

**Ohio State Dental Board  
Board Meeting  
November 2, 2005**

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**Ohio State Dental Board  
Board Meeting  
November 2, 2005**

**MINUTES**

**ATTENDANCE**

The Ohio State Dental Board (Board) met in room 1932, 19<sup>th</sup> Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio on Wednesday, November 2, 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. and Barbara Pfeiffer, Esq., Assistant Attorneys General; Honorable Kathleen Chandler, State Representative – District 68; David Payne, Director of Boards and Commissions, Governor's Office; Jane Young, Ohio Department of Job and Family Services; Ted Wendling, Cleveland Plain Dealer; Dennis Burns, D.D.S. of the Ohio Dental Association (ODA); Linda Hewetson, R.D.H. of the Ohio Dental Hygienists' Association (ODHA); Lili Reitz, Esq., Executive Director, Rebecca Hockenberry, Esq., Assistant Director, Mike Flugge, Investigator, Kathy Carson, Investigator, Gail Davis, Investigator Assistant, Jayne Smith, Licensure Coordinator, Janet Martina, Enforcement Secretary, Felecia Lucas, Secretary, Heidi Massaro, QUIP Assistant, 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 1:07 p.m. He requested all members and guests sign the attendance roster.

## **EXECUTIVE SESSION**

*Motion by Dr. Wright, second by Ms. Naber, 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 and pursuant to Ohio Revised Code Section 121.22(G)(1) to discuss issues regarding personnel.*

Roll call vote.

Motion carried unanimously.

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

## **OPEN SESSION**

At 1:45 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 SEPTEMBER BOARD MEETING MINUTES

The Board reviewed the minutes of the September 14, 2005 Board meeting.

*Motion by Dr. Murphy, second by Ms. Naber, to approve the September 14, 2005 Board meeting minutes as presented.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
Dr. Hills - Yes  
Dr. Howard – Yes  
Dr. Kyger – Yes  
Mr. Landes – Absent  
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 September 2005 meeting, for Board member review. Dr. Vesoulis then requested the Board's vote of approval for the Licensure Report.

*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

Maryam H. Azadi  
Jeremiah Bondra  
David P. Chave  
Brandon D. Cook

Terry L. Daniel  
Junaid M. Farooqui  
Avijit Goel  
Wei Guo

Juliette A. Leukart  
Alexis M. Mai  
Renee T. Mikulec  
Matthew W. Nakfoor  
Amiti S. Nanavati  
Yelena Ostrometskaya  
Sabitha B. Parasa  
Nicole M. Simonetti

Jeffrey W. Stearns  
Jason M. Stroom  
Jennifer L. Thompson  
Sakthi M. Tiruchirapalli Kesavan  
Janice A. Townsend  
Angela G. Turner  
Mustafa Q. Yamani  
Kristen J. Zitterell

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
Dr. Hills - Yes  
Dr. Howard – Yes  
Dr. Kyger – Yes  
Mr. Landes – Absent  
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

Susan K. Adams  
Whitney E. Anton  
Wendy Balyeat  
Jamie L. Besancon  
Laura M. Betz  
Carol M. Boes  
Ashley R. Border  
Tracy L. Boudreau  
Karen J. Brady  
RaeAnn G. Cayen  
Julie A. Chapman

Robin L. Clepper  
Stacy L. Corrill  
Angela D. Craig  
Cheryl L. Dixon  
Michelle L. Gaier  
Victoria L. Gamber  
Heather L. Geitgey  
Melissa A. George  
Andrea M. Gomez  
Sommer A. Hanna  
Chandra L. Harward

Kelly N. Hershberger  
Leslie A. Hickey  
Jacqueline E. Hill  
Elizabeth M. Hoffman  
Sheila M. Jackson  
LaTosha L. Johnson  
Ellen M. Joseph  
Rosemary H. Kammer  
Janet S. Kato  
Alicia K. Kittle  
Danielle A. Lemmo  
Keturah E. Lofton  
Alexandra Mougianis  
Sara E. Nank

Jennifer R. Oaks  
Vanessa E. Partain  
Tenika L. Patterson  
Crystal R. Perrot  
Leigh-Anna Perry  
Ashley K. Phillips  
Leonettza E. Powell  
Vanessa R. Redoutey  
Stephanie E. Satina  
Kendra L. Skidmore  
Susan C. Tabor  
Sarah E. Thomas  
Huong T. Trinh  
Laura L. Twining

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
Dr. Hills - Yes  
Dr. Howard – Yes  
Dr. Kyger – Yes  
Mr. Landes – Absent  
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. Leshner, second by Ms. Naber, 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:*

**DENTAL ASSISTANT RADIOGRAPHER**

Llewelyn Aban  
Hollie Adams  
Brandy N. Adkins

Shanna M. Ailes  
Tara N. Akers  
Nkengi C. Allen

Lisa L. Allen  
Marcia Allman  
Kelly Balsiger  
Sarah E. Barath  
Melinda M. Barr  
Sara Baugher  
Linda Bemmes  
Dianne M. Bird  
Rebecca L Bolton  
Jacquelyn Botimer  
Michele L. Bowen  
Kiesha Bowers  
Mindy Bowling  
Angela Breiding  
Sara Brown  
Carmen Burris  
Amanda Buskirk  
Jody Buxton  
Susan Campbell  
Jeannie Carter  
Dawn Carter  
Kelley Champlin  
Jodi L. Chapman  
Kala Clark  
Nicole Cleversy  
Valerie A. Collins  
Sharon J. Combs  
Heidi Compston  
Carrie Conrad  
Shari Cook  
Kelly Copenhauer  
Nicole M. Cordes  
Sherri Cornell  
Julie Crea  
Tangie Cromwell  
Elizabeth G. Cunningham  
Melissa Curtis  
Jolinda S. Dailey  
Elizabeth A. Deneca  
Jennifer Denmark  
Anna Denysyuk  
Amy Ditto  
Cheryl Dunson

Brianna Eberhard  
Iryna L. Eliseenko  
Jamie Fero  
Jacqueline Ferris  
Limaris Franco  
Karla Fraticelli  
Kaitlyn M. Gahn  
Lana Garman  
Charlotte M. Gerkens  
Jennifer Gileo  
Brian Glenn  
Jaclyn Globokar  
Kelly M. Goodin  
Mary Gorgan  
Hope M. Gratz  
Diana K. Grear  
Andrea Green  
Cheryl L. Green  
Julie Greiner  
Natalie N. Griffith  
Gretchen Grosse  
Lisa M. Grossenbacher  
Karen M. Grove  
Tara Hambleton  
Charita Hartman  
Stephanie Hecock  
Carmale Henderson  
Jessica Henrich  
Michelle Henry  
Kelly Hoard  
Dorothy Huston  
Cynthia Ionno  
Jennine Jadallah  
Ashley Jenkins  
Heather Johnson  
Jeannie A. Johnston  
Mandi Kinder  
Stella King  
Erica Kitchen  
Nichole Klusty  
Brandon Kroffke  
Andrea Krull-West  
Margaret M. Kunzi

Caridad Lamotte  
Kristen Lemin  
Tami L. Lindsay  
Samantha Lippold  
Jennifer Lipton  
Lynn M Lombardo  
Margo Lomeli  
Jennifer Lorente  
Jessica Lucas  
Mayra Luna  
Kristen Makuc  
Brandi L Marcum  
Melissa Marko  
Denise M. Marshall  
Lavaysha Martin  
Melissa Mcallen  
Timothy Mcdonnell  
Denise L. Mckinney  
Sandra L. Meece  
Karen Merkl  
Joseph M. Mess  
Michelle L. Miller  
Angela Mills  
Lisa Minton  
Melissa Montgomery  
Janie Moore  
Melissa Motley  
Magan Mullins  
Jennifer Naumann  
Jessica Omerza  
Christine Patterson  
Lynda Phelps  
Mindy Price  
Lorraine Rhymer  
Tina Rice  
Lindie C. Riley  
Laquetis Robinson

Karyn Roharik  
Johnny Roscoe  
Karen C Rowley  
Nellie Ruby  
Sharissa Rudon  
Jeff L. Sapp  
Shannon Sargent  
Rebecca A. Scherz  
Jacklyn Shinsky  
David Shumaker  
Jacquelyn L. Siebold  
Laura Simmons  
Carol S Skatzes  
Sarah R. Slomka  
Angela Sortman  
Janel Souslin  
Kristi Spires  
Zaneta L. Spriggs  
Holly Stark  
Kathryn Stephens  
Carie Stultz  
Kristin Sweeney  
Beth Todd  
Susan Triplett  
Amy L. Trout  
Stacy A. Ulle  
Kelley C. Vann  
Christine Villarreal  
Tuscia Vlahos  
Amy Wallace  
Holly R. Wallace  
Angela Watts  
Cassie A. Weir  
Sharon White  
Sharen Whitesel  
Katheirne M. Williams  
Ashley M. Zamora

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

Mr. Landes – Absent  
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. Murphy, second by Ms. Leshner, 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**

Stephanie M. Cook  
Alana R. Egolf  
Jessica L. Farrow  
Cynthia M. Holley  
Deborah K. Kovac  
Susanne Meade  
Nicole M. Nitzsche  
Jennifer L. Pasquinelli

Andrea P. Perri  
Amy E. Pulskamp  
Debra A. Scarberry  
Darlene J. Seaburn  
Lynne A. Semonin  
Mandy B. Shovlin  
Stacie M. Withrow

Roll call vote.

