



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING JUNE 5, 2009

Board Members Present:

Dr. Joyce A. Rosenthal, President
Dr. Gregory A. Waite, Vice President
Dr. Louis Sommerhalter
Dr. Jack R. Cole
Dr. Gary M. Gradke
Ms. Catherine L. Bevers, RDH
Dr. Bruce A. Spigner
Dr. Scott W. Morrison
Mr. Jason D. Farnsworth

Board Members Absent:

Ms. Susan C. Stevens
Ms. Laurie Buckles, RDH

Staff Present:

Ms. Elaine Hugunin, Executive Director
Ms. Nancy Chambers, Deputy Director
Ms. Mary DeLaat Williams, Assistant Attorney General
Ms. Sherrie Rowe, Licensure Manager
Ms. Colleen R. Amos, Investigations Supervisor
Ms. Marsha Fuentes, Legal Administrator
Ms. Yvonne Barron, 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

Dr. Rosenthal called the meeting to order at 8:01 a.m.

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II. EXECUTIVE SESSION

Agenda Item No. 2 – Executive Session

Upon MOTION, duly seconded and UNANIMOUSLY PASSED the Board voted to go into Executive Session for legal advice.

****Executive Session****

RETURN TO OPEN MEETING

Agenda Item No. 4 – President's Report

- A. Appointment of Mobile Dentistry Committee Chairman.

Dr. Rosenthal appointed Dr. Gregory Waite as Chairman of the Mobile Dentistry Committee.
- B. Appointment of dental hygienist to be a WREB DH-ERC representative.

Dr. Rosenthal appointed Ms. Laurie Buckles as a WREB DH-ERC representative.

Agenda Item No. 5 Executive Director's Report

- A. Summary of current events that affect the Arizona State Board of Dental Examiners (This is the time for the Board President or Executive Director to give a brief summary on current events that affect the Board. It is informational only and no discussion may occur.)

There were no current events to report at this time.
- B. BOARD MEMBER TRAINING
Presentation by attorney and staff regarding the following topics:
 - 1. Options under the dental practice act for disposition of complaints.

No action taken.
- C. Review, discussion and possible action regarding renewal of the Board's Interagency Service Agreements and contracts with the Office of Administrative Hearings, Attorney General's Office, Department of Administration - Central Services Bureau, MATP Medical Director, Legislative Liaison and Staff Consultant.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to APPROVE the renewal of the Interagency Service Agreements and contracts. MOTION PASSED UNANIMOUSLY.

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- D. Review, discussion and possible action regarding 2009 5-year Review Reports' Progress Report.

No action taken.

- E. Review, discussion and possible action regarding attendance of Dr. Joyce Rosenthal at the Western Conference of Dental Examiners and Dental Deans, July 17-18, 2009 in San Diego, CA.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to APPROVE attendance as requested. MOTION PASSED UNANIMOUSLY.

- F. Review, discussion and possible action regarding attendance of Dr. Joyce Rosenthal and Ms. Elaine Hugunin at the AADA/AADE Annual Meetings, September 30 – October 4, 2009 in Hawaii.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to APPROVE attendance as requested. MOTION PASSED UNANIMOUSLY.

- G. Review and discussion of Board's complaint investigation and adjudication process, including consideration of appointment of committee to evaluate the process.

Ms. Hugunin requested the Board consider appointing an ad hoc committee who would review and determine ways in which the effectiveness of the complaint process could be improved. Dr. Morrison was appointed to chair the committee.

Mr. Kevin Earle, Executive Director of AzDA, and Dr. Donald Simpson, AzDA's President, were both supportive of the initiative. Dr. Simpson stated AzDA was interested in any effort to evaluate the complaint process and were ready to assist the Board in any area it sees fit.

- H. Dr. Dale R. Hamblin - Case 290063 - Review, discussion and possible action including administratively adjusting the case from the doctor's record.

Dr. Hamblin was not the treating dentist in this case.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to Administratively Adjust this case from Dr. Hamblin's record. MOTION PASSED UNANIMOUSLY.

- I. Dr. Hiba Kamal Malki - Case 290090 - Review, discussion and possible action including administratively adjusting the case from the doctor's record.

There were several dentists involved in the treatment of this patient.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to Administratively Adjust this case from Dr. Hamblin's record. MOTION PASSED UNANIMOUSLY.

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- J. Perfect Teeth - Review, discussion and possible action including vacating previous direction to place on June, 2009 agenda to open an investigation.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to VACATE its previous direction to staff to place on the agenda for investigation. MOTION PASSED UNANIMOUSLY.

- K. Dr. Hazem Hussein Jabr - Case T-09-007 - Review, discussion and possible action including terminating this case for lack of jurisdiction.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to TERMINATE for Lack of Jurisdiction. MOTION PASSED UNANIMOUSLY.

- L. Review, discussion and possible action on letter from Dr. Stephen J. Harkins regarding conduct of Board member.

It was determined the Board has no jurisdiction regarding the conduct of a fellow Board member. The members are appointed by the Governor of Arizona and that is who should review Dr. Harkins' concerns.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to direct staff to send a letter to Dr. Harkins' informing him of his options. Dr. Gradke RECUSED. MOTION PASSED.

- M. Dr. Raymond M. Hubrich - Case T-09-034 - Review, discussion and possible action including terminating this case for lack of jurisdiction.

Upon MOTION by Ms. Bevers, second by Dr. Spigner the Board voted to TERMINATE for Lack of Jurisdiction. MOTION PASSED UNANIMOUSLY.

- N. Review, discussion and possible action regarding DANB proposal to eliminate paper/pencil testing sites and move to computerized testing as the only exam format.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to eliminate paper/pencil testing sites. MOTION PASSED UNANIMOUSLY.

- O. Discussion and possible action regarding possible Board Member Training Meeting.

Ms. Hugunin announced the Board has received laptops for future use at its meetings and proposed the date of July 10, 2009 for training in order that the laptops can be used at the August 7, 2009 meeting. The Board was responsive to this date for training.

Ms. Hugunin gave a special thank you to Ms. Chambers for coordinating and completing this project.

- P. Review and discussion regarding the use of Southwest Laboratories randomization program for individuals requiring random urinalysis.

Southwest Laboratories offers a customized randomization program. The urinalysis can be customized based on the individual, instead of a standard program for all participants

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and this will be done at no cost to the Board. Beginning July 1, 2009, the Board will use Southwest Laboratories for its MATP and Abuse Track participants.

- Q. Review and discussion regarding the Board's FY10 budget.

Ms. Hugunin reported the Board has not been informed of any additional funds sweeps for the next fiscal year.

Agenda Item No. 6 – Assistant Attorney General's Report For Board Direction & Possible Action

VACANT

Agenda Item No. 7 - Personnel Issues

Ms. Terry Bialostosky was promoted to new the Projects and Programs Specialist position. Ms. Yvonne Barron will be promoted to Legal Secretary.

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

VACANT

Agenda Item No. 9 – Request for Action on Dental Assistant Radiology Certification by Credential – Consent Agenda

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

- A. Magali Partida - Certified in California
- B. Dora N. Rodriguez- Certified in California
- C. Martin M. Penaloza-Certified in California
- D. Frances Galvin- Certified in California
- E. Miriam Cruz- Certified in California
- F. Rose S. Sabate- Certified in California
- G. Mindy R. Deter- Certified in Oregon
- H. Tracy Junell Walker- Certified in Oregon

Agenda Item No. 10 – Request for Action on Licensure by Credential

- A. Michael S. Palopoli, RDH - Tabled from April 3, 2009 Board meeting pending receipt of additional information regarding applicant's work experience.

At the April 3 Board meeting, the Board issued a comprehensive review request for additional information consisting of proof of completion of the 1000 hours of work experience. The proof was not provided at this meeting.

Upon MOTION by Dr. Rosenthal, second by Dr. Gradke the Board voted to DENY licensure base on failure to provide proof of work experience. MOTION PASSED UNANIMOUSLY.

- B. Dr. Bahman Saffari-Board approved Exam, Multiple malpractices, Disciplinary Action on TX license.

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Dr. Saffari was present and stated he was employed at a group practice for 9 years. Allegations were made against him and he was penalized in 3 cases. He was placed on 5 years probation. The last Board action, which was in 2006, was for the same type of violation and also resulted in a sanction. He has a total of 12 separate malpractice cases and his probation will be complete in 2011.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to DENY the application for licensure based on the discipline in another state and conduct which would impose a danger to the health, safety and welfare to the public and the evidence of quality of care issues. MOTION PASSED UNANIMOUSLY.

- C. Dr. Michael David Fast- 1986 MS State exam prior to a regional. Signed consent agreement with MS to avoid discipline.

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

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

- D. Gloria J. Malloy, RDH-1985 NERB Hygiene

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

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

- E. Dr. Christopher R. Lamb- 2009 NERB

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

Agenda Item No. 11 – Request for Action on Licensure by Credential – Consent Agenda – Board-approved Clinical Examination

Upon MOTION by Dr. Waite, second by Ms. Bevers 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. Sheenu Goel-2007/2008 NERB
- B. Dr. Stephanie L. Tsai-2007/2008 NERB
- C. Dr. Talayeh Afkhami-2006/2007 NERB
- D. Dr. Kevin H. Acone-2006/2007 NERB
- E. Dr. Nathan C. Dewsnup-2006/2007 NERB
- F. Dr. Walter Villanueva-2006/2007 NERB
- G. Dr. Amber C. Burgess- 2005/2006 NERB
- H. Dr. David W, Ho-2005/2006 NERB
- I. Dr. Eniko Alicea-2005/2006 NERB
- J. Dr. Jason J. Setlock- 2000 NERB
- K. Dr. Hargrow D. Barber, -1984 NERB

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L. Dr. Cynthia L. Snedeker-1982 NERB
M. Dr. James L. Berning-1981 NERB
N. Dr. Andrew P. Ingel-1980 NERB
O. Dr. LeDeane Fattore-Bruno-1977 NERB
P. Dr. Todd D. Southall-2002 CRDTS
Q. Dr. Karolyn K. George-1999 CRDTS
R. Dr. Carl L. Brownd-1983 WREB
S. Dawn M. Mannarino, RDH-2007 NERB
T. Emily A. Barenbrugge, RDH-2005 NERB
U. Sharie A. Erickson, RDH 2004 NERB
V. Hannah B. Peterson, RDH 2004 NERB
W. Regina F. Ulises, RDH 2002 NERB
X. Cleopatra A. Elashab, RDH- 1993 NERB
Y. Polli Ann Patterson, RDH-1988 NERB
Z. Jill M. Thunberg, RDH 1980 NERB
AA. Paula K. Maynard-Akers, RDH 1988 CRDTS
BB. Patricia L. Karlsrud, RDH 1980 CRDTS
CC. Lindsey J. Sestak, RDH 2003 WREB
DD. Sussan Makanvand, RDH 2002 WREB
EE. Claudia A. Richter, RDH-2000 WREB
FF. Rebecca S. Harada, RDH 1994 WREB
GG. Jodie L. Wenrick, RDH-1979 WREB

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

- A. Dr. Julie B. Bradshaw - Review, discussion and possible action regarding supplement to 2008 renewal application. Tabled from April 3, 2009 meeting to receive information from medical providers.

Dr. Bradshaw and her attorneys Mr. Jantsch and Mr. Cummings were present. The Board reviewed supplemental information from Dr. Bradshaw's medical providers.

Upon MOTION by Dr. Rosenthal, second by Dr. Gradke the Board voted to TAKE NO ACTION. MOTION PASSED UNANIMOUSLY.

