

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
August 21, 2015
Safety Harbor Resort & Spa
105 North Bayshore Drive
Safety Harbor, FL 34695
727-726-1161
7:30 A.M.**

CALL TO ORDER/ROLL CALL

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

Members present:

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

Staff present:

David Flynn, Esq., Board Counsel
Sue Foster, Executive Director
Candace Rochester, Esq., Asst. General Counsel, PSU
Cindy Ritter, Program Administrator
Court Reporter – David Darretta, Murray & Associates Court Reporting, 1-888-725-9157

Dr. Kochenour requested that Ms. Cabanzon read the following mission, vision, and purpose:

Mission: To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.

Vision Statement: Healthiest State in the Nation

Purpose: To protect the public through health care licensure, enforcement and information.

Dr. Kochenour welcomed third year dental students from LECOM and dental assisting students from Hillsborough Community College. He also recognized and extended his thanks to Mr. Anthony Martini, former consumer member on the Board for his exemplary service as a member of the Board for the past two years, from July 2013 through July 2015.

REVIEW OF MINUTES

May 29, 2015 General Business Meeting

The minutes of the May 29, 2015 meeting were reviewed and the following action was taken by the Board:

Motion: by Dr. Gesek to approve as presented
Second: by Dr. Thomas
Vote: unanimous

Dr. Kochenour asked about the status of the Council on Dental Hygiene meeting to discuss requirements for non-CODA educated dentists who fail the dental hygiene exam. Ms. Cabanzon stated that she was working with Ms. Tami Miller, Executive Director of the Florida Dental Hygiene Association on that issue. He also asked about the status of a Rules Committee meeting and Rule 64B5-17.002(9), F.A.C. regarding the pro-bono rule. This rule was discussed and acted upon during this meeting.

It was noted that the Anesthesia Committee would be meeting on Wednesday, August 26 at 6:00 p.m.

REPORTS

Council/Committee Reports

No Council or Committee meetings were held since the May board meeting.

Board Counsel

Rules Report

Mr. Flynn provided a report listing the following rule changes effective September 1, 2015: 64B5-2.0135 Dental Hygiene Examination, 64B5-15.008 Fee for Renewal of Inactive License, 64B5-15.009 Fee for Reactivation of Inactive License, 64B5-15.012 Change of Status Processing Fee, 64B5-15.0121 Change of Status Processing Fee for Retired Status.

Rule 64B5-15.006 Licensure and Renewal Fees – the board approved language at the May 29, 2015 meeting and this rule has been noticed for rule development.

Rule Discussion

Proposed List of Rules for Repeal

Mr. Flynn presented the following rules for possible repeal. Following discussion, the board took the following action:

Motion: by Dr. Gesek to ratify the list of rules for repeal and to accept Mr. Flynn's rationale as written in the agenda and that there would not be an economic impact on small businesses.
Second: by Dr. Britten
Vote: unanimous

64B5-1.021 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office at 4052 Bald Cypress Way, Bin # C08, Tallahassee, Florida 32399-3258:

- (1) Application for Dental Examination/Dental Hygiene Examination, DPR/DN/003-(Rev.

2/94), effective 8-19-97;

(2) Application for Reactivation of an Inactive Florida Dental/Dental Hygiene License, AHCA/DN/004-(Rev. 5/96), effective 8-19-97;

(3) Financial Interest Disclosure Form, DPR/DN/017-(Rev. 5/97), effective 8-19-97;

(4) Application for General Anesthesia Permit, AHCA/DN/005-(8/96), effective 8-19-97;

(5) Application for Parenteral Conscious Sedation Permit, AHCA/DN/006-(8/96), effective 8-19-97;

(6) Application for Pediatric Conscious Sedation Permit, AHCA/DN/008-(12/96), effective 8-19-97;

(7) Application for Certification for Dental Radiographer, AHCA/DR/001-(Rev. 5/95), effective 8-19-97;

(8) Application for Continuing Education Credit for Individual Study, Instructors, Teachers and Lecturers, AHCA/DN/009-(4/86), effective 8-19-97;

(9) Application for Biennial Providers of Continuing Education, AHCA/DN/001-(4/86), effective 8-19-97;

(10) Application for Dentist/Dental Hygienist Limited Licensure, DOH/MQA/DNDH LL APP/new, effective 9-20-01.