Motion carried unanimously.

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

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:

Theodore J. Ameredes  
Sean R. Bates  
Daniel A. Delisle  
Kim E. Jackson

Jodi B. Kuhn  
Brian P. Schmidt  
Cory B. Sellers  
Michael L. Smith

Gopikiran Thota

*Motion by Dr. Murphy, second by Dr. Kyger, to approve these nine (9) regional board/other state for 5 years dental license applications.*

Roll call vote.

Motion carried unanimously.

## **REGIONAL BOARD 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:

Jami L. Halcomb, R.D.H.

Souhir G. Miloszewski, R.D.H.

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

Roll call vote.

Motion carried unanimously.

## **REINSTATEMENT LICENSE APPLICATION(S) - NO INTERVIEW**

*MICHAEL P. MAYER, D.D.S.*

The Board reviewed and considered the licensure information for Dr. Mayer that was prepared by Ms. Smith.

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

Roll call vote.

Motion carried unanimously.

**AMY C. TURNER-IANNACCI, D.D.S.**

The Board reviewed and considered the licensure information for Amy C. Turner-Iannacci, D.D.S. that was prepared by Ms. Smith.

*Motion by Dr. Murphy, second by Dr. Kyger, to approve Ms. Turner-Iannacci's reinstatement application for licensure in the state of Ohio.*

Roll call vote.

Motion carried unanimously.

**VERONICA L. MACEK DEPPE, R.D.H.**

The Board reviewed and considered the licensure information for Veronica L. Macek Deppe, R.D.H. that was prepared by Ms. Smith.

*Motion by Ms. Lesher, second by Ms. Naber, to approve Ms. Macek Deppe's reinstatement application for licensure in the state of Ohio.*

Roll call vote.

Motion carried unanimously.

**JOANNE B. ORTNER-HOFFMAN, R.D.H.**

The Board reviewed and considered the licensure information for Joanne B. Ortner-Hoffman, R.D.H. that was prepared by Ms. Smith.

*Motion by Ms. Lesher, second by Ms. Wise, to approve Ms. Ortner-Hoffman's reinstatement application for licensure in the state of Ohio.*

Roll call vote.

Motion carried unanimously.

## ENFORCEMENT REPORT

### REPORT AND RECOMMENDATIONS

#### REPORT AND RECOMMENDATION IN THE MATTER OF MARY ANN CHLYSTA, D.D.S.

Dr. Hills announced that the Board would now consider the Hearing Officer's Report and Recommendation in the matter of Mary Ann Chlysta, D.D.S. that was filed by Hearing Examiner, Paul Stehura, Esq., on October 3, 2005. He then stated that a Memorandum regarding Dr. Chlysta's Objections was filed by the State on October 12, 2005. He said that Dr. Chlysta filed a Motion to Strike that Memorandum on October 17, 2005 along with a Motion for Continuance should the Motion to Strike not be granted.

Dr. Hills stated that the State filed a Memorandum in Opposition to the Motion to Strike on October 19, 2005. He stated that he [Dr. Hills] had denied the Motion for Continuance on October 20, 2005 and that Dr. Chlysta had filed a reply on October 21, 2005. Dr. Hills stated that in addition, Dr. Chlysta also filed a Response to the State's Memorandum regarding Dr. Chlysta's Objections on November 1, 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 Mary Ann Chlysta, 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 the Objections to the Report and Recommendation in the matter of Mary Ann Chlysta, 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 asked whether each member of the Board had read the subsequent Memorandums and Motions filed by the parties in 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 stated that the Board must rule on Dr. Chlysta's Motion to Strike the Memorandum filed by the State in Response to Dr. Chlysta's Objections. He then called for a motion.

*Motion by Mr. Landes, second by Ms. Leshner, to deny the Motion to Strike filed by Dr. Chlysta in this matter.*

Discussion followed wherein Mr. Landes explained that both sides had reasons for their arguments. He stated that Dr. Chlysta noted that the Dental Practice Act does not allow such a memorandum. However, he said that the law does allow for oral presentations and that once Dr. Chlysta is permitted this then the State is availed the same opportunity. Mr. Landes said that the memorandum contains information that could have been presented orally and further, case law recognized that and found it to be acceptable practice.

Roll call vote.

Motion carried unanimously.

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

*JAMES M. MCGOVERN, ESQ.*

James M. McGovern, Esq., attorney for Dr. Chlysta, began by asking if the Board members had the opportunity to consider Dr. Chlysta's response pleading filed on November 1, 2005 since the Motion to Strike had been denied by the Board. Ms. Reitz responded that the pleading had been e-mailed and faxed to all Board members on the previous day. Dr. Hills confirmed that this pleading had been included in his question to the Board members regarding "all subsequent pleadings by all parties."

Mr. McGovern briefly outlined his experience with Chapter 119 Hearings for the Board and then proceeded to the specifics of this case. He stated that prior to taking Dr. Chlysta's case he only had a cursory knowledge of how opiate drugs worked. Mr.

McGovern said that since then he has come to understand how these drugs work and act on those that use them for legal therapeutic purposes. Therefore, he said he could understand the Board members' initial concerns with the dosages that Dr. Chlysta takes.

Mr. McGovern stated that he hoped the Board could keep an open mind with regards to the evidence they had reviewed as a result of the hearing in this case. He stated that there is a difference between physical and chemical dependence and that the Board should be concerned with a licensee who is chemically dependent and exhibits addictive behavior. Mr. McGovern said that he hoped that the Board has become educated regarding terms such as "dependence", excessive use vs. legitimate prescriptions" and "tolerance".

Continuing on, Mr. McGovern stated that Dr. Chlysta has not ever experienced some of the opiodes side effects such as euphoria or disorientation, which would cause the Board concern. He stated that Dr. Chlysta has not experience them based on the amount and length of time that she has been taking the same dosage of opiodes.

Mr. McGovern expressed that the two (2) State's witnesses in this case were shamefully weak in their preparation, reasoning, and logic. He said that they were unfamiliar with this particular case, Dr. Chlysta's history, and could not even correctly pronounce her name.

Concluding, Mr. McGovern urged that the Board staff should not have any input into the Board's decision. He stated that the evidence should guide them in their conclusions and suggested that any remaining concerns could be addressed through monitoring terms or limitations as he has suggested in his earlier pleading.

#### **MARY ANN CHLYSTA, D.D.S.**

Mary Ann Chlysta, D.D.S. began by thanking the Board members for the opportunity to speak with them and indicated that she was nervous, as this was important to her life. She stated that before this happened she had a life by attending meetings, running an office full-time, attending seminars, working on her farm and doing all the normal active things.

Dr. Chlysta stated that then she got sick while on a ski trip. She said that when she first appeared before the Board she was still very sick and that her actions and appearance were that of someone with a hemoglobin count of about eight (8) which she and her doctors were unaware. Dr. Chlysta said that some of the Board members might remember that prior appearance, however, the Board has changed since then. She said that at that time she had counsel that was unfamiliar with board licensing and regulatory boards, so his main focus was to not have her license tarnished in any way by revocation

or similar terms. Therefore, she stated that she had erroneously signed her retirement contract.

Continuing on, Dr. Chlysta said that prior to meeting with Dr. Chevlan she was on three (3) narcotics; Darvocet, Lortab, and Vicodin. She stated that Dr. Chevlan ultimately came up with the drugs and dosages she is currently taking and has been on for the past four (4) years and feels back to normal. She stated that by normal she means that she is functioning, doing office work, maintaining her 51-acre farm, and taking care of her two (2) elderly parents.

