

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
November 15, 2013
Hilton University of Florida
1714 SW 34th Street Gainesville, FL 32604
352-371-3600
7:30 A.M.**

CALL TO ORDER/ROLL CALL

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:

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.
Leonard Britten, D.D.S.
Tim Pyle
Anthony Martini
Angela Sissine, R.D.H.

Staff present:

David Flynn, Board Counsel
Sue Foster, Executive Director
Adrienne Rodgers, Esq., Asst. General Counsel, PSU
Cindy Ritter, Program Administrator
Bridget McDonnell, Asst. General Counsel, PSU
Steve LeBlanc, Sr., LeBlanc Court Reporting, (352) 373-6030

Dr. Gesek requested that Mr. Pyle 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.

Dr. Gesek recognized the senior dental students from the University of Florida and the dental hygiene students from Santa Fe College and welcomed them to the meeting.

REVIEW OF MINUTES

August 22-23, 2013 General Business Meeting

The minutes of the August 22-23, 2013 meeting were reviewed. Following discussion, the following action was taken by the Board:

Motion: by Dr. Thomas to approve with the change noted on Page 9
Second: by Dr. Kochenour
Vote: unanimous

September 9, 2013 General Business Meeting

The minutes of the September 9, 2013 meeting were reviewed. Following discussion, the following action was taken by the Board:

Motion: by Dr. Winker to approve as presented
Second: by Dr. Thomas
Vote: unanimous

REPORTS

Dental Records Task Force Meeting (October 22, 2013)

Dr. Winker, Task Force Chair, reported the following:

The committee held its first telephone conference call on October 22. A rule draft was presented to open the discussion and comments were taken at the meeting. Dr. Winker encouraged interested parties to submit their comments, edits, etc. An additional meeting will be scheduled in early 2014.

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

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

Anesthesia Committee Meeting (October 23, 2013)

Dr. Gesek, Anesthesia Committee Chair, reported the following concerning the Anesthesia Committee meeting:

The Anesthesia committee met on October 23 by telephone conference call. Items discussed at the meeting were changes to the requirements for general anesthesia/deep sedation, conscious sedation and pediatric conscious sedation, a proposed change to the training requirements for conscious sedation, clarifying that applicants must complete the entire process of the anesthetic procedure to receive credit; applicants for pediatric conscious sedation permits must meet the same requirements, in addition to demonstrating proof that he or she graduated, within 24 months prior to application for the permit, from an accredited post-doctoral pediatric residency. The committee also reviewed a concern submitted regarding drugs that are currently unavailable and a proposal that the board not require pediatric conscious sedation holders to maintain a supply of amiodarone, vasopressin and adenosine. The committee reviewed a request for rule development for minimal sedation requirements/guidelines and declined to take action. There was limited discussion as to what was expected of applicants for sedation permits during the initial evaluation of the applicant and the inspection of the facility.

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

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

Rule Draft, 64B5-14.008, Requirements for General Anesthesia or Deep Sedation; Operatory, Recovery Room, Equipment, Medicinal Drugs, Emergency Protocols, Records and Continuous Monitoring

Motion: by Dr. Gesek to approve the draft language
Second: by Dr. Winker
Vote: unanimous

Rule Draft, 64B5-14.009, Conscious Sedation Requirements; Operatory, Recovery Room, Equipment, Medicinal Drugs, Emergency Protocols, Records and Continuous Monitoring

Motion: by Dr. Gesek to approve the draft language
Second: by Dr. Winker
Vote: unanimous

Rule Draft, 64B5-14.010, Pediatric Conscious Sedation Requirements; Operatory, Recovery Room, Equipment, Medicinal Drugs, Emergency Protocols, Records and Continuous Monitoring

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

Motion: by Dr. Thomas that none of these three rules would have a negative economic impact; the text of the rules was reordered
Second: by Dr. Winker
Vote: unanimous

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

Motion: by Dr. Thomas to amend the draft with the addition of "approval for" discharge
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Dr. Winker that this rule change will not have an economic impact
Second: by Dr. Perdomo
Vote: unanimous

**Board Counsel
Rules Report**

Mr. Flynn updated the board on the status of rules 64B5-14.003 and 14.0032 which have been published and rule 64B5-14.0038, Use of Qualified Anesthetist, which became effective November 11, 2013. The proposed change to rule 64B5-14.003 includes airway training; the change to 64B5-14.0032 addresses the inspection of the mobile equipment or an inspection report demonstrating that the equipment has been inspected by a licensed health care risk manager and allows for 48 hours notice if the equipment is to be present.

