



## 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 7, 2013

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

Gregory A. Waite, DDS, President  
Michael R. Hauer, DDS, Vice President  
Heather N. Hardy, 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  
Robert B. Taylor, DDS

#### **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. 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. Robert Taylor and Ms. Heather Hardy.

Dir. Hugunin went on the record informing the Board that there were additional materials in their folders relating to agenda items 4I, 4K, 16E, 18C, and 25C.

##### **Agenda Item No. 3 President's Report**

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- A. Dr. Waite reported that one of the major benefits of attending the AADB Mid-Year Meeting is networking and meeting with other Executive Directors, Board Members, and President from other boards. It is beneficial to see what is going on in other states and seeing how they handle cases. There were several different panels of specialties sharing recertification requirements, American Association Dental Board guidelines and continued competency, and the Commission of Dental Accreditation. There were several presentations from the Joint Commission and the Federation of State Medical Boards. Recently, the North Carolina Board lost their case against the Federal Trade Commission regarding teeth whitening kiosks in malls. There was a significant amount of money spent trying to defend their case..

**Agenda Item No. 4 Executive Director's Report**

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

No current events reported

- B. Review from the AADB and AADA Mid-Year Meeting

Dir. Hugunin did not have anything else to add to Dr. Waite's report other than, she heard two presentations regarding the Oklahoma situation and dealing with the media. As Dr. Waite stated, the most significant value of this mid-year meeting is the networking versus the annual meeting where the program is more substantive.

- C. Review, discussion and possible action regarding referring Ms. Iness to the Maricopa County Attorney Office.

Based upon the information that the Board has regarding Ms. Iness' identity theft, Director Hugunin asked the Board to refer the matter to the Maricopa County Attorney Office. Mr. Greer asked if she had already been referred to the Attorney General's office by the dentist. As our duty, we have to refer it to the Maricopa County Attorney's office.

Upon MOTION by Ms. Crevier, second by Mr. Greer, the Board voted to REFER Ms. Iness to the Maricopa County Attorney Office. MOTION PASSED UNANIMOUSLY

- D. Review, discussion and possible action regarding interim voluntary suspension of dental license of Dr. Robert N. Hoskyns

Upon MOTION BY Dr. Hauer, second by Dr. Foster, the Board voted to ACCEPT the interim voluntary suspension of the dental license of Dr. Robert N. Hoskyns. MOTION PASSED UNANIMOUSLY

- E. Review, discussion and possible action regarding interim voluntary suspension of dental license of Dr. Christopher R. Reavis

Upon MOTION by Dr. Foster, second by Ms. McClain, the Board voted to ACCEPT the interim voluntary suspension of the dental license of Dr. Christopher R. Reavis. MOTION PASSED UNANIMOUSLY

- F. Review, discussion, and possible action regarding the interim voluntary suspension of license of Dr. William S. Hickman.

Upon MOTION by Dr. Hauer, second by Ms. McClain, the Board voted to ACCEPT the interim voluntary suspension of the dental license of Dr. William S. Hickman. MOTION PASSED UNANIMOUSLY

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- G. Review, discussion and possible approval for the Executive Director and Board President to attend the Annual Meeting of the American Association of Dental Boards in New Orleans, October 30-31, 2013.

Upon MOTION by Dr. Hauer, second by Ms. Crevier, the Board voted to APPROVE the Executive Director and Board President to attend the Annual Meeting of the American Association of Dental Boards in New Orleans, October 30-31, 2013. MOTION PASSED UNANIMOUSLY

- H. Review, discussion and possible approval for the Executive Director to attend the AADA meeting, October 28-29, 2013.

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to APPROVE the Executive Director to attend the AADA meeting, October 28-29, 2013. MOTION PASSED UNANIMOUSLY.

- I. Review, discussion and possible approval for the Executive Director to attend the State Bar of Arizona Annual Convention, June 20, 2013.

Upon MOTION by Dr. Hauer, second by Dr. Foster, the Board voted to APPROVE the Executive Director to attend the State Bar of Arizona Annual Convention, June 20, 2013. MOTION PASSED UNANIMOUSLY

- J. 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, and Legislative Liaison

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ENTER into an agreement to renew the Board's Interagency Service Agreements and contracts with the Office of Administrative Hearings, Attorney General's Office, Department of Administration – Central Services Bureau, and Legislative Liaison. MOTION PASSED UNANIMOUSLY

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

Dir. Hugunin stated that in the Board Member folders there is a list which reflects there have been 32 executive director terminations since the last Board meeting. Twelve of the 32 still have time to appeal. Two have been appealed and will be heard at the August Board Meeting.

