

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING MINUTES
FRIDAY, MAY 20, 2011
JACKSONVILLE OMNI
245 WATER STREET
JACKSONVILLE, FL 32202
(904) 355-6664
8:00 A.M.**

CALL TO ORDER

The meeting was called to order at 8:00 a.m. by Dr. Morgan, Chair. Those present for all or part of the meeting included the following:

Members present:

Thad Morgan, D.M.D., Chair
Carl Melzer, D.D.S.
Wade Winker, D.D.S.,
Daniel Gesek, D.M.D.
Robert Perdomo, III, D.M.D., Vice-Chair
William Kochenour, D.D.S.
Elmira Gainey
Debra Edinger, R.D.H.
Carol Stevens, D.D.S.

Members absent:

Tammy Baker, R.D.H.
Vicki Campbell

Staff present:

David Flynn, Board Counsel
Michael Flury, Board Counsel
Sue Foster, Executive Director
Wayne Mitchell, Esq., Prosecutor
Cindy Ritter, Program Administrator
Court Reporting, Statewide Reporting Service, 904-353-7706

REVIEW OF FEBRUARY 18, 2011 MINUTES

The minutes of the February 18, 2011 meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Dr. Melzer to accept as presented
Second: by Dr. Winker
Vote: unanimous

Mr. Mitchell advised the board that Ms. Myra Murphy, administrative assistant for the PSU is retiring at the end of the month. Ms. Murphy has worked with the prosecutorial services unit for over ten years and assisted in the preparation of the disciplinary portion of the agenda for several years and will be greatly missed.

DISCIPLINARY PROCEEDINGS

Juan D. Cardenas, D.D.S., Case No. 2010-02062, Settlement Agreement (PCP Gesek & Stevens)

Dr. Cardenas was present and was represented by Michael Cherniga, Esquire. An administrative complaint filed August 9, 2010 alleged violations of s. 466.028(1)(h) of being employed by any corporation, organization, group or person other than a dentist or professional corporation composed of dentists.

Probable Cause Panel recommendation:

Reprimand, \$5000 fine within 6 months, costs within 6 months, laws and rules exam within 12 months, CE audit.

A settlement agreement was presented to the Board with the following terms, fine of \$5000 payable within 6 months, costs of \$3,124.32 payable within 6 months, CE courses may be audited for next biennium, pass the laws and rules exam within 12 months.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Melzer to accept the settlement agreement

Second: by Dr. Winker

Vote: unanimous

Candace Renee Colella, D.M.D., Case No. 2007-20872, Settlement Agreement (PCP Melzer & Morgan) Mr. Flynn recused himself from this case.

Dr. Colella was present and was represented by Dennis Vandenberg, Esq. A two count administrative complaint filed September 23, 2008 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving extraction of tooth number 31, failure to document on treatment dates, any medical history information, no adequate diagnostic radiograph to reflect root structure, s. 466.028(1)(x), F.S. of failure to meet minimum standards by extracting tooth #31 without adequate diagnostic radiographs resulting in mandibular jawbone fracture.

Probable Cause Panel recommendation:

reprimand, \$10,000 fine, costs within 6 months, Level II in Diagnosis and Treatment Planning, Level II in Surgical Exodontia, Level I in record keeping within 6 months, practice restricted from performing surgical exodontia until completion of CE in surgical exodontia, refund to patient, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: Dismissal of Count II – 466.028(1)(m), F.S., reprimand, fine of \$4000 payable within 12 months, costs of \$3,000 payable within 12 months; level II in diagnosis and treatment planning within 12 months, permanent restriction from performing surgical exodontia unless successful completion of level II in surgical exodontia with verified competency at dental school, patient has been refunded through civil claim, CE courses may be audited for next biennium, pass the laws and rules exam within 12 months.

A letter was provided by Dr. Vandenberg indicating that Dr. Colella has completed the Level II exodontia course at Nova Southeastern University.

Following review, the following action was taken by the board:

Motion: by Dr. Gesek to reject the settlement agreement

Second: by Ms. Gainey

Vote: unanimous

Motion: by Dr. Gesek to include reprimand, \$10,000 fine, permanent restriction from surgical exodontia, completion of level II in diagnosis and treatment planning, completion of level II in surgical exodontia with verified competency at dental school, patient has been refunded through civil claim, CE courses may be audited for next biennium, pass the laws and rules exam within 12 months, ethics course.

