



Douglas A. Ducey,
Governor

Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

December 3, 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 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 items IV.C.1, IV.E.1, IV.L.1 and XI as stated herein.

BOARD MEMBERS

	<i>Anthony Herro, DDS</i>	President and Licensed Dentist Member
	Lisa B. Bienstock, DMD	Vice-President and Licensed Dentist Member
	<i>Morgan B. Burg</i>	Business Entity Member
	<i>Edward H. Christensen, DDS</i>	Licensed Dentist Member
	Aditya Dynar	Public Member
	<i>Tamer El-Gendy</i>	Licensed Dentist Member
	<i>Nick Goodman</i>	Public Member
	Marilyn J. McClain, RDH	Licensed Hygienist Member
X	Russell Jeffrey Morrow, DDS	Licensed Dentist Member
X	Vicki B. Penna, RDH	Licensed Hygienist Member
	Leslie D. Seaman, DDS	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>Julie Cutler, DMD</i>	Deputy Chief Investigator
<i>Benjamin Berschler, DMD</i>	Investigator
<i>Sherrie Biggs</i>	Assistant Deputy Director
<i>Lisa Schmelling</i>	Chief Compliance Officer
<i>Selena Acuna</i>	Compliance Officer
<i>April Romero</i>	Compliance Officer
<i>Yazmin Bustamante</i>	Executive Assistant
Jessica Thomas	Rules Administrator

Staff members in italics participated in-person

GUESTS PARTICIPATING AND/OR PRESENT

<i>Mark D. Schenkman, DDS</i>	Applicant
<i>Michele Thompson, Esq.</i>	Attorney for Respondents
<i>Han R. Christy</i>	Respondent
<i>Johnny Baljit Ludu</i>	Respondent
<i>Rose</i>	Guest
<i>Leanne Khay, Esq.</i>	Attorney for Respondent
<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
<i>S.S.</i>	Complainant
<i>Mandi Karvis, Esq.</i>	Attorney for Respondent
<i>Robert Craig Janisse</i>	Respondent
<i>Dina Anagnopoulos, Esq.</i>	Attorney for Respondent
<i>James Goodwin, Esq.</i>	Attorney for Respondent
<i>Kenny Lam</i>	Respondent
<i>Katie Martinez</i>	Guest Speaker
<i>Pan Stadlberger</i>	Guest Speaker
<i>Susan McLellan, Esq.</i>	Attorney for Respondents
<i>Gail Sciascia</i>	Performance Auditor
<i>Nathan Higginbottom</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 8:01 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. Herro declared a conflict of interest with agenda item no. IV.G.3.

Dr. Bienstock declared conflicts of interest with agenda item nos. IV.E.1, IV.I.1.

Dr. Seaman declared conflicts of interest with agenda item nos. IV.D.2, IV.D.6 and IV.E.2.

Ms. McClain declared a conflict of interest with agenda item no. IV.D.2.

Dr. Christensen joined the meeting at 8:04 a.m.

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

A. Discussion and approval of the Open Session Minutes from the November 5, 2021 board meeting.

B. Discussion and approval of the Executive Session Minutes from the November 5, 2021 board meeting.

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

Second: Dr. Herro

Vote: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-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. Schenkman, Mark D., DDS

Dr. Schenkman was available during the Board's consideration of the matter.

Motion: Dr. Herro moved to grant licensure.

Second: Dr. Bienstock

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

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

1. 202100208-MP; Barlow, Brett W.

Dr. Cutler provided the Board an overview of the case and indicated that the investigators did not find any deviations from the standard of care.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Christensen

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

C. Review of Investigation(s)

1. 202000177; Christy, Han R.

Ms. Thompson made a statement on behalf of Dr. Christy and requested that the Board dismiss the case for lack of evidence to substantiate the allegations of the anonymous complaint.

Motion: Mr. Goodman 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. Herro

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

Ms. Burg joined the meeting at 8:14 a.m and did not participate in executive session.

The Board entered into executive session at 8:14 a.m.

