



## 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](http://www.dentalboard.az.gov)

### MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING August 1, 2014

#### **Board Members Present:**

Michael R. Hauer, DDS, President  
Robert H. Foster, DDS, Vice President  
Heather N. Hardy, RDH  
Ms. Carole A. Crevier  
Mr. Joshua Greer  
Mr. Charles E. Jackson  
Howard Sorensen, DDS  
William G. Woods, DDS  
Robert B. Taylor, DDS

#### **Board Members Absent:**

Darren L. Flowers, DMD  
Marilyn J. McClain, RDH

#### **Staff Present:**

Ms. Elaine Hugunin, Executive Director  
Ms. Nancy Chambers, Deputy Director  
Ms. Nancy Beck, Assistant Attorney General  
Ms. Terry Bialostosky, Investigations Supervisor  
Ms. Sherrie Biggs, Licensure Manager  
Ms. Susie Adams, Legal Assistant  
Ms. Yubeka Riddick, 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 AND INTRODUCTIONS**

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

Dir. Hugunin introduced Ms. Nancy Beck representing the Attorney General's office. For the record Dr. Flowers and Ms. McClain are absent. For the record, additional information for agenda items 4I, 8A, 16H and 23F are provided in Board members folders.

##### **Agenda Item No. 3 PRESIDENT'S REPORT**

A. WREB – Dental Examiners Review Board Report

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Dr. Hauer provided information from the Dental Exam Review Board meeting of the Western Regional Exam Board. Several representatives reported on what was happening in their states. New Mexico is considering having a mid-level hygiene provider. California is facing a ballot initiative that would require drug testing of licensees. In Illinois, dentists are now allowed to administer the flu vaccine. Alaska implemented a program that forgives school debt if a new graduate agrees to practice in outlying areas. It has been very successful. Previously, they went through a mid-level provider that had much less training and no licensing test. WREB candidates are required to do restorations on the exam. The restoration can either be posterior or anterior. If an anterior restoration is done, two different materials must be used. The Dental Exam Review Board is finding that some of the candidates state they will complete two different restorations, intentionally take a penalty and use the same material twice in both restorations. This seems to be an ethical problem because the candidate states they are going to do two different restorations and they are not. The Dental Exam Review Board agreed to increase the penalty if this occurs.

For the record, Dr. Flowers is now present.

**Agenda Item No. 4 Executive Director's Report**

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

No current events reported

- B. Review, discussion and possible action regarding 2015 Board meeting dates.

Board Meetings

February 6, 2015

April 10, 2015

June 5, 2015

August 7, 2015

October 2, 2015

December 4, 2015

Upon MOTION by Ms. Crevier, second by Mr. Greer, the Board voted to APPROVE the Board Meeting dates for 2015. MOTION PASSED UNANIMOUSLY

- C. Dr. Wayne G. Thorpe – Review, discussion and possible action on acceptance of Dr. Thorpe's voluntary surrender and possible termination of case no. 201400101

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to accept Dr. Thorpe's voluntary surrender. MOTION PASSED UNANIMOUSLY.

Dr. Woods inquired if Dr. Thorpe's voluntary surrender would come up if he reapplied for licensure. Board staff indicated that it would as that is a question on the application. It was stated that Dr. Thorpe would not be able to apply for a license for five years.

Upon MOTION by Mr. Greer, second by Dr. Woods, the Board voted to TERMINATE complaint number 201400101 against Dr. Wayne G. Thorpe. MOTION PASSED UNANIMOUSLY.

- D. Review, discussion, and possible action regarding Prescribers Prescription Report Cards

The Board has information regarding the Pharmacy Board's request for the Board to determine a threshold for their reporting licensees who may fall above the standard mean

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compared to their peers. As the memo from Ms. Hugunin states, this could be a daunting endeavor as Board staff would be required to verify on an individual basis each of the prescriptions as the information is not always accurate. Additionally, the Pharmacy Board is still tweaking the report. In speaking with the pharmacy board yesterday, Ms. Hugunin was informed that for the last quarter, 35 dentists were three standard deviations above the norm within their county. There are just not enough resources to investigate and research this.

