

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
MAY 18, 2012
WYNDHAM BAY POINT RESORT
4114 JAN COOLEY DRIVE
PANAMA CITY BEACH, FL 32408
(850) 236-6071
7:30 A.M. CDT**

CALL TO ORDER

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

Members present:

Carl Melzer, D.D.S.
Wade Winker, D.D.S., Chair
William Kochenour, D.D.S.
Dan Gesek, D.M.D.
Carol Stevens, D.D.S.
Vicki Campbell
Debra Edinger, R.D.H.
Elmira Gainey
Catherine Cabanzon, R.D.H., B.A.S.D.H.

Members absent:

Robert Perdomo, D.M.D., Vice-Chair
Joe Thomas, D.D.S.

Staff present:

David Flynn, Board Counsel
Sue Foster, Executive Director
Adrienne Rodgers, Esq., Prosecutor
George Black, Esq., Prosecutor
Cindy Ritter, Program Administrator
Court Reporting, Accurate Court Reporters,
(850) 785-2602 (Ms. Patsy Wilson)

Dr. Winker welcomed Ms. Cabanzon, registered dental hygienist, to the Board. Ms. Cabanzon resides in West Palm Beach.

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

Mission: To protect and promote the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties.

Vision: A healthier future for the people of Florida.

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

REVIEW OF MINUTES

February 3, 2012 General Business Meeting

The minutes of the February 3, 2012 meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Dr. Kochenour to approve as presented

Second: by Dr. Gesek

Vote: unanimous

March 12, 2012 General Business Meeting

The minutes of the March 12, 2012 conference call were reviewed and following review, the following action was taken by the Board:

Motion: by Dr. Gesek to approve as presented

Second: by Dr. Kochenour

Vote: unanimous

REPORTS

Council on Dental Hygiene (May 3 TCC - Ms. Edinger)

Ms. Edinger reviewed the minutes of the Council on Dental Hygiene with the Board and following discussion, requested approval of the Council actions.

Motion: by Dr. Gesek to approve the recommendations from the Council

Second: by Dr. Kochenour

Vote: unanimous

Anesthesia Committee – May 7, TCC (Dr. Gesek)

Dr. Gesek reviewed the minutes of the Anesthesia Committee with the Board and following discussion, requested approval of the Committee's actions.

Dr. Gesek requested a correction on Page 3 of the May 7 minutes under requirements for deep sedation – should read the requirement to complete full time residency in oral surgery or dental anesthesia residency.

Motion: by Dr. Melzer to approve the minutes with correction as noted

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Melzer to approve rule draft 64B5-14.0032 Use of Physician Anesthesiologist

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Dr. Melzer

Vote: unanimous

Motion: by Dr. Kochenour to strike "~~5. Is a Fellow of the American Dental Society of Anesthesiology~~" in Rule 64B5-14.003

Second: by Dr. Melzer

Vote: unanimous

Motion: by Dr. Kochenour that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Dr. Melzer

Vote: unanimous

Dr. Gesek requested that a workshop be held in conjunction with the next board meeting to discuss anesthesia, deep sedation, etc.

Motion: by Dr. Gesek to approve Committee actions

Vote: unanimous

**Board Counsel
Rules Report**

Mr. Flynn stated that 24 of 26 proposed rules presented at the October 2011 meeting have been adopted. The two remaining rules are at the end of the process.

Application for Credentials Review for Graduates From Non-Accredited Dental Colleges or Schools

Motion: by Dr. Gesek to approve the rule draft
Second: by Ms. Gainey
Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs
Second: by Dr. Stevens
Vote: unanimous

Dental Hygiene Licensure Application

Motion: by Dr. Stevens to approve the application
Second: by Dr. Gesek
Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs
Second: by Ms. Gainey
Vote: unanimous

Application for Dental Hygiene Certification – Administration of Local Anesthesia

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

Motion: by Dr. Kochenour that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs
Second: by Dr. Gesek
Vote: unanimous

Rule 64B5-2.0135, Dental Hygiene Examination

Motion: by Dr. Gesek to approve the rule draft
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs
Second: by Dr. Kochenour
Vote: unanimous

Rule 64B5-2.014, Licensure Requirements for Applicants from Accredited Schools or Colleges

Motion: by Dr. Gesek to approve the rule draft
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Dr. Melzer

Vote: unanimous

Rule 64B5-2.0144, Licensure Requirements for Dental Hygiene Applicants from Unaccredited Dental Schools or Colleges