The Board returned to open session at 8:40 a.m.

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

Dr. Christy was available to answer the Board's questions.

Motion: Dr. Herro moved to have the Board's investigator coordinate an interview with Dr. Christy.

Second: Mr. Goodman

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

Ms. Burg abstained.

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

6. 202100174; Scott, Jay D.

Ms. Thompson made a statement on behalf of Dr. Scott to address the billing discrepancies and requested that the Board dismiss the case. The Board requested additional clarification pertaining to the billing discrepancies and further reviewed the case.

Motion: Dr. Christensen moved to dismiss the case.

Second: Dr. El-Gendy

Vote: 6-aye, 2-nay, 0-abstain, 1-recuse, 2-absent. Motion passed.

Dr. Bienstock and Mr. Goodman voted against the case.

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

1. 202000169; Ludu, Johnny Baljit

Dr. Ludu was accompanied by his assistant Ms. Rose and were available during the Board's consideration of the matter. Dr. Ludu also made a statement to address the allegations of the case.

Motion: Dr. Christensen moved to dismiss the case.

Second: Dr. El-Gendy

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

2. 202000174; Tuinstra, Ryan Michael

Ms. Khay made a statement on behalf of Dr. Tuinstra to address the procedure and lack of documentation.

Motion: Dr. Herro moved to uphold IIRC's recommendation to issue a letter of concern for lack of informed consent and documentation issues.

Second: Dr. Bienstock

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

Ms. McClain and Dr. Seaman were recused and did not participate in the case.

3. 202000193; Valderrama, Edgar

Mr. Tonner made a statement on behalf of Dr. Valderrama to address the lack of documentation and indicated that Dr. Valderrama completed CE courses in record keeping. Mr. Tonner subsequently requested that the Board consider dismissing the case.

Motion: Mr. Goodman moved to dismiss the case.

Second: Dr. Christensen

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

4. 202000219; Valencia, Juan Carlos

The respondent and legal counsel were not available during the Board's consideration of the case. Dr. Cutler proceeded to provide the Board with an overview of the investigation report.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Christensen

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

5. 202000259; Zoumbaris, Brooke A.

Mr. Tonner made a statement on behalf of Dr. Zoumbaris and indicated that records of the licensee's former employer were incomplete. Mr. Tonner further stated that the case is outside of the statute of limitations.

Motion: Dr. Herro moved to dismiss the case.

Second: Mr. Goodman

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

7. 202100196; Hammond, Nathan B.

Complainant S.S. made a statement during the Board's consideration of the matter. Dr. Cutler informed the Board of the lack of documentation that was found during the investigation. Dr. Berschler also answered the Board's questions and provided further clarification.

Motion: Dr. Christensen moved to dismiss the case.

Second: Dr. El-Gendy

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

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

The Board took a break from 9:15 a.m. to 9:27 a.m.

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

E. Formal Interview(s)

2. 202000053; Janisse, Robert Craig

Dr. Janisse and Ms. Karvis were available during the Board's consideration of the matter. Dr. Cutler provided the Board an overview of the case. Ms. Karvis subsequently made an opening statement and indicated that Dr. Jannise acknowledged failure to provide documents in a timely manner, contended a per diem violation and requested to pay an administrative fee of two-thousand dollars. The Board proceeded to ask Dr. Janisse questions pertaining to processing record requests and the timeline of incidents relating to the case. The Board proceeded to discuss the case and consider deliberation options.

Dr. Bienstock considered reducing the penalty fees to ten dollars per day for 613 days. Mr. Edmonson clarified that civil penalties go to the State general fund. Mr. Donald indicated the Board's authority to order disciplinary action and civil penalties pursuant to A.R.S. § 32-1263.02. Mr. Goodman expressed his concern of possible unprofessional conduct in addition to the medical record concerns. Dr. Janisse further answered the Board's questions pertaining to contact with the patient and patient's spouse.

Motion: Dr. Bienstock moved to accept the findings and facts found in the consultants report.

