



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING FEBRUARY 1, 2019

Board Members Present:

Gregory A. Waite, DDS, President

Heather N. Hardy, RDH, Vice President (left Board meeting at 3:00 PM)

Robert B. Taylor, DDS

Russell J. Morrow, DDS

John N. Harman IV, DDS

Lisa B. Bienstock, DMD

Marilyn J. McClain, RDH (left Board meeting at 12:17 PM)

Mr. Nick Goodman

Mr. Charles E. Jackson

Absent:

Mr. Aditya Dynar

Staff Present:

Mr. Ryan Edmonson, Executive Director

Ms. Mary DeLaat Williams, Assistant Attorney General

Ms. Miriam Thompson, Investigations Supervisor

Ms. Sherrie Biggs, Licensure Manager

Ms. Dee Woodard, Legal Administrator

GENERAL BUSINESS

Agenda Item No. 1 – Call to Order, Introductions, and Roll Call

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

Ms. Sherrie Biggs took roll call. Mr. Aditya Dynar was absent.

- A. Ryan Edmonson, Executive Director

President Waite introduced Mr. Ryan Edmonson, Executive Director to the Board.

Mr. Edmonson said the Board had been provided extra materials in their folders for agenda items: 4.B.i., 4.G.i., 4.J., 4.L., 4.M., 11.A., 22.C., 22.D. Mr. Edmonson stated there was additional correspondence from the son-in-law of the patient, indicated that the patient was not able to attend the Board meeting. He stated the Board may want to consider postponing agenda 22.C. until the April 12, 2019 Board meeting, and 4N.

Agenda Item No. 2 – PUBLIC COMMENT ON CASES

Complainant SH was present and spoke about case no. 201800103-ED (Agenda Item 22B).

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Complainant DC spouse JC and HP a close friend of DC were present and spoke on behalf of DC regarding case no. 201700260 (Agenda Item 24A).

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

- A. Appointment of Board Members to the Dental Hygiene Committee – Dr. Robert Taylor and Ms. Heather Hardy, RDH.

President Waite appointed Dr. Robert Taylor and Ms. Heather Hardy, RDH to the Dental Hygiene Committee.

Agenda Item No. 4 – ADMINISTRATIVE ITEMS

- 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. Current Proposed Legislation – Review, discussion and possible action regarding current proposed legislation for the Fifty-fourth Legislature First Regular Session 2019:
 - i. HB 2118: unauthorized practice; health professions

Mr. Edmonson stated the Board did not have anything before the legislation. He said House Bill 2118 was introduced by Representative Barto. The bill was introduced for any unauthorized practice of any profession. The bill was moving through the legislative process and passed the first read.

- C. Smile Direct – Review, discussion and possible action regarding services provided by Smile Direct.

Dr. Morrow stated this was discussed at a previous Board meeting. He was made aware patients who received care from Smile Direct sign a waiver agreeing to mediation and no malpractice. He explained that the Board would never see any complaints for Smile Direct. Dr. Morrow stated his concern was if there were any issues with public safety, with unsupervised orthodontic care, the Board would never see that case.

Dr. Jeffery Sulitzer, Smile Direct, was present and addressed the Board. He stated he was a licensed dentist from California. He stated Smile Direct Club provides administrative support services known as a Dental Support Organization (DSO). He said Smile Direct is a tele-dentistry platform, utilized by an affiliated dentists, and patients are treated by a licensed dentist. He stated some cases are denied through complexity, a periodontal clearance, or restorative clearance upon review of the documentation received from the patient. Dr. Sulitzer stated patients have the right to complain to the Board, and the doctors who are affiliated with Smile Direct recognize the Board has full authority. Dr. Sulitzer stated the cases selected are mild to moderate, a very limited process. He said tele-dentistry has been around since 1990. Dr. Sulitzer indicated that he would be happy to return and provide the Board with a formal presentation.

Mr. Sean Murphy, American Association of Orthodontists (AAO), was present and addressed the Board. He said the law states hygienists are not allowed to take final impressions of patients, this should be done by a licensed dentist. He stated the laws are to protect the health and safety of the patients. He explained that there are no dentists on site at the three

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Smile Direct locations in Arizona. He stated the tele-dentistry provided to patients was treatment, and there is a standard of care that needed to be followed. He said the AAO found it curious the Board and the AAO do not know who the licensed dentists are who are providing treatment to the patients. He stated Smile Direct does not provide any information on the Smile Direct website of the dentists who are treating patients. He said it is important for a patient to be able to contact the dentist who is providing their treatment. Mr. Murphy stated the biggest problem with the Smile Direct tele-dentistry was in-person patient visits with dentists are not being done. He said the Better Business Bureau (BBB), currently had over 600 complaints against Smile Direct. Mr. Murphy stated he wanted the Board to invite him to give a presentation when Dr. Sultizer returns to give his presentation.

D. Board Training

- i. Mary DeLaat Williams, Assistant Attorney General

This agenda item was tabled to the April 12, 2019 Board meeting.

- ii. Miriam Thompson, Investigations Supervisor and Dr. Sam Palmer – Overview of Investigative process.

This agenda item was tabled to the April 12, 2019 Board meeting.