Motion: by Dr. Gesek to approve the rule draft

Second: by Dr. Melzer

Vote: unanimous

Motion: by Ms. Edinger that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Ms. Gainey

Vote: unanimous

Rule 64B5-14.001, Definitions

Motion: by Ms. Gainey to approve the rule draft

Second: by Dr. Stevens

Vote: unanimous

Motion: by Dr. Kochenour that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Dr. Stevens

Vote: unanimous

Rule 64B5-14.002, Prohibitions

Motion: by Dr. Stevens to approve the rule draft

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Ms. Gainey

Vote: unanimous

Rule 64B5-14.003, Training, Education, Certification, and Requirements for Issuance of Permits

Motion: by Dr. Gesek to approve the rule draft

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Ms. Edinger that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Ms. Gainey

Vote: unanimous

Rule 64B5-14.006, Reporting Adverse Occurrences

Motion: by Ms. Edinger to approve the rule draft

Second: by Ms. Gainey

Vote: unanimous

Motion: by Dr. Kochenour that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Ms. Edinger

Vote: unanimous

Rule 64B5-16.006, Remediable Tasks Delegable to Dental Hygienist

Motion: by Dr. Gesek to approve the rule draft

Second: by Ms. Edinger

Vote: unanimous

Motion: by Dr. Gesek that rule will not have an adverse effect on small business and will not directly or indirectly increase regulatory costs

Second: by Ms. Gainey

Vote: unanimous

Board Executive Director

Dental expenditures period ending December 31, 2011

Dental Hygiene expenditures period ending December 31, 2011

Ratification of Lists

Motion: by Dr. Kochenour to ratify the lists

Second: by Ms. Campbell

Vote: unanimous

Delegations

Motion: by Dr. Gesek to change Item 6 CE provider review to be performed by board chair when referred by staff

Second: by Dr. Kochenour

Vote: unanimous

Proposed 2013 Board Meeting Dates

February 22

May 17

August 9

November 15

Chairman

Dr. Winker attended the dental exam at the University of Florida in Gainesville last weekend and felt it went very smoothly. The exam started on time and patients appeared to be very well taken care of. Dr. Winker encouraged board members to attend a meeting at least once a year.

Vice-Chairman

N/A

Board Members

Ms. Gainey asked to be assigned to a committee.

Dr. Gesek stated that the Privatization Committee would hold a conference call with Mr. Barton, Board of Engineers, before the next board meeting.

Ms. Campbell stated she attended a budget meeting at the Department of Health on February 20, 2012 and thanked Lucy Gee and Melinda Simmons for the information provided. Ms. Campbell offered to share the information she received with board members should anyone wish to review it.

TOPIC DISCUSSION

Rule Change Proposal for Dentistry

Ms. Amie Rice, Esq., Manager of Consumer Services, was present to discuss the proposed rule changes to permit mediation of first time minor violations and to determine which violations may be resolved through alternative dispute resolution using mediation, notices of non-compliance and citations.

Proposed rule changes in 64B5-13.002, F.A.C. – Mediation and 64B5-13.003, F.A.C. Minor Violations and 64B5-13.0046, F.A.C. Citation Authority.

Motion: by Dr. Melzer to approve the concept to help streamline the process

Second: by Dr. Gesek

Vote: unanimous

Board members questioned what role board members would have in this process and it was explained that the board would delegate this to the Department. Dr. Stevens would like to see a board member involved with the mediation process.

Changes to s. 466.006(3), F.S., SB 1040

Mr. Bayo appeared as representative for a group of individuals who were concerned about the effect the change in s. 466.006(3) may have regarding their ability to become licensed in Florida. Approximately 27 applicants were approved for examination prior to the statute change. Mr. Bayo stated that he received letters from legislators stating that this change in the law should not be applied to those who had already applied for licensure and he provided the letters to Ms. Foster.

Mr. Flynn advised that he had reviewed case law and that the board can make the motion that those 27 applicants can be approved based on the law that was in effect at the time of application. The new law went into effect on March 23, 2012.

Motion: by Dr. Gesek to allow individuals to proceed through the application and examination process should they meet all requirements in pre-existing law.

Second: by Dr. Stevens

Vote: unanimous

Dr. Jessica Junquero addressed the board. She stated that she was starting her third year of Prosthodontics residency at the UAB. The recent statute change appears to prohibit her from applying for dental licensure in Florida. She entered the prosthodontic residency program based on the rule effective at that time. She stated that this law change precludes anyone currently completing specialty programs from taking the ADEX exam for Florida dental licensure and requested that the law be revised or appealed.

