



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING APRIL 5, 2013

Board Members Present:

Gregory A. Waite, DDS, President
Michael R. Hauer, DDS, Vice President
Laurie A. Buckles, RDH
Ms. Carole A. Crevier
Robert H. Foster, DDS
Gary M. Gradke, DDS
Mr. Joshua Greer
Mr. Charles E. Jackson
Marilyn J. McClain, RDH
Darren L. Flowers, DMD

Board Members Absent:

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 James, 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. Waite called the meeting to order at 8:00 a.m.

Dir. Hugunin welcomed the new Board members, Dr. Darren Flowers and Dr. Robert Taylor. Due to his recent appointment, Dr. Taylor did not participate in the meeting.

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

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- B. Review, discussion and possible action to amend or repeal Substantive Policy #5: Guidelines for imposing sanctions of Licensees and Certificate Holders.

The Board discussed amending or repealing Substantive Policy #5. Staff recommended the repeal of Substantive Policy as it reiterates the current statutes and it is not currently being used. Repealing the Policy Statement does not take away the Boards power to order restitution.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to REPEAL Substantive Policy #5. MOTION PASSED UNANIMOUSLY

- C. Review, discussion and possible action on request for voluntary surrender of dental license of Dr. David M. Chei.

In November 2012, Staff received a letter from Dr. Chei indicating he had moved out of state and that he did not plan to return to Arizona to practice. Dr. Chei did not state that he wanted to voluntarily surrender his license. Staff changed Dr. Chei's address and sent him a confirmation letter. After Dr. Chei's letter was received, a complaint against Dr. Chei was received. Dr. Chei claimed that his November 2012 letter was intended as a voluntary surrender of his license. A request for voluntary surrender was subsequently received. Staff requested his original license but Dr. Chei sent a memo stating that he does not have access to it.

Upon MOTION by Dr. Hauer, second by Dr. Foster the Board voted to ACCEPT the voluntary surrender of Dr. Chei's license. MOTION AND SECOND WITHDRAWN

The Board discussed the fact that if they accept the voluntary surrender, they do not have jurisdiction over the pending case.

Upon MOTION by Ms. Crevier, second by Ms. Buckles, the Board voted to DENY the voluntary surrender of Dr. Chei's license. The Board would like staff to inform Dr. Chei that the voluntary surrender of his license was not accepted because the Board does not have the original license and that there is a pending complaint in the state of Arizona. MOTION PASSED UNANIMOUSLY

- D. Presentation of American Association of Dental Board's Assessment Services Program by Dr. Bruce Horn

Dr. Horn presented the Board with verbal and written information regarding the American Association of Dental Board's Assessment Services Program. The Dental Professional Review and Evaluation Program (D-PREP) is a program that provides independent third party evaluation for the purpose of remediation of practitioners. The program includes a cognitive analysis, a MicroCog, or St. Louis University Mental Status exam, which are administered by a psychologist/psychiatrist.

D-PPREP is not a treatment program; it is a remediation program that can be used for practitioners who have multiple issues that may need to be addressed. Some of the reasons a practitioner may be qualified to participate are suspensions, probation, board orders, practice limitations, health issues or even return to practice after an extended period of time.

Participants are required to apply. Not all candidates are accepted into the program. The application is reviewed by experts who then create a detailed summary of what the focus of the program will be for each participant. The participant is then required to attend one of three schools in the United States for 3-4 days at their own expense, which can total between

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\$12,000-\$15,000. Each day the participant completes a battery of tests including but not limited to: the intake interview, simulated patient skills, literature review, comprehensive general dentist exam, and ethical review exam. At the completion of the testing, a report is given to the Board and the practitioner's attorney. The report will include a possible remediation plan to move the practitioner forward.

The program has taken three years to develop and was based on the Physician Assessment and Clinical Education Program (PACE) out of the University of California, San Francisco. The Board inquired about the number of dentist who would qualify for the program in Arizona. Dr. Horn informed the Board that it is a tool to be used at the discretion of the Board. There are currently 5 participants in the program and three have completed the program successfully, with the recommendation that only one participant does not return to practice.

