Board Members Present Via Conference Call:
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

“Ms. Hardy left meeting at approximately 12:30 P.M.”

Staff Present:
Ms. Elaine Hugunin, Executive Director
Mr. Marc H. Harris, Assistant Attorney General
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 12:02 p.m.

Agenda Item No. 2 DR. DAN M. GAFNI, CASE NO. 201800022-AO

A. Review, discussion and possible action regarding Interim Consent Agreement for Practice Restriction

Director Hugunin stated on February 2, 2018 the Board received an adverse occurrence report from Dr. Gafni in accordance with R4-11-1305 which requires an anesthesia permit holder to report certain occurrences. Director Hugunin stated emergency medical personnel was contacted after the patient became non-responsive following sedation. She said the patient was taken to the emergency room and did spend a few days in the hospital. Director Hugunin stated the records were subpoenaed, the case was sent to an outside dental consultant who provided a report and summary to which Dr. Gafni responded. Director Hugunin stated the Board was in receipt of the consultant report, narrative response and the consultant’s comments to the narrative response.
Director Hugunin stated Board staff does not typically convene the Board for case adjudication; however, in this situation Dr. Gafni agreed to enter into an interim consent agreement for a practice restriction of his 1302 sedation permit pending the final adjudication. Director Hugunin stated the Internal Investigative Review Committee recommended the Board consider continuing the interim practice restriction consent agreement of Dr. Gafni’s 1302 sedation permit and recommended the Board approve a non-disciplinary consent agreement for Dr. Gafni to retake the Advanced Cardiac Life Support (ACLS) course in its entirety; complete four hours of continuing education in sedation and four hours of continuing education in managing emergencies in the sedated patient. She said the Board may also consider discipline.

B. Review, discussion and possible action regarding proposed Non-Disciplinary Consent Agreement.

Dr. Dan M. Gafni was present and addressed the Board. Ms. Kelli Williams, attorney, for Dr. Gafni was present and addressed the Board.

Upon MOTION by Dr. Sorensen, second Dr. Taylor, the Board voted to ACCEPT the non-disciplinary consent agreement, retake the Advanced Cardiac Life Support (ACLS), 4 hours of continuing education in sedation, four hours of continuing education in managing emergencies in the sedated patient.

Dr. Foster stated he had a problem with the non-disciplinary consent agreement due to the severity of the case.

Mr. Marc Harris, Assistant Attorney General, was present and stated there was a motion before the Board. He said if the Board wanted to question Dr. Gafni, the Board should table the motion until all of the questions had been addressed. Dr. Waite stated he had a lot of questions for Dr. Gafni. Mr. Harris stated the motion could be set aside and the Board could go into further discussion. Dr. Waite agreed with Mr. Harris.