Rule Draft for Public Comments

This legislation, CS/CS/SB 50 regarding public meetings became effective on October 1, 2013. A draft rule provided requires that the board determine the number of minutes that the public may speak on an issue and the number of persons in a group that represents an issue.

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

Motion: by Dr. Gesek to determine the number of minutes as 3-5 and the persons in a group that is represented as 5

Second: by Dr. Kochenour

Vote: Unanimous.

Motion: by Dr. Gesek that this would not impact small businesses, no statement of estimated revenue needed.

Second: by Dr. Kochenour

Vote: unanimous

Chapter 2013-227 re Public Comments

Proposed rule provided in board agenda with proposal of 3 minutes and 5 or more persons.

Rule Change Proposal – 64B5-13.0046, FAC, Citation Authority

It is requested by the Department that standard language be used in the prescribing practice acts. This citation will address pharmacy and dispensing practitioner's failure to report the dispensing of controlled substances to the PDMP –Prescription Drug Monitoring Program.

Draft:

Failure to report to the electronic prescription drug monitoring program the dispensing of a controlled substance, as required by Section 893.055(3), F.S. and Rule 64K-1.004(1), F.A.C., a fine of \$250.00 and submit all required reports within 30 days.

Mr. Flynn reported that the Department would like to withdraw this draft and resubmit at a later date. Ms. Foster advised that the Department would like to send letters to licensees as an advisory. Ms. Foster stated that licensees may issue a one-time 72 hour re-supply.

Executive Director

Budget Reports

Information was provided concerning the Board of Dentistry and Dental Hygiene expenditures by function and cash balance reports for period of 12 months ending June 30, 2013. Renewal postcards were mailed to dentists, dental hygienists and dental laboratories. Ms. Foster advised that licensees are encouraged to add their continuing education credits into CE Broker at www.cebroker.com. A free, basic account is available to everyone.

Ms. Foster informed the board members of the Department's Healthiest Weight initiative. Ms. Foster asked if anyone would like to volunteer to serve as the board's liaison. Dr. Stevens and Ms. Cabanzon volunteered to represent the Board of Dentistry.

Ratification of Lists

Motion: by Dr. Winker to approve the list

Second: by Dr. Perdomo

Vote: unanimous

Chairman

Dr. Gesek thanked the board for allowing him to serve as chair for the past year.

Dr. Gesek and Dr. Winker attended the AADB meeting in New Orleans recently. Dr. Gesek encouraged board members to attend, as well as board counsel and executive director.

Motion: by Dr. Gesek to send counsel and staff to the meetings, funded by the Department

Second: by Dr. Winker

Vote: unanimous

Dr. Gesek updated the board regarding the North Carolina Supreme Court issue. Dr. Gesek stated the NC board needs the support of other state boards. Mr. Flynn discussed the North Carolina issue, explaining the amicus brief- friend of the court.

Following discussion, the board took the following action:

Motion: by Dr. Thomas as a board to support the North Carolina Board and possibly send a letter to that effect

Second: by Dr. Winker

Vote: unanimous

Vice-Chairman

Dr. Perdomo thanked Dr. Gesek for the great job of chairing the board. Dr. Perdomo recognized all of the students from UF and Santa Fe.

Board Members

Dr. Winker reported the following from the AADB meeting: Dr. Eva Ackley, former board chair, is upcoming president of AADB; the next meeting will be in mid-March and Dr. Winker encouraged members to attend; Dr. Winker advised the board of a few issues discussed - a case in Oregon where a dentist was updating his records from home, however, he hadn't completed the procedures; patients contacting dentists electronically asking for an opinion on their concern or problem; the patient hasn't been seen at this point and this would constitute diagnosis if the dentist responded.

