



## ARIZONA STATE BOARD OF DENTAL EXAMINERS

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### MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING OCTOBER 5, 2012

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

Gregory A. Waite, DDS, President  
Scott W. Morrison, DDS, Vice President  
Gary M. Gradke, DDS  
Robert H. Foster, DDS  
Michael R. Hauer, DDS  
D. Benjamin Whiting, DDS  
Laurie A. Buckles, RDH  
Marilyn J. McClain, RDH  
Mr. Joshua Greer  
Mr. Charles E. Jackson  
Ms. Carole A. Crevier

#### **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. Jaclyn Warren, Legal Administrator  
Ms. Monica Crowley, Legal Assistant  
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."

#### **GENERAL BUSINESS**

##### **Agenda Item No. 1 - Call to Order and Introductions**

Dr. Waite called the meeting to order at 8:02 a.m.

Dir. Hugunin introduced Ms. Carole Crevier to the Board.

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**Agenda Item No. 2 – Public Comment on Cases**

Complainant KW was present and spoke about case no. 201200058 (Agenda Item 14C).

Complainant IK was present and spoke about case no. 201200082 (Agenda Item 15D).

Complainant ZK was present and spoke about case no. 201200080-ED (Agenda Item 25A).

Complainant KS was present and spoke about case no. 201200087-ED (Agenda Item 25B).

Complainant LK was present and spoke about case no. 201200091-ED (Agenda Item 25C).

Complainant ML was present and spoke about case no. 201200117-ED (Agenda Item 25H).

Complainant ML was present and spoke about case no. 201200118-ED (Agenda Item 25I).

**Agenda Item No. 3 – Committee Reports**

**Agenda Item No. 4 – President’s Report**

- A. Review, discussion and possible action with regarding joining the American Board of Dental Examiners (ADEX) and consideration of other clinical testing agencies.

Dir. Hugunin stated that the purpose is for the Board to determine whether or not they want to explore this further and determine whether or not other exams should also be explored. Staff does not believe there is sufficient information to make a determination at this time. There is a significant negative financial impact on the Board that must also be taken into consideration in the evaluation.

Ms. Chambers explained the pros and cons of joining ADEX and other clinical testing agencies. The Board discussed their options.

Upon MOTION by Dr. Hauer, second by Dr. Foster, the Board voted to INSTRUCT staff to obtain more information. MOTION PASSED UNANIMOUSLY.

- B. Review, discussion and possible action regarding Ms. Marilyn McClain’s appointment to the Hygiene Exam Review Board (HERB) committee.

Upon MOTION by Dr. Waite, second by Dr. Gradke, the Board voted to APPOINT Ms. McLain to the HERB committee. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 5 – Executive Director’s Report**

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

Nothing was stated.

- B. Review, discussion and possible action regarding report from Sharalyn Mikolajcyk, RDH from the WREB hygiene exam board.

Dir. Hugunin stated Ms. Mikolajcyk has been appointed in the interim.

- C. Review, discussion and possible action regarding evaluations for licensees who report a first time driving under the influence (DUI) offense.

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Dir. Hugunin requested the Board consider changing its unwritten practice of eliminating an addictionologist evaluation for first time DUIs unless it is an extreme, super extreme or aggravated. The only other Arizona regulatory board that does this and has also questioned the validity is the medical board. The other regulatory boards do not do this. What is really important here is that Dr. Sucher concurs with this recommendation and to quote him, he stated, it "won't waste time and money." Dr. Sucher also indicated that in California where he also practices, only those licensees who receive two DUIs are evaluated. Subsequent to this discussion, Dr. Sucher documented something for the Board which was provided in the Board folders.

The Board is penalizing those licensees who do report as staff would not have any knowledge nor do they have a system to know if a licensee received a DUI. The licensee, once they receive a DUI, are evaluated and fined through the Court system. The addictionologist report is an additional either \$1500 or \$2000 and we have rarely placed anyone in the MATP program based on one DUI. In the last three years, there have been two cases challenged; one in which the licensee would not obtain an evaluation and the second case in which Dr. Sucher had recommended the two-year monitoring program. The Board did not prevail in either of these cases as staff could not prove danger to patient safety based on one DUI. Again, extreme, super extreme or aggravated DUIs will be sent to Dr. Sucher for evaluation.

Upon MOTION by Dr. Hauer, second by Dr. Morrison, the Board voted to no longer require licensees or applicants who report a first-time DUI to come before the Board unless in extreme, super extreme or aggravated DUIs. MOTION PASSED UNANIMOUSLY.

