

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING AGENDA
February 21, 2020
Holiday Inn University Center
1250 W. University Avenue
Gainesville, Florida 32601
(352) 376-1661
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

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

STAFF PRESENT

Jennifer Wenhold, Chief
Jessica Sapp, Executive Director

BOARD COUNSEL

David Flynn, Esq.
Senior Assistant Attorney General

PROSECUTION SERVICES UNIT

Chad Dunn, Assistant General Counsel
Octavio Ponce, Assistant General Counsel

COURT REPORTER

American Court Reporters
Jane Heneghan
(407)-896-1813
ReportingOrlando@aol.com

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

Dr. Fatmi welcomed dental students from the University of Florida College of Dentistry and dental hygiene and dental assisting students from Santa Fe Community College.

II. DISCIPLINARY PROCEEDINGS

A. Informal Hearings

- i. Diana Carolina Torres, DDS, Case No. 2018-07119
(PCP – Fatmi, White, Thomas)

Dr. Torres was present and sworn in by the court reporter. She was not represented by counsel at the meeting.

Mr. Simoes-Ponce summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(mm), Florida Statutes, by not retaining the

prescription for the dental prosthesis for four years from the date of the prescription. **Count II:** Section 466.028(1)(m), Florida Statutes, by not documenting patient visits.

Motion: by Ms. Cabanzon to adopt the investigative report into evidence in this proceeding, and to find that the Respondent was properly served and has requested an informal hearing and adopt the findings of facts set forth in the Administrative Complaint.

Second: by Dr. Freedman

Vote: Unanimous

Motion: by Ms. Cabanzon to adopt the conclusions of law as set forth in the Administrative Complaint and find that the conduct alleged constitute violations of the Practice Act

Second: by Dr. Freedman

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Mr. Andrade to table to a future meeting so Dr. Torres can consult with her attorney

Second: by Ms. Cabanzon

Vote: Unanimous

The case was called again later in the meeting and presented as an oral Settlement Agreement which included the following terms:

- Letter of Concern
- Fine of \$1,500.00 to be paid within one (1) year
- Costs in the amount of \$3,909.26 to be paid within one (1) year
- Continuing Education to be completed through a Florida accredited college of dentistry or a board approved continuing education provider within 12 months: 3-clock hour course in Record Keeping

Motion: by Ms. Cabanzon to accept the oral Settlement Agreement

Second: by Mr. Andrade

Vote: Unanimous

Dr. Torres accepted the Settlement Agreement on the record.

ii. Dang V. Ha, DMD, Case No. 2018-14637
(PCP – Fatmi, Morgan, Freedman)

Dr. Ha was present and sworn in by the court reporter. He was not represented by counsel.

Mr. Simoes-Ponce summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 456.072(1)(cc), Florida Statutes, leaving a piece of an instrument within the patient's tooth mesiobuccal canal. **Count II:** Section 466.028(1)(x), Florida Statutes, by failing to immediately inform the patient of the separated instrument and present treatment options; and/or by paying an indemnity in the amount of \$49,000.00 as a result of negligent conduct.

Motion: by Dr. Tejera to adopt the investigative report into evidence in this proceeding, and to find that the Respondent was properly served and has requested an informal hearing and adopt the findings of facts set forth in the Administrative Complaint.

Second: by Ms. Cabanzon

Vote: Unanimous

Motion: by Dr. Tejera to adopt the conclusions of law as set forth in the Administrative Complaint and find that the conduct alleged constitute violations of the Practice Act

Second: by Dr. Miro

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Ms. Cabanzon to impose the following penalties:

- Letter of Concern
- Fine of \$2,000.00 to be paid within one (1) year
- Continuing Education to be completed through a Florida accredited college of dentistry within one (1) year: Level I (3-6 hour) course in Endodontics
- Successful completion of the Laws and Rules exam within one (1) year

Second: by Mr. Andrade

Vote: Unanimous

Motion: by Ms. Cabanzon to impose the costs of \$1,430.47 to be paid within one (1) year

Second: by Mr. Andrade

Vote: Unanimous

- iii. Kimberly Suzanne Correa, DH, Case No. 2019-29571
(PCP – Fatmi, Morgan, Cabanzon)

This case was tabled to the May 2020 meeting

B. Settlement Agreements

- i. Paul E. Plasky, DDS, Case No. 2016-29830
(PCP – Fatmi, Morgan, Britten)

Dr. Plasky was present and sworn in by the court reporter. He was represented by Edwin Bayo, Esq.

