

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
May 21, 2021
Sheraton Orlando North
600 N, Lake Destiny Road
Maitland, FL 32751
(407) 660-9000
7:30 A.M. ET**

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

Nick White, DMD, Chair
Claudio Miro, DDS
T.J. Tejera, DMD, MD
Bradley Cherry, DDS, MD
Christine Bojaxhi, DMD
Thomas McCawley, DDS
Karyn Hill, CRDH, BS
Jose Mellado, DMD
Angela Johnson, RDH
Fabio Andrade, Consumer Member, Vice Chair

COURT REPORTER

Magnolia Court Reporting
Cindy Green
407-896-1813

STAFF PRESENT

Jessica Sapp, Executive Director
Paulette Schofill, Program Administrator
Traci Zeh, Program Administrator

BOARD COUNSEL

Lawrence Harris
Senior Assistant Attorney General

PROSECUTION SERVICES UNIT

Rose Garrison, Assistant General Counsel
Ashlin Morgan, Assistant General Counsel
Andrew Pietrylo, Chief Legal Counsel

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.

II. DISCIPLINARY PROCEEDINGS

A. Informal Hearings

- i. Julio Suarez, DH, Case No. 2016-17706
(PCP – Miro, Britten, Cabanzon)

Dr. Miro was recused due to participation on the probable cause panel.

Mr. Suarez was present and was represented by Francis Deluca, Esq.

Ms. Garrison summarized the case for the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(y), Florida Statutes for practicing beyond

the scope permitted by law and performing professional responsibilities which the licensee knows or has a reason to know that she or he is not competent to perform by placing fillings in patient's teeth and by extracting one or more patient's teeth. **Count II:** Section 466.028(1)(y), Florida Statutes for practicing beyond the scope permitted by law and performing professional responsibilities which the licensee knows or has a reason to know that she or he is not competent to perform by extracting one or more patient's teeth. **Count III:** Section 466.028(1)(y), Florida Statutes for practicing beyond the scope permitted by law and performing professional responsibilities which the licensee knows or has a reason to know that she or he is not competent to perform by placing fillings in patient's teeth. **Count IV:** Section 466.028(1)(y), Florida Statutes for practicing beyond the scope permitted by law and performing professional responsibilities which the licensee knows or has a reason to know that she or he is not competent to perform by placing fillings in patient's teeth, by extracting one or more patient's teeth and by performing at least one alveoplasty procedure.

Motion by: Dr. Tejera to find that the Respondent was properly served and has requested an informal hearing.

Second: Dr. White

Vote: Unanimous

Motion by: Dr. Tejera to adopt the findings of fact as set forth in the Administrative Complaint.

Second: Dr. White

Vote: Unanimous

Motion: by Dr. Tejera to adopt the materials and any addendum materials into evidence.

Second: Dr. White

Vote: Unanimous

Respondent's attorney asked the Board to grant a continuance due to a pending criminal case against Mr. Suarez.

Motion: by Dr. White to deny the Respondent's request for a continuance.

Second: Dr. Tejera

Vote: Unanimous

Respondent's attorney made a Motion to Dismiss on the basis of Collateral Estoppel.

Motion: by Dr. Tejera to deny the Respondent's Motion to Dismiss.

Second: Dr. White

Vote: Unanimous

Motion: by Dr. Tejera to adopt the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the practice act.

Second: Dr. White

Vote: Unanimous

The Department recommends revocation in this case.

After discussion, the following action was taken:

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Motion: by: Ms. Hill for revocation
Second: Dr. White
Vote: Unanimous

Motion: by Dr. Tejera to impose costs of \$12,916. 98 to be paid within 1 year.
Second: Dr. Cherry
Vote: Unanimous

B. Settlement Agreements

- i. Jack T. Krauser, DMD, Case No. 2019-29797
(PCP- Miro, Perdomo, Morgan)

Dr. Miro was recused due to participation on the probable cause panel.

Dr. Krauser was present and was represented by Sean Ellsworth, Esq.

Ms. Garrison presented the case to the Board. Respondent was charged with the following violation: Count I: Section 466.028(1)(m) Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment by failing to document the course and results of the treatment, whether or not drugs were administered, including anesthetic, and whether or not any radiographs were taken and the results thereof.

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

- Appearance
- Letter of Concern
- Fine of \$5,000 to be paid within thirty (30) days of the filing of the Final Order
- Costs of \$3,988.62 to be paid within thirty (30) days of the filing of the Final Order
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within 12 months: Level II (7-12 hour) course in Record Keeping
- 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: Mr. Andrade
Vote: Unanimous

- ii. Charles M. Wallace, DDS, Case No. 2019-48913
(PCP – Miro, Morgan, Calderone)

Dr. Miro was recused due to participation on the probable cause panel.

