

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
August 26, 2016
Hilton University of Florida
1714 SW 34th Street
Gainesville, Florida 32607
8:00 A.M.**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 8:00 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
Joseph Calderone, DMD
T.J. Tejera, DMD
William Kochenour, DDS
Naved Fatmi, DMD
Angela Sissine, RDH
Claudio Miro, DDS
Tim Pyle, Consumer member

Excused Absence

Catherine Cabanzon, RDH, BASDH

COURT REPORTER

Scribe Associates, Inc.
Debbie Holloway
201 SE 2nd. Ave. Suite 207
Gainesville, FL 32601
(352) 377-6852

STAFF PRESENT

Jennifer Wenhold, Executive Director
Jessica Sapp, Program Administrator

BOARD COUNSEL

David Flynn, Esq.
Assistant Attorney General

PROSECUTING ATTORNEY

Candace Rochester, Esq.
Asst. General Counsel, PSU
Bridgette McDonnell, Esq.
Asst. General Counsel, PSU

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.

II. UNLICENSED ACTIVITY PRESENTATION

A. Chilo Casas, ULA Liaison, Bureau of Enforcement

Mr. Casas provided the board with an overview of the Unlicensed Activity program.

Dr. Thomas would like the ULA information placed on the Board's website.

III. DISCIPLINARY PROCEEDINGS

a. Victor D. Lubin, DDS, Case No. 2014-15029

Settlement Agreement (PCP – Thomas, Britten, Fatmi)

Dr. Lubin was present and sworn in by the court reporter. He was represented by Kevin Richardson, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing to diagnose the open margin(s) on the crown of tooth #5 and/or by failing to treat the inadequate fit and seal of the permanent bridge.

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

- Appearance
- Reprimand
- \$2500.00 fine to be paid within twelve (12) months
- Costs of \$2525.14 to be paid within twelve (12) months
- Level 1 continuing education course in diagnosis and treatment to be completed within twelve (12) months
- Level 1 continuing education course in prosthodontics to be completed within twelve (12) months
- Refund patient any “out of pocket” fees and/or refund any third party payer within six (6) months.

After discussion, the following action was taken:

Motion: by Dr. Kochenour to accept

Second: by Dr. Tejera

Vote: Unanimous

b. Jackie Johns, DMD, Case No. 2013-12369

Settlement Agreement (PCP – Thomas, Britten, Ross)

Dr. Johns was present and sworn in by the court reporter. He was represented by Joanne Kenna, Esq.

Ms. McDonnell summarized the case for the Board. Respondent was charged with violating Section 466.028(1)(m), Florida Statutes, by failing to document and/or memorialize any specific problem or defects, by failing to document and/or memorialize the reason for Respondent’s placement of posts and cores, and by failing to document and/or memorialize any clinical information concerning the justification for, and/or, the performance of the procedures.

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

- Appearance
- Reprimand
- Fine of \$1000.00 to be paid within twelve (12) months

- Costs of \$1653.56 to be paid within twelve (12) months
- Level 1 continuing education in record keeping to be completed within twelve (12) months.
- Probation for twelve (12) months

After discussion, the following action was taken:

Motion: by Dr Tejera to accept

Second: by Dr. Kochenour

Vote: Unanimous

c. Alexander Gaukhman, DDS, Case Nos. 2013-13078, 2014-17433, 2014-07097, 2015-21213, 2014-05717, 2013-09716, 2014-06673

Settlement Agreement

Case 2013-13078 PCP – Robinson, Britten, Melzer

Dr. Gaukhman was present and sworn in by the court reporter. He was represented by Edwin Bayo, Esq. and Kevin Richardson, Esq.

Ms. McDonnell summarized the case for the Board. Respondent was charged with violating Section 466.028(1)(aa), Florida Statutes, by failing to comply with the Board of Dentistry Final Order DOH12-1026-S-MQA entered in case number 2007-12118.

