



## ARIZONA STATE BOARD OF DENTAL EXAMINERS

5060 North 19th Avenue, Suite 406 ~ Phoenix, Arizona 85015-3214

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

### MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING AUGUST 7, 2009

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

Dr. Joyce A. Rosenthal, President  
Dr. Gregory A. Waite, Vice President  
Dr. Louis Sommerhalter  
Ms. Laurie A. Buckles, RDH  
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  
Mr. Joshua Greer

#### **Board Members Absent:**

None

#### **Staff Present:**

Ms. Elaine Hugunin, Executive Director  
Ms. Nancy Chambers, Deputy Director  
Ms. Mary DeLaat Williams, Assistant Attorney General  
Dr. Sam Palmer, Chief Investigator  
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."

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 2**

**GENERAL BUSINESS**

**Agenda Item No. 1 – Call To Order and Introductions**

Dr. Rosenthal called the meeting to order at 8:03 a.m. and introduced the newest Board members, Mr. Josh Greer and Ms. Laurie Buckles.

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

A. Dental Hygiene Committee Appointment

Dr. Bruce Spigner was appointed to the Dental Hygiene Committee.

B. Appointment of Dental Hygiene Selection Committee

Ms. Cathy Bevers, Ms. Cindy Chillock and Ms. Maureen Eichenberg were appointed to the Dental Hygiene Selection Committee.

C. Report of WREB, Western Conference of Dental Examiners and Dental School Deans

Dr. Rosenthal reported that she attended the WREB meeting and the Western Conference meeting. There were a few items of interest including Oregon now has mandatory reporting requirements for any licensee who notices unprofessional conduct in any other professional and some state boards were offering CE credits for licensees who attend Board meetings. Also, Canada's exam has been accepted in Minnesota, but does not have a clinical component. This information was useful when considering licensure by credential.

D. Additional appointment to Mobile Dentistry Committee

Ms. Lynette Martin was appointed to the Mobile Dentistry Committee.

**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:

VACANT

C. Review, discussion and possible action regarding delegation of authority to Executive Director for the issuance of Board subpoenas.

Ms. Hugunin requested the Board to re-state its delegation of authority for the Executive Director to issue subpoenas for new and on-going investigations.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 3**

Upon MOTION by Dr. Morrison, second by Dr. Sommerhalter the Board voted to delegate authority to the Executive Director for the issuance of Board subpoenas. MOTION PASSED UNANIMOUSLY.

- D. Dr. Richard E. Feldhake – Review, discussion and possible action on whether to open an investigation regarding alleged failure to provide an informed consent and failure to maintain records.

Discussion ensued among the Board members with regard to this item. There was a concern that more often the term “my computer crashed” is being used as an excuse for not submitting records in response to a subpoena. According to A.R.S. § 32-1201.21(x), this is still considered a violation of the statute because the records are not being maintained properly. A.R.S. § 32-1264 also states that the records must be retrievable. This is not the standard of care. The Board’s chief investigator suggested a future article in ‘Inscriptions’ would help to address this issue.

\*\*The Board directed staff to send a letter to Dr. Feldhake reminding him to properly maintain his records.

- E. VACANT

- F. VACANT

- G. Dr. Joseph Robert Mikulicz – Review, discussion and possible action including vacating previous vote to open an investigation.

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

- H. Dr. Bradley Sandvick – Review, discussion and possible action on whether to open an investigation regarding alleged failure to supervise staff (information from an anonymous source).

No action was taken.

- I. Review, discussion and possible action regarding pre-approval of Board ordered continuing education courses in Ethics and Risk Management.

- i. Risk Management for Dental Professionals – Frederick M. Cummings, Esq.
- ii. The ProBE Program, Professional/Problem-Based Ethics
- iii. Dental Ethics – Dr. Greg Loeben
- iv. CNA Risk Management Seminar
- v. Managing the Risk With Patients and the Dental Board – Edwin M. Gaines, Jr., Esq.
- vi. Risk Management and Record Keeping Seminar – Jeffrey J. Tonner, Esq.
- vii. Managing Your Dental Risks – Susan McLellan, Esq.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 4**

Upon MOTION by Dr. Spigner, second by Dr. Waite the Board voted to ACCEPT the continuing education courses in Ethics and Risk Management for pre-approval. MOTION PASSED UNANIMOUSLY.

- J. Dr. Aziz Ali Bohra - Review, discussion and possible action on whether to open an investigation regarding alleged failure to properly diagnose patient's condition.

This report was not a malpractice settlement, but a claim that was made against Dr. Bohra alleging root canal therapy and crown placement was done on the wrong tooth.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION. MOTION PASSED UNANIMOUSLY.

- K. Dr. Jon M. Brase - Review, discussion and possible action on whether to open an investigation regarding alleged failure to properly secure the crown on the implant.

No action taken.

- L. Dr. Derrick V. Johnson – Review, discussion and possible action on whether to open an investigation for alleged practice of dentistry without a license.

Upon MOTION by Ms. Bevers, second by Dr. Morrison the Board voted to OPEN AN INVESTIGATION. MOTION PASSED UNANIMOUSLY.

- M. Review, discussion and possible action regarding 2010 Board meeting dates.

**BOARD MEETINGS:**

February 5, 2010  
April 9, 2010  
June 4, 2010  
August 6, 2010  
October 8, 2010  
December 3, 2010

Upon MOTION by Ms. Bevers and duly seconded the Board voted to APPROVE the 2010 Board meeting dates. MOTION PASSED UNANIMOUSLY.

- N. Southwest Dental – Case 290197 – Review, discussion and possible action including vacating previous vote to open an investigation.

Upon MOTION by Dr. Waite and duly seconded the Board voted to VACATE its previous vote. One Board member OPPOSED. MOTION PASSED.

- O. Information regarding status of FY11 Budget. Information only.

Ms. Hugunin informed the Board of its requirement to resubmit the 2011 budget request. The appropriation for fiscal year 2010 is \$1,102,800 which is approximately \$88,000 less than what was requested. The Board was advised not to ask for any additional funding from the previous 2011 submittal which was \$1,175,700. From a budget perspective, the challenge is funding the technological improvements, especially related to the database software which still requires some development. Ms. Hugunin stressed the

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 5**

importance of continuing to be creative and wise in identifying opportunities to invest in automating processes which will improve outcomes. At present, the Board has three vacancies; however a job offer for an information processing specialist was recently rescinded given the current fund balance and after assessing future needs, especially technology. For example, the laptops used at this meeting paid for themselves in two meetings by eliminating the copying costs, not including labor costs. Ms. Chambers and Ms. Hugunin will be submitting the budget prior to September 1, 2009. Ms. Hugunin thanked Ms. Chambers for her commitment and energy to move the Board forward.

- P. Information regarding public records requests from Attorney General's office. Information only.

Ms. Hugunin reported the Board was in receipt of a public records request from the Attorney General's Office in response to the lawsuit filed by the professional associations related to fund sweeps. This is requesting documentation back to 2000 including evidence relating to any payments to Board members, staff, employee or agent related to compensation, stipends, per diem and reimbursement of expenses. Much of this information is archived and there will be substantial labor costs in responding to this request.

- Q. Legislative update on bills that have passed. Information only.

Ms. Hugunin informed the Board that State Bill 1400, which is related to affiliated practice, has passed and becomes effective on September 30, 2009. The Legislature remains gridlocked with regard to the budget. At question is the temporary sales tax increase. The State has a 3.2 billion deficit for the current fiscal year.

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

- A. Dr. Sam Hashemian v. ASBDE (Case 280056)  
B. Dr. Mu-Hun Kim v. ASBDE (Case 280093)

Ms. Williams reported that both of these JRA's were filed in June and there has been no briefing on them as of this meeting.

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

VACANT

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

- A. Patricia Rodriguez, RDH – disclosure of shoplifting conviction in 2008

Ms. Rodriguez was present and stated she and her daughter went shopping with a friend of her daughter's. The friend took some items from the store. Ms. Rodriguez was advised to plead guilty to avoid paying fees, going to court and to avoid having a shoplifting conviction on her record.

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 6**

- B. Bonnie A. Garcia, RDH – disclosure of shoplifting conviction in 2000; contributing to the delinquency of a minor/gave liquor to a minor

Ms. Garcia was present and stated in May of 2000, she was caught for shoplifting. She had to pay fines of up to \$500. She made a bad decision and has worked very hard to accomplish what she has so far.

