



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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**MEETING OF THE ARIZONA
STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
JUNE 3, 2011**

Board Members Present:

Gregory A. Waite, DDS, President
Scott W. Morrison, DDS, Vice President
Laurie A. Buckles, RDH
Michael R. Hauer, DDS
Gary M. Gradke, DDS
D. Benjamin Whiting, DDS
Mr. Charles E. Jackson
Mr. Jason D. Farnsworth
Mr. Joshua Greer

Board Members Absent:

Catherine L. Bevers, RDH
Robert H. Foster, DDS

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. Yvonne Barron, Program/Project Specialist
Ms. Jaclyn Warren, Legal Administrator
Ms. Monica Crowley, Legal Secretary
Ms. Nancy Elia, Licensure 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."

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GENERAL BUSINESS

Agenda Item No. 1 - Call to Order and Introductions

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

Agenda Item No. 2 - President's Report

- A. Review, discussion and possible action regarding appointing Ms. Patricia Price to the Dental Hygiene Committee to fill the vacancy left by Ms. Kaz's resignation.

Upon MOTION by Ms. Buckles, second by Mr. Greer, the Board voted to ACCEPT Ms. Price as the replacement for Ms. Kaz on the Dental Hygiene Committee. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 3 - Executive Director's Report

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

Dir. Hugunin stated there is nothing to report at this time.

- B. Approval for Executive Director to attend the State Bar Convention on June 16, 2011.

Dir. Hugunin requested the Board to consider approving her attendance at the State Bar Convention on June 16, 2011. She will be attending with Mary Williams, Assistant Attorney General. One of the sessions will be beneficial as it focuses on administrative law and new risks, privileges and immunities.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to APPROVE. MOTION PASSED UNANIMOUSLY.

- C. Approval for Executive Director and Board President to attend American Association of Dental Boards annual meeting October 9-10, 2011.

Agenda item was inadvertently skipped – No action taken.

- D. Review, discussion and possible action regarding renewal of the Board's Interagency Service Agreements and contracts with the Office of Administrative Hearings, Attorney General's Office, Department of Administration - Central Services Bureau, MATP Medical Director, Legislative Liaison and Staff Consultant.

Dir. Hugunin stated that on an annual basis staff asks the Board to approve agreements which include an Interagency Service Agreement with the Office of Administrative Hearings, Attorney General's Office, Department of Administration – Central Services Bureau as well as some which include MATP Medical Director, Legislative Liaison and Staff Consultant. There have not been any significant changes with these since last year's approval.

Upon MOTION by Dr. Gradke, second by Dr. Morrison, the Board voted to APPROVE. MOTION PASSED UNANIMOUSLY.

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- E. Review, discussion and possible action regarding previously terminated complaints (201000210, 201000212, 201000249 & 201000250; possible referral to Attorney General's Office for criminal investigation). Recommending no further action should be taken.

Dir. Hugunin explained to the Board that they have a memo and material regarding these cases in their folders. The complainant as documented has submitted another complaint alleging criminal activities which she also forwarded to the Fraud and Public Corruption Unit of the Arizona Attorney General's office. The investigative team has reviewed the material and do not believe any criminal activity occurred and based on this, recommend that the Board take no further action.

Upon MOTION by Dr. Gradke, second by Dr. Morrison, the Board voted to TAKE NO ACTION. Mr. Greer RECUSED. MOTION PASSED UNANIMOUSLY.

- F. Review, discussion and possible action regarding approval for Board ordered continuing education through the C.N.A. Brown and Brown online risk-management course.

Staff requested the Board consider approving an online continuing education course for risk management. The material that was submitted was very extensive and detailed and staff believes this to be valuable and the Board should consider approving this for future use by licensees.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT Brown and Brown online course in risk-management. MOTION PASSED UNANIMOUSLY.

- G. Dr. Mu-Hun Kim (Case #: 280093) - Review, discussion and possible action regarding satisfaction of the restitution order.

Dir. Hugunin stated Dr. Kim's attorney submitted correspondence requesting that the Board accept and acknowledge that the civil litigation settlement with respect to this case satisfies the restitution order.

Ms. McLellan, Dr. Kim's attorney, asked the Board to accept the settlement to satisfy the restitution as this seems to be the policy of the Board. When a case is reversed and comes to the Board for a malpractice payment, the Board has never assessed restitution because the patient has been made whole. If restitution is ordered after a settlement then the patient gets a double recovery. There have been prior cases where the Board has accepted the settlements as covering a previous order for the restitution. This sets a precedent.

Mr. Greer asked if the settlement agreement is as explicit in this case in excluding Dental Board action as the other cases. Ms. McLellan responded that what happened in this case is they reached a settlement agreement then the patient came back once it was time to sign the documents and said it releases any and all claims. She explained that was the standard release agreement used in all settlement cases. That is when the patient stated they still wanted the restitution. When asked by Mr. Greer about the other cases, Ms. McLellan stated there was just a general release on one case and the other cases had a consent agreement that would cover the existing restitution order.

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Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to CONSIDER the payment of restitution satisfied for Dr. Kim to KM. MOTION PASSED UNANIMOUSLY.

- H. Review, discussion and possible action regarding changes to Substantive Policy Statement #15: Injecting Anesthesia, Injecting Other Substances or Prescribing for Non-Dental Treatment.

Dir. Hugunin explained the Board has material from the American Dental Association Compendium which reflects that the majority of States still limit Botox and filler for dental purposes. The additional material includes communication from the Arizona Dental Association and the Board's current substantive policy statement. The Board needs to consider whether or not they wish to amend the current substantive policy statement.

Dr. Gradke stated the substantive policy statement should be amended. Within the license of scope of practice of dentistry, dentists should be able to use these if there is adequate education, training and experience. The problem is defining all of those terms. Dr. Morrison agrees but does not think there should be a committee. Dr. Gradke would like a committee established consisting of general practitioners, oral surgeons and periodontists who use these substances. He stated a committee of 6-8 people should be put together to define education, training and experience. Ms. Buckles mentioned dental hygienists should also be involved as stakeholders in that conversation. Mr. Greer was concerned that the Board would need a statutory change. Dr. Waite asked if the Board decides to change this, do they need a statutory change or just a policy change. Currently, it is considered unprofessional conduct to use Botox as non-therapeutic use. Ms. Williams stated the Board can interpret without a change.

Kevin Earle, Executive Director of Arizona Dental Association, stated these substances are commonly used to treat certain conditions, but he thinks there should be some limitations. Other states have tried to define scope with respect to this. New Jersey developed regulations which Arizona may want to use as a reference to define the training and experience that would be required to inject these substances.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to CONSIDER changing the substantive policy. MOTION PASSED UNANIMOUSLY.

- I. Review, discussion and possible action regarding proctoring of the jurisprudence exam.

Ms. Chambers stated historically the exam was administered to each applicant individually in 1998. The Board had 383 applicants in 1998 but after licensing by credential, the number of license's issued peaked at 681 in 2004. It became overwhelming for staff to make individual appointments. So the state created an agency called Arizona Government University who gave the exam as a second option and the Board changed their exam to once a month. During the 2000's there were several new dental hygiene programs added and a dental school accredited in Mohave County that was too far for staff to travel. In 2009, the state eliminated Arizona Government University. The Board added another exam to be given interoffice twice a month. The dental hygiene programs and schools are required to set a date to give the exam to their students. The Board feels like giving it only interoffice is restrictive to the applicant. Dir. Hugunin queried and got replies from states that were varied. Some states do not even give an exam, other states give their exam like Arizona does and some offer it online or at a testing agency. Pro-Metrix was contacted to arrange for an exam that would be very

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similar to what is offered now. However they required a \$100,000 guarantee. The Board decided not to go with that system and is asking for an online open book exam. The jurisprudence exam is a learning experience which includes information that the applicants need to know. There are different versions of the exam that can be distributed to prevent cheating.

Dr. Morrison agreed that it really does help and is pretty common in schools. They want to make it a learning experience. When asked how much the exam costs, Ms. Chambers responded that dentists currently pay \$300 and hygienists pay \$100. Students can take the exam as many times as they need in order to pass the exam. The questions consist of what the Board wants the students to know. If a student fails, the Board gives them the statute to look-up.

