

**Ohio State Dental Board
Board Meeting
February 8, 2006**

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**Ohio State Dental Board
Board Meeting
February 8, 2006**

MINUTES

ATTENDANCE

The Ohio State Dental Board (Board) met in room 1932, 19th Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio on Wednesday, December 7, 2005, beginning at 1:00 p.m. Board members present were:

Paul Vesoulis, D.D.S., President
Gregory A. McDonald, D.D.S., Vice-President
Edward R. Hills, D.D.S., Secretary
Mark T. Armstrong, D.D.S.
Phillip J. Beckwith, D.D.S.
Berta I. Howard, D.D.S.
Billie Sue Kyger, D.D.S.
Mark Landes, Esq.
Linda Leshner, R.D.H.
T. Michael Murphy, D.D.S.
Ann E. Naber, R.D.H.
Sandra L. Wise, R.D.H.
Frank A. Wright, D.M.D.

The following guests were also in attendance: Jonathan Fulkerson, Esq. Deputy Attorney General; Keith Kerns, Esq. and Dennis Burns, D.D.S. of the Ohio Dental Association (ODA); Denise Bowers, R.D.H., Nancy Kiehl-Hillman, R.D.H., and Paula McGory, R.D.H. of the Ohio Dental Hygienists' Association (ODHA); Michele Carr, R.D.H. of The Ohio State University Dental Hygiene Program; Lili Reitz, Esq., Executive Director, Rebecca Hockenberry, Esq., Assistant Director, Kathy Carson, Dental Board Enforcement Officer, Jayne Smith, Licensure Coordinator, and Malynda Franks, Executive Secretary of the Ohio State Dental Board; and other guests.

CALL TO ORDER

Dr. Vesoulis extended greetings to everyone and noting that there was a quorum present called the meeting to order at 1:10 p.m. He requested all members and guests sign the attendance roster.

EXECUTIVE SESSION

Motion by Dr. Wright, second by Dr. Murphy, to move the Board into executive session pursuant to Ohio Revised Code Section 121.22(G)(3) to confer with counsel on matters that are the subject of pending or imminent court action.

Roll call vote.

Motion carried unanimously.

Dr. Vesoulis invited Ms. Reitz, Ms. Hockenberry, and Mr. Fulkerson to attend the executive session.

OPEN SESSION

At 1:32 p.m. the Board resumed open session. Dr. Vesoulis approved the agenda for the afternoon as presented with the notation that the Chair may modify the agenda due to timing constraints or extenuating circumstances.

INTRODUCTION OF BOARD MEMBERS

Dr. Vesoulis took a moment to introduce the Board. He introduced himself as the Board President, a general dentist from Toledo. He then introduced the other Board members: Dr. Gregory McDonald, the Board Vice-President, a general dentist from Springboro, Dr. Edward Hills, the Board Secretary, a general dentist from Cleveland, Mr. Mark Landes, the Board's Public member from Gahanna, Dr. Berta Howard, a general dentist from Hamilton, Dr. Mark Armstrong, a general dentist from Troy, Dr. Frank Wright, a general dentist from Cincinnati, Dr. Phillip Beckwith, an orthodontist from Columbus, Ms. Linda Leshner, a dental hygienist from Lima, Dr. Billie Sue Kyger, a general dentist from Gallipolis, Ms. Ann Naber, a dental hygienist from Bellbrook, Ms. Sandra Wise, a dental hygienist from Fremont and Dr. T. Michael Murphy, an oral and maxillofacial surgeon from Marion.

REVIEW OF THE JANUARY BOARD MEETING MINUTES

The Board reviewed the minutes of the January 11, 2006 Board meeting.

Motion by Ms. Wise, second by Ms. Naber, to approve the January 11, 2006 Board meeting minutes as presented.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Absent
Dr. Howard – Yes
Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

REVIEW OF LICENSE APPLICATIONS

LICENSURE REPORT

Jayne Smith, Licensure Coordinator, had prepared a report of the licenses issued since the January 2006 meeting, for Board member review.

Motion by Dr. Murphy, second by Dr. Howard, to approve the licensure report for the following dental licenses issued by North East Regional Board, Inc. (NERB) examination:

DENTAL

Rupinder J. Kaur, D.D.S.

Daniel G. Makuh, D.D.S.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Absent

Dr. Howard – Yes
Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

Motion by Ms. Wise, second by Ms. Naber, to approve the licensure report for the following dental hygiene licenses issued by North East Regional Board, Inc. (NERB) examination:

DENTAL HYGIENE

Linda K. Esh
Lauren E. Farwick
Sarah E. Gobble
Jamie M. Henney
Amy M. Hines

Amna Kosaric
Erin N. Mastin
Mary K. Walters
Jessica N. Metts
Abigail L. Sidwell

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Absent
Dr. Howard – Yes
Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

Motion by Ms. Naber, second by Ms. Lesher, to approve the licensure report for the following dental assistant radiographer licenses issued by: acceptable certification or licensure in another state, certification by the Dental Assisting National Board (DANB) or the Ohio Commission on Dental Assistant Certification (OCDAC), or successful completion of the DANB Radiation, Health and Safety examination or other Board-approved Radiography examination:

DENTAL ASSISTANT RADIOGRAPHER

Anita R Ackley	Ann K Freudenberger
Maria K Aclan	Vicki L Galeoti
Betsy E. Aderman	Tiffany M Garretson
Michelle M Andler	Patricia E Gluntz
Stephanie S Arrasmith	Darlene M Grau
Particia S Attar	Gwendolyn Gray
Natalia Avanesova	Tammy Grogan
Maria A Ayala	Amanda M Hamilton
Kimberly M Barhorst	Constance Hare
Amy J Blevens	Christina R Harmony
Lashelle A Bowie	Jenifer L Harrison
Pamela S Boyd	Laura J Hatton
Jurate Brennauer	Heather Henry
Carrie S Brockman	Nicole F Hoehn
Cynthia L Brown	Rebecca A Hoovler
Deanna J Brown	Kelly A Hornyak
Karen S Cabot	Amanda J Howard
Debra Carifa-Hines	Debra Jeffers
Courtney R Carlisle	Lori Jeffers
Heather Choquette	Amanda M Johnson
Trisha L Clark	Stacey L Johnson
Bethanie M Coffman	Rupinder Kaur
Jessica Cope	Michele Kelley
Joyceann Daulton	Lori L Ketchum
Kari A Davis	Tammy I King
Julie G Dials	Kimberly D Kumhall
Ellen K Dinsmoor	Rita Kurtz
L. Renee Dudley	Nicole Laabs
Kimberly Edwards	Peggy Larkins
Sara C Ekkens	Tamela S Lynn
Christina D Ervin	Lisa M Maly
Danielle M Faivre	Frank Manco
Stevie M Fisher	Lauren Marschall
Barbara Foster	Kimberly A Mckiernan

Sharon Meiring
Becky J Miller
Keisha D Minor
Taryn Minton
Catherine Miranda
Megan Moore
Melanie A Moore
Kimberly G Muncy
Lisa M Narramore
Samantha J Palmer
Brenda S Poynter
Staci R Prince
Madlin E Rader
Stephanie L Rader
Wendy R Rauch
Cynthia Rench
Tiya R Rinehart
Coreen J Riski
Camille Robinson
Deanna Saba
Ashley M Sanders
Leslie J Savidge
Tammy Schaefer
Rahma Seid
Sonu P Shah

Sandra L Sharp
Adrienne L Shope
Laurie Small
Betsy J Smalldon
Cecilia M Smith
Edina Smith
Elizabeth A Steidl
Hilary Tackett
Dawn L Timming
Wendy J Vanover
Carleetta Walker
Toyoa Wallace
Julie L Waterfield
Kristin Waybright
Ashley N Weese
Caroline L Weissenberger
Lisa Wellington
Angela Whittecar
Delana Wilkins
Stacey Wilson
Trisha Woodward
Karen A Young
Cynthia Zerner
Lesley A Zimmerman

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Absent
Dr. Howard – Yes
Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

LIMITED RESIDENT

Motion by Dr. Murphy, second by Dr. Kyger, to approve the licensure report for the following limited resident's licenses issued to participate in residency programs:

Erin H. Branham, D.D.S.
Nadine Ghreiwati, D.D.S.

