

REVISED DRAFT (3/13/13)

BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
FEBRUARY 22, 2013
WYNDHAM TAMPA WESTSHORE HOTEL
700 NORTH WESTSHORE BOULEVARD, TAMPA, FL 33609
(813) 289-8200
7:30 A.M.

CALL TO ORDER

The meeting was called to order at 7:30 a.m. by Dr. Gesek, 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.,
William Kochenour, D.D.S.
Dan Gesek, D.M.D., Chair
Carol Stevens, D.D.S.
Catherine Cabanzon, R.D.H., B.A.S.D.H.
Robert Perdomo, D.M.D., Vice-Chair
Joe Thomas, D.D.S.

Member absent:

Elmira Gainey

Staff present:

David Flynn, Board Counsel
Sue Foster, Executive Director
Adrienne Rodgers, Esq., Prosecutor
Cindy Ritter, Program Administrator
Court Reporting, Dempster Berryhill – 813-229-8225

Dr. Gesek requested that Dr. Perdomo read the following 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.

REVIEW OF MINUTES

November 16, 2012 General Business Meeting

The minutes of the November 16, 2012 meeting were reviewed.

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

Motion: by Dr. Thomas to approve the minutes once board staff clarifies the vote on Page 8

Second: by Dr. Kochenour

Vote: unanimous

Dr. Katherine Woods, St. Petersburg College, asked if the schools that were providing local anesthesia coursework to their students could send a form verifying this to the board office prior to the students taking the ADEX examination later this year. Dr. Gesek then questioned Dr. Winker as to

REVISED DRAFT (3/13/13)

whether there was currently an examination component and Dr. Winker stated that the ADEX does not have an examination component for local anesthesia. Dr. Winker stated that if the students have met the statutory requirements then they could apply for certification without being examined on it.

RULE HEARING, Rule 64B5-14.0038, F.A.C., Direct Supervision of a Qualified Anesthetist

The Board received a request for Rule Hearing from Glenn Thomas, Esq. on behalf of the Florida Association of Nurse Anesthetists. The purpose of the hearing is to hear public comments, arguments and oral evidence regarding the proposed rule below:

64B5-14-0038 Direct Supervision of a Qualified Anesthetist.

A dentist who is directly supervising the administration of anesthesia for a qualified anesthetist in a dental office shall not authorize a procedure unless the dentist is credentialed, qualified, and competent to perform the procedure.

Rulemaking Authority – 466.004(4); 466.017, Fla. Stat. Law Implemented 466.002(2); 466.017, Fla. Stat.

Mr. Glenn Thomas, Esq., appeared to discuss the current rule draft entitled direct supervision of a qualified anesthetist. Chapter 464.012, F.S., lists the tasks CRNA's can perform under the supervision of the dentist. Mr. Thomas stated some confusion exists regarding the term "qualified", i.e. what is the dentist qualified to do. The current language needs clarification as it first mentions anesthesia and then refers to a procedure. He requested that this language be tied together to make it clear as to the exact intent. He stated that this rule exceeds what other state laws allow and that the proposed language expands supervision beyond the legislative intent of Chapter 464, F.S. and will result in more expense to patients. Mr. Thomas stated rather than including additional supervision requirements than those listed in Chapter 464, F.S., the association recommends inclusion of the CRNA or the use of the term "a qualified anesthesia provider" in 64B5-14.0032, FAC.

Dr. Thomas stated that the board needs the oversight over the dentist providing the dental treatment as the board does not have oversight over individuals licensed outside of the dental practice act. The board rules currently require the dentist to be trained at the same level of the anesthesia that is provided in the dental office.

Mr. Flynn briefed the board on a declaratory statement filed in 1986 and a subsequent rule hearing that went before the First District Court of Appeals. The court determined that the direct supervision required in Chapter 466, F.S. controlled. Mr. Flynn asked the board to allow him to withdraw the language and make changes to the rule.

REPORTS

Council on Dental Hygiene, December 17, 2012

Ms. Cabanzon asked that the minutes be approved and reported the following:

Motion: by Ms. Cabanzon to approve the Council minutes

Vote: unanimous

The Council had asked for clarification of administration of local anesthesia to a non-sedated patient who was administered nitrous oxide, an analgesic. The Council agreed that this would be permitted under the law.

Dr. Don Erbs, Florida Dental Association (FDA), stated that the FDA was opposed to dental hygienists providing local anesthesia to a patient who was under nitrous oxide. Dr. Melzer stated he did not feel it was a problem.

REVISED DRAFT (3/13/13)

Motion: by Dr. Melzer to allow the dental hygienist to administer local anesthesia to a patient who was administered nitrous
Second: by Ms. Cabanzon
Vote: unanimous

The Council requested that the board update rules in 64B5-14.001, F.A.C. regarding the definition of a non-sedated patient as it relates to paragraph 10, regarding minimal sedation and anti-anxiety medications. Many patients who come in for treatment are already on medications prescribed by their physicians. Dr. Gesek requested that this be referred to Anesthesia Committee.