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

Complainant TR was present and spoke about case no. 201300049 (Agenda Item 16A).  
Complainant AM was present and spoke about case no. 201200237 (Agenda Item 16E).  
Complainant EC was present and spoke about case no. 201300004 (Agenda Item 18A).  
Complainant DK was present and spoke about case no. 201300048-ED (Agenda Item 25D).  
Complainant HD was present and spoke about case no. 201300029-ED (Agenda Item 24E).

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

- A.     Dr. Walter Fombin Foto – Board approved exam, discipline on Washington license, terminated from Washington State Medicaid & Premera Blue Cross

Dr. Foto was present to address the Board and answer questions. He currently practices and focuses on Oral and Maxillofacial Surgery. In 2008, there were two complaints against his license that were dismissed; however, they were brought back and led to sanctions. Board members asked if Dr. Foto's license is under probation in any other state. Dr. Foto stated that his license was not under probation in another state and that he has not been denied a license in any other state or jurisdiction. He does not have any pending actions on his license; however, he does have a pending malpractice on his license in Washington State. In one of the complaints brought to the Board in Washington State, the complainant decided to pursue legal action. Dr. Foto stated that he has completed the 14 hours of CE as required by the sanction imposed by the Washington State Board.

Upon MOTION by Dr. Gradke, second by Dr. Foster, the Board voted to DENY licensure to Dr. Foto due to action in another state on his license and the underlying action by the Washington State Board. MOTION WITHDRAWN, SECOND WITHDRAWN

Board staff informed Dr. Foto that if the motion passed as presented, he would be unable to reapply for an Arizona license for five years. He also has the option to withdraw his application and reapply at a later time and that the denial of licensure would be reportable to the National Practitioners Database.

Dr. Foto exercised the option to withdraw his application for licensure at this time.

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to ACCEPT the withdrawal of Dr. Foto's application for licensure. MOTION PASSED UNANIMOUSLY

- B.     Dr. Brent Cloyd Sonnenberg – Board approved exam, discipline on Utah license, malpractice action disclosure

Dr. Sonnenberg was present to address the board and answer any questions.

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

- C.     Dr. Kevin Joseph Marshall – Board approved exam, malpractice action disclosure

Upon MOTION by Dr. Hauer, seconded by Dr. Waite, the Board voted to GRANT licensure to Dr. Marshall. MOTION PASSED UNANIMOUSLY

- D.     Dr. Roy Emery Howard – 1977; California State exam prior to a regional, malpractice action disclosure

Dr. Howard was present to address the board and answer any questions.

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

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

A.      VACANT

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

A.      VACANT

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

A.      Dr. Jacob Elwood Spendlove – 2011 SR TA

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

B.      Dr. Kylee Ann Bishop – 2013 NERB

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

C.      Dr. Jeffrey Marc Salatino – 2013 NERB

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

**Agenda Item No. 12      STIPULATION CONSENT AND ENFORCEMENT**

A.      Dr. Enrique G. Wismann – Case No. 201000298 – Review, discussion and possible action regarding removal of DEA restriction from MATP Stipulation Agreement and AA meeting log requirements based upon the recommendation from the Board's MATP Medical Director.

At the time Dr. Wismann went into MATP a confidential program did not exist and he is in the public program, therefore the Board needed to approve this.

Upon MOTION by Dr. Hauer, second by Dr. Gradke, the Board voted to REMOVE the DEA restriction from MATP Stipulation Agreement and AA meeting log requirements. 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 we are awaiting the judge's decision.

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

Ms. Williams informed the Board that Dr. Lipton's oral argument will take place in August.

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

Ms. Williams informed the Board that the case is completed and the order is final and effective.

**Agenda Item No. 6 PERSONNEL ISSUES**

A. VACANT

**FORMAL HEARING**

**Agenda Item No. 13 Dr. Brent Tyler Robison  
Case No. 201000301**

Dr. Robison and his attorney, Jeffrey Tonner, were present. Assistant Attorney General Mary DeLaat Williams was present. All Board Members received and reviewed the information regarding the case.