Palguni J. Patel, D.D.S.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Absent
Dr. Howard – Yes
Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Lesher - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

Motion by Ms. Lesher, second by Ms. Naber, to approve the licensure report for the following coronal polishing certificates issued by; certification by the Dental Assisting National Board (DANB) or the Ohio Commission on Dental Assistant Certification (OCDAC) and completion of requirements necessary to obtain certificate:

CORONAL POLISHING

Kattie Alloway-Davis
Tammie M. Bell
Jody J. Best
Alisa C. Braun
Lydia S. Cavell
Denise M. Champion
Kari D. Clark
Annetta K. Elstun
Dawn M. Fraizer
Bonny K. Gibson

Tracey L. Hargis
Sabrina M. Hayward
Jennifer L. Hershey
Theresa M. Hickey
Teresa B. Hubbard
Marquitta L. Hughes
Lisa A. Justice
Krystal T. Karnes
Svetlana Kostenko
Angela L. McIntire

Kristin K. Miceli
Jammie L. Nagy
Teresa O. Piper
Amy M. Ray
Irma L. Rivera-Gonzalez
Lisa M. Saks
Valerie L. Sandman

Christine R. Seese
Holly A. Sheridan
Toi L. Steele
Jenifer A. Taylor
Sandra L. Troyer
Kimberly D. Watterson

Roll call vote.

Motion carried unanimously.

REGIONAL BOARD/OTHER STATE FOR 5 YEARS DENTAL APPLICATION(S)

The following persons applied for dental licenses, based on successful completion of a regional board examination, National Board examination, and the Ohio examination on the statute and regulations:

Kevin T. Bolden, D.D.S.
Amy L. Gerber, D.D.S.

Carroll A. Palmore, Jr., D.D.S.

Motion by Ms. Leshner, second by Dr. Kyger, to approve these three (3) regional board/other state for 5 years dental license applications.

Roll call vote.

Motion carried unanimously.

REGIONAL BOARD/OTHER STATE FOR 5 YEARS DENTAL HYGIENE APPLICATION(S)

The following persons applied for dental hygiene licenses, based on successful completion of a regional board examination, National Board examination, and the Ohio examination on the statute and regulations:

Elaine C. Swinney, R.D.H.
Dana A. Villarreal, R.D.H.

Motion by Ms. Wise, second by Ms. Naber, to approve these two (2) regional board dental hygiene license applications.

Roll call vote.

Motion carried unanimously.

LIMITED CONTINUING EDUCATION LICENSE APPLICATION(S)

The following individual has applied for a limited continuing education license for the purpose of participating in an implant externship offered at the *Midwest Implant Institute* under the direction of Dr. Alfred Heller.

Matthew D. Haller, D.D.S.

Motion by Dr. Kyger, second by Dr. Howard, to approve Dr. Haller's application for a limited continuing education license.

Roll call vote.

Motion carried unanimously.

REINSTATEMENT LICENSE APPLICATION(S) - NO INTERVIEW

DONALD E. BERWANGER, D.D.S.

The Board reviewed and considered the licensure information for Donald E. Berwanger, D.D.S. that was prepared by Ms. Smith.

Motion by Dr. Kyger, second by Dr. Murphy, to approve Dr. Berwanger's reinstatement application for dental licensure in the state of Ohio.

Roll call vote.

Motion carried unanimously.

PAUL C. OLSON, D.D.S.

The Board reviewed and considered the licensure information for Paul C. Olson, D.D.S. that was prepared by Ms. Smith.

Motion by Dr. McDonald, second by Ms. Naber, to approve Dr. Olson's reinstatement application for dental licensure in the state of Ohio.

Roll call vote.

Motion carried unanimously.

DOROTHY C. SULLIVAN, R.D.H.

The Board reviewed and considered the licensure information for Dorothy C. Sullivan, R.D.H. that was prepared by Ms. Smith.

Motion by Ms. Naber, second by Ms. Wise, to approve Ms. Sullivan's reinstatement application for dental hygiene licensure in the state of Ohio.

Roll call vote.

Motion carried unanimously.

ENFORCEMENT REPORT

REPORT AND RECOMMENDATIONS

REPORT AND RECOMMENDATION IN THE MATTER OF JAMES D. HALDEMAN, D.D.S.

Dr. Hills announced that the Board would now consider the Hearing Officer's Report and Recommendation in the matter of James D. Haldeman, D.D.S. that was filed by Hearing Examiner, Paul Stehura, Esq., on October 24, 2005. He then stated that Frank Recker, D.D.S., Esq. had filed Objections to the Report and Recommendations on November 17, 2005 and that Jonathan Fulkerson, Esq. had filed Objections to the Hearing Examiner's Report and Recommendations on December 14, 2005. Dr. Hills informed the Board that Mr. Recker had also filed a Response to State's Objections to the Hearing Examiner's Report and Recommendations on December 22, 2005.

Dr. Hills then proceeded by asking whether each member of the Board had read the Hearing Examiner's Report and Recommendation in the matter of James D. Haldeman, D.D.S.

Roll call: Dr. Armstrong – Yes
 Dr. Beckwith – Yes
 Dr. Hills - Yes
 Dr. Howard – Yes
 Dr. Kyger – Yes
 Mr. Landes – Yes
 Ms. Leshner - Yes
 Dr. McDonald - Yes
 Dr. Murphy – Yes
 Ms. Naber – Yes
 Dr. Vesoulis – Yes
 Ms. Wise – Yes
 Dr. Wright - Yes

Dr. Hills then proceeded by asking whether each member of the Board had the record, including the transcript, available to refer to when necessary in reviewing this matter?

Roll call: Dr. Armstrong – Yes
 Dr. Beckwith – Yes
 Dr. Hills - Yes
 Dr. Howard – Yes
 Dr. Kyger – Yes
 Mr. Landes – Yes
 Ms. Leshner - Yes
 Dr. McDonald - Yes
 Dr. Murphy – Yes
 Ms. Naber – Yes
 Dr. Vesoulis – Yes
 Ms. Wise – Yes
 Dr. Wright - Yes

Dr. Hills then asked whether each member of the Board had read all the Objections to the Report and Recommendation in the matter of James D. Haldeman, D.D.S.?

Roll call: Dr. Armstrong – Yes
 Dr. Beckwith – Yes
 Dr. Hills - Yes
 Dr. Howard – Yes

Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Dr. Hills then stated that the Board's minutes would serve as the official record of the proceedings. He then asked if Dr. Haldeman and his attorney were present. Dr. Hills stated that Dr. Haldeman was granted permission to address the board in this matter, and that the comments should be limited to the Report and Recommendation filed by the Hearing Examiner.

FRANK R. RECKER, D.D.S., ESQ.

Frank R. Recker, D.D.S., Esq., attorney for Dr. Haldeman, addressed the Board by asking the members to put this case into perspective. He commented that Dr. Haldeman is a respected Columbus, Ohio dentist whose former employee removed proprietary patient information from his office and used that information to file a complaint with the Board.

Mr. Recker said that the Board issued three (3) subpoenas over a two-year period that targeted prosthodontic and endodontic patient records which were subsequently reviewed for standard of care violations by experts in those fields. He said that according to Count #1 of the Notice of Opportunity for Hearing, Dr. Haldeman billed sixteen (16) patients for steel posts and cores which the patients did not receive. Mr. Recker explained that Dr. Haldeman had completed the work using Herculite, which does not have a CDT code for billing purposes. He indicated that in each of the cases the patients knew that they were receiving Herculite restorations, that the patients pre-paid, and therefore, nothing was gained at the time the restorations were done since they were billed for one process and charted another.

Continuing on, Mr. Recker stated that of the 350+ potential margins reviewed, apparently only ten (10) were found to be considered open margins. He stated that of the 65 root canals performed, only six (6) were criticized as having visibly open margins on the radiographs which fell below the standard of care for the procedure performed. Mr. Recker commented that the experts determined there were a few endodontic procedures which were one (1) millimeter to short or two (2) millimeters too long, but

overall, Dr. Haldeman's endodontic procedures are ninety percent (90%) or closer to a perfection rate.

Concluding, Mr. Recker stated that the Board targeted and carefully selected the patient records via subpoenas in order to "determine" that Dr. Haldeman's performance of dental procedures falls below the standard of care.

JAMES D. HALDEMAN, D.D.S.

James D. Haldeman, D.D.S. thanked the Board for the opportunity to speak and began by stating that his past twenty-five (25) years in practice have been impeccable. He stated that his patient base includes both dentists and specialists who have never complained regarding any dental work performed. He said that he stands behind all of his work, does his best about ninety-seven percent (97%), but keeps trying to perform to one hundred percent (100%). Dr. Haldeman commented that although this issue before the Board has been a nightmare he still feels that he is a great dentist. He concluded by stating that prior to this time no patient had ever brought a question of sub-standard of care before the Board nor had any insurance company questioned any of his procedures performed.