- E. Review, discussion and possible action on Five-year Review Report for Arizona Administrative Code Title 4, Chapter 11, Article 17

Upon MOTION by Ms. Buckles, second by Mr. Greer, the Board voted to APPROVE the Five-Year Review Report for Arizona Administrative Code Title 4, Chapter 11, Article 17. MOTION PASSED UNANIMOUSLY.

- F. Review, discussion, and possible action on the following 2012 Continuing Education Audit – Jonathan A. Amberg, DMD

Dr. Amberg has complied with the Continuing Education Audit. Staff was present to address any questions by the Board.

Upon MOTION by Dr. Hauer, second by Ms. Creiver, the Board voted to APPROVE the CE audit responses. MOTION PASSED UNANIMOUSLY.

- G. Legislative Update – Review and discussion regarding current proposed legislation for the 2013 Session:

- a) HB2398 Dental Board; Omnibus – Amending sections 32-1207 to add the licensee, certificate holder or applicant bears the cost of an evaluation; amending 32-1263.02 to add a statute of limitation on filing a dental complaint.

This bill is not moving forward as a legislator had concerns about the portion of the proposal that would require licensees to bear the cost of an evaluation. This is language that is already in other regulatory board statutes; however, the legislator is concerned about abuse; e.g. the Boards may not like the outcome of an evaluation and require the licensee to obtain another evaluation at their cost.

The other portion of the bill establishing a statute of limitations for when a complaint can be filed was added to the Arizona Dental Association's Bill, HB2513 and is moving forward.

- b) HB 2426 Mobile Dentistry – Amending sections 32-1299.25 relating to informed consent.

This bill is not moving forward as there was significant controversy surrounding the language requiring an additional informed consent. Representative Goodale would like to continue working on this bill over the summer with hopes that it can be resurrected at the next legislative session. Developing a consensus

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agreement/resolution will remain a challenge, given the competing and conflicting interest of the stakeholders.

- c) HB2064 Training; military health professions – Amending sections Title 32, Chapter 11, Article 2 by adding section 32-1241; amending Title 32, Chapter 13, Article 2, by adding section 32-1437; amending Title 32, Chapter 25, Article 2 by adding section 32-2529; relating to health professions

This bill specifies requirements for military personnel to obtain a training permit at no fee. This bill is moving forward.

- d) HB2409 Dental Hygienists; examinations – Amending section 32-1285; relating to dental hygienists

This amends Section 32-1285 applications for licensure by exam. The bill initially removed the Western Region Exam Board or WREB from the statute. We were successful in maintaining WREB as the standard exam. The legislation further amends the statute to accept licensure by credential Board-Approved Exams for licensure by examination. In essence it eliminates licensure by credential for exams completed less than five years ago, which will have a negative financial impact on the Board.

- e) SB1045 Specialty status claim – Amending Title 32, chapter 32, Article 1

The underlying bill is dead. This was used as the strike everything amendment on transgender issues.

- f) HB2513 Dentistry – Amending sections 32-1236 and 32-1263 relating to retired status and the definition of unethical conduct.

This bill was introduced by the Arizona Dental Association and eliminates the age requirement for a retired dentist. It also adds language for discipline related to business entities. As mentioned previously, the bill was amended in the Senate to incorporate a provision from the Board's HB 2398, relating to statute of limitations on Board complaints.

- g) HB2231 – payment; alternative methods; state fees

This bill would have required any state agency to provide for online payment of any fee on or before January 1, 2016 if the legislature appropriates money for that purpose. However, it was used as a strike everything amendment to require a surety to be relieved of liability on an appearance bond under specified conditions.

- 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.

Dir. Hugunin stated that in the Board Member folders there is a list which reflects there have been 25 executive terminations since the last Board meeting. Eleven of the 25 still have time to appeal.