Dr. Winker reported the following from the ADEX meeting: Board of Dentistry representatives Dr. Winker, Dr. Kochenour and former board members, Ms. Irene Stavros and Ms. Vicki Campbell, attended the ADEX meeting earlier in November. Southern Regional Testing Agency now accept the ADEX exam, 44 states accept the ADEX.

Dr. Kochenour stated how important it is that everyone give back through access to care. The Mission for Mercy will be held in Tampa next year and he asked if second year dental hygiene students could participate by performing prophys under direct supervision. Dr. Gesek stated that he believed student participation would come through the auspices of the school or program.

Ms. Jackie McDonough advised she thought CODA standards for supervision were 5 or 6 to 1; Ms. Cabanzon also stated that Palm Beach students and instructors have participated. Dr. Boyd Robinson stated UF and FDA are working together to allow dental students to volunteer; 143 students are already signed up for the event.

Rule Draft 64B5-12.013, FAC, Continuing Education Requirements

The Board reviewed the rule draft regarding dentists and dental hygienists requirement to take a 2 hour laws and rules course each biennium beginning March 1, 2014. Following review of this draft, the following action was taken by the Board:

Mr. Don Illka, Florida Dental Association, stated the FDA could provide services to the board to publicize rule changes, offer CE, etc.

Motion: by Dr. Gesek to send the request to the Council on Dental Hygiene and Rules Committee for further discussion

Second: by Dr. Thomas

Vote: unanimous

TOPIC DISCUSSION

Diagnostic Skills Examination (Computer Based Testing) as it relates to ADEX taken in another jurisdiction other than Florida

Ms. Foster advised that the Diagnostic Skills Examination (DSE) is a computer based examination administered by Prometric in hundreds of testing centers across the United States. She asked if the board could put on record that applicants may take this CBT exam anywhere in the US and not be subject to additional requirements as long as the clinical portion is completed in Florida.

Motion: by Dr. Thomas to allow candidates to sit for the DSE in other jurisdictions

Second: by Dr. Winker

Vote: unanimous

FOR YOUR INFORMATION

Letter from North East Regional Board re Score Reporting

Joint Staff Report on the Corporate Practice of Dentistry

Count of Licensees with Violations Found, January 2003-December 2012

Count of Violations Found, January 2009-December 2012

Ms. Rodgers, Assistant General Counsel, Prosecution Services, included a report of disciplinary cases for members in the file folder.

153 complaints under review by prosecutor

101 complaints drafted for probable cause

22 complaints with finding of probable cause

43 complaints with supplemental requests

47 litigation requests

4 cases at DOAH

20 cases awaiting final action

2 cases on appeal

DISCIPLINARY PROCEEDINGS

Kevin Garrett Brooks, DMD; Case No 2012-15248, Settlement

Request for continuance

A continuance was granted in this case.

Bryan I. Gerstenberg, DDS; Case Nos. 2010-12435; 2010-16380; 2010-17715; 2010-22542, Settlement

Dr. Thomas is recused due to his participation on the probable cause panel.

Dr. Gerstenberg was present and was represented by Ed Bayo, Esq. Four administrative complaints filed May 2, 2011, December 14, 2011, and May 8, 2012, allege violations of s. 466.028(1)(z), F.S. of delegating professional responsibilities to a person who is not qualified by training, experience or licensure; s. 466.028(1)(ll), F.S. for failure to register as a dispensing practitioner; s. 466.028(1)(m), F.S. for failure to keep written dental records and medical history records justifying the course of treatment involving several patients, failure to chart gingivectomy procedures, type of anesthetic used, no comprehensive periodontal exam; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to perform comprehensive periodontal examinations, use rubber dam during root canal therapy; s. 466.028(1)(t), F.S. of committing fraud, deceit or misconduct in the practice by upcoding the billing records or billing for procedures not performed,

Probable Cause Panel recommendations:

2010-12435

Reprimand, appearance before board, \$5,000 fine, cost, ethics course from an accredited college of dentistry, six month suspension – three months stayed, one year monitoring, successfully complete laws and rules examination within sixty days and one biennium C.E. audit.