Mr. Dunn summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(x), Florida Statutes, by failing to take any post-operative radiographs of the root canal therapies; by failing to diagnose the gross defects of the root canal therapies; and by paying an indemnity in the amount of \$140,000.00 as a result of negligent conduct. **Count II:** Section 466.028(1)(m), Florida Statutes, for failing to document the justification for treating teeth with root canal therapy; and/or for failing to document how many pills the Respondent prescribed.

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

- Appearance
- Letter of Concern
- Fine of \$10,000.00 to be paid within one (1) year
- Costs of \$5,000.00 to be paid within one (1) year
- Continuing Education to be completed through a Florida accredited college of dentistry within 12 months: Level I (3-6 hour) course in Diagnosis and Treatment Planning and a Level II (7-12 hour) course in Endodontics, and a 3-hour Record Keeping course
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept the Settlement Agreement

Second: by Mr. Andrade

Vote: Carried 7/1

- ii. Wade B. Harrouff, DDS, Case Nos. 2014-04348, 2014-15343
(PCP/2014-04348 – Morgan, Melzer, Perdomo)
(PCP/2014-15343 – Thomas, Perdomo, Morgan)

Dr. Harrouff was present and sworn in by the court reporter. He was represented by Edwin Bayo, Esq.

Mr. Simoes-Ponce summarized the Case No. 2014-04348 for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(x), Florida Statutes, by failing adjust the patient's vertical dimension without compensatory changes to the posterior teeth; by failing to diagnose the unstable occlusal pattern cause by the vertical adjustment; and/or by having an indemnity paid in the amount of \$85,000.00 as a result of his negligent conduct. Case No. 2014-15343: **Count I:** Section 466.028(1)(x), Florida Statutes, by failing adjust the patient's vertical dimension without compensatory changes to the posterior teeth; by failing to diagnose the unstable occlusal pattern cause by the vertical adjustment; and/or by having an indemnity paid in the amount of \$85,000.00 as a result of his negligent conduct.

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

- Appearance
- Reprimand
- Fine of \$15,000.00 to be paid within one (1) year
- Costs of \$9,696.82 to be paid within one (1) year
- Stayed suspension of license for three (3) years
- Continuing Education to be completed through a Florida accredited college of dentistry within three (3) years: A two-year continuum course in general dentistry at the University of Florida or Nova Southeastern University.

- Patient T.B. refund of \$275.00 and patient P.M. refund of \$6,324.00 within twelve (12) months
- Successful completion of the Laws and Rules exam within twelve (12) months

The patient reimbursement has been deemed satisfied due to civil indemnification.

After discussion, the following action was taken:

Motion: by Dr. Freedman to accept the Settlement Agreement

Second: by Dr. Tejera

Vote: Failed with a 4/5 vote

Motion: by Dr. Fatmi to reject the Settlement Agreement and revoke Dr. Harrouff's license

Mr. Bayo addressed the Board

Ms. Cabanzon suggested adding an amendment to the Settlement Agreement of a 3-semester hour course in Ethics and a Level II Risk Management course to be completed within 1 year

Motion: by Dr. Kavouklis to reject the Settlement Agreement

Second: by Dr. White

Vote: Unanimous

Motion: by Ms. Cabanzon to offer a counter agreement to include all of the original terms with the additions of a 3-semester hour course in Ethics and a Level II (4 hour) course in Risk Management to be completed within one (1) year.

Vote: Passed 7/2

Dr. Harrouff accepted the counter agreement on the record.

iii. Ganesh Rajagopalan, DDS, Case No. 2017-13074
(PCP - Fatmi, Morgan, Britten)

Dr. Rajagopalan was present and sworn in by the court reporter. He was represented by Richard Brooderson, Esq.

Mr. Dunn summarized the Case No. 2014-04348 for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(m), Florida Statutes, by failing to justify in writing why Respondent gave one or more prescriptions for Percocet, whether the prescription was for patient D.A. or G.A. **Count II:** Section 466.028(1)(p), Florida Statutes, by prescribing drugs other than in the course of the professional practice as a dentist.

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

- Appearance
- Letter of Concern
- Fine of \$15,000.00 to be paid within four (4) years
- Costs of \$4,041.17 to be paid within two (2) years

- Continuing Education to be completed through a Florida accredited college of dentistry within 12 months: 3-clock hour course on Prescribing Medications
- Successful completion of the Laws and Rules exam within twelve (12) months
- Prohibited from applying for, register for, or seek from the Federal DEA authority to prescribe, order, dispense Schedule II controlled substances.
- Three (3) semester hour course in Ethics through an accredited college or university. The course may be completed online.

