



## ARIZONA STATE BOARD OF DENTAL EXAMINERS

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### MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING October 7, 2016

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

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

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

Robert B. Taylor, DDS  
Mr. Charles E. Jackson

#### **Staff Present:**

Ms. Elaine Hugunin, Executive Director  
Ms. Nancy Chambers, Deputy Director  
Ms. Mary DeLaat Williams, Assistant Attorney General  
Ms. Terry Bialostosky, Investigations Supervisor  
Ms. Sherrie Biggs, Licensure Manager  
Ms. Yubeka Riddick, Program & Project Specialist  
Ms. Dee Woodard, Legal 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. Hauer called the meeting to order at 8:00 a.m.

##### **Agenda Item No. 3 PRESIDENT'S REPORT- Dr. Michael R. Hauer**

###### **A. Appointment of Dental Hygiene Selection Committee Members**

Board President Dr. Hauer appointed the following people to the Dental Hygiene Selection Committee; Heather N. Hardy, RDH, Karen A. Christen, RDH and Deborah S. Kappes, RDH.

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**Agenda Item No. 4 EXECUTIVE DIRECTOR'S REPORT**

Additional materials for agenda items 4F, 4H, 11A, 19A, 20C, and 21A, were provided in the Board's materials.

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

No current events reported

- B. Arizona State Board of Dental Examiners FY2016-2017 Annual Report

Executive Director Hugunin thanked Ms. Chambers who prepared and posted the Annual Report.

- C. Arizona State Board of Dental Examiners FY 2017 Budget

Executive Director Hugunin stated the budget has been submitted and copies are available.

- D. VACANT

- E. Smiles for Central America – Review, discussion and possible action on Smiles for Central America's request for Board recognition as a charitable organization.

Executive Director Hugunin asked Ms. Chambers if she had anything to add to the memo the Board was given. Ms. Chambers said there wasn't any additional information.

Upon MOTION by Mr. Greer, second by Dr. Waite, the Board voted to RECOGNIZE Smiles for Central America as a charitable organization. MOTION PASSED UNANIMOUSLY.

- F. Review, discussion and possible action on proposed options for Fee and/or Board reserve fund reductions.

- i. Report from Stakeholders meeting held on September 20, 2016 regarding reserve funds.

Executive Director Hugunin provided the Board with a summary of the stakeholders meeting, the Dental Association's comments about the stakeholders meeting which were provided to Association members, as well as the previous memo presented to the Board at its August 5, 2016 meeting. Board staff believes progress is being made with the goal of reducing the reserve fund surplus as demonstrated by this year's fee reduction, pending rule changes, and the plan to drop a bill to repeal A.R.S. §32-1211. Ms. Hugunin stated she has a meeting scheduled with Representative Carter to discuss this matter in November. Ms. Hugunin thanked the Association at the stakeholders meeting for drafting some language that would eliminate the credentialing fee for new dentists. Board staff concurs with the Board and the Association that the surplus must be reduced in a prudent manner. The Association proposes the implementation of a fee holiday or a moratorium. Ms. Hugunin stated this is not legal or administratively feasible. She stated the Association has voiced its position on the proposal to explore a means to give grants is unconstitutional. Ms. Hugunin stated this issue is being researched; however, several other agencies do give grant monies. She said she spoke with the director from the Arizona State Office of Grants and Administration who indicated this can be done. Board staff does acknowledge the Associations concerns. Ms. Hugunin stated she, as well as her peers acknowledge a potential sweep of the Board's reserve fund is possible. She said all state agencies have reserves. Ms. Hugunin stated she and Ms. Chambers are managing the unknown. Subsequent to the stakeholders meeting, Ms. Hugunin

said she had several dentists express their support of exploring the awarding or granting of surplus funds. She said in her opinion this would benefit the public, but also the licensees. The Director from the Office of Grants and Administration stated granting surplus was completely in line with the new Administration. Board staff recommends the Board direct staff to research with Ms. Williams and others, proposed statutory language which would give the Board the authority to award and/or grant funds for the Board's review and possible action.

Dr. Hauer, Board President, directed Board staff to explore statutory language for administering grants.

Mr. Kevin Earle, Executive Director for the Arizona Dental Association was present to address the Board. Mr. Earle stated the Association continues to have concerns over the concept of doing grants. He said he explained at the stakeholders meeting there are a number of hurdles associated with moving in this direction. He said there's an issue with constitutionality. Mr. Earle mentioned the constitutional provision which specifically states neither the state, nor any county, city, town unit, or principality, or subdivision of the state shall ever give or loan its credit in the aid of, or make any donation, or grant by subsidy or otherwise, to any individual, association or corporation.

