



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 7, 2014

Board Members Present:

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

Board Members Absent:

Marilyn J. McClain, RDH

Staff Present:

Ms. Elaine Hugunin, Executive Director
Ms. Nancy Chambers, Deputy Director
Ms. Mary Williams, Assistant Attorney General
Ms. Terry Bialostosky, Investigations Supervisor
Ms. Sherrie Biggs, Licensure Manager
Ms. Susie Adams, Legal Assistant
Ms. Yubeka Riddick, Legal Administrator

NOTICE:

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

GENERAL BUSINESS

Agenda Item No. 1 Call to Order and Introductions

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

For the record Ms. Marilyn McClain is absent. Dir. Hugunin stated, for the record, additional information for agenda items 4Eic, 4Eid, 4Eie, 4J, 12B, 16B, 22F, and 24B are provided in Board members folders.

Agenda Item No. 3 President's Report

- A. Appointment of Board Members (One Dentist and one Dental Hygienist) to the Dental Hygiene Committee

Dr. Hauer appointed Dr. Taylor and Ms. Hardy to the Dental Hygiene Committee.

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Agenda Item No. 4 Executive Director's Report

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

No current events reported

- B. Appointment of a Board Member to WREB Dental Exam Review Board

Upon MOTION by Mr. Greer, second by Mr. Jackson, the Board voted to APPOINT Dr. Hauer to the WREB Dental Exam Review Board. MOTION PASSED UNANIMOUSLY

- C. Review, discussion and possible action regarding license renewal fees for dentists, dental consultants, dental hygienists, and denturists pursuant to Arizona Revised Statutes §§§ 32-1236(A) – 1287(A), and -1297.06(A)

The Board must review and establish the renewal fee by formal vote at least every three years. Dir. Hugunin and Ms. Chambers have analyzed the financials and discussed the unknown variable costs and have provided the Board with this information. Given the analysis, the recommendation is for the Board to consider keeping the fee as is. The dental hygienists statutes changed last year, eliminating licensing by credential; which resulted in a loss of \$20,000. The Board inquired about increasing the renewal fee to offset the loss. Board staff stated that they would not recommend an increase right now.

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to KEEP the license renewal fees for dentists, dental consultants, dental hygienists, and denturists the same as they are currently. MOTION PASSED UNANIMOUSLY

- D. Arizona Administrative Code (AAC), Title 4, Chapter 11, Article 4 Fees.

- i. Review, discussion and possible action regarding staff recommendations for revisions to AAC, Title 4, Chapter 11, Article 4 Fees.

As stated in the memo provided to the Board, the Board opened a docket to amend Arizona Administrative Code, Chapter 11, Article 4 fees. Ms. Chambers did an excellent job on this ensuring all fees not previously established were covered. The renewal fee that was just approved will be included in the article. Ms. Crevier wanted to amend page 4, line 6 to add the word "permit" after 1302, as well as approve lines 16, 17, 18.

Upon MOTION by Ms. Crevier, second by Dr. Taylor, the Board voted to APPROVE the recommendations for revisions to ACC, Title 4, Chapter 11, Article 4 Fees as amended MOTION PASSED UNANIMOUSLY

- ii. Review, discussion, and possible action regarding forwarding ACC Title 4, Chapter 11, Article 4 Fee proposed rules to the Governor's Regulatory Review Council.

Upon MOTION by Dr. Woods, second by Mr. Greer, the Board voted to REFER ACC Title 4, Chapter 11, Article 4 Fee proposed rules to the Governor's Regulatory Review Council. MOTION PASSED UNANIMOUSLY

- E. Current Proposed Legislation – Review, discussion and possible action regarding current proposed legislation for the 2014 session:
i. Proposed Legislation

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- a) HB 2087 Health regulatory boards; training requirements – Amending Title 32, Chapter 32, Article 1 Arizona Revised Statutes, by adding section 32-3217; relating to health professions regulatory board

As introduced, it requires each member of a health profession regulatory board to complete a 12-hour training, as specified, within one year after the member's appointment with a delayed effective date of January 1, 2015

- b) SB 1042 Health professionals; specialty status claims – Amending Title 32, Chapter 32, Article 1, Arizona Revised Statutes, by adding section 32-3217; relating to health professionals.

This bill was introduced during the last legislative session but it did not pass. As introduced, it is unprofessional for a health professional to claim board certification as a specialist if it is untrue or if the status is not correct.

