



ARIZONA STATE BOARD OF DENTAL EXAMINERS

4205 North 7th Avenue, Suite 300 • Phoenix, Arizona 85013

Telephone (602) 242-1492 • Fax (602) 242-1445

www.azdentalboard.us

MEETING OF THE ARIZONA
STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011

Board Members Present:

Gregory A. Waite, DDS, President
Scott W. Morrison, DDS, Vice President
Laurie A. Buckles, RDH
Gary M. Gradke, DDS
Robert H. Foster, DDS
Mr. Joshua Greer
Mr. Charles E. Jackson

Board Members Absent:

Michael R. Hauer, DDS
D. Benjamin Whiting, DDS
Mr. Jason D. Farnsworth

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 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."

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 2**

GENERAL BUSINESS

Agenda Item No. 1 - Call to Order and Introductions

Dr. Waite called the meeting to order at 8:03 a.m.

Agenda Item No. 2 - President's Report

- A. VACANT

Agenda Item No. 3 - 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 to change the April 2012 Board meeting from April 6 to April 13.

Dir. Hugunin stated that the Board did approve this at the last Board meeting, but failed to make a motion. Staff requested that a formal motion be made to change the date.

Upon MOTION by Dr. Gradke, second by Dr. Morrison, the Board voted to CHANGE the April 2012 Board meeting from April 6 to April 13. MOTION PASSED UNANIMOUSLY.

- C. Review, discussion and possible action regarding changes to the following statutes:
 - i. Amend A.R.S. §32-1207(C) to authorize Executive Director to refer cases to formal interview.

Dir. Hugunin explained that at the past two Board meetings, staff omitted some language with the recently amended statutes related to the investigative complaint process which would allow the Executive Director to invite a licensee to a formal interview. As a result, that means the Board could possibly see a case four times rather than three. The new statutes allow the Executive Director to offer a consent agreement subject to the Board's approval. Staff requested the Board consider approving a legislative amendment to add language as follows: "If delegated by the Board, refer cases to the Board for a Formal Interview." That is consistent with other regulatory Board statutes.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to AMEND A.R.S. §32-1207(C) to authorize the Executive Director to refer cases to a Formal Interview. MOTION PASSED UNANIMOUSLY.

- ii. Amend A.R.S. §32-1299(E) to authorize the Executive Director, on behalf of the Board, to enter into stipulated agreements with persons for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse.

Dir. Hugunin stated that the statutes were recently changed to provide for a confidential monitoring program; however, staff failed to add language which allows the Executive Director to enter into such agreements. Staff has found a way to work with the current language by providing a summary of each case but believe it would be more effective and consistent with other regulatory boards to delegate this authority to the Executive Director.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 3**

Staff requested that the Board approve a legislative amendment be made to A.R.S. 32-1299(E) which currently states "subject to the Board's approval" to read as follows: "on behalf of the Board, enter into stipulated agreements with persons under the jurisdiction of the Board for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse."

This is for rehabilitation stipulations only and protects the confidentiality of the program. Other consent agreements are subject to the Board's approval which is stated in A.R.S. 32-1207(c).

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to AMEND A.R.S. §32-1299(E) to authorize the Executive Director to enter into stipulated agreements with persons as stated on the record. MOTION PASSED UNANIMOUSLY.

- iii. Amend A.R.S. §32-1233(1) and 32-1234(A)(7) to delete "Parts I and II" before "National Dental Board examinations."

Ms. Chambers stated that the National Dental Board will be integrating parts 1 and 2 and notified staff to see if BODEX needs to change the statutes, which the Board does need to do. This language appears in two places in the statutes. The suggested wording is "National Dental Board examinations." Dr. Gradke was concerned about the written part and stated it should say "written National Dental Board examinations." Dir. Hugunin stated the Board can always make modifications to the wording during the legislative process.