Dr. Chlysta said that she is here before the Board because she is ready to return to practice and has been ready for years. She stated that she has her continuing education credits and has been trying to maintain them all along.

Dr. Chlysta said that she was sitting before the Board today having taken her regular dosage in order that they may observe whether she is lethargic, in a stupor or whether she is pronouncing her words or slurring them. She stated that she feels very level and normal and has felt this way for some time. She indicated that the stress from this process has been greater than any she experienced in her 25 years of practice.

Concluding, Dr. Chlysta stated that she is aware that the Board has given second chances to addicts who have used illegal drugs and written illegal prescriptions who have gone through treatment. She said that the Board allows them to return to work under monitoring conditions and all she is asking for is that same second chance. Dr. Chlysta said that she is willing to have Dr. Jones of her office monitor her and she will accept any reasonable limitations in order to get her license back. She stated that she is a good dentist and many people would benefit from her return to practice.

***JONATHAN FULKERSON, ESQ., DEPUTY ATTORNEY GENERAL***

Jonathan Fulkerson, Esq. began by stating that this case is tragic and that they can all feel sympathy for Dr. Chlysta who suffers from chronic pain. However, he stated that the Board's mission is to protect the public.

Mr. Fulkerson said that in 1998 Dr. Chlysta signed an agreement with the Board to voluntarily surrender her license. Therein she agreed that she would provide a written report to the Board from her treating practitioner indicating that she is no longer drug dependent and/or not excessively using drugs and is able to practice within the accepted standards of the profession, prior to requesting reinstatement of her dental license. He stated that Dr. Chlysta has not met that requirement nor has a report to that effect been submitted to the Board.

Mr. Fulkerson indicated that in 2004 the Board's experts evaluated Dr. Chlysta and determined that she takes a "truly extraordinary" amount of drugs that one (1) Board expert that in 22 years of experience with addiction medicine, had never seen taken by any safety professional such as a doctor or dentist. Mr. Fulkerson stated that Dr. Chlysta's regular daily dosage is approximately 1,200 milligrams of MS Contin, 300 milligrams of MSIR, and Valium. He stated that this is an extraordinary amount of drugs.

Mr. Fulkerson stated that as part of the hearing Dr. Chlysta submitted some fine-detail painted eggs and a videotape demonstrating her skills on a typodont. He stated that even with her best efforts, Dr. Chlysta engages in one of the most basic problems of dropping an instrument and must be prompted by her attorney as to what she should do if she were performing this procedure on a live patient. He then requested that the Board take a few moments to review the videotape.

After the playing of a portion of the videotape, Mr. Fulkerson stated that his point in having the Board members review the video was to reiterate that even when Dr. Chlysta is putting her best foot forward on the videotape, she is unable to meet a basic requirement.

Concluding, Mr. Fulkerson stated that this case really boils down to whether Dr. Chlysta has met her agreement to not be drug dependent and not to use drugs excessively. He stated that the fact that the drugs are prescribed by her treating physician is not the issue. He stated the drugs are an extraordinary amount, and she has agreed not to practice under these circumstances. He stated that the public has every right to expect that their dentist is not drug dependent such as Dr. Chlysta is.

Dr. Hills continued with the meeting by calling for a vote to attend executive session.

Mr. McGovern interrupted and requested to comment on the unprecedented replaying of evidence.

Mr. Fulkerson indicated that his interruption was inappropriate.

Dr. Hills asked if any members of the Board wished to entertain Mr. McGovern's comments. To which Mr. Landes stated that he would like to hear Mr. McGovern's comments.

Mr. McGovern stated that he was concerned that not all of the Board members had the opportunity to view the videotape and urged them to do so during the executive session. He clarified that the purpose of providing the videotape was not to demonstrate Dr. Chlysta's handling of a live patient but rather to provide evidence of the work that

was done on the typodont that had been submitted to the Board by Dr. Chlysta, rather than having Dr. Jones testify to it.

Finally, Mr. McGovern stated that the dropping of an instrument in the course of practice is not an extraordinary event as Mr. Fulkerson was averring to. He stated that in not stopping the videoing of Dr. Chlysta performing these functions, this allowed the Board members to see that the end result was of Dr. Chlysta's work.

### **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 Mary Ann Chlysta, 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 2:44 p.m.

### **DECISION IN THE MATTER OF MARY ANN CHLYSTA, 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. Kyger indicated that prior to any decision, she would like to comment for clarification on Mr. Fulkerson's earlier discussion. She stated that MSIR is a morphine immediate release rather than a slow release and that this was acknowledged during the executive session discussions. She stated that this information created no bias in their decisions.

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 find the Counts to be true, and that the Hearing Examiner's Recommended Order be accepted as follows:*

*It is hereby ORDERED:*

*The application of MARY ANN CHLYSTA to reinstate her license to practice dentistry in the state of Ohio, received by the Board on June 2, 2004, is hereby DENIED based on applicant's failure to comply with the provisions of her July 30, 1998 Voluntary Retirement from the Practice of Dentistry and ORC Section 4715.30(A)(8).*

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

Discussion ensued wherein Mr. Landes commented that all of the Board members felt the weight of this tragedy. However, he stated that it is incumbent on the Board to protect the public in a manner that is satisfactory. He said that it is the plaintiff's responsibility to prove the ability to practice according to the standard of care for the profession and that this has not been proven.

Dr. Wright commented that the Board feels sympathy for the pain and suffering she has had to endure to get to the point where she is now pain-free. However, he stated that the Board members held significant reservations and concerns about her ability to work in an office environment on a day-to-day basis and therefore felt it in the best interests of the public to support the Hearing Examiner's recommendation.

Dr. Beckwith stated that he hoped to clarify that the Board was charged with looking at the evidence to decide whether Dr. Chlysta was dependent on opiodes and if she uses them excessively. He stated that there have been attempts to slice thinner the notion of dependency to modify it with words such as chemical, physical, emotional, etc. Yet throughout, Dr. Beckwith stated that the word "dependency" always persists. Therefore, he stated that in looking at the evidence, all were in agreement that Dr. Chlysta remains dependent and that the arguments of the witnesses for the State were persuasive in that Dr. Chlysta is dependent on an excessive amount of opioid drugs. Beyond that, Dr. Beckwith stated, everything else is simply peripheral discussion.

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
Dr. Hills - Abstain  
Dr. Howard – Yes  
Dr. Kyger – Yes  
Mr. Landes - 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 JAMES E. KIRKPATRICK, D.D.S.**

Dr. Hills announced that the Board would now consider the Hearing Officer's Report and Recommendation in the matter of James E. Kirkpatrick, D.D.S. that was filed by Hearing Examiner, Paul Stehura, Esq., on October 17, 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 E. Kirkpatrick, 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 the Objections to the Report and Recommendation in the matter of James E. Kirkpatrick, 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 stated that there was no court reporter present and that the Board minutes would serve as the official record of the proceedings. Dr. Hills then asked if Dr. Kirkpatrick or his attorney were present.

***JAMES E. KIRKPATRICK, D.D.S.***

Dr. Kirkpatrick addressed the Board by stating simply that he made a grave mistake that he will have to live with for the rest of his life. He stated that he had been in the emergency room at the hospital when this patient passed away and since then he has sought both spiritual and psychological counseling.

Dr. Kirkpatrick informed the members that he had contacted Dr. Paul Casamassimo and Dr. Steven Ganzberg at Children's Hospital of Columbus who assisted him in custom-tailored continuing education in anesthesia and sedation. He stated that upon completion he took and passed the 2002 examination that was given to dental students and only missed two (2) of the forty-six (46) questions. He indicated that he has developed an in-office maximum dosage chart with the help of Dr. Ganzberg.

Concluding, Dr. Kirkpatrick stated that he continues to be one of the only dentists in South-East Ohio, Northern Appalachia, and Northern West Virginia that will practice on patients with behavioral problems. He stated that he loves his job, loves dentistry, and loves practicing in the Ohio Valley area.

*JOHN W. HOPPERS, ESQ.*

John W. Hoppers, Esq., attorney for Dr. Kirkpatrick, addressed the Board indicating that he had not represented Dr. Kirkpatrick before the Hearing Examiner, did not read the record and therefore his some of his response in his Objections to the Board may not have appeared to be specific to this case. He stated that no matter the facts, Dr. Kirkpatrick is responsible for over-medicating this child and that nothing can change this tragic, terrible fact. He stated that Dr. Kirkpatrick has suffered every day since this happened and will continue to suffer with the knowledge.

