

Douglas A. Ducey,
Governor

Arizona State Board of Dental Examiners

“Caring for the Public’s Dental
Health and Professional Standards”

1740 West Adams Street, Suite 2470
Phoenix, Arizona 85007
P: 602.242.1492



E: info@dentalboard.az.gov
W: www.dentalboard.az.gov

OPEN SESSION MINUTES

January 28, 2022 Board Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) held a board meeting at the Board’s office, in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. The meeting was also held virtually and telephonically due to the COVID-19 pandemic. The Board met in executive session during its consideration of agenda item IV.B.3 as stated herein.

BOARD MEMBERS

<i>Anthony Herro, DDS</i>	President and Licensed Dentist Member
<i>Lisa B. Bienstock, DMD</i>	Vice-President and Licensed Dentist Member
<i>Morgan B. Burg</i>	Business Entity Member
 <i>Edward H. Christensen, DDS</i>	Licensed Dentist Member
<i>Aditya Dynar</i>	Public Member
<i>Tamer El-Gendy</i>	Licensed Dentist Member
<i>Nick Goodman</i>	Public Member
<i>Marilyn J. McClain, RDH</i>	Licensed Hygienist Member
<i>Russell Jeffrey Morrow, DDS</i>	Licensed Dentist Member
<i>Vicki B. Penna, RDH</i>	Licensed Hygienist Member
X <i>Leslie D. Seaman, DDS</i>	Licensed Dentist Member
 Joined/departed as denoted in the body of the minutes	
X Absent	
<i>Board members in italics participated in-person</i>	

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT

<i>Ryan P. Edmonson</i>	Executive Director
<i>Kristina C. Gomez</i>	Deputy Director
<i>Scott Donald, Esq</i>	Assistant Attorney General
<i>John W. Dovgan, DDS</i>	Chief Investigator
<i>Sherrie Biggs</i>	Assistant Deputy Director
<i>Lisa Schmelling</i>	Chief Compliance Officer
<i>Yazmin Bustamante</i>	Executive Assistant
<i>Jessica Thomas</i>	Rules Administrator
<i>Susie Adams</i>	Program Projects Specialist

Staff members in italics participated in-person

GUESTS PARTICIPATING AND/OR PRESENT

<i>Allexus M. Granado-De La Garza, RDH</i>	Applicant
<i>Chris Winterholler</i>	Respondent
Robert C. Ryan, DDS	Applicant
<i>Kristen Boilini</i>	The Pew Charitable Trusts & Dental Care for Arizona
<i>Deborah Kappes</i>	Arizona Dental Hygienists' Association
<i>Scott Howell</i>	Arizona Oral Health Coalition
<i>Brianna Miller</i>	Arizona Oral Health Coalition
<i>Alida Montiel</i>	Inter Tribal Council of Arizona
<i>Brian Kennedy</i>	Respondent
<i>Susan McLellan, Esq.</i>	Attorney for Respondents
<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
Kelly H. Lee	Respondent
<i>Jared Welch</i>	Respondent
<i>Dina Anagnopoulos, Esq.</i>	Attorney for Respondent
<i>Allan Szeto</i>	Respondent
<i>Leah Schachar, Esq.</i>	Attorney for Respondent
<i>Michele Thompson, Esq.</i>	Attorney for Respondents
<i>Y.L.</i>	Complainant
<i>Bradley Smith</i>	Respondent
<i>W.D.</i>	Complainant
<i>Ilan Shamos</i>	Respondent
Justin Robert Van Dusen	Respondent
<i>Travis Hunt, Esq.</i>	Attorney for Respondent
Zachary Hoard, Esq.	Attorney for Respondent
<i>S.B.</i>	Complainant
<i>John Patterson</i>	Guest
<i>Gail Sciascia</i>	Performance Auditor

Guests in italics participated in-person

I. CALL TO ORDER AND ROLL CALL

Dr. Herro called the Board's meeting to order at 8:03 a.m. Roll call of the Board members was taken and a quorum was established.

