

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
NOVEMBER 16, 2012
DOUBLETREE BY HILTON
TAMPA AIRPORT WESTSHORE
4500 WEST CYPRESS STREET, TAMPA, FL 33607
(813) 879-4800
7:30 A.M.**

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
Berryhill & Associates, (813) 229-8225

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

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

Vision Statement: Healthiest State in the Nation

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

Dr. Winker also welcomed dental assisting and dental hygiene students from the Hillsborough Community College and local DOH investigators.

REVIEW OF MINUTES

August 17, 2012 General Business Meeting

The minutes of the August 17, 2012 meeting were reviewed and following review, the following action was taken by the Board:

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

Motion: by Dr. Thomas to approve as presented

Second: by Dr. Kochenour

Vote: unanimous

REPORTS

Teaching Permit Committee, October 15, 2012

Dr. Kochenour reported that the Teaching Permit Committee met on October 15 and discussed the impact of requiring applicants for teaching permits to meet additional requirements such as passing the national board exam, completing continuing education and renewal requirements. The committee

voted to require 30 hours of continuing education each biennium and to verify full-time employment each biennium with verification of the required continuing education. The committee also approved the teaching permit application submitted by Nova Southeastern University on behalf of Mauricio Guerrero.

Motion: by Dr. Kochenour to approve revised application
Second: by Dr. Stevens
Vote: no vote

Motion: by Dr. Kochenour to direct Mr. Flynn to open rulemaking to revise the current rule to include 30 hours of continuing education, grandfather those already permitted concerning the national board dental examination, however, require new hires to successfully complete Parts I and II of the national board dental examination within 2 years of hire and require biennial renewal of the permit and to schedule another teaching permit committee meeting
Second: by Dr. Gesek
Vote: motion passes with Dr. Thomas opposed

It was requested that another teaching permit committee be scheduled to discuss the changes to the application and the rule as requested by committee members.

Rules Committee, October 15, 2012

Dr. Gesek reported that the Rules Committee met on October 15 and discussed options regarding educational requirements of graduates of non-accredited dental schools who wish to become licensed as dentists in Florida. The committee also approved the drafts of the following rules: 64B5-17.002, 64B5-14.0032, 64B5-14.0034, 64B5-14.0036, and 64B5-14.0038.

Following a discussion regarding Senate Bill 1040 and the graduates of non-accredited dental schools who were already enrolled in ADA CODA approved specialty programs when the legislation became effective on March 23, 2012, the following action was taken by the Board:

64B5-2.0146

Motion: by Dr. Thomas that this legislation is interpreted by the Board as prospective legislation and that anyone in the "pipeline" when the legislation became effective on March 23, 2012 would be able to sit for the ADEX exam upon completion of the program.
Second: by Dr. Melzer
Vote: unanimous

64B5-17.002

Motion by Dr. Thomas to accept rule draft
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Thomas that SERC is not required – no impact
Second: by Dr. Melzer
Vote: unanimous

64B5-14.0032

Current rules require equipment to be fixed or non-mobile. In the proposed rule, physician anesthesiologists may bring in their own equipment with the understanding that the equipment goes through inspection process as part of the anesthesiologist's license. There were questions regarding whether this included all equipment or just the end tidal monitors. Paragraph (6) – Mr. Flynn clarified

that the most expensive equipment can be mobile, however, it must have the appropriate inspection. He also clarified that the permit holder must have the equipment and an inspection prior to bringing in the physician anesthesiologist to perform general/deep sedation.

The Board requested that we need to have clarification in the newsletter regarding this rule.

Dr. Nissen had concerns regarding itinerate anesthesia and follow-up care, as well as non permitted dentists and 4 hours of airway management. He was concerned that the board was moving too fast on these anesthesia rules.

Dr. Clive Rayner requested that the board change the word itinerate to mobile, and he stated he felt that the 60 hour course is inadequate training.

