

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
Embassy Suites by Hilton Tampa Westshore
555 N. Westshore Blvd.
Tampa, FL 33609
(813) 875-1555
August 12, 2022
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
Claudio Miro, DDS
Nick White, DMD
Karyn Hill, CRDH, BS
Bradley Cherry, DDS, MD
Thomas McCawley, DDS
Jose Mellado, DMD
Angela Johnson, RDH

MEMBERS NOT PRESENT

Christine Bojaxhi, DMD
Fabio Andrade, Consumer Member, Vice Chair

COURT REPORTER

Phipps Reporting, Inc.
Christine Phipps
888-811-3708

STAFF PRESENT

Jessica Sapp, Executive Director
Paulette Schofill, Program Administrator

BOARD COUNSEL

Rachelle Munson, Assistant Attorney General

PROSECUTION SERVICES UNIT

Christina Shideler, Chief Legal Counsel
Major Thompson, Assistant General Counsel
Mohamad Cheikhali, Assistant General Counsel

Dr. White 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. Diana Torres, DDS, Case No. 2021-38532
(PCP – Miro, Morgan, Perdomo)

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

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

Mr. Thompson summarized the case for the Board. Respondent was charged with the following violation(s): **Count I:** Section 466.028(1)(aa), Florida Statutes, for violating a lawful order of the Board of Dentistry by failing to submit proof of completion of a continuing education course in record keeping within twelve (12) months of the issuance of the Final Order.

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

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: Ms. Hill

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Dr. Mellado to dismiss

Second: Dr. McCawley

Vote: 4/3 Motion carries. Dr. White, Dr. Tejera, Ms. Johnson opposed.

ii. Robert Balch, DDS, Case No. 2021-26234

(PCP – Miro, Morgan, Perdomo)

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

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

Ms. Shideler summarized the case for the Board. Respondent was charged with the following violation(s): **Count I:** Section 466.028(1)(aa), Florida Statutes, for a violating a lawful order of the Board of Dentistry by failing to submit proof of completion of a Level II continuing education course in Crown and Bridge, a Level I course in Treatment Planning and by failing to take and pass the Laws and Rules examination governing the practice of dentistry in the State of Florida within twelve (12) months of the issuance of the Final Order.

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

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Dr. White for revocation

Second: Dr. Mellado

Vote: Unanimous

Costs were waived by the Department

B. Settlement Agreements

i. Sharlene Starkman, DMD, Case No. 2020-38955

(PCP – Miro, Morgan, Bojaxhi)

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

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

Mr. Thomson summarized the case for the Board. Respondent was charged with the following violation(s): **Count I:** Section 466.028(1)(x), Florida Statutes, for failing to meet the standards of performance in diagnosis and treatment by failing to properly excavate deep caries and/or decay prior to restoration of Patient D.M.'s tooth 14, by failing to diagnose the caries on teeth 3 and 14 and/or develop an appropriate treatment plan to address caries on Patient D.M.'s teeth 3 and 14, failing to diagnose the open margin on tooth L, and/or develop an appropriate treatment plan to address the open margin's on Patient S.M.'s tooth L and/or failing to properly excavate caries prior to the restorations of teeth A,B,C,I, and/or L subsequently leading to the imminent develop of facial cellulitis associated with tooth A; an open margin on tooth B; radiolucency beneath the restorations of teeth A,B,C,I, and/or draining fistulas on teeth I and L; **Count II:** Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history justifying the course of treatment by failing to document which of Patient S.M.'s individual teeth presented with caries on May 30, 2020

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 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 Florida college of dentistry within one year: Level II (7-12 hour) course in Operative Dentistry; Level II (7-12 hour) course in Pediatric Dentistry
- 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 and offer a counter Settlement Agreement to include the addition of a Level I board approved course in Recordkeeping, all other terms remain the same.

Second: Dr. McCawley

Vote: Unanimous

Dr. Starkman has seven (7) days to accept/reject the counter Settlement Agreement.