Mr. Earle stated another issue is the Arizona Gaming Fund, which by citizen's initiative which allows the agency to give charitable giving. He said there are exceptions to the rule. Mr. Earle stated another issue would be how to decide how to split the bathwater, or split the "baby". There are several organizations that provide charitable dentistry throughout the state, but how do you decide what's the process for people to apply for grants. He said a whole infrastructure would have to be set up to do this process. The Association's position is the licensees have given over their fees for the purpose of professional regulation and those funds should be used for professional regulation. Mr. Earle stated once the barrier is removed in A.R.S. §32-1211 a meaningful plan should be established. He stated possibly the Board could go into a deficit for a time to be able to draw down the funds. He said when you go into a deficit the license fees are reduced with a like amount, also in order to ensure the stability of the agency at the same time with the goal of drawing down the funds. Mr. Earle said the Association has a great deal of concern with the Ducey Administration putting all of the Boards under one roof that the five million dollars will just suddenly disappear, the money will be used to subsidize all of the other Boards in the Department of Health Services.

- ii. Review, discussion and possible action on proposing legislation to repeal A.R.S. §32-1211.

Executive Director Hugunin stated as previously discussed by the Board, A.R.S. §32-1211 is an obsolete statute that needs to be repealed which will allow the Board to consider spending more than its revenue.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to propose legislation to REPEAL A. R. S. §32-1211. MOTION PASSED UNANIMOUSLY.

- G. Review, discussion and possible action regarding revisions to initial license and renewal application questions.

Ms. Chambers stated the Board was provided with a memo in the Board materials.

The Board needs to add a confidential question to the initial and renewal applications.

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Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to ACCEPT the revisions to initial license and renewal applications questions. MOTION PASSED UNANIMOUSLY.

- H. Review and discussion regarding the Executive Director Complaint Terminations. Pursuant to A.R.S. §32-1263.03(C), the Executive Director has provided a list of each complaint terminated under A.R.S. §32-1263.03(A) to the Board. The list of complaints is confidential pursuant to A.R.S. §32-1207(A)(3). The Board may vote to go into Executive Session on this agenda item, pursuant to A.R.S. §38-431.03(A)(2), to discuss and consider records exempt by law from public inspection, including the receipt and discussion of information or testimony that is confidential by State or Federal law.

The list of each complaint terminated was in the additional information as stated under Agenda Item 2.

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

Attorney for DH was present and spoke about case no. 201500190 (Agenda Item 22A).

Attorney for AD was present and spoke about case no. 201600067 (Agenda Item 13B).

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

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

Ms. Williams stated this case is currently before the Court of Appeals, the court is going to hold oral arguments on October 25, 2016.

**Agenda Item No. 6 PERSONNEL ISSUES**

- A. VACANT

**Agenda Item No. 7 COMMITTEE REPORTS**

- A. VACANT

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

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

- A. Dr. Clayborn C. Taylor – Discipline on Ohio license; exclusion from Medicare, Medicaid and all other Federal Health Care Programs

Dr. Taylor was present to address the Board.

The Board asked Dr. Taylor if he was excluded from Medicare and Medicaid. Dr. Taylor stated he was and he believes this will be a lifetime exclusion. He stated he would not participate in either program again even if it was offered to him.

Upon MOTION by Dr. Sorensen, second by Dr. Waite, the Board voted to GRANT licensure to Dr. Taylor. Ms. Crevier OPPOSED. MOTION PASSED.

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- B. Krista Ann Kader Ostlund, RDH - Discipline on Kentucky license  
Upon MOTION by Dr. Waite, second by Ms. Crevier, the Board voted to GRANT licensure to Ms. Ostlund. MOTION PASSED UNANIMOUSLY.
- C. Dr. Matthew C. Nolen, DDS – Prior disciplinary action in Arizona; Previously denied licensure in New Mexico and California.

Dr. Nolen was present to address the Board.

Dr. Nolen thanked the Board for the opportunity to make a statement regarding his reinstatement of the application he had filed with the Board. Dr. Nolen thanked Board staff for their assistance during his application process. Dr. Nolen stated his license was revoked in 2003 after the tragic loss of a patient in 2002. He said the death was devastating for him and the lessons were hard. He said the impact of this event will never lessen.

Dr. Nolen stated he had dedicated the last few years to obtaining additional continuing education, additional hands on experience and training with the hopes he can become licensed again. Dr. Nolen stated he had taken full responsibility for this tragic event. He said he believed everything he had gone through had made him a better dentist. He is more careful, more cautious, and he places patient concerns above all else. He said he believes he is now worthy of the honor of becoming licensed again and he respectfully requested the reinstatement of his dental license.

