

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING
OCTOBER 28, 2011
HILTON FT. LAUDERDALE AIRPORT
1870 GRIFFIN ROAD
DANIA BEACH, FL 33004
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.
Carol Stevens, D.D.S.
Wade Winker, D.D.S.
Joe Thomas, D.D.S.
Robert Perdomo, III, D.M.D., Vice-Chair
William Kochenour, D.D.S.
Tammy Baker, R.D.H.
Elmira Gainey

Vicki Campbell
Debra Edinger, R.D.H.

Staff present:

David Flynn, Board Counsel
Sue Foster, Executive Director
Wayne Mitchell, Esq., Prosecutor
Cindy Ritter, Program Administrator
Court Reporting, Apex Reporting
Group, 954-467-8204

Dr. Morgan congratulated Dr. Thomas on his reappointment and welcomed him back to service on the Board.

REVIEW OF MINUTES

A. August 12 General Business meeting

B. September 13 General Business meeting

The minutes of the August 12, 2011 general business meeting were reviewed and following review, the following action was taken by the Board:

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

The minutes of the September 13, 2011 general business meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Dr. Thomas to approve as presented
Second: by Dr. Winker
Vote: unanimous

DISCIPLINARY PROCEEDINGS

Luis Hernandez-Abreu, DMD, Case No. 2009-24373, Informal Hearing

(Melzer & Thomas)

Dr. Hernandez-Abreu was present and was represented by Edwin Bayo, Esq. A three count administrative complaint filed July 25, 2011 alleged violations of s. 466.028(1)(ll), F.S of violation of any provision of this chapter or chapter 456, F.S. concerning requirement to maintain malpractice insurance or maintain self – insurance involving respondent’s failure to comply with judgments entered against him in August and September, 2009 of \$243,466; 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 record results of new patient or comprehensive diagnostic exam in May, 1996, that patient presented with retained roots from prior extractions, no recording of complete periodontal examinations, comprehensive periodontal exam; s. 466.028(1)(i), F.S. of failure to perform any statutory or legal obligation by failing to comply with final order of judgments.

Probable Cause Panel recommendation:

reprimand, appearance before board, suspension until compliant with court order, \$15,000 fine, costs, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in record keeping, successfully complete laws and rules examination within one year and one biennium C.E. audit.

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

Motion: by Dr. Perdomo to adopt the findings of fact as stated in the administrative complaint

Second: by Ms. Campbell

Vote: unanimous

Motion: by Ms. Gainey to adopt the conclusions of law as stated in the administrative complaint

Second: by Dr. Kochenour

Vote: unanimous

It was agreed that Mr. Bayo and Mr. Mitchell would meet during the break to see if a verbal settlement agreement could be reached. Upon reconsideration, the board took the following action:

Motion: by Ms. Gainey accept settlement agreement to include letter of concern, \$5,000 fine and costs of \$5,857.91 within 12 months of final order, 3 years probation to include quarterly status updates at end of probation, PRN status updates throughout probation period, PRN approval prior to termination of probation, proof of malpractice insurance, count III subsumed into count I

Second: by Dr. Winker

Vote: unanimous

**Martin Baloff, DDS, Case No. 2010-20402, Settlement
(Melzer & Thomas)**

Dr. Baloff was not present and was not represented. A two count administrative complaint filed July 27, 2011 alleged violations of s. 466.028(1)(s), F.S. of inability to practice with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics or any other type of material or as a result of mental or physical condition; s. 466.028(1)(ll), F.S. and s. 456.072(1)(hh), F.S. of termination from a treatment program for impaired practitioners.

Probable Cause Panel recommendation:

Appearance; Reprimand; actual costs within 6 months; submit to an evaluation by PRN and comply with any recommendations, if applicable; license shall be suspended until such time as Respondent presents before Board with a recommendation from PRN demonstrating he is safe to practice; CE audit for next biennium; pass laws and rules exam within 12 months.