Second: by Ms. Gainey

Vote: motion passes with Dr. Winker opposed

Joseph Ryan Grider, D.D.S., Case No. 2010-01528, Settlement Agreement (PCP Gesek & Stevens)

Dr. Grider was present and was represented by Michael Cherniga, Esq. An administrative complaint filed August 9, 2010 alleged violations of s. 466.028(1)(h), F.S. of being employed by any corporation, organization, group or person other than a dentist or limited liability company composed of dentists.

Probable Cause Panel recommendation:

Reprimand, \$5,000 fine, costs within 6 months, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: fine of \$5000 payable within 6 months, costs of \$3,398.66 payable within 6 months; pass the laws and rules exam within 12 months, CE courses may be audited for next biennium.

Following review, the following action was taken by the board:

Motion: by Dr. Melzer to accept the settlement agreement

Second: by Dr. Kochenour

Vote: unanimous

Richard Lipman, D.D.S., Case No. 2009-08158, Settlement Agreement (Melzer & Winker)

Dr. Morgan granted a continuance in this case.

Kenneth Liszewski, DMD, Case No. 2007-00647, Settlement Agreement (PCP Melzer & Morgan)

Dr. Liszewski was present and was represented by Jon Pellett, Esq. A two count administrative complaint filed December 17, 2007 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failure to retain page of patient's pre-treatment notes, failure to take, record results of any pre-treatment radiographs, failure to record results of periodontal exam prior to initiating restorative and periodontal treatment.; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to perform periodontal exam prior to initiating restorative and periodontal treatment, failing to appropriately evaluate patient's bruxism or reduce the severity of patient's symptoms prior to performing major restorative work.

Probable Cause Panel recommendation:

Reprimand, \$20,000 fine, costs, 6 hours in crown/bridge; 6 hours in diagnosis and treatment planning, 2 year comprehensive dental course within 30 months; refund to patient, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms:, letter of concern, subsume Count II fully into Count I for a single violation of s. 466.028(1)(m), F.S. fine of \$3000 payable within 12 months, costs of \$4000 payable within 12 months; level 1 in record keeping with verified competency at

dental school within 12 months, CE courses may be audited for next biennium, pass the laws and rules exam within 12 months.

Following review, the following action was taken by the board:

Motion: by Dr. Winker to accept the settlement agreement
Second: by Dr. Perdomo
Vote: motion fails

Motion: by Dr. Gesek to reject the settlement agreement
Second: by Ms. Gainey
Vote: motion passes with Ms. Edinger, Drs. Perdomo and Winker opposed

Motion: by Dr. Gesek to offer a counter settlement agreement to add a Level I in crown and bridge, Level 1 in Diagnosis and Treatment Planning and a risk management course to the original settlement agreement
Second: by Ms. Gainey
Vote: motion passes with Ms. Edinger, Drs. Perdomo and Winker opposed

Mr. Pellett accepted the counter settlement agreement on behalf of Dr. Liszewski.

Frederick Waggener, D.D.S., Case No. 2009-00152, Settlement Agreement (Melzer & Winker)

Dr. Waggener was present and was represented by Randolph Collette, Esq. A two count administrative complaint filed December 8, 2009 alleged violations of s. 466.028(1)(m), F.S. of failure to keep written dental records and medical history records justifying the course of treatment involving failure to document working length of files used during endodontic treatment of tooth number 19 and failure to record the length of canals in tooth number 19 and decay on tooth; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to disclose that mesial canals of tooth 19 had not been filled, failing to refer patient to endodontist, seating a crown on tooth 19 following incomplete endodontic treatment, failing to take a post treatment x-ray when patient appeared symptomatic.

Probable Cause Panel recommendation:

Reprimand, \$10,000 fine within 6 months, costs within 6 months, Level II in Diagnosis and Treatment Planning, 9 hours in clinical endodontics, 6 hours in endodontic lab and Level II in record keeping within 6 months, refund to patient, laws and rules exam within 12 months, one biennium CE audit

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$7500 payable within 18 months, costs of \$3,033.80, payable within 18 months; level 1 in diagnosis and treatment planning, level 1 in endodontics, level 1 in record keeping with verified competency at dental school within 18 months, refund to patient, CE courses may be audited for next biennium, pass the laws and rules exam within 12 months.

