

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
PEABODY ORLANDO
9801 INTERNATIONAL DRIVE
ORLANDO, FL 32408
(407) 352-4000
AUGUST 17, 2012
7:30 A.M. EDT**

CALL TO ORDER

The meeting was called to order at 7:30 a.m. 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
Elmira Gainey
Catherine Cabanzon, R.D.H., B.A.S.D.H.
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
Gail Hill, Esq., Prosecutor
Cindy Ritter, Program Administrator
American Court Reporting, Ms. Green, (407) 896-1813

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

May 18, 2012 General Business Meeting

The minutes of the May 18, 2012 meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Dr. Gesek to accept the minutes as presented
Second: by Dr. Kochenour
Vote: unanimous

REPORTS

Local Anesthesia Committee (June 27 TCC - Dr. Stevens)

The Committee discussed the local anesthesia curricula proposals submitted by the University of Florida, Nova Southeastern and Indian River State College. Following discussion, the committee voted to let the statute guide the educators to educate to competency, that colleges are CODA approved and the Board does not need to develop rules to supplement the statute for the administration of local anesthesia by dental hygienists.

Motion: by Dr. Thomas to accept the minutes of the meeting

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Thomas to dissolve the Local Anesthesia committee

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Thomas that the Board agrees that the statute guides the educators to educate to competency, that colleges are CODA approved and that the Board does not need to develop rules to supplement the statute for the administration of local anesthesia by dental hygienists.

Second: by Dr. Stevens

Vote: unanimous

Anesthesia Committee (July 23 TCC - Dr. Gesek)

Dr. Gesek reported that the Committee reviewed two sedation applications and discussed topics that would be on the agenda for the August 16 Anesthesia committee meeting.

Motion: by Dr. Gesek to accept the minutes of the meeting

Second: Dr. Thomas

Vote: unanimous

Privatization Committee (July 23 TCC - Dr. Gesek)

Dr. Gesek reported the following information:

Dr. Sol Brotman discussed the benefits of a privatized board. After receiving input from several individuals no action was taken by the Committee.

Motion: by Dr. Gesek to accept the minutes of the meeting

Second: by Dr. Thomas

Vote: unanimous

Motion: by Dr. Thomas to dissolve the Privatization Committee

Second: by Ms. Gainey

Vote: unanimous

Anesthesia Committee (August 16 - Dr. Gesek)

Dr. Gesek reported on the meeting from the previous evening.

Motion: by Dr. Melzer to move forward with the motions from the meeting of the 16th

Second: by Dr. Thomas

Vote: unanimous

The Committee and Board voted to allow a 180 moratorium on physician anesthesiologists administering sedation in conscious sedation permit holder offices. There is also a 180 day moratorium on offices becoming equipped with the general anesthesia equipment; physician anesthesiologists are responsible for bringing in proper equipment during this period. Dr. Thomas requested that the anesthesia provider as well as the anesthesia permit holder must remain present until all procedures are complete and the anesthesia provider can only induce one patient at a time. Dr. Winker stated that any dentist involved in the treatment should maintain his/her own records.

Board Counsel

Mr. Flynn asked about the statement of estimated regulatory costs

Motion: by Dr. Thomas that no statement of estimated regulatory costs was required on these rules

Second: by Dr. Perdomo

Vote: unanimous

Annual Regulatory Plan

Mr. Flynn presented the annual regulatory plan for 2012 -2013 which is required by each state agency pursuant to s. 120.74(3), F.S. and in Compliance with Executive Order of the Governor.

