



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE BOARD MEETING DECEMBER 4, 2009

Board Members Present:

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

Board Members Absent:

Staff Present:

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

NOTICE:

Roll Call votes are recorded and provided as an attachment to these minutes pursuant to A.R.S. §32-3205 which reads "If a disciplinary action requires a vote of Board members, the health professional regulatory Board shall conduct that vote by roll call. The Board shall maintain a record of each member's vote. This section does not prohibit a Board from using a Consent Agenda."

GENERAL BUSINESS

Agenda Item No. 1 – Call To Order

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

Agenda Item No. 2 – President’s Report

- A. Appointment of Board Members (1 Dentist and 1 Dental Hygienist) to the Dental Hygiene Committee.

Dr. Rosenthal appointed Ms. Laurie Buckles and Dr. Lou Sommerhalter to the Dental Hygiene Committee.

Agenda Item No. 3 Executive Director’s Report

- A. Review, discussion and possible action regarding City of Globe investigation of unlicensed activity by uncertified denturist.

Ms. Hugunin directed the Board to new information which had been received regarding this matter.

No action taken.

- B. Dr. Steven K. Ingersoll - Review, discussion and possible action regarding adverse occurrence report.

No action taken.

- C. Dr. Julie D. Anfinson - Review, discussion and possible action regarding malpractice report.

No action taken

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

Dr. Rosenthal informed the Board of instances in the past in which a Board member has volunteered, but CODA chose not to use them. If anyone wished to volunteer, contact Ms. Hugunin.

No action taken.

- E. Review, discussion and possible action regarding vacancies on National Board Test Construction Committees for 2011.

Anyone wishing to volunteer for this committee should contact Ms. Hugunin.

No action taken.

- F. Election of Board President and Vice President.

There are several Board members whose terms will expire in January. Based on this, Dr. Rosenthal suggested this matter be tabled until the February 2010 meeting.

- G. Review, discussion and possible action regarding dissolution of MATP Committee – To be heard at 8:30 a.m.

Ms. Hugunin reported as part of the Board's ongoing process improvement, it was recommended the Board consider eliminating the Monitored Aftercare Treatment Committee. The last meeting was cancelled due to problems securing a quorum; however, there are several reasons why it would be effective to eliminate the Committee and still retain the integrity of the program.

This is a valuable program ensuring the public is protected but also rehabilitating the licensees. The MATP Committee meets with participants but does not have the authority to modify orders, which require Board action. The participants are required to appear before the Board in addition to the Committee. The statutes do not require a Committee, only the program. While the Committee was essential in the development of the program, now would be a good time to reassess the program structure.

This Board does outsource some of the monitoring; however there is duplicity in that the Board's Medical Director, Dr. Sucher and the Board receive some of the same documentation.

After meeting with Dr. Sucher to discuss how the program could be improved it was generally believed that outsourcing the program is more effective by all parties and will not require significant changes from the Board or participant's perspectives.

Dr. Sucher stated he has worked with the MATP for a number of years and there has been growth and evolution over the years. The Committee was originally created to oversee any problems that may have arisen with the implementation of the MATP. During the past 5 years, compliance standards have been set, a relapse prevention group has been established and a 30-day in-patient treatment program is now the standard. The success rate of the MATP has improved greatly. Should the Board choose to dissolve the MATP committee, Dr. Sucher would keep the Board apprised of any non-compliance issues. Records will be kept and maintained at his office, but they will belong to the Board. Dr. Sucher stated the dissolution of the MATP Committee is a timely evolution.

Upon MOTION by Dr. Sommerhalter, second by Ms. Bevers the Board voted to DISSOLVE the Monitored Aftercare Treatment Program Committee. MOTION PASSED UNANIMOUSLY.

- H. Review, discussion and possible action regarding modifying the MATP and 2-year Abuse Track standard agreements.

Ms. Hugunin stated the MATP agreements must be modified since the Board's vote to dissolve the Committee. The logs, self-medicating requirements and Dr. Sucher's contact information will be provided to the participants. Staff proposes to retain the DEA restriction, but eliminate the triplicate prescription requirement. Staff will make the modifications and submit the proposed agreement to the Board for approval at its February 2010 meeting.

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- I. Dr. Gregory L. Aldrich - T-09-047 - Review, discussion and possible action including vacating previous vote to open an investigation.

Upon MOTION by Ms. Bevers, second by Dr. Gradke the Board voted to VACATE its previous vote to Open an Investigation and TERMINATE this case for Lack of Jurisdiction. MOTION PASSED UNANIMOUSLY.

- J. See agenda item 147

- K. Review, discussion and possible action regarding DANB's proposed revisions to the grading criteria for the Arizona Radiologic Proficiency Exam.

Dr. Rosenthal believed this matter should be reviewed in order for the Board to make an informed decision. This issue was assigned to Ms. Cathy Bevers for review and will be considered at the February Board meeting.

- L. Dr. Kamran Jafari - Review, discussion and possible action regarding NPDB report.

No action taken.

- M. Review, discussion and possible action regarding request for an additional clinical test site for DANB effective January 2010.

Upon MOTION by Ms. Bevers, second by Dr. Gradke the Board voted to DENY the addition of this test site due to the site being in a non-accredited school environment. MOTION PASSED UNANIMOUSLY.

- N. Information and discussion regarding number of non-disciplinary consent agreements for non-compliance with subpoenas offered and accepted.

Ms. Hugunin reported four agreements pending and two agreements received along with the required \$500 non-disciplinary penalty fee.

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

- A. Dr. Sam Hashemian v. ASBDE (Case No. 280056)

- B. Dr. Mu-Hun Kim v. ASBDE (Case No. 280093)

- C. Dr. Rosalyn D. Keith v. ASBDE (Case No. 270098)

Ms. Williams reported that each of these items have filed an appeal. She will keep the Board updated as to the development of these cases.

Agenda Item No. 5 - Personnel Issues

- A. Review, discussion and possible action regarding Executive Director performance evaluation and salary.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to GO INTO EXECUTIVE SESSION pursuant to A.R.S. §38-431.03(I), for discussion and consideration of the Executive Director's performance and salary. MOTION PASSED UNANIMOUSLY.

**** Executive Session ****

RETURN TO OPEN MEETING

Dr. Rosenthal noted she has requested this item to be placed on the agenda in the past, but Ms. Hugunin asked for it to be removed due to budgetary constraints. Dr. Rosenthal felt strongly enough about it that she wanted to be certain it would be addressed at this meeting. The Board expressed its appreciation to Ms. Hugunin for her professionalism and commitment.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to issue a 10% increase in salary to Ms. Hugunin, effective March 1, 2010. MOTION PASSED UNANIMOUSLY.

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

- A. VACANT

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

Upon MOTION by Ms. Bevers and duly seconded the Board voted to GRANT certification in radiology to the following applicants. MOTION PASSED UNANIMOUSLY

- A. Tanaya M. Mendez – Certified in California
- B. Jose Angel Dona – Certified in California
- C. Kim H. Paola – Certified in California
- D. Claudia N. Friely – Certified in California
- E. Amy I. Henderson – Certified in California
- F. Nicki L. Rodriguez – Certified in California
- G. Annette Rosas – Certified in California
- H. Anne M. Whyte – Certified in California
- I. Elizabeth I. Puentes – Certified in California
- J. Jennifer R. Root – Certified in Oregon
- K. Sierra M. Klein – Certified in Oregon
- L. Redina S. Blackgoat – Certified in New Mexico

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

- A. Dr. Michael H. Grousd – 1964 IL State Exam prior to a regional

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

- B. Dr. Sigrid E. Schwartz – 1994 IN State Exam prior to a regional

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

- C. Dr. Mercay M. Romero – 2006 CA State Exam prior to a regional

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

- D. Dr. Dennis R. Fratt – 1975 CA State Exam prior to a regional

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

- E. Gina K. Harding, RDH – 1977 Texas State Exam prior to a regional

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

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

- F. VACANT

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

- G. VACANT

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

Upon MOTION by Dr. Waite, second by Mr. Farnsworth 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. Anna Lee – 2008/2009 NERB
B. Dr. Fawad J. Shah – 2006/2007/2008 NERB
C. Dr. Aaron D. Haskett – 2005/2006 NERB
D. Dr. Shawn B. Davis – 2002/2003 NERB
E. Dr. Robert D. Carpenter – 1983 NERB
F. Dr. Lawrence J. Strugala – 1980 NERB
G. Dr. Douglas A. Tomlinson – 1977 NERB
H. Dr. James W. Dunnavant, Jr. 1994 WREB

- I. Dr. Jay R. Pontious – 1978 AZ Dental Exam
- J. Ian S. Kavanaugh, RDH – 2009 NERB
- K. Jessica L. Zimmerman, RDH – 2005 NERB
- L. Heather M. Jenkins, REH – 2005 NERB
- M. Tricia A. Conrad, RDH – 1994 NERB
- N. Kathleen A. Shurba, RDH – 1990 NERB
- O. Jacquelyn A. Korn, RDH – 1984 NERB
- P. Jacqueline M. Sommer, RDH – 1984 NERB
- Q. Paige R. Thompson, RDH – 2002 CRDTS
- R. Shannon M. Mitchell, RDH – 1997 WREB
- S. Teresa A. Wirsing-Brooks, RDH – 1994 WREB

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

- A. Dr. Daniel Q. Nguyen - Review, discussion and possible action on disclosure of suspension of license in Nevada.