- B. Dr. Matthew DeFelice – Review, discussion and possible action regarding DUI disclosure.

Dr. DeFelice was present.

Dr. Sucher reported Dr. DeFelice had received a DUI on April 17, 2009 and met with him on May 5. Dr. Sucher believed this was an isolated incident and there was no evidence of abuse or dependency. Further evaluation, treatment or monitoring was not necessary, nor were there any safety issues.

Dr. DeFelice stated he has taken full responsibility for his actions. In response to the Board, he did report the arrest timely.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to GRANT renewal of Dr. DeFelice's license. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13 – Recommendation(s) From Board MATP Medical Director

HEALTH AND WELL BEING

A. Dr. Michael W. Dodd –

- i. Case No. 280303 - Review, discussion and possible action regarding alleged substance abuse, reinstatement of license and possible entrance into the Board's MATP; consideration of evaluation by Dr. Sucher.

Dr. Dodd was present. Dr. Sucher reported that Dr. Dodd entered treatment for drug addiction in January and successfully completed that treatment in March. Since completion, he has been in a program that is a mirror image of the Board's MATP. Dr. Sucher recommended Dr. Dodd be placed into the Board's MATP with a restriction to schedule II and III drugs. Dr. Dodd currently resides in a sober-living environment.

Dr. Dodd stated he was ready to participate in the MATP and understood that upon entrance he would be accepting a violation of the Dental Practice Act.

Upon MOTION by Dr. Waite, second by Dr. Spigner the Board voted to REINSTATE Dr. Dodd's license and ACCEPT entrance into the Board's MATP under its usual terms and conditions. MOTION PASSED UNANIMOUSLY.

- ii. Review, discussion and possible action regarding opening an investigation for alleged practice of dentistry while under a voluntary surrender.

This matter arose due to information received that Dr. Dodd was practicing dentistry while unlicensed. In response to the Board, Dr. Dodd stated he did, in fact, place a file in the canal during root canal therapy. He believed the owner/dentist of the practice may have missed a canal.

Upon MOTION by Ms. Bevers, second by Dr. Gradke the Board voted to OPEN AN INVESTIGATION for alleged practice of dentistry while under a voluntary surrender. Drs. Sommerhalter, Spigner, Waite and Cole OPPOSED. Mr. Farnsworth was ABSENT. MOTION FAILED.

Upon MOTION by Dr. Waite, second by Dr. Spigner the Board voted to TAKE NO ACTION. Ms. Bevers, Drs. Morrison, Cole, Gradke, Spigner, Sommerhalter and Rosenthal OPPOSED. Mr. Farnsworth was ABSENT. MOTION FAILED.

Discussion ensued. The Board was divided as to the severity of Dr. Dodd's actions. Some members believed this incident did not rise to the level that would warrant an investigation; Dr. Dodd was merely giving an opinion. Other members believed a precedent would be set if no action was taken with regard to Dr. Dodd practicing while under suspension. A licensee who is considered for the MATP is asked to voluntarily surrender his or her license while the evaluation is being conducted. To allow one to work while under suspension, especially one who has admitted that he has done so would be sending the wrong message out to future MATP participants.

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Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION for alleged practice of dentistry while under a voluntary surrender. Dr. Waite OPPOSED. Mr. Farnsworth was ABSENT. MOTION PASSED.

- B. Dr. Cameron R.C. Smith - Case No. 270397 - Review, discussion and possible action regarding application for renewal, reinstatement of license and consideration of comprehensive medical evaluation.

Dr. Smith and his attorney Mr. Tonner were present. Mr. Tonner stated in the 1990's, Dr. Smith had some issues with hydrocodone. He successfully completed the Board's MATP in 2003. In 2005, Dr. Smith received a DUI arrest which he disclosed on his 2007 application for renewal. He was ordered to undergo an extensive assessment to include medical, addiction, neuro-psychological and psychiatric evaluations. There were several wide-ranging medical issues and Dr. Smith was unable to complete the evaluations. Dr. Smith requested an extension of time to complete the evaluations, which the Board granted. Since then, he has had more medical issues, including hospitalizations and surgeries, and was again asking the Board to grant an extension of time to submit the requested information. In response to the Board, Mr. Tonner stated Dr. Smith's medical issues have stabilized and Dr. Smith has surrendered his license. He requested to be allowed to appear at the December 2009 Board meeting.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue a new stipulation agreement granting an extension of time until the December 2009 Board meeting with reports to be provided to the Board 20 days prior to its meeting. MOTION PASSED UNANIMOUSLY.

- C. Dr. Hugh T. Keeffe - Case No. 280305 - Review, discussion and possible action regarding evaluation report by Dr. Sucher and adjudication of case.

Mr. Tonner was present on behalf of Dr. Keeffe.

Dr. Sucher stated he met with Dr. Keeffe on May 15 for an evaluation. The Board was provided with his report. This issue was surrounding excessive orders of hydrocodone. Dr. Sucher did not find any evidence of substance abuse with Dr. Keeffe. There were no safety issues with regard to Dr. Keeffe's ability to practice and no reason to monitor him.

Mr. Tonner stated Dr. Keeffe has been in practice for over 20 years. During that time, he has never ordered anything other than occasional antibiotics. There were 2 separate incidents in which hydrocodone had been ordered using Dr. Keeffe's DEA license. The first incident occurred in approximately 2006. Dr. Keeffe employed a staff member who began ordering all of his office supplies. She began to order the hydrocodone under Dr. Keeffe's DEA license. Before Dr. Keeffe found out about the orders, the staff member quit working for him. The second incident also involved an employee. When Dr. Keeffe found out, he fired the employee and now orders all medications himself.

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Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN stating the doctor needs to have more vigilance when supervising staff. Dr. Spigner and Dr. Waite OPPOSED. Mr. Farnsworth was ABSENT. MOTION PASSED.

- D. Dr. Alex E. Romberger - Case No. 280219 - Review, discussion and possible action regarding re-evaluation report by Dr. Sucher and adjudication of case.

Ms. Corcoran was present on behalf of Dr. Romberger.

Dr. Sucher reported he had originally evaluated Dr. Romberger for a DUI arrest in 2008. At that time Dr. Sucher believed Dr. Romberger's history of alcohol abuse was significant enough for him to enter into the Board's Two year abuse tracking program. Dr. Romberger elected to have his case forwarded to an Investigative Interview and he was also re-evaluated by Dr. Sucher. Dr. Sucher stated Dr. Romberger has changed and has taken responsibility for his actions that resulted in the DUI arrest. He has an interlock device on his car and has had a drug screening for the past year. There has been a year of documented sobriety. Based on the changed behavior and progress, Dr. Sucher's recommendation was that Dr. Romberger did not need to participate in the abuse track program.

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

REQUEST FOR ACTION ON LICENSURE/CERTIFICATE BY EXAMINATION

The Board will review, discuss and take action on the following applications.

- E. VACANT

REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL

The Board will review, discuss and take action on the following applications

- F. VACANT

REQUEST FOR ACTION ON APPLICATION(S) FOR RENEWAL OF LICENSE
Roll Call Vote is Required

The Board will review, discuss and take action regarding disclosures on renewal applications.

- G. VACANT

Agenda Item No. 14 - CONSIDERATION OF MATP/ABUSE TRACK CONSENT AGREEMENTS & REQUIRED PERSONAL APPEARANCES

- A. Case 290031 - Dr. Paul Chang – Review, discussion and possible action regarding removal of additional color assignment.

Dr. Sucher reported that Dr. Chang has missed 2 separate drug screens. He admitted that he either did not call the Board to obtain his color for the day or he just did not go to get the test done. Although Dr. Chang has stated he can now be compliant, Dr.

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Sucher recommended the Board defer removing the double testing until the July MATP meeting. Dr. Chang could appear at that meeting and a recommendation could be made to the Board from the MATP Committee regarding Dr. Chang's compliance.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to DENY the request for removal of the additional color assignment. MOTION PASSED UNANIMOUSLY.

- B. Case 280236 - Sarah G. Morones, RDH – Review, discussion and possible action regarding removal of additional color assignment.

Dr. Sucher reported Dr. Morones has been compliant with her agreement and does not believe there was a relapse; more of bad judgment on Ms. Morones' part. Dr. Sucher believed it was appropriate to place Ms. Morones on the regular testing schedule.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to GRANT the request for removal of the additional color assignment. MOTION PASSED UNANIMOUSLY.

- C. Case 260361 - Dr. Carter A. Grampp – Review, discussion and possible action regarding removal of meeting log requirement and DEA restriction.

Dr. Grampp was present.

Dr. Sucher reported Dr. Grampp has been a fully compliant participant in the Board's MATP for 2 years. It is customary for a participant to request the removal of the meeting log and DEA restrictions after a two year period of time. The MATP Committee also recommended that the request be granted.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to GRANT the requests for removal of the meeting log requirement and the DEA restriction. MOTION PASSED UNANIMOUSLY.

- D. Case 270064 - Dr. Kelly J. Cook – Review, discussion and possible action regarding removal of meeting log requirement.

Sucher reported he has met with Dr. Cook and is in support of his request to remove the meeting log requirement. Dr. Cooke has been fully compliant with his MATP agreement.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to GRANT the request for removal of the meeting log requirement. MOTION PASSED UNANIMOUSLY.

- E. Case 280304 – Nina McGee, RDH – Review, discussion and possible action regarding opening an investigation for noncompliance with a consent agreement.

Dr. Sucher reported that Ms. McGee has been in the Board's Abuse Track Program since November 2008 and has made no effort, until recently, to schedule her quarterly evaluation. She is currently scheduled for her first evaluation; however, she

should be having her third one at this point. She also has not completed the continuing education requirements within the six month time frame. Dr. Sucher believed this was significant noncompliance and recommended the Board open an investigation.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION for noncompliance with a consent agreement. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 15 - UPDATE ON MATP PARTICIPANTS

There was one issue with Dr. Merrill regarding a potential noncompliance. Dr. Sucher will meet with Dr. Merrill and take his report to the July MATP meeting.

Dr. Sucher reported there were no noncompliance issues with the remaining participants at this time.

Agenda Item No. 16 - UPDATE ON ABUSE TRACK PARTICIPANTS

Dr. Sucher reported all participants, with the exception of Dr. Chang and Ms. McGee, are doing well and there were no issues of concern.

Agenda Item No. 17 - PROBATION MONITORING & REQUIRED PERSONAL APPEARANCE

A. Case 250280 - Dr. Michael R. Templeton

Dr. Templeton was present.

Staff reported this would be Dr. Templeton's last quarterly appearance. His consent agreement is still in place and he has been in compliance.

No action was taken.

Agenda Item No. 18 – Other Committee Reports

A. VACANT

ACTION ON CASES – Morning Agenda
From Investigative or Informal Interview

Agenda Item No. 21 **Case No. 280297**
Nicole Marie Humphrey, RDH

Ms. Humphrey was present and requested the Board reject the Investigative Interview (I.I.) panel's recommendation of censure and dismiss this case. She felt she was treated unfairly by the panel, even though she brought witnesses to attest to her character, including Dr. Bassett's office manager. The complainant failed to prove the allegations in this complaint and there were no credible findings of fact. The panel did not feel there was any malicious intent involved, and she did not believe she violated the law. She takes the patient confidentiality laws seriously and would not jeopardize her career or her patients deliberately.

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

Agenda Item No. 20 **Case No. 280417**
Dr. Shervin Rahimi

Dr. Rahimi, his attorney Ms. McLellan, complainant YH and her husband TH were present.

