

**BOARD OF DENTISTRY  
GENERAL BUSINESS MEETING  
HYATT REGENCY JACKSONVILLE  
225 EAST COASTLINE DRIVE  
JACKSONVILLE, FL 32202  
(904) 588-1234  
MAY 16, 2014, 7:30 A.M.**

**CALL TO ORDER/ROLL CALL**

The meeting was called to order by Dr. Thomas, Chair. Those present for all or part of the meeting included the following:

**Members present:**

Joe Thomas, D.D.S., Chair  
Robert Perdomo, D.M.D., Vice-Chair  
Wade Winker, D.D.S.,  
William Kochenour, D.D.S.  
Dan Gesek, D.M.D.  
Catherine Cabnzon, R.D.H., B.A.S.D.H.  
Leonard Britten, D.D.S.  
Anthony Martini  
Angela Sissine, R.D.H.  
T. J. Tejera, D.M.D., M.D.

**Member absent:**

Tim Pyle – excused

**Staff present:**

David Flynn, Board Counsel  
Sue Foster, Executive Director  
Cindy Ritter, Program Administrator  
Candace Rochester, Esq. PSU  
Sharmin Hibbert, Section Manager, PSU  
Bridget McDonnell, Asst. General Counsel,  
PSU  
Jack Wise, Asst. General Counsel, PSU  
Statewide Reporting, Beth Masters, 904-353-  
7706

Dr. Thomas welcomed Dr. Tejera to the Board and recognized Dr. Carol Stevens for her exemplary service to the Board. Dr. Tejera practices as an oral and maxillofacial surgeon in Fort Myers, FL.

**WEB VIEWER TRAINING**

Mr. Charlie Buck and Mr. Shrinit Chavan from Image API of Tallahassee, and Matt Bridges, DOH were present to demonstrate the new technology for reviewing board agendas. Some of the features are that board members will be notified by email when the agenda is available and the materials can be accessed without a special program for viewing. Staff will be able to add information up to the time of the board meeting, eliminating the need for a paper supplemental addendum agenda. Radiographs can also be scanned into the agendas and members may use their own ipads, laptops, etc. to review the agenda at this secure web address. It is anticipated that this will be available in late summer 2014.

**REVIEW OF MINUTES**

**February 21, 2014 General Business Meeting**

The minutes of the February 21, 2104 meeting were reviewed and following review, the following action was taken by the Board:

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

## **REPORTS**

### **Dental Records Telephone Conference Call (May 13, 2014)**

Dr. Winker, Committee Chair reported on the draft rule discussed at the meeting. A draft of this rule and minutes from the conference call were provided in file folders and were reviewed by the Board. The draft will be voted on during the rules committee report.

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

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

Dr. Thomas thanked Dr. Winker and the members of the task force for their hard work. By vote of the board, the dental records task force was dissolved.

### **Rules Committee Telephone Conference Call (May 13, 2014)**

Dr. Perdomo, Committee Chair reported on draft rule discussed at the meeting. Draft minutes, in file folders, were reviewed by the Board. Dr. Perdomo requested that Board counsel review these rules with the Board.

Board Counsel advised the board that draft rule 64B5-17.002, F.A.C. was reviewed by the Dental Records Task Force on October 22, 2013, January 16, 2014 and May 13, 2014. There was substantial discussion and participation by committee and board members as well as the public on the telephone conference calls. The major cost issue was stricken from the draft and there were no additional economic impact with the changes. The draft was also reviewed and changes approved by the Rules Committee on May 13, 2014.

Motion: by Dr. Gesek to approve the rule draft as presented  
Second: by Ms. Cabanzon  
Vote: unanimous

Motion: by Dr. Gesek that that a statement of estimated regulatory costs (SERC) is not necessary as there is not an impact of over \$200,000 in the aggregate and there is no economic impact on small businesses

Second: by Dr. Winker  
Vote: unanimous

Motion: by Dr. Gesek to incorporate all previous discussions as the basis for determining a SERC is not required

Second: by Dr. Kochenour  
Vote: unanimous

Board counsel asked the board to review the rule draft for 64B5-2.0146, FAC. that was proposed by the Rules Committee. The board also requested this draft as well as a draft for rule 64B5-2.021 be moved to the Rules Committee. Following review, the following action was taken by the Board:

Motion: by Dr. Gesek to move the drafts of 64B5-2.0146 and 64B5-2.021, F.A.C. to the Rules Committee for discussion  
Second: by Dr. Winker  
Vote: unanimous

**Board Counsel**  
**Rules Report**

Mr. Flynn stated that there was not a Rules Report at this time; board counsel is current with all rules reviewed by the Board.