2010-16380

Reprimand, appearance before board, \$1,500 fine, cost, ethics course from an accredited college of dentistry, successfully complete laws and rules examination within one year and one biennium C.E. audit.

2010-17715

Reprimand, appearance before board, \$90,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, 6 months immediate suspension to remain in effect until he enrolls in the two year comprehensive program, one year monitoring once he gets back to practicing, successfully complete laws and rules examination within one year and one biennium C.E. audit

2010-22542

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 periodontics, minimum of level one in record keeping and 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: reprimand, fine of \$40,000 payable within 24 months, costs not to exceed \$15,500 payable within 24 months; refund to patients as identified in the settlement agreement; suspension of license for 2 years – stayed upon respondent's enrollment in the two year Comprehensive Course; the Comprehensive Course must be completed at or through

an accredited college of dentistry by the end of 2015 and must include, at a minimum, Level II Diagnosis and Treatment Planning, Level II Periodontics, Level II in Oral Surgery, Level II in Restorative Dentistry and Level II in Record Keeping. Respondent shall also complete 6 hours in ethics to be taken in person through an accredited dental college within 12 months; continuing education audit for the next biennium, 2 years probation after suspension is stayed and the board has approved a qualified monitor, practice will be under indirect supervision of the monitor. Monitoring shall include review of billing and/or patient ledger records and reports to the Board. Respondent must successfully complete the laws and rules exam within 12 months and complete 150 hours of non-dental community service within 24 months.

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

Motion: by Dr. Kochenour to reject the settlement agreement
Second by Dr. Perdomo
Vote: motion passes with Dr. Winker opposed

Motion: by Dr. Gesek to offer a counter-settlement agreement with the same terms and increase the fine to \$50,000.
Second: by Dr. Stevens
Vote: unanimous

Mr. Bayo accepted the counter-settlement agreement.

Mr. Bayo asked that the minutes reflect that serving as a monitor is not viewed negatively by the Board, but rather is an honor to assist in the remediation of a licensee. Dr. Gesek asked that this be placed in a future newsletter to inform licensees of the board's position.

David A. Rogers, DMD; Case No. 2012-08017, Settlement

No board members are recused due to participation on the probable cause panel.

Dr. Rogers was present and was represented by Alexander Macgregor, Esq. An administrative complaint filed February 8, 2013 alleged a violation of s. 466.028(1)(x) of failure to meet minimum standards of diagnosis and treatment involving crown and bridge restoration.

Probable Cause Recommendation for 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 two in diagnoses and treatment planning, minimum of level two in crown and bridge, minimum of level two in periodontics, 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: appearance before the board, letter of concern, fine of \$3500, payable within one year, costs of \$3187.77, payable within one year, completion of the following within 12 months: Level I in Periodontology, Level II in Crown and Bridge/Prosthodontics, Level I in Diagnosis and Treatment Planning, successful completion of laws and rules exam within 1 year.

A refund to the patient and insurance company has been accomplished, as well as reimbursement to patient for corrective treatment.

Following review of the x-rays and discussion, the following action was taken by the board:

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

Jose Alberto, DDS; Case No. 2011-15481, Settlement

Dr. Thomas is recused due to his participation on the probable cause panel.

Dr. Alberto was present and was represented by Edwin Bayo, Esq. An administrative complaint filed April 25, 2013 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards involving implants, nerve injury settlement indemnity of \$117,500.

Probable Cause Recommendation for Penalty

Reprimand, appearance before board, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, successfully complete laws and rules examination within one year and one biennium C.E. audit, a one year restriction from performing implants pending completion of CE one-year continuum (Nova or UF) in implants, followed by one year of supervision in placing implants one year suspension on implant placement while he completes a one year course.

A settlement agreement was presented to the Board with the following terms: letter of concern, restriction to treatment not involving dental implants until respondent has completed the continuing education requirements; costs of \$2826.12 payable within 12 months; within 2 years, respondent must complete a one year continuum course in implant dentistry, as offered by Nova SE University of the University of Florida; after completion of the one year continuum, his implant practice must be supervised for one year; should respondent be unable to demonstrate the recommended level of competency by failing to achieve competency within the assigned level, respondent will be restricted from performing those dental procedures until remediation is completed, completion of laws and rules exam within one year.