- D. Dr. Denis J. Froehlich (Case #: 201200074) - Review, discussion and possible action regarding non-compliance with a Board Order and forward to a Formal Hearing.

Dir. Hugunin stated a memo was provided to the Board in their material.

Upon MOTION by Dr. Gradke, second by Dr. Whiting, the Board voted to FORWARD this complaint to a Formal Hearing. MOTION PASSED UNANIMOUSLY.

- E. Review, discussion and possible regarding automating the Jurisprudence Exam.

Dir. Hugunin stated that the Board discussed the automation of the jurisprudence exam over a year ago and at last month's meeting. Board staff presented an option to utilize a company who supports the regulatory Boards in Texas; however, there were a few concerns expressed at the last meeting. One of the concerns expressed was that someone could not study and pass the exam which is duly noted; however, in our current system the same happens and sometimes the licensee takes the exam 5 times the same day until they pass. The pros far outweigh the cons in adapting this system in that the exam can be modified very quickly and will save the Agency staff time and money as well as the licensee. As previously reported, Board staff will still need to offer an exam at the Board offices. Drs. Morrison, Waite and Mr. Greer have all done a demo test with this system and passed. Staff believes strongly that this is an extremely viable option for automating the exam and determined that it would be more effective to have a representative from the company make a presentation to demonstrate their flexibility in accommodating our requests and respond to any additional questions the Board may have. She welcomed Stephen Matt, Chief Information Officer, from eStrategy Solutions, Incorporated to address the Board.

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Mr. Matt made a presentation about what he could offer the Board in order to automate the Jurisprudence Exam. There was also a question and answer session between Mr. Matt and the Board.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to AUTOMATE the Jurisprudence Exam. MOTION PASSED UNANIMOUSLY.

- F. Review, discussion and possible action regarding proposed changes to the Dental Practice Act:
- i. Appointment of Legislative Committee to address amending A.R.S. 32-1299.25 regarding informed consent requirements.

Dir. Hugunin asked the Board to consider appointing a Legislative Committee to re-evaluate the language in the statutes related to mobile dentistry, specifically regarding informed consent. There is national and local attention and investigation in regard to some of the practices of the mobile dental units, many of which are specific to the area of informed consent.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to ACCEPT and form a Mobile Dentistry Committee with proposed members: Dr. Hauer as Chair, Alyssa York, Wayne Cottam, Margaret Perry, Mary Busch, Dan Goldsmith, Lee Weinstein, Brian Olsen, Gary Jones, RaNee Tuscano, Jan Grutzius, and Kirsten Roling. MOTION PASSED UNANIMOUSLY.

- G. Arizona State Board of Dental Examiners FY 2012-2013 Annual Report – For information only.

Dr. Hugunin stated a copy of the annual report was provided to the Board in their material. She publicly acknowledged and commended Ms. Chambers, the Deputy Director, for her timely and accurate reports.

- H. Arizona State Board of Dental Examiners FY 2014 Budget – For information only.

Dir. Hugunin stated the 2014 Budget has been submitted to the capitol and is waiting for approval.

- I. Review and discussion regarding the Executive Director Complaint Terminations.

Dir. Hugunin stated the Board's additional material contains the number of Executive Director Terminations since the last Board meeting. Of the 22 listed, 7 have appealed, 11 have not appealed and 4 still have time in which to appeal.

**Agenda Item No. 7 – Personnel Issues**

- A. VACANT

**Agenda Item No. 8 – Request for Action on Licensure by Examination – Consent Agenda**

- A. Roberta C. Catalan, RDH – Review, discussion and possible action regarding disclosure of a misdemeanor conviction for writing a bad check.

Ms. Catalan was present and stated she was young but has not done anything since.

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

- B. Amy L. Blau, RDH - Review, discussion and possible action regarding disclosure of convictions for underage consumption, minor in possession of alcohol, using a false ID, and giving a false report to law enforcement.

Ms. Blau was present and stated she was underage drinking and used a fake ID. She is now twenty-six and it happened when she was nineteen. She has not had any other run-ins with the law and has had this set aside in court.

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

- C. Cynthia M. Perez, RDH - Review, discussion and possible action regarding disclosure of shoplifting.

Ms. Perez was present and stated this incident haunts her and she wants to move past it.

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

- D. Catalina Gonzalez, DDS - Review, discussion and possible action regarding disclosure of shoplifting conviction.