Second: Dr. Herro

Dr. Bienstock rescinded her motion.

Motion: Dr. Bienstock moved to adopt findings and facts one through nine outlined in the previous consent agreement.

Second: Dr. Herro

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Dr. Christensen- aye

Mr. Dynar- aye

Dr. El- Gendy- aye

Mr. Goodman- nay

Ms. McClain- aye

Dr. Seaman- recused

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

Motion: Dr. Bienstock moved to adopt conclusions of law one through four.

Second: Dr. Herro

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Dr. Christensen- aye

Mr. Dynar- nay

Dr. El- Gendy- aye

Mr. Goodman- nay

Ms. McClain- aye

Dr. Seaman- recused

Vote: 6-aye, 2-nay, 0-abstain, 1-recuse, 2-absent. Motion passed.

Motion: Dr. Binestock moved to issue a disciplinary order and amend the civil penalty to six thousand one-hundred and thirty dollars.

Second: Dr. Herro

Dr. Bienstock rescinded her motion.

Motion: Dr. Bienstock moved to issue a disciplinary order based on the findings and facts and conclusions of law. To exclude order one, amend order two to reduce the civil penalty to six thousand one-hundred and thirty dollars and remove the probationary period.

Second: Dr. Herro

Dr. Bienstock amended her motion to include a six month timeframe for the civil penalty to be paid.

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Ms. Burg- aye

Dr. Christensen- nay

Mr. Dynar- nay

Dr. El- Gendy- aye

Mr. Goodman- nay

Ms. McClain- aye

Dr. Seaman- recused

Vote: 5-aye, 3-nay, 0-abstain, 1-recuse, 2-absent. Motion passed.

X. EXECUTIVE DIRECTOR'S REPORT

Mr. Edmonson introduced Ms. Romero as a new staff member.

The Board took a break from 10:30 a.m. to 10:45 a.m.

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

Ms. Burg rejoined the meeting at 10:46 a.m.

IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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. 202000172; Brar, Harjot K.

Ms. Anagnopoulos made a statement on behalf of Dr. Brar to acknowledge the lack of documentation and indicated that new protocols have been put in place.

Motion: Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 4 hours of CE 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. Bienstock

The Board further discussed the licensee's accountability for record keeping.

Vote: 5-aye, 4-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

Ms. Burg, Mr. Dynar, Mr. Goodman, Ms. McClain voted against the motion.

2. 202000188-MP; Kode, Rahul G.

Mr. Tonner requested that the Board table the case to a future meeting until the requested records are provided.

Motion: Dr. Herro moved to table the case to a future meeting until all the information has been given to the licensee.

Second: Dr. Christensen

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

Ms. McClain voted against the motion.

3. 202000195; Lee, Kelly H.

Mr. Edmonson requested that the case be tabled for more information and to allow proper notification to the licensee.

The Board deferred consideration of the case to a future meeting per staff recommendation.

E. Formal Interview(s)

1. 202000023; 202000256-AO; Lam, Kenny

Mr. Goodwin and Dr. Lam were available during the Board's consideration of the matter. Dr. Cutler provided the Board an overview of the case. In addition, Dr. Harris made a statement to address the adverse occurrence incident. Mr. Goodwin subsequently made a statement regarding the discrepancies between the allegations and the adverse occurrence incident. Dr. Lam further addressed the lack of documentation and circumstances surrounding the discharge for the adverse occurrence. Dr. Harris stated that he found the patient's boyfriend to be a credible witness based on his testimony. The Board proceeded to question Dr. Lam and further discuss the matter.

Mr. Dynar temporarily left the meeting at 11:29 a.m.

The Board proceeded to discuss the parameters of bone grafting. Ms. Martinez and Ms. Stadlberger provided testimony for the adverse occurrence incident.

Mr. Dynar rejoined the meeting at 12:05 p.m.

The Board further discussed the matter and concurred that there isn't literature to support bone grafting treatment.

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: Mr. Goodman

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

The Board entered into executive session at 12:17 p.m.