In 2014, in preparation for the Western Regional Examining Board, Dr. Nolen said he trained with Dr. Leibow, an endodontic instructor at Arizona School of Dentistry and Oral Health. He said he spent over 40 hours in a one-on-one setting performing root canal therapy on numerous extracted teeth. He said Dr. Leibow wrote a letter of recommendation for the Board. Dr. Nolen stated he took a two day, 14 hour continuing education course at the University of Southern California dental school. He said after completing the course, he successfully performed root canals on over 100 extracted teeth. He also trained for over 40 hours with Dr. Tamer El-Gendy a prosthodontist at Arizona School of Dentistry and Oral Health where he reviewed aspects of implant therapy, fixed and removable partial dentures, and identifications of anatomical structures. Dr. El-Gendy invited Dr. Nolen to shadow him at his practice and has written a letter of recommendation to the Board. Dr. Nolen stated with all of the advancement with periodontal dentistry, the field of implant therapy he took several continuing education courses. He stated he was able to place implants in edentulous models and restore with over dentures successfully. He attended the 40<sup>th</sup> Annual US International Periodontal Implant Symposium. Over the past three years Dr. Nolen said he has successfully completed over 55 hours of continuing education, and trained more than 80 hours in a one on one environment with two dental specialty instructors. In addition to the 135 hours of dental education, as a front office manager Dr. Nolen has helped to build a dental practice in Gilbert, AZ where he spends over 45 hours a week. He said on a daily basis he performs most of the front office duties and when needed he assists the dentists. Dr. Nolen said he truly believes after successfully passing all sections of the Western Regional Examination Board, 135 hours of dental education and training, his passion, his love and his dedication to the field of dentistry he is now worthy of reinstatement of his Arizona dental license. Dr. Nolen stated his goal would be to pursue a general dentistry practice.

Ms. Williams, Attorney General, reminded the Board of statute A.R.S. §32-1235 as guidance to evaluate Dr. Nolen's application. Dr. Nolen has applied for licensure after being revoked. The statute reads: in making this decision, the Board shall determine the applicant has not engaged in any conduct during the suspension, revocation, or surrender during the period that would constitute a basis for revocation pursuant to A.R.S. §32-1263. She stated the next statute deals with a criminal conviction which the applicant did not have. Ms. Williams stated the statute also mentions restitution to any aggrieved person involved. She stated she didn't

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believe that was applicable in this case. Additionally, the statute states that the applicant demonstrates any other standard of rehabilitation the Board determines is appropriate.

Upon MOTION by Dr. Waite, second by Ms. McClain, the Board voted to GRANT licensure to Dr. Nolen. MOTION PASSED UNANIMOUSLY.

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

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

- A. Deepak C. Nataraju, DDS – Review, discussion and possible action regarding Dr. Nataraju's disciplinary action in Texas.

Upon MOTION by Dr. Waite, second by Ms. McClain, the Board voted to RENEW licensure for Dr. Nataraju. MOTION PASSED UNANIMOUSLY.

- B. Dr. Deborah A. Williams – Review, discussion and possible action regarding Dr. Williams' non-compliance with license renewal requirements.

Ms. Chambers stated she had been in contact with Dr. Williams who was ill and unable to complete her cardio pulmonary resuscitation training. Ms. Chambers stated Dr. Williams is employed with the Arizona Department of Corrections.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to GRANT additional time to complete the renewal requirements, to be submitted no later than Friday November 18, 2016. Ms. Crevier and Ms. McClain OPPOSED. MOTION PASSED.

- C. Dr. Ksheera Mandepanda Appachu – Review, discussion and possible action regarding Dr. Appachu's non-compliance with license renewal requirements.

Ms. Chambers stated Board staff had a difficult time contacting Dr. Appachu, She believes Dr. Appachu may be in Canada. Ms. Chambers stated Dr. Appachu renewed her application online. At the time of her renewal the doctor was not able to upload her required documents. A deficiency letter was mailed to the doctor stating the required documents needed; however, the letter was returned due to a bad address. Dr. Appachu had the opportunity to update her address online but failed to do so.

Upon MOTION by Dr. Waite, second by Dr. Foster, the Board voted to DENY RENEWAL licensure to Dr. Appachu. The Board stated Dr. Appachu did not comply with the requirements of the application process and had ample time to complete the requirements, specifically the requirement of providing the necessary documents for United States citizenship. Mr. Greer, Ms. McClain, and Dr. Sorensen OPPOSED. MOTION PASSED.

- D. VACANT

- E. Sonja Bell-Rabb, RDH – Review, discussion and possible action regarding Ms. Bell-Rabb's non-compliance with license renewal requirements.

Ms. Chambers stated she spoke with Ms. Bell-Rabb, who subsequently paid the fee.