Ms. Hugunin explained that even with computerized testing, some students will find a way to cheat. Mr. Greer was concerned with the cheating aspect. The purpose of this exam is to understand the statutes. Dr. Waite does not have an issue with this if there are a couple versions of the test. Mr. Greer thinks there is very little learning on the way we do it now and does not feel like this is an improvement. He asked if it needs to be done now or can it be tabled. Dr. Waite does not think the Board should table it because it is an improvement and the majority of them do pass. Ms. Buckles does not have a problem with this change as there are a lot of continuing education classes available online. It is respectful of the staff for the people who are out of town and the different ways people learn. Reading and writing help cement the information and gives them a resource to know where to look up the answer in the future. Dr. Waite stated they can still come to the office to take the exam.

Upon MOTION by Dr. Hauer, second by Dr. Waite, the Board voted to ACCEPT the self-administered exam by mail. Dr. Grade, Mr. Farnsworth, Mr. Greer, Dr. Whiting, Mr. Jackson, and Dr. Morrison OPPOSED. MOTION DENIED.

Upon MOTION by Dr. Gradke, second by Dr. Morrison, the Board voted to TABLE. Dr. Waite OPPOSED. MOTION PASSED.

- J. Dr. Alexander Hatch – Review, discussion and possible action regarding acceptance of interim voluntary suspension of license and opening an investigation for alleged substance abuse.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the interim voluntary suspension Dr. Hatch's license and OPEN an investigation for alleged substance abuse. MOTION PASSED UNANIMOUSLY.

- K. Dr. Enrique G. Wismann – Review, discussion and possible action regarding acceptance of interim voluntary suspension of license and opening an investigation for alleged substance abuse.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the interim voluntary suspension of dental license for Dr. Wismann and OPEN an investigation for alleged substance abuse. MOTION PASSED UNANIMOUSLY.

- L. Executive Director Terminations – Review, discussion, and possible action on Executive Director Complaint Terminations.

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Dir. Hugunin stated in accordance with ARS 32-1263, the Board has a list of each complaint terminated under ARS 32-1263.03(A) since the last Board meeting. All of these with the exception of one have the opportunity to appeal the termination. For information only.

Agenda Item No. 6 – Request for Action on Licensure/Certificate by Examination

- A. Laura Lee Hale, DDS - Request for licensure by examination; disciplinary action against dental license in Nebraska in July of 2009.

Upon MOTION by Dr. Gradke, second by Dr. Morrison, the Board voted to GRANT licensure to applicant. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 7 – Request for Action on Dental Assistant Radiology Certification by Credential – Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to GRANT Certification in Radiology to the following applicants. MOTION PASSED UNANIMOUSLY.

- A. Adriana Barnett - Certified in CA
- B. Ana M. Espinoza - Certified in CA
- C. Susan Burdick - Certified in CA
- D. Eugenio N. Lina - Certified in CA
- E. Mirta M. Cardenas - Certified in CA
- F. Monica Escatel -Certified in TX
- G. April J. Osorio-Gerholt - Certified in TX
- H. Elsbeth L. Dodgson - Certified in WY
- I. Cindy A. Meza - Certified in CA
- J. Tammy L. Watson - Certified in CA
- K. Tore S. Van Buren - Certified in CA
- L. Rebecca A. Bebeau - Certified in MN

Agenda Item No. 8 – Request for Action on Licensure by Credential

- A. Dr. Ira Newman - Board approved exam

Upon MOTION by Mr. Greer, second by Dr. Whiting, the Board voted to GRANT licensure to the applicants in agenda items 8A and 8C - 8E. MOTION PASSED UNANIMOUSLY.

- B. Dr. Robert M. Gorzelnik - 1962 NJ State exam prior to a regional

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to GRANT licensure to the applicant. MOTION PASSED UNANIMOUSLY.

- C. Dr. Graydon J. Briggs - 1974 CA State exam prior to a regional
- D. Dr. Robert C. Johnson - 1982 CA State exam prior to a regional
- E. Cari Raney, RDH – 1981 WA State exam prior to a regional

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Request for Action on Licensure by Credential – Clinical Examination taken more than 5 years ago

- F. Dr. Amish Bhupendra Patel - 2001 SRТА; disciplinary action on Georgia license

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

Request for Action on Licensure by Credential – Consent Agenda Clinical Examination taken less than five years ago

- G. VACANT

Agenda Item No. 9 – Request for Action on Licensure by Credential – Consent Agenda – Board-approved Clinical Examination

Nothing was pulled. Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to GRANT licensure by credential to the following applicants. MOTION PASSED UNANIMOUSLY.

- A. Dr. Rajan K. Sheth - 2009/2010 NERB
- B. Dr. Adam L. Stout - 2008/2009 NERB
- C. Dr. Amogh Velangi - 2006/2007 NERB
- D. Dr. Matthew A. Brunson - 2003/2004 NERB
- E. Dr. Daniel K. Boden - 1996 NERB
- F. Dr. Robert J. Balcar - 1989 NERB
- G. Dr. Weston M. Fortson, Jr. - 1987 NERB
- H. Dr. Barry M. Schatzman - 1984 NERB
- I. Dr. Lance M. Coben - 1979 NERB
- J. Dr. Leonard S. Gordon - 1979 NERB
- K. Dr. Charles A. Matlach - 1976 NERB
- L. Dr. Ronald W. Bailey - 1975 NERB
- M. Dr. Adam J. Battaglia - 2009 CRDTS
- N. Dr. Aaron J. White - 2004 CRDTS
- O. Dr. Ronald J. Schmidt - 1984 CRDTS
- P. Dr. Jason P. Barney - 2005 WREB
- Q. Dr. Michael M. Wahbah - 2003 WREB
- R. Dr. Kimberly K. Patterson - 1997 WREB
- S. Dr. Patricia L. Ridgley - 1978 WREB
- T. Dr. Cory G. Wooff - 2010 SRТА
- U. Laura W. Adams, RDH - 2008 NERB
- V. Deborah A. Llewellyn-Ryan, RDH - 1991 NERB
- W. Marcy Beth Newman, RDH - 1985 NERB
- X. Stephanie Tone, RDH - 2005 SRТА
- Y. Julie R. Denney, RDH - 2001 CRDTS
- Z. Ginger L. Gaskill, RDH - 2003 WREB
- AA. Kristi A. Harris, RDH - 2003 WREB
- BB. Debra M. James, RDH - 1997 WREB
- CC. Cheryl Ann Weibel, RDH - 1997 WREB
- DD. Tina M. Reece, RDH - 1998 CA

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Agenda Item No. 10 – Request for Action on Application(s) for Renewal of License

- A. Dr. Ronald J. Peterson – Review, discussion and possible action regarding Dr. Peterson's request to change his license status from Disabled to Active.

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

****Executive Session****

RETURN TO OPEN MEETING

Dr. Gradke asked if he had completed any Continuing Education courses and Dr. Peterson responded he started taking some courses when he applied for licensure but he has done nothing further clinically since he does not plan on opening a practice. Dr. Gradke was concerned about the nine years absence in clinical. Dr. Peterson feels he is qualified.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to CHANGE the license from disabled status to active status. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 11 – Recommendation(s) From Board MATP Medical Director

- A. Review, discussion and possible action regarding changes to the Board's Monitored Aftercare Treatment Program:
- i. Establishment of confidential program;

Dir. Hugunin stated that the establishment of the confidential program for the treatment and rehabilitation of licensees impaired by alcohol and drug abuse will be effective July 20, 2011. The statutes changed to allow the Board to establish this confidential program.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ESTABLISH a confidential treatment program. MOTION PASSED UNANIMOUSLY.

- ii. Discussion of roles of Executive Director, staff, Medical Director and the Board;

Dir. Hugunin stated staff does the initial intake after a complaint comes in. They would involve Dr. Sucher after the intake is completed. This will continue to be the case however; participants in some cases might call Dr. Sucher themselves. At each Board meeting, the Board will receive a brief summary of each case when that person is entered into the program and will contain no identifying information. Dr. Sucher spoke with the Arizona Dental Association to let them know this was coming. Dir. Hugunin stated for the record, this will become effective July 20, 2011. Anyone between now and July 19th will be in the public program on probation. Anyone who relapses will not be able to enter the confidential program and would have to enter the public program.