- ii. Germain Gaitan, DDS, Case No. 2020-26072
(PCP – Miro, Morgan, Perdomo)

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

Dr. Gaitan was present and was sworn in by the court reporter. He was represented by Joseph Justice, Esq.

Mr. Cheikhali summarized the case for the Board. Respondent was charged with the following violation(s): **Count I:** Section 466.028(1)(mm), Florida Statutes, by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto by leaving a foreign body, a piece of an instrument, within Patient J.M.'s tooth #14's mesiobuccal canal after performing root canal treatment on the tooth. **Count II:** Section 466.028(1)(x), Florida Statutes,

for failing to meet the standards of performance in diagnosis and treatment by perforating tooth #14 in the furcation; by failing to notify Patient J.L. that there was instrument separation; and/or, by failing to refer Patient J.L. to another practitioner to address the complication. **Count III:** Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history justifying the course of treatment to Patient J.L. for replacing the crown on tooth #15.

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

- Appearance
- Letter of Concern/Reprimand
- Fine of \$7,500 to be paid within one-hundred and twenty (120) days of the filing of the Final Order
- Costs in the amount of \$4,500.00 to be paid within one-hundred and twenty (120) days of the filing of the Final Order
- Continuing Education to be completed in person at or through an accredited Florida college of dentistry within one year: Level I (3-6 hour) course in Record Keeping; Level II (7-12 hour) course in Endodontics; Level I (3-6 hour) course in Risk Management
- 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 to be paid with 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. Mellado to reject the Settlement Agreement and offer a counter Settlement Agreement changing the Level II course in Endodontics to a Level III course, all other terms remain the same.

Second: Dr. McCawley

Vote: Unanimous

Dr. Gaitan accepted the counter Settlement Agreement on the record.

- iii. Rafik Dib, DDS, Case No. 2020-23663
(PCP – Miro, Perdomo, Morgan)

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

Dr. Dib was present and was sworn in by the court reporter. He was represented by William Fuller, Esq.

Mr. Cheikhali summarized the case for the Board. Respondent was charged with the following violation(s): **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 pre-operation examination; by failing to timely administer reversal agents to Patient D.D. after Patient D.D. developed respiratory problems are being administered moderate sedation drugs and/or, by failing to administer any reversal for the drug fentanyl that was administered to Patient D.D. **Count II:** Section 466.028(1)(mm), Florida Statutes, by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto by failing to document one or more of the following for Patient D.D.: the patient's current written medical history, physical examination including airway evaluation and risk assessment, continuous monitoring of vital signs; and/or,

documentation of complications. **Count III:** Section 466.028(1)(m), Florida Statutes by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto by failing to notify the Board in writing within thirty (30) days of the adverse occurrence. **Count IV:** Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history justifying the course of treatment by failing to document records for Patient D.D. with one or more of the following: In the alternative to Count I(a), by failing to document the results of a preoperative examination; and/or, the patient's current written medical history.

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

- Appearance
- Reprimand
- Fine of \$25,000 to be paid within one (1) year of the filing of the Final Order
- Costs in the amount of \$4,654.60 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 Florida college of dentistry within one year: Level I (3-6 hour) course in Anesthesia; Level I (3-6 hour) course in Record Keeping; Level II (7-12 hour) course in Medical Emergency.
- 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 reject the Settlement Agreement and offer a counter Settlement Agreement that changes the Level I course in Anesthesia to a Level III course; all other terms remain the same.

Second: Dr. Mellado

Vote: Unanimous

Dr. Dib accepted on the record.

iv. Ronia Baker, DDS, Case No. 2017-01048

(PCP – Thomas, Britten, Fatmi)

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

Mr. Cheikhali summarized the case for the Board. Respondent was charged with the following violation(s): **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 diagnose Patient T.S. pre-treatment orthodontic condition by failing to diagnose that, due to the shape of Patient T.S.' bone structure between her two upper front teeth and the shape of patient T.S.' upper front teeth themselves, residual spacing was likely to exist at Patient T.S.' gum line even after SMS treatment; and/or, by failing to develop an adequate treatment plan to address Patient T.S. pre-treatment orthodontic condition. **Count II:** Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history justifying the course of treatment by failing to document Patient T.S.' pre-treatment orthodontic condition before beginning SMS treatment; failing to document the result of Respondent's July 21, 2014, limited oral examination; failing to document the results of Respondent's October 2, 2014, comprehensive oral examination; failing to document the results of Respondent's July 5, 2016, comprehensive oral examination; and/or failing to document the results of Respondent's October 25, 2016, periodic evaluation.