Mr. Flynn indicated he would review the letters from legislators concerning their intent regarding this law change. The board can define “general” dentistry and review these applications on case by case basis as to general dentistry with supplemental advanced training. Board members felt that pediatric and some of the other specialties further educate individuals

regarding general dentistry procedures and these individuals should be permitted to sit for the Florida exam.

Letter from David J. DePorter, DDS, Community Smiles

Dr. David DePorter was present to discuss the Community Smiles program, an AEGD residency program that is accredited by ADA CODA as a one plus one program. He is requesting confirmation from the Board that if residents successfully complete both years of this program, that they will meet the new statutory requirement in SB 1040. Mr. Flynn advised he felt the program meets the statutory requirement. Dr. Kochenour asked that a letter be sent to the Florida programs to advise them of action taken

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

Motion: by Dr. Melzer to approve the Community Smiles program as a program that meets the 2 year training requirement
Second: by Dr. Gesek
Vote: unanimous

Mr. Edwin Bayo, Esq., represented many of the students and residents during discussion on the statute change in 466.006(3), F.S.

Ambar Pagani, Nova Southeastern University

Dr. Pagani is a senior resident at the Postgraduate Prosthodontics Program at NOVA Southeastern University and she has requested an appearance before the Board representing other residents in this program. Mr. Bayo represented many of the residents at the meeting.

Utumporn Laowansiri, DDS and Luiz Alexandre Barbosa, D.D.S., Saint Louis University

Dr. Laowansiri sent in a letter to discuss the change in s. 466.006(3), F.S. and the effect on his and Dr. Barbosa's plans for licensure in Florida. An email dated April 9, 2012 explains his current situation.

Parneet S. Sohi, D.D.S., M.S.

Dr. Sohi, pediatric dentist in Cincinnati, Ohio wrote to the Board concerning the change in s. 466.006(3), F.S.

Letter from Michael S. Weisner, D.D.S.

Dr. Weisner is a second year post graduate resident at Tufts University School of Dentistry in Boston. He completed the N.E.R.B. exam in his 4th year at New York University and does not want to have to retake a clinical exam. He wanted the board to review his letter. Following review and discussion, the following action was taken by the Board:

Motion: by Dr. Gesek that he must take examination
Second: by Dr. Melzer
Vote: unanimous

FOR YOUR INFORMATION

ADEX 7th Annual Meeting Report

Letter from Dr. Kurtis E. Wirth regarding Ketamine and Response to letter

FL BOD Letter and ADA Response re Portfolio Style Exams for Initial Licensure

Prescription Drug Monitoring Program

Letter from Commission on Dental Association regarding Dental Assisting Program

Letter from Commission on Dental Association regarding Advanced Education Program
News Article regarding Dental Treatment in Emergency Rooms
License Renewal Statistics
Renewal Report - Dentists
Renewal Report - Dental Hygienists
Renewal Report - Dental Labs
Renewal Report - Health Access Dental
George M. White v. American Dental Association
Study: Dental Therapists Thrive on a Global Scale
Letter to Wayne Mitchell
Uniformity in Dental Licensure Grows, American Dental Association Article
Letter from Arkansas Board of Dental Examiners re Portfolio Style Exam
ADA Response to Arkansas Letter re Portfolio Style Exam
Letters from Iowa Dental Board re Portfolio Style Exam
Letter from Nevada State Board re Portfolio Style Exam and ADA Response
Letter from Nicholas White, D.M.D., regarding Additional Use of Specialists During Treatment of Patients Undergoing IV Conscious Sedation
Letter to Alabama Dental Board from ADEX regarding Perio Exam
Rough Draft for the Airway Management Continuing Education Course (Dr. Melzer)
News Article – Dr. John Armstrong to Become State Surgeon General
Local Anesthesia Administration by Dental Hygienists State Chart

DISCIPLINARY PROCEEDINGS

John Carter, D.D.S., Case No. 2010-19018, Settlement (PCP Melzer)

Dr. Carter was present and was represented by Rohn Rine, Esq. A two count administrative complaint filed alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failure to document a complete and adequate history record in treatment notes and adequately record initial exam results for oral pathology; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to perform comprehensive initial exam and failure to properly diagnose condition of teeth 2,14,29,30, to justify diagnosis and or/exam results.