Upon MOTION by Mr. Greer, second by Ms. McClain, the Board voted to GRANT licensure renewal to Ms. Bell-Rabb. MOTION PASSED UNANIMOUSLY.

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- F. Perri L. Foster, RDH – Review, discussion and possible action regarding Ms. Foster’s non-compliance with license renewal requirements.

Ms. Chambers stated Ms. Foster came into compliance and submitted her required documents.

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

***ACTION ON CASES***

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

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

**Agenda Item No. 10A – CASE NO. 201400235 – Dr. Michael Wassef**

Executive Director Hugunin contacted independent legal counsel Anne Froedge. Ms. Williams, Assistant Attorney General, stated the Board was presented with a motion to rescind the vote to Formal Hearing and remand this case back to the Board for further review and consideration of an alternative resolution. Ms. Williams stated the case is not a good fit for a Formal Hearing, which your standard is suspension or revocation of license. Ms. Williams stated with the facts of this case, the case is better resolved in lieu of a Formal Hearing. Ms. Williams stated Mr. Jeffrey Tonner, legal counsel for Dr. Wassef does not oppose the motion.

Upon Motion by Ms. Crevier, second by Mr. Greer, the Board voted to RESCIND Case No. 201400235 from Formal Hearing and remand the case back for further evaluation. Board staff was instructed to provide the Board with a non-disciplinary consent agreement to be reviewed at the December 2, 2016 Board meeting. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 10B – CASE NO. 201600024 – Dr. Kyle J. Huish**

The Board conducted a Formal Interview with Dr. Huish at the August 5, 2016 Board meeting which resulted in a non-disciplinary Board Order for continuing education. The proposed Board Order was presented to the Board for review and approval.

Upon MOTION by Mr. Greer, second by Dr. Waite, the Board voted to APPROVE the Board Order. MOTION PASSED UNANIMOUSLY.

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

**Agenda Item No. 11A - CASE NO. 201500219 – Dr. Jaleh Keyhani**

Ms. Katherine Corcoran, attorney for Dr. Keyhani, was present and addressed the Board. She stated there are laws, statutes and regulations which preclude the Board from making decisions that are arbitrary, egregious and excessive based on the evidence presented. The Board retained an Oral Surgeon to review this case. During the investigation process, the patient had hired another Oral Surgeon to find something wrong with Dr. Keyhani’s care. The Oral Surgeon in this case in the report and summary gave major concessions about Dr. Keyhani’s care in this case. He stated that day by day, tooth by tooth Dr. Keyhani’s care was within the standard of care. He also stated had the patient returned to Dr. Keyhani, he had no concerns that she would not treat the patient appropriately. Ms. Corcoran stated that she was disregarded based upon what transpired at the Formal Interview regarding two findings of fact.

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The first finding stated that Dr. Keyhani did not use calibrated imaging. In the Board records there is a calibrated panoramic x-ray. She said Dr. Keyhani did utilize magnification and distortion. During the course of this investigation, Dr. Keyhani changed servers and was unable to provide the remainder of the panoramic x-rays she had taken to show her measurements. The records do show she based her diagnosis on her calibrated images. Secondly, the Board found Dr. Keyhani deviated from the standard of care by using visual exploratory surgery. Ms. Corcoran stated Dr. Keyhani noted in the treatment record multiple diagnoses, and multiple symptoms. She had a treatment plan, a lengthy consent form and conversations were recorded. While Dr. Keyhani was performing surgery on the patient, her clinical and surgical findings were in conjunction with the patient treatment plans.

The patient wanted to change the type of restoration she had done. The treatment plan changed, based on the patient's wishes, as well as different things found during the surgery. The claim that Dr. Keyhani used visual exploratory surgery is not correct. Ms. Corcoran stated the sanctions that the Board ordered were a refund of over \$12,000.00 in restitution, \$2,000.00 Administrative Penalty, 12 hours in a dental school setting and two years of probation with quarterly audits. She said the grand total at the minimum of these sanctions ordered by the Board are \$37,000.00. With the mitigating factors listed by the Board's Oral Surgery consultant, and the Oral Surgeon the patient retained to look at the case, the records show that the implants Dr. Keyhani placed did integrate. The implants were only removed because the patient wanted the individual restoration implants as opposed to a bridge. The patient is in a restorative outcome and no harm was done. The patient is going to get restitution. The Board was provided with documentation regarding the multiple options for good dental schools across the country and Dr. Keyhani is willing to go through extensive continuing education to show the Board that she is taking this seriously, and willing to comply. Ms. Corcoran asked the Board to grant the Petition to Rehear, and allow Dr. Keyhani in the next six months the opportunity to do some extensive continuing education, take away the Administrative Penalty and the two-year probation with quarterly audits, and the continuing education be counted toward her regular licensure continuing education because she will be taking so many hours.