(11) Any person wishing to be issued a Health Access Dental License shall apply to the Board of Dentistry. The application shall be made on the Application for Health Access Dental License form #DH-MQA 1154 (revised 9/11/08) hereby adopted and incorporated by reference, and can be obtained from the Board of Dentistry's website at <http://www.doh.state.fl.us/mqa/dentistry/>.

Rulemaking Authority 466.004 FS. Law Implemented 120.52(15) FS. History--New 8-19-97, Amended 9-20-01, 5-28-09.

64B5-2.022 Examination Review.

A candidate is entitled to review his examination under such terms and conditions as may be prescribed by the Department of Health and upon payment of the fee set forth in Rule 64B5-15.020, F.A.C.

Rulemaking Authority 456.017(2) FS. Law Implemented 456.017(2) FS. History--New 3-25-90, Formerly 21G-2.022, 61F5-2.022, 59Q-2.022.

64B5-2.0125 Examination Security.

Security of the examination shall be maintained by compliance with such procedures and requirements established by the Department of Health, unless specifically provided otherwise by these rules.

Rulemaking Authority 456.017(1)(d) FS. Law Implemented 456.017(1)(d) FS. History--New 3-25-90, Formerly 21G-2.0125, 61F5-2.0125, 59Q-2.0125.

64B5-2.0148 Credentials Requirements for Applicants from Non-Accredited Schools or Colleges, Whose Records Are Unavailable.

Any person who seeks licensure as a dentist but is unable to supply proper educational credentials due to the political conditions of the country in which the education was received

shall submit any and all documents which would tend to support the applicant's claim of proper credentials and shall submit prior to the examination:

(1) Proof received directly from the American Dental Association, that the National Board of Dental Examiners Written Examination has been successfully completed in no more than three attempts to successfully complete it, prior to application.

(2) An affidavit sworn before a notary public or other person authorized to administer oaths which shall include:

(a) A complete chronological account of all schools attended during the candidate's entire education, including dates of attendance and graduation, the addresses of all schools attended;

(b) The date that the applicant received any license to practice dentistry, including the name and address of the issuing authority and any license number assigned;

(c) A description of all dental school courses which the applicant successfully completed;

(d) A complete chronological dental practice history, including addresses of practice, names of associates in practice and current location of any practice associates; and

(e) Complete disclosure regarding any litigation in which the candidate is or was involved;

(3) Affidavits concerning the applicant's dental education or dental practice history, sworn before a notary public or other person authorized to administer oath, from persons who are directly acquainted with the candidate's dental practice history or educational credentials. If the applicant relies primarily on affidavits to establish qualifications for licensure, at least three affidavits must be from dentists who are not related to the applicant;

(4) Any other evidence that may aid in verification of graduation from a bona fide dental school;

(5) In cases where actual credentials cannot be presented, the Board shall be the judge of the evidence presented and shall decide if evidence presented is sufficiently substantial to warrant the applicant's acceptance.

Rulemaking Authority 466.004(4) FS. Law Implemented 466.006 FS. History--New 11-16-89, Amended 10-18-90, Formerly 21G-2.0148, 61F5-2.0148, 59Q-2.0148, Amended 7-29-97, 12-26-06, 3-18-12.

64B5-10.010 Delinquent Status License.

(1) The failure of any license holder to either renew the license or elect inactive status before the license expires shall cause the license to become delinquent.

(2) The delinquent status licensee must affirmatively apply for active or inactive status during the licensure cycle in which the license becomes delinquent. The failure by the delinquent status licensee to cause the license to be renewed or made inactive before the expiration of the licensure cycle in which the license became delinquent shall render the license null and void without further action by the Board or the Department.

(3) The delinquent status licensee who applies for license renewal or inactive status shall:

(a) Apply to the Department for either license renewal as required by Section 466.015, F.S., or inactive status as required by Section 456.036, F.S.

(b) Pay to the Board either the license renewal fee as set forth in Rule 64B5-15.006, F.A.C., or the inactive status fee as set forth in Rule 64B5-15.008, F.A.C.; the delinquency fee as set forth in Rule 64B5-15.011, F.A.C.; and, if applicable, the processing fee as set forth in Rule 64B5-15.012, F.A.C.; and

(c) If renewal is elected, demonstrate compliance with the continuing education requirements found in Rule 64B5-12.013 F.A.C.