Upon MOTION by Dr. Morrison, second by Ms. Buckles, the Board voted to AMEND A.R.S. §32-1233(1) and 32-1234(A)(7) to delete "Parts I and II" and to state "written National Dental Board examinations." MOTION PASSED UNANIMOUSLY.

- iv. Amend A.R.S. §32-1271 to add "or other identifying number" and delete "and the patient may choose which marking is to appear on the dentures."

Dir. Hugunin stated that staff had several calls regarding the new statutes which require dentists to identify dentures. The statutes as they are read now are confusing. Staff requested the Board consider amending the language as detailed in the Board's additional material. One of the calls was from the Director of the dental services for the State correction facilities. Their constituents have multiple aliases and they are not able to know the name of the individual in many cases. For the past 15 years, they have been utilizing the incarceration number. He shared with staff that this has proven to be forensically successful in some cases. Staff believes the proposed changes would address this situation as well. The additional material stated the current language and proposed language.

Mr. Greer stated that when the committee met on this, there was discussion on the use of a number. The marking allows patients more freedom and not feel coerced to provide their social security number or other personal information that some people are sensitive to. Mr. Greer has no objection to the change, just the number. Dr. Waite stated the decision is up to the patient or the doctor. Ms. Buckles asked what the reasoning for the deletion is. Dir. Hugunin stated there were conflicting statements in the current statute. Dr. Waite stated that currently the sentence does not make sense.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 4**

Upon MOTION by Ms. Buckles, second by Dr. Foster, the Board voted to ACCEPT the additional language but not delete number two. MOTION PASSED UNANIMOUSLY.

- D. Review, discussion and possible action regarding revisions to renewal application questions.

Ms. Chambers stated that because there is a confidential program and the renewal is public, staff recommended that questions 2 - 7 be confidential. The only people that would answer those questions are participants. Question 9 should be changed to "cancelled by any other state or territory." Staff also recommended that question 10 have additional wording that reads "other than allowing your license to lapse or expire," before the rest of the wording in that question. Currently, if they don't give an explanation it delays their application.

Mr. Greer asked when these changes need to be made. Ms. Chambers responded that staff will be offering online renewals and the Board needs to give the vendor as much time as possible to ensure accuracy. Dr. Gradke asked how many times the public has come in to look at records. Ms. Chambers responded that sometimes the media comes in to browse. Mr. Greer suggested they ask staff to prepare a final draft of the proposed changes to be presented at the December meeting. Dir. Hugunin stated the Board can always hold a telephonic meeting to discuss if necessary.

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to TABLE this item. MOTION PASSED UNANIMOUSLY.

- E. Review, discussion, and possible action regarding approval of Executive Director's entrance into confidential stipulation agreement for substance abuse treatment and monitoring.

Dir. Hugunin stated that in the Board's material there was a summary of the first participant who has agreed to go into the confidential two-year program. This was discussed previously in Agenda item 3cii. Staff requested the Board approve the Executive Director's entrance into a confidential stipulation agreement for substance abuse treatment and monitoring.

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

- F. Arizona State Board of Dental Examiners FY2010-2011 Annual Report - For information only.

Dir. Hugunin stated that in accordance with the statutes, the Agency has submitted its annual report. Ms. Chambers did an excellent job on this and it is available on the BODEX website.

- G. Dr. Paul L. Brandt, Jr. – Review, discussion and possible action regarding the voluntary surrender of Dr. Brandt's license.

No one was present to address the Board.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ACCEPT the voluntary surrender. MOTION PASSED UNANIMOUSLY.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 5**

- H. Dr. Martin E. Maxon - Review, discussion and possible action regarding Dr. Maxon's request for a Continuing Education extension for license renewal.

No one was present to address the Board.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to GRANT a one year extension to Dr. Maxon to complete the triennial Continuing Education requirement. MOTION PASSED UNANIMOUSLY.

- I. Flying Samaritans – Review, discussion and possible action regarding Flying Samaritans request for Board recognition as a Charitable Organization.