Following review, the following action was taken by the board:

Motion: by Dr. Gesek to reject the settlement agreement
Second: by Dr. Morgan
Vote: unanimous

Motion: by Dr. Gesek to offer a counter settlement agreement to include the terms of the original settlement however with a reduction of the fine to \$4,000.
Second: by Dr. Perdomo
Vote: unanimous

Dr. Waggener accepted the counter settlement agreement.

**Erica Casey, R.D.H., Case No. 2009-22080, Informal Hearing
(Gesek & Stevens)**

Ms. Casey was not present and was represented by Edwin Bayo, Esq. An ESO was filed on September 1, 2010. A three count administrative complaint filed September 28, 2010 alleged violations of s. 466.028(1)(c), F.S. of being convicted or found guilty or entering a plea of nolo contendere to a crime in any jurisdiction which relates to the practice of dentistry; s. 466.028(1) (II) failure to report to the board or department within 30 days after conviction; 466.028(1)(s), F.S. of being unable to practice with reasonable skill and safety by reason of alcohol, drugs, chemicals or any other type of material involving plea of guilty to acquiring a controlled substance by fraud, admission to drug addiction.

Probable Cause Panel recommendation:

Reprimand, \$15,000 fine within 6 months, costs within 6 months, remain suspended until PRN evaluation and compliance, ethics course within 6 months, one biennium CE audit

A motion for final order by informal hearing was presented to the Board.

Mr. Bayo asked that the case be continued as Ms. Casey is currently in treatment and could not attend the meeting. Dr. Morgan granted the continuance.

**Anthony Tyrone Graham, D.D.S., Case No. 2010-15639, Informal Hearing
(PCP Gesek & Stevens)**

Dr. Graham was present and was represented by Edwin Bayo, Esq. An administrative complaint filed December 20, 2010 alleged violations of s. 466.028(1)(aa), F.S. of failure to comply with a lawful order of the Board involving failure to complete 30 hours of community service, 3 CE hours in delegable duties, 3 CE hours in record keeping, 3 CE hours in pharmacology, 6 CE hours in Diagnosis and Treatment planning and 3 hours in ethics and failed to pay a fine of \$15,000 and costs of \$3,981.30 within 12 months of the filing of the final order on July 2, 2009.

Probable Cause Panel recommendation:

Reprimand, \$10,000 fine within 6 months, costs within 6 months, suspension until compliance with prior final order, laws and rules exam within 12 months, one biennium CE audit

A motion for Board's final order by informal hearing was presented to the board.

Following review, the following action was taken by the board:

Motion: by Dr. Melzer to adopt all of the statements and allegations of facts in charging document
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Dr. Melzer to accept the conclusions of law as set forth in the administrative complaint
Second: by Ms. Gainey
Vote: unanimous

Mr. Bayo advised the board that Dr. Graham has completed the community service hours and continuing education hours. Dr. Graham agrees to pay \$1500 per month toward outstanding obligations. He asked that he be removed from probationary status.

Motion: by Dr. Melzer to issue a letter of concern, obtain proof of compliance with continuing education and community service hours, comply with original order by paying \$1500 per month and assess costs of \$325.72. Upon documentation of completion of previous requirements, probationary status will be removed.

Second: by Dr. Perdomo

Vote: Unanimous

Wesley Meyers, DDS, Case No. 2010-12941, Informal Hearing (PCP Melzer)

Dr. Meyers was present and was represented by Edwin Bayo, Esq. An administrative complaint filed February 14, 2011 alleged violations of s. 466.028(1)(z), F.S. of delegating professional responsibilities to person who is not qualified by training, experience or licensure to perform irremediable tasks, assisting with surgical placement or restoration of implants including post-op seating of "healing caps" at the implant sites.

Probable Cause Panel recommendation: revocation

A motion for Board's final order by informal hearing was presented to the board.

Following review, the following action was taken by the board:

Motion: by Dr. Gesek to adopt the findings of fact and find that they constitute a violation of law

Second: by Dr. Winker

Vote: unanimous

Motion: by Dr. Gesek to adopt conclusions of law

Second: by Dr. Winker

Vote: unanimous

Ms. Ann Marie Grier, daughter of the patient, addressed the board and asked that the board permanently revoke Dr. Meyers' dental license.