Case 2014-07097 PCP – Melzer, Morgan, Perdomo

Ms. McDonnell summarized the case for the Board. Respondent was charged with violating Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records justifying performing an incision and drainage procedure; and by failing to document in the patient records that a guided tissue regeneration procedure was performed; and by failing to document in the records that a guided tissue regeneration was necessary or appropriate.

Case 2014-05717 PCP – Thomas, Britten, Fatmi

Ms. McDonnell summarized the case for the Board. 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 466.028(1)(m), Florida Statutes, by failing to keep written dental records justifying the course of treatment.

Case 2014-17433 PCP – Thomas, Calderone, Britten

Ms. McDonnell summarized the case for the Board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to conduct an adequate examination and evaluation to accurately diagnose the patient's dental condition; and/or by failing to accurately diagnose bone loss.

Case 2015-21213 PCP – Thomas, Calderone, Britten

Ms. McDonnell summarized the case for the Board. Respondent was charged with violating 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.

Case 2013-09716 PCP – Tejera, Britten, Robinson

Ms. McDonnell summarized the case for the Board. Respondent was charged with violating 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.

Case 2014-06673 PCP – Melzer, Winker, Morgan

Ms. McDonnell summarized the case for the Board. Respondent was charged with the following violations: Count I: Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records justifying the course of treatment. Count II: Section 466.028(1)(z), Florida Statutes, for delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

Mr. Bayo waived the recusal requirement so that the full board could participate in all of the case discussions to take action.

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

- Appearance
- Reprimand
- Fine of \$30,000.00 to be paid within two (2) years
- Costs of \$10,000.00 to be paid within twelve (12) months (13257.87 actual costs)
- Suspension of license for six months. The suspension shall be stayed for a period of five months.
- Level 1 continuing education in ethics to be completed within two (2) years at or through an accredited university.
- Complete a one (1) year continuum course in general dentistry as offered by the University of Florida.
- Probation for two (2) years under indirect supervision of a dentist licensed under Chapter 466.
- Completion of one hundred (100) hours of pro bono service within two (2) years.

Motion: by Dr. Thomas to reject the Settlement Agreement

Second: by Dr. Calderone.

Vote: Unanimous

The following counter agreement was made by Dr. Thomas to maintain the original terms but add the following:

- Complete a two (2) year continuum course in general dentistry as offered by the University of Florida.
- Remove the pro bono service requirement
- Complete two (2) college semester ethics course (6 hours total)

Second: by Dr. Fatmi

Dr. Tejera made a friendly amendment to keep the pro bono service, Dr. Fatmi accepted the amendment.

Dr. Calderone discussed increasing the fine amount.

Dr. Tejera made a friendly amendment to include patient reimbursement for each standard of care case. This includes third party payer reimbursement. Dr. Fatmi accepted the amendment

Vote: Unanimous

Mr. Bayo stated that Dr. Gaukhman accepted the counter agreement.

**d. Allan Fuhr, DMD, Case No. 2013-04881
Voluntary Relinquishment (PCP – Thomas, Calderone, Britten)**

Dr. Fuhr was not present nor represented.

Ms. McDonnell summarized the case for the Board. Respondent was charged with the following violations: Count I: Section 466.028(1)(m), Florida Statutes, by failing to keep a written dental record of the drugs used and the dosage of each drug used. Count II: Section 466.028(1)(x) by failing to meet the minimum stands of performance in diagnosis and treatment.

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. Tejera

Vote: Unanimous

**e. Mark Skaff, DMD, Case No. 2016-11601
Voluntary Relinquishment (PCP Waived)**

Dr. Skaff was not present nor represented. Alleged violations include Section 456.072(1)(k)(z)(dd), Florida Statutes, and Section 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. Kochenour to accept the Voluntary Relinquishment

Second: by Dr. Tejera

Vote: Unanimous

**f. Haydee Aranda, DDS, Case No. 2010-03196
Recommended Order (PCP – Melzer, Thomas, Garcia)**

Dr. Perdomo and Dr. Thomas were recused. Dr. Tejera chaired this case.