Ms. Chambers stated that the Flying Samaritans provide charitable work to clinics in Mexico. Rules state that the Board can offer continuing education for charitable organizations. This is not applicable for restricted permits or for discipline. They are simply looking for people to participate in this program

Ms. Buckles asked if they are recognizing other organizations for continuing education. Ms. Chambers said the Board could. If other organizations wish to participate, they would come to the Board for permission. She verified that it is hour-for-hour. Dr. Foster asked what the maximum amount of hours is and Ms. Chamber responded 24 hours.

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to RECOGNIZE the Flying Samaritans as a charitable organization. MOTION PASSED UNANIMOUSLY.

- J. Review, discussion and possible action regarding approval of the confidential stipulation agreement for the 2-year Abuse Track Program.

Dir. Hugunin stated that staff previously presented revised language for the 5-year monitoring program given legislative changes which provide for a confidential program. Staff failed to present the revised agreement for the two-year program. If a participant were to relapse in the confidential program they would automatically be placed in the public program and on probation.

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to APPROVE the revised confidential stipulation agreement for the 2-year Abuse Track Program. MOTION PASSED UNANIMOUSLY.

- K. Review, discussion and possible action regarding new complaint process including procedures for complainant participation in Formal Interviews.

Dr. Gradke stated that after attending the Medical Board meeting, he believes it is better to have the call to the public early. Dr. Waite stated if the Board does not like the process it can always be changed back. Ms. Buckles stated that originally she spoke against this but now understands the rationale behind it. Mr. Jackson stated that many times in the eyes of the public the complainants feel like it is their case. By implementing these changes, it allows the understanding that the case is between the licensee and the Board. Dir. Hugunin stated the letters to the complainant already state this. Ms. Buckles mentioned that a blanket statement at the beginning of the meeting may help.

Upon MOTION by Dr. Gradke, second by Dr. Waite, the Board voted to APPROVE the complainants making their comments during the call to the public when there is a Formal Interview on the agenda. MOTION PASSED UNANIMOUSLY.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 6**

- L. Arizona State Board of Dental Examiners FY 2013 Budget – For information only.

Dir. Hugunin stated the Board has resubmitted its FY 2013 budget as previously submitted with no significant changes from what was previously submitted.

- M. Arizona State Board of Dental Examiners 5-year rule review report – For information only.

Dir. Hugunin stated the Governor's Regulatory Review Council approved the Board's 5-year rules review on Tuesday. This covered Articles 1, 2, 3 and 4 which included definitions, licensure by credential, examinations, licensing qualifications, application and renewal, and time-frames and fees.

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

Dir. Hugunin stated the Board has a list of Executive Director Terminations since the last Board meeting in their additional material. The list was submitted in accordance with the statutes so no action needed to be taken.

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

- A. VACANT

Agenda Item No. 5 – Personnel Issues

- A. VACANT

Agenda Item No. 9 – Request for Action on Licensure by Credential – Clinical Examination taken less than five years ago

- A. VACANT

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

VACANT

Agenda Item No. 12 - VACANT

ACTION ON CASES

From Investigative or Informal Interview

**Agenda Item No. 14A Case No. 201000306
 Dr. Nicholas J. Meyer**

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

Ms. McLellan requested the Board to grant their petition to rehear and do an immediate review on four of the nine findings listed in the Board's June Order. The findings of fact for the inadequate treatment planning stated there was no alternative treatment plan for a metal-based crown. That is inaccurate because, according to Dr. Meyer's records and the patient complaint, there were alternate treatment plans. The order for allegation number five, crown and bridge, is inaccurate. The finding of facts state that there was no basis for doing the crown and bridge work on this patient. However, the patient came in asking for the old crowns to be removed. This would be considered cosmetic. The second issue under

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 8**

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to ORDER restitution in the amount of \$525.20 to the patient and \$412.80 to the insurer for a total of \$938, and continuing education: 6 hours in the area of crown and bridge and 4 hours in the area of risk management, 12 months to complete. MOTION PASSED UNANIMOUSLY.