The Council agreed that the use of the new credential, CRDH, is optional.

The Council discussed options for Florida dental hygienists certified in other states who need additional hours to meet the 60 hour requirement. Some suggestions included a statutory change to ask educational institutes to review transcripts to see if the dental hygienist was missing hours, have board staff or a committee of one review transcripts and refer the applicant to dental hygiene programs to obtain the additional hours.

The Council discussed financial responsibility requirements. Mr. Flynn stated he did not find that malpractice insurance should be required for every licensed dental hygienist, but recommended that dental hygienists check with their dentist(s) to ensure they are covered. He did not see a problem with a dental hygienist voluntarily obtaining insurance. He suggested that the Department place a message on the renewal notice asking whether the dentist had coverage for his/her dental hygienist(s).

Ron Watson, FDA, pointed out that the dental hygienist is required to have insurance in health access settings. Board rule 64B5-17.011, F.A.C. requires a dentist to cover the dental hygienist under his/her policy.

Teaching Permit Committee, January 22, 2013

Dr. Kochenour asked for the minutes to be approved and reported the following:

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

Dr. Kochenour acknowledged the efforts by the committee, board, universities and staff working to provide an updated application which reflects the applicant's dental background and experience and to create a system that allows the permit to renewed and keep the permit requirements consistent with that of Florida licensed dentists.

The Committee defined full time faculty work as 35 hours per week to include up to 8 hours of clinical practice per week.

The Committee declined to include the requirement to pass Parts I and II of the national boards as part of the application process for a teaching permit.

The Committee would like to include teaching experience and the current position of employment (what the faculty member was hired to teach as part of the application.)

REVISED DRAFT (3/13/13)

The Committee would like to seek legislative authority to charge a fee to cover the costs of processing the application and renewal.

Dr. Stevens stated that the teaching permit should be more appropriately named a “treating” permit.

Dr. Winker asked for input from universities. Dr. Winker stated in his opinion any dentist working in state of FL should have a dental license. Military dentists should have a license in one of the 50 states. Dr. Winker felt it was reasonable for faculty to comply with same requirements the students must possess in order to be licensed. Infection control techniques are a concern and suggested that training should be considered.

Dr. Stevens expressed concern that teaching permit was misleading and she agreed with Dr. Winker that anyone treating patients in FL should be licensed.

Mr. Flynn pointed out that the statute uses the term teaching permit. He also stated that the current process has been ongoing for the past 32 years. He suggested that historical data is needed, such as disciplinary actions against faculty, before the board makes any definitive changes.

Mr. Flynn clarified that if you were an instructor teaching didactic you would not need a teaching permit. If you are treating patients in a practice at the dental school, a teaching permit is required.

Dr. Melzer stated he could not recall any cases coming through probable cause panel. Only minor changes were made to the rule several years ago.

Dr. Gesek asked if any patient complaint settled in the confines of the dental school should be reported to the board. Mr. Flynn advised that teaching permit holders are under the same requirements as other licensees.

Dr. Kochenour felt that the board needs to set the minimum standards and not leave this to the universities.

Dr. Erbs stated that the FDA has a resolution that board should require the laws and rules exam and the National Dental Board Examination, parts I and II. He stated that specialties accredited by the Commission on Dental Accreditation would be fine without completing national boards and that current faculty would be grandfathered.

Dr. David Brock requested that the board require some type of legitimate certification prior to issuing teaching permits.

Dr. Teri Dolan, dean of the college of dental medicine, University of Florida, along with Dr. Boyd Robinson and Dr. Jim Haddix, addressed the board regarding proposed changes. Dean Dolan submitted a letter to the board dated February 13 indicating her appreciation to the board and comments concerning the proposed changes to teaching permits. Dean Dolan stated that teaching permits are critical to the operation of dental schools. Dr. Dolan explained that of the 131 full-time faculty, 83 are in clinically oriented positions, 45 in research and 3 in administration. Fifty-six of the full time faculty members have teaching permits; 39 of the 56 or 70% have completed an accredited DMD program or advanced education program in the United States, however, each individual has additional credentials in dentistry. Dr. Dolan stated that the college would support CE and a small fee for initial permits.

Dr. Marone and Dr. Sanchez addressed the Board and agreed with the FDA's position.

REVISED DRAFT (3/13/13)

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

Motion: by Dr. Thomas to dissolve the teaching permit committee
Second: by Dr. Melzer
Vote: motion passes with Drs. Winker and Kochenour opposed

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

Motion: by Dr. Thomas to require that all faculty that have a teaching permit be required to take the laws and rules exam and be subject to continuing education as required for all licensed dentists.
Second: by Dr. Perdomo
Vote: motion passes with Dr. Winker opposed

Motion: by Dr. Thomas that the deans notify the board office when an employee leaves and to report continuing education to the board
Second: by Dr. Melzer
Vote: motion passes with Dr. Winker opposed

Mr. Flynn will draft rules to implement the new requirements.