Probable Cause Panel recommendation:

reprimand, \$10,000 fine, costs, 3 hours ethics, Level I in Diagnosis and Treatment Planning, Level I crown & bridge, Level I in record keeping within 6 months, refund to patient, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$3000 payable within 6 months, costs of \$3000 payable within 6 months; level 1 in record keeping with verified competency at dental school, level 1 in crown and bridge, level 1 in diagnosis and treatment planning, 3 hour ethics course, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

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

Raymond Della Porta, D.D.S., Case No. 2009-05195, Settlement (PCP Melzer & Thomas)

Dr. Della Porta was present and was represented by Kenneth Metzger, Esq and co-counselor Alex Barker. An administrative complaint filed February 14, 2011 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards involving root canal treatment using the Sargenti method using this paste as filler or treatment. This substance contains paraformaldehyde.

Probable Cause Panel recommendation:

Reprimand, revocation, costs, pass laws and rules exam, CE audit

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$5000 payable within 6 months, costs of \$6207.02 payable within 6 months; refund to patients; CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to reject the settlement agreement

Second: by Dr. Stevens

Vote: motion passes with Dr. Winker opposed

Motion: by Dr. Gesek to dismiss the case

Second: by Ms. Gainey

Vote: motion fails with six opposed

During discussion Dr. Gesek made a motion to vote immediately, Dr. Stevens seconded the motion and it passed with a unanimous vote

Motion: by Dr. Kochenour to accept the settlement agreement

Second: by Dr. Winker

Vote: motion passes with Drs. Gesek and Stevens opposed

Alexander Gaukhman, D.M.D., Case No. 2007-12118, Settlement (PCP Melzer & Thomas)

Dr. Gaukhman was present and was represented by Max Price, Esq. A second amended three count administrative complaint filed September 30, 2011 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving amount and type of anesthesia or sedation used, failure to provide complete comprehensive diagnosis, failure to document type of metal used in crowns; s. 466.028(1)(t), F.S. of alleged fraud, deceit or misconduct in the practice of dentistry in that respondent billed for 3 high noble crowns at \$850 and respondent charged \$90 by lab for low noble crowns; respondent billed for bone graft at extraction site for \$650; and 466.028(1)(l), F.S. of making deceptive, fraudulent, untrue dentistry practices concerning his billing for non-precious metal and colla-plug material.

Probable Cause Panel recommendation: second amended AC did not have a panel recommendation

A settlement agreement was presented to the board with the following terms: Count II is subsumed within Count I and Count III is subsumed into Count I and respondent is being charged with a one-count violation; appearance, reprimand, fine of \$7500 payable within 6

months, costs of \$8000 payable within 6 months; level I (3 hours) in record keeping with verified competency at dental school, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Stevens to reject the settlement agreement
Second: by Ms. Gainey
Vote: unanimous

Motion: by Dr. Stevens to offer a counter settlement agreement including the same terms with the addition of Level II in risk management, Level II in recordkeeping and Level II college level ethics course
Second: by Ms. Gainey
Vote: unanimous

Robin Greenspan-Birns, D.D.S., Case No. 2010-13206, Settlement (PCP Melzer)

Dr. Greenspan-Birns was not present and was represented by Karen Brimmer, Esq. An amended administrative complaint filed alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving no comprehensive periodontal exam or periodontal diagnosis to develop an adequate treatment plan before initiating fixed prosthetic treatment.

Probable Cause Panel recommendation:

Letter of concern, \$2500 fine, costs, Level I in record keeping within 6 months, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$2500 payable within 6 months, costs of \$4849.27 payable within 6 months; level 1 in record keeping with verified competency at dental school, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to accept the settlement agreement
Second: by Ms. Campbell
Vote: unanimous

Lawrence Hale, D.M.D., Case No. 2007-14946, Settlement (PCP Melzer, Thomas & Gesek)

Dr. Hale was present and was represented by Kevin Houston, Esq. An amended administrative complaint filed December 16, 2011 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving diagnosis and treatment planning not properly notated for upper and lower full mouth extractions; respondent did not obtain written informed consent for full extractions, failed to note existing teeth with restoration or caries.

Probable Cause Panel recommendation: Amended administrative complaint did not have the panel recommendation.

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$5000 payable within 6 months, costs of \$4906.42 payable within 6 months; level 1 in record keeping with verified competency at dental school, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Ms. Gainey to accept the settlement agreement
Second: by Dr. Winker
Vote: unanimous

Michael Hammonds, D.D.S., Case No. 2011-08792 & 2011-08797, Settlement (PCP Melzer & Thomas Case No. 2011-08792, Waived Case No. 2011-08797)

A continuance to the next meeting was requested and granted by Dr. Winker.