Mr. Hoppers said that the Hearing Examiner took the easy way out in recommending permanent revocation of Dr. Kirkpatrick's license, but he questioned the Board "Is this what is best?" Mr. Hopper indicated that Dr. Kirkpatrick had prior charges from the Board which stemmed from paperwork failures and allowing non-certified dental assistants to place sealants and polish teeth. He explained that Dr. Kirkpatrick's office is right across the river [Ohio] from West Virginia where dental assistants are permitted to perform some of the duties at issue. Mr. Hopper informed the Board that Dr. Kirkpatrick stopped permitting these duties by dental assistants, once he was made aware that this was not permissible in Ohio.

Continuing on, Mr. Hopper explained that Dr. Kirkpatrick is the only practicing dentist in the Pomeroy/Belpre/Athens area. He stated that many letters from patients and even county officials had been sent to the Board in support of Dr. Kirkpatrick, praising his dentistry.

Mr. Hopper commented that all human beings make mistakes including physicians, surgeons, and lawyers. He stated that all of these people lose lives but seldom lose their license unless it has been determined that the loss of life was intentional. He submitted to the Board that there is no greater charge than to have a patient die in one's office or practice. Mr. Hopper reiterated that Dr. Kirkpatrick sought out and completed the continuing education in anesthesia/sedation on his own as that is how serious he has taken this issue. He stated that Dr. Kirkpatrick has taken steps to ensure that this never happens again and willingly would do more.

Mr. Hopper indicated that the Board has a wide latitude of sanctions available, but stated that suspension would serve no purpose since the Board has allowed him to

continue practicing during the year since this incident occurred without incident or damage to another patient. He stated that Dr. Kirkpatrick has been referred to as the "gentle giant". He stated that he has known Dr. Kirkpatrick for sixteen to seventeen (16-17) years in handling his business matters.

In conclusion, Mr. Hopper asked that the Board consider keeping Dr. Kirkpatrick in practice as it would not be in the best interests of the community to revoke his license.

**BARBARA J. PFEIFFER, ESQ.**

Barbara J. Pfeiffer, Esq., Assistant Attorney General, addressed the Board by stating that the letters that Mr. Hopper referred to from patients and county officials had not been presented as evidence at the Hearing and therefore could not be submitted at this time.

Ms. Pfeiffer stated that she had with her the empty carpules and the mask that were used to administer prilocaine to the patient in this case, a two and a half (2 ½) year old child. She also had an aspirating syringe similar to the one used by Dr. Kirkpatrick. She said that each carpule held the standard amount of prilocaine and then demonstrated how each carpule is loaded into the syringe and then injected into the patient.

Ms. Pfeiffer stated that Mr. Hopper stated in his Objections of Respondent to Hearing Examiner's Report and Recommendations (Objections) that Dr. Kirkpatrick administered the anesthetic to the patient believing it to be his "anesthetic of choice", xylocaine [also known as lidocaine], when in fact in Dr. Kirkpatrick's testimony he stated otherwise. Ms. Pfeiffer read from the following from the transcript of the hearing:

Q: Why did you choose to administer prilocaine in this instance?

A: Prilocaine has a neutral pH and sometimes doesn't sting patients as much.

Q: Do you typically use prilocaine on children?

A: I had used it over the last five years on some children, yes.

Q: At what point did you decide to use prilocaine on this child?

A: We had talked about it after his initial examination because we knew he was an apprehensive patient and we thought it might help the situation and not cause him to be any more distraught than he already was.

(Tr. p. 62)

Q: Okay. Did you ever intend to use Xylocaine [also known as Lidocaine]?

A: Xylocaine is my anesthetic of choice. I would have preferred to use Xylocaine, yes.

Q: My question is though did you intend at some point to use Xylocaine on this particular patient at some point?

A: No.

(Tr. p. 63)

Q: Were you even familiar with the dosage recommendation for children with respect to prilocaine?

A: Yes.

Q: Why didn't you follow this recommended dosage?

A: I knew I was pushing the limit of anesthetic. I wanted to help that child and get those teeth out of there.

Q: So you knew you were pushing the limit of anesthesia in this child?

A: Yes.

Ms. Pfeiffer went on to explain that Hearing Exhibit N is a chart created for the use of in office anesthesia for lidocaine and the dosage sets forth that at most two (2) carpules would have been indicated as a maximum for a patient of this weight. She questioned that if two (2) carpules were indicated as the maximum, why then did Dr. Kirkpatrick choose to administer five (5) carpules? She stated that in testimony he admitted to pushing the limit of the anesthetic. Ms. Pfeiffer further explained that Exhibit 12 was the package insert for prilocaine, which stipulates the recommended dosages, and specifications for children. She stated that Dr. Kirkpatrick used three (3) times the recommended dosage in this case based on the maximum recommended dosage on the package insert. Ms. Pfeiffer said that Dr. Kirkpatrick testified that he was familiar with this insert and had read it within the six (6) months prior to this incident in order to keep up with any changes regarding its use. Therefore, she suggests that remediation on the use of these anesthetics is irrelevant because Dr. Kirkpatrick knew what was appropriate and chose to ignore that in this case and administered three (3) times the recommended dose.

Concluding, Ms. Pfeiffer stated that all of this clearly indicates recklessness on Dr. Kirkpatrick's part. She stated that Dr. Kirkpatrick exhibited a willful disregard and showed intent when he used three (3) times the recommended dosage of anesthetic in this case. She urged the Board members to take the time to consider that the recommended sanction of revocation of Dr. Kirkpatrick's license to practice dentistry is within the guidelines. She stated that it is the Board members duty to protect the public and urged them to consider this in their deliberations.

### 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 E. Kirkpatrick, D.D.S.*

Dr. Kyger informed those in attendance that approximately one to two (1-2) months ago she had received a telephone call from Dr. Kirkpatrick. She stated that she was unaware of the current investigation by the Board, that they had exchanged pleasantries, and that Dr. Kirkpatrick has asked if she knew him by name. Dr. Kyger stated that when she informed Dr. Kirkpatrick that she did not know him by name, he commented "You will in the future."

Dr. Kyger indicated that she is a personal friend of Dr. Kirkpatrick's counsel, John Hopper, Esq. but was unaware of his representation until the beginning of the discussions today.

Dr. Kyger assured her fellow Board members and those in attendance that neither Dr. Kirkpatrick's telephone call, nor the friendship with his counsel will bias her decision with regards to this matter.

Roll call vote.

Motion carried unanimously.

Dr. Hills did not attend the executive session.

### OPEN SESSION

The Board resumed open session at 3:32 p.m.

**DECISION IN THE MATTER OF JAMES E. KIRKPATRICK, D.D.S.**

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

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

*Motion by Dr. Beckwith, second by Ms. Naber, that Charges in the matter of James E. Kirkpatrick, D.D.S. are found to be true.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

*Motion by Dr. Vesoulis, second by Dr. McDonald, that the Hearing Examiner's recommended order be approved as follows:*

*It is hereby ORDERED:*

*The license of JAMES E. KIRKPATRICK, DDS to practice dentistry in the state of Ohio is REVOKED.*

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

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

**REPORT AND RECOMMENDATION IN THE MATTER OF HOWARD E. SPERBER, D.D.S.**

Dr. Hills announced that the Board would now consider the Hearing Officer's Report and Recommendation in the matter of Howard E. Sperber, D.D.S. that was filed by Hearing Examiner, Christopher B. McNeil, Esq., on October 1, 2005. He stated that Objections to the Report and Recommendation were filed by Dr. Sperber on October 18, 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 Howard E. Sperber, 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 the Objections to the Report and Recommendation in the matter of Howard E. Sperber, 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 stated that there was no court reporter present and that the Board minutes would serve as the official record of the proceedings. Dr. Hills then asked if Dr. Sperber or his attorney were present. Noting no response, Dr. Hills stated that the Board would proceed to the last Report and Recommendation and consider both matters at once during the executive session.

**REPORT AND RECOMMENDATION IN THE MATTER OF KATINA M. SIBCY,  
DENTAL ASSISTANT RADIOGRAPHER**

Dr. Hills announced that the Board would now consider the Hearing Officer's Report and Recommendation in the matter of Katina M. Sibcy, Dental Assistant Radiographer, that was filed by Hearing Examiner, Christopher B. McNeil, Esq., on September 2, 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 Katina M. Sibcy.

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 the Objections to the Report and Recommendation in the matter of Katina M. Sibcy?