Motion: by Dr. Thomas to approve the annual regulatory plan

Second: by Dr. Melzer

Vote: unanimous

Rules Report

Mr. Flynn stated that all rules were complete at this time. He provided his August 2012 Rules Report with information regarding when the rules were published in the Florida Administrative Weekly, when adopted and the effective date for the following:

- 64B5-2.0135 Dental Hygiene Examination, effective August 8, 2012
- 64B5-2.014 Licensure Requirements from Accredited Schools, effective August 5, 2012
- 64B5-14.001 Definitions, effective August 5, 2012
- 64B5-14.002 Prohibitions, effective August 5, 2012
- 64B5-14.003 Training and Education, effective August 16, 2012
- 64B5-14.0032 Use of Physician Anesthesiologist, effective August 20, 2012
- 64B5-14.006 Reporting Adverse Occurrences, effective August 5, 2012
- 64B5-16.006 Remediable Tasks Delegable to a Dental Hygienist, effective August 5, 2012

Applications for Approval

As a result of HB 653, new criminal history questions on the applications are required by any health care applicant applying for licensure. Applications were updated by board staff and submitted for review and approval.

Dental Licensure Application

There was a request to correct Page 6 under educational requirements.

Health Access Dental Licensure Application

Dental Hygiene Licensure Application
Application for Dentist/dental Hygienist Limited Licensure
Dental Radiographer Certification Application
Residency/Intern Application
Application for Teaching Permit
Application for Conscious Sedation Permit
Application for Pediatric Conscious Sedation Permit
Application for General Anesthesia Permit

Motion: by Dr. Gesek to approve all application changes listed below
Second: by Ms. Gainey
Vote: unanimous

Statement of Estimated Regulatory Costs:

Motion: by Dr. Gesek that there will be no financial impact
Second: by Dr. Thomas
Vote: unanimous

Board Executive Director
Ratification of Lists

Motion: by Dr. Gesek to approve the lists
Second: by Dr. Thomas
Vote: unanimous

Chairman

Dr. Winker commended the panel members and attorneys for their dedication and work in probable cause.

Dr. Winker stated that an ADEX Committee would be meeting in November and would be discussing the upcoming occupational task analysis, performed to ensure that there is appropriate testing of diagnostic skills and treatment planning skills. It is being requested ADEX come up with criteria to test dental hygienists on local anesthesia.

Vice-Chairman

Dr. Perdomo attended the June NERB meeting in Washington D.C. for Dr. Winker. One concern was that at UF, out of state dentists complained that exam may have bias; UF students had digital x-rays with UF stamps on them and other candidates had films. Exam Committee formed with Dr. Perdomo being a member to review concerns.

Dr. Perdomo stated that he was invited to participate as an examiner.

Board Members
None

TOPIC DISCUSSION

Prequalification of Patients for Dental and Hygiene Exams

Dr. Winker stated there have been concerns regarding patient brokering. The curriculum integrated format will greatly reduce problems in obtaining patients.

Dr. Thomas spoke against prequalification of the patient, while Ms. Gainey was in support and asked Dr. Winker to investigate whether ADEX has reviewed the feasibility of this. The proper forum is to ask representatives to make recommendations.

Motion: by Ms. Gainey that Dr. Boyd Robinson discuss prequalification of patients with ADEX
Second: by Dr. Kochenour
Vote: motion passes with Dr. Thomas opposed

FOR YOUR INFORMATION
N/A

DISCIPLINARY PROCEEDINGS
Brian Bard, DDS, Case No. 2010-09684, Settlement
(PCP Melzer, Thomas)

Dr. Bard was present and was represented by Shylie Armon, Esq. A two count administrative complaint filed April 29, 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 lack of charting of existing teeth including areas of decay, no comprehensive periodontal exam, no informed consent, failure to document use of rubber dam, failure to document radiographic findings, failure to document use of anesthesia, s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to complete a full examination of existing teeth, no informed consent, failure to use rubber dam, failure to evaluate crown margins, failed to complete root canal treatment of tooth number 30, failure to refer to endodontist.