II. DECLARATION OF CONFLICTS OF INTEREST – A.R.S. § 38-503

Dr. Bienstock declared conflicts of interest with agenda item nos. IV.B.2 and IV.I.4.

Dr. Morrow declared a conflict of interest with agenda item no. IV.H.1.

Mr. Goodman declared a conflict of interest with agenda item no. IV.F.2.

Dr. El-Gendy declared conflicts of interest with agenda item nos. IV.D.2, IV.F.3 and IV.I.2.

III. REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

A. Discussion and approval of the Open Session Minutes from the December 3, 2021 board meeting.

B. Discussion and approval of the Executive Session Minutes from the December 3, 2021 board meeting.

Motion: Mr. Dynar moved to approve the minutes for agenda items A and B.

Second: Ms. McClain

Vote: 8-aye, 0-nay, 1-abstain, 0-recuse, 2-absent. Motion passed.

Dr. Morrow abstained due to being absent at the December Board meeting.

Dr. Chistensen joined the meeting at 8:07 a.m.

IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

A. Application(s) for Licensing of Dentist(s) or Hygienist(s) – A.R.S. §§ 32-1231 et seq. and 32-1281 et. seq. respectively

1. Granado-De La Garza, Allexus M., RDH

Ms. Granado-De La Garza was available during the Board's consideration of her application for licensure.

Motion: Ms. McClain moved to grant licensure.

Second: Dr. Bienstock

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

B. Review of Investigation(s)

1. 201900091; Winterholler, Chris

Dr. Winterhaller requested that the Board table the matter to have his attorney present.

Motion: Dr. Herro moved to table the matter to a future meeting.

Second: Ms. McClain

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

2. 202000023; 202000256-AO; Lam Kenny D.

Board staff requested direction from the Board to determine the scope of the audit that derived from this matter. The Board considered having the scope of the audit include review of treatment plans and diagnoses by the general dentists to see if there were deviations from the standard of care. In addition, the Board discussed reviewing procedures that entabulate restitution to insurance companies and patients in lue of the use of a sedation code for therapeutic drugs that was being billed for, but not administered. After further discussion, the Board concurred to have a professional from an auditing company provide direction to determine a statistically appropriate percentage of cases to audit.

Motion: Dr. Morrow moved to direct board staff to contact a third party auditing company to discuss the parameters of the audit.

Second: Ms. McClain

Vote: 8-aye, 1-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

Mr. Dynar voted against the motion.

Dr. Bienstock was recused and did not participate in the case.

- A. Application(s) for Licensing of Dentist(s) or Hygienist(s) – A.R.S. §§ 32-1231 et seq. and 32-1281 et. seq. respectively
2. Ryan, Robert C., DDS

Dr. Ryan was available during the Board's consideration of his application for licensure. Dr. Ryan informed the Board of his experience in anesthesia and continuous training taken to be better prepared in anesthesia and explained the circumstances surrounding the adverse occurrence from 2016.

Motion: Dr. Morrow moved to grant licensure.

Second: Ms. Penna

Vote: 9-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Bienstock voted against this motion.

- B. Review of Investigation(s)

3. 202100195; Midwestern University Dental Clinic

Motion: Dr. Herro moved for the Board to enter into executive session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

Second: Dr. Bienstock

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Board entered into executive session at 8:37 a.m.

The Board returned to open session at 9:05 a.m.

No legal action was taken by the Board during executive session.

Motion: Dr. Herro moved to table the matter to a future meeting to allow board staff to continue the investigation without pursuing the subpoena.

Second: Mr. Dynar

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

VII. NOTICES OF PROPOSED RULEMAKING (“NPR”)

Ms. Boilini made a statement to request that the Board reconsider the proposed language for Arizona Administrative Code (“A.A.C.”) R4-11-206 pertaining to CODA accreditation and A.A.C. R4-11-1603 regarding the recommendation to limit the number of direct supervision of dental therapists and requested that it be left at the dentist's discretion. Ms. Boilini further requested that the Board consider adding cultural competency as an option to the continuing education portion of its rules and expressed support to add a reference of the Federal Indian Healthcare Improvement Act to the Board's rule.