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

- B. Dr. Randall C. Nunley – Tabled from the August 2009 meeting pending physical examination and comprehensive evaluation from a practice monitoring service.

The latest report from the monitoring service indicated Dr. Nunley was safe to practice, however, Dr. Nunley's medical doctor did not agree. Dr. Nunley has been practicing dentistry for the past three years without any incident or patient complaint. He has not been limiting his practice.

Upon MOTION by Dr. Sommerhalter, second by Ms. Bevers the Board voted to GRANT the renewal. Dr. Gradke was OPPOSED. MOTION PASSED.

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

Mr. Smith and his attorney Mr. Tonner were present. With regard to this renewal, Dr. Smith was ordered to complete several evaluations and all were due at this meeting. Unfortunately, Dr. Smith had to undergo another surgery to have a stint placed and has been unable to complete all of the required tests. Mr. Tonner requested another extension until February 2010 to complete the remaining evaluations.

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

**** Executive Session ****

RETURN TO OPEN MEETING

Mr. Tonner stated Dr. Smith has had a total of eight surgeries since this issue began. He has not been practicing dentistry and is now living with his son. He has completed some of the evaluations and is only asking for an additional two months time.

Ms. Williams stated there are time frames defined in R4-11-303. According to that rule, only two extensions are allowed. The Board has already granted the two extensions for a comprehensive review request. Mr. Tonner argued the rule only applies if there is some type of deficiency. There is no deficiency at this point because Dr. Smith has not submitted the results of the evaluations to be reviewed. Ms. Williams stated the deficiency was established at Dr. Smith's renewal which is why the Board initially ordered the evaluation.

At this point, the options available to the Board are to either grant or deny the renewal. The Board opted to table this matter until later in the day in order to review this matter more thoroughly.

Ms. Williams reported she has reviewed this matter and reminded the Board it had already voted to deny Dr. Smith's renewal at its April 2008 meeting. At the August 2008 meeting, the Board reviewed a Petition to Rehear filed by Mr. Tonner and voted to table its decision on the renewal based on the outcome of the evaluations. The Board's option at this point was to grant the extension to comply until February. If the interim order was not complied with by then, the case would proceed to the Office of Administrative Hearings. Another option would be to affirm the previous denial and proceed to formal hearing.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to AMEND THE INTERIM ORDER granting an extension of time until the February 2010 Board meeting with all four reports to be provided to the Board by January 22, 2010. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

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

HEALTH AND WELL BEING

- A. Dr. Randy B. Reasch - Review, discussion and possible action on renewal application with disclosure of a DUI and possible action on opening an investigation for failure to timely report arrest.

Dr. Sucher stated an appointment was made to evaluate Dr. Reasch, but Dr. Reasch cancelled the appointment. He forwarded information to Board staff stating he was released from the hospital and would be getting treatment in Billings, MT.

The Board expressed a concern with the failure to disclose, not once, but for two separate DUI's. Dr. Reasch should be required to voluntarily surrender his license to practice dentistry and possibly enter into the MATP. An interim order could be issued for a comprehensive substance abuse evaluation. Staff could contact him for the voluntary surrender. The Board does have the option to approve the treatment facility in Billings, MT. At this point, there was insufficient information to make a decision regarding Dr. Reasch's renewal application.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION against Dr. Reasch for failure to disclose two DUI's. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue an Interim Order for a Substance Abuse Evaluation with either Dr. Sucher or a Board-approved facility. MOTION PASSED UNANIMOUSLY.

**The Board directed staff to send a letter to Dr. Reasch requesting a Voluntary Surrender of his license.

- B. Dr. William E. Munson, Jr. – Review, discussion and possible action on renewal application: Tabled from the October 2009 meeting pending substance abuse evaluation. Action on case 290320 opened for failure to timely disclose DUI.

Dr. Munson was not present. There were two issues pending pertaining to him at this time. The Board issued an interim order to Dr. Munson requesting a substance abuse evaluation which Dr. Munson did not comply with. Additionally, a case had been opened regarding his failure to timely disclose the arrest for a DUI. The Board was not comfortable with allowing Dr. Munson to renew the disabled license. The disabled status would allow Dr. Munson to perform charity work on patients but because Dr. Munson has admitted to his lack of sobriety, the Board did not believe potential patients would be sufficiently protected.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to DENY renewal based on noncompliance with the interim order. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to DISMISS case 290320 without Prejudice. MOTION PASSED UNANIMOUSLY.

- C. Mr. William M. Tudor, RDH – Review, discussion and possible action on renewal application: Tabled from the October 2009 meeting pending substance abuse evaluation.

Mr. Tudor was not present, however the report regarding the substance abuse evaluation stated Mr. Tudor was able to safely practice dental hygiene.

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

- D. Sarah Morones, RDH - Review, discussion and possible action regarding opening an investigation, reinstatement of license and entrance into the MATP.

Ms. Morones was present. Dr. Sucher reported Ms. Morones relapsed in October 2009 and substituted a specimen for testing. She submitted a subsequent specimen the following day which tested positive for marijuana. She went into treatment for thirty days and has been monitored privately by Dr. Sucher in a program similar to the MATP. She has had two other drug tests since completing treatment and both tests were negative. Dr. Sucher recommended the Board reinstate Ms. Morones' license and allow her to enter into the Board's MATP with its usual terms and conditions.

The Board expressed a concern with the prescribed medications Ms. Morones currently takes. Ms. Morones responded that she has completed the prescription for

Percocet which she was taking for a bone spur in her shoulder. She has not taken any medications since finishing the Percocet.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to REINSTATE Ms. Morones' license and accept entrance into the MATP with its usual terms and conditions. MOTION PASSED UNANIMOUSLY.

- E. Margaret Arbon, RDH - Review, discussion and possible action regarding opening an investigation, reinstatement of license and entrance into the MATP.

Ms. Arbon was present. Dr. Sucher reported he met with Ms. Arbon in October 2009 regarding alcohol dependency. She had already been through detoxification. Ms. Arbon enrolled in a treatment facility and was discharged on November 26, 2009 and has successfully completed treatment. She has had a drug test since completing treatment and the result was still pending, but Dr. Sucher believed Ms. Arbon would be safe to practice with entrance into the MATP. At this point, she is on anti-depressants, but no other medications.

Upon MOTION by Dr. Waite, second by Ms. Buckles the Board voted to REINSTATE Ms. Arbon's license and accept entrance into the MATP with its usual terms and conditions. MOTION PASSED UNANIMOUSLY.

- F. VACANT

REQUEST FOR ACTION ON LICENSURE/CERTIFICATE BY EXAMINATION

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

- G. VACANT

REQUEST FOR ACTION ON LICENSURE BY CREDENTIAL

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

- H. VACANT

Agenda Item No. 12 - CONSIDERATION OF MATP CONSENT AGREEMENTS & REQUIRED PERSONAL APPEARANCES

Agenda Item No. 12A Case No. 270064
Dr. Kelly J. Cook

Dr. Cook was present. Dr. Sucher stated Dr. Cook was in compliance and has been doing well in the MATP. He has requested restoration of his Nitrous oxide privileges. Dr. Cook's primary addictions were alcohol and gambling. While he did abuse Nitrous oxide, it was not a major part of his addictions. Dr. Sucher did not foresee an issue with allowing Dr. Cook's Nitrous oxide privileges being restored. In the past, MATP participants' privileges have been restored while still in the program in order for the Board to continue monitoring them. Even though they cannot be tested for Nitrous, parameters could be established to help monitor usage. The other alternative would be to deny restoration of Dr. Cook's privileges but after five years, he would be out of the MATP program and it would be difficult to monitor him with regard to Nitrous at that point. Dr. Sucher recommended granting restoration of Dr. Cook's privileges so he could be adequately monitored before leaving the MATP.

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Dr. Sucher's recommended restrictions were outlined in his report. Dr. Cook would have no self-access to the Nitrous; there would be a security system set in place with either a double key or single key held by someone else so Dr. Cook would have no independent access to the nitrous oxide. Only one supplier would be used and ordering records should be provided to the Board or Dr. Sucher on a monthly basis. There should be a log kept of all use of nitrous oxide and well-documented medical records and a monthly report regarding this should also be submitted. This level of monitoring should be in place for one year with a re-evaluation.

Dr. Cook stated he was willing to comply with the recommended restrictions.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to REMOVE THE RESTRICTION of Nitrous Oxide with the stipulations and conditions outlined by Dr. Sucher. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 13 - UPDATE ON MATP PARTICIPANTS

Dr. Sucher reported that all participants were in compliance at this time. However, there was a concern with some of the participants who were delinquent in paying for their treatment. The Board was unsure as to whether it had any recourse with regard to those licensees who were not paying timely.