Ms. Williams addressed the Board and asked them to adopt the findings of fact in total, the conclusions of law in total, and adopt the sanctions presented by the Administrative Law Judge with the addition of some terms of probation. For the terms of probation, Ms. Williams recommended that during the five year probation, Dr. Robison be subject to quarterly audits by a Board approved auditor. The audits should be focused on Dr. Robison's third party billings to ensure he is submitting his claims in accordance with the Dental Practice Act. The auditor would also focus on his record keeping. Once the audits are complete it becomes the responsibility of Dr. Robison to ensure that the auditor submits a report within 30 days of the completion of the audit to the Board. The audits would be done at the expense of Dr. Robison. In addition, Ms. Williams recommends to the Board that Dr. Robison complete the Professional Based Ethics (PROBE) Course within one year of the effective date of the order. Ms. Williams recommends assessing a portion of the court cost to the licensee. The total amount assessed to Dr. Robison would be \$3,000.00.

Mr. Tonner addressed the Board. He presented that Banner Health is not an insurance company and as a result the statute is not violated. The statute regarding billing relates to billing an insurance company. Banner is a self-contained company and is not set up to be a for profit organization. Dr. Robison never had a contract with Banner Health. Banner never testified that Dr. Robison was required to collect a co-pay. If the provider asks for payment, then the member is required to pay the co-pay. If the provider does not request the payment in the form of co-pay, then the member is not required to pay. Dr. Robison did exactly what Banner Health instructed him to do. Mr. Tonner had no objection to the statement of cost to be assessed to Dr. Robison.

In rebuttal to Mr. Tonner, Ms. Williams indicated that the ALJ's decision was based upon violations ARS §32-1201.12 (e) and ARS§32-1201.21 (o).

Upon MOTION by Dr. Hauer, second by Mr. Jackson, the Board voted to ADOPT the findings of facts paragraphs 1-64 as recommended by the Administrative Law Judge. Dr. Taylor RECUSED. MOTION PASSED

Upon MOTION by Dr. Hauer, second by Mr. Jackson, the Board voted to ADOPT the conclusions of law paragraphs 1-28 as recommended by the Administrative Law Judge. Dr. Taylor RECUSED. MOTION PASSED

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It was moved by Dr. Hauer, seconded by Mr. Jackson, to accept the sanctions recommended by the Administrative Law Judge with the addition of the following terms of probation quarterly audits regarding his third party billing and record keeping, five year probation, audits are completed at the expense of Dr. Robison, completion of the Professional Based Ethics (PROBE) Course within one year of the effective date of the order at the Doctor's expense, and assessing \$3,000 court costs.

**Discussion:**

Dr. Waite discussed amending the ALJ's recommendation based upon the seriousness of the case, the denial of everything that has happened, and the ALJ's backing of the decisions of the Board in regard to the Banner Cases. There should be at least a month minimum of the suspension of the license. Dr. Waite recommended there could be up to \$2,000.00 per violation. There were 8 penalties so the administrative penalty recommended could be \$16,000.00. Originally, Dr. Waite wasn't opposed to suspension of the license for one year and a restitution of \$1,000,000.00 to Banner. He would recommend full restitution to Banner on every case that was reviewed by the Board and upheld by the ALJ. The motion did not state those terms; however, the recommendations are warranted. Dr. Waite recommended amending the motion and including the recommendations listed above.

The Board voted to ORDER the disciplinary sanctions as moved. Dr. Taylor RECUSED. Dr. Hauer and Dr. Waite OPPOSED. MOTION PASSED

**CONSENT AGENDA**

The following items were pulled from the Consent Agenda either at the request of a Board Member or by the public. These items will be discussed individually:

**Cases pulled from the Consent Agenda:**

|   |                                     |
|---|-------------------------------------|
| <b>Agenda Item No. 16A Case No. 201300049</b> | <b>Dr. Erica N. Bigos</b>           |
| <b>Agenda Item No. 16B Case No. 201300023</b> | <b>Dr. William G. Halliday, III</b> |
| <b>Agenda Item No. 16E Case No. 201200216</b> | <b>Dr. Michael D. Margolis</b>      |
| <b>Agenda Item No. 16F Case No. 201300028</b> | <b>Dr. Dominic Cheng-Wei Tam</b>    |
| <b>Agenda Item No. 17C Case No. 201200221</b> | <b>Dr. Matthew T. Gunnell</b>       |
| <b>Agenda Item No. 18B Case No. 201300031</b> | <b>Dr. Tony J. Dalton</b>           |
| <b>Agenda Item No. 18C Case No. 201300024</b> | <b>Dr. Burke D. Frei</b>            |
| <b>Agenda Item No. 21A Case No. 201300</b>    | <b>Dr. Sanjay Nigam</b>             |