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- iii. Discussion and approval of confidential, non-disciplinary stipulation agreement.

Dir. Hugunin stated this is to revise the order to support the confidential program. The most significant change is related to DEA privileges not being restricted. This change is similar to the Board's last modification of the agreement in which the requirement to submit triplicate submission forms was eliminated. This was done because the drug monitoring that is done within the program would identify any problems through screening. Restriction of the DEA also negates the confidentiality of the participant and as with other regulatory confidential programs, the DEA is not restricted. This order is just a template and can be modified as appropriate. For example, psychiatrist's reports must be submitted for a dual diagnosis. The two-year program has the same monitoring aspects, however, if someone in the program relapses they will go to treatment for 30 days and move into the five-year confidential program.

Dr. Sucher thanked the Board for establishing this confidential program. He believes that removing the DEA restriction is good for many reasons. One, it would be a restriction in practice which would not allow for this to be confidential. Secondly, they run pharmacy management reports and do random drug testing and if anyone was using the DEA number to obtain controlled substances, they would detect that. Dr. Gradke asked how they would know if somebody was mail ordering prescriptions. Dr. Sucher responded that is something they usually inquire about but it would have to appear at a high level and there is random drug testing. Data that has been reported says that approximately 90% of relapses are found from drug testing. This program does allow them to fully treat people. This is typical of what other Boards do as well. Agreements are made to integrate recovery into daily life. Dr. Sucher thinks the stipulation agreement looks good but he recommends the two references to the term "probation" be removed.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to APPROVE the confidential non-disciplinary stipulation agreement for rehabilitation with the two changes. MOTION PASSED UNANIMOUSLY.

- B. Laurie Clark, RDH – Review, discussion and possible action regarding recommendation from MATP Director to open an investigation for failure to timely disclose arrest and issuing a letter of concern.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to TAKE NO ACTION. Dr. Waite and Mr. Greer OPPOSED. Ms. Buckles RECUSED. MOTION PASSED.

- C. Dr. Timothy J. Bashara – Review, discussion and possible action regarding opening an investigation for alleged substance abuse, reinstatement of license, and entrance into the MATP.

Upon MOTION by Dr. Hauer, second by Mr. Greer, the Board voted to OPEN an investigation, allow him to enter into the MATP, and reinstate his license. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 12 - Current Abuse Track Participants

VACANT

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ACTION ON CASES

From Investigative or Informal Interview

**Agenda Item No. 13A Case No. 290098 & 290138
Dr. William Hoskyns**

Dr. Hoskyns' attorney, Kate Corcoran, and complainant MLK were present.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the proposed Consent Agreement. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 13B Case No. 201000087 & 201000090
Dr. William Hoskyns**

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to TERMINATE these cases. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13C VACANT

Agenda Item No. 13D VACANT

**Agenda Item No. 13E Case No. 201000306
Dr. Nicholas J. Meyer**

Dr. Meyer, his attorney Susan McLellan, and complainant HA were present.

HA stated Dr. Meyer performed dental work which was substandard and caused her additional dental health issues. This conclusion has been supported by a subsequent dentist and the Investigative Interview panel. He was only supposed to remove fillings which led to an extensive treatment plan. The fillings were replaced with significant metal in her mouth she was not aware of. TMJ has caused additional jaw problems because the joint has been pulled out of its socket. He extracted four teeth that had root canals at a cost of \$37,893. She was very resistant at first but was told it would improve her health. This has not turned out to be true. She was upset with the crowns because they were not seated properly and did not go all the way to the gums. The teeth have decayed which has presented health challenges. Her teeth will cost tens of thousands of dollars to repair. She cannot recover the five teeth lost and requested the Board accept the full recommendations of the panel.

Ms. McLellan asked the Board to re-evaluate this case because they feel there have been serious mistakes made and inaccuracies in the findings of fact and the way this panel approached this case. The panel ignored the fact that this patient went without any dental care for two years. They ignored the fact that she was involved in a motor vehicle accident which could affect the TMJ. They ignored the post-treatment photographs and x-rays and only looked at what Dr. McDonald had which was taken almost five years after the treatment. This patient came to Dr. Meyer in 2005 and the treatment was completed in 2006. In 2010, HA showed up in Dr. McDonald's office for treatment. The findings of fact in allegations 3 and 7 the panel says "there is no diagnosis for why crowns were done on these teeth" but in the records it is stated she had two loose crowns. The panel also said there is no need for periodontal therapy, but on page 33, it shows there were numerous areas with pocketing. The panel stated there was no treatment plan and subsequently there was porcelain fused to the bridges. The patient preapproved the treatment plans and even took the bridge to her general practitioner who approved it as well. After amalgams were removed, the crowns were appropriately placed. According to x-rays and

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photographs, the patient's jaw is still in the same position and she still has the same overbite. Ms. McLellan is unsure where the panel came up with the change to the bite because there is nothing in the record that shows it changed. The best evidence is the pre and post treatment photographs that show no open margins. She states the best way to solve this is to send this case back to a new Investigative Interview.

Dr. Morrison does not agree with what Ms. McLellan said about equating allegation number two as a diagnosis. He asked Dr. Meyer what health problems he was trying to treat. Dr. Meyer responded that there was a burden to the immune system with root canaled teeth and the patient decided to have the teeth removed. She has subsequently stated that her health has had a positive benefit. On the audio file of the Investigative Interview, the complainant said she thought about the treatment and agreed to it the next day. The panel specifically asked how HA felt and she responded she felt improved since the treatment. Dr. Meyer stated there is no clear dental diagnosis for this immune system problem. Dr. Waite asked Dr. Meyer what he saw in the x-rays that determined the tooth had to be extracted. Dr. Meyer responded the patient came in on her own free will. Dr. Waite asked how he got to that point after only replacing the fillings. Dr. Meyer stated when he embarks upon an extensive case he does an analysis. He assumes that there is going to be a bite discrepancy. He did open her dimension by 1mm and bases all his restorations on that position. Dr. Waite stated that in the record, Dr. Meyer goes into detail about the extractions and billed his client for surgical extractions. He asked what determines it as surgical. Dr. Meyer responded that he bills all his extractions as surgical. He uses a surgical burr to remove the ligament as done in implant placement.

Dr. Morrison asked HA what improvements Dr. Meyer mentioned to her. She stated it was related to her chemical sensitivity and fatigue. She added that she never said her health had improved from the dental work. She does not know what caused it to improve as she has spent thousands of dollars on medical care. Dr. Waite asked if she agreed to the treatment plan that was extensive and she stated she did. She did not know there would be more metal placed in her mouth. She was aware of the gold that would be included and took it to her physician to approve. She saw the gold peeking through and was assured that the gold would not cause any problems with her health. She just went to have the metal removed from her mouth. She has had more cavities since this work was done than in the last 30 years.

Ms. McLellan stated the largest area of decay is on tooth one that has shifted to position two. That tooth has never been treated by Dr. Meyer. The last time she was in for dental treatment was June of 2008. In June 2010, she did have some decay. Ms. McLellan does not know if there were medication changes which can have an impact. Dr. Gradke asked what science Dr. Meyer bases his treatment on. He responded that because the area was hyper-calcified, the rationale is that the bacteria is removed so that the bone comes back correctly. Dr. Gradke asked if he is aware of any science that backs that up and Dr. Meyer responded no. Dr. Gradke asked if he is aware that normal extracted teeth will heal just fine on their own and Dr. Meyer responded that some do and some don't.

Ms. McLellan stated she had a different amount for restitution. The Board stated it has been corrected and she was provided a copy of the memorandum addressing that. Dr. Waite asked Dr. Meyer what a case management fee was. Dr. Meyer explained it is assessed like an architect's fee because of the long term management and on going care.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the Findings of Fact and Conclusions of Law finding a violation of unprofessional conduct ARS §32-1201-21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 4 violations.

