

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
May 18, 2018
Four Points by Sheraton Tallahassee Downtown
316 West Tennessee Street
Tallahassee, FL 32301
7:30 A.M.**

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

I. CALL TO ORDER/ROLL CALL

MEMBERS PRESENT

T.J. Tejera, DMD, Chair
Naved Fatmi, DMD, Vice-Chair
Catherine Cabanzon, RDH, BASDH
Claudio Miro, DDS
Matthew Freedman, DMD
Nick Kavouklis, DMD
Joseph Calderone, DMD
Angela Sissine, RDH
Nick White, DMD
Fabio Andrade, Consumer Member

STAFF PRESENT

Jennifer Wenhold, Executive Director
Jessica Sapp, Program Administrator

BOARD COUNSEL

David Flynn, Esq.
Assistant Attorney General

PROSECUTION SERVICES UNIT

John Wilson, Esq.
Octavio Ponce, Esq.
Gabriel Girado, Esq.
Raj Misra, Esq.

COURT REPORTER

Accurate Stenotype Reporters
2894 Remington Green Ln.
Tallahassee, Florida 32308
(850) 878-2221

Dr. Tejera called the meeting to order at 7:30 am and welcomed the Board Office staff and attendees.

Dr. Freedman read the Department of Health's mission: To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.

Information on Professional Resource Network (PRN) Services

Dr. Polles, Medical Director for PRN, along with Ms. Louis St. Laurent, Deputy General Counsel, Prosecution Services Unit, provided the Board with an overview of PRN services.

II. DISCIPLINARY PROCEEDINGS

A. Settlement Agreements

i. Carolina Ospina, DDS, Case No. 2017-06884
(PCP – Thomas, Britten, Fatmi)

Dr. Kavouklis recused himself from this case.

Dr. Ospina was present and sworn in by the court reporter. She was represented by Bradford Beilly, Esq.

Mr. Ponce summarized the case for the board. Respondent was charged with the following violation: Section 466.028(1)(mm), Florida Statutes, through a violation of Section 456.072(1)(c), Florida Statutes, by being convicted or found guilty, regardless of adjudication, a crime in any jurisdiction which related to the practice of, or the ability to practice dentistry.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Reprimand
- Fine of \$2,500.00 to be paid within one year
- Costs of \$2,713.98 to be paid within one year
- Continuing Education to be completed within twelve (12) months to include a 3 semester hour Ethics course
- Submit to an evaluation conducted by an impaired practitioner treatment program approved by the Department within six months
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Ms. Cabanzon to accept the Settlement Agreement

Second: by Dr. Calderone

Vote: Unanimous

ii. Lourdes Secola, DDS, Case No. 2017-15765
(PCP – Gesek, Robinson, Miro)

Dr. Secola was not present or represented by counsel.

Mr. Girado summarized the case for the board. Respondent was charged with the following violation: Section 466.028(1)(b), Florida Statutes, by having a license to practice dentistry or dental hygiene acted against by the Nebraska Department.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Reprimand
- Fine of \$1,000.00 to be paid within one year
- Costs of \$326.61 to be paid within six months
- Compliance with all conditions of the Order that the State of Nebraska Department of Health and Human Services filed on August 11, 2017.

After discussion, the following action was taken:

Motion: by Ms. Sissine to reject the Settlement Agreement

Second: by Dr. Calderone

Vote: Unanimous

Motion: by Ms. Sissine to offer a counter agreement which includes the same terms as proposed with the addition of permanent restriction to apply for a sedation permit in the state of Florida.

Second by Ms. Cabanzon

Vote: Unanimous

Respondent has 10 days to respond to the counter offer.

- iii. Floyd E. Bennett, DMD, Case No. 2017-05766
(PCP – Thomas, Morgan, Fatmi)

Dr. Bennett was not present. He was represented by Randolph Collette, Esq.

Mr. Ponce summarized the case for the board. Respondent was charged with the following violation: Section 466.028(1)(x), Florida Statutes, by failing to diagnose the large multilocular radiolucency present on the Panorex; and by failing to refer patient to an appropriate specialist for definitive treatment of the radiolucency.