Motion: by Dr. Thomas to accept the draft
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Thomas that SERC is not required
Second: by Dr. Gesek
Vote: unanimous

64B5-14.0034

Motion: by Dr. Thomas to accept with the amendment change from itinerate to itinerate/mobile
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Gesek that SERC is not required
Second: by Dr. Kochenour
Vote: unanimous

64B5-14.0036

Motion: by Dr. Thomas to accept the language
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Gesek that SERC is not required
Second: by Dr. Kochenour
Vote unanimous

64B5-14.0038

Motion: by Dr. Gesek to accept the language
Second: by Dr. Stevens
Vote: unanimous

Motion: by Dr. Gesek that SERC is not required
Second: by Dr. Kochenour
Vote unanimous

**Board Counsel
Rules Report**

Mr. Flynn reviewed the November 2012 Rules Report and stated that many of the pending rules addressed incorporated forms into the rule.

Revisit Rule Change Proposal from May 2012 meeting

Motion: by Dr. Thomas to refer the draft to the Rules Committee and invite Department staff to explain the mediation process

Second: by Dr. Stevens

Vote: unanimous

Board Director Budget Information Dental Dental Hygiene

Ms. Foster stated that budget documentation was provided for the Board's information.

Ratification of Lists

Motion: by Dr. Gesek to ratify anesthesia permits, non-profit renewals and CE provider names listed in the board member's file folders

Second: by Dr. Thomas

Vote: unanimous

Non-Profit Corporation Permit Application

This item was withdrawn from agenda per Board Counsel.

Chairman

Dr. Winker attended AADB meeting in San Francisco where he led a discussion on botox, dermal fillers and tattoos. The ADA attorney gave attendees an update on FTC teeth whitening/bleaching case regarding the North Carolina Board of Dentistry; and information that actions taken by state agencies are not subject to FTC ruling.

He stated that if any board member is interested in becoming an examiner for ADEX they are encouraged to do so.

Dr. Winker stated that 41 states are now accepting the ADEX examination. Many states do not require a perio section for the dental exam.

Vice-Chairman

Dr. Perdomo is serving on radiography committee of NERB. He will keep the Board informed regarding actions taken by the Committee, specifically the issue of out of state candidates and radiographs.

Board Members

Dr. Kochenour also attended the November meeting of ADEX. He stated that Florida was well-represented with the following in attendance: Dr. Winker, District 12 Director, himself as District 12 Examination Dental Board member; Boyd Robinson – District 12 Examination Representative; Jim Haddix – District 12 Quality Assurance Committee member, Irene Stavros – District 12 Dental Hygiene representative; Vicki Campbell – District 12 Consumer Representative. All members from across the country are working to continue development of the finest entry-level dental and dental hygiene examinations.

The Quality Assurance Committee addressed shortening the Diagnostic Skills Exam from 280 questions to 150 questions with 3 subsections including the patient evaluation section, comprehensive treatment planning subsection and the periodontics, prosthodontics and medical considerations subsection.

Ms. Campbell reported that she had just been elected as Commissioner of the Emerald Coast Utility Authority Board, District I in Escambia County and would need to resign her board position. Dr. Winker asked that she continue to serve on the ADEX Committee for her 2 year term.

Dr. Winker has appointed Ms. Cabanzon to replace Ms. Campbell as the Board's representative on the Oral Health Coalition.

TOPIC DISCUSSION

Letter from American Academy of Sleep Medicine

Dr. Sam Fleishman, MD, President of the American Academy of Sleep Medicine, sent a letter dated September 4, 2012 to ask for an opinion on the scope of practice issue for Florida dentists. He is asking questions regarding diagnosis of sleep apnea and fitting the oral appliance.

Board members discussed the issue regarding the diagnosis which is done by a physician and a dentist fitting appliances. Dr. Gesek asked that this letter be accepted as informational to the Board.

Letter from Southern Regional Testing Agency, Inc. re ADEX Dental Exam

A letter dated September 24, 2012 from Kathleen White, states that SRTA will begin administering ADEX starting January 1, 2013. She is requesting confirmation that students taking the exam out of state will comply with s. 466.006(4)(b)(2)(a), F.S.

The board confirmed that as long as the students take the ADEX exam as stated in statute, they will meet the requirements.