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Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to IMPOSE Restitution in the amount of \$25,250, and Continuing Education: 4 in the area of Risk Management, 6 hours in the area of Crown and Bridge, 6 hours in the area of Oral Diagnosis to be completed in 12 months. Dr. Waite OPPOSED. MOTION PASSED.

**Agenda Item No. 13F Case No. 201100011
Dr. Salvatore F. Perna**

Dr. Perna's attorney, Jeff Tonner, and complainant RE were present.

RE declined to comment as she did receive the check.

Mr. Tonner stated that Dr. Perna was an associate at the time for different offices. He replaced all veneers with porcelain crowns and took the impressions for the liners. Dr. Perna left the businesses and a hygienist gave her the liners. The retainers did not fit properly. Patient saw four different dentists who all gave different treatment plans. There was a full mouth probe performed by Dr. Perna that looked normal. A subsequent periodontist did not find any signs of periodontal disease. All the money has been refunded even though they believe the doctor did not do anything wrong and he is recommending this case be dismissed.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to IMPOSE non-disciplinary Continuing Education in the area of Perio Diagnosis and Management to be completed in 6 months. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 13G Case No. 201100033
Dr. Nishith S. Shah**

Dr. and attorney Chris Smith were present.

Dr. Smith requested that the Board not adopt the panel's recommendation and instead dismiss or at most issue a letter of concern. Dr. Shah has already completed the continuing education. Before this incident, Dr. Shah did buy the new monitors that came with the printer for his office. To avoid any confusion, his office is not charting the exact time when blood pressure is taken as opposed to charting along the graph. There were issues regarding the records that caused erroneous conclusions. Before this procedure, the patient had a normal sinus rhythm. Staff recorded when the medications were administered and the patient was monitored the entire time. When there was a drop in the patient's stats, the staff started checking the patient to see if there were any problems with the monitors. There was a concern with the black box warning on the medications that could cause problems. But the panel concluded that there was not a connection between the drugs and this patient's heart attack.

Mr. Jackson asked if there was an issue with the printer. Dr. Shah stated occasionally there was and so it was sent in for repairs, which is why they ordered new monitors. Mr. Jackson asked if there were back up plans and Dr. Shah responded he does read the monitor and documents it. Mr. Smith reiterated that there was documentation and there was Dr. Shah's sworn testimony from the investigative interview.

Upon MOTION by Dr. Gradke, second by Mr. Farnsworth, the Board voted to REVIEW the Findings of Fact. MOTION PASSED UNANIMOUSLY.

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There was much discussion regarding rewording allegation number two. Mr. Greer clarified the allegation with the wording: The records fail to include EKG strips and there exists discrepancies in the pre and post EKG documentation; there exists discrepancies in the medication times and amounts in the records. The pharmacological protocol for ACLS was not followed. Doctor was not aware of the FDA black box warning for Droperidol.

Upon MOTION by Dr. Gradke, second by Mr. Farnsworth, the Board voted to ACCEPT the Findings of Fact as amended for allegation number two. Mr. Greer OPPOSED. MOTION PASSED.

Upon MOTION by Dr. Gradke, second by Mr. Farnsworth, the Board voted to ACCEPT the Conclusions of Law finding a violation of unprofessional conduct ARS §32-1201-21(n). Dr. Hauer, Mr. Greer and Dr. Morrison OPPOSED. MOTION PASSED.

**The Board requested priors – staff reported 1 violation.

Upon MOTION by Dr. Gradke, second by Mr. Farnsworth, the Board voted to IMPOSE Continuing Education: 16 hours in pharmacological agents used in general anesthesia to be completed in 12 months. Dr. Hauer, Dr. Whiting and Dr. Morrison OPPOSED. MOTION PASSED.

**Agenda Item No. 13H Case No. 201100038
Dr. Mark A. Espinoza**

Dr. Espinoza, his attorney Ms. McLellan, and complainant JS were present.

JS stated that she does not have very much to add except that she is very upset about the situation. She has asked the dentist to reconcile but he did not want to.

Ms. McLellan requested the Board not follow the recommendation of the panel. When this patient presented she had several missing teeth with a partial and wanted a more permanent solution. There was discussion about treatment and a plan was developed and approved. This wasn't a perfect situation but it was an acceptable option. The bridge was placed in 2007. The patient had the bridge for three years and never complained. She came back in June 2010 and felt that the posterior of the bridge was loose. When it was identified, the bridge was removed and evaluated. The bridge was cemented back in for a temporary use while she made a decision on treatment. The bridge is still in and holding so she has had it in for four years. All the margins were sealed after it was placed. The panel seemed to focus on the root tip of #14 which has never caused her any problems. Ms. McLellan stated the restitution was also calculated incorrectly. The age of the bridge goes against issuing restitution. She is asking the Board to reverse the panel's recommendation. She added that Dr. Espinoza is enrolled in continuing education courses and submitted the information.

Dr. Morrison referenced a radiograph that shows the root canals are short. Dr. Espinoza stated at the time he placed the bridge he did not see the short root canals so he did not diagnose or refer the patient to an endodontist. The Board reviewed and discussed the film x-rays from the record.

Upon MOTION by Dr. Hauer, second by Dr. Waite, the Board voted to ACCEPT the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Hauer, second by Mr. Greer, the Board voted to ACCEPT the Conclusions of Law finding a violation of unprofessional conduct ARS §32-1201-21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 1 violation.

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Upon MOTION by Dr. Hauer, second by Dr. Gradke, the Board voted to IMPOSE Continuing Education: 4 hours in the area of Risk Management and 6 hours in the area of Crown and Bridge to be completed in 6 months and restitution in the amount of \$3,655. MOTION PASSED UNANIMOUSLY.

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

Cases ADJUDICATED:

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

Agenda Item No. 15A	Case No. 201000303	Dr. Nicholas J. Meyer Dismiss
Agenda Item No. 15B	Case No. 201000329	Dr. Adriatik Rama Dismiss
Agenda Item No. 15C	Case No. 201100006	Dr. Christopher C. Oates Dismiss
Agenda Item No. 15E	Case No. 201100025	Dr. Jeffrey Fellner Dismiss
Agenda Item No. 15F	Case No. 201100026	Dr. Lonnie C. Eckman Dismiss
Agenda Item No. 15G	Case No. 201100029	Dr. Peter A. Bassett Dismiss

Upon MOTION by Mr. Greer, second by Mr. Farnsworth, the Board voted to ISSUE Letters of Concern for the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 16A	Case No. 201100002	Dr. Eric Black Issuance of Letter of Concern stating entries for prescriptions should be made on corresponding charts.
Agenda Item No. 16C	Case No. 201100031	Dr. Steven H. Poulos Issuance of Letter of Concern stating Dr. Poulos should closely monitor the amount of controlled substances he prescribes and take care not to exceed therapeutic amounts.
Agenda Item No. 16E	Case No. 201100076	Sarah Morones, RDH

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Issuance of Letter of Concern stating Ms. Morones must be knowledgeable about the requirements of her MATP stipulation agreement.

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

Agenda Item No. 18A	Case No. 201100039	Dr. Aaron D. Haskett Terminate – Per patient letter
Agenda Item No. 18B	Case No. 201100045	Dr. Gregory A. Wadleigh Terminate – Per patient letter
Agenda Item No. 18C	Case No. 201100050	Dr. Neil S. Reiser Terminate – Per patient letter
Agenda Item No. 18E	Case No. 201100058	Dr. Paul S. Gebhart Terminate – Per patient letter

Upon MOTION by Mr. Greer, second by Mr. Farnsworth, the Board voted to TAKE the action indicated for the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 20B	Dr. Scott Darlington Open an investigation for alleged abuse of prescribing privileges.
Agenda Item No. 20C	Dr. Smita Palejwala Open an investigation for alleged inadequate treatment.
Agenda Item No. 20D	Dr. Karen Berrigan Malpractice Report: Take no action
Agenda Item No. 20E	Dr. Wayne G. Thorpe Malpractice Report: Take no action

**Agenda Item No. 21 Approval of Restricted Permit (Application/Renewal) –
Consent Agenda**

Nothing was pulled. Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to APPROVE the following Restricted Permits. MOTION PASSED UNANIMOUSLY.