E. Review, discussion and possible action regarding continuing education audits

Dr. Harmon said the Continuing Education Audit Committee for dentists recommended a rule change to allow committee members to conduct further investigation of licensees triennial periods of continuing education when violations occur, with renewal applications for dentists and hygienists. The current rule only allows investigations in the current triennial period. He stated the rule change request would allow the Committee to investigate licensee's who egregiously ignore continuing education requirements. He asked the Board to consider allowing the committee to look into previous triennial periods. Dr. Harmon said the only hindrance to the licensee would be a requirement to maintain their continuing education records for 6 years instead of the current mandate of 3 years. Dr. Harmon informed the Board that this would require a change to the current rule.

Ms. Williams indicated that this agenda item would need to be heard at a future board meeting. Additionally, staff would need to seek an exemption and have Governor Ducey's approval for an exemption before the Board can make a final decision.

The Board directed staff to place this on a future agenda for a possible rule change and an exemption to the rule.

F. Update on rule making for licensing and regulation of dental therapists.

Dr. Waite said this was previously on the October 2018 agenda. He stated this was placed on the agenda for clarification of what the process entailed. Mr. Edmonson informed the Board that the documentation had been submitted for a rule exemption.

G. Review, discussion and possible action on Board rules regarding anesthesia and sedation.

Dr. Waite said it took several years for the Board to get legislation and rules in place for the 1301, 1302, 1303 and 1304 sedation permits, which have only been in effect for a few years.

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Mr. Lee Ranalli, President, Arizona Association of Nurse Anesthetists was present and addressed the Board. He stated his organization would like to be included in any future stakeholder meetings, regarding the 1301-1304 sedation permits. He requested for the Board to place this discussion on a future agenda item.

- i. Review, discussion and possible action on a letter from Piping Industry Progress and Education Trust Fund (P.I.P.E.) regarding inspection and regulation of facilities that provide anesthesia and sedation in Arizona.

Ms. Savita Chandragiri, P.I.P.E. was present and addressed the Board. She said the Board was given a letter from P.I.P.E. requesting the Board to give consideration to the National Fire Protection Association (NFPA) standards when reviewing its current regulations. She stated this action would improve the patient's care, health and safety in the dental office.

Dr. Waite explained that the Board could not provide Ms. Chandragiri any final answers at the February board meeting. Dr. Waite stated the current rules took several years to put into place.

Dr. Harmon said his concern was cost. He stated the dentist pays for the revisions, and there was no reimbursement from insurance companies.

Mr. Carl Triphahn, Executive Director, P.I.P.E. was present and addressed the Board. He stated he would like for the Board to form a committee, the members of the P.I.P.E. (Piping Industry Progress and Education Trust Fund) medical gas committee, stand ready to provide guidance and technical assistance in any stakeholder process, and in the Board's consideration of these critical patient safety issues. He encouraged the Board to bridge the gap in the disparities between the two regulatory constructs.

Dr. Taylor told the Board that Governor Ducey had placed a moratorium on rulemaking. He asked Ms. Williams how the Board should proceed with this matter. Ms. Williams stated the Board could request an exemption; however, this was not something the Board could take action on at the February board meeting. She said this should be placed as a future agenda item for the Board to take action.

- H. Approval for Board President and Executive Director to attend the American Association of Dental Boards (AADB) mid-year meeting March 9 and March 10, 2019, to be held in Chicago, IL.

Upon MOTION by Dr. Taylor, second by Dr. Harmon, the Board voted to APPROVE the Board President and the Executive Director to attend the AADB midyear meeting March 9 and March 10, 2019 in Chicago, IL. MOTION PASSED UNANIMOUSLY.

- I. Review, discussion and possible action regarding delegation of authority to the Executive Director:

- a. Authority to enter into stipulation agreements for substance abuse/misuse treatment, rehabilitation and monitoring per A.R.S. §32-1207

Upon MOTION by Dr. Taylor, second by Dr. Morrow, the Board voted to DELEGATE authority to Executive Director, Ryan Edmonson to enter into stipulation agreements for substance abuse/misuse treatment, rehabilitation and monitoring per A.R.S. §32-1207. MOTION PASSED UNANIMOUSLY.

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- b. Authority to initiate and conduct complaint investigations per A.R.S. §32-1263.03(A) and (C).

Upon MOTION by Dr. Taylor, second by Mr. Goodman, the Board voted to DELEGATE authority to initiate and conduct complaint investigations per A.R.S. §32-1263.03(A) and (C). MOTION PASSED UNANIMOUSLY.

- c. Authority to terminate complaints per A.R.S. §32-1263.03

Mr. Edmonson said the Board is the adjudicator of all complaints. He stated delegating authority to him would be appropriate; however, he will bring all clinical cases to the Board to make the final decisions.

Dr. Waite asked Board staff who was the Internal Investigative Review Committee (IIRC). Ms. Williams said Dr. Palmer, Miriam Thompson, Ryan Edmonson and herself are IIRC.

The Board directed staff to write a Substantive Policy Statement regarding the authority to terminate complaints per A.R.S. §32-1263.03 (C) this will be discussed at the June 7, 2019 Board meeting.

- J. Review and discussion regarding Executive Order 2019-01.

Dr. Waite described Governor Ducey's moratorium on rulemaking, which according to the Executive Order is intended to promote job creation and customer service – oriented agencies; protecting consumers against fraudulent activities.

- K. Review, discussion and possible action regarding Kool Smiles as it relates to case no. 201700266-AO.

