



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

April 2, 2021
Board Meeting

Members of the Arizona State Board of Dental Examiners (“Board”) held a special board meeting at 8:03 a.m. on Friday, April 2, 2021, which was held virtually and telephonically due to the COVID-19 pandemic. All participants, including guests participated either telephonically or virtually. The Board met in Executive Session during its consideration of agenda item numbers V.A.2., V.F.1., V.F.3. and V.K.1. as stated herein.

Board Members

Heather N. Hardy, RDH – President
Anthony Herro, DDS – Vice-President
Lisa B. Bienstock, DMD
Morgan B. Burg
Aditya Dynar, Esq.
Nick Goodman
John N. Harman IV, DDS
Marilyn L. McClain, RDH
Russell Jeffrey Morrow, DDS
Leslie D. Seaman, DDS
Robert B. Taylor, DDS

I. CALL TO ORDER AND ROLL CALL

President Hardy called the Board’s meeting to order at 8:03 a.m.

ROLL CALL

The following Board members participated in the meeting:

President Hardy, Vice-President Herro, Dr. Bienstock, Ms. Burg, Mr. Dynar, Mr. Goodman, Dr. Harman, Ms. McClain, Dr. Morrow, Dr. Seaman and Dr. Taylor.

ALSO PRESENT

The following Board staff and Assistant Attorneys General participated in the meeting:

Ryan P. Edmonson, Executive Director; Kristina C. Gomez, Deputy Director; Seth T. Hargraves, Esq., Assistant Attorney General (“AAG”); Sherrie Biggs, Assistant Deputy Director; Selena Acuna, Legal Administrator; Susie Adams, Program and Project Specialist; Jill Barenbaum, Administrative Assistant; Julie Cutler, DMD, Deputy Chief Investigative Consultant; John Dovgan, DDS, Chief Investigator; Nancy Elia, Administrative Services Officer; Lisa Schmelling, Chief Compliance Officer; and, Andrea Cisneros, Minutes Administrator. AAG Michael Raine also participated in the meeting to provide the Board with independent legal advice on the Hearing matters as stated herein.

The following individuals were also in attendance of the meeting:

Sean Murphy, Arizona Dental Association
BH, Complainant in Case #202000035
KS, Complainant in case against Dr. Unger
Michelle Ludwick, Respondent

Heather Sosa Ramsey, Respondent
Christopher Dunn, Respondent
Hamish Carpenter, Respondent
David Williams, Attorney for Respondent
Rigas Karioutoglou, Respondent
Leah Schachar, Attorney for Respondent
Bruce Houser, Respondent
Matthew Vogel, Respondent
Jeffrey Tonner, Attorney for Respondent
Laura Sibrava, Respondent
Susan McLellan, Attorney for Respondent
Michele Thompson, Attorney for Respondent
Cody Hall, Attorney for Respondent
Jaskeerat Kau, Respondent
Lawrence Koussa, Respondent
Scott Rodgers, Attorney for Respondent
Matthew David Phillips, Respondent
Mandi Karus, Attorney for Respondent
Salvatore Perna, Respondent
Gregory Manning, Respondent
Michael Tamm, Attorney for Respondent
Leonard Chiang, Respondent
GU, Complainant in Case #201900270
Frank Coliano, Pure Dental CEO
Troy Richins, Respondent
Minseok Kang, Respondent
Stacey Layman, GoTo Sleep. – Center for CPAP Alternatives
Alpa. Merchant, DDS
Roger Roybal, Restful Dental Sleep Care
Dawnie Kildoo, Respondent
Philip Mooberry, DDS
James Goodwin, Sleepmatters, PLC
Vicki Penna
Tommy Dang
Christopher Love, MWU

II. CALL TO THE PUBLIC

Mr. Murphy addressed the Board regarding consideration of reinstating the renewal fees and stated that the Executive Director has done an excellent job in determining a fee amount that would address future budget needs of the Board while not rising to the full amount allowed and he asked the Board to consider imposing the lowest amount possible. Mr. Murphy also addressed the Board regarding Agenda Item No. X, stated that the association disagreed with the AADSM's Position Paper on the Scope of Practice for Dentists Ordering or Administering Home Sleep Apnea Tests and asked the Board to consider establishing a taskforce to further investigate the scope of dentistry as it relates to sleep apnea. Mr. Murphy also stated his appreciation for Board members Hardy, Harman and Taylor.

Brandon Hearn addressed the Board regarding his case against Dr. Manning and stated his concerns regarding the investigation process. He asked the Board to communicate more with the complainant during the course of the investigation with more detail.

Complainant KS addressed the Board regarding her dismissed case against Dr. Eric Unger and stated her concerns regarding the outcome of the investigation. She asked the Board why the case was

dismissed and why she was not awarded restitution. President Hardy instructed Board staff to contact KS to discuss her concerns.

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

Dr. Dovgan reported a conflict of interest in Agenda Item No. V.E.3., and Dr. Morrow reported a conflict of interest in Agenda Item Nos. V.D.1., V.D.2., V.E.1. and V.F.3.

IV. **REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES**

- A. Discussion and approval of the Open Session Minutes from the January 8, 2021 special board meeting.
- B. Discussion and approval of the Executive Session Minutes from the January 8, 2021 special board meeting.
- C. Discussion and approval of the Open Session Minutes from the January 29, 2021 board meeting.

Mr. Dynar requested modification to the minutes in item number A as it related to a vote where he was captured as voting both for and against the motion, and clarified that he voted against the motion.

MOTION: Dr. Taylor moved for the Board to approve the minutes in item numbers A, B and C as amended.

SECOND: Ms. McClain

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

V. **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. Ludwick, Michelle, DDS

Dr. Ludwick participated in the virtual meeting during the Board's consideration of this matter and answered Board members' questions. Dr. Ludwick reported that she currently holds an active Oregon license, has a position lined up in Arizona, does not plan to perform any deep sedation and confirmed she understood that a permit is required in order to do so.

MOTION: Vice-President Herro moved for the Board to approve the application.

SECOND: Mr. Dynar

VOTE: 10-aye, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Taylor voted against the motion.