- c) HB 2529 Cosmetic laser procedures; supervision; dentists – Amending sections 32-516 and 32-3233, Arizona Revised Statutes; Relating to Cosmetic Laser Procedures

This bill was presented at the Board's last meeting. It does not impact the Dental Practice Act, but will allow oral surgeons to supervise aestheticians.

- d) HB 2561 Private certification; occupations – Amending Title 32, Arizona Revised Statutes, by adding Chapter 45; Relating to private certification

In this bill, an individual who is licensed by a private certifying organization is allowed to practice in Arizona, regardless of any state occupational regulation. Regulatory boards are prohibited from pursuing any disciplinary action against such individuals.

- e) SB 1343 Dentists; business entities – Amending sections 32-1213 and 32-1262, Arizona Revised Statutes; Relating to dental business entities

This bill, distributed this week, will impact some hygienists who currently own practices in that they will now need to register as a business entity. Business entities will also be required to conspicuously display their receipt for current registration.

- f) HB 2260 Small business bill of rights – Amending sections 41-1001.01, 41-1009 and 41-1376, Arizona Revised Statutes; relating to regulatory enforcement

- g) Dental Hygienists; regulation; discipline; education – Amending sections 32-1201, 32-1263, 32-1263.01, 32-1263.02, 32-1266 and 32-1282, Arizona Revised Statutes; Amending Title 32, Chapter 11, Article 4, Arizona Revised Statutes, by adding section 32-1282.01; Amending sections 32-1287 and 32-1290, Arizona Revised Statutes; relating to the Dental Hygienist Commission.

This bill is in its draft language and does not have a bill number. Board staff was not engaged in this and it was obtained through the Board's lobbyist. If this bill is approved, would there be increased costs? Does a Board appoint members to a Commission? The Board discussed the possible cost of paying the Dental Hygienist for each meeting, laptops, office space, reimbursement for travel, etc. There would be no difference between the current duties of the Dental Hygiene Committee and the duties of the Dental Hygienist Commission. The Dental Board would still be doing the licensing. Within the past four years, there have been only 3 disciplinary

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cases against hygienists. Hygienists would pay higher fees if becoming self-regulated.

- F. Dr. Daniel J. Gibbons – Case No. 201400003: Review, discussion and possible action on 1) Dr. Gibbons' voluntary suspension and 2) Stipulation Agreement and Order for participation in the monitored aftercare treatment program.

Dr. Gibbons was present to answer any questions by the Board.

Upon MOTION by Dr. Foster, second by Dr. Woods, the Board voted to ACCEPT the voluntary suspension of Dr. Gibbons' license. MOTION PASSED UNANIMOUSLY

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to ACCEPT the stipulation agreement and order for participation in the monitored aftercare treatment program. MOTION PASSED UNANIMOUSLY

- G. Dr. Earl Bruce Weisbrod – Case no. 201300273: Review, discussion, and possible action to administratively adjust complaint number 201300273

Upon MOTION by Dr. Woods, second by Dr. Foster, the Board voted to ADMINISTRATIVELY ADJUST case no. 201300273 against Dr. Earl Bruce Weisbrod. MOTION PASSED UNANIMOUSLY

- H. Dr. Thomas A. Endicott – Case Nos. 201300213/201400011: Review, discussion, and possible action to administratively adjust complaint numbers 201300213/201400011

The complaint was opened due to non-compliance with a Board Order. Dr. Endicott was late in the completion of CE. The continuing education was due December 31, 2013, Dr. Endicott requested an extension on January 2, 2014. The Board was uncomfortable negating the fact that Dr. Endicott was late in complying with a Board Order. Board staff indicated that if the Board was uncomfortable with administratively adjusting the complaint, the Board staff would continue with the investigative process.

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to MOVE the complaint through the investigative process. MOTION PASSED UNANIMOUSLY

- I. Dr. Alexander C. Hatch – Case No. 201100145 – Review, discussion, and possible action regarding removal of DEA restriction from MATP Stipulation Agreement and AA meeting log requirements based upon the recommendation from the Board's MATP Medical Director.