A settlement agreement was presented to the board with the following terms: Appearance is waived, costs of \$1,976.78 payable within 12 months, renewed agreement to maintain withdrawal from practice and to place license in retirement status no later than the end of the biennial renewal period or December 31, 2011, whichever is sooner. Respondent's license shall remain withdrawn and in retirement until and unless he appears before the board seeking reinstatement with recommendation from PRN that respondent is capable to practice with skill and safety; pass the laws and rules exam within 12 months of resuming active licensure status, CE courses may be audited for next biennium.

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

Motion: by Dr. Kochenour to accept the settlement

Second: by Ms. Campbell

Vote: unanimous

**Gustavo B. Borges, DDS, Case No. 2007-35238, Settlement
(Melzer & Thomas)**

Dr. Borges was not present however he was represented by Randall Shochet, Esq and Kathy Goldberg, Esq. An administrative complaint filed July 29, 2008 alleged violations of s. 466.028(1) (ll), F.S. by violation of s. 456.072(1)(c), F.S. by being convicted in federal court, of knowingly receiving child pornography.

Original PCP Recommendation: Revocation

Reconsidered 9/23/11: Endorse terms of settlement

A second response settlement agreement to board's counter-offer was presented to the board with the following terms: Waive appearance, reprimand, fine of \$10,000 payable within 12 months of release of incarceration, costs of \$8,413.56 payable within 6 months of release from prison, permanent restriction to treat

patients 17 or younger, suspension, stayed until released and then active until appearance before the Board. The Board will require remediation to ensure skills are acceptable; PRN evaluation, probation for 7 years following suspension with board approved dentist to serve as monitor who must work in the same group dental practice, respondent shall retain therapist during probationary period, compliance reports on quarterly basis, pass laws and rules exam within 12 months of being released from incarceration and before his active suspension is lifted, CE audit for one biennium.

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

Motion: by Ms. Campbell to reject the settlement agreement
Second: by Dr. Perdomo
Vote: unanimous

Motion: by Ms. Gainey to revoke the license
Second: by Dr. Perdomo
Vote: unanimous

Lynn Marie Carpenter, DH, Case No. 2009-19656, Settlement (Thomas)

Ms. Carpenter was not present and was not represented by counsel. An administrative complaint filed April 27, 2010 alleged violations of s. 466.028(1)(i), F.S. of failure to perform any statutory or legal obligation involving failure to pay a non-disciplinary citation and failure to respond to Department, and complete deficient continuing education hours.

Probable Cause Panel recommendation:

Appearance, reprimand, \$3,000 fine within six months, actual costs within six months, suspension until compliant with Final Order 2009-02582, CE audit for next biennium.

A settlement agreement was presented to the board with the following terms: Appearance is waived, reprimand, costs of \$347.35, suspension until costs are paid and until full compliance with prior non-disciplinary citation to include fine of \$600 and costs of \$75, CE audit for one biennium.

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

Motion: by Dr. Stevens to accept the settlement
Second: by Ms. Baker
Vote: unanimous

Candace Colella, DMD, Case No. 2007-20872, Settlement (Melzer & Morgan)

Dr. Colella was present and was represented by Dennis Vandenberg, Esq. A two count administrative complaint filed September 19, 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 each patient, s. 466.028(1)(x), F.S. of failure to meet minimum standards involving complications during tooth extraction and fracture of mandibular jawbone.

Probable Cause Panel recommendation:

reprimand, \$10,000 fine, costs, 7 to 12 hours in Diagnosis and Treatment Planning, 7 to 12 hours in exodontia course, 3 hours in record keeping, restriction from performing surgical exodontia until completion of CE in exodontia, refund to patient, laws and rules exam within 12 months, one biennium CE audit.

A response to board's counter-offer second amended settlement agreement was presented to the board with the following terms: reprimand, fine of \$4000 payable within 12 months, costs of \$3000 payable within 12 months; completion of level II in diagnosis and treatment planning CE course within 12 months, restriction in performing surgical exodontias unless respondent successfully completes level II in surgical exodontias and appears before the board requesting the restriction be lifted, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Ms. Baker to accept the settlement agreement

Second: by Dr. Thomas

Vote: motion passes with Dr. Kochenour opposed

Martin Eshkov, DDS, Case No. 2010-03615, Settlement (Melzer & Thomas)

Dr. Eshkov was not present and was not represented by counsel. An administrative complaint filed July 27, 2011, 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 no comprehensive periodontal exam charting or recording of condition of periodontium, no documentation of medical history. Dr. Morgan waived the appearance at the request of Dr. Eshkov.