TH stated everyone was aware that the person taking the x-rays was not certified to do so. Also Dr. Rahimi failed to diagnose his wife's decay. YH told Dr. Rahimi her teeth were still hurting and had an appointment specifically to get a prescription for pain medications. Dr. Rahimi claimed he did not know YH had any pain problems but email correspondence proves he was aware. There was communication between YH and Dr. Rahimi at all times. YH's neurologist confirmed the dental work was the cause of her problems. She never was diagnosed with TMD prior to treatment by Dr. Rahimi.

Ms. McLellan stated the facts were indisputable. The entire treatment took approximately 3 hours for Dr. Rahimi to complete. He performed crown preparation on teeth 2 and 3. YH previously had gold onlays that had decay underneath. Both the onlays and the decay had to be removed. The assistant did the cord packing. There were other patients scheduled during the same time in order to give YH breaks in between treatment. The temporaries were made twice. Even though YH questioned the amount of time spent on her treatment, the time spent was a reasonable amount of time. With regard to the assistant, she was supervised at all times. Ms. McLellan stated the only viable issue in this case was with failure to diagnose. Dr. Rahimi missed the decay on tooth #20 and he admits to that. The continuing education as recommended by the Investigative Interview (I.I.) panel should be reduced.

Dr. Rahimi stated cord packing by a dental assistant was not addressed in the Dental Practice Act. His only explanation for tooth #20 was that he just missed it. Another dentist ended up placing the bridge. The dental assistant was not certified for taking x-rays and Dr. Rahimi understood that this was a violation of the Dental Practice Act. With regard to cord packing, that portion of the procedure only took approximately 15 minutes; not the 2 hours claimed by YH.

The Board informed YH it was not unusual for the type of treatment she received to take 3 hours to complete. In response to the Board, YH stated she communicated by email to Dr. Rahimi because she could not reach him by phone and, due to the pain she was in, it was easier to email. His employees would respond to the emails, not Dr. Rahimi. Her husband did call Dr. Rahimi, but she was also still having appointments in between communications. She finally went to a physician about the pain. YH stated Dr. Rahimi did use a bite block and never removed it during the breaks in treatment. Dr. Rahimi told her there would be no problem using the bite block. According to YH, she spent 1 hour with Dr. Rahimi and the remaining 2 hours with the assistant. She never had a break between treatment and teeth 2 and 3 were packed twice. The Board informed YH the procedure used was not unusual for a quality crown prep.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to CONSIDER the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Finding of Fact #6 AMENDED to read:

Dental assistant (Jeff) took x-rays per doctor's testimony. Jeff is not certified to take x-rays.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to ACCEPT the Findings of Fact as Amended. MOTION PASSED UNANIMOUSLY.

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Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to find a VIOLATION of A.R.S. §32-1201.21(n) and (s). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose CONTINUING EDUCATION of 6 hours in Diagnosis and Treatment Planning with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION against Dr. Emad G. Khalifa for alleged failure to comply with a Board subpoena. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 30A **Case No. 280410**
Dr. David C. Grieb

Complainant LA was in attendance and stated evidence was presented which showed Dr. Grieb to be negligent. Dr. Grieb offered to pay restitution. He offered to give LA the money she paid and she accepted the refund. Initially, Dr. Grieb offered to refund \$1860. She refused that offer and accepted a full refund of \$1870.

The Board reviewed the radiographs. There was a question regarding tooth #30. Radiographically, the decay could not be seen; however, a subsequent treating dentist found evidence of decay on tooth #30, buccally.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to CONSIDER the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Finding of Fact #5 AMENDED to read:

Decay found on #14, 15 and 30 (subsequent dentist found decay on #30 buccally, not evidenced radiographically). Patient stated the Dr. has refunded her what was paid for the work.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to ACCEPT the Findings of Fact as Amended. MOTION PASSED UNANIMOUSLY.

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

**The Board requested priors – staff reported 10

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to impose CONTINUING EDUCATION of 6 hours in Hands-on Crown and Bridge with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 29 **Case No. 280465**
Dr. Henry Minh Phan

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

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Agenda Item No. 30 **Case No. 280440**
Dr. Jack I. Lipton

Dr. Lipton and his attorney Mr. Cummings were present.

Mr. Cummings stated this case was before the Board because of a bridge Dr. Lipton replaced. Dr. Lipton treated the patient with 2 bridges. The first bridge had some recurrent decay. By the time the patient complained, Dr. Lipton was no longer working for Sunwest Dental. Dr. Lipton voluntarily replaced the bridge, but within hours, it had fallen out. The patient never returned to Dr. Lipton, but sought treatment elsewhere. Dr. Lipton was unable to replace the second bridge. The Investigative Interview (I.I.) panel reasoned that if the bridge fell out, it must have been inadequate. Mr. Cummings did not agree with the I.I. panel's recommendation and asked the Board to consider dismissal.

Dr. Lipton stated he was never given the opportunity to take care of the patient. The original bridge was from teeth 9 through 13. It had recurrent decay at #9. Dr. Lipton cut the bridge between teeth 10 and 11 and placed a cantilever on #13. He did not remake the bridge and the treatment plan was presented to the patient, who agreed with the plan. In response to the Board, the patient was not given an option of an implant at tooth #13.

According to the records, between March 2005 and November 2008, there was only one periodontal probing done. Dr. Lipton explained he worked for the clinic and was not responsible for scheduling. The radiographs that were taken in 2005 showed that tooth #9 was present, 10 was missing, teeth 11 and 12 were present and #13 was cantilevered off. There was not much tooth structure left under the bridge to hold the restoration and the teeth appeared compromised. In 2008, there were recurrent caries on #9 that extended to the gutta percha. There was no movement of the teeth. The teeth were initially compromised and a 5-unit bridge as a treatment plan was already questionable. There had to have been a problem for the bridge to fall out within hours of placement. The treatment plan and the diagnosis both failed shortly after treatment.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to CONSIDER the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Finding of Fact #4 AMENDED to read:

Treatment plan 11/27/06 on page 4 for RCT #9, bridge #28-31, RCT #31 possible. Amended TX plan 11/29/06 #14-16. TX plan 6/5/08 for #2-5 bridge, extract #4, bridge #9-11. Cantilever #9-10 after decay #9 found by Dr. Zoumbaris, subsequent treating doctor. #8-12 bridge also fell out. Original bridge was fabricated from #9-13 with double pontic in position #10 and cantilevered pontic at #13. Patient was not given option of implants at time of treatment plan.

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal the Board voted to ACCEPT the Findings of Fact as amended. MOTION PASSED UNANIMOUSLY.

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

**The Board requested priors – staff reported 6.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose RESTITUTION of \$1080 to the patient and CONTINUING EDUCATION of 6 hours in Hands-on Crown and Bridge and 6 hours in Diagnosis and Treatment Planning with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 23 **Case No. 280436**
Dr. Lam G. Ngo

Dr. Ngo, his attorney Mr. Shuman and complainant MD and his wife were present.

MD wanted all allegations upheld. He was never told his teeth would be ground down at his initial appointment. He was given a brochure as the treatment plan by Dr. Ngo. He went to a subsequent treating dentist who provided him with documented treatment plans. The diagnosis should have included consideration of his bite and other issues prior to doing any other work. Dr. Ngo did not do this. In response to the Board, MD stated he thought he would be having no-prep veneers.

Dr. Ngo stated this case was a surprise to him. MD was a patient of his for a year and a half prior to getting any cosmetic work done. He never returned to Dr. Ngo to discuss any issues he was having. There were other medical problems that may have caused MD to become a grinder. There was no evidence of any of the subsequent issues MD began to have; had there been Dr. Ngo would have modified his treatment plan. In his 8 years of practice, Dr. Ngo has seldom had a patient unhappy with his treatment. He would have offered a night guard to MD, but he was not given the opportunity to see MD after treatment nor was he aware of any problems. He believed the prep was adequate and MD made no objections at the time of treatment. When he saw MD 4 months later, all was well. Dr. Ngo asked the Board to consider dismissal. In response to the Board, Dr. Ngo did not prescribe a night guard because MD had no prior history of bruxing. He did communicate to MD the amount of tooth structure he had to remove, but he felt MD was more interested in the shade.

MD stated Dr. Ngo never discussed what crown prep entailed. He would have never gone through with the procedure had he known his teeth would have been ground down. Three of the veneers have failed and the remaining five have been replaced. The initial exam and the wax try-in were done on the same day.

The clinical evaluator's report indicated the teeth were over-prepped for veneers.

8 units were billed at \$650 per unit on the patient ledger, but the insurance company was billed for crowns at \$750 per unit. Dr. Ngo stated his office manager inadvertently billed it that way. Dr. Ngo talked to the manager about it and the mistake was corrected.

Upon Motion by Ms. Bevers, second by Dr. Gradke 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.

**The Board requested priors – staff reported 1

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose RESTITUTION of \$5200 to the patient and CONTINUING EDUCATION of 6 hours in Hands-on Crown and Bridge with emphasis on Veneers and 6 hours in Occlusion with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 19 **Case No. 280368**
Dr. Kenneth S. Thompson

Ms. McLellan, on behalf of Dr. Thompson and complainant JM were present.

JM had a concern that only Dr. Thompson was being held responsible for the treatment she received. She also had a problem with Southwest Dental Group. They will not take responsibility for the problems she has been having and want to charge an additional fee to correct the problem. She believed

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Southwest should be ordered to pay for her tooth repair. The blame was not just Dr. Thompson, but jointly with him and Southwest Dental.

Ms. McLellan stated this case was only against Dr. Thompson. Crowns were done on teeth 8 and 9. Dr. Thompson did the crowns twice before permanently cementing them. The second time, Dr. Thompson seated them and JM accepted them. A subsequent dentist evaluated the crowns and had an issue with the crown lengthening done on #9. Dr. Thompson had no knowledge of what was going on. JM has been refunded by Dr. Thompson. Ms. McLellan asked the Board to consider dismissal.

JM stated she has received \$440 from Southwest, but claimed Cigna insurance was not reimbursed. (The Board's investigator stated he contacted Southwest Dental Group who indicated the patient had an in-house plan with Southwest.) There was nothing in the record to indicate that Cigna ever paid anything to Southwest. The billing ledger also did not refer to any additional insurance held by JM. Tooth #8 was cracked and her teeth were completely ground down. She had no idea that was going to happen. She did approve the crowns at first, but after they were cemented, she began to complain about the shade.

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

Agenda Item No. 26 **Case No. 280447**
Dr. Ronald J. Moon

Mr. Tonner was present on behalf of Dr. Moon.

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

Agenda Item No. 27 **Case No. 280449**
Dr. Sathish Bhadra Chari

Mr. Tonner was present on behalf of Dr. Chari.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Gradke was OPPOSED. Dr. Sommerhalter RECUSED. MOTION PASSED.

Agenda Item No. 28 **Case No. 280428**
Dr. David S. Tsai

Mr. Tonner on behalf of Dr. Tsai, complainant JH and a companion were present.

JH stated Sun Coast Dental re-did the treatment, but she is still unable to use the denture she was provided with. Her companion, who was not identified for the record, read a statement prepared by JH. Her chief complaint is that the upper denture does not allow her to bite down and is just not right. The upper plate is too thick. When she attempts to eat, the teeth will push the food off the fork. She has more teeth on the left side than on the right. She does not wear the denture, except when out in public. She removes it as soon as she gets home. She does not wear the bridge at all, due to gagging and the plastic cuts into her gums.