The Board returned to open session at 12:29 p.m.

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

The Board proceeded to discuss and deliberate on the case. Dr. Herro expressed his concerns that Dr. Lam knowingly put patients at risk while providing unnecessary treatment and further expressed concern in the billing irregularities. Dr. Herro proposed directing staff to open complaints against anyone listed as an owner or entity in which Dr. Lam provided treatment in and forward the case to a formal hearing. The Board concurred that the irregularities and deviations from the standard of practice warrant further review.

Motion: Dr. Herro moved to refer the case to the Department of Insurance for billing irregularities and violation of A.R.S §§ 32-1201.01(14),(15),(16), 32-1224 and 32-1264(A).

Dr. Herro amended his motion.

Motion: Dr. Herro moved to refer the case to the Department of Insurance and AHCCCS for further investigation due to violations of A.R.S §§ 32-1201.01(14),(15),(16), 32-1224, and 32-1264(A).

Second: Dr. Christensen

Roll call

Dr. Herro- aye

Dr. Bienstock- recused

Ms. Burg- aye

Dr. Christensen- nay

Mr. Dynar- abstained

Dr. El- Gendy- aye

Mr. Goodman- nay

Ms. McClain- aye

Dr. Seaman- aye

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

Motion: Dr Herro moved to direct board staff to open investigations against business entities and licensed owners in which Dr. Lam provided bone grafting.

Second: Ms. McClain

Roll call

Dr. Herro- aye

Dr. Bienstock- recused

Ms. Burg- aye

Dr. Christensen- nay

Mr. Dynar- abstained

Dr. El- Gendy- aye

Mr. Goodman- nay

Ms. McClain- aye

Dr. Seaman- aye

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

Motion: Dr. Herro moved to refer the case to a formal hearing for revocation for violation of A.R.S. §§ 32-1201.01(14),(15),(16), 32-1201.01(24), 32-1264(A), 32-1263(A)(1) and (14).

Second: Mr. Goodman

Roll call

Dr. Herro- aye

Dr. Bienstock- recused

Ms. Burg- aye

Dr. Christensen- nay

Mr. Dynar- abstained

Dr. El- Gendy- aye

Mr. Goodman- nay

Ms. McClain- aye

Dr. Seaman- aye

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

The Board took a break from 12:50 p.m. to 1:00 p.m.

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

Ms. Burg departed the meeting at 12:50 p.m.

VII. NOTICES OF PROPOSED RULEMAKING (“NPR”)

Mr. Edmonson provided an overview of the Board Rules Group’s recommendations. The Board reviewed the NPR and allowed public input. Ms. Montiel subsequently read a statement to request that the Board consider including reference to 25 U.S.C. 1616l in the NPR. The Board acknowledged Ms. Montiel’s request and reached a consensus to not adopt federal regulation in the NPR. In addition, Ms. Kappes addressed the Board to request editorial corrections. The Board concurred to allow staff to make non-substantive grammatical changes to the NPR.

Motion: Mr. Dynar moved to approve the draft NPR.

Mr. Dynar rescinded the motion.

Motion: Mr. Dynar moved to approve the proposed changes to Title 4, Chapter 11, Articles 1, 2, 3, 4, 6, 7, 9, 12, 13, 14, 15 and 16.

Second: Mr. Goodman

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

Mr. Edmonson informed the Board that the rule change to lower the CE requirements may impact some licensees. The Board concurred to uphold the current rules pertaining to CE requirements until the change is approved.

Motion: Dr. Herro moved to keep the CPR requirement consistent throughout the NPR.

Second: Mr. Dynar

Vote: 6-aye, 2-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.

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

IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**G. Review of Investigation(s) – Case(s) Recommended for an Offer of a Disciplinary Consent Agreement**

1. 202000184; Philipp, Justin J.

Mr. Tonner made a statement on behalf of Dr. Philipp and indicated that the respondent was willing to pay restitution. Dr. Berschler subsequently addressed the complications caused by the angulation and placement of the implant. The Board proceeded to discuss restoration options to address the periodontal concerns.