**Executive Director**  
**Budget Reports**

Budget reports were provided for the members' review.

**Ratification of Lists**

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

**Chair**

No report

**Vice-Chair**

No report

**Board Members**

No report

**TOPIC DISCUSSION**

**Consumer Concern**

Dr. Hall sent a letter regarding an individual's right to refuse x-rays when requesting teeth cleaning appointment.

Dr. Thomas advised it is a licensee's individual responsibility to set standards for x-rays.

Jackie Burt –McDonough stated that dental hygiene programs are now requiring students to take x-rays of only the existing teeth although a full mouth set was requested. She asked for guidelines from board members as to what the board considers acceptable. Board members stated that the ADA guidelines would contain the best practices to maintain the minimum acceptable standard of practice. There should be individualization according to each patient's needs and the dentist needs to effectively communicate the need for radiographs to the patient.

Board staff will draft a letter with the assistance of board counsel to answer patient concerns.

**Draft Letter from Ms. Jane Icely, Senior Friendship Centers, Inc.**

M. Jane Icely, Friendship Center officer, is requesting permission to serve patients who are 300% of federal poverty level since many patients cannot qualify for dental care and cannot afford treatment.

The Board reviewed the letter and declined to take action as this is not a Board issue.

### **Request for Clarification of Required CPR Courses**

Board staff receive many requests by licensees requesting interpretation of Rule 64B5-12.020, F.A.C. Many licensees are completing on-line Basic Life Support courses to meet the rule requirements. In response to phone calls and review of CPR cards submitted to the board office, staff advise licensees that per board discussion at a previous meeting, although the course may have an online didactic portion, the courses must have a "hands-on" skills test to be acceptable. Staff request that the board consider revising the rule to clarify whether or not online courses are acceptable. Dr. Winker stated that if online CPR courses are approved by the American Heart Association and the American Red Cross, then the courses would be acceptable. The board members discussed the intent of the rule, last amended in 2005, was "in person" as online courses were not developed at that time.

Motion: by Dr. Gesek to move the rule to the Anesthesia and then Rules Committees  
Second: by Dr. Winker  
Vote: unanimous

### **Correspondence – Authorization to Use Injectable Local Anesthesia**

Dr. Ellis Hall, Northeast Regional Board, Director Examinations, is asking if the Board wishes to allow dental hygiene candidates to administer injectable local anesthetics during the examinations in Florida.

Dr. Gesek stated he felt if the candidate has been properly trained it would be acceptable for them to use local anesthesia during the examination. Dr. Thomas stated that in some cases, candidates may be licensed in another states and have been administering local anesthesia for years. These candidates must meet the same requirements as students taking courses that meet current statutory requirements.

Motion: by Dr. Gesek to support the use of local anesthesia by dental hygiene candidates if trained and under the guidance of the licensing body that administers the exam.  
Second: by Dr. Kochenour  
Vote: unanimous

### **FOR YOUR INFORMATION**

#### **States Consider Creation of Mid-Level Dental Provider**

##### **Renewal Reports**

- **Dentist – 13,110 renewals mailed, 11,672 renewed. (756 delinquent)**
- **Dental Hygienist – 13,801 renewals mailed; 11,899 renewed (1,019 delinquent)**
- **Dental Laboratory – 1103 renewals mailed; 733 renewed; (329 delinquent)**
- **Health Access Dental- 55 renewals mailed; 32 renewed**

#### **ADEX 9<sup>th</sup> Annual meeting and 2012-2013 ADEX Annual Report**

A draft of the proceedings of the ADEX House of Representatives Meeting held on November 10, 2013 as well as the 2012-2013 ADEX Annual Report was provided to ADEX member states.

#### **Bills Passed by 2014 Legislature**

##### **HB 97 – An Act Relating to Access to Health Care for the Underserved**

This bill would amend s. 766.1115, F.S., to allow a patient, or a parent or guardian of the patient to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided to the patient through the Volunteer Health Care Provider program.

This bill would also amend s. 466.00673, F.S., to extend the repeal of the statute relating to health access dental licenses from 2015 to 2020.

### **SB 520 – An Act Relating to Public Records**

This bill adds a section to Chapter 466, F.S. which provides confidentiality of certain information contained in the dental workforce surveys. The language identifies the conditions that would require release of the information.

