



Janet Napolitano, Governor

ARIZONA STATE BOARD OF DENTAL EXAMINERS

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Kevin B. Earle, MPH, Executive Director
Pamela J. Paschal, Deputy Director

MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING October 5 , 2007

Board Members Present:

Dr. Donald S. Altman, President
Ms. Sharon L. Zastrow, RDH, Vice President
Dr. Gregory A. Waite
Dr. Joyce A. Rosenthal
Dr. Jack R. Cole
Ms. Susan C. Stevens
Dr. Bruce A. Spigner
Dr. Roy G. Daniels
Mr. Jason D. Farnsworth

Board Members Absent:

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

Staff Present:

Mr. Kevin B. Earle, Executive Director
Ms. Pamela J. Paschal, Deputy Director
Ms. Mary DeLaat Williams, Assistant Attorney General
Ms. Nancy Chambers, Assistant Director
Ms. Sherrie Rowe, Licensure Manager
Ms. Colleen R. Amos, Investigations Supervisor
Ms. Terry Bialostosky, 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. Altman called the meeting to order at 8:02 a.m.

MEMBERS OF THE BOARD

• Gary M. Gradke, DDS • Sharon L. Zastrow, RDH • Jack R. Cole, PhD • Roy G. Daniels, DDS • Susan C. Stevens •
• Joyce A. Rosenthal, DDS • Gregory A. Waite, DDS • Bruce A. Spigner, DDS • Catherine L. Bevers, RDH • Mr. Jason D. Farnsworth •

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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

4. PRESIDENT'S REPORT – Dr. Don Altman

A. Appointment of Continuing Education Audit for Dentists Committee

Dr. Joyce Rosenthal was appointed to the Continuing Education Audit for Dentists Committee.

B. Report on AADA/AADE Annual Meeting held September 24-27, 2007 – Dr. Altman and Mr. Earle.

Dr. Altman provided the Board with written material from the AADA/AADE Annual Meeting.

C. Introduction of new Board Members – Gary Gradke, DDS and Jack Cole, PhD.

Dr. Altman welcomed and introduced Dr. Jack Cole as the Board's new public member. Dr. Gary Gradke was not present at the October meeting, but will be available for the December meeting.

D. Appointment of Dr. Gary Gradke to the Anesthesia Committee.

Dr. Gradke was appointed to the Anesthesia Committee.

5. EXECUTIVE DIRECTOR'S REPORT – Mr. Kevin B. Earle

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.)

Mr. Earle reported that the Governor's regulatory review council approved the Board's 5-year rule review including articles 5 through 10. Also, the Board's lobbyist contract has been awarded to the firm Goodman and Schwartz for fiscal year 2008.

Mr. Earle's interview with "Inscriptions" magazine went well and will appear in the October issue.

Mr. Earle attended the AZDA fall conference and met with the Board of Trustees. Most of the discussions revolved around the newly appointed legislative committee and its work.

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Mr. Earle spent an afternoon at ATSU meeting with Dr. Jack Dillenberg. He was very impressed with the dental school facilities.

On the legislative front, Mr. Earle reported that he attended meetings with the Health Policy Advisor and the Senate majority leader and their staff. He also met with Senator Carolyn Allen, who is the Chair of the Senate Health Committee, Senators Karen Johnson and Barbara Leff and Representative Bob Stump, who is the Chair of the House Health Committee.

The Board's Legislative Committee has held two meetings, the results of which will be heard later at this meeting.

The Board's new database should be ready by January 2008. There will be no computer access for a few days while the upgrade to the new system is made. The updated changes to the Board's website will follow shortly after the new database is installed.

Complaint team meetings have been continuing twice monthly as scheduled. The Board has been down by one staff member, but the remaining staff has done an awesome job in picking up the slack.

Final touches still need to be done to the annual report to the governor, but the report should be completed soon. Mr. Earle and Stuart Goodman have a meeting scheduled with Tracy Hannah, of the Governor's Office in order to go over any legislative issues the Board may approve at this meeting.

- B. For Information Only – American Dental Hygiene Association (ADHA) Draft Standards for Clinical Dental Hygiene Practice request for comments. The Dental Hygiene Committee will review the information November 9, 2007 and make recommendations to the Board December 7, 2007.

No action taken.

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

- i. Arizona Revised Statutes (A.R.S.) § 32-1232 Qualifications of applicant; application; fee, amendment to Subsection A to clarify requirement for DDS or DMD degree, repeal of Subsection B.

Upon MOTION by Dr. Cole, second by Dr. Rosenthal the Board voted to APPROVE the amendment to Subsection A and the repeal of Subsection B. MOTION PASSED UNANIMOUSLY.

- ii. A.R.S. § 32-1236 Dentist triennial licensure; forfeiture of license; reinstatement; license for each place of business; notice of change of address; penalties, amendments to clarify requirements for disabled and retired dentists
- iii. A.R.S. § 32-1287 Dental hygienist triennial licensure; forfeiture of license; reinstatement; notice of change of address; penalties, amendment to clarify requirements for disabled and retired dental hygienists.

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Upon MOTION by Ms. Zastrow, duly seconded the Board voted to APPROVE the amendments to A.R.S. §§ 32-1236 and 32-1287. MOTION PASSED UNANIMOUSLY.

iv. Arizona Dental Association Sunrise Application – Community Dental Health Coordinator

Mr. Rick Murray, Executive Director of the Arizona Dental Association and Dr. Anita Elliott, AzDA President, addressed the Board as to the benefits of having a Community Dental Health Coordinator (CDHC), specifically in the rural and tribal areas. They emphasized the importance of the CDHC's role in the community with the underserved population in response to the access to care issue.

Rio Salado Community College has helped to develop a curriculum that can be utilized for the CDHC training program. By having its own, separate training, the CDHC could be any person as opposed to a dental assistant or a hygienist and would not require licensure, but could require certification at some point.

The CDHC program has received 100% support from the tribal communities and their IHS centers. In their dealings with the mobile dental units, the main problem has been with inconsistency. Their objective is to have someone from within their community with the same cultural sensitivity and consistency of living in the community. This person would provide an initial exam and obtain diagnostic radiographs and forward their findings to a dentist, who would determine what treatment, if any, was required. If any treatment was necessary the dentist would provide that treatment to the patient. The CDHC would be the connection between the patient and the dentist.

Mr. Murray stated that support from the Dental Board would be vital in their success in promoting the CDHC program before the legislature. He asked the Board to approve the concept of the CDHC program.

The Board did not feel comfortable with approving the CDHC program at this point. Consideration would have to be given to the financial impact the program would have on the Board. Had the Board or a representative been included at the stakeholder's meetings, a more definite determination could have been made at this meeting. However, the Board felt that a projection of the financial impact must be determined before they could support the CDHC program.

Upon MOTION by Dr. Altman second by Ms. Zastrow the Board voted to direct staff to project the fiscal impact of the CDHC program on the Board and TABLE this item until the December meeting pending that information. MOTION PASSED UNANIMOUSLY.

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- v. A.R.S. § 32-1297 Accreditation of schools – repeal section.

According to staff, this law pertained to the accreditation of schools for denturists. However, a state agency does not have power over an accreditation body, which makes the law useless.

Upon MOTION by Ms. Zastrow, second by Dr. Altman the Board voted to APPROVE the repeal of this section. Dr. Waite OPPOSED. MOTION PASSED.

- D. Review, discussion and possible action regarding Board direction to add an agenda item to consider opening an investigation against Sun Dental Systems for alleged failure to release records.

Staff reminded the Board that it had previously directed staff to open an investigation against Sun Dental Systems for the same allegation. That case was opened and has been adjudicated. The confusion arose because the business name was changed, however it was the same entity.

Upon MOTION by Dr. Altman, second by Dr. Rosenthal the Board voted to VACATE its direction to open an investigation against Sun Dental Systems for alleged failure to release records. MOTION PASSED UNANIMOUSLY.

- E. Review discussion and possible action regarding referral of the following licensees to WREB as examiners:
- i. Dr. James S. Pashayan
 - ii. Dr. Howard H. Polk

Upon MOTION by Dr. Waite, second by Ms. Zastrow the Board voted to refer Drs. Pashayan and Polk to WREB as examiners. Dr. Altman RECUSED. MOTION PASSED.

- F. Review, discussion and possible action regarding Board's use of mediation.

Staff compiled statistics regarding the mediation process and provided them to the Board. The statistics illustrated the numerous problems and the expense involved in maintaining the use of mediation as a viable option in processing complaints. The problems included the Board's attempt in trying to enforce the mediation agreements, which would subsequently cause the case to be forwarded to an Investigative Interview. As a result, the statutorily imposed time guidelines were being compromised. As alternatives to the mediation process, the Board has its Triage process which has proven to be both effective and cost efficient, and the Arizona Dental Association also has its peer review process.

**The Board directed staff to place this item on the December agenda for repeal.

- G. Review, discussion and possible action regarding the history of the four blanket allegations in quality of care complaints.

The Board expressed concern with how the four blanket allegations were being perceived by the Respondents. It was felt that, even though a complainant did not

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make the four allegations, the dentist still must prove his innocence, or defend himself against the four blanket allegations, in addition to the patient complaint.

Staff explained that, unless a party is noticed ahead of time of the allegations that will be, or could possibly be addressed, those issues could not be discussed. For example, if an Investigative Interview panel or the Board found a problem with inadequate clinical exam during the course of the investigation, the case would have to be remanded in order to address that issue. In a case that involved inadequate crown and bridge, the only way to prove or disprove the case would be to start with how the dentist reached the decision to place the crown or bridge initially. That would include the medical history, clinical examination, diagnostic radiographs, an accurate diagnosis and a treatment plan based on that diagnosis. Those are the four blanket allegations.

No action taken.

**The Board directed staff to address this topic in the Board's newsletter.

- H. Review and discussion of the possibility of relocating the Board offices.

No action taken.

- I. For Information Only – Letter from the Food and Drug Administration regarding electronic tools available from their website.

No action taken.

- J. For Information Only – American Board of Dental Examiners, Inc. (ADEX) 2006 Annual Report.

No action taken.

- K. For Information Only – Attorney General Opinion regarding reporting requirements under the Child Abuse Reporting Statute, A.R.S. § 13-3620 and Arizona Medical Board Alert to Physicians.

No action taken.

- L. Lisa M. Murphy, RDH – Review, discussion and possible action including opening an investigation for alleged use of marijuana.

Ms. Murphy was present. Dr. Sucher reported he did not feel that Ms. Murphy met the requirements for dependency, but recommended that Ms. Murphy be placed in the Board's 2-year abuse monitoring program.

