



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 DECEMBER 7, 2012

Board Members Present:

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

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.

Agenda Item No. 2 – Public Comment on Cases

Complainant KS was present and spoke about case no. 201200087 (Agenda Item 13A).

Complainant KM was present and spoke about case no. 201200134 (Agenda Item 14C)

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 2**

Complainant RR was present and spoke about case no. 201200147-ED (Agenda Item 23C)

Agenda Item No. 3 – President’s Report

- A. Appointment of Board Members (One Dentist and one Dental Hygienist) to the Dental Hygiene Committee.

Dr. Waite appointed the new Dental Hygienist Board Member to the Dental Hygiene Committee. Ms. Buckles will attend the Dental Hygiene Committee Meeting in January if a new Dental Hygienist has not been appointed to the Board.

Dr. Whiting will also attend the January Dental Hygiene Committee Meeting if a new Dentist Board Member has not been appointed.

- B. Appointment of Members for Committee to review Arizona Administrative Code, Title 4, Chapter 11 Article 2 Licensure by Credential, Article 3 Examinations, Licensing Qualifications, Application and Renewal, Time-Frames and Article 8 Denturists.

Dr. Waite will Chair the Committee. Dr. Waite appointed committee members – Dr. Michael Hull, Dr. Bruce Spigner, Susan Smedley, RDH, Sharon Zastrow, RDH, Mr. David Mengel, and Mr. Kevin Earle.

- C. Report regarding AADB Meeting held October 16 – 18, 2012.

Dr. Waite reported on the meeting in San Francisco. North Carolina presented information on the case against them regarding whiting kiosks. The case has cost North Carolina quite a bit of money to fight it. There was a session on prescription drug monitoring program; many states are enacting legislation. Nevada is working on legislation which would require dentists to query themselves two times per year. The goal is that dentists should be more aware of the controlled substances being prescribed using their DEAs. There was also a presentation on the Assessment Services Program. The assessment is available at three dental schools. If the Board would like to hear more about the program, a representative from the program will give a presentation to the Board. The Board directed staff to arrange for a presentation.

- D. Review, discussion and possible approval for the Executive Director to attend the mid-year AADB and AADA meeting and Board President to attend the mid-year AADB meeting in Chicago April 2013.

This agenda item was not heard.

- E. Expiration of Board Member terms: Ms. Laurie Buckles, Mr. Joshua Greer, Dr. Scott Morrison, Dr. Benjamin Whiting

Dr. Waite expressed appreciation of the time and effort Ms. Buckles, Mr. Greer, Dr. Morrison and Dr. Whiting gave to the Board and wished them well. Dir. Hugunin added – being a Board Member is a huge responsibility and Staff cannot thank them enough for taking on that responsibility. Dr. Morrison imparted it was a privilege being Vice President and working with everyone. Ms. Buckles agreed with Dr. Morrison.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 3**

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 were reported.

- B. Election of Officers.

Upon MOTION by Dr. Morrison, second by Dr. Gradke, the Board voted to ELECT Dr. Waite as President. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Waite, second by Dr. Morrison, the Board voted to ELECT Dr. Hauer as Vice President. MOTION PASSED UNANIMOUSLY.

- C. Review, discussion and possible action regarding the following proposed legislative changes:

- i. Amend Arizona Revised Statutes (ARS) § 32-1207(B)(6) to clarify that the licensee, certificate holder or applicant bears the cost of physical, psychological, psychiatric and competency evaluations.

Dir. Hugunin addressed the Board. In the Board Member materials there is proposed language which will clarify that the licensee, certificate holder or applicant will incur the cost of physical, psychological, psychiatric and competency evaluations. This is consistent with the Board’s current practice and with other regulatory boards.

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to INSTRUCT the Board’s lobbyist to pursue the legislative changes as outlined. MOTION PASSED UNANIMOUSLY.

- ii. Amend ARS § 32-1263.02 to add a statute of limitations for filing a complaint.

Dir. Hugunin addressed the Board. In the Board Member materials there is proposed language which provides a statutory limit of not more than six years to file a complaint. This is consistent with current statutes requiring licensees to maintain dental records for six years.

Upon MOTION by Ms. Crevier, second by Dr. Hauer, the Board voted to PROCEED with an amendment to ARS § 32-1263.02 to add a statute of limitations for filing a complaint. MOTION PASSED UNANIMOUSLY.

- D. Report regarding AADB and AADA Meeting held October 15-18, 2012

Dir. Hugunin stated she did not have much more to add to Dr. Waite’s report. The Assessment Services Program is modeled after the medical regulatory boards’ program which they have had for years. Dir. Hugunin thanked the Board for sending both Dr. Waite and herself to the meetings. Networking with other dental regulatory boards is invaluable.