### **Annual Renewal of Delegations**

The annual renewal of delegations is a list of items delegated to the board executive director and board chair.

Motion: by Dr. Thomas to approve  
Second: by Dr. Perdomo  
Vote: unanimous

### **DISCIPLINARY PROCEEDINGS**

#### **Salvatore V. Melita, D.D.S, Case No 2013-14406, Settlement Agreement (PCP Britten)**

Dr. Melita was present and was not represented by counsel. An administrative complaint filed February 4, 2014 alleged violations of s. 466.028(1)(aa), F.S. of violation of lawful order of the Board of failure to pay fine of \$12,500 and costs of \$2,318.26. A six month extension to August 28, 2013 had been requested and granted by the Board:

Probable Cause Panel Recommendations: reprimand, costs, fine, ethics course, complete the laws and rules exam within 12 months, suspension until compliant with previous order.

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$2000 within 24 months; suspension until compliance with previous order stayed and extension granted for 5 years with monthly payments of \$210.00; laws and rules exam within 24 months.

(Costs of this case were \$1228.78 and have been waived. Other costs were discharged in bankruptcy.)

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

Motion: by Dr. Gesek to reject the settlement agreement and to strike paragraph 5 in the settlement agreement  
Second: by Dr. Kochenour  
Vote: Motion passed with Dr. Winker opposed

**Motion:** by Dr. Gesek to keep other portions of the settlement, remove \$2,000 fine and strike paragraph 5 in the settlement agreement  
**Second:** by Dr. Perdomo  
**Vote:** unanimous

Dr. Melita accepted the counter offer.

**Eugenio O. Cava, Jr. , D.D.S., Case No. 2012-01810, Settlement Agreement**  
**No board members are recused due to participation on the probable cause panel.**

Dr. Cava was present and was represented by Alexander McGregor, Esq. An administrative complaint filed February 18, 2013 alleged violations of s. 466.028(1) (x), F.S. of failure to meet minimum standards involving crown on tooth 11 and tooth 18 with open mesial margin; crown on tooth 18 came off and crown for tooth 11 was loose with decay below tooth.

**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 diagnoses and treatment planning, minimum of two in crown and bridge, 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, \$3750 fine, costs not to exceed \$2500 (actual costs were \$2127.75), 3 hour ethics course; Level I in diagnosis and treatment planning, level 1 in crown and bridge at accredited dental school, refund to patient, laws and rules exam within 24 months.

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

Motion: by Dr. Gesek to accept the settlement agreement  
Second: by Dr. Perdomo  
Vote: motion passes with Dr. Britten opposed

Counsel accepted electronic service of the final order.

**Khaja Moinuddin, D.D.S., Case No. 2012-09498, Settlement Agreement**  
**No board members are recused due to participation on the probable cause panel.**

Dr. Moinuddin was present and was represented by Alex Baker, Esq. An administrative complaint filed August 26, 2013 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards regarding surgical extraction of 24 teeth under local anesthesia and patient's admission to hospital with respiratory failure, shock. Blood study not performed.

**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 Diagnosis and Treatment, minimum of level two in Medically Compromised Patients, minimum of level two in Exodontia, minimum of level two in Removable Prosthodontics, minimum level two in Immunology, and ethics course, successfully complete laws and rules examination within one year and one biennium C.E. audit.

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$5500 payable within 6 months, costs not to exceed \$3300 (actual costs \$3189.47) payable within 6 months; level 1 in record keeping; exodontics level II 7 to 12 hours; diagnosis and treatment level II; level II in removable prosthodontics; treatment of medically complex patient level II; treatment of the immunologically compromised patient level II and ethics course; patient reimbursement, laws and rules exam within 12 months.

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

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

Motion: by Dr. Gesek to offer a counter settlement to include a letter of concern, \$10,000 fine, costs, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, Level One in Diagnosis and Treatment, Level One in the Treatment of Medically Compromised Patients, Level One in Oral Surgery to include Exodontia, Level One in Risk Management, 3 semester hour college level ethics course, successfully complete laws and rules examination within one year and one biennium C.E. audit.

Second: by Dr. Winker  
Vote: unanimous

The counter offer was accepted.

**Jimmy D. McDowell, D.D.S., Case No. 2012-13448, Settlement Agreement (PCP Britten)**

Dr. McDowell was present and was represented by Edwin Bayo, Esq. A two count administrative complaint filed February 3, 2014 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards by payment of an indemnity of \$80,000 and s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving veneers not correctly bonded needing replacement.