Ms. Murphy stated that she has been honest and forthright with the Board regarding her occasional use of marijuana. She felt it was unfair that, based on an untrue allegation by a co-worker, she must now appear before the Board and prove her integrity and ability to treat patients. While she felt that the 2-year monitoring program was a bit harsh considering her offense, she was willing to enter into an agreement with the Board in order to put the incident behind her. The Board clarified that it was not the allegation of Ms. Murphy's marijuana use that influenced Dr.

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Sucher's recommendation; it was due to her admitted use of marijuana that the recommendation was made.

Upon MOTION by Dr. Rosenthal, duly seconded the Board voted to OPEN AN INVESTIGATION for alleged use of marijuana. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Ms. Zastrow, second by Dr. Rosenthal the Board voted to ACCEPT Ms. Murphy's entry into the Board's 2-year monitoring program under the standard terms and conditions with a VIOLATION of A.R.S. §32-1201.20(b). MOTION PASSED UNANIMOUSLY.

- M. Regina C. Rios, RDH – Review, discussion and possible action including opening an investigation regarding disclosure of DUI.

Ms. Rios was present. Dr. Sucher reported that this was an isolated incident and no further treatment or evaluation was required.

No action taken.

- N. Dr. Cameron Skaugrud – Review, discussion and possible action including opening an investigation regarding alleged inappropriate use of controlled substances, abuse of prescribing privileges, obtaining drugs by fraud or misrepresentation and failure to properly maintain records.

Dr. Sucher reported that Dr. Skaugrud had a significant amount of problems with controlled substances which required an evaluation at Betty Ford. Betty Ford's evaluation revealed that Dr. Skaugrud was unsafe to practice and their recommendation was for continued treatment in their facility. He is currently in treatment for approximately 90 days.

The Board felt that Dr. Skaugrud should voluntarily surrender his dental license until treatment is successfully completed. Staff reported that the subject of voluntary surrender was broached with Dr. Skaugrud, but was met with some resistance. It was suggested that Dr. Sucher assist the Board in obtaining the voluntary surrender from him.

Upon MOTION by Ms. Zastrow, second by Dr. Waite the Board voted to OPEN AN INVESTIGATION regarding alleged inappropriate use of controlled substances, abuse of prescribing privileges, obtaining drugs by fraud or misrepresentation and failure to properly maintain records. MOTION PASSED UNANIMOUSLY.

- O. Review, discussion and possible action regarding attendance of Kevin Earle and Mary D. Williams at the Federation of Associations of Regulatory Boards Forum, January 25-27, 2008 in Santa Fe, NM.

Upon MOTION by Dr. Rosenthal, second by Dr. Altman the Board voted to APPROVE attendance as requested. MOTION PASSED UNANIMOUSLY.

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- P. Review, discussion and possible action regarding implementation of A.R.S. § 32-1263.01 – Option to issue a non-disciplinary order requiring continuing education.

**The Board directed staff to draft the Guidelines for Non-Disciplinary Continuing Education and present them at the December meeting.

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

- A. Status of Judicial Review Actions; Information only unless otherwise indicated.

- i. Dr. Terry J. Lee v. ASBDE (Case 240108)

Ms. Williams reported that the Board was successful in its oral argument at the Court of Appeals. However, Dr. Lee still has the option of appealing at the Supreme Court.

- B. Review, discussion and possible action regarding amendments to Arizona Revised Statutes §§ 25-517, 25-518, 33-964 child support enforcement.

Ms. Williams stated that this issue will be addressed at the December meeting.

Agenda Item No. 7 – Personnel Issues

Mr. Earle introduced two new staff members: Ms. Yvonne Barron, the Information Processing Specialist and Ms. Lia Tamburro in the position of Clerk Typist.

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

- A. John K. Wisthoff, RDH – Disclosure of DUI arrest on application for licensure.

Mr. Wisthoff was present. Dr. Sucher felt that this was an isolated incident and Mr. Wisthoff would require no further treatment or evaluation.

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

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

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

- A. Ms. Valta Ann Dawson – Certified in California
- B. Ms. Stephanie Denhalter – Certified in California
- C. Ms. Alba B. Moreno – Certified in California
- D. Ms. Tandra Ann Phillips – Certified in California
- E. Ms. Cynthia D. Valles – Certified in California

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

- A. Dr. Rodney F. Meyer – 1964 MN State Exam prior to a regional Exam, disclosure of Board complaint (no action taken by Minnesota).

Dr. Meyer was present.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to GRANT licensure. Dr. Daniels OPPOSED. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED.

- B. Dr. George D. Karsant – 1977 CA State Exam prior to a regional exam, disclosure/malpractice.

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

- C. Dr. Rodney J. Bridge – Disclosure regarding medication prescribed for treatment of back injury; Board approved exam

Dr. Bridge was present.

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

- D. Dr. Mounir Kharchaf – 1998/ 1999/ 2000 Michigan only exam administered by NERB U of TN transcript with degree of DDS Foreign Trained Faculty

Dr. Kharchaf was present. The Board asked Dr. Kharchaf to clarify why his transcript did not show any of his grades. Dr. Kharchaf explained that he was enrolled in a program specifically for an advanced DDS degree for foreign-trained dentists. Their grading method was a pass/fail type of system. The DDS Foreign Trained Faculty is stated as such because he was full-time faculty at the school and that status allowed him to enter the program. He did not actually attend a class; he was involved in a faculty practice in which he worked on patients in a clinical setting similar to a dental student. He received credit for each requirement that he successfully met.

Staff explained that the NERB exam was issued for Michigan only because Dr. Kharchaf was a foreign trained dentist with a specialty in prosthodontics. Once he completed the prosthodontics training, he became eligible to take the NERB exam. The Arizona Board exam was done the same way in the past. Once an applicant completed their specialty training, he or she became entitled to test for WREB. Upon successful completion of the WREB exam, a certificate would be issued which stated "Arizona only".

Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to GRANT licensure. Dr. Daniels OPPOSED. Ms. Stevens and Mr. Farnsworth were ABSENT. MOTION PASSED.

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- E. Dr. Donald S. Thorne – 1965 IL State Exam prior to a regional exam.

Dr. Thorne was present.

Upon MOTION by Dr. Waite, second by Dr. Altman the Board voted to GRANT licensure. Ms. Zastrow OPPOSED. Ms. Stevens and Mr. Farnsworth were ABSENT. MOTION PASSED.

- F. Dr. Alan R. Hunter – 1978 CA State Exam prior to a regional exam.

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

- G. Dr. Levon G. Kouyoumdjian – 2000 CA State Exam prior to a regional exam.

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

- H. Anna M. Sturza, RDH – 1992 WA State Exam prior to a regional exam.

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

- I. Sharalyn R. Mikolajczyk, RDH – 1974 WA State Exam prior to a regional exam.

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

- J. Bonnie J. Staley, RDH – 1973 WA State Exam prior to a regional exam.

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

- K. Dr. Timothy J. Runco – Board approved exam; disclosure/adverse action default on public education loan.

Dr. Runco was present.

In response to the Board, Dr. Runco stated that his public education loan has been paid. He had also spent 3 years in a random monitoring program which he has successfully completed.

Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to GRANT licensure. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 10.1 - Request for Action on Licensure by Credential – Examination Equivalency Report

- L. Christine G. Gray, RDH – 1978 LA State Dental Hygiene Exam

Ms. Gray was present.

Upon MOTION by Dr. Waite, second by Ms. Zastrow the Board voted to GRANT licensure. Dr. Rosenthal, Dr. Spigner, Ms. Zastrow and Dr. Altman were OPPOSED. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION FAILED.

Board discussion ensued. The PBIS report revealed that the exam Ms. Gray had taken in 1978 was not equivalent to the WREB exam. In order to adhere with the law, the way it presently reads, the Board could not justifiably grant licensure to Ms. Gray. Also, the Board did not wish to set a precedent by granting licensure based on the number of years the applicant had been practicing regardless of what the PBIS report revealed. This is an issue that can be taken to the legislature, but at the present time, the law is specific as to the requirements for licensure by credential.

Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to DENY licensure due to the lack of equivalency to the WREB exam. Dr. Daniels, Dr. Waite and Dr. Cole were OPPOSED. MOTION PASSED.

- M. Karyn A. Ford, RDH – 1983 IN State Dental Hygiene Exam

Upon MOTION by Dr. Waite, second by Dr. Altman the Board voted to DENY licensure by credential due to lack of equivalency to the WREB exam. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 10.2 – Request For Action on Licensure By Credential – Consent Agenda Clinical Examination taken less than five years ago

- N. Taneika N. Duhaney, RDH – 2007 North Carolina State Exam

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to DENY licensure by credential due to lack of equivalency to the WREB exam. MOTION PASSED UNANIMOUSLY.

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

Upon MOTION by Dr. Altman, second by Dr. Rosenthal 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. Christopher K. Wyszynski – 1988 NERB
- B. Dr. Jothi Nadarajah – 1990 NERB
- C. Dr. Joseph A. D'Ambrosio – 1994 NERB
- D. Dr. Ron S. Katyal – 2000 NERB
- E. Dr. Nitya Balan – 2002 NERB
- F. Dr. Cynthia P. McCord – 2004/2005 NERB

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G. Dr. Jeffrey J. Guelinas – 2006/2007 NERB
H. Dr. Sumi Shrestha – 2006/2007 NERB
I. Dr. Felipe Salinas – 2006/2007 NERB
J. Dr. William G. Halliday, III – 2006/2007 NERB
K. Dr. Robert J. Waite, Jr. – 1974 CRDTS
L. Dr. Viray L. Patel – 2005 CRDTS
M. Dr. Joy M. Collier – 2002 SRТА
N. Dr. Ryan J. Robinson – 2003 SRТА
O. Dr. Robert T. Coffey – 1986 WREB
P. Susan A. Krischler, RDH – 1990 NERB
Q. Susan J. Hutson, RDH – 1992 NERB
R. Lisa K. Simpson, RDH – 1994/1995 NERB
S. Jill E. Nielsen, RDH – 1998 NERB
T. Jennifer L. Bereckis, RDH – 2002 NERB
U. Kristin M. Dudek, RDH – 2006 NERB
V. Candi S. Thorpe, RDH – 2007 NERB
W. Shannon J. Lewis, RDH – 2007 NERB
X. Lynn M. Dalton, RDH – 1979 CRDTS
Y. Shelly A. Nelson, RDH – 1997 CRDTS
Z. Holly A. Ullrich, RDH – 2002 CRDTS
AA. Judith A. Simpson, RDH – 1999 WREB
BB. Deneen R. Coon, RDH – 1986 CA
CC. Marianne K. Gibson, RDH – 1988 CA
DD. Marcia L. DaBreo, RDH – 2000 CA

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

- A. Dr. Burke D. Frei – Review, discussion and possible action regarding DUI disclosure. Interim order at the August meeting; tabled pending evaluation report from Betty Ford.