Motion: Dr. Herro moved to issue a disciplinary consent agreement requiring one thousand seven hundred and twenty-five dollars in restitution to be paid to the patient in addition to the completion of 3 hours of CE in implant fixed prosthesis. 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. The licensee may request a formal hearing if the offer is declined.

Second: Mr. Goodman

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Dr. Christensen- aye

Mr. Dynar- aye

Dr. El-Gendy- aye

Mr. Goodman- aye

Ms. McClain- aye

Dr. Seaman- aye

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

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

2. 202100075; Northup, Paul W.

Mr. Tonner made a statement on behalf of Dr. Northup to request amendments to the language in findings and facts to reflect that the respondent has completed the diversion program.

Motion: Dr. Herro moved to update the findings and facts to reflect the changes Mr. Tonner requested.

Second: Mr. Goodman

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

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

2. 202000192; Van Dusen, Justin Robert

Dr. Van Dusen was available during the Board's consideration of the matter. Dr. Cutler provided the Board with an overview of the case. In addition, Dr. Berschler directed the

Board's attention to the termination of the patient letter that was provided to the complainant. During the discussion, Dr. Van Dusen requested that the Board table the case to consult with his attorney.

Motion: Dr. Herro moved to table the matter until the respondent can consult with his attorney.

Second: Mr. Goodman

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

3. 202100183; Badyal, Manpreet

The complainant addressed the Board to express the complications that developed after the procedure and requested restitution. Dr. Badyal proceeded to answer the Board's questions pertaining to the technicalities of the procedure. Drs. Berschler and Cutler directed the Board's attention to the consultants report; after further review, some of the listed deviations from the standard of care did not apply. Dr. Badyal stated that he would be willing to pay restitution. The Board consensus was that the outcome resulted from improper procedure and concurred that the licensee should take continuing education courses as a preventative measure.

Motion: Dr. Bienstock moved to issue a disciplinary consent agreement, requiring four thousand six hundred and eighty-seven dollars in restitution to be paid to the patient in addition to the completion of 3 hours of CE in implants 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. El-Gendy

Roll call

Dr. Herro- recused

Dr. Bienstock- aye

Dr. Christensen- aye

Mr. Dynar- aye

Dr. El-Gendy- aye

Mr. Goodman- aye

Ms. McClain- nay

Dr. Seaman- aye

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

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

1. 202000163-MP; Shahnaz, Pourya

Ms. McLellan made a statement on behalf of Dr. Shahnaz to request that the Board grant the petition for review and make corrections to paragraphs three, four and six and amendments to the findings and facts of the order.

Dr. El-Gendy temporarily left the meeting from 2:38 p.m. to 2:43 p.m.

Motion: Dr. Herro moved to grant a petition for review and accept the requested revisions with the exception of the addition to findings nine and ten of the order.

Second: Mr. Goodman

Dr. Herro rescinded his motion.

Motion: Dr. Herro to grant a petition for review and accept the requested revisions with the exception of the addition to finding and fact three of the order.

Second: Mr. Goodman

Vote: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

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

1. 202000111; Choi, Cheol Myeong

Dr. Choi was available during the Board's consideration of the matter. Ms. McLellan made a statement on behalf of Dr. Choi, to address the treatment performed on the patient and the alleged billing irregularities. Ms. McLellan further requested the removal of paragraphs two and four from the conclusions of law and consideration for non-disciplinary action. The Board considered Ms. McLellan's request to amend the consent agreement; however, concurred that there are grounds for disciplinary action for unprofessional conduct.

Motion: Dr. Herro moved to remove paragraphs two and four from the conclusions of law and stand by the rest of the language in the consent agreement.

Second: Mr. Goodman

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

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

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

1. 202100234-AO; Fryberg, Harrison

Dr. Fryberg was available during the Board's consideration of the matter. Dr. Herro informed the respondent that he did not need to report adverse occurrence as it did not meet the required criteria pursuant to A.R.S. § 32-3208. However, expressed concern that the use of anesthesia may have caused the patient angina.