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

- C. Gonzalo F. Brauthal, DDS – disclosed a DUI in December 2001, CA denied licensure for failing to disclose DUI. Disclosure of conviction for domestic violence in April 2009.

Dr. Brauthal was present and stated his application for licensure in California was denied. Eight years ago, he received a DUI and did not reveal it on his California application. The charge was later reduced to exhibition of speed. He has not worked in over a year and has a hearing in California. With regard to the domestic violence conviction, he and his girlfriend were having an argument. In his attempt to force the door open, he accidentally hit her in the forehead with it. She called the police. His attorney recommended he settle the case as opposed to going to court. In response to the Board, Dr. Brauthal stated the DUI was alcohol related but the domestic violence was not related to alcohol.

The Board discussed its options. Some members believed enough information was available at this time to effectively make a decision on this matter. However, others believed the decision California makes will impact what Arizona decides to do. It would be difficult to objectively make a decision with the California case being unresolved.

Upon MOTION by Dr. Waite second by Ms. Bevers the Board voted to TABLE its decision pending resolution of the California matter. MOTION PASSED UNANIMOUSLY.

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

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

- A. Corena J. Contreras – Certified in California
- B. Reina Martinez - Certified in California
- C. Rhonda L. Curtis - Certified in California
- D. Elisa Bustamante - Certified in California
- E. Barbara L. Lamb - Certified in California
- F. Jody R. Kleinheinz - Certified in California
- G. Gricelda Espino - Certified in California
- H. Dusty R. Shaw - Certified in California
- I. Kathleen A. Jones - Certified in California
- J. Lindsay J. Marquez – Certified in New Mexico
- K. Alisha M. Miller – Certified in California
- L. Mandy J. Wilson – Certified in New Mexico

**ARIZONA STATE BOARD OF DENTAL EXAMINERS  
MINUTES OF THE BOARD MEETING  
August 7, 2009  
PAGE 7**

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

- A. Dr. Wayne Sawicky – 1976 WA State exam prior to a regional; discipline in WA in 1992 and 1997.

Dr. Sawicky was in attendance. He was a Washington state dentist for over 32 years and decided to retire in Arizona. Due to the economy, he has made the decision to return to work for a few days a week. With regard to the discipline in Washington, Dr. Sawicky worked with a senior associate who allowed the dental assistant to perform prophys. It was not until later that Dr. Sawicky found out that it was not lawful for the assistant to do that type of treatment. Dr. Sawicky has studied Arizona's laws and will not make that error if granted a license in Arizona.

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

- B. Dr. Derek Eaton – Board approved exam; disclosure of complaint filed in South Carolina for improper advertising. No action was taken by South Carolina Dental Board.

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

- C. Dr. Si-Hyun Sy Kim – 1999 CA exam prior to a regional; disclosure of arrest for battery in 2008. Charges were dismissed.

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

- D. Dr. Richard E. Jones – 1993 IN State exam prior to a regional.

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

- E. Dr. Lewis R. Eversole – 1978 CA State exam prior to a regional.

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

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

- F. VACANT

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

- G. Dr. Ghayathri Ravichandran – 2009 CRDTS

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 8**

H. Megan A. Aus, RDH – 2009 CRDTS

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

I. Lindsay N. Holm, RDH – 2009 CRDTS

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. Rosenthal, 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. Seyed Ismail Moayedpardazi – 2008/2009 NERB
- B. Dr. Aaron R. Kamp – 2008/2009 NERB
- C. Dr. Ashkan Eskandari – 2008/2009 NERB
- D. Dr. Rigas N. Kariotoglou – 2008/2009 NERB
- E. Dr. Sarah Choe – 2008/2009 NERB
- F. Dr. Pinki R. Patel – 2008/2009 NERB
- G. Dr. Mena Bishara – 2008/2009 NERB
- H. Dr. Suzy Bishara – 2008/2009 NERB
- I. Dr. Jesse W. Harker – 2008/2009 NERB
- J. Dr. Joel E. Tiffany – 2008/2009 NERB
- K. Dr. Nami Song – 2007/2008 NERB
- L. Dr. Dawn Pruzansky – 2006/2007 NERB
- M. Dr. Michael W. Golding – 2004/2005 NERB
- N. Dr. Cheryl A. DeWood – 1980 NERB
- O. Dr. Gary M. DeWood – 1980 NERB
- P. Dr. Jeffrey David Rushlo – 1982 WREB
- Q. Melinda K. Ornelas, RDH – 2006/2007 NERB
- R. Kelly S. McMullen, RDH – 2005 NERB
- S. Nicole P. Giesey, RDH – 2003 NERB
- T. Amy M. Boyd, RDH – 2002 NERB
- U. Nancy L. Allard, RDH – 1975 NERB
- V. Nathalie L. Johnson, RDH – 2000 WREB
- W. Theresa T. Mai, RDH – 2000 WREB
- X. Jody Lynn Kellard, RDH – 1987 CA
- Y. Michelle R. Harrington, RDH – 1995 CA

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

A. Dr. Randall C. Nunley – Review, discussion and possible action regarding disclosure of a physical injury.

Dr. Nunley was present.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 9**

The Board expressed concern with Dr. Nunley using a high-speed hand piece when his doctor submitted a letter stating he should be limited in the use of high-speed drills. It was preferable if Dr. Nunley was evaluated. Dr. Nunley was surprised that the Board would be concerned with his injury and competency 4 years after the accident occurred and after he disclosed the injury on his previous triennial renewal. Additionally, Dr. Nunley stated he already limits himself with regard to high-speed drills. The Board informed Dr. Nunley it could not speak to what happened with his previous renewal, but at this time, it was not comfortable with granting a renewal with the limited amount of information available.

Upon MOTION by Dr. Rosenthal, second by Dr. Gradke the Board voted to TABLE action on Dr. Nunley's application for renewal pending a comprehensive request for a physical examination to determine the exact type of disability and the limitations the disability impose AND Dr. Nunley must be observed in his practice through a monitoring service approved by the Board to review charts, records and to observe his level of competency of the types of procedures he is performing. MOTION PASSED UNANIMOUSLY.

- B. Dr. Chad B. Hoecker – Review, discussion and possible action on disclosure of disciplinary action in Ohio and Pennsylvania.

Dr. Hoecker was present. There was a law in Ohio which states a licensee cannot limit his practice to a specialty. Dr. Hoecker set the age limit in his practice from 1 to 20 years old, which was too close to being a pediatric dentist. This was in contradiction to the law. He signed a consent agreement with Ohio and agreed to discontinue the age limit. Pennsylvania basically just mirrored the action Ohio took on his license. He does not practice in Pennsylvania.

Upon MOTION by Dr. Waite, second by Dr. Morrison the Board voted to GRANT renewal. MOTION PASSED UNANIMOUSLY.

- C. Dr. Thien C. Pham – Review, discussion and possible action on disclosure of disciplinary action in Massachusetts.

Dr. Pham was present and stated the OSHA issues all happened after he left the practice. Even though he was no longer employed with the practice, his license was placed on probation as well. Some of the assistants at the office had been fired and one of those individuals filed the OSHA complaint. OSHA found issues with the SPORE testing.

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

- D. Dr. Tu M. Tran – Review, discussion and possible action on disclosure of disciplinary action in Massachusetts.

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 10**

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

**HEALTH AND WELL BEING**

A. 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.

- B. Robert J. Freithoffer, RDH – Review, discussion and possible action, including opening an investigation for alleged failure to disclose, regarding DUI disclosure on application for renewal of license.

Mr. Freithoffer was present and stated he has not been evaluated by Dr. Sucher. Per a court order, he has been evaluated already and the recommended treatment has been completed. In response to the Board, Mr. Freithoffer stated he would be willing to be evaluated by Dr. Sucher. He was not aware of the 10-day reporting requirement.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to TABLE action on the renewal until the October meeting pending an evaluation by Dr. Sucher. MOTION PASSED UNANIMOUSLY.

- C. Anita J. Webb, RDH – Review, discussion and possible action regarding disclosure of alcohol abuse or dependency.