Upon MOTION BY Ms. Crevier, second by Dr. Woods, the Board voted to REMOVE the DEA restriction from MATP Stipulation Agreement and AA meeting log requirements. MOTION PASSED UNANIMOUSLY

- J. Dr. Wade A. Mendenhall – Case No. 201400012: Review, discussion and possible action including adding an allegation of substance abuse, issuance of interim order for in-patient substance abuse evaluation and possible summary suspension of license. To be heard at 8:30am

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to ENTER into Executive Session to obtain legal counsel. MOTION PASSED UNANIMOUSLY

****Executive Session****

RETURN TO OPEN MEETING

Upon MOTION by Dr. Woods, second by Dr. Foster, the Board voted to ADD an allegation of substance abuse. MOTION PASSED UNANIMOUSLY

Upon MOTION by Dr. Woods, second by Mr. Greer, the Board voted to ISSUE an interim order for an in-patient substance abuse evaluation and have the results be reported to the Dental Board and Dr. Sucher. MOTION PASSED UNANIMOUSLY

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to summarily SUSPEND the license of Dr. Wade A. Mendenhall due to him being a danger to the public because of substance abuse. MOTION PASSED UNANIMOUSLY

The following Interim Findings of Fact were read into the record: 1) The Board has the authority for the regulation and control of the practice of dentistry in the State of Arizona. 2) Respondent is the holder of License No. D5259 for the practice of dentistry in the State of Arizona 3) Respondent previously participated in the Board's Monitored Aftercare Treatment Program ("MATP") from December 8, 2008 through December 8, 2013. 4) On or about January 16, 2014, the Board received information from the Drug Enforcement Agency ("DEA") indicating that Respondent was writing prescriptions for controlled substances for family members, as he had previously done on other occasions. 5) Board staff contacted Respondent regarding the information from the DEA and requested Respondent to obtain an evaluation from the Board's MATP Medical Director, Dr. Michel Sucher. Respondent voluntarily obtained the evaluation on January 21, 2014. 6) The evaluation included urine sample and hair tests. Respondent tested positive for morphine, for which he has a prescription. 7) Respondent provided inconsistent and conflicting information during his evaluation and information which, in the opinion of Dr. Sucher, indicates Respondent exercises poor judgment. Dr. Sucher concluded that Respondent should undergo a comprehensive subsequent substance abuse evaluation at an in-patient treatment facility. 8) Respondent was informed of the recommendation for a comprehensive substance abuse evaluation. Respondent informed the Board's Executive Director, in a voice message, that he would obtain the evaluation on February 14 or 15, 2014 because that is "when he gets paid." Respondent left a subsequent voice message approximately 5 minutes later indicating that he would go for the evaluation on February 24, 2014 because his birthday is on February 19th and he "wanted to have a good birthday." 9) Respondent also informed Dr. Sucher, subsequent to his initial evaluation that he would not give up his morphine "no matter what." 10) Board staff and Dr. Sucher requested Respondent to consider a voluntary suspension of his license while he obtained a comprehensive substance abuse evaluation. To date, Respondent has not agreed to a voluntary suspension and has not committed to obtaining a comprehensive substance abuse evaluation. 11) Subsequent to one of Respondent's conversations with Board staff, Respondent's wife contacted Board staff and informed them that Respondent was "depressed" and she "did not know what he was going to do." 12) Based on Respondent's initial evaluation with Dr. Sucher and Respondent's behavior and statements during his subsequent conversations with Dr. Sucher and Board staff, Dr. Sucher believes Respondent is not safe to practice dentistry at this time.

The Board read the following Interim Conclusions of Law into the record: 1) The Board has jurisdiction over the subject matter hereof and over Respondent, holder of License No. D5259, for the practice of dentistry in the State of Arizona. 2) The conduct and circumstances described above constitute unprofessional conduct as defined in A.R.S. §§ 32-1201(21)(n) ("Any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public."), 32-1201 21(b) ("Using controlled substances as defined in § 36-2501, narcotic drugs, dangerous drugs or marijuana as defined section § 13-3401 or hypnotic

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drugs,”) and 32-1201(21)(c) (“Prescribing, dispensing or using drugs for other than accepted dental therapeutic purposes or for other than medically indicated supportive therapy in conjunction with managing a patient’s dental needs.”). Such conduct constitutes grounds for disciplinary action, including suspension or revocation, pursuant to A.R.S. 32-1263(A)(1).

Upon MOTION by Dr. Woods, second by Dr. Foster, the Board voted to ADD statute 32.1201.21(b) to the Interim Conclusions of Law. MOTION PASSED UNANIMOUSLY

The Board read the following Finding of Emergency into the record: Based on the foregoing Interim Findings of Fact and Conclusions of Law, the Board finds that the public health, safety and welfare imperatively require emergency action. A.R.S. §§ 32-1263.02(C) and 41-1092.11(B).