2. Ramsey Sosa, Heather L., RDH

Ms. Sosa participated in the virtual meeting during the Board's consideration of this matter, made a statement and answered Board members' questions. Ms. Sosa reported that she is currently not licensed in any other state, that she has not consumed alcohol for some time and has been attending therapy after the recent passing of her husband.

Ms. McClain stated her concerns that the applicant was not currently attending AA meetings or enrolled in a program. Dr. Morrow wished the applicant the best in all she

does and stated his concerns regarding a possible pattern. President Hardy noted that Ms. Sosa failed to comply with her monitoring agreement with the Colorado Board and has not taken ownership for her actions. Dr. Bienstock referred the Board members to the most recent evaluation report on file that found Ms. Sosa was not safe to practice. Ms. McClain proposed allowing the applicant to withdraw the application in lieu of formal denial. Mr. Goodman recognized that the Board had the ability to reject the withdrawal request. Executive Director Edmonson informed the Board that it had the authority to place a license under probationary terms after the license has been granted if monitoring was warranted.

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. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 8:44 a.m.

The Board returned to Open Session at 8:58 a.m.

No legal action was taken by the Board during Executive Session.

Mr. Goodman spoke in favor of allowing the applicant to withdraw the application in lieu of formal denial and stated that he was not convinced Ms. Sosa was prepared to make the commitments the Board would be requiring under the Consent Agreement. Dr. Morrow recognized that the underlying matter did not involve patient care, and spoke in favor of approving the application and placing the license on probation for monitoring to ensure patient safety. Mr. Dynar agreed and spoke in favor of granting the license contingent upon Ms. Sosa entering into a monitoring agreement and periodically reporting compliance to the Board.

MOTION: Ms. McClain moved for the Board to grant licensure contingent upon entering into a Consent Agreement for Five Year Probation for monitoring consistent with the evaluator's recommendations, including completion of a chemical dependency IOP and AA meeting attendance thereafter. The Probation shall not terminate except upon affirmative request by the licensee and approval by the Board. If the applicant declines, the license shall be denied.

SECOND: Dr. Taylor

VOTE: 10-aye, 0-nay, 1-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Mr. Goodman abstained.

3. Dunn, Christopher N., DDS

Dr. Dunn participated in the virtual meeting during the Board's consideration of this matter and answered Board members' questions. Dr. Dunn confirmed that the incident occurred in 1999 and that there have been no other actions since that time.

MOTION: Dr. Morrow moved for the Board to approve the application.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

4. Carpenter, Hamish DDS

Dr. Carpenter participated in the virtual meeting during the Board's consideration of this matter, made a statement and answered Board members' questions. Dr. Carpenter reported that he has been practicing for over 20 years and is constantly taking classes to provide better care for patients. He explained that had he been informed of the patient's situation earlier he could have referred to the appropriate specialist and had things resolved. The Board observed that the incident occurred in 2014.

MOTION: Dr. Morrow moved for the Board to approve the application.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

5. Enea, Steven A., DDS

Dr. Enea was not present during the Board's consideration of this matter. Board members discussed tabling this matter until such time that the applicant can appear before the Board for questioning. Dr. Taylor stated that based on his review of the file, it appeared that Dr. Enea prescribed medications outside his scope of practice. Mr. Goodman spoke in support of proceeding with the application, stating that Dr. Enea was provided sufficient notice for today's meeting and that the Board had enough information to make a decision in his absence.

President Hardy spoke in favor of granting licensure, recognized that the incident occurred 15 years ago and noted that Dr. Enea's Colorado license is in good standing. Vice-President Herro stated that Dr. Enea offered no explanation for the prescriptions in question.

MOTION: Vice-President Herro moved for the Board to table consideration of the application until the applicant has provided further explanation regarding the incident in question.

SECOND: Dr. Taylor

VOTE: 10-aye, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Mr. Goodman voted against the motion.

The Board recessed from 9:27 a.m. to 9:37 a.m. and a quorum was established via roll call upon returning.

B. Motion for Rehearing or Review – A.A.C. R4-11-1701

1. 2017001750MP; Trujillo, Victor

Attorney David Williams participated on behalf of Dr. Trujillo during the Board's consideration of this matter. AAG Seth Hargraves participated on behalf of the State and AAG Michael Raine participated to provide the Board with independent legal advice.

Mr. Williams asked the Board to grant a rehearing or review in this matter based on irregularities in the proceedings and abuse of discretion. He stated that the mechanism of the patient's injury is unknown and that the Board cannot determine the standard of care, the records in the case were sufficient to support the diagnosis and treatment, and they do not believe the case rises to the level of disciplinary action.

AAG Hargraves stated that the petition for rehearing or review failed to set forth sufficient grounds that would support granting a rehearing or review in this matter. He explained that according to the expert's testimony, the standard of care required the provider to perform tooth extraction without traumatizing the lingual nerve and inadequate records were also identified. AAG Hargraves stated that the records and evidence in this case supports the Board's decision and he asked the Board to deny the request for rehearing or review.

Dr. Taylor stated that the information reviewed in this case demonstrated that the licensee used a sharp instrument to cut the nerve which was found by the subsequent surgeon during exploratory surgery.

MOTION: Dr. Taylor moved for the Board to deny the request for rehearing or review.

SECOND: Mr. Goodman

Dr. Morrow pointed out that lingual nerve injury is not uncommon and stated that re-education was warranted to help prevent a future reoccurrence.

ROLL CALL VOTE: The following Board members voted in favor of the motion: President Hardy, Vice-President Herro, Dr. Bienstock, Ms. Burg, Mr. Dynar, Mr. Goodman, Dr. Harman, Ms. McClain, Dr. Morrow, Dr. Seaman and Dr. Taylor.

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

2. 202000044; Meyer, Nicholas

Dr. Meyer was not present during the Board's consideration of this matter. AAG Hargraves participated on behalf of the State and AAG Raine participated to provide the Board with independent legal advice.

AAG Hargraves stated that this matter stemmed from notification of a malpractice payment made on Dr. Meyer's behalf, that Dr. Meyer failed to cooperate with the Board's investigation and did not appear at the Hearing. AAG Hargraves stated that Dr. Meyer's request for rehearing or review failed to set forth any grounds to support granting rehearing or review in this matter and he asked the Board to deny the request.