Motion: by Dr. Kochenour to define full-time as 35 hours per week
Second: motion dies

Board Counsel

Rules Report

Mr. Flynn reviewed the Rules report with the following rules: 64B5-14.0032(1) Use of Physician Anesthesiologist, effective February 21, 2013; 64B5-14.0034 General Anesthesia Permit Holders; 64B5-14.0036 Treatment of Sedated Patients by Dentists without Anesthesia Permits; and 64B5-17.002 Written Dental Records, Minimum Content and Retention, all in the adoption process.

Airway Management Course

Dr. Melzer stated that the board had given prior approval to proceed with 8 hour airway management course prior to issuance of an anesthesia permit. Mr. Flynn will provide a rule draft for the board's review.

Board Director

Budget Reports – Dental

Budget Reports – Dental Hygiene

Annual Renewal of Delegations

Motion: by Dr. Winker to approve the renewal of delegations
Second: by Dr. Gesek
Vote: unanimous

Ratification of lists

Motion: by Dr. Gesek to approve the permits and licenses issued

REVISED DRAFT (3/13/13)

Second: by Dr. Kochenour
Vote: unanimous

Application for Temporary Certificate

This includes an update of the history questions required by law.

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

Motion: by Dr. Gesek that no SERC is required
Second: by Dr. Kochenour
Vote: unanimous

Application for Non-Profit Corporation Permit

This includes an update of the history questions required by law.

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

Motion: by Dr. Kochenour that no SERC is required
Second: by Dr. Gesek
Vote: unanimous

Application for Credentials Review for Graduates from Non-Accredited Dental Colleges or Schools (Dental licensure)

This includes a change on page 2 of the application requesting proof of dental board national exam.

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

Motion: by Dr. Gesek that no SERC is required
Second: by Dr. Kochenour
Vote: unanimous

Ms. Foster explained that the postcard in the file folder is part of an outreach program and they are being distributed to all of the county health departments to assist in identifying unlicensed activity with text in English and Spanish. Postcards were developed and printed in-house by Investigative Services.

Chairman

Vice-Chairman

Board Members

TOPIC DISCUSSION

Examination Update (Michael Curtis)

REVISED DRAFT (3/13/13)

Mr. Curtis stated the relationship with ADEX and NERB has been outstanding. The Department recently entered into a 3 year agreement with NERB. Board members are welcome to attend any ADEX exam.

Board members confirmed that all applicants that pursue Florida dental licensure must complete perio module of the ADEX to comply with the statute. A diagnosis and treatment planning module is being developed.

Dr. Melzer asked if candidates were debriefed after the exam. Mr. Curtis was not aware of this being performed currently. Dr. Winker stated he would take this suggestion to ADEX.

Mr. Curtis indicated a Pensacola site has been added for dental hygiene. Anyone who wishes to attend an exam should let him or Ms. Foster know so that the appropriate arrangements could be made.

Memo from ADEX regarding 2013 ADEX Dental Examination

This is a letter to State Boards and Dental Schools from Bruce Barrette, D.D.S., President of ADEX concerning the 2013 Dental Exam. This exam has 4 parts: Diagnostic Skills, Prosthodontic, Endodontic and Restorative exams. The one optional clinical exam is the periodontal clinical exam.

Invitation from NERB

This is a letter dated January 15, 2013 from Guy Champagne, NERB Chair. On behalf of the NERB Board of Directors, an invitation is extended to the Florida Board of Dentistry to apply for active membership in the NERB. The Board would appoint 3 active members – 2 dentists and one dental hygienist and one alternate member to the NERB Steering Committee. All active members of the Florida board, present and future, would be active voting members in the NERB general assembly. Florida could offer input and voice in the administrative procedures.

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

Motion: by Dr. Thomas to decline

Second: by Dr. Melzer

Vote: motion passes with Drs. Winker, Gesek and Kochenour opposed

Letter from Dr. Charles Ross re Membership in NERB

This letter was provided at Dr. Gesek's request to outline advantages and disadvantages.

Request from Palm Beach State College re local anesthesia curriculum

Ms. McCauley, Department Chair, Associate Professor at Palm Beach State College is asking the Board what type of documentation, if any, does the Board require from dental hygiene graduates indicating that they have met the requirements for local anesthesia certification:

An application process, to include a certificate, is currently required. Ms. Cabanzon stated that the school could issue a certificate as proof of the required coursework and the newly licensed dental hygienist could then apply for local anesthesia designation with the certificate from the school.