The Board read the following Order into the record: Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth above, IT IS HEREBY ORDERED THAT: 1) Respondent’s license to practice dentistry in the State of Arizona, License No. D5259, is summarily suspended. 2) The Interim Findings of Fact and Conclusions of Law constitute written notice to Respondent of the charges of unprofessional conduct made by the Board against him. Respondent is entitled to a formal hearing to defend these charges as expeditiously as possible after the issuance of this Order. 3) The Board will refer this matter to the Office of Administrative Hearings for scheduling of an administrative hearing to be commenced as expeditiously as possible from the date of the issuance of this Order, unless stipulated and agreed otherwise by Respondent. 4) The Board may consider lifting the summary suspension in the event Respondent complies with the Board’s Interim Order for Comprehensive Substance Abuse Evaluation, issued in conjunction with this Order for Summary Suspension, and agrees to abide by any recommendations that arise from the evaluation.

The Board added the following two sentences to the Interim Findings of Fact: 1) “Dr. Mendenhall stated to Dr. Sucher that he is currently practicing two and a half days a week.” 2) “Dr. Sucher has concerns that Respondent has tampered with or otherwise falsified drug screens based on the fact that prescription medication did not show up on previous drug screens.”

The Board asked based upon the high suspicion of repeated falsifications, if Dr. Mendenhall goes through the treatment program and reenters the program, would Dr. Sucher recommend requiring hair analysis. Dr. Sucher stated that he would recommend two things 1) that periodic quarterly hair test will be a part of his monitoring and 2) all drug screens would be directly observed. These recommendations would be added later once the case is ready to be adjudicated.

Upon MOTION by Dr. Woods, second by Mr. Greer, the Board voted to ADOPT the Interim Findings of Fact as amended, the Interim Conclusions of Law as amended, the Finding of Emergency and the Order. MOTION PASSED UNANAMIOUSLY

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

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Dir. Hugunin stated there have been 18 Executive Director Terminations since the last Board meeting. One has been appealed and will be on the next agenda. Sixteen can still be appealed.

Agenda Item No. 2 PUBLIC COMMENT ON CASES

Complainant DG was present and spoke about case no 201300155 (Agenda Item 12D).
Complainant CJ was present and spoke about case no. 201300257 (Agenda Item 15F).
Complainant GM was present and spoke about case no. 201300212-ED (Agenda Item 22A).
Complainant SG was present and spoke about case no. 201300210-ED (Agenda Item 22B).
Complainant CJW was present and spoke about case no. 201300269 (Agenda Item 15E).

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

- A. Dr. Eric LaMont Mack – Discipline on Colorado license; Disclosure of malpractice action

Dr. Mack was present to address questions by the Board.

The Board discussed possibly limiting Dr. Mack's license as well as requiring him to complete CE. It was discussed that since Dr. Mack completed the requirements for his Colorado license, the Board would be punishing him twice by limiting his license and requiring Continuing Education.

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

- B. Dr. Vincent Arthur Martinez – Review, discussion and possible action regarding disciplinary action in New Mexico

Dr. Martinez was present to address any questions by the Board.

Dr. Sucher testified that Dr. Martinez is being monitored in the private program which is the same as the confidential program by the Board. If licensure is granted, it would be ordered by the Board so that Dr. Martinez continues to be monitored. Dr. Martinez has been sober for five years. Dr. Sucher stated that in the private monitoring program, there is a clause in the contract that if a licensee discontinues the program, is no longer safe to practice, or significantly non-compliant, then Dr. Sucher has the right to report it to the regulatory board. Dr. Martinez stated that he was fine with adding that clause to his agreement upon being granted a license.

The Board would be more comfortable if Dr. Martinez was participating in the Board's monitored aftercare treatment program.