Dr. Waite stated he reviewed the case in great length, and had some serious concerns. Dr. Waite asked Dr. Gafni what the weight of the patient was. Dr. Gafni said she was approximately 180 – 190 pounds but he did not record it in the patient’s record. Dr. Waite asked Dr. Gafni if he thought it was important to record the patient’s weight when sedating the patient, which determines how much medicine to administer based on the patient’s weight and Dr. Gafni agreed. Dr. Waite asked Dr. Gafni how does he determine what the maximum dosage of medication he will administer to a patient. Dr. Gafni said there is a limited amount you can administer based on the length of time the patient was sedated. Dr. Gafni stated the patient had been under sedation for two hours, and the patient was not responding to the agents. He said the patient was talkative, and also communicated with her hands when she was not able to speak verbally. Dr. Gafni stated he administered the agent to the patient which would sedate her for approximately five minutes and then she would be wide awake. He stated at some point the patient became agitated and aggravated, as a result he administered more agents. He stated he observed the patient’s response and then made his determination on administering more agents. Dr. Waite asked Dr. Gafni what was the maximum dosage was for the narcotic Fentanyl on the insert, Dr. Gafni said it was 150 micrograms total. Dr. Waite stated the insert said doses greater than 200 micrograms was solely for use in general anesthetics. Dr. Waite stated Dr. Gafni gave his patient 275 micrograms of Fentanyl. Dr. Waite stated the Versed insert stated there are life threatening side effects which are more likely to occur in adults over the age of 60, and who already have breathing difficulties, he said the patient falls into both of those categories. Dr. Waite stated the insert for the Versed, administered by itself, stated the maximum recommended dosage was 3.5 milligrams. He said Dr. Gafni gave the patient 9 milligrams. Dr. Waite stated there were two medications given that exceeded the maximum dosage. Dr. Waite stated Dr. Gafni also gave the patient nitrous oxide but did not document it in the patient’s records. Dr. Waite said there could be less 02 saturation when using nitrous oxide which could also cause complications.
Dr. Waite asked Dr. Gafni if a pulse oximeter machine was used on this patient, and he said that was correct. Dr. Waite asked Dr. Gafni where in the patient record showed he was actually monitoring the patient throughout the procedure. Dr. Gafni stated he was not sure what happened, his assistant did not record it in the patient record. Dr. Gafni stated he always uses a pulse oximeter, he said in this case he failed to record it in the patient record. He said he has made changes in his office and he is now recording everything via visualized recording and printed out at the end of the procedure. Dr. Waite asked Dr. Gafni had he heard if it is not written in the patient record than it did not happen, he answered yes. Dr. Waite stated there was no way of knowing the pulse oximeter was even used on the patient. Dr. Waite asked Dr. Gafni if his pulse oximeter had an alarm, he answered yes. Dr. Waite asked Dr. Gafni at what point does the alarm go off, he answered 90%. Dr. Waite asked Dr. Gafni if the alarm went off, he answered yes. Dr. Waite asked Dr. Gafni what did he do between the time the meter was 90% and dropped to 0%. Dr. Gafni stated the pulse oximeter has a 20-25 second pulse delay, the machine does not give the true oxygenation levels as they’re being read on the monitor. Dr. Gafni stated as he was working on the patient he realized the patient was becoming nonresponsive, before the saturation levels started dropping so dramatically. He said he tried to stimulate the patient very aggressively, he tried to do a jaw thrust, a head chin tilt lift. He said he tried to open the patient’s jaw but the jaw had become locked, there was a bite lock in the patient’s mouth which helped him deliver some oxygen to the patient. Dr. Gafni stated the patient’s saturations level dropped, the patient turned blue, he called code blue, and began cardiopulmonary resuscitation (CPR).

He stated his work colleague began assisting him with CPR, he did not feel a pulse on the patient. Dr. Waite asked Dr. Gafni did someone check manually for a pulse on the patient, he answered yes. Dr. Waite said it was not in the patient records. Dr. Gafni said no it was not, but it was a very tough and emotional day. He said he was not trying to make excuses but he forgot some things, and he obviously did not record things very well in the patient’s records. He stated when he checked the patient’s pulse she did not have one and the decision was made to begin CPR. Dr. Gafni stated he could have tried to reach for the reversal agent or waste more precious time while more oxygen is not delivered to the patient’s vital organs and brain. Dr. Waite asked Dr. Gafni if he administered the reversal agent to the patient, he answered no. He said the decision was made to administer CPR to the patient. Dr. Waite said he believed that was a mistake. Dr. Waite asked Dr. Gafni was the reversal agent Narcan, he answered yes. Dr. Waite asked Dr. Gafni did he know he did not have to administer the reversal agent in the patient’s IV and he answered yes. Dr. Waite asked Dr. Gafni why didn’t he administer the reversal agent to the patient, what happened to the IV. Dr. Gafni stated the IV bag ripped off of the hanger during CPR, and fell on the floor which caused blood to start flowing back. He said the IV was still intact, when the paramedics arrived he was able to push the fluid back into the vein, but the paramedics wanted to start their own IV. Dr. Waite stated it is Dr. Gafni’s responsibility to keep the IV line secure, and make sure it is available. Dr. Waite stated the IV is the lifeline in an emergency, and Dr. Gafni said he understood and agreed. Dr. Gafni stated looking back he should have used the reversal agent, and done things differently but the patient is doing good today. Dr. Waite stated Dr. Gafni was very lucky the patient was doing good today because he overdosed the patient. Dr. Waite stated this was a very serious situation; overdosing the patient, not monitoring the patient and reacting the way he did during the emergency. Dr. Waite stated performing CPR on the patient should not have been done. He said the patient spent three days in the hospital because CPR was performed. Dr. Waite stated had the pulse oximeter been monitored correctly, Dr. Gafni would had seen the problem much sooner, he could have administered the reversal agent regardless of an IV line. Dr. Waite stated this was serious and non-disciplinary continuing education was not in order for this case.