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 stated that there was no court reporter present and that the Board minutes would serve as the official record of the proceedings. Dr. Hills then asked if Ms. Sibcy or her attorney were present. Noting no response, Dr. Hills proceeded by asking if the State's Assistant Attorney General wished to make any comments.

***BARBARA J. PFEIFFER, ESQ.***

Ms. Pfeiffer addressed the Board by stating that she had spoken with Ms. Sibcy prior to the hearing regarding submitting comments. She stated that Ms. Sibcy does not dispute the charges in this matter. Ms. Pfeiffer explained that while working for Dr. Dine she embezzled \$150,000, was charged and convicted of grand theft and forgery, and was ordered to pay restitution to Dr. Dine in the amount of just under \$40,000.

Ms. Pfeiffer said that what is troubling in this matter was the fact that Ms. Sibcy had commented that her "career to that point was unblemished". Ms. Pfeiffer indicated that Ms. Sibcy took several years in which to embezzle this amount of money and yet felt that she had done nothing wrong until she was actually caught.

Ms. Pfeiffer concluded by informing the Board that this case was tried by one (1) of the interns in the Attorney General's Office and felt that the intern did a very good job on this case.

**EXECUTIVE SESSION**

***Motion by Dr. McDonald, second by Ms. Naber, 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 recommendations filed in the matters of Howard E. Sperber, D.D.S. and Katina M. Sibcy, Dental Assistant Radiographer.***

Roll call vote.

Motion carried unanimously.

Dr. Hills did not attend the executive session.

### **OPEN SESSION**

The Board resumed open session at 3:45 p.m.

### **DECISION IN THE MATTER OF HOWARD E. SPERBER, D.D.S.**

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

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

*Motion by Dr. Beckwith, second by Ms. Naber, that the Charges in the matter of Howard E. Sperber, D.D.S. are found to be true.*

Roll call vote:

- Dr. Armstrong – Yes
- Dr. Beckwith – Yes
- 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 – Absent

Motion carried.

*Motion by Dr. Vesoulis, second by Dr. Murphy, that the Hearing Examiner's recommended order be amended and approved as follows:*

*It is hereby ORDERED:*

1. *The license of HOWARD SPERBER, D.D.S. to practice dentistry in the state of Ohio is INDEFINITELY SUSPENDED for a minimum of three (3) months.*
2. *DR. SPERBER shall immediately refer all of his patients who may need treatment within that time period to other practitioners.*
  - A. *DR. SPERBER may not perform dentistry or dental hygiene duties or otherwise treat patients during the period of active suspension.*
  - B. *A receptionist may answer the phones with "Dr. Sperber's Office", or the name of the practice, for the sole purpose of answering questions, scheduling/rescheduling appointments, and making referrals.*
  - C. *DR. SPERBER may not receive any income either from a legal or a beneficial interest in the dental practice during the period of active suspension.*
3. *The Board shall not consider REINSTATEMENT of DR. SPERBER's license to practice unless and until all of the following requirements are met:*
  - A. *DR. SPERBER shall submit an application for reinstatement, accompanied by appropriate fees. DR. SPERBER shall not make application until his minimum three (3) month suspension has been completed, and he shall appear before the Board on his request for reinstatement.*
  - B. *DR. SPERBER shall complete, to the satisfaction of the Board, eighty (80) hours of continuing education in dental ethics at an American Dental Association accredited college of dentistry, approved in advance by the Board Secretary. These hours shall be in addition to the forty (40) hours necessary for renewal.*
  - C. *DR. SPERBER shall take and pass the Jurisprudence examination. This examination shall be taken at the office of the BOARD and shall be closed-book.*
4. *Once reinstated, DR. SPERBER'S license to practice dentistry shall be subject to the following PROBATIONARY terms, conditions and limitations for a period of not less than three (3) years:*
  - A. *DR. SPERBER shall submit quarterly declarations under penalty of Board discipline stating that he is in compliance with the terms of this Order.*

- B. DR. SPERBER shall appear for interviews before the Board or its designee as requested by the Board.*
- C. DR. SPERBER agrees that she will automatically be audited for the next three (3) biennial renewal periods*
- D. DR. SPERBER shall obey all federal, state and local laws, and all rules governing the practice of dentistry in Ohio.*

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

Discussion followed wherein Dr. Beckwith stated that the modifications reflect consistency in recent decisions in similar cases.

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

**DECISION IN THE MATTER OF KATINA M. SIBCY, DENTAL ASSISTANT RADIOGRAPHER**

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

Dr. Hills then questioned, “Is there a motion concerning the Hearing Examiner’s Report and Recommendation?”

*Motion by Dr. Beckwith, second by Ms. Wise, that the Charges in the matter of Katina M. Sibcy are found to be true.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

*Motion by Dr. Vesoulis, second by Dr. Murphy, that the Hearing Examiner's recommended order be approved as follows:*

*Motion by Dr. Vesoulis, second by Dr. McDonald, that the Hearing Examiner's recommended order be approved as follows:*

*It is hereby ORDERED:*

*The license of KATINA M. SIBCY to practice as a dental assistant radiographer is REVOKED.*

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

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

## **PERSONAL APPEARANCE(S)**

### **MELISSA LAVANCE, DENTAL ASSISTANT RADIOGRAPHER**

Ms. Hockenberry informed the Board members that this is Ms. LaVance's second appearance before them subsequent to completing treatment. She stated that Ms. LaVance had originally been charged with falsification of her initial application for a Dental Assistant Radiographer license.

Upon questioning by the Board as to how she felt and whether everything was back to normal, Ms. LaVance responded "Yes."

When asked whether she is in aftercare and what does she do with her days, she stated that she attended Laurelwood Hospital in Cleveland for her aftercare during the summer.

Board members asked if she has a core support of family and friends. Ms. LaVance said that she has had the same sponsor for two (2) years this Halloween, since her OMVI. She stated that this has been her main support but that she has three (3) other sponsors that she uses along with her family support.

When asked if she has plans for work if reinstated, she said that she is still looking for work as a full-time healthcare provider but is currently not working.

The Board members asked if Ms. LaVance was currently in any type of aftercare program. She stated that the Board asked her to attend Alcoholics Anonymous (AA) meetings three (3) times a week and therefore she has been attending them for the past two (2) years. When asked if she felt this was a positive experience, Ms. LaVance said that she would rather attend an Al-Anon meeting instead. She then explained that she liked the people in a twelve-step program better since the group at AA was not as nice.

Ms. Hockenberry informed the Board members that the copies of additional information requested from Ms. LaVance at the last Board meeting have been included in their Board notebooks for follow-up purposes.

Dr. Kyger asked Ms. LaVance what medications she was currently taking. Ms. LaVance responded that she was taking 100 mg of the anti-depressant, Zoloft. Dr. Kyger asked if she was taking any other medications, to which she responded "No."

Dr. Kyger asked Ms. LaVance if she was taking the prescription drug Topamax, to which Ms. LaVance responded "Yes. I forgot. I think 100 mg used for migraines." Dr. Kyger asked if she was taking anything else for the migraines. Ms. LaVance stated that she had supplied a list of medications and asked if the Board had them. Dr. Kyger asked if she knew the names of the medications that Ms. LaVance was currently taking and for what reasons were they prescribed. Ms. LaVance stated that she was taking the anti-depressant Zoloft and Topamax and/or Imitrex for the migraines.

Dr. Vesoulis stated that it appeared as though Ms. LaVance was doing better and concluded the discussions by calling for a vote.

*Motion by Dr. Vesoulis, second by Dr. McDonald, to reinstate Ms. LaVance's license to practice as a dental assistant radiographer in the State of Ohio pursuant to the terms set forth in her consent agreement with the Board.*

Roll call vote: Dr. Armstrong – No  
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 – No  
Dr. Wright – Yes

Motion carried.

**GINA THORNBERRY, R.D.H.**

Ms. Hockenberry informed the Board that this was Ms. Thornberry's initial appearance before the Board subsequent to signing her consent agreement in June of 2000. She stated that Ms. Thornberry had pled guilty to eighteen (18) counts of Deception to Obtain Dangerous Drugs and six (6) counts of Illegal Processing of a Drug Document in early 1999. Ms. Hockenberry stated that Ms. Thornberry had received her

treatment for impairment at Hazelden Foundation in Minnesota, has completed a dental hygiene refresher course, and has had a tough way to go in becoming compliant and remaining sober.

Ms. Thornberry thanked the Board for allowing her appearance today and stated that she is doing well after twenty (20) months of sobriety. She stated that it has been difficult for her to work through the twelve-steps on a daily basis but has succeeded with the love and support of her family.