Mr. Jackson said at the December 7, 2018 he asked the Board to look into this matter further. He is looking for liability against the business entity Kool Smiles. Mr. Jackson stated there is a liability issue with licensed dentist who work for Kool Smiles as well as the business entity liability. Mr. Jackson conveyed that the dentist who was performing the procedures is not the only entity liable. He stated Kool Smiles should be held liable as well.

Ms. Williams said the Board does not have any jurisdiction against Kool Smiles, which is not a registered business entity with the Board.

- L. Council on Licensure, Enforcement and Regulation (CLEAR) – Review, discussion and possible action regarding the approval of board's staff attendance at the CLEAR National Certified Investigator and Inspector Training to be held in Phoenix, Arizona on March 25, 2019 to March 27, 2019.

Upon MOTION by Dr. Taylor, second by Mr. Goodman, the Board voted to APPROVE Board staff to attend the CLEAR National Certified Investigator and Inspector Training in Phoenix, Arizona March 25 to March 27, 2019. MOTION PASSED UNANIMOUSLY.

- M. Council on Licensure, Enforcement and Regulation (CLEAR) – Review, discussion and possible action regarding the approval of Board members' training with the CLEAR On-Demand Board Member Training: Introduction to Regulatory Governance, pursuant to A.R.S. §32-3218.

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Upon MOTION by Dr. Taylor, second by Mr. Goodman, the Board voted to APPROVE Board member CLEAR On-Demand Board Member Training: Introduction to Regulatory Governance, pursuant to A.R.S. §32-3218. MOTION PASSED UNANIMOUSLY.

- N. 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.

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

- A. Administrative Appeals
None to report.

Agenda Item No. 6 – PERSONNEL ISSUES

- A. Nancy Chambers – Former Deputy Director – Retired from state service
Dr. Waite stated Ms. Chambers retired from state service on January 11, 2019.

Agenda Item No. 7 – COMMITTEE REPORTS

- A. Dental Hygiene Selection Committee – Heather N. Hardy, RDH.
- i. Review, discussion and possible action regarding candidates for one Dental Hygienist Committee member from Southern Arizona.
 - a. The Dental Hygiene Selection Committee recommends the appointment of Lynn L. Radler, RDH to the Dental Hygiene Committee.

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to APPOINT Ms. Lynn L. Radler, RDH to the Dental Hygiene Committee. MOTION PASSED UNANIMOUSLY.
 - b. The Dental Hygiene Selection Committee recommends Shawn E. Everingham, RDH as an alternate choice for appointment to the Dental Hygiene Committee.

No action was taken.
- B. Dental Hygiene Committee – Heather N. Hardy, RDH
- i. Review, discussion and possible action regarding the 2018 Dental Hygiene Continuing Education Audit responses. Upon recommendation from the Dental Hygiene Committee, the Board may consider approval of the CE Audit responses from the following:

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- a. Trisha Ann Comish, RDH
- b. Jessica Kline, RDH
- c. Candace L. Martindale, RDH
- d. Lorrie A. Sutter, RDH
- e. Jody A. Beauchemin, RDH

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for 7.B.i.a. – 7.B.i.e. MOTION PASSED UNANIMOUSLY.

- C. Continuing Education Audit for Dentists Committee – Dr. John N. Harman, IV
 - i. Review, discussion and possible action regarding the 2018 Dental Continuing Education Audits. Upon recommendation from the Continuing Education Audit for Dentists Committee, the Board may consider approval of the CE Audit responses from the following:
 - a. Dr. Ronald J. McInnes
 - b. Dr. Antonietta Cortese Waybright
 - c. Dr. Vikash Suresh Hulyar

Upon MOTION by Dr. Harmon, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for 7.C.i.a – 7.C.i.c. MOTION PASSED UNANIMOUSLY.

ACTION ON LICENSING

Agenda Item No. 8 – REQUEST FOR ACTION ON LICENSURE

- A. Trisha Ann Intintoli, RDH – Disclosure of misdemeanor shoplifting convictions in 2003 and 2006.

Ms. Intintoli was present and addressed the Board. She stated she may look like a petty thief on paper; however, she spent four years pursuing her goal by attending school. She stated she worked extremely hard to turn her life around. She stated she graduated dental hygiene school with honors and looked forward to working her dream job as a dental hygienist.

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

- B. Brandey Ann Martinez, RDH – Disclosure of misdemeanor conviction for shoplifting in 2009.

Ms. Martinez was present to answer questions from the Board.

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

- C. Dr. Justin Blain Higbee – Disclosure of discipline on Oregon license.

Dr. Higbee was present and addressed the Board. He stated he had been a dentist for 20 years. He has three children, and he and his wife decided to improve their lives by moving to Arizona.

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

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

A. VACANT

Agenda Item No. 10 – ACTION ON CASES

A. **Case No. 201800174** **Dr. Thomas A. Endicott**

Mr. Jackson was RECUSED.

Dr. Taylor asked if Dr. Endicott provided the Board with a new address of record. Ms. Thompson stated the Board had not been informed of his new address of record.

The Board directed staff to investigate and verify Dr. Endicott's court case and/or conviction regarding failure to report his change of address record to law enforcement.

Ms. Williams stated Dr. Endicott's current allegation with the Board is failure to report his current arrest to the Board.

Agenda Item No. 11 – FORMAL HEARING

A. **Case No. 201600123 – 201700164** **Dr. Michael Margolis**

Dr. Taylor was RECUSED.