CE at Renewal – A New Approach to License Renewal

This is information on verification of CE at the time of license renewal. Visit www.CEATRenewal.com for information. Ms. Foster explained the procedure, that licensees can enter their coursework at any time into the system without charge. Next February, the system will prompt the dentist/dental hygienist to enter courses if any of these are missing in the CE Broker system. Renewal will not be

REVISED DRAFT (3/13/13)

denied at this time, however, in February, 2016, courses will be required to be entered into the system to renew.

FOR YOUR INFORMATION

Letter from Vicki Campbell re resignation

Letter from American Academy of Dental Sleep Medicine

Memorandum of Agreement with NERB

Email from Michael Curtis, List of Current Examiners and Chief Examiners

ADEX Annual Report

ADEX Proceedings from November 11, 2012

Email from Rhina Delgado re Dental Licensure Requirements

Letter from Doc Green

Dr. Green was present and addressed the board regarding his experience with microbial contaminants and his product.

Florida Earns a 'D' in Kids Dental Health Report

HB 0313, An Act Relating to Medicaid Dental Services

HB 0463, An Act Relating to Examination of Dentists

Emails re Local Anesthesia – clarification for the non-sedated patient

HB 581, An Act Relating to Dentists

DOH News Release – FL DOH Celebrates National Children's Dental Health Month in the Classroom

News Article – Florida Receives Poor Marks for In-School Teeth Sealant Program

News Release – Attorney General Bondi's Office Arrests WPB Dentist

DISCIPLINARY PROCEEDINGS

Ms. Rodgers advised the board that there are currently 281 cases.

Juan Alberto, D.D.S., Case No. 2011-03632, Settlement Agreement (PCP Stevens)

Dr. Alberto was present and was represented by Randolph Collette, Esq. A two count administrative complaint filed July 20, 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 over-fill of root canal, failure to detect calcium hydroxide outside tooth #31, failure to timely refer to oral and maxillofacial surgeon; s. 466.028(1)(x), F.S. of failure to meet minimum standards.

Probable Cause Panel recommendation:

Reprimand, appearance before board, \$10,000 fine, costs, 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 one in endodontics and minimum of level one in Risk Management, 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 \$7000 payable within 12 months, costs of \$4829.36 payable within 12 months; level 1 in record keeping, 3 hours in risk management, 3 hours in endodontics with verified competency at dental school, patient reimbursement, 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. Winker to accept the settlement (consent agenda)

Second: by Dr. Perdomo

Vote: unanimous

REVISED DRAFT (3/13/13)

Daniel Alniti, D.D.S., Case No. 2012-10944, Settlement Agreement (PCP Melzer, Gesek)

Dr. Alniti was present and was not represented by counsel. An administrative complaint filed December 10, 2012 alleged violations of s. 466.028(1)(mm), F.S. of failure to provide proof of 26 hours of continuing education, 2 hours prevention of medical errors, fine was \$2800 costs of citation (\$122.00), proof of CPR certification for 2008 through 2010.

Probable Cause Panel recommendation:

Reprimand, appearance before board, \$5,000 fine, cost, suspension until compliant with previous final order.

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$5000 within 6 months; costs of \$293.69, suspension of license until respondent complies with the terms and conditions of this agreement, compliance with previous final order, laws and rules exam within 12 months.

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

Motion: by Dr. Winker to accept the settlement (consent agenda)
Second: by Dr. Perdomo
Vote: unanimous

Charles Baldwin, D.D.S., Case No. 2008-14048, Settlement Agreement (PCP Melzer, Thomas)

Dr. Baldwin was present and was not represented by counsel. An administrative complaint filed May 19, 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 dissatisfaction with failing implants and inability to produce any dental radiographs for entire course of treatment of patient.

Probable Cause Panel recommendation:

Appearance before board, \$10,000 fine, cost, revocation of license.

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$1000 payable within 6 years, costs \$8500 (capped) payable within 6 years, level II with verified competency in record keeping within 12 months, CE audit for next biennium.

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

Motion: by Dr. Winker to accept the settlement (consent agenda)
Second: by Dr. Perdomo
Vote: unanimous

Thomas Bevelock, D.M.D., Case No. 2009-18127, Settlement Agreement (PCP Melzer, Thomas)

Dr. Bevelock was present and was represented by Randolph Collette, Esq. A two count administrative complaint filed July 25, 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 maintain radiographs, record pre-existing conditions,; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to use rubber dam in root canal procedure, failure to use

REVISED DRAFT (3/13/13)

minimum precautions in protecting patient's tongue resulting in injury to lingual nerve, failure to refer to specialist for evaluation and treatment.

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 two in diagnoses and treatment planning, minimum of level one in record keeping, college level 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 payable within 18 months, costs of \$5377.84 payable within 18 months; level 1 in record keeping, 3 hour college ethics course, level II 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.

