



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING FEBRUARY 5, 2010

Board Members Present:

Dr. Gregory A. Waite, President
Dr. Scott W. Morrison, Vice President
Dr. Louis Sommerhalter
Ms. Laurie A. Buckles, RDH
Dr. Jack R. Cole
Dr. Robert H. Foster
Mr. Jason D. Farnsworth
Mr. Joshua Greer

Board Members Absent:

Dr. Gary M. Gradke
Ms. Catherine L. Bevers, RDH

Staff Present:

Ms. Elaine Hugunin, Executive Director
Ms. Nancy Chambers, Deputy Director
Ms. Mary DeLaat Williams, Assistant Attorney General
Ms. Colleen R. Amos, Investigations Supervisor
Ms. Sherrie Biggs, Licensure Manager
Ms. Terry Bialostosky, Programs & Projects Specialist
Ms. Marsha Fuentes, Legal Administrator
Ms. Yvonne Barron, 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."

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GENERAL BUSINESS

Agenda Item No. 1 – Call To Order and Introductions

Dr. Waite called the meeting to order at 8:02 a.m. and introduced the newest Board member, Dr. Robert Foster. The remaining Board members and staff introduced themselves to Dr. Foster.

Agenda Item No. 2 – President's Report

A. Report of WREB meeting held January 30, 2010

Dr. Waite reported on behalf of Dr. Rosenthal. The main focus of the January meeting was on government restructure. Also WREB will be offering a two-tier membership. Available options are 'Active' members or 'Affiliated' members.

B. WREB Appointments

i. Dental Representative

Dr. Waite accepted the appointment to WREB as the dental representative.

ii. Dental Hygiene Representative

Dr. Waite appointed Ms. Cathy Bevers to WREB as the dental hygiene representative.

C. Appointment of Continuing Education Audit for Dentists Committee Member.

Dr. Waite appointed Dr. Robert Foster to the Continuing Education Audit for Dentists Committee.

Agenda Item No. 3 Executive Director's Report

A. Review, discussion and possible action regarding allegations against DaVinci Teeth Whitening for unlicensed activity.

Board staff received anonymous information regarding this entity operating out of a kiosk at a mall.

**The Board directed staff to collect additional information to determine whether an investigation can be opened against DaVinci Teeth Whitening.

B. Dr. Gordon Ledingham - Review, discussion and possible action including vacating vote to open an investigation.

Upon MOTION by Dr. Morrison and duly seconded the Board voted to VACATE its vote to open an investigation. MOTION PASSED UNANIMOUSLY.

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- C. Dr. Michael Margolis - Review, discussion and possible action regarding complaint relating to treatment over 20 years ago.

Upon Motion by Dr. Morrison and duly seconded, the Board voted to TAKE NO ACTION on this complaint. MOTION PASSED UNANIMOUSLY.

- D. Review, discussion and possible action regarding the modifications to the MATP and Two-year Abuse Track standard agreements.

The Board was provided with the modified agreement for its review and approval. The stipulations have been changed and assessed by legal counsel, the Board's medical director and staff. The revisions eliminate the need for a participant to appear before a committee, submit monthly self reports and submit triplicate prescriptions to Board staff. All reports will be sent to the medical director. Any new participants or those who will be requiring changes to their agreements will now appear before the Board.

Upon MOTION by Dr. Foster, second by Dr. Morrison the Board voted to ACCEPT the modifications to the MATP and Two-year Abuse Track standard agreements. MOTION PASSED UNANIMOUSLY.

- E. Review, discussion and possible action regarding the Arizona Radiologic Proficiency examination administered by the Dental Assisting National Board (DANB): **To be heard at 10:00 a.m.**

Ms. Sharon Zastrow, Director for Phoenix College Center for Continuing Dental Education and Ms. Cindy Durley, Executive Director for DANB were present to address the Board regarding the proficiency examination administered by DANB.

Ms. Zastrow stated she provided the Board with material and did not have any additional information to add to that material. She was essentially in agreement with DANB's proposed revisions. Eliminating the examination and supplementing it with an alternative was a legislative issue and could not be addressed at this time; however, Ms. Zastrow did want the Board to consider establishing some type of policy on the dental radiation aspect of the examination.

Ms. Durley provided the Board with a comprehensive summary on each aspect of DANB's proposed revisions. Out of the 43 states that accept DANB's examination, only 2 of those, Arizona and Oregon, also require a clinical component. DANB's recommendation to the Board was to consider eliminating that component.

Ms. Durley asked the Board to make the following considerations: a prescription requirement for full mouth series radiographs, or in the alternative, an affidavit; adoption of Oregon's system for clinical evaluations, which entails the dental assistant taking the full mouth series of x-rays under the proctorship of an RDH or a licensed dentist; retention of a more holistic grading system as opposed to the point system currently being used; and acceptance of both conventional film and digital radiographs. DANB would be willing to host educational workshops to aid in the transition to the revised exam.

Ms. Hugunin clarified for the Board that, pursuant to A.R.S. § 32-10291, elimination of the clinical portion of the examination itself does not require a statutory change,

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however, introduction of a new, revised exam must be presented to the Board for its approval.

In response to the Board, Ms. Zastrow stated she was in favor of the clinical portion of the exam being eliminated with one stipulation. She would like to see the candidate undergo an accredited program as part of the requirement for certification. Once the course was completed, the clinical portion of the examination would not be required. At this point, anyone with the desire to be certified in radiography may take the Arizona's exam and be certified whether they are properly trained or not. By requiring the course, successful completion of that course would establish the proficiency of the dental assistant. She was hesitant to endorse on-the-job training. Ms. Zastrow believed the failure rate would decrease if the candidate was properly trained in radiography.

Ms. Durley informed the Board of the states that do not require the clinical component of the examination; fewer than half require a course. Those that do require a course, prescribe the amount of hours for completion. They do not require courses that span over a few weeks. It would make sense to require some type of training or education in the area of radiography. Ms. Hugunin explained that while elimination of the exam would not require legislative action, the acceptance and inclusion of a course in lieu of the exam would.