Ms. Webb was present and stated she is financially unable to meet with Dr. Sucher. The fee is \$1000, but she is not working and just moved to Arizona from Minnesota.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue a COMPREHENSIVE REQUEST for an evaluation by the Board's Medical Director. MOTION PASSED UNANIMOUSLY.

**REQUEST FOR ACTION ON LICENSURE/CERTIFICATE BY EXAMINATION**

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

- D. Steven L. Haase, DDS – Previous disciplinary action in AZ; voluntarily surrendered license in 2000; disclosure of drug-related issues on application for licensure

A request was submitted asking the Board to accept the withdrawal of Dr. Haase's license application.

Upon MOTION by Ms. Bevers, second by Dr. Morrison the Board voted to ACCEPT withdrawal of the application for licensure. Dr. Rosenthal RECUSED. MOTION PASSED.

- E. Heather K. Spoehr, RDH – disclosure of DUI arrest in November 2005

Ms. Spoehr was present. Dr. Sucher reported he evaluated her in June regarding a DUI arrest. He believed it was an isolated incident and Ms. Spoehr has changed her behavior. There was no evidence of abuse or dependency issues.



**ARIZONA STATE BOARD OF DENTAL EXAMINERS  
MINUTES OF THE BOARD MEETING  
August 7, 2009  
PAGE 12**

**Agenda Item No. 15 - UPDATE ON MATP PARTICIPANTS**

Dr. Sucher reported that all other participants were in compliance at this time.

**Agenda Item No. 16 - UPDATE ON ABUSE TRACK PARTICIPANTS**

Dr. Sucher reported that all other participants were in compliance at this time and there were no outstanding issues.

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

VACANT

**Agenda Item No. 18 – Other Committee Reports**

A. Dental Hygiene Committee – Ms. Bevers

- i. Review, discussion and possible action regarding the following continuing education extension requests:

- a. Upon recommendation from the Dental Hygiene Committee, the Board may consider granting an extension until September 30, 2009 for the following:

- i. Mary J. Noble, RDH

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

- b. Upon recommendation from the Dental Hygiene Committee, the Board may consider denying the request for an extension because there are no extenuating circumstances for the following:

- i. Shay Marie Anderson, RDH
- ii. Gwendolyn S. Haywood, RDH
- iii. Susan E. Howie, RDH
- iv. Lisa Marie Mariani, RDH
- v. Larry D. McIver, RDH

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal the Board voted to DENY the request for an extension. MOTION PASSED UNANIMOUSLY.

- ii. Review, discussion and possible action regarding the recommendation from the Dental Hygiene Committee to open Arizona Administrative Code R4-11-609 for the purpose of changing the Continuing Education requirements to be aligned with new Affiliated Practice law effective September 30, 2009.

No action was taken.

- iii. Upon recommendation from the Dental Hygiene Committee, the Board may consider DENIAL of the Local Anesthesia and Nitrous Oxide coursework from Southern Illinois University. Documentation does not indicate that CPR is a pre-requisite for the course; that there are a

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 13**

minimum of 36 clock hours of instruction; that the course contains the following subject areas: review of head and neck anatomy, pharmacology of anesthesia and anesthetic agents, medical and dental history considerations, emergency procedures, and selection of appropriate armamentarium and agents; that the clinical practice is under the direct supervision of a licensed dentist and includes the minimum number of administrations of each of the following injection techniques: PSA, MSA, ASA (or Infraorbital), NP, GP, IAN, L, Mental (Or Incisive), and Long Buccal; and that there is a didactic and clinical competency in nitrous oxide analgesia with a minimum of three administrations.

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal the Board voted to DENY the Local Anesthesia and Nitrous Oxide coursework from Southern Illinois University. MOTION PASSED UNANIMOUSLY.

B. Continuing Education Audit for Dentists Committee – Dr. Joyce Rosenthal

- i. Review, discussion and possible action regarding the following continuing education extension requests:
  - a. Upon recommendation from the Continuing Education for Dentists Committee, the Board may consider granting an extension until September 30, 2009 for the following:

- i. Dr. Michael Wassef

Dr. Wassef asked the Board to consider granting him a minimum of 6 months extension as opposed to the previous 90 days he originally asked for. He has been struggling financially and is unable to pay for CE courses. He has not completed any of the required 72 hours at this time, but is in the process of obtaining a loan to pay for the courses. In response to the Board, Dr. Wassef stated he is planning to secure the loan and search for either discounted or free courses that will fulfill his renewal requirement. The Board would have considered Dr. Wassef's request more seriously had he taken some CE courses over the past 3 years, but he has not attempted to take any courses at all.

Upon MOTION by Dr. Gradke, second by Dr. Sommerhalter the Board voted to GRANT a 90-day extension of time to complete the continuing education required for renewal. Drs. Morrison, Cole, Spigner, Waite and Ms. Buckles were OPPOSED. MOTION PASSED.

- b. Upon recommendation from the Continuing Education for Dentists Committee, the Board may consider denying the request for an extension because there are no extenuating circumstances for the following:
        - i. Dr. Sibera T. Brannon
        - ii. Dr. L. Richard Haag with a letter explaining retiree status
        - iii. Dr. Jean E. Hilliard
        - iv. Dr. Christine M. Kopsky\*\*
        - v. Dr. Katherine H. Lee with a letter explaining disabled status
        - vi. Dr. John J. McDougall
        - vii. Dr. Ronald J. Moon\*\*
        - viii. Dr. Keith M. Rogers
        - ix. VACANT

\*\*Items 18.B.i.b.iv. and 18.B.i.b.vii. were discussed individually.



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 15**

Dr. Harnett stated he was taking 3 Ambien a night to sleep. He went into a manic state, but was not properly medicated at the time. He was diagnosed with bipolar disorder and underwent treatment with his psychiatrist. All of the incidents mentioned in the complaint took place while he was in the manic state. In response to the Board, Dr. Harnett stated he did continue to self-prescribe after he came out of the manic state.

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

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

**RETURN TO OPEN MEETING**

The Board believed a current evaluation by Dr. Sucher was warranted in this case.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to TABLE this matter pending an evaluation by the Board's Medical Director. Dr. Sommerhalter RECUSED. MOTION PASSED.

**Agenda Item No. 20**                      **Case No. 290019**  
**Dr. Namninder S. Girn**

Mr. Tonner, on behalf of Dr. Girn and complainant KH were present.

Mr. Tonner stated this case involved a bridge from teeth 6 through 12. Two years later recurrent decay was found on tooth #12 by a subsequent treating dentist. The Investigative Interview (I.I.) panel recommended the allegation of Inadequate Crown and Bridge be upheld because of the short length of time between treatment and when the decay was found. According to the records, KH has very high caries. There were other instances in which decay was found on teeth treated by other dentists and only a short while after the treatment. Mr. Tonner believed this was KH's oral condition. Dr. Kirkland diagnosed the decay.

The I.I. panel noted that teeth 6 through 12 had an inadequate marginal seal after approximately 18 months in a patient with good oral hygiene and prophys every 6 months. The Board reviewed a photograph dated 11/26/08 which showed open margins at the lingual. The radiographs also revealed evidence of the open margins.

Upon MOTION by Ms. Bevers, second by Mr. Greer 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 none

Upon MOTION by Ms. Bevers, second by Mr. Farnsworth the Board voted to impose RESTITUTION to the patient of \$2870, CONTINUING EDUCATION of 12 hours in Hands-on Crown and Bridge with 12 months time to complete. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 16**

**Agenda Item No. 22**

**Case No. 280323**  
**Dr. Clayton Wainwright**

Mr. Tonner, on behalf of Dr. Wainwright and complainant CG were present.

CG requested a refund of the fees paid to Dr. Wainwright. This is the third Board procedure she has attended.

Mr. Tonner stated Dr. Wainwright performed an extraction on tooth 28, root canal therapy was performed on tooth 29 and a 3-unit bridge was to be placed from teeth 27 through 30. All of the treatment went well until CG declined anesthetic to pack the cord for the bridge. Impressions were done twice, but both times the lab said they were not good. CG then discontinued treatment with Dr. Wainwright. Care Credit was refunded and Delta Dental was given a check in the amount of \$499.55 as of July 31, 2009 for the root canal and build-up.