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

Motion: by Dr. Stevens to reconsider the x count
Motion dies

Motion: by Dr. Gesek to accept the settlement agreement

Second: by Dr. Perdomo

Vote: motion passes with Dr. Stevens opposed

Dana Cuculici, D.M.D., Case No. 2010-21138, Settlement (PCP Melzer)

Dr. Cuculici was present and was represented by Randolph Collette, Esq. 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; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving lumineers placed on teeth causing inflammation, bleeding, bone loss, discoloration, uneven bite, cavities under lumineers.

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 two in record keeping, minimum of level two in crown and bridge and minimum of level one in diagnoses and treatment planning, 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 \$6000 payable within 18 months, costs not to exceed \$6728.73 payable within 18 months; level 1 in record keeping, level 1 in crown and bridge, level 1 in ethics, level 1 in diagnosis and treatment planning with verified competency at dental school within 18 months, patient reimbursement, CE audit for next biennium, pass the laws and rules exam within 12 months.

The patient in this case also addressed the Board. Following review, the following action was taken by the board:

Motion: by Dr. Thomas to accept the settlement agreement

Second: by Dr. Perdomo

Vote: unanimous

REVISED DRAFT (3/13/13)

David Goldston, D.D.S., Case No. 2011-06830, Settlement Agreement (PCP Stevens)

Dr. Goldston was represented by Jon Pellett, Esq. A two count administrative complaint filed July 23, 2012 alleged violations of s. 466.028(1)(c), F.S. of willful income tax evasion and sentence of 48 months imprisonment, repayment of federal restitution of \$449,643.84; and s. 456.072(1)(w), F.S. of failure to report to Board in writing within 30 days after conviction or entering a plea of nolo contendere.

Probable Cause Panel recommendation:
Revocation of license.

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$15,000 payable within 2 years, costs not to exceed \$2200 payable within 2 years; 6 hour ethics course, suspension for 6 months stayed so long as respondent is compliant with conditions of probation; probation for 2 years with appearances, indirect monitoring with reporting requirements, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Winker to accept the settlement (consent agenda)
Second: by Dr. Perdomo
Vote: unanimous

Vernon Gordon, D.D.S., Case No. 2012-01147, Settlement Agreement (PCP Melzer, Stevens)

Dr. Gordon was present and was not represented by counsel. A two count administrative complaint filed September 26, 2012 alleged violations of s. 466.028(1)(aa), F.S. of failure to comply with previous final order which included a fine of \$5000, costs of \$2907.94, completion of level 1 in diagnosis and treatment planning, level 1 in endodontics, pass the laws and rules exam.

Probable Cause Panel recommendation:
Reprimand, appearance before board, \$5,000 fine, costs, suspend until compliant, 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, suspension of license until compliant with previous final order, fine of \$5000 payable within 6 months, reimbursement of costs in the amount of \$868.28 within 6 months of the filing of final order, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Winker to accept the settlement (consent agenda)
Second: by Dr. Perdomo
Vote: unanimous

Howard Hoffman, D.D.S., Case No. 2012-06932, Settlement Agreement (PCP Melzer, Gesek)

Dr. Hoffman was present and was represented by Bruce Lamb, Esq. An administrative complaint filed December 13, 2012 alleged violations of s. 466.028(1)(d), F.S. of advertising "sleep dentistry"

REVISED DRAFT (3/13/13)

“treatment while you are asleep and you will not feel any pain or discomfort “on his website.
Respondent holds a conscious sedation permit.

Probable Cause Panel recommendation:

Reprimand, appearance before board, \$2,500, fine, cost, minimum of level two 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, administrative fine of \$2500 payable within 6 months, costs of \$1000 payable within 6 months, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Winker to accept the settlement (consent agenda)

Second: by Dr. Perdomo

Vote: unanimous

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

Dr. Jacobs was not present however he was represented by Randolph Collette, Esq. Dr. Gesek approved a waiver of Dr. Jacobs' appearance. A two count administrative complaint filed May 2, 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 s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to perform comprehensive periodontal exam, failure to use rubber dam, failure to perform diagnostic tests for proper diagnosis, failure to fabricate and seat crowns with closed margins, failure to create bridgework that was properly contoured.

Probable Cause Panel recommendation:

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, refund to patient, dental license to be placed on inactive status within 30 days of entry of final order; the following terms are stayed during the period of time the license is in an inactive status: \$5000 fine within 30 months, costs of \$9205.23 within 30 months, one year comprehensive dental course at or through an accredited college of dentistry within 30 months, CE audit, pass the laws and rules exam within 12 months.

Mr. Collette confirmed that the refund to patient was accomplished through malpractice claim settlement.

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

Motion: by Dr. Winker to accept the settlement agreement

Second: by Dr. Kochenour

Vote: unanimous

Harvey Kansol, D.D.S., Case No. 2009-23048, Settlement Agreement (PCP Melzer, Thomas)

REVISED DRAFT (3/13/13)

Dr. Kansol 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; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving extraction of third molars with alleged violation of the lingual nerves, failure to expose diagnostic radiographs before extracting wisdom teeth numbers 1,16,17,and 32.