Probable Cause Panel recommendation:

Recommended penalty – reprimand, appearance before board, \$10,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level two in endodontics, minimum of level one in treatment planning and minimum of level one in record keeping, 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: letter of concern, fine of \$7000 payable within 12 months, costs of \$4130.92 payable within 12 months; level 1 in record keeping, level II in endodontics, level I in diagnosis and treatment planning with verified competency at dental school with 12 months to complete, refund to the 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 Ms. Campbell to reject the settlement agreement
Second: by Dr. Gesek
Vote: unanimous

Motion: by Dr. Gesek to offer the settlement agreement and lower the Level II in Endodontics to Level I.
Second: by Ms. Cabanzon
Vote: unanimous

Dr. Bard accepted the counter settlement agreement.

Fatima Farrokhrooz, DDS, Case No. 2010-19842, Settlement (PCP Melzer & Thomas)

Dr. Farrokhrooz was present and was represented by Alexander Macgregor, Esq. A two 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 failure to document full diagnostic testing to determine if root canal treatment was needed, failure to provide diagnosis before initiating root canal treatment, failed to document use of rubber dam; and s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to perform sufficient proper diagnostic testing prior to performing a root canal treatment, failure to make proper diagnosis, failure to use rubber dam, respondent perforated one or more canals during root canal treatment, lost one or more instruments during root canal treatment of tooth number 3, failure to take adequate x-rays.

Probable Cause Panel recommendation:

reprimand, appearance before board, \$10,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in record keeping, minimum of level two in endodontics, and minimum of level one in diagnoses and treatment planning, three hours in ethics, 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: letter of concern, fine of \$6500 payable within 12 months, costs of \$4499.11 payable within 12 months; level 1 in record keeping, level II in endodontics, level I in diagnosis and treatment planning within 12 months with verified competency at dental school, 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. Stevens

Vote: unanimous

Motion: by Dr. Gesek to offer a counter settlement agreement to offer the original settlement agreement and reduce Level II to Level I

Second: by Ms. Campbell

Vote: unanimous

Dr. Farrokhrooz accepted the counter settlement agreement and Mr. Macgregor stated he would accept the final order via electronic mail.

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

Dr. Hammonds was present and was represented by Thomas Sommerville, Esq. Dr. Jerome Gropper from PRN was also present. A four count administrative complaint filed September 30, 2011 alleged violations of s. 466.028(1)(ff), F.S. of operating a dental office in such a manner as to result in dental treatment that is below minimum standards by using force/violence and causing harm to 85 year old patient resulting in arrest and charged with four felony counts. Previous records reflect respondent arrested in November, 1999 charged with battery and burglary, felony child abuse, domestic violence injunction – charges were dismissed upon

completion of pre-trial intervention program, RPN referral; s. 466.028(1)(x), F.S. of failure to meet minimum standards; s. 466.028(1)(t), F.S. of misconduct in the practice by using force/violence against a patient; s. 466.028(1)(s), F.S. of inability to practice by reason of illness or alcohol, drugs or as result of mental or physical condition.

Probable Cause Panel recommendation:

reprimand, suspend until P.R.N. evaluation and appearance before the board with P.R.N., cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, six hour ethics course within twelve months, 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: reprimand, fine of \$15,000 payable within 12 months, costs of \$5195.24 payable within 12 months; level II in ethics within 12 months; PRN evaluation and comply with recommendations, suspension until reinstatement before Board with PRN recommendation that he can practice with reasonable skill and safety to patients, refund patient, 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. Gainey

Vote: unanimous

Motion: by Dr. Gesek to accept the original settlement agreement

Second: by Dr. Perdomo

Vote: unanimous

Takashi Koyama, DMD, Case No. 2011-01227, Settlement (PCP Melzer)

This case is continued to the November meeting.

Donnie Marsh-Filipczak, DMD, Case No. 2011-04242, Settlement (PCP Melzer)

Dr. Marsh-Filipczak was present and was represented by Catherine Chapman, Esq. An administrative complaint filed May 8, 2012 alleged violations of s. s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to provide properly fitting crown on tooth 14, crown had open contacts, failure to perform periodontal examination.

