



Douglas A. Ducey,  
Governor

# Arizona State Board of Dental Examiners

“Protecting the Public’s Health”

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## OPEN SESSION MINUTES

### May 7, 2021

Members of the Arizona State Board of Dental Examiners (“Board”) held a meeting at 8:00 a.m. on Friday, May 7, 2021 at the Board’s office in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. The Board met in executive session during its consideration of agenda item VI.G.3 as stated herein.

#### BOARD MEMBERS:

- Anthony Herro, DDS ..... President and Licensed Dentist Member
- Lisa B. Bienstock, DMD..... Vice President and Licensed Dentist Member
- Morgan B. Burg ..... Business Entity Member
- Edward H. Christensen, DDS ..... Licensed Dentist Member
- Aditya Dynar, Esq..... Public Member
- Tamer El-Gendy..... Licensed Dentist Member
- Nick Goodman ..... Public Member
- Marilyn J. McClain, RDH..... Licensed Hygienist Member
- Russell J. Morrow, DDS ..... Licensed Dentist Member
- Vicki B. Penna, RDH..... Licensed Hygienist Member
- Leslie D. Seaman, DDS ..... Licensed Dentist Member
- Participated virtually
- Absent

#### STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
- Kristina C. Gomez ..... Deputy Director
- Seth Hargraves, Esq ..... Assistant Attorney General
- Sherrie Biggs..... Assistant Deputy Director
- Lisa Schmelling ..... Chief Compliance Officer
- Selena Acuna ..... Compliance Officer
- John W. Dovgan, DDS..... Chief Investigative Consultant
- Julie S. Cutler, DMD ..... Deputy Chief Investigative Consultant

#### GUESTS PARTICIPATING AND/OR PRESENT

- Deborah Kappes ..... Public Commenter
- Leanne Hay ..... Public Commenter
- Clark Chen ..... Public Commenter
- Peter Dang..... Applicant
- Steven Enea..... Applicant
- Dr. James Kakos ..... Respondent
- Scott R. Lee..... Respondent

The Americans with Disabilities Act: Persons with disabilities may request reasonable accommodations, such as sign language interpreters. Requests should be made as early as possible to allow time to arrange the accommodation. This document is available in alternative format upon request.

Susan McLellan .....Attorney for Scott R. Lee  
Leah Schachar .....Attorney for Dr. Lior Berger  
Dr. Lior Berger.....Respondent  
Larry Phan.....Respondent  
Jeff Tonner .....Respondent  
Edgar Valderrama. ....Respondent  
Jeffrey Tonner, Esq. .... Attorney  
Matthew Phillips .....Respondent  
Zachary Hoard .....Attorney for NAME REDACTED  
Jordan L. Morris.....Respondent  
Susan McLellan .....Attorney for NAME REDACTED  
Jeffrey Tonner, Esq.....Attorney for NAME REDACTED  
Eshan Pourshirazi.....Respondent  
NAME REDACTED .....Complainant  
NAME REDACTED .....Complainant  
Janes Goodwin, Esq. ....Attorney for NAME REDACTED  
Jeffrey Tonner, Esq.....Attorney for NAME REDACTED  
NAME REDACTED .....Complainant  
Cody Hall .....Attorney for NAME REDACTED  
Colin Smith .....Respondent  
Shaun Gardner .....Respondent

**I. CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 8:00 a.m. by Heather N. Hardy, The following order of business was then considered:

**II. INTRODUCTIONS OF NEW BOARD MEMBERS AND STAFF**

Ryan P. Edmonson introduced Vicki Penna, Dr. Edward H. Christensen, and Tamer El-Gendy.

**IV. DECLARATION OF CONFLICTS OF INTEREST- A.R.S. § 38-503**

Item 4: Declaration of Conflict of Interest.

Dr. Herro recuses from Case #201900314.

Dr. Bienstock recuses from Agenda 5(e)(1), Case #202000023; Agenda 5(d)(2) Case #202000048; Agenda 5(g)(1) Case #202000199, and Agenda 5(h)(1) Case #201900243.

Dr. Morrow recuses from Case #202000310.

**III. CALL TO THE PUBLIC**

Mr. Clark Chen wishes to renew his license, but is unable to reach anyone to complete the process before the renewal window expires.

**VI. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

A. Application(s) for Licensing of Dentist(s) – A.R.S. § 32-1231 et seq.

1. Dang, Peter H., RDH

The Board raised concerns about information provided previously by Mr. Dang, regarding past personal history and dental assisting positions and clarification requested to verify the information provided by Mr. Dang and former employers. Mr. Dynar reminded the board that a complaint was

opened at the September 2020 meeting. A motion was made by Marilyn J. McClain, seconded by Nick Goodman, and passed unanimously to table consideration of the application pending further investigation into the issues.

2. Enea, Steven A., DDS

Dr. Herro requested information on the Colorado investigation and outcome. Dr. Bienstock inquired about current licensing. A motion was made by Dr. Anthony Herro, seconded by Dr. Russell J. Morrow, and passed unanimously to grant the applicant a dentist license.