Ms. Kappes addressed the Board to comment on A.A.C. R4-11-1601(B), (C) pertaining to the duties and qualifications of a dental therapist. Ms. Kappes stated that requiring a licensed dental assistant to provide additional proof that they can competently administer nitrous oxide analgesia and perform suturing and suture removal is an additional regulatory burden that is not outlined in statute.

Mr. Howell addressed the Board and made a statement to request that the Board consider placing rules pertaining to cultural competency as an option for continuing education.

Mr. Dynar stated that the expressed concerns were previously raised and addressed at the Board Rules Group meetings and indicated that the public will continue to have ample opportunity to voice their concerns through the rulemaking process.

Motion: Mr. Dynar moved to approve the draft NPR with changes to Title 4, Chapter 11, Articles 1, 2, 3, 4, 7, 12, 15 and 16 as was adopted by the Board at the December Board meeting for submission to the Governor’s Regulatory Review Council.

Second: Mr. Goodman.

Ms. Thomas clarified that the current draft NPR included non-substantive changes from the NRP that was approved at the December Board meeting.

Mr. Dynar amended his motion to also adopt the non-substantive grammatical changes that were made to the NPR between the December Board meeting and the current version.

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

C. Review of Investigation– Case(s) Recommended for Dismissal

1. 202100146; Kennedy, Brian

Dr. Kennedy was available to answer questions during the Board’s consideration of the case. Dr. Herro commented that after review of the case he agreed with IIRC’s recommendation for dismissal.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Christensen

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

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

1. 202000206; Thomas, Kyle

The respondent was not available during the Board’s consideration of the matter. The Board proceeded to review the licensee’s written response.

Motion: Dr. Christensen moved to dismiss the case.

Second: Ms. Penna

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

2. 202000214; Jeziorski, Aaron

Ms. McLellan made a statement on behalf of Dr. Jeziorski to request that the Board dismiss the case. Ms. McLellan further provided the Board with copies of pre-amentation x-rays of the patient’s tooth and indicated that the patient and respondent reached a settlement. Dr. Dovgan confirmed that the crown does not have an open margin.

Motion: Dr. Morrow moved to dismiss the case.

Second: Dr. Bienstock

Vote: 9-aye, 0-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

Dr. El-Gendy was recused and did not participate in the matter.

3. 202100154; Chang, Doug

The respondent was not available during the Board's consideration of the matter. Dr. Dovgan proceeded to inform the Board that IIRC found that there was no full mouth x-ray ("FMX") or panoramic x-ray and indicated that a full mouth x-ray series or a comprehensive exam should have been done. The Board discussed upholding IIRC's recommendation for a letter of concern.

Motion: Dr. Herro moved to issue a letter of concern.

Second: Dr. Morrow

The Board further discussed the standard of care for x-rays.

Vote: 8-aye, 2-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Ms. Penna and Mr. Dynar voted against the motion.

E. Review of Investigation(s) – Case(s) Recommended for a Formal Interview(s)

1. 202000201-MP; Walker, Ronald

Ms. McLellan made a statement on behalf of Dr. Walker to request that the Board postpone action and discussion of the case until May to allow Dr. Walker to participate in the matter. Ms. McLellan indicated that a letter from Dr. Walker's healthcare provider was provided to support the request to postpone consideration of the case and further clarified that Dr. Walker is not practicing.

Motion: Dr. Morrow moved to invite the respondent to a scheduled formal interview in May based on the allegations found in the investigation report.

Second: Dr. Herro

Vote: 9-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Mr. Goodman voted against the motion.

2. 202100176; Keeffe, Hugh

Mr. Tonner made a statement on behalf of Dr. Keeffe to accept the recommendation for a formal interview.

Motion: Dr. Herro moved to invite Dr. Keeffe for a formal interview.

Second: Dr. Bienstock

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

F. Review of Investigation(s) – Case(s) Recommended for Issuance of a Non-Disciplinary Order for Continuing Education – A.R.S. § 32-1263.02(F)(3)

1. 202000195; Lee, Kelly H.

