

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
BONAVENTURE RESORT & SPA
250 RACQUET CLUB ROAD
WESTON, FL 33326
(954) 389-3300
NOVEMBER 21, 2014, 7:30 A.M.**

CALL TO ORDER/ROLL CALL

The meeting was called to order at 7:30 a.m. by Dr. Thomas, Chair. Those present for all or part of the meeting included the following:

Members present:

Joe Thomas, D.D.S., Chair
Wade Winker, D.D.S.,
William Kochenour, D.D.S.
Dan Gesek, D.M.D.
T. J. Tejera, D.M.D.
Catherine Cabanzon, R.D.H., B.A.S.D.H.
Leonard Britten, D.D.S.
Tim Pyle
Anthony Martini
Angela Sissine, R.D.H.

Members absent:

Robert Perdomo, D.M.D., Vice-Chair (Excused absence)

Staff present:

David Flynn, Board Counsel
Sue Foster, Executive Director
Candace Rochester, Esq., Asst. General Counsel, PSU
Chelsea Enright, Esq., Asst. General Counsel, PSU
Cindy Ritter, Program Administrator
Court Reporter, Apex Reporting Group, Daisy Amador, 954.467.8204

REVIEW OF MINUTES

August 22, 2014 General Business Meeting

The minutes were reviewed by the Board and following discussion, the following action was taken by the Board:

Motion: by Dr. Kochenour to approve the minutes
Second: by Dr. Gesek
Vote: unanimous

REPORTS

Committees

Dental Records Task Force Telephone Conference Call (October 22, 2014)

Dr. Tejera, Committee Chair reported on the draft rule 64B5-17.002, Written dental records, minimum content, retention.

Dr. Thomas discussed a change with the board to remove the paragraph on consent and place it in another location to be discussed during the Rules Committee.

Rules Committee Telephone Conference Call (November 6, 2014)

The Rules Committee met by telephone conference call on November 6, 2014 and reviewed six rule drafts. The Board discussed voting on these rules under the Board Attorney's report.

Rule Draft 64B5-17.002, FAC, Written Dental Records; Minimum Content, Retention

Draft not available

Rule 64B5-2.013, FAC, Dental Examination

Insert the following language to paragraph (1) (g):

Candidates for the dental examination may only assess patients for suitability as exam patients at a dental office under the direct supervision of a Florida licensed dentist, or at an accredited dental program under the direct supervision of a program faculty member.

Rule 64B5-2.0146, FAC, Licensure Requirements for Applicants from Non-Accredited Schools or Colleges

For the purpose of complying with the statutory change made to Section 466.006(3)(b) by SB 1040 (effective March 12, 2012), the following modifications are recommended to paragraph (2) (a) of the rule:

Complete a full-time, matriculated, ~~American Dental Association recognized dental specialty education program accredited by the Commission on Dental Accreditation of the American Dental Association or~~ a Commission on Dental Accreditation of the American Dental Association accredited supplemental general dentistry programs, which provides didactic and clinical education to the level of an accredited D.D.S. or D.M.D. program, ~~either of which~~ has ~~have~~ a duration of at least two consecutive academic years at the sponsoring institution.

Rule 64B5-13.0046, FAC, Citation Authority

Based on a review of the rule by Board Counsel the following modifications are recommended.

(1) ~~Pursuant to Section 456.077, F.S. (2000),~~ The Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation and the appropriate penalties for specific violations. ~~In addition to the penalty, the costs of the investigation and prosecution shall be assessed pursuant to Section 456.072(2), F.S.~~ The following subsections indicate those violations which may be disposed of by citation, with the accompanying penalty.