Dr. Aranda was not present. She was represented by Sean Ellsworth, Esq.

On May 27, 2015, the Department filed an amended Administrative Complaint against Dr. Aranda and referred the matter to the Division of Administrative Hearings. The Administrative Law Judge recommended that the Board of Dentistry enter a Final Order dismissing the complaint.

The Department filed exceptions to the Recommended Order. After hearing from the Department and Mr. Ellsworth, the following action was taken based on the oral presentation and written statements submitted:

Motion: by Dr. Kochenour to deny Exception 1
Second: by Ms. Sissine
Vote: Unanimous

Motion: by Mr. Pyle to deny Exception 2
Second: by Dr. Kochenour
Vote: Unanimous

Motion: by Dr. Mr. Pyle to deny Exception 3
Second: by Dr. Fatmi
Vote: Unanimous

Motion: by Dr. Calderone to deny Exception 4
Second: by Dr. Kochenour
Vote: Unanimous

Motion: by Dr. Kochenour to deny Exception 5
Second: by Ms. Sissine
Vote: 8/1, Dr. Tejera opposed

Motion: by Dr. Mr. Pyle to deny Exception 6
Second: by Ms. Sissine
Vote: Unanimous

Motion: by Dr. Kochenour to deny Exception 7
Second: by Dr. Fatmi
Vote: Unanimous

Motion: by Mr. Pyle to deny Exception 8
Second: by Dr. Kochenour
Vote: Unanimous

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

Motion: by Dr. Kochenour to accept the Recommended Order
Second: by Dr. Fatmi
Vote: Unanimous

IV. PROSECUTION REPORT

Ms. McDonnell presented the following prosecution report:

Legal Case Status	Prosecutor's Report Dated May 20, 2016	Prosecutor's Report Dated July 7, 2016
Total cases open/active in Prosecution Services:	375	379
Cases in intake status:	10	19
Cases in holding status:	0	0
Cases in Emergency Action Unit:	6	4
Cases under legal review:	183	231
Cases awaiting supplemental investigation:	8	9
Cases where a recommendation has been made for future Probable Cause Panel meetings:	70	63
Total cases where probable cause has been found:	77	71
Cases pending before DOAH:	1	0
Cases agendaed for current or future Board meeting:	8	15
Cases pending before Appeals Court:	0	0
Cases a year or older:	147	159

Motion: by Dr. Thomas to allow prosecution to continue prosecuting year old cases
Second: by Dr. Tejera
Vote: Unanimous

V. REVIEW OF APPLICATIONS

a. Michael Tomczyk, DDS, Application for Dental Licensure

Dr. Tomczyk was present and sworn in by the court reporter. He was requested to appear to discuss his disciplinary history.

After discussion, the following action was taken:

Motion: by Dr. Thomas to approve for licensure
Second: by Dr. Tejera
Vote: Unanimous

b. Jawanna Smith Wilkins, DDS, Application for Health Access Dental Licensure

Dr. Wilkins was present and sworn in by the court reporter. She was requested to appear to discuss her disciplinary history. Dr. Wilkins does not meet the requirement set forth in 466.0067(10).

After discussion, Dr. Wilkins withdrew her application.

In the event she applies for another type of dental license, she does not have to appear before board as long as there have been no additional changes to her history.

c. Mark Hakanson, DDS, Application for Temporary Dental Permit

Dr. Hakanson was present and sworn in by the court reporter. He was requested to appear to discuss his disciplinary history.

After discussion, the following action was taken:

Motion: by Dr. Thomas to continue the application until the November meeting so that additional criminal documentation is received and reviewed.

Second: by Dr. Fatmi

After further discussion, Dr. Thomas withdrew his motion.