Dr. Lee was available to answer the Board's questions pertaining to the treatment done and clarified that there are perio charting records; however, indicated she no longer has access to them since moving out of state. Dr. Morrow revisited the standard of care issues that the consultant listed in the investigative report, which included lack of probings, labeled oral cancer screening, full mouth perio probings, signed informed consent for bridgework and radiographs and photographs. The Board concurred that when a dentist leaves a practice it is difficult to ensure that the entire record is provided for an investigation.

Motion: Dr. Herro moved to issue a letter of concern citing the deviations from the standard of care that the consultant listed.

Second: Dr. Morrow

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

2. 202000197; Welch, Jared

Dr. Welch was available during the Board's consideration of the case. Dr. Welch made a statement and clarified that the chart included that nitrous oxide was prescribed for the phlebotomy, but was not utilized due to being able to manage the patient without it. Dr. Welch also stated that he completed CEs in treatment of oral trauma in an effort to recognize and remedy the situation.

Motion: Dr. Bienstock moved to dismiss the case.

Second: Ms. McClain

Vote: 9-aye, 0-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

Mr. Goodman was recused and did not participate in the matter.

3. 202000208; Denton, Luke

Ms. Anagnopoulos made a statement on behalf of Dr. Denton and informed the Board that Dr. Denton is no longer working in a capacity that requires a dental license. The Board discussed the lack of documentation found in the investigation.

Motion: Dr. Morrow moved to issue a letter of concern for lack of documentation.

Second: Dr. Christensen

Dr. Dovgan concurred that a letter of concern would be appropriate.

Vote: 6-aye, 3-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

Mr. Goodman, Ms. McClain and Ms. Penna voted against the motion.

Dr. El-Gendy was recused and did not participate in the matter.

4. 202000216; Szeto, Allan

Dr. Szeto was available during the Board's consideration of the matter. Ms. McLellan made a statement to address the allegations of the case and explained the circumstances surrounding the discharge of the patient. Dr. Szeto indicated that the patient requested to have his contact information and correspondence sent to his in-laws instead of his residential address. Dr. Dovgan directed the Board's attention to the post-operation x-ray of the bridge and indicated it was IIRC's primary concern of the case. The Board subsequently discussed the standard of care, alternative treatment options and anomalies.

Motion: Ms. McClain moved to dismiss the case.

Second: Ms. Penna

Vote: 5-aye, 5-nay, 0-abstain, 0-recuse, 1-absent. Motion failed.

Drs. Herro, Morrow, Christensen, Bienstock and El- Gendy voted against the motion.

Motion: Dr. Herro moved to issue a letter of concern for cementing prior to healing.

Second: Dr. Bienstock

Dr. Christensen, Ms. McClain and Ms. Penna voted against the motion.

The Board took a break from 10:29 a.m. to 10:50 a.m.

Roll call of the Board members was taken and a quorum was established.

5. 202000236-MP; Thulasidas, Shreedevi

The respondent was not available during the Board's consideration of the matter. The Board proceeded to discuss the case.

Motion: Dr. Morrow moved to issue a letter of concern due to soft tissue damage for lack of supervision for an area that caused trauma to a patient.

Second: Dr. Herro

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

6. 202100157; Zandieh; Hassan

The respondent was not available during the Board's consideration of the matter. Dr. Dovgan proceeded to provide the Board with an overview of the case. The Board subsequently discussed the lack of documentation.

Motion: Dr. Morrow moved to issue a letter of concern due to lack of documentation and x-rays not being as clinically appropriate as necessary.

Second: Dr. Christensen

Vote: 8-aye, 2-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Herro and Mr. Goodman voted against the motion.

7. 202100161; Wilcox, Donald

Ms. Schachar made a statement on behalf of Dr. Wilcox to address the lack of documentation and allegations pertaining to the failed bridge. Dr. Dovgan subsequently indicated that the deviations found in the investigation included lack of perio charting, incomplete series of radiographs, diagnostic with incomplete treatment records, missing consent for crown and bridge and tooth number six had a periapical lesion not treated prior to the crown and bridge treatment. The Board proceeded to discuss the case and expressed concern for the treatment done.