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

Dr. Robison, his attorney, Jeff Tonner, and Kim, his billing coordinator, were present.

Mr. Tonner stated this case was tabled at the last Board meeting to collect additional information. He received a memorandum 15 days ago from the Board regarding Banner Health. Mr. Tonner and Kim meet with Banner with the goal of full disclosure. The Banner representative said everything was billed correctly. There was one case that was billed at \$21,000. It was originally billed for \$10,000 but there was a problem so Banner sent it back and it was re-billed. The bottom line is the representative from Banner who has the most knowledge about the billing said everything was fine. The other issue is regarding the collection of the co-pays. Banner set up a special plan to set aside money to pay for retirement and health benefits. It is not an insurance plan and there is no obligation for the doctor to pay. The only legal obligation to pay is contract, which they have none. Based on that, he requested this case be dismissed.

Upon MOTION by Dr. Morrison, second by Dr. Foster, the Board voted to FORWARD this case on to a Formal Hearing for alleged fraud and irregularities in billing. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 13C Case No. 201100072
 Dr. Hong Xia**

Dr. Xia and his attorney, Jeff Tonner, were present.

Mr. Tonner and Dr. Xia agree with the consent agreement. Dr. Xia wanted to add that the treatment in this case happened in 2006-2007. She would like to add this to the language under finding of fact #2.

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to ACCEPT the proposed consent agreement as amended. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 13D Case No. 201100094
 Dr. Peter J. Lee**

Dr. Lee, his attorney, Jeff Tonner, and complainant LH were present.

LH stated it has been a long painful journey to get to this point. Her professional relationship with Dr. Lee started in the fall of 2010 and ended when she terminated for cause for a bridge preparation. The situation has been a travesty of justice. During the bridge prep it seemed that something went wrong. She was told she needed an emergency root canal on tooth #5. It came out at the investigative hearing that she had a pulpal exposure which she was not made aware of. It was also said that the treatment fell short. Had she known then what she knows today she would not have embarked on this painful journey. Dr. Lee explained a bone graft surgery very briefly to LH but it did not seem like an option at the time. He claims to have taken the conservative approach. It is highly probable that the bridge will not last five years as required by insurance. During her second opinion, she was told that the RCT on #5 would have to be re-performed. She later had an apico and Dr. Lee would not acknowledge her pain but issued her pain pills. He could never get her temporary to fit. After receiving numerous second opinions she suspended treatment with Dr. Lee for cause. Each time she went in to get the bridge put on, she was told there was nothing to adhere the bridge to. Nearly 8 months have passed when she agreed to a \$1,000 procedure

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 11**

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to ORDER an administrative penalty of \$500 and complete the previously ordered continuing education: 6 hours in the area of endodontics with 6 months to complete. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 13I Case No. 201000213
Dr. Sathish Bhadra Chari**

Dr. Chari, his attorney, Jeff Tonner, and complainant PM were present.

PM stated he was speaking for his wife. This has been a long and frustrating exercise. They have invested a year and a half on what seems to be a futile quest for fair treatment. He was told that all of the parties involved have come to an agreement but the victim was not consulted. Nothing has met his expectations for fairness. His health plan referred the victim to Dr. Chari because he was a dentist in good standing, but he did not turn out to be the dentist they expected. He is disappointed with the Board for failing to take appropriate actions to prevent this from happening. He remembers the look of the faces on the Board members when his prior records were read. Dr. Chari has not learned anything from the numerous rulings and disciplinary actions. PM understands the agreement will include restitution and continuing education but Dr. Chari has not been held responsible for the work he did. Unlike his former patients who live with the suffering, his life has not been affected. PM will accept any ruling but asked the Board at what point should they be held responsible for Dr. Chari's actions.

Mr. Tonner stated there is a consent agreement presented which includes a \$2,000 administrative penalty, \$4,117 in restitution, continuing education (6 hours in the area of hands-on crown and bridge, 6 hours in hands-on endodontics), and take and complete PROBE, a professional-problem based ethics course. Dr. Chari has accepted the consent agreement.