A Settlement Agreement was presented to the Board with the following terms:

- Reprimand
- Fine of \$5,000.00 to be paid within one year of returning to active practice
- Costs of \$4,079.83 to be paid within one year of returning to active practice
- Continuing Education to be completed within one year of returning to active practice, to include 3-6 hours in Radiology, 3-6 hours in Treatment Planning; 3-6 hours in Oral Pathology
- Successful completion of the Laws and Rules exam within one year of returning to active practice

After discussion, the following action was taken:

Motion: by Dr. Calderone to reject the Settlement Agreement and offer a counter agreement which includes the original terms with the exception to pay the investigative costs at \$50.00 a month until fully paid.

Second: by Ms. Sissine

Vote: 8/1. Dr. Kavouklis opposed

B. Determination of Waiver

- i. Steven J. Courten, DDS, Case No. 2016-26749

(PCP – Thomas, Britten, Fatmi)

Dr. Courten was not present nor represented by legal counsel.

Mr. Wilson summarized the case for the board. Respondent was charged with the following violation: Section 466.028(1)(aa), Florida Statutes, by violation of a lawful order of the Board or Department previously entered in a disciplinary hearing by failing to pay the outstanding balance on the costs in Case No. 2009-08825 or \$6,229.73 within twelve months of the Final Order.

Motion: by Ms. Cabanzon to find the Administrative Complaint was properly served on Respondent and that Respondent failed to timely respond to the Administrative Complaint and has waived the right to request a hearing.

Second: Dr. Calderone

Vote: Unanimous

Motion: by Ms. Cabanzon to accept into evidence the final investigative file for the purposes of establishing a prima facie case for a violation of the Florida Statutes as charged in the Administrative Complaint.

Second: by Dr. Calderone

Vote: Unanimous

Motion: by Ms. Cabanzon to adopt as its findings of fact, those facts alleged in the Administrative Complaint.

Second: by Dr. Calderone

Vote: Unanimous

Motion: by Ms. Cabanzon to find that the findings of fact support a finding of a violation of Florida Statutes, as charged in the Administrative Complaint.

Second: by Dr. Calderone

Vote: Unanimous

Motion: by Ms. Cabanzon to suspend until compliant with Case No. 2009-08825 and pay an additional fine of \$5,000.00

Second: by Ms. Sissine

Friendly amendment by Dr. Miro to increase the fine to \$10,000.00. Ms. Cabanzon did not accept.

Vote: Motion failed 3/6

After discussion, the following action was taken:

Motion: by Dr. Miro to suspend until compliant with Case No. 2009-08825 and impose an additional fine of \$10,000.00.

Second: by Dr. Calderone

Vote: Passed 7/2. Ms. Cabanzon and Dr. Tejera opposed.

The Department requested the Board assess the costs of \$903.01.

Motion: by Ms. Cabanzon to impose the costs of \$903.01 due prior to suspension being lifted.

Second: by Dr. Calderone

Vote: Unanimous

C. Voluntary Relinquishments

- i. Marino Frank Vigna, DDS, Case No. 2018-01218
(PCP – Waived)

Dr. Vigna was not present nor represented by counsel. Mr. Wilson presented the case before the board which includes the following allegations: Section 456.072(1)(k)(m)(n)(dd), 466.028(1)(i)(j)(t)(x)(mm), Florida Statutes.

Motion: by Ms. Cabnazon to accept the Voluntary Relinquishment
Second: by Dr. Calderone
Vote: Unanimous

- ii. Steven H. Perelmuter, DMD, Case No. 2017-02440
(PCP – Waived)

Dr. Kavouklis recused himself from this case.

Dr. Perelmuter was not present nor represented by counsel. Mr. Ponce presented the case before the board which includes the following allegations: Section 456.072(1)(c)(k)(x)(ll)(dd), 466.028(1)(c)(i)(t)(mm), Florida Statutes.