Dr. Frei was present.

Dr. Sucher reported that Dr. Frei had a DUI 1 year prior to receiving the second one in March of 2007. Dr. Sucher felt that because there were two DUI's and they were relatively close to each other, Dr. Frei should be evaluated at Betty Ford. That evaluation concluded that essentially, both DUI's were isolated incidents. Dr. Frei did not appear to be alcohol dependent; he just appeared to exercise bad judgment. Dr. Sucher recommended that Dr. Frei be placed in the Board's 2-year monitoring program.

Dr. Frei stated that the first incident happened while he was still a student. Upon filing his application for licensure he had to reveal the DUI. Since the second incident, Dr. Frei has abstained from alcohol completely.

Upon MOTION by Ms. Zastrow duly seconded the Board voted to GRANT renewal subject to entrance into the Board's 2-year monitoring program with a VIOLATION of A.R.S. §32-1201.20(n). Ms. Stevens and Mr. Farnsworth were ABSENT. MOTION PASSED UNANIMOUSLY.

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- B. Dr. Robert J. Sachs – Review, discussion and possible action regarding disclosure of OWVI (operating a vehicle while visibly impaired) conviction. Tabled from the August meeting pending Dr. Sucher's review of the report.

Staff reported that Dr. Sachs had reported the conviction to the Michigan Board and they took no action on his license. Dr. Sucher recommended that Dr. Sachs be evaluated by him should he decide to practice in Arizona.

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

- C. Allison R. Tollestrup, RDH – Review, discussion and possible action regarding DUI disclosure.

Ms. Tollestrup was present. She stated that her case was dismissed for lack of evidence. Dr. Sucher reported that she passed her field sobriety test.

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

- D. Dr. James C. Snider – Review, discussion and possible action regarding DUI disclosure.

Dr. Snider was present and stated that had he known it was a requirement that he see Dr. Sucher for an evaluation, he would have done so. He was under the impression that it was an option. Because the court had ordered him to be evaluated elsewhere, he assumed that would suffice for the Board as well.

Upon MOTION by Dr. Rosenthal, second by Dr. Daniels the Board voted to TABLE this matter until the December meeting pending an evaluation by Dr. Sucher. MOTION PASSED UNANIMOUSLY.

- E. Gina L. Southwick, RDH – Review, discussion and possible action regarding conviction of possession of drug paraphernalia and possession of a forgery device.

Ms. Southwick was present. In response to questions by the Board, Ms. Southwick reported that her insurance had lapsed, but she was still on medication at the time. In order to avoid having to go without her medication, she forged the amount of refills she was allowed to receive with that prescription. The drug paraphernalia and the forgery device was the actual prescription, so it was one incident which resulted in two separate charges.

Upon MOTION by Ms. Zastrow, second by Dr. Altman the Board voted to TABLE this matter until the December meeting pending an evaluation by Dr. Sucher. Dr. Waite OPPOSED. MOTION PASSED.

- F. Dr. Gregory T. Pifer – Review, discussion and possible action regarding DUI disclosure.

Dr. Pifer was present. Dr. Sucher reported that he met with Dr. Pifer and felt that this was an isolated incident and no further monitoring or treatment was necessary.

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The Board expressed concern with the time frame in which Dr. Pifer reported the disclosure and reminded him of the 10-day requirement for reporting.

Upon MOTION by Dr. Waite, second by Dr. Daniels the Board voted to GRANT renewal. Dr. Altman OPPOSED. MOTION PASSED.

- G. Dr. Jerald D. Wienke – Review, discussion and possible action regarding DUI disclosure.

Dr. Wienke was present and stated that he was not aware he was required to have an evaluation by Dr. Sucher, but he was willing to do so at this time.

Upon MOTION by Ms. Zastrow, second by Dr. Rosenthal the Board voted to TABLE this matter until the December meeting pending an evaluation by Dr. Sucher. MOTION PASSED UNANIMOUSLY.

- H. Dr. Robert B. Smith – Review, discussion and possible action regarding disciplinary action in another state and not responding to the Board's request for information.

The Board did not have enough information to reach a decision regarding the previous disciplinary action involving Dr. Smith. Staff reported that a request for additional information had been sent to Dr. Smith, but he did not respond.

Upon MOTION by Dr. Rosenthal, second by Dr. Daniels the Board voted to TABLE this matter until the December meeting pending a response to an additional request for information on the disciplinary action. MOTION PASSED UNANIMOUSLY.

- I. Vacant

- J. Dr. Douglas M. Barr – Review, discussion and possible action regarding disciplinary action in another state.

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

- K. Dr. Steven D.R. Vergara – Review, discussion and possible action regarding conspiracy of federal tax case disclosure.

Dr. Vergara was present. The Board did not understand why Dr. Vergara would not supply any of the information regarding his tax case. In response to the Board Dr. Vergara stated that his case was sealed and he was ordered not to disclose any of the information because there were multiple co-defendants involved. He had pled guilty to 1 charge. The Board was not comfortable with making a decision based on the limited information before them.

Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to TABLE this matter pending additional information from Dr. Vergara's attorney. Dr. Daniels RECUSED. MOTION PASSED.

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- L. Dr. Mark A. Engel – Review, discussion and possible action regarding DUI disclosure.

Dr. Sucher reported that he evaluated Dr. Engel and felt that this was an isolated incident which required no further monitoring or treatment..

Upon MOTION by Dr. Altman, second by Dr. Rosenthal the Board voted to GRANT renewal. MOTION PASSED UNANIMOUSLY.

- M. Dr. Cameron R.C. Smith – Review, discussion and possible action regarding DUI disclosure.

Dr. Sucher reported that from 1998 until 2003, Dr. Smith was a participant in the Board's MATP. He successfully completed the program and there were no significant issues until the DUI in 2005. Dr. Smith has had several medical problems including several surgeries. Dr. Sucher felt that the medical issues may render Dr. Smith unsafe to practice dentistry and the DUI was possibly a relapse. Dr. Sucher recommended that Dr. Smith be evaluated to determine what substance he may be abusing, whether he is medically capable of treating patients, and if he should be placed back into the MATP.

Upon MOTION by Ms. Zastrow, second by Dr. Waite the Board voted to issue a review request which entailed entrance into a Board-approved facility for a comprehensive evaluation, including medical, prior to the December Board meeting unless documentation is received stating that Dr. Smith's health prevents entry. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13 – Health and Well Being Committee

A. UPDATE ON MATP PARTICIPANTS

Dr. Sucher reported that all participants appeared to be in compliance at this time.

Agenda Item No. 14 – Other Committee Reports

A. Legislative Committee – Dr. Daniels

- i. Review, discussion and possible action regarding the Legislative Committee recommendations for legislation:

Upon MOTION by Dr. Cole, second by Dr. Waite the Board voted to ACCEPT the following Legislative Committee recommendations as outlined in Agenda Items 14.A.i.a through 14.A.i.l. MOTION PASSED UNANIMOUSLY.

- a. A.R.S. 32-1201 Definitions – amendments to definition of "unprofessional conduct" to delete "repeated" from subsection (20)(n) and inclusion of new subsections for failing to report unprofessional conduct, impairment or incompetence of another licensee or certificate holder and definition of unprofessional conduct for business entities.
- b. A.R.S. 32-1206 Compensation of board – increase in per diem amount

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- c. A.R.S. 32-1207 Powers and duties – amendment to remove Board's duty to determine applicant's eligibility for examination.
 - d. A.R.S. 32-1213 Business entities; registration; renewal; civil penalty; exception – amendments to existing statutes to broaden registration requirements and Board's regulation
 - e. A.R.S. 32-1261 Practicing without license; classification – clarification of existing statutes to exempt registered business entities.
 - f. A.R.S. 32-1263 Grounds for disciplinary action; definition – addition to existing statute of possible disciplinary sanctions against business entities.
 - g. A.R.S. 32-1264 Maintenance of records – amendment to require request for treatment records to be in writing, prescribing a time frame to respond to request for records and giving the Board authority to prescribe, by rule, a reasonable fee for copies.
 - h. A.R.S. 32-1295 Board of Dental Examiners; additional powers and duties – amendment to clarify Board's duty regarding certification of denturists.
 - i. A.R.S. 32-1296 Qualification of applicants – amendment to clarify certification requirements for denturists.
 - j. A.R.S. 32-1297.01 – Application for certification
 - k. A.R.S. 32-1297.02 – Repeal of statute
 - l. New statute Financial Responsibilities – new statute to require licensees to have malpractice insurance or surety bond coverage.
- ii. Review, discussion and possible action regarding the Legislative Committee recommendation to have a task force appointed to pursue legislation for the regulation of mobile dentistry units for the 2009 Legislative Session.

Upon MOTION by Dr. Altman, second by Dr. Waite the Board voted to APPOINT a Task Force. MOTION PASSED UNANIMOUSLY.

ACTION ON CASES – Morning Agenda
From Investigative or Informal Interview

Agenda Item No. 19 **Case No. 270098**
Dr. Rosalyn D. Keith

Mr. Tonner was present on behalf of Dr. Keith. In this case, Dr. Keith placed 8 crowns and 6 veneers. The patient was not happy with the work and chose to go to another dentist for completion. The subsequent treating dentist found a problem with tooth #14, only. Mr. Tonner felt that the work done on tooth #14 should not reflect poorly on Dr. Keith because a root canal was done previously by an endodontist, yet, more than a year later, distal decay was found. Mr. Tonner offered to voluntarily refund the \$570 the patient paid for tooth #14, but felt that the remaining recommendations by the Investigative Interview panel were too severe.

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Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to ACCEPT the Findings of Fact with and amendment to #5, ACCEPT the Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.20(n). Dr. Spigner RECUSED. Dr. Gradke, Mr. Farnsworth, Ms. Stevens and Ms. Bevers were ABSENT. MOTION PASSED.

Finding of Fact #5 AMENDED to read:

Dr. Keith prepared crown #14 on 4/13/06 with veneers #6-11. PA from Dr. Bentley 08/15/06 of #14 crown shows mesial underhang and distal lucency.