JONATHAN R. FULKERSON, ESQ., DEPUTY ATTORNEY GENERAL

Jonathan R. Fulkerson, Esq., Deputy Attorney General representing the Board in this case, began by stating that Mr. Recker continues to think that there are only limited sets of problems in Dr. Haldeman's matter before the Board. He stated that there is a systemic problem represented in the patient charts in that the biggest problem is Dr. Haldeman's repeated use of Herculite for a restoration under core (RUC) versus a post and core which is what was billed to the insurance carriers. Mr. Fulkerson stated that Charles Trebilcock, D.D.S., M.S., expert witness for the Board, testified extensively regarding what Dr. Haldeman had to gain by billing for Herculite, a buildup material and not as expensive on insurance fee schedules, as opposed to a post and core which is considerably more expensive and considered "upcoding". He stated that during the hearing Dr. Haldeman attempted to "distance" those records which were internal for notekeeping, patient records, versus the financial or billing records which were inaccurate for the procedures performed.

Continuing on, Mr. Fulkerson stated that what Dr. Haldeman was doing from the onset was wrong. He said that dentistry is more than obtaining clinical results, and it takes skill and knowledge to obtain the proper clinical success. He stated that while Dr. Haldeman can attest to his percentages and numbers of doing good endodontic procedures, it is still a violation of the standard of care to leave open margins. Mr.

Fulkerson stated that the standard of care requires that a patient be informed if a tool is broken in their tooth and the broken piece left.

Concluding, Mr. Fulkerson informed the Board that bad use of material is bad dentistry in this case, Dr. Haldeman used inappropriate materials and compounded this by engaging in fraudulent billing practices. He stated that a recommendation of a two (2) year suspension and appropriate continuing education is not a light matter. He stated that if the Board should choose to accept the recommendations of the Hearing Examiner, he hoped that Dr. Haldeman would get the message that it is not about relying on clinical success, but rather patients deserve the best dental care from start to finish, including skill, knowledge and clinical technique.

EXECUTIVE SESSION

Motion by Dr. McDonald, second by Dr. Murphy, to move the Board into executive session pursuant to Ohio Revised Code Section 121.22 (G)(1) to deliberate and consider the charges and report and recommendation filed in the matter of James D. Haldeman, D.D.S.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Abstain
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Mr. Landes – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

Dr. Hills and Dr. Beckwith did not attend the executive session.

OPEN SESSION

The Board resumed open session at 3:00 p.m. Mr. Landes excused himself from the rest of the meeting at this time and did not return.

DECISION IN THE MATTER OF JAMES D. HALDEMAN, D.D.S.

Dr. Hills stated, "Let the record reflect that neither I nor Dr. Beckwith were present during executive session and therefore we did not participate in deliberations in this matter. Therefore, we will abstain from final vote."

Dr. Hills then questioned, "Is there a motion concerning the Hearing Examiner's Report and Recommendation?"

Motion by Dr. Vesoulis, second by Ms. Naber, to find Count 1 and the first half of Count 7 of the Notice of Opportunity to be true and that Counts 2, 3, 4, 5, 6, and the second half of Count 7 are found to be not true.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Abstain
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

Motion by Dr. Vesoulis, second by Dr. McDonald, to modify the Hearing Examiner's Recommended Order as follows:

It is hereby ORDERED:

- 1. The license of JAMES D. HALDEMAN, DDS to practice dentistry in the state of Ohio is SUSPENDED for a period of ninety (90) days. Sixty (60) days of that suspension is stayed.*

- a. *No one in the dental office may perform dentistry or dental hygiene duties or otherwise treat patients during the period of suspension.*
 - b. *A receptionist may answer the phones with "Dr. Haldeman's Office", or the name of the practice, for the sole purpose of answering questions, scheduling/rescheduling appointments, and making referrals.*
 - c. *DR. HALDEMAN may not receive any income either from a legal or a beneficial interest in the dental practice during the period of suspension, however, he may be present in the office to update records, and do other duties as necessary to bring his office into compliance with the Dental Practice Act and to establish procedures to ensure continued compliance.*
2. *The Ohio State Dental Board shall not consider REINSTATEMENT of DR. HALDEMAN's license to practice unless and until all of the following requirements are met:*
- a. *DR. HALDMAN shall take twenty (20) hours of continuing education in ethics approved in advance by the Board Secretary. These hours shall be in addition to the forty (40) hours of continuing education necessary for renewal.*
 - b. *DR. HALDEMAN shall make a written request for reinstatement to the Board Secretary.*
3. *Once reinstated, DR. HALDEMAN's license to practice dentistry shall be subject to the following PROBATIONARY terms, conditions and limitations for a period of three (3) years:*
- a. *DR. HALDEMAN shall submit quarterly declarations under penalty of Board discipline stating that he is in compliance with the terms of this Order.*
 - b. *DR. HALDEMAN shall obey all federal, state and local laws, and all rules governing the practice of dentistry in Ohio.*
 - c. *DR. HALDEMAN shall provide sixty (60) hours of pro bono community dental services pre-approved in advance by the Board Secretary. These hours shall be documented to the Board's satisfaction and completed within six (6) months of reinstatement.*

This ORDER shall become effective thirty (30) days from the date of mailing of the Order.

Discussion followed wherein Dr. Wright noted that despite the problems indicated, the Board believed that overall, the care rendered by Dr. Haldeman was generally good. He stated, however, that the Board's primary concern was with the upcoding: billing a composite core build up as a post and core. He stated that the Board believed this conduct was intentional and wrong, and that Dr. Haldeman needs to be held accountable.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Abstain
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

Motion by Dr. McDonald, second by Ms. Naber, to accept the Order as amended.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Abstain
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Motion carried.

REPORT AND RECOMMENDATION IN THE MATTER OF CHRISTOPHER N. LIPPERT, D.D.S.

Dr. Hills announced that the Board would now consider the Hearing Officer's Report and Recommendation in the matter of Christopher N. Lippert, D.D.S. that was filed by Hearing Examiner, Paul Stehura, Esq., on December 15, 2005.

Dr. Hills then proceeded by asking whether each member of the Board had read the Hearing Examiner's Report and Recommendation in the matter of Christopher N. Lippert, D.D.S.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Yes
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Dr. Hills then proceeded by asking whether each member of the Board had the record, including the transcript, available to refer to when necessary in reviewing this matter?

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Yes
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright - Yes

Dr. Hills then stated that the Board's minutes would serve as the official record of the proceedings. He then asked if Dr. Lippert and his attorney were present. Mr. Recker

informed the Board that there had been no Objections to the Report and Recommendation filed in this matter and that Dr. Lippert had not requested to speak with the Board.

Noting that Dr. Lippert nor his attorney wished to address the Board, Dr. Hills asked if the State's Attorney General, Mr. Fulkerson wished to make a statement. Mr. Fulkerson informed the Board that the State had nothing more to add in regards to this matter.

EXECUTIVE SESSION

Motion by Dr. McDonald, second by Dr. Armstrong, to move the Board into executive session pursuant to Ohio Revised Code Section 121.22 (G)(1) to deliberate and consider the charges and report and recommendation filed in the matter of Christopher N. Lippert, D.D.S.

Roll call vote.

Motion carried unanimously.

Dr. Hills did not attend the executive session.

OPEN SESSION

The Board resumed open session at 3:11 p.m.

DECISION IN THE MATTER OF CHRISTOPHER N. LIPPERT, D.D.S.

Dr. Hills stated, "Let the record reflect that I was not present during executive session and did not participate in deliberations in this matter. Therefore, I will abstain from final vote"

Dr. Hills then questioned, "Is there a motion concerning the Hearing Examiner's Report and Recommendation?"

Motion by Dr. Vesoulis, second by Dr. Murphy, to accept the Hearing Examiner's Recommended Order as follows:

It is hereby ORDERED:

1. *The license of Christopher N. Lippert, DDS to practice dentistry in the state of Ohio is subject to the following PROBATIONARY terms, conditions and limitations for a period of two (2) years:*

- a. *Within 120 days of the effective date of this Order, Dr. Lippert shall submit to the Board acceptable documentation indicating successful completion of one or more courses (minimum of twelve (12) hours) dealing with appropriate methods of conducting a TMJ examination and/or related courses, approved in advance by the Board Secretary.*
- b. *Dr. Lippert shall submit quarterly declarations under penalty of Board discipline stating that he is in compliance with the terms of this Order.*
- c. *Upon request, Dr. Lippert shall make any or all of his records available for inspection and review. At the Board's discretion, such records may be reviewed by a consultant to the Board.*
- d. *Dr. Lippert shall obey all federal, state and local laws, and all rules governing the practice of dentistry in Ohio.*

2. *Upon successful completion of probation, Dr. Lippert's license and permits shall be fully restored.*

This ORDER shall become effective thirty (30) days from the date of mailing of the Order.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner – Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

PERSONAL APPEARANCE(S)

JOHN C. BLAND, D.D.S.