Upon MOTION by Dr. Sorensen, second by Mr. Greer, the Board voted to go into EXECUTIVE SESSION for legal advice. MOTION PASSED UNANIMOUSLY.

**\*\*EXECUTIVE SESSION\*\***

**Return To Open Session**

Dr. Sorensen was the lead Board member. He stated he reviewed the Petition to Rehear and Dr. Keyhani's correspondence and appeal. He was concerned with Ms. Corcoran's assessment in her letter to the Board where she wrote there was no Board certified Oral Surgeon who had reviewed the case. He stated that there were several statements made by Ms. Corcoran that this case fulfilled the standard of care. According to the Board certified rendition in the article, he mentioned three times that this case fell below the standard of care.

Dr. Sorensen said he had concerns Dr. Keyhani would not be able to complete 81 hours of continuing education within six months. Ms. Corcoran stated the continuing education would be completed during the weekends to include 18 hours per piece. She said 36 hours of the continuing education would be completed by November, 2016.

Upon MOTION by Dr. Sorensen, second by Ms. Hardy, the Board voted to TABLE the matter and instructed Board staff to prepare a disciplinary consent agreement and take into consideration the continuing education courses that Dr. Keyhani has recommended with restitution and an Administrative Penalty with 81 hours of continuing education to be completed in six months. Dr. Sorensen added that he did not see any benefit in quarterly audits for Dr. Keyhani. Mr. Greer OPPOSED. MOTION PASSED.

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**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:**

<b>Agenda Item No. 13D</b>	<b>Case No. 201600081</b>	<b>Dr. Joseph Brett Mangum</b>
<b>Agenda Item No. 14B</b>	<b>Case No. 201600090</b>	<b>Dr. Sepideh Malekpour</b>
<b>Agenda Item No. 20A</b>	<b>Case No. 20160071-ED</b>	<b>Dr. Daniel J. Klemmedson</b>

**Agenda Item No. 12 CASES RECOMMENDED FOR DISCIPLINARY CONSENT AGREEMENTS  
CONSENT AGENDA – Roll Call Vote *is required***

**Cases ADJUDICATED:**

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

Item No.	Case No.	Licensee	Comments
A.	VACANT		

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

**CONSENT AGENDA – Roll Call Vote *is required***

The Board will review and vote to take action on the following case(s). While the evidence does not warrant disciplinary action, the Board believes that the licensee should modify or eliminate certain practices through Continuing Education and that continuation of the activities that led to the information being submitted to the Board may result in the Board action against the practitioner's license.

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to ISSUE a Non-Disciplinary Continuing Education Consent Agreement on the following cases on the Consent Agenda.  
MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Comments
A.	201600059	Dr. Scott M. Condie	6 hrs of CE in diagnosing and treating TMD/TMJ Disorders
B.	201600067	Dr. Mark D. Brannon	6 hrs of CE in crown and bridge
C.	201600080	Dr. David L. Chaffee, Jr.	6 hrs of CE in treatment planning of implants 3 hrs of CE in record keeping
E.	201600095	Dr. Steven W. Roth	3 hrs of CE in record in keeping
F.	201600107	Dr. Sumir P. Mathur	3 hrs of CE in record keeping

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**Agenda Item No. 14 CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN  
CONSENT AGENDA – Roll Call Vote *is required if case is pulled***

The Board will review and vote to take action on the following case(s). Letters of Concern are advisory letters to notify the licensee that, while the evidence does not warrant disciplinary action, the Board believes that the licensee should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the Board may result in the Board action against the practitioner's license. A Letter of Concern is not a disciplinary action, but is a public record.

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

Item No.	Case No.	Licensee	Comments
A.	201600089	Dr. Rustin O. Reidhead	"Dr. Reidhead should improve his management of patient records."
C.	201600112	Dr. Roy Robert Brown II	"Dr. Brown should document all medications and the therapeutic reason they were dispensed"

**Agenda Item No. 15 CASES RECOMMENDED FOR TERMINATION  
CONSENT AGENDA – Roll Call Vote *is not required***

The Board will review and may vote to take action on the following case(s).

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

Item No.	Case No.	Licensee	Comments
A.	201600088	Dr. Payam Owtad	Terminate per patient
B.	201600114	Dr. Steven L. Frost	Terminate per patient

**Agenda Item No. 16 CASES RECOMMENDED FOR DISMISSAL  
CONSENT AGENDA – Roll Call Vote *is not required***

The Board will review and may vote to take action on the following case(s).

Item No.	Case No.	Licensee	Comments
A.	VACANT		

**Agenda Item No. 17 MALPRACTICE AND ADVERSE OCCURRENCE REPORTS, AND  
DISCIPLINARY ACTION IN ANOTHER STATE  
CONSENT AGENDA – Roll Vote is required if case is pulled**

The Board will consider the facts and allegations and may vote to take the action indicated.

