

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING DRAFT MINUTES
February 18, 2022
Hilton University of Florida Conference Center
1714 SW 34th Street
Gainesville, FL 32607
(352) 371-3600
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

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

COURT REPORTER

American Court Reporting
Cindy Green
407-896-1813

STAFF PRESENT

Jessica Sapp, Executive Director
Paulette Schofill, Program Administrator

BOARD COUNSEL

Lawrence Harris
Senior Assistant Attorney General

PROSECUTION SERVICES UNIT

Andrew Pietrylo, Chief Legal Counsel
Major Thompson, Assistant General Counsel
Caitlin Harden, Assistant Legal Counsel

Ms. Johnson 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. Tejera recognized the Senior dental class from the University of Florida and the dental hygiene and dental assisting students from Santa Fe College.

II. DISCIPLINARY PROCEEDINGS

A. Informal Hearings

- i. Mohamed Gamal-Eldin, DDS, Case No. 2020-31321
(PCP – Miro, Morgan, McCawley)

Dr. Miro and Dr. McCawley were recused due to participation in the probable cause panel.

Dr. Gamal-Eldin was not present. He was not represented by counsel.

Mr. Thompson summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028 (1) (mm), Florida Statutes, for violating Section 456.072 (1)(h) for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee.

Motion by: Mr. Andrade to find that the Respondent was properly served and has requested an informal hearing and to adopt the findings of fact as set forth in the Administrative Complaint.

Second: Ms. Hill

Vote: Unanimous

Motion: by Dr. White 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: Mr. Andrade

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Ms. Hill for revocation of the license

Second: Mr. Andrade

Vote: Unanimous

The Department waived its motion for costs.

ii. Luis A. Zambrano, DMD, Case No. 2020-25085

(PCP – Miro, Morgan, Bojaxhi)

Dr. Miro and Dr. Bojaxhi were recused due to participation in the probable cause panel.

Dr. Zambrano was present and was sworn in by the court reporter. He was represented by Suzanne Hurley, Esq.

Ms. Harden summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028(1)(x), Florida Statutes, for failing to meet the standards of performance in diagnosis and treatment by failing to place implants 8, 9, and 10 in a stable bony environment conducive to promote osseointegration by failing to place the implants in teeth 8, 9, and 10 slightly lingual in the socket; failure to ensure that the fully seated implants had a minimum of 1.5-2 mm of bone thickness on each side and/or by having an indemnity paid in the amount of \$40,000 to patient D.B. as a result of negligent conduct by Respondent.

Motion by: Dr. White to find that the Respondent was properly served and has requested an informal hearing and to adopt the findings of fact as set forth in the Administrative Complaint.

Second: Mr. Andrade

Vote: Unanimous

Motion: by Mr. Andrade 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

After discussion, the following action was taken:

Motion by: Mr. Andrade to impose the following penalties:

- Reprimand
- Fine of \$7,500 to be paid within one (1) year
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within one year: Level II (7-12 hour) course in Diagnosis and Treatment Planning; Level II (7-12 hour) course in Periodontics; Level II (7-12 hour)

course in Implants. Respondent shall be restricted from performing those dental procedures until remediation is complete.

- Successful completion of the Laws and Rules exam within twelve (12) months of the filing of the Final Order

Second: Ms. Hill
Vote: Unanimous

Motion: by Mr. Andrade to impose costs of \$2,655.14 to be paid within one (1) year.
Second: Dr. White
Vote: Unanimous

- iii. Baltasar Jimenez, DMD, Case No. 2021-10784
(PCP – Miro, Morgan, Bojaxhi)

Dr. Miro and Dr. Bojaxhi were recused due to participation in the probable cause panel.

Dr. Jimenez was/was not present. He was not represented by counsel.

Mr. Thompson summarized the case for the Board. Respondent was charged with the following violation: **Count I:** Section 466.028 (1)(aa) for a violating a lawful order of the Board of Dentistry by failing to complete three (3) to six (6) hours of continuing education in Diagnosis and Treatment Planning by October 3, 2020 and/or failing to complete a three (3) semester hour course in Ethics by October 3, 2020.

Motion by: Dr. White to find that the Respondent was properly served and has requested an informal hearing and to adopt the findings of fact as set forth in the Administrative Complaint.

Second: Mr. Andrade
Vote: Unanimous

Motion: by Dr. White 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: Ms. Hill
Vote: Unanimous

After discussion, the following action was taken:

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

- Reprimand
- Fine of \$10,000 to be paid within ninety (90) days
- Suspension until compliant

Second: Mr. Andrade
Vote: Unanimous

Motion: by Mr. Andrade to impose costs of \$55.87 to be paid within ninety (90) days.
Second: Dr. Mellado
Vote: Unanimous

B. Settlement Agreements

- i. Marisel Amaro Almeida, DMD, Case No. 2016-16368

(PCP – Gesek, Melzer, Calderone)

Dr. Almeida was present and sworn in by the court reporter. She was represented by Jon Pellett, Esq.

Mr. Thompson presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes for failing to meet the standards of performance in diagnosis and treatment by recementing Patient L.R.'s bridge on January 14, 2015 without removing the bridge and/or: by seating a bridge on Patient L.R. from teeth 4 through 9 that was inappropriate in light of Patient L.R.'s lack of posterior support.

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

- Appearance
- Letter of Concern
- Fine of \$2,500 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$4,000.00 be paid within one (1) year of the filing of the Final Order (costs currently at \$6,020.12)
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within one year: Level I (3-6 hour) course in Diagnosis and Treatment Planning; Level I (3-6 hour) course in Prosthodontics. Respondent shall be restricted from performing those dental procedures until remediation is complete.
- Successful completion of the Laws and Rules exam within twelve (12) months of the filing of the Final Order

After discussion, the following action was taken:

Motion by: Dr. Miro to dismiss

Second: Dr. Bojaxhi

Vote: Unanimous

Mr. Pellett waived costs and attorney fees.

ii. Janine Cornelius, DDS, Case No. 2019-10378

(PCP – Miro, Morgan, Cherry)

Dr. Miro and Dr. Cherry were recused due to participation in the probable cause panel.

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

Mr. Thompson presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(y), Florida Statutes, for practicing or offering to practice beyond the scope permitted by law by performing a skin treatment on Patient J.T.'s chest, left arm, left forearm, right arm, and right forearm on or about October 5, 2016; and/or performing skin treatment on Patient J.T.'s chest, left arm, and right arm on or about December 5, 2016.

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

- Appearance
- Letter of Concern
- Fine of \$5,000 to be paid within twelve (12) months of the filing of the Final Order
- Costs in the amount of \$3,500.00 be paid within twelve (12) months of the filing of the

- Final Order (costs currently at \$5,374.37)
- Successful completion of a three-semester hour course in Ethics to be completed at or through (online) a Florida accredited college or university within twelve (12) months of the filing of the Final Order
- Successful completion of the Laws and Rules exam within twelve (12) months of the filing of the Final Order

After discussion, the following action was taken:

Motion by: Mr. Andrade to accept the Settlement Agreement

Second: Dr. White

Vote: Unanimous

iii. Jacob Leibovici, DDS, Case No. 2017-01507

(PCP - Gesek, Melzer, Miro)

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

Dr. Leibovici was present and sworn in by the court reporter. He was represented by Jeffrey Howell, Esq.

Ms. Harden presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes for failing to meet the standards of performance in diagnosis and treatment by failing to adequately seat and seal the crowns he permanently cemented on Patient L.K.'s teeth 3, 18, and/or 31 to avoid open margins; and/or failing to diagnose any open margins in the crowns placed.

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

- Appearance
- Letter of Concern
- Fine of \$7,500 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$6,500.00 be paid within one (1) year of the filing of the Final Order (costs currently at \$3,130.25)
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within one year: Level I (3-6 hour) course in Diagnosis and Treatment Planning; Level I (3-6 hour) course in Crown and Bridge
- Successful completion of a three-semester hour course in Ethics to be completed at or through (online) any accredited college or university within twelve (12) months of the filing of the Final Order
- Patient reimbursement in the amount of \$2,772.00. Proof of payment, accompanied by copies of the invoices, must be made to the Compliance Officer within six (6) months of the filing of the Final Order
- Successful completion of the Laws and Rules exam within twelve (12) months of the filing of the Final Order

After discussion, the following action was taken:

Motion by: Dr. White to reject the Settlement Agreement

Second: Mr. Andrade

Vote: Unanimous

Motion by: Dr. White to offer a counter Settlement Agreement increasing the amount of the fines to \$10,000 for Case 2017-01507 and \$5,000 for each count on Case 2018-02989 payable within two (2) years, replacing the continuing education with a one (1) year continuum that includes Periodontics, Prosthodontics, and Recordkeeping, Probation for two (2) Years. All other terms remain the same.