(2) through (5) No Change

~~(6) Violation of Rule 64B5 4.004, F.A.C., as follows:~~

~~(a) Violation of subsection 64B5 4.004(2), F.A.C., by providing an advertisement of specialty services which does not state whether the service will be performed by a general dentist or a specialist.~~

~~(b) Violation of subsection 64B5 4.004(4), F.A.C., by providing an advertisement that states that a dentist is a specialist when the dentist does not meet the applicable criteria.~~

~~(c) Violation of subsection 64B5 4.004(5), F.A.C., by advertising a service in a manner which in its form or content would lead a reasonable person to believe that the service is a specialty unless that service is a specialty recognized by the Board.~~

(7) No Change

(8) Violation of subsection 466.028(1)(n), F.S., failure to timely make available to a patient or client, or to his legal representative or to the Department, if authorized in writing by the patient, copies of documents in the possession or under control of the licensee, which relate to the patient or client. Timely means less than 30 days from the receipt of the written authorization. The subject of the citation has 10 days from the date the citation becomes a final order to release the patient records. Failure to comply will result in a \$1,000.00 fine..

(9) through (17) No Change

Rule 64B5-9.011, FAC, Radiography Training for Dental Assistants

The committee recommended replacing the words “radiographic films” with “radiographic images.”

Rule 64B5-12.013, Continuing Education Requirements

The motion died and the rule draft will not be moved forward.

Board Counsel

Rules Report

Review of JAPC Correspondence - Rule 64B5-16.0075, Dental Charting by Dental Hygienists

Mr. Flynn advised the board of the comments made by the Joint Administrative Procedures Committee regarding the proposed rule. Mr. Flynn amended the rule draft to address the concerns. The President of the FDHA stated that the association supported the change.

Motion: by Ms. Cabanzon

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Gesek that there is no impact on small businesses

Second: by Dr. Kochenour

Vote: unanimous

Review of JAPC Correspondence, Rule 64B5-2.0135, Dental Hygiene Examination

Motion: by Dr. Gesek to accept with changes noted by Mr. Flynn

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Gesek that there is no impact on small business

Second: by Dr. Winker

Vote: unanimous

Candidates for the dental hygiene examination may only assess patients for suitability as exam patients at a dental office under the direct supervision of a Florida licensed dentist, or at an accredited dental program under the direct supervision of a program faculty member.

Rule 64B5-2.013, Dental Examination

Motion: by Dr. Gesek to accept with changes noted by Mr. Flynn

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Gesek that there is no fiscal impact on small business

Second: by Dr. Kochenour

Vote: unanimous

Candidates for the dental examination may only assess patients for suitability as exam patients at a dental office under the direct supervision of a Florida licensed dentist, or at an accredited dental program under the direct supervision of a program faculty member.

Rule 64B5-2.0146, Licensure Requirements for Applicants from Non-Accredited Schools or Colleges

Motion: by Dr. Gesek to approve the language

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Gesek no fiscal impact on small business
Second: by Dr. Kochenour
Vote: unanimous

Rule 64B5-9.011, Radiography Training for Dental Assistants

Motion: by Dr. Gesek to approve the language
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Gesek that there is no fiscal impact on small businesses
Second: by Dr. Kochenour
Vote: unanimous

Rule 64B5-13.0046, Citation Authority

Based on a review of the rule by Board Counsel the following modifications are recommended.

(1) ~~Pursuant to Section 456.077, F.S. (2000),~~ The Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation and the appropriate penalties for specific violations. ~~In addition to the penalty, the costs of the investigation and prosecution shall be assessed pursuant to Section 456.072(2), F.S.~~ The following subsections indicate those violations which may be disposed of by citation, with the accompanying penalty.

(2) through (5) No Change

(6) ~~Violation of Rule 64B5-4.004, F.A.C., as follows:~~

(a) ~~Violation of subsection 64B5-4.004(2), F.A.C., by providing an advertisement of specialty services which does not state whether the service will be performed by a general dentist or a specialist.~~

(b) ~~Violation of subsection 64B5-4.004(4), F.A.C., by providing an advertisement that states that a dentist is a specialist when the dentist does not meet the applicable criteria.~~

(c) ~~Violation of subsection 64B5-4.004(5), F.A.C., by advertising a service in a manner which in its form or content would lead a reasonable person to believe that the service is a specialty unless that service is a specialty recognized by the Board.~~

(7) No Change

(8) Violation of subsection 466.028(1)(n), F.S., failure to timely make available to a patient or client, or to his legal representative or to the Department, if authorized in writing by the patient, copies of documents in the possession or under control of the licensee, which relate to the patient or client. Timely means less than 30 days from the receipt of the written authorization. The subject of the citation has 10 business days from the date the citation becomes a final order to release the patient records. Failure to comply will result in a \$1,000.00 fine..