**Cases ADJUDICATED:**

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**Agenda Item No. 16 – CASES RECOMMENDED FOR DISCIPLINARY CONSENT AGREEMENTS**

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

| Item No. | Case No.     | Licensee              | Action                         |
|----------|--------------|-----------------------|--------------------------------|
| 16C.     | 201300039-MP | Dr. Clark E. Melstrom | Disciplinary Consent Agreement |
| 16D      | 201200219    | Dr. Omaima S. Samain  | Disciplinary Consent Agreement |

| Item No. | Case No.  | Licensee           | Action                         |
|----------|-----------|--------------------|--------------------------------|
| 16A.     | 201300049 | Dr. Erica N. Bigos | Disciplinary Consent Agreement |

Upon MOTION by Mr. Greer, second by Mr. Jackson, the Board voted to ACCEPT the Disciplinary Continuing Education Consent Agreement. MOTION PASSED. Dr. Flowers RECUSED

| Item No. | Case No.  | Licensee                | Action                         |
|----------|-----------|-------------------------|--------------------------------|
| 16E.     | 201200237 | Dr. Michael D. Margolis | Disciplinary Consent Agreement |

Upon MOTION by Mr. Greer, second by Dr. Waite, the Board voted to ACCEPT the Disciplinary Continuing Education Consent Agreement. MOTION PASSED. Dr. Taylor RECUSED

**Agenda Item No. 17 – CASES RECOMMENDED FOR NON-DISCIPLINARY CONTINUING EDUCATION CONSENT AGREEMENTS – CONSENT AGENDA**

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

| Item No. | Case No.  | Licensee               | Action                     |
|----------|-----------|------------------------|----------------------------|
| 17A.     | 201300018 | Dr. Bruce E. Westover  | 6 hours of record keeping  |
| 17B.     | 201300011 | Dr. Robert John Balcar | 4 hours of risk management |

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**Agenda Item No. 18 – CASES RECOMMENDED FOR ISSUANCE OF LETTER OF CONCERN – CONSENT AGENDA**

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

| Item No. | Case No.  | Licensee               | Action   |
|----------|-----------|------------------------|--|
| 18A.     | 201300004 | Dr. Thomas J. Cipriano | Issue a Letter of Concern stating: "Dr. Cipriano is responsible for complete documentation of the patient's treatment."  |
| 18D.     | 201300057 | Dr. Leon B. Reed, II   | Issue a Letter of Concern stating: "Dr. Reed should timely document any discussion with a patient of the possible adverse consequences of the proposed treatment." |

**Agenda Item No. 19 – CASES RECOMMENDED FOR TERMINATION – CONSENT AGENDA**

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

| Item No. | Case No.  | Licensee                | Action                         |
|----------|-----------|-------------------------|--------------------------------|
| 19A.     | 201300020 | Dr. Edward W. Galapeaux | Terminate - per patient letter |
| 19B.     | 201300025 | Dr. Golinaz M. Asadi    | Terminate - per patient letter |
| 19C.     | 201300071 | Dr. Joy L. Brauer       | Terminate - per patient letter |

**Agenda Item No. 20 – CASES RECOMMENDED FOR DISMISSAL – CONSENT AGENDA**

VACANT

**Agenda Item No. 21 – 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 case. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 21B**

**Dr. Trent Wilsey Smallwood**  
Malpractice report. Took no action.

**Agenda Item No. 21A**

**Dr. Sanjay Nigam**  
Malpractice report. Took no action

Upon MOTION by Mr. Greer, second by Dr. Waite, the Board voted to ACCEPT the recommendation to take no action on agenda item 21A. MOTION PASSED. Dr. Gradke RECUSED

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**Agenda Item No. 22 APPROVAL OF CONSULTANTS AND EXAMINERS – CONSENT AGENDA**

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

**Agenda Item No. 22A**

**Dr. J. Brent Sanders Dental Consultant**

**Agenda Item No. 23 APPROVAL OF MINUTES – CONSENT AGENDA**

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

**Agenda Item No. 23A April 5, 2013 – Board Meeting Minutes**

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

**Agenda Item No. 13 – ACTION ON PREVIOUS ACTION**

**Agenda Item No. 13A Case No. 201200183  
Dr. Sung Lee**

Mr. Jeffrey Tonner, attorney for Dr. Lee, was present to address the Board. On finding of fact number two, it should be tooth number 31 instead of tooth number 30. In finding of fact number four, the date should be April 2, 2012 rather than April 9. Mr. Tonner wanted to bring that to the attention of the Board. Mr. Tonner would like finding of fact number seven to read “Dr. Lee failed to document” versus “Dr. Lee failed to discuss...” as Dr. Lee stated that he did discuss with the patient.