Probable Cause Panel recommendation:

reprimand, appearance before board, \$5,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in periodontics, minimum of level one 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: letter of concern, fine of \$2500 payable within 6 months, costs of \$3572.11 payable within 6 months; level 1 in periodontics and level 1 in crown and bridge with 12 months to complete with verified competency at dental school, 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. Stevens

Vote: unanimous

Ms. Chapman indicated she would accept service of the final order by electronic mail.

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

Dr. McCall was present and 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 diagnosis that justified extraction of teeth 17 and 32, failed to review medical history prior to prescribing halcion, no panoramic x-ray taken to determine whether mandible had fractured as patient had impacted wisdom teeth; failure to document periodontal probings, failure to document probing depths, dialing to document diagnosis of pathology, failing to document surgical method used; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving by failure to advise patient of risks and treatment alternatives, complications, failure to obtain informed consent, failure to complete an adequate review.

Probable Cause Panel recommendation:

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 1 in record keeping, minimum of level 2 in diagnoses and treatment planning, minimum of level 2 in exodontias, restriction placed on license to never remove impacted teeth again, successfully complete laws and rules examination within one year and one biennium CE audit

A settlement agreement was presented to the board with the following terms: Paragraph 22, section (b) and (c) removed and subsumed within paragraph 22(a) ; paragraph 26 in sections (a) and (c) are dropped from count II and section (b) is amended by failing to fully advise patient including fracture of mandible, dry socket and/or TMJ; letter of concern, fine of \$7000 payable within 18 months, costs of \$6135.40 payable within 18 months; level 1 in record keeping, level II in exodontia with verified competency at dental school, college level ethics course, restriction from extracting impacted wisdom teeth until successful completion of Level II exodontia course, refund to patient (satisfied through civil settlement), 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. Thomas to accept the settlement agreement

Second: by Ms. Cabanzon

After discussion, Dr. Thomas amended his motion and the board took the following action:

Motion: by Dr. Thomas to accept the settlement agreement, with the amendment to the settlement agreement that the restriction from extracting impacted wisdom teeth is permanent.

Second: by Dr. Gesek

Vote: unanimous

Jerome Petrisko, DMD, Case No. 2011-02739, Settlement (PCP Melzer)

Dr. Petrisko was present and was not represented by counsel. An administrative complaint filed May 8, 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 crown prep of tooth 12 and placement of temporary crown. No exam results, radiographs of teeth 11 and 29, no documented treatment plan, no exam results. Recementation of temporary crown with final dental cement.

Probable Cause Panel recommendation:

reprimand, appearance before board, \$5,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in record keeping, and ethics course, 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: letter of concern, fine of \$2500 payable within 6 months, costs of \$1079.05 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. Thomas to accept the settlement agreement

Second: by Dr. Kochenour

Vote: unanimous

David Podbielski, DDS, Case No. 2011-10246, Settlement (PCP Melzer)

Dr. Podbielski was present and was represented by Stuart Cohen, Esq. An administrative complaint filed December 9, 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 patient with maxillary roundhouse bridge that was failing, repair of abutments so that bridge could be used as temporary provisional bridge, lack of charting for removal of crowns, lack of comprehensive treatment plan.

Probable Cause Panel recommendation:

letter of concern, appearance before board, \$2,500 fine, cost, minimum of level one in record keeping, 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: letter of concern, fine of \$1800 payable within 6 months, costs of \$3993.65 payable within 6 months; level 1 in record keeping within 6 months with verified competency at dental school, CE audit for next biennium, pass the laws and rules exam within 12 months.

Motion: by Dr. Gesek to accept the settlement agreement

Second: by Dr. Thomas

Vote: unanimous

Mr. Cohen stated he would accept electronic service.