Probable Cause Panel recommendation:

reprimand, \$2500 fine, costs, level I in record keeping 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: reprimand, fine of \$2500 payable within 6 months, costs of \$2,762.19 payable within 6 months; level 1 in record keeping with verified competency at dental school or board approved provider whose course is specifically approved to

satisfy the final order, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Ms. Gainey to reject the settlement agreement

Second: by Dr. Winker

Vote: motion passes with Dr. Morgan opposed

Motion: by Dr. Winker to offer a counter offer to replace the reprimand with a letter of concern

Second: by Dr. Perdomo

Vote: motion passes with Ms. Gainey opposed

Bruce Knecht, DMD, Case No. 2010-05919, Settlement (Melzer & Thomas)

Dr. Knecht was present and was represented by Michael Ragan, Esq. A three count administrative complaint filed on July 28, 2011 alleged violations of Section 466.028(1)(II) Florida Statutes, by violating the rules of Chapter 64B5 14, F.A.C., rules adopted according to Section 466.017(3), Florida Statutes, by practicing dentistry upon a fully sedated patient without proper license; Section 466.028(1)(gg), Florida Statutes, by violating the rules of Chapter 64B5 14, F.A.C., rules adopted according to Section 466.017(3), Florida Statutes, by practicing dentistry upon a fully sedated patient without proper license; Section 466.028(1)(z), Florida Statutes (2010), by delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

PCP Recommendation: Appearance, reprimand, \$15,000 fine within 6 months, actual costs within 6 months, 3 hours ethics course, 6 months suspension, pass laws and rules exam within 12 months, CE audit for next biennium.

A settlement was presented to the board with the following terms: Appearance, reprimand, administrative fine of \$9,000 within 18 months, actual costs of \$4,426.06 within 18 months, 3 hour ethics course within 6 months, 6 months suspension with suspension stayed, pass 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. Perdomo to reject the settlement agreement

Second: by Dr. Stevens

Vote: unanimous

Motion withdrawn

Motion: by Dr. Perdomo to accept the settlement agreement
Second: by Ms. Edinger
Vote: unanimous

**Raul Lizaso, DDS, Case No. 2010-09983, Settlement
(Melzer & Thomas)**

Dr. Lizaso was present and was represented by Randolph Collette, Esq. An administrative complaint filed May 2, 2011 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 chart existing teeth and/or restorations including missing teeth, existing restorations, no comprehensive periodontal exam

Probable Cause Panel recommendation:

Appearance, reprimand, \$2,000 fine within 6 months, costs within 6 months, Level I in record keeping 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: letter of concern, fine of \$2000 payable within 18 months, costs of \$6,305.76 payable within 18 months; level 1 in record keeping with verified competency at dental school or through Board approved provider, CE audit 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. Kochenour to accept the settlement agreement
Second: by Ms. Baker
Vote: unanimous

**Dasha Resnansky, DDS, Case No. 2009-07825, 2009-15966, 2009-24252,
2010-00076, Settlement
(Stevens & Thomas)**

Dr. Resnansky was present and was represented by Randolph Collette, Esq. Four administrative complaints filed against respondent dated June 7, 2010, December 20, 2010, and August 9, 2010. Administrative complaints 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 including, but not limited to patient histories, exam results, test results; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving but not limited to the undertaking of diagnosis and treatment for which dentist is not qualified by training or experience; s. 466.028(1)(n), F.S. for failure to make available to patient or the department copies of documents under control of the licensee which relate to the patient.

Probable Cause Panel recommendations:

2009-07825

reprimand, appearance before board, \$5,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in Diagnosis and Treatment Planning, minimum of level one in Record Keeping, successfully complete laws and rules examination within one year and one biennium C.E. audit.

2009-15966

reprimand, appearance before board, \$10,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in Diagnoses and Treatment Planning and a minimum of level two in Record Keeping and a minimum of level 1 in Periodontics successfully complete laws and rules examination within one year and one biennium C.E. audit.