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 Crown and Bridge Placement, minimum of level two in Diagnosis and Treatment Planning, three hour 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 \$5000, costs of \$2866.40 within 6 months; level II in diagnosis and treatment planning, patient reimbursement through negligence suit.

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

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

**William M. Johnson, D.D.S., Case No. 2012-13359, Settlement Agreement (PCP Thomas)**

Dr. Johnson was present and was represented by Jon Pellet, Esq. An administrative complaint filed November 20, 2013 alleged violations of s. 466.028(1)(c), F.S. of entering a plea of guilty to a crime in any jurisdiction which relates to the practice of dentistry. Respondent entered a plea of guilty to Fraud Write Prescription Excess Quantity Controlled Substances on July 12, 2013. Dr. Johnson's dental license, DN 2340, was placed on retired status in March, 2014.

Probable Cause Panel Recommendation:

Initially revocation; Case was reconsidered and panel recommended the terms in this settlement.

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$500 payable within 6 months; costs of \$411.58 payable within 6 months; license to be placed on retirement status.

The Department has requested to amend the settlement agreement to state that the fines and costs would not be imposed until and unless licensee reactivates his license. It was noted that Dr. Johnson could not reapply until 2023 and he stated through his attorney that he would never seek reinstatement as he has retired.

Following discussion the following action was taken by the Board:

Motion: by Dr. Gesek to accept the settlement agreement with the amendment that the fines and costs would not be imposed until and unless licensee reactivates his license.  
Second: by Dr. Perdomo  
Vote: unanimous

The counter settlement agreement was accepted.

**Elizabeth F. Elia, D.D.S., Case No. 2011-14040, Settlement Agreement (PCP Gesek)**

Dr. Tejera recused himself.

Dr. Elia was present and was represented by Darlene Stosik, Esq. A two count administrative complaint filed December 10, 2012 alleged violations of s. 466.028(1)(m), F.S. of failing to keep written dental records and medical history records justifying the course of treatment and s. 466.028(1)(x), F.S. of failure to meet minimum standards in diagnosis and treatment involving crown defects, open margin, bridge delivered had open margin on distal side of crown number 3 when radiographs taken.

Probable cause panel recommendation:

Reprimand, appearance before board, \$17,500 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level two in oral pathology, minimum of level one in crown and bridge, minimum of level one in record keeping, minimum of level two in endodontics, minimum of level two in diagnoses and treatment planning and 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: appearance, letter of concern, fine of \$5000 payable within 6 months; costs of \$3900 payable within 12 months; crown and bridge level 1 (3 to 6 hours); endodontics level II (7 to 12 hours); diagnosis and treatment planning level II (7 to 12 hours); pass the laws and rules exam within 12 months; and patient reimbursement within 6 months.

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

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

**Marieve O. Rodriguez, D.M.D., Case No. 2012-03045, Settlement Agreement (PCP Gesek)**

Dr. Rodriguez was not present however she was represented by Elizabeth Perez, Esq. An administrative complaint filed December 10, 2012 alleged violations of s.466.028(1)(b), F.S. of having a license to practice revoked, suspended or otherwise acted against by the state of Delaware.



Respondent violated the Delaware code by falsifying reports to a public assistance program, Delaware Medicaid. Respondent pled guilty to 10 misdemeanor counts.

Probable cause panel recommendations: mirror the discipline imposed by Delaware and suspend license until all outstanding penalties imposed by Delaware board are completed; pay fine of \$10,000, costs. CE in risk management and ethics, take the laws and rules exam, records monitor if she accepts Medicaid.

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$5000 payable within 12 months; costs of \$2400 payable within 12 months; suspension to run concurrently with any terms of suspension or probation imposed by Delaware; ethics, risk management level 1, record keeping level 1, laws and rules exam within 12 months.

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

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

**Miranda W. Smith, D.D.S., Case No. 2011-12390, Recommended Order (PCP Gesek)**

Dr. Smith was present and was represented by John Terrel, Esq. A seven count administrative complaint filed December 10, 2012 alleged violations of s. 466.028(1)(z), F.S. of improper delegation, s. 466.028(1)(g), F.S. of aiding, assisting, procuring or advising any unlicensed person to practice dentistry or dental hygiene, s. 466.028(1)(ff), F.S. operating dental office below minimum standards, s.466.028(1)(f), F.S. deceptive representations; s. 466.028(1)(x), F.S. failure to meet minimum standards; s. 466.028(1)(gg), F.S. administering anesthesia in manner that violates rules, s. 466.028(1)(t) by committing fraud, deceit or misconduct in the practice of dentistry.