Upon MOTION by Mr. Greer, seconded by Ms. McClain, the Board voted to APPROVE the proposed Board Order from the April 5, 2013 Formal Interview with the following changes: paragraph two, changing the second tooth #30 to tooth #31, paragraph four, changing the date from April 9<sup>th</sup> to April 2<sup>nd</sup>, and paragraph seven changing the word “discuss” to “document”.

Motion MODIFIED by Mr. Greer, seconded by Ms. McClain to remove the changes to paragraph two. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 15 – PETITION TO REHEAR**

**Agenda Item No. 15A Case No. 201200106  
Mr. Arthur Silva**

Mr. Jeffrey Tonner, attorney for Mr. Silva, was present to address the Board and answer any questions.

Dr. Gradke was the lead Board Member for the Petition to Rehear. He had one question for Mr. Tonner. The Board wanted to know if Mr. Silva was practicing at all. Mr. Tonner stated due to his medical condition he may or may not be able to return to practice. Mr. Silva should know by the August board meeting if he has received medical clearance to return to practice by his doctors. If Mr. Silva is medically cleared to return to practice, Mr. Tonner stated that he would amend the petition to rehear to include more substance. The Board asked Mr. Tonner to provide a doctor’s report pending Mr. Silva’s approval for the release.

Upon MOTION by Dr. Gradke, seconded by Mr. Greer, the Board voted to TABLE the petition to rehear until the August board meeting. MOTION PASSED UNANIMOUSLY

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**Agenda Item No. 15B Case No. 201200097  
Dr. Arthur J. Porter**

Mr. Jeffrey Tonner, attorney for Dr. Porter, was present to address the Board. Dr. Porter addressed the Board. He addressed findings of fact number five "Dr. Porter's treatment records for GN do not contain any documentation supporting his claim that the implants properly placed and secure in bone. A subsequent dentist's radiograph of the implant shows that the implant was 95% placed in soft tissue." Dr. Porter stated that the subsequent dentist took a CT scan and not a radiograph. He does not have access to a CT scan in his office. Dr. Porter stated that he took four PA's taken post placement of the implant and none of them showed any hint that there was a major problem with the placement of the implant. Dr. Porter also stated that there were three different notations in the records that documented the tightness of the implant. Dr. Porter stated that there is a discrepancy between the Board's findings of facts and the treatment records in this case. Those discrepancies are enough to justify a rehearing. Dr. Hauer was the lead Board Member for the Petition to Rehear. The main finding of fact is number five, in which Dr. Porter stated that the implant was 75% tight. Based upon the consultant report, the documentation does not support the claim that the implant was properly placed and secure. The term 75% tight is not generally used in dentistry. The implant is either tight or it isn't. Taking a CT scan or cone beam is not standard of care when placing an implant. However, once you recognize that there is a problem and an implant is not secure, a CT scan or cone beam should be taken. A PA will not show you if the implant is placed in the bone or not.

The lump was there at the beginning after the placement and seeing where that was on the cone beam, Dr. Hauer stated he felt it was there the whole time. It could not have disappeared or reappeared at a later date.

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

**Agenda Item No. 16B Case No. 201300023 Dr. William G. Halliday, III**

This case was pulled by Dr. Hauer. The Board discussed amending the consent agreement, to drop the requirement for dental school setting for the continuing education. Mr. Kethcart, attorney for Dr. Halliday, was present to address and answer any questions from the Board.

Upon MOTION by Dr. Hauer, second by Ms. Crevier, the Board voted to AMEND the consent agreement to drop the requirement that the continuing education be completed in a dental school setting. Dr. Gradke OPPOSED. Mr. Jackson RECUSED. MOTION PASSED.