Dr. Wallace was present and was represented by Richard Brooderson, Esq.

Ms. Garrison 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 meet the minimum standards of performance in diagnosis and treatment for failing to perform an examination or evaluation to establish a diagnosis prior to extracting teeth 17 and 18 and attempting to remove the cyst in the area of tooth 17. **Count II:** Section 466.028(1)(m) Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment by failing to document examination, evaluation and diagnosis of patient's medical history or dental condition.

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

- Appearance
- Reprimand
- Fine of \$10,000 to be paid within one (1) year of the filing of the Final Order
- Costs of \$3,136.71 to be paid within one (1) year of the filing of the Final Order
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within 12 months: Level I (3-6 hour) course in Diagnosis and Treatment Planning; Level I (3-6 hour) course in Pathology; and Level II course in Record Keeping
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by: Mr. Andrade to accept the Settlement Agreement with the Oral Amendment changing the number of hours for the Level II Record Keeping from 3-6 hours to 7-12 hours

Second: Dr. Tejera

Vote: Carried 7/2. Ms. Hill and Ms. Johnson opposed.

- iii. Jeremy Kay, DMD, Case No. 2016-19284
(9/17/17 PCP – Miro, Morgan, Perdomo)
(1/15/21 PCP – Miro, Morgan, Perdomo)

Dr. Miro was recused due to participation on the probable cause panel. Dr. Bojaxhi recused herself from the case due to personal knowledge.

Dr. Kay was present and was represented by Dennis A. Vandenberg, Esq.

Ms. Garrison presented the case to the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(m) Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment by failing to maintain a written record indicating patient's complaint; by failing to maintain a written record of a diagnosis justifying the extraction of tooth number 14; and by failing to maintain a written record indicating the administration of an anesthetic agent, including local anesthesia, and specifying the drugs used and the dosages of each drug used.

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

- Appearance
- Letter of Concern

- Fine of \$2,000 to be paid within thirty (30) days of the filing of the Final Order
- Costs in the amount of \$6,000.00 to be paid within one (1) year of the filing of the Final Order
- Continuing Education to be completed in person at or through an accredited college of dentistry within 12 months: Level I (3-6 hour) course in Record Keeping (SA does not indicate Florida accredited dental school)
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Tejera to reject the Settlement Agreement

Second: Dr. Mellado

Vote: Carried 6/2. Dr. White and Mr. Andrade opposed.

Motion: by Dr. Tejera to offer a counter agreement removing the Letter of Guidance. All other terms remain the same.

Second: Dr. Mellado

Vote: Carried 6/2. Dr. White and Mr. Andrade opposed.

Dr. Kay accepted the counter settlement agreement on the record.

iv. Mark Berger, DDS, Case No. 2017-11532

(5/5/20 PCP – Miro, Perdomo, Morgan)

(9/11/20 PCP – Miro, Perdomo, Morgan)

Dr. Miro was recused due to participation on the probable cause panel.

Dr. Berger was present and was represented by James L. White, Esq.

Ms. Garrison presented the case to the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(m) Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment by failing to document the results of any periodontal probing within patient's dental record.

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

- Appearance
- Letter of Concern
- Fine of \$5,000 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$4,191.54 to be paid within one (1) year of the filing of the Final Order
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within 12 months: Level I (3-6 hour) course in Record Keeping
- 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: Ms. Hill

Vote: Unanimous

- v. Jorge O. Hernandez, DDS, Case No. 2018-07046
(PCP – Fatmi, Morgan, Britten)

This case was tabled to the August meeting.

C. Determination of Waiver

- i. Frederick Joseph Eck, DDS, Case No. 2018-18070
(PCP – Morgan, Miro, Perdomo)

Dr. Miro was recused due to participation on the probable cause panel.

Dr. Eck was not present. Dr. Eck's assistant Ms. Jessica Hall was present. He was not represented by counsel.

Motion: by Dr. Tejera to accept Ms. Hall's statement into the record

Second: Dr. White

Vote: Unanimous

Ms. Morgan presented the case to the Board. Respondent is charged with the following violation: **Count I:** Section 466.028(1)(x), Florida Statutes by failing to meet the minimum standards of performance in diagnosis and treatment by failing to perform the necessary examination(s) to determine the cause of pain at tooth 19; and failing to provide a treatment plan to sufficiently address the patient's dental condition. **Count II:** Section 466.028(1)(m) Florida Statutes, for failing to keep written dental records and medical history records justifying the course of treatment by failing to document any examinations for tooth 19; failing to document the result of any examinations of tooth 19; and failing to document the justification for replacing the crown at tooth 19.

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 Dr. White

Vote: Unanimous

Motion: by Dr. Tejera to adopt the allegations of fact in the Administrative Complaint as the findings of fact of the Board.