**The Board requested priors – staff reported 14.

Upon MOTION by Dr. Daniels, second by Dr. Rosenthal the Board voted to FORWARD this complaint to a formal hearing for possible revocation of Dr. Keith's license based on prior complaint history. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 21 **Case No. 270205**
Dr. Anh N. Tran

Dr. Tran and his attorney Mr. Tonner were present. Dr. Tran performed a root canal on the patient over a period of 3 office visits. At the first visit, the doctor attempted to place a dental dam, but was unable to due to buccal decay and the gag reflex of the patient. At the second visit, placement of the dental dam was attempted, but still could not be placed. At the final visit, the treatment was done without trying to place a dental dam. It was at the third office visit that the patient claimed the burn to his lower lip occurred. The patient returned to the office the following day and was treated by Dr. Salwin. Dr. Salwin recommended that the patient use a salve on the area of the burn. The patient was not satisfied with Dr. Salwin's recommendation and went to his primary care physician who gave him a prescribed medication. The burn was healed in 2 to 3 weeks without any incident.

Since the incident occurred, the patient has been leaving flyers at Dr. Tran's office and on the windshields of potential patients. He has also filed a civil complaint against Dr. Tran's employer, Glendale Dental Group. Mr. Tonner stated that the Investigative Interview (I.I.) panel had some issues that were not related to Dr. Tran, such as the billing for a periodic exam that was not completed. They recommended a violation for inadequate endodontics for not using a rubber dam. In retrospect, Dr. Tran felt that he did all that he could do for the patient, but now understood that he should have referred the patient to a specialist. Mr. Tonner asked the Board to consider dismissal of this case.

The Board questioned Dr. Tran's reasoning behind leaving it up to the patient as to whether a dental dam would be used or not. It was felt that Dr. Tran's professional decision should take precedent. Other Board members felt that even if the patient had been referred to a specialist, this type of incident could still occur. There are some patients who have a severe gag reflex and are unable to tolerate the use of a rubber dam.

Discussion ensued among the Board as to whether the incident in this case rose to the level of a violation. Some Board members felt that the dentist allowing the patient to choose to forego the use of a rubber dam which resulted in the patient being burned was enough cause for a violation. The patient's choice deviated from the standard of care and a referral should have been made. Others felt that this was simply a case of poor judgment on Dr. Tran's part.

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Upon MOTION by Dr. Spigner, second by Ms. Zastrow the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Rosenthal and Dr. Altman OPPOSED. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED.

Agenda Item No. 25 **Case No. 270226**
Dr. Leonard E. Beare, Jr.

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

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

Agenda Item No. 17 **Case No. 270148**
Dr. John Alan Garza

Dr. Garza and complainant LK were present.

Ms. LK stated that Dr. Garza was unethical and exhibited unprofessional conduct in his dealings with her. He never gave her an estimate, never presented her with a treatment plan and never took any radiographs in order to make a diagnosis regarding the replacement of her upper veneers. LK alleged that Dr. Garza made alterations to her treatment records and to her digital photos. She also claimed that she never gave Dr. Garza permission to place her pictures in a photo book. Due to Dr. Garza's inability to provide quality work, LK ended up having 25% of her veneers replaced initially, 50% have unsatisfactory margins, 1 veneer was defective and 1 was chipped.

Dr. Garza stated that he is unable to alter any of his patient records. He uses the Dentrix system, which makes it impossible to alter the records. Regarding LK's veneers, Dr. Garza stated that both he and LK knew that the color was wrong. She was getting the lower veneers done by another dentist. Because of this, she chose the color of her veneers for the upper out of a photo book with the intent of matching her lowers to the uppers. However, Dr. Garza only places 2 veneers at a time. LK would have had the opportunity when the first 2 veneers were placed to say she did not like them. Dr. Garza felt that the veneers were done correctly. The subsequent treating dentist stated that he replaced the veneers only because the color did not match; the margins and the contact were good. The Investigative Interview (I.I.) panel found radiolucency on 1 of the veneers out of the 8 that were done. Dr. Garza maintained that what the panel actually saw was thinning due to a void in the material, not radiolucency.

The Board asked Dr. Garza why he did not perform a complete examination on LK, including a full-mouth series of radiographs of the uppers. Dr. Garza responded that the patient presented with the intention of getting veneers for the lowers only. He did not perform an examination of the uppers because it was understood between the two of them that the uppers would be done at a future visit. Dr. Garza felt that his only deficiency in this case was that he did not document the periodontal probing. He would not have taken radiographs of the uppers nor would he have tried to match their shade when the patient had already informed him that they were going to be re-done.

LK stated that Dr. Garza never discussed her uppers with her at all. The work she had done on the uppers was fairly new and had been expensive. She had no intention of replacing that work with Cerec veneers. In response to the Board, LK stated that she did not recall seeing the first 2 veneers when they were placed. She went to Dr. Garza in response to an advertisement stating that the veneers could be done in one visit. She should have discussed the validity of the ad with her dentist of record, especially so since she was happy with the veneers he had placed, but she did not think to discuss it

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with him until after Dr. Garza had already placed the lower veneers. LK stated that Dr. Garza was aware that she was unhappy because she told him that she was not pleased.

The Board expressed concern with the amount of work that was done without a complete examination of the patient.

Upon MOTION by Dr. Rosenthal, second by Ms. Zastrow the Board voted to ACCEPT the Findings of Fact and Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.20(n). Dr. Daniels OPPOSED. Dr. Cole, Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED.

**The Board requested priors – staff reported none.

Upon MOTION by Dr. Rosenthal, second by Ms. Zastrow the Board voted to impose CONTINUING EDUCATION of 6 hours in Diagnosis and Treatment Planning and 4 hours in Risk Management with 6 months time to complete. Dr. Daniels and Dr. Waite OPPOSED. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED.

Agenda Item No. 23 **Case No. 260368**
Dr. Carter A. Grampp

Ms. McLellan, on behalf of Dr. Grampp and complainant MH were present.

Ms. McLellan stated that this particular case was one of two cases Dr. Grampp had regarding endodontic treatment. She was hoping to combine the two cases and enter into a consent agreement with the Board. Ms. McLellan had previously submitted radiographs of subsequent endodontic procedures Dr. Grampp has done since this particular case in order to show his improvement. However, the Investigative Interview (I.I.) panel recommended that Dr. Grampp attend a hands-on endodontic course. They also recommended that cases be opened against Dr. Bhatt, who performed half of the treatment on MH and Smiles of Beauty regarding the restitution to the patient. Smiles of Beauty received payment for the root canal...not Dr. Grampp. Ms. McLellan was in agreement with the I.I. panel's recommendation.

Upon MOTION by Dr. Altman, 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. §32-1201.20(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 5.

Upon MOTION by Dr. Altman, second by Dr. Waite the Board voted to impose CONTINUING EDUCATION of 12 hours in Hands-on Endodontics with 6 months time to complete. MOTION PASSED UNANIMOUSLY.

**The Board directed staff to place Dr. Mirinal Bhatt on the December agenda to open an investigation regarding alleged inadequate endodontics and over diagnosis.

**The Board directed staff to place Smiles of Beauty on the December agenda to open an investigation regarding alleged irregular billing (received a fee for services not completed) and failure to fully comply with a subpoena.

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Agenda Item No. 24 **Case No. 270257**
Dr. David N. Sternsher

Dr. Sternsher was present.

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

Agenda Item No. 18 **Case No. 260331**
Dr. Nicholas J. Meyer

Mr. Cummings, on behalf of Dr. Meyer and complainant KI were present.

KI thanked the Board for the time and effort they put into her case. Her basic hope was for Dr. Meyer to improve his practice. She stated that Mr. Cummings presented to her a check on behalf of Dr. Meyer in the amount of \$17,775 at the October 5, 2007 meeting.

Mr. Cummings stated that this case was difficult and the patient's illness added to the complexity of the case. A number of KI's restorations had failed. Dr. Meyer wanted to do the right thing by KI. He actually gave Mr. Cummings the check approximately 2 weeks prior to the Board meeting, but Mr. Cummings was reluctant to mail it to KI and held it in order to present it to her personally. The amount represents the total amount Dr. Meyer believes KI paid him for the work. Mr. Cummings further stated that Dr. Meyer has been trying to make improvements in the quality of his work and, at this point, agreed with the recommendations of the Investigative Interview panel.

Upon MOTION by Dr. Daniels, 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. §32-1201.20(n). Ms. Stevens and Mr. Farnsworth were ABSENT. MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 4.

Upon MOTION by Dr. Daniels, second by Dr. Waite the Board voted to impose CENSURE; RESTITUTION to the patient in the amount of \$17,775, which has already been paid; CONTINUING EDUCATION of 4 hours in Oral Diagnosis, 6 hours in hands-on Crown and Bridge, 4 hours in Oral Medicine, 4 hours in Treatment Planning and 4 hours in Risk Management; and the successful completion of the JURISPRUDENCE EXAM all with 1 year time to complete. Ms. Stevens and Mr. Farnsworth were ABSENT. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 15 **Case No. 270001**
Dr. Jon Gregory Sabol

Complainant HA and Dr. Jack Buhrow, on behalf of Dr. Sabol were present.

HA stated that she has received a check in the amount of \$950, but she did not cash it because a stop payment had been placed on the first check she received from Dr. Sabol. She would be satisfied with the amount, if the check proved to be valid. Apparently, Dr. Sabol was not authorized to accept her as a patient. A discrepancy arose between Dr. Buhrow and Dr. Sabol regarding her treatment and HA ended up paying for an appliance that she has never received. Dr. Sabol was willing to reimburse her originally, which is when she received the first check. Dr. Buhrow did not agree that she should be reimbursed and placed a stop payment on the check.

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In response to the Board, Dr. Buhrow stated that he would not place a stop payment on the current check.

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

Agenda Item No. 16 **Case No. 270158**
Dr. Jared Michael Pope

Complainant CD was present.

Upon MOTION by Dr. Rosenthal, 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. §32-1201.20(n). Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose RESTITUTION of \$2388.75 to the patient and \$705.50 to Guardian Insurance and CONTINUING EDUCATION of 6 hours in Diagnosis and Treatment Planning, 6 hours in Crown and Bridge and 4 hours in Risk Management with 6 months time to complete. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED.

Agenda Item No. 20 **Case No. 270209**
Dr. Greg W. Brown

The issue in this case was whether or not Dr. Brown over-diagnosed the patient. The patient's son-in-law had issues with the diagnosis of periodontal treatment Dr. Brown made and took the patient to his dentist. The subsequent treating dentist diagnosed no periodontal treatment needed.

Upon MOTION by Dr. Altman, 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. §32-1201.20(n). Dr. Spigner OPPOSED. MOTION PASSED.

Discussion ensued among the Board as to the validity of the subsequent treating dentist's diagnosis. The patient in this complaint had been treated by Dr. Brown consecutively for 13 years. Dr. Brown had made periodontal diagnosis and provided periodontal treatment to the patient in 1993, 1996 and again in 2007. This did not appear to be excessive or evidence of over-treatment. It appeared that there may have been an issue between the patient's son-in-law and Dr. Brown.

Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to RECONSIDER the Findings of Fact and Conclusions of Law. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Dr. Daniels the Board voted to DISMISS for Lack of Supporting Evidence. Ms. Zastrow OPPOSED. MOTION PASSED.

Agenda Item No. 22 **Case No. 270198**
Thunderbird Dental Group

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

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contract regarding the purchase stated that the buyer would retain the treatment records. After the 2005 case was adjudicated, the patient requested a copy of his records from Mr. Neiswender. Mr. Neiswender referred the patient to Dr. Castle. Because the patient never received his records, he filed the 2006 case against Mr. Neiswender. Mr. Neiswender has continuously responded to both Board subpoenas and to the patient that he has not been in possession of the records.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to GRANT the Petition to Rehear and to rehear immediately. Dr. Daniels OPPOSED. Mr. Farnsworth and Ms. Stevens were ABSENT. MOTION PASSED.

The Board stated that the attorney for the complainant had submitted a letter on two separate occasions, which stated that the records were forwarded from Dr. McLaughlin to Dr. Castle. Dr. Castle stated that the records were sent to Mr. Neiswender; however there was no evidence to support this information. The information received indicated that Dr. McLaughlin did forward the records to Dr. Castle and Mr. Neiswender never had access to them after the practice had been sold.

Upon MOTION by Dr. Waite, second by Dr. Rosenthal the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Daniels OPPOSED. Dr. Cole, Mr. Farnsworth and Ms. Stevens were ABSENT. 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. 30	Case No. 270120	Dr. Louis J. Casillas
Agenda Item No. 31	Case No. 270145	Dr. Dennis K. Streich
Agenda Item No. 33	Case No. 270129	Dr. Jenny V. Wang
Agenda Item No. 34	Case No. 260274	Dr. Nicholas B. LaFeber
Agenda Item No. 35	Case No. 270068	Dr. Jack I. Lipton
Agenda Item No. 37	Case No. 270020	Dr. Sepideh Malekpour
Agenda Item No. 38	Case No. 270119	Dr. Brent R. Boyse
Agenda Item No. 39	Case No. 270070	Dr. Clayton Wainwright
Agenda Item No. 40	Case No. 270142	Dr. Thomas R. French
Agenda Item No. 41	Case No. 270201	Dr. Peter J. Lee

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

Cases DISMISSED:

Agenda Item No. 32	Case No. 270196	Dr. Enrique G. Wismann
Agenda Item No. 36	Case No. 270147	Dr. Richard J. Croft

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

Agenda Item No. 42	Case No. 270168	Dr. Champa R. Chatterjee
Agenda Item No. 43	Case No. 270002	Dr. Michael Brian Muscato
Agenda Item No. 44	Case No. 270191	Dr. Leonard Chiang

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

Case issued a LETTER OF CONCERN:

Agenda Item No. 45	Case No. 270164	Dr. Ralph L. Juriansz Re: Failure to properly maintain and ensure that all records are complete and include a clinical exam.
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**Cases pulled that are Recommended for Issuance of a Letter of Concern – Consent Agenda
– From Triage**

Agenda Item No. 46	Case No. 270172	Dr. Phillip L. Cooke
Agenda Item No. 47	Case No. 270173	Dr. Jean M. Madden
Agenda Item No. 48	Case No. 270195	Dr. Kenneth J. Marz

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

Agenda Item No. 49	Case No. 270176	Dr. Paul F. Marischen
Agenda Item No. 52	Case No. 270171	Dr. Michael Wade Hudson
Agenda Item No. 54	Case No. 270187	Dr. Chad Ryan Haak
Agenda Item No. 55	Case No. 270188	Dr. Jaffar M. Elahi

Upon MOTION by Ms. Zastrow, second by Dr. Altman 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. 270175	Dr. Howard L. Henry
Agenda Item No. 51	Case No. 270160	Dr. Michael J. Hyneman
Agenda Item No. 53	Case No. 270135	Dr. Robert D. Sundberg
Agenda Item No. 56	Case No. 270229	Dr. Kenneth Joseph Frick
Agenda Item No. 57	Case No. 270266	Dr. Navid Zamani

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

Upon MOTION by Ms. Zastrow, second by Dr. Altman the Board voted to TERMINATE for Lack of Supporting Evidence the following case on the consent agenda. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 57A	Case No. 270154	Dr. Richard George Strub
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Cases pulled that are Recommended for Termination/Lack of Jurisdiction – Consent Agenda

Agenda Item No. 58 Case No. T-07-038 Dr. Adrian E. Pulkrabek

Upon MOTION by Ms. Zastrow, second by Dr. Altman 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. T-07-040	Thunderbird Dental
Agenda Item No. 60	Case No. T-07-043	Dr. Navid Zamani
Agenda Item No. 61	Case No. T-07-047	Dr. Sameera Solanki
Agenda Item No. 62	Case No. 270256	Dr. Christopher H.P. Chow
Agenda Item No. 63	Case No. T-07-049	Dr. Thomas J. Cipriano
Agenda Item No. 64	Case No. T-07-050	Dr. Jayganesh M. Bhatt
Agenda Item No. 65	Case No. 270240	Dr. Charles B. Jakobsen

Agenda Item No. 67 – Ratification of New Dental and Dental Hygiene Licenses – Consent Agenda

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

	Korinne M. Grieger, DDS D 7347, issued: 08/02/2007
Marisela M. Bedoya, DMD D 7339, issued: 07/31/2007	Benjamin D. Karren, DMD D 7348, issued: 08/02/2007
Roy R. Bratton, DDS D 7340, issued: 08/01/2007	Prabhsharan Kaur Sandhu, DDS D 7349, issued: 08/07/2007
Neelama P. Muthanna, DDS D 7341, issued: 08/01/2007	Joseph D. Tenney, DDS D 7350, issued: 08/07/2007
Kellie A. Harris, DDS D 7342, issued: 08/01/2007	Raymond E. Iannielli, DDS D 7372, issued: 08/08/2007
Uyen Nguyen, DMD D 7343, issued: 08/01/2007	Josahua C. Tran, DDS D 7373, issued: 08/08/2007
Spencer D. Weed, DDS D 7344, issued: 08/01/2007	Jonathan A. Bolesta, DMD D 7387, issued: 08/09/2007
Virna L. Villas, DDS D 7345, issued: 08/01/2007	Mouhammed M. Abdulrazzak, DDS D 7388, issued: 08/13/2007
Tinna T. Lee, DDS D 7346, issued: 08/02/2007	Ashlee L. Bower, DMD D 7389, issued: 08/14/2007

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Aaron J. Rinta, DMD
D 7390, issued: 08/14/2007

Gabriel I. McCormick, DMD
D 7391, issued: 08/14/2007

Kristen J. Morgan, DDS
D 7392, issued: 08/14/2007

Martin J. Sobieraj, DMD
D 7393, issued: 08/16/2007

Anne F. Jernberg, DMD
D 7394, issued: 08/21/2007

Ryan W. Donley, DMD
D 7395, issued: 08/29/2007

Adam T. Clark, DDS
D 7396, issued: 09/05/2007

Total Dental: 32

Shawn E. Wild, RDH
H 6288, issued: 08/01/2007

Shelley Ann DeMark, RDH
H 6289, issued: 08/01/2007

Crystal G. Govitz, RDH
H 6290, issued: 08/02/2007

Lacy Jae Davenport, RDH
H 6308, issued: 08/07/2007

Amanda D. Murphy, RDH
H 6309, issued: 08/07/2007

Heather K. Estrada, RDH
H 6310, issued: 08/07/2007

Jennifer Erin Williams, RDH
H 6311, issued: 08/07/2007

Richard A. Arriaga, RDH
H 6312, issued: 08/07/2007

David J. Ellingson, DDS
D 7397, issued: 09/20/2007

Elisa S. Sin, DMD
D 7398, issued: 09/25/2007

Craig A. Young, DMD
D 7399, issued: 09/25/2007

Aminollah T. Bagheri, DDS
D 7400, issued: 09/25/2007

David S. Ung, DDS
D 7401, issued: 09/25/2007

Andrew M. Owe, DDS
D 7402, issued: 09/25/2007

Rewadee D. Meevasin, DMD
D 7403, issued: 10/01/2007

Christopher S. Brendemuhl, DMD
D 7404, issued: 10/01/2007

Michaela S. Parks, RDH
H 6313, issued: 08/09/2007

Josephine A. Espinoza, RDH
H 6314, issued: 08/16/2007

Cara B. Sheehy, RDH
H 6315, issued: 08/21/2007

Jessica Y. Garcia, RDH
H 6316, issued: 08/27/2007

Sue Ann Fresquez, RDH
H 6317, issued: 08/29/2007

Kristen Cosette Lund, RDH
H 6318, issued: 09/18/2007

Robin Lee Obar, RDH
H 6319, issued: 09/20/2007

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Agenda Item No. 37 **Case No. 270020**
Dr. Sepideh Malekpour

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

**Complainant RG had signed in, but was not present when this case was called.

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

Agenda Item No. 31 **Case No. 270145**
Dr. Dennis K. Streich

Mr. Cummings, on behalf of Dr. Streich and complainant MT were present.

MT stated that her ordeal began in 2006, when she went to Dr. Streich for removal of a temporary crown. The assistant could not remove the crown and the tooth subsequently cracked. MS's quality of life changed drastically from that point on. She has had difficulty speaking clearly and took the past semester off from teaching as a result. She has had 4 surgeries and several miss-haps, including a flipper being made with the tooth in the wrong place and an adverse reaction to medication. After the latest bone graft, MT is hoping to get the crown sometime in 2008; two years after her ordeal began.

Mr. Cummings stated that MT previously had a large amount of restorations on tooth #10. The temporary crown was placed and during the removal of the temporary crown the assistant took off a portion of the natural tooth. This was one of the risks involved when the tooth had endured that much work. The Investigative Interview (I.I.) panel recommended dismissal and Mr. Cummings asked the Board to consider accepting the I.I. panel's recommendation.

The Board asked if a new crown was made after the root canal was done on the cracked tooth. MT responded that the crown that would have been placed after the temporary was removed was the same crown used after the root canal was done. The Board stated that the existing crown could have been used if there was a custom post made, but there was no custom post made.

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

Finding of Fact #4 AMENDED to read:

Treatment plan for #10 full porcelain crown, possible RCT treatment on page 23 of narrative. After the fracture, #10 was not re-impacted. Attempted to retro-fit the original crown.

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

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to find a VIOLATION of A.R.S. §32-1201.20(n). MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose RESTITUTION of \$788 to the patient and \$477.50 to Delta Dental and CONTINUING EDUCATION of 6 hours in Crown and Bridge with 6 months time to complete. Mr. Farnsworth ABSTAINED. MOTION PASSED.