Motion: by Dr. Miro to accept the Voluntary Relinquishment
Second: by Ms. Cabanzon
Vote: Unanimous

III. PROSECUTION REPORT

- A. John Wilson, Assistant General Counsel

Mr. Wilson presented the following report to the Board:

<u>Legal Case Status</u>	<u>Report</u> Dated 8/31/2017	<u>Report</u> Dated 1/29/2018	<u>Report</u> Dated 4/25/2018
Total cases open/active in Prosecution Services:	255	256	261
Cases in intake status:	2	1	6
Cases in holding status:	1	1	2
Cases in Emergency Action Unit:	9	7	6
Cases under legal review:	155	138	138

Cases awaiting supplemental investigation:	11	5	9
Cases where a recommendation has been made for future Probable Cause Panel meetings:	43	53	59
Total cases where probable cause has been found:	58	63	59
Cases pending before DOAH:	0	0	1
Cases agendaed for current or future Board meeting:	18	15	13
Cases pending before Appeals Court:	0	0	0
Cases a year or older from legal review:	95	98	120*

Motion: by Dr. Tejera to allow prosecution to continue prosecuting a year or older cases.
Second: by Dr. Calderone
Vote: Unanimous

IV. PETITION FOR MODIFICATION OF FINAL ORDER

A. John Borchers, DN 7168, Case No. 2012-16681

Dr. Borchers was not present. He was represented by Randolph Collette, Esq. He is requesting a modification of his Final Order to extend the time by six months to complete the continuing education and the laws and rules exam.

After discussion, the following action was taken:

Motion: by Ms. Sissine to deny the extension
Second: by Dr. Miro
After discussion, the motion was withdrawn

Motion: by Dr. Fatmi to approve the modification
Second: by Dr. Calderone
Vote: Unanimous

B. David S. Gaines, DN 5708, Case No. 2014-14968

Dr. Gaines was not present. He was represented by Randolph Collette, Esq. requested a modification of his Final Order to request an extension of the laws and rules exam and remediation courses.

After discussion, the following action was taken:

Motion: by Ms. Cabanzon to deny the request for modification

Second: by Dr. Fatmi

Vote: Unanimous

V. REQUEST TO TERMINATE SUSPENSION

A. Phyllis L. Thompson, DH 11828, Case No. 2015-10155

Ms. Thompson was present and sworn in by the court reporter. Dr. Groper was present from PRN to address the Board regarding Ms. Thompson's progress. She is requesting the Board terminate her suspension.

After discussion, the following action was taken:

Motion: by Ms. Cabanzon to approve the request and lift the suspension

Second: by Dr. Miro

Vote: Unanimous

VI. PETITION FOR VARIANCE OR WAIVER OF RULE

A. Casey Stoutamire, Florida Dental Association

i. Petition of Rule 64B5-16.002(3), F.A.C.

Ms. Stoutamire was present and sworn in by the court reporter. She filed a petition seeking a variance of the rule which requires the Board office to verify that the supervising licensee of the radiography program has not had disciplinary action taken against their license. Instead, the Florida Dental Association will verify this through the DOH's website.

Ms. Cabanzon requested to review the clinical guidelines and how competency will be verified. Ms. Stoutamire will prepare and submit to the Board.

Ms. Stoutamire waived the 90 day requirement on the petition so it can be tabled to the August meeting.

ii. Application

Tabled to the August meeting

- B. Stuart Hirsch, DMD
 - i. Petition of Rule 64B5-14.005(2)(b)

Dr. Hirsch was present and sworn in by the court reporter. He was represented by Edwin Bayo, Esq. He applied for a general anesthesia permit and filed a petition requesting the Board accept documentation of his significant involvement in the clinical administration of anesthetics to 20 dental patients and to approve his application.

The Board discussed the requirement of clinical administration and that it needs to be completed through an accredited teaching hospital. After discussion Dr. Hirsch withdrew his petition.

VII. REVIEW OF APPLICATIONS

A. Application for Conscious Sedation Permit

- i. Jacques Benchimol, DMD

Dr. Benchimol was present and sworn in by the court reporter. He was represented by Michael Ragan, Esq. His application was brought before the Board by the Anesthesia Chairman due to previous disciplinary history in Florida.

After discussion, the following action was taken:

Motion: by Dr. Calderone to approve

Second: by Dr. Fatmi

Vote: Unanimous

B. Application for Dental License

- i. Albert A. Hazzouri, DDS

Dr. Hazzouri was present and sworn in by the court reporter. He submitted a dental application but has not completed the ADEX examination as required by Section 466.006(4), Florida Statutes.