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 exodontia, minimum of level one in diagnosis and treatment planning, ethics course, restrict practice, cannot remove bony impacted third molars, 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 \$7500 payable within 6 months, costs of \$5072.14 payable within 6 months; restriction from performing extractions of bony impacted 3rd molars until successfully completing all continuing education courses: 3 hours in record keeping, 3-6 hours in exodontia, 3 hours ethics, 3-6 hours in diagnosis and treatment planning, 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. Kochenour to accept the settlement

Second: by Dr. Stevens

Vote: unanimous

Kenneth Martin, D.D.S., Case No. 2011-14828, Settlement Agreement (PCP Melzer, Stevens)

Dr. Martin was present and was represented by Edwin Bayo, Esq. A two count administrative complaint filed September 26, 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 complex restorative bridgework without treatment plan, refusal to seat permanent bridge unless he received payment in full – final seating held up for 3 ½ years due to payment issues.

Probable Cause Panel recommendation:

Reprimand, appearance before board, \$12,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level two in crown and bridge, minimum of level two in record keeping, minimum of level two in periodontics, minimum of level two in risk management, minimum of level two in endodontics and minimum of level two 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 \$7500 payable within 6 months, costs not to exceed \$2974.62 payable within 6 months; level 1 in record keeping and risk management; 3-6 hours in endodontics, periodontics and crown & bridge with verified competency at dental school, refund to patient; CE audit for next biennium, pass the laws and rules exam within 12 months.

The patient in this case addressed the Board concerning her complaint. Following review, the following action was taken by the board:

REVISED DRAFT (3/13/13)

Motion: by Dr. Perdomo to accept the settlement agreement with the addition of an ethics course
Second: by Dr. Winker
Vote: unanimous

Mr. Bayo accepted the revision to the settlement agreement.

Craig Meskin, D.D.S., Case No. 2011-09429, Settlement Agreement (PCP Waived)

Dr. Meskin was present and was represented by Francis DeLuca, Esq. An administrative complaint filed December 3, 2012 alleged violations of s. 466.028(1)(c), F.S. of being convicted or entering a plea of nolo contendere to a crime which relates to the practice of dentistry involving filing false tax return and order to pay restitution of \$76,116.00 and 3 months imprisonment.

Probable Cause - Waived

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$5000 payable within 12 months, costs of \$1000 payable within 12 months; suspension of license to run concurrent with respondent's incarceration, 3 hour college ethics course within 12 months, provide a letter of compliance with terms of probation upon completion of one year probation term; provide letter of compliance with terms of restitution agreement with IRS upon completion of 1 year probation; - 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. Winker to accept the settlement (consent agenda)
Second: by Dr. Perdomo
Vote: unanimous

Wayne Olges, D.M.D., Case No. 2010-23715, Settlement Agreement (PCP Melzer)

Dr. Olges was present and was represented by David Ferrainolo, Esq. A two count 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; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving alleged poor marginal integrity around mandibular left bridge adjustments, no occlusal contact on right posterior teeth, failure to document TMJ evaluation or treatment plan.

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 crown and bridge, minimum of level two in implant placement, 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 \$7500 payable within 6 months, costs of \$5654.42 payable within 6 months; level 1 in record keeping, level II in crown and bridge, level II in implants with verified competency at dental school, CE audit for next biennium, refund to patient, pass the laws and rules exam within 12 months.

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

REVISED DRAFT (3/13/13)

Motion: by Dr. Winker to accept the settlement (consent agenda)
Second: by Dr. Perdomo
Vote: unanimous

Robert Orta, D.D.S., Case No. 2009-19394, Settlement Agreement (PCP Melzer, Stevens)

Dr. Orta was present and was represented by Charles Baval, Esq. A four count administrative complaint filed September 27, 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; and s. 466.028(1) (gg), F.S. involving patient death. Patient's mother had completed incomplete medical history that patient had Down's Syndrome and an atrial septal defect and patient taking guanfacine.

Probable Cause Panel recommendation:

Reprimand, appearance before board, Revocation of anesthesia permit \$20,000 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 risk management, 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, 2 years probation with terms; 50 hours non-dental community service within 24 months, fine of \$15,000 payable within 12 months, refund to patient's family, costs of \$7811.12 payable within 12 months; within 24 months: level 2 in record keeping, level 2 in airway management, level 2 in emergency management, level 2 in risk management, 3 hour ethics with verified competency at dental school, 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 with the amendment to 3 hour college level ethics course
Second: by Dr. Winker
Vote: unanimous

Mr. Baval accepted the amendment

Larry Shapiro, D.D.S., Case No. 2011-13527, Settlement Agreement (PCP Stevens)

Dr. Shapiro was present and was represented by Darlene Stosik, Esq. A three count administrative complaint filed July 20, 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, s. 466.028(1)(ff), F.S. involving failure to determine correct position for implant as no radiograph was taken; patient complaining of numbness; dates of patient care entries do not match dates of patient transactions or billing records.