Ms. Hockenberry informed the Board members that this is Dr. Bland's first appearance before the Board subsequent to a second in-patient treatment and discharge from GlenBeigh Hospital on November 21, 2005. Dr. Bland thanked the Board members for the opportunity to speak with them and when questioned by the Board explained that a sequence of business reversals and separation from his wife had left him somewhat depressed. He stated that some important changes were made in his life wherein he took the wrong direction. Dr. Bland informed the Board that he has spent the last month getting into the position he is in today working toward recovery on a daily basis. He said that he attends alcoholics anonymous (AA) and narcotics anonymous (NA) meetings working the daily programs and getting his mind and thoughts in the right direction. Dr. Bland stated that he has been concentrating on rebuilding himself from the inside out.

Dr. Hills questioned Dr. Bland with regards to his relapse one (1) month after signing his consent agreement with the Board. Dr. Bland explained that upon completion of his first in-patient treatment at GlenBeigh Hospital he had not fully understood the concept of cross-addiction. He stated that he had been driving in an unfamiliar area and was stopped by an officer when the traffic light had changed. Dr. Bland indicated that the officer had noticed that he had "had one too many" and sited Dr. Bland for Driving Under the Influence (DUI).

Dr. Bland explained that he now understands that in order to succeed in his recovery there is no usage in cross-addiction. He stated that at that point he had an honest relapse and checked himself back into GlenBeigh within a week of the incident for further treatment. He said that it was necessary for him to understand and think clearly about cross-addiction in order for him to deal with this problem on a daily basis.

Dr. Vesoulis questioned Dr. Bland regarding his home life, marital status, and working relationship with his estranged wife. Dr. Bland explained that he has been separated from his wife for quite some time and that neither of them wishes to reconcile. He stated that they have remained friends, feels that she is a wonderful person, and there is no blame either way, they just cannot live together comfortably any longer. Dr. Bland informed the members that he is unsure as to whether his wife will continue to work for him once he returns to practice as they will cross that bridge when they get there, since right now he is more concentrated on recovery. He said that they both have concerns regarding the potential for relapse and therefore they are holding off on settling the terms of the dissolution of their marriage.

Continuing on, Dr. Bland explained that his recovery is going well, he is successful on a daily basis by working on improving himself on a personal level. He stated that he works with his peers and his counselor, Sally Bernard, towards recovery.

Dr. Vesoulis thanked Dr. Bland for appearing before the Board and explained that the Board does not reinstate a license to practice on the first appearance. He suggested that Dr. Bland continue with his treatment and said that the Board would apprise him as to when he would be invited back to appear before them in the future.

MICHAEL TILSON, D.D.S.

Ms. Hockenberry informed the Board members that this is Dr. Michael Tilson's second appearance before the Board. When questioned by the Board members, Dr. Tilson explained that in the past five (5) weeks since his previous appearance, he is still working for Hatfield Auto Mall selling cars and has kept busy going to meetings. He said that a typical day begins at 7:15 a.m. by attending a meeting. Dr. Tilson stated that on Wednesdays he goes to Shepherd Hill for aftercare and caduceus meetings. He commented that he does not have any free time between his work and meetings.

Continuing on, Dr. Tilson informed the members that he had his last urine screening one (1) week prior which came back negative and that he is doing better with the compliance issues. He stated that he has a good family support system as evidenced by his sister and brother-in-law attending the meeting with him today. Dr. Tilson stated that his family, friends, counselors, and sponsor have provided excellent support.

Upon further questioning by the Board, Dr. Tilson said that this is a process and he is much better prepared as he could not continue to live like he had been. He stated that before he had never really struggled in that he went right from high school, to college, to dental school, into a specialty program and then right into a specialty practice. He said that in retrospect he is very grateful this happened as he feels he is now better prepared. Dr. Tilson informed the Board that he had been working approximately thirty-six (36) hours per week before, but that if he returned to practice he would like to start back slowly by working only a couple of weeks per month for eighteen to twenty (18-20) hours per week. He stated that he felt starting off slowly would be less stressful and he would be less likely to feel overwhelmed.

Dr. Vesoulis said that Dr. Tilson appeared to be doing well, however, he felt that the Board would like him to return for another appearance at its next meeting in March.

LENA FREEMAN, DENTAL ASSISTANT RADIOGRAPHER

Ms. Hockenberry introduced Ms. Lena Freeman, Dental Assistant Radiographer, to the Board and stated that this matter did not involve impairment, but rather reinstatement issues. She stated that the Board reinstated Ms. Freeman on March 3, 2005 upon completion of the terms of a previous consent agreement and currently under probationary terms. She stated that the consent agreement was as a result of a felony conviction for theft. Ms. Hockenberry further informed the Board that Ms. Freeman was issued a Notice of Automatic Suspension and Notice of Opportunity for Hearing in November for failing to properly renew her license because the fee was paid by check on a closed account. She stated that Ms. Freeman was provided an opportunity to send

another form of payment but did not respond and therefore, was issued the Notice of Automatic Suspension for violating her previous consent agreement.

Upon questioning by the Board, Ms. Freeman explained that this matter was just about as Ms. Hockenberry said except that by the time the first check was submitted to the Treasurer's Office for receipt, her account had been closed due to being laid-off from work. She stated that by the time the Board office attempted to contact her she had moved and had not informed the Board executive office of her new address. Ms. Freeman told the Board members that this was her fault in that she should have let us know her new address and that she should have made every effort to correct the issue. Ms. Freeman admitted that she recognized that this whole issue could have been avoided had she submitted the fees as required.

Motion by Dr. Hills, second by Dr. Armstrong, to reinstate the license of Lena Freeman to practice dental assistant radiography in the state of Ohio subject to the terms and acceptance of the newly proposed consent agreement.

Roll call vote.

Motion carried unanimously.

KEITH BRAM, D.D.S.

Ms. Hockenberry informed the Board members that this is Dr. Keith Bram's initial appearance before the Board. She reminded the members that although Dr. Bram spoke with them at the December meeting on his own accord, this discussion should be considered as his initial appearance since he had not previously been invited to appear before the Board.

Dr. Bram began by offering again his sincere apologies for his reprehensible conduct leading to this consent agreement. He stated that he takes full responsibility for his misuse of nitrous oxide for his stress and financial pressures. He stated that since that time he now has the support of a loving wife, whose family was able to take care of his financial burden. Dr. Bram informed the Board that he had spent a \$200,000 credit line to build a new office and had expected to have working capitol within eight (8) years. However, he stated that he had not anticipated equipment breakdowns, slow business, and had not considered the ramifications of using tax monies to pay his bills. He stated that he felt he had "bit off more than he could chew" but now is in good standing with the Internal Revenue Service.

Continuing on, Dr. Bram stated that he wished to clarify the misleading information the Board had received. He stated that he had received two (2) separate

recommendations for treatment, one from a social worker, and one from his assessment counselor at Laurelwood Hospital. Dr. Bram stated that he sought a second opinion from Marvin Wasman, Ph.D. due to the conflicting recommendations. Dr. Bram informed the Board that Dr. Wasman recommended the current aftercare treatment plan that is outlined in the Board's consent agreement.

Dr. Bram stated that he is one hundred percent (100%) compliant with the terms of his consent agreement, that he has followed the recommendation of Laurelwood Hospital, and that he was compliant in December 2005 when he submitted documents to the Board executive office prior to speaking with the Board. He stated that he had given up his Drug Enforcement Agency (DEA) license in 1997 as a condition of his earlier consent agreement with the Board for Cocaine and Vicodin abuse. However, he said that he has never relapsed and remains one hundred percent (100%) compliant with that first consent agreement.

Dr. Vesoulis commented that anyone can find a desirable second opinion regarding treatment options if one looks hard enough. He stated that Dr. Bram could be defrauding the insurance company if they say he is qualified for in-patient treatment. He said that he has concerns regarding Dr. Bram's anger at what he thinks he has done. Dr. Vesoulis stated that in reading the letter from the psychologist, wherein it is recommended that Dr. Bram is ready to return to practice, Dr. Vesoulis feels the Board should have reservations based on Dr. Bram's past history with the Board.

Dr. Wright commented that the Board recognizes that Dr. Bram has made great progress. However, he stated that Dr. Bram's history warrants caution from the Board since they are charged with the protection of the public. He remarked that he would like to see Dr. Bram continue this course of positive, noticeable progress and be invited back before the Board for a second interview at a subsequent meeting.

Motion by Dr. Vesoulis, second by Dr. Hills, to reinstate the license of Dr. Bram to practice dentistry in the state of Ohio subject to the terms of his consent agreement with the Board.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Yes
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner – No
Dr. McDonald - No
Dr. Murphy - Yes
Ms. Naber – No

Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – No

Motion carried.