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

Dr. Morrison and Dr. Waite recused from the discussion and possible vote. Dr. Hauer facilitated the discussion. Ms. Chambers presented questions the Board needs to consider if they vote to become a member of ADEX. 1. What is the expectation of the Board Members? Will Board Members be expected to examine and/or serve on ADEX committees? The

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 4**

impact to the Board is additional time to participate as both ADEX and WREB Examiners. 2. Will the Board approve all the Regional Examination Boards and State administering the ADEX for licensure by credential? This would not impact the Board and would have a positive impact for applicants because an exam comparison will not be required. 3. Will the Board accept Regional Examination Boards and States administering the ADEX examination within the last five years as license by examination? The impact to the applicant would be positive. Licensure by examination is less expensive than licensure by credential. The impact to the Board – This would require a legislative change. It would also cause a decrease in revenue as the Board would no longer receive the credentialing fee for this type of applicant. The projected decrease in revenue is \$57,800 per year. 4. The Dental Hygiene Committee needs to review and make recommendations to the Board regarding the Hygiene ADEX Examination.

i. Presentation by ADEX

Stanwood H. Kanna, DDS presented. ADEX is the American Board of Dental Examiners examination. There are five clinical examinations nationwide with five different standards. The creation of a clinical licensure exam is based on two perceptions. Dentistry should be uniform across the nation. Why are there five exams? The other perception is freedom of movement of the dentist candidate. The ADA has endorsed the concept of a national clinical examination administered by regional or state examination boards. ADEX has used parts of all the existing clinical examination to develop their exam with the goal of becoming the national exam. ADEX is the exam committee for NERB, Florida, Nevada and SRTA (starting in 2013). ADEX is not a testing agency; they are an exam development corporation. Nothing in the ADEX bylaws requires the Board to accept ADEX in a specific manner; but does require the Board to accept ADEX as a means of licensure. If the Board were to join ADEX, active or former Board members may participate. Dr. Kanna does not think the Board would need to amend statute to join ADEX. Joining ADEX only gives the Board the ability to have input in the development of the examination. The ADEX examination has five parts; computer based examination; prosthodontics, patient-based, endodontic and periodontics. The candidate must pass all five to successfully pass the examination. Over the years, ADEX has made changes to the examination. Based on task analysis, periodontics is now an optional part of the examination. Some states require periodontics. The clinical examination procedures are completed on typodonts with the exception of restorative procedures completed on patients. The endodontic portion of the exam is completed on typodonts, not natural teeth. Dr. Kanna encourages the Board to join ADEX.

ii. Presentation by WREB

Charles D. Broadbent, DDS presented. WREB was founded in 1976. WREB and the Board have had a good relationship for about 35 years. WREB has about 50% of the market share with ADEX having the other 50%. There are 16 Member states. There is very good acceptance of the WREB examination nationwide. WREB expects its members to be active; WREB does not seek or desire inactive member states. Member states will provide WREB with examiners, people to sit on committees, someone to sit on the exam review board and work groups. WREB does not think a national exam is the best idea. It will not provide competition or the sharpest exams. Regional exam boards can act quickly and change quickly. If competition goes away, there will be a regression to the mean which is not good for the public or a licensing board. By keeping regionals separate, politics is minimized. Regionals by recognition will enable portability of licensure. With licensure by credential, the Arizona Dental Board currently accepts many regional and state exams. If the argument is that because the Board accepts ADEX exams, the Board should join ADEX, then the Board should be talking about joining other

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 5**

regional exam boards because the Board accepts their exams. It is not a good idea to join them all. There is a relationship between ADEX and NERB. Usually ADEX and NERB make presentations together. Membership in WREB requires acceptance of both the dental and dental hygiene examination. WREB has one dental exam. The member cannot pick and choose what portions of the exam they want to administered. The periodontics portion of the WREB dental exam is required. WREB's Patient Assessment Treatment Plan (PATP) exam is different from ADEX's DCE. WREB's PATP is a cognitive examination with no hints as opposed to ADEX's DCE which is multiple choice questions with a one in four chance of getting a correct answer. WREB's PATP is totally cognitive, the candidate is given some facts the candidate writes a treatment plan. The endodontic examination is administered on a typodont with natural teeth. WREB does not have a plastic exercise. WREB discourages the Board from joining ADEX because manpower becomes diluted. The more examination boards the Board joins the less influence the Board will have.

Dr. Hauer listed some options for the Board: A Board Member may make a motion to accept ADEX, the Board may take no action or the may Board vote to table the item. Dr. Hauer added that he would like to know whether statute needs to be changed or can the Board accept ADEX and find a way that is revenue neutral.

Upon MOTION by Dr. Hauer, second by Ms. Crevier, the Board voted to TABLE the item for more information. MOTION PASSED UNANIMOUSLY.