Motion: by Ms. Gainey to revoke the dental license

Second: by Dr. Winker

Vote: motion passes with Drs. Gesek, Perdomo and Ms. Edinger opposed

Aggravating factors in the finding of revocation are previous discipline, harm to patient, concealing information

Motion: by Dr. Morgan to waive the costs in this case

Second: by Ms. Gainey

Vote: motion passes with Dr. Winker opposed

Mr. Bayo, later in the board meeting, approached the prosecutor/Board with a completed voluntary relinquishment of license from his client and petitioned the Board to accept this request.

Motion: by Dr. Gesek to reconsider this case

Second: by Dr. Winker

Vote: passed with Dr. Winker opposed

Motion: by Dr. Gesek to accept the voluntary relinquishment of license

Second: by Ms. Edinger

Vote: passed with Dr. Winker opposed

Wren Gardner, D.D.S., Case Nos. 2008-11392, 2010-03529, Voluntary Relinquishment (PCP Gesek & Stevens)

Dr. Gardner was not present however he was represented by counsel (Jeffrey Goodis, Esq.) A two count administrative complaint alleges violations of s. 466.028 (1)(m), F.S. of failing to keep written dental records justifying the course of treatment concerning periodontal concerns of patient prior to delivery of crown and bridgework and s. 466.028(1)(x), F.S. of being guilty of incompetence or negligence by failing to meet minimum standards by failing to perform a comprehensive periodontal exam, failing to timely diagnose periodontitis. His license is currently delinquent. A Voluntary Relinquishment of license was presented to the board.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Winker to accept the voluntary relinquishment

Second: by Ms. Edinger

Vote: unanimous

Richard M. Verrette, D.D.S., Case Nos. 2010-02742, 2010-02506, Voluntary Relinquishment (PCP Melzer)

Dr. Verrette was not present but was represented by Edwin Bayo, Esq. A two count administrative complaint filed February 14, 2011, alleged violations of s.466.028(1)(p), F.S. for prescribing, procuring, dispensing, administering any controlled substance other than in the course of the professional practice. Respondent prescribed opioid narcotics, controlled substances and legend drugs to various non-patients to obtain crack cocaine and/or other drugs on an ongoing basis and s. 456.072(1)(c), F.S. of being convicted or found guilty to a crime which relates to the practice concerning 1 count of conspiracy to traffic in controlled substances, 5 counts of attempted purchase of cocaine, 6 counts of sale, manufacture, 7 counts of sale of controlled substance. A Voluntary Relinquishment of license was presented to the board.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to accept the voluntary relinquishment

Second: by Dr. Kochenour

Vote: unanimous

Harold E. Kirksey, D.D.S., Case No. 2010-08695, Default (PCP Gesek & Stevens)

Dr. Kirksey was not present and was not represented by counsel. An administrative complaint filed December 20, 2010 alleged violations of s. 466.028(1)(aa), F.S. of violation of lawful order of the board previously entered in a disciplinary hearing. Respondent failed to pay the \$2000 fine and \$4295.17 assessed for costs. An affidavit of non-compliance dated May 5, 2011 from the compliance officer stating Respondent has not completed Level II in diagnosis and treatment planning, Level II in risk management, Level III in orthodontics or completed the laws and rules examination as required by March 3, 2011 is included in the addendum agenda material. Respondent has not refunded the patient as required in the prior final order.

Probable Cause Panel recommendation:

Reprimand, \$10,000 fine, costs, 3 hours in ethics, suspension until compliance with prior final order, laws and rules exam within 12 months, one biennium CE audit

No response to the administrative complaint has been received. A motion for determination of waiver/default and for final order by hearing not involving disputed issues of material facts was presented to the Board.