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Agenda Item No. 2 PUBLIC COMMENT ON CASES

Complainant KS was present and spoke about case no. 201200224 (Agenda Item 17A).
Complainant RRV was present and spoke about case no. 201300021 (Agenda Item 17E).
Complainant DKA was present and spoke about case no. 201200191-ED (Agenda Item 24A).
Complainant DV was present and spoke about case no. 201200223-ED (Agenda Item 24B).
Complainant RF was present and spoke about case no. 201200231-ED (Agenda Item 24D).
Complainant SC was present and spoke about case no. 201200231-ED (Agenda Item 24D).
Complainant NL was present and spoke about case no. 201200231-ED (Agenda Item 24D).

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

A. Andrew D. Adams, RDH – 2010 disclosure of retail theft.

Mr. Adams was present to respond to questions by the Board.

Upon MOTION by Dr. Hauer, second by Mr. Greer, the Board voted to GRANT licensure to Mr. Adams. MOTION PASSED UNANIMOUSLY

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

A. Dr. Basilios Constantine Costaras – Application was tabled from February Board meeting; requesting documentation of repayment of student loans.

Dr. Costaras was present to address and respond to questions by the Board. Since the last board meeting, Dr. Costaras attempted to obtain documentation that he had completed repayment of his student loans. He decided to repay a settlement and has completed two of the three payments necessary. He also contacted the Office of Inspector General at Health and Human Services. The Office provided documentation last Friday stating that all of the issues had been resolved and that he was eligible for reinstatement. He was determined to satisfy the Board which is why he decided to repay a settlement.

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

B. Dr. Marc Balson – Board approved exam; discipline on New Jersey license; disclosure of malpractice action

Dr. Balson was present to address the Board. Dr. Balson has been practicing endodontics for 32 years. He was the President of the American Association of Endodontists from 2005-06, he is also heavily involved with continuing education in endodontics. He has been with organized dentistry for the past 20 years.

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

C. Dr. Jungwoo Lee – 2004 IN State exam prior to a regional

Upon MOTION by Dr. Gradke, seconded by Ms. Crevier, the Board voted to GRANT licensure to Dr. Lee. MOTION PASSED UNANIMOUSLY

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- D. Kimberlee Jo Otto, RDH – 1985 WA State exam prior to a regional

Upon MOTION by Dr. Hauer, second by Dr. Foster, the Board voted to GRANT licensure to Ms. Otto. MOTION PASSED UNANIMOUSLY

Agenda Item No. 11 REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL

- A. Andrea Marie Wirth, RDH – 1993 CRDTS

Ms. Wirth was present to address the Board. She graduated from Forsyth School of Dental Hygiene in Boston, MA in December of 2012. She has been working as a Dental Assistant in her father's practice and is anxiously awaiting a license.

Upon MOTION by Ms. Buckles, second by Ms. Creiver, the Board voted to GRANT licensure by credential. MOTION PASSED UNANIMOUSLY.

- B. Dr. Dorrance Dean Clark – 2011/2012 CITA

Dr. Clark was present to address the Board and answer any questions. Dr. Clark was asked if he previously had an Arizona license. Dr. Clark stated that he did and practiced at Gila River for 6 years. Dr. Clark was then asked why he let his license expire. Dr. Clark stated that he was unable to afford it while completing his periodontics residency in Seattle.

Upon MOTION by Dr. Hauer, second by Ms. Creiver, the Board voted to GRANT licensure by credential. MOTION PASSED UNANIMOUSLY

Agenda Item No. 6 PERSONNEL ISSUES

Executive Director Elaine Hugunin introduced and welcomed Susie Adams as the new Legal Assistant.

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

- A. Dr. Frank A. Sharp – 1993 CRDTS

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

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

- A. Administrative Appeals

i. Nishith S. Shah, DMD v. ASBDE (Case 201100032) (Court Case LC2011-000735)

Ms. Williams informed the Board that oral argument will begin on April 8, 2013.

ii. Jack I. Lipton, DMD v. ASBDE (Cases 201000254 & 201100259) (Court Case LC2011 000713)

Ms. Williams informed the Board that this case has been briefed

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iii. Rosalyn D. Keith, DDS v. ASBDE (Case 270098).