Upon MOTION by Dr. Woods, second by Dr. Sorensen, the Board voted to TABLE the licensure of Dr. Martinez until the proper wording could be placed on the agenda so that the stipulation stating that Dr. Martinez will continue participation in the monitored aftercare treatment program can be included in the motion. MOTION RESCINDED

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to GRANT licensure to Dr. Vincent Arthur Martinez. Dr. Woods, Dr. Flowers, Dr. Sorensen, and Dr. Foster OPPOSED. MOTION PASSED

Agenda Item No. 7 COMMITTEE REPORTS

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

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- i. Review, discussion and possible action regarding the 2013 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:
 - a. Mary M. Johnson, RDH
 - b. Rebecca A. Pavey, RDH
 - c. Danielle F. Kamberos, RDH
 - d. Kendra L. Ayers-Valdiviezo, RDH

Upon MOTION by Ms. Hardy, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for items a-d. MOTION PASSED UNANIMOUSLY

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

- i. Review, discussion and possible action regarding the 2013 Dental Continuing Education Audits. Upon recommendation from the Continuing Education Audit responses from the following:
 - a. Dr. Jonathan T. Schultz
 - b. Dr. Katie C. Julien

Upon MOTION by Dr. Foster, second by Dr. Taylor, the Board voted to APPROVE the CE Audit responses for items a and b. MOTION PASSED UNANIMOUSLY

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

A. VACANT

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

A. VACANT

FORMAL INTERVIEW

**Agenda Item No. 23A Case No. 201300153
Dr. Lee W. Harding**

Dr. Harding and his lawyer, Jeffrey Tonner, were present. The Court Reporter swore in Dr. Harding. Dr. Hauer read the Formal Interview process.

On July 3, 2013 the Board received a complaint against Dr. Harding alleging that he over diagnosed, over treated patients and committed fraud. Dr. Harding elected to appear before the Board for a formal interview. He has been noticed that his conduct may rise to the level of unprofessional conduct in accordance with ARS 32-1201.21 (l) knowingly making any false or fraudulent statement, written or oral, in connection with the practice of dentistry. (n) conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public. (o) obtaining a fee by fraud or misrepresentation, or wilfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient. (p) repeated irregularities in billing and (x) failing or refusing to maintain adequate records.

Dr. Woods is the lead board member. He reviewed the violations of unprofessional conduct and questioned Dr. Harding regarding violating A.R.S. 32-1201(21)(l)(n)(o)(p)(x). The Board questioned Dr.

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Harding regarding his conduct or practice that constitutes a danger to the health, welfare, or safety of the patient or public by knowingly making any false or fraudulent statements either written or oral in connection with the practice of dentistry. Dr. Harding was questioned relating to obtaining a fee by fraud or misrepresentation, or willfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient. Dr. Harding was questioned concerning repeated irregularities in billing and for failing or refusing to maintain adequate records.

The standard of care is used to define standard procedures within the state of Arizona. The standard of care is made up of what is taught in dental education, dental schools and what is accepted in the dental community, and is based upon peer review research. It does require a consensus of the dental community. There is a spectrum available within that consensus and is what any reasonable or prudent general dentist would do in that situation.

Dr. Harding graduated from dental school in 2000. He is currently retired. From 2002-2013, he had up to three clinics in the Phoenix area servicing low income areas. Children made up the bulk of the practice. The contract with AHCCCS was made between Dr. Harding and AHCCCS. Dr. Harding delegated a lot of responsibilities within the three clinics. The two issues of this case is whether or not glass ionomers should be used in post anterior teeth and billing. There were 76 teeth that were filled over eight patients. There was evidence that one filling, out of the 76 fillings, had to be replaced.

The Board discussed the statement provided by Dr. Christensen about the placing of glass ionomers. Resin was placed almost uniformly in every posterior tooth. It is below the standard of care to place posterior resin glass ionomers in Class II restorations. There was a fee that was obtained by billing for resin composites. This was a consistent billing practice that was done over and over again. The patient's records were incomplete. They often did not reflect what was done and some of the Explanation of Benefits were missing. From a business standpoint, glass ionomers cost less than resin and the office can bill out at a higher cost which means a larger profit margin for the dental office. In hiring associate dentists, the managing dentist dictates what materials will be used; even if the associate dentist disagrees. The testimony provided by Dr. Harding is that Associates can use whatever material they want. The procedure may have been incorrect; however, the billing code used for the resin was correct. Billing for a code when the material was inappropriately used is a misrepresentation. There was another code that can be used and a written report provided stating why that specific material was used. Some insurance companies may not recognize this code and not pay for the procedure. A narrative can be written to justify the use of the code when billing the insurance company. ADA does not set the standard of care.