In response to the Board, Mr. Tonner stated Dr. Tsai only did the permanent upper denture. He did not do any of the three lower partials. An unlicensed dentist fabricated one of the three lower partials and a licensed denturist worked on the denture Dr. Tsai fabricated.

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

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to OPEN AN INVESTIGATION against Sun Coast Dental for alleged failure to supervise staff and permitting illegal conduct. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 25 **Case No. 290005**
Dr. Morrie O. Talbot

Upon MOTION by Dr. Cole, second by Ms. Bevers the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 24 **Case No. 290004**
Dr. Steven S. Soraya

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers 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.

**The Board requested priors – staff reported 1

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose RESTITUTION of \$2106.50 to the Patient, \$369.50 to Delta Dental and \$1299 to Assurant Dental Plan and CONTINUING EDUCATION of 6 hours in Crown and Bridge, 6 hours in Periodontics, 6 hours in Diagnosis and Treatment Planning and 4 hours of Risk Management with 12 months time to complete. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 22 **Case No. 280431**
Dr. Paraon N. DeQuiroz

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to FORWARD TO FORMAL HEARING. MOTION PASSED UNANIMOUSLY.

ACTION ON PREVIOUS ACTION

Agenda Item No. 31A **Case Nos. 280210, 270540, 280097, 280127 and 280101**
Dr. William A. Hoskyns

Ms. Corcoran, on behalf of Dr. Hoskyns, complainants ES, from case 280097 and NG, along with her attorney Mr. Gagleard, from case 270540 were present.

Ms. Williams has been working with Ms. Corcoran on a consent agreement for these cases. They were unable to come to terms by the April Board meeting and another case was included as well. As of this meeting, no final agreement has been met between the parties. They did meet, but have not finalized anything at this point. The Board's options are to resolve the cases at this meeting, forward the cases to formal hearing, adjudicate the cases individually or wait until the July meeting and have the consent agreement presented at that time.

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Ms. Corcoran asked the Board to consider allowing her the opportunity to have the consent agreement ready for its July meeting as opposed to taking any other action. Since Dr. Hoskyns has moved out of the state, she has been having difficulty contacting him in order to discuss the proposed terms with him.

The Board would consider waiting until July, but stated it was not fair to the patients involved in these cases to keep dragging the matter on. Ms. Williams and the chief investigator both met with Ms. Corcoran in order to come to some type of agreement. The Board wanted the proposed agreement to be ready for its review 10 days prior to the July 10, 2009 meeting. However, some type of safeguard should be given to the patients in case the agreement would not be ready for the July meeting. Ms. Williams informed the Board one of its options was to forward the cases to a formal hearing. If the consent agreement would be ready and available to the Board at its July meeting, a motion to vacate the vote to formal hearing could be entered.

NG's attorney believed Dr. Hoskyns was just procrastinating with the consent agreement. There was no reason to keep drawing the cases out due to Dr. Hoskyns being out of town. There were too many means of communication for that to be the reason. He asked the Board to consider forwarding the cases to a formal hearing now, at this meeting. If a consent agreement was what Dr. Hoskyns was interested in doing, one could be entered into prior to the case going to formal hearing.

ERS stated he is still paying for treatment that was done by Dr. Hoskyns. He has been waiting a long time for a resolution to his case.

Upon MOTION by Dr. Waite, second by Mr. Farnsworth the Board voted to FORWARD the cases to a Formal Hearing. MOTION PASSED UNANIMOUSLY.

PETITION TO REHEAR

Agenda Item No. 31 **Case No. 280234**
Dr. Michael K. Braegger

Dr. Bragger was present and stated he was advised in a Continuing Education course not to accept any certified mail from the Board. Because of this advice, he did not receive the Board order outlining the requirements for paying the administrative penalty. He had attempted to comply with the Board order in that he submitted a check in the amount of \$1500, but it was not certified funds and was returned to him. During the interim, another case was opened against him for non-compliance with the Board's order.

The Board's reviewer recommended denial of the Petition to Rehear based on the petition did not state the reason or reasons for the rehearing. Dr. Braegger's petition only stated the fact that he wanted to review the findings. There was no basis for the rehearing.

Discussion ensued as to how many cases were involved and whether Dr. Braegger still had any outstanding penalties or continuing education left to do. It was determined that all of the administrative penalties in the underlying cases had been paid. There was still an administrative penalty due in this case, but the due date would have been stayed since he filed the petition to rehear. That amount is \$2000. He was also ordered to complete 48 hours of Community Service within a year from the order.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to go into EXECUTIVE SESSION for legal advice. Dr. Morrison RECUSED. MOTION PASSED.

****EXECUTIVE SESSION****

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RETURN TO OPEN MEETING

Upon MOTION by Dr. Sommerhalter and duly seconded the Board voted to DENY the Petition to Rehear. Dr. Morrison RECUSED. MOTION PASSED.

MORNING CONSENT AGENDA

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

Cases pulled that are Recommended for Dismissal – Consent Agenda - From Investigative Interview

Agenda Item No. 32	Case No. 280340	Dr. James B. Edwards
Agenda Item No. 33	Case No. 280248	Dr. Enrico E. DiVito
Agenda Item No. 36	Case No. 280371	Dr. Phillip L. Cooke
Agenda Item No. 40	Case No. 280353	Dr. Ronald J. Moon
Agenda Item No. 41	Case No. 280434	Dr. Lewis P. Robinson
Agenda Item No. 42	Case No. 280065	Dr. Richard George Strub
Agenda Item No. 44	Case No. 280200	Dr. Ginger L. Price
Agenda Item No. 46	Case No. 280366	Dr. David E. Spring
Agenda Item No. 50	Case No. 280401	Dr. Rashmi Bhatnager
Agenda Item No. 51	Case No. 280403	Dr. Mrinal Bhatt
Agenda Item No. 52	Case No. 290003	Dr. David T. Chiang

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

Cases DISMISSED:

Agenda Item No. 34	Case No. 280355	Dr. Bradley K. Brittain
Agenda Item No. 35	Case No. 280344	Dr. Michael G. Stojanovic
Agenda Item No. 37	Case No. 280358	Dr. Ronald J. Moon
Agenda Item No. 38	Case No. 280359	Dr. Ronald J. Moon
Agenda Item No. 39	Case No. 280360	Dr. Ronald J. Moon
Agenda Item No. 43	Case No. 280264	Dr. Matt O. Hanhila, Jr.
Agenda Item No. 45	Case No. 280253	Dr. Sarina K. Mercado
Agenda Item No. 47	Case No. 280365	Dr. Marissa L. Rubio-Ellis
Agenda Item No. 48**	Case No. 280381	Dr. Douglas O. Beischel
Agenda Item No. 49	Case No. 280383	Dr. David M. Mengel

**While adjudicating this case the Board voted to open an investigation against Dr. Lance J. Skidmore for alleged failure to comply with a Board Subpoena.

Cases that are Recommended for Dismissal without Prejudice – Consent Agenda

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to DISMISS WITHOUT PREJUDICE the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 53	Case No. 290080	Dr. Nicholas B. LaFeber
Agenda Item No. 54	Case No. 290149	Dr. Derrick V. Johnson

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Cases pulled that are Recommended for Issuance of a Letter of Concern – Consent Agenda – From Investigative Interview

Agenda Item No. 55	Case No. 280424	Dr. Michael S. Cavender
Agenda Item No. 56	Case No. 280382	Dr. Mark P. Yates

Cases pulled that are Recommended for Issuance of Non-Disciplinary Continuing Education – Consent Agenda – From Investigative Interview

Agenda Item No. 57	Case No. 280375	Dr. Rodney W. Gore
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Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to impose NON-DISCIPLINARY CONTINUING EDUCATION in the remaining case on the Consent Agenda.

Agenda Item No. 58	Case No. 280485	Dr. Christopher S. Coplin Continuing Education of 4 hours in Risk Management with 6 months time to complete
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Cases pulled that are Recommended for Termination/Lack of Jurisdiction – Consent Agenda

Agenda Item No. 76	Case No. T-09-032	Dr. Ronald J. Moon
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Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to TERMINATE for Lack of Jurisdiction the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases TERMINATED/LACK OF JURISDICTION:

Agenda Item No. 59	Case No. 290066	Dr. David C. Greib
Agenda Item No. 60	Case No. 280413	Dr. Brooke Zoumbaris
Agenda Item No. 61	Case No. 280379	Dr. Keith M. Rogers
Agenda Item No. 62	Case No. T-09-011	Dr. James L. Cook
Agenda Item No. 63	Case No. T-09-012	Dr. J. Brent Sanders
Agenda Item No. 64	Case No. T-09-013	Dr. L. Mitchell Thomas
Agenda Item No. 65	Case No. 280393	Dr. John W. Melde
Agenda Item No. 66	Case No. T-09-015	Western Dental
Agenda Item No. 67	Case No. T-09-017	Dr. James B. Mallory, Jr.
Agenda Item No. 68	Case No. 280470	Dr. Nitya Balan
Agenda Item No. 69	Case No. 280416	Dr. Jack I. Lipton
Agenda Item No. 70	Case No. 290127	Dr. Nafys Samandari
Agenda Item No. 71	Case No. T-09-019	Dr. Susan Mary Flores-Downs
Agenda Item No. 72	Case No. T-09-022	Dr. Phillip L. Cooke
Agenda Item No. 73	Case No. T-09-024	Dr. Albert E. Carlotti, III
Agenda Item No. 74	Case No. T-09-023	Aspen Dental
Agenda Item No. 75	Case No. 290087	Dr. Byron J. Larsen

Cases pulled that are Recommended for Termination/Lack of Supporting Evidence – Consent Agenda – From Triage

Agenda Item No. 78	Case No. 290016	Dr. Lee R. Raddatz
Agenda Item No. 79	Case No. 290022	Sun Coast Dental

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Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to TERMINATE for Lack of Supporting Evidence the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases TERMINATED/LACK OF SUPPORTING EVIDENCE:

Agenda Item No. 77	Case No. 290013	Dr. Kimberly L. Sherrill
Agenda Item No. 80	Case No. 290034	Dr. Albert P. Serrano
Agenda Item No. 81	Case No. 290052	Bright Now! Dental

Cases that are Recommended for Discipline for Failure to Timely Disclose – Consent Agenda – From Triage

Nothing was pulled. Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to impose discipline in the following case on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 82	Case No. 290046	Dr. Piyush Hirpara Non-disciplinary Continuing Education of 6 hours in Ethics with 6 months time to complete
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Agenda Item No. 83 – Approval of Restricted Permit(s) – Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to APPROVE the following for Restricted Permits. MOTION PASSED UNANIMOUSLY.

- A. Dr. Howard Allen Gerstein
- B. Dr. John Paul Mitchell
- C. Dr. Donald J. Meis

Agenda Item No. 84 – Ratification of New Dental and Dental Hygiene Licenses – Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to RATIFY the following licenses. MOTION PASSED UNANIMOUSLY.

Eunjung Shim, DMD

D 7730, issued: 03/30/2009

Joseph S. Hale, DMD

D 7749, issued: 05/20/2009

Fleur A. Blethen, DDS

D 7731, issued: 04/01/2009

Ryan D. Swiss, DDS

D 7750, issued: 05/20/2009

Arwinder S. Judge, DDS

D 7740, issued: 04/06/2009

Scott R. Price, DMD

D 7751, issued: 05/20/2009

Jeffery C. Greene, DMD

D 7746, issued: 04/22/2009

Bradley T. Konecnik, DMD

D 7752, issued: 05/28/2009

Richard N. Michaud, DDS

D 7747, issued: 04/23/2009

James Lai, DDS

D 7753, issued: 05/28/2009

Jacob A. Johnson, DDS

D 7748, issued: 05/12/2009

Dental: 11

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result was a disaster. He has paid nearly \$14,000 to Dr. Chiang only to have the implants misaligned and the final denture unstable. He asked the Board to consider full restitution in order for him to have the work professionally completed. Dr. Chiang offered BV a refund of \$3450, but BV believed this was done only to placate him after he obtained counsel.