MOTION: Dr. Taylor moved for the Board to deny the request for rehearing or review.

SECOND: Mr. Goodman

ROLL CALL VOTE: The following Board members voted in favor of the motion: President Hardy, Vice-President Herro, Dr. Bienstock, Ms. Burg, Mr. Dynar, Mr. Goodman, Dr. Harman, Ms. McClain, Dr. Morrow, Dr. Seaman and Dr. Taylor.

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

C. Formal Interview(s)

1. 201900332-MP; Karioutoglou, Rigas

Dr. Karioutoglou participated in the virtual meeting during the Board's consideration of this matter, made statements and answered Board members' questions. Board staff summarized that this matter stemmed from notification from the NPDB regarding a malpractice settlement involving Dr. Karioutoglou. In response to the Board's offer of a Non-Disciplinary CE Order, Dr. Karioutoglou elected to proceed to a Formal

Interview. The consultant who reviewed the case had no clinical notes to review, and found that Dr. Karioutoglou did not use a rubber dam and that there was overextension of material beyond the root apex.

Dr. Karioutoglou explained to the Board that he mentions in his clinical notes that he does the working length and then uses a rubber dam. Dr. Harman questioned the licensee regarding his incomplete response to the Board's subpoena requesting documentation. Dr. Karioutoglou stated that he previously submitted the requested information to the Board in its entirety and offered to resend it. Dr. Harman also questioned the licensee's chart notes, commented that a rubber dam is used to keep the pulp sterile and stated that any use of it after the pulp has been jeopardized is a deviation from the standard of care. Dr. Karioutoglou confirmed that tests are performed prior to performing root canals and stated that the use of rubber dams is not always required. The Board reviewed the x-rays submitted regarding tooth #29. AAG Hargraves advised the Board to focus its questioning and discussion on the issues for which the licensee had been noticed.

Dr. Taylor stated that based on his review of the information gathered in this case, there did not appear to be any evidence to support the licensee's statement that he does use a rubber dam, including images that do not show that one was used. Dr. Karioutoglou stated that he has been practicing for 21 years with no prior Board history, that he has improved his charting and that while he did not disagree with the recommendation for non-disciplinary CE, he did not want a mark on his record. Vice-President Herro commented that the standard of care for performing a root canal requires the use of a rubber dam. In response to further questioning by Board members, Dr. Karioutoglou confirmed that his chart notes indicate that he used a rubber dam, that patient comfort is important without compromising the root canal and that the fill was not overextended in this case. He clarified that the patient had sealer extrude from the root and that the patient was notified that same day as written in his report.

MOTION: Dr. Harman moved for the Board to issue a Non-Disciplinary CE Order for 3 hours in endodontics, 3 hours in crown and bridge, 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 6 months.

The Board noted that Dr. Karioutoglou was not noticed on concerns relating to crown and bridge, and AAG Hargraves instructed the Board to focus on the violations for which the licensee had been noticed when determining how to resolve this matter or table the case to provide sufficient notice on the Board's concerns. Dr. Harman withdrew his motion. The Board discussed proceeding with CE in risk management and endodontics versus returning the matter to properly notice the licensee for concerns relating to crown and bridge. Dr. Harman pointed out that Dr. Karioutoglou has heard the Board's discussion and serious concerns relating to crown and bridge, and suggested the Board proceed with requiring CE in endodontics and risk management.

MOTION: Dr. Harman moved for the Board to issue a Non-Disciplinary CE Order for 3 hours in endodontics and 4 hours in risk management to be completed within 6 months and shall be in addition to the hours required for license renewal.
SECOND: Dr. Morrow

Mr. Dynar spoke in favor of issuing a Letter of Concern to address the rubber dam concerns raised in this case. Dr. Morrow stated that there was the potential for harm given the number of cases reported in the literature of individuals swallowing files. Dr. Taylor stated that a non-disciplinary sanction was warranted to address the rubber dam

concerns, and that it is a deviation from the standard of care by doing instrumentation without a rubber dam in place. The Board noted that it is not unusual for apical sealer to extrude from the apex by up to 2mm. Vice-President Herro pointed out that the use of files without a rubber dam in place has the potential for it to be swallowed and electing to proceed in such a fashion is considered a deviation from the standard of care.

**VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

The Board recessed from 11:05 a.m. to 11:11 a.m. and a quorum was established via roll call upon returning.

VII. PRESENTATION BY THE ARIZONA AUDITOR GENERAL’S OFFICE – A.R.S. 41-3023.07

The Board heard a presentation by the staff from the Arizona Auditor General’s Office regarding the Board’s pending sunset review and directed staff to cooperate with the audit process. Dr. Taylor questioned whether the audit findings would help in recognizing that there are some staff shortages within the Agency. Mr. Groves clarified that staffing levels are generally not within the scope of the audit unless they find evidence of staffing shortages that are leading to certain issues. Dr. Taylor commented that he hoped the audit would recognize the staffing issues that are causing a backlog.

V. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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

3. 202000242-AO; Houser, Bruce

Dr. Dovgan was recused from this matter.

Dr. Houser and Attorney Leah Schachar participated in the virtual meeting during the Board’s consideration of this matter. Board staff summarized that this case involved a CRNA who was hired to sedate a patient who was noted to have a significant medical history and was preparing to undergo laser periodontal disease performed by Dr. Houser. The CRNA placed a nasal airway rather than intubate the patient for sedation, and placed the oxygen on 6 liters per minute and a dry throat pack was placed. A fire ignited after the laser therapy was initiated, the patient was extinguished appropriately, treated emergently with intubation and was transferred to the hospital where the patient succumbed to the injuries 12 days later. Board staff confirmed that the patient was very well worked up by Dr. Houser for all of his comorbidities.

Ms. Schachar stated that the licensee and the practice were devastated by this occurrence, that nothing like this has ever happened with any of their periodontists and no other incidents have been reported with the periolase. Ms. Schachar stated that the periolase does not have the power to ignite a flame and has been used without issue, that Dr. Houser was never placed on notice that this could happen during his substantial training and the experts in this area have confirmed that this was a highly unusual occurrence. Ms. Schachar asked the Board to consider dismissing the investigation as they believe that CE was not warrant in that there was no lack of training or steps that the licensee failed to take that could be improved upon by education.