As stated in the memo, it may be prudent for the Board to also conduct a pilot project by establishing a higher deviation (4 standard deviations) to assess the volume and re-evaluate at a future date. Dr. Hauer and Ms. Hugunin discussed tabling this agenda item, since none of the other regulatory boards have made a determination.

Board staff would have to verify each of the prescriptions with the pharmacist. It would be better to wait until we see what other boards are doing and work with them.

Upon MOTION by Dr. Sorensen, second by Dr. Woods, the Board voted to TABLE the discussion regarding Prescriber Prescription Report Cards. MOTION PASSED UNANIMOUSLY.

E. Update on legislation from the 2014 legislative session:

- i. A.R.S. §§32-1213 and -1262: Business entities; registration; renewal; civil penalty; exceptions and ARS 32-1262: Corporate practice; display of name and license receipt or license; duplicate licenses; fees

As amended this requires business entities providing dental services that are not owned exclusively by dentists to register with the Board of Dental Examiners. It prescribes some additional registration posting requirements.

- ii. A.R.S. 32-3217: Health Profession Regulatory Board; Members; Training; Definitions

Beginning January 15, 2015, each member of a regulatory health professional board is required to complete a 12 hour training program within one year of the members initial appointment. Board members appointed prior to January 1, 2015, must complete the training by January 1, 2016.

- iii. A.R.S. 41-1001.01 and A.R.S. 41-1376.01: Regulatory Bill of Rights, Small Businesses

This requires the Small Business Bill of Rights to be clearly written and conspicuously posted on the agency's website. It must reflect all statutory and agency specific rules and regulations including the process for filing an official complaint with the Ombudsman Citizen's Aid Office, the agency Ombudsman or other state offices for issues related to inspection.

- iv. A.R.S. 32-3217: Volunteer Health Services Registration; Health Professionals; Free Medical Clinic

This allows each health regulatory board to issue volunteer health business registrations for a health professional licensed outside of Arizona to provide care or services at a free medical clinic for up to fourteen days a year, if certain requirements are met. The Board still has provisions for a restricted permit which does not limit the individual to fourteen days.

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- F. Review, discussion and possible action regarding draft guidelines for imposing sanctions against licensees and adopting as a substantive policy statement

As a result of the Auditor General report's recommendation that the Board develops and implements guidelines to help direct its determination of discipline, a draft has been formulated for the Board's review. The other States' guidelines as shared by the Auditor General were reviewed when developing this draft and as Dir. Hugunin's memo indicates, legal counsel assisted and has reviewed the document. This document will be placed in the board members folders for each meeting for reference. We believe it meets the recommendation of the Auditor General. The Board may wish to approve this as a substantive policy statement which would be available online for all of the licensees.

A vote would be needed to make it a substantive policy. Dr. Woods stated he thought it was well written. With individual situations and circumstances that come up, the Board is not bound to follow that protocol necessarily, but it gives latitude.

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to ADOPT guidelines for imposing sanctions against licensees as a substantive policy statement. MOTION PASSED UNANIMOUSLY.

- G. Review, discussion and possible action regarding the Board's response to Representative Heather Carter's committee of reference questions

The Board has a copy of a draft response to Representative Carter's additional required factors of the sunset audit.

All of the things Ms. Carter addressed were already addressed in the audit.

Upon MOTION by Dr. Woods, second by Ms. Crevier, the Board voted to APPROVE the draft response to Representative Heather Carter's committee of reference questions. MOTION PASSED UNANIMOUSLY.

- H. Review, discussion, and possible action regarding HB 2097 – Board Member Training

As stated previously, ARS 32-3217 requires mandatory board training. The Federation of Associations of Regulatory Boards has offered to provide a day training session and waive the initial fee provided they have a minimum number of attendees. There still would be a registration fee. Several regulatory boards are reviewing this. Board members were provided a copy of the training in their board material. However, subsequent to placing this on the agenda, Ms. Hugunin received an email from the Department of Administration Learning Center inquiring if the Board would be interested in them developing a training program as a result of the legislation to which Ms. Hugunin responded yes. Given this most recent occurrence, the Board need not take action at this time; however, it would be beneficial to know the Board's opinion about the possibility of attending a day-long session offered by the Federation.

