

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
DRAFT
May 20, 2016
Hyatt Regency Jacksonville
225 East Coastline Drive
Jacksonville, FL
(904) 588-1234
7:30 A.M.**

I. CALL TO ORDER/ROLL CALL

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

MEMBERS PRESENT

Robert Perdomo, DMD, Chair
Joseph Thomas, DDS, Vice Chair
T.J. Tejera, DMD
William Kochenour, DDS
Catherine Cabanzon, RDH, BASDH
Angela Sissine, RDH
Claudio Miro, DDS
Naved Fatmi, DMD
Joseph Calderone, DMD
Tim Pyle, Consumer member

STAFF PRESENT

Jennifer Wenhold, Executive Director
Jessica Sapp, Program Administrator

BOARD COUNSEL

David Flynn, Esq
Assistant Attorney General

PROSECUTING ATTORNEY

Candace Rochester, Esq.
Assistant General Counsel

COURT REPORTER

Precision Court Reporting
Lalonda Hall
4600 Touchton Rd, #150
Jacksonville, FL 32246
(904) 629-5310

Dr. Tejera read the 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. Perdomo introduced Ms. Nichole Geary, General Counsel for the Department of Health, and Ms. Adrienne Rodgers, Chief of the Bureau of Healthcare Practitioner Regulation. Ms. Geary addressed the board to thank them for their service and informed the board of Prosecution Services priority of processing post probable cause cases.

Ms. Rochester addressed the board with the current Prosecution Services report and shared their plan to clear the back log of cases.

II. DISCIPLINARY PROCEEDINGS

a. **Alberto Antonio De Cardenas, DMD, Case No. 2014-06719 Settlement Agreement (PCP – Thomas, Britten, Fatmi)**

Dr. De Cardenas was present and sworn in by the court reporter. He was represented by Mr. Edwin Bayo, Esq.

Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes, for being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance. **Count II:** Section 488.028(1)(m), Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment of the patient.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$6000.00 fine to be paid within six (6) months
- Costs of \$3,313.66 to be paid within six (6) months
- Restriction on the practice of placing dental implants until the completion of continuing education and proof of submission to the Board.
- Level III continuing education in Implants
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept the Settlement Agreement

Second: by Dr. Kochenour

Vote: Unanimous

b. **Gregory Charles Stepanski, DDS, Case No. 2014-05500 Settlement Agreement (PCP – Thomas, Britten, Fatmi)**

Dr. Stepanski was present and sworn in by the court reporter. He was represented by Mr. Edwin Bayo, Esq.

Respondent was charged with the following violation: Section 466.028(1)(g) by aiding, assisting, procuring or advising any unlicensed person to practice dentistry or dental hygiene, by instructing or permitting unlicensed persons to practice dental hygiene.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$1000.00 fine to be paid within six (6) months
- Costs of \$1937.00 to be paid within six (6) months
- Successful completion of the Laws and Rules exam within 12 months

After discussion, the following action was taken:

Motion: by Dr. Miro to reject the Settlement Agreement

Second: by Dr. Kochenour

After discussion, the following action was taken:

Motion: by Dr. Miro to offer only a Letter of Concern
Second: by Kochenour
Vote: 8/2. Ms. Cabanzon and Ms. Sissine opposed

After further discussion, additional action was taken:

Motion: by Dr. Miro to dismiss the case
Second: by Dr. Kochenour
Vote: 8/2. Ms. Cabanzon and Ms. Sissine opposed

**c. Larry Shapiro, DDS, Case No. 2011-13527
Settlement Agreement (PCP – Morgan, Stevens, Robinson)**

Dr. Shapiro was present and sworn in by the court reporter. He was represented by Darlene Stosik, Esq. Dr. Thomas stated for the record that he knows Dr. Shapiro through Florida Dental Association events but can be fair and impartial in making decisions regarding this case.