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Agenda Item No. 35 **Case No. 270068**
Dr. Jack I. Lipton

Mr. Tonner, on behalf of Dr. Lipton and complainant ET were present.

ET felt that Dr. Lipton had done an inferior job when placing her temporary crowns. He had a hard time getting them on and ended up grinding her teeth down in order to accommodate the temporaries. As of this date, she only has the temporary crowns.

Mr. Tonner stated that, essentially, Dr. Lipton did the preps for the 3 crowns. ET did not like the work he did and called to cancel any subsequent treatment with Dr. Lipton.

In response to the Board, ET stated that she pre-paid \$2144 for the treatment, but only received \$417 worth of work. Mr. Tonner stated that Dr. Lipton offered ET \$832.50 for the crowns, but ET refused the refund. They would be willing to refund that same amount to ET at this point.

Upon MOTION by Dr. Altman second by Ms. Zastrow the Board voted to DISMISS for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 34 **Case No. 260274**
Dr. Nicholas B. LaFeber

Mr. Tonner, on behalf of Dr. LaFeber and complainant BS were present.

**This case was before the Board at its April meeting at which time the case was remanded in order to obtain a clinical evaluation and to conduct an Investigative Interview (I.I.) with the additional allegation of failure to release records. The previous I.I. was not vacated and its recommendations can be addressed at this meeting.

In response to the Board, BS stated that she presented to Dr. LaFeber to have veneers removed and crowns placed on teeth 6 through 11. All crowns were done except #8. Dr. LaFeber could not match the shade on #8 because of a previous root canal. The crown was sent back to the lab, but when it was returned, it still did not match. After approximately 6 months of sending the crown back and forth to the lab, Dr. LaFeber told BS that in order to match #8 to the existing crowns, all of them would need to be re-done.

In response to the Board, Mr. Tonner stated that Dr. LaFeber attempted to do a custom shade in order to satisfy BS; he simply was unable to match the shade of the existing crowns. The Board stated that unless BS was sent to the lab, custom shading was not attempted. BS responded that she was never sent to anyone for shading. All of the work was done by Dr. LaFeber and he would then send the crown out to the lab for them to match.

Upon MOTION by Ms. Zastrow, 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. §32-1201.20(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none.

Upon MOTION by Ms. Zastrow, second by Dr. Waite the Board voted to impose RESTITUTION of \$272.50 to the patient and \$272.50 to Delta Dental. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 41 **Case No. 270201**
Dr. Peter J. Lee

Mr. Tonner on behalf of Dr. Lee and the complainant's wife, CQ were present.

CQ stated that her husband's bridge had fallen out of his mouth. He went to Dr. Lee who told him that the bridge was salvageable. Dr. Lee would only need to replace a screw and re-cement it. Once the bridge became broken, CQ felt that it was because of the repair work Dr. Lee performed. After her husband returned home from the treatment, she received a phone call from Dr. Lee's office offering to pay for a new bridge. In response to the Board, CQ stated that her husband did try to repair the bridge himself with "crazy glue".

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

Agenda Item No. 58 **Case No. T-07-038**
Dr. Adrian E. Pulkrabek

Complainant CJC was present. He stated that while he understood that the Board has no jurisdiction in fee disputes, he still felt that Dr. Pulkrabek behaved unethically and unprofessionally. The public's perception of dental care also encompasses how they are treated by the dentist and his staff.

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

Agenda Item No. 33 **Case No. 270129**
Dr. Jenny V. Wang

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

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

Upon MOTION by Dr. Altman, second by Dr. Waite the Board voted to OPEN AN INVESTIGATION against Kelly M. Povar, RDH for alleged failure to release records. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 39 **Case No. 270070**
Dr. Clayton Wainwright

Mr. Tonner was present on behalf of Dr. Wainwright. This case was pulled by the Board because the clinical evaluator reported that the denture was overall, inadequate. It was ascertained that the patient never returned to Dr. Wainwright for the denture to be re-done.

Upon MOTION by Dr. Waite duly seconded the Board voted to DISMISS for Lack of Supporting Evidence. Ms. Zastrow OPPOSED. MOTION PASSED.

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Agenda Item No. 42 **Case No. 270168**
Dr. Champa R. Chatterjee

Mr. Tonner was present on behalf of Dr. Chatterjee. He did not feel that a letter of concern was warranted in this case.

Upon MOTION by Dr. Daniels, second by Dr. Rosenthal the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Waite and Ms. Stevens OPPOSED. MOTION PASSED.

Agenda Item No. 43 **Case No. 270002**
Dr. Michael Brian Muscato

Mr. Tonner was present on behalf of Dr. Muscato. He did not feel that a letter of concern should be issued to Dr. Muscato because, while it was not documented, Dr. Muscato did inform the patient that a full denture would be necessary in the future.

The Board felt that if the dentists would document their intentions with regard to treatment, 90% of the cases that come before them could be eliminated.

Upon MOTION by Ms. Zastrow, second by Dr. Rosenthal the Board voted to issue a LETTER OF CONCERN regarding better documentation of the specifics of the treatment plan and informed consent. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 30 **Case No. 270120**
Dr. Louis J. Casillas

The Board pulled this case to address the fact that, while Dr. Casillas did make changes in order to comply with proper OSHA guidelines, at the time of his inspection, he was not in compliance.

Upon MOTION by Dr. Altman duly seconded the Board voted to issue a LETTER OF CONCERN regarding maintaining proper OSHA and infectious disease control procedures. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 40 **Case No. 270142**
Dr. Thomas R. French

The Board pulled this case in order to avoid opening an investigation against Dr. Yu.

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

Agenda Item No. 46 **Case No. 270172**
Dr. Phillip L. Cooke

The Board pulled this case because it felt there were issues with infection control and failure to supervise staff that should be addressed.

Upon MOTION by Dr. Altman, second by Ms. Stevens the Board voted to FORWARD to an Investigative Interview. Dr. Cole was ABSENT. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 48 **Case No. 270195**
Dr. Kenneth J. Marz

Upon MOTION by Dr. Daniels, second by Ms. Zastrow the Board voted to issue a LETTER OF CONCERN regarding When requested by a patient, copies of all records and x-rays must be provided to the patient. While Board statutes state that a dentist may charge a fee for duplication, the records cannot be withheld due to the lack of payment or an outstanding balance. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 52 **Case No. 270171**
Dr. Michael Wade Hudson

It was discovered that Dr. Hudson submitted records for the wrong patient.

Upon MOTION by Dr. Altman, second by Ms. Stevens the Board voted to direct staff to issue a subpoena for the correct patient records and REMAND back to Triage upon receipt of the records. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 55 **Case No. 270188**
Dr. Jaffar M. Elahi

It was felt that this case warranted further investigation.

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

ACTION ON CASES – Afternoon Agenda
From Investigative or Informal Interview

Agenda Item No. 74 **Case No. 270214**
Dr. Randolph P. Platt

Ms. McLellan, on behalf of Dr. Platt and complainant JS were present.

JS stated that she did not return to Dr. Platt for the permanent bridge because of his anger. She had a 6-unit bridge that had become loose. Dr. Platt was going to remove it, but had to order a special tool to do so. When the tool arrived and he attempted to remove the bridge, 3 teeth were broken. She now has the temporary bridge that was placed by Dr. Platt, but she chose not to return to him for the permanent bridge.

Ms. McLellan stated that JS presented to Dr. Platt for emergency treatment only regarding the loose bridge. His goal was to expand the bridge to a triple abutment on the upper left. Dr. Platt gave JS an endodontic referral, which she disregarded. At the metal try-in stage of JS's bridge, she chose not return to Dr. Platt. He and his staff tried to contact her but she would not talk to Dr. Platt nor would she return to his office. Dr. Platt ended up giving JS the try-ins and her models so that any subsequent treating dentist would not have to start at the beginning of her treatment. JS is still wearing the temporary that Dr. Platt placed a year ago without any problems. Ms. McLellan did not agree with the Investigative Interview (I.I.) panel's recommendation of a letter of concern because JS received emergency treatment that was limited to the loose bridge. Also, Dr. Platt recommended that JS return to his office for a cleaning, but she chose not to.

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The Board felt that an excessive amount of work was being done by Dr. Platt considering he only performed a limited examination. A comprehensive exam complete with full-mouth probing should have been done before attempting to expand the bridge.

Upon MOTION by Dr. Rosenthal second by Dr. Daniels the Board voted to issue a LETTER OF CONCERN regarding performing and documentation of a comprehensive exam and periodontal charting prior to treatment. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 79 **Case No. 270128**
Dr. Jorge L. Alvarez

Mr. Gaines was present on behalf of Dr. Alvarez. He stated that immediately after the Board's inspection, Dr. Alvarez took steps to correct his infection control problems. On the issue regarding the conscious sedation permit, Dr. Alvarez is 10 hours away from receiving his permit.

Upon MOTION by Dr. Rosenthal, second by Dr. Daniels the Board voted to ACCEPT the Findings of Fact and Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.20(t) and R4-11-1303. Dr. Altman RECUSED. MOTION PASSED.

**The Board requested priors – staff reported none.

Upon MOTION by Dr. Rosenthal, duly seconded the Board voted to impose an ADMINISTRATIVE PENALTY of \$500 and CONTINUING EDUCATION of 6 hours in Infection Control with 6 months time to complete. Dr. Altman RECUSED. MOTION PASSED.

Agenda Item No. 80 **Case No. 270204**
Dr. Richard D. Smith

Dr. Smith and his attorney Ms. McLellan were present.

Ms. McLellan stated that the patient in this case (DM) claimed Dr. Smith was the dentist who placed her crown on tooth #28. Although Dr. Smith was an employee at Thunderbird Dental when DM was treated there, he did not recall treating her. Both Dr. Smith and the Board have been unable to obtain any records from Thunderbird Dental. After Dr. Smith left Thunderbird, DM saw a subsequent treating dentist who diagnosed an open margin. Based on DM's word that he was the treating dentist, Dr. Smith issued a check to her to cover the cost of the crown. Ms. McLellan asked that this case be dismissed.

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

Agenda Item No. 73 **Case No. 270202**
Dr. D. Benjamin Whiting

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

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

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Agenda Item No. 75 **Case No. 270233**
Dr. Larry C. Lundin

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

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

Agenda Item No. 78 **Case No. 270210**
Dr. Lior Berger

Ms. McLellan on behalf of Dr. Berger, complainant HY and his attorney Mr. Chapman were present.

Mr. Chapman urged the Board to accept the Investigative Interview (I.I.) panel's recommendations.