Dr. Gonzalez was present and stated she was eighteen when this happened and she was very ashamed. She has never had any other run-ins with the law. She is now thirty-one and won't let it happen again.

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

- E. Thomas A. Endicott, DDS - Review, discussion and possible action regarding disclosure of conviction for criminal sexual conduct, violation of student safety zone, healthcare fraud, and delivery and manufacture of a controlled substance; two malpractice actions; and disciplinary actions in Michigan and Illinois.

Dr. Endicott and his attorney, Jeffrey Tonner, were present.

Dr. Endicott stated he has not had any other run-ins or problems with the law since it happened. He would like to start a new life and has taken responsibility for his actions. He has paid his debt to society and would like to start again. When asked by the Board, Dr. Endicott explained the details about his criminal convictions. He also stated he has taken 61 credit hours of continuing education and has taken the WREB exam as well as the Jurisprudence exam.

Upon MOTION by Dr. Foster, second by Dr. Gradke, the Board voted to DENY Dr. Endicott's license due to his criminal history and disciplinary actions in other states. Mr. Greer, Dr. Whiting, Ms. McLain, and Dr. Waite OPPOSED. Mr. Jackson RECUSED. MOTION PASSED.

**Agenda Item No. 9 – Request for Action on Licensure by Credential**

- A. Dr. John Mark Anderson – 1970 Minnesota State exam prior to a regional

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

- B. Dr. Enrique A. Santiago – 1979 Puerto Rico exam prior to a regional

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

- C. Dr. Dale Lawrence Petrich – 1976 Washington State exam prior to a regional

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

- D. Dr. Robert Todd Kramer – Board approved exam; Disclosure of physical limitations that could affect practice on patients

Dr. Kramer was present and stated he has 21 years of private practice. After a surgery he lost feeling in his left hand. He is not practicing but has a flawless history. He trains dental students every day and he can teach them the technical skills. His mind works, just his hand does not work as well as it used to. He needs a dental license to teach and requested consideration given his history.

Dr. Waite asked Dr. Kramer if he would be willing to sign a Consent Agreement and he agreed.

Upon MOTION by Dr. Waite, second by Dr. Morrison, the Board voted to GRANT licensure with the stipulation that he would sign a Consent Agreement limiting him to teaching and not practice on patients. If signed, this will not have to come back before the Board for approval. MOTION PASSED UNANIMOUSLY.

- E. Dr. Patrick James Crawford – Board approved exam; discipline on Wisconsin dental license; Multiple malpractice payment reports

Dr. Crawford was present and talked about moving from Wisconsin and would like to be licensed in Arizona. In 1999, his license was suspended in Wisconsin for 7 days because an attorney sued him over a root canal.

Dr. Waite explained to Dr. Crawford that if he goes along with the vote and he is denied, then he cannot reapply for 5 years; but if he withdraws his application, he can reapply at any time. Dr. Crawford agreed to go along with the vote.

Upon MOTION by Dr. Gradke, second by Dr. Foster, the Board voted to DENY licensure due to discipline in another state. Mr. Greer, Dr. Whiting, and Dr. Morrison OPPOSED. MOTION PASSED.

- F. Dr. Lee Roy Turner – Board approved exam; discipline on Nevada dental license

Dr. Gradke had an issue with Dr. Turner hiring someone without a license.

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

- G. Dr. Paul Martin Stec – Board approved exam; Multiple malpractice payment reports

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Upon MOTION by Dr. Gradke, second by Ms. Crevier, the Board voted to DENY licensure based on quality of care issues relating to patient deaths and improper treatment. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 10 – Request for Action on Licensure by Credential – Clinical Examination taken more than five years ago**

- A. Dr. Lawrence Duffy – 1985 Florida Dental Exam

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

**Agenda Item No. 11 – Request for Action on Licensure by Credential – Clinical Examination taken less than five years ago**

- A. Candice Elizabeth Zimmer, RDH – 2012 CITA Dental Hygiene Exam

Ms. Zimmer was present and stated she just graduated and her husband is in the military so she was relocated to Arizona. She plans to get her local anesthetic license.

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

**Agenda Item No. 12 – Request for Action on Application(s) for Renewal of License**

- A. Dr. Richard C. Menz – Review, discussion and possible action regarding disclosure of disciplinary action in Texas.

Upon MOTION by Dr. Gradke, second by Dr. Foster, the Board voted to GRANT licensure. Ms. Crevier OPPOSED. MOTION PASSED.