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

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to VACATE the order for a Formal Hearing. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 14B Case No. 201000254
Dr. Jack I. Lipton**

Jeff Tonner on behalf of Dr. Lipton and complainant RH were present.

RH declined to comment.

Mr. Tonner stated this is a petition to rehear and requested the Board review the x-rays in the records.

Dr. Morrison stated he did review the records very thoroughly. The additional material did not add anything to the existing facts. There was no deviation in procedure. Mr. Tonner stated that Dr. Dischler reviewed the x-rays and found only a few issues with a couple teeth. Dr. Morrison stated it is very clear from the records there were open margins. Mr. Tonner stated that Dr. Dischler disagrees and it was noted on the record.

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to DENY the Petition to Rehear. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 14C Case No. 201000259
Dr. Jack I. Lipton**

Jeff Tonner on behalf of Dr. Lipton and complainant EF were present.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 13**

Upon MOTION by Dr. Foster, second by Mr. Greer, the Board voted to DENY the Petition to Rehear. Ms. Buckles, Dr. Morrison and Dr. Waite OPPOSED. MOTION PASSED.

**Agenda Item No. 13G Case No. 2011000238, 201100022, 201100042 & 201100047
Dr. Ralph L. Juriansz**

Dr. Juriansz, his attorney, Jeff Tonner, and complainant WS were present. Christopher Munns, Assistant Attorney General, was present telephonically.

Ms. Williams stated there is Motion to Deem Allegations Admitted in front of the Board that was filed following Dr. Juriansz's failure to answer the complaint that was served to him in June 2011. Dr. Juriansz did have notice due to all the different ways it was sent out. It was first sent to his address of record by certified mail on June 20, 2011 and came back unclaimed. It was also sent to two other addresses the Board had in its possession and those were signed for by someone other than Dr. Juriansz. He then came to the Board on July 26, 2011 to renew his dental license. Staff handed the complaint to Dr. Juriansz in which he signed a receipt. At no time has he filed any answer to the complaint or made any contact regarding it. Ms. Williams requested rebuttal time after she hears what Mr. Tonner has to say.

WS was there for case 201100022. He stated Dr. Juriansz has a gold crown in his possession that was never placed but the prep work was done and his new dentist would like past x-rays if available.

Mr. Tonner stated at various points staff did a diligent job of trying to contact Dr. Juriansz. Service was finally made in July. The law says he had 20 days to respond which he did not. The events that occurred before contact was made are: the doctor's finances were decreasing severely, he had a divorce, a bankruptcy, his hygienist had substance abuse issues and on December 17, 2010 his landlord locked him out of his office. Dr. Juriansz did not work for the next six months. His house went into foreclosure, he was thrown out with his daughter, so he lived in his car but then that was impounded for expired license. He was also incarcerated for failing to pay child support. In June 2011, another dentist helped Dr. Juriansz and allows him to work 4-5 days a week, per diem and he is slowly turning his life around. Mr. Tonner requested the Board table these cases until the December meeting to give the doctor an opportunity to make things right with his patients. The landlord has destroyed all of the dental records due to a lien and sale on the property. If the Board takes his license, Dr. Juriansz suffers and the patients get nothing. The crown for WS is with the lab so he can get it released to him. Mr. Tonner does understand it is Dr. Juriansz's fault but he is requesting the Board consider the circumstances and table these cases.

Ms. Williams would like to defer this to the Board. If they are inclined to table it, the Board needs to determine what the Board wants to see in December so the Board knows how to move forward. Dr. Gradke asked if a consent agreement is an option and Ms. Williams responded affirmatively. Dr. Gradke asked if Dr. Juriansz is willing to pay those patients back for abandoning them. Mr. Tonner replied that Dr. Juriansz is willing to contact them and offer two things: services at his new office or repayment in the form of a payment schedule. Dr. Foster asked if he is still licensed and Ms. Williams responded he is still licensed and his renewal has been submitted but it is pending.