Respondent was charged with the following violations: **Count I:** Section 466.028(1)(m), Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment of the patient. **Count II:** Section 466.028(1)(ff), Florida Statutes, for failing to keep written dental records and/or x-rays that justify the course of treatment. **Count III:** Section 466.028(1)(x), Florida Statutes, for being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$5000.00 fine to paid within thirty (30) days
- Costs of \$4000.00 to be paid within six (6) months

After discussion, the following action was taken:

Motion: by Dr. Thomas to accept the Settlement Agreement
Second: by Ms. Cabazon
Vote: Unanimous

**d. Charles Wallace, DDS, Case No. 2014-18804
Settlement Agreement (PCP – Thomas, Britten, Fatmi)**

Dr. Wallace was present and sworn in by the court reporter.

Respondent was charged with the following violations: **Count I:** Section 466.028(1)(m), Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment of the patient. **Count II:** Section 466.028(1)(mm) through a violation of Rule 64B5-17.002(7), F.A.C., by failing to identify the license number of the physician anesthesiologist that administered the general anesthesia during the procedure.

The complainant was present and addressed the board.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern

- \$2500.00 fine to be paid within thirty (30) days
- Costs of \$2,249.51 to be paid within thirty (30) days
- Level I continuing education course in record keeping

After discussion, the following action was taken;

Motion: by Dr. Tejera to reject the Settlement Agreement

Second: by Dr. Kochenour

Vote: Unanimous

Dr. Tejera made a motion the offer the following counter agreement:

- Restrict license by not allowing a physician anesthesiologist in the office until the office has been inspected to the level of general/deep sedation.
- Level II continuing education in record keeping
- Successful completion of the Laws and Rules exam within 12 months
- \$2500.00 fine to be paid within thirty (30) days
- Costs of \$2,249.51 to be paid within thirty (30) days

Dr. Kochenour made a friendly amendment to suspend the use of sedation by Dr. Wallace until the office has been inspected to the level of general/deep sedation.

Second: by Dr. Calderone

Vote: Unanimous

Dr. Wallace accepted the counter agreement.

**h. Jose Alberto, DDS, Case No. 2012-11021
Settlement Agreement (PCP – Britten, Melzer, Robinson)**

Dr. Alberto was present and sworn in by the court reporter. He was represented by Mr. Edwin Bayo, Esq.

Dr. Miro recused himself from the case.

Respondent was charged with the following violation: Section 466.028(1)(m), Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment of the patient.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$1500.00 to be paid within six (6) months
- Costs of \$2,656.01 to be paid within six (6) months

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept the Settlement Agreement

Second: by Dr. Kochenour

Vote: Unanimous

**e. Linda Rock, DR, Case No. 2016-07469
Voluntary Relinquishment (PCP Waived)**

Ms. Rock was not present nor represented by counsel. Alleged violations include Section 456.072(1)(k)(z)(dd)(hh), Florida Statutes, and 466.028(1)(i)(s)(mm), Florida Statutes.

A Motion for Final Order Accepting Voluntary Relinquishment was presented to the board. After discussion the following action was taken:

Motion: by Dr. Thomas to accept the Voluntary Relinquishment
Second: by Dr. Kochenour
Vote: Unanimous

**f. Wayne Olges, DDS, Case No. 2014-06670
Voluntary Relinquishment (PCP Waived)**

Dr. Olges was not present nor represented by counsel. Alleged violations include Section 466.028(1)(x)(mm), Florida Statutes, and Section 456.072(1)(1)(k)(dd), Florida Statutes.

A Motion for Final Order Accepting Voluntary Relinquishment was presented to the board. After discussion the following action was taken:

Motion: by Dr. Thomas to accept the Voluntary Relinquishment
Second: by Dr. Fatmi
Vote: Unanimous

**g. Amber Gilton, DMD, Case No. 2015-08832
Informal Hearing (PCP – Thomas, Britten, Fatmi)**

Dr. Gilton was present and sworn in by the court reporter. She was represented by Mr. Edwin Bayo, Esq.

