



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

November 5, 2021
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 A, 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.F.2 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
	Morgan B. Burg	Business Entity Member
X	Edward H. Christensen, DDS	Licensed Dentist Member
	Aditya Dynar	Public Member
	Tamer El-Gendy	Licensed Dentist Member
X	Nick Goodman	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
	Leslie D. Seaman, DDS	Licensed Dentist Member
	Left early as denoted in the body of the minutes	
X	Absent	

Board members in italics participated in-person

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
Lisa Schmelling	Chief Compliance Officer
<i>Selena Acuna</i>	Compliance Officer
Yazmin Bustamante	Executive Assistant

Staff members in italics participated in-person

GUESTS PARTICIPATING AND/OR PRESENT

Nicholas Liakas, DDS	Applicant
<i>Travis Hunt, Esq.</i>	Attorney for Respondent
<i>Amanda Ashley Nelson</i>	Respondent
<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
<i>Edward V. Kuch</i>	Respondent
<i>Leah Schacher, Esq.</i>	Attorney for Respondents
<i>Matthew R. Wall</i>	Respondent
<i>Gabriel M.Schmidtke</i>	Respondent
<i>David Raiffe, DDS</i>	Respondent
Ayeshaw Jabeen Khan	Respondent
Jason J. Yole	Respondent
<i>Tim Eckstein, Esq.</i>	Attorney for Respondent
<i>Andrew D. Zeiger</i>	Respondent
<i>D.O.</i>	Complainant
<i>Katie Sanchez</i>	Guest
<i>Taylor Fallon</i>	Guest

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

There were no declarations of conflict of interest.

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

- A. Discussion and approval of the Open Session Minutes from the May 7, 2021 board meeting.
- B. Discussion and approval of the Executive Session Minutes from the May 7, 2021 board meeting.
- C. Discussion and approval of the Open Session Minutes from the June 11, 2021 board meeting.
- D. Discussion and approval of the Executive Session Minutes from the June 11, 2021 board meeting.
- E. Discussion and approval of the Open Session Minutes from the August 6, 2021 board meeting.
- F. Discussion and approval of the Executive Session Minutes from the August 6, 2021 board meeting.
- G. Discussion and approval of the Open Session Minutes from the September 10, 2021 board meeting.
- H. Discussion and approval of the Executive Session Minutes from the September 10, 2021 board meeting.
- I. Discussion and approval of the Open Session Minutes from the October 1, 2021 board meeting.

Motion: Mr. Dynar moved to approve the minutes for agenda items A through I.

Second: Dr. Morrow

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

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. Liakas, Nicholas E., DDS

Motion: Ms. Penna moved to grant licensure.

Second: Dr. Herro

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

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

1. 202000089; Bond, David Matthew

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

Second: Dr. Morrow

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

2. 202000095; Sandstrom, Paul R.

Motion: Dr. Morrow moved to uphold IIRC's recommendation and issue a letter of concern for lack of a health history and lack of a treatment plan.

Second: Dr. Herro

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

C. 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. 202000126; Nelson, Amanda Ashley

Dr. Nelson was available during the consideration of this matter and answered the Board's questions pertaining to the procedure.

Motion: Dr. Morrow moved to issue a non-disciplinary order, requiring the completion of 3 hours of CE in orthodontics 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: Dr. Herro

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

2. 202000154; Nay, John J.

Mr. Tonner made a statement on behalf of Dr. Nay and requested that the Board dismiss the case or issue a letter of concern. The Board expressed concern on the diagnosis and

the treatment done. The Board requested Dr. Dovgan's input and further discussed the matter.

Motion: Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 4 hours in risk management and 3 hours in endodontics. 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 rejected, invite to a formal hearing.

Second: Dr. Bienstock

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Mr. Dynar- nay

Dr. El- Gendy- aye

Ms. McClain- aye

Dr. Morrow- nay

Ms. Penna- aye

Dr. Seaman- aye

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

3. 202000155; Kuch, Edward V.

Mr. Tonner made a statement on behalf of Dr. Kuch and requested that the Board dismiss the case or issue a letter of concern.

Motion: Dr. Morrow moved to issue a letter of concern for failure to use a rubber dam and for lack of documentation.

Second: Dr. Herro

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

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

1. 202000114; Brimley, Lucas Clyde

The respondent and legal counsel were not available during the Board's consideration of the case. The Board proceeded to discuss IIRC's recommendation for disciplinary action due to lack of documentation.

Motion: Dr. Morrow moved to offer a disciplinary consent agreement, requiring the completion of 4 hours in risk management and 3 hours in crown and bridge. 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. In addition, two thousand three hundred seventy-four dollars shall be paid in restitution.

Second: Dr. Herro

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

F. Malpractice, Adverse Occurrence Report and/or Self-Report Pursuant to A.R.S. § 32-3208

1. 202100141-AO; Wall, Matthew R.

Motion: Ms. Penna moved to dismiss the case.

Second: Ms. McClain

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

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

3. 202000153-MP; Schmidtke, Gabriel M.

Ms. Schacher made a statement on behalf of Dr. Schmidtke to address the lack of documentation and requested that the Board consider non-disciplinary action. Dr. Schmidtke answered the Board's questions pertaining to the technicalities of the procedure.

Motion: Dr. Morrow moved to issue a non-disciplinary order requiring the completion of 3 hours of CE in endodontics 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: Dr. Herro

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

2. 202000135; Raiffe, David Mark

Mr. Tonner made a statement on behalf of Dr. Raiffe pertaining to the lack of documentation.