The statutory required training is 12 hours and this one day course is only 8. They have not given any specifics other than this will probably be a good idea. We responded as did a couple of other regulatory boards so there will be some synergy. If the Board decides to go through either a private institution or the state, it would come out of the Board's budget. It would probably be more cost effective to attend a training session that meets the statutory requirements of 12 hours, rather than doing two different trainings.

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Ms. Hugunin reminded the Board that action did not have to be taken at this time; however, she wanted to make the Board aware of the requirement. This is a house bill that has passed and is now in the statutes for all health profession regulatory boards. For existing members who were previously appointed, there is a delayed implementation date. All training must be completed by January 2016. The Board inquired of Ms. Beck, if the training could be done internally or would it require going out and receiving the training from an outside source. Ms. Beck stated that there is going to be training provided to other boards, so it would be best to coordinate with them. Dir. Hugunin and Ms. Chambers will be exploring other opportunities and report back to the Board.

- I. 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.

Dir. Hugunin stated there have been 18 Executive Director Terminations since the last Board meeting. Three have been appealed. Six can still be appealed.

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

Complainant NB was present and spoke about case no 201300277 (Agenda Item 13B).  
Complainant ADW was present and spoke about case no.201300024 (Agenda Item 15A).  
Complainant LGH was present and spoke about case no. 201400016 (Agenda Item 16A).  
Complainant JWB was present and spoke about case no. 201400042 (Agenda Item 16B).  
Complainant JHM was present and spoke about case no. 201300067-ED (Agenda Item 24B).

**Agenda Item No. 9 REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL**

- A. Dr. Brent Jacob Gardner – Board approved exam, Disclosure of shoplifting charge in 2007.

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

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

- B. Dr. Douglas Leon Sheram – 1984 New Mexico State Exam prior to a regional.

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

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

- C. Mr. Adam Lister Luikens, RDH – 2006 North Carolina State exam prior to a regional.

Mr. Luikens was present to answer questions from the Board.

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

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

A. Administrative Appeals

- i. Dr. Nishith S. Shah v. ASBDE (Case No. 201100033) (Maricopa County Superior Court Case LC2011-000735; Court of Appeals Case 1CA-CV13-0488) – Status Update

The oral argument will be made in court in the future.

- ii. Dr. Jack I. Lipton v. ASBDE (Cases No. 201000254 & 201100259) (Maricopa County Superior Court Case LC2011 000713) – Status Update

A brief regarding this matter is being filed.

- iii. Dr. Brent Tyler Robison v. ASBDE (Case No. 201000301) (Maricopa County Superior Court Case LC2013-000484) – Status Update

The Board has prevailed in Superior Court, however Dr. Robison has appealed this in the Appellate Court.

- iv. Dr. Arthur J. Porter v. ASBDE (Case No. 201200097) (Maricopa County Superior Court Case LC2013-000370-001DT) – Status update

The Board is waiting for the judge's decision in this matter.

**Agenda Item No. 6 PERSONNEL ISSUES**

A. VACANT

**Agenda Item No. 7 COMMITTEE REPORTS**

A. Continuing Education Audit of Dentist Committee – Dr. Robert Foster

- i. Dr. Steven T. Avery – Grant extension until September 30, 2014
- ii. Dr. Nathan J. Bartschi – Grant extension until September 30, 2014
- iii. Dr. Gary L. Brennan – Grant extension until December 30, 2014
- iv. Dr. Frank H. Brinkman – Grant extension until June 30, 2015
- v. Dr. Jeffery L. Bundy – Grant extension until October 1, 2014
- vi. Dr. John Scott Coleman – Grant extension until September 30, 2014
- vii. Dr. Yolanda Contreras – Grant extension until September 30, 2014
- viii. Dr. David B. Foley – Grant extension September 30, 2014
- ix. Dr. Daniel J. Gibbons – Grant extension until September 30, 2014
- x. Dr. David P. Griffith – Grant extension until December 30, 2014
- xi. Dr. Jason D. Lee – Grant extension until September 30, 2014
- xii. Dr. Martin E. Maxon – Grant extension until June 30, 2015
- xiii. Dr. Geeta Mokhashi – Grant extension until August 30, 2014
- xiv. Dr. Jack E. Wilson – Grant extension until September 30, 2014
- xv. Mr. Benjamin H. Stone – Grant extension until September 30, 2014