- A. Dr. Victor A. Palmieri
- B. Dr. Howard Allen Gerstein
- C. Dr. Bruce L. Wolff
- D. Dr. Maynard Charles Anderson
- E. Dr. Donald J. Meis
- F. Dr. Stephen F. Kozak

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Agenda Item No. 22 – Ratification of New Dental and Dental Hygiene Licenses – Consent Agenda

Nothing was pulled. Upon MOTION by Mr. Greer, second by Ms. Buckles, the Board voted to RATIFY the following licenses. MOTION PASSED UNANIMOUSLY.

Dental:

Kwynn N. Koop, DDS
D008166 Issued: 03/21/2011

Lindsay M. Goss, DMD
D008167 Issued: 03/25/2011

Brian S Kleinman, DDS
D008168 Issued: 04/08/2011

Sumir P. Mathur, DMD
D008169 Issued: 04/01/2011

Nicholas A. Maffeo, DMD
D008177 Issued: 04/08/2011

Sara L. Garcia, DDS
D008178 Issued: 04/08/2011

Whitney B. Wright, DDS
D008179 Issued: 04/14/2011

Abraham M. Miller, DDS
D008180 Issued: 04/19/2011

Julie L. Angellotti, DDS
D008181 Issued: 04/29/2011

James F. Heidenreich, DMD
D008182 Issued: 04/29/2011

Matthew B. Richman, DDS
D008183 Issued: 04/29/2011

Jaclyn Duboue, DDS
D008184 Issued: 05/03/2011

Cameron S. Hamidi, DDS
D008185 Issued: 05/06/2011

Nicolas J. Porter, DDS
D008186 Issued: 05/09/2011

Loan T. Huynh, DDS
D008187 Issued: 05/10/2011

Ryan D. Harbertson, DDS
D008188 Issued: 05/18/2011

Naomi-Trang Nguyen, DDS
D008189 Issued: 05/18/2011

Spencer D. Peoples, DMD
D008190 Issued: 05/18/2011

Jeffrey L. Roberts, DMD
D008191 Issued: 05/18/2011

Dental Hygiene:

Michelle L. Hodge, RDH
H007065 Issued: 03/25/2011

Ashley S. Tuttle, RDH
H007066 Issued: 03/25/2011

Amy S. Crandall, RDH
H007067 Issued: 03/31/2011

Andrea D. Irons, RDH
H007075 Issued: 04/08/2011

Zachary S. Magill, RDH
H007076 Issued: 04/28/2011

Jennifer E. Reese, RDH
H007077 Issued: 05/18/2011

Pamela M. Lunt, RDH
H007078 Issued: 05/20/2011

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Agenda Item No. 23 – Ratification of Anesthesia and Sedation Permits – Consent Agenda

Nothing was pulled. Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to RATIFY the following anesthesia and sedation permits. MOTION PASSED UNANIMOUSLY.

Ratification of Anesthesia and Sedation Permits

Issue Date	Name	Type	New/Renew
3.25.11	Timothy M. Gomez, DDS	1301	Renew
3.25.11	Owen W. Kaiser, DDS	1301	Renew
3.25.11	Michael H. Grousd, DDS	1301	New
4.27.11	Caroline M. Kacer, DMD	1301	New
3.30.11	John A. Patterson, DMD	1302	Renew
4.11.11	Joseph A. Santoro, DDS	1302	New
4.19.11	Edward D. Gall, III, DDS	1302	New
4.27.11	Kyrke B. Baillie, DDS	1302	New
4.28.11	Dirk M. Donovan, DMD	1302	New
3.31.11	Jodi J. Heacock, DDS	1303	Renew
4.28.11	Uyen Nguyen, DMD	1303	Renew
4.22.11	Barry Patrick Sullivan, DDS	1303	New
5.5.11	James R. Chaffin, DDS	1303	New
5.9.11	Scott T. LeSueur, DDS	1303	New
5.11.11	Brian J. Goodman, DDS	1303	New
5.19.11	Rosa Maria Krasavage, DDS	1303	New
3.31.11	Lisa E. Chinn, DMD	1301 Employs	Renew
3.31.11	Jodi J. Heacock, DDS	1301 Employs	Renew

Agenda Item No. 24 – Approval of Consultants and Examiners – Consent Agenda

- A. Dr. Kyrke Brandon Baillie - Anesthesia Permit Evaluator

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to TABLE to receive more information concerning education, experience and training. MOTION PASSED UNANIMOUSLY.

- B. Dr. Mark Allen Crane - Anesthesia Permit Evaluator

Upon MOTION by Mr. Greer, second by Mr. Farnsworth, the Board voted to APPROVE Dr. Crane as an Anesthesia Permit Evaluator. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 25 – Approval of Minutes – Consent Agenda

Upon MOTION by Mr. Greer, second by Ms. Buckles, the Board voted to APPROVE the following minutes. MOTION PASSED UNANIMOUSLY.

- A. April 1, 2011 Board Meeting Minutes

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**Agenda Item No. 14A Case No. 201000267
Dr. Jason Paul Acuff**

Dr. Acuff's attorney Jeff Tonner was present.

Mr. Tonner stated that Dr. Acuff had a DUI conviction in 2000 and another one in 2010 and reported it to the Board. He went to see Dr. Sucher who determined Dr. Acuff should be placed in the 2-year program. The statutes state that alcohol must affect the dentist's ability to practice. The best evidence shows that Dr. Sucher said under oath that it does not affect his license so the case should be dismissed on that alone. According to the DSM-4 which has the criteria that define an abuser, there is nothing in Dr. Acuff's record that supports he is. It says that if someone has one DUI, they must have had 200 before getting caught. Mr. Tonner stated this is arbitrary and capricious thinking because in some of the time one means one and other times one means 200. Dr. Sucher is both the evaluator and the treater but you can't do both. Therefore, he is requesting this case be dismissed.

Mr. Greer reviewed the petition to rehear and stated that Mr. Tonner did a fair evaluation. It was Dr. Sucher's belief that it could affect his practice. Dr. Potts, a subsequent addictiologist, stated it would not.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to GRANT the petition to rehear this case. Dr. Hauer OPPOSED. MOTION PASSED.

Dr. Waite stated there is no evidence that it affects his practice. Mr. Greer stated that it is the same decision making pattern that is a concern but the Board has inconclusive evidence. Discussion ensued as to whether an Investigative Interview would provide any additional information.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to DISMISS this case. Dr. Gradke, Dr. Hauer, Mr. Farnsworth, Ms. Buckles, Mr. Greer, and Mr. Jackson OPPOSED. MOTION FAILED.

Upon MOTION by Mr. Greer, second by Ms. Buckles the Board voted to REMAND this case to an Investigative Interview, to request additional information on whether or not the petitioner's abuse affects his ability to practice his profession. Dr. Hauer, Dr. Whiting, Mr. Jackson, Dr. Morrison and Dr. Waite OPPOSED. MOTION FAILED.

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

****Executive Session****

RETURN TO OPEN MEETING

Upon MOTION by Mr. Greer, second by Ms. Buckles, the Board voted to REMAND this case to an Investigative Interview. Dr. Gradke, Dr. Hauer, Dr. Whiting, Mr. Jackson, Dr. Morrison and Dr. Waite OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Waite, second by Dr. Morrison, the Board voted to DISMISS this case. Dr. Hauer, Mr. Farnsworth, Ms. Buckles, Mr. Greer and Mr. Jackson OPPOSED. MOTION FAILED.

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

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****Executive Session****

RETURN TO OPEN MEETING

Upon MOTION by Dr. Whiting, second by Dr. Gradke, the Board voted to ISSUE a Letter of Concern stating doctor should ensure his consumption of alcohol does not affect his practice in the future. Mr. Greer OPPOSED. MOTION PASSED.

**Agenda Item No. 15D Case No. 201100019
Dr. Richard M. Freimuth**

Complainant CP was present. Dr. Freimuth signed in but was not present to address the Board.