Ms. Cabanzon provided information on a Health Access license and opening a community health center. Ms. Wenhold further explained other dental licensure pathways for Dr. Hazzouri.

After discussion, Dr. Hazzouri withdrew his application.

VIII. PRESENTATION ON DENTAL THERAPY

A. Dr. Frank Catalanotto, DMD

Dr. Catalanotto presented before the Board on dental access issues in Florida and the positive impact dental therapy may have.

IX. PRESENTATION ON FLORIDA'S ACTION FOR DENTAL HEALTH

A. Dr. Mike Eggnatz, Florida Dental Association

Dr. Eggnatz presented before the Board on the Florida Dental Association's action for dental health.

X. REPORTS

A. Board Counsel

i. Rules Report

Mr. Flynn provided an overview of the rules currently in progress.

ii. Antitrust Opinion

This was provided as informational.

B. Executive Director

i. 2018 Legislation

Ms. Wenhold provided an overview of HB 29 which revises the expedited licensure requirements for active duty military spouses to practice dentistry and eliminates the supervision level requirement for a temporary professional license for dentistry.

ii. Financial Reports

C. Chair

i. Annual Board Chair/Vice Chair Meeting Overview

D. Board Members

i. Angie Sissine, Rules Committee Overview

Ms. Sissine provided an overview of the Rules Committee meeting held on May 7, 2018. A conference call will be scheduled to discuss the proposed language for digital scanning.

XI. DISCUSSION

A. House Bill 21

Ms. Wenhold provided an overview of House Bill 21. This is the Governor's opioid bill to combat the opioid epidemic.

i. Board Approval of CE Course

Mandatory continuing education on prescribing controlled substances must be completed by January 31, 2019 and each subsequent biennium.

The Board considered the continuing education courses on opioid prescribing submitted by the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida

Academy of Family Physicians, and the Florida College of Emergency Physicians.

After discussion, the following action was taken:

Motion: by Dr. Fatmi to approve

Second: by Dr. White

Vote: Unanimous

ii. Continuing Education Requirements, Rules 64B5-12.013, 12.0135

The Board considered the following proposed rules:

64B5-12.013 Continuing Education Requirements; Specific Continuing Education Course Requirements; and Cardiopulmonary Resuscitation (CPR) Certification.

(1) through (4) No Change.

(5) Prescribing of Controlled Substances: Pursuant to Section 456.0301, F.S., all licensees who are registered with the United States Drug Enforcement Administration and authorized to prescribe controlled substances shall complete a board-approved 2-hour course on prescribing controlled substances by January 31, 2019 and at each subsequent biennium renewal or for reactivation of a license.

(a) To receive board approval, the course must meet all the mandates of Section 456.0301, F.S. The course may be offered in a distance learning format.

(b) This course shall count towards the requirement of subsection (1).

~~(6)~~(5) Award of Continuing Education Credit: Continuing education credit shall be awarded only for educational experiences that are specifically appropriate for, and contain useful information directly pertinent to, dentistry or dental hygiene and only if received through the following methods:

No Change to remainder of the rule

After discussion, the following action was taken:

Motion: by Ms. Cabanzon to approve

Second: by Dr. Fatmi

Vote: Unanimous

Motion: by Mr. Andrade that the Board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

Second: Ms. Cabanzon

Unanimous

Motion: by Mr. Andrade that no part of this rule or a violation of this rule should be designated as a minor violation.

Second: by Dr. Calderone

Vote: Unanimous

64B5-12.0135 Licensees Excused from Continuing Educational Requirements.

(1 through 3) No Change

(4) No provision of this section shall relieve a licensee from the obligation to obtain

training required by Sections 456.013(7), 456.031, 456.033, 456.0301, F.S., as a condition of licensure renewal.