**The Board directed staff to place this matter on the February 2010 agenda. Ms. Williams was asked to research the matter further and advise the Board of its options, if any at the February meeting.

Agenda Item No. 14 - UPDATE ON ABUSE TRACK PARTICIPANTS

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

Agenda Item No. 15 – Probation Monitoring & Required Personal Appearance

A. VACANT

Agenda Item No. 16 – Other Committee Reports

- A. Continuing Education Audit for Dentists Committee – Dr. Joyce Rosenthal
 - i. Review, discussion and possible action regarding the 2009 Dental Continuing Education Audits. Upon recommendation from the Continuing Education Audit for Dentists Committee, the Board may consider approval of the CE Audit responses from the following:
 - a. Dr. Shawn Benso
 - b. Dr. Carl B. Bullen
 - c. Dr. Mitchell R. Cooper
 - d. Dr. Barry K. Freyberg
 - e. Dr. Patrick G. Hardy
 - f. Dr. Michael R. Hauer
 - g. Dr. Robert J. Howard, Jr
 - k. Dr. Quang Le
 - l. Dr. Brian H. Laio
 - m. Dr. John Luft
 - n. Dr. Ekaterina N. Pollard
 - o. Dr. Treven Bret Rollins
 - p. Dr. Gabriel M. Schmidtke
 - q. Dr. Peter Spilotro

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- h. Dr. Melvin L. Jones
- i. Dr. Robert P. Kasper
- j. Dr. Renuka Kumar – with a letter reminding Dr. Kumar of the importance of picking up certified mail.
- r. Dr. Ernest L. Stromeyer
- s. Dr. Brian H. Tran

Upon MOTION by Dr. Sommerhalter, second by Ms. Bevers the Board voted to approve the CE Audit responses as recommended. MOTION PASSED UNANIMOUSLY.

B. Dental Hygiene Selection Committee – Ms. Cathy Bevers
Review, discussion and possible action regarding candidates for one Dental Hygiene Committee member:

- i. The Dental Hygiene Committee recommends the re-appointment of Margaret Perry, RDH.
- ii. The Dental Hygiene Selection Committee recommends Susan J. Smedley, RDH as an alternate choice.

Upon MOTION by Ms. Bevers, second by Ms. Buckles the Board voted to APPOINT Margaret Perry, RDH to the Dental Hygiene Committee. MOTION PASSED UNANIMOUSLY.

C. Dental Hygiene Committee Meeting

- i. Review, discussion and possible action regarding the 2009 Dental Hygiene Committee Continuing Education Audits. Upon recommendation from the Dental Hygiene Committee the Board may consider approval of the CE Audit responses from the following:
 - a. Kami S. Austin, RDH
 - b. Jody A. Beauchemin, RDH
 - c. Robin Lee Hinojo, RDH
 - d. Roceleigh L. Eda, RDH
 - e. Kathleen A. Faux, RDH
 - f. Jennie M. Calvi, RDH
 - g. Paige Jordan-Calloway, RDH
 - h. Gretchen Kraus, RDH
 - i. Doras A. Ladd, RDH
 - j. Laura C. Lentner, RDH
 - k. Beth Ann Lofy, RDH
 - l. Karol L. Martin-Morse, RDH
 - m. Regina M. Rich, RDH
 - n. Eriona Robescu, RDH
 - o. Kelly A. Sanchez, RDH
 - p. Brooke Alyson Brown (Thompson), RDH
 - q. April Dawn Vlcek, RDH

Upon MOTION by Ms. Bevers, second by Dr. Sommerhalter the Board voted to APPROVE the CE Audit responses as recommended. MOTION PASSED UNANIMOUSLY.

- ii. Upon recommendation of the Dental Hygiene Committee, the Board may consider opening an investigation against Sharon D. Peterson, RDH for failure to comply with Arizona Administrative Code R4-11-1202(G).

Upon MOTION by Ms. Bevers, second by Dr. Sommerhalter the Board voted to OPEN AN INVESTIGATION against Ms. Peterson for failure to comply with Arizona Administrative Code R4-11-1202(G). MOTION PASSED UNANIMOUSLY.

- iii. Upon recommendation of the Dental Hygiene Committee, the Board may consider APPROVAL of the Local Anesthesia and Nitrous oxide coursework from Pacific University.

Upon MOTION by Ms. Bevers, second by Dr. Sommerhalter the Board voted to APPROVE the Local Anesthesia and Nitrous oxide coursework from Pacific University. MOTION PASSED UNANIMOUSLY.

ACTION ON CASES

Agenda Item No. 19 **Case No. 290191**
Dr. Arthur J. Porter

Dr. Porter, his attorney Mr. Tonner, complainant DC and her attorney were present.

DC stated Dr. Porter told her the failure of the implants was her fault, but she had a statement from him that indicated the implants were placed too close together and they would fail. Dr. Porter never provided any follow-up treatment with her and Mr. Neiswender ended up giving her prescriptions for vicodin and antibiotics. The implants should have been removed immediately; not two months later by a subsequent treating dentist after much pain and suffering. DC's attorney also made a statement, but it was indecipherable.

In response to the Board, DC stated she was not told Dr. Porter was a general dentist, nor was she offered the option of being treated by an oral surgeon.

Mr. Tonner stated DC was a candidate for implants. She first appeared at Mr. Neiswender's office. There is a health history which indicated DC had sinus issues. Dr. Porter did the mini implants and DC signed two consent forms, one of which indicated there was a 90% success rate. DC was also informed that smoking was detrimental to the healing process, but she continued to smoke. The oral surgeon recommended removal of the implants because of infection and two of the implants became loose. Dr. Porter gave DC three prescriptions for antibiotics for the infection prior to her going to the oral surgeon and noted that DC's smoking was excessive. It was believed DC's infection was due to the continued smoking. With regard to the Investigative Interview (I.I.) panel upholding the allegation of inadequate radiographs, Mr. Neiswender had them in his care and he failed to submit them timely to the Board. Additionally, there was a treatment plan attached to the complaint and the oral surgeon did not find any perforation of the sinus. Mr. Tonner asked the Board to consider a new I.I. with Mr. Neiswender as part of the proceeding or allow Mr. Neiswender to refund DC for the failed implants since he was the party who received payment from DC.

Dr. Porter stated DC had surgery on a Friday and was seen the following Monday to remove the one implant that was bothering her. In response to the Board, Dr. Porter stated he has completed approximately 130 hours of continuing education in both types of implants. He has not read or subscribed to any of the peer review journals on implants other than a free publication he receives. He does not use a surgical guide because he has had no luck with it and did not believe it was actually part of the standard of care. Dr. Porter further stated he does not always use a CT scan. In DC's case he believed there was adequate bone for the implants by looking at the panoramic radiograph. Dr. Porter says he has several happy patients. He did have one case in which the implant was in the sinus, but with

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DC, he has no definitive evidence that any of the implants were in the sinus. There would have had to be a CT scan done post-operatively to prove perforation of the sinus. When a case fails, the implant is removed and discarded.

The Board had a concern with the 20% failure rate of DC's implants. Of the patients who have received implants by Dr. Porter, the implants had to be removed in 20% of these cases. This was a relatively high failure rate. In response to the Board, Dr. Porter stated he did not give DC a referral to an oral surgeon because, generally, oral surgeons do not do the type of implants he did. There is an oral surgeon who works with him, but DC was given the option to see him after the surgery. Dr. Porter has been trained to do sinus grafting, however he does not do any sinus grafting in his practice because he is not comfortable with it and would rather refer in those instances.

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

**The Board requested priors – staff reported 4

Upon MOTION by Dr. Gradke, second by Ms. Bevers the Board voted to impose RESTITUTION of \$8000 to the patient and CONTINUING EDUCATION OF 12 hours in Diagnosis and Treatment Planning of Dental Implants with 3 hours of the 12 specific to the use and evaluation of patients with CT scans and 20 hours of Hands-on Maxilla Implant Surgery with 12 months time to complete. Dr. Waite and Dr. Rosenthal OPPOSED. MOTION PASSED.

Upon MOTION by Ms. Bevers, second by Dr. Sommerhalter the Board voted to OPEN AN INVESTIGATION against Mr. Dale Neiswender for exceeding the scope of practice by prescribing. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 20 **Case No. 290212**
Sun Coast Dental

Mr. Garcia, on behalf of Sun Coast Dental and complainant JH were present.

Mr. Garcia stated that all of the issues in this case had been rectified by Sun Coast Dental. Upon MOTION by Ms. Bevers, second by Dr. Waite the Board voted to ACCEPT the Findings of Fact. MOTION PASSED UNANIMOUSLY.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to find a VIOLATION of A.R.S. §32-1263.D.14. MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose a CIVIL PENALTY of \$2000. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 23 **Case No. 270477**
Dr. Jenny V. Wang

Dr. Wang was present. This matter was before the Board regarding the imposed monitoring requirement. Dr. Wang requested this requirement be lifted.