The Board expressed a concern with the surgical extraction code and an alveoloplasty code being used when that there was no reason to perform an alveoloplasty with the type of extraction done. This was not a residual root extraction and the alveoloplasty was never performed. There are some billing issues. Additionally, the patient had an impression done on 05/31 with an appointment to cement the bridge on 06/17. It was not until the patient arrived for her appointment that she was informed that the first impressions were not good and a new impression would have to be taken. Dr. Wainwright should have heard something back from the lab prior to CG's appointment and definitely before 17 days had passed. With regard to the endodontic treatment performed it was inadequate. According to Dr. Wainwright's notes, the endodontic treatment was complete. There was no documentation in the record to indicate Dr. Wainwright would complete the root canal therapy. The root canal was at least 3 millimeters short and there was a radiographic lesion. This had only a 5% success rate. The endodontics should have been referred out for re-treatment. Dr. Wainwright saw the patient the following day and opened the tooth to remove the temporary. He then left the tooth open which could have caused re-contamination by bacteria.

In response to the Board, CG stated she did not want anesthetic because she feels the same discomfort with or without the anesthetic. She normally just requests the area to be numbed.

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

No changes were made to the Findings of Fact.

Upon MOTION by Dr. Morrison, 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 19

The Board questioned whether Dr. Wainwright was able to be regulated. Mr. Tonner responded that Dr. Wainwright did have several problems related to his previous health issues. Though there was a point in which Dr. Wainwright may not have been able to be regulated, he is able to be regulated by the Board now.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 17**

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

**Agenda Item No. 23**                      **Case No. 280397**  
**Dr. Michael Wassef**

Dr. Wassef was present and asked the Board to consider postponing this matter until he could be adequately represented by counsel.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to TABLE this matter until the October 2009 meeting pending attorney representation. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 21**                      **Case No. 280437**  
**Dr. Nicholas J. Meyer**

Dr. Meyer and his attorney Ms. McLellan were present. Ms. McLellan stated the Investigative Interview (I.I.) panel strayed from the allegations in this case. The patient only complained about the lower partial. The billing ledger was submitted at the request of the Board's chief investigator. Dr. Meyer had previously fabricated a resin-based upper partial for the patient with no complaints. The lower was done with the same material; however, after a few months, the patient was not pleased with it and wanted another partial made. Dr. Meyer offered to make a new one with a different material. The patient chose to use the same material and another lower partial was made at no charge to the patient. Three months later, she began to complain about the partial. Dr. Meyer, again, discussed the options with the patient. She chose to keep the same partial and adjustments were done. The patient never returned for any follow-up, even though she was called twice. The clinical evaluation result was the partial would need to be re-lined. Ms. McLellan believed this case should be dismissed.

The Board expressed concern with the patient's posterior teeth being extracted prior to the partial. The partial would have fit better if it had some posterior teeth to act as abutments. Also, there was no diagnosis given as to why some of the teeth were removed. Ms. McLellan responded that several options were given to the patient. Dr. Meyer suggested a clasp on the partial and adding composite to get a better grasp. He also suggested the possibility of getting implants, but the patient refused that option. The Board could not find in the record where Dr. Meyer informed the patient that removing teeth 17 and 31 would affect the fit of the partial.

Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to ACCEPT the Findings of Fact. Dr. Rosenthal RECUSED. MOTION PASSED.

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

\*\*The Board requested priors – staff reported 5

Upon MOTION by Dr. Gradke, second by Ms. Bevers the Board voted to VACATE the previous Investigative Interview and REMAND to a new Investigative Interview with additional allegations of Inadequate Oral Surgery, Improper Billing/Coding, Inadequate Pharmacological Management and Inadequate TMJ Diagnosis and Treatment. Dr. Rosenthal RECUSED. MOTION PASSED.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 18**

Upon MOTION by Ms. Bevers, second by Dr. Sommerhalter the Board voted to VACATE its previous vote to accept the Findings of Fact and Conclusions of Law. Dr. Rosenthal RECUSED. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 24**                      **Case No. 290026**  
**Dr. Paraon N. DeQuiroz**

Ms. Williams informed the Board that the treatment in this case took place prior to Dr. DeQuiroz filing bankruptcy. The bankruptcy has been discharged. Dr. DeQuiroz did not renew his license to practice.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to DISMISS WITHOUT PREJUDICE. MOTION PASSED UNANIMOUSLY.

**ACTION ON PREVIOUS ACTION**

**Agenda Item No. 28**                      **Case No. 280084**  
**Dr. Nafys Samandari**

Dr. Samandari was present along with his attorney Mr. Cummings and Mr. Redhair on behalf of complainant LB were present.

Mr. Redhair stated treatment came about due to a root canal. LB became interested in having whiter teeth so Dr. Samandari ended up replacing the upper crowns and the crowns on teeth 29 through 31 on the bottom. After this, LB developed significant TMJ problems and was referred to 3 different providers who all diagnosed the TMJ. She did not have this issue prior to the crowns being placed. She has had to replace 8 of the crowns that were placed. Mr. Redhair asked the Board to consider refunding LB the fees she paid to Dr. Samandari.

Mr. Cummings stated this case went to an Investigative Interview (I.I.) and the panel recommended a clinical evaluation. However, the panel did not provide any findings of fact. The case should now have an I.I. to determine the findings with the clinical evaluation.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to VACATE the previous Investigative Interview and REMAND to a new Investigative Interview with the current Clinical Evaluation. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 25**                      **Case No. 280464**  
**Dr. Eric L. Kerbs**

Dr. Kerbs and his attorney Mr. Gaines were present. Mr. Gaines stated that during the course of a third molar extraction, the patient's jaw fractured. The patient was transferred from Dr. Kerbs' office to an oral surgeon. The patient filed a claim against Dr. Kerbs' malpractice insurance and a settlement was reached. Dr. Kerbs offered the patient the choice of an oral surgeon, but did not document the discussion in the record. In response to the Board, Dr. Kerbs stated he specifically informed the patient of the possibility of a jaw fracture. He does still perform this type of surgery, but more conservatively now. He refers out more based on the anatomy of the patient and the risks involved. If there is not enough room, if it appears the tooth will be sectioned out and if there is full bony involvement, Dr. Kerbs will refer the patient to an oral surgeon.

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 19**

**Agenda Item No. 28B**                      **Case No. 290220 (Includes cases 280210, 270540, 280097, 280127 and 280101)**  
**Dr. William A. Hoskyns**

Ms. Corcoran on behalf of Dr. Hoskyns and complainants NG and BJH were present.

BJH believed she would be reimbursed for the dental work performed by Dr. Hoskyns. According to the consent agreement, she would only be entitled to receive \$20,000.

NG stated Dr. Hoskyns has ruined her life. She now spends more time in a dentist's chair than she does at work.

Ms. Williams, attorney for the State, outlined the proposed consent agreement for the Board. There were five pending cases encompassed into this agreement. The recommended restitution amounts are as follows: In case 270540, \$28,000 to the patient and \$1000 to the insurance provider; case 280097, \$24,000 to the patient; case 280127, \$20,000 to the patient; and case 280210, \$24,000 to the patient. It was recommended that case 280101 be dismissed as part of the agreement because the primary concern was to get some restitution to the patients. In case 280101, the patient did not have any out-of-pocket expenses for treatment. Additionally, Dr. Hoskyns was requesting a payment schedule to span approximately 5 months from the day the agreement is signed. Ms. Williams stated a great deal of consideration was put into the terms of the agreement. Even though the patients were not being fully refunded, the Board was not the only avenue available to the patients with regard to restitution. Ms. Williams suggested the Board obtain an affirmation from Ms. Corcoran as to Dr. Hoskyns' ability to comply with the financial obligations as outlined in the agreement.

Ms. Corcoran responded her client would be able to comply with the financial obligations if the payment schedule is approved. If Dr. Hoskyns would be allowed to make payments every 30 days as opposed to paying all of the restitution at once, he would be able to comply with the amounts outlined in the agreement. With regard to case 280101, the patient was a former employee of Dr. Hoskyns'. Her teeth were prepped by another dentist and Dr. Hoskyns seated the temporary crowns. In response to the Board, Ms. Corcoran stated there was no preference as to how the parties were paid. She and Ms. Williams believed it would be fair to refund the oldest case first and end with the newest case. The Board agreed this would be acceptable.