Upon MOTION by Dr. Foster, second by Dr. Sorensen, the Board voted to GRANT continuing education extensions for agenda items 7Ai through 7Axv. MOTION PASSED UNANIMOUSLY

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**B. Dental Hygiene Committee – Heather N. Hardy, RDH**

- i. Shannon E. Boulton, RDH – Grant extension until September 30, 2014
- iii. Jennifer M. Denham, RDH – Grant extension until September 30, 2014
- iv. Amanda M. Figueroa, RDH – Grant extension until September 30, 2014
- v. Gina M. Marcelli-Munk, RDH – Grant extension until September 30, 2014
- vi. Heather K. Shafer, RDH – Grant extension until September 30, 2014
- vii. Gail M. Widner, RDH – Grant extension until December 31, 2014

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to GRANT continuing education extension for agenda items 7Bi, 7Biii through 7Bvii. MOTION PASSED UNANIMOUSLY/

- ii. Kim R. Britton, RDH – Deny no extenuating circumstances

Ms. Britton has until August 31 to complete her continuing education. By just filing the extension, she has two months from when her license was due and then if she does not get everything together by the end of this month, then she is noncompliant.

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to DENY continuing education extension request by Ms. Britton. MOTION PASSED UNANIMOUS

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

**A. Dr. Scott Paul Taylor – Disclosure of malpractice action in 2005**

Dr. Taylor is not in attendance, however he did write a letter to the Board.

Upon MOTION by Dr. Woods, second by Dr. Foster, the Board voted to GRANT licensure to Dr. Taylor. MOTION PASSED UNANIMOUSLY

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

**A. VACANT**

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

**A. Dr. Akhil Mehta – 2014 SRTA**

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

**B. Ms. Emily Rae VanDusen, RDH – 2014 NERB**

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

**C. Ms. Kathleen Ann Lindsay, RDH – 2014 CRDTS; Disclosure of petty theft charge**

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to GRANT licensure to Ms. Lindsay. Dr. Woods and Dr. Taylor OPPOSED. MOTION PASSED.

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**Agenda Item No. 12 RECOMMENDATION(S) FROM BOARD MATP MEDICAL DIRECTOR**

A. VACANT

**CONSENT AGENDA**

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

**Cases pulled from the Consent Agenda:**

**Agenda Item No. 16F Case No. 201400078 Dr. Noel A. Williams**  
**Agenda Item No. 17B Case No. 201400083 Dr. Gordon Kenneth Wilson**  
**Agenda Item No. 20B Case No. 201400122-MP Dr. Marjan Nejad**

**Cases ADJUDICATED:**

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

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

Item No.	Case No.	Licensee	Action
A.	201400024	Dr. Nathan W. Smith	
B.	201400086	Dr. Ryan J. Porter	
C.	201400100	Dr. Paige T. Bafus	

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

Upon MOTION by Dr. Foster, second by Dr. Woods, 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
A.	201400016	Dr. Glenn H. Featherman	3 hours of record keeping
B.	201400042	Dr. Ryan J. Porter	6 hours in the area of documentation of diagnosis and treatment planning of implants and 6 hours in the area of placement of implants
C.	201400045	Dr. Carter A. Grampp	3 hours of record keeping
D.	201400074	Dr. Nathan W. Smith	3 hours of record keeping
E.	201400076-MP	Dr. Jeffrey P. Ward	6 hours in the areas of diagnosis and treatment planning of impacted third molars and 3 hours of record keeping
G.	201400095	Dr. Daniel C. Chiara	4 hours of risk management

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H.	201400097	Dr. Jeffrey Allen Moeller	6 hours of fabrication of dentures
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**Agenda Item No. 17 – CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN – CONSENT AGENDA**

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

Item No.	Case No.	Licensee	Action
A.	201400049-MP	Dr. James B. Edwards	Issue a Letter of Concern stating: "Dr. Edwards should have a process in place to verify the tooth being extracted is the proper tooth."
C.	201400084	Dr. Thomas J. Prade	Issue a Letter of Concern stating: "Dr. Prade should ensure all crown margins are closed and sealed."
D.	201400091	Dr. Cory R. Christensen	Issue a Letter of Concern stating: "Dr. Christensen should record in the treatment notes full documentation, including post-operative x-rays of any implants placed."
E.	201400123-MP	Dr. Irma Iskandar	Issue a Letter of Concern stating: "Dr. Iskander should have a process in place to verify the tooth being extracted is the proper tooth."
F.	201400133	Dr. Ehsan Pourshirazi	Issue a Letter of Concern stating: "Dr. Pourshirazi should ensure a patient's records are clear, concise, and understandable."