Second: Mr. Andrade

Vote: Unanimous

Dr. Leibovici has seven (7) business days to accept/reject counteroffer.

iv. Jacob Leibovici, DDS, Case No. 2018-02998
(PCP – Gesek, Melzer, Calderone)

Dr. Leibovici was present and sworn in by the court reporter. He was represented by Jeffrey Howell, Esq.

Ms. Harden presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes for failing to meet the standards of performance in diagnosis and treatment by seating a crown on tooth #31 with open margins; and/or by failing to diagnose the correct fit of the crown on tooth #31. **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 the use of anesthesia during a root canal that occurred on tooth #31.

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

- Appearance
- Letter of Concern
- Fine of \$7,500 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$6,500.00 be paid within one (1) year of the filing of the Final Order (costs currently at \$2,880.93)
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within one year: Level I (3-6 hour) course in Diagnosis and Treatment Planning; Level I (3-6 hour) course in Crown and Bridge
- Successful completion of a three-semester hour course in Ethics to be completed at or through (online) any accredited college or university within twelve (12) months of the filing of the Final Order
- Patient reimbursement in the amount of \$300.00. Proof of payment, accompanied by copies of the invoices, must be made to the Compliance Officer within six (6) months of the filing of the Final Order
- Successful completion of the Laws and Rules exam within twelve (12) months of the filing of the Final Order

Motion by: Dr. White to reject the Settlement Agreement

Second: Mr. Andrade

Vote: Unanimous

Motion by: Dr. White to offer a counter Settlement Agreement increasing the amount of the fines to \$10,000 for Case 2017-01507 and \$5,000 for each count on Case 2018-02989 payable within two (2) years, replacing the continuing education with a one (1) year continuum that includes Periodontics, Prosthodontics, and Recordkeeping, and probation for a period of two (2)

years. All other terms remain the same.
Second: Mr. Andrade
Vote: Unanimous

Dr. Leibovici has seven (7) business days to accept/reject counteroffer.

v. Justin Devack, DMD. Case No. 2021-10489
(PCP – Miro, Morgan, Perdomo)

Dr. Miro was recused due to participation in the probable cause panel. Ms. Hill recused herself.

Dr. Devack was present and sworn in by the court reporter. He was represented by Evan Marowitz, Esq.

Mr. Pietrylo presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028 (1)(aa) for a violating a lawful order of the Board of Dentistry by failing to pay costs in the amount of \$1,358.18 by September 4, 2020 within twelve (12) months of the issuance of the Final Order; by failing to pay an administrative fine in the amount of \$5,000.00 by September 4, 2020 within twelve (12) months of the issuance of the Final Order; and complete the Laws and Rules exam by September 4, 2020 within twelve (12) months of the issuance of the Final Order.

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

- Appearance
- Fine of \$5, 00 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$1,000.00 be paid within one (1) year of the filing of the Final Order (costs currently at \$1,016.87)
- Successful completion of a three-semester hour course in Ethics to be completed at or through (online) any accredited college or university within twelve (12) months of the filing of the Final Order
- Successful completion of the Laws and Rules exam within twelve (12) months of the filing of the Final Order

After discussion, the following action was taken:

Motion by: Dr. Cherry to accept Settlement Agreement
Second: Mr. Andrade
Vote: Unanimous

vi. Allen H. Rosenthal, DDS, Case No. 2019-08096
(PCP – Miro, Perdomo, Morgan)

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

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

Mr. Thompson presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes for failing to meet the standards of performance in diagnosis and treatment by failing to perform a periodontal evaluation during Patient V.M.'s initial oral examination on August 29, 2016; and/or by failing to adequately

obturate the canal of Patient V.M.'s tooth 9 by underfilling the canal approximately 4mm short of the canal's radiographic apex. **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 the results of any periodontal evaluation performed on Patient V.M., within the dental records of Patient V.M.; by failing to document a justification for the root canal treatment performed on Patient V.M.'s tooth 9, within the dental records of Patient V.M.' by failing to document the course of treatment regarding the root canal treatment performed on Patient V.M.'s tooth 9, within the dental records of Patient V.M.; by failing to document any anesthesia administered for the root canal treatment performed on Patient V.M.'s tooth 9; and/or by failing to maintain Patient V.M.'s dental records to include the lab prescription for the crown for Patient V.M.'s tooth 15. **Count III:** Section 466.028(1)(mm), Florida Statutes, by violating any provision of this chapter of chapter 456, or any rules adopted pursuant thereto by failing to publish a notice in the newspaper of the greatest general circulation in Broward, the county of his former practice, notifying the patients of the termination of Respondent's practice and advising patients that they may obtain copies of their dental records and specifying a name, address, and telephone number of the person from who copies of records may be obtained; and/or by failing to notify the Board of the Respondent's change in address in 10 days.

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

- Appearance
- Reprimand
- Fine of \$5, 00 to be paid within three (3) years of the filing of the Final Order
- Costs in the amount of \$5,000.00 be paid within three (3) years of the filing of the Final Order (costs currently at \$6,678.76)
- Continuing Education Continuum - Successful completion of a Two-Year Continuum in General Dentistry in person at or through an accredited dental college or university within three (3) years of the filing of the Final Order

After discussion, the following action was taken:

Motion by: Dr. McCawley to accept Settlement Agreement

Second: Mr. Andrade

Vote: Unanimous

- vii. Jere S. Gillan, Jr., DMD, Case no. 2020-30525
(PCP – Miro, Morgan, Bojaxhi)

Dr. Miro and Dr. Bojaxhi were recused due to participation in the probable cause panel.

Dr. Gillan was present and sworn in by the court reporter. Dr. Gillan was represented by Traci Glickman, Esq.

Ms. Harden presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 466.028(1)(x), Florida Statutes for failing to meet the standards of performance in diagnosis and treatment by failing to take specific measurements, including, but not limited to, axial, sagittal, and coronal, of the area of Patient Y.F.'s tooth prior to planning for implant treatment to determine what implant size would have been appropriate to support implant; failing to complete a ridge augmentation in the area of Patient Y.F.'s tooth 8 prior to placement if the implant; failing to ensure that there was 1.5-2 mm of circumferential bone present on either side of the implant to ensure viability of the implant in the area of tooth 8; failing to complete the bone graft in a manner that would assist the integration and viability of the implant by failing to ensure there was an adequate vascular supply to support the bone

graft; and/or by having paid an indemnity in the amount of \$50,000.00 to Patient Y.F. as a result of negligent conduct on the part of the Respondent.

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

- Appearance
- Letter of Concern
- Fine of \$5, 00 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$4,500.00 be paid within one (1) year of the filing of the Final Order (costs currently at \$4,334.56)
- Continuing Education to be completed in person at or through a Florida accredited college of dentistry within one year: Level II (7-12 hour) course in Diagnosis and Treatment Planning; Level II (7-12 hour) course in Implants; Level II (7-12 hour) course in Periodontics

After discussion, the following action was taken:

Motion by: Dr. McCawley to accept Settlement Agreement

Second: Ms. Hill

Vote: Unanimous

viii. Lauren Kravitz, DDS, Case No. 2021-10896

(PCP – Waived)

Dr. Kravitz was not present. She was represented by Lance Leider, Esq.

Mr. Thompson presented the case to the Board. Respondent was charged with violating a lawful order of the Board of Dentistry by failing to successfully complete the Florida Laws and Rules examination by December 2020. In August of 2021, Respondent requested an extension until December 31, 2021 to take and pass the Florida Laws and Rules examination. Respondent was granted an extension until October 31, 2021 to complete the examination. As of October 31, 2021, Respondent has not completed the requirement.

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

- Appearance
- Reprimand
- Fine of \$5, 00 to be paid within ninety (90) days of the filing of the Final Order
- Costs in the amount of \$715.55 be paid within ninety (90) days of the filing of the Final Order
- Suspension of license until compliant with the with the terms of the Final Order issued in Case 2015-26021 and Respondent petitions the Board to lift suspension
- In the event the Respondent places her license in RETIRED status, the fine, costs and suspension shall be tolled and shall remain in a tolled status until Respondent returns to active practice in Florida.

After discussion, the following action was taken:

Motion by: Dr. McCawley to accept the Settlement Agreement

Second: Mr. Andrade

Vote: Unanimous

C. Determination of Waiver

- i. Dora Martin, DR, Case No. 2021-17589
(PCP – Miro, Morgan, Johnson)

Dr. Miro and Ms. Johnson were recused due to participation in the probable cause panel.

Ms. Martin was not present. She was not represented by counsel.