Upon MOTION by Dr. Rosenthal, second by Dr. Spigner the Board voted to ACCEPT the Consent Agreement as proposed. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 27**                      **Case No 280459**  
**Dr. Denham Bohart Crafton, II**

Dr. Crafton and his attorney Mr. Hover were present. Mr. Hover stated it was inexplicable why the certified mail was not received by Dr. Crafton. He would have responded to the subpoena for records had he received the notice.

There were two separate subpoenas issued to Dr. Crafton. At the time the second subpoena was sent to Dr. Crafton, he had timely submitted a change of address. However, this address was not yet entered into the Board's database when the subpoena was mailed to him. This instance was not at issue at this time. With regard to the first attempt to subpoena records from Dr. Crafton, the subpoena was mailed to him in January and was returned to the Board in March. There were three attempts by the post office to deliver the subpoena. This is the noncompliance issue to be addressed at this meeting.



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 21**

attend the June 2009 Board meeting because he believed the Board would accept the recommendation of the Investigative Interview (I.I.) panel, which was for dismissal.

Dr. Swain was told by the Board reviewer that during the discussion of the case, some statements are made that are the opinion of the panel and not a finding of fact. While the panel makes recommendations, ultimately, it is the Board who finally adjudicates the cases, not the I.I. panel. A case is not adjudicated solely upon whether harm was done to the patient or not. When the purpose for the treatment advertised is cosmetic and there is no documentation as to the dental purpose of the treatment, the policy statement is no longer open to interpretation regarding therapeutic dental purposes. Arizona statutes only apply to persons licensed in Arizona. Other state laws do not apply in Arizona. The number of patients the procedure was performed on is irrelevant. BODEX is the regulatory agency for dentists, while AzDA is the professional dental association. If AzDA sponsors a course it should not be implied that BODEX supports the information or action presented in the course. The policy is clear and has not been up for review or discussion since its placement. The Respondent was noticed of the Board meeting and it was at his discretion to appear or not.

The use of Botox is considered unprofessional conduct according to A.R.S. §32-1201.21(c) and as described in Substantive Policy Statement #15. There was no indication in the patient notes that the use of Botox was in any way dental related. This is a clear violation of the statute.

Upon MOTION by Ms. Bevers, second by Mr. Farnsworth the Board voted to REVIEW this case in order to Amend its previous order. MOTION PASSED UNANIMOUSLY.

The findings of fact of the Board order must be amended to read 'Doctor was using Botox and derma-fillers for non-dental purposes'.

The Board read a portion of its June 2009 Board minutes to Dr. Swain which referred to the clarity of the Substantive Policy Statement. The policy was extremely clear and was discussed, at length, at the June meeting. Dr. Swain did not understand how other states allowed the use of Botox, but not Arizona. The Board's response was that the question was irrelevant; its jurisdiction is only in Arizona.

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

Finding of Fact #1 AMENDED to read:

Doctor was using Botox and derma-fillers for non-dental purposes.

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

**Agenda Item No. 30**                      **Case No. 280322**  
**Dr. Gary M. Steen**

Dr. Steen along with his attorney Ms. Corcoran and complainant JP were present.

Ms. Corcoran asked the Board to consider changing the finding of unprofessional conduct in this case. There were several things the patient failed to do that contributed to the problems in this case. There was a paradoxical reaction to the anesthesia during an extraction. Dr. Steen was only able to remove one tooth instead of the two that were planned. The patient did not reveal he was taking Adderal, which was the cause of the reaction. Two of Dr. Steen's assistants had to help restrain the patient in order for

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 22**

Dr. Steen to suture him. Dr. Steen called the patient post-operatively to find out how he was doing and to explain to him what happened. He also informed the patient he would give him a referral to an oral surgeon for the extraction of the remaining tooth. The patient did not call for the referral from Dr. Steen, but chose to go to a surgeon of his own choosing for the extraction. Dr. Steen did not inform the patient that a root fragment had been left although he did give this information to the oral surgeon he planned on referring the patient to. Since the patient did not know there was a root fragment left, he did not relay this information to the oral surgeon he chose to go to. Ms. Corcoran summarized by stating no harm was done to the patient in this case, Dr. Steen had disclosed the information regarding the retained root to the oral surgeon he believed would be doing the extraction and he would voluntarily refund the patient in this case. Ms. Corcoran asked the Board to consider issuing a letter of concern or continuing education. She believed the penalty was excessive in this case.

JP stated he did not accept Dr. Steen's referral because an oral surgeon had already been recommended to him by a friend. He did not include Adderal on his health history form, but that form was completed in June of 2005. The surgery was done in February of 2008. He would not have had any problems if Dr. Steen had provided him with the post-operative instead of the pre-operative x-rays when he went to the oral surgeon. The oral surgeon would have been able to tell from those x-rays that a fragment had been left. Dr. Steen has offered to issue a refund. He was in agreement with the original findings of the Board.

The Board's reviewer did not believe the petition to rehear should be granted. Dr. Steen had an opportunity to inform either JP or his wife of the retained root fragment. He also spoke to JP later that evening, but still did not inform him. The oral surgeon did not take any new x-rays, but instead used the x-rays taken by Dr. Steen. However, the radiographs provided by Dr. Steen were not acceptable. Radiographs should show all teeth involved and the adjacent structure must be identifiable. The reviewer believed Dr. Steen's conduct does constitute a danger to the health, welfare and safety of the public. JP now must undergo another surgical procedure to have the root fragment removed. The Board action taken was appropriate.

Upon MOTION by Dr. Gradke, second by Ms. Bevers the Board voted to DENY the Petition to Rehear. Dr. Spigner OPPOSED. MOTION PASSED.

**Agenda Item No. 29**                      **Case No. 280432**  
**Dr. Richard R. Salb**

Dr. Salb and his attorney Mr. Smith were present. Mr. Smith stated his client never received a notice of the scheduled Investigative Interview (I.I.) which is why he did not attend. He did receive the report and responded in writing to the recommendations made by the panel. However, the panel made no recommendation for restitution, which the Board ordered in this case. Mr. Smith believed there were due process issues in this case. Additionally, there was no evidence of Dr. Salb receiving any money from the patient. The evaluation and treatment plan was done 8 months prior to Dr. Salb joining the practice. The treating dentist was ill the day of the appointment and Dr. Salb performed the treatment he was told to do. There was an oral surgeon on the panel the day of the I.I. who stated the surgery performed by Dr. Salb was adequate. Dr. Salb provided the Board with radiographs at this meeting. Mr. Smith requested the case be dismissed, or sent back for another I.I. in which his client could be properly noticed and be in attendance.

The Board's reviewer stated the grounds for this petition to rehear were irregularity of proceeding, excessive penalties and the findings of fact were not justified by the evidence presented. The notification of the I.I. was not received by Dr. Salb because of an address change. The notice was mailed on January 22. The change of address from Dr. Salb was received on February 9. The Board requires an

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 23**

address change be reported within 10 days. If Dr. Salb had timely notified the Board of his change of address, he would have received the I.I. notice. The Board could not be held responsible for Dr. Salb not receiving the notice. Mr. Smith stated he requested a copy of the Board's file and the notice was not included with those copies. Board staff responded that if the respondent obtains counsel after the I.I. has already taken place; the attorneys generally specify that a copy of the I.I. notice is needed. If a respondent has an attorney of record at the time the I.I. is scheduled, a copy of the notice would have been automatically forwarded to them. (Dr. Salb did not have an attorney of record at the time of his I.I.)

It has been the Board's policy that the treating doctor is responsible for restitution for treatment he or she has rendered. Dr. Salb would be responsible for the restitution even if he did not directly receive the fee. Additionally, even though Dr. Salb did not formulate the original treatment plan, it was his responsibility to evaluate it to ensure it was best for the patient. Both specialists involved in this case concurred that the placement of three of the implants compromised the restorability of the case and both recommended removal of the implants. Although there is one specialist who opined the remaining implants can be restored; the general consensus by the three specialists was the treatment was inadequate. Since Dr. Salb was the treating dentist, he is as responsible for the treatment plan as the original dentist who formulated it. Because the treatment plan was inadequate, two of the three implants placed were either non-functional or will not allow for sufficient restoration.

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

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

**RETURN TO OPEN MEETING**

Upon MOTION by Dr. Spigner, second by Ms. Bevers the Board voted to REMAND to a new Investigative Interview to allow Dr. Salb to be in attendance. MOTION PASSED UNANIMOUSLY.