Specific Authority 466.004(4), 466.015 FS. Law Implemented 456.036 FS. History–New 7-12-95, Formerly 59Q-10.010.

64B5-12.014 Committee on Continuing Professional Education.

(1) The Chairman of the Board shall appoint a Continuing Professional Education Committee to effectively administer continuing education requirements.

(2) The committee shall consist of at least one dentist member, one public member, and one dental hygienist member. A quorum shall be a majority of the committee members.

(3) The committee shall prepare for the Board's consideration and final approval or disapproval, requests for continuing education provider status and requests for continuing education credit for individual study.

Specific Authority 466.004(4), 466.014 FS. Law Implemented 466.0135, 466.014 FS. History–New 4-2-86, Amended 6-30-86, 1-18-89, Formerly 21G-12.014, 61F5-12.014, 59Q-12.014.

64B5-13.002 Time for Payment of Administrative Fines.

When the Board imposes an administrative fine in a disciplinary or initial licensure proceeding, the fine shall be paid within 30 days from the effective date of the Board's final order, unless specifically provided otherwise.

Rulemaking Authority 456.072(2), 466.004(4) FS. Law Implemented 456.072(2) FS. History–New 10-26-80, Formerly 21G-13.02, Amended 1-18-89, Formerly 21G-13.002, 61F5-13.002, 59Q-13.002.

64B5-15.001 Collection and Payment of Fees.

All fees shall be made payable to the Department of Health.

Rulemaking Authority 466.004(3) FS. Law Implemented 456.025 FS. History–New 4-1-80, Formerly 21G-15.01, 21G-15.001, 61F5-15.001, 59Q-15.001.

64B5-15.003 Examination Fees.

The examination fee for the dental examination is \$425.00 plus the actual costs to the Department for the portions of the examination purchased from the Northeast Regional Board of Dental Examiners or similar national organization; the examination fee for the dental hygiene examination is \$225.00; and the examination fee for the manual skills examination is \$250.00. The examination fee must be submitted at the same time the application and application fee is submitted. However, the Department of Health will refund one-half of the examination fee of any applicant who notifies the Department in writing at least 14 days prior to the examination date that he is not going to take the examination.

Rulemaking Authority 466.004(4), 466.006(1), 466.007(1) FS. Law Implemented 466.006(1), (3)(c), 466.007(1) FS. History–New 4-1-80, Amended 10-26-80, 5-9-82, 3-11-84, 10-8-85, Formerly 21G-15.03, Amended 9-14-87, 10-4-88, Formerly 21G-15.003, 61F5-15.003, 59Q-15.003.

64B5-15.004 Reexamination Fees.

A person applying to retake the dental or the dental hygiene examination, or any portion or part thereof, must pay the appropriate applications and reexamination fees. The reexamination fee for the practical portion of the dental examination, or any part of the practical portion of the dental examination shall be \$345.00; the reexamination fee for the practical portion of the dental hygiene examination shall be \$200.00; the reexamination fee for the manual skills examination shall be \$250.00; the reexamination fee for the diagnostic skills portion of the dental examination shall be \$30.00 plus the costs of the examination; and the reexamination fee for the written portion of the dental examination shall be \$50.00 and the dental hygiene examination shall be \$25.00.

Rulemaking Authority 456.017(2), 466.004(4) FS. Law Implemented 456.017(2), 466.009(1) FS. History—New 4-1-80, Amended 6-22-80, 5-9-82, 3-11-84, Formerly 21G-15.04, Amended 9-14-87, 10-24-88, Formerly 21G-15.004, 61F5-15.004, 59Q-15.004.

64B5-15.023 Fee for Certification of a Public Record.

The Board shall charge a fee of twenty-five dollars (\$25.00) for each request for the certification of a public record.

Rulemaking Authority 456.025(5) FS. Law Implemented 456.025(5) FS. History—New 1-7-92, Formerly 21G-15.023, 61F5-15.023, 59Q-15.023.

64B5-15.0091 Fee for Reactivation of Retired License.