2009-24252

reprimand, appearance before board, \$22,500 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in risk management, two year comprehensive dental course, three hour ethics, limit practice to no, successfully complete laws and rules examination within one year and one biennium C.E. audit.

2010-00076

reprimand, appearance before board, \$10,000 fine, cost, reimbursement for the patient of fees paid to the respondent for procedures involved in complaint, minimum of level one in record keeping, minimum of level one in risk management, minimum of level one in oral medicine to include cardiac, pulmonary and bleeding disorders, successfully complete laws and rules examination within one year and one biennium C.E. audit.

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$28,500 payable within 48 months, costs of \$20,353.83 payable within 48 months; within 36 months take 100 credit hour implant dentistry continuum provided by Arun Garg and one year comprehensive dentistry program to include record keeping and risk management, restriction from performing implant placement until enrolled in and begun the 100 hour implant program, refund the patients, CE audit for next biennium, pass the laws and rules exam within 12 months.

Additional documentation was presented and the board was asked to consider a withdrawal of practice due to medical condition.

All conditions, fines and costs that have a time requirement will be stayed because Dr. Resnansky is unable to practice due to medical condition. Dr. Resnansky would need to reappear before the board prior to resuming practice, at which time the requirements of the settlement agreement would begin.

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

Motion: by Dr. Perdomo to accept the settlement agreement

Second: by Ms. Gainey

Vote: unanimous

**Armando Rodriguez, DMD, Case No. 2010-11672, Settlement
(Melzer & Thomas)**

Dr. Rodriguez was present and was represented by David Spicer, Esq. A two count administrative complaint filed May 2, 2011 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 diagnostic testing used to determine root canal treatment for tooth number 3, failure to document use of rubber dam; s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to completely obturate all of the root canals, failure to perform proper diagnostic testing, and failure to use rubber dam.

Probable Cause Panel recommendation:

reprimand, \$7500 fine, costs, Level II in Endodontics, Level I 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 \$5000 payable within 6 months, costs of \$2,685.91 payable within 6 months; within 12 months complete the following CE courses: level II in endodontics with verified competency at dental school, level 1 in record keeping with verified competency at dental school or board approved course provider whose course is specifically approved to satisfy the final order, refund to patient, CE audit for next biennium, pass the laws and rules exam within 12 months.

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

Motion: by Ms. Baker to accept the settlement agreement

Second: by Dr. Kochenour

Vote: motion passes with Ms. Campbell, Dr. Winker, Dr. Stevens and Ms. Gainey opposed.

**Mateen Sheikh, DMD, Case No. 2010-19685, Settlement
(Melzer & Thomas)**

Dr. Sheikh was present and was represented by Alexander Macgregor, Esq. A two count administrative complaint filed July 27, 2011 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 lack of documentation in

treatment notes to support prognosis, two sets of records, lack of documentation of rubber dam for root canal therapy, no record of perforation, s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to use rubber dam, overextension of access prep during root canal treatment and went through the floor of the pulp chamber and failure to notify patient of overextension.

Probable Cause Panel recommendation:

Letter of concern, \$7,000 fine, costs, Level I in Diagnosis and Treatment Planning, Level II in Endodontics, Level I in record keeping, 3 hour ethics course, 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 \$7000 payable within 12 months, costs of \$3,662.74 payable within 12 months; complete the following CE within 6 months: level 1 in record keeping with verified competency at dental school or board approved course provider whose course is specifically approved to satisfy the final order, level II in endodontics, level I in diagnosis and treatment planning, 3 hour ethics course, refund to patient, CE audit 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. Perdomo to accept the settlement agreement

Second: by Ms. Edinger

Vote: unanimous

Antonius Sowma, DDS, Case No. 2010-04292, Initial – Settlement Agreement, Final - Voluntary Relinquishment (Melzer & Thomas)

Dr. Sowma was not present and was not represented by counsel. A two count administrative complaint filed July 25, 2011 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 take appropriate medical history, results of exams conducted, radiographs, treatment plan and s. 466.028(1)(x), F.S. of failure to meet minimum standards involving failure to diagnose conditions, failing to perform comprehensive periodontal evaluation prior to beginning bridge work, failing to justify extraction of tooth, failing to obtain informed consent.