**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. 37                      Case No. 290025                      Dr. John Scott Coleman

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

Cases DISMISSED:

Agenda Item No. 32	Case No. 280328	Dr. Steven H. Goldstein
Agenda Item No. 33	Case No. 290017	Dr. Gary F. Salwin
Agenda Item No. 34	Case No. 280364	Dr. George R. Ayoub
Agenda Item No. 35**	Case No. 280484	Dr. Lee W. Harding
Agenda Item No. 36	Case No. 290006	Dr. Angela Chun Baskin

**ARIZONA STATE BOARD OF DENTAL EXAMINERS  
MINUTES OF THE BOARD MEETING  
August 7, 2009  
PAGE 24**

\*\*While adjudicating case 280484, an investigation was opened against Dr. Ronald Thompson for alleged non-compliance with a Board subpoena.

**Cases pulled that are Recommended for Termination/Lack of Jurisdiction – Consent Agenda**

Agenda Item No. 45	Case No. T-09-043	Dr. Christine Thuy-Ahn Phan
Agenda Item No. 47	Case No. T-09-047	Dr. Gregory L. Aldrich
Agenda Item No. 49	Case No. 290215	Dr. Phu N. Tran

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. 41	Case No. T-09-037	Dr. Kris K. Iganian
Agenda Item No. 42	Case No. 290166	Dr. Peter J. Lee
Agenda Item No. 43	Case No. 290035	Dr. Gary J. Core
Agenda Item No. 44	Case No. T-09-045	Dr. Steven Hymovitch
Agenda Item No. 46	Case No. T-09-042	Dr. Christopher W. Fowler
Agenda Item No. 48	Case No. T-09-048	Dr. Joseph Fox

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

Agenda Item No. 55	Case No. 290126	Western Dental of Arizona, Inc.
--------------------	-----------------	---------------------------------

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. 50	Case No. 290084	Dr. Newton Harry Henderson, III
Agenda Item No. 51	Case No. 290103	Mr. David A. Fishman
Agenda Item No. 52	Case No. 290122	Shadow Ridge Dental Care
Agenda Item No. 53	Case No. 280481	Dr. Kirk A. Speicher
Agenda Item No. 54	Case No. 290015	Dr. Kirk A. Speicher
Agenda Item No. 56	Case No. 290069	Western Dental of Arizona, Inc.

**Agenda Item No. 57 – Approval of Restricted Permit(s) (Application or Renewal) – 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. Victor A. Palmieri
- B. Dr. Maynard Charles Anderson
- C. Dr. Richard J. Hingtgen
- D. Dr. Bruce L. Wolff



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 26**

Ms. McLellan stated the Investigative Interview (I.I.) panel made a recommendation for a letter of concern in this case. Dr. Nigam voluntarily refunded MZ out of his own funds. Later, Dr. Nigam left the practice. He was not allowed to complete the work. The treatment was done between 3 to 4 years prior to the complaint being filed. Had Dr. Nigam known MZ was experiencing problems, he would have tried to rectify them. This was a challenging case due to MZ's demand for sedation. The work was not completed because a different dentist temporarily seated the crowns. MZ was supposed to return to Dr. Nigam, but was a no-show for those appointments. Ms. McLellan asked the Board to accept the I.I. panel's recommendation. Dr. Nigam refunded a total of \$6930 to MZ.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN stating Lack of informed consent and inadequate crown and bridge and impose NON-DISCIPLINARY CONTINUING EDUCATION of 12 hours in Hands-on Crown and Bridge with 12 months time to complete. Dr. Spigner was ABSENT. MOTION PASSED.

**Agenda Item No. 39**                      **Case No. 290057**  
**Dr. Daniel Kang**

Dr. Kang, his attorney Mr. Cummings and complainant LJ were present.

LJ stated she went in to get a cleaning. During the cleaning, Dr. Kang mentioned getting crowns for her teeth. She responded that she did not want any crowns at this time and Dr. Kang became angry and asked the hygienist to stop polishing her teeth. He had only polished two teeth. She left Dr. Kang's office and went to a periodontist.

Mr. Cummings stated this case was originally filed by the complainant because she did not believe Dr. Kang was billing properly. It went to a Triage panel who recommended dismissal but with a letter of concern regarding under diagnosis of a periodontal condition. It is well documented that LJ is currently being treatment by a periodontist. Mr. Cummings asked the Board to consider dismissal of this case.

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

**Agenda Item No. 47**                      **Case No. T-09-047**  
**Dr. Gregory L. Aldrich**

Dr. Aldrich and complainant LM were present.

LM stated she was charged \$2000 for dentures, but never received them because Dr. Aldrich's office assistant set the office on fire.

Dr. Aldrich stated he worked for Dental Impressions. The office assistant was acquitted of all charges related to the fire. Dr. Aldrich was an employee dentist, so he could not say if LM paid or not. Dental Impressions is no longer a registered entity. According to Dr. Aldrich, records are available however, the billing records were all stored in the computer which was destroyed in the fire.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to OPEN AN INVESTIGATION with the added allegation of Irregular Billing. MOTION PASSED UNANIMOUSLY.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 27**

**Agenda Item No. 40**

**Case No. 290056**  
**Dr. Douglas M. Gordon**

Dr. Wilson, his attorney Ms. McLellan and complainant WA were present.

WA stated her dental records appear to be modified after the fact. The script is different. Dr. Gordon did not offer any referrals to her. During the reconstruction of tooth 29, she was in constant pain. Dr. Gordon told her the problem she was experiencing was due to her gums, not the tooth. The endodontist told her she had an infection in tooth #29 that will not go away, and she also had a fractured tooth. She has lost a good tooth because of Dr. Gordon's inadequate diagnosis. She must have more work done including an implant on tooth #29.

Ms. McLellan stated the Investigative Interview (I.I.) panel upheld the allegation of failure to inform the patient of adverse result. It is documented in the record that WA was advised of the poor condition of the tooth, but because WA did not sign the progress notes, the panel believed there was some doubt. Ms. McLellan believed the panel's recommendation would be setting a standard of care that does not exist. The Board's chief investigator reviewed the case and submitted a report indicating there was no evidence to support the allegations and recommended dismissal. Ms. McLellan asked the Board to consider accepting the investigator's recommendation. Dr. Gordon's records indicate several referrals of the patient to an oral surgeon, an endodontist and a periodontist. She did not accept any of the referrals because she wanted to save the tooth. She finally went to an endodontist who told her the tooth had a very poor prognosis. WA insisted on having the tooth re-treated, which the endodontist did. If the post had been broken by Dr. Gordon, the endodontist would never have attempted to re-treat the tooth.

Dr. Gordon did periodontal probing on tooth 29, but did not document it. There was a bony defect on the mesial of #29. A previous post and crown had fallen off and there was a superficial crack at the margin. Dr. Gordon advised WA the prognosis of the tooth was guarded at that time. At her request, a post and crown was placed on that tooth. She returned with a fistula on the buccal of #29 and probing was done. There was a 4 ½ millimeter pocket at that time. The crack eventually ended up as part of the tooth which broke off. Then the pocket became larger, but by then WA was seeing another dentist.

The Board reviewed the records and noted the tooth was treated on 4 different occasions when it should not have been, but at the insistence of the patient.

WA stated her subsequent dentist was trying to help save her tooth. He told her if the tooth could not be saved, he would refund the money paid for the reconstruction. Dr. Gordon did not refer her to an endodontist and she did not ask for her tooth to be re-treated. It was not until she continued to complain of pain that Dr. Gordon informed her of the decay.

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. 37**

**Case No. 290025**  
**Dr. John Scott Coleman**

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

The Board indicated there was no diagnosis included in the record. The doctor did not do any periodontal charting and there was no indication of the obturation fill.



**ARIZONA STATE BOARD OF DENTAL EXAMINERS  
MINUTES OF THE BOARD MEETING  
August 7, 2009  
PAGE 29**

**Cases pulled that are Recommended for Remand – Consent Agenda**

Agenda Item No. 66                      Case No. 290024                      Dr. Robert D. Sundberg

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

Agenda Item No. 67                      Case No. 290010                      Dr. Trent Wilsey Smallwood  
Agenda Item No. 70                      Case No. 290062                      Dr. Ryan J. Robinson

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN in the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 68                      Case No. 290021                      Dr. George L. Perry  
Stating Dr. Perry needs to ensure the accuracy of chart entries

Agenda Item No. 69\*\*                      Case No. 290053                      Dr. Jay J. Waite  
Stating improve quality of copies of radiographs sent to the Board

\*\*Dr. Waite appeared after the case was adjudicated. The Board considered his testimony, but stood by its previous vote.