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept the Settlement Agreement

Second: by Ms. Cabanzon

Vote: Unanimous

iv. Veronica Anne Thompson, Case No. 2014-16208

(PCP/Original AC – Thomas, Britten, Fatmi)

(PCP/Amended AC – Thomas, Morgan, Fatmi)

Dr. Thompson was not present and was not represented at the meeting.

Mr. Dunn presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes, by failing to obtain a medical consultation from the patient’s doctor prior to administering anesthesia; by failing to conduct a pre-anesthesia examination including airway evaluation and risk assessment; by failing to administer the proper amount of anesthesia to the patient; by failing to properly titrate anesthesia medication to the patient; by failing to follow the proper emergency protocols when the patient went into cardiac arrest by not administering Epinephrine; by failing to use an oropharyngeal airway or nasopharyngeal airway to improve ventilation; by failing to administer Flumazenil or Naloxone to the patient. **Count II:** Section 466.028(1)(gg), Florida Statutes, by failing to examine and record the examination including airway and risk assessment. **Count III:** Section 466.028(1)(gg), Florida Statutes, by failing to record the patient’s vital signs every five minutes. **Count IV:** Section 466.028(1)(gg), Florida Statutes, by failing to obtain a deep sedation permit prior to administering deep sedation to the patient.

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

- Revocation
- Costs in the amount of \$33,349.33 to be paid within six (6) months

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept the Settlement Agreement

Second: by Ms. Cabanzon

Vote: Unanimous

C. Determination of Waiver

- i. Ivan Cecil Graham, DDS, Case No. 2018-07212
(PCP – Fatmi, Freedman, Morgan)

Dr. Graham was not present. He was represented by Amber Tracey, Esq.

Mr. Dunn summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(x), Florida Statutes, by failing to remove the retained roots at the extraction site; and/or by failing to diagnose there were retained root tips at the extraction sites; and/or by failing to refer the patient to another dentist or oral surgeon to assess or remove the remaining roots.

The Department received the Election of Rights on December 12, 2019, which was outside of the 21-day required response time. Ms. Tracey indicated this was due to an administrative scheduling error.

Motion: by Dr. Tejera motion to accept the late filed Election of Rights form
Second: by Ms. Cabanzon

Mr. Flynn informed the Board that a scheduling error is not a reasonable cause to grant an extension to the 21-day response requirement.

Dr. Tejera retracted his motion

Motion: by Dr. Tejera 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: by Ms. Cabanzon

Vote: Unanimous

Motion: by Dr. Tejera 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 Ms. Cabanzon

Vote: Unanimous

Motion: by Dr. Tejera to grant a continuance until the May 15, 2020 meeting

Second: by Mr. Andrade

Vote: Unanimous

- ii. Alfons Bucaj, DMD, Case No. 2018-24091
(PCP - Fatmi, Morgan, Freedman)

Dr. Bucaj was not present. He was not represented by counsel.

Mr. Simoes-Ponce summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(mm), Florida Statutes, through a violation of Rule 64B5-14.008, F.A.C. by failing to comply with the supply, equipment, and/or facility

requirements to administer moderate sedation.

Motion: by Dr. Tejera 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: by Ms. Cabanzon

Vote: Unanimous

Motion: by Dr. Tejera 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 Ms. Cabanzon

Vote: Unanimous

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

Second: by Ms. Cabanzon

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Dr. Tejera to impose the following penalties:

- Letter of Concern
- Fine of \$2,500.00 to be paid within one (1) year
- Permanent restriction from administering sedation until he is able to pass a sedation inspection or gives up the sedation permit.

Second: by Mr. Andrade

Vote: Unanimous

Motion: by TJ to assess the costs of \$1,050.48 to be paid within one (1) year

Second: by Mr. Andrade

Vote: Unanimous

D. Voluntary Relinquishment

- i. Dennis R. Johnson, DDS, Case No. 2018-17365
(PCP – Fatmi, Morgan, Freedman)

Dr. Johnson was not present. He was represented by Jon Pellett, Esq.

Motion: by Dr. Tejera to accept the Voluntary Relinquishment

Second: by Mr. Andrade

Vote: Unanimous

III. PROSECUTION REPORT

A. Chad Dunn, Assistant General Counsel

Mr. Dunn presented the Board with the current status of Board cases.