- F. Review, discussion and possible action on Commission on Dental Accreditation (CODA) correspondence regarding State Board participation on accreditation site visits.

Dir. Hugunin reported that the Commission on Dental Accreditation (CODA) is requesting two Board Members to participate in accreditation site visits. No one volunteered.

- G. Discussion regarding announcement from the Joint Commission on National Dental Examinations regarding Vacancies on National Board Test Construction Committee for 2014.

Dir. Hugunin announced that there are vacancies on the National Board Test Construction Committee for 2014.

- H. Review, discussion and possible approval of Notice of Final Rulemaking and Economic Impact Statement on Arizona Administrative Code (AAC) R4-11-101 Definitions and AAC R4-11-1301 – 1307 relating to Anesthesia and Sedation Permits.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to APPROVE the Notice of Final Rulemaking and Economic Impact Statement on Arizona Administrative Code (AAC) R4-11-101 Definitions and AAC R4-11-1301 – 1307 relating to Anesthesia and Sedation Permits. MOTION PASSED UNANIMOUSLY.

- I. Review, discussion and possible approval of Notice of Final Rulemaking and Economic Impact Statement on Arizona Administrative Code (AAC) R4-11-101 Definitions and AAC R4-11-1501 – 1504 relating to the Board's complaint process.

Upon MOTION by Ms. Crevier, second by Mr. Greer, the Board voted to APPROVE the Notice of Final Rulemaking and Economic Impact Statement on Arizona Administrative Code (AAC) R4-11-101 Definitions and AAC R4-11-1501 – 1504 relating to the Board's complaint process. MOTION PASSED UNANIMOUSLY.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 6**

- J. Review, discussion and possible action to amend Substantive Policy Statement #3 Continuing Education Extensions.

Ms. Chambers addressed the Board. The current Substantive Policy Statement #3 was adopted by the Board in 2002. The amendments are based on input of both the Continuing Education Audit for Dentists Committee and the Dental Hygiene Committee and recent statute changes. The amended policy statement will clarify the extension request process for the licensee and give more information to the respective committee members to make informed recommendations to the Board.

Upon MOTION by Dr. Foster, second by Dr. Morrison, the Board voted to AMEND Substantive Policy Statement #3 Continuing Education Extension to clarify the CE Extension Process. MOTION PASSED UNANIMOUSLY.

- K. 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.

ACTION ON LICENSING

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

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

- A. Dr. Thomas A. Endicott – Review, discussion and possible action on proposed consent agreement regarding license denial.

Dr. Endicott and his attorney, Jeffrey Tonner were present. At the October 5, 2012 meeting, the Board voted to deny Dr. Endicott's application for licensure. Dr. Endicott appealed the denial and Mr. Tonner requested a Settlement Conference. Dr. Endicott, Mr. Tonner, Dir. Hugunin and Assistant Attorney General Mary Williams participated in the Settlement Conference at which the participants discussed a proposed consent agreement subject to ratification by the Board. The terms of the agreement include Dr. Endicott's admission to two violations, ARS § 32-1201(21)(m) revocation of a license in another state and ARS § 32-1263(a)(2) conviction of a felony. Sanctions to include successful completion of a three hour ethics course provided by an approved sponsor to be completed prior to the December 7, 2012 Board Meeting and 24 hours of continuing education in clinical studies. Dr. Endicott has completed the ethics course. The agreement will also include random audits of billing practices if Dr. Endicott ever purchases his own practice with Dr. Endicott paying for the audits and the requirement that Dr. Endicott will show the agreement to all prospective employers.

Mr. Tonner stated that Dr. Endicott has volunteered at CASS as a dental assistant, volunteered at a homeless shelter for men where he answered phones and has worked at a minimum wage job.

Upon MOTION by Dr. Hauer, second by Ms. McClain, the Board voted to ACCEPT the CONSENT AGREEMENT. Dr. Foster and Dr. Gradke OPPOSED, Mr. Jackson, RECUSED. MOTION PASSED.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 7**

Upon MOTION by Mr. Greer, second by Ms. Crevier, the Board voted to VACATE the previous vote for denial. MOTION PASSED UNANIMOUSLY

- B. Camelia M. Sandoval, RDH – Review, discussion and possible action regarding disclosure of arrest for falsification of a driver license.

Ms. Sandoval was present to answer any questions the Board may have.

Upon MOTION by Dr. Morrison, second by Dr. Whiting, the Board voted to GRANT licensure to Camelia M. Sandoval, RDH. MOTION PASSED UNANIMOUSLY.

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

- A. Dr. Paul Martin Stec – Review, discussion and possible action regarding reconsideration of license denial.