Dr. Morrow noted that the laser was analyzed after the procedure and it was determined that the equipment was fully functioning with the exception of a cracked lens that

decreased the power. Dr. Houser stated that the incident was devastating and that there was nothing in his training that indicated risk of fire. He reported that they have revamped their protocols to prevent a similar occurrence and ensure patient safety. Dr. Morrow noted that the type of frequency used with this laser does not typically ignite and that fire is not a known risk of this particular laser treatment. The Board observed that while the licensee may have done everything within his scope and training, the CRNA did not and that responsibility falls on the dentist performing the procedure. Ms. Schachar stated that based on the licensee's permit, he was allowed to rely on the CRNA to determine the appropriate flow of oxygen rate for what was being administered. She also stated that oxygen was not considered a flammable anesthetic.

Board staff clarified that the periolase operating manual cautions the user to avoid use of a flammable anesthetic. In response to Dr. Taylor's questioning, Dr. Houser explained that the patient was adamant about proceeding with IV sedation, everything was reviewed with the CRNA and he felt it was safe to proceed after the medical consultations were obtained. Mr. Goodman recognized the tragic outcome in this case, stated that the licensee appeared remorseful, and questioned how clinicians were being informed as to this incident in general. President Hardy instructed the Board members to focus on Dr. Houser's case and pointed out that members would have the ability to propose new agenda topics under Agenda Item No. XV.

Ms. Schachar stated that Dr. Houser was practicing in accordance with the standard of care, that the cause of death is a mystery, and that the precautions he has since instituted were not indicated in this case based on the specific type of laser used.

MOTION: Ms. McClain moved for dismissal.

SECOND: Dr. Morrow

Dr. Taylor spoke against the motion and stated that a Letter of Concern was warranted to notify the licensee of the Board's concerns and that he should follow up with more training with his office staff. Dr. Morrow stated he did not believe the licensee deviated from the standard of care in this case and recognized that medical clearances were obtained prior to proceeding with the treatment. Mr. Goodman called for the vote, stating that considerable discussion was made and not all are going to agree. President Hardy recognized Dr. Houser's training and changes to his practice.

ROLL CALL VOTE: The following Board members voted in favor of the motion: President Hardy, Ms. Burg, Mr. Dynar, Mr. Goodman, Ms. McClain and Dr. Morrow. The following Board members voted against the motion: Vice-President Herro, Dr. Bienstock, Dr. Harman, Dr. Seaman and Dr. Taylor.

VOTE: 6-aye, 5-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

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

1. 201900334; Vogel, Matthew W.

Dr. Morrow was recused from this item. Dr. Vogel participated in the virtual meeting during the Board's consideration of this matter. Vice-President Herro noted that the Committee recommended issuing a non-disciplinary Letter of Concern.

MOTION: Dr. Taylor moved for the Board to issue a Letter of Concern for lack of documentation in the records.

SECOND: Vice-President Herro

Dr. Dovgan clarified that the lack of records related to the failure to document cancer screening. The Board recognized that a Letter of Concern is non-disciplinary and is not posted to the Board's website.

VOTE: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent.
MOTION PASSED.

2. 201900257; Park, Jonghan

Dr. Morrow was recused from this matter.

Attorney Jeff Tonner participated on behalf of Dr. Park during the Board's consideration of this matter. He reported that the patient terminated her care with Dr. Park prior to completion of treatment, that the licensee has issued a \$2,000 check to the patient to reimburse for what was not completed and he asked the Board to consider dismissing the case.

MOTION: Dr. Taylor moved for dismissal.
SECOND: Vice-President Herro

The Board noted that the licensee's records were lacking in this case in that while Dr. Park performed the proper procedures, they were not all documented in the patient's chart.

VOTE: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent.
MOTION PASSED.

3. 202000027; Sibrava, Laura

Dr. Sibrava and Attorney Susan McLellan participated in the virtual meeting during the Board's consideration of this matter, made statements and answered Board members' questions. Ms. McLellan summarized the patient's care, reported that the patient did not follow through with the treatment for the lower teeth and asked the Board to consider dismissing the case.

Vice-President Herro spoke in support of the recommended Letter of Concern and stated that the patient's bite issues should have been corrected before proceeding with the treatment. Dr. Sibrava pointed out that these were virgin teeth and that the first plan was orthodontics, which the patient declined. Dr. Taylor stated his concerns regarding the patient dictating the treatment to the provider. Dr. Sibrava explained that she told the patient orthodontics would be best treatment, the patient wanted an immediate cosmetic result and when she saw issues with bite she included orthodontics prior to proceeding to the lower. Ms. McLellan commented that providing a patient with treatment options is not allowing them to dictate treatment. Dr. Taylor stated that the provider is ultimately responsible for the treatment and reiterated his concerns that the licensee proceeded with treatment after the patient declined orthodontics.

Ms. McLellan pointed out that the crowns stayed cemented and stated that while there were some veneers that did come off on time on four different teeth, those were recemented and one was replaced. Since that time, the patient still has all remaining in place. Dr. Sibrava clarified that the temporary veneers were the problems and that she readjusted the treatment plan as needed. Ms. McClain observed that the patient was presented with treatment options and did not follow the dentist's instruction.

MOTION: Ms. McClain moved for dismissal.
SECOND: Dr. Morrow
VOTE: 8-aye, 2-nay, 1-abstain, 0-recuse, 0-absent.
MOTION PASSED.

Dr. Seaman and Dr. Taylor voted against the motion, and Mr. Goodman abstained.

4. 20200020; Nunley, Randall

Attorney Michelle Thompson participated in the virtual meeting on behalf of Dr. Nunley during the Board's consideration of this matter. She stated that the medical consultant's report indicated that it is baseless to consider a formal complaint of this nature so long after the successfully rendered treatment for this patient, the cited deficiencies have no bearing on the complaint, the provider met the standard of care and the case should be dismissed.