REVIEW OF CASES WHEREIN NOTICE(S) OF OPPORTUNITY WERE ISSUED AND NO HEARING WAS REQUESTED

PHILIP ROTH, D.D.S.

Dr. Vesoulis turned the meeting over to Dr. Hills to conduct the evidentiary review. Dr. Hills then stated for the record:

“This is an evidentiary review in the matter of Philip Roth, D.D.S., pursuant to Chapters 119 and 4715 of the Ohio Revised Code. The purpose of this proceeding is to give the Board information about this matter, in lieu of the Administrative Hearing that would have occurred if Dr. Roth had requested a hearing. The Board’s minutes will serve as the official record of this proceeding.”

Dr. Hills asked if the State would like to present any additional information to support the charges outlined in the Notice of Opportunity for Hearing.

Mr. Fulkerson said yes and called Ms. Kathy Carson, Dental Board Enforcement Officer, to give testimony in this matter. Dr. Hills asked Ms. Carson to raise her right hand and said:

“Do you swear that the testimony you are about to give will be the truth so help you God?”

Ms. Carson said yes and upon questioning by Mr. Fulkerson she described her duties as an Enforcement Officer for the Dental Board. She stated she investigates complaints filed by members of the public, and in addition, performs infection control evaluations for the Dental Board.

Mr. Fulkerson then asked Ms. Carson to explain her investigation of Philip Roth, D.D.S. to the Board. Ms. Carson stated that she had been given a patient complaint to investigate Dr. Roth and she had completed an infection control evaluation of Dr. Roth’s office while there on September 27, 2005. She stated that a copy of her evaluation was provided to the Board members as State’s Exhibit 4. Ms. Carson explained that subsequent to her evaluation, she had been informed that Dental Board Enforcement Officer Harry Pasku had also completed an infection control evaluation in Dr. Roth’s office on April 14, 2005. She stated that Mr. Pasku’s evaluation was copied as State’s

Exhibit 3. Ms. Carson stated that a Notice of Opportunity for Hearing was issued to Dr. Roth based on the evidence collected during both of the infection control evaluations.

Upon questioning by Mr. Fulkerson, Ms. Carson explained that State's Exhibit 1 is a copy of the Board's Notice of Opportunity for Hearing (Notice) issued to Dr. Roth on December 7, 2005 which details seven (7) infection control violations of the Dental Practice Act. She stated that Count 1 of the Notice regarded the lack of proper testing of Dr. Roth's heat sterilizer on a weekly basis. Ms. Carson stated that Mr. Pasku noted that during his infection control evaluation of April 14, 2005, Dr. Roth did not test his heat sterilizer on a weekly basis and that the sterilization system, Attest, had an expiration date of 1992. Ms. Carson explained that the manufacturer of Attest has indicated that the capsules are good for an additional two (2) years, however, that would leave their expiration at 1994, some eleven (11) years prior. Ms. Carson stated that at that time, Dr. Roth admitted to Mr. Pasku that he had not performed testing on his heat sterilizer for years.

With regards to Count 2, Ms. Carson informed the Board that during her infection control evaluation in September, 2005, she determined that Dr. Roth was not disposing of single use items appropriately. She stated that in the beginning, Dr. Roth had claimed to have been throwing away the single use items. However, Ms. Carson stated that when she pointed out that one of Dr. Roth's saliva injectors was crooked he admitted that he did not discard them after a single use. Ms. Carson stated that when she compared her evaluation with that of Mr. Pasku, it was determined that Mr. Pasku had found the same violation and that some five (5) months later, Dr. Roth had not altered or changed his practice to become compliant.

Continuing on, Ms. Carson stated that with respect to Count 3 regarding heat sterilization of Dr. Roth's high-speed handpieces, Dr. Roth told her that he wiped them down with alcohol after each patient. Ms. Carson explained that according to Mr. Pasku's evaluation, Dr. Roth had indicated that he wiped down his high-speed handpieces with alcohol at the end of each day.

Regarding Count 4 and the lack of heat sterilization for burrs, Ms. Carson stated that Dr. Roth stated that he does not heat sterilize, but rather cold sterilizes his burrs between patients. She said that Mr. Pasku's evaluation noted that at the time of his evaluation in April, Dr. Roth did not heat sterilize his burrs.

With respect to Count 5, Ms. Carson noted that in both infection control evaluations performed, Dr. Roth was not properly cleaning and disinfecting his surfaces and he was not properly covering, removing and discarding plastic wrap from those surfaces that cannot be sterilized or disinfected. Ms. Carson commented that Dr. Roth's equipment is very old and that the buttons should be covered with plastic wrap but are not. She stated that during Mr. Pasku's evaluation he noted that Dr. Roth had a container of

Sterol present but also noted that it was empty, covered in dust, and there was no more of the product available on the premises. Ms. Carson also noted that Sterol is not an approved cleaning product

Regarding Count 6 and the failure to wear protective eyewear, Ms. Carson informed the Board that during her evaluation in September 2005, she noticed that Dr. Roth does not wear a face shield when performing procedures on his patients. She stated that Dr. Roth does wear glasses but does not have the required side shields for protection from splatter.

The Final Count, number 7 of the Notice, was citing Dr. Roth with lack of appropriate documentation of Hepatitis B inoculation or immunity for one of Dr. Roth's dental health care workers. She stated that the health care worker in question performs sterilization procedures and should be immunized against or immune to Hepatitis B.

Mr. Fulkerson asked Ms. Carson to identify State's Exhibit 5. Ms. Carson said that State's Exhibit 5 is a copy of a letter from Dr. Roth with attached purchase and repair invoices for nose cones. She stated that Dr. Roth forwarded this to the Board office as an appearance of good faith to correct the violations.

Upon further questioning, Ms. Carson described State's Exhibit 2 as the Certified Mail Receipt for delivery of State's Exhibit 1, the Notice of Opportunity for Hearing. Ms. Carson noted that Dr. Roth did not sign for the certified letter, but rather someone from his office had signed his name. She informed the Board that Dr. Roth did not request a hearing in this matter and when she contacted his office upon noticing that the signature on the Certified Mail Receipt was not his, Dr. Roth informed her that he would just await the decision of the Board.

Mr. Fulkerson stated that he had no further evidence to present and requested that State's Exhibit's 1 through 5 be entered into evidence.

Ms. Wise asked some questions that Mr. Fulkerson explained were not relevant to the charges and therefore, were not addressed. She stated that she did not understand why Dr. Roth did not begin heat sterilization procedures between the time of Mr. Pasku's infection control evaluation and Ms. Carson's evaluation. Ms. Carson reminded the Board that her evaluation was performed during the course of investigation of a complaint and that she had been unaware at the time of Mr. Pasku's previous infection control evaluation and its results.

Dr. Hills then informed Mr. Fulkerson that State's Exhibits 1 through 5 were now entered into evidence.

EXECUTIVE SESSION

Motion by Dr. McDonald, second Ms. Wise, to move the Board into executive session pursuant to Ohio Revised Code Section 121.22(G)(1) to deliberate and consider the matter of Philip Roth, D.D.S.

Roll call vote.

Motion carried unanimously.

OPEN SESSION

The Board resumed open session at 4:28 p.m.

DECISION IN THE MATTER OF PHILIP ROTH, D.D.S.

Dr. Hills then stated, "Let the record reflect that I, Dr. Edward R. Hills was the secretary in these matters, and therefore I will abstain from final vote. Furthermore, I was not present during executive session and did not participate in the deliberations in these matters."

Dr. Hills then questioned, "Is there a motion concerning the Hearing Examiner's Report and Recommendation?"

Motion by Dr. Vesoulis, second by Ms. Naber, that all seven (7) Counts in the Notice of Opportunity for Hearing are found to be true.

Roll call vote: Dr. Armstrong – Yes
 Dr. Beckwith – Yes
 Dr. Hills - Abstain
 Dr. Howard – Yes
 Dr. Kyger – Yes
 Dr. McDonald - Yes
 Dr. Murphy - Yes
 Ms. Naber – Yes
 Ms. Leshner - Yes
 Dr. Vesoulis – Yes
 Ms. Wise – Yes
 Dr. Wright – Yes

Motion carried.