Dr. Stec was present. Dir. Hugunin reminded the Board that Dr. Stec's application for licensure was denied at the October 5, 2012 Board Meeting. Dr. Stec did not attend the October meeting. Dr. Stec appealed the denial and requested a settlement conference which was held with Dr. Stec, Dir. Hugunin and Assistant Attorney General Mary Williams. Dr. Stec's application is being brought to the Board for reconsideration.

Dr. Stec addressed the Board regarding his malpractice matters. He sold his practice with plans of retiring. He also stated he has been affiliated with Midwestern University for 33 years and there is now a Dental School at Midwestern University in Arizona. He would like to teach at Midwestern.

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

Upon MOTION by Dr. Morrison, second by Mr. Greer, the Board voted to VACATE the previous vote for denial. MOTION PASSED UNANIMOUSLY.

- B. Dr. Alma Arredondo-Lynch- 1988 Texas State Exam prior to a regional.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to GRANT licensure to Dr. Arredondo-Lynch. MOTION PASSED UNANIMOUSLY.

- C. Dr. Thomas Ross Pitts-1969 Washington State Exam prior to a regional.

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

- D. Dr. Richard Don Blanchard- 1963 California State Exam prior to a regional exam, discipline on Nevada dental license

The Board asked if Dr. Blanchard was an orthodontist. Staff responded that he is not an orthodontist.

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 8**

- E. Dr. Nicholas Benjamin LaFeber – Previously licensed in Arizona; discipline on Arizona license; Board approved examination (2002 WREB).

Dr. LaFeber was present and addressed the Board. Dr. LaFeber came to Arizona out of dental school. He was disciplined by the Arizona Board; all orders have been completed. He left Arizona and has been practicing in Utah for the last six years without incident. Dr. LaFeber was asked what he has done to improve his clinical abilities. Since 2007 Dr. LaFeber has taken over 100 hours of mostly clinical continuing education which included hands-on courses. Utah required 50 hours over a three-year period.

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

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

- A. Dr. Gilda Potter Ferguson- 1986 SRТА Exam

Dr. Ferguson was present and addressed the Board. Dr. Ferguson is an educator who worked at Virginia Commonwealth University after 23 years of active practice. She now works at Midwestern University.

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

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

- A. Dr. Skylar Alan Lighthall- 2012 SRТА Exam

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

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

- A. Dr. Douglas R. Ludens – Review, discussion and possible action regarding medical disclosure on renewal application

The Board reviewed the most current neurological examination results. Dr. Ludens' attorney spoke with staff and stated that Dr. Ludens is not able to practice dentistry at this time. The Board was concerned if Dr. Ludens requested to change the status of his license to disabled he would be allowed to practice in a charitable setting. The Board discussed contacting Dr. Ludens to ascertain if he was interested in changing his status to disabled with consent to not practice while in disabled status or withdrawing his application.

Upon MOTION by Dr. Gradke, second by Dr. Foster, the Board voted to TABLE and direct staff to obtain more information and offer a consent agreement. MOTION PASSED UNANIMOUSLY.

- B. Dr. Daryl K. Reavis – Review, discussion, and possible action regarding DUI disclosure on renewal application and surrender of Oregon license allowing Dr. Reavis in lieu of disciplinary action.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 9**

Mr. Tonner was present and spoke on behalf of Dr. Reavis. Dr. Reavis practiced dentistry in Arizona for a long time. In approximately 2004, upon a physician's statement, Dr. Reavis requested and changed his license status to disabled. Dr. Reavis timely submitted his renewal application which contained disclosures, one of which was a DUI. Dr. Reavis had a substance abuse issue and in 2010 entered Springbrook for 30 days of in-patient treatment. Since then, Dr. Reavis has voluntarily participated in the program. Dr. Reavis resides in Oregon. When staff reviewed the renewal application, they anticipated and informed Dr. Reavis the Board would want a report from Dr. Sucher. Dr. Reavis contacted Dr. Sucher, but with travel costs and Dr. Sucher's fee, it was too expensive. Dr. Reavis does not know if he will ever practice again but would like to maintain his disabled status in Arizona. If his disabled renewal application is denied and he ever wanted a license in Arizona he would need to go through the application process. Mr. Tonner recommended that Dr. Reavis enter into a consent order which would allow Dr. Reavis to renew his disabled license and stipulate that if he ever applies to change his status to a full license that he would complete a full evaluation with the Board's addictionologist. Mr. Tonner stated that with a disabled license, one is not allowed to practice, so the public is protected.

The Board asked staff if Dr. Reavis timely submitted his renewal. Ms. Chambers stated that Dr. Reavis' license expired June 30, 2010; a licensee has two years to reinstate their license. Dr. Reavis submitted his application for reinstatement in November 2011. At this point his license is expired. Ms. Chambers added that a licensee in disabled license status may practice at charitable organizations. Ms. Hugunin reminded the Board the Dr. Reavis surrendered his license in Oregon in lieu of disciplinary action, therefore, the Board could deny his renewal application based on the action in Oregon.