Respondent was charged with the following violation: Section 466.028(1)(x), Florida Statutes, for being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance.

Motion: by Dr. Kochenour to find that the Respondent was properly served and has requested an informal hearing.

Second: by Ms. Sissine
Vote: Unanimous

Motion: by Dr. Tejera to adopt the findings of fact as set forth in the Administrative Complaint.

Second: by Dr. Calderone
Vote: Unanimous

Motion: by Dr. Perdomo to adopt the materials under this tab and any addendum materials into evidence in this proceeding.

Second: by Ms. Cabanzon
Vote: Unanimous

Mr. Bayo and the Respondent addressed the board. After discussion, the following action was taken:

Motion: by Dr. Kochenour to dismiss the case
Second: by Tejera
Vote: Unanimous

III. PROSECUTION REPORT

Ms. Rochester presented the following prosecution report:

Legal Case Status	Prosecutor's Report Dated January 22, 2016	Prosecutor's Report Dated April 7, 2016
Total cases open/active in Prosecution Services:	489	410
Cases in intake status:	4	12
Cases in holding status:	0	0
Cases in Emergency Action Unit:	1	6
Cases under legal review:	241	239
Cases awaiting supplemental investigation:	12	9
Cases where a recommendation has been made for future Probable Cause Panel meetings:	177	87
Total cases where probable cause has been found:	70	80
Cases pending before DOAH:	1	1
Cases agendaed for current or future Board meeting:	3	7
Cases pending before Appeals Court:	3	0
Cases a year or older:	227	165

IV. REPORTS

A. Board Counsel

a. Rule Status Report

Mr. Flynn provided an overview of the rules currently in progress.

B. Executive Director

a. Financial Reports

Ms. Wenhold provided the quarterly financial reports as informational only.

C. Chairman

a. AADB Meeting Overview

Dr. Perdomo provided an overview of his attendance at the AADB meeting in Chicago.

b. ADEX House of Representatives Meeting

c. CDCA Steering Committee Meeting

d. Anesthesia Ratification List

Motion: by Dr. Thomas to approve

Second: by Dr. Tejera

Vote: Unanimous

D. Vice-Chairman

E. Board Members

Dr. Fatmi discussed reviewing the continuing education guidebook to determine if any updates are required.

Dr. Thomas provided the board a background on the development of the guidebook and suggested that University of Florida, Nova Southeastern University, and LECOM provide additional input on updating the book.

Dr. Perdomo asked Dr. Fatmi to chair a committee, to include the three dental school deans, to revise the guidebook.

V. DISCUSSION

a. Florida Mission of Mercy Update, Dr. Andy Brown

Dr. Brown provided the board with an update on the success of the recent Florida Mission of Mercy event in Jacksonville. He also stated that this will become an annual event at different locations throughout Florida.

Mr. Flynn clarified with the board that all responsibility and liability be taken upon by the Florida Mission of Mercy foundation regarding utilizing unlicensed Florida dentists.

The board will make this event an annual review process.

VI. REQUEST FOR RULES HEARING

Mr. Glenn Thomas, Esq. has requested a hearing on the below rules. Mr. Glenn represents the Florida Association of Nurse Anesthetists.

a. Rule 64B5-14.002

Mr. Thomas did not have comments regarding this rule. Mr. Flynn will move forward with adoption.

b. Rule 64B5-14.003

Mr. Thomas' comments related to the training of CRNAs and their practice. Dr. Tejera explained that this rule applies to dental anesthesia. In order for a CRNA to enter a dental office to administer anesthesia, they must be supervised by a physician anesthesiologist and the office must have been inspected to the level of general/deep sedation; or the CRNA must be supervised by a dentist with a general anesthesia permit.

Dr. Tejera requested Ms. Wenhold send a letter to the Florida Board of Nursing regarding the sedation rules and how they apply to CRNAs.