MOTION: Dr. Taylor moved for dismissal.
SECOND: Ms. McClain
VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.

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. 201900239; Kaur, Jaskeerat

Dr. Morrow was recused from this matter.

Dr. Kaur and Attorney Cody Hall participated in the virtual meeting during the Board's consideration of this matter. Mr. Hall asked the Board to consider dismissing the case as the consultant found no statutory violation and Dr. Kaur took appropriate remedial action to try and minimize any expense to the patient. The Board reviewed an x-ray of the crowns dated September 24, 2019 that showed decay. Dr. Kaur agreed that the crown was substandard and stated that she wanted to redo the work but did not have the opportunity since the patient did not return.

Mr. Goodman recognized that the patient may not have wanted to return after accidental injury to a crown and the subsequent failed crown. He commented that the appropriate course of action would be to reimburse the patient for the cost of the replacement crown. Dr. Kaur reported that she offered the patient a check in the amount of \$425, but the patient refused to accept it. Dr. Taylor stated that he did not find this case rises to the level of discipline. He stated the licensee fell below the standard of care by cementing a crown while there was still decay present.

MOTION: Dr. Taylor moved for the Board to issue an Order for Non-Disciplinary CE for completion of 3 hours in crown and bridge to be completed within six months and shall be in addition to the hours required for license renewal.
SECOND: Vice-President Herro
VOTE: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent.
MOTION PASSED.

2. 202000018; Koussa, Lawrence

Dr. Koussa participated in the virtual meeting during the Board's consideration of this matter. Vice-President Herro stated that he agreed with the Committee's recommendation for a non-disciplinary Consent Agreement to complete CE in risk management and periodontics.

MOTION: Vice-President Herro moved for the Board to offer a Non-Disciplinary Consent Agreement for CE to complete 4 hours in risk management and six hours in periodontics in addition to the hours required for license renewal, to be completed within six months.

Vice-President Herro observed that the issues identified in this case involved inadequate periodontal treatment that resulted from the lack of a diagnosis and treatment plan and the patient's periodontal needs overlooked and untreated in the left upper quadrant.

Related to the patient's identifiable periodontal treatment needs that were overlooked and untreated in the left upper quadrant, no diagnosis and treatment plan which resulted in inadequate periodontal treatment.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board recessed from 1:32 p.m. to 1:43 p.m. and roll call established a quorum.

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

2. 201900189; Nunez, Hector

Attorney Mandi Karvis participated in the virtual meeting on behalf of Dr. Nunez during the Board's consideration of this matter. She reported that Dr. Nunez has been practicing for nearly 30 years with no prior disciplinary action and that the patient's personal hygiene contributed to further periodontal disease. She asked the Board to resolve this matter with a non-disciplinary sanction.

Vice-President Herro stated that he agreed with the recommendation for non-disciplinary CE in risk management and periodontics. Dr. Taylor stated that he agreed this matter does not rise to the level of disciplinary action.

MOTION: Vice-President Herro moved for the Board to issue a Non-Disciplinary CE Order for 6 hours in periodontics and 4 hours in risk management in addition to the hours required for license renewal, to be completed within six months.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

1. 201900152; Phillips, Matthew David

Dr. Phillips and Attorney Scott Rodgers participated in the virtual meeting during the Board's consideration of this matter and answered Board members' questions. Dr. Phillips reported that he currently practices in Colorado and does not hold an active Arizona sedation permit. He explained that he was practicing in a team setting and that he was not responsible for the patient's aftercare.

The Board discussed the sedation and observed that the chart referenced oral conscious sedation with Triazolam 4x .25mg, which appeared to read as all at once. Dr. Phillips explained that this was the dose for the night prior to surgery and that the patient was not to take it all at once. President Hardy questioned Dr. Phillips regarding the monitoring that took place during the procedure and noted that there was no monitoring documented in the record. Dr. Phillips pointed out that there was a different provider listed on the record referenced by the Board, stated that this did not appear to be his usual practice and questioned whether this was his patient. Dr. Morrow stated that the note appeared to have been entered by a different provider.

MOTION: President Hardy 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: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 2:17 p.m.

The Board returned to Open Session at 2:22 p.m.

No legal action was taken by the Board during Executive Session.

President Hardy stated her concerns regarding the outcome of the case with all implants coming out. The Board discussed continuing the investigation to clarify who provided treatment for the upper implants and return the case at a future meeting.

MOTION: President Hardy moved for the Board to return the case for further investigation to clarify which provider was responsible for the upper implants.

SECOND: Vice-President Herro

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

3. 201900296; Perna, Salvatore

Dr. Morrow was recused from this matter. Dr. Perna and Mr. Tonner participated in the virtual meeting during the Board's consideration of this matter.

MOTION: Dr. Harman moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: President Hardy

VOTE: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 2:32 p.m.

The Board returned to Open Session at 2:37 p.m.

No legal action was taken by the Board during Executive Session.

In response to Dr. Taylor's questioning, Dr. Perna reported that he does not currently hold a sedation permit and confirmed that he did not give the patient medication and that he does not keep medications in the office. Board staff summarized that a number of patients were reviewed in this case with findings that relate to sedation and recordkeeping concerns. Mr. Tonner stated that a sedation permit has no connection between the dates sedation was done and Dr. Perna, that the Triazolam dosing was fine and in compliance with Arizona rules. Dr. Dovgan commented that the standard of care requires patient monitoring when combining drugs. President Hardy stated her concerns regarding the lack of monitoring and lack of documentation of monitoring. Mr. Tonner

clarified that the patients were monitored, but the machine was not printing readouts and has since been replaced with a machine that prints readouts.

Dr. Perna stated that he consistently monitors patients and ensures that everything is connected and that vitals are within normal limits. He acknowledged that there were lapses in his recordkeeping and explained that he would get kicked out of the office at 5:00 p.m. and did not have time to complete his chart entries. Dr. Perna stated that he has been practicing for over 30 years and that patient safety is a top priority. Mr. Tonner stated that the five cases reviewed by the Board are minority of his patients and that the licensee has acknowledged that he needs help with his recordkeeping.