Ms. Harden summarized the case for the Board. Respondent is charged with the following violations: **Count I:** Section 466.028 (1) (aa), Florida Statutes, for a violating a lawful order of the Board of Dentistry by failing to pay the administrative fine in the amount of \$1,000.00 within two (2) years of the issuance of the Final Order; and/or failing to pay costs in the amount of \$2,867.19 within three (3) years of the issuance of the Final Order.

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, to adopt the allegations of fact in the Administrative Complaint as the findings of fact of the Board, and to find the Respondent in violation of the Florida Statutes as charged in the Administrative Complaint.

Second: Dr. White

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Dr. Tejera for revocation of the license.

Second: Dr. White

Vote: Unanimous

The Department waived its motion for costs.

- ii. Thomas Garner, RDH, Case No. 2019-09328
(PCP – Miro, Morgan, Johnson)

Dr. Miro and Ms. Johnson were recused due to participation in the probable cause panel.

Mr. Garner was not present. He was not represented by counsel.

Mr. Thompson summarized the case for the Board. Mr. Thompson presented the case to the Board. Respondent was charged with the following violations: **Count I:** Section 456.072 (1)(c), Florida Statutes, for being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession by being adjudicated guilty of first-degree premeditated murder, a crime relating the practice of the ability to practice as a dental hygienist.

Motion: by Dr. White 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, to adopt the allegations of fact in the Administrative Complaint as the findings of fact of the Board, and to find the Respondent in violation of the Florida Statutes as charged in the Administrative Complaint.

Second: Ms. Hill

Vote: Unanimous

After discussion, the following action was taken:

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

The Department waived its motion for costs.

D. Voluntary Relinquishment

- i. Bonnie Rae, DMD, Case No. 2019-10808
 (PCP – Miro, Morgan, Cherry)

Dr. Miro and Dr. Cherry were recused due to participation in probable cause panel.

Dr. Rae was not present. Dr. Rae was represented by Jeffrey Hurcomb, Esq.

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

III. PROSECUTION REPORT

A. Major Thompson, Assistant General Counsel

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

| <u>Case Status</u> | 8/13/2021 | 11/19/2021 | 2/18/2022 |
|---|------------------|-------------------|------------------|
| Total cases open/active in Prosecution Services: | 208 | 251 | 200 |
| Cases in Emergency Action Unit: | 2 | 2 | 1 |
| Cases under legal review: | 131 | 137 | 90 |
| Cases awaiting supplemental investigation/expert opinion: | 2 | 24 | 19 |
| Cases with PCP recommendation: | 29 | 37 | 37 |
| Cases where probable cause has been found: | 24 | 6 | 13 |
| Cases where DOAH has been requested: | 22 | 22 | 21 |
| Cases pending before DOAH: | 1 | 3 | 2 |
| Cases on Board meeting agendas: | 13 | 15 | 14 |
| Cases on appeal: | 0 | 0 | 0 |
| Cases older than one year:* | 72 | 58 | 54 |

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

IV. PETITION FOR VARIANCE OR WAIVER OF RULE

i. David Ludwig

Dr. Ludwig was present and sworn in by the court reporter. He was represented by Jonathan Rose, Esq. He has filed a Petition for Variance or Waiver of Rule requesting the Board to accept his ADEX scores, even though they were completed outside of the 18-month requirement.

a. Petition of Rule 64B5-2.013, F.A.C.

After discussion, the following action was taken:

Motion: by Dr. Mellado to grant the petition
Second: Dr. McCawley
Vote: Unanimous

V. REVIEW OF APPLICATIONS

A. Application for Dental License

i. John Totera

Dr. Totera was present and was sworn in by the court reporter. He was not represented by counsel. His appearance was requested due to prior malpractice settlements.

After further discussion, the following action was taken:

Motion: by Dr. Mellado to accept his application
Second: Dr. White
Vote: Unanimous

VI. REPORTS

A. Board Counsel

i. Rules Report

Mr. Harris provided the Board with a current status of the rules currently in process.

ii. JAPC Correspondence

a. Rule 64B5-13.005, F.A.C.

64B5-13.005 Disciplinary Guidelines.

(1) When the Board finds an applicant, licensee, certificate holder, or telehealth registrant whom it regulates under chapter 466, F.S., has committed any of the acts set forth in section 456.072(1), 466.028, or 456.47, 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. For telehealth registrants, a suspension may be accompanied by a corrective action plan that addresses the conduct which resulted in the underlying disciplinary violations. The Board may require a corrective action plan be completed prior to reinstatement of the suspended registration or the corrective action plan may follow a suspension for a definite term.

| VIOLATION | PENALTY RANGE | | TELEHEALTH REGISTRANT MINIMUM | TELEHEALTH REGISTRANT MAXIMUM |
|---|--|--|-------------------------------|---|
| | MINIMUM | MAXIMUM | | |
| (a) Attempting to obtain, obtaining or renewing a license by bribery, fraudulent misrepresentations or error of the Board. (Sections 466.028(1)(a), 456.072(1)(h), F.S.) | | | | |
| <u>1. Obtain license by bribery.</u> | | | | |
| <u>First Offense</u> | <u>\$500 fine and two (2) years' probation or application denial, \$500 fine and referral to State Attorney's office if not licensed.</u> | <u>\$5,000 fine and one (1) year suspension.</u> | No Change | No Change |
| <u>Second Offense</u> | <u>\$5,000 fine and one (1) year suspension or application denial, \$500 fine and referral to State Attorney's office if not licensed.</u> | <u>\$10,000 fine and Permanent Revocation.</u> | No Change | No Change |
| <u>2. Obtain license by fraudulent misrepresentations.</u> | | | | |
| First Offense | No Change | <u>Denial/Five (5) year suspension revocation \$10,000 fine and referral to State Attorney's office if not licensed.</u> | <u>Denial of Application.</u> | <u>Revocation or Denial of Application.</u> |
| Second Offense | No Change | <u>\$10,000 fine and revocation or permanent denial.</u> | <u>Revocation or Denial</u> | <u>Same.</u> |
| (b) Having a license to practice dentistry or dental | | | | |

| | | | | |
|---|---|--|-----------|-----------|
| hygiene 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.) | | | | |
| First Offense | No Change | 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 \$5 <u>10</u> ,000 fine or revocation. | No Change | No Change |
| Second Offense | No Change | Suspension until the license is unencumbered in the jurisdiction in which disciplinary action was taken, <u>followed by five (5) years' probation</u> and \$10,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (c) Guilty of a crime directly relating to practice or ability to practice. (Sections 466.028(1)(c), 456.072(1)(c), F.S.) | | | | |
| First Offense | No Change | Denial or 2 years suspension <u>followed by 2 years' probation</u> with conditions and \$10,000 fine, or revocation. | No Change | No Change |
| Second Offense | No Change | Denial or <u>five (5) year suspension followed by probation</u> revocation and \$10,000 fine, with conditions. | No Change | No Change |
| Third Offense | <u>Five (5) year suspension followed by probation</u> | Revocation and \$10,000 fine. | No Change | No Change |

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| | Revocation and \$2,500 fine. | | | |
| (d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form. (Section 466.028(1)(d), F.S.) | | | | |
| First Offense | No Change | <u>One (1) year probation with conditions and \$5,000 fine.</u> | No Change | No Change |
| Second Offense | <u>One (1) year probation with conditions and \$3,000 fine.</u> | <u>One (1) year suspension followed by two (2) years' probation with conditions and \$8,000 fine.</u> | No Change | No Change |
| Third Offense | <u>Two (2) years' probation with conditions and \$5,000 fine.</u> | No Change | No Change | No Change |
| (e) Advertising, practicing, or attempting to practice under a name other than one's own. (Section 466.028(1)(e), F.S.) | | | | |
| First Offense | No Change | <u>One (1) year suspension and \$5,000 fine.</u> | No Change | No Change |
| Second Offense | <u>One (1) year probation with conditions and \$3,000 fine.</u> | <u>Two (2) years suspension followed by two (2) years' probation Denial or revocation and \$10,000 fine.</u> | No Change | No Change |
| Third Offense | <u>Two (2) years' Probation with conditions and \$5,000 fine.</u> | No Change | No Change | No Change |
| (f) Failing to report any person in violation of this chapter or of the rules of the department or the board. (Sections 466.028(1)(f), 456.072(1)(i), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |

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| (g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene. (Sections 466.028(1)(g), 456.072(1)(j), F.S.) | | | | |
| First Offense | No Change | Six (6) months suspension followed by one ; (1) year probation with conditions and \$540,000 fine. | No Change | No Change |
| Second Offense | 1 year suspension followed by ; 2 years probation with conditions and \$5,000 fine. | 2 years suspension followed by two ; (2) years probation with conditions and \$840,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry. (Section 466.028(1)(h), F.S.) | | | | |
| First Offense | No Change | 2 years probation with conditions and up to suspension, and \$540,000 fine. | No Change | No Change |
| Second Offense | No Change | 1 year suspension followed by ; 1 year probation with conditions and \$840,000 fine. | No Change | No Change |
| Third Offense | No Change | Revocation and \$10,000 fine. | No Change | No Change |
| (i) Failing to perform any statutory or legal obligation placed upon a licensee. (Sections 466.028(1)(i), 456.072(1)(k), F.S.) | | | | |
| First Offense | No Change | 2 years probation with conditions and \$540,000 fine. | No Change | No Change |
| Second Offense | No Change | 2 years probation with conditions and \$840,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |

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| (j) Making or filing a false report, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing. (Sections 466.028(1)(j), 456.072(1)(l), F.S.) | | | | |
| First Offense | No Change | 1 year probation with conditions and up to suspension, and \$510,000 fine. | No Change | No Change |
| Second Offense | No Change | 1 year suspension followed by 1 year probation with conditions and \$810,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (k) Sexual battery, as defined in chapter 794, F.S., upon a patient. (Section 466.028(1)(k), F.S.) | | | | |
| First Offense | Revocation 6 months suspension followed by probation and \$2,500 fine. | Same Denial/revocation and \$10,000 fine | No Change | No Change |
| Second or Subsequent Offense | Revocation and \$10,000 fine 5 years suspension followed by probation with conditions and \$5,000 fine. | Same Denial/revocation and \$10,000 fine. | No Change | No Change |
| (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.) | | | | |
| First Offense | No Change | 6 months probation with conditions and \$510,000 fine. | No Change | No Change |
| Second Offense | No Change | 6 months suspension and \$7.510,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (m) Failing to keep written records and history justifying the course of | | | | |

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| treatment of the patient. (Section 466.028(1)(m), F.S.) | | | | |
| First Offense | \$1,050 fine. | 2 years pProbation with conditions and \$7,500 fine. | No Change | No Change |
| Second Offense | 2 years pProbation with conditions and \$1,000 fine. | 1 year sSuspension and \$10,000 fine. | No Change | No Change |
| Third Offense | Five (5) years pProbation with conditions and \$2,500 fine. | No Change | No Change | No Change |
| (n) Failing to make available to a patient or client, copies of documents which relate to the patient or client. (Section 466.028(1)(n), F.S.) | | | | |
| First Offense | No Change | 1 year pProbation with conditions and \$7,500 fine. | No Change | No Change |
| Second Offense | No Change | 2 years pProbation with conditions and \$7,540,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (o) Performing professional services which have not been authorized by the patient or client. (Section 466.028(1)(o), F.S.) | | | | |
| First Offense | No Change | 1 year pProbation with conditions and \$8,500 fine. | No Change | No Change |
| Second Offense | No Change | 1 year sSuspension and \$7,540,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (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.) | | | | |
| First Offense | No Change | 1 year pProbation with conditions, | No Change | No Change |

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| | | \$5 10,000 fine and up to suspension. | | |
| Second Offense | 2 years pProbation with conditions and \$2,500 fine. | 1 year s Suspension and \$7,5 10,000 fine. | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (q) Prescribing any medicinal drug scheduled in chapter 893, F.S., to herself or himself. (Section 466.028(1)(q), F.S.) | | | | |
| First Offense | \$500 fine and PRN referral. | 1 year s Suspension followed by probation, including PRN referral and with conditions and \$5 10,000 fine. | No Change | No Change |
| Second Offense | 1 year p Probation with conditions, PRN referral, and \$2,500 fine. | 1 year s Suspension and \$7,5 10,000 fine. | No Change | No Change |
| Third Offense | 1 year s Suspension followed by probation, including PRN referral and \$5,000 fine. | No Change | No Change | No Change |
| (r) Prescribing any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug, pursuant to chapter 893, F.S. (Section 466.028(1)(r), F.S.) | | | | |
| First Offense | No Change | 2 years p Probation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | 2 years pProbation with conditions and \$2,500 fine. | 1 year s Suspension followed by 2 years probation and \$10,000 fine. | No Change | No Change |
| Third Offense | 3 years pProbation with conditions and \$5,000 fine. | No Change | No Change | No Change |
| (s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of | | | | |

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| illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. (Sections 466.028(1)(s), 456.072(1)(z), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene. (Section 466.028(1)(t), F.S.) | | | | |
| First Offense | No Change | <u>1 year</u> p Probation with conditions and \$8,000 fine. | No Change | No Change |
| Second Offense | <u>1 year</u> p Probation with conditions and \$8,000 fine. | <u>1 year</u> s Suspension followed by <u>2 years</u> p probation and \$10,000 fine. | No Change | No Change |
| Third Offense | <u>2 years</u> p Probation with conditions and \$10,000 fine. | No Change | No Change | No Change |
| (u) Failure to provide and maintain reasonable sanitary facilities and conditions. (Section 466.028(1)(u), F.S.) | | | | |
| First Offense | No Change | <u>1 year</u> p Probation with conditions and \$8,000 fine. | No Change | |
| Second Offense | <u>1 year</u> p Probation with conditions and \$3,000 fine. | <u>1 year</u> s Suspension, followed by <u>2 years</u> p probation with conditions and \$10,000 fine. | No Change | |
| Third Offense | <u>1 year</u> p Probation with conditions and \$8,000 fine. | No Change | No Change | |
| (v) Failure to provide adequate radiation safeguards. (Section 466.028(1)(v), F.S.) | | | | |

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| First Offense | No Change | <u>1 year p</u> Probation with conditions and \$8,000 fine. | No Change | |
| Second Offense | <u>1 year p</u> Probation with conditions and \$3,000 fine. | <u>1 year s</u> Suspension followed by probation and \$10,000 fine. | No Change | |
| Third Offense | <u>2 years p</u> Probation with conditions and \$8,000 fine. | No Change | No Change | |
| (w) Performing any procedure which would constitute experimentation on human subjects, without first obtaining full, informed, and written consent. (Section 466.028(1)(w), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (x) Being guilty of incompetence or negligence, including, but not limited to, being guilty of dental malpractice. (Section 466.028(1)(x), F.S.) | | | | |
| First Offense | No Change | <u>1 year p</u> Probation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | <u>1 year p</u> Probation with conditions and \$1,000 fine. | <u>1 year s</u> Suspension and \$10,000 fine. | No Change | No Change |
| Third Offense | <u>2 years probation and \$2,500 fine.</u> | No Change | No Change | No Change |
| (y) Practicing beyond the scope that she or he is competent to perform. (Sections 466.028(1)(y), 456.072(1)(o), F.S.) | | | | |
| First Offense | No Change | <u>1 year p</u> robation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | <u>1 year p</u> robation with conditions and \$1,000 fine. | <u>1 year s</u> Suspension followed by <u>1 year probation with conditions</u> and \$10,000 fine. | No Change | No Change |

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| Third Offense | <u>1 year probation and \$2,500 fine.</u> | No Change | No Change | No Change |
| (z) Delegating or contracting for professional responsibilities to a person who is not qualified to perform them. (Sections 466.028(1)(z), 456.072(1)(p), F.S.) | | | | |
| First Offense | No Change | <u>1 year p</u> Probation with conditions, \$10,000 fine and suspension. | No Change | No Change |
| Second Offense | <u>1 year p</u> Probation with conditions and \$5,000 fine. | <u>One (1) year s</u> Suspension followed by <u>2 years</u> probation and \$10,000 fine. | No Change | No Change |
| Third Offense | <u>1 year p</u> Probation with conditions and \$7,500 fine. | No Change | No Change | No Change |
| Any violation of section 466.028(1)(z), F.S., will result in a minimum licensure suspension of six months, in addition to any other penalty authorized for this violation, except where revocation is imposed. | | | | |
| (aa) The violation of a lawful order of the board, or failure to comply with subpoena of the board or department. (Sections 466.028(1)(aa), 456.072(1)(q), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| Third Offense | No Change | No Change | No Change | No Change |
| (bb) Conspiring with another licensee or with any person to commit an act, which would tend to coerce, intimidate, or preclude another licensee from advertising services. (Section 466.028(1)(bb), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | <u>1 year p</u> Probation with conditions and \$2,500 fine. | <u>1 year p</u> Probation with conditions and \$10,000 fine. | No Change | No Change |
| Third Offense | <u>1 year p</u> Probation with conditions and \$5,000 fine. | <u>1 year s</u> Suspension followed by <u>2 years</u> probation and \$10,000 fine. | No Change | No Change |
| (cc) Being adjudged | | | | |