**Agenda Item No. 16F Case No. 201300028 Dr. Dominic Cheng-Wei Tam**

This case was pulled by Mr. Greer. Dr. Tam was present and addressed the Board. Dr. Tam never intended to over treat a patient based upon financial reasons. As an associate dentist in the practice he did not have any knowledge of the financial part of the treatment. Once he discussed the complaint with the management team at the practice, they refunded the patient the money and they are doing everything they can to resolve the dispute with the patient. He has learned to make his documentation clear and precise; to ensure that the patient understands their condition and his approach so that there is consensual agreement before starting treatment. The Board discussed possibly amending the consent agreement to non-disciplinary continuing education.

Upon MOTION by Mr. Greer, second by Ms. McClain, the Board voted to AMEND the consent agreement to non-disciplinary continuing education. Dr. Gradke ABSTAINED. Dr. Flowers, Ms. Crevier, and Dr. Hauer OPPOSED. MOTION PASSED.

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**Agenda Item No. 17C Case No. 201200221 Dr. Matthew T. Gunnell**

This case was pulled by Dr. Hauer. The Board discussed possibly vacating the order. They also discussed amending the consent agreement to non-disciplinary continuing education and the continuing education not be done in a dental school setting. It was on one tooth and the first violation of the dentist. Susan McLellan, attorney for Dr. Gunnell, was present and addressed the Board.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to AMEND the consent agreement to 6 hours of non-disciplinary CE outside of a dental school setting. MOTION PASSED UNANIMOUSLY

**Agenda Item No. 18B Case No. 201300031 Dr. Tony J. Dalton**

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

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

**Agenda Item No. 18C Case No. 201300024 Dr. Burke D. Frei**

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

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

**Agenda Item No. 25 – REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS**

**Agenda Item No. 25A Case No. 201300015-ED Dr. David G. Burros**

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

**Agenda Item No. 25B Case No. 201300007-ED Dr. Lance P. Schneider**

The Board would like to see this case reviewed by a dental anesthesiologist consultant. Some of the reasons include the amount of drugs given, ASA classification, discharge notes and summary, EKG recording and interpretation, and any pre-operative evaluation. These are concerns that were not addressed.

Upon MOTION by Dr. Gradke, second by Dr. Hauer, the Board voted to REJECT the Executive Director Termination and have the case reviewed by a dental anesthesiologist. Dr. Waite OPPOSED. MOTION PASSED

**Agenda Item No. 25C Case No. 201300037-ED Dr. Craig A. Young**

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

**Agenda Item No. 25D Case No. 201300048-ED Dr. Michael E. Steinberg**

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

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**Agenda Item No. 25E Case No. 201300029-ED**

**Dr. James A. Weaver**

Dr. Weaver was present to address the Board. He stated that the patient terminated the relationship prior to completion of the treatment

Upon MOTION by Ms. McClain, second by Mr. Greer, the Board voted to REJECT the Executive Director Termination and have the case be reviewed by another orthodontist consultant. Dr. Foster, Dr. Flowers, Dr. Taylor, Ms. Crevier, Ms. Hardy, Dr. Hauer, and Dr. Waite OPPOSED. MOTION FAILED.

Upon MOTION by Dr. Hauer, second by Dr. Waite, the Board voted to APPROVE the Executive Director Termination. Mr. Greer and Mr. Jackson OPPOSED. MOTION PASSED

**FORMAL INTERVIEWS**

A. VACANT

**Agenda Item No. 26 – Members of the Public**

Mr. Frederick Cummings was present to address the Board. He spoke to the Board about a Board Member's responsibility as it relates to the public. He commended the Board Members for the job they do to protect the public. He also discussed the burdens that come with being a Board Member. Mr. Cummings specifically addressed the notion that as a member of Board, when providing your opinion other members of the public may interpret it as a representation of the Board. It has come to the attention of Mr. Cummings that Dr. Gradke had given his opinion about the Standard of Care within the context of an independent medical examination. The opinion provided by Dr. Gradke was contrary to the past rulings of the Board. It is Mr. Cummings' opinion that Board Members should not be serving in an expert capacity until they are no longer on the Board. There is not a prohibition about serving in both capacities simultaneously; however, the problem is the perception created in the community because when you speak, you are speaking as a member of the Board.

**Agenda Item No. 27 – FUTURE AGENDA ITEMS**

**Agenda Item No. 28 – Next Meeting Date – August 2, 2013**

**Agenda Item No. 29 – Adjournment**

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

Dr. Waite adjourned the meeting at 10:28 AM.

Minutes APPROVED at the October 4, 2013 Board Meeting.

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**Elaine Hugunin, Executive Director**