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 \$7,871.95 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 Florida college of dentistry within one year: Level I (3 – 6 hour) course in Diagnosis and Treatment Planning; Level I (3 – 6 hour) course in Orthodontics; Level I (3-6 hour) course in Record Keeping
- Patient Reimbursement of \$4,500.00 to be paid within one (1) year 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. Miro to reject the Settlement Agreement and offer a counter Settlement Agreement that changes both the Level I course in Diagnosis and Treatment Planning and the Level I course in Orthodontics to Level II courses, all other terms remain the same.

Second: Dr. McCawley

Friendly amendment by Ms. Johnson to add a three-semester hour course in Ethics to be completed at or through (online) any accredited college or university to the counter Settlement Agreement

Dr. Miro accepted the Friendly Amendment.

Vote: Unanimous

Dr. Baker has seven (7) days to accept/reject the counter Settlement Agreement

v. Christopher Johnson, DMD, Case No. 2021-22757

(PCP – Miro, Morgan, Perdomo)

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

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

Mr. Thomson summarized the case for the Board. Respondent was charged with the following violation(s): **Count I:** Section 456.072(1)(bb), Florida Statutes, for performing or attempting to perform health care services on the wrong patient, a wrong procedure, or an unauthorized procedure that is medically unnecessary by performing a wrong site procedure by erroneously extracting tooth 31 instead of the intended tooth 32.

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

- Appearance
- Letter of Concern
- Fine of \$5,000 to be paid within ninety (90) days of the filing of the Final Order
- Costs in the amount of \$2,000.00 to be paid within ninety (90) days of the filing of the Final Order

After discussion, the following action was taken:

Motion by: Dr. Mellado to dismiss

Second: Dr. McCawley

Vote: Unanimous

Costs were waived by the Department

Mr. Bayo waived attorney's fees and costs.

- vi. Rosemary Baghdassarian, DDS, Case. No. 2020-29892
(PCP – Miro, Morgan, Mellado)

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

Dr. Baghdassarian was present and was sworn in by the court reporter. She was represented by Ed Bayo, Esq.

Ms. Shideler summarized the case for the Board. Respondent was charged with the following violation(s): **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 vitality testing on teeth 5, 6, 12, and/or 13; failing to use rubber dam clamps during root canal treatments on teeth 5 and/or 6; failing to refer Patient C.D. to a specialist upon discovery of complications associated with root canal treatment of tooth 5; and/or failing to properly clean and obturate one of the canals on tooth 5 during root canal treatment. **Count II:** Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history justifying the course of treatment by failing to maintain the following dental records: radiographs and/or x-rays taken after the root canal treatment completed on teeth 5 and/or 6; radiographs and/or z-rays taken after the permanent crown placement on teeth 5 and/or 6; and/or treatment plans proposed to Patient C.D., which would have included root canal treatment, build-up of the teeth, and/or crown placement of teeth 5 and/or 6.