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| mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication. (Section 466.028(1)(cc), F.S.) | | | | |
| First and any subsequent offense. | No Change | No Change | No Change | No Change |
| (dd) Presigning blank prescription or laboratory work order forms. (Section 466.028(1)(dd), F.S.) | | | | |
| First Offense | No Change | <u>1 year p</u> Probation with conditions and \$5000 fine. | No Change | No Change |
| Second Offense | No Change | <u>1 year p</u> Probation with conditions and \$7,500 fine. | No Change | No Change |
| Third Offense | <u>1 year p</u> Probation with conditions and \$2,500 fine. | <u>1 year s</u> Suspension followed by <u>2 years probation</u> and \$10,000 fine. | No Change | No Change |
| (ee) Prescribing growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. (Section 466.028(1)(ee), F.S.) | No Change | | | |
| First Offense | No Change | <u>One (1) year p</u> Probation with conditions and \$5 \$10,000 fine. | No Change | No Change |
| Second Offense | <u>One (1) year p</u> Probation with conditions and \$2,500 fine. | <u>Three (3) years p</u> Probation with conditions and \$8 \$10,000 fine. | No Change | No Change |
| Third Offense | No Change | <u>One (1) year s</u> Suspension and \$10,000 fine. | No Change | No Change |
| (ff) Operating a dental office such as to result in dental treatment that is below minimum acceptable standards of performance for the community. (Section 466.028(1)(ff), | | | | |

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| F.S.) | | | | |
| First Offense | No Change | Two (2) years pProbation with conditions and \$ 5 10,000 fine. | No Change | No Change |
| Second Offense | Two (2) years pProbation with conditions and \$2,500 fine. | One (1) year sSuspension and \$ 7.5 10,000 fine. | No Change | No Change |
| Third Offense | Three (3) years pProbation with conditions and \$4,000 fine. | No Change | No Change | No Change |
| (gg) Administering anesthesia in a manner which violates rules of the board. (Section 466.028(1)(gg), F.S.) | | | | |
| First Offense | \$1,000 fine and Reprimand . | Two (2) years pProbation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | One year pProbation with conditions and \$2,500 fine. | One (1) year sSuspension and \$10,000 fine. | No Change | No Change |
| Third Offense | Three (2) year's pProbation with conditions and \$4,000 fine. | No Change | No Change | No Change |
| (hh) Failing to report any licensee under chapter 458 or 459, F.S., who the dentist knows has violated the grounds for disciplinary action. (Section 466.028(1)(hh), F.S.) | | | | |
| First Offense | \$1,000 fine and Letter of Concern . | One (1) year pProbation with conditions and \$ 5 10,000 fine. | No Change | No Change |
| Second Offense | \$2,500 fine and Reprimand . | \$10,000 fine and two (2) years probation . | No Change | No Change |
| Third or Subsequent Offense | \$3,500 fine and thirty (30) days suspension . | \$10,000 fine and two (2) years suspension . | No Change | No Change |
| (ii) Failing to report to the board, within 30 days action has been taken against one's license to | | | | |

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| practice dentistry in another state, territory, or country. (Section 466.028(1)(ii), F.S.) | | | | |
| First Offense | No Change | \$5,000 fine and Denial of application or two (2) years suspension followed by three (3) years probation; revocation and \$8,000 fine. | No Change | No Change |
| Second Offense | One (1) year Probation and \$1,500 fine. | \$10,000 fine and two (2) years suspension or Denial, revocation and \$10,000 fine. | No Change | No Change |
| Third Offense | One (1) year Suspension followed by probation and \$3,000 fine. | \$10,000 fine and Denial of application or; revocation and \$10,000 fine. | No Change | No Change |
| (jj) Advertising specialty services in violation of this chapter. (Section 466.028(1)(jj), F.S.) | | | | |
| First Offense | No Change | \$7,500 fine. | No Change | No Change |
| Second Offense | No Change | One (1) year Probation with conditions and \$7,500 fine. | No Change | No Change |
| Third Offense | Two (2) years Probation with conditions and \$5,000 fine. | One year Suspension followed by two (2) years probation and \$10,000 fine. | No Change | No Change |
| (kk) Allowing any person to interfere with a dentist's clinical judgment. (Section 466.028(1)(kk), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | One (1) year Probation with conditions and \$2,500 fine. | Two (2) years Probation with conditions and \$10,000 fine. | No Change | No Change |
| Third Offense | Two (2) years Probation with conditions and \$5,000 fine. | One (1) year Suspension and \$10,000 fine. | No Change | No Change |
| (ll) Violating any provision | | | | |

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| of Chapters 456 and 466, F.S., or any rules adopted pursuant thereto. (Sections 466.028(1)(mm), 456.072(1)(b), 456.072(1)(dd), F.S.) | | | | |
| First Offense | No Change | <u>Six (6) months</u> pProbation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | <u>Six (6) months</u> pProbation with conditions and \$1,000 fine. | <u>One (1) year</u> pProbation with conditions and \$10,000 fine. | No Change | No Change |
| Third Offense | <u>One (1) year</u> pProbation with conditions and \$2,500 fine. | <u>One (1) year</u> sSuspension and \$10,000 fine. | No Change | No Change |
| (mm) Failing to comply with the educational course requirements for HIV. (Section 456.072(1)(e), F.S.) | | | | |
| First Offense | No Change | <u>Six (6) months</u> pProbation with conditions and \$1,500 fine. | No Change | |
| Second Offense | No Change | <u>One (1) year</u> pProbation with conditions and \$5,000 fine. | No Change | |
| Third Offense | No Change | <u>Eighteen (18) months</u> pProbation with conditions and \$7,500 fine. | No Change | |
| (nn) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (Section 456.072(1)(g), F.S.) | | | | |
| First Offense | No Change | <u>Six (6) months</u> pProbation with conditions and \$8,000 fine. | No Change | No Change |
| Second Offense | No Change | <u>One (1) year</u> pProbation with conditions and \$10,000 fine. | No Change | No Change |

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| Third Offense | <u>One (1) year</u> p Probation with conditions and \$5,000 fine. | <u>One (1) year</u> s Suspension and \$10,000 fine. | No Change | No Change |
| (oo) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. (Section 456.072(1)(m), F.S.) | | | | |
| First Offense | \$1,000 fine and <u>Letter of Concern</u> . | <u>Two (2) years</u> p Probation with conditions and \$ 5 8,000 fine. | No Change | No Change |
| Second Offense | <u>Two (2) years</u> p Probation with conditions and \$2,500 fine. | <u>One year</u> s Suspension followed by <u>two (2) years probation with conditions</u> and \$ 4 10,000 fine. | No Change | No Change |
| Third Offense | <u>Two (2) years</u> p Probation with conditions and \$5,000 fine. | <u>Five (5) years</u> s Suspension and \$10,000 fine. | No Change | No Change |
| (pp) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party. (Section 456.072(1)(n), F.S.) | | | | |
| First Offense | \$1,000 fine and <u>Letter of Concern</u> . | <u>Two (2) years</u> p Probation with conditions and \$ 5 10,000 fine. | No Change | No Change |
| Second Offense | <u>Two (2) years</u> p Probation with conditions and \$2,500 fine. | <u>One year</u> s Suspension followed by <u>two (2) years probation with conditions</u> and \$ 4 10,000 fine. | No Change | No Change |
| Third Offense | <u>One (1) year</u> suspension followed by <u>two (2) years</u> probation with conditions and \$3,500 fine. | No Change | No Change | No Change |
| (qq) Wrong patient, wrong- | | | | |

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| site procedure, a wrong procedure, medically unnecessary. (Section 456.072(1)(bb), F.S.) | | | | |
| First Offense | \$1,000 fine and <u>Letter of Concern</u> . | <u>Two (2) years</u> Probation with conditions and \$5,000 \$10,000 fine. | No Change | No Change |
| Second Offense | <u>Two (2) years</u> Probation with conditions and \$2,000 fine. | <u>One year</u> suspension followed by <u>two (2) years</u> probation with conditions and \$10,000 fine. | No Change | No Change |
| Third Offense | <u>One (1) year</u> suspension followed by <u>two (2) years</u> probation with conditions and \$3,000 fine. | Revocation and \$10,000 fine. | No Change | No Change |
| (rr) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. (Section 456.072(1)(r), F.S.) | | | | |
| First Offense | No Change | <u>One (1) year</u> Probation with conditions and \$5,000 \$10,000 fine. | No Change | No Change |
| Second Offense | <u>Two (2) years</u> Probation with conditions and \$2,500 fine. | <u>One (1) year</u> suspension followed by probation and \$7,500 \$10,000 fine. | No Change | No Change |
| Third Offense | <u>Five (5) years</u> Probation with conditions and \$5,000 fine. | Revocation and \$10,000 fine. | No Change | No Change |
| (ss) Failing to comply with the educational course requirements for domestic violence. (Section 456.072(1)(s), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | |
| Second Offense | No Change | No Change | No Change | |
| Third Offense | No Change | No Change | No Change | |
| (tt) Failing to comply with sections 381.026 and 381.0261, F.S., patient | | | | |