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

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

Item No.	Case No.	Licensee	Action
A.	201400104	Dr. Massoud Eftekhari	Terminate – per patient letter
B.	201400106	Dr. Tzuyu Meng	Terminate – per patient letter
C.	201400112	Dr. Abraham T. Setoodeh	Terminate – per patient letter
D.	201400115	Dr. James A. Weaver	Terminate – per patient letter
E.	201400130	Dr. Hana K. Mansoor	Terminate – per patient letter

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

Item No.	Case No.	Licensee	Comments
A.	VACANT		

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

Upon a MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to ACCEPT the recommendation to take no action on the following cases. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 20A**

**Dr. Erica N. Bigos**

Malpractice report. Took no action.

**Agenda Item No. 20C**

**Dr. Kevin M. Harris**

Malpractice Report. Took no action

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

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to APPROVE the following as Anesthesia Evaluators. MOTION PASSED UNANIMOUSLY.

- A. Dr. Michelle Lynn Cabret-Carlotti
- B. Dr. Nishant Chauhan
- C. Dr. Edward H. Christensen
- D. Dr. Jeffrey G. Robinson

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

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

**Agenda Item No. 22A June 6, 2014 – Board Meeting Minutes**

**Agenda Item No. 22B June 20, 2014 – Telephonic Board Meeting Minutes**

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

**Agenda Item No. 20B Case No. 201400122-MP  
Dr. Marjan Nejad**

This case was pulled by a member of the Public

Ms. McLellan, attorney for Dr. Nejad, was present to address the Board. Ms. McLellan's concern is that for the past two years, when a malpractice case was opened they have always been set for take no action. In review of this particular case, she was unsure why it was pulled out of that routine process. This was a case where Dr. Nejad performed root canal therapy on tooth no. 14, the committee report indicated that root canal therapy was done to the standard of care. There is a known risk there could be an overfill. Then the issue was raised about informing the patient of that specific risk. Dr. Nejad knows she needs to inform the patient of risks. Her records contain informed consent forms. Now, unfortunately in this case the wrong box was checked for the root canal process. According to Ms. McLellan, this is not what raised this case to presenting a claim for malpractice. The patient's husband is an attorney. When you add that factor into the mix, it didn't matter what happened, as long as there was a complication there was going to be an issue that was raised by this patient. So, Ms. McLellan ask that the letter of concern be terminated and that the Board vote to take no action on this case just as it does on all the other malpractice cases.

For the record, there is another malpractice case, that the Board is issuing a Letter of Concern. The Board has also issued discipline and non-discipline as a result of malpractice cases.

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The Board discussed whether or not Dr. Nejad informed the patient. Ms. Hardy stated that it sounds like Dr. Nejad already informs her patients; however, in this one case the box was checked wrong. Ms. Crevier said if it is not documented, it did not happen. Mr. Greer looked at the form and it is not checked. The one right above it is checked. According to Dr. Sorensen, you can't predict every procedural error that will go wrong. It would seem that Dr. Nejad did not talk about it

Ms. McLellan wanted to address the issue of "if it's not charted, it didn't happen". Ms. Beck informed her that she was unable to address that concern as the board was in discussion.

Upon MOTION by Ms. Crevier, second by Mr. Jackson, the Board voted to ISSUE a Letter of Concern stating "Dr. Nejad should inform patients of the risk involved in performing a root canal." Ms. Hardy, Dr. Flowers, Ms. McClain, Dr. Sorensen, Dr. Hauer OPPOSED. MOTION PASSED

Let the record reflect that Ms. McClain is now present in the meeting.

**Agenda Item No. 17B            Case No. 201400083  
   Dr. Gordon Kenneth Wilson**

This case was pulled by a member of the public.