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

Motion: by Dr. Gesek to reject the settlement
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Gesek to add a \$5000 fine, Level 1 in recordkeeping, and 3 hour ethics course to the current settlement agreement

Motion dies for lack of second

Motion: by Dr. Gesek to add a \$5000, Level 1 in Recordkeeping, Level 1 in Risk Management and 3 hour college level ethics course to the current settlement agreement

Second: by Dr. Perdomo
Vote: unanimous

Mr. Bayo accepted the counter-settlement agreement.

Timothy James Morris, DDS, Case No. 2010-20479, Settlement

No board members are recused due to participation on the probable cause panel.

Dr. Morris was present and was represented by Stuart Cohen, Esquire. An amended administrative complaint filed March 13, 2013 alleged violations of s. 466.028(1)(x), F.S. of

failure to meet minimum standards involving dental diagnosis and treatment that resulted in a claim of negligent conduct and settlement of claim for \$60,000.

Probable Cause Recommendation for Penalty

Reprimand, appearance before board, \$10,000 fine, cost, reimbursement to 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 diagnosis and treatment planning and minimum of level two in crown and bridge, successfully complete laws and rules examination within one year and one biennium C.E. audit.

A settlement agreement was presented to the Board with the following terms: reprimand, \$5,000 fine and costs of \$7,183, payable within 12 months of entry of final order; completion of remedial education at or through an accredited college of dentistry or Board approved course provider within 12 months: Level II in Crown and Bridge, Level II in Diagnosis and Treatment, Level I in Records, completion of laws and rules exam. Should respondent be unable to perform to competency by failing to achieve competency in the assigned levels, respondent is restricted from performing the dental procedures subject to competency achievement until remediation is completed. No patient refund is included in the settlement because the patient has received compensation through the closed civil claim for cost and damages.

Following discussion and review of the x-rays, the following action was taken by the Board:

Motion: by Dr. Thomas to accept the settlement agreement
Motion dies

Motion: by Dr. Gesek to reject the settlement agreement
Second: by Dr. Kochenour
Vote: motion passes with Dr. Thomas opposed

Motion: by Dr. Gesek to offer a counter settlement agreement to include \$5,000 fine and \$7,183 costs within 12 months of entry of final order, letter of concern, restricted from performing orthodontic treatment until the following continuing education is completed: Level 1 in Prosthetics, Level 1 in Diagnosis and Treatment Planning, Level 1 (3 hours) in Recordkeeping, Level 1 in Orthodontics, successful completion of the laws and rules course.

Second: by Dr. Winker
Vote: motion passes with Dr. Thomas and Ms. Sissine opposed

**Michael Addair Tarver, D.M.D., Case Nos. 2013-09493 & 2013-12498, Settlement
Dr. Perdomo is recused due to his participation on the probable cause panel.**

Dr. Tarver was present and was represented by Ed Bayo, Esq. A three count administrative complaint filed September 25, 2013 alleged a violation of s. 466.028(1)(l) of making deceptive, untrue, or fraudulent representations related to the practice of dentistry when he retroactively altered medical records without properly identifying them as late entries, a second violation of s. 466.028(1)(l) by failing to keep written dental records justifying the course of treatment of patients and a violation of s. 466.028(1)(mm) by improperly interfering with an investigation or inspection authorized by statute. The (mm) count was dismissed by petitioner in the settlement agreement.

A settlement agreement was presented to the Board with the following terms: appearance before the board, reprimand, fine of \$15,000, payable within 30 days, actual costs through the

entry of the final order, payable within 30 days, completion of the following continuing education at or through an accredited university within 12 months: 3 hour Ethics course geared toward developing a comprehensive understanding of the legal and ethical obligations and responsibilities of dental professionals in the state of Florida and a 3 hour dental record keeping course. Respondent's records shall be reviewed at regular intervals for a period of one year by a Florida licensed dentist, monitor to be approved by board with monitoring conditions; monitor shall appear with respondent at last meeting before record review concludes respondent shall prepare an article of publishable quality that shall be at least 2500 words in length.