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Upon MOTION by Dr. Rosenthal, second by Dr. Morrison the Board voted to REMOVE the Monitoring Requirement from Dr. Wang's consent agreement. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 21 **Case No. 290215**
Dr. Phu N. Tran

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

Ms. McLellan responded to new information received in the form of a report and summary which was prepared by the Board's chief investigator. She did not believe it was appropriate for the investigator to review the case in an ex parte manner after the Investigative Interview panel had completed its report. The Board has the authority to refer the case to an investigator, to panel review or to a formal hearing, with the operative word being 'or'. Ms. Williams responded there was no violation to the rule or statute by the chief investigator in preparing the reports, as long as the respondents and attorneys are given the opportunity to respond to them.

This case involved a bridge which spanned from teeth 6 to 8. Dr. Tran initiated treatment on the patient but did not place the bridge. Ms. McLellan believed the Investigative Interview panel did not realize the bridge was placed by a subsequent treating dentist when it stated there was not enough tooth structure when the bridge was placed. However, the subsequent treating dentist believed there was enough tooth structure when he worked on the case and did not deviate from Dr. Tran's treatment plan. Ms. McLellan believed there was sufficient tooth structure at the time Dr. Tran began treating the patient. Additionally, the patient had posterior teeth missing which placed a risk on the success of the bridge. When Dr. Tran received the complaint, he contacted the patient and they reached a settlement. The patient submitted a letter to the Board to terminate the complaint. Ms. McLellan asked the Board to consider non-disciplinary action in this matter.

Upon MOTION by Dr. Rosenthal, second by Dr. Morrison the Board voted to impose Non-Disciplinary CONTINUING EDUCATION of 12 hours in Crown and Bridge including principals of restoring endodontically treated teeth with 12 months time to complete. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 24 **Case No. 280459**
Dr. Denham B. Crafton, II

Mr. Hover was present on behalf of Dr. Crafton.

This case was before the Board as a result of a petition to rehear. The Board's reviewer stated a civil penalty was issued to Dr. Crafton for failure to comply with a subpoena. There were two subpoenas issued to Dr. Crafton. The first subpoena issued was the only one addressed in the complaint. It has been the Board's policy that a \$500 non-disciplinary civil penalty is imposed for failure to comply with a subpoena. There was no valid reason to rehear this case.

Mr. Hover stated a finding of failure to respond to a subpoena in a timely manner implies receipt or an awareness of the subpoena. There was no evidence of Dr. Crafton ever receiving the subpoena because it was returned to the Board. The notices which were left did not inform Dr. Crafton of the identity of the sender nor was there a zip code to show what area the certified mail came from. There is legally, an insufficient amount of evidence for the Board to conclude Dr. Crafton knew of the subpoena. There is no law requiring licensees to pick up their certified mail.

Ms. Williams advised the Board the statute and case law requires the Board to send any legal documentation to the licensee's address of record. As long as the document is sent to the address of

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record, the Board has met its legal obligation. Actual notice is not the standard as long as the notice is sent to the last known address.

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

Agenda Item No. 18 **Case No. 280432**
Dr. Richard R. Salb

Dr. Salb, his attorney Mr. Smith, complainant DR and his attorney were present.

DR stated this case has taken its toll on him. He has adjusted his life around these implants. He was, at one time, proud of his smile. He did not believe this case should have had a second investigative interview just because Dr. Salb did not pick up his mail. He trusted the system and wanted to be treated fairly.

DR's attorney wanted to know if there was anything Dr. Salb could have done differently that would have affected the outcome of this case.

Mr. Smith stated he was in agreement with the report from the Chief Investigator. There was no testimony linking the treatment by Dr. Salb to the failed implant at tooth #19. Implants do fail for no reason. Mr. Smith asked the Board to accept the recommendation of the Chief Investigator. They were in agreement with a letter of concern for the record keeping issues.

In response to the Board, Dr. Salb affirmed that a clinical exam was done prior to the treatment, but it was not indicated in his records. Originally, Dr. Bassett was scheduled to perform the surgery but he was ill the day of DR's appointment. Dr. Salb filled in at the last minute. Dr. Salb stated he reviewed the treatment plan extensively with Dr. Bassett and was fully aware of it.

Upon MOTION by Dr. Rosenthal, second by Dr. Gradke the Board voted to issue a LETTER OF CONCERN stating the patient's record should contain complete documentation of a comprehensive clinical charting or oral conditions. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 17 **Case No. 290115**
Dr. Luke W. Denton

None of the parties were present for this item. The Board did not believe it was its job to police the advertisements of licensees.

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.A.C. R4-11-1101. MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported one

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose COMMUNITY SERVICE of 8 hours to be completed in 2 months. MOTION PASSED UNANIMOUSLY.

CONSENT AGENDA

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

Cases pulled from the Consent Agenda

Agenda Item No. 26	Case No. 280437	Dr. Nicholas J. Meyer
Agenda Item No. 27	Case No. 290037	Dr. Thomas A. Markle
Agenda Item No. 28	Case No. 290093	Dr. George Edward Boughan
Agenda Item No. 32	Case No. 290151	Dr. Gary F. Salwin
Agenda Item No. 37	Case No. 290221	Dr. Tony Kaocharoen
Agenda Item No. 42	Case No. 290214	Dr. Michael W. Dodd
Agenda Item No. 44	Case No. 290226	Dr. Michael D. Hummitzsch
Agenda Item No. 45	Case No. 290200	Dr. Hillary A. Douglas
Agenda Item No. 54	Case No. 290168	Dr. Nafys Samandari
Agenda Item No. 63	Case No. T-09-084	Dr. Brigham D. Baker
Agenda Item No. 67	Case No. 290324	Dr. Chandan S. Walia
Agenda Item No. 68	Case No. 290325	Dr. Stephen A. Kovar

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

Cases ADJUDICATED:

Agenda Item No. 25	Case No. 290172	Dr. Njeri Njoroge Dismiss – Lack of Supporting Evidence
Agenda Item No. 29	Case No. 290117	Dr. Tricia Denise Staunton Dismiss – Lack of Supporting Evidence
Agenda Item No. 30	Case No. 290161**	Dr. Daniel F. Galindo Dismiss – Lack of Supporting Evidence

**The complainant, SS, appeared after this case was adjudicated. The Board considered her testimony but stood by its previous decision.

Agenda Item No. 31	Case No. 290157	Dr. Barbara B. Giancola Dismiss – Lack of Supporting Evidence
Agenda Item No. 33	Case No. 290176	Dr. Russell L. Mitchell Dismiss – Lack of Supporting Evidence
Agenda Item No. 34	Case No. 290116	Dr. Thomas D. Wais Dismiss – Lack of Supporting Evidence
Agenda Item No. 35	Case No. 290169	Dr. John W. Melde Dismiss – Lack of Supporting Evidence
Agenda Item No. 36	Case No. 290193	Dr. Elonia Lasku Dismiss – Lack of Supporting Evidence

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Agenda Item No. 38	Case No. 290186	Dr. Tony Shervin Hashemian Dismiss – Lack of Supporting Evidence
Agenda Item No. 39	Case No. 290203	Dr. David A. Borba Dismiss – Lack of Supporting Evidence
Agenda Item No. 40	Case No. 290222	Dr. George Edward Boughan Dismiss – Lack of Supporting Evidence
Agenda Item No. 41	Case No. 280438	Dr. Joseph T. Nielsen Letter of Concern stating Dr. Nielsen is responsible for all billing which occurs in his office
Agenda Item No. 43	Case No. 290187	Dr. Qun Collins Letter of Concern stating radiographs are necessary prior to treating edentulous cases
Agenda Item No. 46	Case No. 290170	Dr. Glenn Cochran Hanf Terminate – Lack of Supporting Evidence
Agenda Item No. 47	Case No. 290253	Dr. Paul Kogan Terminate – Lack of Supporting Evidence
Agenda Item No. 48	Case No. 290256	Dr. Aziz Ali Bohra Terminate – Lack of Supporting Evidence
Agenda Item No. 49	Case No. 290290	Dr. M. Elizabeth Johns Terminate – Lack of Supporting Evidence
Agenda Item No. 50	Case No. 290233	Dr. Eric L. Kerbs Terminate – Lack of Supporting Evidence
Agenda Item No. 51	Case No. 290268	Dr. Todd R. Cockrell Terminate – Lack of Supporting Evidence
Agenda Item No. 52	Case No. 290190	Dr. Fred Zargar Terminate – Lack of Supporting Evidence
Agenda Item No. 53	Case No. 290179	Nancy Jo White, RDH Terminate – Lack of Supporting Evidence
Agenda Item No. 55	Case No. 290241	Dr. Loan Kim Dao Terminate – Lack of Supporting Evidence
Agenda Item No. 56	Case No. 290213	Dr. Emad G. Khalifa Non-Disciplinary Civil Penalty in the amount of \$500