Mr. Cummings stated this complaint was initially filed against New Mesa Dental Clinic. The clinic is owned by Dr. Chiang, but the work was actually initiated and completed by two other licensees, Dr. Bernard and Mr. Fishman, a dentist. The Investigative Interview (I.I.) panel recommended dismissal due to the work was not done by Dr. Chiang. BV's attorney agreed to accept a refund of the fee in exchange for the denture; however, the denture has not been returned.

Mr. Fishman was present to explain the form, fit and function of the denture. The denture was actually fabricated by him and it was the denture examined by the clinical evaluator. An offer was made to BV to either reimburse him or remake the denture, but BV declined the offer.

In response to the Board, BV stated Dr. Chiang did the extractions and was in charge of all of the treatment he received. BV's complaint was that the implants were misaligned and the denture did not fit. Dr. Bernard placed the implants and Mr. Fishman did the denture. The Board informed BV that Dr. Chiang was the owner of the practice, but he did not do any of the work associated with his complaint.

One of the Board members pulled this case from the Consent Agenda because he believed no additional investigations should be opened in this matter. BV was offered either restitution or a remake of the denture and he refused both offers.

Upon MOTION by Dr. Spigner and duly seconded the Board voted to DISMISS case 290003 for Lack of Supporting Evidence and OPEN NEW INVESTIGATIONS against Dr. Gary F. Bernard for alleged inadequate implants and Mr. David A. Fishman for alleged inadequate complete dentures. Dr. Waite was OPPOSED. MOTION PASSED.

Agenda Item No. 79 **Case No. 290022**
Sun Coast Dental

Complainant RS was present and stated she filed the complaint to address the open margin on tooth #22. She also questioned whether a sufficient amount of radiographs were taken. The Board informed RS that this particular matter was strictly to address the issue of failure to release records. There was a separate case opened regarding the quality of care issues.

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

Agenda Item No. 40 **Case No. 280353**
Dr. Ronald J. Moon

Mr. Tonner, on behalf of Dr. Moon and complainant BW were present.

BW stated she kept getting the runaround with regard to the Invisalign procedure. She paid in full at the beginning of the treatment, but only received two trays. When her son was scheduled for an appointment, no one was able to locate Dr. Moon. She and her son were patients of Dr. Moon's since 2004. Even though her telephone was disconnected, her emergency contact information had not changed. He never tried to contact her. She felt Dr. Moon abandoned her son as a patient. Also, Dr.

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Moon began Invisalign treatment on her son even though his molars were growing in sideways. She sought treatment elsewhere, and all four molars had to be removed before her son could be treated. Mr. Tonner stated this was a limited treatment plan. Only the anterior teeth were involved. This portion took 3 months and 3 weeks. BW's son received the first tray and five weeks later, he was to receive the second tray. Because of noncompliance on the patient's part, the first tray was returned to him. When his next appointment was to have taken place, the patient was a no-show. By then, Dr. Moon had sold his practice, but BW did not know this. A new orthodontist was hired at the practice. There was no way for Dr. Moon to complete the treatment or reach the patient. Mr. Tonner stated the remaining trays were in his possession.

Upon MOTION by Dr. Waite and duly seconded the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Spigner ABSTAINED. MOTION PASSED.

Agenda Item No. 57 **Case No. 280375**
Dr. Rodney W. Gore

Dr. Gore, complainant RC, mother of CC and CC's older sister were present.

RC stated the Investigative Interview panel found Dr. Gore in violation of most of the allegations in her complaint. Her daughters are afflicted with a genetic dental disorder which requires full-sized adult teeth to replace their small, biological adult teeth. Dr. Gore did not provide her with a treatment plan, but told her daughter to bring a photo of the smile she hoped to achieve. The temporaries made were based on the photo. When the temps were delivered, they came in 6 pieces. Dr. Gore acknowledged that his lab made a mistake, but never remedied the situation, nor did he make a wax model for her daughter to see what her smile might look like. He also admitted that the calibration was measured incorrectly. She was asked to sign the document approving the temps after Dr. Gore had already removed the veneers and her daughter would have been left toothless. She had no choice but to sign. Her daughter has had a complete redo of the veneers. She asked for a refund, but has not received it as of this date.

Dr. Gore stated the patient was initially pleased with the veneers. She was allowed to review the permanent veneers and acknowledge whether she approved of them or not. She smiled at Dr. Gore and gave him thumbs up. RC signed for them and approved the permanent cementation of the veneers. Had CC been displeased with the veneers, she would not have left the office toothless; Dr. Gore would have simply placed the veneers on temporarily until the permanent veneers were ready. Dr. Gore provided the Board with a panorex radiograph at this meeting. The treatment plan and consent form were provided on the day of the Investigative Interview.

Board discussion ensued. A Board member stated the mom and daughter appeared to be at odds with each other. The mom was unhappy with the temporaries. They were re-fabricated and the mom was happy. The daughter did not have an issue with the veneers. There was no proof that a wax-up was done and it is not noted in the records. The patient was concerned with the length of the teeth. There are notations in the record of the veneers being sent back to the lab to correct the length to 11.5 millimeters. Two other dentists measured the final veneers at only 10.3 millimeters. The subsequent treating dentist ended up placing veneers at 11.5 millimeters. Dr. Gore stated he measured the veneers with digital calipers prior to cementation and they measured 11.2 millimeters. CC's older sister interjected that she went to CC's appointments with her and no digital measurements were ever taken.

The Board was concerned that the records were not submitted prior to the Investigative Interview and the panorex was never provided for the I.I. panel's review. Additionally, the diagnosis, photographs of the finished veneers and wax-ups were never submitted in response to the subpoena. In response to the

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Board, Dr. Gore stated he had those items in his office. The Board was not provided with enough information to make a decision at this meeting.

Upon MOTION by Dr. Rosenthal, and duly seconded, the Board voted to VACATE the previous Investigative Interview and REMAND to a new Investigative Interview with an added allegation of Failure to Fully Comply with a Board Subpoena. Dr. Waite was OPPOSED. MOTION PASSED.

Agenda Item No. 42 **Case No. 280065**
Dr Richard George Strub

Mr. Tonner, on behalf of Dr. Strub, Complainant GD and his attorney Mr. German were present.

Mr. German stated this case involved a full upper bridge that was supposed to be temporary, but was permanently affixed in GD's mouth. The office manager had informed GD that the porcelain was defective and they would try to correct the problem, but in the meantime, they would temporarily cement the bridge in. A clinical evaluation indicated there was over-contouring and the radiographs revealed either open margins on the crowns or they were not seated properly. GD also had an independent evaluation by a prosthodontist, who found inadequate margins at teeth #4 and 5, over-contouring at #6; an inadequate margin at #38, the porcelain had been fractured at #9 and repaired with a ceramic veneer that had too much resin and an open margin at #11 and 15. The bridge was defective and deficient.

Mr. Tonner stated the patient appeared with an existing bridge from teeth 5 through 11. He was informed of the possibility of problems and given options of double bridges, partial full denture or roundhouse. Dr. Strub did not recommend GD get the roundhouse and informed GD the bridge would eventually fail and told him the prognosis was guarded. A treatment plan was signed that same day which also listed the potential problems. Dr. Strub did the bridge and the subsequent repair to tooth #9. The Board's clinical evaluator saw the bridge 5 months later and only found minor over-contouring. 2 months later, GD was seen by an endodontist who looked at the abutment teeth and found no problems. There was no surprise that the bridge would have failed; Dr. Strub had already informed GD of this possibility. The prosthodontist found 8 of the 18 teeth involved to have open margins. Mr. Tonner had no explanation as to what caused the open margins, but GD did not leave Dr. Strub's office that way. Mr. Tonner asked the Board to consider dismissing this case.

GD stated Dr. Strub did not recommend that particular bridge. He had the same bridge done in Italy and was able to wear it for 14 and ½ years. The Board informed GD that Dr. Strub did a good job in telling him of his other options and letting him know the option he chose was not a good choice. GD responded the choice of bridge was his risk; not having an already defective bridge permanently cemented. That is what started his problems. He has had continued problems since the bridge was placed. The porcelain did not chip, it crumbled on tooth #9 and the bridge has never fit properly.

The Board's chief investigator stated the clinical evaluator only found an open margin on #9 and evidence of it being repaired. This was consistent with GD's testimony that #9 crumbled. There were no other issues indicated except for slight over-contouring. GD's independent evaluator found the open margins 5 months later.

Mr. German stated the bridge was a full roundhouse bridge that was permanently cemented the first time around. This bridge was too large to have been permanently cemented on day one. Also, if GD presented to Dr. Strub with a failed bridge, despite what GD wanted, why would Dr. Strub have given him the same bridge. The Board stated GD was given treatment options and chose to get another bridge. Mr. German stated GD had the misfortune of having an already defective bridge permanently cemented. GD was adamant that the office manager told him the bridge was defective and would be

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temporarily placed. The office manager told him it appeared to be patched. Coincidentally, the same tooth that looked patched also is the tooth that crumbled.

Mr. Tonner stated GD was not given the same bridge. The first bridge, which lasted 15 years, was from 5 through 11; this bridge is a full roundhouse. Tooth #9 did not crumble after a couple of days; there was an office visit 16 days later with no mention of any problems and a month later, there was an incisor issue.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Cole, Mr. Farnsworth and Dr. Gradke OPPOSED. Dr. Sommerhalter RECUSED. MOTION PASSED.

Agenda Item No. 32 **Case No. 280340**
Dr. James B. Edwards

Ms. McLellan, on behalf of Dr. Edwards and complainant PC were present.

PC stated Dr. Edwards extracted an extra tooth and left the root in.

Ms. McLellan stated the patient went back and forth between the general dentist and Dr. Edwards 2 or 3 times prior to the extraction. This was to ensure that all parties were in agreement with the treatment plan. The referral slip lists the teeth that are due for extraction. It is documented that PC wanted to retain 5 teeth and those teeth are documented. The immediate partial and the upper denture were placed and both fit perfectly, indicating that the proper teeth were extracted. PC had 10 post extraction visits without any complaints. After he received his bill, he complained.

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. 41 **Case No. 280434**
Dr. Lewis P. Robinson

Dr. Robinson and complainant SF were present.

SF stated the Investigative Interview panel did not investigate this case. The recommendation for dismissal was arbitrary and not supported by the evidence. A true informed consent was never submitted to the Board by Dr. Robinson and there was no way SF would have agreed to the particular graft he received from Dr. Robinson. It was already known that it would fail. He believed he would receive a block bone graft. Dr. Robinson changed the treatment plan during the treatment when it would have been impossible to obtain a true informed consent. Since the experience with Dr. Robinson, SF has now received a successful bone graft. SF believed the Board should impose restitution for the failed bone graft.

Dr Robinson stated it was his clinical opinion to use the type of graft that was chosen and it was not an uncommon practice for him to change his treatment plan during surgery. This particular graft has been known to be used during this type of surgery. It was consistent with the standard of care. He understood that the implant failed to integrate, but he was not the person who evaluated that. He has done several hundred of these grafts, but he has never ex-planted a graft. Dr. Robinson was not involved in the re-treatment process of this graft.