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

Ms. Mary DeLaat Williams, Assistant Attorney General, was present and addressed the Board. She stated the Board was provided with the Administrative Law Judges (ALJ) decision.

Ms. Elizabeth Campbell, Assistant Attorney General, was present to provide independent legal advice to the Board.

Upon MOTION by Dr. Waite, second by Dr. Morrow, the Board voted to enter EXECUTIVE SESSION to obtain legal advice. MOTION PASSED UNANIMOUSLY.

The Board entered into EXECUTIVE SESSION at: 9:39 AM and returned to OPEN SESSION at: 10:06 AM.

Upon MOTION by Dr. Morrow, second by Dr. Harmon, the Board voted to ACCEPT the Administrative Law Judges recommended finding of facts with the modifications set forth in the state's modifications. Mr. Jackson, Mr. Goodman, and Dr. Waite OPPOSED. Dr. Taylor RECUSED. MOTION PASSED.

Upon MOTION by Ms. Hardy, second by Dr. Harmon, the Board voted to ACCEPT the Administrative Law Judges conclusion of law with the modifications proposed by the state. Mr. Jackson, Mr. Goodman and Dr. Waite OPPOSED. Dr. Taylor RECUSED. MOTION PASSED.

The Board asked for Dr. Margolis' priors.

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Ms. Biggs stated June 1987, Dr. Margolis was ordered to 12 months of probation. She explained that Dr. Margolis was ordered to pay restitution to the insurance company, and administrative penalty of \$200.00. June 1989, Dr. Margolis was censured for inadequate crown and bridge, paid \$330.00 in restitution, 12 months probation, 21 hours of continuing education in crown and bridge. June 1995, Dr. Margolis was found to be in violation of A.R.S. 32§1201(18)(n)(s)(t) and (q) and was censured for ordering dental assistant to polish teeth, and failure to supervise dental assistant. April 2004, Dr. Margolis was ordered to take 6 hours of continuing education in oral pathology, 6 hours in diagnosis and treatment planning. June 2013, Dr. Margolis was ordered to 12 hours of continuing education in record keeping, 6 hours in appropriate medication prescribing, 6 hours of treatment in surgically caused paresthesia. Dr. Margolis' scope of practice was restricted in the area of oral surgery until completion of the continuing education. December 2013, Dr. Margolis was ordered to pay restitution of \$11,986.00 and was censured for failure to refer patient to a specialist within the first four months following its onset, and no radiographic findings associated with the maxillary left, maxillary right and mandibular right quadrants. December 2015, Dr. Margolis was ordered to pay restitution of \$7,000.00, administrative penalty of \$2,000.00, continuing education for 12 hours of surgical treatment of bony defects, 4 hours of risk management, 6 hours in handling medical emergencies for a dental office. March 2016, administrative penalty \$5,000.00, 12 hours of diagnosis and sequencing of treatment, 3 hours of Current Dental Terminology.

Ms. Williams stated Dr. Margolis had not been subjected to patient record audits in the past.

Upon MOTION by Dr. Waite, second by Dr. Morrow, the Board voted to MODIFY the Administrative Law Judge's decision and not have a decree of censure. Dr. Margolis' shall take 8 hours of continuing education in implantology. Dr. Margolis' dental license was placed on probation for 2 years, and have quarterly audits of 20 patient records per quarter. Dr. Taylor RECUSED. MOTION PASSED.

Agenda Item No. 12 – ACTION ON PREVIOUS ACTION

A. Case No. 201000301 Dr. Brent Tyler Robison

Dr. Taylor was RECUSED.

The monitoring reports were provided to the Board for information purposes. No Action Taken.

B. Case No. 201300256 Dr. Kelly B. Wettstein

Dr. Taylor stated on page 5 of the monitoring reports some irregularities were seen. Dr. Waite stated Dr. Spigner stated in his report there were some billing irregularities. Dr. Waite stated in the past Dr. Wettstein was billing patients more than the negotiated rate and that was a concern for him.

The Board directed staff to contact Dr. Spigner to obtain more information regarding the billing irregularities he mentioned in his report and will discuss this at the June 7, 2019 Board meeting.

Agenda Item No. 13 – PETITION TO REHEAR

A. VACANT

CONSENT AGENDA

Agenda Item No. 14 - DISCIPLINARY CONSENT AGREEMENTS CONSENT AGENDA

- A. VACANT

Agenda Item No. 15 – NON-DISCIPLINARY CONTINUING EDUCATION CONSENT AGREEMENTS CONSENT AGENDA

- A. VACANT

Agenda Item No. 16 – LETTER OF CONCERN CONSENT AGENDA

- A. VACANT
- B. VACANT
- C. **Case No. 201800145** **Dr. Shahab Ardalan**

Upon MOTION by Dr. Taylor, second by Dr. Morrow, the Board voted to ISSUE a letter of concern to Dr. Shahab Ardalan stating “Dr. Ardalan should be conscientious in adhering to infectious disease control procedures.” MOTION PASSED UNANIMOUSLY.