(9) through (17) No Change

Motion: by Dr. Thomas to approve the rule draft provided in the addendum
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Winker that there is no fiscal impact on small businesses
Second: by Dr. Gesek
Vote: unanimous

Rule 64B5-17.002, Written Dental Records; Minimum Content; Retention

Motion: by Dr. Gesek to approve with the removal of #2 regarding consent
Second: by Ms. Cabanzon
Vote: unanimous

Motion: by Dr. Gesek that there is no fiscal impact on small businesses. This includes all input from practitioners throughout the review process
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Thomas to dissolve the Dental Records task force.
Second: by Dr. Gesek
Vote: unanimous

Anesthesia Committee Telephone Conference Call (November 12, 2014)

Dr. Gesek advised the board of the activities from the November 12, 2014 meeting. The committee answered several questions from the anesthesia consultants.

Motion: by Dr. Thomas to accept the committee actions on the permits.
Second: by Dr. Winker
Vote: unanimous

The committee approved changes in programs to a minimum two year

Motion: by Dr. Kochenour to accept the change
Second: by Dr. Britten
Vote: unanimous

The committee is also looking at the requirements to obtain a conscious sedation permit. The committee recommended that the rule be reviewed.

Motion: by Dr. Kochenour that a hands-on skills test is required for certification
Second: by Dr. Thomas
Vote: unanimous

Dr. Gesek reported that another Anesthesia Committee meeting will be scheduled for December 16, 2014.

Dr. Winker commended the oral surgeons, Drs. Gesek, Tejera and Melzer for their work and contributions on revising the anesthesia rules.

Board Counsel Rules Report

Executive Director Budget Reports

Ms. Foster advised the board that the dental fees are not enough to cover the Board's administrative costs. The current dental biennial renewal fee is capped by statute at \$300. It is proposed that a one-time assessment in the amount of \$200 be assessed during the next renewal period.

Ms. Foster stated that the dental hygiene budget continues to be healthy and she stated that in discussion with Dr. Thomas, it was proposed that the dental hygiene biennial renewal fee be reduced \$25 from \$100 to \$75.

Dr. Gesek asked if additional funds could be collected for additional office inspections to defray the costs. With the addition of itinerant anesthesia, the demand for inspections has increased along with the costs. Mr. Flynn was asked to bring draft language to the next meeting.

Dr. Thomas advised that the Florida Dental Association agreed to support raising the cap to \$600 for dental licensure several years ago.

Dr. Gesek asked if the Budget committee could take a look at the situation to see how the board could avoid the deficit situation. The board requested projections from the Department to show how far this proposed assessment amount would carry the board.

Dr. Gesek volunteered to chair a budget task force and requested that Dr. Sol Brotman and a member of the FDA and FDHA participate. The task force would be a fact finding body and would bring back information to the board for review and action.

Ratification of Lists

Motion: by Dr. Kochenour to ratify the lists
Second: by Dr. Gesek
Vote: unanimous

Chair

Dr. Thomas met with Dr. Haddix from the University of Florida regarding licensees who need to complete additional cases in order to obtain a sedation permit. He is hopeful that the dental schools might consider offering sedation courses in the future.

Vice-Chair

No report.

Board Members

Dr. Gesek stated he and Dr. Winker attended the recent AADB meeting and encouraged board members to attend. Dr. Gesek stated the board needed to take a look at the D-PREP course for disciplined dentists. Dr. Winker, Dr. Britten and Ms. Irene Stavros, former dental hygiene board member attended the recent ADEX meeting. Additional states have adopted the ADEX exam.