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| rights and how to file a patient complaint. (Section 456.072(1)(u), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | |
| Second Offense | No Change | No Change | No Change | |
| Third Offense | No Change | No Change | No Change | |
| (uu) Engaging or attempting to engage in sexual misconduct as defined and prohibited in section 456.063(1), F.S. (Section 456.072(1)(v), F.S.) | | | | |
| First Offense | \$2,500 fine and Reprimand. | One (1) year suspension followed by three (3) years Revocation or probation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | Three (3) years Probation with conditions and \$5,000 fine. | \$10,000 fine and three (3) year Suspension followed by five (5) years probation with conditions or revocation, and \$10,000 fine. | No Change | No Change |
| Third Offense | Five (5) years Suspension followed by probation with conditions and \$8,000 fine. | Revocation and \$10,000 fine. | No Change | No Change |
| (vv) Failing to report to the board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to regardless of adjudication, a crime in any jurisdiction. (Section 456.072(1)(x), F.S.) | | | | |
| First Offense | No Change | One (1) year Probation with conditions and \$10,000 fine. | No Change | No Change |
| Second Offense | One (1) year Probation with conditions and \$1,000 fine. | Two (2) years Probation with conditions and \$10,000 fine. | No Change | No Change |

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| Third Offense | One (1) year suspension followed by <u>two (2) years</u> probation with conditions and \$2,500 fine. | No Change | No Change | No Change |
| (ww) Using information about people involved in motor vehicle accidents which has been derived from accident reports. (Section 456.072(1)(y), F.S.) | | | | |
| First Offense | \$500 fine <u>and letter of concern.</u> | Two (2) year's Probation with conditions and \$5,000 fine. | No Change | No Change |
| Second Offense | \$1,000 fine <u>and Reprimand.</u> | Four (4) year's Probation with conditions and \$8,000 fine. | No Change | No Change |
| Third Offense | \$2,500 fine <u>and Reprimand.</u> | One (1) year suspension followed by <u>five (5) year's</u> probation and \$10,000 fine. | No Change | No Change |
| (xx) Leaving a foreign body in a patient. (Section 456.072(1)(cc), F.S.) | | | | |
| First Offense | No Change | Two (2) year's Probation with conditions and \$5 10,000 fine. | No Change | |
| Second Offense | No Change | Suspension followed by <u>Five (5) years</u> Probation with conditions and \$7.5 10,000 fine. | No Change | |
| Third Offense | No Change | \$10,000 fine and <u>two (2) year suspension followed by five (5) years probation with monitoring and/or revocation and</u> \$10,000 fine. | No Change | |
| (yy) Testing positive for any drug, on any preemployment or employer-ordered drug screening. (Section 456.072(1)(aa), | | | | |

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|---|-----------|---|-----------|-----------|
| F.S.) | | | | |
| First Offense | No Change | Two (2) year's pProbation with conditions and \$58,000 fine. | No Change | No Change |
| Second Offense | No Change | Four (4) year's pProbation with conditions and \$10,000 fine. | No Change | No Change |
| Third Offense | No Change | One (1) year Suspension followed by five (5) year's probation with conditions and \$10,000 fine. | No Change | No Change |
| (zz) Intentionally submitting a personal injury protection claim required by section 627.736, F.S., statement that has been "upcoded" as defined in section 627.732, F.S. (Section 456.072(1)(ee), F.S.) | | | | |
| First Offense | No Change | Two (2) year's pProbation with conditions and \$58,000 fine. | No Change | No Change |
| Second Offense | No Change | Four (4) year's pProbation with conditions and \$10,000 fine. | No Change | No Change |
| Third Offense | No Change | One (1) year Suspension followed by five (5) year's probation with conditions and \$10,000 fine. | No Change | No Change |
| (aaa) Intentionally submitting a personal injury protection claim required by section 627.736, F.S., for services that were not rendered. (Section 456.072(1)(ff), F.S.) | | | | |
| First Offense | No Change | Two (2) year's pProbation with conditions and \$58,000 fine. | No Change | No Change |
| Second Offense | No Change | Four (4) year's pProbation with | No Change | No Change |

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|--|---|--|-----------|-----------|
| | | conditions and \$10,000 fine. | | |
| Third Offense | No Change | <u>One (1) year</u> Suspension followed by <u>five (5) year's</u> probation with conditions and \$10,000 fine. | No Change | 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 sections 893.055 and 893.0551, F.S., or law and rules relating to prescribing practitioners. (Section 456.072(1)(gg), F.S.) | | | | |
| First Offense | No Change | <u>Two (2) year's</u> Probation with conditions and \$8,000 fine. | No Change | No Change |
| Second Offense | <u>Two (2) year's</u> Probation with conditions and \$3,000 fine. | <u>One (1) year</u> Suspension and \$10,000 fine. | No Change | No Change |
| Third Offense | \$5,000 fine. | No Change | No Change | No Change |
| (ccc) Failing to comply with, failing to successfully complete, or being terminated from an impaired practitioner treatment program. (Section 456.072(1)(hh), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second or Subsequent Offense | No Change | No Change | No Change | 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 | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| (eee) Failing to remit the sum owed to the state for any overpayment from the Medicaid program pursuant to a final order, judgement, or stipulation or settlement. (Section 456.072(1)(jj), F.S.) | | | | |
| First Offense | No Change | \$7,500 fine and <u>one (1) year suspension.</u> | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| (fff) Being terminated from the state Medicaid program pursuant to section 409.913, F.S., any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored. (Section 456.072(1)(kk), F.S.) | | | | |
| First Offense | \$1,000 fine and a letter of concern. | \$5,000 fine, <u>one (1) year suspension followed by two (2) year's probation.</u> | No Change | No Change |
| Second Offense | \$7,500 fine and <u>a</u> reprimand. | \$10,000 fine and <u>two (2) year's suspension followed by three (3) years probation;</u> revocation. | No Change | No Change |
| <u>Third Offense</u> | <u>\$10,000 fine, five year suspension followed by 5 year's probation.</u> | <u>\$10,000 fine and; revocation.</u> | <u>Revocation.</u> | <u>Revocation.</u> |
| (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)(ll), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| (hhh) Failure to comply with the controlled substance prescribing requirements of section 456.44, F.S. (Section 456.072(1)(mm), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| (iii) Providing false or deceptive expert witness testimony related to the practice of dentistry. (Section 466.028(1)(ll), F.S.) | | | | |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| (jjj) Willfully failing to comply with section 627.64194 or 641.513, F.S., with such frequency as to indicate a general business practice. (Section 456.072(1)(oo), F.S.) | | | No Change | No Change |
| First Offense | No Change | No Change | No Change | No Change |
| Second Offense | No Change | No Change | No Change | No Change |
| (kkk) Failure to comply with the parental consent requirements of s. 1014.06. (Section 456.072(1)(rr), F.S.) | | | | |
| No Change | No Change | No Change | No Change | No Change |
| No Change | No Change | No Change | No Change | No Change |
| No Change | No Change | No Change | No Change | No Change |
| (lll) No Change | | | | |
| No Change | No Change | No Change | No Change | No Change |
| No Change | No Change | No Change | No Change | No Change |

(2) Based upon consideration of aggravating or mitigating factors, present in an individual case, except for explicit statutory maximum and minimum penalty requirements, the Board may deviate from the penalties recommended in subsection (1), above, and subsection (3), below. The Board shall consider as aggravating or mitigating factors the

following:

- (a) The danger to the public;
- (b) The number of specific offenses, other than the offense for which the licensee is being punished;
- (c) Prior discipline that has been imposed on the licensee;
- (d) The length of time the licensee has practiced;
- (e) The actual damage, physical or otherwise, caused by the violation and the reversibility of the damage;
- (f) The deterrent effect of the penalty imposed;
- (g) The effect of the penalty upon the licensee;
- (h) Efforts by the licensee towards rehabilitation;
- (i) The actual knowledge of the licensee pertaining to the violation;
- (j) Attempts by the licensee to correct or stop the violation or refusal by the licensee to correct or stop the violation;

and,

(k) Degree of contrition and acceptance of responsibility by Respondent ~~Any other relevant mitigating or aggravating factor under the circumstances.~~

(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) Issuance of a reprimand or letter of concern, which may be imposed in any disciplinary case, regardless of whether the penalty is referenced in any individual offense guideline;

(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) Restriction of the authorized scope of practice or license. In taking disciplinary action against any person, whether or not the action also involves placing a licensee on probation, or imposing any penalty, the Board may impose restrictions on the practice or the license that include, but are not limited to the following:

1. Requiring remedial education as a requirement of continued practice,
2. Restricting the licensee from practicing in certain settings,
3. Restricting the licensee to work in only certain settings or under designated conditions,
4. Restricting the licensee from performing or providing designated clinical and administrative services,
5. Restricting the licensee from practicing a designated number of hours,
6. Any other restriction found to be necessary for the protection of the public health, safety, and welfare.