**Patricia Sabers, DMD, Case No. 2010-09413, Settlement
(PCP Melzer & Thomas)**

Dr. Sabers was present and was represented by Edwin Bayo, Esq. Dr. Gropper, PRN evaluator, appeared to discuss evaluation. A four count administrative complaint filed September 30, 2011 alleged violations of s. 466.028(1)(I) F.S. of making deceptive, untrue or fraudulent representations in the practice; 466.028(1)(II) of violating a law in chapter 456 pertaining to ownership and control of patient records, and to whom reports or copies should be furnished; s. 466.028(1)(i), of failing to perform a statutory or legal obligation concerning the procurement and dissemination of confidential medical records of patient at Sarasota Hospital; and 466.028(1)(II), F.S. of failure to comply with provisions of s. 456.057(11), F.S. concerning standards, procedures to protect confidentiality and security of medical records.

Probable Cause Panel recommendation:

reprimand, appearance before board, \$20,000 fine, cost, minimum of level four in ethics, revocation or two year suspension, during which time she completes and complies with a P.R.N. evaluation, 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: reprimand, fine of \$10,000 payable within 2 years, costs of \$5713.06 payable within 2 years; PRN evaluation and comply with any recommendations, within two years complete Level II in Ethics taken in person or at an accredited college of dentistry, CE audit for next biennium, pass the laws and rules exam within 24 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: unanimous

Motion: by Dr. Gesek to offer an amended settlement agreement to include reprimand, fine of \$5,000 payable within 24 months, remove the costs and replace with the requirement of 200 hours of non-dental community service to be determined by the board chair, PRN evaluation and comply with any recommendations, within two years complete 3 semester hour Ethics course to be taken in person at any college, CE audit for next biennium, pass the laws and rules exam within 24 months.

Second: by Dr. Kochenour

Vote: motion passes with Dr. Winker opposed

Dr. Sabers accepted the counter settlement offer and Mr. Bayo indicated he would accept electronic service of the final order.

**Charles Stamitoles, DDS, Case No. 2008-19142, Settlement
(PCP Melzer & Winker)**

This case was continued to the November meeting.

**Rebeca Rodriguez, Case No. 2012-06997, Voluntary Relinquishment
(PCP N/A)**

Ms. Rodriguez, D.H., was not present nor represented by counsel. An investigative report dated May 22, 2012 alleged violations of s. 466.028(1) (y) and (1) (mm), F.S. of practice beyond the scope and performing professional responsibilities which licensee knows that she is not competent to perform involving allegedly stealing supplies and performing dental work outside of the office. Ms. Rodriguez was previously a dentist in Cuba.

A Voluntary Relinquishment of License was signed by respondent on May 17, 2012.

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

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

**Joseph Gaeta, DDS, Case No. 2007-29044, Recommended Order
(PCP Melzer & Thomas) Dr. Stevens requested that she be recused.**

Dr. Gaeta was present and was represented by Max Price, Esq. A three count administrative complaint filed July 28, 2008 alleged violations of s. 466.028(1)(m), F.S. of failing to keep written dental records justifying the course of treatment by failure to record overall comprehensive written diagnosis, failure to clarify why extraction of tooth required and why five unit bridge was being fabricated instead of 3 unit bridge, no informed consent, no patient treatment options documented, failing to record results of thermal, pulp or bite percussion tests performed prior to root canal treatment; failure to record rubber dam usage and types of anesthetic used; s. 466.028(1)(x), F.S. alleging failure to meet minimum standards; s. 466.028(1)(z), F.S. alleging improper delegation.

This matter was referred to the Division of Administrative Hearings. The Administrative Law Judge, John Van Laningham, made the following recommendation to the Board of Dentistry:

Dr. Gaeta is guilty of recordkeeping violation alleged in paragraph 27 for failure to record the types and amounts of anesthetic agents used; not guilty of the remaining violations and imposing the following penalties: suspension from practice for 3 months followed by probation for 18 months with conditions related to improving recordkeeping and a fine of \$2500.