3. Kakos, James S., DDS

A motion was made by Marilyn J. McClain, seconded by Dr. Anthony Herro, and passed unanimously to grant the applicant a dentist license.

4. Kwon, Robin Y., DDS

A motion was made by Marilyn J. McClain, seconded by Dr. Russell J. Morrow, and passed unanimously to grant the applicant a dentist license.

D. Review of Investigation(s) – Case(s) Recommended for a Letter of Concern

1. 202000023 Kenny D. Lam

After Board discussion, a motion was made to direct the Respondent to come before the Board for a formal interview by Dr. Russell J. Morrow, seconded by Dr. Anthony Herro. The motion passed unanimously.

2. 202000048; Dr. Emad Gus Khalifa

A motion was made regarding issuing a letter of concern by Dr. Anthony Herro, seconded by Mr. Aditya Dynar, and passed unanimously to grant the applicant a dentist license.

3. 202000222; Dr. Scott Lee

After discussion regarding the 1302 permit and surrounding circumstances, a motion was made to change to a disciplinary consent agreement by Dr. Russell J. Morrow and seconded. Motion passed, with four dissents.

E. Review of Investigation(s) – Case(s) Recommended for Issuance/Offer of Non-Disciplinary Consent Agreements for Continuing Education – A.R.S. § 32-1263.02(F)(3)

1. 201900314; Dr. Lior Berger

After discussion regarding the request for records, allegations, and report information, a motion was made regarding nondisciplinary consent agreement by Dr. Russell J. Morrow, seconded by Marilyn J. McClain, and passed unanimously to grant the applicant a dentist license.

2. 202000029; Dr. Joseph Bull

After discussion regarding the complaint, a motion was made to dismiss the case by Mr. Nick Goodman, seconded by Dr. Anthony Herro, and passed unanimously.

3. 202000041; Larry Phan

After discussion, a motion was made to issue a nondisciplinary consent agreement by Dr. Anthony Herro, seconded by Dr. Russell J. Morrow, and passed unanimously.

4. 202100035; Edgar Valderrama

After discussion, a motion was made to issue a nondisciplinary board order by Dr. Anthony Herro, seconded by Marilyn J. McClain, and passed, with one dissent.

Roll call taken after a break. All members present.

F. Review of Investigation(s) – Case(s) Recommended for Offer of Disciplinary Consent Agreements

1. 201900152; Dr. Matthew David Phillips

After discussion, a motion was made to offer a disciplinary consent agreement by Dr. Anthony Herro, seconded by (?), and passed unanimously.

2. 202000004; Dr. Jack Farrell

After discussion, a motion was made to issue a disciplinary consent agreement by Dr. Anthony Herro, seconded by Marilyn J. McClain, and passed, with one dissent.

3. 202000017; Dr. Sung Lee

After discussion, a motion was made to issue a letter of concern by Dr. Anthony Herro, seconded by Nick Goodman, and passed unanimously.

4. 202000020; Dr. Sung Lee

After discussion, a motion was made to offer a disciplinary consent agreement by Dr. Anthony Herro, seconded by Marilyn J. McClain, and passed, with one dissent.

5. 202000043; Dr. William Choules

After discussion, a motion was made to issue a letter of concern by Dr. Anthony Herro, seconded by Dr. Russell J. Morrow, , with two dissents.

G. Malpractice, Adverse Occurrence Report and/or Disciplinary Action

1. 202000199; Dr. Yung M. Lee

After discussion, a motion was made to dismiss the case by Dr. Anthony Herro, seconded by Nick Goodman, and passed, with one recusal.

2. 202000221; Dr. Jordan L. Morris

After discussion, a motion was made to offer a monodisciplinary consent agreement by Dr. Lisa B. Bienstock, seconded by (?), and passed, with one dissent.

3. 202000310-AO; Nelson, Peter S.

Dr. Russell J. Morrow recused. Dr. Lisa B. Beinstock states she has no conflict on this case and is not recusing herself.

After Board discussion and Executive Session, a motion was made to offer a disciplinary consent agreement, with continuing education, by Nick Goodman, seconded by Dr. Lisa B. Bienstock. The motion, one opposed and one recused.

Roll call taken after a break. All members present.

C. Consideration of State's Motion for Reconsideration of the Board's Decision to File a Complaint and Notice of Hearing for Revocation Agenda-listed Case Numbers; Dr. Barbara S. Ireland (P)

After discussion, a motion was made to rescind the prior action of voting and refer back for further staff review by Dr. Lisa B. Bienstock, seconded by Dr. Anthony Herro, and passed unanimously.

B. Review of Administrative Law Judge's Recommended Decision(s)

1. 201900182; Ehsan Pourshirazi

The Board discussed Hearing and Administrative Law Judge's Recommended Decision,.

Mr. Hargraves reviewed the recommended decision, along with the findings of fact, suggesting corrections and amendments to the decision, followed by discussion of the Board. A motion to accept the Findings of Fact was made by Aditya Dynar, , seconded by (?). The motion passed unanimously.