MOTION: Dr. Bienstock moved for the Board to offer a disciplinary Consent Agreement for CE to complete 6 hours in recordkeeping and 4 hours in risk management within six months in addition to the hours required for license renewal.

SECOND: Mr. Goodman

Mr. Goodman stated his concerns that some of the recordkeeping concerns could be indicative of much greater issues. Dr. Harman stated his concerns regarding Dr. Perna's chart notes, noted that a patient who underwent endodontics had no mention of working lengths or if a rubber dam clamp was used and stated that the recordkeeping issues identified in this case are not only related to sedation.

ROLL CALL VOTE: The following Board members voted in favor of the motion: President Hardy, Vice-President Herro, Dr. Bienstock, Ms. Burg, Mr. Dynar, Dr. Harman, Ms. McClain and Dr. Seaman. The following Board members voted against the motion: Mr. Goodman and Dr. Taylor. The following Board member was recused: Dr. Morrow.

VOTE: 8-aye, 2-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

4. 201900297; Manning, Gregory

Dr. Manning participated in the virtual meeting during the Board's consideration of this matter. He stated that this matter occurred almost four years ago, that the patient was a friend of the practice and daughter of a staff member, and that he was working in the office one to two days a week for a few months to help his friend who underwent surgery. Dr. Manning stated that he performed a root canal after the braces were removed, that he was not familiar with the office's recordkeeping procedures, and that the patient's father was present for discussions and treatment.

Dr. Taylor referred the Board to x-rays in the patient's chart which showed the tooth. Dr. Morrow stated his concerns regarding the root canal and suggested CE in recordkeeping as well as endodontics.

MOTION: Dr. Morrow moved for the Board to issue a Non-Disciplinary CE Order requiring completion of 4 hours in risk management and 6 hours in endodontics in addition to the hours required for license renewal to be completed within six months.

SECOND: Dr. Taylor

The Board observed that the consultant found there was no diagnosis made of pulpal or periapical diagnosis, no consent documented and no indication that pulp testing was performed.

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

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

2. 202000035; Manning, Gregory

Dr. Manner participated in the virtual meeting during the Board's consideration of this matter. The Board recalled the comments made by the complainant during the Call to the Public.

MOTION: Dr. Harman moved for the Board to deny the appeal and approve the Executive Director's termination of the complaint.

SECOND: Dr. Taylor

Mr. Goodman asked the licensee to respond to the complainant's comments. Dr. Harman and Dr. Taylor withdrew their motion.

Dr. Manning stated that the complainant's mother has been a patient of the practice for a number of years and that the complainant had been seen twice for treatment. Dr. Manning stated that he never judged him and never intentionally tried to cause him harm as alleged in his Call to the Public statement. He added that he believed they missed the mark on connecting in this case but not from a clinical standpoint.

MOTION: Dr. Taylor moved for the Board to deny the appeal and approve the Executive Director's termination of the complaint.

SECOND: Dr. Morrow

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

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

5. 202000039; Chiang, Leonard

Dr. Chiang and Attorney Michael Tamm participated in the virtual meeting during the Board's consideration of this matter. Dr. Chiang stated that he performed a root canal for SR for intense pain and planned to follow up with her, but she did not return. He confirmed that the patient was issued a refund after he became aware that she went on to be seen by another provider. Mr. Tamm stated that Dr. Chiang did an appropriate assessment and obtained x-rays to find the appropriate canals, though this was limited due to the patient's pain and ability to open her mouth. Mr. Tamm stated that consent was obtained and the patient was aware that there was potential that further care could be needed. He asked the Board to dismiss the case and stated that the licensee complied with the standard of care and that there was no merit to the patient's claims.

Dr. Taylor referred the Board to the x-rays in the chart that showed the root canals for teeth #18 and #19. Dr. Taylor stated that the root canals appear to have been very short and noted that the patient complained of pain on both teeth. Dr. Chiang explained that the patient subsequently went to her previous dentist and thereafter was seen by a specialist, and clarified that he refunded the patient and her insurance. Dr. Taylor spoke

in favor of dismissal, noting that the patient was refunded and has been taken care of. Dr. Morrow stated his concerns that the root canal may not have been needed for tooth #18 and stated that there may have been a fracture or other source causing the pain. Vice-President Herro stated his concerns that a diagnostic periapical x-ray was not obtained.

Dr. Chiang stated that he has performed many successful root canals with pano films and that many times the roots are not visible on periapical imaging. Dr. Morrow pointed out that a periapical x-ray was obtained by the endodontist and could have been done prior to Dr. Chiang proceeding with treatment. Mr. Tamm stated that the circumstances were different when the endodontist saw the patient and that she was in a significant amount of pain that prevented Dr. Chiang from obtaining a periapical x-ray. Dr. Dovgan clarified that the standard of care does not require the dentist to obtain a pano x-ray.

MOTION: Dr. Morrow moved for the Board to issue a Non-Disciplinary CE Order to obtain 4 hours in endodontics and 4 hours in risk management in addition to the hours required for license renewal and to be completed within six months.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

6. 202000030-MP; Oliveri, Anthony

Attorney Susan McLellan participated in the virtual meeting on behalf of Dr. Oliveri during the Board's consideration of this matter. She asked the Board to dismiss the case, reported that Dr. Oliveri has retired and has not practiced for a few years, and that this incident occurred in 2016. She explained that the patient was a dental assistant in training who worked with Dr. Oliveri and asked to have her wisdom teeth extracted. Treatment was provided and resulted in an unwitnessed lingual nerve injury. Ms. McLellan stated that nerve injury is a known risk of extraction in absence of any negligence on the part of the dentist and that Dr. Oliveri was not given the opportunity to follow up with the patient as she sought care elsewhere six days after her treatment. Ms. McLellan reported that Dr. Oliveri has no plans of renewing his license this year, that he posed no risk to the public and that the patient was compensated through litigation.

Dr. Taylor thanked Dr. Oliveri for his many years of service to the dental community. Dr. Morrow noted that the patient's nerve returned to partial function with limited taste. Ms. McLellan offered to submit a letter from Dr. Oliveri indicating that he would not renew his license that was due to expire June 2021.

MOTION: Ms. McClain moved for dismissal.