(d) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify:

1. Probation Term. Unless otherwise specified above within each individual offense guideline, or unless a lesser period of time is stated in the order imposing probation, the period of probation will be for a period of five (5) years,

2. Probation Conditions. Probation conditions may include but not be limited to the following and may be imposed regardless of whether the term “conditions” is referenced in an individual offense guideline:

- a. Requiring the licensee to attend additional continuing education courses or remedial education,
- b. Requiring the licensee to pass an examination on the content and requirements of chapters 456 and 466, F.S., and division 64B5, F.A.C.,
- c. Requiring the licensee to work under the supervision of another licensee, including the submission of documents and reports from the supervisor and licensee,
- d. Tolling of the running of the probationary period when the licensee ceases to practice in Florida, or fails to maintain compliance with the probation requirements,
- e. Compliance with all terms of the order that imposes probation,
- f. Evaluation by an impaired practitioners network or program and entering or maintaining compliance with a recommended impaired practitioners program contract,
- g. Submitting to a continuing education audit for the next two consecutive biennial licensure renewal periods beginning with the date of the order imposing probation,

h. Corrective action related to the violation, including but not limited to the repayment of any fees billed and collected from a patient or third party on behalf of the patient.

i. The licensee is responsible for all costs associated with compliance with the terms of probation.

(e) Suspension of a license. Unless otherwise specified above within each individual offense guideline, or unless a lesser period of time is stated in the order imposing suspension, the period of suspension will be for a period of three years;

(f) Revocation of a license; which shall be permanent unless specified otherwise in the final order;

(g) Denial of an application for licensure, any violation of a provision of section 456.072(1) or 466.028(1), F.S., may be the basis for denial or issuance of licensure with restrictions or conditions; and,

(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) The provisions of subsections (1) through (3), above, are not intended and shall not be construed to limit the ability of the Board to informally dispose of disciplinary actions by stipulation, agreed settlement or consent order pursuant to section 120.57(4), F.S.

(5) The provisions of subsections (1) through (4), above, are not intended and shall not be construed to limit the ability of the Board to pursue or recommend the Agency pursue collateral civil or criminal actions when appropriate.

Rulemaking Authority 456.079(1) 456.47(7), FS. Law Implemented 456.072(2), 456.079(1), 456.47(4), 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, 11-14-18.

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept board counsel's proposed changes to resolve JAPC comments.

Second: Ms. Hill

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 64B5-14.002, 14.003, 16.006, F.A.C.

64B5-14.001 Definitions.

(1) – (5) No Change.

(6) Nitrous-oxide inhalation analgesia – The administration by inhalation of a combination of nitrous-oxide and oxygen producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. A sedation permit is not required for administration of nitrous-oxide inhalation analgesia without accompanying sedation.

(7) – (14) No Change.

(15) Nitrous-oxide inhalation sedation: means the administration by inhalation of nitrous-oxide oxygen combined with a one or more doses of a pharmacologic substance, including a sedative or narcotic or opioid analgesic, intended to induce unconsciousness or a depressed state of consciousness. A sedation permit is required prior to administration of nitrous-oxide inhalation sedation.

(16) Sedated: means a patient who has been administered a pharmacologic substance, including a sedative or narcotic or opioid analgesic, for the purpose of inducing unconsciousness or a depressed state of consciousness primarily by action on the central nervous system.

(17) Previously sedated: means a patient who has been administered one or more doses of a pharmacologic substance, including a sedative, hypnotic or tranquilizer, intended to induce unconsciousness or a depressed or altered state of consciousness.

(18) Special Needs: for the purposes of this chapter, a special needs patient is defined as an individual having a physical or mental impairment that substantially limits one or more major life activities.

Rulemaking Authority 466.004(4), 466.017(3), 466.017(6) FS. Law Implemented 466.017(3), 466.017(5), 466.024 FS. History—New 1-31-80, Amended 4-7-86, Formerly 21G-14.01, Amended 12-31-86, 6-1-87, 9-1-87, 2-1-93, Formerly 21G-14.001, Amended 12-20-93, Formerly 61F5-14.001, Amended 8-8-96, Formerly 59Q-14.001, Amended 3-9-03, 11-4-03, 7-3-06, 6-11-07, 8-5-12, 11-13-17, 3-10-20.

64B5-14.002 Prohibitions.

(1) No change.

(2) Nitrous-oxide inhalation analgesia. No dentists or dental hygienist licensed in this State shall administer nitrous-oxide inhalation analgesia in the practice of dentistry until they have complied with the provisions of this rule chapter, nor shall a hygienist administer nitrous-oxide to a patient previously sedated. No agents other than nitrous-oxide and oxygen shall be used for inhalation analgesia pursuant to Rule 64B5-14.003, F.A.C.

(3) through (5) No change.

(6) A hygienist certified by the board to administer local anesthesia shall not administer local anesthesia to a patient sedated by general anesthesia, deep sedation, moderate sedation, or pediatric moderate sedation. If a dentist or dental hygienist has administered nitrous-oxide inhalation analgesia to the patient, the certified dental hygienist may administer local anesthesia under the direct supervision of the supervising dentist. A patient who has been prescribed a medical drug by their licensed health care provider for the purposes of life functions may be administered local anesthesia by the certified dental hygienist under the direct supervision of the supervising dentist. If, however, the medical drug is prescribed or administered for the purposes of a dental procedure which is intended to induce minimal sedation, the hygienist may not administer local anesthesia to the patient.

(7) though (8) No change.

Rulemaking Authority 466.004(4), 466.017(3), 466.017(6) FS. Law Implemented 466.017(3), 466.017(5) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.02, 21G-14.002, Amended 12-20-93, Formerly 61F5-14.002, Amended 8-8-96, Formerly 59Q-14.002, Amended 3-9-03, 11-4-03, 6-15-06, 12-25-06, 12-11-11, 8-5-12, 12-15-14, 7-14-16, 11-13-17, 3-10-20, _____.

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

(1) through (3) No change.

(4) Nitrous-Oxide Inhalation Analgesia.

(a) A dentist may ~~employ or use, or employ and authorize~~ a dental hygienist to administer under indirect supervision, as specified by Rule 64B5-16.006, nitrous-oxide inhalation analgesia on an outpatient basis for dental patients provided such dentist and dental hygienist have:

1. ~~Has C~~ompleted no less than a two-day course of training as described in the American Dental Association's "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (eff. 10/16), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-11670> or available at <http://www.floridadentistry.gov>, or its equivalent, or

2. ~~Has T~~training equivalent to that described above while a student in an accredited school of dentistry or dental hygiene; and,

3. ~~Has a A~~ dental nitrous-oxide delivery system with fail-safe features and a 30% minimum oxygen flow.

(b) A dentist utilizing nitrous-oxide inhalation analgesia and such dentist's assistants and / dental hygienist personnel shall be certified in an American Heart Association or American Red Cross or equivalent Agency sponsored cardiopulmonary resuscitation course at the basic life support level to include one man CPR, two man CPR, infant resuscitation and obstructed airway with a periodic update not to exceed two years. A dentist and all assistant/dental hygienist personnel shall also be trained in the use of either an Automated External Defibrillator or a defibrillator and electrocardiograph as part of their cardiopulmonary resuscitation course at the basic life support level. In addition to CPR certification, a dentist utilizing pediatric moderate sedation must be currently trained in PALS (Pediatric Advanced Life Support).

(c) through (d) No change.

(e) Dental assistants ~~and dental hygienists~~ may monitor nitrous-oxide inhalation analgesia under the indirect supervision of a dentist if the dental assistant ~~or dental hygienist~~ has complied with the training requirements in paragraph 64B5-14.003(4)(b), F.A.C., and has completed, at a minimum, a two-day course of training as described

in the American Dental Association’s “Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students” or its equivalent. After the dentist or dental hygienist has induced a patient and established the maintenance level, the assistant ~~or hygienist~~ may monitor the administration of the nitrous-oxide oxygen making only diminishing adjustments during this administration and turning it off at the completion of the dental procedure.

(5) No change.

