy L. Richins
Agenda Item No.	14A	Case No. 201700221-MP	Dr. S. Todd Sadowski
Agenda Item No.	14D	Case No. 201700236	Dr. Arlyn Berns Levy

**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 Consent agreement for the voluntary surrender of Dr. Gregory J. Valacich. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700150-201700259	Dr. Gregory J. Valacich	Review, discussion and possible action on consent agreement for voluntary surrender of his license.

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

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to ISSUE a non-disciplinary consent agreement for Case No. 201700211. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
C.	201700211	Dr. Jeffrey Neil Penfil	4 hours of CE in risk management

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

Upon MOTION by Dr. Foster, second by Dr. Taylor, the Board voted to ISSUE a letter of concern for cases 14B, 14C, 14E and 14F. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
B.	201700225	Dr. Payam Abedi	"Dr. Abedi should thoroughly document the informed consent."
C.	201700229	Mr. Arthur Silva	"Mr. Silva should ensure that all records are clear, concise and legible."
E.	201700245	Dr. Sara S. Mosley	"Dr. Mosley should not write prescriptions outside the scope of practice."
F.	201800004	Dr. Daniel Richard Gano	"Dr. Gano should document the type and amount of anesthetic administered to the patient."

Agenda Item No. 15 CASES RECOMMENDED FOR TERMINATION
CONSENT AGENDA

Upon MOTION by Dr. Taylor, second by Ms. Crevier, the Board voted to TERMINATE Case No. 201700257. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700257	Dr. Avis M. Sadre	Terminate Per Patient

Agenda Item No. 16 CASES RECOMMENDED FOR DISMISSAL
CONSENT AGENDA

Item No.	Case No.	Licensee	Comments
A.	VACANT		

Agenda Item No. 17 MALPRACTICE AND ADVERSE OCCURRENCE REPORTS, AND DISCIPLINARY ACTION IN ANOTHER STATE
CONSENT AGENDA – Roll Call Vote is not required

- A. Dr. Gerard M. Schmidtke – Malpractice Report Recommendation – Took No Action

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to Take No Action. MOTION PASSED UNANIMOUSLY.

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

A. Max Almodovar, DMD – Dental Consultant

Upon MOTION by Dr. Taylor, second by Mr. Greer, the Board voted to APPOINT Dr. Almodovar as a Dental Consultant. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 19 APPROVAL OF MINUTES
CONSENT AGENDA

A. February 2, 2018 – Board Meeting Minutes

B. February 2, 2018 – Executive Session Minutes

Upon MOTION by Dr. Taylor, second by Ms. Crevier, the Board voted to APPROVE the February 2, 2018 Board Meeting Minutes and the February 2, 2018, Executive Session Minutes. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 20 REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS

Upon MOTION by Dr. Taylor, second by Mr. Greer, the Board voted to APPROVE the Executive Director Terminations of cases 20A – 20F. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201700206-ED	Dr. Karun Gaba	Recommendation to approve ED-Termination
B.	201700222-ED	Dr. Gwen Huynh	Recommendation to approve ED-Termination
C.	201700233-ED	Dr. Scott A. Darlington	Recommendation to approve ED-Termination
D.	201700235-ED	Dr. Harjot K. Brar	Recommendation to approve ED-Termination
E.	201700238-ED	Dr. Michael L. Bleeker	Recommendation to approve ED-Termination
F.	201700223-ED	Dr. Derek V. Schop	Recommendation to approve ED-Termination

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

Agenda Item No. 13A Case No. 201700162
Dr. Aaron B. Kleiner

The case was pulled by Dr. Sorensen. He stated after reviewing the case he said he believed it rose to the level of discipline. Dr. Sorensen stated there were no post-operative radiographs, and no referral to an endodontist. Dr. Kleiner stated to the Board in his initial response he did everything right in this case, which concerned Dr. Sorensen. He stated there was room for improvement and Dr. Kleiner should come before the Board and explain why he stated he did everything correctly in this case.

Ms. Dina Anagnopoulos, attorney for Dr. Kleiner, was present and addressed the Board. She stated she asked the Board to consolidate this case with another case Dr. Kleiner had with the Board. Ms. Anagnopoulos stated she was appointed as Dr. Kleiner's attorney one week before the Board meeting.

Ms. Anagnopoulos stated Dr. Kleiner had no assistance in preparing his response to the Board. She stated this was Dr. Kleiner's first complaint with the Board. Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to MODIFY the non-disciplinary consent agreement to a disciplinary consent agreement and add 3 hours of continuing education in endodontics, three hours of continuing education in record keeping, three hours of continuing education in crown and bridge with six months to complete. If Dr. Kleiner does not accept the consent agreement he will be invited for a Formal Interview or a Formal Hearing. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13B

Case No. 201700210
Dr. Chitra N. Gidwani

The case was pulled by Ms. Hardy. Ms. Hardy stated there were things Dr. Gidwani could have handled better; however, she continued to offer to redo the work for the patient and refund the money.

The case was pulled by Mr. Jackson to RECUSE.