When questioned by the Board regarding a recent drug screening, Ms. Thornberry explained that she had left town on a Thursday for a family issue and returned on Monday to find that they had contacted her for a random “drop” that previous Thursday after she had left. She stated that she had contacted Board Investigator, Mike Flugge, to let him know what had occurred and that from this point on she would be very “reachable” and will let him or the Board know when she is going out of town. She stated that she felt that this incident had been a communication error on her part.

When questioned by Dr. Beckwith, Ms. Thornberry stated that opiates were her drug of choice. She stated that she had begun using them while working in an oral surgeon’s office. Ms. Thornberry explained that the office manager had offered her something to take care of cramps one day and she had experienced such euphoria that it led to other drugs and eventually her demise. She stated that she had eventually gone from taking Vicodin to taking Heroin.

Upon questioning by the Board, Ms. Thornberry expressed her hopes to find a dentist to work for who is open-minded about her history. She stated that she feels that she would be setting herself up for failure if she worked for someone whom she could not tell about her past experience.

Dr. Murphy warned Ms. Thornberry against the Board’s experience with impaired individuals and that they take a dim view on those that do not comply with their aftercare. He reiterated that the Board is extremely suspicious about impaired individuals as they tend to be manipulative.

Dr. Hills thanked Ms. Thornberry for appearing before them today and stated that he would like for her to return in December.

**MARK G. ADLER, D.D.S.**

Ms. Hockenberry informed the Board that this was Dr. Adler’s initial visit with the Board since he was charged on August 2, 2005 with two (2) counts of Deception to Obtain a Dangerous Drug. She stated that he has completed his inpatient treatment and

discharged on October 2, 2005 from Laurelwood Hospital Recovery Services and is currently in the midst of his aftercare.

Dr. Adler said that this all began due to a number of health issues which caused him to seek treatment for pain. He stated that once he was out of pain he did not follow up with his treating physician to get to the bottom of the problems. He informed the Board that after one (1) year of treatment from his physician he began to self-medicate.

Upon questioning by the Board, Dr. Adler explained that he had obtained Vicodin for self treatment of pain in his knees and feet due to arthritis and past trauma. He stated that he is currently taking Daypro as prescribed treatment for the arthritis that his Rheumatologist recommended for his back and wrist pain. He stated that he has seen an Orthopedic surgeon regarding possible surgery on his wrist due to an occupational problem from dentistry and now may be forced to go on disability.

When questioned as to whether he felt he had a problem before becoming addicted to the pain medications, Dr. Adler indicated that he drank socially over the years but had cut back due to the alcohol exacerbating the pain in his legs due to gout. He indicated that he has been sober for ninety (90) days and has recognized early on that he has a depression problem, predisposition for addiction due to low self-esteem and indecisiveness which all led to his addiction problems.

Dr. Adler explained that he spends his days swimming part-time, babysitting, reading and organizing his life. When asked how his practice is doing, he responded that it is just scraping by with having a friend seeing emergency patients.

Dr. Vesoulis stated that since this was Dr. Adler's first appearance before the Board they would like for him to return to discuss this with the Board during the January meeting. He suggested that Dr. Adler keep on the path to recovery in the meantime.

## **REVIEW OF PROPOSED CONSENT AGREEMENT(S)**

The Board reviewed two (2) 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.

**KEITH M. BRAM, D.D.S.**

*Motion by Dr. Murphy, second by Dr. McDonald, to approve the proposed consent agreement for Keith M. Bram, D.D.S., license number 30-01-9335.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

MICHAEL C. SOULT, D.D.S.

*Motion by Dr. Murphy, second by Dr. Wright, to approve the proposed consent agreement for Michael C. Soult, D.D.S., license number 30-01-3986.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

## REVIEW OF PROPOSED VOLUNTARY SURRENDER OF LICENSE(S)

The Board reviewed two (2) proposed voluntary surrender of licenses. 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.

### WILLIAM E. BEACHAM, D.D.S.

*Motion by Dr. Murphy, second by Ms. Wise, to approve the proposed voluntary surrender of licenses for William E. Beacham, D.D.S., license number 30-01-4044 and Nicholas J. Tomasi, D.D.S., license number 30-01-4168.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

## REVIEW OF PROPOSED NOTICE(S) OF OPPORTUNITY FOR HEARING

The Board reviewed four (4) Notices of Opportunity for Hearing. 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. Murphy, second by Dr. McDonald, to approve the proposed notice of opportunity for hearing and forward it to Lena R. Freeman, license number 51-00-7797, and case number 05-18-0517.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

**JAMES E. KIRKPATRICK, D.D.S.**

*Motion by Dr. Murphy, second by Ms. Leshner, to approve the proposed notice of opportunity for hearing and forward it to James E. Kirkpatrick, D.D.S. license number 30-01-9110, case number 04-84-0494.*

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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.

JOHN Y. LU, D.D.S.

*Motion by Dr. Murphy, second by Ms. Lesher, to approve the proposed notice of opportunity for hearing and forward it to John Y. Lu, D.D.S. license number 30-02-0180, case number 05-43-0542.*

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

MICHAEL J. MISENCIK, D.D.S.

*Motion by Dr. Murphy, second by Ms. Lesher, to approve the proposed notice of opportunity for hearing and forward it to Michael J. Misencik, D.D.S. license number 30-01-8257, case number 04-18-0587.*

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

## ENFORCEMENT UPDATE

Ms. Hockenberry informed the Board that there were currently four (4) cases pending hearings, of which all have been scheduled. We currently have one (1) case under appeal and two (2) cases are pending the Hearing Officers Report and Recommendation. Currently we have one (1) case wherein no hearing was requested and twenty-seven (27) 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 so we still have five (5) cases pending QUIP. Ms. Hockenberry stated that fifty-four (54) 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:

00-89-732	CE Audit	05-18-0477	Infection Control/Warning
04-18-0294	Standard Of Care/Warning	05-18-0480	Standard Of Care
04-25-0343	Fraud	05-18-0515	Standard Of Care
04-25-0354	Standard Of Care	05-18-0624	CE Audit/Warning
04-25-0583	Standard Of Care	05-21-0456	Release Of Records/ Abandonment
04-25-0607	CE Audit	05-25-0271	Standard Of Care
04-48-0495	Adverse Occurrence/Warning	05-25-0316	Standard Of Care
05-07-0266	Fraud	05-25-0352	Standard Of Care/Warning
05-12-0435	Informed Consent	05-25-0444	Records
05-15-0622	CE Audit/Warning	05-25-0475	Standard Of Care
05-18-0144	Standard Of Care	05-25-0507	Informed Consent
05-18-0249	Standard Of Care	05-25-0543	Abandonment/Fraud
05-18-0317	Standard Of Care	05-25-0564	Advertising
05-18-0359	Continuing Education Audit	05-31-0383	CE Audit
05-18-0449	Standard Of Care	05-31-0625	CE Audit/Warning
05-18-0471	Standard Of Care/Warning		

05-33-0454	Informed Consent/Insurance Fraud	05-64-0621	CE Audit/Warning
05-43-0300	Abandonment	05-67-0366	Standard Of Care
05-43-0623	CE Audit/Warning	05-76-0106	Fraud
05-48-0280	Fraud	05-76-0430	Standard Of Care
05-48-0422	Unlicensed Practice	05-76-0551	Standard Of Care
05-48-0470	Permitting/Warning	05-77-0338	Lewd And Immoral Conduct
05-48-0489	Standard Of Care	05-77-0348	Improper Billing
05-50-0140	Standard Of Care/Fraud	05-78-0183	Standard Of Care
05-50-0252	Standard Of Care	05-78-0237	Standard Of Care
05-51-0620	CE Audit/Warning	05-85-0176	Standard Of Care
05-59-0516	Standard Of Care	05-87-0201	Standard Of Care
05-64-0509	Fraud		

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 - Abstain  
Dr. Howard – No  
Dr. Kyger – No  
Mr. Landes – 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 and approve the enforcement report.

***Motion by Ms. Naber, second by Dr. Murphy, to approve the enforcement report and close the above fifty-four (54) cases.***

Roll call vote: Dr. Armstrong – Yes  
Dr. Beckwith – Yes  
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. Vesoulis thanked Ms. Hockenberry for the Enforcement Report.