Following discussion, the following action was taken by the board:

Motion: by Dr. Melzer that respondent waived his right to a hearing
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Winker to adopt the findings of fact as the board's own and find respondent is in violation of the practice act
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Winker to adopt the conclusions of law as the board's own and find respondent is in violation of the practice act
Second: by Dr. Melzer
Vote: unanimous

Motion: by Ms. Gainey to impose the penalty of reprimand, \$10,000 fine within 6 months, costs, 3 hours in ethics, suspension until compliance with prior final order, laws and rules exam within 12 months, one biennium CE audit
Second: by Dr. Winker
Vote: unanimous

A Motion to Assess costs of \$451.59 was presented to the board. Following discussion, the following action was taken by the board:

Motion: by Dr. Melzer to assess costs of \$451.59 within six months of entry of final order
Second: by Dr. Kochenour
Vote: unanimous

Patrick Leconte, D.D.S., Case No. 2010-21009, Default, handled as informal hearing (PCP Melzer)

Dr. Leconte was present and was represented by Ed Bayo, Esquire. An administrative complaint filed February 14, 2011 alleged violations of s. 466.028(1)(aa), F.S. of violation of lawful order of the board previously entered in a disciplinary hearing. Respondent failed to pay the \$3000 fine and \$273.35 assessed for costs.

Probable Cause Panel recommendation:
reprimand, \$5,000 fine, costs, suspension until compliance with prior final order, laws and rules exam within 12 months, one biennium CE audit

No response to the administrative complaint has been received. A motion for determination of waiver/default and for final order by hearing not involving disputed issues of material facts was presented to the Board.

Mr. Bayo advised the board that as of earlier this week, the outstanding payment and completion of ethics course has been submitted to the compliance officer. Following discussion, the following action was taken by the board:

Motion: by Dr. Gesek to adopt the findings of fact as the board's own and find respondent is in violation of the practice act
Second: by Dr. Kochenour
Vote: unanimous

Motion: by Dr. Gesek to adopt the conclusions of law as the board's own and find respondent is in violation of the practice act
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Winker to impose the penalty of \$1,000 fine with payment to be made within 90 days of entry of final order
Second: by Dr. Gesek
Vote: unanimous

A Motion to Assess costs of \$484.52 was presented to the board. Following discussion, the following action was taken by the board:

Motion: by Dr. Gesek to assess costs of \$484.52 with payment to be made within 90 days of entry of final order
Second: by Dr. Winker
Vote: unanimous

Jananya Plianrungsi, DDS, Case No. 2010-15728, Default (PCP Melzer)

The Prosecution Services unit has requested that this case be removed from the agenda.

Joseph Seabrook, DDS, Case No. 2010-17022, Default (PCP Melzer)

Dr. Seabrook was not present and was not represented by counsel. An administrative complaint filed February 14, 2011 alleged violations of s. 466.028(1)(aa), F.S. of violation of lawful order of the board previously entered in a disciplinary hearing. Respondent failed to pay \$12,576.03 in costs for previous cases involving standard of care, records violation and fraud, deceit or misconduct.

Probable Cause Panel recommendation: revocation

No response to the administrative complaint has been received. A motion for determination of waiver/default and for final order by hearing not involving disputed issues of material facts was presented to the Board. Following discussion, the following action was taken by the board:

Motion: by Dr. Gesek that respondent was properly served and waived his right to a hearing
Second: by Dr. Winker
Vote: unanimous

Motion: by Ms. Gainey to adopt the findings of fact as the board's own and find respondent is in violation of the practice act
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Gesek to adopt the conclusions of law as the board's own and find respondent is in violation of the practice act
Second: by Dr. Winker

Vote: unanimous

Motion: by Dr. Perdomo to impose the penalty of revocation.

Second: by Ms. Gainey

Vote: unanimous

Aggravating factors in the revocation are multiple previous disciplinary cases.

A Motion to Assess costs of \$555.28 was presented to the board. Following discussion, the following action was taken by the board:

Motion: by Dr. Gesek to dismiss costs of \$555.28

Second: by Dr. Perdomo

Vote: unanimous

Mr. Mitchell provided the following report to the board regarding disciplinary cases: there are currently 252 dentistry cases; 94 of the 252 cases are pre-probable cause.

PETITIONS

Ruth L. Masso, D.D.S., Petition for Variance or Waiver

Dr. Masso was present and was not represented by counsel. She is requesting a variance and waiver to rule 64B5-2.013(2)(d),(e), F.A.C., the thirteen month rule requirement for licensure. She is requesting a waiver to sit for the Florida laws and rules exam. She passed the clinical exam in November, 2009. Her hardship is explained with medical records due to her husband's health.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Perdomo to grant a one time variance to allow Dr. Masso to take the Laws and Rules examination within six months.