Dr. Lee Ann Podruch, North East Regional Board of Dental Examiners, Inc., Local Anesthesia Examination

Dr. Podruch addressed the Board regarding the opportunity for dental hygiene candidates to use either injectable or topical local anesthesia during the ADHLEX examination. It is up to each examination site as to whether they wish to allow candidates the option to use local anesthesia during the exam. The choice to perform the administration of local anesthesia by the candidates, where allowed, is strictly for patient comfort and competency is not being assessed nor will certification be available.

NERB also offers a local anesthesia examination consisting of 50 multiple choice computer based questions. Subject matter includes anatomy and neurophysiology, pharmacology, local anesthesia techniques, topical anesthetics, infection control, prevention, recognition and management of complications. A score of 75% or better is required to pass.

Dr. Podruch stated that NERB is now in the planning stages for the May and June 2013 administrations of the dental hygiene examination and wanted the board's input as to whether the opportunity can be offered in Florida. Mr. Flynn advised that it may take a legislative change to allow the opportunity for candidates to administer local anesthesia during the examination.

Motion: by Dr. Perdomo to direct board counsel to investigate how this may be possible to allow the use of local anesthesia during the ADHLEX exam

Second: by Dr. Gesek

Vote: unanimous

Ms. Cabanzon stated that there would be a meeting of the Council on Dental Hygiene in December.

Presentation regarding D-Prep and ERA by Drs. Eva Ackley and Guy Shampaine

Drs. Ackley and Shampaine were present to discuss the newly developed D-Prep and ERA. This is the American Association of Dental Boards Post-Order Dentist Assessment and Remediation Program. Through a power point presentation, Dr. Shampaine discussed the Dentist-Professional Review and Evaluation Program which is a uniform national standardized program given at 3 centers, the University of Maryland, Louisiana State University and Marquette. Three to five faculty members work with the dentist and the fee to AADB is \$3500 and the fee for the program ranges from \$10 - \$15,000. The program has 6 phases to assess competency and performance is demonstrated in clinical practice. Informational booklets were disseminated to board members.

Section 466.003(3), Florida Statutes

Letter from Florida Dental Association re Proper Supplemental Education Requirements for Graduates of Non-Accredited Dental Schools

Draft Legislation, s. 466.006(3), F.S.

Letter from Maria Alejandra Magurno, D.D.S.

Following discussion, the board took the following action:

Motion: by Dr. Thomas that this statutory change in Senate Bill 1040 be interpreted by the Board as prospective and not affect practitioners already in the pipeline when the law passed on March 23, 2012.

Second: by Ms. Gaaney

Vote: unanimous

FOR YOUR INFORMATION

Continuing Education at Renewal Documents

This project will replace continuing educations audits over the next 4 years. The first phase integrates verification of continuing education with renewals. If continuing education is not complete, practitioner must enter the courses into CE Broker to renew. Renewal postcard that is mailed 120 days before renewal will provide instructions and various options for submitting CE such as electronic, direct data entry, fax, mail. Phase I will not prevent renewal of a license (next renewal is Feb. 28 of 2014). Visit CEatrenewal.com to learn more.

DISCIPLINARY PROCEEDINGS

Daniel Barry, D.D.S., Case No. 2012-00840, Settlement Agreement

PCP Melzer

Dr. Barry was present and was represented by William Furlow, Esq. An administrative complaint filed May 8, 2012 alleged violations of s. 466.028(1)(u), F.S. of failure to provide and maintain reasonable sanitary facilities and conditions

Probable Cause Panel recommendation:

Recommended penalty – reprimand, appearance before board, \$8,000 fine, cost, minimum of level two in infection control, level one ethics course, eighteen months probation during which time he shall submit to random inspections by the department, 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 \$6000 within 12 months, costs of \$1135.31 within 12 months, level II hours in infection control at or through an accredited college of dentistry within 12 months, replacement of equipment, submit to 3 random inspections by the department for a period of 18 months, laws and rules within one year, biennium audit.

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

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

Motion: by Dr. Gesek to accept the original settlement agreement with the change from letter of concern to reprimand
Second: by Ms. Gainey
Vote: unanimous

Motion was approved to immediately reconsider the case.