Upon MOTION by Mr. Greer, second by Dr. Morrison, 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 Dr. Morrison, the Board voted to TABLE these cases with an instruction to staff to pursue a Consent Agreement. Dr. Waite OPPOSED. MOTION PASSED.

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

- A. Dr. Blake J. Olson – Disclosure of shoplifting conviction.

Dr. Olson was present and stated he made a childish mistake 9 years ago in college and it will never happen again.

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

Agenda Item No. 7 – Request for Action on Licensure by Credential – Consent Agenda

- A. Annamaria Orlando, RDH – Board approved exam, disclosure of DUI and recommendation by the MATP Medical Director for entrance into the two-year Substance Abuse Track Program

Ms. Orlando was present and stated she did see Dr. Sucher who recommended the 2-year program which she feels is quite extreme. She did admit to drinking 4-5 drinks per night on the weekend but she does not drink in excess and assures the Board that this will never happen again. She has thought about everything he said to her and she understands his recommendation. She feels it is extreme but understands he is looking out for the public. Ms. Orlando requested the Board dismiss the two-year program.

Dr. Gradke stated the Board relies very heavily on Dr. Sucher's recommendation. Ms. Buckles stated his recommendation takes into consideration what is best for the participant and the public. Dr. Waite stated there are a number of options: the Board can accept Dr. Sucher's recommendation for the two-year program, make changes to the recommendation, or deny the license. Ms. Orlando could also withdraw her application if she does not want to follow the recommendation.

Ms. Orlando did not want to withdraw her application and agreed to a finding of unprofessional conduct to enter in the 2-year abuse track program. Mr. Greer stated this appears to be an isolated incident and does not seem consistent with other cases. He recommended granting licensure. Dir. Hugunin did speak with Dr. Sucher and he stated that Ms. Orlando does drink more heavily than her peers. Mr. Greer stated he usually agrees with Dr. Sucher's recommendations but if there was ever a time to deviate from those, he would be comfortable doing so in this case. Dr. Foster stated he is concerned for both the applicant and the public but this was only one instance.

Upon MOTION by Dr. Gradke, second by Ms. Buckles, the Board voted to GRANT the license if she enters into the abuse track program. Mr. Greer, Mr. Jackson, Dr. Morrison and Dr. Waite OPPOSED. MOTION FAILED.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to GRANT licensure without restrictions. Dr. Gradke, Dr. Foster and Ms. Buckles OPPOSED. MOTION PASSED.

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

- A. VACANT
- B. Dr. Mike C.Y. Lee – Review, discussion and possible action regarding opening an investigation for alleged substance abuse and recommendation by the MATP Medical Director for entrance into the two-year Substance Abuse Track Program.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 15**

Dr. Lee was present but declined to address the Board. When asked by the Board, he agreed to enter into the 2-year abuse track program with a finding of unprofessional conduct.

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to GRANT renewal and OPEN an investigation with a recommendation to enter into the 2-year MATP substance abuse track program. MOTION PASSED UNANIMOUSLY.

- C. Nancy Nordlund, RDH – Review, discussion and possible action regarding request for renewal of dental hygiene license involving disclosure of a DUI arrest and recommendation by MATP Medical Director. Review, discussion and possible action regarding opening an investigation for failure to timely disclose.

No one was present to address the Board.

Upon MOTION by Ms. Buckles, second by Dr. Morrison, the Board voted to APPROVE renewal of dental hygiene license. 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:

Nothing was pulled. 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. 201100084	Dr. Mohammad Khaknegar Dismiss
Agenda Item No. 15B	Case No. 201100090	Dr. Prashanthi Baddam Dismiss
Agenda Item No. 15C	Case No. 201100093	Dr. Daniel Kang Dismiss

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

Agenda Item No. 16C	Case No. 201100137	Dr. William A. Gibbons Issuance of Letter of Concern stating Dr. Gibbons should insure a patient's records contain clinical charting documenting the decayed, missing and filled teeth and a complete periodontal charting prior to any treatment.
----------------------------	---------------------------	--