VII. RULES DISCUSSION

a. Rules 64B5-14.009 and 14.010

At the request of the Florida Academy of Pediatric Dentistry, the board discussed these recently revised rules that require the use of a capnograph as standard operator equipment for conscious sedation and pediatric conscious sedation permit holders. The board stated that capnography is required as the rule is effective. Mr. Flynn advised that the appropriate avenue for requesting an extension would be to apply for a petition of variance or waive of rule.

b. Rules 64B5-2.014 and 2.0146

i. Dental Licensure Application

Revisions to the application forms are required due to legislative changes created by HB 941. Additional revisions are also being proposed to ensure we are only collecting required data. The revisions include:

- Removed all references to medical errors (due to HB 941)
- Removed question relating to being in school before July 1, 2009 (due to HB 941)
- Removed place of birth
- Removed height, weight, eye color, hair color
- Removed question asking for other schools attended
- Removed question asking for the status of dental applications in other states
- Added email notification statement and email public records statement
- Added additional language to applicant oath so that a notary is not required
- Added Financial Responsibility questions
- Changed formatting

c. Rules 64B5-2.014 and 2.0144

i. Dental Hygiene Licensure Application

Revisions to the application forms are required due to legislative changes created by HB 941. Additional revisions are also being proposed to ensure we are only collecting required data. The revisions include:

- Removed all references to medical errors (due to HB 941)
- Removed question relating to being in school before July 1, 2009 (due to HB 941)

- Removed place of birth
- Removed height, weight, eye color, hair color
- Removed question asking for other schools attended
- Removed question asking for the status of dental applications in other states
- Added email notification statement and email public records statement
- Added additional language to applicant oath so that a notary is not required
- Changed formatting

After review of the dental and hygiene application forms, the follow action was taken:

Motion: by Dr. Thomas to approve the revisions and open Rules 2.014, 2.0146, and 2.0144 for development.

Second: by Ms. Cabanzon

Vote: Unanimous

The board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

d. 64B5-2.0142

i. Health Access Licensure Application

Revisions to the application forms are required due to legislative changes created by HB 941. Additional revisions are also being proposed to ensure we are only collecting required data. The revisions include:

- Removed all references to medical errors (due to HB 941)
- Removed question relating to being in school before July 1, 2009 (due to HB 941)
- Removed place of birth
- Removed height, weight, eye color, hair color
- Removed question asking for the status of dental applications in other states
- Added email notification statement and email public records statement
- Added additional language to applicant oath so that a notary is not required
- Changed formatting

After review of the application form, the follow action was taken:

Motion: by Dr. Tejera to approve the revisions and open Rule 2.0142 for development.

Second: by Dr. Calderone

Vote: Unanimous

The board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

e. 64B5-7.005

i. Teaching Permit Application

Revisions to the application forms are required due to legislative changes created by HB 941. Additional revisions are also being proposed to ensure we are only collecting required data. The revisions include:

- Removed question relating to being in school before July 1, 2009 (due to HB 941)
- Added email notification statement and email public records statement
- Added Financial Responsibility questions
- Removed requirement of the school dean having to submit the application

After review of the application form, the follow action was taken:

Motion: by Dr. Thomas to approve the revisions and open Rule 7.005 for development.

Second: by Dr. Kochenour

Vote: Unanimous

The board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

Dr. Thomas discussed the ability of a part-time faculty member obtaining a teaching permit who would only be performing instructional duties. Ms. Cabanzon stated such individual may be exempt per Section 466.002(6).

f. 64B5-7.007

i. Limited Licensure Application

Revisions to the application forms are required due to legislative changes created by HB 941. Additional revisions are also being proposed to ensure we are only collecting required data. The revisions include:

- Removed all references to medical errors (due to HB 941)
- Removed question relating to being in school before July 1, 2009 (due to HB 941)
- Removed place of birth
- Added email notification statement and email public records statement
- Added additional language to applicant oath so that a notary is not required
- Added Financial Responsibility questions
- Changed formatting

After review of the application form, the follow action was taken:

Motion: by Dr. Kochenour to approve the revisions and open Rule 7.007 for development.