The Board was in favor of the candidates taking a Board-approved course for proficiency, but was unsure as to what length of time the course should be. Ms. Hugunin informed the Board the discussion regarding a proficiency course for dental assisting radiography was not on the agenda. Staff was directed to place this subject on a future agenda for further discussion.

- a. The elimination of the requirement for a prescription to expose radiographs at the clinical examination.

Ms. Zastrow reiterated her recommendation to the Board for elimination of the prescription requirement. She believed an informed consent would be sufficient and could also include an affidavit attesting to the health of the person being x-rayed. Ms. Durley stated DANB would be willing to accept a consent and affidavit.

Upon MOTION by Ms. Buckles, second by Dr. Morrison the Board voted to ELIMINATE the requirement for a prescription to expose radiographs at the clinical examination and REPLACE the requirement with a signed informed consent, with a radiation exposure health history and affidavit. MOTION PASSED UNANIMOUSLY.

- b. The addition of a digital portion to the clinical examination.

Ms. Durley stated she was in agreement with this, but DANB would need until January 1, 2011 to completely make the transition to add the digital portion.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to ACCEPT digital radiography for the clinical proficiency exam. MOTION PASSED UNANIMOUSLY.

- c. Reconsideration of approving the American Institute of Dental Assisting as a testing site.

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Upon MOTION by Dr. Waite, second by Dr. Foster the Board voted to APPROVE the American Institute of Dental Assisting as a testing site. MOTION PASSED UNANIMOUSLY.

- d. DANB's proposed revisions to the grading criteria for the Arizona Radiologic Proficiency examination tabled from the December 2009 meeting.

Upon MOTION by Ms. Buckles, duly seconded the Board voted to ACCEPT DANB's proposed revisions to the grading criteria for the Arizona Radiologic Proficiency examination. MOTION PASSED UNANIMOUSLY.

- F. Discussion and possible action regarding approval of self-study courses for Board Ordered recordkeeping continuing education.

Ms. Hugunin stated the chief investigator has reviewed this course and asked the Board to approve it for Board-ordered continuing education in Record Keeping. An on-line examination is given at the end of the course and a score of 80% or more is required before a certificate would be issued.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to APPROVE the self-study course for Board-ordered continuing education in Record Keeping. MOTION PASSED UNANIMOUSLY.

- G. Review, discussion and possible action regarding pending legislation.

- i. House Bill 2125 – Amending A.R.S. §32-1203 replacing a public member with a business entity member.

Discussion ensued among the Board as to the feasibility of this bill. There is no provision preventing a business entity designee from applying for Board membership as a public member. There are over 9000 dentists and hygienists currently licensed, while there are only approximately 300 business entities registered at this time. This number is too small to have Board member designation. There is no advantage to having a business entity member on the Board.

No action was taken at this time.

- ii. Senate Bill 1190 – Dental Board powers; amendment regarding deletion of dismissed cases

Ms. Hugunin informed the Board this bill has passed in the senate; however the language must be amended and approved. It was recommended the Board be on record as either supportive or non-supportive of this bill, but this decision can take place after modifications to the language are completed. The basic intent of this bill was to delete dismissed cases from the licensee's record. Any letters of concern or non-disciplinary actions would be deleted from the licensee's record after a 5-year period. Conceptually, staff supports this bill.

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Mr. Earle, Executive Director of the Arizona Dental Association (AzDA) stated the amended language has been approved by the senate. The new bill will be submitted to the Board for its review.

The Board opted to defer making a decision on this matter until it has reviewed the new language.

- iii. Senate Bill 1191 – Dental Board powers; disciplinary actions; amendment regarding pending complaints not being public record

Ms. Hugunin informed the Board this bill has gone to the senate and has been passed. Staff recommended the Board go on record as either supportive or not supportive of this bill. There were some areas of confusion, but the language would be modified in order to clarify certain points.

There was some discrepancy and discussion as to the intent of this bill. When addressing public requests for information on a licensee, staff informs the public of a licensee's pending complaint. This bill would disallow disclosure of the pending complaint.

Kevin Earle, Executive Director of the Arizona Dental Association (AzDA) stated the intent of this bill was two-fold. Not only was it intended to eliminate disclosure of pending complaints, it was also to ensure the investigation of the pending complaint would be conducted confidentially. The language was returned to AzDA differently from how it was submitted. Ms. Williams, Assistant Attorney General, stated the way the bill is written at this point would not allow it to supersede the open meeting law. The Board conducts both Informal Interviews and Investigative Interviews. Both of these reviews are fact-finding, disciplinary reviews and are open to the public. The statute at this time does not allow these reviews to be conducted confidentially.

Mr. Earle clarified this bill has not been passed in the senate. He was hoping to have the confidential investigation language added to the bill prior to its review by the senate.

Ms. Williams advised the Board to wait until the new language had been added before determining whether it would support the bill or not. Upon advice of counsel, the Board opted to wait until finalization of the language to make a decision.

- H. Gentle Dental - Review, discussion and possible action including vacating vote to open an investigation.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to VACATE its vote to open an investigation for alleged billing irregularities. MOTION PASSED UNANIMOUSLY.

- I. Jammie Shaughnessy, RDH - Review, discussion and possible action including vacating vote to open an investigation.

This matter involved billing a partial root canal therapy as being complete. This was a one time event, did not indicate billing irregularities and did not warrant a case being opened.

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Upon MOTION by Dr. Morrison, second by Ms. Buckles the Board voted to VACATE its vote to open an investigation for alleged billing irregularities. MOTION PASSED UNANIMOUSLY.

- J. Dr. Gregory P. Edmonds - Review, discussion and possible action regarding report of an adverse occurrence.

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

- K. Election of Board President and Vice President.

Dr. Waite opened the floor to nominations for Board President.

Dr. Waite was nominated for President. Following a vote, Dr. Waite was elected Board President.

The floor was opened to consider nominations for Vice President. Dr. Morrison was nominated and following a vote, Dr. Morrison was elected Vice President.

- L. Review and discussion regarding the Joint Legislative Budget Committee's fund transfer recommendation.