Second: by Dr. Winker

Vote: unanimous

Ms. Jeana M. Pfiester, Petition for Variance or Waiver

Ms. Pfiester was present and was not represented by counsel. She is requesting a variance and waiver to rule 64B5-2.013(2)(d),(e), F.A.C., the thirteen month rule requirement for licensure. She is requesting a waiver to sit for the Florida laws and rules exam within the thirteen month period. She passed the clinical exam.

Motion: by Ms. Gainey to accept the petition for variance or waiver.

Second: by Dr. Melzer

Vote: unanimous

Michael J. Jumber, D.M.D., Request for Declaratory Statement

Dr. Jumber was present and was not represented by counsel. He is requesting a declaratory statement from the Board on performing HgA1C diabetes screening in dental offices by auxiliaries. He cites the most recent JADA vol.142, pgs 28-37 – "Development of a clinical guideline to predict undiagnosed diabetes in dental patients." The patient would then be referred to their primary care physician for follow-up. He cites s. 466.003(3)(f), F.S. and 466.024, F.S. that dentist may delegate task of gingival curettage and root planning to a dental hygienist.

Mr. Flynn advised the board that this is a request for statement of general applicability and he advised not issuing a declaratory statement in this area. Several board members agreed.

Motion: by Dr. Gesek to deny the request for declaratory statement
Second: by Dr. Melzer
Vote: unanimous

APPLICATIONS/OTHER REQUESTS

Jeffrey Siegel, D.D.S., Request for Extension of Time

Dr. Siegel has requested an extension of time to comply with the continuing education requirements,

Motion: by Dr. Gesek to reject the request
Second: by Ms. Gainey
Vote: unanimous

Dr. John Cappricio, Request for Reinstatement

Dr. Cappricio's attorney requested a continuance until the next meeting. Dr. Morgan granted the request.

Joel Allen David, Motion for Extension of Time

Dr. David was not present but was represented by Edwin Bayo, Esq. He is requesting a six month extension to complete his 48 hours of community service which was to have been completed by July 9, 2011. His prior two plans for community service had been denied.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Gesek to deny the extension of time
Second: by Dr. Melzer
Vote: unanimous

Thomas M. Hickey, Application for Reactivation of Dental License

Dr. Hickey was present and was not represented by counsel. He is requesting reactivation of his dental license. Rule states that if he has not practiced for two biennia, he is to appear before the Board.

Following discussion, Dr. Hickey withdrew his petition.

Howard L. Rosov, DDS, request to volunteer

Dr. Rosov was present and was not represented by counsel. He is requesting to work as a volunteer at the Friendship Center in Sarasota. The Non-Profit Permit application included the section regarding the non-Florida licensed dentist general history. In February, 2004, his Maryland dental license was revoked. He is a board certified diplomat in endodontics.

Following discussion, the following action was taken by the Board:

Motion: by Dr. Morgan to deny the request to volunteer
Second: by Dr. Gesek
Vote: unanimous

TOPIC DISCUSSION

Letter from Nova University requesting Elimination of March examination

Dr. Uchin, Dean of the Nova Southeastern University College of Dental Medicine, in letter dated April 29, 2011, is requesting elimination of the March exam.

Letter from University of Florida requesting elimination of March exam

Dr. Dolan, Dean of the University of Florida College of Dentistry, in letter dated May 3, 2011, is requesting a rescheduling of the exam to offer it in May and August and alternate between the sites in November.

Dr. Morgan advised that the issue of examination dates should be addressed with the Northeast Regional Board of Examiners, the contracted vendor for exam administration.

Letter to Bruce Barrette, D.D.S., ADEX President

Ms. Jennifer Wenhold, Manager of Exam Services, sent a letter to Dr. Barrette concerning the replacement of Dr. Hal Haering on the ADEX Examination Development Committee since he is no longer practicing full time in this State.

Following discussion, it was suggested that Dr. Winker represent the board in this capacity. Ms. Wenhold will respond to Dr. Barrette with this information.