Ms. Rodgers proposed the following settlement agreement:

\$2500 fine payable within 12 months, 3 months suspension, stayed contingent on successful completion of recordkeeping course that he is already enrolled in and taking as part of another disciplinary matter; probation to run concurrent with probation currently serving, costs of \$4,100.26, \$3,962.80 for court reporter costs and \$10,000 in attorney costs.

Ms. Rodgers stated the suspension stayed allows him to continue the course he is currently enrolled in.

Dr. Gaeta did not accept the settlement offer and Mr. Price was asked to present his exceptions. Dr. Stevens recused herself. Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to accept the findings of fact of the administrative law judge in paragraph 46 because it was based on competent substantial evidence and

incorporate Ms. Rodgers response.
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Dr. Gesek that the board reject the exception
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Dr. Gesek to accept the conclusion of law
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Dr. Gesek to accept the settlement agreement as stated by Ms. Rodgers - \$2500 fine, 3 months stayed suspension, record keeping course and probation to run concurrently with previous case
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Dr. Gesek to accept the findings of fact
Second: by Dr. Perdomo
Vote: unanimous

A Motion to Assess Costs in Accordance with s. 456.072(4), F.S.

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

Motion: by Dr. Gesek to dismiss costs
Second: by Dr. Perdomo
Vote: motion passes with Dr. Winker opposed

Prosecution Report

There are currently 292 dentistry cases in PSU. Current complaint inventory is 292; 55 cases were received last month. There are 3 - 2007 cases, 3- 2008 cases and 11- 2009 cases, 34 - 2010 cases, and 61- 2011 cases.

Ms. Rodgers introduced Ms. Gail Scott Hill as a new prosecutor. Ms. Rodgers is working with Dr. Robinson and Dr. Morgan to present a course to experts and investigators, and attorneys. A training for expert witnesses will be provided after the next board meeting. Ms. Rodgers is also reviewing the quality of administrative complaints and has prepared an outline to guide experts in the information needed in their review.

Mr. Flynn advised that Ms. Rodgers, on behalf of the Department, is required to report quarterly to the board the annual plan for handling the aging caseload and he asked the board to consider making a motion for Ms. Rodgers to develop a plan, with the help of probable cause, for all cases one year or older.

Motion: by Dr. Thomas to refer all cases one year or older to the probable cause panel
Second: by Dr. Melzer
Vote: unanimous

PETITIONS

Victoria Gutierrez, RDH

Petition for Variance or Waiver (Rule 64B5-2.0135(1), F.A.C.)

Ms. Gutierrez was not present however she was represented by Chasity O'Steen, Esq. Ms. Gutierrez has applied for licensure as a dental hygienist and she is requesting a variance to rule 64B5-2.0135(1), F.A.C. that would prohibit the board from accepting her clinical examination grades from June 2000. Ms. Gutierrez was issued a dental hygiene license on August 3, 2000, after passing the state exam. Effective July 1, 2012, the statute requires applicants for licensure to pass the ADEX. Mr. Flynn advised that the petition does not request that her previous license be reinstated. The petition for variance or waiver was filed just prior to the statute change effective on July 1, 2012 that required applicants for licensure to pass the ADEX exam.

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

Motion: by Dr. Thomas to grant the petition for variance or waiver
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Thomas to approve the application contingent upon her passing the state laws and rules exam within 6 months and verify continuing education
Second: by Dr. Melzer
Vote: unanimous

Stephanie Gonzalez, D.M.D., Applicant for Dental Licensure

Petition for Variance or Waiver (Rule 64B5-2.013, F.A.C.)

Dr. Gonzalez was present and was represented by Javier Lopez, Esq. Dr. Gonzalez is requesting a waiver of Rule 64B5-2.021(1), F.A.C. regarding the composition of remedial training required to take the dental licensing examination after a third failure. Petitioner's patient's anxiety level was too high and blood pressure too elevated and this prevented petitioner from completing the amalgam portion of the exam on one occasion. She is requesting the opportunity to sit for the exam again without the need to complete additional education. She is currently enrolled in a dual three year advanced periodontics residency and a two-year masters in craniofacial biology program at the University of Southern California.