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 (minimum payment of \$2,500.00 due every three months)
- Costs in the amount of \$5,728.55 be paid within one (1) year of the filing of the Final Order (minimum payment of \$1,600 due every three months)
- Continuing Education to be completed in person at or through an accredited Florida college of dentistry within one year: Level I (3 – 6 hour) course in Diagnosis and Treatment Planning; Level II (7-12 hour) course in Endodontics; Level I (7-12 hour) course in Record Keeping
- 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 accept the Settlement Agreement

Second: Dr. Cherry

Vote: Unanimous

III. PROSECUTION REPORT

A. Assistant General Counsel

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

<u>Case Status</u>	2/18/2022	5/20/2022	8/12/2022
Total cases open/active in Prosecution Services:	200	188	174
Cases in Emergency Action Unit:	1	2	4
Cases under legal review:	90	71	103
Cases awaiting supplemental investigation/expert opinion:	19	20	13
Cases with PCP recommendation:	37	56	6
Cases where probable cause has been found:	13	1	5
Cases where DOAH has been requested:	21	19	20
Cases pending before DOAH:	2	0	2
Cases on Board meeting agendas:	14	14	11
Cases on appeal:	0	0	0
Cases older than one year:*	54	63	57

* Does not include cases currently agendaed for final action by the Board.

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

IV. PETITION FOR VARIANCE OR WAIVER OF RULE

i. Karanjit Purewal

Dr. Purewal was not present. 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. Miro to accept the petition
Second: Dr. McCawley
Vote: Unanimous

ii. Dental Assistant Training Schools of Florida (DATS)

Dr. Michael Easton and Mike Easton were present and sworn in by the court reporter. They were represented by Jon Pellett, Esq. He has filed a Petition for Variance or Waiver of Rule requesting the Board approve their Restorative Functions program even though the rule required that the restorative functions mandatory training course must offered through a dental or dental hygiene school or program that is accredited by a dental accrediting entity recognized by the United States Department of Education

a. Petition of Rule 64B5-16.0051(3), F.A.C.

Ms. Sapp and Ms. Munson commented on whether Dental Assistant Training Schools of Florida (DATS) had standing to bring this petition.

Ms. Hill commented that there were already twenty-two (22) Commission on Dental Accreditation (CODA) approved Dental Assisting programs in Florida.

Dr. Tejera asked if DATS would be able to provide the Board with more information on their proposed program and bring that back to the Board at the November meeting.

After discussion, the following action was taken:

Mr. Pellett waived the ninety (90) days, and this item was tabled to the November meeting.

V. PETITION FOR MODIFICATION OF FINAL ORDER

i. James McGee, DDS

Case No. 2017-00670

The petition was withdrawn by Dr. McGee.

VI. REVIEW OF APPLICATIONS

A. Application for Dental License

i. Vadim Khrakovsky

Dr. Khrakovsky was present and was sworn in by the court reporter. He was not represented by counsel. His appearance was requested due to pending civil litigation in another state.

After further discussion, the following action was taken:

Motion: by Dr. Mellado to accept the application

Second: Dr. Cherry

Vote: Unanimous

B. Application for Dental Radiography Certification

i. Andrea Shanks

Ms. Shanks was present and was sworn in by the court reporter. She was not represented by counsel. Her appearance was requested due to her previous health history.

After discussion, the following action was taken:

Motion: by Ms. Hill to approve the application.
Second: by Ms. Johnson
Vote: Unanimous

VII. REPORTS

A. Board Counsel

i. Rules Report

Ms. Munson provided the Board with a current status of the rules currently in process

ii. JAPC Correspondence

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

Ms. Munson referenced the June 29, 2022, JAPC letter that was received regarding Rule 64B5-13.005, F.A.C. The letter indicated the proposed disciplinary guidelines did not list the correct minimum administrative fine amount of \$10,000 in 64B5-13.005(1)(a)2 for first and second offenses.

After discussion, the following action was taken:

Motion: by Dr. Tejera to allow board counsel to amend disciplinary guidelines to conform with statutory requirements

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.

iii. Annual Regulatory Plan

Motion: by Dr. Tejera to delegate authority to the Chair and Board counsel to approve

Second: Dr. White

Vote: Unanimous

B. Executive Director

i. Financial Reports

ii. Dentist and Dental Hygiene Compact

iii. Change February 17, 2023, meeting date to February 24, 2023

Motion: by Dr. Mellado to change the date of the February 2023 Board of Dentistry meeting from February 17, 2023, to February 24, 2023.