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

Motion: by Dr. Thomas to accept the settlement agreement with the removal of the requirement of preparation of an article of publishable quality

Second: by Dr. Winker

Dr. Thomas withdrew his motion

Motion: by Dr. Thomas to dismiss the case

Second: by Dr. Britten

Vote: motion fails with 8 opposed

Motion: by Dr. Gesek to reject the settlement

Second: by Dr. Stevens

Vote: motion passes with 3 opposed

Motion: by Dr. Gesek to offer a counter-settlement agreement delete requirement of preparation of an article of publishable quality, include previous terms of the settlement agreement with the additional of a level 1 course in risk management, reduce fine to \$7500 and impose costs of \$17,505.90

Second: by Dr. Kochenour

Vote: motion passes with 3 opposed

Mr. Bayo accepted the counter offer.

Mr. Bayo waived the right to seek attorney fees from the board.

Vincent Dolce, D.M.D., Case No. 2011-01904, Settlement

No board members are recused due to participation on the probable cause panel.

Dr. Dolce was present and was represented by Ed Bayo, Esq. An administrative complaint filed February 20, 2013 alleged a violation of s. 466.028(1)(x) of failure to meet minimum standards of performance by failing to perform comprehensive exam, providing insufficient periodontal care, over-preparation of veneers and negligence, causing patient to undergo corrective periodontal surgery and re-doing the veneers; a second violation of s. 466.028(1)(x) by virtue of the settlement in a civil case in excess of \$25,000.00; s. 466.028(1)(m) for failing to keep written dental records justifying the course of treatment by failing to adequately document presenting conditions, failing to adequately document details about caries or other dental pathology, failing to present comprehensive treatment plan to patient, failing to adequately document anything regarding the fabrication of a night guard, failing to document that the cleaning was ever performed on patient.

Probable Cause Recommendation for Penalty

Reprimand, appearance before board, \$15,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, one year comprehensive course with separate veneer course, plus twelve hours in dental anatomy, 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: appearance before the board, reprimand, fine of \$10,000, payable within one year, costs capped at \$ 2500 payable within one year, completion of the following continuing education within 6 months, at or through an accredited college of dentistry – 3-6 hours in Record Keeping, 12 hours in dental anatomy lab; a veneer course; refund to patient; successful completion of laws and rules exam within 12 months.

Following discussion and review of the x-rays, the following action was taken by the board:

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

Martin D. Baloff, DDS; Case No. 2012-16720, Waiver

Dr. Thomas is recused due to his participation on the probable cause panel.

Dr. Baloff was not present and was represented by Veronica Bayo. An administrative complaint filed on April 24, 2013 alleged a violation of s. 466.028(1)(aa) for failing to comply with a final order requirement to place his license in retirement status. His license is now in retirement status.

Probable Cause Recommendation for Penalty
Revocation

A Motion for Determination of Waiver and for Final Order was presented to the Board.

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

Motion: by Dr. Gesek to dismiss this case as license is now in retirement status.
Second: by Dr. Kochenour
Vote: unanimous

Keith Young, DDS; Case No. 2011-08790, Waiver

Dr. Stevens is recused due to her participation on the probable cause panel.

Dr. Young was not present and was not represented by counsel. A two count administrative complaint filed on August 27, 2013 alleged violations of s. 466.028(1)(mm) by failing to provide notification to patients when he relocated his practice and failing to notify the Board within 10 days of a change in his address of record and s. 466.028(1)(t) by accepting full payment for two crown restorations and failing to either properly seat permanent crowns or refund a portion of the payment.

Probable Cause Recommendation for Penalty
Reprimand, appearance before board, \$10,000 fine, minimum of level two in Ethics.

A Motion for Determination of Waiver and for Final Order was presented to the Board.