CP stated that she thinks about her Dad everyday as they were very close. She remembers the day he came home and explained that he decided to have 22 teeth pulled to get dentures. He was almost sounded excited about it. She told him that she thought having 22 teeth pulled at one time was excessive. But she felt like a doctor that specialized in this area knew what he was talking about. Her father did not have many medical issues in his life and had never been put under anesthesia. She doesn't think the doctor used reasonable care in this case. After listening to the recording of the investigative interview, she was shocked at the things she heard especially pertaining to the length of the surgery. She had her father in the chair at 7:05 am and it was almost 11:30 am before she was taken to recovery. The records stated the surgery itself only took an hour and half. CP stated her dad should not have died that day. The morning before the surgery he was on the tractor. He was a relatively healthy and happy man and was dead six days later. There was a coroner's report relating to his heart attack that was not in the packet which the Board reviewed at the meeting.

Dr. Morrison asked if the patient could have been in recovery for two hours and Dr. Gradke agreed that was not abnormal or uncommon.

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

**Agenda Item No. 16B Case No. 201100003
Dr. George R. Ayoub**

Dr. Ayoub's attorney Ms. McLellan and complainant OO were present.

OO stated the reason she is here is because the dentist stated her daughter had not been to the dentist in two years, which she had. She did not have dental insurance so they were paid in cash. Her daughter had six cavities which jumped to sixteen cavities in six months. She went back to Dr. Ayoub in August of 2009 and was told what fillings needed to be done. Her daughter had bruises in her mouth and was told it was because she couldn't sit still. She would rather pay cash than go through him. Subsequent dentist, Dr. Daniels told her two teeth the doctor had worked on decayed. Dr. Ayoub guaranteed his work for five years but did not cover it.

Ms. McLellan stated that they are not opposing the letter of concern.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to ISSUE a Letter of Concern stating full mouth x-rays are indicated for a patient with rampant caries. MOTION PASSED UNANIMOUSLY.

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**Agenda Item No. 17B Case No. 201100035
Dr. Mickel A. Malek**

Dr. Malek was present.

Dr. Malek stated that the last conversation he had with a representative of the Board was pertaining to a non-disciplinary continuing education agreement that would resolve this matter. He would like the Board to reconsider the recommendation and dismiss this case. When he saw the patient, his priority was to address rampant decay and severe periodontal disease. When he discussed the treatment options with the patient he had an attitude that was combative and he blamed everything on past dentists. Dr. Malek did not want to work with this patient but he could not say "No" to his wife who liked to help everyone. His case required advanced treatment. He did not see any need for a bitewing so instead a PA was done of the area. The issue with the implant was that the patient was diabetic. There was no issue except with a loose cover screw which was tightened. He has taken numerous continuing education credits above what is required in Arizona and participates in extensive research. The infection needed to be addressed and had nothing to do with the depth of the pockets as insurance companies state. Dr. Malek stated his records are up to par and the office is now paperless.

Dr. Morrison asked if the presence or absence of pocket depths does not constitute part of the periodontal diagnosis. Dr. Malek said that it is part of the diagnosis. Mr. Farnsworth stated that on April 22, 2011 Dr. Malek agreed to the continuing education recommended. Dr. Malek does not feel he needs it because he wouldn't be honoring what he has done for the patient.

Upon MOTION by Dr. Waite, second by Mr. Greer, the Board voted to DISMISS this case. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 18D Case No. 201100055
Dr. Joseph L. Harris**

Dr. Harris' attorney Fred Cummings was present to address the Board.

Upon MOTION by Dr. Waite, second by Dr. Hauer, the Board voted to TERMINATE this case. Mr. Greer RECUSED. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16D Case No. 201100053
Dr. Krystal J. Miles**

No one was present to address the Board.

Upon MOTION by Dr. Morrison, second by Dr. Whiting, the Board voted to DISMISS this case. Dr. Gradke was ABSENT. Dr. Hauer OPPOSED. MOTION PASSED.

**Agenda Item No. 17A Case No. 201000330
Dr. Ryan J. Porter**

Complainant BU was present to address the Board.

BU stated that he was concerned that a rubber dam was not used in the treatment of the patient. He attempted to retreat the patient but was only able to retreat the distal canal but was unable to retreat the mesial canal. He was not able to do a follow-up restoration because he lost contact with the patient.

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Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ACCEPT the Findings of Fact and MODIFY the Conclusions of Law to find a violation of unprofessional conduct under ARS §32-1201-21(n). Dr. Morrison and Dr. Whiting OPPOSED. MOTION PASSED.

**The Board requested priors – staff reported 2 violations.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to IMPOSE Disciplinary Continuing Education - 4 hours in the area of Risk Management, 6 hours in the area of Crown and Bridge hands-on, and 6 hours in the area of Endodontics hands-on, with one year to complete. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 19A Case No. 201100068
Dr. Joseph S. Dovgan**

No one was present to address the Board.

Dr. Gradke pulled this case to strongly disagree with the clinical evaluator's reports and stated that excessive drugs were given. There were also inadequate sedation records and he most likely exceeded his 1302 permit limits. He recommended non-disciplinary continuing education to include twelve hours in pharmacology of drugs used in IV sedation, six hours to be hands-on, with three months time to complete. This course should not be given by a drug company. He also would like the Board to consider suspending his permit until the continuing education is completed.

Dr. Waite also reviewed this case and had questions for the doctor. He found that the patient had a bad gag reflex and the patient kept grabbing at the rubber dam. He had him under moderate sedation but when he would grab at it, he felt like the sedation was wearing off so he gave him more. The medications that were given were preoperative doses of Triazolam, Medazolam and Valium. The maximum dose for those prescriptions are 20mg if given individually and if given concurrently, the dose should be no more than 10mg. He was actually given 27mg and 75mg. The weight of the patient is unavailable.

Upon MOTION by Dr. Waite, second by Dr. Gradke, the Board voted to REMAND this case to an Investigative Interview. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 20A Dr. Karen Chu

Upon MOTION by Dr. Hauer, second by Dr. Gradke, the Board voted to OPEN an investigation for alleged mistreatment of a child. Dr. Waite RECUSED. MOTION PASSED UNANIMOUSLY.

ACTION ON CASES

**Agenda Item No. 26A Case No. 100060, 201000089, 201000144, 201000151,
201000198, 201000199 & 201000286 - Dr. Michael Wassef**

Dr. Wassef's attorney Terry Woods and complainants CA (201000198) and TS (201000144) were present.

CA stated in 2007 she went to see Dr. Wassef who said he would do the invisalign procedure. She paid him \$4,000 for the treatment. He took her bridge with three teeth and placed a flipper and two temporaries but he never did the invisalign. He moved to a different office and eventually moved back. He took out the flipper and put in three temps. He fixed the temps but made it worse. She gave him another \$1,000 but he never did the invisalign.

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Mr. Woods stated what the complainant said is true and the Consent Agreement acknowledges these problems. Dr. Wassef has signed off on the Consent Agreement and hopes to remedy these problems.

TS stated he saw Dr. Wassef in 2009 as a referral for a full extraction and implants. \$7,000 was the total bill and he gave \$2,000 up front and got his temporary top dentures in. Dr. Wassef did half an implant and was then evicted out of the office. March of 2010 was the last time he heard from Dr. Wassef. TS is requesting help with completing the procedure from him or restitution.

Mr. Woods stated that on page 10 of the Consent Agreement the order will require the doctor to complete the treatment or issue restitution by October 1, 2011. He has sympathy for the patients and stated Dr. Wassef has had financial problems and hopes that this last chance will rectify the situation. There is a date that needs to be changed in the Consent Agreement on page 10 from April 2011. Mr. Greer asked how much time is needed for Dr. Wassef to provide the requested information and Mr. Woods responded 45 days is satisfactory. Mr. Greer offered to change the date to August 31, 2011.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the Consent Agreement between the Board and Dr. Wassef for cases listed on the agenda item 26A. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 26B Case No. 201000311
 Anissa Angulo, RDH**

No one was present to address the Board.

Dr. Morrison asked if the license is active and Ms. Chambers responded she has an active license but the Board does not know if she is practicing.

Upon MOTION by Mr. Greer, second by Ms. Buckles, the Board voted to FORWARD this case to a Formal Hearing. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 26C Case No. 201100023
 Dr. Andrew T. Kunstman**

Dr. Kunstman's attorney Ed Gaines was present.