Ms. Williams informed the Board that she is awaiting information from the Supreme Court for the petition to review.

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. 15A Case No. 201200177	Dr. Salvatore F. Perna
Agenda Item No. 15B Case No. 201200178-MP	Dr. Stan Lavell Covington
Agenda Item No. 15C Case No. 201200216	Dr. Robert A. Masters
Agenda Item No. 15E Case No. 201200200-MP	Dr. Michael J. Killebrew
Agenda Item No. 15F Case No. 201200219	Dr. Omaira S. Samain
Agenda Item No. 16C Case No. 201200221	Dr. Matthew T. Gunnell
Agenda Item No. 17A Case No. 201200224	Dr. Brad M. Johnson
Agenda Item No. 17B Case No. 201200215	Dr. David M. Hamblin
Agenda Item No. 17D Case No. 201200236	Dr. Sung Lee
Agenda Item No. 18B Case No. 201300006	Dr. Lisa Marie Loving

Cases ADJUDICATED:

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

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

Agenda Item No. 15D Case No. 201300003	Dr. Harry E. Collins, Jr. Disciplinary Continuing Education Consent Agreement
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Agenda Item No. 16 – CASES RECOMMENDED FOR NON-DISCIPLINARY CONTINUING EDUCATION CONSENT AGREEMENTS – CONSENT AGENDA

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

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| Agenda Item No. 16A Case No. 201200170 | Dr. James Sungil Baik
Non-Disciplinary Continuing Education Consent Agreement – 4 hours of risk management |
| Agenda Item No. 16B Case No. 201200204 | Dr. Frank H. Brinkman
Non-Disciplinary Continuing Education Consent Agreement – 4 hours of risk management |
| Agenda Item No. 16D Case No. 201200175 | Dr. Mark S. Sinnard
Non-Disciplinary Continuing Education Consent Agreement – 4 hours of risk management |

Agenda Item No. 17 – CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN – CONSENT AGENDA

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

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| Agenda Item No. 17C Case No. 201200227 | Dr. Craig S. Howden
Issue a Letter of Concern stating: “Dr. Howden should ensure accurate and timely documentation of all treatment and tests performed on patients” |
| Agenda Item No. 17E Case No. 201300021 | Dr. Danny Salem
Issue a Letter of Concern stating: “Dr. Salem should take pre-op periapical x-rays of any tooth possibly needed root canal treatment. Additionally, a rubber dam should be used during endodontic procedures”. |

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

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

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| Agenda Item No. 18A Case No. 201300010 | Dr. Shaun Patrick Gardner
Terminate – per patient letter |
| Agenda Item No. 18C Case No. 201200240 | Dr. Hedayat B. Harsini
Terminate – per patient letter |

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

VACANT

Agenda Item No. 20 – MALPRACTICE AND ADVERSE OCCURANCE REPORTS – CONSENT AGENDA

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

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Agenda Item No. 20A

Dr. Richard J. Calabrese
Malpractice report. Took no action.

Agenda Item No. 20B

Dr. Scott P. Gunnell
Malpractice report. Took no action.

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

Upon a MOTION by Dr. Foster, second by Mr. Jackson, the Board voted to APPROVE the following dentists as anesthesia evaluators or consultants. MOTION PASSED UNANIMOUSLY

Agenda Item No. 21A

Dr. Bobby L. Raber Anesthesia Evaluator

Agenda Item No. 21B

Dr. Fred B. Olsen Dental Consultant

Agenda Item No. 21C

Dr. Jerry P. Sparks Dental Consultant

Agenda Item No. 22 APPROVAL OF MINUTES – CONSENT AGENDA

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

Agenda Item No. 22A February 1, 2013 – Board Meeting Minutes

Agenda Item No. 22B February 5, 2013 – Telephonic Board Meeting Minutes

END OF CONSENT AGENDA

Agenda Item No. 13 – ACTION ON PREVIOUS ACTION

**Agenda Item No. 13A Case No. 201200106
 Mr. Arthur Silva**

Upon MOTION by Mr. Greer, seconded by Ms. Buckles, the Board voted to APPROVE the proposed Board Order from February 1, 2013 Formal Interview. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 13B Case No. 201200097
 Dr. Arthur J. Porter**

The Board discussed amending the proposed Board Order. On page 4, item number 4 the sentence reads “Dr. Porter field” and it should read “Dr. Porter failed...”. Item number 5, amend to “Another treating doctor’s radiograph of the implant indicated that the implant was 95% placed in soft tissue”.