## **ANESTHESIA COMMITTEE REPORT**

### **REVIEW OF PROVISIONAL GENERAL ANESTHESIA PRIVILEGES**

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

Dr. Kristen Zitterell - Columbus, Ohio

### **REVIEW OF PROVISIONAL CONSCIOUS SEDATION PRIVILEGES**

Dr. Murphy reported that the following individuals have applied for Conscious Sedation permits. He explained that the Anesthesia Committee has reviewed the applications and the applicants are recommended to receive provisional privileges:

Dr. Kyle D. Amspaugh - Findlay, Ohio  
Oral for children 12 years or younger

Dr. Paige m. Prather - Wheelersburg, 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. Jeffrey S. Lee - Zanesville, Ohio

## REVIEW OF CONSCIOUS SEDATION PERMIT APPLICATION(S)

Dr. Murphy stated that the following individuals have applied for Conscious Sedation permits. He explained that the Anesthesia Committee has reviewed the applications, an evaluation was completed and the applicants are recommended to receive permits:

Dr. Nimisha Somaiya, Dayton, Ohio  
Intravenous

Dr. Bradley R. Welsh, Millersburg, Ohio  
Intravenous

*Motion by Dr. Murphy, second by Ms. Naber, to accept the Anesthesia Committee recommendations and approve Dr. Bianco's application to receive an anesthesia permit.*

Roll call vote

Motion carried unanimously.

*Motion by Dr. Murphy, second by Dr. Armstrong, to accept the Anesthesia Committee recommendations and approve the above anesthesia and conscious sedation permit applicants to receive privileges for the appropriate modality.*

Roll call vote

Motion carried unanimously.

## **EDUCATION COMMITTEE REPORT**

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

Dr. Howard stated that the following individual/organization has applied for approval as a biennial sponsor of continuing education for the years 2004-2005 and has been recommended for approval by the Education Committee:

J. Richard Schleder, D.D.S., M.S.

### **REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR APPLICATION(S) FOR 2006-2007**

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:

Blue Ash Oral & Maxillofacial Surgery, Inc.  
CE Space LLC  
Frank E. Cordray, D.D.S., M.S.  
Dental Seminars & Symposia

### **REVIEW OF BIENNIAL CONTINUING EDUCATION SPONSOR RENEWAL APPLICATION(S)**

Dr. Howard stated that the following individual/organization has applied for approval as a biennial sponsor of continuing education for the years 2006-2007 and has been recommended for approval by the Education Committee:

O.K.I. Study Club

### **REVIEW OF REQUIRED CONTINUING EDUCATION COURSE(S) CORONAL POLISHING FOR THE CERTIFIED DENTAL ASSISTANT**

Dr. Howard stated that the following individuals/organizations have submitted requests for approval of coronal polishing training courses for certified dental assistants. Dr. Howard stated that they have been reviewed and are recommended for approval by the Education Committee:

Cerritos College – California  
My Dentist, School for Dental Assistants – California

### **DENTAL HYGIENE MEDICAL EMERGENCY RECOGNITION**

Dr. Howard stated that the following organization has submitted a course for approval for the dental hygiene medication emergency recognition course required for dental hygienists who intend to practice while the dentist is not present. She stated that the Education Committee has recommended the following course for approval:

Toledo Dental Society - “Medical Urgencies & Emergencies in Dental Practice” by Daniel E. Becker, DDS [video]

### **REVIEW OF SPECIAL REQUEST(S)**

#### **CONTINUING EDUCATION EXTENSION(S)**

Dr. Howard informed the Board that the Education Committee had a request for extension of continuing education requirement for the 2004-2005 biennium based on unusual circumstance, emergency or special hardship and was recommending the following individual to receive an extension:

Neil D. Eisner, D.D.S., License #30-01-7058 – Extension for current biennium

*Motion by Dr. McDonald, second by Ms. Leshner, to accept the Education Committees recommendations and approve all the above applications and requests.*

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 to continue their review of the rules for 2005. He stated that the Committee had reviewed and made additional amendments to the rules. He stated that the committee would be meeting again next month to further develop amendments to the continuing education rules. He indicated that once the continuing education rule amendments were

agreed upon, the committee would submit their recommendations for Board consideration for filing with the Joint Committee on Agency Rule Review (JCARR).

## **POLICY COMMITTEE REPORT**

### **POLICY SETTING FORTH GENERAL CONSIDERATIONS FOR CLINICAL CONTINUING EDUCATION COURSES FOR DENTAL PROFESSIONALS**

Dr. Beckwith informed the Board members that the Committee had not met today. However, he stated that there was one (1) draft policy for consideration at this time; Policy Setting Forth General Considerations For Clinical Continuing Education Courses For Dental Professionals (Appendix A). He requested Ms. Reitz, who deferred to Ms. Franks, to explain the purpose of this draft policy.

Ms. Franks explained that recently there have been requests from sponsors seeking clarification of the guidelines for providing continuing education courses in a clinical format. She stated that while all clinical continuing education experiences must comply with the Dental Practice Act, the draft policy outlines and clarifies the specific sections with regards to approved sponsors, course content, licensure of instructors and attendees, as well as appropriate facilities for instruction and proper infection control measures.

***Motion by Ms. Leshner, second by Dr. McDonald, to approve the Policy Setting Forth General Considerations For Clinical Continuing Education Courses for Dental Professionals as presented.***

Roll call vote.

Motion carried unanimously.

## **SCOPE OF PRACTICE COMMITTEE REPORT**

Dr. Hills stated that the committee had met earlier that morning to discuss permissible duties for dental auxiliary, specifically the placement of a liquid-type dental dam by certified dental assistants and/or Expanded Function Dental Auxiliaries (EFDA's) along with other issues. He stated that at this time the Committee would like to move forward and request that the Law and Rules Review Committee consider an amendment to the rules to allow the placement of liquid dental dams by qualified dental assistants.

*Motion by Dr. Wright, second by Dr. McDonald, to pursue amendments to the Ohio Administrative Code section 4715-11 to allow the placement of liquid dental dams by certified dental assistants and/or EFDA's.*

Roll call vote.

Motion carried unanimously.

Dr. Vesoulis thanked Dr. Hills for his 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. Vesoulis, second by Dr. McDonald, 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. McDonald, to approve the expense report and approve payment of the September, 2005 Board bills.*

Roll call vote.

Motion carried unanimously.

### **EXECUTIVE DIRECTOR'S REPORT**

#### **AMERICAN ASSOCIATION OF DENTAL ADMINISTRATORS REPORT**

Ms. Reitz explained that she had provided copies for Board members of her report from the American Association for Dental Administrators meeting in October for their review. She briefly commented that the presentation by Donna Mooney, R.N. of the

North Carolina Board of Nursing was interesting regarding Generational Issues. Ms. Reitz said that depending on the generation of the licensee involved, certain responses or reactions and attitudes could be anticipated and that this information could be helpful to Boards in dealing with individuals in various areas, primarily discipline.

## **AMERICAN BOARD OF DENTAL EXAMINERS – MEMORANDUM OF UNDERSTANDING**

Ms. Reitz informed the Board members that a copy of the cover letter from the attorneys representing the American Board of Dental Examiners (ADEX) had been provided in the Board notebooks along with a signed copy of the “Memorandum of Understanding” between the Board and ADEX. She stated that she was recommending the Board move forward with this in the hopes that other states will come on board. She stated that at the recent Public Advocacy Committee meeting, discussions regarding the ongoing progress was discussed and there were many unanswered questions, but they are working toward resolving all the issues. Ms. Reitz stated that currently there are thirty to forty-two (30-42) states on board with the ADEX national examination.

## **HOUSE BILL 117 AND HOUSE BILL 143**

Ms. Reitz stated that there are still two (2) bills currently in the House of Representatives and the Senate that involve the Dental Board. She stated that House Bill 117 regarding alternative healthcare and its impact on unlicensed practitioners performing services has passed the House considerations and now moves forward to the Senate for testimony and consideration.

Ms. Reitz indicated that House Bill 143 regarding local anesthesia for the qualified dental hygienist, registration for expanded function dental auxiliary and certification, as opposed to licensure, for the dental assistant radiographer has passed the House of Representatives. She stated that it has moved forward in the process and has been assigned to the Health, Human Services and Aging Committee for testimony and consideration. Ms. Reitz stated that the bill also includes new language to change the construction of the Board, specifically regarding the appointment of specialists to the Board. She informed the members that the language specifies that the two (2) member specialists on the Board may not represent the same specialty nor can the specialty be represented for more than one (1) term. Ms. Reitz stated that she has already provided written testimony in opposition to this specific language and will continue to argue against this issue during the Senate testimony.