Second: by Dr. White

Vote: Unanimous

Motion: by Dr. Tejera to find the Respondent in violation of the Florida Statutes as charged in the Administrative Complaint.

Second: by Dr. White

Vote: Unanimous

After discussion, the following action was taken:

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

- Reprimand
- \$10,000 fine on the x count and \$10,000 fine on the mm count to be paid within sixty (60) days
- Costs in the amount of \$2,370.61 to be paid within sixty (60) days
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within six (6) months: Level I (3-6 hour) course in Record Keeping, Level I (3-6 hour) course in Diagnosis and Treatment Planning, Level II (7-12 hour) course in Endodontics
- Successful completion of the Laws and Rules exam within six (6) months
- Patient reimbursement in the amount of \$2,183.00 and to be paid within thirty (30) days
- Reimbursement to patient's third-party payor in the amount of \$1,422.00 to be paid within thirty (30) days

Second: Dr. White

Vote: Unanimous

D. Voluntary Relinquishment

- i. Gregory D. Reddish, DMD, Case No. 2020-37625
(PCP - Waived)

Dr. Reddish was not present.

Motion: by Dr. Tejera to accept the Voluntary Relinquishment

Second: by Dr. White

Vote: Unanimous

- ii. Barbara L. Casey, DDS, Case No. 2020-06066
(PCP – Miro, Morgan, Calderone)

Dr. Casey was not present.

Dr. Miro was recused due to participation on the probable cause panel

Motion: by Dr. Tejera to accept the Voluntary Relinquishment

Second: by Dr. Mellado

Vote: Unanimous

- iii. Alexandra Sanchez-Urena, DH, Case Nos. 2016-18116 & 2016-18117
(PCP – Miro, Britten, Cabanzon)

Ms. Sanchez-Urena was not present.

Dr. Miro was recused due to participation on the probable cause panel.

Motion: by Dr. Tejera to accept the Voluntary Relinquishment
Second: by Dr. Mellado
Vote: Unanimous

E. Motion to Assess Costs

i. Tatyana Stepanchuk, DMD, Case No. 2018-00406

Dr. Stepanchuk was not present.

On February 19, 2021 the Board considered a Recommended Order and granted Petitioner's exceptions and imposed discipline on the Respondent. The motion was bifurcated due to the parties' competing Motions for Costs. On March 17, 2021, the administrative law judge issued an order that there were no material facts in dispute and relinquished the case back to the board to determine costs to be assessed against the Respondent. On March 22, 2021, the Department filed a Motion to Assess Costs in the amount of \$49,316.69.

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept the Motion for Costs of \$49,316.69.
Second: by Ms. Hill
Vote: Unanimous

III. PROSECUTION REPORT

A. Rose Garrison, Assistant General Counsel

Ms. Garrison presented the Board with the current status of Board cases.

Motion: by Mr. Andrade to continue prosecuting year and older cases
Second: Ms. Hill
Vote: Unanimous

IV. PETITION FOR MODIFICATION OF FINAL ORDER

A. Dr. Italo Aquiles Lozada, DDS

Case No. 2018-21641

On March 1, 2021, Dr. Lozada made a request to modify his Final Order on Case No. 2018-21641. The Final Order required him to pay a fine of \$8,000 and costs of \$3,500 within twenty-four months of the filing of the Final Order. He is requesting an extension with a payment plan of the costs and fees imposed. He is requesting to make eleven (11) equal monthly payments of \$985.33 until paid in full.

Motion: by Dr. Tejera to accept the Petition for Modification of Final Order for a 12-month extension

Second: by Mr. Andrade

Vote: Unanimous

B. Dr. Paul E. Plasky, DDS

Case No. 2016-29830

On March 12, 2021, Dr. Plasky made a request to modify his Final Order on Case No. 2016-29830. The Final Order required him to take and pass the Florida Laws and Rules examination within twelve (12) months of the filing of the Final order. Dr. Plasky has taken and failed the Laws and Rules examination once and is asking for an extension to register and take the exam again.

Motion: by Dr. Miro to accept the Petition for Modification of Final Order for a 6-month extension

Second: by Dr. White

Vote: Unanimous

V. REVIEW OF APPLICATIONS

A. Application for Dental License

i. Nilka Rodriguez

Dr. Rodriguez was present and was represented by Ed Bayo, Esq. Her appearance was requested due to pending civil litigation in another state.

After further discussion, the following action was taken:

Motion: by Dr. Miro to accept the application for licensure

Second: Dr. Tejera

Vote: Unanimous

VI. REPORTS

A. Board Counsel

- i. Rules Report
- ii. JAPC Correspondence
 - a. Rules 64B5-2.014, 2.0144, 2.0146, F.A.C.