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Upon MOTION by Dr. Gradke, second by Dr. Morrison the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Rosenthal RECUSED. MOTION PASSED.

Agenda Item No. 33 **Case No. 280248**
Dr. Enrico E. DiVito

Ms. McLellan, on behalf of Dr. DiVito and complainant KH were present.

KH referred the Board to her radiographs, specifically the shortness of her roots. She questioned whether it was noted in her chart that the teeth were guarded. On the day of the crown seat, she told Dr. DiVito that she did not like the crowns. The Investigative Interview (I.I.) panel insinuated that she was more particular because she was a woman. She never signed off on the crowns. Other dentists have told her the margins are deficient. Dr. DiVito did no probings or x-rays. She saw Dr. DiVito for almost a year for adjustments.

Ms. McLellan asked the Board to accept the I.I. panel's recommendation for dismissal. KH had a consultation with Dr. DiVito and returned later for the treatment, after she had consulted with other providers. The treatment involved restoring the maxillary arch and the posterior teeth in the mandibular area. A partial was provided during the interim, while the implants were being done. Dr. DiVito's documentation is very detailed. KH was pleased with Dr. DiVito's work until she went to work for another dentist who does crowns that are more translucent. KH testified that Dr. Johnson completed the work, however he was not licensed at the time treatment would have been rendered to KH.

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

**The Board directed staff to confirm whether or not Dr. Derrick Johnson was practicing dentistry without a license in August of 2008.

Agenda Item No. 76 **Case No. T-09-032**
Dr. Ronald J. Moon

Mr. Tonner, on behalf of Dr. Moon and complainant MC were present.

MC stated she got braces by Dr. Moon, but she was unable to get any other appointments with him in order to complete her orthodontics.

Mr. Tonner stated Dr. Moon has refunded the money, re-treated or referred his former patients to a new orthodontist. Dr. Moon wanted to opportunity to make MC whole as well.

Based on past cases, Dr. Moon has been consistent in making sure his patients have been taken care of.

Upon MOTION by Mr. Farnsworth, second by Ms. Bevers the Board voted to TERMINATE for Lack of Jurisdiction. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 78 **Case No. 290016**
Dr. Lee R. Raddatz

Complainant DW was present and stated her tooth had fractured and she developed an infection in her jaw. She went to Dr. Raddatz for treatment and was told she would be charged \$200. She applied for

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credit and was denied. She left to go find a bank that was open in order to give Dr. Raddatz cash. When she returned, the door was locked. Dr. Raddatz' office sent her x-rays and the check she left with them, out to her by the cleaning person.

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

Agenda Item No. 51 **Case No. 280403**
Dr. Mrinal Bhatt

Mr. Tonner, on behalf of Dr. Bhatt and complainant DB were present. This case should not have been opened against Dr. Bhatt. It appeared that Dr. Annamareddy was the treating dentist in this case.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to DISMISS for Lack of Supporting Evidence and OPEN AN INVESTIGATION against Dr. Suneeta Annamareddy for alleged inadequate crown and bridge. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 46 **Case No. 280366**
Dr. David E. Spring

Dr. Spring was present.

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

Agenda Item No. 56 **Case No. 280382**
Dr. Mark Yates

Ms. McLellan, on behalf of Dr. Yates and complainant PP were present.

PP stated she just wanted her dentures done.

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

Agenda Item No. 36 **Case No. 280371**
Dr. Phillip L. Cooke

Ms. McLellan was present on behalf of Dr. Cooke.

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

**The Board directed staff to send a letter to Dr. Cooke stating there should be a written diagnosis, a written examination and the health history form must be signed by the patient.

Agenda Item No. 50 **Case No. 280401**
Dr. Rashmi Bhatnager

Dr. Bhatnager, his attorney Mr. Tonner and complainant SP were in attendance.

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SP stated she had 4 fillings done by Dr. Bhatnager. With one of the fillings, she had a lot of sensitivity and bruising on her cheek. She returned and x-rays revealed that a large portion of her tooth was missing. An appointment was made for the filling to be redone and Dr. Bhatnager tried to get the tooth filled 3 or 4 more times at this appointment. She still has problems with the tooth and bleeding. Mr. Tonner stated there was a void on tooth #30. At no additional cost, Dr. Bhatnager had SP appointed to fill the void at #30. After several attempts, she was able to fill the void by adding composite to tooth #31 as well. At the Investigative Interview (I.I.) the panel reviewed the final x-rays and determined that there was no void and the contact had been closed.

In response to the Board, Dr. Bhatnager stated she did not recommend any other treatment; just the composite to fill the void. The filling was moderate in size, but not too large to need a crown. Dr. Bhatnager offered to send SP to another dentist for a second opinion at no charge to SP.

SP stated the filling was unusually large and would probably need a crown. She does not have any pain anymore, except for when she flosses.

The Board reviewed the post-op radiographs dated 8/5/08 which showed no open voids and the contact was closed. The pre-op radiograph showed both mesial and distal decay. This was a very deep restoration and it was common to feel some sensitivity in the tooth after this type of procedure. There was a significant void after the procedure, which Dr. Bhatnager corrected.

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

Agenda Item No. 44 **Case No. 280200**
Dr. Ginger L. Price

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

Agenda Item No. 55 **Case No. 280424**
Dr. Michael S. Cavender

Mr. Cummings was present on behalf of Dr. Cavender.

Upon MOTION by Dr. Morrison and duly seconded, the Board voted to impose Non-Disciplinary CONTINUING EDUCATION of 6 hours in Endodontic Diagnosis with 6 months time to complete. Dr. Waite OPPOSED. MOTION PASSED.

ACTION ON CASES – Afternoon Agenda
From Investigative or Informal Interview

Agenda Item No. 93 **Case No. 290036**
Dr. Howard M. Steinberg

Dr. Steinberg, his attorney Mr. Gaines and complainant NA were present.

(NA's testimony is indecipherable at some points) NA stated she had been trying to work with Dr. Steinberg on getting the implant replaced, but after dealing with his office for a year and a half, she has gotten nowhere. She did receive a check from Dr. Steinberg but had not cashed it.

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Mr. Gaines stated the patient was issued a check unconditionally at the suggestion of the Investigative Interview (I.I.) panel. Dr. Steinberg is a prosthodontist and also lectures on implants. This case was a difficult situation. Dr. Steinberg did crown and bridge on teeth 7 through 10. The I.I. panel recommended dismissal with the exception of the implant. However, the patient was pregnant which delayed the procedure and there were several missed appointments. A clinical evaluation was scheduled, but the patient never scheduled. Dr. Steinberg was never able to complete the temporaries, let alone the permanent bridge. He believed he could have made NA happy, but the case has never been finished. Mr. Gaines did not feel this case warranted unprofessional conduct and asked the Board to consider non-disciplinary Continuing Education. With regard to the records, the office manager did not check with Dr. Steinberg and only mailed in the office notes. When Mr. Gaines became aware of this, he sent in the remaining records.

Dr. Steinberg stated NA has a temporary bridge from 6 to 11. She has abutments on 7 and 10 and teeth 6 and 11 have temporary crowns on them. Dr. Steinberg placed the implants himself, and does so 99% of the time on his patients. He was happy with the placement initially, but later NA's bone shifted slightly. NA was not always compliant with her appointments. The abutment was sticking out too much at the top and Dr. Steinberg was planning to take care of that, but he never got the chance to treat NA after that point. He was going to change out the abutments and make another temporary. He did use a surgical guide when placing the implant and went into the sockets of the extracted teeth. He last saw NA in December. By then, she had missed the last 4 or 5 appointments. The ultimate plan was a bridge from 7 to 10 and crowns on 6 and 11. The Board stated that in reviewing the photographs, the mesial position should have been Dr. Steinberg's concern. Dr. Steinberg responded that it was his concern, but not the patient's. She wore the temporary bridge initially for 7 years.

NA stated she did return to Dr. Steinberg, but she had concerns because he showed her impressions of teeth that were not hers. She just wanted her money back so she could seek treatment elsewhere.

Board discussion ensued. The check that was issued to NA was based on the I.I. panel's recommendation and was for \$12,203. There was no treatment plan breaking down the individual costs. The amount credited to NA was for unused treatment not for the inadequate implants. \$21,684 is what NA actually paid. NA stated the amounts shown in the ledger were not accurate. She paid more than what is recorded in Dr. Steinberg's records.

Dr. Steinberg charged NA \$500 for each missed appointment which is standard in his office when he has blocked off an entire morning for treatment. He maintained that NA was aware of the charges. Mr. Gaines stated that NA had missed several appointments before Dr. Steinberg began charging her for the cancellations.

Upon MOTION by Dr. Gradke, second by Dr. Waite 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) and (x). Ms. Bevers RECUSED. Dr. Spigner was ABSENT. MOTION PASSED.

**The Board requested priors – staff reported 1

Upon MOTION by Dr. Rosenthal, second by Dr. Sommerhalter the Board voted to impose RESTITUTION to the patient in the amount of \$3326; an ADMINISTRATIVE PENALTY of \$500 and CONTINUING EDUCATION of 6 hours in Implant Treatment Planning with 6 months time to complete. Ms. Bevers RECUSED. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 87

Case No. 280351
Dr. Jared Michael Pope

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Dr. Pope was present and stated the patient in this case never made a complaint about his treatment. The patient's wife filed the complaint. Dr. Pope was in the middle of treating the patient when his wife called to tell him to stop. The extraction was for wisdom teeth and it was difficult, but the teeth were not impacted. During the extraction, the patient moved, and based on that the Investigative Interview panel upheld the allegation for inadequate pain management. However, Dr. Pope did not feel that allegation should have been upheld.

Upon MOTION by Dr. Gradke, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN stating a written diagnosis should be included in the patient's chart and records should be supplied in a timely manner. Dr. Morrison OPPOSED. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 97 **Case No. 280443**
Dr. Peter J. Lee

Dr. Lee and his attorney Mr. Tonner were present.

Mr. Tonner stated Dr. Lee did 3 root canals, 1 extraction and 4 crowns for the patient. However, before delivery of the crowns, the patient's husband began to act irrationally. Dr. Lee finished the crowns but did not feel comfortable treating the patient anymore. Dr. Lee dismissed the patient. The patient then went to another dentist who found an open margin and over hang on tooth #30. With regard to the allegation of inadequate radiographs, Dr. Lee has a film for every tooth he treated. He also refunded the patient for his treatment. Mr. Tonner asked the Board to consider dismissal.

Dr. Lee stated he was unable to get a full mouth series of x-rays due to the patient's gag reflex. The Dentrax system automatically shows the series was taken and Dr. Lee did not change it in the computer. Also, his assistant was unable to obtain an upper periapical. The patient was never charged for the radiographs because of the difficulty in getting the films taken. The patient was asymptomatic on all upper teeth during the whole treatment. The bitewing showed no upper margin and there was no over contour on the distal of tooth #30. Dr. Lee provided the Board with copies of enlargements of his x-rays. Due to the disorderly conduct of the patient's husband, Dr. Lee discontinued treatment of the patient. The police had to be called in order for the patient's husband to be removed from the office.