Ms. Hugunin reported the Governor's office is considering another sweep of the Dental Board's funds. The proposal is \$395,500 for FY10, \$477,300 for FY11 and another 15% budget reduction. This will have a significant impact on the Board's cash flow, but the main concern is investing in technology and maintaining staff while continuing to improve and become more efficient.

No action was taken.

- M. Review, discussion and possible action regarding delegation of subpoena authority to Executive Director in malpractice cases.

Ms. Hugunin stated this delegation will help to expedite review of malpractice cases. Currently, the malpractice report is received and provided to the Board. The Board must then decide whether or not to open an investigation. If an investigation is opened, a subpoena is issued to the practitioner. If authority is given to the Executive Director prior to opening an investigation, the records and other investigative material could be compiled and submitted to the Board at its initial review, enabling a more informed decision.

Upon MOTION by Dr. Cole, second by Dr. Morrison the Board voted to delegate subpoena authority to the Executive Director in malpractice cases. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 4 – Assistant Attorney General’s Report For Board Direction & Possible Action

- A. Dr. Sam Hashemian v. ASBDE (Case 280056)
- B. Dr. Mu-Hun Kim v. ASBDE (Case 280093)
- C. Dr. Rosalyn D. Keith v. ASBDE (Case 270098)
- D. Dr. Jack I. Lipton v. ASBDE (Case 280440)

Regarding items A and B, briefs have been filed and it is now up to the Court to make a decision.

Regarding item C, a Court order has been received placing a Stay on payment of the \$2000 administrative penalty. The remainder of the Board's order is still in effect. Ms. Williams will appear before the judge in March to address the Stay issue.

Regarding item D, the records have been filed with the Court, but this case has not been briefed yet.

- E. Review, discussion and possible action regarding Gaveck vs. Arizona State Board of Podiatry Examiners and Board's complaint, investigation and adjudication process. The Board may go into executive session pursuant to Arizona Revised Statutes (A.R.S.) § 38-431.03 (A) (3) to obtain legal advice from its attorney on this item.

Upon MOTION by Dr. Waite, second by Dr. Foster the Board voted to go into EXECUTIVE SESSION for Legal Advice. MOTION PASSED UNANIMOUSLY.

**** Executive Session ****

RETURN TO OPEN MEETING

**This matter was not discussed during open meeting.

Agenda Item No. 5 - Personnel Issues

This item was vacant.

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

- A. Mr. Alexander Riabkov - Review, discussion and possible action on Mr. Riabkov's application for certification as a denturist.

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to GRANT certification. MOTION PASSED UNANIMOUSLY.

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

Upon MOTION by Dr. Morrison, second by Ms. Buckles the Board voted to GRANT certification in radiology to the following applicants. MOTION PASSED UNANIMOUSLY

- A. Susan E. Pound-Roark – Certified in California
- B. Petrana Stamenova – Certified in California
- C. Karen C. Locken – Certified in California
- D. Amanda M. Barron – Certified in California
- E. Patricia M. Sifuentes – Certified in California
- F. Rocio M. Carlos – Certified in California
- G. Javier F. Urquizo – Certified in California
- H. Guillermo A. Pinto – Certified in California
- I. Hildie L. Donnelly – Certified in California
- J. Stephanie F. Carrillo – Certified in Oregon

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

- A. This item was vacant.

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

- B. This item was vacant.

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

- C. Amanda N. Pitts, RDH – 2007 SRTA

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

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

Upon MOTION by Dr. Morrison, second by Dr. Sommerhalter the Board voted to Grant licensure by credential to the following applicants who have submitted documentation of successful completion of a clinical examination taken less than five years. MOTION PASSED UNANIMOUSLY.

- A. Dr. Corey J. Schumer – 2008/2009 NERB
- B. Dr. Asaad S. Khan – 2003/2004 NERB
- C. Dr. Gregory A. Farber – 1992 NERB
- D. Dr. Joseph M. Perrino – 1981 NERB
- E. Dr. Scott D. Adashek – 2007/2008 CRDTS
- F. Dr. Scott N. Levin – 1977 CRDTS
- G. Dr. Monica R. Ponce – 1996 Nevada
- H. Amy K. Ho, RDH – 2005/2006 NERB
- I. Jennifer Lowrey-Rasmussen, RDH – 1996 NERB
- J. Kristie L. Smith, RDH – 1985 CRDTS

K. Jana R. Murrell, RDH – 2004 NERB
L. Evelyn Ruiz Liebscher, RDH – 2001CA
M. Jeanne M. Godett, RDH – 2001 CA

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

- A. Dr. Cameron R.C. Smith; Case 270397 – Tabled pending a receipt of results from comprehensive evaluation consisting of medical, psychiatric, addiction and neuropsychological assessments.

Dr. Smith and his attorney Mr. Tonner were in attendance. Dr. Smith has completed all of the evaluations ordered by the Board and asked the Board to grant renewal of his license to practice.

Upon MOTION by Dr. Cole, second by Dr. Foster the Board voted to GRANT renewal. MOTION PASSED UNANIMOUSLY.

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

- A. Dr. David L. Chaffee, Jr. – Review, discussion and possible action regarding reinstatement of license, opening an investigation for alleged substance abuse and false statements and entrance into the MATP.

Dr. Sucher reported Dr. Chaffee was evaluated and suffered from hydrocodone dependency. He has successfully completed treatment and was being privately monitored by Dr. Sucher. He has had three drug tests since completing treatment and tested negative on all three tests. Dr. Sucher recommended entrance into the MATP with its usual terms and conditions including a two year restriction of schedule II and III drugs.

Dr. Chaffee stated this has been very difficult for him and was very appreciative of the Board. He was looking forward to completing treatment.

In response to the Board, Dr. Chaffee stated he was aware he would be accepting a violation for substance abuse and making false statements.

Upon MOTION by Dr. Morrison, second by Dr. Waite the Board voted to ACCEPT entrance into the MATP with its usual terms and conditions. MOTION PASSED UNANIMOUSLY.

- B. Dr. Paul Chang; Case 290031 - Review, discussion and possible action regarding reinstatement of license, opening an investigation for non-compliance with Board order and substance abuse, entrance into the MATP and termination of stipulation agreement and order dated February 6, 2009.