Motion: Dr. Morrow moved to invite Dr. Wilcox to a formal interview to discuss diagnosis, treatment planning, documentation and restorability of teeth in addition to the possible deviations found in the investigation report.

Second: Dr. Herro

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

8. 202100168; Deeb, Andrew

Ms. Thompson made a statement on behalf of Dr. Deeb to address the lack of documentation, acknowledged the lack of chart notes and clarified that the implant was placed at the extraction site. Dr. Dovgan proceeded to provide the Board with an overview of the case. The Board further discussed the possible deviations for lack of documentation and the technicalities of the procedure.

Motion: Dr. Christensen moved to dismiss the case.

Second: Dr. Morrow

Vote: 2-aye, 8-nay, 0-abstain, 0-recuse, 1-absent. Motion failed.

Dr. Herro, Dr. Bienstock, Ms. Burg, Mr. Dynar, Dr. El-Gendy, Mr. Goodman, Ms. McClain and Ms. Penna voted against the motion.

Motion: Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 4 hours in risk management and 3 hours in implants due to non-documented post-operative notes. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

Second: Dr. El-Gendy

Vote: 7-aye, 3-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Chistensen, Mr. Dynar and Dr. Morrow voted against the motion.

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

4. 202100147; Clayton, Tyler

The complainant Y.L. made a statement with the assistance of an interpreter to express the complications experienced after treatment. Ms. Thompson subsequently made a statement on behalf of Dr. Clayton and stated that there were no deviations found in the

investigation, that the patient was ultimately refunded and explained the steps taken to overcome the language barrier.

Motion: Dr. Herro moved to uphold the executive director's termination.

Second: Dr. Christensen

Vote: 8-aye, 1-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

Mr. Goodman voted against the motion.

Dr. Bienstock was recused and did not participate in the matter.

F. Review of Investigation(s) – Case(s) Recommended for Issuance of a Non-Disciplinary Order for Continuing Education – A.R.S. § 32-1263.02(F)(3)

9. 202100190; Smith, Bradley

Dr. Smith was available during the Board's consideration of the case. Dr. Dovgan proceeded to provide the Board with an overview of the case and indicated that there were no radiographs for the denture. Dr. Smith subsequently answered the Board's questions pertaining to the complications with the dentures and the technicalities of the procedure.

Motion: Ms. McClain moved to dismiss the case.

Second: Dr. Herro

Ms. McClain rescinded her motion.

The Board further discussed the matter. Dr. El-Gendy advised Dr. Smith to establish a vertical dimension of occlusion in future procedures. Dr. Smith acknowledged that continuing education would be beneficial to expand his knowledge in dentures.

Motion: Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 3 hours of CE in removable prosthesis and 4 hours in risk management. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

Second: Ms. McClain

Vote: 9-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Mr. Dynar voted against the motion.

10. 202100199; Wallin, Kurt

The complainant W.D. provided the Board copies of estimates for restoration. Board staff clarified that the Board may issue disciplinary action for restitution; however, the Board may not order restoration. The respondent was not available during the Board's consideration of the case. The Board proceeded to review the investigation documents and concurred that it was difficult to determine if the root damage was related to the extraction. After further discussion, it was clarified that Dr. Wallin did not do the extraction.

Motion: Dr. Morrow moved to dismiss the case.

Second: Dr. Christensen

Vote: 7-aye, 3-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Ms. Burg, Mr. Goodman and Ms. Penna voted against the motion.

G. Review of Investigation(s) – Case(s) Recommended for an Offer of a Disciplinary Consent Agreement

1. 202000190; Shamos, Ilan

Dr. Shamos was available during the Board’s consideration of the case and requested clarification pertaining to the case. Board staff explained the complaint process. The Board considered tabling the matter to allow the respondent to obtain legal representation.

Motion: Dr. Herro moved to invite the respondent to a formal interview to address the allegations and potential statutory violations found in the investigation.