Motion: Dr. Herro moved to direct staff to open an investigation.

Second: Mr. Goodman

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

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

1. 202000203; Thomas, L. Mitchell

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

Second: Mr. Goodman

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

L. Review of Compliance/Non Compliance for Consent Agreement(s)/Board Order(s)**1. 202100062-C; Ramsey Sosa, Heather L.**

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: Mr. Goodman

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

The Board entered into executive session at 3:07 p.m.

The Board returned to open session at 3:16 p.m.

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

Ms. Ramsey Sosa was available during the Board's consideration of the matter and explained that the administrator of the intensive outpatient treatment program (IOP) wouldn't sign off that she was fit to return to work. Board staff also confirmed that when contacted, the administrator of the IOP indicated that she does not sign off on anyone's IOP. The Board reviewed the order and discussed whether the licensee had complied with the requirements.

Motion: Mr. Goodman moved to find that the licensee has met the requirements of the order.

Second: Dr. Herro

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

V. CONSENT AGENDA**A. Executive Director Complaint Terminations – A.R.S. § 32-1263.03**

- | | |
|---------------|--------------------|
| 1. 202000032; | 7. 202000134; |
| 2. 202000085; | 8. 202000149; |
| 3. 202000110; | 9. 202000156; |
| 4. 202000117; | 10. 202000178; |
| 5. 202000119; | 11. 202000247; and |
| 6. 202000132; | 12. 202000277. |

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

1. 201800147; Kang, Minseok
2. 201900144-MP; Hunter, Kendra
3. 201900159; DC Dental Group; Chang, Doug
4. 201900169; Bui, Catherine
5. 202000018; Koussa Lawrence
6. 202000020; Lee, Sung
7. 202000039; Chiang, Leonard
8. 202000041; Phan, Larry
9. 202000088; Slater, Kelly

Motion: Mr. Goodman moved to approve the consent agenda.

Second: Dr. Christensen

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

VI. CALL TO THE PUBLIC

No one addressed the Board.

VIII. INVESTIGATIVE COMMITTEE

Motion: Dr. Herro moved to place Dr. Mindy Motahari in the investigative committee.

Second: Mr. Goodman

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

IX. COVID-19 SAFETY PROTOCOLS

No COVID-19 safety protocols were discussed.

X. EXECUTIVE DIRECTOR'S REPORT

A. Budget Update

Ms. Gomez provided the Board an update of current expenditures for October 2021.

B. Agency Operations

1. BOTOX/Dermal Fillers Sunrise Application

Mr. Edmonson informed the Board that one of the Board's investigators moved out of state. The Board concurred to have staff hire another contract investigator.

XI. EXECUTIVE DIRECTOR PERFORMANCE EVALUATION AND COMPENSATION

Motion: Dr. Herro moved to enter into executive session to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(1).

Second: Mr. Goodman

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

The Board entered into executive session at 3:34 p.m.

The Board returned to open session at 3:52 p.m.

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

Motion: Dr. Herro moved to recommend to Human Resources the compensation that was discussed in executive session.

Second: Dr. Bienstock

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

XII. BOARD ELECTIONS – A.R.S. § 32-1205

A. Nomination and Election of Board President

Motion: Dr. Bienstock moved to nominate Dr. Herro as president.

Second: Mr. Goodman

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

B. Nomination and Election of Board Vice-President

Motion: Dr. Herro moved to nominate Dr. Bienstock as vice-president.

Second: Mr. Goodman

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

XIII. SUMMARY OF CURRENT EVENTS

No current events were discussed.

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

Mr. Goodman requested to address intensive outpatient treatment programs (IOP) at a future meeting.

XV. NEXT BOARD MEETING DATE

A. January 28, 2022

XVI. ADJOURNMENT

Motion: Dr. Bienstock moved to adjourn the meeting at 3:57 p.m.

Second: Mr. Dynar

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