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

Motion: by Dr. Stevens to grant the petition for variance or waiver
Second: by Dr. Thomas
Vote: unanimous

Dr. Gonzalez must take the entire ADEX exam. Mr. Lopez will accept the order by electronic mail.

Petition for Rulemaking, Request to Amend 64B5-2.0146(2), F.A.C.

Mr. Bayo, on behalf of 17 foreign trained dentists currently enrolled in postgraduate dental specialty programs at accredited dental schools, requested amending this rule for clarification. A rule draft was presented for review.

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

Motion: by Dr. Thomas to approve the petition for rulemaking and the request to amend the rule; rule will be sent to the rules committee to define the statute

Second: by Dr. Melzer

Vote: motion fails

Motion: by Dr. Thomas to open the rule for development

Second: by Dr. Perdomo

Vote: motion passed with Dr. Winker opposed

Petition for Rulemaking, Request to Amend 64B5-17.002, F.A.C.

Mr. Bayo, representing Nova Southeastern University, filed this petition to allow limited, one-time dental examinations and same day treatment such as dental health screenings and Give Kids a Smile Program, pro-bono dental services to underserved populations, etc. to not result in the dentist becoming the dentist of record. A rule draft was presented for the Board's review.

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

Motion: by Dr. Stevens to refer to rules committee

Second: by Ms. Campbell

Vote: unanimous

Motion for Reconsideration of Final Order, DOH vs. Raymond Della Porta, Sr., D.M.D., Case No. 2009-05195

Dr. Della Porta, Sr. was present and was represented by Edwin Bayo, Esq. Mr. Bayo requests that the Board reconsider the final order and settlement agreement approved by the Board in the case presented at the May 18, 2012 meeting. If reconsideration is granted, respondent waives attorney's fees, will pay costs imposed and agrees to permanently refrain from using Sargenti material in endodontic procedures.

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

Motion: by Dr. Gesek to reconsider the case

Second: by Dr. Perdomo

Vote: motion passes with Ms. Campbell and Dr. Winker opposed

Motion: by Dr. Gesek to dismiss the case

Second: by Dr. Perdomo

Vote: motion fails with split vote

(Ms. Campbell, Dr. Winker, Dr. Kochenour and Dr. Stevens opposed)

Motion: by Dr. Perdomo to dismiss the case contingent upon Dr. Della Porta paying the costs

Second: by Dr. Gesek

Vote: motion passes with Ms. Campbell, Dr. Winker, and Dr. Kochenour opposed

APPLICATION REVIEW/OTHER

Pushpak Narayana, B.D.S., Applicant for Dental Licensure (Additional educational information in file folder)

Dr. Narayana was present and was represented by Ed Bayo, Esq. Dr. Narayana recently completed a post graduate endodontics program at the New Jersey Dental and was awarded a certificate in endodontics and a Master of Science degree. This program is accredited by the

Commission on Dental Accreditation of the American Dental Association. He also completed a fellowship in endodontics at the University of Florida.

Dr. Winker recused himself. Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to approve the application for licensure
Second: by Ms. Campbell
Vote: unanimous

Taner C. Sayin, D.D.S., Ph.D., Request for Credentials Review

Dr. Sayin was not present however he was represented by Ed Bayo, Esq. He has completed two years of a three year post graduate endodontic program at Nova. The board requested his appearance at one of the next two meetings.

Akshay Kumarswamy, B.D.S., M.S., Request for Credentials Review

Dr. Kumarswamy was not present and was not represented by counsel. He completed a master of science in periodontology at Chapel Hill, N.C. This program is accredited by the Commission on Dental Accreditation of the American Dental Association. He also completed a one year advanced graduate study program in general dentistry at Boston University. The board requested his appearance at one of the next two meetings.