Upon MOTION by Dr. Gradke, second by Dr. Foster, the Board voted to APPROVE the Board Order with the changes to the wording. MOTION PASSED UNANIMOUSLY

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Agenda Item No. 14 – PETITION TO REHEAR

**Agenda Item No. 14A Case No. 201200060
Dr. Amy Jo McKeever**

Mr. Jeffrey Tonner, attorney for Dr. McKeever, was present to address the Board. Mr. Tonner briefly reviewed the details of the case for the new Board Member.

Mr. Greer was the lead Board Member for the Petition to Rehear. The Petition does not directly challenge any of the specific findings of facts made by the Board nor does the petition challenge any of the penalties imposed by the Board. It seems as if the petition is based solely upon that the decision is not justified by the evidence or seems contrary to law.

The petition should be reheard to correct what appears to be a technical or typographical error on the Board Order. The Board denied the vote for the fraud claim; however, it is included in the Board Order.

Upon MOTION by Mr. Greer, seconded by Dr. Hauer, the Board voted to GRANT the petition to immediately rehear for the limited purpose of correcting clerical errors in the Board Order. MOTION PASSED UNANIMOUSLY

Upon MOTION by Mr. Greer, seconded by Dr. Hauer, the Board voted to AMEND the conclusions of law in the board order to remove unprofessional conduct as defined by ARS 32.1201.21 (o), and add to Section ARS 32.1201.21 (p) repeated irregularities in billing as defined by ARS 32.1201.12 (e)(f).

**Agenda Item No. 14B Case No. 201200084
Dr. James Cornelius Spurgeon**

Mr. Jeffrey Tonner, attorney for Dr. Spurgeon, was present to address the Board. Mr. Tonner informed the Board that there were changes to the petition since being filed by Dr. Spurgeon. He is in the process of obtaining his 1302 IV Sedation Permit and as a result, Dr. Spurgeon completed 100 hours of classwork which included oral conscious sedation. The on-site evaluation was completed on February 8, 2013. Dr. Spurgeon's practice was restricted until he successfully completed a section 1303 on-site evaluation.

Dr. Hauer was the lead Board Member for the Petition to Rehear. There was no new evidence presented to change the conclusions of law presented in the Board Order.

Upon MOTION by Dr. Hauer, second by Dr. Gradke, the Board voted to DENY the petition to rehear. MOTION PASSED UNANIMOUSLY

Agenda Item No. 15A Case No. 201200177 Dr. Salvatore F. Perna

This case was pulled by Dr. Gradke. The Board discussed that the continuing education should be hands on at a dental school and adding 3 hours of continuing education in record keeping. If Dr. Perna agrees to the changes, the consent agreement does not have to return to the Board.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to IMPOSE twelve (12) hours of continuing dental education in the area of hands on placement and restoration of posterior implants in a dental school setting and three (3) hours of continuing dental education in the area of record keeping. If Dr. Perna does not agree the changes, then he will be asked to return for a formal interview. MOTION PASSED UNANIMOUSLY

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Agenda Item No. 15B Case No. 201200178-MP Dr. Stan Lavell Covington

This case was pulled by Dr. Gradke. The Board discussed that the continuing education should be hands on and completed within a dental school setting; and add three (3) hours in record keeping. If Dr. Covington agrees to the changes, the consent agreement does not have to return to the Board.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to IMPOSE 18 hours of disciplinary CE in hands on full mouth reconstruction utilizing implant supported prosthesis in a dental school setting and 3 hours of record keeping. If Dr. Covington does not agree, then he will be asked to return for a formal interview. MOTION PASSED UNANIMOUSLY