Probable Cause Panel Recommendation:

Reprimand, appearance before board, fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, revocation of licensure.

On November 13 – 15, 2013, an administrative hearing was held upon request of respondent. The administrative law judge recommended that the Board of Dentistry enter a final order finding the respondent guilty under counts I ( Improper delegation) and VI (Sedation) of the Administrative complaint; imposing a \$10,000 fine, suspending the license for 6 months, placing her on probation with appropriate conditions for six months after the suspension is lifted.

Respondent has filed exceptions to the Recommended Order that Board must grant or reject.

Exception 1 – Paragraph 8 ALJ's conclusion that there were only one set of dentures made for patient L.C.

Mr. Flynn advised that exhibit 2 was never entered into evidence.

Motion: by Dr. Thomas to grant the exception in part, allow first sentence and strike the others.  
Second: by Dr. Perdomo  
Vote: unanimous

Exception to paragraph 9 that Dr. Smith did adjust 3 sets of dentures from 2010 and that Dr. Smith took impressions for the third permanent set of dentures

Motion: by Dr. Thomas to grant the exception in part and deny part not entered into evidence  
Second: by Dr. Perdomo  
Vote: unanimous

Exception to paragraph 10 regarding lack of evidence to support the ALJ's conclusion that evidence is clear that LC's immediate dentures were intended to be permanent.

Motion: by Dr. Thomas to deny the exception in part and strike the last sentence with reference to Medicaid  
Second: by Dr. Perdomo  
Vote: unanimous

Exception to paragraph 11 that impressions taken by the EFDA's were permanent

Motion: by Dr. Thomas to deny the exception  
Second: by Dr. Kochenour  
Vote: unanimous

Exception to paragraph 12 allowing evidence and testimony of V.C., a complainant in another case

Motion: by Dr. Thomas to deny the exception  
Second: by Dr. Winker  
Vote: unanimous

Exception to paragraph 13

Motion: by Dr. Thomas to deny the exception and incorporate Department's response  
Second: by Dr. Winker  
Vote: unanimous

Exception to paragraph 14 allowing testimony on issue not charged

Motion: by Dr. Thomas to grant the exception  
Second: by Dr. Winker  
Vote: unanimous

Exception to paragraph 18 that Dr. Smith did not return to re-examine T.F. before leaving office

Motion: by Dr. Thomas to deny the exception  
Second: by Dr. Winker  
Vote: unanimous

Exception to paragraph 19 of fillings intended to be temporary became de facto permanent.

Motion: by Dr. Kochenour to deny the exception  
Second: by Ms. Cabanzon

Vote: unanimous

Exception to paragraph 20 regarding testimony of Ms. Plummadore

Motion: by Dr. Thomas to deny the exception  
Second: by Dr. Perdomo  
Vote: unanimous

Exception to paragraph 30 concerning behavior of patient on nitrous oxide/autism

Motion: by Dr. Perdomo to deny the exception  
Second: by Dr. Thomas  
Vote: unanimous

Exception to paragraph 32 concerning issues not in the A/C

Motion: by Dr. Thomas to grant the exception  
Second: by Dr. Winker  
Vote: unanimous

Motion: by Dr. Thomas to adopt the recommended findings of the ALJ with the changes noted by the Board  
Second: by Dr. Perdomo  
Vote: unanimous

Exception to paragraph 46 and 47 conclusions of law using 2013 version of Florida Statutes

Motion: by Dr. Thomas to allow board counsel to correct citations  
Second: by Dr. Kochenour  
Vote: unanimous

Exception to paragraph 51 of legal errors by the administrative law judge

Motion: by Dr. Winker to deny the exception based on evidence  
Second: by Dr. Kochenour  
Vote: unanimous

Exception to paragraph 57 that the administrative law judge reached conclusions based on hearsay evidence

Motion: by Dr. Kochenour to deny the exception  
Second: by Dr. Thomas  
Vote: unanimous

Exception to paragraph 59 of the administrative law judge's conclusion on aggravating and mitigating factors

Motion: by Dr. Perdomo to deny the exception  
Second: by Dr. Tejera

Vote: unanimous

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

Motion: by Dr. Kochenour to accept the conclusions of law in the recommended order  
Second: by Dr. Winker  
Vote: unanimous

Motion: by Dr. Thomas that the board find respondent in violation of s. 466.028(1)(z), and s. 466.028(1)(gg), F.S.  
Second: by Dr. Kochenour  
Vote: unanimous

Motion: by Dr. Thomas to accept \$10,000 fine, suspend for 30 days, 6 month probation with conditions of anesthesia course, college level ethics, laws and rules  
Motion failed for lack of second.