Upon MOTION by Mr. Greer, second by Dr. Morrison, the Board voted to instruct staff to pursue a consent agreement to renew Dr. Reavis' disabled license with the conditions that if he ever seeks to reactivate, in addition to proving his ability to practice dentistry, that he meet with Dr. Sucher and he will not practice at Arizona charitable organizations on his disabled license. MOTION PASSED UNANIMOUSLY.

ACTION ON CASES

Agenda Item No. 13 – Action on Previous Action

**Agenda Item No. 13A Case No. 201200087
Dr. Gregory E. Garber**

Mr. David Cohen was present on behalf of Dr. Graber. This case has been reviewed by three experts. All three have recommended termination.

The Board questioned if the night guard was delivered to the patient. All restorative treatment would need to be completed before the night guard would be delivered. The patient did not return to complete the treatment; therefore, the night guard was not delivered. The allegation in this case was regarding crown and bridge.

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 10**

**Agenda Item No. 13B Case No. 201200060
Dr. Amy Jo McKeever**

The Board conducted a Formal Interview at the October 5, 2012 meeting. The Board order is being brought back for consideration of the findings of fact.

Mr. Jeffrey Tonner was present on behalf of Dr. McKeever. Mr. Tonner recommended findings of fact, nine and ten be amended to read "Cigna – City of Phoenix liaison" instead of "a local Cigna employee." Mr. Tonner recommends adding, "Dr. McKeever had permission from the Cigna – City of Phoenix liaison" to finding of fact number seven. Finding of fact number ten states, "Dr. McKeever may not unilaterally alter the terms." Dr. McKeever did not unilaterally alter the contract; she sought advice from the Cigna – City of Phoenix liaison. Dr. Tonner recommends finding of fact number ten be struck.

The Board discussed the recommendations.

Upon MOTION by Mr. Greer, second by Dr. Foster, the Board voted to ACCEPT the proposed order as is. 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:

Agenda Item No. 15B Case No. 201200159-MP Dr. David R. Hunsaker
Agenda Item No. 16A Case No. 201200187 Dr. David Grieb

Cases ADJUDICATED:

Agenda Item No. 14 – Cases Recommended for Non-Disciplinary Continuing Education Consent Agreements – Consent Agenda

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

Agenda Item No. 14A Case No. 201200131 Dr. Erica N. Bigos
Non-Disciplinary Continuing Education Consent Agreement – 6 hours in crown and bridge

Agenda Item No. 14B Case No. 20100153-MP Dr. Hyrum G. Hatch
Non-Disciplinary Continuing Education Consent Agreement – 4 hours in record keeping

Agenda Item No. 14C Case No. 201200134 Dr. Daniel D. Luisi
Non-Disciplinary Continuing Education Consent Agreement – 6 hours in crown and bridge

Agenda Item No. 15 – Cases Recommended for Issuance of Letter of Concern – Consent Agenda

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

- | | |
|--|---|
| Agenda Item No. 15A Case No. 201200132 | Dr. Julie S. Cutler
Issued a Letter of Concern stating: “Dr. Cutler is responsible for reviewing the patient charts and timely reading x-rays as well as documentation of discussions with patients.” |
| Agenda Item No. 15C Case No. 201200171 | Dr. Bradley K. Brittain
Issued a Letter of Concern stating: “Dr. Brittain should maintain a complete and accurate chart including a health history, periodontal charting and reference to the informed consent discussion.” |
| Agenda Item No. 15D Case No. 2012000176 | Dr. L. Hunter Nash
Issued a Letter of Concern stating: “Dr. Nash should obtain informed consent from a parent/guardian prior to any procedure on a minor.” |
| Agenda Item No. 15E Case No. 201200190 | Dr. Luis G. Keys
Issued a Letter of Concern stating: “Dr. Keys is responsible for knowing the license or certification status of his employees.” |

Agenda Item No. 17 – Cases Recommended for Dismissal – Consent Agenda

Agenda Item No. 17A - VACANT

Agenda Item No. 18 – Cases Recommended for Formal Interview – Consent Agenda

Upon a MOTION by Dr. Foster, second by Dr. Gradke, the Board voted to FORWARD the following cases on the Consent Agenda to a Formal Interview. MOTION PASSED UNANIMOUSLY.

- | | |
|---|--|
| Agenda Item No. 18A Case No. 201200114 | Dr. George R. Ayoub
Forward to Formal Interview |
| Agenda Item No. 18B Case No. 201200097 | Dr. Arthur J. Porter
Forward to Formal Interview |

Agenda Item No. 19 – Malpractice and Adverse Occurrence Reports - Consent Agenda

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

- | | |
|----------------------------|---|
| Agenda Item No. 19A | Dr. Dennis E. Hanna
Malpractice report. Took no action. |
|----------------------------|---|

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 12**

Agenda Item No. 19B

Dr. Kenneth L. Reed

Adverse occurrence. Took no action.