After discussion, the following action was taken:

Motion: by Dr. Fatmi to approve
 Second: by Dr. Calderone
 Vote: Unanimous

Motion: by Ms. Cabanzon that the Board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.
 Second: by Dr. Fatmi
 Vote: Unanimous

Motion: by Mr. Andrade that no part of this rule or a violation of this rule should be designated as a minor violation.
 Second: by Dr. Calderone
 Vote: Unanimous

iii. Guidelines for Prescribing Controlled Substances

Motion: by Ms. Cabanzon to open Rule 64B5-17.0045, F.A.C. for development
 Second: by Dr. Calderone
 Vote: Unanimous

iv. Disciplinary Guidelines, Rule 64B5-13.005

64B5-13.005 Disciplinary Guidelines.

(1) When the Board finds an applicant, licensee, or certificate holder whom it regulates under Chapter 466, F.S., has committed any of the acts set forth in Section 456.072(1) or 466.028, F.S., it shall issue a final order imposing appropriate penalties as recommended in these disciplinary guidelines. For any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per count or offense. The use of terms to describe the offenses herein within the individual guidelines is intended to be only a generally descriptive use of the terms. For an accurate description of the actual offenses, the reader should refer to the statutory disciplinary provisions. The maximum penalties set forth in any individual offense guideline include all of the less severe penalties that would fall in between the maximum and the minimum penalties stated:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) No change.		
(b) Having a license to practice dentistry or dental hygiene		

<p>revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country. (Sections 466.028(1)(b), 456.072(1)(f), F.S.)</p>		
First Offense	\$1,000 fine.	Suspension/denial until the license is unencumbered and active in the jurisdiction in which the disciplinary action was originally taken, or up to five years followed by probation and \$10,000 fine or revocation.
Second Offense	Imposition of discipline which would have been imposed if the substantive violation occurred in Florida. Probation and \$1,000 fine.	Suspension/Revocation until the license is unencumbered in the jurisdiction in which disciplinary action was taken and \$10,000 fine.
Third Offense	One year suspension followed by probation and \$5,000 fine.	Revocation and permanent denial and \$10,000 fine.
(c) through (k) No change.		
<p>(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry. (Sections 466.028(1)(l), 456.072(1)(a), F.S.)</p>		

First Offense	\$1,000 fine.	6 months probation with conditions and \$10,000 fine.
Second Offense	1 year probation with conditions and \$1,000 fine.	6 months suspension and \$10,000 fine.
Third Offense	2 years probation with conditions and \$2,500 fine.	Revocation and \$10,000 fine.
(m) through (o) No change.		
<p>(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug or controlled substance, other than in the course of the professional practice of the dentist. (Section 466.028(1)(p), F.S.)</p>		
First Offense	\$500 fine.	Probation with conditions, \$10,000 fine and up to suspension
Second Offense	Probation with conditions and \$2,500 fine.	Suspension and \$10,000 fine.
Third Offense	Suspension followed by probation and \$5,000 fine.	Revocation and \$10,000 fine.

(q) Prescribing any medicinal drug		
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scheduled in Chapter 893, F.S., to herself or himself. (Section 466.028(1)(q), F.S.)		
First Offense	\$500 fine.	Suspension followed by probation with conditions and \$10,000 fine.
Second Offense	Probation with conditions and \$2,500 fine.	Suspension and \$10,000 fine.
Third Offense	Suspension followed by probation and \$5,000 fine.	Revocation and \$10,000 fine.
(r) through (s) No change.		
(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene. (Section 466.028(1)(t), F.S.)		
First Offense	\$2,500 fine.	Probation with conditions and \$8,000 fine.
Second Offense	Probation with conditions and \$8,000 fine.	Suspension followed by probation and \$10,000 fine.

Third Offense	Probation with conditions and \$10,000 fine.	Revocation and \$10,000 fine.
(u) through (cc) No change.		
(dd) Presigning blank prescription or laboratory work order forms. (Section 466.028(1)(dd), F.S.)		
First Offense	\$500 fine.	Probation with conditions and \$500 fine.
Second Offense	\$1,000 fine.	Probation with conditions and \$7,500 fine.
Third Offense	Probation with conditions and \$2,500 fine.	Suspension and \$10,000 fine.
(ee) through (aaa) No change.		
(bbb) Engaging in a pattern of practice of prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients or a violation of ss 893.055 and 893.0551 or law and rules relating to prescribing practitioners. (Section 456.072(1)(gg), F.S.)		