The Department recommended increasing the fine to \$20,000

Motion: by Dr. Thomas to impose a penalty of \$10,000 payable within 6 months after probation, 6 months suspension, followed by probation for 6 months, completion of the following during probation period - 6 hour one on one course at an accredited dental school, reviewing the laws and rules relative to anesthesia when a licensee does not hold a sedation permit, 3 semester hour college level ethics course, successfully complete the laws and rules exam  
Second: by Dr. Perdomo  
Vote: motion passes with Dr. Kochenour opposed

The Department filed a Motion to Assess Costs of \$94,592.17. Mr. Wise amended the costs on the record; total costs \$67,074.69.

The board discussed imposition of costs and following discussion, took the following action:

Motion: by Dr. Thomas to assess \$67,074.69 in costs payable within 24 months  
Second: by Dr. Perdomo  
Vote: unanimous

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

Motion: by Dr. Thomas for official recognition  
Second: by Dr. Perdomo  
Vote: unanimous

**Gia Bao Nguyen, D.D.S., Case No. 2013-06081, Informal Hearing (PCP Thomas)**

Dr. Nguyen was present and was not represented by counsel. An administrative complaint filed November 20, 2013 alleged violations of s. 466.028(1)(aa), F.S. for violation of a lawful order of the Board. Respondent has been in violation of two final orders, one filed in June, 2009 and one filed on February 29, 2012. License is null and void.

Probable Cause Panel Recommendation:  
Revocation

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

Motion: by Dr. Thomas to dismiss the case due to the null and void status of the license.  
Second: by Dr. Britten  
Vote: unanimous

**Dwayne L. Johnson, Jr., D.R., Case No. 2013-06506, Informal Hearing (PCP Thomas)**

Mr. Johnson was not present and was not represented by counsel. A two count administrative complaint filed December 20, 2013 alleged violations of s. 456.072(1)(c), F.S. of being convicted or entering a plea of nolo contendere on September 19, 2013 to plea of guilty to charges of trafficking in morphine, opium, oxycodone, heroine, hydrocodone or other derivatives; and s. 466.028 (1)(c), F.S. of failure to perform any statutory or legal obligation.

License is currently under Emergency Suspension.

Probable Cause Panel Recommendation:  
Revocation

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

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

Motion: by Dr. Winker to adopt the findings of fact as alleged in the administrative complaint  
Second: by Ms. Cabanzon  
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. Kochenour  
Vote: unanimous

Motion: by Dr. Winker 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. Perdomo  
Vote: unanimous

Motion: by Dr. Britten to revoke the dental radiographer certificate  
Second: by Dr. Kochenour  
Vote: unanimous

A Motion to Assess Costs of \$152.94 was presented to the Board. Following discussion, the following action was taken by the Board:

Motion: by Dr. Winker to waive the costs

Second: by Dr .Britten  
Vote: unanimous

**Joe M. Keller, D.D.S., Case No. 2013-04253, Informal Hearing (PCP Britten)**

Dr. Keller was present and was represented by Edwin Bayo, Esq. A four count administrative complaint filed February 4, 2014 alleged violations of s. 466.028(1)(z), F.S. of delegating to person not qualified regarding dental assistant removing tooth enamel on the buccal surface of patient's teeth numbers 3 – 14 and 19 – 30 by use of wrong burr bit in the drill. An indemnity of \$152,500 was paid in settlement.

Section 466.028(1)(mm), F.S., of violation of rule as dental assistants not delegated for removal of orthodontic cement; s. 466.028(1)(ff), F.S. regarding failure to meet minimum standards; s. 466.028(1)(x), F.S. regarding dental malpractice.

**Probable Cause Panel Recommendation:**

Reprimand, appearance before board, \$40,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, six month suspension.