Upon MOTION by Dr. Rosenthal, second by Dr. Morrison the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 94 **Case No. 280433**
Dr. John J. Sullivan

Ms. McLellan was present on behalf of Dr. Sullivan. The patient in this case was a patient of Dr. Sullivan's from 1999 to 2007. During that time, Dr. Sullivan makes note of the size of pockets and kept informing the patient of periodontal issues. The periodontal probings were not recorded in the earlier years, but are recorded in the latter years because Dr. Sullivan had updated his procedures. In the earlier years, he recorded the scores in his chart notes. He has improved his practice and did this prior to receiving the complaint.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Spigner was ABSENT. Ms. Bevers, Mr. Farnsworth, Dr. Gradke, Dr. Sommerhalter and Dr. Rosenthal were OPPOSED. MOTION FAILED.

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Upon MOTION by Ms. Bevers, second by Mr. Farnsworth the Board voted to issue a LETTER OF CONCERN stating Full-mouth periodontal probing should be done annually and charted. Dr. Waite OPPOSED. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 92 **Case No. 290009**
Dr. Stuart S. Sanders

Dr. Sanders and his attorney Mr. Smith were present.

Dr. Sanders was working for a dental group at the time of this issue. The policy at that office was the general dentist would call Dr. Sanders with any problems. When this particular patient returned to the office complaining of post-op problems following the extraction of his tooth, no one informed Dr. Sanders, not even the patient. Dr. Sanders stated his post-op instructions ask the patient to call him if they experience any problems. He gives them his cell number to reach him. With a wisdom tooth extraction, he would have the patient see a general dentist first. The general dentist would refer the patient back to Dr. Sanders if there are any problems. The Board informed Dr. Sanders the community standard of care is for the patient to see another oral surgeon, if Dr. Sanders was not available; not a general dentist. Dr. Sanders did not know a root tip was left because he did not do a post-op x-ray. The Board believed that had Dr. Sanders had the opportunity to see the patient after the extraction, he would have treated him. However, neither the patient nor the dental practice bothered to let Dr. Sanders know there was a problem.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 98 **Case No. 280472**
Dr. Steven Nicholas Booth

Ms. Corcoran was present on behalf of Dr. Booth.

Upon MOTION by Dr. Rosenthal, second by Dr. Gradke the Board voted to issue a LETTER OF CONCERN stating the doctor must submit complete records in a timely fashion and improve his record keeping. Dr. Spigner ABSTAINED. MOTION PASSED.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to OPEN AN INVESTIGATION against Dr. Piccolo for alleged failure to timely comply with a Board Subpoena. MOTION PASSED UNANIMOUSLY.

AFTERNOON CONSENT AGENDA

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

Cases pulled that are Recommended for Dismissal – Consent Agenda - From Investigative Interview

Agenda Item No. 99	Case No. 280452	Dr. Donald O. French
Agenda Item No. 101	Case No. 280159	Dr. Mu-Hun Kim
Agenda Item No. 103	Case No. 280415	Dr. Michael Wassef
Agenda Item No. 110	Case No. 280464	Dr. Eric L. Kerbs

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Agenda Item No. 113	Case No. 280438	Dr Joseph T. Nielsen
Agenda Item No. 114	Case No. 280398	Dr. John K. Swain
Agenda Item No. 115	Case No. 280429	Dr. Steven F. Kammeyer
Agenda Item No. 117	Case No. 290001	Dr. Arthur J. Porter

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

Cases DISMISSED:

Agenda Item No. 100	Case No. 280362	Dr. Hong Xia
Agenda Item No. 102**	Case No. 280425	Dr. Fadi F. Saleh
Agenda Item No. 104	Case No. 280363	Dr. Dileep S.A. Danivas
Agenda Item No. 105	Case No. 280390	Dr. George L. Perry
Agenda Item No. 106	Case No. 280350	Kathy Sue Gibbons, RDH
Agenda Item No. 107	Case No. 280435	Dr. Trevor W. Lines
Agenda Item No. 108	Case No. 290073	Dr. Michael LaCorte
Agenda Item No. 109	Case No. 280256	Dr. Thomas J. Cipriano
Agenda Item No. 111	Case No. 280445	Dr. Javier E. Portocarrero
Agenda Item No. 112##	Case No. 280442	Dr. Newton Harry Henderson, III
Agenda Item No. 116	Case No. 280476	Dr. Paul W. Haycock
Agenda Item No. 118	Case No. 280394	Dr. Cory B. Rauch

**The patient appeared after this case was adjudicated. The Board considered her testimony, but did not change its previous order to dismiss.

##While adjudicating this case, the Board voted to open an investigation against Total Dental Solutions for alleged noncompliance with a Board Subpoena.

Cases pulled that are Recommended for Issuance of a Letter of Concern – Consent Agenda – From Investigative Interview

Agenda Item No. 119	Case No. 280280	Dr. Mark L. Moss
Agenda Item No. 120	Case No. 280396	Dr. Amer Zarif

Cases pulled that are Recommended for Issuance of a Letter of Concern – Consent Agenda – From Triage

Nothing was pulled. Upon MOTION by Dr. Waite, second by Dr. Morrison the Board voted to issue a LETTER OF CONCERN in the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 121	Case No. 290030	Dr. Charles C. Clausen Stating the doctor is responsible for responding timely to a patient's request for a copy of the records
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Agenda Item No. 122	Case No. 290060	Dr. Jeffrey H. Kootman Stating the doctor is responsible for a timely release of patient records when requested
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Cases pulled that are Recommended for Termination/Lack of Jurisdiction – Consent Agenda

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Agenda Item No. 127	Case No. T-09-029	Dr. Denis P. Olson
Agenda Item No. 128	Case No. T-09-031	Dr. Martin Margetis

Upon MOTION by Dr. Waite, second by Dr. Morrison the Board voted to TERMINATE for Lack of Jurisdiction the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases TERMINATED/LACK OF JURISDICTION:

Agenda Item No. 123	Case No. 280306	Southwest Dental Group – TMJ
Agenda Item No. 124	Case No. T-09-025	Desert Sky Family Dental
Agenda Item No. 125	Case No. 290152	Dr. Allen B. Ewell
Agenda Item No. 126	Case No. T-09-028	Dr. Rakesh D. Pema
Agenda Item No. 129	Case No. 280446	Dr. Sean P. Henrie
Agenda Item No. 130	Case No. T-09-014	Dr. James J. Sidd, Jr.
Agenda Item No. 131	Case No. T-09-016	Dr. Rick A. Light
Agenda Item No. 132	Case No. T-09-018	Dr. Elwynn C. Caffall
Agenda Item No. 133	Case No. 290107	Dr. Edward Galapeaux
Agenda Item No. 134	Case No. T-09-020	Dr. Frederick A. Fenderson
Agenda Item No. 135	Case No. T-09-021	Dr. William M. Martin
Agenda Item No. 136	Case No. 280486	Dr. Matthew S. Slivka
Agenda Item No. 137	Case No. 290008	Dr. Marc R. Mondragon
Agenda Item No. 138	Case No. T-09-026	Dr. Robert H. Collier
Agenda Item No. 139	Case No. T-09-027	Dr. Evan J. Short
Agenda Item No. 140	Case No. T-09-030	Dr. Robert D. Peterson
Agenda Item No. 141	Case No. T-09-033	Dr. Stephen J. Vital

Cases pulled that are Recommended for Termination/Lack of Supporting Evidence – Consent Agenda – From Triage

Nothing was pulled. Upon MOTION by Dr. Waite, second by Mr. Farnsworth the Board voted to TERMINATE for Lack of Supporting Evidence the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases TERMINATED/LACK OF SUPPORTING EVIDENCE:

Agenda Item No. 142	Case No. 290014	Dr. Sharad N. Pandhi
Agenda Item No. 143	Case No. 290027	Dr. Utpal C. Patel
Agenda Item No. 144	Case No. 290038	Dr. Theodore S. Kimball, III
Agenda Item No. 145	Case No. 290045	Dr. Joseph N. D’Aniello
Agenda Item No. 146	Case No. 290048	Western Dental of Arizona, Inc.

Cases pulled that are Recommended for Discipline for Failure to Comply with a Subpoena – Consent Agenda – From Triage

Agenda Item No. 147	Case No. 290050	Dr. Paul J. Pease
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Cases that are Recommended for Discipline for Failure to Comply with a Board Order – Consent Agenda – From Triage

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Nothing was pulled. Upon MOTION by Dr. Waite, second by Mr. Farnsworth the Board voted to impose Discipline in the following cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 148	Case No. 280487	Dr. Marc R. Mondragon Administrative Penalty of \$1500 and completion of the previously ordered Continuing Education within 6 months
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Agenda Item No. 149	Case No. 290047	Dr. George Edward Boughan Administrative Penalty of \$500 and completion of previously ordered Continuing Education within 6 months
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Cases that are Found to be in Noncompliance with Consent Agreement or Board Order – Open New Complaint – Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Waite, second by Mr. Farnsworth the Board voted to OPEN A NEW COMPLAINT for Noncompliance with a Consent Agreement or Board Order in the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases Resulting in the OPENING OF A NEW COMPLAINT:

Agenda Item No. 150	Case No. 260213	Dr. Champa R. Chatterjee
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Cases for Probation Monitoring; Compliance Reporting - Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Waite, second by Mr. Farnsworth the Board voted to TAKE ACTION as indicated on the following cases. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 151	Case No. 270410	Dr. Orville S. Diggs – TAKE NO ACTION
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Agenda Item No. 152	Case No. 280015	Dr. Michael D. Elliott – Issue a subpoena for review of patients
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Agenda Item No. 153	Case No. 270357	Dr. Gregory J. Lagermeier – TAKE NO ACTION
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Cases pulled that are Recommended for Discipline for Failure to Comply with Continuing Education Requirements – Consent Agenda – From Triage

Agenda Item No. 154	Case No. 280466	Dr. Randall Steven Hurley
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Agenda Items pulled that are Recommended for Review and Filing of Cases for Investigation – Consent Agenda

Agenda Item No. 166	Dr. Joshua S. Hong
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Upon MOTION by Dr. Waite, second by Dr. Morrison the Board voted to FILE CASES FOR INVESTIGATION for the remaining items on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

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INVESTIGATIONS OPENED FOR:

- | | |
|---------------------|---|
| Agenda Item No. 155 | Dr. Joseph Robert Mikulicz – As a result of case 280309 for alleged inadequate crown and bridge |
| Agenda Item No. 156 | Marketplace Smiles – As a result of case 280324 for alleged fraud and misrepresentation |
| Agenda Item No. 157 | Alameda Crossing – As a result of case 280240 for alleged billing irregularities and fraud and misrepresentation |
| Agenda Item No. 158 | Dr. Paul J. Pease – As a result of case 280373 for alleged failure to supervise |
| Agenda Item No. 159 | Dr. David A. Borba – Malpractice report; for alleged inadequate crown and bridge |
| Agenda Item No. 160 | Dr. Steven C. Badger – Malpractice report; for alleged failure to diagnose |
| Agenda Item No. 161 | Dr. Paul J. Kelly – Malpractice report; for alleged complications during or after treatment |
| Agenda Item No. 162 | Dr. Hillary A. Douglas – Malpractice report; for alleged inadequate operative dentistry and inadequate crown and bridge |
| Agenda Item No. 163 | Dr. Susan B. Sharp – Malpractice report; for alleged unnecessary treatment |
| Agenda Item No. 164 | Dr. Daniel R. Rosales – Malpractice report; for alleged inadequate oral surgery, complications during and after treatment and failure to diagnose |
| Agenda Item No. 165 | Southwest Dental – As a result of case 280271 for alleged failure to comply with a Board subpoena |
| Agenda Item No. 167 | Dr. A. Ruben Turley – For alleged failure to report a charge or arrest |
| Agenda Item No. 168 | Dr. Lori K. Anderson – For alleged aiding and abetting unlicensed practice by a dentist |

Ratification of Cases Recommended for Investigative Interview – Consent Agenda

Nothing was pulled. Upon MOTION by Waite, second by Dr. Morrison the Board voted to RATIFY for Investigative Interview the cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

CASES RATIFIED FOR INVESTIGATIVE INTERVIEW:

- | | | |
|---------------------|-----------------|------------------------|
| Agenda Item No. 169 | Case No. 290024 | Dr. Robert D. Sundberg |
| Agenda Item No. 170 | Case No. 290023 | Dr. Sara S. Mosley |

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Agenda Item No. 113 **Case No. 280438**
Dr. Joseph T. Nielsen

Complainant MB was present and stated Dr. Nielsen charged her for procedures on her daughter that he never did. A week after the filling was done, it fell off. She was billed for nitrous, local anesthesia and other items as if her daughter had received root canal therapy. She took her daughter back to have the filling replaced and was again billed for nitrous, novocain and other materials. When she went to have root canal therapy, she was told by her insurance provider that she had already been billed for it. After the complaint was filed, the insurance provider was reimbursed for the root canal. However, Dr. Nielsen charged for a therapeutic pulpotomy twice. A subsequent treating dentist, Dr. Richmond, informed MB that a pulpotomy was never done. A pulpotomy and composite crowns were charged for, but they are not listed in the patient's treatment notes.