- B. Dr. Gary M. Lemarr – Review, discussion and possible action on request to withdrawal renewal application.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to APPROVE withdrawal of renewal application. MOTION PASSED UNANIMOUSLY.

- C. Ms. Ashley Rose Winningham – Review, discussion and possible action regarding DUI disclosure on renewal application.

Ms. Winningham was present and stated on her initial application she did not check that she had a conviction but on her renewal she checked “yes”. She was not trying to hide this information and it only happened one time.

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

- D. VACANT

**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:

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**Cases pulled from the Consent Agenda:**

<b>Agenda Item No. 14B</b>	<b>Case No. 201200039</b>	<b>Dr. Allen S. Honigman</b>
<b>Agenda Item No. 14D</b>	<b>Case No. 201200069</b>	<b>Dr. Stan Lavell Covington</b>
<b>Agenda Item No. 14E</b>	<b>Case No. 201200120</b>	<b>Dental World of Arizona</b>
<b>Agenda Item No. 15A</b>	<b>Case No. 201200041</b>	<b>Dr. Elizabeth Irene Katz</b>
<b>Agenda Item No. 15B</b>	<b>Case No. 201200078</b>	<b>Dr. James S. Trichak</b>
<b>Agenda Item No. 15J</b>	<b>Case No. 201200155</b>	<b>Dr. Robert B. Goldenberg</b>
<b>Agenda Item No. 16B</b>	<b>Case No. 201200135</b>	<b>Dr. Shawn M. Fuller</b>
<b>Agenda Item No. 17A</b>	<b>Case No. 201200097</b>	<b>Dr. Arthur J. Porter</b>

**Cases ADJUDICATED:**

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

<b>Agenda Item No. 14A</b>	<b>Case No. 201200027</b>	<b>Kelly Povar, RDH</b> Disciplinary Consent Agreement
<b>Agenda Item No. 14C</b>	<b>Case No. 201200058</b>	<b>Dr. E. Scott Connell</b> Disciplinary Consent Agreement
<b>Agenda Item No. 14F</b>	<b>Case No. 201200098</b>	<b>Dr. Harry E. Collins</b> Disciplinary Consent Agreement
<b>Agenda Item No. 14G</b>	<b>Case No. 201200071</b>	<b>Dr. Tung B. Bui</b> Disciplinary Consent Agreement

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

<b>Agenda Item No. 15C</b>	<b>Case No. 201200079</b>	<b>Dr. Rohit R. Joshi</b> Non-Disciplinary Consent Agreement
<b>Agenda Item No. 15D</b>	<b>Case No. 201200082</b>	<b>Dr. Jupneesh Singh</b> Non-Disciplinary Consent Agreement
<b>Agenda Item No. 15F</b>	<b>Case No. 201200094</b>	<b>Dr. Brooke A. Zoumbaris</b> Non-Disciplinary Consent Agreement
<b>Agenda Item No. 15G</b>	<b>VACANT</b>	<b>VACANT</b>
<b>Agenda Item No. 15H</b>	<b>Case No. 201200103</b>	<b>Dr. Manu Alexander</b> Non-Disciplinary Consent Agreement
<b>Agenda Item No. 15I</b>	<b>Case No. 201200112</b>	<b>Dr. Lam G. Ngo</b> Non-Disciplinary Consent Agreement

Upon MOTION by Mr. Greer, second by Dr. Hauer, the Board voted to ACCEPT the Non-Disciplinary Consent Agreements on the following case on the Consent Agenda. Dr. Whiting RECUSED. MOTION PASSED.

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**Agenda Item No. 15E            Case No. 201200085            Dr. Karl J. Baker**  
Non-Disciplinary Consent Agreement

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

**Agenda Item No. 16A            Case No. 201200102            Kona Dental**  
Stating Kona Dental must be aware of their contractual obligations when billing insurance companies.

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

**Agenda Item No. 17B            Case No. 201200124            Dr. Danny Salem**  
Terminate – Per patient letter

**Agenda Item No. 17C            Case No. 201200125            Dr. Jeffrey P. Ward**  
Terminate – Per patient letter

Nothing was pulled. Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to DISMISS the following cases on the Consent Agenda. MOTION UNANIMOUSLY.