Thomas Harter, D.M.D., Case No. 2010-12124, Settlement (PCP Melzer & Thomas)

Dr. Harter was present and was represented by Mark Schleben, Esq. A one count administrative complaint filed May 2, 2011 alleged violations of s. 466.028(1)(f), F.S. of failure to report to the department any person who the licensee knows or has reason to believe is in violation of this chapter concerning dental radiographer who was not qualified to perform dental procedures which included administration of local anesthetics and extraction of tooth.

Probable Cause Panel recommendation:
Letter of concern, costs, CE audit, laws and rules exam

A settlement agreement was presented to the board with the following terms: letter of concern, costs of \$2664.83 payable within 6 months; CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Stevens to accept the settlement agreement
Second: by Ms. Edinger
Vote: unanimous

Luis Hernandez-Abreu, D.D.S., Case No. 2011-09799, Settlement (PCP Melzer)

Dr. Hernandez-Abreu was present and was represented by Edwin Bayo, Esq. A five count administrative complaint filed February 24, 2012 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to take full mouth x-rays, inadequate periodontal exam, no full and comprehensive exam, tooth extracted erroneously charted, patient improperly exposed to long term abscess, infection or fractured tooth in treatment of tooth #7; s. 466.028(1)(i), of failing to perform statutory or legal obligation by failing to comply with final order in February 2011 and not paying patient or her attorney amounts to satisfy court order; s. 466.028(1)(II) and 456.048 concerning responsibility to maintain medical malpractice insurance; failing to timely release patient records – s. 466.028(1)(n), F.S.

Probable Cause Panel recommendation:

reprimand, costs, 2 year Comprehensive Dental course and fulfillment of PRN contract, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: reprimand, costs of 4330.88 payable within 12 months; level 1 in root canal treatment, level 1 in crown and bridge, level II in diagnosis and treatment planning, level II in record keeping with verified competency at dental school, suspension until enrolling in required courses and submitting proof of enrollment to Compliance Office; suspension stayed until fine, costs and completion of courses within 12 months of final order; compliance with financial responsibility, compliance with all recommendation of the PRN, appearance before board to request termination of probation – probation shall be terminated at completion of 3 years if favorable recommendation from PRN; refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to reject the settlement agreement

Second: by Dr. Kochenour

Vote: motion passes with Dr. Winker opposed

Motion: by Dr. Gesek to propose a counter settlement agreement to include original terms and add a three hour college level ethics course

Second: by Ms. Gainey

Vote: unanimous

Dr. Hernandez-Abreu accepted the counter settlement offer.

**Allen McCall, D.D.S., Case No. 2008-11208, Settlement
(PCP Melzer & Winker)**

Dr. McCall's appearance was waived by Dr. Winker and he was represented by Randolph Collette, Esq. A two count administrative complaint filed December 8, 2009 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failure to document periodontal probings and probing depths, failure to document a diagnosis or identification of pathology, to justify extraction of tooth 32 and 17; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving advising patient of risks, benefits and alternatives to extraction, failing to obtain informed consent for extractions, failing to complete review of medical history prior to prescribing Halcion.

Probable Cause Panel recommendation:

reprimand, \$15,000 fine, costs, 3 hour ethics course, 7-12 hours in Diagnosis and Treatment Planning, Level I in record keeping within 6 months, 7-12 hour exodontia course, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: sections (b) and (c) are subsumed within paragraph 22(a) charging failure to document periodontal probings, sections (a) and (c) are dropped from Count II; letter of concern, fine of \$7000 payable within 18 months, costs of \$6135.40 payable within 18 months; restriction from extracting impacted wisdom teeth until successful completion of Level II in exodontia ; level I in record keeping; ethics course, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to continue the case to the next meeting
Second: by Dr. Stevens
Vote: unanimous

**Eric Mehler, D.D.S., Case No. 2010-11344, Settlement
(PCP Melzer)**

Dr. Mehler was present and was not represented by counsel. A two count administrative complaint filed February 24, 2012 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failing to keep records, providing the original records to patient's daughter and replacing with copies that were illegible, not maintaining letter with treatment recommendations provided by other treaters; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving by failing to remove one or more teeth with hopeless prognosis, failing to provide patient with working bridgework.