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

Motion: by Dr. Gesek to find that respondent was properly served
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Gesek to find that respondent failed to respond and therefore has waived right to a hearing
Second: by Dr. Winker
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. Kochenour that findings of fact support the violation of the Practice Act as charged in the administrative complaint
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Kochenour to find the respondent in violation of Florida Statutes as charged in the administrative complaint
Second: by Ms. Cabanzon
Vote: unanimous

Motion: by Dr. Kochenour 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. Winker
Vote: unanimous

Motion: by Dr. Gesek to suspend the dental license for one year with active suspension for 6 months or until compliant with the final order, reprimand, appearance before board, \$5,000 fine, minimum of four hours in ethics geared toward developing a comprehensive understanding of legal and ethical obligations and responsibilities of dental professionals, pass the laws and rules exam within one year
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Gesek to assess costs in the amount of \$2345.19.
Second: by Dr. Kochenour
Vote: unanimous

Richard I. Lipman, DDS; Case No. 2012-17556, Waiver
No board members are recused due to participation on the probable cause panel.
A continuance was granted in this case.

Cynthia Malvita, D.R., Case No. 2011-08685, Voluntary Relinquishment
No board members are recused due to participation on the probable cause panel.
Ms. Malvita was not present and was not represented by counsel. An administrative complaint filed on May 8, 2012 alleged a violation of s.466.0285, F.S. by owning and/or being part owner of a dental corporation and/or dental clinic.

Probable Cause Recommendation for Penalty
Revocation of Dental Radiographer Certificate

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

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

**Gisleda Annette Ramos, DDS, Case No. 2010-16077, Waiver
Dr. Thomas is recused due to his participation on the probable cause panel.**

A continuance was granted in this case.

**Julie Ann Yap, RDH, 2012-16485, Informal Hearing
No board members are recused due to participation on the probable cause panel.**

Ms. Yap was not present and was not represented. The board took the following action:

Motion: by Dr. Gesek to continue this to next meeting as Ms. Yap was not present
Second: by Dr. Thomas
Vote: unanimous

Michael G. Hammonds, DDS, Case No. 2012-14636, Informal Hearing

A continuance was granted in this case.

Miranda Whyllly Smith, DDS, Case No. 2011-15616, Recommended Order

A continuance was granted in this case.

**Melvin J. Hellinger, DDS; Case No 2012-15233, Voluntary Relinquishment
Dr. Stevens is recused due to her participation on the probable cause panel.**

Dr. Hellinger was not present however he was represented by George Indest, Esq. An administrative complaint filed on August 22, 2013 alleged violations of s. 466.028(1)(x), F.S. by failing to determine the nature and circumstances of the diseased condition present at patient's tooth number 19.

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 Diagnosis and Treatment, minimum of level two in Endodontics, minimum of level two in Risk Management, minimum of level two in Ethics (or at least seven hours), successfully complete laws and rules examination within one year and one biennium C.E. audit.

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

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

PETITIONS

Request for Declaratory Statement

Chris P. Farrugia, DDS

Dr. Farrugia withdrew his petition.

Petition for Variance or Waiver

Nancy Montgomery, DDS, Applicant for Conscious Sedation Permit

Dr. Montgomery was present and requested a continuance.

Petition for Variance or Waiver

Kimberly M. Artis, RDH, Applicant for Dental Hygiene Licensure

Ms. Artis was not present and was not represented by counsel. Ms. Artis completed the ADEX dental hygiene examination in April, 2010 and is requesting a variance or waiver to board rule 64B5-2.0135, FAC, which requires applicants to pass the written examination within 18 months of successfully completing the clinical examination. Ms. Artis is licensed in Illinois and Virginia.

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

Motion: by Dr. Gesek to deny the petition

Second: by Dr. Winker

Vote: unanimous

Petition for Variance or Waiver

Barbara Mazurkiewicz, RDH, Applicant for Dental Hygiene Licensure

Ms. Mazurkiewicz was present and was not represented by counsel. Ms. Mazurkiewicz completed the NERB dental hygiene examination in 1983 and is requesting a variance or waiver to board rule 64B5-2.0135(3)(d), FAC, which requires applicants to pass the written examination within 18 months of successfully completing the clinical examination. Ms. Mazurkiewicz is licensed in the state of New York.

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

Motion: by Dr. Thomas to deny the petition

Second: by Dr. Gesek

Vote: unanimous

Sara Noel Willis, DH, BS, Applicant for Dental Hygiene Licensure

Ms. Willis was present and was not represented by counsel. She is requesting a waiver of rule 64B5-2.0135(3)(d), F.A.C. She has taken and passed all components of the ADEX in 2011. She is employed as adjunct faculty with Sanford-Brown Institute in Jacksonville and teaches the didactic courses. She holds a valid license in Indiana.