Rulemaking Authority 466.004(4), 466.017(3), (6) FS. Law Implemented 466.017(3), (4), (5), (6) FS. History–New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.03, Amended 12-31-86, 11-8-90, 2-1-93, Formerly 21G-14.003, Amended 12-20-93, Formerly 61F5-14.003, Amended 8-8-96, 10-1-96, Formerly 59Q-14.003, Amended 2-17-98, 12-20-98, 5-31-00, 6-7-01, 11-4-03, 6-23-04, 6-11-07, 2-8-12, 8-16-12 (1)(a)-(f), 8-16-12 (5), 8-19-13, 12-16-13, 3-9-14, 7-14-16, 11-13-17, 3-10-20, 8-5-21,_____.

64B5-16.006 Remediabale Tasks Delegable to a Dental Hygienist.

(1) No change.

(2) The following remediable tasks may be performed by a dental hygienist who has received training in these procedures in pre-licensure education or who has received formal training as defined by Rule 64B5-16.002, F.A.C., and who performs the tasks under Direct supervision:

(a) through (h) No change.

(i) Administer nitrous-oxide ~~inhalation analgesia oxygen~~ to a special needs or American Society of Anesthesiologists (ASA) Category IV dental patients provided the patient has not been previously sedated and the Dental Hygienist is in full compliance with the requirements of Rule 64B5-14.003(4)(b), F.A.C.

(3) through (5) No change.

(6) The following remediable tasks may be performed by a dental hygienist who has received training in these procedures in pre-licensure education or who has received formal training as defined by Rule 64B5-16.002, F.A.C., and who performs the tasks under Indirect supervision:

(a) through (f) No change.

(g) ~~Administer~~ Monitor the administration of the ~~nitrous-oxide oxygen~~ to American Society of Anesthesiologists (ASA) Category I – III dental patients provided the Dental Hygienist is in full compliance with the requirements of Rule 64B5-14.003(4)(b), F.A.C. ~~making adjustments only during this administration and turning it off at the completion of the dental procedure;~~ and,

(h) No change.

(7) through (11) No change.

Rulemaking Authority 466.004(4), 466.017(6), 466.023, 466.024 FS. Law Implemented 466.017(6), 466.023, 466.024 FS. History–New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, 9-27-01, 7-13-05, 2-14-06, 3-24-08, 7-20-09, 10-17-10, 8-5-12, 6-28-17, 8-29-17, 2-27-18, 12-9-18, 3-25-20, 3-30-21_____.

The board discussed the definition of analgesia and how it is different than anesthesia. Updated language was proposed in Rule 64B5-14.001, F.A.C. to address JAPC comments.

After discussion, the following action was taken:

Motion: by Dr. Mellado accept board counsel’s proposed changes to resolve JAPC comments.

Second: Dr. Cherry

Vote: Unanimous

B. Executive Director

i. Legislation Update

Ms. Sapp provided a summary of the following bills:

SB 184 – An act relating to dental therapy, creating the practice of dental therapy in Florida.

HB 517 - An act relating to dentistry and dental hygiene examinations.

SB 926 – An act relating to licensure examinations for dental practitioners

SB 466 - An act relating to military-trained health care veterans

C. Chair

- i. Recognition of Dr. Leonard Britten

D. Board Members

- i. Ms. Hill

1. Council on Dental Hygiene Report

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

(1) No Change

(2) Prevention of Medical Errors and CPR Certification: During each biennium or for reactivation of a license the dentist and dental hygienist shall complete the following specific continuing education, training and certification:

(a) No Change

(b) Training in cardiopulmonary resuscitation (CPR) at the basic support level, including one-rescuer and two-rescuer CPR for adults, children, and infants; the relief of foreign body airway obstruction for adults, children, and infants; the use of an automatic external defibrillator (AED); and the use of ambu-bags. The CPR training shall result in the certification or recertification by the American Heart Association, the American Red Cross or an entity with equivalent requirements. CPR training and certification shall be taken in-person or through a blended learning course. A blended learning course includes online CPR training and hands-on skill competency completed in person for certification. Online training without hands-on training completed in person for and certification shall not be accepted by the board. CPR training and certification shall not count towards the requirement of subsection

(3) – (5) No Change

64B5-12.0175 Standards for Approved Providers.

Approved continuing professional education providers and providers authorized pursuant to paragraph 64B5-12.013(3)(b), F.A.C., shall comply with the following requirements:

(1) – (5) No Change

(6) Providers shall provide written or electronic certification to each participant who completes a continuing education course or portion of that course which consists of at least 25 minutes of instruction. Certification shall include the participant's name and license number, the provider's name and number, the course title, instructor, location, date offered and hours of continuing education credit awarded and validation through the signature of the provider, official representative or instructor.

~~(7) Providers shall maintain records of each course offering for 4 years following each licensure biennium during which the course was offered. Course records shall include a course outline which reflects its educational objectives, the instructor's name, the date and location of the course, participants' evaluations of the course, the hours of continuing education credit awarded for each participant and a roster of participants by name and license number.~~

(8) Providers' ~~records and~~ courses shall be subject to Board review. Failure to maintain the standards set forth in this rule shall subject the provider to the suspension or rescission of the providership.

(9) – (10) No Change

Motion: by Dr. Tejera to accept the proposed rule language and to open the rule for development.

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.

Ms. Hill also provided an update from the CDCA Annual Meeting that took place in January 2022. Ms. Johnson volunteered to be the alternate member for the CDCA Steering Committee.

ii. Dr. Cherry

1. Anesthesia Committee Report

64B5-14.004 Continuing Education Requirement.

(1) Each biennium, all dentists who hold an active sedation permit of any level must complete a four (4) hour board-approved continuing education course in Medical Emergencies, ~~four (4) hours of continuing education in airway management and four (4) hours of continuing education in medical emergencies, every four (4) years from the last date the dentist took the continuing education course. The four (4) hours in airway management must include two hours didactic training in providing dentistry on sedated patients with compromised airways and two hours must include hands on training in airway management of sedated patients. The continuing education must be taken through a board approved continuing education provider. The continuing education required by this subsection will take effect on March 1, 2014.~~ The continuing education required by this subsection may be included in the thirty (30) hours required by Section 466.0135, F.S.

(2) To be approved by the board, the Medical Emergencies continuing education course must include a hands-on airway management component. ~~During the licensure biennial renewal period that begins on March 1, 2020 and every licensure biennial renewal period thereafter, all dentists who hold an active sedation permit of any level shall take the following continuing education instead of the continuing education required in subsection (1): A four (4) hour board approved continuing education course in Medical Emergencies that shall include airway management as a component of the course.~~

(3) The Medical Emergencies continuing education course must be taken through a board approved continuing education provider.

Rulemaking Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 2-13-86, Formerly 21G-14.04, Amended 12-31-86, 12-28-92, Formerly 21G-14.004, Amended 12-20-93, Formerly 61F5-14.004, Amended 8-8-96, Formerly 59Q-14.004, Amended 11-4-03, 6-23-04, 5-24-05, 8-19-13, 11-13-17, 3-10-20.

Motion: by Mr. Andrade to accept the proposed rule language and to open the rule for development.

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.

The discussion regarding proposed rule language for Rules 64B5-14.007, 64B5-14.008, 14.009, 14.010, F.A.C. was tabled and will be sent back to the Anesthesia Committee for additional discussion.

E. Inspection Report

i. Ron Dilworth

Mr. Dilworth provided the Board with an overview of the dental sedation program. Over 600 dental sedation inspections were completed last calendar year. As of January 1, 2022, the program has completed 119 inspections.

The Board thanked Mr. Dilworth and the inspectors for their continued diligent work.

VII. DISCUSSION

- A. Licensees Non-Compliant with Final Order requirements

VIII. FOR YOUR INFORMATION

- A. Florida Prescription Drug Monitoring Program (PDMP) Monthly Report

IX. NEW BUSINESS

- A. Delegation of Authority

Motion: by Dr. Miro to accept the Delegation of Authority

Second: Ms. Hill

Vote: Unanimous

- B. 2023 Meeting Dates

February 17, 2023

May 19, 2023

August 11, 2023

November 17, 2023

- C. Licensure Ratification Lists

After discussion, the following action was taken:

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

Second: Mr. Andrade

Vote: Unanimous

- D. Anesthesia Ratification List

After discussion, the following action was taken:

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

Second: Mr. Andrade

Vote: Unanimous

X. OLD BUSINESS

- A. Approval of Board Meeting Minutes – November 19, 2021
- B. Approval of Anesthesia Committee Meeting Minutes – November 18, 2021
- C. Approval of Anesthesia Committee Meeting Minutes – February 2, 2022
- D. Approval of Council on Dental Hygiene Minutes – December 13, 2021

Motion: by Dr. White to approve the minutes

Second: Mr. Andrade

Florida Board of Dentistry

Meeting Minutes

February 18, 2022

Vote: Unanimous

XI. ADJOURNMENT

There being no further business, the meeting was adjourned at 12:02 p.m.