Dr. Sucher reported Dr. Chang was originally a participant in the Board's abuse track program as a result of an arrest for marijuana. Dr. Chang later tested positive for cocaine. After his entrance into the two-year program, Dr. Chang tested positive for alcohol, which is a violation of the agreement he entered into. Since then, Dr. Chang voluntarily surrendered his license to practice dentistry and has successfully completed treatment at a facility in California. Dr. Sucher has been monitoring him,

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computer work in exchange for the treatment. Mr. Tonner asked the Board to consider dismissal of this complaint and issue a letter of concern regarding the dental assistant. In response to the Board, Mr. Tonner stated the front office person was responsible for the abrogation of the co-payments; however, Dr. Chari is ultimately responsible for the front office. Dr. Chari has taken remedial steps to ensure this does not happen again.

The Board stated there were several instances in which the co-payment was waived. Waiving the co-payment changes the amount the treatment actually costs. The harm is done to the insurance provider. The front desk was waiving the co-pays, but it is Dr. Chari's responsibility to keep track of this practice. The bottom line is that co-pays are not to be waived. Dr. Chari stated the office manager signed and completed the form without his knowledge and the problem has been resolved. Mr. Tonner provided the Board with proof of refund to the patient. The Board was in agreement with the I.I. panel's findings.

Upon MOTION by Dr. Foster, second by Dr. Morrison the Board voted to CONSIDER the Findings of Fact. MOTION PASSED UNANIMOUSLY.

There were no changes made to the findings.

Dr. Foster made a motion to accept the Findings of Fact, upholding allegation #6, but the motion died due to a lack of second.

Upon MOTION by Dr. Foster, second by Dr. Waite the Board voted to ACCEPT the Findings of Fact as indicated by the I.I. panel. Dr. Cole and Dr. Morrison were OPPOSED. MOTION PASSED.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to CONSIDER the Conclusions of Law. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to find a VIOLATION of A.R.S. §32-1201.21(f). The motion was WITHDRAWN.

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

Finding of fact # 6 AMENDED to read:

See no back dating of claims, only courtesy discounts on Delta and other insurance payments. Patients did not pay their required portions, which resulted in excessive charges to the third party.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to ACCEPT the Findings of Fact as AMENDED. Dr. Sommerhalter and Ms. Buckles were OPPOSED. MOTION PASSED.

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to find a VIOLATION of A.R.S. §32-1201.21 (p) and (s). Dr. Waite OPPOSED. MOTION PASSED.

**The Board requested priors – staff reported seven

Upon MOTION by Dr. Morrison, second by Mr. Farnsworth the Board voted to impose CONTINUING EDUCATION of 4 hours in Risk Management and 6 hours in Ethics with 12 months time to complete. Dr. Waite OPPOSED. MOTION PASSED.

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Agenda Item No. 18

Case No. 290260
Dr. James R. Chaffin

Dr. Chaffin and his attorney Ms. McLellan were present. The patient presented to Dr. Chaffin for a limited exam due to pain in the upper left area. The patient had gone to a dentist previously and was diagnosed with decay at tooth #14. She declined treatment to that tooth at that time. Dr. Chaffin examined the patient and determined it would be difficult to save tooth #14, but he was willing to try root canal therapy and crown lengthening as opposed to extracting the tooth. The patient chose to extract the tooth. During treatment, Dr. Chaffin discovered that tooth #12 did not appear strong enough to support a bridge. He suggested including tooth #11 and the patient agreed to this treatment. The Investigative Interview panel did not find any concerns with the bridge. Its issue was that there were no periodontal probing scores nor were any radiographs taken on tooth #11 once Dr. Chaffin included it in the treatment. Ms. McLellan maintained this was change of treatment mid-course. Dr. Chaffin understood the probing and radiographs were required; however this particular case fell through the cracks. Ms. McLellan asked the Board to consider dismissing this case. The omissions were not germane to the end result.

Upon MOTION by Mr. Greer, second by Dr. Sommerhalter the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 19

Case No. 290247
Dr. Steven M. Morales

Dr. Morales and complainant LMC were present.

LMC stated she went to Dr. Morales for treatment and ended up having problems with the crown on tooth #2 and problems with her bridge. She went to a subsequent treating dentist who found decay underneath the bridge. She also saw a periodontist who diagnosed the decay as well. The crown was only thirteen months old. Dr. Morales indicated to her the decay was due to poor oral hygiene. LMC was asking for a refund of the amount she paid for the bridge. She did not receive a refund from Dr. Morales.

Dr. Morales stated he had a receipt showing proof of payment of \$1255 to LMC. He never told her the decay was due to poor oral hygiene, he was merely informing her of what could possibly be the cause of her decay. He has changed the protocol in his office in that he now takes an x-ray on every bridge he seats. Dr. Morales believed the clinical evaluator may have mistakenly assessed which work needed to be re-done. Dr. Morales believed the bridge, only, and not the crown may have needed some re-treatment. He refunded LMC the balance due her as a result of the treatment changing from an all ceramic bridge to a PFM bridge. He never had the opportunity to treat the patient again.

The clinical evaluator indicated there was a small opening on #29, but no decay was present. The actual amount charged for the bridge was \$2200. The work did need to be redone.

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

Upon MOTION by Mr. Farnsworth, second by Mr. Greer the Board voted to find a VIOLATION of A.R.S. §32-1201.21.(n). MOTION PASSED UNANIMOUSLY.

The Board requested priors – staff reported four

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question. He would fall in the normal range if he took the MAST test as it is written now. Also, Dr. Potts believed Dr. Sucher inappropriately contacted The Meadows regarding Dr. Harnett which hampered a neutral evaluation of Dr. Harnett. Lastly, Dr. Potts believed there was a conflict of interest in that Dr. Sucher cannot be both the recommending and the treating addictionologist. Mr. Tonner asked the Board to reconsider its previous decision to place Dr. Harnett into the Board's two-year abuse track program.