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

Motion: by Dr. Thomas to approve the petition for variance or waiver with 6 months to pass the laws and rules exam

Second: by Dr. Perdomo

Vote: unanimous

APPLICATION REVIEW/OTHER REQUESTS

Angela S. Yale, RDH, Applicant for Dental Hygiene Licensure

Ms. Yale requested that she be granted a continuance to the next board meeting.

B. Ivan Negrón, DMD, Applicant for Conscious Sedation Permit

Dr. Negrón was present and was not represented by counsel. Dr. Negrón's application was referred for board review by Dr. Gesek due to concern over possible overlap in some of the cases. Dr. Negrón completed a conscious sedation course at Ostrow School of Dentistry at USC.

Following discussion, the board took the following action:

Motion: by Dr. Stevens to approve the application

Second: by Dr. Perdomo

Vote: motion passes with Dr. Thomas opposed

Adam Bressler, DDS, Applicant for Conscious Sedation Permit

Dr. Bressler was present and was not represented by counsel. Dr. Bressler's application was referred for board review by Dr. Gesek due to concern over possible overlap in some of the cases. Dr. Bressler completed a conscious sedation course at Georgia Regents University. After being notified of the concerns, Dr. Bressler returned to the university and completed additional cases.

Following discussion, the board took the following action:

Motion: by Dr. Thomas to approve the application

Second: by Dr. Perdomo

Vote: unanimous

Luis Alicea, Applicant for Conscious Sedation Permit

Dr. Alicea was not present and was not represented by counsel. Dr. Alicea's application was referred for board review by Dr. Gesek due to concern over possible overlap in some of the cases. Dr. Alicea completed a conscious sedation course at University of Alabama at Birmingham.

Following discussion, the board took the following action:

Motion: by Dr. Thomas to deny.

Motion: by require Dr. Alicea to appear at one of the next two meetings.

Second: by Dr. Perdomo

Vote: unanimous

Motion: by Dr. Thomas to vacate previous denial

Second: by Dr. Perdomo

Vote: unanimous

Tim Riesz, DMD Applicant for Conscious Sedation Permit

Dr. Riesz was present and was not represented by counsel. Dr. Riesz's application was referred for board review by Dr. Gesek due to concern over possible overlap in some of the cases. Dr. Riesz completed a conscious sedation course at Georgia Regents University.

Following discussion, the board took the following action:

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

Rebecca Tarver, DMD, Applicant for Conscious Sedation Permit

Dr. Tarver was present and was not represented by counsel. Dr. Tarver's application was referred for board review by Dr. Gesek due to concern over possible overlap in some of the cases. Dr. Tarver completed a conscious sedation course at Georgia Regents University.

Following discussion, Dr. Tarver withdrew her application.

Kamrooz Korori, DDS, Applicant for Dental Licensure

Dr. Korori was present and was not represented by counsel. Dr. Korori provided information regarding a malpractice settlement and this is being referred for board review.

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

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

Samuel Rosenfeld, D.D.S. Applicant for dental licensure

Dr. Rosenfeld was present and was not represented by counsel. His application is before the Board due to an affirmative response on the patient history section of the application.

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

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

Jaisri R. Thoppay, BDS, Application for Credentials Review for Graduates of Non-Accredited Dental Colleges or Schools

Dr. Thoppay requested a continuance until the May 2014 meeting due to scheduling concerns.

OLD BUSINESS

None

NEW BUSINESS

Election of Officers

Motion: by Ms. Cabanzon to nominate Dr. Thomas as Chair
Second: by Dr. Perdomo

Motion: by Dr. Stevens to nominate Dr. Winker as Chair
Second: by Dr. Kochenour
Vote: Dr. Thomas – 6, Dr. Winker – 5

Motion: by Dr. Thomas to nominate Dr. Perdomo as Vice-Chair
Second: by Ms. Cabanzon
Vote: unanimous

XI. ADJOURNMENT

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