The fee for reactivation of a retired license shall be payment of all biennial renewal fees that would have been imposed on an active status licensee pursuant to Rule 64B5-15.006, F.A.C., for all of the biennial periods wherein the licensee had a retired license.

Rulemaking Authority 456.036 FS. Law Implemented 456.036 FS. History—New 2-14-06.

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

Mr. Flynn advised the board of concerns of staff of the Joint Administrative Procedures Committee (JAPC).

64B5-17.002 Written Dental Records; Minimum Content; Retention.

A dentist shall maintain patient dental records in a legible manner and with sufficient detail to clearly demonstrate why the course of treatment was undertaken.

(1) Dental Record: The dental record shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; X-rays (if taken;) examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultation or referrals; and copies of records or reports or other documentation obtained from health care practitioners at the request of the dentist and relied upon by the dentist in determining the appropriate treatment of the patient.

(2) Record Alterations: Any additions, corrections, modifications, annotations, or alterations (hereinafter "change") to the original dental record entry must be clearly noted as such and must include the date when the change was made, must be initialed by the person making the change, and must have an explanation for the change. An original entry to the record cannot be

General Business Meeting Minutes

August 21, 2015

Page 6

partially or wholly removed. Rather, to represent the deletion of a record entry, the entry must be struck through where it will remain legible. A change made on the same date of the original entry must also include the time of change.

(3) Record Transfer or Release: Whenever patient records are released or transferred, the dentist releasing or transferring the records shall maintain either the original records or copies thereof and a notation shall be made in the retained records indicating to whom the records were released or transferred and the authority for such release. Transfer of records in a multi-dentist practice office shall be done and documented in strict accordance with Section 466.018, F.S.

(4) Record Retention Period: A dentist shall maintain the written dental record of a patient for a period of at least four (4) years.

(a) The four (4) year retention period shall be calculated from the date the patient was last examined or treated by the dentist.

(b) Upon the death of the dentist, the retention provisions of Rule 64B5-17.001, F.A.C., are controlling.

(5) Appointment Book: Each dentist shall retain a copy of each entry in his or her patient appointment book or such other log, calendar, book, file or computer data, used in lieu of an appointment book, for a period of no less than four (4) years from the date of each entry thereon.

(6) Dentist of Record: All records that are required by this rule and any other patient record shall be properly annotated to identify the dentist of record. The dentist of record is the dentist who:

(a) Is identified and noted in the patient record as the dentist of record;

(b) Provides a specific treatment or service and is noted in the patient record as the dentist of record for that treatment or service;

(c) If there has been more than one provider of treatment, is the dentist who places the final restoration, does the surgical procedure, makes the diagnosis or finishes the service or procedure in question; or

(d) If the dentist of record is not identifiable, then the owner of the dental practice in which the patient was treated is the dentist of record.

(7) Owner of Dental Practice: All dental records required by this rule and any additional records maintained in the course of practicing dentistry shall be the property of the owner dentist of the dental practice in which the dental patient is seen or treated and the owner dentist shall be ultimately responsible for all record keeping requirements set forth by statute or rule.

(a) The owner dentist is responsible for the records of patients seen or treated by any employee, associate, or visiting dentist.

(b) Multiple owners are severally and equally responsible for the records of patients seen or treated with the dental practice of that dental group.

(c) A lessor or owner dentist is not responsible for the records of an independent dentist who is merely leasing or renting space or staff services for the operation of a separate dental practice within the owner dentist's physical facility.

(8) Electronic Dental Records: Patient records may be kept in an electronic format, provided that the dentist maintains a back-up copy of information stored in the back-up data processing system using disk, tape, or other secure electronic back-up system, on site or off site, as long as the back-up system is updated in a time frame that does not exceed seventy-two hours (72

hrs.), to assure that data is not lost due to system failure. Any electronic data-system must be capable of producing a hard copy on lawful demand in accordance with and pursuant to federal or state laws and rules.