Motion by Dr. Vesoulis, second by Dr. McDonald, that:

It is hereby ORDERED:

- 1. The license of Philip Roth, D.D.S. to practice dentistry in the state of Ohio is indefinitely SUSPENDED for a minimum of sixty (60) days.*
 - a. No one in the dental office may perform dentistry or dental hygiene duties or otherwise treat patients during the period of suspension.*
 - b. A receptionist may answer the phones with "Dr. Roth's Office", or the name of the practice, for the sole purpose of answering questions, scheduling/rescheduling appointments, and making referrals.*
 - c. Dr. Roth may not receive any income either from a legal or a beneficial interest in the dental practice during the period of suspension.*
- 2. The Board shall not consider REINSTATEMENT of Dr. Roth's license to practice unless and until all of the following requirements are met:*
 - a. Dr. Roth shall submit an application for Reinstatement including all appropriate fees.*
 - b. Dr. Roth shall submit evidence documenting compliance with the laws and rules governing infection control in the dental office, including documentation of compliance specifically related to the charges set forth in the Board's December 7, 2005 Notice of Opportunity for Hearing.*
- 3. Once reinstated, Dr. Roth's license to practice dentistry shall be subject to the following PROBATIONARY terms, conditions and limitations for a period of three (3) years:*
 - a. Dr. Roth shall obtain eight (8) hours of continuing education in infection control, approved in advance by the Board Secretary. Dr. Roth shall notify the Board of completion of these hours within three (3) months of the effective date of this Order. These hours shall be in addition to the forty (40) hours of continuing education necessary for renewal.*
 - b. Dr. Roth shall submit quarterly declarations under penalty of Board discipline stating that he is in compliance with the terms of this Order.*

- c. Dr. Roth shall obey all federal, state and local laws, and all rules governing the practice of dentistry in Ohio.*
- d. Dr. Roth shall cooperate fully with the board should records be requested for inspection by the Board as deemed necessary by the Board.*

This ORDER shall become effective thirty (30) days from the date of mailing of the Order.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – No
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Ms. Leshner - Absent
Dr. Vesoulis – Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

The Board took a five (5) minute break prior to continuance of the meeting.

REVIEW OF PROPOSED CONSENT AGREEMENT(S)

The Board reviewed five (5) proposed consent agreements. The names of the individuals/licenses were not included in the documents reviewed by the Board. The names of the individuals/licenses have been added to the minutes for public notice purposes.

LENA R. FREEMAN, DENTAL ASSISTANT RADIOGRAPHER

Motion by Dr. McDonald, second by Dr. Kyger, to approve the proposed consent agreement for Lena R. Freeman, license number 51-007797.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain

Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

MERLE A. FRANKEL, D.D.S.

Motion by Dr. McDonald, second by Dr. Kyger, to approve the proposed agreed order of censure for Merle A. Frankel, D.D.S., license number 30-011799.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

JOHN Y. LU, D.D.S.

Motion by Dr. McDonald, second by Dr. Kyger, to approve the proposed agreed order of censure for John Y. Lu, D.D.S., license number 30-020180.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain

Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

KIRBY E. POLING, D.D.S.

Motion by Dr. Armstrong, second by Ms. Leshner, to approve the proposed agreed order of censure for Kirby E. Poling, D.D.S., license number 30-019812.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

RAJIV TANEJA, D.D.S.

Motion by Dr. Vesoulis, second by Dr. Kyger, to approve the proposed agreed order of censure for Rajiv Taneja, D.D.S., license number 30-020790.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain

Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy - Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

REVIEW OF PROPOSED NOTICE(S) OF OPPORTUNITY FOR HEARING

The Board reviewed three (3) Notices of Opportunity for Hearing. The names of the individuals/licensees were not included in the documents reviewed by the Board. The names of the individuals/licensees have been added to the minutes for public notice purposes.

ROBERT M. KIEFFER, D.D.S.

Motion by Dr. Vesoulis, second by Ms. Leshner, to approve the proposed notice of opportunity for hearing and forward it to Robert M. Kieffer, D.D.S., license number 30-013104, and case numbers 04-22-0310 and 04-22-0563.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

SCOTT S. KELLY, D.D.S.

Motion by Dr. Armstrong, second by Ms. Wise, to approve the proposed notice of opportunity for hearing and forward it to Scott S. Kelly, D.D.S. license number 30-016259, case number 04-48-0507.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

CHARLES E. MILLS, JR., D.D.S.

Motion by Dr. Armstrong, second by Dr. Wright, to approve the proposed notice of opportunity for hearing and forward it to Charles E. Mills, Jr., D.D.S. license number 30-020303, case number 05-31-0374.

Roll call vote: Dr. Armstrong – Yes
Dr. Beckwith – Yes
Dr. Hills - Abstain
Dr. Howard – Yes
Dr. Kyger – Yes
Ms. Leshner - Yes
Dr. McDonald - Yes
Dr. Murphy – Yes
Ms. Naber – Yes
Dr. Vesoulis - Yes
Ms. Wise – Yes
Dr. Wright – Yes

Motion carried.

ENFORCEMENT UPDATE

Ms. Hockenberry informed the Board that there were currently seven (7) cases pending hearings, of which most have been scheduled. We currently have two (2) cases under appeal and one (1) case is pending the Hearing Officers Report and Recommendation. She stated that there were two (2) cases pending Board decision and one (1) case wherein no hearing was requested which the Board voted on earlier. Ms. Hockenberry stated that there is one (1) case wherein no hearing was requested which will be reviewed at the next meeting and twenty-six (26) licensees are currently under suspension. She stated that no additional cases have been referred to the Quality Intervention Program (QUIP) since the last Board meeting and we now have seven (7) cases pending QUIP.

Ms. Hockenberry stated that one hundred and nine (109) cases have been investigated and reviewed by the Board Secretary and are recommended to be closed.

Due to the requirement in Chapter 4715.03(D) of the Ohio Revised Code, that "The board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members,..." Ms. Hockenberry reviewed the cases to be closed with the Board.

The following cases are recommended to be closed:

04-25-0143	Practicing	W/O	05-12-0733	Radiographer
License			Renewal	
04-25-0144	Practicing	W/O	05-12-0734	Radiographer
License			Renewal	
04-25-0535	Adverse Occurrence		05-12-0736	Radiographer
04-25-0536	Infection Control		Renewal	
04-47-197	Standard Of Care/ Abandonment		05-12-0737	Radiographer
			Renewal	
05-07-0678	Radiographer		05-12-0740	Radiographer
Renewal			Renewal	
05-09-0130	Standard Of Care		05-12-0744	Radiographer
05-09-1779	Misrepresentation		Renewal	
05-12-0727	Radiographer		05-12-0745	Radiographer
Renewal			Renewal	
05-12-0729	Radiographer		05-13-0251	Standard Of Care
Renewal			05-16-0781	Radiographer
05-12-0731	Radiographer		Renewal	
Renewal			05-18-0142	Standard Of Care
05-12-0730	Radiographer		05-18-0492	Standard Of Care
Renewal			05-18-0520	Standard Of Care

05-18-0544	Records Hostage	05-25-0641	Practicing	Without
05-18-0585	Standard Of Care		License	
05-18-0586	Standard Of Care	05-25-0652	Records	
05-18-0587	Standard Of Care	05-25-0947	Radiographer	
05-18-1713	Improper Billing	Renewal		
05-21-0600	Infection Control	05-25-0962	Radiographer	
05-21-0906	Radiographer	Renewal		
Renewal		05-25-0969	Radiographer	
05-21-0918	Radiographer	Renewal		
Renewal		05-25-0987	Radiographer	
05-23-0926	Radiographer	Renewal		
Renewal		05-25-0994	Radiographer	
05-23-0927	Radiographer	Renewal		
Renewal		05-25-1011	Radiographer	
05-23-0928	Radiographer	Renewal		
Renewal		05-25-1017	Radiographer	
05-23-0929	Radiographer	Renewal		
Renewal		05-25-1758	Infection Control	
05-23-0930	Radiographer	05-25-1760	Excessive Treatment/ Misrepresentation	
Renewal		05-25-1781	Consent & Standard Of Care	
05-23-0931	Radiographer			
Renewal		05-25-1784	Permitting	
05-23-0932	Radiographer	05-27-1042	Radiographer	
Renewal		Renewal		
05-23-0933	Radiographer	05-27-1043	Radiographer	
Renewal		Renewal		
05-23-0934	Radiographer	05-27-1044	Radiographer	
Renewal		Renewal		
05-23-0935	Radiographer	05-29-1055	Radiographer	
Renewal		Renewal		
05-23-0936	Radiographer	05-29-1056	Radiographer	
Renewal		Renewal		
05-25-0389	Adverse Occurence	05-29-1057	Radiographer	
05-25-468	Standard Of Care/ Impairment	Renewal		
05-25-0549	Practicing	05-29-1060	Radiographer	
	Without License	Renewal		
05-25-0568	Advertising	05-29-1061	Radiographer	
05-25-0572	Advertising	Renewal		
05-25-0584	Standard Of Care	05-29-1064	Radiographer	
05-25-0607	Standard Of Care	Renewal		
05-25-0619	Advertising	05-29-1746	Standard Of Care	
05-25-0640	Standard Of Care			