Motion: Dr. Herro moved to issue a letter of concern for lack of informed consent and no documentation of an occlusal assessment after multiple composite filling restoration.

Second: Dr. Morrow

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

4. 202000165; Khan, Ayesha Jabeen

Dr. Khan was available to answer questions during the Board's consideration of the case.

Motion: Dr. Morrow moved to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 3 hours in crown and bridge. 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. In addition, one thousand sixty-four dollars shall be paid in restitution. If rejected, invite to a formal hearing.

Second: Dr. Herro

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Mr. Dynar- nay

Dr. El- Gendy- aye

Ms. McClain- aye

Dr. Morrow- aye

Ms. Penna- aye

Dr. Seaman- aye

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

E. Response/Non-response to Offered/Issued Consent Agreement(s)/Board Order

1. 202000063; Yole, Jason J.

Dr. Yole made a statement and referenced articles on deep margin elevation to support his appeal request. Dr. Yole subsequently requested that the Board dismiss his case. During the Board's consideration, Dr. El-Gendy stated that the referenced articles are not supported by research and explained the current standard of practice.

Motion: Dr. Herro moved to deny the appeal.

Second: Dr. Morrow

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

F. Malpractice, Adverse Occurrence Report and/or Self-Report Pursuant to A.R.S. § 32-3208

2. 202100184; Zeiger, Andrew D.

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. Morrow

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

The Board entered into executive session at 9:29 a.m.

The Board returned to open session at 9:45 a.m.

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

Dr. Zeiger made a statement and was available to answer the Board's questions. The Board reviewed and discussed the statutory authority on mandatory reporting requirements.

Motion: Dr. Morrow moved to impose a civil penalty of one-hundred dollars to be paid within thirty days.

Second: Dr. Herro

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Mr. Dynar- nay

Dr. El- Gendy- aye

Ms. McClain- nay

Dr. Morrow- aye

Ms. Penna- aye

Dr. Seaman- aye

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

V. CONSENT AGENDA

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

1. 202000087; 5. 202000124;
2. 202000090; 6. 202000128;
3. 202000115; 7. 202000137; and
4. 202000118; 8. 202100113.

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

1. 201900152; Phillips, Matthew
2. 201900314; Berger, Lior
3. 201900332-MP; Kariotoglou, Rigas
4. 202000052; Fulcher, William
5. 202000097; Brown, Stephen
6. 202000108; Valerio, Nicole, RDH
7. 202000221-AO; Morris, Jordan Lee

Motion: Dr. Herro moved to approve all items under the consent agenda.

Second: Ms. Penna

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

VI. CALL TO THE PUBLIC

No individuals addressed the Board.

VII. INVESTIGATIVE COMMITTEE

The Board reviewed an updated list of committee members to establish the investigative committee.

Motion: Dr. Herro moved to replace Dr. Fritch with Dr. Dodell as a committee member.

Second: Dr. Morrow

Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

The Board further discussed establishing five year term limits for the investigative committee members.

VIII. NOTICES OF PROPOSED RULEMAKING (“NPR”)

Mr. Edmonson requested that the Board review the NRP at the next Board meeting.

IX. COVID-19 SAFETY PROTOCOLS

The Board concurred to continue COVID-19 safety protocols where the Board has discretion. Mr. Dynar stated that Arizona has joined other States to challenge the Occupational Safety and Health Administration (OSHA) vaccine mandate.

X. ASSISTANT ATTORNEY GENERAL REPORT

1. SB 1013;
2. SB 1063;
3. SB 1149;
4. SB 1218;
5. SB 1357;
6. SB 1373;
7. HB 2067;
8. HB 2162;
9. HB 2242;
10. HB 2265;
11. HB 2319;
12. HB 2535;
13. HB 2547;
14. HB 2570;
15. HB 2696;
16. HB 2759; and
17. HB 2787.

Mr. Donald provided the Board a brief update on state legislation that passed in the 2021 legislative session.

XI. EXECUTIVE DIRECTOR'S REPORT**A. Budget Update**

Ms. Gomez provided the Board an update of agency expenses.

B. Agency Operations**a. Sunset Audit**

Mr. Edmonson provided the Board with general information of the upcoming sunset audit.

b. New Renewal Timeframe

Mr. Edmonson informed the Board that board staff will pursue further legislative changes to amend the renewal deadline from birth date to birth month in order to allow licensees more flexibility to renew.

Mr. Dynar left the meeting at 10:30 a.m.

c. Continuing Education hours

Mr. Edmonson informed the Board of continuing education hour requirements for 2022 and 2023. Board staff further indicated that email blasts will continue to be sent to all licensees for the remainder of the calendar year pertaining to the new renewal timeframe.

Motion: Dr. Morrow moved to grant a CE extension and a late fee waiver for those who renew January 1st through June 30th during 2022 and 2023.

Second: Ms. McClain

Vote: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.

XII. SUMMARY OF CURRENT EVENTS

Mr. Edmonson requested that the Board members notify board staff if they plan to attend the CDCA-WREB annual meeting in order to properly post notice of a quorum. Mr. Edmonson further informed the Board that staff is moving forward with legislation that the Board wants to run for the 2022 legislative session.

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

Dr. Morrow requested to have a discussion of policies that possibly deviate from the standard of care amongst corporations at a future meeting.

XIV. NEXT BOARD MEETING DATE

A. December 3, 2021

XV. ADJOURNMENT

Motion: Dr. Morrow moved to adjourn at 11:04 a.m.

Second: Ms. Penna

Vote: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.