**Agenda Item No. 18A            Case No. 201200126            Dr. Robert N. Hoskyns**  
Dismiss

**Agenda Item No. 18B            Case No. 201200100            Dr. Stephen Samuel Baer**  
Dismiss

**Agenda Item No. 18C            Case No. 201200129            Dr. Clarence C. Schmidt, Jr.**  
Dismiss

**Agenda Item No. 18D            Case No. 201200130            Dr. Clarence C. Schmidt, Jr.**  
Dismiss

**Agenda Item No. 18E            Case No. 201200146            Dr. Clarence C. Schmidt, Jr.**  
Dismiss

Nothing was pulled. Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to FORWARD the following cases on the Consent Agenda to a Formal Interview. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 19A            Case No. 201200084            Dr. James Cornelius Spurgeon**  
Formal Interview

**Agenda Item No. 19B            Case No. 201200106            Mr. Arthur Silva**  
Formal Interview

**Agenda Item No. 19C            Case No. 201200103            Dr. Clayton Wainwright**  
& 201200173            Formal Interview

**Agenda Item No. 20 – Review and Filing of Cases for Investigation – Consent Agenda**

- A. Dr. Brian D. Birtcher – Malpractice Report: Take no action
- B. Dr. Anthony Charles Caputo – Adverse Occurrence: Take no action



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Susan McLellan was present on behalf of Dr. Kim.

Upon MOTION by Dr. Whiting, second by Dr. Gradke, the Board voted to APPROVE the Consent Agreement as amended. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 15A            Case No. 201200041  
   Dr. Elizabeth Irene Katz**

Dr. Katz and her attorney, Edwin Gaines, were present.

Dr. Gradke had a problem with the fraud issue in this case and recommends a Disciplinary Consent Agreement to add continuing education in ethics. Mr. Gaines stated Dr. Katz takes responsibility for her actions. She never tried to hide this nor did she receive any financial gain. It was a mistake and it was not intentional, just ignorant. She admits it should have been caught ahead of time and has made changes to her practice to prevent these issues.

Upon MOTION by Dr. Gradke, second by Ms. Buckles, the Board voted to ACCEPT the Non-Disciplinary Consent Agreement. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16B            Case No. 201200135  
   Dr. Shawn M. Fuller**

Dr. Fuller signed-in but left prior to the case being pulled.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ISSUE a Letter of Concern stating Dr. Fuller should discuss the risks associated with the placement of a dental implant with his patients. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 24 – Formal Interview Cases**

**A.    Case No. 201200060  
      Dr. Amy Jo McKeever**

Dr. McKeever and her attorney, Jeffrey Tonner, were present.

Dir. Hugunin stated on March 30 of this year the Board received an anonymous complaint alleging Dr. McKeever committed insurance fraud and misrepresentation by submitting claims which contained false statements.

Upon review of several records, the consultant identified that Dr. McKeever was abrogating the copay in particular cases (specifically the City of Phoenix Firefighters and Policemen) and giving professional discounts yet submitting claims to CIGNA for the full amount. On each of the submittals Dr. McKeever signs and certifies that the fees submitted are the actual fees she has charged and intends to collect.

Dr. McKeever has submitted an email in which the local Cigna contact documents it was OK to discount and write off the patient's portion of the charges. As part of the Board's investigation, the CIGNA Fraud Unit was contacted who stated this is not acceptable and considered fraud. You have correspondence from CIGNA Corporate Counsel verifying this. You also have an additional letter in your packet today which is a demand letter for restitution.

The statutes, ARS 32-1201(12), defines irregularity in billing as: submitting any claim, bill or government assistance claim to any patient, responsible party or third party payer for

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dental services rendered that is materially false with the intent to receive unearned income as evidenced by any of the following and I quote (f) in this section: An abrogation of the copayment provisions of a dental insurance contract by a waiver of all or part of the copayment from the patient if this results in an excessive or fraudulent charge to a third party or if the waiver is used as an enticement to receive dental services from that provider.

There was much discussion between the Board and Respondent regarding the fraud allegation.

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

**\*\*Executive Session\*\***

**RETURN TO OPEN MEETING**

It was determined that this case rises to the level of unprofessional conduct.

Upon MOTION by Dr. Foster, second by Jackson, the Board voted to FIND a violation of A.R.S. 32-1201(21)(o)&(p) as defined by A.R.S. 32-1201(12)(f). Dr. Hauer, Ms. Buckles, Mr. Greer, Dr. Whiting, Ms. McLain, Ms. Crevier, Dr. Morrison, and Dr. Waite OPPOSED. MOTION FAILED.