- A. VACANT

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

A. VACANT

**Agenda Item No. 19 APPROVAL OF MINUTES  
CONSENT AGENDA**

A. August 5, 2016 Board Meeting Minutes

Upon MOTION by Ms. Crevier, second by Mr. Greer, the Board voted to APPROVE the August 5, 2016 Board meeting minutes. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 20 REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS  
CONSENT AGENDA**

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

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

Item No.	Case No.	Licensee	Comments
B.	201600079-ED	Dr. Amanda Sue Sparacino	Approve Termination
C.	201600084-ED	Colleen M. Bergeron, RDH	Approve Termination
D.	201600108-ED	Dr. Emily Therese Evert	Approve Termination

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

**Agenda Item No. 20A – Case No. 201600071-ED - Dr. Daniel J. Klemmedson**

This case was pulled by a Board Member to RECUSE.

Upon MOTION by Dr. Sorensen, second by Ms. Hardy, the Board voted to APPROVE the Executive Directors Termination of case no. 201600071-ED. Dr. Hauer is RECUSED. MOTION PASSED.

**Agenda Item No. 13D – Case No. 201600081 - Dr. Joseph Brett Mangum**

This case was pulled by a Board Member to RECUSE.

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the Non-Disciplinary Consent Agreement for case no. 201600081. Dr. Flowers is RECUSED. MOTION PASSED.

**Agenda Item No. 14B – Case No. 201600090 - Dr. Sepideh Malekpour**

This case was pulled by a Board Member who stated this case did not warrant a Letter of Concern.

He stated the doctor in this case placed a crown, took a postoperative x-ray, and everything looked fine. No margins were found to be open. Another dentist found overhangs, and a third dentist did not find overhangs. The patient never returned to have the issues addressed. The doctor in this case did not have the opportunity to fill the overhangs himself or correct any issues the patient was having with the crown.

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Upon MOTION by Dr. Flowers, second by Dr. Sorensen, the Board voted to DISMISS case no. 201600090. MOTION PASSED UNANIMOUSLY.

**FORMAL INTERVIEW**

**Agenda Item No. 21A Case No. 201600044  
Dr. Matthew E. Wessel**

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

Dr. Waite was the lead Board member.

On March 7, 2016 the Board received a complaint alleging Dr. Wessel performed an inadequate bridge. Dr. Wessel signed a proposed Non-Disciplinary consent agreement for three hours of continuing education in crown and bridge which was placed on the August 5, 2016 Board consent agenda. The case was pulled by a Board member. The Board voted to modify the consent agreement with 12 hours of continuing education in a dental school setting in crown and bridge, with an emphasis on impression taking or scanning to be completed in a dental school setting. If Dr. Wessel declined the modified Consent Agreement, he would be invited for a Formal Interview. Dr. Wessel elected to appear for a Formal Interview. Dr. Wessel has been notified that he may have committed Unprofessional Conduct under A. R. S. §32-1201(14) and A.R.S. §32-1201(24).

Dr. Wessel has been practicing dentistry for 18 years. He attended and graduated from Creighton University. This case involved a bridge of teeth 9 through 11 which eventually turned into teeth 9 through 13. The bridge was redone three times. The original bridge was prepped on February 25, 2008 for teeth 9 through 11 and delivered on July 1, 2008. Dr. Wessel stated that during this time, he did not take x-rays prior to the final seat of the bridge. Dr. Wessel indicated that the second bridge failed due to poor hygiene. The patient would not come in for regular cleanings and was usually seen for emergency care. The bridge was replaced by Dr. Wessel at no extra charge to the patient. When the patient complained, Dr. Wessel took radiographs and noted there were no open margins. He provided the patient with a referral to an Oral Surgeon to address the lesion between tooth nos. 8 and 9. Dr. Wessel did not get the opportunity to replace the bridge as the patient never returned to the office.

Dr. Waite questioned Dr. Wessel regarding the discrepancies in the original written notes. Dr. Wessel was in the process of transitioning from hand written records to Dentrix software. There was a page of computer notes missing due to the software being updated. The second bridge was redone on June 9, 2009. It appeared the bridge failed in less than a year. It was Dr. Wessel's intention to replace the bridge. On February 10, 2008 tooth no. 10 had been extracted and the records indicate that the bridge would be replaced for teeth 10 through 13. The bridge could not be replaced with a diagnosis for an Oral Surgeon due to the lesion on tooth no. 9. The lesion on tooth no. 9 was present in 2009; however, Dr. Wessel was concerned because the bridge had been already replaced numerous times. For cosmetic reasons, Dr. Wessel wanted to try to satisfy the patient so that she could continue to earn a living. He hoped that she would see the Oral Surgeon and have the lesion evaluated.