Dr. Wilson was present and addressed the Board. The Chief Investigator is recommending that the Board issue a letter of concern stating that "Dr. Wilson should provide adequate retention form and ferrule to retain all crowns." Unbeknownst to Dr. Wilson, the patient was using hydrogen peroxide and hydrogen peroxide affects the bonding agents that were used. This is why the build-up failed on tooth number 3 and this why Dr. Wilson's cementation of tooth number 20 failed. Dr. Wilson did not know she was using hydrogen peroxide, so he asked the Board to please terminate this case completely with no letter of concern.

As a non-clinical person on the board, Mr. Jackson did not know if any of the information stated by Dr. Wilson was truthful. Dr. Palmer stated that he has never seen any scientific studies saying that hydrogen peroxide will dissolve resin cement. The letter of concern was based on the fact that looking at the x-rays, the crown didn't have the ferrule, The use of hydrogen peroxide would not have made a difference because there was no seal on the crown.

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to ISSUE a Letter of Concern stating "Dr. Wilson should provide adequate retention form and ferrule to retain all crowns." MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16F            Case No. 201400078  
   Dr. Noel A. Williams**

This case was pulled by a member of the Board for a recusal.

Upon MOTION by Dr. Woods, second by Mr. Greer, the Board voted to IMPOSE the Non-Disciplinary Consent Agreement. Dr. Taylor RECUSED. MOTION PASSED.

**Agenda Item No. 13    ACTION ON PREVIOUS ACTION**

**Agenda Item No. 13A    Case No. 201300298  
   Dr. Lonnie C. Eckman**

The Board has a proposed Board Order as a result of the Formal Interview from the June 6<sup>th</sup> Board Meeting.

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Ms. Susan McLellan, attorney for Dr. Eckman, was present to address the Board. Ms. McLellan has reviewed the proposed board order and it does match up to what was discussed at the last meeting. There was the recommendation for the four hours in risk management and Ms. McLellan presented a certificate that shows Dr. Eckman took a risk management class at the end of last April of 2013. It is about five weeks away from the twelve month window that the Board had indicated they would accept. Ms. McLellan asked if the Board would accept this class. The Board agreed that the class was not taken within the last twelve months and voted on the proposed Board Order as it is written.

Upon MOTION by Ms. Crevier, second by Dr. Taylor, the Board voted to ACCEPT the proposed Board Order from the June 6, 2014 Formal Interview. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 13B Case No. 201300277  
Dr. Leonard Bryan Gerken**

Per the last meeting, Board staff subpoenaed several additional dentists. The Internal Investigative Review Committee has summarized this and recommends that the Board approve the non-disciplinary consent agreement for four hours of risk management. Dr. Gerken's attorney was present only to address questions by the Board.

Upon MOTION by Dr. Woods, second by Dr. Sorensen, the Board voted to APPROVE the non-disciplinary agreement for 4 hours of risk management. MOTION PASSED UNANIMOUSLY

**Agenda Item 23 REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS**

**Agenda Item No. 23A Case No. 201400027-ED Dr. Mark J. Castle**

Upon MOTION by Dr. Woods, second by Mr. Greer, the Board voted to APPROVE the Executive Director Termination. Dr. Foster OPPOSED. MOTION PASSED.

**Agenda Item No. 23B Case No. 201400067-ED Dr. Kevin Brian Cebrynski**

Dr. Foster thought this case needed to be reinvestigated based upon the outside dental consultant's report and summary. It was asked if Dr. Foster wanted to reject the Executive Director's termination and have Dr. Cebrynski come in for a Formal Interview. Dr. Foster stated that he just wanted the case to be reinvestigated. Ms. Hugunin indicated that the case could be resent to a different consultant. It was originally sent to a prosthodontist who provided a detailed report and indicated in the report; considering everything, he believed the standard of care was met. In reviewing the comments from the other dentists, it seems that a lot of things were not done correctly. Dr. Palmer mentioned that the outside dental consultant did make note of that. The patient stopped treatment before the restoration of the lower anterior and was seen by other dentists in mid treatment.