The Board reviewer went over the five points listed in the basis for the petition. He stated there were no irregularities as the actions taken in this case are consistent with previous Board complaints and investigations. He did not find any misconduct with Dr. Sucher. The opinion given by Dr. Potts was heard, however, Dr. Sucher's testimony was more credible. There was no misconduct with Dr. Sucher providing both the evaluation and the treatment. Given the facts as presented in this case, the penalties were not excessive. They are consistent with previous Board actions in these types of cases. The decision was not arbitrarily made by the Board nor was there an abuse of discretion. Dr. Harnett's argument shows a total disregard for the professional medical opinions of Dr. Sucher, The Meadows and the attending physicians and the reports and testimony from the pharmacy. His argument also disregards the fact that he prescribed non-dental drugs for himself for non-dental purposes. Dr. Harnett was not denied due process.

The Board reviewed the case, found a violation and ordered continuing education and entrance into the Board's two-year abuse track program with continued psychiatric care.

Dr. Sucher performed two evaluations, one after Dr. Harnett's report from The Meadows, and determined him to be safe to practice within the parameters of the abuse track program. The Meadows' report determined Dr. Harnett to be undertreated over the years and recommended he enter into outpatient treatment. However, in reviewing this case, it appears Dr. Harnett has a pattern of not following prescribed treatment. There are instances in which Dr. Harnett quit taking all of his medications, ended all follow-up treatment with his psychiatrist and left the hospital against medical advice. He has also consistently denied any abuse of prescription medications or prescribing privileges, even though he self-prescribed non-dental medications for himself. The Meadows report stated there was a fairly consistent pattern of Dr. Harnett behaving in an entitled way for many years and this sense of entitlement easily escalates any condition into arguments and other destructive behaviors.

The Board reviewer believed the Findings of Fact as stated in the order are supported by the evidence and the discipline outlined in the order is appropriate. There is no statutory requirement met in order to justify a rehearing.

Upon MOTION by Mr. Farnsworth second by Dr. Foster the Board voted to DENY the Petition to Rehear. Dr. Waite OPPOSED. MOTION PASSED.

Agenda Item No. 17 **Case No. 290289**
Dr. Kevin M. Harris

Upon MOTION by Dr. Morrison and duly seconded the Board voted to ACCEPT the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Morrison and duly seconded the Board voted to ACCEPT the Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.21(d) and (n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 8

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Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to impose CENSURE; CONTINUING EDUCATION of 6 hours in Comprehensive Diagnosis and Treatment Planning, 12 hours in Crown and Bridge Diagnosis and Treatment Planning, 4 hours in Risk Management with 12 months time to complete all 3 courses and RESTRICTION OF PRACTICE in the area of Crown and Bridge until completion of the Continuing Education. Dr. Cole OPPOSED. MOTION PASSED.

CONSENT AGENDA

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

Cases pulled from the Consent Agenda

Agenda Item No. 25	Case No. 290178	Dr. David F. James
Agenda Item No. 37	Case No. 290281	Dr. Trent Wilsey Smallwood
Agenda Item No. 38	Case No. 290246	Dr. Trent Wilsey Smallwood
Agenda Item No. 42	Case No. 290329	Dr. Michael Wassef
Agenda Item No. 43	Case No. 290229	Dr. Gustavo David Wilson
Agenda Item No. 45	Case No. 290279	Dr. Stephen J. Conrad
Agenda Item No. 46	Case No. 290078	Dr. Gregory L. Aldrich
Agenda Item No. 48	Case No. 290336	Southwest Dental Group

Upon MOTION by Mr. Greer, second by Dr. Sommerhalter the Board voted to ACCEPT the Recommendations for the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases ADJUDICATED:

Agenda Item No. 26	Case No. 290118	Dr. Joyce L. Bassett Dismiss – Lack of Supporting Evidence
Agenda Item No. 27	Case No. 290227	Dr. Marissa L. Rubio-Ellis Dismiss – Lack of Supporting Evidence
Agenda Item No. 28	Case No. 290283	Dr. Warren Peterson Dismiss – Lack of Supporting Evidence
Agenda Item No. 29	Case No. 290248	Dr. Terrence The-Hung Yu Dismiss – Lack of Supporting Evidence
Agenda Item No. 30	Case No. 290234	Dr. Keith M. Rogers Dismiss – Lack of Supporting Evidence
Agenda Item No. 31	Case No. 290232	Dr. Roger L. Jackson Dismiss – Lack of Supporting Evidence
Agenda Item No. 32	Case No. 290207	Dr. Scott Edward Nuessle Dismiss – Lack of Supporting Evidence
Agenda Item No. 33	Case No. 290277	Dr. Kevin L. Gasser Dismiss – Lack of Supporting Evidence

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Agenda Item No. 34	Case No. 290224	Dr. Jeffrey B. Greene Dismiss – Lack of Supporting Evidence
Agenda Item No. 35	Case No. 290250	Dr. Stacy A. Boettcher Dismiss – Lack of Supporting Evidence
Agenda Item No. 36	Case No. 290272	Dr. David M. Buhrley Dismiss – Lack of Supporting Evidence
Agenda Item No. 39	Case No. 290217	Dr. Jerome J. Riddle, III Dismiss – Lack of Supporting Evidence
Agenda Item No. 40	Case No. 290306	Dr. Salvatore F. Perna Dismiss – Lack of Supporting Evidence
Agenda Item No. 41	Case No. 290258	Dr. Ronald K. Thompson Non-Disciplinary Civil Penalty of \$500 for failure to comply with a Board subpoena
Agenda Item No. 44	Case No. 290292	Dr. Christine A. Nguyen Letter of Concern stating ensure initial diagnosis is supported by FMX or panoramic x-ray and perio probing depths. Diagnosis and treatment plan should be written down
Agenda Item No. 47	Case No. 290316	Dr. Leonard E. Beare, Jr. Terminate – Lack of Supporting Evidence
Agenda Item No. 49	Case No. 290340	Dr. Richard Brian Higgs Terminate – Lack of Supporting Evidence
Agenda Item No. 50	Case No. 290349	Dr. Paul L. Brandt, Jr. Terminate – Lack of Supporting Evidence
Agenda Item No. 51	Case No. 290331	Dr. Daniel Nathan Indech Terminate – Lack of Supporting Evidence
Agenda Item No. 52	Case No. 290302	Dr. Dale R. Hamblin Terminate – Lack of Supporting Evidence
Agenda Item No. 53	Case No. 290341	Dr. Douglas M. Gordon Terminate – Lack of Supporting Evidence
Agenda Item No. 54	Case No. 290345	Dr. Anthony O. Rao Terminate – Lack of Supporting Evidence
Agenda Item No. 55	Case No. 290328	Dr. Navan A. Patel Terminate – Lack of Supporting Evidence
Agenda Item No. 56	Case No. 290294	Dr. Wissam S. Ayoub Terminate – Lack of Jurisdiction