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Agenda Item No. 57	Case No. 290208	Dr. Thomas J. Piccolo Non-Disciplinary Civil Penalty in the amount of \$500
Agenda Item No. 58	Case No. 290205	Dr. Champa R. Chatterjee Terminate – Lack of Supporting Evidence
Agenda Item No. 59	Case No. T-09-077	Dr. Kevin Allen Rauter Terminate – Lack of Jurisdiction
Agenda Item No. 60	Case No. T-09-078	Dr. Corwin D. Martin Terminate – Lack of Jurisdiction
Agenda Item No. 61	Case No. T-09-079	Dr. Timothy H. Kindt Terminate – Lack of Jurisdiction
Agenda Item No. 62	Case No. T-09-083	Dr. Ashraf S. Ghoneim Terminate – Lack of Jurisdiction
Agenda Item No. 64	Case No. 290321	William M. Tudor, RDH Letter of Concern stating Mr. Tudor should be aware of the requirement to report criminal charges to the Board
Agenda Item No. 65	Case No. 290322	Dr. Michael W. Dodd Letter of Concern stating doctor should be aware of the requirement to report criminal charges to the Board
Agenda Item No. 66	Case No. 290323	Robert J. Freithoffer, RDH Letter of Concern stating Mr. Freithoffer should be aware of the requirement to report criminal charges to the Board
Agenda Item No. 69	Case No. 290326	Dr. Leigh-Ann Schuerman Letter of concern stating doctor should be aware of the requirement to report criminal charges to the Board
Agenda Item No. 70	Case No. 290327	Dr. Kevin M. Harris Letter of Concern stating doctor should be aware of the requirement to report criminal charges to the Board
Agenda Item No. 71	Case No. 290195	Dr. A. Ruben Turley Letter of Concern stating doctor should be aware of the requirement to report criminal charges to the Board

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Agenda Item No. 72 – Approval of Restricted Permit(s) (Application or Renewal) – Consent Agenda

This item was vacant.

Agenda Item No. 73 – Ratification of New Dental and Dental Hygiene Licenses – Consent Agenda

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

Dental:

Matthew M. Sheppard, DMD
D 7904, issued: 10/14/2009

Vu Thanh Thai, DMD
D 7918, issued: 10/27/2009

Jared M. Nesbit, DDS
D 7919, issued: 11/12/2009

Tin T. Truong, DDS
D 7920, issued: 11/17/2009

David G. Barela, DDS
D 7921, issued: 11/17/2009

Dental Hygiene:

Lyndie M. Kelly, RDH
H 6812, issued: 10/20/2009

Kimberly S. Kaufman, RDH
H 6813, issued: 10/21/2009

Brian J. Robertson, RDH
H 6814, issued: 10/27/2009

Jennifer B. Johnston, RDH
H 6815, issued: 11/12/2009

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

Agenda Item No. 74 – Approval of Consultants and Examiners – Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to APPROVE the following as consultants and examiners. MOTION PASSED UNANIMOUSLY.

- A. Ms. Sharon Smith – Public consultant; Investigative Interviews
- B. Mr. M. Reed Staheli – Public consultant; Investigative Interviews

Agenda Item No. 75 – Approval of Minutes – Consent Agenda

Nothing was pulled. Upon MOTION by Dr. Waite, second by Ms. Buckles the Board voted to APPROVE the following minutes. MOTION PASSED UNANIMOUSLY.

- A. October 9, 2009 Board Meeting Minutes
- B. October 9, 2009 Executive Session Minutes
- C. November 6, 2009 Special Board Meeting Minutes

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Agenda Item No. 26 **Case No. 280437**
Dr. Nicholas J. Meyer

Dr. Meyer, his attorney Ms. McLellan and complainant EC and her son were present.

EC stated she was not satisfied with the care she received from Dr. Meyer. The lower partial does not fit and Dr. Meyer promised to replace it. While getting the second lower partial, she overheard Dr. Meyer saying she was overcharged. The partial was adjusted five times and after the last time, Dr. Meyer told her there was nothing else he could do for her. EC's son wanted to know if the cost of the workup and billing was excessive.

Ms. McLellan stated this case has had two Investigative Interviews and the patient did not show up for either one. She was in agreement with the panel's recommendation of dismissal. The last adjustment was in June of 2007. At that time, Dr. Meyer told EC a different type of partial could be done. Two more appointments were scheduled, but EC never showed up for those appointments. She was not charged for the second partial.

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

Agenda Item No. 44 **Case No. 290226**
Dr. Michael D. Hummitzsch

Dr. Hummitzsch and his attorney Ms. McLellan were present. This case was pulled from the consent agenda by a Board member because Dr. Hummitzsch recommended spot cleaning and root planing for the patient. After going to the front desk, the patient was told he would need antibacterial rinses, arestin and other items. Even though Dr. Hummitzsch is the treating dentist, it was believed that this matter was out of his hands. His recommended treatment was altered by Bright Now! Dental personnel.

In response to the Board, Dr. Hummitzsch stated he was not initially aware this type of billing was taking place. He has since spoken to the Clinical Board of Directors at Bright Now! Dental regarding this issue. At the time, a program was put into the computer so if a certain treatment code was entered, the computer would automatically add the other items as well. It was called an 'explosion code'. Further discussion with the directors resulted in the additional items being used as guidelines as opposed to set protocol.

The Board did not hold Dr. Hummitzsch, as an employee dentist, responsible for what the company was doing. However, it was suggested Dr. Hummitzsch review his treatment plans again after his patients have gone to the front desk.

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

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to OPEN AN INVESTIGATION against Bright Now! Dental for alleged failure to supervise staff for changing and/or adding information to the treatment plan. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 28 **Case No. 290093**
Dr. George Edward Boughan

Dr. Boughan, his attorney Ms. McLellan and complainant DY were present.

DY stated in October 2008 he had some teeth extracted and a bridge made by Dr. Boughan. The partial was tight and uncomfortable. The bridge was ready three weeks later. There were problems with it and there were approximately eight or nine adjustments made. He was in pain for two weeks. He went to a subsequent treating dentist for a second opinion and was told the bridge was too bulky and was the wrong shade. He has a new bridge now and is happy with it. He paid \$7000 for a bridge that was not right.

Ms. McLellan stated this case was recommended for dismissal. Dr. Boughan placed the lower anterior bridge. Prior to placing it, the patient signed a consent form for acceptance of the bridge with regard to color, size and fit. Also, the clinical evaluation concluded that the bridge was adequate.

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

Agenda Item No. 32 **Case No. 290151**
Dr. Gary F. Salwin

Mr. Tonner, on behalf of Dr. Salwin and complainant LS, along with an interpreter were present.

LS stated he is 76 and on a limited income. He paid for a denture that he cannot use. The denture was started by a different dentist and Dr. Salwin worked on it.

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

Agenda Item No. 63 **Case No. T-09-084**
Dr. Brigham D. Baker

Complainant JW was present and stated this case involved a crown and bridge for his wife, LW. His complaint was of poor diagnosis because the original treatment plan could not be completed. The Bridge at the lower left was done, but the second bridge on the lower right was not able to be completed due to an extreme tilt to tooth #31. He believed Dr. Baker should have told them of the potential issues with #31 and the X-rays should have told Dr. Baker the bridge could not be done. Dr. Baker then recommended Invisalign Express to correct the tilt to #31. The impressions were submitted to Invisalign who told Dr. Baker the tilt to 31 was too great for Invisalign to work. During the process of taking the impressions, Dr. Baker inadvertently pulled the crown from tooth #29. LW then went to an orthodontist, who assured her that braces would correct the problem with tooth #31. After 18 months, the tooth was corrected and the bridgework could be completed. However, when she returned to Dr. Baker, she was told the bridge could not be placed until root canal therapy was done on 31. LW then went to a subsequent treating dentist who placed the bridge and root canal therapy was not required. Additionally, although Dr. Baker was paid to perform treatment on tooth #28, no treatment was ever done to this tooth. They have contacted Dr. Baker in order to get a refund of the fees paid for the services that were not rendered, but he only offered them \$400, which they refused.

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The Board also expressed a concern with this case. Typically, Invisalign is not used to up-right a tilted tooth. Also, Dr. Baker did recommend root canal therapy for tooth #31, but this tooth did not require root canal therapy.

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

Agenda Item No. 27 **Case No. 290037**
Dr. Thomas A. Markle, II

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

MH stated he had inadvertently run over his denture with his bike. He went to several different dentists for an estimate on a repair. He settled upon Southwest Dental who informed him that he needed a new partial denture. He was unable to pay for a new partial and was quoted a price of \$430 to repair the denture. They did an exam with x-rays prior to working on the denture. He was without a denture for sixteen days.

Ms. McLellan stated Dr. Markle initially treatment planned MH for a new partial denture. Due to MH's finances, Dr. Markle was trying to help him out by relining and repairing his existing denture. Dr. Markle took the impressions, but was not the dentist who delivered the denture or did the final adjustments.

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

Upon MOTION by Ms. Bevers, second by Ms. Buckles the Board voted to OPEN AN INVESTIGATION against Dr. Mussie T. Sibahtu for alleged inadequate partial repair. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 37 **Case No. 290221**
Dr. Tony Kaocharoen

Ms. McLellan, on behalf of Dr. Kaocharoen and complainant KC were present.