(9) Pro-Bono Dental Events: The Board of Dentistry encourages the provision of pro-bono dental screenings through organized events such as Dental Health Screenings and Give Kids a Smile Program. A strict interpretation of this rule would preclude such efforts to the detriment of the public. Therefore, the Board deems that any records generated as a result of such limited, one-time pro-bono dental screenings, examinations, or treatments through organized events should be consistent with the nature and scope of the services rendered, should be provided to the recipient or guardian and will not result in the dentist performing such services becoming the dentist of record. The minimum content and record retention set forth in this rule shall not govern or be required. When the dentist performs such examinations or treatments each recipients or guardian shall be informed in writing of the following:

(a) The limitation of the screening to one-time dental examination and treatment that can reasonably be performed on the same day of screening. In addition, such examinations or treatments would or would not reasonably require follow-up treatment;

(b) The results of the screening examination or treatments; and,

(c) That the screening is not representative of or a substitute for a comprehensive dental examination.

Rulemaking Authority 466.004(4) FS. Law Implemented 456.057, 456.058, 466.028(1)(m), 466.018 FS. History—New 10-8-85, Formerly 21G-17.02, Amended 10-28-91, Formerly 21G-17.002, Amended 11-22-93, Formerly 61F5-17.002, 59Q-17.002, Amended 11-15-99, 4-22-03, 3-14-13, 5-14-15.

Motion: by Dr. Thomas to strike subsection (9) for this rule; no economic impact on small businesses

Second: by Dr. Gesek

Vote: unanimous

Executive Director

Budget Reports

Ms. Foster referred the Board to budget information in the agenda.

Ratification of Lists

Motion: by Dr. Gesek to ratify the list of approved applications

Second: by Dr. Thomas

Vote: unanimous

Chairman - Dr. Kochenour

Dr. Kochenour acknowledged that the board was able to view their agendas in the new web based program. He asked Ms. Foster to investigate the ability to download the agenda materials from the Webviewer to personal computers or board issued lap tops.

Dr. Kochenour advised that the Southern Regional Testing Agency, Inc. no longer administers the ADEX licensure examinations as of August 10, 2015.

Dr. Kochenour provided information regarding the Buffalo model that was presented by CDCA at the June 2015 meeting. The model is a beta test which provides that students have approximately 6 different opportunities to take the clinical examinations during the last six months of their education. If a candidate does not pass a procedure, the faculty completes the treatment of the patient. Patients are screened and are considered patients of the school so this eliminates the candidate providing the patient. There are no additional costs. The CDCA website has a link to explain the model.

Following discussion the board determined that it was too early to voice support for this model. The board also voiced concern over treating examination candidates differently with possible unfair advantages.

Dr. Gesek asked Mr. Flynn to clarify that the board accepts the ADEX and it is not appropriate for the board to endorse a model, etc.

The board members were advised that standards regarding mid-level providers have been approved by the Commission on Dental Accreditation.

Dr. Gesek stated he was concerned that AADB individual board memberships be paid and he requested that the Department of Health pay for the individual memberships. Ms. Foster advised that the Department does pay for the board membership (\$2140) however, due to budget concerns individual memberships are not paid.

Dr. Tejera asked that new board members receive instruction on the various organizational meetings that are available to them.

Vice-Chairman – Dr. Britten

No Report

Board Members

Dr. Winker advised the board of actions taken by the Eustis City Commission regarding fluoride. After hearing presentations from several individuals and organizations, the commission voted to maintain fluoride in the water.

Dr. Winker advised the board that he was tasked with sitting on an ad hoc committee of ADEX to investigate the current periodontal examination which requires scaling and root planning on a live patient. An occupational analysis was performed and has shown that most dentists do not perform scaling and root planning as part of everyday practice. The model under review consists of case studies consisting of 5 cases with complete records and x-rays. The candidate would be required to come up with a diagnosis and there would be a pool of standardized questions.

Following discussion it was determined that this would be placed on a future agenda for review of the statute.

TOPIC DISCUSSION

N/A

FOR YOUR INFORMATION

ADEX Annual Meeting, November 13-15, 2015

News Article re Unlicensed Activity

Proposed Board Meeting Dates for 2016

The following are proposed dates for 2016

February 19, 2016

May 20, 2016

August 26, 2016

November 18, 2016

DISCIPLINARY PROCEEDINGS

Ms. Rochester gave the prosecutor's report of cases as of August 17, 2015. A report provided to board members included 159 complaints under review by a prosecutor, 67 cases drafted for probable cause; 35 cases with probable cause finding; 13 supplemental requests; 26 cases where litigation was requested; 1 case at DOAH; 1 case on appeal. There were 163 cases older than one year. There were 127 cases reviewed at the last probable cause panel on July 31, 2015.