05-30-1069	Radiographer	05-79-1650	Radiographer
Renewal		Renewal	
05-31-0216	Standard Of Care	05-79-1653	Radiographer
05-31-0225	Standard Of Care	Renewal	
05-31-0603	Standard Of Care	05-83-1755	Advertising
05-31-1707	Standard Of Care	05-89-0349	Standard Of Care
05-31-1750	Fraud/Permitting/ Standard Of Care	05-89-0375	Standard Of Care/ Adverse Reaction
05-31-1753	Standard Of Care/ Permitting	05-89-0565	Standard Of Care
05-31-1782	Misrepresentation	06-09-0003	Permitting
05-31-1787	Records	06-25-0011	Informed Consent/ Standard Of Care
05-37-1145	Radiographer		
Renewal			
05-44-1179	Radiographer		
Renewal			
05-44-1180	Radiographer		
Renewal			
05-45-0571	Advertising		
05-45-0601	Infection Control		
05-45-1769	Standard Of Care		
05-47-1708	Improper Billing		
05-49-1283	Radiographer		
Renewal			
05-52-0577	Records		
05-60-1404	Radiographer		
Renewal			
05-60-1407	Radiographer		
Renewal			
05-64-1477	Radiographer		
Renewal			
05-64-1478	Radiographer		
Renewal			
05-71-1515	Radiographer		
Renewal			
05-71-1517	Radiographer		
Renewal			
05-76-1539	Radiographer		
Renewal			
05-76-1542	Radiographer		
Renewal			
05-77-0617	Infection Control		

Prior to the vote to close the above listed cases, Dr. Vesoulis inquired as to whether any of the Board members had any personal knowledge that the cases that were being voted on today involve either themselves or a personal friend.

Roll call: Dr. Armstrong – No
 Dr. Beckwith – No
 Dr. Hills - No
 Dr. Howard – No
 Dr. Kyger – No
 Ms. Leshner - No
 Dr. McDonald - No
 Dr. Murphy – No
 Ms. Naber – No
 Dr. Vesoulis – No
 Ms. Wise – No
 Dr. Wright - No

Dr. Vesoulis then called for a motion to close the cases.

Motion by Dr. Armstrong, second by Ms. Naber, to close the above one hundred and nine (109) cases.

Roll call vote: Dr. Armstrong – Yes
 Dr. Beckwith – Yes
 Dr. Hills - Abstain
 Dr. Howard – Yes
 Dr. Kyger – Yes
 Ms. Leshner - Yes
 Dr. McDonald – Yes
 Dr. Murphy - Yes
 Ms. Naber – Yes
 Dr. Vesoulis - Yes
 Ms. Wise – Yes
 Dr. Wright – Yes

Motion carried.

ANESTHESIA COMMITTEE REPORT

REVIEW OF PROVISIONAL CONSCIOUS SEDATION PRIVILEGES

Dr. Murphy stated that the following individual has applied for a Conscious Sedation permit. He explained that the Anesthesia Committee has reviewed the application and the applicant is recommended to receive provisional privileges:

Dr. Charles H. Hawkins - Zanesville, Ohio
Intravenous

REVIEW OF ANESTHESIA PERMIT APPLICATION(S)

Dr. Murphy stated that the following individual has applied for an Anesthesia permit. He explained that the Anesthesia Committee has reviewed the application, an evaluation was completed and the applicant is recommended to receive a permit:

Dr. Erik W. Evans – Columbus, Ohio

REVIEW OF CONSCIOUS SEDATION PERMIT APPLICATION(S)

Dr. Murphy stated that the following individual has applied for a Conscious Sedation permit. He explained that the Anesthesia Committee has reviewed the application, an evaluation was completed and the applicant is recommended to receive a permit:

Dr. Iam M. Rae - Dayton, Ohio
Intravenous

Motion by Dr. Murphy, second by Dr. McDonald, to accept the Anesthesia Committee recommendations and approve the above applications to receive provisional privileges and permits.

Roll call vote.

Motion carried unanimously.

Dr. Vesoulis thanked Dr. Murphy for providing the Anesthesia Committee Report.

COMMUNICATIONS COMMITTEE REPORT

Ms. Reitz informed the Board members that the next issue of the Board Newsletter has been laid out and we hoped to have it mailed by the March meeting. She commented that this issue would include information on House Bill 143, the Enforcement Report and a rule review update.

EDUCATION COMMITTEE REPORT

REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR APPLICATION(S) FOR 2004-2005

Dr. Howard stated that the following individuals/organizations have applied for approval as biennial sponsors of continuing education for the years 2004-2005 and have been recommended for approval by the Education Committee:

Cincinnati Oral & Maxillofacial Surgery, Inc.

REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR APPLICATION(S)

Dr. Howard stated that the following individuals/organizations have applied for approval as biennial sponsors of continuing education for the years 2006-2007 and have been recommended for approval by the Education Committee:

Alliance of the American Dental Association
Violet Barbose, M.D.S., D.D.S.
Simon DeChatlet Dental Club
Roe Dental Laboratory
David A. Smeltzer, D.D.S., M.S., L.L.C.
Tri-County Dental Hygiene Study Club

REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR RENEWAL APPLICATION(S)

Dr. Howard stated that the following individuals/organizations have applied for approval as biennial sponsors of continuing education for the years 2006-2007 and have been recommended for approval by the Education Committee:

Bass Lake Study Club
Central Ohio Academy of Dental Practice Administration
Cincinnati Oral & Maxillofacial Surgery, Inc.
Cleveland Academy of Advanced Dental Education
Cleveland Comprehensive Study Club
Delta Sigma Delta Dental Fraternity
Keith J. Lemmerman, D.M.D.
Neal E. Lemmerman, D.M.D., M.S.
Fernando Martinez, D.D.S., M.S.D.

Naples Dental Conference
Oral & Facial Surgeons of Ohio
James M. Palermo, D.D.S., Inc.
David M. Sorboro, D.D.S., M.S.
Toledo Periodontics, Inc./Ziad Tohme, D.M.D.

REVIEW OF REQUIRED CONTINUING EDUCATION COURSE(S) SUBSTANCE ABUSE CONTINUING EDUCATION COURSE(S)

Dr. Howard stated that the following individuals/organizations have submitted requests for approval of substance abuse continuing education courses for dental licensure renewal. Dr. Howard stated that the following courses have been reviewed and are recommended for approval by the Education Committee:

Harbor Light Oral & Maxillofacial Surgery
“Exploring the Impact of Street Drugs on You and Your Dental Practice”

Kenneth D. Jones, D.D.S., J.D.
“Ice, Snow, Blow Skittling, & Robo-trips, Mary-Jane and Beyond”

O.K.I. Study Club
“Chemical Dependency in Dentistry”

REVIEW OF SPECIAL REQUEST(S)

DENTAL ASSISTANT RADIOGRAPHER INITIAL TRAINING EXAMINATION SITE(S)

Dr. Howard stated that the following permanent continuing education sponsor has applied to provide radiography examinations to dental assistant radiographer candidates and has been recommended for approval by the *Education Committee*:

Lakeland Community College

CONTINUING EDUCATION WAIVER(S)

Dr. Howard informed the Board that the Education Committee had reviewed ONE (1) request for waiver of the continuing education requirement based on unusual circumstance, emergency or special hardship and were recommending the following individual to receive a waiver:

Donald S. Linton, D.D.S.

Motion by Ms. Naber, second by Dr. Howard, to accept the Education Committees recommendations and approve all the above applications and requests.

Roll call vote

Motion carried unanimously.

Motion by Dr. Howard, second by Ms. Lesher, that for the purpose of Ohio Revised Code Section 4715.16(C), the Ohio State Dental Board executive office shall process applications meeting the requirements for limited continuing education licensure in the State of Ohio, for those applicants who furnish the board satisfactory proof of compliance with all laws, rules and policies in this state.

Roll call vote.

Motion carried unanimously.

Dr. Vesoulis thanked Dr. Howard for the Education Committee report.

LAW AND RULES REVIEW COMMITTEE REPORT

Dr. Vesoulis stated that the Law and Rule Review Committee had met earlier in the day and held a lengthy discussion over the continuing education rules. He stated that the Committee had decided that the current version of the continuing education rules should remain unchanged with only non-substantive amendments to be made at this time and that the Committee will be revisiting the rules again at the next meeting.

SCOPE OF PRACTICE COMMITTEE REPORT

Dr. Hills stated that the Scope of Practice Committee had met earlier in the day to discuss three (3) issues; blood pressure readings, use of dermal fillers in the oral and peri-oral area, and diabetes testing. He stated that the Committee will be obtaining information regarding the taking of blood pressure readings in the course of practice by dentists. Dr. Hills said that the Committee then decided that the use of Restalyn and other dermal fillers in the oral and peri-oral area is acceptable in the course of practice so long as the dentist has received appropriate training and that the procedure is performed in conjunction with another dental procedure and not completed as stand-alone.