Upon MOTION by Ms. Hardy, second by Dr. Sorensen, the Board voted to REJECT the non-disciplinary consent agreement and issue a Letter of Concern stating "Dr. Gidwani should ensure adjusting the crown and bridge adequately and ensure the crown and bridge seat correctly". Mr. Jackson RECUSED. Ms. Crevier, Mr. Greer, Dr. Flowers, and Ms. McClain, OPPOSED. MOTION PASSED.

Agenda Item No. 13D

Case No. 201700214-MP
Dr. Kathleen Ann Conderato

The case was pulled by Dr. Waite. He stated after reviewing the case, it rose to the level of discipline. Dr. Waite stated there was a root canal and crown build-up on tooth no. 14. The x-ray showed an open margin on the mesial. Dr. Waite stated the x-ray showed decay on the composite. Dr. Waite stated this tooth will fail, and will have to be extracted. Dr. Waite stated there was a root canal performed, there was a broken file left in the canal and there was nothing in the patient record stating the patient was informed.

Ms. Dina Anagnopoulos, attorney for Dr. Conderato, was present and addressed the Board. Ms. Anagnopoulos stated the file left in the canal was an allegation that was never substantiated. She stated the patient follow-up records did not indicate there was a file left in the tooth. Dr. Flowers stated after reviewing the records he agreed with Ms. Anagnopoulos. Dr. Flowers stated the endodontist may have made an error in the patient records.

Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to MODIFY the non-disciplinary consent agreement to disciplinary consent agreement and add 6 hours of continuing education in crown and bridge, and 4 hours of risk management. If Dr. Conderato does not accept the consent agreement she will be invited to a Formal Interview or a Formal Hearing. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13E

Case No. 201700231
Dr. Troy L. Richins

The case was pulled by Dr. Waite and Dr. Sorensen.

Dr. Waite stated after reviewing the patient records there were open margins under the crown. Dr. Waite stated the post was short and would not be a foundation for the tooth. Dr. Waite stated Dr. Richins stated in the patient record x-rays that the margins were sealed. He said after reviewing the x-rays the margins were wide open on the mesial. Dr. Waite stated this case rose to the level of discipline. Dr. Waite stated the patient paid \$400 for the crown and \$130 build-up the patient should be paid restitution. Dr. Waite said both the crown and build-up would fail for this patient.

Dr. Sorensen pulled this case as well. He would like to change the finding of facts because they talk about an instrument being separated, but it should say there was a blockage. It is short, but there is a

blockage too. Dr. Sorensen would like to change findings of fact four and five and have it read paragraph four, third sentence which stated after reviewing the radiograph and scans the endodontist documented in the patient's treatment records that a file was broken off in the tooth. Dr. Sorensen said it should state a blockage was noted in the tooth. Dr. Sorensen stated in paragraph five there is no indication in the patient's treatment record that Dr. Richins advised the patient of a separated instrument or a blockage it was not documented in the patient's record. Dr. Sorensen stated the standard of care would be if the doctor cannot adequately clean shave a tooth, they should refer the patient to an endodontist for an evaluation.

Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to MODIFY the non-disciplinary consent agreement to disciplinary consent agreement and add 6 hours of crown and bridge, 3 hours of continuing education in endodontics and 4 hours of risk management, and modify the finding of facts to state there was a blockage in the tooth. If Dr. Richins does not accept the consent agreement he will be invited to a Formal Interview or a Formal Hearing. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 14A

Case No. 201700221-MP
Dr. S. Todd Sadowski

The case was pulled by Mr. Jackson. He stated this case occurred over 5 years ago. Mr. Jackson stated Dr. Sadowski admitted he did not have complete records; however, he took responsibility and took the necessary steps to improve his record keeping since this occurred. Dr. Sorensen stated he agreed with Mr. Jackson.

Ms. Dina Anagnopoulos, attorney for Dr. Sadowski, was present.

Upon Motion by Mr. Jackson, second by Dr. Flowers, the Board voted to DISMISS case no. 201700221-MP. Dr. Waite, and Ms. Crevier OPPOSED. MOTION PASSED.

Agenda Item No. 14D

Case No. 201700236
Dr. Arlyn Berns Levy

The case was pulled by Dr. Waite. He stated this case rises to the level of unprofessional conduct. Dr. Waite stated Dr. Levy extracted tooth no. 18. According to Dr. Levy's records, this was a routine extraction; however, the radiograph shows the root tip was left after the extraction and the patient was not informed. The patient experienced pain after the tooth extraction and presented to an oral surgeon who advised her that the root tip had been left in her mouth. Dr. Waite stated the patient was charged \$209.00 for a surgical extraction which was not performed. Dr. Waite stated restitution should be repaid to the patient.

Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to REJECT the letter of concern and offer a disciplinary consent agreement for 6 hours continuing education in of oral surgery - hands on training, and 4 hours of risk management, with six months to complete, and \$209.00 in restitution paid to the patient. If Dr. Levy does not accept the consent agreement he will be invited to a Formal Interview or a Formal Hearing. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 21A

Case No. 201700175-MP
Dr. Victor E. Trujillo

Director Hugunin stated on August 25, 2017, the Board received notification from the National Practitioner Databank of a settlement against Dr. Trujillo. A complaint was opened alleging Dr. Trujillo performed inadequate oral surgery which resulted in complications. Based on the outside dental consultant's report and records reviewed, the Internal Investigative Review Committee offered Dr. Trujillo a disciplinary consent agreement for continuing education, which Dr. Trujillo rejected. Dr. Trujillo chose to go to the Office of Administrative Hearings in lieu of a formal interview before the Board.

Dr. Sorensen was the lead Board member assigned to the case for the Formal Interview, which was declined by Dr. Trujillo. Dr. Sorensen stated his recommendation would be to offer Dr. Trujillo a non-disciplinary consent agreement. He stated complications arose after oral surgery, which does not fall below the standard of care. Dr. Sorensen stated there was a transection of the lingual nerve during the extraction performed by Dr. Trujillo. The patient presented to Dr. Trujillo with paresthesia. Dr. Sorensen stated the standard of care would be to map the paresthesia and determine the cause, map for improvement, if there is none, refer the patient to an oral surgeon for continued care. Dr. Sorensen stated he wanted to offer Dr. Trujillo a non-disciplinary consent agreement for 6 hours of oral surgery, 3 hours of record keeping, and 3 hours of radiographic diagnosis.

Dr. Bienstock stated Dr. Trujillo doctored the records postoperatively only after he found out the patient had lingual nerve damage. She stated this is a willful intentional act to cover something up. Dr. Sorensen asked whether or not Dr. Trujillo doctored the patient records or amended the records.

Dr. Waite stated the patient was approximately 14 years old. There was no diagnosis made, the patient had no complaint, issues or problems noted in the patient's records. Dr. Trujillo recommended the extraction of three wisdom teeth. Dr. Waite stated he was questioning why Dr. Trujillo would extract wisdom teeth which had not fully developed, and risk potential complications rather than wait until the teeth developed. Dr. Waite stated the patient has permanent paresthesia and had Dr. Trujillo been more prudent this could have been prevented. Dr. Waite stated Dr. Trujillo should not have performed the work done in this case and this case rises to the level of discipline.

Ms. Jodi Mullis, attorney, for Dr. Trujillo was present but did not address the Board except to say she would present the recommendation to Dr. Trujillo.

Upon MOTION by Dr. Sorensen, second by Ms. McClain, the Board voted to OFFER Dr. Trujillo a non-disciplinary consent agreement for continuing education with 6 hours of oral surgery, 3 hours of radiographic diagnosis, and 4 hours of risk management with 6 months to complete. Dr. Waite, Dr. Foster, Dr. Bienstock, Dr. Taylor, Dr. Flowers, Mr. Jackson, Ms. Crevier, Mr. Greer, Ms. Hardy, and Ms. McClain OPPOSED. MOTION FAILED.

Mr. Jackson asked Dr. Sorensen what was the reason for offering non-disciplinary continuing education versus disciplinary continuing education. Dr. Sorensen stated the consultant who reviewed the case stated he was 100% certain as to what caused the situation, and he stated he was not 100% certain what caused this no one could be absolutely certain of the cause. He stated discipline in this case would be a little harsh. Mr. Jackson stated there was more than one issue in this particular case that needed to be addressed. Dr. Waite stated Dr. Trujillo was trying to justify in the patient record there was an abscess to the roots when the teeth were extracted. The patient was approximately 14 years old at the time of the extraction with teeth that were underdeveloped. He said he questioned why Dr. Trujillo extracted teeth that should not have been extracted at that time.

Upon MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to REFER Case No. 201700175-MP to the Office of Administrative Hearing for a Formal Hearing. Dr. Sorensen OPPOSED. MOTION PASSED.

Agenda Item No. 22A **Case No. 201700145**
Desert Valley Dental

Agenda Item No. 22B **Case No. 201700170**
Desert Valley Dental

Director Hugunin stated on July 19, 2017, the Board received a complaint alleging Desert Valley Dental was aiding and abetting unlicensed individuals. She stated on August 23, 2017, the Board received another complaint alleging Desert Valley Dental was aiding and abetting unlicensed individuals. Director Hugunin stated considerable communication had occurred between Board staff and Desert Valley Dental

in attempting to secure records and responses. She stated to date, the owner had not responded whether or not they would attend the April 6, 2018, Board meeting with legal representation. Director Hugunin stated Desert Valley Dental was not in attendance at the Board meeting. She stated the Board may wish to consider referring this to the Office of Administrative Hearings.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to REFER Case No. 201700145 and Case No. 201700170 to the Office of Administrative Hearings for revocation of their business entity licenses. 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).

Agenda Item No. 23 MEMBERS OF THE PUBLIC

Agenda Item No. 24 FUTURE AGENDA ITEMS

Agenda Item No. 25 NEXT MEETING DATE – June 1, 2018

Agenda Item No. 26 ADJOURNMENT

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

Dr. Waite adjourned the Board meeting at 10:03 a.m.

Elaine Hugunin, Executive Director