Upon MOTION by Dr. Woods, second by Dr. Foster, the Board voted to FIND a violation of ARS § 32-1201(21)(l)(n)(o)(p)(x). Mr. Jackson, Mr. Greer, Dr. Sorensen, and Dr. Hauer OPPOSED. MOTION PASSED

Staff reported no priors

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to IMPOSE a \$10,000 Administrative Penalty, \$2,000.00 per violation; 12 hours of continuing education in operative dentistry with the specialty of mixed dentition to be completed in six months, 4 hours of continuing education in risk management, 3 hours of continuing education in record keeping, and reimbursement to AHCCSS to be determined in the cases before the Board. Ms. Hardy, Dr. Flowers, Mr. Jackson, Mr. Greer, Dr. Sorenson, Dr. Hauer OPPOSED. MOTION FAILED

Upon MOTION by Dr. Sorenson, second by Mr. Jackson, the Board voted to IMPOSE an Administrative Penalty of \$1,500.00, 12 hours of continuing education in operative dentistry with mixed dentition, 4 hours of continuing education in risk management, 3 hours of continuing education in record keeping. Dr. Woods, Dr. Taylor, Mr. Greer, and Dr. Foster 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:

Agenda Item No. 15C Case No. 201300211 Dr. Franklin D. Hulme

Cases ADJUDICATED:

Agenda Item No. 14 – CASES RECOMMENDED FOR DISCIPLINARY CONSENT AGREEMENTS

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

Item No.	Case No.	Licensee	Action
A.	201300205	Dr. Kevin M. Harris	
B.	201300256	Dr. Kelly B. Wettstein	
C.	201300224	Dr. Michael A. Kaye	
D.	201300247-MP	Dr. Mu-Hun Kim	
E.	201300191	Dr. Steven T. Nguyen	
F.	201300084	Dr. Massoud Eftekhari	

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

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to ACCEPT the Non-Disciplinary Continuing Education Consent Agreements on the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Item No.	Case No.	Licensee	Action
A.	201300221-MP	Dr. Alvin J. Coon, Jr.	4 hours of risk management
B.	201300197	Dr. John M. Roskos	6 hours of crown and bridge and 4 hours of record keeping
D.	201300222	Dr. James B. Edwards	6 hours in the area of diagnosis and treatment planning
E.	201300269	Dr. Steven K. Nelson	6 hours in the area of diagnosis and treatment planning and r hours of risk management
F.	201300257	Dr. Kyle J. Huish	6 hours of record keeping
G.	VACANT		
H.	201300239	Dr. Manu Arora	4 hours of risk management

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I.	201300186	Dr. Peter J. Badalamenti	6 hours in the area of diagnosis and sequencing of treatment and 4 hours of record keeping
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Agenda Item No. 16 – CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN – CONSENT AGENDA

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

Item No.	Case No.	Licensee	Action
A.	201300267	Dr. Keith R. Norton	Issue a Letter of Concern stating: "Dr. Norton should ensure that the parent have adequate informed consent for any treatment provided to a minor."
B.	201300255	Dr. Marissa L. Rubio-Ellis	Issue a Letter of Concern stating: "Dr. Rubio-Ellis should not halt treatment due to an unpaid balance."
C.	201300202	Dr. Jerome C. Cutler	Issue a Letter of Concern stating: "Dr. Cutler should ensure there is complete documentation of the comprehensive exam."
D.	201300260	Dr. Sabrina K. Dhanjal	Issue a Letter of Concern stating: "Dr. Dhanjal should ensure all treatment documentation is complete and all radiographs are of diagnostic quality."
E.	VACANT		

Agenda Item No. 17 – CASES RECOMMENDED FOR TERMINATION – CONSENT AGENDA

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

Item No.	Case No.	Licensee	Action
A.	201300252	Dr. Bonjung Jane Koo	Terminate – per patient letter
B.	201300215	Dr. Jesse C. Engle	Terminate – per patient letter
C.	201300254	Dr. Carl C. Fairchild	Terminate – per patient letter
D.	201300268	Dr. Paul S. Gebhart	Terminate – per patient letter
E.	201300293	Dr. Todd F. Jorgenson	Terminate – per patient letter
F.	201300251	Dr. Jared B. Williams	Terminate – per patient letter

Agenda Item No. 18 – CASES RECOMMENDED FOR DISMISSAL – CONSENT AGENDA

Item No.	Case No.	Licensee	Comments
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Item No.	Case No.	Licensee	Comments
A.	VACANT		

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

Upon a MOTION by Mr. Greer, second by Dr. Taylor, the Board voted to ACCEPT the recommendation to take no action on the following case. MOTION PASSED UNANIMOUSLY

Agenda Item No. 19A

Dr. Ernest L. Stromeyer

Malpractice report. Took no action.