TOPIC DISCUSSION

A Position Paper – Moving the Laws and Rules Examination to Continuing Education

Dr. Bahrayni, psychometrician with Examination Services, Department of Health, Division of MQA, is requesting that the Board change the laws and rules exam to a continuing education course. Rationale is that this exam does not test knowledge directly related to competent practice, does not discriminate between minimally competent and incompetent practitioners; laws and rules exam contains too few questions to be statistically sound; knowledge tested changes and exam questions may not;

It is recommended that the dental and dental hygiene laws and rules exam be eliminated and cover the same information through continuing education courses. Ms. Foster stated that the Department is requesting this change as the current process is cumbersome and customer service has suffered for various reasons. Only 4 professions currently offer a laws and rules exam and one profession, Optometry- is an open book exam. The pass rate for the Dental laws and rules exam is 96% and for dental hygiene is 92%.

Ms. Foster stated that she would be meeting with NERB staff who administer the ADEX on December 5 with staff from the Examination Services Unit and would ask about NERB offering this exam.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to maintain the L&R exam
Second: by Dr. Winker
Vote: unanimous

Request from FL Department of Health, Office of Performance & Quality Improvement, to be Added as a Rule Approved Provider

This is a request from Susan Bulecza, Director of the Public Health Practice Unit, State Public Health Nursing Director, Office of Performance & Quality Improvement, Department of Health to be considered as a Board – approved continuing education provider under Rule 64B5-12.013, (3)(b) F.A.C.

Following discussion, the board declined to amend their rule.

2015 Proposed Legislation

Staff request that language in s. 466.006, F.S. and s. 466.007, F.S. be deleted to conform to current process.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to approve this edit
Second: by Dr. Kochenour
Vote: unanimous

s. 466.006, F.S. Examination of Dentists

(1)(a) It is the intent of the Legislature to reduce the costs associated with an independent state-developed practical or clinical examination to measure an applicant's ability to practice the profession of dentistry and to use the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., in lieu of an independent state-developed practical or clinical examination. The Legislature finds that the American Dental Licensing Examination, in both its structure and function, consistently meets generally accepted testing standards and has been found, as it is currently organized and operating, to adequately and reliably measure an applicant's ability to practice the profession of dentistry.

(b) Any person desiring to be licensed as a dentist shall apply to the department for licensure. ~~to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs.~~ There shall be an application fee set by the board not to exceed \$100 which shall be nonrefundable. ~~There shall also be an examination fee set by the board, which shall not exceed \$425 plus the actual per applicant cost to the department for purchase of some or all of the examination from the American Board of Dental Examiners or its successor entity, if any, provided the board finds the successor entity's clinical examination complies with the provisions of this section. The examination fee may be refundable if the applicant is found ineligible to take the examinations.~~

466.007 Examination of dental hygienists

(1) Any person desiring to be licensed as a dental hygienist shall apply to the department for licensure. ~~to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant.~~ There shall be a nonrefundable application fee set by the board not to exceed \$100, ~~and an examination fee set by the board which shall not be more than \$225. The examination fee may be refunded if the applicant is found ineligible to take the examinations.~~

FOR YOUR INFORMATION

The following items were provided for information:

Letter to American Board of Dental Examiners, Inc. from Louisiana Dental Board

**ADA, CDC Provide Ebola Resource
ADA Issues Alert – Guidance to Dental Professionals on the Ebola Virus
DOH Updated Ebola Fact Sheet for Medical Professionals**

DISCIPLINARY PROCEEDINGS

Andrea Haddad Espirito Santo, D.M.D., Case No 2012-18189, Settlement Agreement

Drs. Britten and Thomas were recused due to their participation on the probable cause panel. Dr. Santo was present and was represented by Scott Sankey, Esq. An administrative complaint filed July 7, 2014 alleged violations of s. 466.028(1)(m), F.S. for failing to keep written dental records and medical history records justifying the course of treatment by failing to record the administration and dosage of local anesthesia, failure to record treatment rendered and failure to record taking radiographs.