Ms. McLellan stated that this case was a full-mouth restoration involving 28 teeth. Out of the 28 teeth, the I.I. panel found open margins on 4 of the teeth. Ms. McLellan argued that 2 of those 4 teeth did not have any open margins. Ms. McLellan further stated that the prosthodontist consultant on the I.I. panel was both unfair and biased in his review of the case and made inappropriate remarks as to Dr. Berger's abilities. Due to the influence of the prosthodontist, the panel's recommendations were harsher than necessary.

The Board reviewed the radiographs and was unable to determine whether open margins existed on teeth #'s 15 and 30. There was no clinical evaluation done on the patient. The patient did see Dr. Montana, a prosthodontist, and his records indicated that HY received substandard treatment. Ms. McLellan responded that Dr. Montana did not take any radiographs of his own, but used Dr. Lee's. Also, Dr. Montana made generalized comments as to HY's treatment, but there was nothing specific indicated in his records. The Board also had concerns with the generalization of Dr. Montana's comments and felt that a clinical evaluation would be needed in order to make a decision in this case.

Upon MOTION by Dr. Altman duly seconded the Board voted to REMAND to a Clinical Evaluation only with a Board approved prosthodontist. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 77 **Case No. 270234**
Dr. Kevin Ryan Haley

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

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

Agenda Item No. 81 **Case No. 270293**
Dr. Marcus L. Paulus

Dr. Paulus, his attorney Mr. Stone and complainant AE were present.

AE felt that the public member at the Investigative Interview (I.I.) was very prejudiced and biased against him. He did not feel he was treated fairly. AE claimed that an issue arose between Dr. Paulus and AHCCCS that Dr. Paulus accused AE and his family of instigating. Because Dr. Paulus held them responsible, he stopped accepting their phone calls and never completed the treatment for his wife. She was left with an incomplete endodontic procedure and a great deal of pain as a result.

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Mr. Stone did not feel the I.I. panel had enough evidence to support their recommendations. Regarding the allegation of billing irregularities, AE has testified that he made all of his co-payments. With regard to the patient abandonment issue, there was no documentation that phone calls were made to Dr. Paulus. Mr. Stone felt that the complainant made all of the allegations against Dr. Paulus solely to attack his character. Mr. Stone asked the Board to consider dismissing this case.

The Board expressed a concern with the billing issues in this case. Mr. Stone responded that Dr. Paulus had an employee who was responsible for the billing. Around the time the inquiries began, the computer did not show that any of the co-payments had been made. Mr. Stone agreed with the Board that it was Dr. Paulus' responsibility to make sure his system was working properly. They are trying to rectify the situation with the co-payments and that issue is in litigation at this time. The Board did not understand why Dr. Paulus would bill AE two years after the fact, because the billing person made an error. It was not AE's responsibility to provide statements or bills to prove he made co-payments, it was Dr. Paulus'. Also, a review of Dr. Paulus' records revealed inconsistencies between what the patient was charged and what the insurance provider was charged. For example, page 16 of the record for date 03-11-05, shows a fee charged for an extraction of \$170. However, the Explanation of Benefits (EOB) to the insurance provider for the same date shows the \$170 fee, but also included charges for a limited exam and 3 radiographs.

Upon MOTION by Dr. Altman, second by Ms. Zastrow the Board voted to ACCEPT the Findings of Fact and Conclusions of Law and find a VIOLATION of A.R.S. §32-1201.20(p). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none.

Upon MOTION by Dr. Waite, second by Ms. Zastrow the Board voted to RECONSIDER their vote to accept the Findings of Fact and CONSIDER the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Finding of Fact #8 AMENDED to read:

Doctor did not charge for co-pays and did not give patient bills for four years. Dr. Paulus incorrectly reported services rendered to the insurance company for the purpose of obtaining payment not earned. See records: Compare page 16 to page 24 EOB for date of service 03-11-05; page 16 to page 26 EOB for date of service 09-08-05 and page 16 to page 27 EOB for date of service 10-04-05.

Upon MOTION by Dr. Daniels, second by Dr. Waite the Board voted to ACCEPT the Findings of Fact as amended. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Ms. Zastrow, second by Dr. Waite the Board voted to impose CONTINUING EDUCATION of 4 hours in Risk Management and 6 hours in Ethics with 6 months time to complete and RESTITUTION to Delta Dental to be TABLED until the December Board meeting pending determination of the amount. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 70 **Case No. 270061**
Western Dental of Arizona, Inc.

Mr. Tonner was present on behalf of Western Dental. He stated that there were 2 issues involved in this case. One was with OSHA regulations and the second was of noncompliance with a subpoena. The Investigative Interview (I.I.) panel did not find any violation of the OSHA regulations, but did recommend a \$500 penalty for the subpoena issue. Mr. Tonner was in agreement with the I.I. panel's recommendation.

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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. 84	Case No. 270177	Dr. Edward R. Cole
Agenda Item No. 86	Case No. 270130	Dr. Jeffrey S. Nowak
Agenda Item No. 88	Case No. 270180	Dr. Anitha A. Goud
Agenda Item No. 89	Case No. 270115	Dr. Karen A. Kramarczyk
Agenda Item No. 93	Case No. 270225	Dr. Rafal Pytlik
Agenda Item No. 95	Case No. 270206	Dr. Golbarg Pourkhomami

Upon MOTION by Ms. Zastrow, second by Mr. Farnsworth the Board voted to DISMISS the remaining cases on the Consent Agenda. MOTION PASSED UNANIMOUSLY.

Cases DISMISSED:

Agenda Item No. 85	Case No. 270143	Dr. Namninder Girn
Agenda Item No. 87	Case No. 270161	Dr. Michael LaCorte
Agenda Item No. 90	Case No. 270076	Dr. Njeri Njoroge
Agenda Item No. 91	Case No. 270149	Dr. George E. Mantell
Agenda Item No. 92**	Case No. 270190	Dr. Buthaynah Abunabah
Agenda Item No. 94	Case No. 270215	Dr. Peter P. Nguyen
Agenda Item No. 96	Case No. 270170	Arrowhead Smiles
Agenda Item No. 97	Case No. 270179	Dr. Richard D. Smith

**Case opened against Dr. Paul Pease

Cases that are Recommended for Dismissal Without Prejudice – Consent Agenda

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

Agenda Item No. 98	Case Nos. 270163, 270183, 270185, 270216, 270217, 270218, 270219, 270320, 270321, 270322, 270323, 270324, 270325, 270326, 270327, 270333, 270344	
		Dr. David E. Naisbitt

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

Agenda Item No. 99	Case No. 270118	Dr. Michele A. Bibeau
Agenda Item No. 100	Case No. 270181	Dr. Mu-Hun Kim
Agenda Item No. 101	Case No. 270136	Dr. Marcus L. Paulus
Agenda Item No. 102	Case No. 270294	Dr. Marcus L. Paulus

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

Agenda Item No. 104	Case No. 270247	Dr. Timothy R. Gailey
Agenda Item No. 105	Case No. 270228	Dr. Arthur J. Porter

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

Case issued a LETTER OF CONCERN:

Agenda Item No. 103	Case No. 270236	Dr. Olga R. Nouri Re: Board regulations do not require that records and x-rays be sent directly to another provider, the records may be given to the patient
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Cases pulled that are Recommended for Termination/Lack of Supporting Evidence – Consent Agenda – From Triage

Agenda Item No. 114	Case No. 270213	Dr. Leonard L. Brewster
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Upon MOTION by Ms. Zastrow, second by Dr. Altman 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. 106	Case No. 270192	Dr. Michael J. Bricker
Agenda Item No. 107	Case No. 270184	Dr. Kent A. Hales
Agenda Item No. 108	Case No. 270178	Dr. Luis G. Keys
Agenda Item No. 109	Case No. 270174	Southwest Dental Group – General Dentistry
Agenda Item No. 110	Case No. 270153	Dr. Timothy W. Mangelsdorf
Agenda Item No. 111	Case No. 170162	Dr. Edouard Sorkin
Agenda Item No. 112	Case No. 270186	Dr. Jon M. Delsnyder
Agenda Item No. 113	Case No. 270211	Dr. Robert A. Lindinger
Agenda Item No. 115	Case No. 270244	Dr. Barry J. Uldrikson
Agenda Item No. 116	Case No. 270272	Dr. Albert T. Dempsey

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

Agenda Item No. 123	Case No. 270276	Dr. Robert D. Hurt
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Upon MOTION by Ms. Zastrow, second by Dr. Altman 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. 117	Case No. 270238	Dr. Montana J. Skyler
Agenda Item No. 118	Case No. T-07-041	Western Dental of Arizona, Inc.
Agenda Item No. 119	Case No. T-07-042	Dr. Terry Leroy Green
Agenda Item No. 120	Case No. T-07-048	Southern Square Dentistry

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- Agenda Item No. 138 Dr. Dana A. Perno – Alleged fraud or misrepresentation and billing irregularities
- Agenda Item No. 138A Dr. Kimberly Blaser – Alleged altering records, failure to maintain records, fraud or misrepresentation, illegal storage of controlled substances and abuse of prescribing privileges
- Agenda Item No. 138B Dr. Dr. Gregory J. Lagermeier – Alleged altering records, failure to maintain records, fraud or misrepresentation, illegal storage of controlled substances and abuse of prescribing privileges
- Agenda Item No. 138C Dr. James E. Bertz – Alleged adverse occurrence following anesthesia and failure to report the occurrence to the Board in a timely manner
- Agenda Item No. 138D Dr. Alex W. Yuen – Alleged over diagnosis
- Agenda Item No. 138E Dr. Jeffrey J. Kootman – Anesthesia adverse occurrence report

Ratification of Cases Recommended for Investigative Interview – Consent Agenda

Nothing was pulled. Upon MOTION by Ms. Zastrow, second by Mr. Farnsworth 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. 139	Case No. 270170	Arrowhead Smiles
Agenda Item No. 140	Case No. 270181	Dr. Mu-Hun Kim
Agenda Item No. 141	Case No. 270189	Dr. Michael S. Dodd
Agenda Item No. 142	Case No. 270246	Dr. Patrice S. Winterholler
Agenda Item No. 143	Case No. 270248	Dr. John F. Dirks
Agenda Item No. 144	Case No. 270249	Dr. Wissam S. Ayoub
Agenda Item No. 145	Case No. 270254	Dr. Brian D. Griffiths
Agenda Item No. 146	Case No. 270267	Dr. Michael G. Allard
Agenda Item No. 147	Case No. 270277	Dr. Fadi F. Saleh

**Agenda Item No. 102 Case No. 270294
Dr. Marcus L. Paulus**

Dr. Paulus and his attorney Mr. Stone were present.