First Offense	\$1,500 fine.	Probation with conditions and \$8,000 fine.
Second Offense	Probation with conditions and \$3,000 fine.	Suspension and \$10,000 fine.
(ccc) No change.		
(ddd) Being convicted of, or entering a plea of nolo contendere to, any misdemeanor or felony,		

regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.)		
First Offense	Misdemeanor – Reprimand, \$10,000 fine, suspension. <u>Felony – Revocation.</u>	Misdemeanor – \$10,000 fine, revocation. <u>Felony – Revocation.</u>
Second Offense	<u>Misdemeanor or Felony-- Revocation and \$10,000 fine</u>	<u>Misdemeanor or Felony-- Revocation and \$10,000 fine</u>
(eee) through (fff) No change.		
(ggg) Being convicted of, or entering a plea of guilty or nolo contendere, to any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud. (Section 456.072(1)(II), F.S.)		

First Offense	Misdemeanor – \$10,000 fine, reprimand. <u>Felony – Revocation \$10,000 fine.</u>	Misdemeanor – \$10,000 fine, suspension. <u>Felony – Revocation \$10,000 fine.</u>
Second Offense	<u>Misdemeanor or Felony- \$10,000 fine, revocation.</u>	<u>Misdemeanor or Felony- \$10,000 fine, revocation.</u>

(iii) through (jjj) No change.

(2) No change.

(3) Penalties imposed by the Board pursuant to subsections (1) and (2), above, may be imposed in combination or individually, and are as follows:

(a) No change.

(b) Imposition of an administrative fine not to exceed \$10,000.00 for each count or separate offense; for any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per each count or offense, pursuant to Section 456.072(2)(d), F.S. Unless stated otherwise in the disciplinary order, any imposed administrative fines are due within 90 days of the effective date of a final order imposing fines;

(c) through (g) No change.

(h) Costs. The licensee is responsible for payment of all costs of investigation and prosecution related to a disciplinary case. Additionally, all costs related to compliance with an order taking disciplinary action are the obligation of the licensee. Unless stated otherwise in the disciplinary order, any imposed costs are due within 90 days of the effective date of a final order imposing costs.

(4) through (5) No change.

Rulemaking Authority 456.079(1) FS. Law Implemented 456.072(2), 456.079(1), 466.028 FS. History—New 12-31-86, Amended 2-21-88, 1-18-89, 12-24-91, Formerly 21G-13.005, 61F5-13.005, 59Q-13.005, Amended 4-2-02, 8-25-03, 2-27-06, 12-25-06, 6-11-07, 9-15-10, 12-2-10, 1-24-12, 4-25-17, _____.

Board counsel received approval from the Chair to open these rules for development.

v. Citation Authority, Rule 64B5-13.0046, F.A.C.

64B5-13.0046 Citation Authority.

(1) The Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation and the appropriate penalties for specific violations. The following subsections indicate those violations which may be disposed of by citation, with the accompanying penalty.

(2) Violation of Section 466.026(1)(a) and/or 466.028(1) ~~(mm) (aa)~~, F.S., by practicing for a period of 2-6 months without an active license. The penalty for a dentist shall be a \$1,000.00 fine to be in addition to any reactivation fee, and completion within 6 months of 4 hours of continuing education in risk management. Said continuing education to be in compliance with Rule Chapter 64B5-12, F.A.C., and in addition to any continuing education required for biennial renewal of licensure. The penalty for a dental hygienist shall be a \$250.00 administrative fine.

(3) A **first-time** violation of Section 466.028(1)(i) and/or 466.028(1)(a), F.S., and/or subsection 64B5-12.013(1) or (2), F.A.C., by ~~failing to renewing a license without complete ing~~ the required continuing education credits. The penalty for a dentist shall be an administrative fine of \$100.00 per hour not completed as required and completion of all continuing education hours that were not completed. The penalty for a dentist shall be an administrative fine of \$150 for not completing the required training in cardiopulmonary resuscitation (CPR) at the basic life support level. Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed. ~~Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of the citation.~~ The penalty for a dental hygienist shall be an administrative fine of \$25.00 per hour not completed as required and completion of all continuing education hours that were not completed. The penalty for a dental hygienist shall be an administrative fine of \$50 for not completing the required training in cardiopulmonary resuscitation (CPR) at the basic life support level. Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed. ~~Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of citation.~~

(4) Violation of Rule 64B5-4.002, F.A.C., as follows:

(a) Violation of Rule 64B5-4.002 ~~(2)~~, F.A.C., by failing to properly identify through license number or use of the licensee's commonly used name the Florida licensed dentist, who assumes total responsibility for the advertisement.