Probable Cause Panel recommendation:

Reprimand, appearance before board, \$20,000 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, permanently restrict practice to no implant placement, successfully complete laws and rules examination within one year and one biennium C.E. audit.

REVISED DRAFT (3/13/13)

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$10,000 payable within 12 months, costs \$4000 payable within 12 months; 4 hours in record keeping, 7 – 12 hours in diagnosis and treatment planning with verified competency at dental school, the CE requirement and passing the laws and rules exam subsumed into that required by previous final order; patient reimbursement.

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

Motion: by Dr. Thomas to accept the settlement agreement with an amendment to require completion of a 10- or 12 month maxi course

Vote: motion dies

Motion: by Dr. Perdomo to offer a counter-settlement to accept the settlement and add a permanent restriction of implant placement

Second: by Dr. Melzer

Vote: motion passes with Drs. Winker and Dr. Thomas opposed

Keith Young, D.D .S., Case No. 2011-14877, Settlement Agreement (PCP Melzer, Gesek)

Dr. Young was present and was not represented by counsel. A two count administrative complaint filed December 10, 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 clean, shape and fill the mesial canal of tooth #31 close to apex, patient experiencing swelling, pain.

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 one in diagnoses and treatment planning, minimum of level one in diagnoses and treatment planning, minimum of level one in endodontics and minimum of level one 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 \$10,000 payable within 6 months, costs of \$3301.19 payable within 6 months; level 1 in record keeping, level 1 in endodontics; level 1 in diagnosis and treatment planning with verified competency at dental school, patient reimbursement, pass the laws and rules exam within 12 months.

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

Motion: by Dr. Winker to accept the settlement (consent agenda)

Second: by Dr. Perdomo

Vote: unanimous

Richard Lipman, D.D.S., Case No. 2011-06606, Default/Waiver (PCP Melzer, Stevens)

Dr. Lipman was not present and was not represented by counsel. A three count administrative complaint filed September 26, 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, s. 466.028(1)(i), F.S. of failure to document anesthetic

REVISED DRAFT (3/13/13)

used during root canal procedure, no use of rubber dam, not all canals filled to apex, open margins, failure to maintain malpractice insurance.

Probable Cause Panel recommendation:

Reprimand, appearance before board, \$20,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, one year hands on remedial course, successfully complete laws and rules examination within one year and one biennium C.E. audit.

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

Motion: by Dr. Winker that respondent was properly served

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Winker that respondent failed to respond and therefore has waived right to a hearing

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Kochenour to adopt findings of fact as alleged in the administrative complaint as the Board's findings

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Winker that findings of fact support the violation of the Practice Act as charged in the administrative complaint

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Kochenour to find the respondent in violation of Florida Statutes as charged in the administrative complaint

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Dr. Thomas that the board accept into evidence the investigative file for purposes of determining penalty and the opportunity to make a penalty recommendation

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Thomas to enter a final order to include reprimand, \$20,000 fine, actual costs, reimbursement to patient, enroll in a one year comprehensive remedial dentistry course to be completed at an accredited college of dentistry, laws and rules exam within 12 months, continuing education audit, suspension until he appears before the board

Second: by Dr. Winker

Vote: unanimous

Sharon Day-Osteen, D.D.S., Case No. 2012-13461, Informal Hearing (PCP Gesek)

Dr. Day-Osteen was present and was represented by Edwin Bayo, Esq. A two count administrative complaint filed November 2, 2012 alleged violations of s. 466.028(1)(s), F.S.; s. 456.072(1)(hh), F.S. of inability to practice with reasonable skill and safety due to alcohol and inhalant dependence as well as opiate and sedative abuse

REVISED DRAFT (3/13/13)

Probable Cause Panel recommendation:

Suspend until she is in compliance with PRN and appears before the board

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

Motion: by Dr. Winker to adopt the findings of fact in the Administrative Complaint

Second: by Dr. Perdomo

Vote: unanimous

Motion: by Dr. Winker to find that the facts support a violation as charged in administrative complaint

Second: by Dr. Melzer

Vote: unanimous

Department's recommended penalty: reprimand, fine of \$2500, costs, suspend until she is under PRN contract and determination of safety to practice; probation from lifting of suspension for 1 year under direct supervision

Motion: by Dr. Thomas to enter a final order which includes suspension until she is under PRN contract and PRN has made a determination of safety to practice and to delegate Dr. Perdomo to review the letter from PRN for purposes of reinstating the dental license

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Thomas to find respondent in violation of the statute as charged in the administrative complaint

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Thomas to move investigative report with exhibits into evidence to establish a case for the violation

Second: by Dr. Kochenour

Vote: unanimous

Motion: by Dr. Thomas to impose costs of \$2100 within 6 months after respondent returns to practice and if she does not return to practice to waive the costs

Second: by Dr. Perdomo

Vote: unanimous

Jonathan Royal, D.D.S., Case No. 2009-14413, Informal Hearing (PCP Melzer, Stevens)

This case was continued at the request of the Department.