Second: Ms. McClain

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

2. 202000192; Van Dusen, Justin Robert

Dr. Van Dusen was available during the Board’s consideration of the case. Ms. Schachar made a statement on behalf of Dr. Van Dusen to address the allegations. Dr. Van Dusen further answered the Board’s questions, elaborated on the patients dental history and the treatment options that were offered. The Board expressed concern for overtreatment due to twenty-one extractions being offered as a treatment option on restorable teeth and Dr. Van Dusen’s election to move forward with the treatment. The Board consensus was that a dentist should protect and educate the public from irreversible outcomes.

Motion: Dr. Herro moved to offer a disciplinary consent agreement requiring the completion of 4 hours of CE in risk management, 3 hours in treatment planning and 3 hours in oral surgery. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions. If declined, the licensee may request a formal hearing.

Second: Mr. Goodman

The Board discussed alternative options for disciplinary action.

Roll call

Dr. Herro- nay

Dr. Bienstock- nay

Ms. Burg- nay

Dr. Christensen- nay

Mr. Dynar- nay

Dr. El- Gendy- aye

Mr. Goodman- abstained

Dr. Morrow- aye

Ms. McClain- nay

Ms. Penna- nay

Vote: 2-aye, 7-nay, 1-abstain, 0-recuse, 1-absent. Motion failed

Motion: Dr. Herro moved to offer a disciplinary consent agreement requiring the completion of 4 hours of CE in risk management, 6 hours in treatment planning and 6 hours in oral surgery. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions. If declined, the licensee may request a formal hearing.

Second: Mr. Goodman

Dr. Herro amended his motion to include restitution for any monies that have not been restored through other legal means for extractions and dentures.

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Dr. Christensen- nay

Mr. Dynar- nay

Dr. El- Gendy- aye

Mr. Goodman- aye

Dr. Morrow- aye

Ms. McClain- aye

Ms. Penna- nay

Vote: 7-aye, 3-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

J. Motion to Associate Counsel Via Pro Hac Vice Status

1. 202000126; Nelson, Amanda

Mr. Edmonson informed the Board that the request is to allow Zachary Hoard to represent Dr. Nelson in the case.

Motion: Dr. Herro moved to grant pro hac vice status.

Second: Mr. Dynar

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

K. Motion for Rehearing/Review – A.A.C. R4-11-1701

1. 202000126; Nelson, Amanda

Mr. Hunt made a statement on behalf of Dr. Nelson to indicate disagreement for the Board's findings regarding standard of care including automatic radiographs every time.

Motion: Dr. Herro moved to deny the request for a rehearing.

Second: Ms. McClain

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

H. Compliance/Non-Compliance to Offered/Issued Consent Agreement(s)/Board Order

1. 201900296; Perna, Salvatore

Mr. Tonner made a statement to inform the Board that the respondent completed CEs within the deadline and apologized for his oversight.

Motion: Ms. McClain moved to dismiss the case.

Ms. McClain amended her motion to also terminate the order.

Second: Mr. Goodman

Vote: 9-aye, 0-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

Dr. Morrow was recused and did not participate in the matter.

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

1. 202000075; Behbahani, Babak

Ms. McLellan made a statement in regards to the timeline of the appeal and requested that the Board uphold the termination.

Motion: Dr. Herro moved to uphold the executive director's termination.

Second: Dr. Morrow

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

2. 202000158; Cook, Brodie K.

The respondent was not present during the Board's consideration of the matter.

Motion: Dr. Herro moved to uphold the executive director's termination.

Second: Dr. Morrow

Vote: 9-aye, 0-nay, 1-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Christensen abstained.

3. 202000181; Williams, J. Ladd

Complainant S.B. made a statement to express the challenges experienced after the treatment done by Dr. Williams and that other doctors have indicated that there were problems with the way it was executed. Dr. Dovgan proceeded to provide the Board with an overview of the case and indicated that there were no deviations from the standard of care. Dr. Morrow informed the complainant that TMJ is one of the byproducts that can happen with invisalign and that everything was done dentally correct.