Agenda Item No. 20 Consent Agenda VACANT

Agenda Item No. 21 Consent Agenda. Upon a MOTION by Dr. Greer, second by Dr. Hauer, the Board voted to APPROVE the following minutes. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 21A October 5, 2012 Board Meeting Minutes

Agenda Item No. 21B October 5, 2012 Executive Session Minutes

END OF CONSENT AGENDA

OTHER BUSINESS

Agenda Item No. 23 – REVIEW OF EXECUTIVE DIRECTOR TERMINATIONS

**Agenda Item No. 23A Case No. 201200110-ED
 Dr. Omer K. Reed**

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

**Agenda Item No. 23B Case No. 201200111-ED
 Dr. Stephen J. Conrad**

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

**Agenda Item No. 23C Case No. 201200147-ED
 Dr. Jennifer M. Matzen**

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

**Agenda Item No. 23D Case No. 201200148-ED
 Dr. Bernard M. Florento**

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

**Agenda Item No. 23E Case No. 201200162-ED
 Dr. George H. Master**

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 13**

FORMAL INTERVIEWS

Agenda Item No. 22 – Formal Interview Cases

**Agenda Item No. 22A Case No. 201200084
 Dr. James Cornelius Spurgeon**

Dr. Spurgeon and his attorney, Mr. Jeffrey Tonner, were present. The Court Reporter swore in Dr. Spurgeon.

Dir. Hugunin stated the Board received a complaint from patient CA alleging patient abandonment and problems with a root canal. The complaint was reviewed and assigned an allegation of overdose of a sedative or hypnotic. It was sent to an outside dental consultant who reviewed the complaint and returned a report and summary which is in the Board Members' materials.

Dr. Waite read the Formal Interview process and instructions. Dr. Gradke, the lead Board Member, questioned Dr. Spurgeon regarding sedation protocol and dosage of medication for patient CA.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to FIND a violation of 32-1201 21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors-staff reported one.

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to ORDER disciplinary continuing education of 18 hours in conscious sedation, six hours of that would be in pharmacokinetics of conscious sedation drugs, six months to complete. The course cannot be a DOCS course. Practice restriction until the continuing education is complete and the office has been reevaluated by one of the Board's anesthesia evaluators. Dr. Whiting RECUSED. MOTION PASSED.

**Agenda Item No. 22B Case No. 201200173
 Dr. Clayton Wainwright**

Dir. Hugunin informed Mr. Tonner that the Board did not have a formal letter of representation on file for this case. Mr. Tonner declared he formally represents Dr. Wainwright and apologized for not submitting formal representation in writing and will submit it this afternoon.

Dr. Wainwright and his attorney, Jeffrey Tonner, were present. The Court Reporter swore in Dr. Wainwright.

Mr. Tonner and Dr. Wainwright waived the reading of the Formal Interview process and instructions. Mr. Tonner and Dr. Wainwright also waived rights to a Formal Hearing.

Dir. Hugunin stated in December 2010, the Board ordered Dr. Wainwright to complete 24 hours of continuing education in the area of hands-on crown and bridge to include restoring endodontically treated teeth in a dental school setting. Additionally, Dr. Wainwright's scope of practice was restricted in the area of crown and bridge. An extension has already been granted to Dr. Wainwright to complete the required continuing education. To date, he has not complied. A complaint was opened for failure to comply with the Board order.

Jeffrey Tonner made an opening statement. The reason Dr. Wainwright was unable to complete the order was because of finances. He lost his health insurance and, because of his kidney transplant, he has to have specific drugs which he has to pay. Dr. Wainwright has declared bankruptcy and is behind in his office rent. He has just recently started working with Google ads for

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 14**

referrals of patients who need emergency dental work, so he is able to earn an income now. He would like to request an extension until March 31, 2013.

Mr. Greer, the lead Board Member, questioned Dr. Wainwright regarding the non-compliance.

Upon MOTION by Mr. Greer, second by Dr. Gradke, the Board voted to FIND a violation of A.R.S. 32-1201-21(v). MOTION PASSED UNANIMOUSLY.

Upon MOTION by Mr. Greer, second by Ms. McClain, the Board voted to ORDER Dr. Wainwright to complete the previously ordered CE by January 31, 2013 and to IMPOSE an administrative penalty in the amount of \$1,500.00. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 15B Case No. 201200159-MP
 Dr. David R. Hunsaker**

This case was pulled by a member of the public. Dir. Hugunin stated this case was recommended for a letter of concern.