Probable Cause Panel recommendations: reprimand, fine of \$2500, costs, CE level 1 in record keeping

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$2500, costs of \$4600 payable within 12 months, a three hour course in record keeping, laws and rules exam, patient reimbursement within 6 months.

Following discussion and review of the x-rays, the following action was taken by the Board:

Motion: by Dr. Kochenour to reject the settlement
Second: by Dr. Gesek
Vote: unanimous

Motion: by Dr. Gesek to send back to the probable cause panel for reconsideration.
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Gesek to reopen the case
Second: Dr. Kochenour
Vote: unanimous

Motion: by Dr. Gesek to offer a counter offer with the following terms: letter of concern, fine of \$2500 payable within 12 months, costs of \$4600 payable within 12 months, a three hour course in record keeping, Level I in Oral Surgery, Level I in Diagnosis and Treatment Planning, college level ethics course, laws and rules exam, patient reimbursement within 6 months.
Second: by Dr. Winker
Vote: unanimous

The counter offer was valid until the end of the meeting. No response was received from respondent or counsel.

Thomas Patrick Hale, D.D.S., Case No 2011-14724, Settlement Agreement

No members were recused.

Dr. Hale was present and was represented by Michael D'Lugo, Esq. A two count administrative complaint filed May 8, 2012 alleged violations of s. 466.028(1)(m), F.S. for failing to keep written dental records and medical history justifying the course of treatment and s. 466.028(1)(x), F.S. of failure to meet minimum standards involving crowns, implant, decay present under margins of new empress crowns seated by respondent.

Probable Cause Panel recommendations: reprimand, fine of \$5000, costs, 3 hours in record keeping; ethics; Level II in crown and bridge, reimbursement to patient.

A settlement agreement was presented to the Board with the following terms: letter of concern, fine of \$7500 payable within 12 months; costs of \$5000 payable within 12 months, CE in crown and bridge (3 to 6 hours) to achieve competency, diagnosis and treatment planning level II (7 to 12 hours to achieve competency); laws and rules exam within 12 months; patient reimbursement within 12 months of final order.

Following discussion and review of the x-rays, the following action was taken by the Board:

Motion: by Dr. Thomas to reject the settlement agreement
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Thomas to offer a counter settlement with the following terms: letter of concern, fine of \$1500 payable within 12 months; costs of \$5000 payable within 12 months, laws and rules exam within 12 months

Motion dies

Motion: by Dr. Kochenour to offer a counter settlement with the following terms: reprimand, \$5,000 fine payable within 12 months, costs of \$5,000 payable within 12 months, 3 hours in recordkeeping, Level II in Crown and Bridge, Level II in Diagnosis and Treatment Planning, laws and rules exam within 12 months

Second: by Dr. Winker
Vote: motion passes with Drs. Gesek and Thomas opposed

Ileanna Ramudo-Townsend, D.D.S., Case No 2012-17928, Settlement Agreement

Dr. Britten was recused due to their participation on the probable cause panel.

Dr. Ramudo-Townsend was present and was not represented. An administrative complaint filed March 7, 2014 alleged violations of s. 456.072(1)(k), F.S. of failure to perform a statutory or legal obligation regarding default of federal student loan.

Probable cause panel recommendation: suspension until compliant with new payment terms

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$1000 payable within 12 months, costs of \$1039.09 to be paid within 12 months; probation for duration of student loan obligation period.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Kochenour to reject the settlement agreement
Second: by Dr. Thomas
Vote: unanimous

Motion: by Dr. Thomas to offer a counter settlement with the following terms: probation for duration of student loan obligation period

Second: by Dr. Winker
Vote: unanimous

Dr. Townsend accepted the counter settlement agreement.