Motion: by Dr. Fatmi to continue prosecuting year and older cases

Second: by Dr. White

Vote: Unanimous

IV. PETITION FOR MODIFICATION OF FINAL ORDER

A. Dennis R. Johnson, DDS, Case Nos. 2015-18858 and 2018-17365

Dr. Johnson was not present. He was represented by Jon Pellet, Esq.

Dr. Johnson filed a petition to modify his Final order in Case No. 2015-18858 due to relinquishing his license in Case No. 2018-17365. He is requesting the Board deem that his fine and costs in Case 2015-18858 has been satisfied.

After discussion, the following action was taken:

Motion: by Dr. Freedman to reject the request for modification

Second: by Dr. Fatmi

Vote: Unanimous

V. REVIEW OF APPLICATIONS

A. Application for Dental License

i. James F. Sorrento

Dr. Sorrento was present and sworn in by the court reporter. He was represented by Sarah. His appearance was required by the Board Chair due to previous civil settlements.

After discussion, the following action was taken:

Motion: by Ms. Cabazon to accept the application

Second: by Dr. Freedman

Vote: Unanimous

ii. Kelly Donald Jackson

Dr. Jackson was present and sworn in by the court reporter. She was not represented by counsel. Her appearance was required by the Board Chair due to previous disciplinary history in other states.

After discussion, the following action was taken:

Motion: by Dr. Freedman to accept the application
Second: by Dr. Tejera
Vote: Unanimous

B. Application for Dental Hygiene License

i. Rolando Jose Useda

Mr. Useda was present and sworn in by the court reporter. He was not represented by counsel. His appearance was required due to previous criminal history.

After discussion, the following action was taken:

Motion: by Dr. Freedman to accept
Second: by Dr. Tejera
Vote: Unanimous

C. Application for Moderate Sedation Permit

i. Eric Ebuén, DMD

Dr. Ebuén was present and sworn in by the court reporter. He was represented by Carol Schriefer, Esq. His appearance was requested by the Anesthesia Chair due to questions regarding the accreditation of his sedation training.

After discussion, the following action was taken:

Dr. Ebuén withdrew his application and will complete twenty sedation cases from CODA accredited dental school and reapply.

ii. Jose Rodriguez Lantigua, DMD

Dr. Lantigua was present and sworn in by the court reporter. His appearance was requested by the Anesthesia Chair regarding the accreditation of his sedation training and the administration of the sedation cases.

Also present was Dr. Carol Wilson, a DOCS faculty member. The Board questions the affiliation of the DOCS course, Idaho University's AEGD program, and the clinic in Kentucky.

The Board was unable to determine the program's affiliation and determined that the AEGD program is not an accredited program dental school that offers a DMD or DDS degree and does not meet the requirement in Rule 64B5-14.003, F.A.C.

After discussion, the following action was taken:

Dr. Lantigua withdrew his application.

D. Application for General Sedation Permit

i. Stuart M. Hirsch, DMD

Dr. Hirsch has applied for a General Sedation Permit. He currently holds a moderate sedation permit. Dr. Hirsch requested the Board eliminate their requirement that he perform an additional twenty (20) sedation cases at an educational institute and approve his application for a General Sedation Permit. Dr. Hirsch previously appeared before the Board on May 18, 2018 with a Petition for Variance and Waiver of Rule requesting the board to accept the documentation of his significant involvement in the clinical administration of anesthetics to 20 dental or oral and maxillofacial patients and approve his application for a general anesthesia permit. At the May 18, 2018 board meeting, the Board discussed him going to NSU to complete the twenty (20) general sedation cases. The Board allowed Dr. Hirsch to withdraw his petition.

The Board determined that he does not meeting the requirements in Rule 64B5-14.005(2)(b), F.A.C.

After discussion, Dr. Hirsh withdrew his application.

VI. REPORTS

A. Board Counsel

i. Rules Report

Mr. Flynn provided the Board with an update on the rules currently in process.

B. Executive Director

i. Legislation Update

Ms. Sapp provided the Board with an overview of legislation impacting dentistry.

ii. Financial Reports

This was provided as informational.

C. Chair

i. CDCA Update

Dr. Fatmi provided the Board with an overview of the annual CDCA meeting which was held January 9-11, 2020.

ii. Recognition of Service

Dr. Fatmi recognized and thanked Ms. Angela Sissine for her service on the Board. She was appointed in 2013 and served through January 2020.

Dr. Fatmi also recognized Ms. Wenhold as outgoing Executive Director as she accepted the position as Bureau Chief for Health Care Practitioner Regulation at the Department.