Motion: by Dr. Tejera to accept the proposed changes
Second: Dr. Miro
Vote: Unanimous

The Board found there was no economic impact, that no part of this rule or a violation of this rule should be designated as a minor violation, that this rule shall not include a sunset provision. and that a Statement of Regulatory Cost was not necessary and will not need legislative ratification.

- b. Rules 64B5-7.003, 7.0035, 7.007, F.A.C.

Motion: by Dr. Tejera to accept the proposed changes
Second: Dr. White
Vote: Unanimous

The Board found there was no economic impact, that no part of this rule or a violation of this rule should be designated as a minor violation, that this rule shall not include a sunset provision. and that a Statement of Regulatory Cost was not necessary and will not need legislative ratification.

- c. Rule 64B5-9.011, F.A.C.

Motion: by Dr. Tejera to accept proposed changes
Second: Dr. Cherry
Vote: Unanimous

The Board found there was no economic impact, that no part of this rule or a violation of this rule should be designated as a minor violation, that this rule shall not include a sunset provision. and that a Statement of Regulatory Cost was not necessary and will not need legislative ratification.

- d. Rule 64B5-14.003, F.A.C.

Motion: by Dr. Miro to accept the proposed changes
Second: Dr. White
Vote: Unanimous

The Board found there was no economic impact, that no part of this rule or a violation of this rule should be designated as a minor violation, that this rule shall not include a sunset provision. and that a Statement of Regulatory Cost was not necessary and will not need legislative ratification.

- e. Rule 64B5-25.007, F.A.C.

Motion: by Dr. Miro to accept the proposed changes
Second: Dr. White

Vote: Unanimous

The Board found there was no economic impact, that no part of this rule or a violation of this rule should be designated as a minor violation, that this rule shall not include a sunset provision. and that a Statement of Regulatory Cost was not necessary and will not need legislative ratification.

B. Executive Director

i. Legislation Update

Ms. Sapp provided a summary of the following bills:

HB 241 – An act relating to the Parents’ Bill of Rights.

The bill creates the “Parents’ Bill of Rights,” which states that licensed health care providers and facilities cannot provide services, prescribe medicine, or perform any procedure without first obtaining written parental consent unless otherwise authorized by law.

The bill requires a health care practitioner, or his or her employees, to obtain parental consent before performing health care services on a minor child and subjects health care practitioners and health care facilities to disciplinary action for violation of these parental consent requirements in certain instances. The bill includes criminal penalties as well as providing grounds for disciplinary action.

SB1934 – An act relating to health care practitioner discipline.

The bill requires certain offenses be included in grounds for discipline for health care practitioners. It requires the Department of Health to issue an Emergency Order suspending the license of any health care practitioner who is arrested for committing or attempting, soliciting, or conspiring to commit any act that would constitute a violation of certain offenses in this state or similar offenses in another jurisdiction.

ii. Financial Reports

Ms. Sapp provided the financial reports to the Board for informational purposes.

C. Chair

D. Board Members

E. Inspection Report

i. Ron Dilworth

Mr. Dilworth provided the Board with an overview of the dental sedation program. The program completed 405 inspections in 2020 and has completed 205 inspections to date in 2021.

VII. RULES DISCUSSION

A. Application Redesign

Ms. Sapp provided the Board with a summary of the application revisions.

- i. Application for General Anesthesia Permit
- ii. Application for Moderate Sedation Permit
- iii. Application for Pediatric Moderate Sedation Permit

Motion: by Dr. Miro to approve the application revisions and open the applicable rules for development.

Second: by Dr. Tejera

Vote: Unanimous

The Board found there was no economic impact, that no part of this rule or a violation of this rule should be designated as a minor violation, that this rule shall not include a sunset provision. and that a Statement of Regulatory Cost was not necessary and will not need legislative ratification.

VIII. DISCUSSION

A. Dental Sleep Medicine Letters

A letter was received from the American Academy of Sleep Medicine (AASM) asking that the Board adopt a policy clarifying home sleep apnea tests. The Board indicated that they would not take a position at this time.

IX. FOR YOUR INFORMATION

A. Spotlight on ULA

X. NEW BUSINESS

A. Licensure Ratification Lists

After discussion, the following action was taken:

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

Second: by Dr. White

Vote: Unanimous

B. Anesthesia Ratification List

After discussion, the following action was taken:

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

Second: by Dr. White

Vote: Unanimous

XI. OLD BUSINESS

A. Approval of Board Meeting Minutes – February 19, 2021

After discussion, the following action was taken:

Motion: by Dr. Tejera to approve the meeting minutes

Second: by Dr. White

Vote: Unanimous

XII. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:40 a.m.