The Board wanted to see the records from the subsequent treating dentist in order to determine whether the pulpotomy and composite crowns were ever done. It was difficult to make a determination at this point because the only allegation the Board could address was for billing irregularities. There were also issues with vital signs and monitoring of the patient as well. The child was only 2 years old when or if the nitrous was given to her and MB did not give consent for her daughter to receive nitrous.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to VACATE the Investigative Interview and REMAND to a new Investigative Interview with a subpoena for records issued to the subsequent treating dentist; the basic 4 allegations and including the allegations of Inadequate Anesthesia, Inadequate Informed Consent and Billing Irregularities. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 119 **Case No. 280280**
Dr. Mark L. Moss

Dr. Moss and complainant DB were present.

DB stated she was refunded the fee for tooth #12 by Dr. Moss, but Dr. Chah and Dr. Moss are disputing responsibility for tooth #11. Dr. Chah has said he would complete the treatment on that tooth.

Dr. Moss stated he purchased the practice from Dr. Chah, but he did not treat tooth #11 at all. All treatment to that particular tooth was done by Dr. Chah prior to his purchase of the practice. The Board informed DB that the treating dentist is responsible for the treatment he or she began. The patient is currently seeing Dr. Chah for completion of the work on tooth #11.

Upon MOTION by Dr. Waite, second by Rosenthal the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Morris ABSTAINED. MOTION PASSED.

Agenda Item No. 101 **Case No. 280159**
Dr. Mu-Hun Kim

Mr. Tonner, on behalf of Dr. Kim and complainant MG and the patient KG were present.

MG states his issues are with both Dental Village and Dr. Kim. His wife saw several different dentists at Dental Village trying to get them to either correct the problem or reimburse her. The procedure has still not been completed and they are still being billed for it. The manager called him to try to make things right, however, it was the same as before. Half of the procedure was completed and they were told he owed more money. Finally he filed the Board complaint. He was unable to obtain copies of records from

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Dental Village. Dental Village has told them several times that the records belong to Dental Village and they did not have to release them to MG. He still has not received the records.

KG stated she felt pain during the procedure and Dr. Kim would check on her in 30 minute intervals during her visit. Dr. Kim told her he was unable to give her any more anesthesia due to her weight.

(The Board asked for clarification from its chief investigator, but his response was intelligible.)

Mr. Tonner stated the Dr. Kim saw KG twice. The first time he performed root canal therapy on tooth #30. He asked about her weight in order to give her the appropriate amount of anesthesia. The second time he saw KG, she was scheduled for gingivectomies and crown lengthening on teeth 30 and 31. He was unable to do the treatment at that time because KG informed him that she did not have the money to pay for it. That was the last time he saw the patient. The only treatment he actually performed was the root canal on #30. MG stated KG never saw Dr. Kim at the second visit. She only spoke to the front desk person.

KG never received the crown for tooth #30, but was charged for it and she was credited the amount for the root canal therapy. KG is still owed \$709. It appeared KG was charged for work that was not delivered.

Upon MOTION and duly seconded the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Morrison and Dr. Waite OPPOSED. Dr. Sommerhalter RECUSED. MOTION PASSED.

**The Board directed staff to open an investigation against Dr. Gordon Ledingham for alleged billing irregularities and failure to release records.

Agenda Item No. 147 **Case No. 290050**
Dr. Paul J. Pease

Mr. Tonner was present on behalf of Dr. Pease to contest the amount of the recommended civil penalty.

The Board's chief investigator stated there was a previous violation of non-compliance with a Board subpoena. These are normally fined \$500 for a single violation.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose a Non-Disciplinary CIVIL PENALTY in the amount of \$1000. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 115 **Case No. 280429**
Dr Steven F. Kammeyer

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

Agenda Item No. 166 **Dr. Joshua S. Hong**

This item was pulled by a Board member from the consent agenda who did not believe it warranted an investigation.

Dr. Waite made a motion to take no action on this matter; however, the motion died due to a lack of a second.

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Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION against Dr. Joshua A. Hong for alleged inadequate operative dentistry and failure to diagnose. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 154 **Case No. 280466**
Dr. Randall Steven Hurley

The Board had a concern with Dr. Hurley not being truthful on his application regarding the Continuing Education. An administrative penalty was not sufficient discipline for this case.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to FORWARD to an Investigative Interview. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 127 **Case No. T-09-029**
Dr. Dennis P. Olson

The patient in this case had a gold crown placed, but later found out it was not gold. This is a fee dispute.

Upon MOTION by Dr. Spigner, second by Dr. Waite the Board voted to TERMINATE for Lack of Jurisdiction. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 128 **Case No. T-09-131**
Dr. Martin Margetis

Upon MOTION by Dr. Spigner, second by Ms. Bevers the Board voted to TERMINATE for Lack of Jurisdiction. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 120 **Case No. 280396**
Dr. Amer Zarif

Dr. Zarif's assistant took a preliminary impression for dentures. Once Dr. Zarif saw the impression, he decided to use it as the final impression. It was not originally taken by the assistant to be used as the final.

Upon MOTION by Dr. Waite duly seconded the Board voted to DISMISS for Lack of Supporting Evidence. Ms. Bevers, Dr. Morrison and Dr. Rosenthal OPPOSED. MOTION PASSED.

Agenda Item No. 117 **Case No. 290001**
Dr. Arthur J. Porter

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal the Board voted to issue a LETTER OF CONCERN stating periodontal probing should be done after completion of orthodontic treatment and before any restorative treatment. Dr. Waite OPPOSED. MOTION PASSED.

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Agenda Item No. 85.D Dr. Thomas Gaetano Greco

Dr. Greco is dual-degreed. The Board wanted to know if Dr. Greco actively practiced dentistry.

Upon MOTION by Dr. Gradke, second by Dr. Rosenthal the Board voted to TABLE this matter until the August 2009 Board meeting pending a determination as to Dr. Greco's practice of dentistry. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 114 Case No. 280398
Dr. John K. Swain

Dr. Rosenthal reminded the Board that the Substantive Policy Statement was very clear on this issue. It was not lawful for a dentist to inject a patient with anesthesia or other substances for a medical procedure not related to the practice of dentistry. For example, a dentist may not inject anesthesia or other substances for a medical procedure which is outside the scope of dentistry, specifically, but not limited to: tattoos, body piercing, hair transplants or improvement of facial esthetics.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to CONSIDER the Findings of Fact. Dr. Morrison OPPOSED. MOTION PASSED.

Finding of Fact #1 AMENDED to read:

Doctor was using Botox and dermafillers for non-dental purposes.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to ACCEPT the Findings of Fact as Amended. Dr. Gradke, Dr. Morrison and Dr. Cole OPPOSED. MOTION PASSED.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to find a VIOLATION of A.R.S. §32-1201.21(c). Dr. Cole and Dr. Morrison OPPOSED. MOTION PASSED.

**The Board requested priors – staff reported none

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal the Board voted to impose an ADMINISTRATIVE PENALTY of \$500. Dr. Morrison OPPOSED. MOTION PASSED.

Agenda Item No. 96 Case No. 280471
Dr. Angela Jean Relf

Upon MOTION by Dr. Gradke, second by Ms. Bevers the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 95 Case No. 280412
Dr. Marcos A. Cervantes

Upon MOTION by Dr. Rosenthal, second by Bevers the Board voted to AMEND the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Finding of Fact #1 AMENDED to read:

Doctor has failed to supply records. We have no history or clinical evaluations.

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Finding of Fact #2 AMENDED to read:

Radiographs have not been supplied.

Finding of Fact #3 AMENDED to read:

Diagnosis has not been supplied.

Finding of Fact #4 AMENDED to read:

Treatment plan has not been supplied.

Finding of Fact #6 AMENDED to read:

Complainant states that the denture did not fit adequately. Dr. Hulme states on page 2 that denture is loose and teeth do not occlude.

Finding of Fact #7 AMENDED to read:

Complainant states that number given by dentist for continuing care was not active, and patient was unable to find Dr. Cervantes for any follow-up care.

Finding of Fact #8 AMENDED to read:

Letter dated 11/7/08 from Pam Paschal states that respondent in the case failed to forward records in a timely fashion. Records are still unavailable.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to ACCEPT the Findings of Fact as Amended. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to find a VIOLATION of A.R.S. §32-1201.21(n) and (w). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 2

Upon MOTION by Dr. Waite, second by Dr. Waite the Board voted to impose an ADMINISTRATIVE PENALTY of \$500 and RESTITUTION to the patient of \$537 and \$1000 to Delta Dental. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 91 **Case No. 280402**
Dr. Wayne O. Balden

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal 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.

**The Board requested priors – staff reported 1

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose CENSURE; CONTINUING EDUCATION of 6 hours in Risk Management, 12 hours in Hands on Periodontal Diagnosis and Treatment Planning with 6 months time to complete and 1 year of PROBATION in conjunction with

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Practice Management Monitoring with the name of the monitoring agency to be submitted to the Board for approval within 30 days of issuance of the order and quarterly reports submitted for the 1 year period of time. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 90 **Case No. 280175**
Dr. John Andrew Loesch

Upon MOTION by Dr. Waite and duly seconded the Board voted to ACCEPT the Findings of Fact and Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.21(w) and impose an ADMINISTRATIVE PENALTY of \$1000. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 89 **Case No. 280367**
Dr. Don J. Lamb

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

Agenda Item No. 88 **Case No. 280300**
Dr. Howard I. Sommers

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Gradke RECUSED. MOTION PASSED.

Agenda Item No. 172 – Members of the Public

None

Agenda Item No. 173 – Associations

None

Agenda Item No. 174 - Future Agenda Items

Personnel – 6-month Performance Review – Elaine Hugunin

Agenda Item No. 175 – Next Meeting Date

July 10, 2009 – Special Meeting
August 7, 2009 – Regular Board Meeting

Agenda Item No. 176– Adjournment

Dr. Rosenthal adjourned the meeting at 5:16 PM.

Minutes APPROVED at the August 7, 2009 Board Meeting

Elaine Hugunin, Executive Director