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Agenda Item No. 57	Case No. 290307	Dr. Henry R. F. Barkett Terminate – Lack of Jurisdiction
Agenda Item No. 58	Case No. 290348	Dr. Barry James Nestlerode Terminate – Lack of Jurisdiction
Agenda Item No. 59	Case No. 290342	Michael B. Crowley Terminate – Lack of Jurisdiction
Agenda Item No. 60	Case No. 290284	Dr. Dhanlaxmi R. Merchant Ratify to Investigative Interview from Triage
Agenda Item No. 61	Case No. 280402	Wayne O. Baldon Accept Compliance Report

Agenda Item No. 62 – Approval of Restricted Permit(s) (Application or Renewal) – Consent Agenda

This item was vacant.

Agenda Item No. 63 – Ratification of New Dental and Dental Hygiene Licenses – Consent Agenda

Upon MOTION by Mr. Greer, second by Dr. Sommerhalter, the Board voted to RATIFY the following New Dental and Dental Hygiene Licenses. MOTION PASSED UNANIMOUSLY.

Jonathan D. Buenjemia, DDS
D 7922, issued: 12/01/2009

Hsin Yi Lin, DDS
D 7923, issued: 12/01/2009

Hsuan-Chen Chang, DDS
D 7924, issued: 12/01/2009

Mohammad Khaknegar, DDS
D 7938, issued: 12/24/2009

Madhuri Kothapalli, DDS
D 7939, issued: 12/30/2009

Cheri K. Roque, DMD
D 7940, issued: 12/30/2009

Nicole C. Gore, DMD
D 7941, issued: 01/21/2010

Isabel C. Simpson, DMD
D 7942, issued: 01/22/2010

Bree J. Kim, DDS
D 7943, issued: 01/27/2010

Andrew M. Shon, DDS
D 7944, issued: 02/01/2010

Shabnam Khanideh, DMD
D 7945, issued: 02/01/2010

Dental Hygienists:

Paul Murrell, RDH
H 6816, issued: 11/12/2009

Evelyn M. Hammond, RDH
H 6825, issued: 12/09/2009

Valli Isenhour, RDH
H 6828, issued: 12/09/2009

Janet M. Johnson, RDH

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is completely different than what is seen once the bridge is placed in the mouth and he could not adequately evaluate the bridge on the model; he needed to see it in her mouth. She would not allow him to cement the bridge.

In response to the Board, SK stated she was not complaining about the bridge, she was simply stating what changes she wanted done before the bridge was permanently cemented. She was always told the bridge could not be removed once it was seated. She did finally agree to allow the bridge to be placed in her mouth, but Dr. Smallwood had already stormed out of the office.

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 38 **Case No. 290246**
Dr. Trent Wilsey Smallwood

Dr. Smallwood, his attorney Ms. McLellan and complainant NR were present.

NR stated he requested a copy of his records from Dr. Smallwood, which he received, but there was no signed consent form or signed treatment plans included. He submitted a second request and received a signed consent form which was dated two years prior to the treatment he received. He did not understand how the Investigative Interview (I.I.) panel determined the allegation of inadequate treatment planning warranted dismissal. He has never seen any documentation related to the subsequent treatment.

The Board informed NR he did sign a consent form. The fact that he kept returning for the continued treatment alluded to consent for the treatment. It was not necessary for him complete a consent form at each appointment.

Dr. Smallwood assured the Board an informed consent form was signed by NR and was submitted to the Board in response to the subpoena for records.

Upon MOTION by Dr. Morrison and duly seconded, the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 42 **Case No. 290329**
Dr. Michael Wassef

Dr. Wassef was present and asked the Board to consider retroactively approving the courses he has taken for Board-ordered continuing education. He also asked the Board to re-consider imposition of the \$500 administrative penalty.

Upon MOTION by Dr. Foster, second by Mr. Greer the Board voted to ACCEPT the Findings of Fact, find a VIOLATION of A.R.S. §32-1201.21(b) and impose an ADMINISTRATIVE PENALTY of \$500 and completion of the Continuing Education previously ordered in case 280137. Dr. Sommerhalter was ABSENT. MOTION PASSED UNANIMOUSLY.

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and submitted by Dr. Strub do not reveal an open margin. The Investigative Interview panel was split in its recommendation and allowed the public consultant to make the determining decision.

Dr. Strub stated his x-rays actually show the margins as sealed. There is no evidence of an overhang either. He did the post-operative radiographs and based on these, he has no reason to believe an overhang existed.

Upon MOTION by Dr. Morrison, second by Mr. Farnsworth the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 68 **Case No. 290149**
Dr. Derrick V. Johnson

Mr. Tonner on behalf of Dr. Johnson and complainant HK were present.

HK stated he still has cracked and chipped implants. The Investigative Interview panel appeared to be unprepared to review this case. He had to re-submit documents that he had already submitted. There are two subsequent treating dentists whose records indicate there was some breakage of the implants. Also, he submitted a signed affidavit from one of Dr. Johnson's employees attesting to the massive breakage on the anterior bridge. Dr. Johnson never documented the breakage in his notes and he refused to fix the bridge. Then he moved out of state. HK asked the Board to consider upholding allegations 4, 5 and 6. His treatment was substandard and he will need restitution of his fees for the work done on his lower mouth. This work cannot be repaired, it must be redone.