After hearing the report the board took the following action:

Motion: by Dr. Thomas to allow the Department to continue with prosecution of year old cases

Second: by Dr. Tejera

Vote: unanimous

Andrew E. Rudnick, D.M.D., Case 2013-04260, Settlement (PCP Thomas, Tejera)

Dr. Rudnick was present and was represented by Frances DeLuca, Esq. An administrative complaint filed December 12, 2014 alleged violations of s. 466.028(1)(x), F.S. regarding improper fitting of bridge, open margins. Respondent paid indemnity of \$45,000.

Probable Cause Panel Recommended penalty: reprimand, appearance before board, \$2,500 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, 3-6 hour course in Crown and Bridge, successfully complete laws and rules examination within one year and one biennium C.E. audit.

A settlement agreement was presented to the Board with the following terms: appearance, letter of concern, fine of \$1000 payable within 6 months; costs of \$3089.51, payable within 6 months; laws and rules exam, proof of patient reimbursement was submitted to the Department. Respondent has already completed CE through a fellowship at the Las Vegas Institute.

General Business Meeting Minutes

August 21, 2015

Page 10

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

Motion: by Dr. Perdomo to reject the settlement agreement
Second: by Ms. Cabanzon
Vote: unanimous

Motion: by Dr. Perdomo to offer an amended settlement agreement with the terms of original settlement and the addition of 3-6 hours in crown and bridge and 3-6 in diagnosis and treatment planning.
Second: by Ms. Cabanzon
Vote: unanimous

Corey G. Warrenbrand, D.M.D., Case No. 2010-13531, Settlement (PCP N/A)

Dr. Warrenbrand was present and was represented by Elizabeth Perez, Esq. An amended administrative complaint filed August 4, 2015 alleged violations of s. 468.028(1)(mm) of failure to adequately supervise dental hygienists; and s. 466.028(1)(m), F.S. of failure to keep written dental records justifying the course of treatment.

Probable Cause Panel reconsidered the case on July 31, 2015 and the result was an amended administrative complaint included in the addendum agenda. The Department had reached a settlement in the case so there was no discussion of penalty during the reconsideration.

A settlement agreement was presented to the Board with the following terms: letter of concern, fine of \$2500 payable within 12 months; costs of \$3956.70 payable within 12 months; level 1 (3 hours) CE in recordkeeping; pass the laws and rules exam within 12 months.

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

Motion: by Dr. Thomas to accept the settlement agreement
Second: by Dr. Britten
Vote: unanimous

Upon conclusion of the next two cases presented to the board, Dr. Warrenbrand requested that the board revisit his case. He asked the board to review medical records of two patients beginning on Pages 544 and 585 of the agenda as he felt that the required information was provided in the records. Dr. Warrenbrand provided paper copies of patient records for the board's review.

Motion: by Dr. Gesek to reopen the case
Second: by Dr. Britten
Vote: motion passes with Drs. Perdomo, Thomas and Ms. Cabanzon opposed

There was no change following the review of records.

Rachel Thomasen Mattoni, R.D.H.; Case No. 2010-13526, Settlement (PCP N/A)

Ms. Mattoni was present and was represented by Elizabeth Perez, Esq. An amended administrative complaint filed August 4, 2015, alleged violations of s. 466.028(1)(mm), F.S. of providing dental treatment without obtaining properly executed prescription; failure to work under indirect supervision.

Probable Cause Panel reconsidered the case on July 31, 2015 and the result was an amended administrative complaint included in the addendum agenda. The Department had reached a settlement in the case so there was no discussion of penalty during the reconsideration.

A settlement agreement was presented to the Board with the following terms: letter of concern, fine of \$1500 payable within 12 months; costs not to exceed \$3000 payable within 12 months; 3-6 hours in prevention of medical errors, 2 hours laws, rules and ethics.