Probable Cause Panel recommendation:

reprimand, \$10,000 fine, costs, Level II in Diagnosis and Treatment Planning, 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: reprimand, fine of \$10,000 payable within 6 months, costs of \$3,282.66 payable

within 6 months; complete the following CE within 6 months: level II in record keeping, level II in diagnosis and treatment planning with verified competency at dental school, patient refund, CE audit for next biennium, pass the laws and rules exam within 12 months.

Dr. Sowma later requested that the board consider a voluntary relinquishment of license.

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

Motion: by Ms. Campbell to accept the voluntary relinquishment of license effective December 31, 2011

Second: by Ms. Edinger

Vote: unanimous

Madelene Trujillo, DDS, Case No. 2010-07315, Settlement (Melzer & Thomas)

Dr. Trujillo was present and was represented by Randolph Collette, Esq. An administrative complaint filed May 2, 2011 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 no comprehensive periodontal exam, lack of documentation of local anesthetic used failure to take adequate radiographs to diagnose periodontal disease.

Probable Cause Panel recommendation:

Appearance, reprimand, \$2,500 fine within 6 months, actual costs within 6 months, Level I Record Keeping course, Level I Diagnosis & Treatment course, pass L&R exam within 12 months, CE audit for next biennium

A settlement agreement was presented to the board with the following terms: letter of concern, fine of \$2500 payable within 18 months, costs of \$3,767.65 payable within 18 months; level 1 in record keeping within 6 months to be taken at or through an accredited college of dentistry or board approved course provider whose course is specifically approved to satisfy the final order, CE audit 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 Ms. Baker

Vote: unanimous

Gerald M. Pyser, DMD, Case No. 2010-22383, Voluntary Relinquishment

Dr. Pyser was not present but was represented by Michael Ragan, Esq.

Allegations include violations of 466.028(1)(m), (o), (s), (x), (ll), F.S. A Voluntary

Relinquishment of License was executed by respondent, to cease practice and never to reapply for dental license in Florida.

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

Motion: by Dr. Thomas to accept the voluntary relinquishment
Second: by Ms. Gainey
Vote: unanimous

PETITIONS

Ismael El Khouly

Petition for Variance or Waiver to Rule 64B5-2.0146, FAC

Dr. Khouly was present and was represented by Edwin Bayo, Esq. Dr. Khouly received a D.D.S. degree in 2009 from the University of Granada, College of Dentistry in Granada, Spain. He had 3 years of supplemental dental education at New York University College of Dentistry. He is requesting a waiver to the rule of successful completion of full-time, matriculated American Dental Association recognized dental specialty education program accredited by the Commission on Dental Accreditation. He took the Advanced Program for International Dentists in Implant Dentistry.

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

Motion: by Dr. Thomas to approve the petition
Second: by Ms. Baker
Vote: motion fails with 9 opposed

After further discussion, Mr. Bayo requested that the petition be withdrawn.

Motion: by Dr. Thomas to allow petition to be withdrawn
Second: Ms. Gainey
Vote: unanimous

Matthew Rand

Petition for Variance to Rule 64B5-14.005, FAC

Dr. Rand was present and was represented by Kathy Goldberg, Esq. Dr. Rand is a licensed dentist in New York and in Florida. He graduated with a DMD and an MD degree from the University of Michigan. In 2010, he met New York's requirements to administer general anesthesia in New York. He is requesting a waiver of rule 64B5-14.005(2)(a), F.A.C. He is requesting that his residency cases from the University of Michigan School of Dentistry, Dept of Oral and Maxillofacial Surgery, meet the requirement of 20 cases.

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

Motion: by Dr. Melzer to approve the petition

Second: by Dr. Thomas
Vote: motion passes with Dr. Stevens opposed

**Hal J. Levine, D.M.D., M.D. Petition for Declaratory Statement Response/
Final Order**

Petitioner submitted a petition at the Board's August 12, 2011 meeting; he asked whether his office could dispense hydrocodone and acetaminophen 5mg/500mg and 7.5mg/750 mg prescriptions for patients that receive any type of sedation. Mr. Flynn asked that the board review the proposed final order.