Motion: by Dr. Thomas to accept the original settlement
Second: by Dr. Kochenour
Vote: motion passes with Ms. Gainey and Ms. Campbell opposed

**Roy Barkoe, D.D.S., Case No. 2011-15833, Settlement Agreement
PCP Melzer**

Dr. Barkoe was present and was represented by Edwin Bayo, Esq. and Jeffery Galvan, 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 examination of hard tissues, failure to document periodontal examination, failure to document adequate diagnostic radiographs; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving fabrication of bridge that did not have sufficient support and compromised teeth 27 and 31, no medical history to prevent adverse incidents from drug interactions.

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 one in periodontics, minimum of level one in treatment planning, minimum of level one in crown and bridge, minimum of level one in records keeping, and level one 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 \$6,750 payable within 18 months, costs of \$2000 payable within 18 months; 3-6 hours in recordkeeping; 3 hours in periodontics, 3-6 hours in crown and bridge and 3-6 hours in diagnosis and treatment planning verified competency at dental school, all CE to be completed within 12 months, reimbursement 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. Thomas to accept the settlement agreement

Second: by Dr. Gesek
Vote: motion defeated

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

Motion: by Dr. Thomas to accept the settlement agreement with the addition of one semester hour college level ethics course and Level 1 in risk management
Second: by Dr. Kochenour

Dr. Kochenour withdrew the second of the motion. After further discussion the following action was taken:

Motion: by Dr. Thomas to accept the settlement agreement with the addition of a Level I course in ethics and a Level 1 in risk management
Second: by Ms. Cabanzon
Vote: motion passes with Dr. Winker opposed

Mr. Bayo advised that his client accepts the board's counter-offer.

**Lawrence Easler, D.D.S., Case No. 2011-01347, Settlement Agreement
PCP Stevens**

Dr. Easler was present and was represented by Juan Carlos Garcia, Esq. An administrative complaint filed July 23, 2012 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards for failure to take adequate diagnostic comprehensive radiographs to properly diagnose and treat, no radiographs taken after removal of crown to evaluate tooth no.3, or to evaluate decay and /or periodontal disease present throughout mouth.

Probable Cause Panel recommendation:

Recommended penalty – 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 Diagnoses and Treatment Planning, 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 12 months, costs of \$4324.68 payable within 12 months; 3 hours in risk management, 3-6 hours in diagnosis and treatment planning with verified competency at dental school, CE audit for next biennium, pass the laws and rules exam within 12 months, reimbursement to patient.

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

Motion: by Dr. Thomas to accept the settlement agreement
Second: by Dr. Gesek
Vote: motion passed with Ms. Gainey opposed

**Michael Jacobs, D.D.S., Case No. 2009-07622, Settlement Agreement
PCP Melzer & Thomas**

Dr. Jacobs was not present as his appearance was waived by Dr. Winker; however, he was represented by Randolph Collette, 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 failure to chart initial periodontal examination, document diagnostic tests, failure to document use of rubber dam, s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to perform comprehensive periodontal examination, failure to perform initial periodontal exam, failure to use rubber dam, failure to perform diagnostic tests for proper diagnosis prior to performing root canal treatments, failure to fabricate and seat crowns with closed margins, failed to create bridgework that was properly contoured.

Probable Cause Panel recommendation:

Recommended penalty – reprimand, appearance before board, \$7,500 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, one year comprehensive dental 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, license in inactive status, refund to patient, fine of \$5000 payable within 30 months, costs of \$8,934.23 payable within 30 months; one year comprehensive dental course; 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 not rule on the case at this time and to allow Dr. Jacobs to place the license on inactive status and appear before the board prior to reactivation

Second: by Ms. Gaaney

Vote: unanimous

**Takashi Koyama, D.M.D., Case No. 2011-01227, Settlement
PCP Melzer**

Dr. Koyama was present and was represented by A. Candace Marcus, Esq. A two count administrative complaint filed May 9, 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 documentation required when general anesthesia is administered, s. 466.028(1)(x), F.S. of failure to meet minimum standards involving death of patient; respondent did not attempt to reverse anesthesia administered, did not administer muscle relaxant drug to aid in ventilation during respiratory arrest. EMS arrived and intubated patient, however patient died several days later due to oxygen deprivation damage to the brain suffered during respiratory arrest while under anesthesia.