Second: by Dr. Thomas

Vote: Unanimous

The board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

VIII. FOR YOUR INFORMATION

Ms. Wenhold provided an overview of legislative changes.

A. 2016 Legislation

a. HB 139 Relating to Dental Care

This bill would establish a joint local and state dental care access account initiative and authorize

the creation of dental care access account. This bill was vetoed by the governor on April 14, 2016.

b. HB 183 Relating to Administrative Procedures

This bill revises requirements related to administrative proceedings regarding rules, proposed rules, unadopted rules, and agency statements. AG to give additional guidance. No later than June 30, 2017, the board must complete a comprehensive review of each rule and make a determination of which rules shall be designated a “minor violation”, certify the review is complete, and publish on web or through the disciplinary guidelines.

c. HB 221 Relating to Health Care Services

This bill pertains to health care providers who enter into insurance contracts; prohibits out-of-network providers from balance billing members of a PPO or EPO for emergency services or for nonemergency services under specific circumstances. The bill provides for discipline of a health care practitioner subject to regulation under Chapter 458 or 459, Florida Statutes, who willfully fails to comply with the balance billing provisions for covered emergency services and nonemergency services. May require development of disciplinary guidelines (PSU to propose range of penalties).

d. SB 580 Relating to Reimbursement to Health Access Settings for Dental Hygiene Services for Children

This bill relates to Reimbursement to Health Access Settings for Dental Hygiene Services for Children, this bill authorizes the Agency for Health Care Administration (AHCA) to reimburse a health access setting under the Medicaid program for remedial dental services (remedial tasks) delivered by a dental hygienist when provided to a Medicaid recipient younger than 21 years of age.

e. HB 941 Relating to Administrative Procedures

The Board reviewed HB 941, which contained the following provisions relevant to Dentistry.

- 456.013(7) – Medical errors CE no longer required at initial licensure. Medical errors CE will only be required at renewal.
- 456.024 – Expands the military licensure program to military spouses except for dentists.
- 456.057 – Allows the Department to contract with a third party to be the custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of a practitioner or the abandonment of medical records by a practitioner
- 456.0361 – Electronic continuing education tracking system. Department may not renew a license until a licensee complies with all applicable CE requirements
- 456.0635 – Applicants with a 456.0635 conviction (certain drug and fraud convictions) will no longer have an exemption when they were enrolled in an educational training program on or before July 1, 2009

f. HB 981 Relating to Administrative Procedures

This bill provides for additional requirements for the calculation of estimated adverse impacts and regulatory costs.

g. HB 7087 Relating to Telehealth

This bill adds telehealth to the definition of “discount medical plan.” The bill also requires the department to gather information for a report showing the use, benefits or drawbacks of using telehealth services; see line 108 which requires a survey as a condition of renewal. Only applies to

those professions or any person who renews July 1, 2016-Dec. 31, 2016.

B. Correspondence from the American Dental Education Association

C. AADB Assessment Services Program

D. Team up to Quit

IX. REVIEW OF MINUTES

A. February 19, 2016 General Business Meeting

The minutes of the February 19, 2016 meeting were reviewed and the following action was taken by the Board:

Motion: by Ms. Cabanzon to approve

Second: by Dr. Kochenour

Vote: Unanimous

X. REVIEW OF APPLICATIONS

a. Wellington Dental Institute, Expanded Duties Program

A representative from Wellington Dental Institute was not present. This application was placed on the agenda for the Board to review the program directors past disciplinary history and consider the application.

After discussion, the following action was taken:

Motion: by Dr. Thomas to deny the application due to the director having previous disciplinary history.