Mr. Jeffrey Tonner was present on behalf of Dr. Hunsaker. Mr. Tonner requested an amendment to the wording of the letter of concern. The recommended letter of concern wording requires two x-rays every time a crown is seated which he thinks is not the standard the Board wants to set. Mr. Tonner's understanding is when you take the final x-ray and there is an open margin, you take it off and do it again.

Upon MOTION by Dr. Gradke, second by Ms. Crevier, the Board voted to ISSUE a Letter of Concern stating, "Dr. Hunsaker should verify the integrity of all margins of crowns with post cementation x-rays." MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 16A Case No. 201200187
 Dr. David C. Grieb**

Dr. Waite pulled the case. This case is recommended for termination per patient letter. The Board discussed issuing a letter of concern regarding billing for services not rendered.

Dr. Waite moved to Issue a Letter of Concern stating "If you bill for a procedure, make sure it is done." Second by Dr. Gradke

Billing for services not rendered is not an allegation in the case or related to the treatment. The Board could open an investigation with an allegation of billing for services not rendered or remand the case with an added allegation. Dr. Waite withdrew his motion; Dr. Gradke withdrew his second.

Upon MOTION by Dr. Waite, second by Dr. Gradke, the Board voted to TERMINATE this case. 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 reporting. The case is proceeding; the briefs have been filed and oral arguments are in February.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 15**

- ii. Jack I. Lipton, DMD v. ASBDE (Cases 201000254 & 201100259) (Court Case LC2011-000713) Review, discussion and possible action on settlement proposal.

The Board may vote to go into Executive Session on this item under A.R.S. § 38-431.03(A)(4) to discuss or consult with its attorney in order to consider its position and instruct its attorney regarding its position in pending litigation or in settlement discussions conducted in order to avoid or resolve litigation

Upon MOTION by Mr. Greer, and duly seconded, the Board voted to go into an EXECUTIVE SESSION to consult with legal counsel in considering its position on the settlement proposal. MOTION PASSED UNANIMOUSLY.

****Executive Session****

RETURN TO OPEN MEETING

Upon MOTION by Dr. Gradke, second by Mr. Greer, the Board voted to REJECT the settlement proposal and PROCEED with the litigation. MOTION PASSED UNANIMOUSLY.

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

Ms. Williams reporting. The Board has a copy of the court of appeals decision. Dr. Keith has one more path to file a petition for review with the Supreme Court. If she doesn't file anything further, this will become the final Board Order.

Agenda Item No. 7 – Committee Reports

- A. Dental Hygiene Selection Committee – Laurie Buckles, RDH
 - i. Review, discussion and possible action regarding candidates for one Dental Hygiene Committee Member:

- a. The Dental Hygiene Selection Committee recommends the appointment of Susan J. Smedley, RDH to the Dental Hygiene Committee.

Upon MOTION by Ms. Buckles, second by Dr. Foster, the Board ACCEPT the recommendation of the Dental Hygiene Selection Committee and voted to APPOINT Susan J. Smedley, RDH to the Dental Hygiene Committee. MOTION PASSED UNANIMOUSLY.

- b. The Dental Hygiene Selection Committee recommends Tricia A. Conrad, RDH as an alternate choice for appointment to the Dental Hygiene Committee.

The Board took no action on this agenda item.

- B. Dental Hygiene Committee – Laurie Buckles, RDH
 - i. Review, discussion and possible action regarding the 2012 Dental Hygiene Continuing Education Audit responses. Upon recommendation from the Dental Hygiene Committee, the Board may consider approval of the CE Audit responses from the following:
 - a. Robyn M. Darvis, RDH
 - b. Pamela A. De Corte, RDH
 - c. Judith L. Gordon, RDH
 - i. Rikki L. Merrill, RDH
 - j. Nancy A. Miller, RDH
 - k. Karyn E. Norton, RDH

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 16**

- | | |
|-----------------------------|------------------------------|
| d. Rebecca M. Horton, RDH | l. Kori M. Reed, RDH |
| e. Melissa J. Lindblom, RDH | m. Denise A. Strand, RDH |
| f. Jennica M. Lopez, RDH | n. Richelle D. Trafton, RDH |
| g. Judith A. Lopez, RDH | o. Tamara Jo E. Thurber, RDH |
| h. Kathleen K. McGough, RDH | p. Brookie L. Williams, RDH |

Upon MOTION by Ms. Buckles, second by Mr. Greer, the Board voted to ACCEPT the recommendation to approve CE audit responses A-P. MOTION PASSED UNANIMOUSLY

- ii. Upon recommendation of the Dental Hygiene Committee, the Board may consider recognizing the Local Anesthesia and Nitrous Oxide coursework from Fortis College, Phoenix, AZ.