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

Motion: by Dr. Thomas to approve the proposed final order
Second: by Ms. Campbell
Vote: unanimous

**Licensure Hearing: Hearing Not Involving Disputed Issues of Material Fact
Richard Edward Bruner, D.D.S.
Petition for Hearing**

Dr. Morgan granted a continuance to the February 2012 meeting due to a scheduling conflict with Dr. Bruner's attorney.

APPLICATION REVIEW & OTHER REQUESTS

**Academy of Dental Assisting
American Medical and Dental Institute
Dental Assisting Pioneers Academy
Dental Careers of Central Florida
Expanded Duties of Dental Assistants at Robert Morgan
MedVance Institute
Hester School of Dental Assisting**

The programs were re-evaluated using current rules and subsequently approved after consultation with board counsel, board chair and staff. Following discussion, the following action was taken by the Board:

Motion: by Dr. Thomas to ratify the approval of the expanded duty programs
Second: by Dr. Winker
Vote: motion passes with Dr. Stevens, Dr. Kochenour and Ms. Gainey opposed

The revised rule, 64B5-16.002, FAC, will be effective in approximately 20 days to impose more stringent requirements.

Dr. Patricia Sabers, Motion for Payment Plan

Dr. Sabers was not present however she was represented by Edwin Bayo. A motion for payment plan was provided to the Board. A previous extension was granted by the Board.

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

Motion: by Dr. Melzer to deny payment plan
Second: by Dr. Thomas
Vote: unanimous

Motion: by Dr. Melzer to approve an 18 month extension of time to pay fine and costs
Second: by Dr. Winker
Vote: unanimous

David Hazan, D.M.D., Applicant for Conscious Sedation Permit

There was concern that Dr. Hazan did not receive adequate training because it did not appear that he completed the rule requirements for the administration of anesthesia to 20 patients. Dr. Hazan waived the 90 day timeframe, and Dr. Melzer, Anesthesia Chair, will make inquiries into the program and advise staff.

Alvaro J. Ordonez, D.D.S., Applicant for Conscious Sedation

There was concern that Dr. Ordonez did not receive adequate training because it did not appear that he completed the rule requirements for the administration of anesthesia to 20 patients. Dr. Ordonez waived the 90 day timeframe.

Dr. Melzer will contact the program to obtain information about the training offered to these individuals.

Anna Betty Sanchez, Applicant for Dental Hygiene Examination

Ms. Sanchez was present and was represented by Katherine Goldberg, Esq. Ms. Sanchez is a graduate of Colegio Odontologica Columbiano in Bogota, Columbia, 1982 and received a DDS degree. She was cited in 2002 and 2007 for performing duties related to the practice of dental hygiene/dentistry without a license. She has been a volunteer at CSM Medical and Dental Center in Miami. She co-founded a non-profit organization called Healthy Matthew.

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

Motion: by Dr. Thomas to approve her application
Second: by Dr. Perdomo
Vote: motion passes with 5 opposed

TOPIC DISCUSSION (None)

FOR YOUR INFORMATION

The following items were provided for information:

- Memo from Chief of Staff to Gov. Scott, Interim Guidance re OFARR
Dr. Morgan asked that the board allow the chair discretion as to how a rule should proceed.

Motion: by Dr. Thomas to allow board chair to make the decision as to whether a rule has a timeframe that is critical and counsel should bypass OFFAR

Second: by Dr. Melzer

Vote: unanimous

- Supreme Court Opinion, Rosalie Whiley vs. Hon. Rick Scott, etc
- North East Regional Board of Dental Examiners, Inc., DN and DH Exam Fee Schedule
Dr. Thomas asked that a spread sheet be maintained to keep up with the fees.
- Letter from Patrick Braatz, AADB Executive Council Administrator Member
Dr. Winker reported on the AADB meeting as follows:
He advised that programs with expert evaluators were set-up at LSU, Maryland, Marquette to evaluate practitioner skills for returning to practice. The Board cannot evaluate hands-on skills and this needs to be addressed. Dr. Winker attended the AADB meeting in October, along with Dr. Kochenour and Dr. Eva Ackley. The drug czar spoke to the group in August and according to a handout, Florida was number one in opioid prescribing. Discussion included the bleaching case going on with the North Carolina Board of Dentistry and Federal Trade Commission. Dr. Eva Ackley was elected 3rd vice-president of the American Association of Dental Boards. Dr. Morgan was inducted into the International College of Dentists.
- Materials from Board Chair Meeting, September 27, 2011
- Letter from Florida Academy of Pediatric Dentistry President – Reza Ardalan, D.M.D.