Probable Cause Panel recommendation:

reprimand, \$10,000 fine, costs, Level II in Diagnosis and Treatment Planning, Level II in Crown and Bridge, Level I in record keeping within 6 months, ethics course, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$10,000 payable within 6 months, costs of \$7625.40 payable within 6 months; the following continuing education courses within six months: level 1 in record keeping with verified competency at dental school, level II in crown / bridge; level II in diagnosis and treatment planning, level II in occlusion; 3 hour ethics course, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to reject the settlement agreement
Second: by Ms. Campbell
Vote: unanimous

Motion: by Dr. Gesek to offer a counter settlement reducing terms to: letter of concern; \$5000 fine within 6 months, costs of \$7645.40 payable within 12 months; Level 1 in recordkeeping, level 1 in crown and bridge, level 1 in diagnosis and treatment planning, all to verified competency within one year, pass the laws and rules exam, CE audit.

Second: Ms. Gainey
Vote: motion passes with Dr. Stevens opposed

Dr. Mehler accepted the counter settlement offer.

**Paul Plasky, D.D.S., Case No. 2010-19935, Settlement
(PCP Waived)**

Dr. Plasky was present and was represented by Karen Brimmer, Esq. A two count administrative complaint filed January 19, 2012 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failure to document results of comprehensive initial exam with diagnostic

findings, no comprehensive treatment plan, failure to document outcome of root canal; no record of anesthesia, s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to meet minimum standards in diagnosis and treatment with failure to perform a comprehensive initial exam, adequate x-rays, under filling a root canal, failure to ensure crown, once seated was checked for marginal integrity with an explorer x-ray, gross overhangs, open margins.

Probable Cause and Confidentiality Waived by Respondent:

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$7500 payable within 6 months, costs of \$4198.51 payable within 6 months; level 1 in record keeping with verified competency at dental school, level I in endodontics, level I in crown and bridge, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Stevens to accept the settlement agreement
Second: by Ms. Edinger
Vote: unanimous

Reinaldo Sanchez, D.M.D., Case No. 2010-05434, Settlement (PCP Melzer & Thomas)

Dr. Sanchez's appearance was waived by Dr. Winker and he was represented by Stuart Cohen, Esq. An administrative complaint filed February 14, 2011 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failure to document periodontal examination, bone loss, occlusal trauma, use of a rubber dam.

Probable Cause Panel recommendation:

\$5,000 fine, costs, Level I in Diagnosis and Treatment Planning, Level I in record keeping within 6 months, refund to patient, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$3000 payable within 6 months, costs of \$2699.92 payable within 6 months; level 1 in record keeping with verified competency at dental school, level 1 in diagnosis and treatment planning; CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to accept the settlement agreement
Second: by Ms. Campbell
Vote: motion passes with Dr. Kochenour opposed

Larry Shapiro, D.D.S., Case No. 2010-06364, Settlement (PCP Melzer) (Addendum pg. 57 complete settlement agreement)

Dr. Shapiro was present and was represented by Rory Jurman, Esq. A two count administrative complaint filed December 16, 2011 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment by failing to document oral pathology or disease warranting extraction of tooth, failing to take adequate x-rays, failing to identify area needing a biopsy, failing to document dislodged implant.

Probable Cause Panel recommendation: reprimand, \$15,000 fine, costs, 3 hour record keeping course, implant remediation, 7 – 12 hour diagnosis and treatment planning course, restrict license to no implant placement until completion of implant course

A settlement agreement was presented to the Board with the following terms: Letter of concern, fine of \$10,000 payable within 6 months; costs of \$3119.26 payable within 12 months; level 1 in record keeping, level II in diagnosis and treatment planning, restriction from performing implant placement until enrolling in and making progress in completion of CE in implant remediation, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Gesek to approve the settlement agreement
Second: by Ms. Campbell
Vote: motion passes with Ms. Gainey opposed

Ben Spivey, D.D.S., Case Nos. 2008-04786, 2009-00927, 2009-04610, 2009-06553, 2009-10480, 2009-21737, Settlement (PCP Melzer, Thomas) Case No. 2008-04786 (PCP Melzer, Thomas & Gesek) Case Nos. 2009-06553, 2009-10480 (PCP Melzer, Perdomo) Case Nos. 2009-00927, 2009-04610 (PCP Gesek, Stevens) Case No. 2009-21737

Dr. Spivey was present and was represented by Mr. Brooderson, Esq. Six, one and two count administrative complaints filed in 2009 and 2010 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justify the course of treatment and s. 466.028(1)(x), F.S. by 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.

Probable Cause Panel recommendations ranged from reprimand, fines, comprehensive 2 year dental course, refunds to patients, ranges from suspension stayed to revocation (2009 -10480).