Probable Cause Panel recommendation:

reprimand, appearance before board, \$10,000 fine, cost, and reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level two in airway management course, minimum of level two in emergency management 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: reprimand, fine of \$10,000 payable within 6 months, costs of \$11,049.14 payable within 6 months; within 6 months level II in airway management, level II in emergency management with verified competency at dental school, refund, 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. Gesek
Vote: unanimous

**Mark Maggert, D.D.S., Case No. 2010-05528, Settlement Agreement
PCP Melzer & Thomas**

Dr. Maggert was present and was not represented by counsel. An administrative complaint filed July 25, 2011 alleged violations of s. 456.072(1)(c), F.S. regarding a four count indictment on September 23, 2009 of avoiding income tax payment, concealing assets in 2002, 2003, 2004, 2005. He was sentenced to 42 months imprisonment and 3 years of supervised release including treatment for narcotic addiction.

Probable Cause Panel: Recommended penalty – appearance before board, suspension until he appears before the board, two semester college ethic 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: reprimand, fine of \$10,000 payable within 12 months, costs of \$1493.94 payable within 12 months; suspension of license to run concurrent with incarceration and until appearance before the Board; 6 hour ethics course, probation for 2 years with monitoring of practice, practice under indirect supervision of monitor; random sample of billing and review of tax returns CE audit for next biennium, pass the laws and rules exam within 12 months, 50 hours of non-dental community service within 24 months.

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

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

**Jimmy McDowell, D.D.S., Case No. 2010-20200, Settlement Agreement
PCP Melzer**

Dr. McDowell was present and was represented by Edwin Bayo, Esq. A two count administrative complaint filed May 8, 2012 alleged violations of s. 466.028(1)(m), F.S. of failure to document comprehensive oral examination, diagnosis, any pathology, periodontal charting, extraction of tooth number 28, medications not documented, fabrication of faulty bridge and 466.028(1)(x), F.S. of failure to meet minimum standards by failure to diagnose, designing ill-fitting bridge, failing to complete root canal treatment on tooth 29; prescribing medications without diagnosis or rationale.

Probable Cause Panel 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 record keeping, minimum of level two in diagnosis and treatment planning, minimum of level two in crown and bridge, minimum of level one in endodontics, 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 \$7000 within 6 months, costs of \$2562.94 within 6 months, level II (4 hours) recordkeeping, level I (3 to 6 hours) endodontics, level II (7-12 hours) crown and bridge; level II (7 -12 hours) diagnosis and treatment planning; CE to be completed with 6 months, CE audit, pass laws and rules exam within 12 months.

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

Motion: by Dr. Thomas to accept the settlement agreement
Second: by Dr. Kochenour
Vote: motion passes 5/4 vote

**Vincent Monticciolo, D.D.S., Case No. 2007-37768, Settlement Agreement
PCP Melzer & Gesek**

Dr. Monticciolo was present and was represented by William Furlow, Esq. An amended two count administrative complaint filed January 18, 2012 alleged violation of s. 466.028(1)(x), F.S. of failure to meet minimum standards regarding inadequate full mouth radiographs, failing to perform comprehensive examination, failure to excavate decay prior to restorative treatment, failure to develop adequate treatment plan, seating crowns with poor margins and s. 466.028(1)(m), F.S. of failure to keep written dental records justifying the course of treatment.

Probable Cause Panel 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, one year comprehensive dental course at an accredited college of dentistry, 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: letter of concern, fine of \$9000 within 6 months, costs of \$12,000 payable within 6 months. Level III (13-18 hours) in diagnosis and treatment planning; level III (13-18 hours) in crown and bridge; 6 hours in Record Keeping, CE to be completed within 12 months; refund to patient; CE audit; pass laws and rules course examination.

The patient addressed the Board concerning her dissatisfaction with treatment and difference in color regarding the top vs. lower teeth.