REPORTS

Anesthesia Committee (September 12, 2011)

The list of approved permit holders was reviewed.

Motion: by Dr. Thomas to ratify the list

Second: by Dr. Winker

Vote: unanimous

Dr. Melzer would like to see new conscious sedation permit holders complete an 8 hour airway management course as well as a course for current permit holders.

Motion: by Dr. Thomas to support the addition of these courses
Second: by Dr. Morgan
Vote: unanimous

Dr. Melzer stated that there have been discussions regarding physician anesthesiologists however no changes have been proposed.

Council on Dental Hygiene (September 13, 2011, October 17, 2011)

Ms. Baker reported that the Council approved the application for dental hygiene licensure, application for review of credentials for graduates of non-accredited dental schools, 64B5-2.14 and 64B5-2.0144, FAC.

Council on Dental Assisting (October 24, 2011)

Dr. Stevens reported that the Council discussed dental assistants' ability to polish clinical crowns and the proposed rule changes.

The Council also discussed that dental assistants do not need to obtain dental radiographer certifications if they have graduated from an accredited program and that dental assistants who complete expanded duty programs do not need to post a dental radiographer certificate.

Board Counsel

Proposed Final Order for Declaratory Statement from August 12, 2011 Board Meeting

October 2011 Rules Report

Mr. Flynn and his paralegal, Ms. Marcella Blocker, along with Ms. Latita Stokes, prepared a booklet composed of all rules in process. The booklet includes rule notices, proposed language, letters from JAPC. Following review, the board took the following action:

- a. 64B5-2.013 - no action required**
- b. 64B5-2.0135 - no action required**
- c. 64B5-2.014 – action required**

Motion: by Dr. Thomas to approve the rule language
Second: by Dr. Winker
Vote: unanimous

Motion: Dr. Winker to approve the applications
Second: Dr. Kochenour
Vote: unanimous

Motion: by Dr. Thomas that the board finds no adverse impact to small businesses
Second: by Dr. Winker
Vote: unanimous

d. 64B5-2.0144

Motion: by Dr. Winker to approve the rule language

Second: by Dr. Melzer

Vote: unanimous

Motion: by Dr. Winker to approve the dental hygiene application

Second: by Ms. Baker

Vote: unanimous

Motion: by Dr. Winker that the proposed rule does not have an adverse impact on small business or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule and that legislative ratification is not necessary based on the expertise and experience of the board.

Second: by Dr. Thomas

Vote: unanimous

e. 64B5-2.0146

Motion: by Dr. Thomas to approve rule language

Second: by Dr. Winker

Vote: unanimous

Motion: by Dr. Thomas to approve the application

Second: by Dr. Winker

Vote: unanimous

Motion: by Dr. Winker that the proposed rule does not have an adverse impact on small business nor does it have an impact in excess of \$200,000 in the aggregate within 1 year after implementation of the rule and that legislative ratification is not necessary based on the expertise and experience of the board.

Second: by Dr. Stevens

Vote: unanimous

f. 64B5-2.0148

Motion: by Dr. Winker to approve the rule language

Second: by Ms. Gaaney

Vote: unanimous

Motion: by Dr. Winker that the proposed rule does not have an adverse impact on small business nor does it have an impact in excess of \$200,000 in the aggregate within 1 year after implementation of the rule and that legislative ratification is not necessary based on the expertise and experience of the board.