Rameek McNair, D.D.S., Case No 2011-19997, Settlement Agreement

Drs. Britten and Thomas were recused due to their participation on the probable cause panel. Dr. McNair was present and was represented by Alexander Macgregor, Esq. A two count administrative complaint filed July 3, 2014 alleged violations of s. 466.028(1)(m), F.S. of failing to keep written dental records and medical history justifying the course of treatment and s. 466.028(1)(x), F.S. of failure to meet minimum standards by failure to obtain and examine timely a full mouth series of radiographs prior to initiating extensive crown work on patient.

Probable cause panel recommendations: reprimand, fine of \$6500, Level 1 in Diagnosis and Treatment Planning; Level 1 in Crown and Bridge; Level 1 in Record keeping, costs of \$2500, laws and rules exam.

A settlement agreement was presented to the Board with the following terms: letter of concern, \$6500 fine payable within 12 months of final order; costs of \$2131.38, payable within 12 months; 3-6 hour course in diagnosis and treatment planning, 3-6 hours in crown and bridge, 3 hour record keeping course, laws and rules exam within 12 months.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Kochenour to reject the settlement
Second: Ms. Cabanzon
Vote: motion passes with Drs. Winker and Gesek opposed

Motion: by Dr. Kochenour to offer a counter settlement agreement with the following terms: letter of concern, \$6500 fine payable within 12 months of final order; costs of \$2131.38 payable within 12 months; 3-6 hour course in diagnosis and treatment planning, 3-6 hours in crown and bridge, 3 hour record keeping course, 3 hour ethics course, laws and rules exam within 12 months.
Second: by Ms. Cabanzon
Vote: unanimous

Robert P. Moffett, D.D.S., Case No 2012-05603, Informal Hearing

Drs. Britten and Tejera were recused due to their participation on the probable cause panel. Dr. Moffett was not present however he was represented by Melissa Krepps, Esq. An administrative complaint filed September 23, 2014 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards by administering an amount of Mepivacaine 3% that exceeded the maximum recommended dosage.

Ms. Rochester requested that this case be tabled until the board discussed Case No. 2012-07920. Following the board's acceptance of the voluntary relinquishment in Case No. 2012-07920, the following action was taken:

Motion: by Dr. Gesek to dismiss case 2012-05603
Second: by Dr. Kochenour
Vote: unanimous

Mark H. Zahler, D.D.S., Case No. 2012-00034, Waiver

Drs. Britten and Thomas were recused due to their participation on the probable cause panel. Dr. Zahler was not present however he was represented by Monica Felder-Rodriguez, Esq). A two count administrative complaint filed April 17, 2014 alleged violations of s. 466.028(1)(l), F.S. of making deceptive,

untrue or fraudulent representations in the practice of dentistry and. S. 466.028(1)(x), F.S. of failure to meet minimum standards by diagnosing need for gingival grafts without medical justification. Patient charged \$3161 for work never performed.

Mark H. Zahler, D.D.S., Case No. 2012-16759, Waiver

Drs. Britten and Thomas were recused due to their participation on the probable cause panel. Dr. Zahler was not present however he was represented by Monica Felder-Rodriguez, Esq). A three count administrative complaint filed April 18, 2014 alleged violations of s. 466.028(1)(x), F.S. of failing to meet minimum standards; s. 466.028(1)(x), of failure to meet minimum standards by removal of patient's cuspid teeth, failing to refer to specialist, failing to properly diagnose for implant therapy; 466.028(1)(l), F.S. fraudulent representations that lab had lost her bridge when this had not been sent to the lab due to lack of funds.

Mark H. Zahler, D.D.S., Case No. 2012-10511, Waiver

Drs. Britten and Thomas were recused due to their participation on the probable cause panel. Dr. Zahler was not present however he was represented by Monica Felder-Rodriguez, Esq). A three count administrative complaint filed April 17, 2014 alleged violations of s. 466.028(1)(mm), F.S. of failure to publish a notice of termination of practice and advise patients how to obtain records; 466.028(1)(x), F.S. of failure to meet minimum standards by diagnosing need for gingival grafts without medical justification. Patient charged \$3161 for work never performed.