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

Motion: by Dr. Thomas to reject the settlement agreement
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Thomas to offer a counter settlement agreement to eliminate the fine, complete one year comprehensive dental course, letter of concern, costs, no refund to patient
Second: by Ms. Campbell
Vote: motion fails

Motion: by Dr. Thomas to offer a counter settlement agreement to eliminate the fine, complete one year comprehensive dental course, letter of concern, costs, refund to patient
Second: by Dr. Perdomo
Vote: motion fails

Motion: by Dr. Stevens to accept the original settlement agreement to include a \$5350 refund to patient
Second: by Dr. Kochenour
Vote: unanimous

**Charles Stamitoles, D.D.S., Case No. 2008-19142, Settlement
PCP Melzer & Winker**

Dr. Stamitoles was present and was represented by Ed Bayo, Esq. A four count administrative complaint filed December 7, 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 general condition of 82 year old patient's teeth, gums and mouth; limited treatment plan, failed to diagnose, treat or refer, patient since 2004 -2007, patient billed for bridges never received; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to provide comprehensive diagnosis, failure to perform or provide delivery and seating of final crown, billed for proposed lower right bridge twice and bridge never fabricated, false charging for pulp cap, buildups and crown preps and PFM crowns when work never provided; falsely indicated that he remade temporary crowns at teeth 28-32 when he never did crown replacement work; s. 466.028(1)(t), F.S. fraud, deceit, or misconduct in practice concerning billing for work never provided; s. 466.028(1)(l), F.S. of deceptive, untrue or fraudulent representations concerning false billing.

Probable Cause Panel recommendation:

reprimand, appearance before board, \$40,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, revocation of license.

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$30,000 payable by the end of 2 year probation, costs of \$26,017.78 payable by the end of the 2 year probation period; suspension for 1 year – 11 months stayed; 2 years of probation when dentist returns to active practice; probation terms: board approved monitor, random audit quarterly of 250 of respondent's billing or patient ledger records, quarterly reports from monitor; following 2 years probation, complete 1 year General Dentistry Comprehensive Remedial Program with 6 hours record keeping, 6 semester hours of ethics at college of dentistry with verified competency at dental school, counts III and IV are subsumed within the record keeping count; 50 hours of non-dental community service within 6 months; 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. Thomas to reject the settlement agreement
Second: by Ms. Campbell
Vote: unanimous

Motion: by Dr. Thomas to offer a counter settlement agreement to include the original settlement but include an active suspension for 3 months (90 days active suspension.)
Second: by Dr. Gesek
Vote: motion passes with 2 opposed

**Barbara Kilgore, R.D.H., Case No. 2012-04706, Voluntary Relinquishment
PCP Waived**

Ms. Kilgore was not present and was not represented by counsel. According to the investigative report, alleged violation of s. 466.028(1)(i), F.S. of failure to perform a statutory or legal obligation.

A voluntary relinquishment of license was presented to the Board. Following discussion, the following action was taken by the Board:

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

Stuart Goff, D.D.S., Case Nos. 2012-02151, 2012-02994, 2012-03577, 2012-03777, 2012-04548, 2012-05407, 2012-04705

PCP Waived

Dr. Goff was not present nor represented by counsel. Investigative reports alleged possible violation of s. 466.028(1)(x), (mm), F.S. of failure to meet minimum standards involving patient's dentures that did not fit properly, patient asking for 4 implants and received 3. Patients appointment scheduled for certain time, and when patients arrived, office was closed, telephone disconnected, patients unable to locate dentist for corrective treatment, scheduled appointments, copies of records. Alleged abandonment of practice without notification to patients.

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

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

Philip Mandracchia, D.D.S., Case Nos. 2011-12426, 2011-11261, 2011-11747, Voluntary Relinquishment

PCP Melzer

Dr. Mandracchia was not present nor represented by counsel. A four count administrative complaint alleged violations of s. 466.028(1)(t), F.S. of fraud, deceit or misconduct in the practice by failure to deliver crown to patient that had been paid for; s. 466.028(1)(j), F.S. of making or filing a false report or record by failing to provide information requested in this investigation, s.466.028(1)(i), F.S. of failing to perform a statutory obligation by not making patient records available within one month of dentist's termination or relocation of practice; s. 466.028(1)(mm), F.S. of failure to update address with Board.

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

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

Prosecutor's Report

Ms. Rodgers disseminated a report showing the following case inventory: 97 complaints under review by department prosecutor, 1 ESO; 90 cases drafted for probable cause panel; other cases under various supplemental requests with a total of 323 cases.