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

Agenda Item No. 71                      Case No. 290012                      Dr. Richard George Strub  
Agenda Item No. 72                      Case No. 280288                      Dr. Peter Rinaldi  
Agenda Item No. 73                      Case No. 280420                      Dr. Michael C. Anderson  
Agenda Item No. 74                      Case No. 290058                      Dr. Donald Acomb  
Agenda Item No. 75                      Case No. 290041                      Dr. Michael E. Steinberg

**Cases that are Recommended for Termination/Lack of Jurisdiction – Consent Agenda**

Nothing was pulled. 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. 76                      Case No. T-09-035                      Dr. John Melde  
Agenda Item No. 77                      Case No. T-09-036                      Dr. Christopher A. Lienau  
Agenda Item No. 78                      Case No. T-09-040                      Dr. Michele A. Bibeau  
Agenda Item No. 79                      Case No. T-09-038                      Dr. Hector Gonzalez  
Agenda Item No. 80                      Case No. T-09-039                      Dr. Hector Gonzalez  
Agenda Item No. 81                      Case No. T-09-041                      Dr. Susan B. Sharp  
Agenda Item No. 82                      Case No. 290111                      Dr. Stuart E. Garber  
Agenda Item No. 83                      Case No. T-09-044                      Dr. Barry J. Uldrikson  
Agenda Item No. 84                      Case No. T-09-046                      Dr. Kenneth Holland  
Agenda Item No. 85                      Case No. T-09-049                      Dr. Darin Dickerson  
Agenda Item No. 86                      Case No. 290148                      Dr. Joseph M. Larsen

**ARIZONA STATE BOARD OF DENTAL EXAMINERS  
MINUTES OF THE BOARD MEETING  
August 7, 2009  
PAGE 30**

Agenda Item No. 87                      Case No. 290054                      Dr. Montana J. Skyler

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

Agenda Item No. 90                      Case No. 290095                      Dr. Gordon K. Wilson  
Agenda Item No. 94                      Case No. 290131                      Dr. Lee M. Weinstein  
Agenda Item No. 96                      Case No. 290230                      Dr. James M. Ransdell

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. 88                      Case No. 280478                      Dr. Gordon Ledingham  
Agenda Item No. 89                      Case No. 290059                      Dr. Gordon Ledingham  
Agenda Item No. 91\*\*                      Case No. 290132                      Dr. Jason D. McCargar  
Agenda Item No. 92                      Case No. 290124                      Bright Now! Dental  
Agenda Item No. 93                      Case No. 290153                      Dr. Kenneth M. Lepinkas  
Agenda Item No. 95                      Case No. 290075                      Western Dental

\*\*The complainant, JC, appeared after the case was adjudicated. The Board considered her testimony, but stood by its previous vote.

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

Agenda Item No. 97                      Case No. 290121                      Dr. Ginger L. Price  
Agenda Item No. 98                      Case No. 290125                      Dr. Mark L. Moss  
Agenda Item No. 99                      Case No. 280384                      Southwest Dental Group

**Cases that are Found to be in Noncompliance with Consent Agreement or Board Order – Open New Complaint – Consent Agenda**

Agenda Item No. 100                      Case No. 270466                      Dr. William Hoskyns

**Cases for Probation Monitoring; Compliance Reporting - Consent Agenda**

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

Agenda Item No. 101                      Case No. 250157                      Dr. Terry Lee –  
Added Affiliated Monitor’s final report to the  
previously opened case for noncompliance

Agenda Item No. 101A                      Case No. 270357                      Dr. Gregory J. Lagermeier – TAKE NO ACTION



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 32**

**Agenda Item No. 62**

**Case No. 290092**  
**Dr. Juan Carlos Valencia**

Dr. Valencia, his attorney Mr. Gaines and complainant JW were present.

JW stated the Board meeting notice was the only correspondence she has ever received regarding this case. She would have liked to attend the Investigative Interview (I.I.) but never received a notice. Board staff stated a notice was sent to JW via certified mail and the green card was signed for on May 9. The Board informed JW the I.I. took place and the panel's recommendation was for dismissal of the case. She was told by a subsequent dentist the crowns now affect her bite. A periodontist has told her she will need root canal therapy.

Mr. Gaines stated the patient has received a full refund of the fee paid to Dr. Valencia. There was a slight delay because JW had moved, but she was eventually refunded. At this point, JW wanted other costs and expenses for future treatment given to her.

JW responded she did receive a refund in the amount of \$1624. She will need root canal therapy as a direct result of the treatment Dr. Valencia performed. She wanted to be awarded the money for the cost of the root canal. The Board informed JW that it was not in its jurisdiction to issue monies for future treatment.

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

**Agenda Item No. 90**

**Case No. 290095**  
**Dr. Gordon K. Wilson**

Mr. Gaines, on behalf of Dr. Wilson and complainant FP, along with her son DP were present.

DP stated Dr. Wilson charged his mother in advance for treatment that she still has not received. The partial Dr. Wilson fabricated for FP cannot be used. FP must continue the treatment with another dentist. FP stated the denture has never fit. A subsequent treating dentist told her the denture was not made properly.

Mr. Gaines stated Dr. Wilson has fallen on hard times. The patient was named as a creditor in Dr. Wilson's bankruptcy filing. The bankruptcy has been discharged. An appointment was made to fit the denture, but FP was unable to make that appointment. The practice closed before Dr. Wilson was able to fit the denture. The denture was mailed to FP and Dr. Wilson made an arrangement for adjustments to be done by another dentist. She did see the subsequent dentist who made some adjustments.

The Board informed FP and DP that because of the bankruptcy, it was unable to order any type of restitution. Additionally, Dr. Wilson did arrange for FP to go to another dentist for the final adjustments to the denture once his practice closed. The only allegation in this complaint was of patient abandonment. It did not appear that Dr. Wilson abandoned this patient.

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

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 33**

**Agenda Item No. 70**                      **Case No. 290062**  
**Dr. Ryan J. Robinson**

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. 75**                      **Case No. 290041**  
**Dr. Michael E. Steinberg**

Dr. Steinberg, his attorney Mr. Woods and complainant NM were in attendance.

NM declined to make a statement regarding this matter.

Mr. Woods stated the Investigative Interview panel recommended non-disciplinary continuing education; however, the chief investigator supplemented the recommendation and suggested the Board impose a stricter discipline. Mr. Woods did not agree with the chief investigator's report on this case. The doctor did document the patient's treatment; however some of the records were missing from those submitted by Cactus Dental. There was a charge made for services that should have only been done by a dentist, but Dr. Steinberg was not in the office on the day of service. Mr. Woods believed the records were missing for that reason. Dr. Steinberg did not inform the patient of the broken file.

Dr. Steinberg stated an apical file broke off during root canal therapy on tooth #18. He does not condone his actions in not informing the patient, and he will never do that again. The tooth failed due to a fracture line in the tooth. Dr. Steinberg apologized to the Board for the sparseness of the records and stated he will never again work for a company that will not allow him access to the records. He did not inform the patient of the broken file because he fully expected to see her again. The endodontist was able to work around the file upon re-treatment and the tooth was lost due to the fracture, not because of the separated file. The Board had concerns with Dr. Steinberg not informing the patient of the broken file.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN stating the doctor needs to inform the patient of any adverse occurrence that happens in his office and impose Non-Disciplinary CONTINUING EDUCATION of 6 hours in Record Keeping and 4 hours in Risk Management with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 99**                      **Case No. 280384**  
**Southwest Dental Group**

Ms. McLellan was present on behalf of Southwest Dental Group and stated her only issue with the recommendation was with the amount of the fine and why it would be an administrative penalty as opposed to a civil penalty. This particular entity did not have any prior violations. In response to the Board, Ms. McLellan stated the front office person at Southwest was responsible for receiving, signing for and distributing the mail.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose a CIVIL PENALTY of \$1000. MOTION PASSED UNANIMOUSLY.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 34**

**Agenda Item No. 97**                      **Case No. 290121**  
**Dr. Ginger L. Price**

Mr. Cummings was present on behalf of Dr. Price and stated this case was the result of non-compliance with a Board subpoena issued in another case. The Board determined the records submitted by Dr. Price were incomplete and opened this complaint. Once Dr. Price received notice of this complaint, she and her office staff reviewed the records that were sent to the Board. She does have a procedure in place to ensure complete records are forwarded. Dr. Price and her staff believed they complied fully with the subpoena. She also submitted the records again as soon as she received notice of this complaint.