Agenda Item No. 15C Case No. 201200216 Dr. Robert A. Masters

This case was pulled by Dr. Gradke. The Board discussed adding three (3) hours of record keeping. If Dr. Masters agrees, the consent agreement does not have to return to the Board.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to IMPOSE 12 hours of disciplinary CE in the area of restoration of anterior teeth with veneers and 3 hours of record keeping. If Dr. Masters does not agree, then he will be asked to return for a formal interview. MOTION PASSED UNANIMOUSLY

Agenda Item No. 15E Case No. 201200200-MP Dr. Michael J. Killebrew

This case was pulled by Dr. Gradke. The Board discussed adding three (3) hours of record keeping. If Dr. Killebrew agrees, the consent agreement does not have to return to the Board.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to IMPOSE 6 hours of disciplinary CE in endodontic retreatment in a dental school setting and 3 hours of CE in record keeping. If Dr. Killebrew does not agree, then he will be asked to return for a formal interview. MOTION PASSED UNANIMOUSLY

Agenda Item No. 15F Case No. 201200219 Dr. Omaira S. Samain

This case was pulled by Dr. Gradke. The Board discussed amending the consent agreement to 12 hours disciplinary CE in hands-on at a dental school setting. It appears that Dr. Samain extracted some teeth; however, there were root tips left in the patient's mouth. The case should come back for a formal interview with an additional allegation of inadequate oral surgery.

Upon MOTION by Dr. Foster, second by Dr. Gradke, the Board voted to NOT ACCEPT the consent agreement, add an additional allegation of inadequate oral surgery, and invite Dr. Samain to a formal interview. MOTION PASSED UNANIMOUSLY

Agenda Item No. 16C Case No. 201200221 Dr. Matthew T. Gunnell

This case was pulled by Dr. Gradke. The Board discussed that the 6 hours of crown and bridge should be hands-on and completed in a dental school setting. If Dr. Gunnell agrees, the consent agreement does not have to return to the Board.

Upon MOTION by Dr. Gradke, second by Ms. Crevier, the Board voted to IMPOSE 6 hours of non-disciplinary CE in hands-on crown and bridge to be completed in a dental school setting. If Dr. Gunnell does not agree, then he will be asked to return for a formal interview. Dr. Waite and Dr. Hauer OPPOSED. MOTION PASSED

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Agenda Item No. 17A Case No. 201200224

Dr. Brad M. Johnson

This case was pulled by Dr. Gradke and the public. Dr. Johnson was present to address the Board as necessary. The case was on the agenda for issuance of a letter of concern. The Board discussed dismissing the case.

Upon MOTION by Dr. Gradke, second Mr. Greer, the Board voted to DISMISS as there is an informed consent in the records. MOTION PASSED UNANIMOUSLY

Agenda Item No. 17B Case No. 201200215

Dr. David M. Hamblin

This case was pulled by Dr. Gradke to consider dismissal. The case was on the agenda for issuance of a letter of concern.

Upon MOTION by Dr. Gradke, seconded by Dr. Waite, the Board voted to DISMISS this case. Ms. Crevier OPPOSED. MOTION PASSED

Agenda Item No. 17D Case No. 201200236

Dr. Sung Lee

This case was pulled by Dr. Gradke and a member of the public. The Board discussed amending the letter of concern to add the words, in chronological order, between the words clear and concise.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to ISSUE a Letter of Concern stating "Dr. Lee should ensure that patient records contain all necessary health information and it should be clear, in chronological order, concise, and understandable." MOTION PASSED UNANIMOUSLY

Agenda Item No. 18B Case No. 201300006

Dr. Lisa Marie Loving

The case was on the consent agenda for termination. Because of a Board Member recusal, the case had to be pulled for a separate vote.

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to TERMINATE the case. Dr. Gradke is recused. MOTION PASSED

Agenda Item No. 24 – REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS

Agenda Item No. 24A Case No. 201200191-ED

Dr. Nicholas J. Meyer

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to REJECT the Executive Director Termination and issue a Letter of Concern stating that, "the doctor is responsible for giving the patient their records in a timely manner." MOTION WITHDRAWN, second WITHDRAWN.