Rafael G. Castellon, D.D.S., M.S., Request for Credentials Review

Dr. Castellon was not present and was not represented by counsel. He completed advanced education in prosthodontics at the University of Minnesota. This program is accredited by the Commission on Dental Accreditation of the American Dental Association. The board requested his appearance at one of the next two meetings.

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

Dr. Mauricio Guerrero, Request for Credentials Review

Dr. Guerrero was not present and not represented by counsel. He completed the international advanced education program "Current Concepts in American Dentistry": Cosmetic Dentistry and Oral Rehabilitation at NYU College of Dentistry.

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

Motion: by Ms. Campbell to require an appearance at one of the next two meetings.
Second: by Ms. Gainey
Vote: unanimous

Sonia V. Idrogo, Application for Credentials Review

Dr. Idrogo was present and was not represented by counsel. She completed advanced education in general dentistry at Dade County dental research clinic and at University of Washington College of Dentistry – each were one year accredited programs.

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

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

Second: by Dr. Stevens
Vote: unanimous

Sarasota School of Dental Assisting, Expanded Duties Dental Assisting Program

This program is presented for the Board's consideration. Ms. Louise Chavez appeared on behalf of the Sarasota School of Dental Assisting to answer questions.

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

Motion: by Dr. Stevens to deny due to ethics concerns with prior discipline
Second: by Dr. Kochenour
Vote: unanimous

Charlene Frances Yates, Dental Radiographer, Request for Reinstatement

Ms. Yates was present and was not represented by counsel. She is requesting reinstatement of her dental radiographer's license. She had issued a dishonored check for her license and was disciplined with costs of \$363.49. As of July 27, 2012, nothing has been paid on the costs.

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

Motion: by Dr. Gesek to deny the request for reinstatement
Second: by Dr. Stevens
Vote: unanimous

Dr. Robert Pierce, Applicant for Conscious Sedation Permit

Dr. Pierce was present and was represented by Mr. Ed Bayo, Esq. Dr. Pierce applied for a conscious sedation permit which was reviewed at the July 23, 2012 Anesthesia Committee telephone conference call. The committee recommended denial.

Dr. Pierce withdrew the application after addressing the board regarding his treatment in the dental surgery center.

OLD BUSINESS

Dr. Winker encouraged board members to attend the examinations.

Dr. Melzer asked for the board to meet in Miami in 2013.

Dr. Gesek asked for a quarterly newsletter for January.

Motion: by Dr. Gesek to request a quarterly newsletter
Second: by Dr. Melzer
Vote: unanimous

NEW BUSINESS

ADEX Curriculum Integrated Format

Dr. Winker asked Mr. Flynn to review the statutes and he advised the statutes do not speak to this type of format. This format is available to dental students in other states and should greatly reduce patient brokering.

Dr. Gesek was concerned about the low pass rate for the restorative portion of the exam.

Dr. Boyd Robinson, UF, stated CIF takes the mannequin section out of the exam and it would be administered in October/November. The students who were unsuccessful would retest in January of the following year after receiving remediation. Dr. Robinson stated that as an educator, he was unable to say how the student would be remediated at this time.

Dr. Hal Lipman, Nova SE College of Dental Medicine, stated the CIF format is currently administered at Nova with the CRDTS examination.

The dean of the school must give approval for the students to test. The traditional exams would still be given for international students and out of state applicants.

Motion: by Dr. Thomas to agree to the concept of CIF with the caveat that the others are able to approach the dental schools so they may have the same chance to take the exam in this format.

Second: by Dr. Perdomo

Vote: unanimous

Dr. Winker asked that the board revisit teaching permits and asked for a committee to be set up to review the rules regarding teaching permit requirements. Dr. Kochenour, Dr. Perdomo, Ms. Cabanzon and Ms. Campbell will work on this, with Dr. Kochenour serving as chair.

Dr. Winker also appointed a Rules Committee with Dr. Melzer, Dr. Gesek and Dr. Stevens serving on the Committee.

ADJOURNMENT

The meeting was adjourned at 2:00 p.m.