Ms. McClain asked Dr. Gafni had he always used an excessive amount of Versed. She asked was the Versed a new medication he was using, and asked did he know the guidelines. He answered he knew the guidelines, he said he was allowed to use more than 3.5 milligrams, and he was not sure where Dr. Waite was referring to 3.5 milligrams from. Dr. Waite stated the 3.5 milligrams maximum dosage came from the drug insert. Dr. Gafni stated he could safely use up
to 10 milligrams. Ms. McClain asked Dr. Gafni where did he learn he could safely administer 10 milligrams, he said his training. He said he could administer more than 10 milligrams depending on what procedure was performed. Dr. Sorensen stated he agreed with Dr. Gafni. He said he commonly uses more than 10 milligrams on his patients, and it depends on the weight, the size, and the health of the patient. Dr. Sorensen stated this was called titration, some patients require more medication, while other patients require less. Dr. Waite stated the drug insert is the golden rule for what a dentist is supposed to go by. Dr. Waite stated multiple agents were used on the patient including nitrous. Dr. Waite stated this was a high risk patient.

Dr. Sorensen stated the amounts of narcotics administered to the patient concerned him. He stated the patient in this case is happy and believed Dr. Gafni saved their life. Dr. Sorensen stated there was complication with the CPR which resulted in hospitalization of the patient. Dr. Sorensen stated Dr. Harris wrote in his report and summary, over sedation in patients is common. Dr. Sorensen stated Dr. Gafni followed the protocols in an emergency situation. He said Dr. Gafni needs more practice. Dr. Sorensen stated he agreed with adding more continuing education to the non-disciplinary consent agreement.

Dr. Waite stated the ACLS training is a cardiac continuing education, he said Dr Gafni needs to redo his entire moderate sedation training.

Discussion ensued.

Dr. Foster stated he did not agree with the non-disciplinary consent agreement based upon the severity of the allegations against Dr. Gafni. He stated he agreed with Dr. Waite.

Ms. Williams, stated Dr. Gafni has taken this issue very seriously. She stated she wanted Dr. Gafni to address the Board to discuss some of the changes he has put in place in his practice. Dr. Gafni stated aside from what the Board has recommended he take in continuing education; he spoke with Dr. Caputo who advised a day training in his office to train his entire staff with these scenarios related to 1302, moderate sedation training.

Dr. Bienstock asked Dr. Gafni if the reversal medication was in the room. Dr. Gafni said absolutely, he said all of the reversal medication is in the room where the procedures are taking place ready to be used. He stated there was an Automated External Defibrillator (AED) oxygen tank, which was like a surgery room. Dr. Bienstock asked Dr. Gafni had he ever reVersed a patient, he said no. Dr. Gafni said he had performed over 500 sedation cases. Dr. Bienstock asked Dr. Gafni if he measured out the reversal medication prior to beginning the procedure, Dr. Gafni stated no.

Upon MOTION by Dr. Sorensen, second by Dr. Taylor, the Board voted to MODIFY an non-disciplinary consent agreement to Dr. Gafni who would retake the Advanced Cardiac Life Support (ACLS) course in its entirety; complete four hours of continuing education in sedation and four hours of continuing education in managing emergencies in the sedated patient, 6 hours of a simulated airway management course, 6 hours of emergency management, 4 hours of pharmacology sedation and medications, 4 hours of patient evaluation, and 4 hours of record keeping. Ms. Crevier, Dr. Flowers, Dr. Bienstock, Dr. Foster, Dr. Waite OPPOSED. Ms. Hardy was not present for the vote. The vote tied. MOTION FAILED.

Upon MOTION by Dr. Waite, second by Ms. Crevier, the Board voted to ISSUE a disciplinary consent agreement to Dr. Gafni for unprofessional conduct and a violation of A.R.S. §32-1201.01(14), Dr. Gafni will retake the entire moderate sedation course for his 1302 permit which will include simulated airway management, emergency management, pharmacology, sedation, medications and patient evaluations, and retake the Advanced Cardiac Life Support (ACLS) course. Dr. Gafni is restricted from using his 1302 permit until he completes the approved
continuing education. Ms. Hardy was not present for the vote. Dr. Taylor, Dr. Sorensen, Mr. Greer, Ms. McClain OPPOSED. MOTION PASSED.

Upon MOTION by Dr. Waite, second by Ms. McClain, the Board recommended if Dr. Gafni does not accept the disciplinary consent agreement he will be invited to a Formal Interview. Ms. Hardy was not present for the vote. MOTION PASSED.

Agenda Item No. 3  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 1:01 p.m.

Elaine Hugunin, Executive Director