(b) Violation of subsection 64B5-4.002(3), F.A.C., by disseminating or causing the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content.

(c) Violation of paragraph 64B5-4.002(3)(a), F.A.C., by disseminating or causing the dissemination of any advertisement that contains misrepresentations of facts.

(d) Violation of paragraph 64B5-4.002(3)(b), F.A.C., by disseminating or causing the dissemination of any advertisement that is likely to mislead or deceive because in its context or in the context in which it is presented it makes only a partial disclosure of relevant facts.

(e) Violation of paragraph 64B5-4.002(3)(c), F.A.C., by disseminating or causing the dissemination of any advertisement that contains laudatory statements about the dentist or group of dentists.

(f) Violation of paragraph 64B5-4.002(3)(d), F.A.C., by disseminating or causing the dissemination of any advertisement that is intended or is likely to create false, unjustified expectations of favorable results.

(g) Violation of paragraph 64B5-4.002(3)(e), F.A.C., by disseminating or causing the dissemination of any advertisement that relates to the quality of dental services provided as compared to other available dental services.

(h) Violation of paragraph 64B5-4.002(3)(f), F.A.C., by disseminating or causing the dissemination of any advertisement that contains other representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or to be deceived.

(i) Violation of subsection 64B5-4.002(4), F.A.C., by disseminating or causing the dissemination of any advertisement through in person and telephone solicitation of dental services by a dentist or his agent.

(j) Violation of subsection 64B5-4.002(5), F.A.C., by disseminating or causing the dissemination of any advertisement that includes the name of a person who is not either actually involved in the practice of dentistry at the advertised location or an owner of the practice being advertised.

(5) Violation of Rule 64B5-4.003, F.A.C., as follows:

(a) Violation of subsection 64B5-4.003(2), F.A.C., by providing an advertisement that failed to contain fee information with a disclaimer that the fee is a minimum fee only.

(b) Violation of subsection 64B5-4.003(3), F.A.C., by providing an advertised fee for a dental service which does not state a specified period during which the fee is in effect.

(c) Violation of subsection 64B5-4.003(4), F.A.C., by providing an advertisement which states a particular dental service is for a fee yet it is not accompanied by a description of that service using the exact wording for that service contained in the American Dental Association's "Code on Dental Procedures and Nomenclature".

(d) Violation of subsection 64B5-4.003(5), F.A.C., by providing an advertisement for free or discounted services which does not comply with the requirements of Section 456.062, F.S., and/or clearly identify the dates that free, discounted or reduced fee services will be available.

(6) The penalty for a violation of Rule Chapter 64B5-4, F.A.C., as enumerated above is as follows: first offense will result in a \$250.00 fine; second offense will result in a \$1,000.00 fine, reprimand and four (4) hour continuing education in ethics. Violations occurring subsequent to the second offense of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed.

(7) Violation of paragraph 466.028(1)(n), F.S., failure to timely make available to a patient or client, or to his legal representative or to the Department, if authorized in writing by the patient, copies of documents in the possession or under control of the licensee, which relate to the patient or client. Timely means less than 30 days from the receipt of the written authorization. The subject of the citation has 10 business days from the date the citation becomes a final order to release the patient records. The penalty shall be Failure to comply will result in a \$1,000.00 fine.

(8) Violation of subsection 466.028(1)(mm), F.S., by violation of Section 456.035(1), F.S., which requires licensees to notify the Board of change of address. The penalty shall be Failure to comply will result in a \$250.00 fine.

(9) Violation of subsection 466.028(1)(dd), F.S., by presigning laboratory work order forms. The penalty shall be Failure to comply will result in a \$500.00 fine.