A settlement agreement was presented to the Board with the following terms: Reprimand, fine of \$47,000 payable within 2 year period of probation; costs of \$32,000 (\$33,357.99) payable within the period of probation; suspension for 3 years beginning July 12, 2010 through July 12, 2013, stayed for one year beginning July 12, 2012; hands on graded and certified competency course created by the College of Dentistry at Nova or UF to include 10 hours in endodontics, 10 hours in diagnosis and treatment planning, 10 hours in recordkeeping, probation for not less than 2 years at time he returns to private practice. Respondent must have board-approved monitor approved by Chair; review of 25% of billing records to audit for patient record documentation and billing accuracy for first 6 months, then decrease to 20% for next 6 months; 2 year mastership preparation course offered by University of Florida Academy of General Dentistry; 6 hours of CE in Ethics within 12 months; 100 hours of non-dental community service within six months, refund to each of patients in all cases cited above; CE audit, pass laws and rules within 12 months.

Patient M.M. addressed the Board concerning her dental work experience with Dr. Spivey.

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

Motion: by Ms. Gainey to reject the settlement agreement
Second: by Dr. Kochenour
Vote: motion passes with Dr. Winker and Ms. Campbell opposed

Ms. Gainey proposed to offer a counter settlement agreement with the original terms and add refund to all patients and as a part of overall rehabilitation, look into recordkeeping system. The motion died.

Motion: by Ms. Campbell to accept all terms of settlement agreement with the addition of \$15,500 refund to patient M.M. within six months and restriction to practice at one location only until completion of probationary period
Second: by Ms. Gainey
Vote: motion passes with Dr. Kochenour opposed

Dr. Spivey accepted the counter offer and agreed to refund patient MM within 30 days.

Martin Bakalar, D.D.S., Case No. 2011-20686, Voluntary Relinquishment (PCP Waived)

Dr. Bakalar was not present and was not represented by counsel. Alleged possible violation of s. 456.072(2)(s), of inability to practice with reasonable skill and safety by reason of illness or use of alcohol, drugs or any other type of material or as result of any mental or physical condition. Dr. Bakalar practiced over 46 years and retired effective March 20, 2012.

Probable Cause Panel recommendation: Probable cause waived.

A Motion for Board's Final Order by Voluntary Relinquishment was presented to the Board. Following review, the following action was taken by the board:

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

Richard Moffett, D.M.D., Case No. 2008-00681, Recommended Order (PCP Melzer & Gesek)

Dr. Moffett was present and was represented by Edwin Bayo, Esq. An administrative complaint filed November 7, 2008 alleged violation of s. 466.028(1)(x), F.S. of failure to meet minimum standards involving periodontal problems prior to fabricating fixed bridge for teeth number 18-20. A hearing was held by telephone conference in Tallahassee and Gainesville.

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

Motion: by Ms. Campbell to accept the recommended order
Second: by Dr. Kochenour
Vote: unanimous

PETITIONS

**Mabel Coro, Applicant for Dental Licensure
Petition for Variance or Waiver**

Dr. Coro was present and was not represented by counsel. She is requesting a waiver to Rule 64B5-2.013, F.A.C. regarding completion of all parts of the exam within 13 months. The rule change now allows an eighteen (18) month time frame.

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

Motion: by Dr. Stevens to approve the variance or waiver to allow one attempt within the next 6 months
Second: by Ms. Gainey
Vote: unanimous

**Christina Ann Wilhelm, Applicant for Dental Hygiene Licensure
Petition for Variance or Waiver**

Ms. Wilhelm was not present (England) and was not represented by counsel. She is requesting a variance to Rule 64B5-2.0135(1)(b) Dental Hygiene Exam. She is requesting a variance from the date of June 1, 2010 for the ADEX exam as she completed the exam in April and May of 2010.

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

Motion: by Dr. Gesek to deny the petition as there is no application on file at present time
Second: by Ms. Cabanzon
Vote: unanimous

**Lindsey Young, Applicant for Dental Hygiene Licensure
Petition for Variance or Waiver**

Ms. Young was present and was not represented by counsel. She is requesting a waiver of rule 64B5-2.0135. Ms. Young took the clinical portion of the dental hygiene exam in May 2010 and asks that this be accepted.

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

Motion: by Dr. Gesek to deny the petition as there is no application on file at present time
Second: by Dr. Kochenour
Vote: unanimous

**Edgardo Hernandez, Applicant for Dental Hygiene Licensure
Petition for Variance or Waiver**

Dr. Hernandez was present and is requesting that he be granted a license as a dental hygienist based upon his prior experience in Colombia as a licensed dentist and the fact that he only failed the computer simulated clinical exam by one point or that he be permitted to retake the computer simulated clinical exam without taking the additional coursework.