KC stated she believed her TMJ issues were the result of treatment by Dr. Kaocharoen. She did not have TMJ prior to seeing him. All other subsequent treating dentists state the TMJ was within normal limits. Malocclusion was the only problem mentioned. She was referred to a new dentist who restored her mouth to its previous good health. She feels a great deal of pain at the injustice that was done. The crown placed by Dr. Kaocharoen had to be replaced less than three months later. She has paid several different dentists a great deal of money for the subsequent treatment of her teeth. She did not understand the diagnosis of TMJ after being treated by Dr. Kaocharoen. KC asked the Board to reconsider the Investigative Interview (I.I.) panel's recommendation for dismissal.

Ms. McLellan stated Dr. Kaocharoen placed a crown on tooth #19 and that was all of the treatment he performed. KC complained about tooth #12, but was sent to an endodontist for that tooth. Subsequent treating dentists noted other areas of concern, but none have mentioned any problems with tooth #19. Ms. McLellan was in agreement with the I.I. panel's recommendation for dismissal.

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

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Agenda Item No. 45 **Case No. 290200**
Dr. Hillary A. Douglas

Ms. McLellan was present on behalf of Dr. Douglas and stated all of the treatment was not performed by Dr. Douglas. Dr. Tran also provided some of the treatment. The crown on tooth #3, which was placed by Dr. Douglas, did have an open margin. This case is the result of a malpractice report so the patient has already been compensated. The Investigative Interview panel recommended non-disciplinary continuing education and Ms. McLellan was in agreement with that recommendation.

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

Agenda Item No. 54 **Case No. 290168**
Dr. Nafys Samandari

Complainant JL was present and stated she submitted additional information to the Board for its review. Her teeth were filed down on the sides and are not even. Also, she was never sent a copy of her records. She told the front desk not to make the crowns, but they did anyway and are now charging her for them. She is requesting a refund from Dr. Samandari for the inadequate treatment.

In response to the Board, JL stated she was in temporaries. After the second adjustment, she stopped going to Dr. Samandari. Instead of remaking the temporary, Dr. Samandari ground her teeth down. The Board determined the treatment was never completed.

Upon MOTION by Ms. Bevers, second by Dr. Morrison the Board voted to RESCIND its vote to Terminate this case for Lack of Supporting Evidence. MOTION PASSED UNANIMOUSLY.

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

Agenda Item No. 68 **Case No. 290325**
Dr. Stephen A. Kovar

Dr. Kovar was present and stated he has been having difficulty with understanding this case. In 2008, when he received the DUI, he referred to the statutes to determine what his reporting requirements were. He could not find any reference as to whether he was required to report the arrest or not. After submitting his application for renewal of licensure, he was informed he failed to report the DUI within 10 days. The statute regarding failure to report is not located in the Dental Practice Act. He received a report and summary from the Chief Investigator which referenced A.R.S. §32-3208. This was the first time he was able to read the statute. If he had been able to locate that statute, he would have reported timely. He was attempting to do his due diligence based on the Dental Practice Act.

The Board's Chief Investigator stated this statute is not located in the Dental Practice Act, but is in the Arizona Revised Statutes under Professions and Occupations. The recommendation was for a letter of concern because there were no priors and the incident was not repeated.

Dr. Waite moved to dismiss this case for lack of supporting evidence, but withdrew the motion.

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Upon MOTION by Mr. Greer, second by Dr. Gradke the Board voted to issue a LETTER OF CONCERN stating the doctor should be aware of the requirement to report criminal charges to the Board. Dr. Waite OPPOSED. MOTION PASSED.

**Board staff informed the Board that information regarding reporting requirements was included in an article in 'Inscriptions' magazine as well as in previous issues of the Board's newsletter.

Agenda Item No. 67 **Case No. 290324**
Dr. Chandan S. Walia

Dr. Walia was present and stated he was licensed in April of 2009 and submitted his renewal application in June 2009. He did not timely report a DUI arrest because he did not understand the 10-day reporting requirement. However, the lessons he has learned during the past few months will last a lifetime.

Upon MOTION by Dr. Waite, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN stating the doctor should be aware of the requirement to report criminal charges to the Board. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 42 **Case No. 290214**
Dr. Michael W. Dodd

Discussion ensued in this case as to the egregiousness of the matter. Some Board members believed placing a file in a patient's mouth while unlicensed to do so warrant more than a letter of concern. Other members believed the matter did not rise to a level of a violation. There was no actual harm done to the patient.

Upon MOTION by Dr. Waite, second by Dr. Morrison the Board voted to issue a LETTER OF CONCERN stating Dr. Dodd should be familiar with the laws related to practicing dentistry without a license. Ms. Bevers OPPOSED. MOTION PASSED.

ACTION ON CASES – Afternoon Agenda

Agenda Item No. 79 **Case No. 290163**
Dr. Donna Ann Ash

Dr. Ash was present and stated she has been practicing dentistry for almost eighteen years in Arizona and only received her first complaint in 2005. At this point, she asked the Board for leniency as she is in the process of phasing out her practice in order to retire. She also asked the Board to reconsider the Investigative Interview panel's recommendation of hands-on crown and bridge due to the difficulty in obtaining this course.

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. §32-12101.21(n). MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported 4

Upon MOTION by Dr. Rosenthal, second by Dr. Cole the Board voted to impose RESTITUTION of \$41.30 to the patient and CONTINUING EDUCATION of 6 hours in Crown and Bridge with 6 months time to complete. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 82 **Case No. 290141**
Dr. Byron J. Larsen

Dr. Larsen and his attorney Ms. McLellan were in attendance. Ms. McLellan stated this case was tabled from the October 2009 Board meeting pending receipt of records from the subsequent treating dentist as well as a dentist the patient saw while in New York. The patient was not cooperative with the Board in its attempt to obtain the records from the New York dentist. Ms. McLellan believed Dr. Larsen had done all the work appropriately and had gone above and beyond to please this patient. The Investigative Interview panel suggested non-disciplinary continuing education, but Ms. McLellan did not see any basis in this case which warranted any type of sanction. There was a clinical evaluation performed. The evaluator found the upper to be adequate, but there were some issues with the lower anterior. The problem was there was no way of knowing who did the work on the lower as the patient received treatment in New York and no records were ever submitted to the Board for review.

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

Agenda Item No. 78 **Case No. 290159**
Dr. Montana J. Skyler

Dr. Skyler was present and stated he did not receive notification of the Investigative Interview (I.I.) and was unaware of the proceeding. He did receive a copy of a report and summary which was done by the Chief Investigator and was prepared to comment on that. Dr. Skyler also received the report detailing the I.I. panel's recommendation.

The Board verified the address and confirmed that appropriate notice was sent to Dr. Skyler. The notice was returned to the Board as 'unclaimed'. The Board was not in a position to rehear the case at this time.

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

**The Board requested priors – staff reported none

Upon MOTION by Dr. Rosenthal, second by Dr. Gradke the Board voted to impose CONTINUING EDUCATION of 6 hours in Crown and Bridge, 4 hours in Risk Management and 6 hours in Management of Endodontic Complications with 12 months time to complete. Dr. Spigner was ABSENT. Dr. Waite OPPOSED. MOTION PASSED.

Agenda Item No. 80 **Case No. 290181**
Dr. Erik A. Pease

Mr. Tonner was present on behalf of Dr. Pease. He stated this matter occurred when Dr. Pease was only three or four months out of dental school. He placed crowns on teeth 23 through 26. The Investigative Interview (I.I.) panel recommended upholding unprofessional conduct because there was no soft tissue, oral cancer screening or periodontal screening done. Also, the panel did not see the radiographic need for the build-ups. Mr. Tonner agreed there was no soft tissue or oral cancer screening done, but there was a periodontal screening performed. The panel recommended restitution of \$402 to the patient, which Dr. Pease has already done. They also recommended continuing education of 4 hours in oral medicine/oral cancer screening which Mr. Tonner interpreted to mean risk management. Dr. Pease has

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already signed up for this course. Since the I.I., the restitution has been re-calculated to be \$740. Mr. Tonner had a check in his possession for the patient in the amount of \$338, which was the difference between the \$402 that has been paid to the patient and the recalculated amount of \$740. Mr. Tonner was willing to mail the check to the patient on behalf of Dr. Pease. He asked the Board to consider dismissal of this case.

The Board clarified the course recommended by the I.I. panel was intended to be in oral cancer screening, not risk management. Mr. Tonner agreed to send the balance of \$338 to the patient for the build-ups that should not have been done.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to impose NON-DISCIPLINARY CONTINUING EDUCATION of 3 hours in Oral Medicine/Oral Cancer Screening with 6 months time to complete. Dr. Morrison RECUSED. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 84 **Case No. 290058**
Dr. Donald Acomb

The Board reviewer explained this petition to rehear was filed because the 4 hours of non-disciplinary continuing education in risk management imposed was excessive. The reviewer recommended the petition to rehear be granted because the teeth involved were non-restorable.