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 16**

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to IMPOSE non-disciplinary Continuing Education for the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 17A **Case No. 201100032** **Dr. Roya Zojaji**
Impose Non-disciplinary Continuing Education –
3 hours in Anesthesia Record Keeping
6 months to complete

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

Agenda Item No. 18A **Case No. 201100136** **Dr. Stephen K. Gabrielsen**
Terminate – Per patient letter

The Board took no action on the following items:

Agenda Item No. 19A **VACANT** **VACANT**

Agenda Item No. 20A Dr. John M. Roskos
Malpractice Report: Take No Action

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

A. VACANT

Agenda Item No. 22 – Approval of Consultants and Examiners – Consent Agenda

A. Dr. Jeffrey N. Brownstein - Anesthesia Permit Evaluator

Nothing was pulled. Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ACCEPT Dr. Brownstein as an Anesthesia Permit Evaluator. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 23 – Approval of Minutes – Consent Agenda

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

- A. August 5, 2011 - Board Meeting Minutes
- B. August 5, 2011 - Executive Session Minutes
- C. August 9, 2011 - Board Meeting Minutes
- D. September 16, 2011 - Board Meeting Minutes

Agenda Item No. 16A **Case No. 201100044**
Dr. Leslie I. Davis

Mr. Cates, on behalf of Dr. Davis, and complainant JS were present.

JS stated she is here to refute the inaccurate testimony that was given to her by Dr. Davis at the August Investigative Interview. She requested the utmost consideration be given to the recommendation of the letter

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 17**

of concern as to the unprofessional conduct of Dr. Davis. In late September of 2008 she became aware of the problem inside her mouth around the palate by teeth #7-8. She sought immediate attention and for the next 18 months she continued to have consultations with a number of dentists. She was referred to a periodontist (Dr. Davis) and on April 26, 2010, she had her first initial consult. Her husband accompanied her to her visit when she signed for long term care. Dr. Davis never said anything about the possibility of a biopsy nor was there any discussion about the possibility of cancer. She took another set of diagnostic radiographs. Her next visits were in May and July of 2010. Those times were spent mostly with a hygienist. Dr. Davis did an exam of the sore, told her to leave it alone and live with it. The possibility of a biopsy and cancer was never mentioned. Because of this she cancelled her October appointment. By the end of the year, the sores had worsened. She made an appointment in January 2011 with Dr. Davis. Four teeth had to be sawed out due to the cancer. It started in her mouth and moved to her neck.

Mr. Cates stated while they disagree with the allegations, they understand the committee's concern about Dr. Davis' documentation and have no objections to the letter of concern.

Upon MOTION by Dr. Gradke, second by Ms. Buckles, the Board voted to ISSUE of Letter of Concern stating Dr. Davis needs to communicate the urgency for biopsy to his patients when there is a lesion present for a long period of time. Dr. Davis should record in his records that a patient has refused his recommended treatment. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16B Case No. 201100132
 Dr. Xavier Andres Mata**

Complainant VR was present.

VR stated the neglect and abandonment Dr. Mata showed her was wrong, both morally and ethically. Something needs to be done. Walking out on a patient in the middle of surgery to consult with other patients about future procedures is most definitely neglect and abandonment. He also prescribed her a drug that she was allergic to. Dr. Mata voiced no concern when she told him her tongue was swelling.

Upon MOTION by Dr. Waite, second by Mr. Greer, the Board voted to ISSUE a Letter of Concern stating Dr. Mata should insure a patient's record contains documentation of a review of the health history and specifically a discussion with the patient of any allergies to medications noted on the health history. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16D Case No. 201100139
 Dr. Timothy R. Avedovech**

Susan McLellan, on behalf of Dr. Avedovech, and complainant LV were present but declined to comment.