SECOND: Vice-President Herro

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Ms. McLellan stated her appreciation to Board members Hardy, Harman and Taylor and thanked them for their service on the Board.

G. Response/Non-response to Offered Consent Agreement(s)/Formal Interview

1. 201800220; Christensen, Cory

Attorney Leah Schachar participated in the virtual meeting on behalf of Dr. Christensen during the Board's consideration of this matter. She asked the Board to consider a non-

disciplinary Consent Agreement acknowledging the settlement amount that was reached between the parties that the complainant indicated satisfied his claims. Ms. Shachar stated that Dr. Christensen was willing to accept any CE required by the Board and clarified that the patient was refunded \$2,000.

Dr. Taylor spoke in favor of issuing a Non-Disciplinary Order for CE in dentures, implants, ethics and recordkeeping.

MOTION: Dr. Taylor moved for the Board to issue a Non-Disciplinary Order for CE to complete 6 hours in dentures, 6 in implants, 3 in ethics and 3 in recordkeeping in addition to the hours required for license renewal to be completed within six months.

SECOND: Dr. Morrow

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

H. Review of Investigation(s)

1. 201900243; GD Dental Crop., PC

Dr. Morrow noted that Gentle Dental has a number of locations and questioned whether the right office was contacted. Dr. Taylor noted that the staff requested documentation and issued a subpoena to a specific location and stated that action is warranted for failure to respond. The Board noted that an individual dentist was not named in the complaint as the patient had been seen by multiple individuals in the office. Executive Director Edmonson pointed out that the Board received correspondence indicating that Mr. Tonner was representing this business entity. Mr. Tonner remained on the virtual meeting and indicated that he was not aware of any late records. He assured the Board to have the information submitted before the next regular meeting. Mr. Goodman spoke in favor of continuing this matter to the Board's next meeting.

MOTION: Mr. Goodman moved for the Board to continue this matter to its next meeting.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Mr. Dynar stated that he had questions regarding the subpoena that was issued and Executive Director Edmonson confirmed that the information will be provided to the Board at its next meeting.

2. 201900270; Goss, Lindsay M.

Executive Director Edmonson reported that the committee determined there was no merit to the complaint and recommended termination of the investigation. However, Board staff became aware that Dr. Goss had worked for Somerset Family Dental which was before the Board for consideration under Agenda Item No. I.7. for practicing with an unregistered business entity. Dr. Taylor thanked the staff and committee for their diligence in this matter.

MOTION: Dr. Taylor moved for dismissal.

SECOND: Dr. Morrow

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

- I. Initial Analysis
1. Fountains Family Dental
 3. Mountainside Family Dental
 4. Prime Family Dental
 5. Red Mountain Family Dental
 6. Smiles by Design
 7. Somerset Family Dental
 8. Sossaman Family Dental

The Board considered item numbers 1 and 3-8 together noting that they are all affiliated with the same professional corporation. Attorney Scott Rogers participated in the virtual meeting on behalf of the corporation during the Board's consideration of these matters.

Mr. Rogers stated that the practices referenced in these matters are essentially trade names, that dental services are provided under Dynamic Dental Health Associates of Arizona and that they are exempt from registration pursuant to A.R.S. § 32-1213(J)(3) in that the corporation is owned by two dentists that are licensed to practice in Arizona.

Frank Coliano, CEO at Pure Dental Brands, participated in the virtual meeting and explained that they provide administrative and business services to the professional corporation. The Board questioned how patients were informed that they were working with Dynamic Dental Health Associates of Arizona and who to contact for any concerns. Mr. Dynar noted that these are trade names and not business names and stated that he too questioned how a patient is informed that the trade name is owned by the professional corporation.

Mr. Rogers stated there is express authorization under A.R.S. § 32-1262(C) to practice under another name if that name is not deceptive or misleading. He stated that the names listed under items 1 and 3-8 are common names used to identify a dental practice. He informed the Board that these practices have filed business registration forms with the Board and confirmed that the professional corporation is registered with the Arizona Corporation Commission that clearly identifies the two Arizona-licensed dentists as the owners. Board staff confirmed receipt of business entity registration applications for the practices listed under items 1 and 3-8. Dr. Morrow recognized that this is a very common practice and commented that the professional corporation typically handles the management side of the business while the dentists handle the dentistry side.

Executive Director Edmonson informed the Board that A.R.S. § 32-1262(D) requires that the professional corporation and ownership information be displayed at the entrance of each location. Mr. Rogers stated that he could not confirm whether this was true for the practices identified in these matters, but would look into it to ensure that the information is on display at each location. The Board discussed what action, if any, to take in these matters.

MOTION: President Hardy moved for the Board to consolidate item numbers 1 and 3-8 and to take no action on these matters.

SECOND: Mr. Dynar

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

2. Merrill Ranch Family Dental

The Board observed that this practice was previously affiliated with Dynamic Dental Health Associates of Arizona and was sold a few years ago. Mr. Coliano confirmed that this practice was sold in November of 2020. President Hardy proposed looking into this practice further to determine ownership and whether it is compliant with Arizona statute.

MOTION: President Hardy moved for the Board to direct staff to initiate an investigation against Merrill Ranch Family Dental.

SECOND: Dr. Taylor

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

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

1. 201900157; Richins, Troy

Dr. Richins and Attorney Cody Hall participated in the virtual meeting during the Board's consideration of this matter. Mr. Hall stated that they believed the dismissal in this matter was reasonable and appropriate. He asked the Board to deny the patient's appeal and approve the termination.

MOTION: Dr. Taylor moved for the Board to deny the appeal and approve the Executive Director's complaint termination.

SECOND: Dr. Morrow

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board recessed from 4:53 p.m. to 5:00 p.m. and roll call established a quorum.

K. Remand from Superior Court

1. 201800147; Kang, Minseok

Dr. Kang and Mr. Tonner participated in the virtual meeting during the Board's consideration of this matter. AAG Hargraves reported that the Superior Court sent the case back to the Board after finding that the Board did not properly address specific evidence previously presented in this matter. The Court directed the Board to review the information and determine if it changed their decision.