A motion was made by Dr. Anthony Herro to modify the Conclusions of Law, incorporating amendments made by Mr. Hargraves, and was seconded by Marilyn J. McClain, and was passed, with one dissent.

A motion was made and amended for a one-year license suspension, continuing education, and reapply in one year, and payment of fine as outlined in the statute, by Marilyn J. McClain, and seconded by Dr. Anthony Herro. The motion failed to pass.

A motion was made and amended for a three-month license suspension, non-license continuing education to be completed in six months, and payment of penalty fines and fees within six months, and three-year probation from obtaining a 1301, -2, -3, or -4 permit, by Dr. Russell J. Morrow, and seconded by Dr. Anthony Herro. The motion was tied.

A motion was made for a six-month suspension, non-license continuing education to be completed in six months, and payment of penalty fines and fees within six months, and three-year probation from obtaining a 1301, -2, -3, or -4 permit, by Dr. Lisa B. Bienstock, and seconded by Dr. Anthony Herro. The motion passes 6-4.

A motion was made to clarify that the Board was rejecting the Administrative Law Judge's decision in part and modifying the decision in part, was made by Dr. Anthony Herro, seconded by (?). Motion passes.

Roll call taken after a break. All members present.

H. Review of Investigations

1. 201900243 Southwest GD Dental Corporation

Dr. Lisa B. Bienstock recused. After Board discussion, a motion was made to dismiss the case by Dr. Anthony Herro, seconded by Marilyn J. McClain. The motion passed unanimously, one recused.

2. 202000185 John Maslak

After Board discussion, a motion was made to file a complaint notice of hearing for suspension, pending cooperation by the licensee, and assess a fine for failure to respond, by Dr. Anthony Herro, seconded by Dr. Russell J. Morrow. The motion passed unanimously.

I. Failure to Comply with a Board Interim Order for a Physical Evaluation – A.R.S. § 32-1207(B)(6)

1. 202100060 Dr. Roger L. Jackson
2. 202100061 Rebekah A. Chandler, RDH

After Board discussion, a motion was made to refer the case to the Office of Administrative Hearings for failure to comply with a Board order, by Dr. Russell J. Morrow, seconded by Marilyn J. McClain. The motion passed unanimously.

J. Review of Executive Director Complaint Terminations and Subsequent Complainant Appeals– A.R.S. § 32-1263.03

1. 201900264; Smith, Colin Melville

Dr. Russell J. Morrow recused.

Attorney Cody Hall requested that the Board uphold the Executive Director's recommendation for dismissal of the complaint based upon the reasonableness and necessity of the dental work that was performed.

A motion was made to approve the executive director's termination, by Dr. Anthony Herro, seconded by Marilyn J. McClain. The motion passed unanimously, one recused.

2. 202000301; Gardner, Shaun Patrick

After a discussion, Dr. Russell J. Morrow made a motion to approve the executive director's recommendation for termination, seconded by Marilyn J. McClain. The motion passed unanimously.

**VII. CONSENT AGENDA**

Items A & B cases listed on the agenda. A motion was made by Dr. Russell J. Morrow, and seconded by Marilyn J. McClain, to terminate the listed cases. The motion passed unanimously.

(Audio technical issues for approximately 15 minutes.)

**IX. BOARD RULES ADVISORY GROUP**

Discussion was held on changing the number of members on the group to allow for achieving a quorum easier. Currently four members, proposal is to have five members. A motion to remove Dr. Anthony Herro as a member and add Shawn Murphy (sp) and Deb Cappus (sp) to the committee was made by Dr. Anthony Herro and seconded by Dr. Russell J. Morrow. The motion passed unanimously.

**X. APPROVED LIST – PSYCHOLOGIST EXAMINERS**

A motion was made to approve Jessica Leclerc, PsyD by Dr. Anthony Herro, seconded by Marilyn J. McClain. The motion passed unanimously.

**XI. INVESTIGATION COMMITTEE**

A discussion regarding the establishment of an IIRC (Internal Investigative Review Committee). A motion was made by Dr. Andrew Herro, seconded by Dr. Lisa B. Bienstock. The motion passed unanimously.

**XII. EXECUTIVE DIRECTOR'S REPORT**

A discussion of the budget and agency operations was held. A motion was made to direct staff to work with Dr. Herro and Dr. Bienstock by (?), seconded (?). Vote – (?)

**XIII. SUMMARY OF CURRENT EVENTS**

A discussion was held regarding the rules conforming with statutes for 2022 and license renewals.

**XIV. DISCUSSION REGARDING FUTURE MEETINGS AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS**

A discussion was held regarding future 2022 meeting date scheduling, testing, and setting for further discussion on the next agenda.

**XV. NEXT BOARD MEETING DATE**

June 11, 2021. All meetings will be held as hybrid.

**XVI. ADJOURNMENT**

MOTION: Russell J. Morrow, DDS moved for the Board to adjourn.

SECOND: (?)

MOTION PASSED.

The Board's meeting adjourned.