FOR YOUR INFORMATION

Letter from AADB regarding Third Vice-President

March 2011 Dental Exam Update

C. March 2011 Dental Exam Reports

1. Nova Candidate Satisfaction Survey
2. Nova Examiner Satisfaction Survey
3. Nova Proctor Satisfaction Survey
4. Nova Examiner Performance Report
5. University of Florida Candidate Satisfaction Survey
6. University of Florida Proctor Satisfaction Survey
7. University of Florida Examiner Performance Report

D. Memo from American Dental Association re Acceptance of CE Courses

E. DOH Legislative Update, April 19, 2011

F. Article Regarding North Carolina Board (Addendum pg. 159)

VIII. REPORTS

A. Council/Committee Reports

1. Council on Dental Hygiene (April 11 TCC)

The counsel reviewed rule draft permitting dental hygienists to place, carve and polish restorations under remediable tasks delegable to a dental hygienist. The Council voted to approve the concept of this rule change and open the rule for development.

Motion: by Dr. Gesek to approve the minutes

Second: by Melzer

Vote: unanimous

Motion: by Dr. Gesek to approve minutes from July, 2010

Second: by Melzer

Vote: unanimous

Motion: by Dr. Gesek to approve the language regarding local anesthesia

Second: by Melzer

Vote: unanimous

Motion: by Dr. Gesek does not need a SERC

Second: by Melzer

Vote: unanimous

Council on Dental Assisting (April 11 TCC)

Dr. Stevens and board counsel reviewed rule draft permitting dental assistants to place, carve and polish restorations under remediable tasks delegable to a dental assistant. The Council voted to limit restorations and procedures by dental assistants to simple, Class I restorations, and require CODA approved training, passage of DANB exam, use of hand instruments only, 3500 hours of on-the-job training.

Motion: by Ms. Gainey to approve the minutes
Second: by Dr. Gesek
Vote: unanimous

Dr. Morgan asked that FDA, FDHA, Nova and UF get together

Dr. Don Erbes, FDA, stated that Dr. Nissen recommended that FDA form a committee with FDHA, DA, Nova and UF and develop educational guidelines, restorative guidelines, how to license/certify, to bring to the next rules committee meeting. The FDA is willing to take the lead to gather data and asked for a timeline. Dr. Morgan asked if the information could be sent to the Board office by August 1 for inclusion for discussion at the August 12 board meeting.

Rules Committee (April 11 TCC)

The committee voted to follow Council on Dental Assisting and Council on Dental Hygiene recommendations for rules 64B5-16.005 and 16.006 and open the rules for development.

Dr. Kochenour requested that the Rules Committee proceed with the specialty advertising rules and Dr. Stevens requested that the Rules Committee proceed with the expanded duty training drafts that she had presented at the last board meeting. Dr. Winker asked that a Rules Committee meeting be scheduled before the next Board meeting.

Rules Committee (May 2 TCC)

Dr. Winker gave a report of the Rule Committee. He stated that the Committee discussed changes to the proposed rule draft presented for 64B5-4.002, FAC. Dr. Melzer was appointed to assist Mr. Flynn with the draft language and it was requested that a new draft with changes be placed on the May 20 board meeting agenda for review by the full Board.

The Committee also discussed changes to the proposed rule draft for 64B5-16.002, FAC. The Committee discussed the possibility of a statutory change during the next legislative session to require biennial affidavits, renewals, inspections, the ability to charge a fee for this application process, or requiring CODA standards. Dr. Erbes of the Florida Dental Association stated this could be presented to the FDA to see if there was support for a legislative change.

Motion: by Dr. Winker to approve the minutes as presented
Second: by Dr. Gesek
Vote: unanimous

Motion: by Dr. Gesek to accept the proposed language for 64B5-4.002
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Gesek that the rule does not require a SERC
Second: by Dr. Melzer
Vote: unanimous

Motion: by Dr. Stevens to accept proposed language in 64B5-16.002
Second: by Dr. Gesek
Vote: unanimous

Motion: by Dr. Gesek that the rule does not require a SERC
Second: by Dr. Melzer
Vote: unanimous

Mr. Flynn advised the board that a process has recently been approved by the Department of Health and briefly explained that rule process.

Regulation of expanded duty programs

At this time, statutory changes are needed to provide the type of oversight envisioned for expanded duty programs.