Motion: Dr. Morrow moved to uphold the executive director's termination.

Second: Dr. Herro

Vote: 8-aye, 2-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.
Dr. Bienstock and Ms. Pena voted against the motion.

L. Notice of Violation(s) – A.R.S. §§ 32-1288 & 32-3227

1. Froehlich, Dennis

There was no one present to speak on this matter.

Motion: Dr. Herro moved to request that the AAG file an injunction in superior court.

Dr. Herro amended his motion to direct staff to open a complaint in addition to requesting that the AAG file an injunction with the superior court.

Second: Dr. Bienstock

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

V. **CONSENT AGENDA**

A. Approved List- Psychologist Examiners

1. Jones, Jennifer, PsyD

B. Board Dental/Hygiene Consultant(s) and Anesthesia and Sedation Evaluator(s)

1. Rider, Justin L., DDS

C. Executive Director Complaint Terminations – A.R.S. § 32-1263.03

- | | |
|--------------|---------------|
| 1. 202000106 | 9. 202000187 |
| 2. 202000136 | 10. 202000194 |
| 3. 202000152 | 11. 202000207 |
| 4. 202000161 | 12. 202000209 |
| 5. 202000167 | 13. 202000218 |
| 6. 202000168 | 14. 202000224 |
| 7. 202000180 | 15. 202000228 |
| 8. 202000186 | 16. 202000314 |

D. Termination of Board Orders(s)/Consent Agreements(s)

1. 201900159; DC Dental Group; Chang, Doug
2. 201900299; Schmelter, Jeffrey
3. 202000097; Savino, Paul
4. 202000165; Khan, Ayeshaw
5. 202000222; Lee, Scott

Motion: Dr. Herro moved to approve the consent agenda.

Second: Dr. Morrow

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

VI. CALL TO THE PUBLIC

Dr. Patterson addressed the Board to state that he fell short of the required number of cases to renew his 1302 permit due to his office temporarily closing during the pandemic. Dr. Patterson further requested that the Board look into the matter and consider reinstating his license. The Board directed Board staff to agendaize the item for a future meeting.

VIII. INTENSIVE OUTPATIENT TREATMENT PROGRAMS (“IOP”)

The Board reviewed Board approved IOPs and concurred to not make any changes to the list of approved IOPs.

IX. EXECUTIVE DIRECTOR’S REPORT**A. Budget Update**

Ms. Gomez informed the Board that the executive budget was recently released with a 1.8 million dollar budget approval for the Dental Board. Ms. Gomez further provided the Board with an update on expenditures and stated that a temporary staff member has been hired and that board staff are working to go paperless by the end of the current fiscal year.

B. Agency Operations

Mr. Edmonson informed the Board of the process to be reappointed as a Board member. Mr. Edmonson further indicated that an RSVP feature has been requested from ADOA to help staff know if there is a quorum for future meetings.

C. Investigative Committee

Ms. Edmonson provided an update of the first Investigative Committee meeting. The Board directed board staff to hire another consultant.

X. SUMMARY OF CURRENT EVENTS

Dr. Herro recognized Drs. Tim Lukavsky and Kimball Washburn for their work and informed the Board of their recent passing.

Mr. Edmonson provided the Board with an overview of bills for the 2022 legislative session that may impact the Board. In addition, Mr. Edmonson provided the Board an update on dental specific bills, which include the requirement for each place of practice to contain at least one AED machine, to statutorily establish the Investigative Committee, to further clarify language pertaining to the renewal time frame, to remove WREB from the clinical exam and to remove the jurisprudence examination requirement and fees associated with it. Mr. Edmonson then proceeded to inform the Board of a licensed dentist who is facing criminal charges for the alleged murder of his spouse.

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

The Board requested that board staff agendaize what pathway licensees can follow if they are deficient in cases for permit renewals and if exceptions can be made due to COVID-19.

XII. NEXT BOARD MEETING DATE**A. March 4, 2022**

XIII. ADJOURNMENT

Motion: Dr. Herro moved to adjourn the meeting at 1:37 p.m.

Second: Dr. Morrow

Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.