Upon MOTION by Ms. Buckles, second by Mr. Greer, the Board voted to ACCEPT the recommendation to approve the Local Anesthesia and Nitrous Oxide coursework from Fortis College, Phoenix AZ. MOTION PASSED UNANIMOUSLY

- iii. Upon recommendation of the Dental Hygiene Committee, the Board may consider denying recognition of the Local Anesthesia/Nitrous Oxide continuing education coursework from Weber State University, Ogden, UT The course does not include at least three experiences of the MSA, ASA, NP, GP, Mental or Long Buccal injections.

Upon MOTION by Ms. Buckles, second by Mr. Greer, the Board voted to ACCEPT the recommendation to deny recognition of the Local Anesthesia and Nitrous Oxide continuing education coursework from Weber State University because the course does not include at least three experiences of the MSA, ASA, NP, GP, Mental or Long Buccal injections. MOTION PASSED UNANIMOUSLY

C. Continuing Education Audit for Dentists Committee – Dr. Robert Foster

- i. Review, discussion and possible action regarding the 2012 Dental Continuing Education Audits. Upon recommendation from the Continuing Education Audit for Dentists Committee, the Board may consider approval of the CE Audit responses from the following:

- | | |
|-----------------------------|-----------------------------|
| a. Dr. Michael S. Cavender | j. Dr. Lincoln I. Pace |
| b. Dr. Patrick L. Dobash | k. Dr. Erik A. Pease |
| c. Dr. A. Joe Gerard | l. Dr. Micah D. Rolfe |
| d. Dr. Terry J. Hanely | m. Dr. Andrew T. Rosen |
| e. Dr. Alan P. Kawakami | n. Dr. Stuart S. Sanders |
| f. Dr. Kuong C. Kov | o. Dr. Todd J. Sick |
| g. Dr. Katherine Lee Lughes | p. Dr. Walter Villanueva |
| h. Dr. Ronald L. McCormick | q. Dr. Jared B. Williams |
| i. Dr. Philip C. Mooberry | r. Dr. Christina L. Zeigler |

Upon MOTION by Dr. Foster, second by Ms. Crevier, the Board voted to ACCEPT the recommendation from the Continuing Education Audit for Dentists Committee to approve audit responses A-R. MOTION PASSED UNANIMOUSLY

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 17**

- D. Legislative Committee – Dr. Michael Hauer
- i. Review, discussion and possible action regarding amending ARS § 32-1299.25 to require a written informed consent for an examination and preventative treatment; require written or verbal informed consent before a specific irreversible procedure is performed and require the consent form to include contact information to a public health department if a minor's care is excluded by the mobile permit holder due to lack of insurance or the ability to pay.

Dr. Hauer reported the Legislative Committee met regarding informed consent for mobile dentistry permit holders. Currently, informed consent within the mobile dentistry statutes is obtained either in writing or by verbal communication that is recorded. Not all, but many mobile dental facilities treat children. Some mobile dental providers obtain informed consent on a form which includes all possibilities of treatment. Also, to cover the population not accepted for treatment by the mobile dental provider, the contact information of the appropriate county public health department will be included in the informed consent. The Committee is recommending amendments to ARS § 32-1299.25 which would require written informed consent for an examination and preventive treatment and a second informed consent written or recorded verbal for a specific irreversible procedure and inclusion of contact information to the appropriate public health department if a minor's care is excluded by the mobile permit holder.

Upon MOTION by Dr. Hauer, second by Ms. Buckles, the Board voted to ACCEPT the language as proposed. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 6 – Personnel Issues

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

The Board may vote to go into Executive Session on agenda item 6A and 6B pursuant to A.R.S. § 38-431.03(A)(1). (Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public office, appointee or employee of a public body.)

Dr. Waite distributed a list of Executive Team Accomplishments to the Board Members. Dr. Waite personally commended Dir. Hugunin and Ms. Chambers on their work and effort. He also expressed his appreciation for the implemented efficiencies, streamlining of Board processes and positive changes.

Upon MOTION by Dr. Waite, second by Ms. Crevier, the Board voted a 4% increase to both Dir. Hugunin and Ms. Chambers. MOTION PASSED UNANIMOUSLY.

CALL TO THE PUBLIC

Agenda Item No. 24 – Members of the Public

VACANT

Agenda Item No. 25 – Future Agenda Items

**ARIZONA STATE BOARD OF DENTAL EXAMINERS
MINUTES OF THE BOARD MEETING
DECEMBER 7, 2012
PAGE 18**

Presentation by Assessment Services Program

Discussion regarding the amount of CT scans performed for regular dentistry.

Agenda Item No. 28 – Next Meeting Dates

February 1, 2013

Agenda Item No. 29 – Adjournment

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

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

Minutes APPROVED at the February 1, 2013 Board Meeting.

Elaine Hugunin, Executive Director