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

A. VACANT

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

Upon a MOTION by Mr. Greer, second by Dr. Taylor the Board voted to APPROVE the following minutes. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 21A October 4, 2013 – Amended Board Meeting Minutes

Agenda Item No. 21B December 6, 2013 – Board Meeting Minutes

Agenda Item No. 21C December 6, 2013 – Executive Session Minutes

END OF CONSENT AGENDA

**Agenda Item No. 15C Case No. 201300211
 Dr. Franklin D. Hulme**

This case was pulled by a member of the Board.

Upon MOTION by Dr. Woods, second by Dr. Taylor, the Board voted to ACCEPT the non-disciplinary consent agreement of Dr. Franklin D. Hulme. Dr. Sorensen RECUSED. MOTION PASSED

FORMAL INTERVIEWS

Agenda Item No. 24A VACANT

**Agenda Item No. 24B Case No. 201300238
 Dr. Thomas A. Endicott**

Dr. Endicott was present to address the Board. The Court Reporter swore in Dr. Endicott.

Dir. Hugunin stated that on October 7, 2013, the board received a complaint against Dr. Endicott alleging that he performed an inadequate root canal and an inadequate crown and bridge. Dr. Endicott has elected to have a formal interview and has been noticed that his conduct may rise to the level of unprofessional conduct in accordance with A.R.S. 32-1201.21(n)

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Dr. Endicott is currently practicing part-time at Peoria Family Dental. It is a general practice where he is an associate. He attended Dental School at Case Western Reserve in Cleveland, Ohio.

The patient first presented approximately 35-40 minutes late for her appointment. A preliminary x-ray was taken that showed serious decay in the entire mouth. Tooth #19 was decayed from the distal aspect to the mesial lingual to the mesial buccal. Dr. Endicott used a #4 surgical roundbur and began to take the decay away, hoping the decay did not go into the pulp. The x-ray showed that the decay would go into the pulp. Dr. Endicott continued to remove the decay and tried to create an access opening. Due to the lateness of the evening, the staff became impatient. Dr. Endicott continued the procedure. A working length x-ray was taken after Dr. Endicott used his personal rotary instrument and it failed. He informed the patient that she would need to return for treatment. Dr. Endicott was not aware that there was a perforation on the tooth. He was made aware upon receipt of the Dental Consultant's report and summary. Dr. Endicott did not inform the patient that there was a perforation because he was not aware one was present.

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to FIND a violation of A.R.S. 32-12201.21(n) for unprofessional conduct. MOTION PASSED UNANIMOUSLY

Staff reported one prior.

Upon MOTION by Mr. Greer, second by Ms. Hardy, the Board voted to ORDER twelve hours of Continuing Education in the area of hands on Endodontics to be completed in a dental school setting, four hours of continuing education in risk management and a RESTRICTION of practice in the area of endodontics until the completion of Continuing Education to be completed in 12 months. Mr. Jackson RECUSED. MOTION PASSED

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

A. VACANT

Agenda Item No. 12 ACTION ON PREVIOUS ACTION

**Agenda Item No. 12B Case No. 201300124
Dr. Shahin Madi**

Mr. Kethcart, Dr. Madi's attorney, was present to answer any questions by the Board. The Board was provided a proposed Board Order as well as some proposed amendments that were submitted. Ms. Williams reviewed the amended board order submitted by the licensee's attorney and agreed upon the changes.

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to ACCEPT the amended proposed consent agreement as submitted by Mr. Kethcart. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 12A Case No. 201300217
Mr. Arthur Silva**

Upon MOTION by Dr. Woods, second by Mr. Greer, the Board voted to TERMINATE case no. 201300217 against Mr. Arthur Silva. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 12C Case No. 201300156
Dr. L. Mitchell Thomas**

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Mr. Tonner, attorney for Dr. L. Mitchell Thomas, was present to address the Board. Mr. Tonner requested the proposed Board Order be amended. In Finding of Fact #4, he proposed that the word "bridge" be added to the first sentence so that it reads "On January 27, 2012, DG presented for a limited emergency exam because the bridge from teeth nos. 2-4 came off while flossing." In the last sentence of Finding of Fact #4, Mr. Tonner stated that the treatment was not done, it was actually planned. He wanted to add the word "plan" so that the sentence reads "The treatment plan included the extraction of tooth no. 2 and crown lengthening on tooth no. 4 with a new root canal, build-up and crown.