PETITIONS

Chetan Bhuta, Petition for Variance or Waiver, Rule 64B5-2.0144, FAC

Dr. Bhuta is petitioning board for variance to this rule to allow him to retake the dental hygiene computer simulated without being required to obtain the remediation coursework. The dental college he attended in India had special patient care which is the remediation coursework he is missing. He is asking to re-take the computer simulated clinical exam without additional coursework.

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

Motion: by Dr. Gesek to deny based on failure to present substantial hardship or show that he has been treated differently from others in similar circumstance
Second: by Ms. Gainey

Vote: unanimous

Miriam Halpern, Petition for Variance or Waiver, Rule 64B5-2.0135, FAC

Ms. Halpern was not present for represented by counsel. She is requesting a variance to this rule. She passed the NERB exam in May, 2005. She graduated from the University of New Haven, Connecticut, with a Bachelor of Science degree and holds an active license in New Jersey and has practiced for 6 years. She does not want to repeat the clinical exam.

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

Motion: by Dr. Thomas to deny the petition as it does not meet current statutory requirement

Second: by Ms. Gainey

Vote: unanimous

APPLICATION REVIEW/OTHER REQUESTS

Rafael Castellon, D.D.S., Request for Credentials Review (requested continuance to February 2013 meeting)

Mauricio Guerrero, D.D.S., 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. This item was on the August 17 agenda however the board declined to review since Dr. Guerrero was not present. The board requested his appearance at one of the next two meetings.

The board continued this matter to the next meeting and requested that Dr. Guerrero appear at the next meeting.

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

Dr. Kumarswamy was 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. This item was on the August 17 agenda however the board declined to review since Dr. Kumarswamy was not present. The board requested his appearance at one of the next two meetings.

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

Motion: by Dr. Stevens to approve the credentials evaluation

Second: by Ms. Gainey

Vote: unanimous

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

Dr. Sayin was present and he was represented by Ed Bayo, Esq. He has completed two years of a three year post graduate endodontic program at Nova. This item was on the August 17 agenda however the board declined to review since Dr. Sayin was not present. The board requested his appearance at one of the next two meetings.

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

Motion: by Dr. Thomas to approve the application pending his completion of the endodontic

program
Second: by Dr. Melzer
Vote: unanimous

Sonia Acevedo, R.D.H., Request to Reinstate Dental Hygiene License

Ms. Acevedo is requesting an extension of time to pay her fine and costs of \$4209.71 and to have suspension lifted. She was arrested on 12/12/07 for DUI, sentenced to 1 year probation, DUI school, revocation of driver's license for 6 months 50 hours of community service and court costs. She failed to report her DUI to the Board. She is attending PRN and AA meetings weekly. Dr. Gropper appeared and stated that he did not have an evaluation

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

Motion: by Dr. Thomas that upon receipt of a letter from PRN supporting her return to practice that her license be reinstated and that she should make arrangements for an extension of her fine and costs with the Department

Second: by Dr. Melzer
Vote: unanimous

Renato Aves, D.D.S., Request to Remove Probation

Dr. Aves was present and was not represented by counsel. He has completed his 5 year probation and he is petitioning the Board to be removed from probation. His order is dated October 5, 2007 and requires an appearance. The PRN is in support.

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

Motion: by Dr. Thomas to remove the probation
Second: by Dr. Gesek
Vote: unanimous

Naomi Knutsen, R.D.H., Request to Lift Medicaid Restriction

Ms. Knutsen was present and was not represented by counsel. She is requesting that Medicaid restriction be lifted. She had falsely annotated several patient files with false entries on 14 difference occasions between January, 2003 and April, 2004.

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

Motion: by Dr. Gesek to lift the restriction
Second: by Ms. Gainey
Vote: unanimous

Mirilis Rodriguez, D.D.S., Applicant for Dental Licensure

Dr. Rodriguez was present and was represented by Francis DeLuca, Esq. She is applying for licensure after she was denied renewal. Section. 456.036(14), F.S. does not require that person retake and pass examinations if denied between July 1, 2009 and June 30, 2012.