Second: Dr. Cherry

Vote: Unanimous

C. Chair

D. Board Members

i. Ms. Hill

a. Council on Dental Hygiene Report Rule 64B5-16.001, F.A.C.

Ms. Hill provided a report from the July 13, 2022, Council on Dental Hygiene Meeting. The Council proposed rule language regarding the definition of general supervision. The proposed language contained changes to Rules 64B5-16.001, F.A.C. and the proposed changes are to align the rule with 466.003(10), Florida Statutes.

64B5-16.001 Definitions of Remediable Tasks and Supervision Levels.

(1) Remediable tasks, also referred to as expanded functions of dental hygienists and dental assistants, which are enumerated in Rules 64B5-16.006, 64B5-16.0061, 64B5-16.005, 64B5-16.0051, F.A.C., are those intra-oral tasks which do not create unalterable changes in the oral cavity or contiguous structures, are reversible and do not expose a patient to increased risks. The use of a laser or laser device of any type is not a remediable task, unless utilized as an assessment device.

(2) A dentist may delegate a remediable task to dental hygienists, and dental assistants so long as delegation of the task poses no increased risk to the patient and the requirements of training and supervision set out in Chapter 64B5-16, F.A.C., are met.

(3) Remediable tasks are those specified in Section 466.024, F.S., and those designated as such by the Board. The Board hereby designates the tasks listed in Chapter 64B5-16, F.A.C., as remediable tasks.

(4) Direct supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, authorize the procedure to be performed, be on the premises while the procedure is performed, and approve the work performed prior to the patient's departure from the premises.

(5) Indirect supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, authorize the procedure to be performed, and be on the premises while the procedure is performed.

(6) General supervision requires that a licensed dentist ~~examine the patient, diagnose a condition to be treated, and~~ authorizes the procedures to be performed but need not be present when the authorized procedures are being performed. The authorized procedures may also be performed at a place other than the dentist's usual place of practice.

(7) Any authorization for remediable tasks to be performed under general supervision is valid for a maximum of 24 months; after which, no further treatment under general supervision can be performed without another clinical exam by a Florida licensed dentist.

(8) Without supervision dental hygienists may perform the remediable tasks specified in Sections 466.023(3), 466.0235, and 466.024(2), F.S., as long as all provisions of the respective statute are met.

(9) Any tasks delegable to dental assistants will be delegable to dental hygienists under the same supervision level, unless otherwise stated in the rules.

Rulemaking Authority 466.004(4), 466.024(1), (7) FS. Law Implemented 466.023, 466.0235, 466.024, 466.003(11), (12) FS. History—New 4-30-80, Amended 8-20-80, 1-28-81, 3-4-81, 10-8-85, Formerly 21G-16.01, Amended 6-30-86, 12-31-86, 7-5-87, 2-21-88, 1-18-89, Formerly 21G-16.001, Amended 3-30-94, Formerly 61F5-16.001, Amended 4-6-97, Formerly 59Q-16.001, Amended 1-6-99, 10-29-00, 2-5-09, 3-29-17, 12-9-18, 6-4-19, 3-25-20.

After discussion, the following action was taken:

Motion: by Dt. Tejera to accept the proposed language

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.

ii. Dr. Cherry

a. Anesthesia Committee Report
Rules 64B5-14.007, 14.008, 14.009, 14.010, F.A.C.

Dr. Cherry provided a report from the June 20, 2022, and August 11, 2022 Anesthesia Committee Meetings. The Anesthesia Committee approved proposed rule language for Rule 64B5-14.007, F.A.C. The proposed language is being presented for consideration by the full board.

64B5-14.007 Inspection of Facilities and Demonstration of Sedation Technique.

(1) The Department, in ~~consult~~ consultation with the Anesthesia Chair shall appoint consultants who are Florida licensed dentists who hold an active general anesthesia permit, moderate sedation permit, or a pediatric moderate sedation permit to inspect facilities where general anesthesia, deep sedation, moderate sedation, or pediatric moderate sedation is performed. Consultants shall receive instruction in inspection procedures prior to initiating an inspection.