Mark H. Zahler, D.D.S., Case No. 2012-15679, Waiver

Drs. Britten and Thomas were recused due to their participation on the probable cause panel. Dr. Zahler was not present however he was represented by Monica Felder-Rodriguez, Esq). A two count administrative complaint filed April 18, 2014 alleged violations of s. 466.028(1)(mm), F.S. involving 12 year old boy's father paying \$4600 for orthodontic treatment and respondent learned that practitioner had filed bankruptcy and relocated without notifying current patients.

Ms. Monica Felder-Rodriguez, counsel for Dr. Zahler, advised the board that a letter was provided to the Department of Health's Prosecution Services Unit and to Board Counsel that Dr. Zahler is relinquishing his dental license. The applies to cases on the November 21 agenda as well as Case No. 2013-02172. After discussion, the board took the following action:

Motion: by Dr. Gesek to accept the voluntary relinquishment
Second: by Dr. Kochenour
Vote: unanimous

Belinda Waters, D.R., Case # 2014-09721, Voluntary Relinquishment (PCP Waived)

Ms. Waters was not present nor represented by counsel. The IPN-Intervention Project for Nurses reported non-compliance with Ms. Water's CNA license for alcohol dependence, plea of guilty to third offence, felony DUI and failure to report convictions.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to accept the relinquishment of license
Second: by Dr. Winker
Vote: unanimous

Prosecutor's Report

Ms. Rochester introduced a new prosecutor, Ms. Chelsea Enright.

At the present time the case inventory is as follows: 161 under review, 74 awaiting probable cause,

31 in which probable cause has been found, 10 awaiting supplemental information, 33 in which litigation has been requested and one case currently at DOAH.

165 cases that are older than one year and Ms. Rochester requests that the Board allow Prosecution Services to continue to prosecute these cases.

Robert P. Moffett, D.D.S. Case No 2012-07920, Voluntary Relinquishment (PCP Britten, Thomas)

Dr. Moffett was not present nor represented by counsel. An administrative complaint filed July 3, 2014 alleged violations of s. 466.028(1)(x), F.S. by failing to meet minimum standards by exceeding the maximum recommended dosage for local anesthesia.

A Voluntary Relinquishment of License was presented to the Board. Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to accept the voluntary relinquishment
Second: by Dr. Winker
Vote: Unanimous

Mark Ramey Skaff, D.D.S., Case No. 2013-01504, Settlement Agreement (PCP Thomas)

Dr. Skaff was present and was not represented by counsel. A two count Administrative Complaint filed November 20, 2013 alleged violations of s. 456.072(1)(x), F.S. of failure to report conviction of petit theft to board within 30 days; and failure to report plea of nolo contendere.

A settlement agreement was presented to the Board with the following terms: fine of \$1000 payable within 6 months; costs not to exceed \$2500 payable within 6 months.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to approve the settlement agreement as modified with 18 months to pay costs and fines
Second: by Dr. Winker
Vote: unanimous

Dr. Skaff's license is currently suspended as a result of previous final order. Dr. Jerome Gropper from PRN stated that PRN supported Dr. Skaff's return to practice with a workplace monitor. Following discussion, the board took the following action:

Motion: by Dr. Gesek to lift the suspension
Second: by Dr. Thomas
Vote: unanimous

PETITIONS

None

APPLICATION REVIEW & APPEARANCES

Patricia Pepio, Applicant for Dental Hygiene Licensure

Ms. Pepio was present and was not represented by counsel. Ms. Pepio's application for dental hygiene licensure came before the board at the May 16, 2014 meeting due to an affirmative response on the history questions. The application was denied. Ms. Pepio has requested a hearing to explain her situation at the time of her arrest in 2001 in New York. In the original application, Ms. Pepio provided two documents, Certificate of Disposition and a second document that appeared to be the deposition of Detective Frank Bovino. The

deposition included 5 charges and some charges had lines drawn through them and a stamp on the side that said dismissed. It was unclear what Ms. Pepio was charged with.