The patient ML believed the case should be reheard because she has not been able to use the upper denture fabricated by Dr. Acomb since they were made. The last time she saw Dr. Acomb, he forced the denture into her mouth and she could not remove it for a couple of days. She has tried to use the lower denture. The clinical evaluator told her both dentures were made improperly. In response to the Board, ML stated the dentures were done a few weeks after the extractions.

Upon MOTION by Dr. Sommerhalter, second by Dr. Morrison the Board voted to GRANT an immediate Petition to Rehear. Ms. Buckles OPPOSED. Dr. Spigner was ABSENT. MOTION PASSED.

The Board reviewer stated this issue was regarding an immediate denture. The penalty imposed was based upon the lack of periodontal charting on teeth that were non-restorable. He believed the penalty was excessive.

Upon MOTION by Dr. Sommerhalter, second by Dr. Gradke the Board voted to DISMISS this matter for Lack of Supporting Evidence. Ms. Bevers and Dr. Rosenthal OPPOSED. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 77 **Case No. 290114**
Dr. Ale W. Yuen

Dr. Yuen was present and stated he was in agreement with the Chief Investigator's recommendation. This was an isolated incident which occurred as a result of his carelessness.

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose a NON-DISCIPLINARY CIVIL PENALTY in the amount of \$500. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 76 **Case No. 280466**
Dr. Randall Steven Hurley

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 Rule R4-11-1203. MOTION PASSED UNANIMOUSLY.

**The Board requested priors – staff reported none

Upon MOTION by Dr. Rosenthal, second by Dr. Waite the Board voted to impose an ADMINISTRATIVE PENALTY of \$500 and require Dr. Hurley to complete the deficient hours required for the renewal period ending 06/30/08 within 1 year. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 81 **Case No. 290123**
Dr. Jill M. Carter

Ms. Williams explained that this case has already been issued a letter of concern regarding the same allegation.

Upon MOTION by Dr. Waite, second by Dr. Sommerhalter the Board voted to VACATE its previous vote to impose a civil penalty. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 83 **Case No. 280133**
Dr. Charles Vanderpool

Ms. Williams reported Dr. Vanderpool was given the complaint and notice of intent to go to a formal hearing and allotted 20 days to respond. He did not respond. Under Board statute, if the respondent does not answer the allegations set forth in the complaint within 20 days, the Board has the authority to deem the allegations admitted and adjudicate the case. This case was being brought before the Board with a motion to deem the allegations which were outlined in the complaint as admitted.

Upon MOTION by Ms. Bevers, second by Mr. Farnsworth the Board voted to DEEM THE ALLEGATIONS ADMITTED. MOTION PASSED UNANIMOUSLY.

Ms. Williams asked the Board to consider adopting the factual allegations and the charges outlined in the complaint as the Findings of Fact and Conclusions of Law.

Upon MOTION by Mr. Farnsworth second Ms. Bevers the Board voted to ACCEPT the Findings of Fact and Conclusions of Law as outlined in the complaint. MOTION PASSED UNANIMOUSLY.

Ms. Williams recommended revocation of Dr. Vanderpool's license to practice dentistry. The Board was reminded there were other options available to Dr. Vanderpool should its decision be to revoke his license.

Upon MOTION by Mr. Farnsworth, second by Ms. Bevers the Board voted to REVOKE license number D 2521 issued to Dr. Vanderpool. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

AFTERNOON CONSENT AGENDA

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

Cases pulled from the Consent Agenda

Agenda Item No. 90	Case No. 290175	Dr. Timothy K. Freeman
Agenda Item No. 91	Case No. 290182	Dr. Michael J. Bricker
Agenda Item No. 102	Case No. 290158	Dr. Monte Begay Wells
Agenda Item No. 103	Case No. 290188	Dr. Patrick T. Carter
Agenda Item No. 104	Case No. 290183	Dr. Ian D. Young
Agenda Item No. 105	Case No. 290204	Dr. Paul J. Pease
Agenda Item No. 106	Case No. 290146	Dr. Sathish Bhadra Chari
Agenda Item No. 107	Case No. 290192	Dr. Edward W. Galapeaux
Agenda Item No. 115	Case No. 290286	Dr. Orville S. Diggs
Agenda Item No. 145	Case No. T-09-075	Dr. George E. Boughan

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

Cases ADJUDICATED:

Agenda Item No. 85	Case No. 290199	Dr. Susan B. Sharp Dismiss – Lack of Supporting Evidence
Agenda Item No. 86	Case No. 290104	Dr. Gordon K. Wilson Dismiss – Lack of Supporting Evidence
Agenda Item No. 87	Case No. 290189	Dr. Farzam Makeki Dismiss – Lack of Supporting Evidence
Agenda Item No. 88	Case No. 290237	Layla A. Sugarman, RDH Dismiss – Lack of Supporting Evidence
Agenda Item No. 89	Case No. 290160	Dr. Byron J. Larsen Dismiss – Lack of Supporting Evidence
Agenda Item No. 92	Case No. 290165**	Dr. Paul A. Lines Dismiss – Lack of Supporting Evidence

**The patient appeared after this case was adjudicated. The Board considered her testimony but stood by its previous decision.

Agenda Item No. 93	Case No. 290150	Dr. Gordon K. Wilson Dismiss – Lack of Supporting Evidence
Agenda Item No. 94	Case No. 290119	Dr. Terry J. Lee Dismiss – Lack of Supporting Evidence

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Agenda Item No. 95	Case No. 290218	Dr. Hazem Hussein Jabr Dismiss – Lack of Supporting Evidence
Agenda Item No. 96	Case No. 290209	Mr. David A. Fishman Dismiss – Lack of Supporting Evidence
Agenda Item No. 97	Case No. 290210	Dr. Suneeta Annamareddy Dismiss – Lack of Supporting Evidence
Agenda Item No. 98	Case No. 290174	Dr. James B. Mallory Dismiss – Lack of Supporting Evidence
Agenda Item No. 99	Case No. 290216	Dr. Gary F. Bernard Dismiss – Lack of Supporting Evidence
Agenda Item No. 100	Case No. 290223	Dr. Robert A. Lindinger Dismiss – Lack of Supporting Evidence
Agenda Item No. 101	Case No. 290194	Dr. Lori Karen Anderson Letter of Concern stating Dr. Anderson needs to use better judgment in who she allows to assist patients
Agenda Item No. 108	Case No. 290206	Total Dental Solutions Terminate – Lack of Supporting Evidence
Agenda Item No. 109	Case No. 290259	Total Dental Solutions Terminate – Lack of Supporting Evidence
Agenda Item No. 110	Case No. 290184	Dr. Hedayat B. Harsini Terminate – Lack of Supporting Evidence
Agenda Item No. 111	Case No. 290278	Dr. Stephen Samuel Baer Terminate – Lack of Supporting Evidence
Agenda Item No. 112	Case No. 290252	Dr. Lucas R. Beatty Terminate – Lack of Supporting Evidence
Agenda Item No. 113	Case No. 290282	Dr. Kevin D. Givens Terminate – Lack of Supporting Evidence
Agenda Item No. 114	Case No. 290266	Western Dental of Arizona, Inc. Terminate – Lack of Supporting Evidence
Agenda Item No. 116	Case No. 290239	Dr. My-Anh T. Tran Terminate – Lack of Supporting Evidence
Agenda Item No. 117	Case No. 290291	Western Dental of Arizona, Inc. Terminate – Lack of Supporting Evidence

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Agenda Item No. 118	Case No. 290196	Dr. Joshua S. Hong Terminate – Lack of Supporting Evidence
Agenda Item No. 119	Case No. 290198	Dr. Daniel R. Rosales Ratify to an Investigative Interview
Agenda Item No. 120	Case No. 290211	Dr. Lance J. Skidmore Non-Disciplinary Civil Penalty of \$500 for failure to comply with a Board subpoena
Agenda Item No. 121	Case No. 290231	Nina M. McGee, RDH Letter of Concern stating Ms. McGee shall maintain full compliance with the terms and conditions of the agreement entered into with the Board
Agenda Item No. 122	Case No. 290202	Dr. Steven C. Badger Remand to a new Investigative Interview
Agenda Item No. 123	Case No. 290295	Dr. Barry James Nestlerode Terminate – Lack of Jurisdiction
Agenda Item No. 124	Case No. 290264	Dr. Scott P. Wilson Terminate – Lack of Jurisdiction
Agenda Item No. 125	Case No. 290273	Dr. William M. Martin Terminate – Lack of Jurisdiction
Agenda Item No. 126	Case No. 290167	Dr. Rosalyn D. Keith Terminate – Lack of Jurisdiction
Agenda Item No. 127	Case No. 290271	Dr. Barry J. Uldrikson Terminate – Lack of Jurisdiction
Agenda Item No. 128	Case No. 290315	Dr. Lior Berger Terminate – Lack of Jurisdiction
Agenda Item No. 129	Case No. T-09-080	Dr. Barry J. Uldrikson Terminate – Lack of Jurisdiction
Agenda Item No. 130	Case No. T-09-081	Dr. Steven Nicholas Booth Terminate – Lack of Jurisdiction
Agenda Item No. 131	Case No. T-09-082	Dr. Gregory P. Fuller Terminate – Lack of Jurisdiction
Agenda Item No. 132	Case No. 290303	Dr. Alejandro Rabanal Dismiss without Prejudice
Agenda Item No. 133	Case No. 290304	Dr. Alejandro Rabanal Dismiss without Prejudice