Concluding, Dr. Hills informed the Board that it is the opinion of the Committee that dentists may offer diabetes testing to their patients if necessary in conjunction with a dental procedure as part of that patient's work-up and evaluation.

Dr. Vesoulis thanked Dr. Hills for the Scope of Practice Committee Report.

SECRETARY'S EXPENSE REPORT

Dr. Hills attested that he had spent in excess of twenty (20) hours per week attending to Board business.

Motion by Dr. Wright, second by Dr. Armstrong, to approve the Secretary's expense report.

Roll call vote.

Motion carried unanimously.

OFFICE EXPENSE REPORT

The report of the Board expenditures was reviewed.

Motion by Dr. Vesoulis, second by Dr. Beckwith, to approve the expense report and approve payment of the January, 2006 Board bills.

Roll call vote.

Motion carried unanimously.

EXECUTIVE DIRECTOR'S REPORT

FINANCIAL DISCLOSURE STATEMENTS

Ms. Reitz reminded the Board members that their Financial Disclosure Statements were due in April. She said that the North East Regional Board (NERB) information would need to be obtained from them prior to the members submitting the statements to the Board office. Ms. Reitz stated that as with in the past, they should submit the statements into the Board executive office where the information from the Board would be attached and then submitted for them.

ANYTHING FOR THE GOOD OF THE BOARD

Ms. Reitz said that it seems apparent from the day's proceedings that the members had questions regarding the purposes, differences, and relationships between Notices of Opportunity for Hearing (Notices), Evidentiary Hearings, and Report and Recommendations (R & R's). She noted that all of the current members had been provided explanations of these documents and procedures in their Board member training. However, she commented that this was possibly the first time they had experienced all three (3) at the same meeting.

Ms. Reitz explained that the Notices are prepared and reviewed by the Board at meetings in order to obtain a vote of approval for mailing purposes. She stated that this is a Grand Jury type of proceeding wherein the Board Secretary and Deputy Attorney General prepare a case and believe that there is sufficient evidence indicating that a violation of the Dental Practice Act has occurred. Ms. Reitz spoke to the fact that during her tenure with the Board, rarely has it been determined by the Board that there was insufficient evidence to support the counts brought against a licensee. Ms. Reitz explained that the approval and issuance of the Notice triggers the ability for the licensee to request a hearing before the Board in order to present evidence in defense to said alleged violations.

Continuing on, Ms. Reitz stated that if the licensee does not request a hearing before the Board within thirty (30) days of issuance of the Notice, then an Evidentiary Hearing is scheduled. She stated that the thirty (30) day deadline set forth in statute, not by the rules Board. Ms. Reitz informed the members that an Evidentiary Hearing must be held by the Board to present its evidence that a violation of the Dental Practice Act has occurred and that the Board must review this evidence before any decision to discipline a licensee can occur.

A Report and Recommendation (R & R), Ms. Reitz said, occurs when the individual requests a hearing before the Board in a timely manner. She said that the hearings are typically presided over by an appointed Hearing Examiner who, after listening to all the evidence presented, prepares the R & R for review by the Board. She stated that ninety-nine percent (99%) of the regulatory boards conduct adjudicatory hearings before Hearing Examiners in this manner due to the fact that hearings are time consuming and often involve complicated legal issues. Ms. Reitz further explained that the appointed Hearing Examiner acts as the eyes and ears of the Board during these hearings and that our Board currently has two individuals under contract to perform this function on behalf of the Board.

Ms. Reitz explained that the Hearing Examiner listens to the evidence presented from the State and the respondent/licensee in the matter. She said that the Hearing Examiner then issues Findings of Fact and Conclusions of Law for each hearing. Based on the

Conclusions of Law, Ms. Reitz said, the Hearing Examiner issues a recommended sanction by utilizing the Board's Disciplinary Guidelines as a basis. She stated that the R & R is submitted to the Board for review and consideration during a regularly scheduled meeting wherein the members review the Findings of Fact, Conclusions of Law, and Recommended Order along with any objections filed, to determine if they agree with the Hearing Examiner. She stated at that point the members decide whether to accept, reject, or modify the recommendations of the Hearing Examiner.

Dr. Hills interjected at this point to explain that the purpose of the Secretary is as a fact gatherer. He stated that the investigators gather evidence which is submitted to the Board Secretary, himself, which then could be directed to an expert witness and then proceed on to the hearing. He clarified that the recommendation set forth in the R & R is not a "Dr. Hills" decision but rather the Hearing Examiners determination based upon all the facts and evidence presented to him from both sides during a hearing. Dr. Hills explained that the counts in the notices may be based on a single violation or may be based on several instances of the same types of violations. Either way, he stated that Notices are drafted and presented to the Board typically only if the Board Secretary and representing Board attorney are reasonably assured that a violation has occurred under the legal standards we are held to. He stated that for the Board members to subsequently vote that a particular count is not true is to send the process back through a hole to the beginning, which is confusing.

Dr. Beckwith commented that the process is self-explanatory. He said that the difference is in the delegation to the Hearing Examiner, to whom the Board hopefully trusts their performance. Dr. Beckwith questioned what happens between the delegation of the hearing and the final product and asked if the members have a trust issue or lack of confidence in having the cases reviewed by the Board Secretary and heard by the Hearing Examiner. He stated that if the Board members are not satisfied in their representation then they need to appoint another Secretary or another Attorney as Hearing Examiner.

Dr. Hills clarified that the Hearing Examiner merely listens to all the evidence and makes a recommendation, and the Board is the ultimate decision maker.

Dr. Vesoulis noted that the consensus is that there are not enough knowledgeable members, such as previous Board Secretary's, in attendance during Executive Sessions to determine what specifically constitutes a violation of the law or how to prepare the terms of an adjudication order especially when they want to modify the Hearing Examiners recommended order. He stated that they are all attempting to determine the terms, they have learned from their attempts during the course of the meetings, but more often than not, they are forced to resort to calling in one of the attorneys from the Attorney General's Office to assist in making the language of the Order correct. Dr. Vesoulis commented that the use of the Disciplinary Guidelines has been sufficient until recently.

Dr. Murphy commented that the Board members should trust in Dr. Hills, or whomever has been appointed as the Board Secretary, to perform the duties of a prosecutor and that the Board members should do their function as judge and jury, until such time as the counts are found to be non-egregiously true. He stated that he was confused that if the Board found a count to be true, they had to aggressively discipline the licensee for that. He now understands they can find counts true but focus their discipline on a particular area they feel is most egregious, etc.

Mr. Fulkerson informed the members that oftentimes a Hearing Examiner, at the close of a hearing, asks the Assistant Attorney General to suggest a recommended penalty since this is a difficult challenge. He stated that the Disciplinary Guidelines are broad in scope and range from reprimands to permanent revocation of the license. Mr. Fulkerson said that a recommendation is made in the hopes that it will give the Board members a context. He commented that it may not always be a "bulls-eye" but hopefully it gives them something in the means of a target somewhere.

Ms. Reitz commented to the Board that in the past ten (10) years, most times the Board members have opted to reduce the recommended sanction and only once or twice have the members ever truly found that counts are untrue. She stated that this is because the enforcement team, Board Secretary, and Assistant Attorney's General, go through an intense review to ensure there is reliable, probative, and substantial evidence to support each charge in going forward. She stated that the Board must impose a sanction because it has to by law. However, she indicated that the members can find that the evidence supports the counts to be true, and that they have leeway with the sanction they choose to impose. Ms. Reitz remarked that they must be very careful if and when the members choose to reverse the counts of any Notice, and be sure because there could be significant ramifications with that.

Ms. Reitz indicated that she was aware of the difficulties the members were having with respect to writing the motion and a proper order. She stated that she hoped the form documents she provides for their review and use in executive session would be helpful. She stated that it might be possible to have a separate Assistant Attorney General available for such a purpose that would not be biased. She stated that the Board Secretary and Hearing Examiner's recommendations are the most tangible and honest. She further noted that they generally do not bring a one-count case before the Board unless the matter is truly bad or representative of a bad pattern regarding sub-standard dentistry. Also, she stated that she regrets their lack of understanding of the process.

Ms. Reitz concluded by informing the members that she would work on developing another document to assist them in their deliberations of appropriate sanctions.

ADJOURN

The Board meeting was adjourned at 5:35 p.m. The next meeting will be on March 29, 2006 beginning at 1:00 p.m.

Paul Vesoulis, D.D.S.
President

Edward R. Hills, D.D.S.
Secretary