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

Motion: by Dr. Thomas to dismiss the case
Second: by Ms. Cabanzon
Vote: unanimous

Ms. Cabanzon asked that a current or former dental hygiene board member be on the probable cause panel when dental hygiene cases are being reviewed. Dr. Kochenour asked that her request be noted.

Denise Marie Sharon-Fallon, R.D.H.; Case No. 2010-13527, Settlement (PCP Gesek)

Ms. Sharon-Fallon was present and was represented by Elizabeth Perez, Esq. An amended administrative complaint filed August 4, 2015 alleged violations of s. 466.028(1)(mm), F.S. of providing dental treatment without obtaining properly executed prescription; failure to work under indirect supervision – no dentist on premises.

Probable Cause Panel reconsidered the case on July 31, 2015 and the result was an amended administrative complaint included in the addendum agenda. The Department had reached a settlement in the case so there was no discussion of penalty during the reconsideration.

A settlement agreement was presented to the Board with the following terms: letter of concern, fine of \$1500 payable within 12 months; costs not to exceed \$3400 payable within 12 months; 3-6 hours in prevention of medical errors, 2 hours laws, rules and ethics.

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

Motion: by Ms. Cabanzon to dismiss the case
Second: by Ms. Sissine
Vote: unanimous

Dr. Gesek asked that a task force be formed to review dental care in nursing homes and similar facilities. Dr. Kochenour asked for volunteers including the Florida Dental Association, Florida Dental Hygiene Association, possibly legislators and other interested parties. Dr. Kochenour asked that anyone interested in serving on the task force let Ms. Foster know.

Frederick Newton, D.D.S.; Case No. 2013-03036, Voluntary Relinquishment (PCP Thomas, Britten)

Dr. Newton was not present nor represented by counsel. A two count administrative complaint filed April 21, 2014 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards regarding injury to patient's lingual nerve with 6 cartridges of injectable local anesthetic administered. Four follow-up appointments without referral to an oral & maxillofacial surgeon for evaluation, nerve testing, and consideration of nerve repair. Failure to keep written dental records justifying the course of treatment – s. 466.028(1)(m), F.S.

An indemnity of \$175,000 was paid to patient.

Probable Cause Recommended penalty: reprimand, appearance before board, \$15,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in Record Keeping, level one in Oral Surgery, successfully complete laws and rules examination within one year and one biennium C.E. audit

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

Motion: by Dr. Tejera to accept the voluntary relinquishment
Second: by Dr. Perdomo
Vote: unanimous

PETITIONS

**Petition for Declaratory Statement
Richard J. Staller, D.D.S.**

Dr. Staller was present and was represented by Bruce Lamb, Esq. Petitioner is requesting a declaratory statement on 456.053, F.S. the Florida Self-Referral Act of 1992. The issue is whether a dentist operating through a professional association may form a limited liability company and refer patients of the professional association to the limited liability company for surgical, endodontic or other specialty care without such action constituting a violation of s. 456.052, F.S.

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

Motion: by Dr. Thomas to issue a declaratory statement that the board agrees with Mr. Lamb's exception
Second: by Dr. Britten
Vote: motion passes with Drs. Gesek, Winker and Tejera opposed

Petition for Declaratory Statement

Ghyadaa Linjawi, D.D.S. and Frances Martinez, D.D.S.

Dr. Linjawi was not present however Dr. Martinez was present and was represented by Edwin Bayo, Esq. Petitioners are requesting a declaratory statement regarding s. 466.006(3) (b) and Rule 64B5-2.0146, F.A.C. defining a supplement general dentistry program. Petitioners have graduated from a 2 year accredited Pediatric Dentistry Program.

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

Motion: by Dr. Thomas to send the rule to the Rules Committee to determine whether to include pediatric, prosthodontic, and any other residencies as supplemental general education.

Second: by Dr. Perdomo

Vote: motion passes with Drs. Gesek and Winker opposed

Mr. Flynn advised the board that the board cannot make statements of general applicability; the petition must be specific to an individual's situation. Following discussion, Mr. Bayo withdrew the petition.