Upon MOTION by Mr. Greer, second by Dr. Hauer, the Board voted to FIND a violation of unprofessional conduct of A.R.S. 32-1201(21)(p) as defined by A.R.S. 32-1201(12)(e)&(f). MOTION PASSED UNANIMOUSLY.

\*\*The Board requested priors – staff reported none.

Upon MOTION by Dr. Foster, second by Mr. Jackson, the Board voted to ORDER Disciplinary Continuing Education: 6 hours in Billing. Dr. Morrison OPPOSED. MOTION PASSED.

**Agenda Item No. 14E            Case No. 201200120  
Dental World of Arizona**

Ms. Buckles pulled this case because she questioned the amount of continuing education that was recommended.

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

**Agenda Item No. 15B            Case No. 201200078  
Dr. James S. Trichak**

Ms. Buckles pulled this case because she questioned whether it was normal to ask for the crown back and the Board responded it is not the standard.

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to ACCEPT the Non-Disciplinary Consent Agreement. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 15J            Case No. 201200155  
Dr. Robert B. Goldenberg**

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Dr. Gradke and Ms. Buckles pulled this case because they both opined it should be disciplinary.

Upon MOTION by Dr. Gradke, second by Ms. Buckles, the Board voted to AMEND the Non-Disciplinary Consent Agreement to Disciplinary with 12 hours of Continuing Education in appropriate prescription writing and if the Respondent accepts these changes it does not need to come back to the Board. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 17A            Case No. 201200097  
   Dr. Arthur J. Porter**

Dr. Gradke pulled this case because he had serious concerns with Dr. Porter's judgment and the quality of care.

Upon MOTION by Dr. Gradke, second by Dr. Foster, the Board voted to FORWARD this case to a Consultant for further investigation. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 25A            Case No. 201200080-ED  
   Dr. Dara Kimia**

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

**Agenda Item No. 25B            Case No. 201200087-ED  
   Dr. Gregory E. Graber**

Dr. Graber's attorney, Mr. Cohen, was present and stated the investigation was correct and the facts were laid out. He requested the Board accept the recommendation.

Upon MOTION by Ms. Buckles, second by Greer, the Board voted to REJECT the Executive Director Termination. Dr. Foster, Dr. Gradke, Ms. Crevier, and Dr. Waite OPPOSED. MOTION PASSED.

Upon MOTION by Ms. Buckles, second by Mr. Greer, the Board voted to FORWARD this case to a Consultant for further investigation. Dr. Foster, Dr. Gradke, Ms. Crevier, and Dr. Waite OPPOSED. MOTION PASSED.

**Agenda Item No. 25C            Case No. 201200091-ED  
   Dr. Tyler N. Davis**

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

**Agenda Item No. 25D            Case No. 201200096-ED  
   Dr. Robert G. Renfro**

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

**Agenda Item No. 25E            Case No. 201200101-ED  
   Dr. Qun Collins**

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

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**Agenda Item No. 25F            Case No. 201200105-ED  
   Dr. Aaron Dennis Laws**

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

**Agenda Item No. 25G            Case No. 201200113-ED  
   Dr. Mu-Hun Kim**

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

**Agenda Item No. 25H            Case No. 201200117-ED  
   Dr. Christina M. Kopsky**

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

**Agenda Item No. 25I            Case No. 201200118-ED  
   Dr. Zachary M. Roth**

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

**Agenda Item No. 6 – Assistant Attorney General’s Report for Board Direction & Possible Action**

A. Administrative Appeals

Ms. Williams stated there was nothing new to report.

- i. Nishith S. Shah, D.M.D. v. ASBDE (Case 201100032) (Court Case LC2011-000735)
- ii. Jack I Lipton, D.M.D. v. ASBDE (Case 201000254 & 201100259) (Court Case LC2011-000713)
- iii. Rosalyn D. Keith, D.D.S. v. ASBDE (Case 270098) Appeal of superior court’s decision affirming Board order.

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

VACANT

**Agenda Item No. 27 – Future Agenda Items**

VACANT

**Agenda Item No. 28 – Next Meeting Dates**

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**Agenda Item No. 29 – Adjournment**

Upon MOTION by Dr. Whiting, second by Dr. Foster, the Board voted to ADJOURN the Board meeting. MOTION PASSED UNANIMOUSLY.

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Dr. Waite adjourned the meeting at 12:35 PM.

Minutes APPROVED at the December 7, 2012 Board Meeting.

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Elaine Hugunin, Executive Director