(10) Violations of Rule 64B5-15.030, F.A.C., through a violation of Section 466.028(1)(ll), F.S., for failing to pay the one time fee by no later than February 28, 2008, will result in a \$1,000 fine. The one-time fee was repealed and is now obsolete.

~~(10)~~ ~~(44)~~ Violation of Sections 466.028(1)(a), ~~(aa)~~ and ~~(mm)~~ ~~(44)~~, F.S., by means of submission of insufficient funds for initial license or renewal or any other payment to the Department of Health.

(11) Violation of paragraph 456.072(1)(gg), F.S., by a violation of paragraph 893.055(3)(a), F.S., for a failure to report controlled substance dispensing information to the Prescription Drug Monitoring Program

Controlled Substance Dispensing Information Electronic System. The penalty shall be a \$ 250.00 fine.

(12) Violation of paragraph 456.072(1)(gg), F.S., by a violation of subsection 893.055(8), F.S., for a failure to consult the Prescription Drug Monitoring Program Controlled Substance Dispensing Information Electronic System prior to dispensing a controlled substance. The penalty shall be a \$ 100.00 fine.

~~(13)~~ Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Department of Health. Such review may be by telephone, in writing or facsimile machine.

~~(14)~~ Except for violations of Rule Chapter 64B5-4, F.A.C., as stated above, the procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 456.073, F.S., shall apply.

~~(15)~~ Citations are to be served upon the subject either by personal service or by certified mail, restricted delivery, to the last known business or residence address of the subject.

~~(16)~~ The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. All fines and costs are to be made payable to the “Board of Dentistry – Citations” and sent to the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine or costs.

~~(17)~~ If the subject rejects the Department of Health’s offer of the citation then the procedures of Section 456.073, F.S., shall apply to the original charge. In cases where the subject fails to comply with the penalty, a complaint for violation of Section 456.072(1)(q), F.S., shall be filed and investigated.

Rulemaking Authority 456.077, 466.004(4) FS. Law Implemented 456.072(3)(a), 456.077 FS. History—New 12-24-91, Formerly 21G-13.0046, Amended 11-22-93, Formerly 61F5-13.0046, 59Q-13.0046, Amended 7-19-01, 10-9-06, 2-7-08, 8-25-10, 2-11-15.

After discussion, the following action was taken:

Motion: by Dr. Fatmi to approve
Second: by Dr. Miro
Vote: Unanimous

Motion: by Dr. Fatmi to find the Board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.
Second: by Dr. Kavouklis
Vote: Unanimous

Motion: by Mr. Andrade that no part of this rule or a violation of this rule should be designated as a minor violation.
Second: by Dr. Calderone
Vote: Unanimous

- vi. Application Revisions, Rules 64B5-2.014, 2.0142, 2.0146, 7.005, 7.007, F.A.C.

Revisions were made to the dental licensure applications to include a question to obtain an applicant's DEA registration information.

After discussion, the following action was taken:

Motion: by Dr. Miro to approve the application revisions

Second: by Dr. Fatmi

Vote: Unanimous

Motion: by Dr. NF that the Board considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

Second: by Dr. Miro

Vote: Unanimous

Motion: by Dr. Fatmi that no part of this rule or a violation of this rule should be designated as a minor violation.

Second: by Dr. Miro

Vote: Unanimous

vii. Communication Material

viii. Board of Medicine's Joint Meeting Invitation

XII. FOR YOUR INFORMATION

A. Special Exam Administration for Displaced Dentists

B. Florida State Health Improvement Plan

C. AAOMS Dental Anesthesia Incident Reporting System

XIII. NEW BUSINESS

A. Licensure Ratification Lists

After discussion, the following action was taken:

Motion: by Ms. Cabanzon

Second: by Dr. Calderone

Vote: Unanimous

B. Anesthesia Ratification List

After discussion, the following action was taken:

Motion: by Dr. Miro

Second: by Mr. Andrade

Vote: Unanimous

XIV. OLD BUSINESS

A. Review of Minutes – February 16, 2018 Board Meeting

After discussion, the following action was taken:

Motion: by Ms. Cabanzon to approve

Second: by Ms. Sissine

Vote: Unanimous

XV. ADJOURNMENT

There being no further business, the meeting adjourned at 1:10 p.m.