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

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

Motion: by Dr. Kochenour to adopt the findings of fact as alleged in the administrative complaint  
Second: by Dr. Winker  
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 that the Board accept conclusions of law  
Second: by Dr. Winker  
Vote: unanimous

Motion: by Dr. Winker to 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

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

Motion: by Dr. Thomas that Dr. Keller be permitted to retire his license and pay the costs.  
Second: by Dr. Kochenour  
Vote: unanimous

Motion: by Dr. Thomas to reopen the case and vacate prior order.  
Second: by Dr. Winker

Vote: unanimous

Motion: by Dr. Winker to impose a reprimand, payment of costs of \$1133.53, and permanent retirement of license.

Second: by Dr. Thomas

Vote: unanimous

**Michael G. Hammonds, D.D.S., Case No. 2012-14636, Informal Hearing (PCP N/A)**

A continuance was granted by Dr. Thomas.

**Miranda Whyllly Smith, D.D.S., Case No. 2011-15948, Informal Hearing**

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

Prosecution Services has requested that this case be pulled from the agenda.

**Motion:** by Dr. Winker to allow the case to be continued

**Second:** by Dr. Perdomo

**Vote:** unanimous

**Michelle R. Dolwick, D.R., Case No. 2013-13120, Waiver (PCP Thomas)**

Ms. Dolwick, dental radiographer, was not present nor represented by counsel. Respondent pled nolo contendere on July 17, 2013 to the following felonies of the 3rd degree: possession of methadone, oxycodone, oxycontin, roxycontin, roxycodone, s. 466.028(1)(c), F.S.

Probable Cause Panel Recommendation:

Revocation

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

Motion: by Dr. Winker to find that respondent was properly served

Second: by Dr. Kochenour

Vote: unanimous

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

Second: by 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. Winker

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. Kochenour

Vote: unanimous

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

Second: the administrative complaint  
by Dr. Winker  
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. Winker to revoke the dental radiographer certification  
Second: by Dr. Kochenour  
Vote: unanimous

The Department withdrew the Motion to assess costs of \$216.28 was presented to the Board.

**Richard Lipman, D.D.S., Case Nos. 2012-17556, 2012-06257, 2013-05079, Waiver  
No board members are recused due to participation on the probable cause panel.**

Dr. Lipman was present and was represented by Edwin Bayo, Esq. In case no. 2012-17556, an administrative complaint filed on February 18, 2013 alleged a violation of s. 466.028(1)(aa), F.S. by violating a lawful order of the Board. In case no. 2012-06257, a two count administrative complaint filed on August 26, 2013 alleged violations of s. 466.028(1)(x), F.S. for failing to meet minimum standard of performance by failing to make an adequate diagnosis of patient's dental condition before determining a plan of treatment, by making poor choices in using unhealthy teeth as anchors for the full mouth porcelain bridge, and by treatment planning and delivering a full mouth porcelain bridge and s. 466.028(1)(m), F.S., by failing to keep written dental records and medical history records justifying the course of treatment. In case no. 2013-05079, a three count administrative complaint filed on August 26, 2013 alleged violations of s. 466.028(1)(aa), F.S., by continuing the active practice of dentistry while suspended, s. 466.028(1)(mm) by failing to immediately surrender his suspended license to the Department of Health or its authorized representatives and s. 466.028(1)(l), F.S., by making deceptive, untrue, or fraudulent representations by representing to patients and the general public that he held an active license to practice dentistry.

Probable Cause Recommendation for Penalty  
2012-17556 - Suspension until compliant with prior final order  
2012-06257 - Revocation  
2013-05079 - Revocation

A corrected settlement agreement was presented to the Board with the following terms: appearance, reprimand, fine of \$2,500, as well as previous fines in case 2011-06606 and 2009-08158, with payments beginning within 30 days of the filing of the final order, costs not to exceed \$3,000 within 24 months, pass laws and rules examination within 6 months, complete the following continuing education: 3 hours in Crown and Bridge, 3-6 hours in Ethics, 3 hours in Diagnosis and Treatment Planning, hands-on risk management course, to include office manager, which has been completed at an approved dental college within 18 months of the filing of the final order with demonstrated competency, probation for 36 months to include monitoring of respondent's practice's finances, refund to the patient in case 2011-06606 in the amount of any out-of-pocket fees and costs within six months from the date the patient provides proof of payment. Following discussion, the following action was taken by the Board:

Motion: by Dr. Kochenour to reject the settlement agreement



Second: by Dr. Britten  
Vote: unanimous

Motion: by Dr. Thomas to alter the fine repayment structure  
Motion fails

Motion: by Dr. Winker to accept the corrected settlement agreement  
Second: by Dr. Thomas  
Vote: motion fails with 5 opposed

Motion: by Ms. Cabanzon to accept the corrected settlement with the amendment that the probation period be 5 years rather than 36 months.  
Second: by Dr. Thomas  
Vote: motion passes with Dr. Kochenour opposed

The counter settlement agreement was accepted.