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Agenda Item No. 134	N/A	Jammie L. Shaughnessy, RDH Open an Investigation as a result of case 290085 for charging a fee for treatment that was never completed
Agenda Item No. 135	N/A	Gentle Dental Open an Investigation as a result of case 290171 for alleged billing irregularities
Agenda Item No. 136	N/A	Dr. Axel H. Yabroudi Open an Investigation as a result of a malpractice report for alleged inadequate endodontic treatment and complications during and after treatment
Agenda Item No. 137	N/A	Dr. Luke W. Denton Open an Investigation as a result of a malpractice report for alleged inadequate implants
Agenda Item No. 138	N/A	Dr. Sibera T. Brannon Open an Investigation as a result of a malpractice report for alleged inadequate crown and bridge and complications during and after treatment
Agenda Item No. 139	Case No. 270357	Dr. Gregory J. Lagermeier Accept Probation Monitoring Audit Report
Agenda Item No. 140	Case No. T-09-061	Dr. Stephanie Wagner Kethcart Terminate – Lack of Jurisdiction
Agenda Item No. 141	Case No. T-09-071	Dr. Terry Berkley Terminate – Lack of Jurisdiction
Agenda Item No. 142	Case No. T-09-072	Dr. Pontip Baillie Terminate – Lack of Jurisdiction
Agenda Item No. 143	Case No. T-09-073	Dr. Michael Wassef Terminate – Lack of Jurisdiction
Agenda Item No. 144	Case No. T-09-074	Dr. Jared Pope Terminate – Lack of Jurisdiction
Agenda Item No. 146	Case No. T-09-076	Dr. Larry Bargren Terminate – Lack of Jurisdiction
Agenda Item No. 147	Case No. T-09-056	Arrowhead Dental Group Terminate – Lack of Jurisdiction

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Agenda Item No. 145 **Case No. T-09-075**
Dr. George E. Boughan

Complainant EP was present and stated he presented to Dr. Boughan for an extraction and denture. The following day, Dr. Boughan moved to Globe, Arizona and has not contacted him since. He has been unable to get his insurance to cover any of the work until this issue is resolved with Dr. Boughan. The only thing he has received is an estimate of the treatment plan.

The Board informed EP that it has no jurisdiction over this type of matter.

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

Agenda Item No. 91 **Case No. 290182**
Dr. Michael J. Bricker

Mr. Tonner, on behalf of Dr. Bricker, complainant SC and her husband were present.

SC stated in February 2008 implants were done by Dr. Bricker. The teeth did not work. He told her to learn to live with it and get on with her life when she told him the denture did not fit.

Mr. Tonner stated four regular maxillary and four mini implants in the mandible were done. There were fourteen office visits after the initial implants were done. Eight months after delivery, SC went to a periodontist who stated the implants were not mobile and there was no pain. She then went to a subsequent general dentist who stated the bite was reasonable but noted there was some rocking at the bottom. However, Dr. Bricker was in the process of treating that issue when SC began seeing other dentists. He planned to replace the 'O' rings and if that treatment was not sufficient, he would have added implants on the lower.

SC's husband stated Dr. Bricker did some injections which caused SC's face to swell so badly she could hardly breathe. She had to go to the hospital for relief. They were unable to submit any new information to the Board, but since the complaint was filed, SC found out she has something called 'square jaw' that will not allow the implant to be stable. He believed Dr. Bricker did not place the implant properly.

The Board informed SC and her husband that all other treating dentists believed the implants were properly placed.

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

Agenda Item No. 107 **Case No. 290192**
Dr. Edward W. Galapeaux

Ms. Thompson was present on behalf of Dr. Galapeaux.

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

Agenda Item No. 90 **Case No. 290175**
Dr. Timothy K. Freeman

Ms. McLellan, on behalf of Dr. Freeman and complainant KJ were present.

KJ stated the cap Dr. Freeman placed on his tooth had to be removed because of infection. When it was removed, cotton was found underneath. Because Dr. Freeman was the last dentist who performed treatment on his tooth, he believed Dr. Freeman was responsible for the infection and should pay for the tooth being extracted and for the implant he will need.

Ms. McLellan stated KJ had a root canal done on tooth #3 in 2002. The tooth was temporarily filled by a different dentist. In 2004, KJ presented to Dr. Freeman for the crown placement. By this time, it appeared the tooth had a permanent build-up and Dr. Freeman prepared the tooth and placed the crown. In 2008, four years later, KJ sought treatment from Dr. Stein who, due to a fracture at the root of the tooth, recommended extraction. A cotton pellet was found in the tooth, but that was not the cause of the fracture of the root which caused the tooth to be extracted. The Investigative Interview (I.I.) panel believed that because of the permanent build-up of the tooth, there was no reason for Dr. Freeman to explore the tooth further. The I.I. panel recommended dismissal and Ms. McLellan was in agreement with that recommendation.

The Board agreed that the extraction of the tooth was caused by the root fracture.

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

Agenda Item No. 102 **Case No. 290158**
Dr. Monte Begay Wells

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

The Board expressed a concern with the patient being diagnosed with type 4 periodontal issues. Then, root planing was done, the teeth were prepped and the bridge was placed. Approximately eight months later, the bridge had to be removed because there was not enough tooth structure. The teeth should have been extracted; not crowned and bridged. The bridge was from teeth 18 through 22. Tooth #18 was a crowned tooth and #20 was extracted. Tooth #22 had been endodontically treated. Other concerns were that Dr. Wells performed scaling and root planing without a periodontal referral and he started treatment without waiting to re-evaluate the patient's periodontal condition.

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

Finding of Fact #5 AMENDED to read:

Clinical evaluator found margin on #18 and 19 sealed and #21 and 22 questionable margins, mainly #21, possible recurrent decay. Bridge preparation was made 5 days after scaling/root planing and 19 days after the full mouth debridement in class 4 perio without a referral to a periodontist. A bridge was placed on #19 with advanced perio disease present as evidenced by subsequent x-rays taken in Dr. Smith's office 11-20-08.

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

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

**The Board requested priors – staff reported four

Upon MOTION by Dr. Sommerhalter, second by Ms. Bevers the Board voted to impose RESTITUTION to the patient of \$4250 and CONTINUING EDUCATION of 12 hours in Periodontal Diagnosis and Treatment Planning and 6 hours in Crown and Bridge Treatment Planning with 12 months time to complete. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 103 **Case No. 290188**
Dr. Patrick T. Carter

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

This case was pulled from the consent agenda because it was not believed a letter of concern was warranted in this matter. Dr. Carter performed a surgical extraction and part of the root was left. Post-operative x-rays are not always required and the definition of what is a difficult extraction varies from dentist to dentist.

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

Agenda Item No. 104 **Case No. 290183**
Dr. Ian D. Young

Mr. Tonner was present on behalf of Dr. Young. Mr. Tonner stated Dr. Young worked for Pacific Dental and only saw the patient once. He recommended scaling and planing on 3 quadrants and also documented some bone loss. The Investigative Interview (I.I.) panel did not see any bone loss upon review of the x-rays and recommended a letter of concern. The patient did not have any treatment done by Dr. Young.

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

Agenda Item No. 105 **Case No. 290204**
Dr. Paul J. Pease

Mr. Tonner, on behalf of Dr. Pease and complainant LJ were present.

LJ stated she initially presented to Dr. Pease due to a broken tooth on her denture. It was repaired without incident and a short time later, another tooth became broken. She returned to Dr. Pease for repair and when the denture was returned, the teeth were shorter and protruded.

Upon MOTION by Dr. Rosenthal, second by Ms. Bevers the Board voted to issue a LETTER OF CONCERN stating the doctor should always supervise staff and ensure a written work order is provided for laboratory technician services. Dr. Spigner was ABSENT. MOTION PASSED UNANIMOUSLY.

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Agenda Item No. 106 **Case No. 290146**
Dr. Sathish Bhadra Chari

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

Upon MOTION by Dr. Morrison, second by Ms. Bevers the Board voted to impose NON-DISCIPLINARY CONTINUING EDUCATION of 6 hours in Endodontic Diagnosis and Treatment Planning with 6 months time to complete. Dr. Gradke ABSTAINED. Dr. Spigner was ABSENT. MOTION PASSED.

Agenda Item No. 115 **Case No. 290286**
Dr. Orville S. Diggs

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

Agenda Item No. 148 – Members of the Public

None

Agenda Item No. 149 – Associations

None

Agenda Item No. 150 - Future Agenda Items

None

Agenda Item No. 151 – Next Meeting Date

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Agenda Item No. 152 – Adjournment

Dr. Rosenthal adjourned the meeting at 3:15 PM.

Minutes APPROVED at the February 5, 2010 Board Meeting

Elaine Hugunin, Executive Director