Motion: Dr. Calderone made a motion to deny based on his previous discipline in other dates.

Second: by Dr. Thomas

Vote: Unanimous

Dr. Hakanson requested he be allowed to withdraw his application.

Motion: by Dr. Thomas to reopen the matter

Second: by Dr. Fatmi

Vote: 7/2, Ms. Sissine and Dr. Kochenour opposed

Dr. Hakanson withdrew his application.

Motion: by Dr Thomas moved to accept

Second: by Dr. Fatmi

Vote: 7/2, Ms. Sissine and Dr. Kochenour opposed.

VI. PETITION FOR WAIVER OF RULE

a. Robert H. Selwitz, DDS

Rules 64B5-15.011 and 64B5-15.012

Dr. Selwitz was not present nor represented. He has filed a petition seeking a waiver of the delinquent fee and change of status fee for his renewal so that he can renew to a Retired status.

After discussion, the following action was taken:

Motion: by Dr. Thomas to deny based on Petitioner not establishing a hardship or principles of

General Business Meeting Minutes DRAFT

August 26, 2016

Page 8 of 10

fairness.

Second: by Dr. Calderone

Vote: Unanimous

VII. RULES DISCUSSION

VIII. REPORTS

A. Board Counsel

a. Rule Status Report

Mr. Flynn provided an overview of the rules currently in progress. He also requested the board delegate authority to the board chair to review and approve the Annual Regulatory Plan.

Annual Regulatory Plan

Motion: by Dr. Thomas to grant delegation to Dr. Perdomo to review and approve the plan

Second: by Tejera

Vote: Unanimous

B. Executive Director

a. Financial Reports

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

C. Chairman

D. Vice-Chairman

E. Board Members

a. Dr. Miro, Update from the CDCA Meeting

Dr. Miro provided an overview of the CDCA meeting and also shared his experience of observing the exam administration at NOVA.

b. Dr. Fatmi, Update from the ADEX Meeting

Dr. Fatmi gave an overview of the ADEX meeting.

Dr. Thomas discussed the use of the Curriculum Integrated Format. Dr. Fatmi would like to invite Dr. Joseph Gambacorta, Assistant Dean of Clinical Affairs at the University of Buffalo, to present about the buffalo model at the November meeting.

Dr. Fatmi also gave the board an update on the CE guidebook. We will present final copy of guidebook at November meeting.

c. Ms. Cabanzon, Update from the ADEX Hygiene Committee Meeting

Due to Ms. Cabanzon's absence, this item was tabled until the November meeting.

d. Ms. Cabanzon, Council on Dental Hygiene Report

- Recommended Proposed Amendment to Rule 64B5-16.001

Due to Ms. Cabanzon's absence, this item was tabled until the November meeting.

Dr. Tejera provided an overview of the upcoming meetings November 17-18, 2016 in Miami. He will conduct an inspector workshop training and hold an in-person anesthesia committee meeting on November 17, followed by our full board meeting on November 18.

IX. REVIEW OF MINUTES

- a. May 20, 2016 General Business Meeting**
- b. July 20, 2016 Anesthesia Committee Meeting**
- c. August 15, 2016 Dental Hygiene Committee Meeting**

The minutes of the above meetings were reviewed and the following action was taken by the Board:

Motion: by Dr. Tejera to approve
Second: by Dr. Kochenour
Vote: Unanimous

X. FOR YOUR INFORMATION

- a. ADEX Correspondence**
- b. WREB Correspondence**
- c. Letter from Complainant**
- d. ADA Response to Board**
- e. Health Care Clinic Establishment- Self Inspection Notification**

XI. NEW BUSINESS

- a. 2017 Meeting Dates**

The Board approved the following dates:

February 17, 2017

May 19, 2017

August 25, 2017

November 17, 2017

XII. OLD BUSINESS

XIII. ADJOURNMENT

After no further business, the meeting adjourned at 12:45 p.m.