The final date of the bridge being redone was June 16, 2011. In the x-rays, there were open margins on tooth nos. 9 and 11. The cement date was January 12, 2012. This was the second bridge. Dr. Wessel observed severe decay on the x-rays. There was nothing in the records indicating tooth no. 11 was

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extracted. Dr. Wessel stated he extracted the tooth on February 11, 2014. The third bridge failed because Dr. Wessel did not take pre-cementation radiographs and he did not verify the margins.

The Board asked Dr. Wessel if restitution was offered to the patient. The patient never returned to the practice. The bridge was temporary until the patient received a definitive diagnosis from the Oral Surgeon. The patient is still wearing the bridge cemented by Dr. Wessel. The amount the patient originally paid for the first bridge was undetermined. Ms. Corcoran stated she would need to review the patient ledger before providing an exact amount. The patient stopped paying Dr. Wessel for work Dr. Wessel performed correctly. Dr. Wessel believes the amount was \$850 per unit for teeth nos. 9, 10 and 11. Dr. Wessel indicated he reviewed Dr. Kang's treatment plan for the patient when asked by the Board. Since the complaint, Dr. Wessel now uses digital x-rays. He takes x-rays before the final seat on all of his patients. Dr. Wessel has also taken 78.5 hours of continuing education to date which include record keeping, prosthodontics, radiology and radiography, Dr. Wessel joined a study club and has been continuing his education. Ms. Corcoran stated Dr. Wessel is a good dentist, he was trying to take care of his patient and she never returned to his practice to finish treatment.

The modified Consent Agreement offered to Dr. Wessel was for 12 hours of continuing education which means he would be away from his practice for two days. The two days away would amount to \$5000.00. This is the first time Dr. Wessel has had a case before the Board. Dr. Wessel recognized the issues and has taken steps to correct the problems Ms. Corcoran asked the Board to accept the original Consent Agreement offered.

Upon MOTION by Dr. Waite, second by Ms. McClain, the Board voted to FIND Unprofessional Conduct based on A. R. S. §32-1201(14). Ms. Hardy, Mr. Greer, Dr. Foster, Dr. Sorensen, and Dr. Hauer OPPOSED. Dr. Flowers RECUSED. MOTION FAILED.

Upon MOTION by Dr. Sorensen, second by Ms. Hardy, the Board voted to ISSUE Non-Disciplinary consent agreement for six hours of continuing education in crown and bridge. Ms. Crevier, Mr. Greer, Dr. Waite, Ms. McClain, and Dr. Foster OPPOSED, Dr. Flowers RECUSED. MOTION FAILED.

Upon MOTION by Mr. Greer, second by Dr. Sorensen, the Board voted to ISSUE a Non-Disciplinary consent agreement for 12 hours of continuing education in crown and bridge in a dental school setting. Ms. Crevier and Dr. Foster OPPOSED. Dr. Flowers RECUSED. MOTION PASSED.

**FORMAL INTERVIEW**

**Agenda Item No. 22A Case No. 201500190  
Dr. Sathish Bhadra Chari**

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

The lead Board member was Dr. Foster.

On July 20, 2015, the Board received a complaint alleging Dr. Chari had performed inadequate endodontics, inadequate crown and bridge and inadequate orthodontics. The patient also alleged Dr. Chari did not provide adequate informed consent. Dr. Chari signed a proposed consent agreement which was placed on the April 1, 2016 Board consent agenda. The case was pulled by a Board member and the Board voted to modify the consent agreement by imposing a \$2,000.00 Administrative Penalty, 12 hours

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of hands on training in endodontics in a dental school setting, limiting practice in endodontics until training was completed, four hours of risk management, three hours of continuing education in record keeping, six hours of continuing education in crown and bridge, six hours orthodontics hands on training in a dental school setting, and limiting the practice of orthodontics until continuing education was completed. If Dr. Chari declined he would be invited for a Formal Interview. Dr. Chari elected to appear in front of the Board for a Formal Interview at the June 3, 2016 Board Meeting. As the Formal Interview proceeded, it appeared documents were missing with some of the treatment notes. A motion was passed to table the Formal Interview until the August 5, 2016 Board Meeting. Dr. Chari was unable to appear at the August 5, 2016 Board meeting, therefore was placed on the October 7, 2016 Board agenda. Dr. Chari has been notified he may have committed unprofessional conduct under A.R. S. §32-1201.01 (14) (24) and committing a violation of A.R.S. §32-1264(A).