## **ANYTHING FOR THE GOOD OF THE BOARD**

### **INVESTIGATIVE SUBPOENAS**

Ms. Hockenberry distributed copies of a new document she has developed, Investigative Subpoenas (Appendix B), which is a fact sheet on frequently asked questions to be distributed with investigative subpoenas sent to a licensee. She stated that this document was developed to help clarify many of the questions that are asked of the investigators by office staff once a licensee receives a subpoena.

Several Board members commented that this was a terrific idea and could help with questions received.

### **RECORD RETENTION**

Ms. Hockenberry briefly discussed the newest technology installed in the Board executive office for the record retention project. She noted that she had e-mailed several documents to the Board members prior to the meeting, since this was an added feature to the scanning/retrieving software.

### **REPORT AND RECOMMENDATIONS**

Dr. Hills expressed to the members that there were several highly sensitive cases that had been decided today. He stated that many of the members and staff may be approached by legislators and news people regarding comments and suggested that all questions or discussions should be referred to Ms. Reitz.

### **ADJOURN**

The Board meeting was adjourned at 4:41 p.m. The next meeting will be on December 7, 2005 beginning at 1:00 p.m.

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Paul Vesoulis, D.D.S.  
*President*

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

## APPENDIX A

## **POLICY SETTING FORTH GENERAL CONSIDERATIONS FOR CLINICAL CONTINUING EDUCATION COURSES FOR DENTAL PROFESSIONALS**

Preamble: The purpose of this policy is to set forth general guidelines and considerations that should be taken into account when offering, teaching and/or participating in continuing education courses that afford the opportunity to practice on live patients.

All continuing education (CE) courses must comply with applicable laws and rules set forth in the Dental Practice Act. Factors to consider when teaching or participating in a clinical continuing education course are as follows:

### Sponsors:

All CE courses must be provided through a Board approved Sponsor (see Ohio Revised Code 4715.141(B) and Ohio Administrative Code sections 4715-8-02).

### Content:

Course content must relate to the practice of dentistry and meet the Board's requirements as set forth in the Dental Practice Act (see ORC 4715.141(A), and OAC 4715-8-01).

### Licensure:

The Dental Practice Act sets forth criteria for educators and participants depending on what topics are being taught and whether actual dentistry is being performed, and if so, whether live patients are being utilized (see ORC 4715.16(C)(2) and 4715.34). Ohio Revised Code §4715.09(A) provides: "No person may practice dentistry without a current license from the state dental board. No person shall practice dentistry while the person's license is under suspension by the state dental board." The requirement for licensure also applies to continuing education courses or practicums where live patients are being used. A temporary limited continuing education license may be issued upon application to the board to an individual licensed in another state for the purpose of participating in a clinical dental course in accordance with ORC 4715.16(C)(2). All temporary limited CE licensees must be under the direct supervision of an Ohio licensed dentist.

### Facilities:

Clinical continuing dental education must be provided at a proper clinical facility. Failure to provide dental services, even in a continuing education setting, in a proper clinical facility may result in a standard of care violation, subjecting the licensee to discipline under ORC 4715.30.

Infection Control:

Infection control requirements must be followed in clinical settings when live patients are being utilized for continuing education courses or practicums (see OAC 4715-20-0 through 4715-20-03).

Exemption

Instructors of clinical continuing dental education courses must hold a current Ohio license or fall within one of the exemptions listed in ORC 4715.34. Pursuant to ORC 4715.34, a legal practitioner of dentistry licensed in another state, making a clinical demonstration before a dental society, convention, association of dentists, or dental college is exempt from licensure requirements in this situation. The clinical demonstration must be presented before any grouping of dental personnel in order for the exemption to apply.

(Approved November 2, 2005)

## APPENDIX B

### **Why have my records been subpoenaed or requested? Am I under investigation?**

Your receipt of a subpoena does not necessarily mean that you are the subject of the Ohio State Dental Board's investigation. The Board is charged with the responsibility for investigating complaints against dentists and other licensees. When a complaint concerns the quality of care rendered to a patient, the Board routinely requests records not just from the dentist who is the subject of the complaint, but also from other providers who may have been involved in that patient's care as well. This allows the Board to gain a more complete picture of the patient's situation in order to fairly evaluate the complaint.

### **Am I required to release my records to the Ohio State Dental Board in response to a subpoena?**

Yes. A subpoena is a legal order from the Board that compels you to provide records to facilitate an investigation. Failure to cooperate with a Board investigation, including failure to provide records pursuant to a subpoena, is grounds for the Board to discipline a licensee. The Board may institute court proceedings to enforce the subpoena. Further, HIPPA does not apply to Board requests for information as part of an investigation.

### **Do I need to turn over my original patient records?**

As part of the investigation, the Board routinely reviews treatment records. Oftentimes duplicates of x-rays and treatment records are of poor quality. It is in the best interest of the dentist for the Board to review the best records possible. Accordingly, original patient records are preferred. It is highly recommended that the dentist duplicate at a minimum recent records so that patient treatment will not be interrupted. The Board makes every effort to finalize the investigation and return the original records as quickly as possible.

### **Who is the complainant and what are they saying?**

Ohio Revised Code Section 4715.03(D) and related statutes require the Board to conduct all of its investigations in a confidential manner and to protect the identity of anyone who files a complaint. For this reason, the Board is prohibited from revealing the identity of the complainant and their actual complaint.

Investigative confidentiality was created by the Ohio General Assembly to encourage people to bring their concerns to the Board's attention without fear of retribution. Of course, not all the complaints filed with the Board are meritorious; some may be unfounded, or even frivolous. In these instances, the confidentiality surrounding the complaint process also serves to protect

dentists from release of unsubstantiated allegations.

### **Do I have any recourse against a complainant? It isn't fair that someone can anonymously file a complaint against me when I don't have an opportunity to defend myself.**

First, remember that just because your records have been subpoenaed doesn't mean that the complaint under investigation was filed against you. The Board often subpoenas records from other treating dentists in order to get a more complete picture of the patient's history and subsequent care.

If you are the subject of the complaint, you need to know that the complainant has civil immunity and cannot be sued successfully on the basis of a good faith allegation. If, following the investigation, the complaint rises to the level necessary to support formal disciplinary action, the Board will not – and legally cannot – take action against your license without giving you an opportunity to be heard.

### **How likely is it that the subject of a complaint will face formal disciplinary action?**

Although almost all of the more than 700 complaints the Ohio State Dental Board receives in a given year undergo some degree of investigation, most will not result in formal disciplinary action. Reasons that the board

might choose to close a complaint without formal action include lack of jurisdiction and insufficient basis to support formal charges. A small percentage of complaints result in disciplinary action each year.

### **Do I need an attorney?**

Electing to consult with an attorney is an individual decision.

### **How do I comply with a subpoena for treatment records that I do not have?**

If, for example, your treatment of a patient was limited to hospital care or took place at a facility where you no longer work, you may not have your own records for the patients listed in the Board's subpoena. Or perhaps the record being subpoenaed is for a patient who has never been under your care. In instances such as these, you may respond to the subpoena by writing a letter, signed by you or your records custodian, stating that you have no records for the specified patient along with an explanation as to why you do not have these records. The letter should be received by the Board office by the deadline set forth in the subpoena.

### **If I send in the records by the deadline, do I have to appear at the Board office?**

If you timely submit the requested records prior to the deadline set forth in the subpoena, you do not need to appear at the Board office. If your attendance is still required, you will be notified.

### **I've sent the records in. What happens next?**

A Board investigator may contact you either by phone or stopping by your office to discuss the dental care provided to the patient. Once the initial investigation is complete, the Board investigator will review the information obtained with the Board Secretary, who will determine whether formal administrative action is warranted. If formal administrative action is warranted, a Notice of Opportunity will be issued by the Board relating to the subject of the investigation.

Complaints that do not warrant disciplinary action but still suggest possible practice deficiencies may be referred to the Board's Quality Intervention Program (QUIP). QUIP is a Board evaluation process designed to identify and correct certain practice problems through educational intervention. The program targets such complaints, on the theory that those practices may be improved through guided peer assistance. QUIP is a part of the Board's investigative process. As such, complaints referred to QUIP are confidential.

If the Board Secretary determines that no further investigation or action is warranted, he/she will recommend to the Board that the case be closed at the next regularly scheduled Board meeting, and all records will be returned shortly thereafter.



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## **INVESTIGATIVE SUBPOENAS**

## **FREQUENTLY ASKED QUESTIONS**

**October 2005**