**Petition for Variance or Waiver, Rule 64B5-2.021, FAC
Shelly Taylor, D.M.D., Applicant for Dental Licensure**

Dr. Taylor was present and was represented by Steven Ballinger, Esq. A Petition for Variance or Waiver filed July 22, 2015, requests a variance to the above cited rule providing for remediation educational requirements after failing the prosthetic portion of the ADEX exam 3 times and before being eligible for re-examination. She requests that she be permitted to take the prosthetic portion of the ADEX exam under the SRTA in Tennessee where she will be a dental resident at the time the examination is offered in December 2015. She is requesting that she be permitted to re-take only the Prosthetic portion under the SRTA in Tennessee.

Alternatively, she is requesting that she be permitted to retake only the Prosthetic portion after completion of her residency program without having to retake the entire exam although the re-exam will be in excess of the 18 month completion requirement.

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

Motion: by Dr. Thomas to allow Dr. Taylor to retake the Prosthetic portion upon completion of the AEGD program.

Second: by Dr. Winker

Vote: unanimous

**APPLICATION REVIEW/OTHER REQUESTS
George M. Mantikas, D.D.S., Notice to Expire License**

Dr. Mantikas was present and was not represented by counsel. He is appearing to discuss the statutory relocating requirement in s. 466.006(6), F.S. regarding documentation of 1200 hours of clinical practice within the initial year of licensure.

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

Motion: by Dr. Gesek to issue a notice of expiration of license.
Second: by Dr. Winker
Vote: unanimous

Mr. Flynn advised that hearing rights are provided with the notice of expiration. If a hearing is requested the matter will come before the board in November.

Vani B. Prabakaran, D.D.S., Notice to Expire License

Dr. Prabakaran was present and was not represented by counsel. She is appearing to discuss the statutory relocating requirement in s. 466.006(6), F.S. regarding documentation of 1200 hours of clinical practice within the initial year of licensure.

This item was removed from the agenda.

Antoine Farha, D.D.S., Applicant for Dental Licensure

Dr. Farha was present and was not represented by counsel. He is appearing due to an affirmative response on the applicant history section of his application regarding action taken by the Pennsylvania and New York Boards.

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

Motion: by Dr. Gesek to deny the application for licensure
Second: by Dr. Tejera
Vote: unanimous

National Provider Compliance Corporation, Application for CE Provider Status

Dr. Christine Barry, contact person for National Provider Compliance Corporation was not present and was not represented by counsel. She is seeking approval from the Board to serve as a provider of continuing education.

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

Motion: by Dr. Gesek to require an appearance
Second: by Dr. Winker
Vote: unanimous

A. J. Bonacquisti, Application for CE Provider Status

Mr. Bonacquisti was not present and was not represented by counsel. He is seeking approval from the Board to serve as a provider of continuing education. He has work experience as a

paramedic and training center coordinator in Lee County and is interested in teaching courses on management of anesthesia emergencies and emergency airway management.

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

Motion: by Dr. Thomas to require an appearance to explain the course
Second: by Dr. Gesek
Vote: unanimous

Marieve Rodriguez, D.M.D., Petition for Extension

Dr. Rodriguez is requesting an extension of 3 years to repay the administrative fine and costs imposed in the Final Order. The fine and costs were due June 2, 2015. A partial payment of \$500 was made.

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

Motion: by Dr. Gesek to grant a 3 year extension
Second: by Dr. Perdomo
Vote: motion passes with Ms. Sissine and Dr. Thomas opposed

Allen McCall, D.D.S., Petition to Lift Restriction

Dr. McCall was not present and was not represented by counsel. He is petitioning the Board to lift his permanent restriction from performing impacted wisdom teeth extractions and to remove the license status of obligations since he has completed the continuing education requirement with verified competency achieved in exodontia and the three hours in record keeping. He is in compliance with his final order.

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

Motion: by Dr. Gesek to deny the request to modify
Second: by Dr. Perdomo
Vote: unanimous

James Joseph Moran, D.D.S., Request for Reactivation of Retired Dental License

Dr. Moran was present and is requesting reactivation of his retired dental license. His license was placed on retirement status on 2-28-06. He has met the CE requirements, paid the fees and is appearing before the board since he has been retired over 5 years. (64B5-10.011(3), F.A.C.)

Following discussion, Dr. Moran requested that his application be continued.

Dr. Thomas asked that staff review Homestead Schools, Inc. for discrepancies in issuance certificates of CE hours.

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 12:45 p.m.