Mr. Tonner stated there was a minor porcelain chip. It was sent to the lab, repaired and returned to the patient. Dr. Johnson then sold his practice. A year later, one of the subsequent treating dentists contacted Dr. Johnson and informed him there were some issues with the porcelain. This dentist also stated in his records that the bridge itself was fine but the porcelain was cracked. There was no health history submitted to the Board with the records. The new owner of Dr. Johnson's practice did not initially submit it, but Mr. Tonner had it in his possession at this meeting. He also had a check made out to HK in the amount of \$6215 and was willing to give it to him at this meeting.

HK had initially refused to take the check Mr. Tonner offered, but later accepted it.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to TERMINATE for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 69 **Case No. 290276**
Dr. Edward W. Galapeaux

Mr. Gaines was present on behalf of Dr. Galapeaux and stated he has been practicing dentistry for over 40 years. In response to his subpoena for records, he submitted the original radiographs. When he came to review the case file, he looked at the x-rays and could see he actually did miss the decay at tooth #15. Prior to the Investigative Interview, the patient also raised issues with other teeth. Dr. Galapeaux admitted he may have missed the decay on teeth 18 and 31 as well. He accepted full responsibility for the missed decay. He was in agreement with the panel's recommendation.

Upon MOTION by Dr. Morrison second by Dr. Foster the Board voted to ACCEPT the Findings of Fact and Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.21(n). MOTION PASSED UNANIMOUSLY.

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Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to impose NON-DISCIPLINARY CONTINUING EDUCATION of 6 hours in Diagnosis of Radiographs including Comprehensive Exams. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Waite, second by Dr. Foster the Board voted to RE-OPEN this matter. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to impose 6 months time to complete the previously ordered Continuing Education. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 71 **Case No. 290337**
Dr. Charles Joseph Lucero

Mr. Tonner, on behalf of Dr. Lucero and complainant TN were in attendance.

TN stated Dr. Lucero did not place the brackets on her braces. He was not even in the room when it was done. She has never been able to reach him and she has never received a copy of her records. Her bite is still off as a result of his treatment.

Because failure to release records was not an allegation in this case, the Board could not address that issue at this time. However, Mr. Tonner stated he would make sure TN received a copy of those records.

Upon MOTION by Dr. Morrison, second by Dr. Waite the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 67 **Case No. 290255**
Dr. Larry A. Bargren

It was determined that Dr. Bargren was not able to be reached for the Investigative Interview, even though he left a telephone number for the panel to call. He was hospitalized at the time.

A motion was made to vacate the previous Investigative Interview and remand to a new Investigative Interview in which Dr. Bargren could attend, however, the motion was WITHDRAWN.

Dr. Bargren had submitted additional information to the Board regarding this case. He also had submitted proof of restitution to the patient.

Upon MOTION by Mr. Greer second by Dr. Morrison the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 70 **Case No. 290299**
Dr. Larry Russell

Upon MOTION by Dr. Morrison and duly seconded the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

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AFTERNOON 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. 80	Case No. 290297	Dr. Patrick G. Martin
Agenda Item No. 82	Case No. 290235	Dr. Sophan R. Kay
Agenda Item No. 84	Case No. 290236	Dr. Eric J. Swensen
Agenda Item No. 86	Case No. 290287	Dr. Newton Harry Henderson, III
Agenda Item No. 87	Case No. 290202	Dr. Steven C. Badger
Agenda Item No. 89	Case No. 290364	Dr. Tori Sandoval
Agenda Item No. 91	Case No. 290362	Dr. Brigham D. Baker
Agenda Item No. 98	Case No. T-09-089	Dr. Hanann Tomeh
Agenda Item No. 103	Case No. T-09-093	Dr. Robert F. Hawke
Agenda Item No. 109		Dr. Steven Chris Chang

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to DISMISS the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases DISMISSED:

Agenda Item No. 72	Case No. 290254	Dr. Jerome C. Cutler Dismiss – Lack of Supporting Evidence
Agenda Item No. 73	Case No. 290249	Dr. Gordon K. Wilson Dismiss – Lack of Supporting Evidence
Agenda Item No. 74	Case No. 290228	Dr. Chu-chi Wang Dismiss – Lack of Supporting Evidence
Agenda Item No. 75	Case No. 290269	Dr. Brandon J. Tilts Dismiss – Lack of Supporting Evidence
Agenda Item No. 76	Case No. 290245	Dr. Jeremy L. Tanner Dismiss – Lack of Supporting Evidence
Agenda Item No. 77	Case No. 290251	Dr. Thien C. Nguyen Dismiss – Lack of Supporting Evidence
Agenda Item No. 78	Case No. 290240	Dr. Dawnie L. Kildoo Dismiss – Lack of Supporting Evidence
Agenda Item No. 79	Case No. 290242	Dr. Frank H. Meng Dismiss – Lack of Supporting Evidence
Agenda Item No. 81	Case No. 290198	Dr. Daniel R. Rosales Dismiss – Lack of Supporting Evidence

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Agenda Item No. 83	Case No. 290330 & 280175	Dr. John Andrew Loesch Dismiss Without Prejudice
Agenda Item No. 85	Case No. 290257	Dr. Derrick V. Johnson Letter of Concern stating the doctor should be aware of when his license expires and renew in a timely manner
Agenda Item No. 88	Case No. 290298	Dr. Mark A. Costes Terminate – Lack of Supporting Evidence
Agenda Item No. 90	Case No. 290312	Dr. George L. Perry Terminate – Lack of Supporting Evidence
Agenda Item No. 92	Case No. 290319	Dr. Richard C. Davis Terminate – Lack of Supporting Evidence
Agenda Item No. 93	Case No. T-09-090	Dr. James A. Weaver Terminate – Lack of Jurisdiction
Agenda Item No. 94	Case No. T-09-088	Dr. Ronald D. Walker Terminate – Lack of Jurisdiction
Agenda Item No. 95	Case No. T-09-086	Dr. Christopher E. Schomaker Terminate – Lack of Jurisdiction
Agenda Item No. 96	Case No. T-09-085	Dr. Brigham D. Baker Terminate – Lack of Jurisdiction
Agenda Item No. 97	Case No. T-09-087	Dr. Richard M. Boles Dismiss – Lack of Jurisdiction
Agenda Item No. 99	Case No. T-09-091	Dr. Jeffrey L. Martin Terminate – Lack of Jurisdiction
Agenda Item No. 100	Case No. T-09-092	Dr. Franklin D. Hulme Terminate – Lack of Jurisdiction
Agenda Item No. 101	Case No. 290280	Dr. Steven R. Singer Terminate – Lack of Jurisdiction
Agenda Item No. 102	Case No. 290274	Dr. Kenneth C. Glass Terminate – Lack of Jurisdiction
Agenda Item No. 104	Case No. T-10-001	Dr. Joseph R. Cohen Terminate – Lack of Jurisdiction
Agenda Item No. 105	Case No. T-10-001	Dr. Scott Connell Terminate – Lack of Jurisdiction