Mr. Flury thanked the board for allowing him to serve as their board counsel over the past 2 years. He stated that he is being reassigned to other Boards and Mr. David Flynn will be counsel to the Board of Dentistry.

Rules Report

Petition for Rulemaking, Victoria Yardley, RDH, MPH

Ms. Yardley was present and was not represented by counsel. She is requesting that the board approve her draft rule to allow dental hygienists to perform oral cancer screening limited to Code D0431 under indirect supervision.

Following discussion, the board declined to move forward with rulemaking on this matter.

Dr. Erbs stated that the procedure currently used is part of the dentist's comprehensive oral exam.

Board Director

Ratification of Lists

Motion: by Dr. Gesek to ratify the anesthesia permits
Second: by Dr. Melzer
Vote: unanimous

Long Range Planning

Ms. Foster included the long range planning survey in the addendum and stated that it would be discussed at the Board Chair/Vice Chair meeting on September 27, 2011 in Tallahassee.

Budget Reports for Period Ending December 31, 2010

Legislative Updates – (list of enrolled bills, including enrolled versions of CS/CS/CS/CS/HB 479 and CS/CS/CS/HB 1319 in addendum; excerpt of CS/CS/HB 7095, see page 98 of bill text)

Dr. Larry Nissen, President of the Florida Dental Association (FDA) and Ron Watson, Lobbyist, FDA, provided a summary to the board of recent legislative actions concerning dentistry. These bills are on the Governor's desk at this time, FDA asks that board write a letter of support to the Governor for the following legislation. Letters of commendation to Harrell and Altman for sponsoring legislation.

HB 1319 originally dealt with military spouse, temporary certificate bill, FDA was able to add language to allow applicants to take ADLEX exam, and the dental hygiene expansion of scope of practice in health access settings was also added.

There was also a \$56 million dollar increase for Medicaid.

Expert witnesses must apply for a certificate to allow them to testify in malpractice cases, HB 479, and they are valid for 2 years, allows for discipline if expert gives fraudulent testimony.

Controlled substance bill, HB 7095 requires dental practitioners to use a designation on their profile/licensure screen for any dentist who prescribes controlled changes for treatment of "chronic non-malignant pain" for more than 90 days.

Chair

None

Vice-Chair

None

Board Members

Report on April 2011 AADB meeting

Dr. Winker attended this meeting in Chicago and gave the following report. After January 2012, national board scores will be reported as pass/fail. The current trend is that candidates from non-accredited dental and dental hygiene schools fail at a higher rate. Candidates will not be permitted to retake the exam if they have passed unless mandated for licensure in a state. The Dentists pin number is now used in lieu of social security number. Joint Commission will have curriculum integrated exam format in use by 2015.

Background Checks

Dr. Gesek wanted the board to consider background checks for dentistry. It would take a statutory change to require fingerprinting. Dr. Gesek stated that he was concerned that some of the dental hygiene exam sites did not have same equipment as other sites.

Privatization

Dr. Sol Brotman, former board member and former board chair, has reviewed the budget reports for dental and dental hygiene professions for the past several years. He stated that over the past decade DOH has used 3 different methods to determine expenses. The separation of the dental and dental hygiene budgets has cost the dental hygiene trust fund due to the cash sweeps/recapture of fees by the legislature. Regarding unlicensed activity fees, as of 12/31/10 the unlicensed activity cost of \$664,000, increasing each year by \$95,000. He stated that it may be time to perform a reassessment of money taken for the unlicensed activity.

Since Testing Services has been removed from the budget, the largest cost now comes from enforcement. Investigation process has not been reviewed and refined for over 15 years. Dr. Brotman feels that the board could run a law firm for less, while paying attorneys more.

Allocated costs are higher than increase in inflation in some cases.

The board office is also a significant cost however exact numbers have not been run.

Sgbrotman@prodigy.net 904-396-4091 office telephone number.

Next step is for board to indicate to Dr. Brotman that he should move forward with this effort.

This would take a legislative change and a request to the Governor, including the dental hygiene budget, and doing a cost benefit analysis and review the spending of PRN and unlicensed activity.

Dr. Morgan asked Dr. Melzer to pursue this with the FDA, FDHA.

Dr. Kochenour stated that he had attended the March dental exam and asked that the board send letters to the examiners to thank them for their excellent work integrity.

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 1:15 pm