Dr. Palmer reviewed the Consultant's Report and Summary and stated that Dr. Meyer provided all of the records that the patient requested and the multiple requests for records were sent in a timely manner. At each subsequent request, Dr. Meyer provided the patient with any records that had been added since the last request.

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

Agenda Item No. 24B Case No. 201200223-ED

Dr. Kevin D. Givens

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

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Agenda Item No. 24C Case No. 201300002-ED

Dr. Keith W. Hodgkin

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

Agenda Item No. 24D Case No. 201200231-ED

Dr. William G. Halliday, III

Upon MOTION by Dr. Hauer, second by Ms. McClain, the Board voted to APPROVE the Executive Director Termination. Mr. Jackson RECUSED. MOTION PASSED UNANIMOUSLY

Agenda Item No. 24E Case No. 201200207-ED

Dr. Ishaq G. Ali

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

Agenda Item No. 24F Case No. 201300017-ED

Dr. Kevin Brian Cebrynski

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

Agenda Item No. 12 – REQUEST FOR ACTION ON APPLICATION(S) FOR RENEWAL OF LICENSE

A. Dr. John A. Piakis

Dr. Piakis requested to change his license status from Retired to Active. He is no longer practicing clinical dentistry. He is a forensic dentist and works at Maricopa County Medical Examiner's Office full time. The purpose of the reinstatement is because he is on the Disaster Mortuary Response Team (DMORT) and in order to be on the team you required to have an active license. He has gone through all of the required steps, including CE, so that he could renew his license and stay on the team.

Upon MOTION by Dr. Hauer, second by Mr. Greer, the Board voted to APPROVE the request to change Dr. Piakis' license status from retired to active. MOTION PASSED UNANIMOUSLY

Agenda Item No. 7 RULES

A. CE Rules Committee – Dr. Robert Foster

- i. Review, discussion and possible action regarding recommendation of the CE Rules Committee for revisions to Arizona Administrative Code Title 4, Chapter 11, Article 1 Definitions and Article 12 Continuing Dental Education and Renewal Requirements

This recommendation is being brought to the Board because the session law enacted in 2011 regarding accepting webinars as live CE. To remove that session law, the Board needs to incorporate it in rule. The Committee recommends adding language to R4-11-1209, under types of courses, which is on page 8 of the draft and reads "Seminars, symposiums, lectures or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry by means of audio/video technology which the licensee is provided all seminar, symposium, lecture or program materials and the technology permits the attendees to fully participate."

The committee also proposes to add more CE sponsors under the definition of recognized continuing education, to change the CPR from basic CPR to healthcare provider level and add ACLS or PALS; change the length of time the licensee/certificate holder must maintain documentation to the most recent renewal period; to clarify how long to keep CE records; to

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clarify when the Board may audit a license in addition to random audits; a separate category was added for CPR to make it specific with a specific number of hours; adds a separate category for three credit hours in ethics, and/or Arizona Dental Jurisprudence for dentist and denturist. To maintain the total number of CE credit hours for dentist, dental hygienist, restricted permit holders; the number of hours was recalculated for each category. The total number of hours did not change; they were just rearranged within the different categories.

The committee updated the language in R4-11-1209.4(A)(F). This included removing "correspondence course videotape, "distance learning course" as these are no longer up to date terms, and added anesthesia sedation permits evaluation.

There was discussion about having a separate category for ethics and jurisprudence.

Kevin Earle, Executive Director of the Arizona Dental Association addressed the Board and stated one of the reasons the committee considered this is because most of the time, after the jurisprudence exam, the licensee may not review the statutes and regulations ever again. The concept behind this is to make sure that on a periodic basis, people look at the statutes and be updated on the changes.