Agenda Item No. 17 –TERMINATION CONSENT AGENDA

- A. **Case No. 201800158** **Dr. Kamran Jafari**
- B. **Case No. 201800159** **Dr. Jarom Alan Stadling**

Upon MOTION by Dr. Taylor, second by Dr. Morrow, the Board voted to TERMINATE agenda items 17A – 17B. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 18 – DISMISSAL CONSENT AGENDA

- A. **Case No. 201800116** **Dr. Yolanda M. Hernandez**
- B. **Case No. 201800117** **Dr. Marissa P. Mandap**

Upon MOTION by Dr. Taylor, second by Dr. Morrow, the Board voted to DISMISS agenda items 18A – 18B. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 19 – MALPRACTICE AND ADVERSE OCCURRENCE REPORTS, AND DISCIPLINARY ACTION IN ANOTHER STATE CONSENT AGENDA

- A. VACANT

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

A. Dr. Brian R. Schneider – Dental Consultant

Upon MOTION by Dr. Taylor, second by Dr. Morrow, the Board voted to APPOINT Dr. Schneider as a dental consultant. MOTION PASSED UNANIMOUSLY.

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

- A. November 20, 2018 – Board Meeting Minutes
- B. VACANT
- C. December 7, 2018 – Executive Session Minutes

Upon MOTION by Dr. Taylor, second by Dr. Waite, the Board voted to APPROVE agenda items 21A and 21C. MOTION PASSED UNANIMOUSLY.

**Agenda Item 22 – EXECUTIVE DIRECTOR TERMINATIONS
CONSENT AGENDA**

- A. **Case No. 201800092-ED** **Dr. Caesar C. Butura**
- C. **Case No. 201800108-ED** **Dr. Dallin Jay Williams**
- E. **Case No. 201800114-ED** **Dr. Nam Le Nguyen**
- F. **Case No. 201800143-ED** **Dr. Kris Koorosh Iganian**

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

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

Cases Pulled From Consent Agenda

Agenda Item No. 22B	Case No. 201800103-ED	Dr. Matthew E. Ford
Agenda Item No. 22D	Case No. 201800112-ED	Dr. Justin J. Philipp

Upon Motion by Ms. Hardy, second by Dr. Taylor, the Board voted to TABLE Case No. 201800112-ED until the April 12, 2019 Board meeting. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 22B	Case No. 201800103-ED	Dr. Matthew E. Ford
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The case was pulled by Dr. Waite. He reviewed the case and found clinical issues with this case recommended for a non-dismissal.

Mr. Tonner, attorney for Dr. Philipp was present and addressed the Board. He stated this case was dismissed at the December 7, 2018 Board meeting. Mr. Tonner stated the case was on the agenda again, because the patient was not given notice of the December Board meeting.

Ms. Williams asked Dr. Waite if the patient appeared before the Board during public comment on cases and said something that may have changed his mind to pull the case. Dr. Waite answered yes.

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Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to REJECT the Executive Director's Termination of Case No. 201800103-ED and open an investigation. Mr. Jackson, Dr. Harmon, Dr. Morrow, Ms. Hardy, Dr. Waite OPPOSED. MOTION FAILED.

Upon MOTION by Ms. Hardy, second by Dr. Harmon, the Board voted to ACCEPT the Executive Director's Termination of Case No. 201800103-ED. Dr. Taylor, Dr. Bienstock, and Ms. McClain OPPOSED. MOTION PASSED.

**Agenda Item No. 23A – FORMAL INTERVIEW
Case No. 201800090 Dr. Carol L. Ford**

Dr. Carol Ford, and her attorney, Susan McLellan were present and addressed the Board. Dr. Ford was sworn in by the court reporter.

Dr. Bienstock was the lead Board member.

Ms. Thompson, Investigations Supervisor stated on May 29, 2018, the Board received a complaint from the patient JS, alleging Dr. Ford performed unnecessary treatment on her daughter KS. She explained that the Internal Investigative Review Committee (IIRC) recommended that Dr. Ford enter into a non-disciplinary consent agreement for 4 hours of continuing education in risk management, and 6 hours of continuing education in diagnosis of periodontal disease. She said Dr. Ford elected to appear before the Board for a Formal Interview.

Opening statements, Ms. McLellan stated Dr. Ford had been practicing dentistry for 36 years; this was the first complaint she had before the Board. She stated the Board complaint revolved around periodontal treatment. Ms. McLellan stated Dr. Ford evaluates her patients in totality.

Dr. Bienstock asked Dr. Ford how many hours of continuing education specifically dedicated to periodontal treatment had she taken within the past two years. Dr. Ford stated approximately 15 to 20 hours. Dr. Bienstock asked Dr. Ford how many patients she treated per year, and she stated approximately 1100 patients with her demographic of patients ranging from the age of 45 years old to 80 years old. Dr. Bienstock asked Dr. Ford what happened during treatment of the patient KS. Dr. Ford stated KS a 20 year old patient, who was present for an emergency examination with the chief complaint of bleeding and swelling in her gums. She stated a periodontal examination was done, six series of x-rays were taken. Dr. Bienstock stated there were no clinical pictures of the patient taken before the procedure. Dr. Ford stated the patient presented to her for an emergency visit and she didn't take the time to take an intraoral photo of the patient, but her normal process is to take clinical pictures of the patients. Dr. Bienstock stated the dental consultant who reviewed the case, and the patient's dentist from Idaho both stated there was no loss of alveolar bone, the patient had gingivitis. Dr. Bienstock stated Dr. Ford did not intentionally do anything wrong to the patient, and this case did not rise to the level of unprofessional conduct. Dr. Ford stated she refunded all of the money to the patient's mother, and to the insurance. Dr. Ford stated she appeared before the Board for a Formal Interview, she stated the non-disciplinary consent agreement was an insult to her and her experience. She stated the patient and her mother agreed to the treatment plan. Dr. Ford said her records stood for the treatment she gave to KS. Dr. Ford stated the patient was non-compliant, and did not return for treatment, when the patient returned she had extensive dental damage. The patient made the decision to return to her dentist in Idaho for treatment.