D. Board Members

i. Ms. Cabanzon

1. Council on Dental Hygiene Report

The Council on Dental Hygiene held a telephonic meeting on December 11, 2019. The council discussed the two-day training required for dental hygienist and dental assistants to monitor nitrous oxide. The council requested clarification from the Anesthesia committee and asked the committee to consider an alternate training course.

The Council voted to reference Rule 64B5-14.006, Report Adverse Occurrences, in Rule 64B5-16.006(4)(c), F.A.C.

The Council voted to approve the American Academy of Dental Hygiene (AADH) as a board rule approved continuing education provider and requested the full board add this to Rule 64B5-12.013, F.A.C.

Motion: by Ms. Cabanzon to accept the AADH as a rule approved CE provider and add them to the rule.

Second: by Dr. Freedman

Vote: Unanimous

2. Rules Committee Report

The Rules Committee held an in-person meeting on February 20, 2020 and the following discussion was had:

The committee requested the Board to repeal Rule 64B5-2.020, Selection of Examiners.

Motion: by Ms. Cabanzon to repeal the rule

Second: by Dr. Miro

Vote: Unanimous

Dr. Fatmi volunteered to work on 64B5-10 to streamline the reactivation requirements.

Dr. Tejera volunteered to work on 64B5-12.0185, Standards for Board Approval of Pro Bono Programs, to determine is the Board needs to list specific entities within the rule.

Mr. Andrade volunteered to work on the disciplinary guidelines

The committee proposed the following rule revisions:

64B5-9.010 Prescriptions for the Services of a Dental Hygienist.

(1) ~~For the purposes of Section 466.023(2)(d), F.S.,~~ A dentist's prescription for his patient of record for dental hygiene services in the setting outlined in 466.023 (2)(d), F.S., shall contain the following information, within the electronic or paper record of the patient:

(a) The patient's name and address;

(b) The dentist's name, business address and license number;

- (c) The name, business address and professional license number of the dental hygienist who is being authorized to perform the service; and
(d) A statement of the specific services authorized and the frequency of the services authorized.
~~(2) The prescribing dentist shall maintain an electronic or paper copy of the prescription within the patient's dental record.~~

Motion: by Dr. Freedman to approve
Second: by Mr. Andrade
Vote: Unanimous

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.

The Board determined that no part of this rule or a violation of this rule should be designated as a minor violation.

The Board determined that this rule shall not include a sunset provision.

Rule 64B5-12.013:

(6) By January 1, 2021, each licensee shall complete a one-time board-approved, 1-hour continuing education course on human trafficking as outlined in 456.0341. The course must address both sex trafficking and labor trafficking, how to identify individuals who may be victims of human trafficking, how to report cases of human trafficking, and resources available to victims.

Motion: by Dr. Freedman to approve
Second: by Mr. Andrade
Vote: Unanimous

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.

The Board determined that no part of this rule or a violation of this rule should be designated as a minor violation.

The Board determined that this rule shall not include a sunset provision.

E. Inspection Report

- i. Ron Dillworth, Investigative Services Administrator

Mr. Dillworth provided the Board with an overview of the dental sedation program. The program has completed 103 inspections since January 1, 2020. Dr. Thompson, one of the Department's full time inspectors was present and recognized by the Board.

The Board thanked Mr. Dillworth, Dr. Thompson and the other inspectors for their diligent work.

VII. FOR YOUR INFORMATION

- A. Spotlight on ULA
- B. ADEA Snapshot of Dental Education

VIII. NEW BUSINESS

- A. Delegation of Authority

Motion: by Ms. Cabanzon to approve the Delegation of Authority

Second: by Dr. Freedman

Vote: Unanimous

- B. 2021 Meeting Dates

The Board approved the below meeting dates and requested to meet in Gainesville, South Florida, Orlando, and Tampa:

February 19, 2021

May 21, 2021

August 13, 2021

November 19, 2021

- C. Licensure Ratification Lists

Motion: by Dr. Tejera to approve the licensure ratification list

Second: by Mr. Andrade

Vote: Unanimous

- D. Anesthesia Ratification List

Motion: by Dr. Tejera to approve the anesthesia ratification list

Second: by Dr. White

Vote: Unanimous

IX. OLD BUSINESS

- A. Approval of Board Meeting Minutes – November 22, 2019

Motion: by Ms. Cabanzon to approve the meeting minutes

Second: by Dr. Tejera

Vote: Unanimous

X. ADJOURNMENT

There being no further business, the meeting adjourned at 12:35 p.m.