(2) Prior to issuance of a general anesthesia permit, moderate sedation permit, or pediatric moderate sedation permit, the applicant shall pass an initial inspection. The initial inspection shall require the applicant to ~~show~~ demonstrate compliance with Rule 64B5-14.008, 64B5-14.009 or 64B5-14.010, F.A.C., as applicable and demonstrate that he or she has knowledge of the use of the required equipment and drugs as follows:

(a) Demonstration of General Anesthesia/Deep Sedation. A dental procedure utilizing general anesthesia/deep sedation must be observed and evaluated. Any general anesthesia/deep sedation technique that is routinely employed may be demonstrated. Demonstration must include placement of intravenous catheter. The patient shall be monitored while sedated and during recovery. Furthermore, the dentist and his or her team must physically demonstrate by simulation a response to the following emergencies that express full knowledge and treatment of the patient:

1. Airway obstruction,
2. Bronchospasm,
3. Aspiration of foreign object,
4. Angina pectoris,
5. Myocardial infarction,
6. Hypotension,
7. Hypertension,
8. Cardiac arrest,
9. Allergic reaction/Anaphylactic reaction,
10. Convulsions,
11. Hypoglycemia,
12. Syncope; and,
13. Respiratory depression/Apnea.

(b) Demonstration of Moderate Sedation. A dental procedure utilizing moderate sedation must be observed and evaluated. Any moderate sedation technique that is routinely employed may be demonstrated. Demonstration must include placement of intravenous catheter. The patient shall be monitored while sedated and during recovery. Furthermore, the dentist and his or her team must physically demonstrate by simulation a response to the following emergencies that express full knowledge and treatment of the patient:

1. Airway obstruction,
2. Bronchospasm,
3. Aspiration of foreign object,
4. Angina pectoris,

5. Myocardial infarction,
6. Hypotension,
7. Hypertension,
8. Cardiac arrest,
9. Allergic reaction/Anaphylactic reaction,
10. Convulsions,
11. Hypoglycemia,
12. Syncope; and,
13. Respiratory depression/Apnea.

(c) Demonstration of Pediatric Moderate Sedation. A dental procedure utilizing pediatric moderate sedation must be observed and evaluated. Any pediatric moderate sedation technique that is routinely employed may be demonstrated. The patient shall be monitored while sedated and during recovery. Furthermore, the dentist and his or her team must physically demonstrate by simulation a response to the following emergencies that express full knowledge and treatment of the patient:

1. Airway obstruction,
2. Bronchospasm,
3. Aspiration of foreign object,
4. Angina pectoris,
5. Myocardial infarction,
6. Hypotension,
7. Hypertension,
8. Cardiac arrest,
9. Allergic reaction/Anaphylactic reaction,
10. Convulsions,
11. Hypoglycemia,
12. Syncope; and,
13. Respiratory depression/Apnea.

(d) Demonstrations of General Anesthesia/Deep Sedation, Moderate Sedation, and Pediatric Moderate Sedation as set forth above in subsections (2)(a)-(c) of this rule shall be conducted in accordance with the minimum standards of diagnosis and treatment when measured against generally prevailing peer performance. A demonstration that is not performed in accordance with such minimum standards shall be cause for a failing grade.

(3) Any applicant who fails to comply with any of the above requirements as a result of the initial inspection shall receive a failing grade and shall be denied a permit for general anesthesia, moderate sedation or pediatric moderate sedation.

(4) Any dentist who has a general anesthesia permit, moderate sedation permit, or pediatric moderate sedation permit shall be subject to announced or unannounced routine inspection and evaluation by an inspection consultant. Routine inspections shall be conducted, at a minimum of, every three years. The routine inspection shall include:

(a) Compliance with the requirements of Rule 64B5-14.008, 64B5-14.009 or 64B5-14.010, F.A.C., as applicable, by assigning a grade of pass or fail.