- ii. Review, discussion, and possible action regarding opening a docket and forwarding proposed rules to the Governor's Regulatory Review Council

Upon MOTION by Dr. Foster, second by Ms. McClain, the Board voted to ACCEPT the proposed amendments to the Administrative Title 4, Chapter 11, Article 1 and open a docket and forward proposed rules to the Governor's Regulatory Review Council. Dr. Waite OPPOSED. MOTION PASSED

- B. Review, discussion and possible action regarding staff recommendations for revision to Arizona Administrative Code, Title 4, Chapter 11, Article 1 Definitions to delete "triage"

The revisions to Article 15, there were some definitions included. Triage was on the list but didn't appear on the final draft. Triage only appears in Article 15 so it can be removed.

Upon MOTION by Dr. Hauer, second by Dr. Foster, the Board voted to DELETE the word triage from Arizona Administrative Code Title4, Chapter 11, Article 1. It will be included on the docket. MOTION PASSED UNANIMOUSLY

FORMAL INTERVIEWS

Agenda Item No. 2 – Formal Interview Cases

Agenda Item No. 23A

**Case No. 201200183
Dr. Sung Lee**

Dr. Lee and his attorney, Mr. Jeffrey Tonner, were present. The Court Reporter swore in Dr. Lee. Dr. Waite read the Formal Interview process.

Dir. Hugunin stated the Board received a complaint on September 6, 2012 alleging that Dr. Lee placed an inadequate bridge. Dr. Lee and his attorney have been noticed that this may rise to the level of unprofessional conduct in accordance with ARS 32-1201.21(n) Any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public and (x) failing or refusing to maintain adequate patient records.

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Dr. Lee states he completes approximately 200 bridge units each year. Bridges are seated by whoever is available as licensees are scheduled on a part time basis. Dr. Lee was not the original treating doctor. Alternatives to the procedure were discussed prior to Dr. Lee treating the patient. Dr. Lee usually gets involved when a case becomes difficult. Dr. Lee was questioned by the Board regarding replacing the bridge and the cracked porcelain. Dr. Lee stated that he would have replaced the bridge, just not with porcelain. He provided the patient with what he had originally paid for, which was a bridge. When the original bridge was broken, he redid the bridge on the patient and advised him he needed a night guard. After Dr. Lee completed the procedure and made adjustments one week later, he never saw the patient again. The patient came in 6 months later and was rude and disrespectful to office staff and asked to leave. Dr. Lee has not seen him since.

Dr. Foster is the lead Board Member. He reviewed violations of unprofessional conduct and questioned Dr. Lee regarding violating A.R.S.32.32-1201.21(n)(x). He questioned Dr. Lee regarding his conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public and failing or refusing to maintain adequate patient records.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to FIND a violation of A.R.S. 32-1201.21(n)(x). Dr. Gradke, Dr. Flowers, Ms. Buckles, Mr. Greer, Mr. Jackson, Ms. McClain, Dr. Hauer OPPOSED. MOTION FAILED

Upon MOTION by Ms. Crevier, second by Dr. Flowers, the Board voted to IMPOSE non- disciplinary CE for 3 hours of record keeping, 6 hours of CE Crown and Bridge in a Dental School setting with 6 months to complete. Dr. Gradke, Ms. Buckles, Mr. Greer, Mr. Jackson, Ms. McClain, Dr. Hauer, Dr. Waite OPPOSED. MOTION FAILED

Upon MOTION by Dr. Gradke, second by Ms. McClain, the Board voted to IMPOSE non-disciplinary CE in 4 hours of risk management with 6 months to complete. Dr. Foster and Dr. Flowers OPPOSED. MOTION PASSED.

Agenda Item No. 3 President's Report

VACANT

Agenda Item No. 25 – Members of the Public

Agenda Item No. 26 – FUTURE AGENDA ITEMS

Agenda Item No. 27 – Next Meeting Date – June 7, 2013

Agenda Item No. 28 – Adjournment

Upon MOTION by Dr. Gradke, second by Ms. Crevier, the Board voted to ADJOURN the Board meeting. MOTION PASSED UNANIMOUSLY.

Dr. Waite adjourned the meeting at 11:40 AM.

Minutes APPROVED at the June 7, 2013 Board Meeting.

Elaine Hugunin, Executive Director