Mr. Stone did not feel a letter of concern was warranted in this case. Dr. Paulus stated that the patient had a high volume of gingival tissue and he documented his findings in the record. The Board could not find the notation and Dr. Paulus was not able to direct them to his entries.

Upon MOTION by Ms. Zastrow, duly seconded the Board voted to impose a LETTER OF CONCERN regarding a more thorough documentation of the clinical exam including existing restoration and conditions, soft tissue exam and the child's orthodontic status. MOTION PASSED UNANIMOUSLY.

**Complainant AE signed in, but was not present when this case was called. He returned later and Board staff explained the case had already been adjudicated.

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Agenda Item No. 101 **Case No. 270136**
Dr. Marcus L. Paulus

Dr. Paulus, his attorney Mr. Stone and complainant AE were present.

AE stated that he presented to Dr. Paulus with a broken tooth that has never been repaired. He called Dr. Paulus several times, but with no results. He is still in pain. He had not been to a subsequent treating dentist because he wanted to be evaluated by a Board evaluator in order to determine the amount of damage to his tooth. Dr. Paulus abandoned him as a patient and left him with 4 or 5 teeth still in need of work.

The Board informed AE that he would not be receiving a clinical evaluation. Also, there was no allegation of patient abandonment in this complaint, therefore that issue could not be addressed.

AE stated that all of the teeth Dr. Paulus worked on are giving him problems, and felt that the problems he has been experiencing is a direct result of Dr. Paulus' work. Also, he paid Dr. Paulus \$20,000 for some cosmetic work, which Dr. Paulus began, but never completed.

The Board expressed concern with the billing issues in this case. There was a big difference between what the patient was charged and what the insurance company was billed. Mr. Stone was not prepared to discuss the Explanation of Benefits (EOB) issue at this time.

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

Finding of Fact #8 ADDED to read:

Dr. Paulus incorrectly reported services rendered for the purpose of obtaining payment not earned. See records: Compare page 17 to pages 18 through 31 EOB's.

Upon MOTION by Dr. Daniels, second by Mr. Farnsworth the Board voted to ACCEPT the Findings of Fact as amended. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Daniels, second by Dr. Rosenthal the Board voted to find a VIOLATION of A.R.S. §32-1201.20(p). MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Daniels, second by Dr. Waite the Board voted to impose an ADMINISTRATIVE PENALTY of \$500 and RESTITUTION to the applicable parties to be TABLED until the December Board meeting pending determination of the amount. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 114 **Case No. 270213**
Dr. Leonard L. Brewster

Ms. McLellan, on behalf of Dr. Brewster and complainant LBL were present.

LBL stated that she had a beautiful smile prior to seeing Dr. Brewster. Her career entails a great deal of traveling and during one of her trips, one of the teeth Dr. Brewster had recently replaced popped out of her mouth. She has since gone to an endodontist who has helped her a great deal, but due to the work Dr. Brewster has done, she has had 3 major surgeries and numerous procedures trying to repair 3 teeth.

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The Board informed Dr. Porter that the law was clear; the records must be released upon the patient's request. While a reasonable fee can be charged for copying, the records must be released whether the patient paid the fee or not. There are other venues in which to collect the fee for copying.

Upon MOTION by Ms. Zastrow, second by Dr. Waite the Board voted to issue a LETTER OF CONCERN regarding releasing copies of all the records when requested by a patient.

Agenda Item No. 104 **Case No. 270247**
Dr. Timothy R. Gailey

Dr. Gailey and complainant SH were both present.

SH stated that the crown which was the subject of her complaint has been re-done. Her subsequent treating dentist told her that there was not much difference in the occlusion, but enough for her to be out of pain and be able to eat again. She would like reimbursement for the \$10 she paid for radiographs and the \$99 that was paid by her insurance.

Dr. Gailey disputed the letter of concern recommendation because it was SH's choice not to come into the office due to her discomfort. He has forwarded her records to her.

Upon MOTION by Dr. Daniels, second by Dr. Waite the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Altman OPPOSED. MOTION PASSED.

Agenda Item No. 86 **Case No. 270130**
Dr. Jeffrey S. Nowak

Ms. McLellan on behalf of Dr. Nowak and complainant JF was present.

JF stated that she had scheduled an appointment with Dr. Nowak in order to speak with him about her treatment. She was experiencing pain, had placed several calls to the office and was unable to reach Dr. Nowak during the Christmas holiday. The day of the appointment Dr. Nowak appeared very angry and irritated with her. He would not talk to her before doing any treatment. He told her that he would seat the crowns first, and then they would talk. She did not want to be injected with Novocain due to a previous reaction so she declined treatment. Dr. Nowak then became very abrasive and ended up giving the crowns to JF in order for her to have them seated elsewhere. She has since had the crowns placed by another dentist and has had no problems with them. Her main issue was with Dr. Nowak's rude behavior.

Ms. McLellan stated that JF was diagnosed with decay in 2005 and advised to have the teeth treated. She declined treatment until a year later, by which time the decay had deepened considerably. Dr. Nowak referred JF to an endodontist and she received root canal therapy. JF held Dr. Nowak responsible for her needing endodontic treatment because she felt that if he had been able to properly treat the caries, she would not have needed the root canal. In essence, she did not believe Dr. Nowak knew what he was doing. Dr. Nowak was willing to complete treatment the day JF showed up for the appointment, but JF made the decision to discontinue treatment with Dr. Nowak. Dr. Nowak then gave JF the crowns. Ms. McLellan felt that JF should have gotten the teeth treated in 2005 when the decay was initially diagnosed. She agreed with the Investigative Interview (I.I.) panel's recommendation.

The Board sympathized with JF, but informed her that its jurisdiction did not include rude behavior.

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

Agenda Item No. 88 **Case No. 270180**
Dr. Anitha A. Goud

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

**Complainant PJ had signed in, but was not present when the case was called.

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

Agenda Item No. 93 **Case No. 270225**
Dr. Rafal Pytlik

Complainant SP was present and stated that this case was originally filed against Dr. Crafton. He initially began treatment for a new bridge at Reel Dental. Before he was able to complete the treatment, he left the practice. SP stated that she was unaware that Dr. Crafton was a contract dentist for Reel Dental. She was unable to reach him to continue treatment. Dr. Pytlik essentially picked up where Dr. Crafton left off in the fabrication of SP's bridge. Reel Dental promised to refund the money she spent with Dr. Crafton, but they have not done so yet. She would still like Dr. Pytlik to finish the bridge.

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

** The Board directed staff to place Reel Dental on the December agenda in order to open an investigation regarding alleged fraud and misrepresentation.

** The Board directed staff to place Dr. Crafton on the December agenda to open an investigation regarding alleged over diagnosis and over treatment.

Agenda Item No. 95 **Case No. 270206**
Dr. Golbarg Pourkhomami

Dr. Pourkhomami and her attorney Mr. Tonner were present.

The Board discussed their concerns with Dr. Pourkhomami performing scaling and root planing based on probing scores. Also, there were procedures that Dr. Pourkhomami claims to have done, but were not documented in the patient's chart. It was stated that the issue before the Board was that Dr. Pourkhomami made a diagnosis based on the probing scores, the pain of the patient and the bleeding upon probing; the Board's obligation was to decide whether that was appropriate or not.

Upon MOTION by Dr. Daniels, second by Dr. Altman the Board voted to DISMISS for Lack of Supporting Evidence. Dr. Rosenthal, Dr. Waite, Ms. Zastrow, Dr. Spigner, Mr. Farnsworth and Ms. Stevens OPPOSED. MOTION FAILED.

Upon MOTION by Ms. Zastrow, second by the Board voted to issue a LETTER OF CONCERN regarding lack of documentation to support scaling and root planing as this is not determined by probing alone. Dr. Daniels, Dr. Cole and Dr. Altman OPPOSED. MOTION PASSED.

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Agenda Item No. 100 **Case No. 270181**
Dr. Mu-Hun Kim

Dr. Kim, his attorney Mr. Tonner, patient RD and complainant NC, daughter of patient RD, were present.

NC stated that she had taken her mother to Dental Village to have implants placed. The surgery went well, but once the denture was made, it never fit. When it was finally placed, one of the posts fell out. NC and her mother have gone to several different Dental Village offices for several appointments, but there was always some problem, such as personnel changes, and RD was never seen by anyone. She has received apologies from Dental Village, but her mother has not received any reimbursement nor has she received a denture that is functional. NC played a tape recorded message from a Dental Village representative (Susan) who stated that a refund would be forwarded to RD. This was to have been sent in April of 2007, but as of the date of this meeting, RD has not been refunded any fees.

The Board expressed concern with the pre-operative radiographs missing and there being no evidence of a pre-operative examination by Dr. Kim. Mr. Tonner stated that the original chart had been given to the complainant to take with her to one of the other Dental Village offices for an appointment. Due to the many different appointments that took place without any treatment being done, the chart must have become lost. NC denied being given the original chart by Dental Village.

Dr. Kim stated that one of the main reasons he left Dental Village was because he felt exposed. The records were either not kept where they should be or the originals would be sent out somewhere on a routine basis. He had no control over what they did with the records even though he is very meticulous in his record keeping and documentation. He is no longer employed with Dental Village and has no access to the records in order to prove to the Board what he did or did not do in this case.

The Board explained to NC and RD that Dr. Kim placed the implants, which are still functional; however there was some concern as to the denture. Dr. Barrelier was the actual dentist who was responsible for the denture. They could not find a quality of care violation against Dr. Kim.

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

** The Board directed staff to place Dental Village on the December agenda in order to open an investigation regarding alleged billing irregularities (charging a fee for services not rendered).

** The Board directed staff to place Dr. Edward Barrelier on the December agenda in order to open an investigation regarding alleged inadequate denture.

Agenda Item No. 123 **Case No. 270276**
Dr. Robert D. Hurt

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

**The Board directed staff to place Dr. Skinner on the December agenda to open an investigation for alleged failure to comply with a Board subpoena.

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Agenda Item No. 138F Dr. A. Ruben Turley

Upon MOTION by Dr. Altman, duly seconded the Board voted to OPEN AN INVESTIGATION for failure to renew and allegedly practicing dentistry on a suspended/expired license. MOTION PASSED UNANIMOUSLY.

**The Board directed staff to file an injunction against Dr. Turley if information reveals that he has been practicing dentistry without a license.

Agenda Item No. 148 – Members of the Public

None

Agenda Item No. 149 – Associations

None

Agenda Item No. 150 – Future Agenda Items

Address the Licensure by Credential statute.

Agenda Item No. 151 – Next Meeting Date

December 7, 2007

Agenda Item No. 152 – Adjournment

Dr. Altman adjourned the meeting at 6:19 PM.

Minutes APPROVED at the December, 2007 Board Meeting

Kevin B. Earle, Executive Director