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

Motion: by Dr. Stevens to deny the petition for variance or waiver
Second: by Dr. Kochenour
Vote: motion failed with 6 opposed

Motion: by Dr. Gesek to approve the petition for variance or waiver
Second: by Ms. Campbell

Vote: motion passed with Dr. Kochenour, Ms. Cabanzon and Ms. Edinger opposed

Vicky T. Nguyen

Petition to Challenge Dental Hygiene Laws and Rules, Settlement Agreement

Ms. Nguyen was not present and was not represented by counsel. The Department of Health has entered into a settlement agreement on April 28, 2012 with Petitioner and the Department has determined that she is eligible to retake the dental hygiene laws and rules exam without cost to her. Board asked to ratify the agreement.

The Board is asked to ratify this agreement. Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to ratify the settlement agreement

Second: by Dr. Melzer

Vote: unanimous

APPLICATION REVIEW/OTHER

Stanley J. Feinman, D.M.D. application for reactivation of dental license

Dr. Feinman was not present nor represented by counsel. He is required to appear before the board prior to reactivation of his license pursuant to Rule 64B5-10.007, FAC. His license has been inactive since the 2000 renewal. He has submitted proof of 150 hours of continuing education and 3 CPR credits. It was suggested that the matter be continued. The board was concerned as it appeared he completed 75-80 hours of continuing education in one day.

Following discussion the following action was taken by the Board:

Motion: by Ms. Gainey to deny the reactivation application

Second: by Dr. Melzer

Vote: motion passes with Dr. Winker, Dr. Gesek and Ms. Cabanzon opposed

AAA School of Dental Assisting request to add course in nitrous oxide

Mr. Jason McMillion and Basim Abed were present and were not represented by counsel. AAA School of Dental Assisting is requesting the addition of a course in nitrous oxide. To meet ADA guidelines, 12 hours will consist of home study review of materials, this will coincide with 2 four hour classes and a pre and post exam will be given.

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

Motion: by Dr. Melzer to approve

Second: by Ms. Gainey

Vote: unanimous

Dr. Samuel Cancelliere - Application for Conscious Sedation Permit

Dr. Cancelliere has made application for a conscious sedation permit. Following discussion, the following action was taken by the Board:

Motion: by Dr. Melzer to deny the application as none of the cases involved conscious sedation; all are general anesthesia

Second: by Ms. Edinger

Vote: unanimous

Dr. Aleksander Precaj - Application for Conscious Sedation Permit

Application withdrawn at May 7 Anesthesia Committee Meeting

Dr. Laurie Burdman - Application for Conscious Sedation Permit

Application withdrawn at May 7 Anesthesia Committee Meeting

Dr. Xhoana Gjelij - Application for Conscious Sedation Permit

Application withdrawn at May 7 Anesthesia Committee Meeting

Dr. Alan C. Farrugia - Application for Conscious Sedation Permit

Application withdrawn at May 7 Anesthesia Committee Meeting

Dr. Olivier Broutin - Application for Conscious Sedation Permit

Application withdrawn at May 7 Anesthesia Committee Meeting

Dr. Allan A. Monack, Application for Limited License

Dr. Monack was not present and was not represented by counsel. He has made application for a limited license. He sent an email on May 1, 2012 requesting to withdraw his application.

Sonia Veronica Idrogo, Application for Credentials Review, Dental

Request for Continuance granted.

Dr. Satishchandra A. Joshi re Null and Void Dental License

Dr. Joshi was present and was represented by Ed Bayo, Esq. Dr. Joshi's license went null and void on February 28, 2012 by operation of law. He was a victim of identity theft and has submitted documentation concerning this situation. Dr. Joshi had held a Florida license since 1979.

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

Motion: by Dr. Gesek to recommend to Department that license be reinstated

Second: by Dr. Winker

Vote: unanimous

Lawrence Duffy, D.M.D., Application for General Anesthesia Permit

Dr. Duffy requested to withdraw his application.

OLD BUSINESS

None

NEW BUSINESS

Dr. Winker set up a committee to review the local anesthesia education. Committee members are: Dr. Stevens, Dr. Winker, Ms. Cabanzon. A telephone conference call will be set up to review the proposed courses.

ADJOURNMENT

The meeting was adjourned at 1:30 p.m. CDT.