Mr. Flynn advised the board of his interpretation of the plain language that Dr. Rodriguez does not fall in the category of an initial licensee.

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

Motion: by Dr. Melzer to grant licensure on the new application
Second: by Dr. Thomas
Vote: motion failed

Motion: by Dr. Gesek to deny licensure
Second: by Ms. Cabanzon
Vote: motion passes with 2 opposed

Randall Lee Weisel, D.D.S., Applicant for Conscious Sedation Permit

Dr. Weisel was present and was not represented by counsel. His appearance was requested by the Board prior to issuance of this permit.

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

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

Dental Academy of the Palm Beaches, Application for Expanded Duty Program

Ms. Pat Rodgers was present to discuss application for her expanded duties program, radiology course of 7 hours.

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

Motion: by Dr. Gesek to approve the application for expanded duties
Second: by Dr. Thomas
Vote: unanimous

National Dental Academy, Application for Expanded Duty Program

Ms. Dana Zajackowski was present to discuss applications of expanded duty programs at three locations: Fleming Island, Port Charlotte and Palm Bay. Dr. Gary Burkholder holds a limited license. Concerns with the application were that Dr. Burkholder holds a limited license and the credentials of all staff were not provided.

Following discussion concerning submission of resumes, and requirements of 64B5-16.004, F.A.C., she asked for a continuance.

Professional Training Centers, Application for Expanded Duty Program

Juan Carlos Ramirez was present to discuss the application for his expanded duty program.

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

Motion: by Dr. Gesek to approve the program
Second: by Dr. Perdomo
Vote: unanimous

Dental Education Connection, Application for Expanded Duty Program

Karen Allen, Dr. James Willis and Heather Way were present to discuss their expanded duties program. Dr. Kochenour stated that some of the wording involving the orthodontic section had to be changed and edited such as:

Page 350, change placing to selecting and pre-sizing

Page 355, do not use "one product, such as invisalign

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

Motion: by Dr. Gesek to approve with modifications stated by Dr. Kochenour
Second: by Ms. Gainey
Vote: unanimous

Harshit A. Aggarwal, BDS, Request for Credentials Review

Dr. Aggarwal was present and was not represented by counsel. He completed a specialty in Prosthodontics at the University of Medicine and Dentistry of New Jersey in March, 2010.

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

Motion: by Dr. Thomas to approve the credentials application
Second: by Dr. Melzer
Vote: unanimous

William Glover, III, D.M.D. Request to Remove Restriction

Dr. Glover was present and was not represented by counsel. He is petitioning the Board to lift the restriction on implants. He completed a 42 hour course in Surgical Implant Placement for the General Dentist at the University of Florida on October 20, 2012.

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

Motion: by Dr. Gesek to remove the restriction
Second: by Dr. Perdomo
Vote: unanimous

Kelly Miranda, R.D.H. Application for Certification – Administration of Local Anesthesia

Ms. Miranda was present and was not represented by counsel. She is applying for certification of local anesthesia. She had completed a 5 day course at Phoenix College in May, 2007 and was administering local anesthesia from 2007 until 2011. She states that this course is equivalent or more stringent than the Florida requirement.

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

Motion: by Ms. Gainey to deny the application because it is 9 hours short

Ms. Miranda withdrew her application.

OLD BUSINESS

None

NEW BUSINESS

Election of Officers

Motion: by Dr. Melzer to nominate Dr. Gesek as Chair
Motion: by Dr. Stevens to nominate Dr. Winker as Chair
Motion: by Ms. Campbell to nominate Dr. Thomas as Chair
(Dr. Thomas withdrew his name from consideration for Chair)
Dr. Gesek was elected Chair by vote of 6 to 4.

Motion: by Ms. Gainey to nominate Dr. Perdomo as Vice-Chair
Motion: by Dr. Melzer to nominate Dr. Thomas as Vice-Chair
Motion: by Dr. Stevens to nominate Dr. Winker as Vice-Chair
(Dr. Winker withdrew his name from consideration for Vice-Chair)
Dr. Perdomo was elected Vice-Chair by vote of 6 to 4.

ADJOURNMENT

The meeting was adjourned at 2:50 p.m.