(b) ~~Any~~ A permit holder who fails ~~the~~ an inspection conducted in accordance with subsection (4) of this rule shall be so notified by the anesthesia inspection consultant and shall be given a written statement at the time of inspection which specifies the deficiencies which resulted in a failing grade. The consultant shall give the permit holder 20 days from the date of inspection to correct any documented deficiencies. Upon notification by the permit holder to the inspection consultant that the deficiencies have been corrected, the inspector shall reinspect or accept a Corrective Action Plan (CAP) to ensure that the deficiencies have been corrected. If the deficiencies have been corrected, a passing grade shall be assigned. No permit holder who has received a failing grade shall be permitted 20 days to correct deficiencies unless he voluntarily agrees in writing that no general anesthesia or deep sedation or moderate sedation will be performed until such deficiencies have been corrected and such corrections are verified by the anesthesia inspection consultant and a passing grade has been assigned.

(c) Upon a determination of the consultant that a permit holder has received a failing grade and that the permit

holder has not chosen to exercise his option by taking remedial action within the 20 day time period and submitting to reinspection, or reinspection has established that remedial action has not been accomplished, the consultant shall refer the permit holder to the Department of Health, Consumer Services Unit, wherein the disciplinary provision of Section 456.073, F.S. shall control.

(5) The holder of any general anesthesia, moderate sedation, or pediatric moderate sedation permit shall inform the Board office in writing of any change in authorized locations for the use of such permits prior to accomplishing such changes. Written notice shall be required prior to the addition of any location or the closure of any previously identified location. Any additional location shall be subject to a routine inspection no later than one year from the date of the added location

(6) Failure to provide access to an inspection consultant on two successive occasions shall be grounds for discipline for failure to comply with a legal obligation.

Rulemaking Authority 466.017(3) FS. Law Implemented 120.60(8), 466.017(3) FS. History--New 10-24-88, Amended 3-27-90, 11-8-90, 4-24-91, 2-1-93, Formerly 21G-14.007, Amended 12-20-93, Formerly 61F5-14.007, Amended 8-8-96, Formerly 59Q-14.007, Amended 11-4-03, 6-11-07, 11-13-17, 3-10-20.

Motion by: Dr. White to approve the proposed language.

Second: Dr. Mellado

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. Inspection Report

i. Ron Dilworth

Mr. Dilworth provided the Board with an update on the inspection program. As of January 1, 2022, they have completed 494 inspections. He also reported that 746 inspections were completed last fiscal year.

VIII. RULE DISCUSSION

A. Rule 64B5-2.013, F.A.C. – Dental Examinations

After discussion, the following action was taken:

Dr. Tejera asked that the Commission on Dental Competency Assessments (CDCA) come to the November meeting and present information on changes to the way the examinations are given. At that time, proposed draft rule language will be discussed.

IX. FOR YOUR INFORMATION

- A. Unlicensed Activity (ULA) Spotlight Newsletter**
- B. Florida Deploys Tools to Address Overdose Crisis**
- C. Florida Prescription Drug Monitoring Program (PDMP) Monthly Report**
- D. CDCA-WREB, CITA Announcement**

X. NEW BUSINESS

A. Licensure Ratification Lists

After discussion, the following action was taken:

Motion: by Dr. White to approve the licensure ratification list
Second: Dr. Mellado
Vote: Unanimous

B. Anesthesia Ratification List

After discussion, the following action was taken:

Motion: by Dr. Mellado to approve the anesthesia ratification list
Second: Dr. White
Vote: Unanimous

XI. OLD BUSINESS

- A. Approval of Board Meeting Minutes – May 20, 2022**
- B. Approval of Anesthesia Committee Minutes – June 20, 2022**
- C. Approval of Board Meeting Minutes – July 21, 2022**

Motion: by Dr. Mellado to approve the minutes
Second: Dr. White
Vote: Unanimous

XII. ADJOURNMENT

There being no further business, the meeting was adjourned at 11:40 a.m.