Mr. Gaines stated that Dr. Kuntsman had some significant charting and record issues. He did perio probings but did not document that or the fact that he did cancer screenings. He had PA's and BW's but not a full mouth series. He did not document decay or irreversible pulpitis as the reason for the root canal. He could only access one of two canals but it was not documented nor did he take measuring length films. He is recommending non-disciplinary continuing education.

Dr. Morrison asked if Mr. Gaines agreed that there was no diagnosis, film lengths, rubber dam, filling material or referral and Mr. Gaines stated that all those were true and agrees that there is no excuse for not including measuring length films in the record but he looks at it as a risk management. Dr. Morrison agrees but feels that continuing education in the area of endodontics would help him realize that it is important that all facts are recorded.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to ACCEPT the Findings of Fact and Conclusions of Law finding a violation of unprofessional conduct under ARS §32-1201-21(n). MOTION PASSED UNANIMOUSLY.

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**The Board requested priors – staff reported none.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to IMPOSE Continuing Education – 4 hours in the area of Risk Management and 6 hours in the area of Endodontics with 6 months to complete. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 26D Case No. 201100034
Dr. Dennis R. Sykora**

No one was present to address the Board.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to ACCEPT the Consent Agreement. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 26E Case No. 201100005
Dr. Jerome C. Cutler**

Dr. Cutler was present to address the Board.

Dr. Cutler stated he has read some journals that have recommended not using a rubber dam. He has had trouble with patients who have had their mouths held open too long and experienced pain. If he is not able to have adequate isolation of the area, he either places the rubber dam or refers the patient to a specialist. Knowing that the Board's position is that a rubber dam should be used unequivocally every time, he is willing to use a rubber dam.

Dr. Morrison asked if he has ever considered a mouth prop and Dr. Cutler responded he does use them.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to ACCEPT the Findings of Fact and Conclusions of Law finding a violation of unprofessional conduct under ARS §32-1201-21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to IMPOSE Restitution of \$70 to the patient and \$488 to the insurance company and Continuing Education – 4 hours in the area of Risk Management and 6 hours in the area of Endodontics with 6 months to complete. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 27A Case No. 201100069
Dr. Jerome C. Cutler**

Dr. Cutler was present to address the Board.

At the last Board meeting, the Board voted to open an investigation against Dr. Cutler for failure to comply with a subpoena. Staff recommends vacating the previous vote to open an investigation and adjudicate this case. Dr. Cutler has also paid the required \$500 civil penalty.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to ADMINISTRATIVELY ADJUST the case. MOTION PASSED UNANIMOUSLY.

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**Agenda Item No. 27B Case No. 100030
Dr. Doug Chang**

Dr. Chang and his attorney Mr. Gaines were present.

Dir. Hugunin stated that per the Board's request, staff placed Dr. Chang's monitoring reports on the agenda for review; however, as indicated by his attorney, due to an error, Dr. Chang has not received the reports in a timely manner and therefore was not able to incorporate recommendations into his practice. Dr. Chang will be receiving another evaluation in the next few weeks and the Board may wish to consider taking no action until the next evaluation is completed.

Mr. Gaines stated that Dr. Chang's intent is to comply with the recommendation.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to TAKE NO ACTION. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 27C Case No. 201000318
Dr. Sam Hashemian**

No one was present to address the Board.

Dir Hugunin told the Board that they have additional material in their folders regarding this case. Dr. Hashemian failed to comply with his board order to complete his continuing education in a timely manner. He had agreed to a \$500 civil penalty; however, this must be an administrative penalty. Given this error, the Board may consider tabling it to make findings of fact and conclusions of law or issue a letter of concern at this time for failure to timely complete the continuing education.

Upon MOTION by Dr. Morrison, second by Dr. Hauer, the Board voted to ISSUE a Letter of Concern stating doctor must timely complete Board ordered continuing education. Mr. Greer OPPOSED. MOTION PASSED.

**Agenda Item No. 27D Case No. 201100077
Dr. Sibera T. Brannon**

No one was present to address the Board.

Dir Hugunin told the Board that they have additional material in their folders regarding this case. Dr. Brannon failed to comply with his board order to complete his continuing education in a timely manner. He had agreed to a \$500 civil penalty; however, this must be an administrative penalty. Given this error, the Board may consider tabling it to make findings of fact and conclusions of law or issue a letter of concern.

Upon MOTION by Dr. Gradke, second by Mr. Farnsworth, the Board voted to ISSUE a Letter of Concern stating doctor must timely complete Board ordered continuing education. Mr. Greer OPPOSED. MOTION PASSED.

**Agenda Item No. 27E Case No. 201000254
Dr. Jack I. Lipton**

Dr. Lipton's attorney, Jeff Tonner and complainant RH were present.

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RH stated that at the January Investigative Interview it was stated that there were margins in teeth #7, 15 and 21 and the endodontic work was inadequate. An implant was done on #11. She has spent \$5,000 on two teeth to redo the work that was done by Dr. Lipton. At that time he stated he is issuing repayment for #3 and #7 which was never done. She still has a lot of other dental work that needs to be done but is in financial straights because of all the current dental bills.

Mr. Tonner stated that on the day of the investigative interview, the panel had a bad day. In over seven months, Dr. Lipton did ten crowns, a three unit bridge, two root canals, three veneers, a filling and an apico. The patient then saw a general dentist and two endodontists. The panel found inadequate treatment planning because Dr. Lipton did not put a post in #11. Dr. Lipton felt it was likely to fracture with or without a post. Generally when a crown is placed all you can do is check the margins yourself and take x-rays which did not show any open margins. Tooth #3 had no issues expect for an overhang which was replaced by a subsequent dentist. The panel found another small overhang on tooth #4. On tooth #7 the x-rays looked fine but an open margin was found so a refund was agreed on. Tooth #21 had an open margin and a refund will be given. The panel found inadequate treatment planning, crown and bridge and endodontics. He has waived his right on priors because there was a prior involving not properly maintaining controlled substances. This was a non-issue and the panel issued censure, \$1,000 administrative penalty, restitution, restriction of practice, and continuing education – 12 hours in treatment planning, 12 hours crown and bridge hands-on and six hours of endodontics. Requesting this case be dismissed with the appropriate reductions.

Upon MOTION by Dr. Hauer, second by Mr. Greer, the Board voted to CONSIDER the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Hauer, second by Dr. Gradke, the Board voted to ACCEPT the allegations as AMENDED - UPHOLD allegations 1, 2, 3, 5, 6 & 8 and DISMISS allegations 4 & 7. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Hauer, second by Dr. Whiting, the Board voted to ACCEPT the Conclusions of Law finding a violation of unprofessional conduct under ARS §32-1201-21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 2 violations.

The Board discussed the amount of restitution as related to the teeth in question.

Upon MOTION by Dr. Hauer, second by Dr. Gradke, the Board voted to IMPOSE Restitution in the amount of \$5,002 and Continuing Education – 12 hours in the area of Crown and Bridge to be completed in 6 months. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 27F Case No. 201000259
Dr. Jack I. Lipton**

Dr. Lipton's attorney Mr. Tonner and complainant EC were present.

EC stated that what brought him to DDL dentist was the left side of tooth #10 was broken off. Dr. Lipton said he could fix it. A crown was placed but it is now moving and this should not be happening. Five crowns were put on in one year. Two of the five crowns failed in one year. He prepaid and was presented a statement in excess of what was given. He could not pay that so it was forwarded to a collection agency. Dr. Lipton's behavior was irresponsible and not acceptable.

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Mr. Tonner stated Dr. Lipton did two root canals and five crowns. The patient was then sent to a clinical evaluator who saw margins on tooth #14. The crown on the upper left on #14 has fallen out. When the clinical evaluator saw it the crown must have been put back on by somebody else. EC discussed the billing issues but did not mention the police were called due to his behavior.

EC explained he never said the crown fell off but simply stated a part of it chipped off.