Ms. McLellan stated this case does not warrant a non-disciplinary consent agreement. She said Dr. Ford takes continuing education courses, and she is a well trained and experienced dentist. Ms. McLellan asked the Board to dismiss the case.

In closing, Dr. Bienstock stated there wasn't unprofessional conduct in this case. She recommended Dr. Ford be given a non-disciplinary consent agreement with 6 hours of continuing education in periodontal

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treatment, and it would be a benefit for Dr. Ford to learn the new classifications released in 2018. Dr. Bienstock continuing education was warranted, there was overtreatment of the patient.

Upon MOTION by Dr. Bienstock, second by Dr. Taylor, the Board voted to ISSUE a non-disciplinary consent agreement for 6 hours of continuing education in diagnosis and treatment planning in periodontal treatment. Mr. Jackson, Mr. Goodman, Ms. McClain, Ms. Hardy, Dr. Morrow, Dr. Harmon, and Dr. Waite OPPOSED. MOTION FAILED.

Upon MOTION by Ms. Hardy, second by Mr. Jackson, the Board voted to DISMISS Case No. 201800090. Dr. Taylor, and Dr. Bienstock OPPOSED. MOTION PASSED.

**Agenda Item No. 24A – FORMAL INTERVIEW
Case No. 201700260 Dr. David E. Spring**

Dr. David Spring and his attorney, Dina Anagopoulos were present and addressed the Board. Dr. Spring was sworn in by the court reporter.

Dr. Morrow was the lead Board member.

Ms. Thompson summarized the complaint received on December 14, 2017. The Board received a complaint from DC alleging Dr. David E. Spring performed inadequate implants and abandoned him as a patient. Dr. Spring was on the October 5, 2018, consent agenda for a non-disciplinary consent agreement for 4 hours of continuing education in risk management, 6 hours of diagnosis and treatment planning in implants. The Board voted to reject the non-disciplinary consent agreement, and offer Dr. Spring a disciplinary consent agreement with 4 hours of continuing education in risk management, 3 hours continuing education in record keeping, and 12 hours of hands on training in diagnosis and treatment planning, with full restitution to the patient and insurance company for the implants, bone graft and alveoloplasty. Dr. Spring elected to appear before the Board for a Formal Interview.

Ms. Anagopoulos provided an opening statement indicating that there was criticism in the IIRC report regarding record keeping. She stated she wanted the Board to keep the formal interview to the treatment of the patient DC. She stated she had two dentists reviewed the case who agreed the work performed by Dr. Spring did not fall below the standard of care. Ms. Anagopoulos stated Dr. Spring sold his practice and was not able to finish the treatment on DC. She stated Dr. Spring wanted to come to a resolution with the patient; however, DC declined all attempts to come to a resolution.

Dr. Spring delivered opening remarks and described his practice in dentistry in Arizona since 2003. He treated the patient DC for 18 months. He stated the patient was satisfied with the treatment he had provided to him. He said after he sold his practice DC opted to continue his dental treatment with a dentist closer to his home.

Dr. Morrow asked Dr. Spring if records were missing from the patient's treatment records. Ms. Anagopoulos said Dr. Spring provided the patient records to the Board; the purchasing dentist did not provide a few of the patient records to the Board. Dr. Morrow stated this was a concern for him, and that Dr. Spring is required by law to maintain his patient records for a certain period of time. He stated if the Board does not have the patient records, if it isn't documented in the patient records then the work was not done. Dr. Spring said he accepted that the patient records were deficient. Ms. Anagopoulos stated Dr. Spring provided the Board with the records he had for the patient when the complaint was filed with the Board. Dr. Spring said he made a few errors with the patient's charts. Dr. Morrow stated Dr. Spring should have placed custom abutments on the patient. Dr. Spring stated he was working towards that before he sold his practice. Dr. Morrow stated the standard of care concerns he had were Dr. Spring did not have an oral cancer screening or TMD in the patient records, and did not have an informed consent for the alveoloplasty and bone grafting procedures. He said Dr. Spring did not have the lot numbers for the implants placed on the patient. He stated Dr. Spring billed the patient for each separate tooth rather than

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billing per quadrant. He stated Dr. Spring did not list the materials used, bone grafts from cadavers should have been communicating with the patient. He said Dr. Spring did not record the treatment procedures in the patient records.

Ms. Anagopoulos stated Dr. Spring was upset that DC did not receive the treatment he needed. She stated Dr. Spring gave her the authority to approach the patient and his wife to seek a resolution for this matter. She said Dr. Spring was willing to work with a prosthodontist to correct any issues DC had at his expense. She stated DC's wife stated she wanted to contact the Board but she never heard from her again. She stated she attempted to contact the patient and his wife again and it appeared to her that there wasn't any interest to resolve the matter.

Ms. Anagopoulos discussed the case further indicating that this did not rise to the level of unprofessional conduct. She stated Dr. Spring did everything he could to provide treatment to the patient. She stated Dr. Spring did not have any prior history with the Board.