The Board informed Mr. Cummings that Dr. Price initially submitted six pages of records. After the non-compliance case was opened, the Board received thirty-eight pages of records. This was non-compliance, whether it was intentional or not.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose a Non-Disciplinary CIVIL PENALTY of \$500. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 98**                      **Case No. 290125**  
**Dr. Mark L. Moss**

Dr. Moss was present and stated he received a subpoena for records from the Board. He gave it to an employee who compiled the records and forwarded them to the Board. The medical history portion of the record was missing.

Upon MOTION by Ms. Bevers, second by Dr. Rosenthal the Board voted to impose a Non-Disciplinary CIVIL PENALTY of \$500. Dr. Morrison, Ms. Buckles and Dr. Spigner were OPPOSED. MOTION PASSED.

**Agenda Item No. 61**                      **Case No. 290065**  
**Dr. Nishith S. Shah**

Dr. Shah and his attorney Mr. Smith were present. In response to the Board, Dr. Shah stated no infection was present in the patient at the time of treatment. The implant did not fail, it was fully integrated.

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

**Agenda Item No. 72**                      **Case No. 280288**  
**Dr. Peter Rinaldi**

Complainant AL was present and stated she was unable to attend the Investigative Interview because she moved and had transposed the address when she informed the Board. Dr. Rinaldi told her everything would go well with her treatment; however she has veneers that are chipped and has sensitivity around her molars which the veneers were supposed to alleviate. When she returned to Dr. Rinaldi to have her veneers looked at, he had moved.

The Board expressed a concern with the panel recommendation of non-disciplinary continuing education when it upheld 5 of the allegations. The chief investigator explained that the records were incomplete. Dr. Rinaldi had purchased a practice previously owned by Dr. Naisbitt and the records and computers were seized as a result of an investigation being conducted by the FDA. Additionally, the remaining equipment was repossessed by Capital One and the landlord locked him out of the building.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 35**

Upon MOTION by Ms. Bevers, second by Dr. Gradke the Board voted to impose Non-Disciplinary CONTINUING EDUCATION of 6 hours in Record Keeping, 6 hours in Diagnosis and Treatment Planning and 4 hours in Risk Management with 1 year time to complete. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 71**                      **Case No. 290012**  
**Dr. Richard George Strub**

Dr. Strub, along with his attorney Mr. Tonner and complainant GD were present.

GD stated this is his second complaint filed with this Board. The first complaint was regarding the upper denture. This complaint is regarding the lower partial which was set on teeth 17 and 20. He told Dr. Strub it did not feel right, but was told he would adapt to the bridge. He went back for adjustments, but he has never adapted to the bridge. He has since had the anchor teeth removed. There is still more work to be done. He wanted restitution for the monies paid to Dr. Strub.

Mr. Tonner stated Dr. Strub performed this treatment while working as an associate dentist at Western Dental. He fabricated an upper roundhouse and a lower partial. The case regarding the upper roundhouse has already been adjudicated. The lower bi-lateral partial was on teeth 18, 19, 20 and 30. There was a clinical evaluation done 3 months after the partial was delivered. On the photographs, 2 of the 3 abutment teeth are significantly changed. Tooth #31 fractured and 29 fractured with decay. In addition to the Board complaint, GD also filed an in-house complaint with Western Dental. He was refunded \$1000 as a result. Both Dr. Strub and a subsequent treating dentist looked at the partial at the time of delivery and it fit at that time. Mr. Tonner believed this case should be dismissed.

In response to the Board, GD stated he did not know why he filed three separate cases. His entire mouth is destroyed. The chief investigator informed the Board that GD's original complaint did not include allegations regarding the lower partial. It was not an issue as to whether the Board missed it or not; GD did not complain about it. Issues regarding the lower partial were not mentioned until the Investigative Interview.

Upon MOTION by Dr. Morrison, second by Mr. Greer the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Sommerhalter RECUSED. Ms. Bevers OPPOSED. MOTION PASSED.

**Agenda Item No. 67**                      **Case No. 290010**  
**Dr. Trent Wilsey Smallwood**

Dr. Smallwood was present and stated he did not agree with the recommendation from the panel. He submitted a full analysis of his patient to the Investigative Interview panel. He has full documentation of the soft tissue exam done on the patient.

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

**Agenda Item No. 66**                      **Case No. 290024**  
**Dr. Robert D. Sundberg**

Dr. Sundberg, his attorney Mr. Tonner and complainant CV were present.

CV stated he thought he would be scheduled for a clinical evaluation.

**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 36**

Mr. Tonner did not believe this case warranted a clinical evaluation. The only allegations in this case were fraud and billing irregularities. The treatment was never at issue in this case. The chief investigator explained the panel wanted to verify whether or not the fillings were done. Mr. Tonner stated all parties were already in agreement that there were 6 teeth on the lower anterior that were prepped but the crowns were never seated.

CV stated he was charged for the crowns, even though they were never seated and he was charged for the prep on the upper teeth, which were never prepped. Mr. Tonner agreed with CV and stated he was owed \$3000 which Dr. Sundberg was willing to refund for those services that were not rendered.

Upon MOTION by Dr. Rosenthal, second by Dr. Morrison the Board voted to TABLE this matter until the October meeting pending proof of refund to the patient. MOTION PASSED UNANIMOUSLY.

**Agenda Item No. 94**                      **Case No. 290131**  
**Dr. Lee M. Weinstein**

Complainant IG was present and stated a panoramic radiograph was taken on his son without the use of a shield. IG contacted the Panoramic Corporation and was advised that shielding was necessary. He provided the Board with the paperwork he received from them. A panoramic radiograph emits radiation the equivalent of four and one half chest x-rays. He also had articles from the American College of Pediatrics and the American Academy of Pediatrics discussing the damaging effects of ionizing radiation in children. IG stated he has discussed this matter with Dr. Weinstein who informed him that he continues to take radiographs without shielding. IG did not believe this was the community standard of care. The equipment used was an analog which had been converted to digital, but the amount of radiation emitted would be the same as if it were still analog. Also, IG's son had problems with his thyroid and believed it should have been protected while the radiographs were being taken.

The Board informed IG a representative from the Arizona Radiation Regulatory Agency went to Dr. Weinstein's office and conducted an inspection of the equipment used. Based on his report, the panolipse was properly utilized and the radiation protection levels were all adequate. The use of a thyroid collar is not indicated with a panolipse as it can interfere with the quality of the film by blocking areas and making the film useless. The Board's chief investigator stated a shield must be used if analog film was used. If the newer digital film is being used, no shield is required.

IG asked the Board to carefully consider its decision at this time. It was not good practice for a dentist to expose children to ionizing radiation. The Board informed IG that a specialist from the Radiation Regulatory Agency has gone into Dr. Weinstein's office and actually tested the amount of radiation produced by the equipment. While the Board was sympathetic to IG's concerns, the report of the inspector is what would be taken into consideration.

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

**Agenda Item No. 109 – Members of the Public**

Mr. Tonner discussed his concerns with the procedures regarding continuing education extension requests. Once the extenuating circumstances are given, the request goes before a committee who decides whether it will recommend granting or denying the request. He believed there will be issues with due process in that the licensee is not notified about the committee meetings, nor are they notified of the Board meetings. Anytime the licensee's license is in jeopardy, he or she should be given notice and an opportunity to speak. With the clients Mr. Tonner represented today, for example, they were able to



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
**MINUTES OF THE BOARD MEETING**  
**August 7, 2009**  
**PAGE 38**

**Agenda Item No. 113 – Adjournment**

Dr. Rosenthal adjourned the meeting at 3:36 PM.

Minutes APPROVED at the October 9, 2009 Board Meeting

---

Elaine Hugunin, Executive Director