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Agenda Item No. 106		Dr. David S. Hancock Open an Investigation as a result of a malpractice report for alleged inadequate crown and bridge
Agenda Item No. 107		Dr. Mark A. Costes Open an Investigation as a result of a malpractice report for alleged inadequate premedication
Agenda Item No. 108		Dr. Nafys Samandari Open an Investigation as a result of a malpractice report for alleged complications during or after treatment
Agenda Item No. 110	Case No. 290288	Dr. Aaron Dennis Laws Remand for Clinical Evaluation only
Agenda Item No. 111		Dr. Alejandro Rabanal Dismiss without Prejudice
Agenda Item No. 112	Case No. 280262	Dr. Kenneth J. Marz Dismiss without Prejudice
Agenda Item No. 113	Case No. 290338	Dr. John F. Zweber Vacate previous Investigative Interview and Remand to a new Investigative Interview
Agenda Item No. 80	Case No. 290297	Dr. Patrick G. Martin

Ms. McLellan, on behalf of Dr. Martin and complainant RR were present.

RR stated Dr. Martin had knowledge of the decay in her tooth for several years prior to its extraction. He admitted he saw the decay three days after the x-rays were taken, but never informed RR. She never knew the tooth had been compromised, she only knew the porcelain was chipped. Dr. Martin failed to inform her of problems or of options for treatment while the tooth was still salvageable. It did not matter to RR that Dr. Martin had documented the decay in the chart.

Ms. McLellan stated this case involves failure to diagnose decay. By RR's own admission, Dr. Martin did diagnose and document the decay. He noted there was mesial decay on tooth #31 and documented removal of the decay and placement of a new bridge. Two years later, a subsequent dentist finds decay on tooth #31. RR requested a copy of her x-rays from Dr. Martin and he forwarded the last sets he had which were taken in 2007. The new dentist assumed it was the same decay from two years prior. The Investigative Interview panel recommended dismissal and Ms. McLellan asked the Board to accept its recommendation.

Upon MOTION by Dr. Foster, second by Mr. Greer the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 82 **Case No. 290235**
Dr. Sophan R. Kay

Dr. Kay, his attorney Mr. Gaines and complainant RP were present.

RP stated Dr. Kay did not refer his wife for an extraction; he did the extraction himself. He questioned whether this was acceptable, especially so because of the difficulty Dr. Kay had in removing the tooth.

Mr. Gaines stated the Investigative Interview (I.I.) panel reached the right conclusion in this case. Dr. Kay did have difficulty with the extraction of tooth #11 and has voluntarily refunded the fee of \$175 to RP. There was a signed written informed consent and the patient never returned to Dr. Kay. The difficulty Dr. Kay experienced is an ordinary incident that could occur when extracting a canine tooth.

The Board informed RP it was not within its jurisdiction to order payment for future costs.

Upon MOTION and duly seconded the Board voted to issue a LETTER OF CONCERN stating better record keeping and communication before, during and after treatment. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 87 **Case No. 290202**
Dr. Steven C. Badger

Mr. Gaines was present on behalf of Dr. Badger.

Upon MOTION by Dr. Waite, second by Dr. Foster the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 89 **Case No. 290364**
Dr. Tori Sandoval

Dr. Sandoval was in attendance.

Upon MOTION by Dr. Waite, second by Dr. Foster the Board voted to TERMINATE for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 91 **Case No. 290362**
Dr. Brigham D. Baker

Dr. Baker and complainant JW and the patient LW were present.

JTW stated this case involved treatment to his wife, LW. He had photographic evidence of the extreme tilt on tooth #31. The initial treatment plan presented by Dr. Baker did not indicate any potential issues with tooth #31. The extreme tilt should have been evident on the initial x-rays. Not only was the treatment plan inadequate, there was an issue of misdiagnosis. Dr. Baker recommended Invisalign treatment for the tilt on tooth #31, but this should never have been considered as an option for treatment as the tilt was too great. Dr. Baker inadvertently pulled the crown off tooth #29 and failed to inform LW this had happened. LW was referred to an orthodontist who corrected the tilt with braces. She then went back to Dr. Baker who told her root canal therapy would be required on tooth #31. A subsequent treating dentist completed the work, but did not need to perform root canal therapy on #31. Dr. Baker charged them a total of \$3281, but the work was never completed. Included in that charge was a fee of \$908 for work on tooth #28; however, no work was ever done on tooth #28.

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Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to find a VIOLATION of A.R.S. §32-1201.21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 2

Upon MOTION by Dr. Morrison, second by Dr. Foster the Board voted to impose CONTINUING EDUCATION of 6 hours in Hands-On Endodontics with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 109 Dr. Steven Chris Chang

This matter was pulled from the consent agenda. Upon review, it was discovered this matter has already been investigated.

Upon MOTION by Dr. Waite, second by Dr. Foster the Board voted to TAKE NO ACTION regarding this matter. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 114 – Members of the Public

None

Agenda Item No. 115 – Associations

None

Agenda Item No. 116 - Future Agenda Items

Possible elimination of the DANB examination and inclusion of a proficiency course for dental assisting radiography.

Agenda Item No. 117 – Next Meeting Date

April 9, 2010

Agenda Item No. 118 – Adjournment

Dr. Waite adjourned the meeting at 2:10 PM.

Minutes APPROVED at the April 9, 2010 Board Meeting

Elaine Hugunin, Executive Director