Dr. Waite asked about the independent dentist and what tooth he looked at. EC stated the clinical evaluator never examined those teeth. Mr. Tonner referenced finding of fact #5 on the Investigative Interview report where EC confirms all teeth were evaluated. Dr. Palmer confirmed that tooth #14 was the only tooth evaluated according to the clinical evaluation report.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to ACCEPT the Findings of Fact and Conclusions of Law finding a violation of unprofessional conduct under ARS §32-1201-21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 2 violations.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to IMPOSE Restitution in the amount of \$1,080 and Continuing Education - 4 hours in the area of Risk Management to be completed in 6 months. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 28A Case No. 201000305-ED
Dr. Trent Smallwood**

Dr. Smallwood and complainant KD were present.

KD stated that she called the Board to make sure the material was reviewed. There was a problem with invisalign records and she requested copies of those records. A subsequent dentist stated there would be \$6,000 in damages from Dr. Smallwood's work. She wanted the uppers to be straighter so invisalign was recommended by Dr. Smallwood. Impressions were done immediately and she was charged \$22,000 without signing anything or given a treatment plan. She was stuck with the invisalign. She did not want the rest of the work done. There were supposed to be four knobs for upper teeth but there was only one. She has a serious problem on the bottom due to the filing down of her incisors. She abandoned treatment because he wasn't answering her questions. She was in a bad faith situation and was forced into veneers.

Dr. Smallwood stated the difficulty was he had diagnosed a phase 1 of invisalign and phase 2 of replacement of 10-year old veneers. That was agreed to, signed off on, and paid for by the patient all up front. The day the invisalign came in, she decided she didn't want to do veneers. So Dr. Smallwood talked to her extensively about the fact that it would limit the scope of treatment because they would be basically taking half the treatment away. She refused to wear the trays due to stress in her life. He just had a patient that was noncompliant and who changed the treatment midway through. He refunded the money and signed over the records to Dr. Velasco.

Dr. Waite asked what was refunded. Dr. Smallwood responded she was refunded phase 2 or the veneer portion. He stated he saw KD over several years but they could never get anywhere because she wasn't wearing the trays.

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

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**Agenda Item No. 28B Case No. 201100014-ED
Dr. Eugene I. Kim**

Complainant ME was present.

ME stated she is here today because Dr. Kim broke a file off in her tooth while performing a root canal. It appeared to her that this happened because he was in a hurry. When he finally told her an hour later, she said she wanted it removed. He replied that if he wouldn't have told she would never have known, that this sort of thing happens very often, and that she would have no symptoms. She still wanted it removed but he added sarcastically that she was just going to get a little extra iron in her diet from the file. She said this was toxic and her health deteriorated more and more until she was unable to function as a normal person. It wasn't until a subsequent dentist removed the tooth and file did she experience improvement in her health. If the file had been removed immediately, those problems would not have occurred. Patient abandonment and refusal of service is malpractice and she considers these actions to be criminal.

Dr. Morrison stated that files do tend to separate and statistically 85% of them do heal. He explained that there would not be any rust in the file because the files are made of materials that do not rust. When it happens, it gets encased in the tooth so you won't even know its there.

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

**Agenda Item No. 28C Case No. 201100015-ED
Dr. Trevor E. Andrews**

No one was present to address the Board.

Upon MOTION by Mr. Greer, second by Ms. Buckles, the Board voted to ACCEPT the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 28D Case No. 201100028-ED
Dr. Joseph R. Fox**

Complainant RA was present.

RA stated he is retired from the Army. He had chips on his teeth and went to Dr. Fox to smooth them down. He broke a piece off of his tooth on his left side and charged him for it. Food gets caught in the gap. The letter he received from the Board stated there was not enough evidence.

Dr. Palmer read a comment from the records that said the last comment the complainant said to Dr. Fox was that if he gave him \$4,500 this would all go away.

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

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**Agenda Item No. 28E Case No. 201100037-ED
Dr. Jerome C. Cutler**

Dr. Cutler and complainant WD were present.

WD stated this has nothing to do with Dr. Cutler's conduct it has to do with the teeth he made. Dr. Cutler offered to refund the bottom teeth but said he would not refund the tops ones. He was referred to a peer review that his insurance company doesn't belong to. The bottoms are no good but the tops he can live with. His secretary is the one who offered to refund the money.

Dr. Cutler stated the transition to dentures can be difficult. WD was upset about the lowers and he stated repeatedly this wasn't right. He offered to refer him to another dentist and offered a refund for the lower since he never complained the uppers. Dr. Cutler retracted his offer to refund the lower if he wasn't going to be reasonable.

Dr. Waite explained to WD that there were options given but the complainant argued with him.

Upon MOTION by Dr. Morrison, second by Dr. Whiting, the Board voted to ACCEPT the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 28F Case No. 201100041-ED
Dr. James R. Knochel**

Dr. Knochel's attorney Ed Gaines was present.

Upon MOTION by Mr. Greer, second by Ms. Buckles the Board voted to ACCEPT the Executive Director Termination. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 28G Case No. 201100046-ED
Dr. Ryan J. Porter**

No one was present to address the Board.

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

Agenda Item No. 4 - Assistant Attorney General's Report for Board Direction & Possible Action

- A. Dr. Rosalyn D. Keith v. ASBDE (Case 270098) (Court Case LC2009-000836)
Ms. Williams stated that she should be getting a decision soon from the court.
- B. Dr. Steven Morales v. ASBDE (Case 290247) (Court Case LC2010-000569)
Ms. Williams stated that Dr. Morales is still going through the process.
- C. VACANT
- D. Review, discussion and possible action regarding new procedures for investigating and adjudicating complaints.

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Dir. Hugunin directed the Board to a copy of the new statutes as well as a flow chart for the new investigation process. She explained that the statutes become effective July 20, 2011 and therefore staff does not anticipate any cases being brought to the board for a formal interview until October or December. All the complaints that come in now through July 19th will have to go through the other process. At the August and October Board meetings staff will provide additional training and information. For today's meeting staff wants to provide a global picture of the process in terms of the significant changes.

The most significant change will be the elimination of Investigative Interviews. Formal interviews will be replacing investigative interviews. Staff will also utilize a lead board member for the informal interviews. Outside dental consultants will complete reports and summaries, specifically for cases involving specialty areas. The respondent has the opportunity to rebut the outside dental consultant report.

The Board will no longer make findings of fact, conclusions of law. The Board will determine whether or not treatment fell below the standard of care and whether unprofessional conduct was committed. There will be additional training to follow.

Ms. Williams stated they can offer a consent agreement after a formal interview. When asked, Dir. Hugunin explained that a lead Board Member will proceed to get the cases, take charge, and develop specific questions.

Dr. Gradke confirmed that they are eliminating the public members from the Investigative Interview. Dir. Hugunin explained that staff will walk through a case to determine what needs to be done. She agreed with Dr. Waite that this process is similar to a petition to rehear.

Agenda Item No. 29 – OTHER COMMITTEE REPORTS

VACANT

Agenda Item No. 30 – Members of the Public

VACANT

Agenda Item No. 31 – Associations

VACANT

Agenda Item No. 32 – Future Agenda Items

- A. Discuss making page numbers of the records uniform with attorney's page numbers.
- B. Discuss the possibility of current Anesthesia evaluators getting together with Dr. Reed and Dr. Caputo for training and calibration. He is also requesting the approved evaluators go through a calibration or interview process.

Agenda Item No. 33 – Next Meeting Date

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Agenda Item No. 5 - Personnel Issues

- A. Review, discussion and possible action regarding the Executive Director's performance evaluation and salary.
- B. Review, discussion and possible action regarding the Deputy Director's performance evaluation and salary.

Upon MOTION by Dr. Waite, second by Dr. Gradke, the Board voted to go into an EXECUTIVE SESSION on agenda items 5A and 5B for the purposes of discussing evaluations and salaries. MOTION PASSED UNANIMOUSLY.

****Executive Session****

RETURN TO OPEN MEETING

Upon MOTION by Dr. Waite, second by Mr. Greer, the Board voted to RECOMMEND a 5% increase to salary for both Ms. Hugunin and Ms. Chambers to take effect ASAP. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 34 – Adjournment

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

Dr. Waite adjourned the meeting at 3:10 PM.

Minutes APPROVED at the August 5, 2011 Board Meeting.

Elaine Hugunin, Executive Director