Mark Skaff, D.D.S., Case No. 2011-04687, Informal Hearing (PCP Melzer)

This case was continued at the request of the Department.

Irene Broyles, D.D.S., Case No. 2011-09443, Voluntary Relinquishment (PCP Melzer)

REVISED DRAFT (3/13/13)

Dr. Thomas recused himself in this case. Dr. Broyles was not present nor represented by counsel. An administrative complaint was filed December 16, 2011. Alleged violation of s. 466.028(1)(b), F.S. Respondent's license to practice was disciplined by the State of Missouri – 8 month suspension on May 9, 2011 by Missouri Dental Board, followed by 5 years probation, 60 hours CE, 20 hours in ethics concerning quality of services, high pressure tactics, fraud.

Probable Cause Panel recommendation: Revocation

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. Winker
Vote: unanimous

Eric Hohnwald, D.D.S., Case No. 2012-09343, Voluntary Relinquishment (PCP Waived)

Dr. Hohnwald was not present nor represented by counsel. Alleged violation of s. 466.028(1)(i), F.S. Involving perforation of tooth below gum line.

Probable Cause Panel recommendation:
Revocation

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. Winker
Vote: unanimous

Jeffrey Siegel, D.D.S., Case Nos. 2009-23902, 2012-10970, Voluntary Relinquishment (PCP Melzer, Gesek, Thomas)

Dr. Siegel was not present nor represented by counsel. Alleged violation of s. 466.028(1)(m), F.S. and 466.028(1)(t),(x), F.S. involving permanent core build-up and permanent crown on tooth that had inadequate root canal

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 Endodontics and Ethics course, successfully complete laws and rules examination within one year and one biennium C.E. audit.

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

PETITIONS

REVISED DRAFT (3/13/13)

Marcio P. Moraes, Petition for Variance or Waiver, Rule 64B5-2.0144, FAC

Dr. Moraes was present and was not represented by counsel. Dr. Moraes was licensed as a dentist in Brazil, has failed the dental hygiene exam, and is asking that he be permitted to re-take the computer simulated dental hygiene clinical exam without taking the remedial coursework required by this rule.

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

Motion: by Dr. Thomas to grant the waiver

Second: by Dr. Melzer

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

APPLICATION REVIEW/OTHER REQUESTS

Tamara Leigh Rash, Applicant for Dental Hygiene Licensure

Ms. Rash was present and was not represented by counsel. Ms. Rash was a dental hygienist in Delaware where she worked from April 2002 to May 2012 without an active license. She would like to sit for the ADEX dental hygiene exam.

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

Motion: by Dr. Winker to approve her to sit for the ADEX examination and continue in licensure process

Second: by Dr. Perdomo

Vote: unanimous

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

Dr. Castellon was present and was not represented by counsel. The Board had requested his appearance at one of the next two meetings for a credentials review of the programs taken at the University of Minnesota, advanced prosthodontics, completed in March, 2002.

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

Motion: by Dr. Thomas to approve to sit for the exam

Second: by Dr. Melzer

Vote: unanimous

Ronald H. Copenhaver, Application for CE Provider – Study Club

Dr. Copenhaver was not present for review of his application to become a continuing education provider/study club. Due to prior disciplinary action, this was referred to the board for review.

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

Motion: by Dr. Thomas to deny the application due to prior discipline.

Second: by Dr. Stevens

Vote: unanimous

Frederick Thomas Palacios, Request for Credentials Review

REVISED DRAFT (3/13/13)

Dr. Palacios was present and was not represented by counsel. Staff requested review of credentials prior to permitting him to take the ADEX.

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

Motion: by Dr. Thomas to approve the credentials and allow him to sit for the ADEX
Second: by Dr. Winker
Vote: unanimous

Request for Approval of Training Program- Arnold Palmer Hospital for Children, Orlando, FL
Ramon Ruiz, DMD, MD was present to request approval for his training program.

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

Motion: by Dr. Stevens to approve the program
Second: by Dr. Kochenour
Vote: unanimous

Robert Adami, D.D.S., Application for Conscious Sedation Permit

Dr. Adami was not present and was not represented by counsel

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

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

Dr. Melzer discussed concerns regarding an IV sedation course completed at Conscious Sedation Consulting, LLC. Dr. Melzer indicated additional information is needed.

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 12:30 p.m.