Dr. Chari stated he attended the University of Detroit and has been a dentist for 27 years and practiced in Arizona for 22 years. He also stated he has been practicing orthodontic dentistry for 22 years.

Dr. Foster asked Dr. Chari when orthodontic treatment began on the patient. Dr. Chari stated according to his records, treatment began November, 2013 and he had not seen the patient since April, 2015.

A subsequent treating dentist noted the patient had an open bite; however, she did not have one before beginning treatment with Dr. Chari. The Board questioned Dr. Chari about when a patient is referred to an endodontist, if assistants enter the referral into Dentrix Software. Dr. Chari was not sure. Dr. Chari was questioned as to how he follows up with the patient after the referral is given. He stated he asks the patient whether or not the patient saw the endodontist. Dr. Chari was questioned about his responsibility on the accuracy of the records for his patients. He stated he is aware he is responsible for this. Dr. Chari was questioned about refunding the patient for endodontic services that were not completed. Dr. Chari stated he did not know if the money had been refunded because he relies on office staff to issue refunds.

Mr. Tonner stated this is a difficult case; in part that doesn't have anything to do with dentistry. Mr. Tonner stated because Dr. Chari has been before the Board before the tendency is to say he must be guilty, let's look for something. Mr. Tonner stated the patient's lawyer spoke during public comment for 15 seconds on dentistry and spoke for four minutes and 45 seconds on what a bad guy Dr. Chari was. He said what the patient's attorney failed to tell the Board was the patient has a civil suit against Dr. Chari. The patient is looking for the Board to come up with something against Dr. Chari that can be used in court. Mr. Tonner stated the purpose for the Formal Interview was he felt the consent agreement was a piling on. Mr. Tonner stated that he and Dr. Chari believed the case to be minimal. Mr. Tonner asked the Board to review all of the evidence in this case and judge the case accordingly.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to FIND Unprofessional Conduct based on A.R. S. §32-1201.01 (14) (24) and committing a violation of A.R.S. §32-1264(A). Mr. Greer, Dr. Waite, and Ms. McClain OPPOSED. MOTION PASSED.

Board staff reported eight priors.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to IMPOSE a \$2,000.00 administrative penalty, 12 hours of endodontic training in a dental school setting and limit practice until training is complete, 12 hours of crown and bridge in a dental school setting and limit practice until training is complete, 12 hours of orthodontic training in a dental school setting, four hours of risk management, three hours of record keeping, with 12 months to complete the continuing education. Ms. Hardy, Mr. Greer, Dr. Waite, Ms. McClain, Dr. Sorensen, and Dr. Hauer OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to IMPOSE a \$2,000.00 Administrative Penalty, 12 hours of hands on endodontic training in a dental school setting and limit practice until complete, 12 hours of crown and bridge in a dental school setting and practice until continuing education is complete, 12 hours of orthodontic training in a dental school setting, four hours of risk management, three hours of record keeping with 12 months to complete. Ms. Hardy, Mr. Greer, Dr. Waite, Ms. McClain, Dr. Sorensen, and Dr. Hauer OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Waite, second by Dr. Sorensen, the Board voted to IMPOSE a \$2,000.00 Administrative Penalty, 12 hours of hands on endodontic training in a dental school setting, 36 hours of crown and bridge in a dental school setting with a restriction of practice until continuing education is complete, 12 hours of hands on orthodontic training in a dental school setting, three hours of record keeping, and four hours of risk management. Mr. Greer and Dr. Hauer OPPOSED. MOTION PASSED.

**Agenda Item No. 21B Case No. 201600052  
Olivia Lerma, RDH**

Executive Director Hugunin stated she gave a memo to the Board stating if Ms. Lerma did not appear for the Formal Interview at the October 7, 2016 Board meeting the Board could consider dismissing the case or refer the case to a Formal Hearing.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to REFER Case No. 201600052 for a Formal Hearing for the purpose of revocation. MOTION PASSED UNANIMOUSLY.

***CALL TO THE PUBLIC***

Consideration of comments from the public. Those wishing to address the Board need not request permission in advance. The Board may ask staff to review a matter or may ask that a matter be put on a future agenda. The Board shall not discuss or take action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. A.R.S. § 38-431.01(H).

**1. MEMBERS OF THE PUBLIC**

**2. FUTURE AGENDA ITEMS**

- A. Legislative change to allow non-disciplinary restitution to be agreed upon by the licensee to be discussed at the December 2, 2016 Board meeting.

**3. NEXT MEETING DATE – February 3, 2017**

**4. ADJOURNMENT**

Upon MOTION by Mr. Greer, second by Dr. Sorensen, the Board voted to ADJOURN the Board meeting. MOTION PASSED UNANIMOUSLY.

Dr. Hauer adjourned the meeting at 11:49 am.