Ms. McLellan stated this was not pulled by a Board member and Dr. Avedovech accepts the recommendation of a letter of concern.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to ISSUE a Letter of Concern stating Dr. Avedovech should document in the record all discussions with the patient informing them of complications during treatment and its consequences. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 17B Case No. 201100095
 Dr. Barry James Nestlerode**

Dr. Nestlerode and complainant AM were present.

AM stated some of the statements that Dr. Nestlerode made at the Investigative Interview were false. There were a total of 8 crowns that cost a total of \$9,850. He received treatment but there was never a

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 19**

while between the extraction and cementation. Dr. Yadav responded if there is any problem, they would discuss it, but if there is no problem, they would not.

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

**Agenda Item No. 24C Case No. 201100110-ED
 Dr. Sharad N. Pandhi**

Ms. Corcoran, on behalf of Dr. Pandhi, was present but declined to comment.

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

**Agenda Item No. 24D Case No. 201100113-ED
 Dr. Jonathan I. Kalika**

Dr. Kalika was present but declined to address the Board.

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

Agenda Item No. 24E VACANT

**Agenda Item No. 24F Case No. 201100115-ED
 Dr. Owen J. Hibbert**

No one was present to address the Board.

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

**Agenda Item No. 24G Case No. 201100117-ED
 Dr. Donald J. Gass, Jr.**

Complainant LV was present.

LV stated she went to Dr. Masters who referred her to Dr. Gass to have tooth #3 extracted because the root was into the sinuses. He had to lean on her chest to get the root out. She had to go to a neurologist who is sending her to a neurosurgeon to have radiation done. This has caused permanent facial damage.

Ms. Buckles asked if it is possible for nerve damage to occur from a complicated extraction. Dr. Gradke answered it is possible but highly unlikely. There is no way a surgeon could identify where the damage came from because it is microscopic.

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

**Agenda Item No. 24H Case No. 201100118-ED
 Dr. Robert A. Masters**

Complainant LV was present.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 20**

LV stated she kept going back to Dr. Masters for the pain. He only sent her home with pain medication but then he finally referred her to an endodontist who referred her to a neurologist. She will be on medication for the rest of her life because of this.

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

**Agenda Item No. 24I Case No. 201100097-ED
Arizona Dental Service**

Complainant LB was present.

LB submitted a synopsis and exhibits to the Board. She stated she never complained about any of the dentists. The complaint was against the Arizona Dental Service due to fraud and questionable billings. The new information is about the dental assistant. When she had her crown put in, LB made a comment that the tooth was high and the assistant grabbed a drill and offered to file it down. When she went to have her bridge cemented, the dental assistant's 15-year old brother was in there being trained. Those were very questionable practices. There was also \$94 that could not be accounted for.

It was confirmed that Arizona Dental Service is a licensed entity. Mr. Jackson reviewed this case thoroughly and understands that sometimes insurance billing can be confusing. After reviewing the case, he did not find anything wrong with the billing. Nothing was added that was not documented in the patient charts. He saw there were adjustments due to professional courtesy, but nothing inappropriate.

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

Agenda Item No. 25 – OTHER COMMITTEE REPORTS

A. VACANT

Agenda Item No. 26 – Members of the Public

VACANT

Agenda Item No. 27 – Associations

VACANT

Agenda Item No. 28 – Future Agenda Items

VACANT

Agenda Item No. 29 – Next Meeting Date

December 9, 2011

Agenda Item No. 8 – Request for Action on Licensure by Credential – Clinical Examination taken more than five years ago

A. Dr. Thomas Francis Helbert – 1976 CRDTS

No one was present to address the Board.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
OCTOBER 7, 2011
PAGE 21**

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

B. Suzanne Marie Piersak, RDH – 1978 CRDTS

No one was present to address the Board.

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

Agenda Item No. 30 – Adjournment

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

Dr. Waite adjourned the meeting at 11:35 AM.

Minutes APPROVED at the December 9, 2011 Board Meeting.

Elaine Hugunin, Executive Director