Dr. Foster offered to withdraw his motion; however, Mr. Greer believed that this was a valid concern as there appears to be a difference of opinion. All of the opinions were not from prosthodontists and Dr. Foster was unsure if anything would change from sending this case out for another investigation. Typically, an offer of a consent agreement is given prior to inviting for a Formal Interview. The Board discussed sending it out to another prosthodontist, as Dr. Cebrynski is a prosthodontist.

Upon MOTION by Dr. Foster, second by Dr. Woods, the Board voted to REJECT the Executive Director Termination and send out to another board certified prosthodontist for further investigation. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 23C Case No. 201400077-ED Dr. James Wayne Jenista**

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Upon MOTION by Dr. Woods, second by Ms. Crevier, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 23D Case No. 201400087-ED Dr. David J. Bernath**

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 23E Case No. 201400109-ED Dr. Giang M. Dang**

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 23F Case No. 201400116-ED Dr. Stephen J. Harkins**

Upon MOTION by Dr. Woods, second by Dr. Foster, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 14 PETITION TO REHEAR**

**Agenda Item No. 14A VACANT**

**FORMAL INTERVIEW**

**Agenda Item No. 24A VACANT**

**Agenda Item No. 25 – Members of the Public**

Mr. Tonner addressed the Board regarding the current subpoena language used by the Board and the problems that dentists have with fulfilling the subpoenas. Mr. Tonner provided the Board members with an example of a current subpoena. Mr. Tonner stated the dentist takes the subpoena, hands it off to the staff and staff has less knowledge than the dentist, which results in numerous \$500.00 fines. Mr. Tonner said that when representing dentists in malpractice cases, he provides a laundry list of things that he requests specifically. Since he has included this list with his subpoenas, he has not had an issue with getting complete records from dentists. He recommended that the Board modify its subpoena to include this list in order to reduce the number of problems with obtaining records from licensees.

Dr. Wassef addressed the board. Ms. Hugunin informed the Board that there is a meeting scheduled in the future regarding what Dr. Wassef was going to discuss.

Dr. Wassef wanted clarity as to why his case was not officially put on the agenda for today. He provided a brief synopsis with what has transpired over the last few months since his license was summarily suspended on April 11, 2014. Shortly after the suspension, Dr. Wassef received notice that a hearing was scheduled on May 9, 2014 with the Office of Administrative Hearing. The case was continued on June 17, 2014 and on July 16, 2014; the Honorable Judge Shedden entered his ruling to the Executive Director electronically. The ruling ordered that Dr. Wassef's license be rescinded and that the summary suspension was illegal and stated that Dr. Wassef was not afforded due process. Subsequent to Judge Shedden's ruling, and being that it had been approximately three and a half or so months since Dr. Wassef had practiced, he asked the Executive Director to call an emergency meeting. Dir. Hugunin responded by saying that the Board had 30 days to accept, reject, or modify the judge's ruling.

Dr. Wassef stated that understanding that it might be extra work to call an emergency session, he then asked to be put on the agenda for today, and he pretty much received the same answer. It is Dr. Wassef's understanding that emergency notice is approximately at least 24 hours' notice. Dr. Wassef then emailed her with questions as to why it hadn't been done as of yet. Maybe there were mitigating

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circumstances that Dr. Wassef was not aware of or a legitimate reason why he was not placed on today's agenda. He asked the board members if they had seen the transcript or the judge's ruling at all. He also asked if they were familiar with the case at all.

Ms. Beck advised Dr. Wassef that the Board would not respond to his questions.

Dr. Wassef stated he had a copy of the judge's decision as well as some other paperwork that the Board could review in detail at their own convenience. Dr. Wassef was asked to begin to summarize. Dr. Wassef provided some highlights to the judge's ruling. The Board explicitly determined that the interim Board Order was not an appealable agency action.

**Agenda Item No. 26 – Future Agenda Items**

Mr. Greer and Mr. Jackson added discussing the Board's current subpoena to future agenda items.

Dr. Hauer also added discussing having security at future meetings.

**Agenda Item No. 27 – Next Meeting Date – October 10, 2014**

**Agenda Item No. 28 – Adjournment**

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

Dr. Hauer adjourned the meeting at 9:38AM.

Minutes APPROVED at the October 10, 2014 Board Meeting.

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**Elaine Hugunin, Executive Director**