Dr. Morrow stated this case did not rise to the level of unprofessional conduct. He stated the problems arose from an interim prosthetics. Dr. Morrow stated he had some concerns with the patients records that should be addressed, and risk management.

Upon MOTION by Dr. Morrow, second by Dr. Taylor, the Board voted to ISSUE a Non-Disciplinary consent agreement with 4 hours of continuing education in risk management, and 6 hours of continuing education in diagnosis and treatment of implants. MOTION PASSED. Ms. McClain left the Board meeting at 12:17 PM.

The Board took a 10 minute break and returned to OPEN SESSION at: 1:02 PM

**Agenda Item No. 25A – FORMAL INTERVIEW
Case No. 201800078 Dr. Charles A. Dodaro**

Dr. Charles Dodaro and his attorney, Ms. Kelli Williams were present and addressed the Board. Dr. Dodaro was sworn in by the court reporter.

Dr. Waite was the lead Board member.

Ms. Thompson summarized the complaint received on May 7, 2018. The Board opened a complaint against Dr. Charles A. Dodaro for alleged abuse of prescribing privileges for patient's DG and NG. Dr. Dodaro was on the December 7, 2018 consent agenda for a disciplinary consent agreement for 6 hours of continuing education for inappropriate prescribing of opioids. The Board voted to reject the consent agreement. The case was pulled by Dr. Waite who stated the case was egregious and the Board should invite Dr. Dodaro for a Formal Interview. Dr. Dodaro appeared before the Board for a Formal Interview.

Ms. Williams provided an opening statement explaining that it was not readily apparent to Dr. Dodaro that DG and NG were drug seeking patients. She stated Dr. Dodaro did not sell the drugs or have a personal relationship with either patient. Ms. Williams explained that the patient records dated back to 2006, there is a four year statute of limitation for patient records and this case should only revolve around the four year time frame. She said there was no evidence of drug diversion.

Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to enter EXECUTIVE SESSION to obtain legal advice. MOTION PASSED UNANIMOUSLY.

The Board entered into EXECUTIVE SESSION at: 1:07 PM and returned to OPEN SESSION at: 1:12 PM.

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Dr. Waite asked Dr. Dodaro to explain how this occurred, the patients began treatment in 2006, and prescriptions were being written for both patients through 2018. Dr. Waite asked Dr. Dodaro if he was aware of the opioid crisis in America and Dr. Dodaro answered yes. Dr. Waite stated there were prescriptions written for both patients outside of the scope of dentistry. Dr. Dodaro said the patients were family members he treated with serious dental issues who are dental phobic and require nitrous oxide for sedation. He stated both patients have very low thresholds for pain. He discussed the treatment given to the patients, which required pain medication. Dr. Dodaro stated when the patients presented to him he would complete an examination, which included x-rays, cold and heat testing on the teeth as well as checking other teeth while not making the patient aware of which teeth he was examining. He stated he referred the patients to an endodontist, who treated the patients with endodontic treatment. Dr. Waite asked Dr. Dodaro why he didn't stop treatment of both patients when he became suspicious both patients were drug seeking.

Ms. Williams stated a Controlled Substance Prescription Monitoring Program (CSPMP) report would show this only occurred with NG and DG. She stated there was a systemic problem within Dr. Dodaro's practice. Ms. Williams stated this was clearly Dr. Dodaro's inability to recognize that NG and DG were taking advantage of him. She stated that Dr. Dodaro had to learn this the hard way, and he is committed to making certain this does not happen again in his practice. Ms. Williams stated Dr. Dodaro was still treating NG and DG and there have been no prescriptions written for opioids since the Board became aware of this case. Dr. Waite asked Dr. Dodaro if he had taken any continuing education for prescribing opioids to patients, he answered yes. Dr. Waite asked Dr. Dodaro what was recommended dosage for pain management for most dental procedures, he answered patients should take 600 milligrams of ibuprofen and an extra strength Tylenol. Dr. Waite asked Dr. Dodaro if he had tried this treatment with his patients, and he answered yes it appeared to work successfully for his patients. Dr. Waite stated dentists are the biggest offenders of over prescribing opioids to patients and it should be very limited when prescribing opioids to patients. He stated based upon the opioid epidemic that is presently occurring dentists should not be prescribing opioids to patients except in rare instances. Dr. Waite asked Dr. Sam Palmer, Investigator for the Board, was the case an isolated incident and he answered yes. Dr. Waite stated this case was egregious. Dr. Waite asked Dr. Dodaro given the opportunity would he do this differently and he answered yes he would. Dr. Morrow asked Dr. Dodaro had he considered not prescribing narcotics to patients for the remainder of his career. Dr. Dodaro stated he had decreased the amount of narcotics he prescribed to patients and he would consider not prescribing narcotics to patients.

Dr. Waite stated this case rose to the level of unprofessional conduct A.R.S. §32-1201.01(14) and (3).

Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to the IMPOSE Unprofessional Conduct per A.R.S. §32-1201.01(14) and (3). MOTION PASSED UNANIMOUSLY.

Mr. Jackson stated Dr. Dodaro's prescription writing privileges should be restricted until the continuing education was completed.

Mr. Goodman stated Dr. Dodaro should not have any prescription writing privileges at all. He stated Dr. Dodaro made bad judgement calls and he said he would make them again. He stated the public's safety was before the Board with this case.

Ms. Hardy said she counted the number of prescriptions for DG for the prescription Zofran beginning in June 2015 through 2017 there were 22 prescriptions for Zofran. She stated Dr. Dodaro prescribed 77 prescriptions for DG from June 2015 through January 2017. She agreed with Mr. Goodman.