**Stephanie Yarbrough Gallups, D.R., Case No. 2013-15737, Voluntary Relinquishment (PCP Waived)**

Ms. Gallups was not present nor represented by counsel. Allegations include complaint submitted by the Department of Health and Human Services alleging she is being excluded from Medicare, Medicaid and all federal health programs due to adjudication of guilt on charge of obtaining controlled substance by fraud.

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

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

**Kim McGinnis, D.R., Case No. 2013-12649, Voluntary Relinquishment (PCP Waived)**

Ms. McGinnis, dental radiographer, was not present nor represented by counsel. Allegations of practice beyond the scope of license by use of high speed drill – patient's tooth fractured.

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

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

**Preston B. White, D.D.S., Case No. 2013-02949, Voluntary Relinquishment (PCP Britten)**

Dr. White was not present nor represented by counsel. A two count administrative complaint filed February 4, 2014 alleged violations of s. 466.028(1)(x), F.S. of failure to meet minimum standards and s. 466.028(1)(m), F.S. of failure to document medical clearance for patient's full mouth extractions and justification for administration of 648 mg. of Mepivacaine to patient. Patient complained that she did not feel well, respondent called 911 but when crew arrived patient was unresponsive, no pulse.

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, revocation.

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

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

### **Prosecutor's Report**

Ms. Hibbert introduced Ms. Candace Rochester as the team leader for dentistry prosecution. Ms. Hibbert stated her unit was looking at resolution of cases one year and older and that the prosecutors were working very hard.

### **PETITIONS**

#### **Kate Hill, Petition for Variance or Waiver, Applicant for Dental Hygiene Licensure**

Board staff removed this from agenda.

### **APPLICATION REVIEW & APPEARANCES**

#### **Caring for Miami, Application for Non-Profit Corporation Permit**

The Board reviewed the application for non-profit permit submitted by Deborah Sutton, and following review, the following action was taken by the Board

Motion: by Dr. Britten to request that Ms. Sutton appear at a future meeting to discuss her application  
Second: by Dr. Perdomo  
Vote: unanimous

#### **Stella Gonzalez, D.D.S., Application for Dental Limited License**

Dr. Gonzalez was present and was represented by Edwin Bayo, Esq. She is licensed in California and is applying for a limited license. Following review and discussion, the following action was taken by the Board:

Motion: by Dr. Thomas grant the license pending receipt of letter of intent to employ  
Second: by Dr. Tejera  
Vote: unanimous

Dr. Thomas requested that the rule be reviewed as applicants may not meet standards – retirees. Board members directed Mr. Flynn to revise the rule for limited license to include a definition of retired.

#### **Parneet Sohi, B.D.S., Eligibility for Diagnostic Skills Examination**

This item was removed from the agenda.

#### **Bob MacDonald, FL Prescription Drug Monitoring Program Foundation (Presentation)**

Mr. MacDonald had requested an appearance before the Board to discuss the PDMP. Mr. MacDonald is the executive director of the foundation and is a direct support organization to the Department of Health for the prescription drug monitoring program. All licensed health care practitioners who

dispense controlled substances are required to report to the PDMP within 7 days. He discussed EFORSCE.

Mr. MacDonald encourages all dentists to use and report to the data base.

**Patricia Pepio, Application for Dental Hygiene Licensure**

Ms. Pepio was present. Her application is before the Board due to an affirmative response to one of the history questions on the licensure application.

Following discussion, the board took the following action:

Motion: by Ms. Cabanzon to deny the application  
Second: by Dr. Perdomo  
Vote: unanimous

**Angela Yale, Application for Dental Hygiene Licensure**

Ms. Yale was present. Her application is before the Board due to an affirmative response to one of the history questions on the licensure application.

Following discussion, the board took the following action:

Motion: by Dr. Thomas to approve the application  
Second: by Ms. Cabanzon  
Vote: motion passes with Ms. Sissine opposed

**OLD BUSINESS**

None

**NEW BUSINESS**

None

**ADJOURNMENT**

The meeting was adjourned at 3:35 p.m.