Dr. Foster proposed amending Finding of Fact #2 by adding the following sentence "The x-rays show an open space on the distal of tooth number 4, where the distal edge on the crown does not contact the tooth structure." In Finding of Fact #4, he stated there was no crown lengthening and that it should be removed. The last sentence in Finding of Fact #4 would read "The treatment included the extraction of tooth no. 2 with a new root canal, build up and crown."

Upon MOTION by Mr. Greer, second by Dr. Woods, the Board voted to ACCEPT the proposed Board Order as amended by Dr. Foster and Mr. Tonner. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 12D Case No. 201300155
Dr. Kristine P. Thomas**

Mr. Tonner, attorney for Dr. Kristine Thomas, was present to address the Board. Mr. Tonner requested the proposed Board Order be amended. In Finding of Fact #4, he proposed that the word "bridge" be added to the first sentence so that it reads "On January 27, 2012, DG presented for a limited emergency exam because the bridge from teeth nos. 2-4 came off while flossing." In the last sentence of Finding of Fact #4, Mr. Tonner stated that the treatment was not done, it was actually planned. He wanted to add the word "plan" so that the sentence reads "The treatment plan included the extraction of tooth no. 2 and crown lengthening on tooth no. 4 with a new root canal, build-up and crown.

Dr. Foster proposed amending Finding of Fact #2 by adding the following sentence "The x-rays show an open space on the distal of tooth number 4, where the distal edge on the crown does not contact the tooth structure." In Finding of Fact #4, he proposed leaving "crown lengthening in because it was planned. The last sentence in Finding of Fact #4 would read "The treatment included the extraction of tooth no. 2 and crown lengthening on tooth no. 4 with a new root canal, build up and crown."

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to ACCEPT the proposed Board Order as amended by Dr. Foster and Mr. Tonner. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13 PETITION TO REHEAR

A. VACANT

Agenda Item No. 6 PERSONNEL ISSUES

A. VACANT

Agenda Item 22 REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS

Agenda Item No. 22A Case No. 201300212-ED

Dr. Shawn M. Fuller

Upon MOTION by Mr. Greer, second by Dr. Flowers, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY

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Agenda Item No. 22B Case No. 201300210-ED

Dr. Nathan M. Easton

Upon motion by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY

Agenda Item No. 22C Case No. 201300207-ED

Dr. Omaima S. Samain

Upon motion by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY

Agenda Item No. 22D Case No. 201300223-ED

Dr. Manpreet S. Badyal

Upon motion by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the Executive Director Termination. Dr. Taylor OPPOSED. MOTION PASSED

Agenda Item No. 22E Case No. 201300225-ED

Dr. Cory R. Christensen

Upon motion by Mr. Greer, second by Ms. Crevier, the Board voted to APPROVE the Executive Director Termination. MOTION PASSED UNANIMOUSLY

Agenda Item No. 22F Case No. 201300240-ED

Dr. Anthony J.E. Herro

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

Agenda Item No. 22G Case No. 201300232-ED

Dr. Erik D. Kuhlman

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

Agenda Item No. 22H Case No. 201300243-ED

Dr. Frank W. Wolf

The Board discussed ordering non-disciplinary continuing education due to the gross overfill that took place. Dr. Wolf was commended for referring the patient to an oral surgeon immediately and paying for the treatment. The case was reviewed by an outside consultant who commented that even though there was an overfill, there was no deviation from the standard of care as sealant can be unpredictable.

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

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

A. Administrative Appeals

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

Ms. Williams stated there were no new updates to report.

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

Ms. Williams stated there were no new updates to report.

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

Ms. Williams stated there were no new updates to report.

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

Ms. Williams stated there were no new updates to report.

Agenda Item No. 25 – Members of the Public

Agenda Item No. 26 – FUTURE AGENDA ITEMS

Ms. Hardy addressed the over diagnosis in Dr. Harding's case and flagged it for a future agenda item.

Agenda Item No. 27 – Next Meeting Date – April 11, 2014

Agenda Item No. 28 – Adjournment

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

Dr. Hauer adjourned the meeting at 12:32 PM.

Minutes APPROVED at the April 11, 2014 Board Meeting.

Elaine Hugunin, Executive Director