Upon MOTION by Dr. Waite, second by Ms. Hardy, the Board voted to enter EXECUTIVE SESSION to obtain legal advice. MOTION PASSED UNANIMOUSLY.

The Board entered into EXECUTIVE SESSION at: 1:51 PM and returned to OPEN SESSION at: 1:54 PM.

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Upon MOTION by Dr. Waite, second by Dr. Taylor, the Board voted to ISSUE a Disciplinary Consent Agreement for 6 hours of continuing education in appropriate prescribing of opioids with 6 months to complete. Ms. Hardy, Dr. Bienstock, Mr. Jackson, Dr. Harmon, Dr. Morrow, and Mr. Goodman OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Waite, second by Ms. Hardy, the Board voted to RESTRICT Dr. Dodaro from prescribing class 2 and class 3 narcotics, and 6 hours of continuing education in appropriate prescribing of opioids for a minimum of 1 year of prescribing privileges. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 26A – FORMAL INTERVIEW
Case No. 201800056 Dr. Jeffrey R. Spillers**

Dr. Jeffrey Spillers and his attorney, Kelli Williams were present and addressed the Board. Dr. Spillers was sworn in by the court reporter.

Dr. Harmon was the lead Board Member.

Ms. Thompson stated on March 30, 2018, the Board received a complaint from CN who alleged Dr. Jeffrey R. Spillers performed inadequate endodontics. The case was on the December 7, 2018 consent agenda for a non-disciplinary consent agreement for 6 hours of continuing education in record keeping. The case was pulled by Dr. Waite who stated the case was egregious and rose to the level of unprofessional conduct. Dr. Waite recommended a disciplinary consent agreement with 12 hours of hands on training in endodontics, and 3 hours of continuing education in record keeping. Dr. Spillers elected to appear before the Board for a Formal Interview.

Dr. Spillers discussed his practice of dentistry in 2011. He attended school at the University of Pacific. Dr. Harmon asked Dr. Spillers did he have any post dental training. He stated he had didactic continuing education in endodontics. Dr. Harmon asked Dr. Spillers how many root canal treatments he had performed during his career. He stated a few thousand root canals. Dr. Harmon asked Dr. Spillers if he referred his patients to specialists and he answered yes. Dr. Harmon asked Dr. Spillers if he knew what the standard of care was for a root canal and he answered yes. He stated the standard of care was proper diagnosis and testing for the tooth in question, multiple testing including cold and hot percussion, probing and radiographs, patient medical history, proper diagnosis advising the patient of their options and recommended treatment, informed consent. He stated if the patient chooses to have root canal therapy perform, the standard of care includes using a rubber dam procedure, proper instrumentation and irrigation, x-rays to confirm the fill and post-op instructions.

Ms. Williams stated Dr. Spillers was an upfront and honest dentist. She stated Dr. Spillers understands what he needs to do and what he didn't do with the treatment of CN. She stated it wasn't that Dr. Spillers saw the overfill and decided not to inform the patient; if he had taken an x-ray and saw the overfill his actions would have been different.

Ms. Williams provided a closing statement by indicating that Dr. Spillers appeared before the Board with no prior disciplinary actions, and he was very straight forward with the Board. She stated Dr. Spillers was aware of exactly what he did and what he should have done differently.

Closing statement from Dr. Spillers, he stated that his standard had changed significantly within the last five years. He stated he referred more of his patients to specialists than he did in the past.

Dr. Harmon stated this case rose to the level of unprofessional conduct. He stated according to the patient records there wasn't any diagnostic test done including periodontal measurements, there was no rubber dam used, or the option for extraction with implant given to the patient, and no post operation x-ray was taken. Dr. Harmon stated the patient was not informed of the overfill.

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Upon MOTION by Dr. Harmon, second by Dr. Taylor, the Board voted to IMPOSE Unprofessional Conduct per A.R.S. §32-1201.01(14). MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Harmon, second by Dr. Taylor, the Board voted to issue a Disciplinary Board Order for 12 hours of hands on continuing education in endodontics, 3 hours of record keeping to be completed within 6 months. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 27 – MEMBERS OF THE PUBLIC

Mr. Lee Ranalli, President, Arizona Association of Nurse Anesthetists was present and addressed the Board. He stated his association would like to be included in future discussions for the 1301 anesthesia permit process. He said his organization is at a disadvantage for not being a dental anesthesiologist. He stated there is not a level playing field when providing anesthesia to patients. He said the 1301 permit allows dental anesthesiologist the opportunity to provide anesthesia to patients as opposed to nurse anesthesiologists who have a distinct disadvantage. He discussed wanting to work with the Board in the future to level the playing field for nurse anesthesiologists.

Agenda Item No. 28 – FUTURE AGENDA ITEMS

1. Follow up to the Commission on Dental Competency Assessments (CDCA) annual meeting
2. Possible rule change and exemption for the Continuing Education Audits

Agenda Item No. 29 – NEXT MEETING DATE – APRIL 12, 2019

Agenda Item No. 30 – ADJOURNMENT

Upon MOTION by Dr. Taylor, second by Ms. Hardy, the Board voted to adjourn the Board meeting at 4:27 PM. MOTION PASSED UNANIMOUSLY.



Ryan Edmonson, Executive Director