Second: by Dr. Thomas

Vote: unanimous

g. 64B5-2.0150

Motion: by Dr. Winker to notice for rule development

Second: by Dr. Kochenour

Vote: unanimous

h. 64B5-2.0152

Motion: by Dr. Thomas to notice for rule development

Second: by Ms. Edinger

Vote: unanimous

i. 64B5-2.017 - no action required

j. 64B5-2.0142 - no action required

k. 64B5-4.002

A legislative change is needed.

l. 64B5-13.005 - no action required

m. 64B5-13.005

Motion: by Dr. Thomas to approve additional language

Second: by Ms. Gaaney

Vote: unanimous

n. 64B5-14.002 - no action required

o. 64B5-14.003

Motion: by Dr. Thomas to strike

Second: by Dr. Winker

Vote: unanimous

Motion: by Dr. Thomas that rule does not have impact on small business

Second: by Ms. Edinger

Vote: unanimous

p. 64B5-14.008 - no action required

q. 64B5-14.009 - no action required

r. 64B5-14.010 - no action required

s. 64B5-16.002

Mr. Flynn is requesting that the board review his response to the Joint Administrative Procedures Committee. No action is required if the Board agrees with Board counsel's response. This rule has been adopted as of October 26, 2011 and will be effective in 20 days.

t. Suggested Repeals

Mr. Flynn has identified the following rules for repeal upon consideration by the board: 64B5-1.021, 64B5-1.025, 64B5-2.016, 64B5-2.0125, 64B5-2.0126, 64B5-2.0155, 64B5-15.030.

Motion: by Dr. Thomas to proceed with repealing the rules
Second: by Dr. Winker
Vote: unanimous

Motion: by Dr. Thomas that repeal will not impact small business
Second: by Dr. Winker
Vote: unanimous

The Rulemaking Process: Simplified

This was provided for information by Mr. Flynn. Dr. Morgan advised the board that only 2 Councils are required by statute. Other committees are not required by statute and he suggests that the next board chair abolish these committees. If there is a need for a meeting, allow the person with the expertise in that area to draft language, make recommendation to board, etc. and then dissolve the Committee.

Board Director

Ms. Foster stated that anesthesia/ sedation permits/ expanded duty programs were previously ratified earlier in the meeting. Travel information, sample forms, labels for receipts were included for board members.

Chair

Dr. Morgan thanked the FDA, board counsel, board members and staff for their support during his chairmanship.

Vice-chair

Dr. Perdomo thanked Dr. Morgan for his work and also Mr. Flynn and his staff for their great work over the past year.

Board Members

Dr. Melzer supported Dr. Morgan's proposal to disband the committees and assign a committee of one as needed.

Georgia Society of OMS Position on Specialty Licensure in Oral and Maxillofacial Surgery – Dr. Melzer asked the board to consider licensure by credentials for OMS who have taken a state board exam at some point. A legislative change will be required.

Dr. Morgan voiced his support.

Dr. Stephen Kotkis spoke on behalf of the Florida Society of Oral and Maxillofacial Surgery. While the association is aware of Dr. Melzer's proposal, no official position has been taken. The association has several questions.

Fluoridation – Dr. Kochenour

Dr. Kochenour asked board members to take a position on fluoridated water. He stated that his community was eliminating fluoridation in the water effective in January, and referred the Board to the newspaper article in the file folders.

Motion: by Dr. Kochenour that the Florida Board of Dentistry endorse and openly support all communities seeking fluoridated water supply systems. That the Florida Board of Dentistry openly go on record in regards to the benefits of fluoridated water throughout our great state. That collectively the Florida Board of Dentistry agree that this public health measure of fluoridating community water supplies fulfills the mission, the vision, the purpose and the focus of the Florida Department of Health.

Second: by Ms. Campbell

Vote: unanimous

Ms. Gainey presented a report for consideration at a future meeting. She created a report: Access to Quality Dental Care Protecting Our Public for the Board member's review.

OLD BUSINESS

Language will be presented for the board's review regarding restorative dental assisting at the February, 2012 meeting.

NEW BUSINESS

Election of Officers

Motion: by Dr. Thomas to nominate Dr. Winker as Chair

Second: by Ms. Edinger

Vote: unanimous

Motion: by Dr. Melzer to nominate Dr. Thomas as Vice-Chair

Second: by Ms. Campbell

Motion: by Dr. Winker to nominate Dr. Perdomo as Vice-Chair

Second: by Dr. Stevens

Vote: Dr Perdomo -6 votes, Dr. Thomas 5

ADJOURNMENT

The meeting was adjourned at 2:00 p.m.