Upon receipt of Ms. Pepio's request for hearing, board counsel requested that board staff obtain a copy of the disposition papers. After making phone calls to the New York State Criminal History Record Search section and the Queens Criminal Court, staff were advised that one of the documents Ms. Pepio provided with her application, the Certificate of Disposition, Number 128584 is the official disposition. The charge for which Ms. Pepio pled guilty to was the unauthorized use of a professional title; an unclassified misdemeanor. This charge was verified on July 24, 2014 by Ashif Ahmed, Court Interpreter for the Queens Criminal Court Division.

Following discussion the Board took the following action:

Motion: by Dr. Thomas to vacate prior order
Second: by Ms. Cabanzon
Vote: unanimous

Motion: by Dr. Thomas to approve the application for licensure
Second: by Dr. Winker
Vote: motion passes with Dr. Gesek, Dr. Tejera, Ms. Sissine, and Ms. Cabanzon opposed

Joshua LeBlanc, Applicant for Dental Licensure

Dr. LeBlanc was present and was not represented. He successfully completed the ADEX in March 2014 and graduated from West Virginia University in May 2014. He is not licensed as a dentist in any state. Dr. LeBlanc's application is being referred to the board due to affirmative responses on the history questions.

Following discussion the Board took the following action:

Motion: by Dr. Thomas to allow Dr. LeBlanc to continue the application and accepted his waiver of the 90 day time frame.
Second: by Dr. Winker
Vote: unanimous

Luis Hernandez-Abreu, Request for Termination of Probation, Cases 2009-24373 and 2011-09799

Dr. Abreu was present and was represented by Mr. Edwin Bayo, Esq. Dr. Jerome Gropper, PRN, was also present. Dr. Abreu has petitioned the Board for termination of probation. Mr. Gropper advised that PRN would be in support of this termination of probation request. Following discussion, the following action was taken by the Board:

Motion: by Dr. Thomas to approve termination of probation
Second: by Dr. Winker
Vote: unanimous

Gustavo B. Borges, D.D.S., Mandate from District Court of Appeal of the State of Florida, Third District, Case 13-1529

Dr. Borges appealed a final order of revocation of his license based on his conviction of receiving child pornography. The third district court of appeals has reversed and remanded this. Lawrence Harris, Esq. was present to advise the Board regarding this order being vacated and remanded back to the Division of Administrative Hearings for clarification by the Administrative Law Judge.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Thomas to vacate the final order in this case and instruct the Prosecution Services Unit to remand back to the Division of Administrative Hearings within 10 business days of receipt of the order.
Second: by Dr. Gesek
Vote: unanimous

Dr. Wilbur Bakke, III, Applicant for Conscious Sedation Permit

Dr. Bakke's application was reviewed by the Anesthesia Committee on November 12, 2014. His application for permit includes certification of completion of 100 hours of continuing education including 60 hours of didactic instruction and single or multiple agents of parenteral sedation to at least 20 patients at Conscious Sedation Consulting, LLC, Philadelphia, Pa. from April 11 – 27, 2014. After discussion of whether the program was affiliated with a dental school, the committee referred the application for review by the board. Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to require an appearance at one of the next two meetings.
Second: by Dr. Thomas
Vote: unanimous

Dr. Gesek asked Mr. Flynn to amend the language to make it clear that the formal training must be taken at a CODA accredited dental school. He asked that draft language be prepared for the next Anesthesia meeting.

OLD BUSINESS

None

NEW BUSINESS

Election of Officers

Motion: by Dr. Thomas to nominate Dr. Britten as Vice-Chair
Second: by Dr. Winker
Vote: unanimous

Motion: by Ms. Cabanzon to nominate Dr. Thomas as Chair

Motion: by Dr. Britten to nominate Dr. Kochenour as Chair
Second: by Dr. Gesek
Vote: unanimous

ADJOURNMENT

The meeting was adjourned at 12:30 p.m.