Second: By Dr. Kochenour

Vote: Unanimous

b. Chelsea Wilson, DMD

Dr. Wilson was present and sworn in by the court reporter. She was represented by Ms. Beverly Pascoe, Esq.

i. Petition for Variance or Waiver of Rules 64B5-2.021 and 2.013

Dr. Wilson filed a petition requesting the board to waive the requirement of retaking all portions of the ADEX and instead, retake only the Operative portion that was failed.

After discussion, the following action was taken:

Motion: by Dr. Thomas to grant the petition to allow her to retake the one part but shall not be licensed if residency is not completed. Dr Wilson shall submit a letter from the dean to support completion of the AEGD program.

Second: Dr. Fatmi

Vote: Unanimous

Dr. Thomas made a motion to grant the variance to allow an extension until March of 2017 to successfully complete the exam.

Second: Ms. Cabanzon

Vote: 8/2. Dr. Kochenour and Dr. Calderone opposed.

e. Gustavo Aranguren, DMD, Licensure for Dental Hygiene

Dr. Aranguren was present and sworn in by the court reporter. He has applied for licensure as a dental hygienist. He disclosed past criminal history that includes an arrest for the unlicensed practice of dentistry, which occurred in June 2014. He was charged with 2 counts of unlicensed practice of a healthcare profession and 1 count of possession of legend drugs without prescriptions. The case was nolle prossed. The Department of Health issued a notice to cease and desist and an unlicensed activity citation with a total fine of \$1,368.00. Final payment was received and the case was closed on November 21, 2014. Supporting documents have been included for your review and consideration of licensure.

After discussion and consideration of the application, the following action was taken:

Motion: by Dr. Thomas to grant licensure

Second: by Dr. Fatmi

Vote: Unanimous

c. Frances Martinez, DDS

Dr. Martinez was present and sworn in by the court reporter. She was represented by Mr. Edwin Bayo, Esq.

i. Petition for Variance or Waiver of Rule 64B5-2.0146(2)

Dr. Martinez filed a petition requesting the board waive the requirement of completing a two year supplemental general dentistry program and accept her two year Pediatric Residency education in addition to her one year completion of Advanced General Dentistry.

Mr. Flynn stated the petition is not required as the applicant is included in the grandfather provision.

After discussion, the following action was taken:

Motion: by Dr. Thomas to approve the application for credentials review

Second: by Dr. Calderone

Vote: Unanimous

a. Nuria Otero, DDS

This application has been placed on the agenda for board consideration to determine if her supplemental education meets the requirements set forth in Section 466.003(3)(b). Dr. Otero obtained her dental degree from a non-accredited dental program in Venezuela in 1998, followed by a two year supplemental education in prosthodontics from Boston University in 2002.

After discussion and consideration of the application, the following action was taken:

Motion: by Ms. Cabanzon to grant the license

Second: by Dr. Thomas

Vote: Unanimous

II. PETITION FOR DECLARATORY STATEMENT

a. Jan Gandul-Cabrera, DDS

i. Petition for Declaratory Statement of s. 466.006(3)(b)

This petition was placed on the agenda for the board to determine whether the two year dental program at Nova Southeastern University Dr. Gandul-Cabrera is currently completing complies with Section 466.006(3)(b).

After discussion and consideration of the application, the following action was taken:

Motion: by Dr. Thomas to grant the petition and opined that the two year program meets the intent of the statute.

Second: Dr. Calderone

Vote: Unanimous

III. NEW BUSINESS

a. Conviction Guidelines

Board staff is requesting approval of the use of the included Conviction Record Guidelines for new licensure applications. This will allow for a more efficient approval process for applicants with criminal history.

After discussion, the following action was taken:

Motion: by Dr. Thomas to approve as presented

Second: Dr. Tejera

Vote: Unanimous

IV. OLD BUSINESS

V. ADJOURNMENT

After no further discussion, the meeting adjourned at 1:10 p.m.