MOTION: Vice-President 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: President Hardy

VOTE: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 5:03 p.m.

The Board returned to Open Session at 5:25 p.m.

No legal action was taken by the Board during Executive Session.

Board members confirmed that they received and reviewed the information gathered in this case including the Superior Court's remand, transcripts from three Board meetings, a copy of Dr. Malamed's letter, a copy of the Order and petition for rehearing. President Hardy stated that she had previously spoke in support of dismissing this case and opened

the floor for further discussion among the Board members. Vice-President Herro stated that he carefully reviewed the case multiple times including review of Dr. Malamed's testimony and that it was apparent each time that the licensee failed to recognize the patient's elevated blood pressure at the consultation visit and during the one and one half hour case, which he believed constituted a danger to the health and safety of the patient and elevated the case to discipline.

AAG Hargraves stated that the Court required the Board to consider the information and requested each Board member indicate whether or not they maintain the opinion that discipline is warranted after reviewing the information.

Vice-President Herro stated that discipline was warranted with the same CE as set forth previously with the exception of implant CE. He stated that review of Dr. Malamed's declaration did not change his opinion on the case and he clarified that he carefully considered this information when the matter was previously considered by the Board. Dr. Bienstock stated that she agreed with the Vice-President's comments, that she reviewed Dr. Malamed's letter at the last meeting, that she disagreed with a number of the points that were made and pointed out that he was a paid consultant and not unbiased. Dr. Bienstock spoke in favor of proceeding with the disciplinary action with the exception of the implants CE. President Hardy stated that review of Dr. Malamed's declaration did not change her opinion and clarified that she previously voted against the motion for discipline and believed the matter should be dismissed. Ms. Burg stated that her opinion has not changed. Mr. Dynar stated that he reviewed the material and his opinion has not changed regarding the Board's action against the licensee.

Mr. Goodman stated that the letter in question was considered by the Board when the case was previously considered and that there was no change in his position in this case. Dr. Harman stated that he carefully reviewed the materials at the last meeting, considered and disagreed with Dr. Malamed's correspondence, and found that this egregious deviation from the standard of care warranted disciplinary action. Ms. McClain stated that her vote has not changed. Dr. Morrow stated that Dr. Malamed is one of his dental heroes and that he disagreed with him in this case. Dr. Morrow stated that he found the act was unreasonable, placed the patient in harm's way and that his vote has not changed. Dr. Seaman stated that he carefully reviewed the information previously and re-reviewed it for today's meeting, and it did not change his opinion on the case. Dr. Taylor stated that he previously commented that the letter should not be accepted and clarified that he read the information before and in preparation for today's meeting, and that it did not change his opinion with the exception of removing implants CE from the Order.

Mr. Tonner stated that his client was not afforded the proper due process when this matter was previously before the Board and that the appeal was expensive and took a lot of time and effort. He asked the Board to issue an Order for non-disciplinary CE. AAG Hargraves clarified that the Court issue a directive for the Board's decision to be reversed, remand this matter back to the Board to consider on merits and determine whether the new evidence requires modification of the discipline imposed after the October 4th interview.

Vice-President Herro stated that he felt the licensee was afforded due process, pointed out that he was granted a second hearing and review of the case and stated that discipline was warranted. President Hardy pointed out that remanding the matter back to the Board was not overturning the Board's decision, but rather, required the Board to demonstrate that the evidence was considered. Mr. Goodman stated that he agreed with the Vice-

President's comments in that the licensee has been afforded due process in this matter. Mr. Tonner stated that the case was brought back for the Board to consider what to do, including modify, and that they were subjected to a lengthy process in order to appeal the Board's decision because they felt it was not done properly the first time. He stated that modifying the Order to non-discipline with CE was a reasonable response to the Court's directive in this case.

Dr. Morrow stated that the penalty was appropriate and that Dr. Kang's actions put a patient in danger. Vice-President Herro stated that after a lot of consideration, disciplinary action was the right course of action.

MOTION: Vice-President Herro moved for the Board to amend its previous Order to remove the requirement to complete CE in implants and the remainder of the Order to stay the same.

SECOND: Dr. Morrow

Mr. Goodman spoke in favor of the motion. Vice-President Herro stated that the case represented a lack of control on the sedation end and lack of understanding of the risk of patient harm. Dr. Morrow stated that he would have kept in the implants CE, but supported the motion in order to resolve this matter. Mr. Dynar commented that there is genuine due process that is afforded to every applicant and complaint that is brought before the Board and that he did not support the motion.

ROLL CALL VOTE: The following Board members voted in favor of the motion: Vice-President Herro, Dr. Bienstock, Ms. Burg, Mr. Goodman, Dr. Harman, Ms. McClain, Dr. Morrow, Dr. Seaman and Dr. Taylor. The following Board members voted against the motion: President Hardy and Mr. Dynar.

VOTE: 9-aye, 2-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Bienstock stated her appreciated for Board members Hardy, Harman and Taylor and she departed from the meeting at 5:48 p.m.

L. Order Physical Evaluation – A.R.S. § 32-1207(B)(6)

1. Chandler, Rebekah A.
2. Jackson, Roger L.

The Board considered these items together. Executive Director Edmonson reported that an anonymous complainant reported and provided pictures of what appeared to be a "dime bag" on the floor of the dental office. Board staff pursued the matter and requested the licensees to undergo drug screening to which they agreed. They did not comply and were subsequently ordered to undergo physical, drug and alcohol evaluations including drug screenings based on the anonymous tip.

The Board questioned what substance was found in the bag and whether it was used while working. Board staff clarified that the bag was found in the breakroom and contained pills that were not identifiable. Board staff also reported that the individuals are husband and wife and are both licensed by the Board. Mr. Goodman spoke in favor of proceeding with opening investigations on both individuals.

MOTION: President Hardy moved for the Board to open investigations in item numbers 1 and 2, order the licensees to undergo drug screening to include urine and hair follicle testing and for them to undergo drug and alcohol evaluations.

SECOND: Mr. Goodman

ROLL CALL VOTE: The following Board members voted in favor of the motion: President Hardy, Vice-President Herro, Ms. Burg, Mr. Dynar, Mr. Goodman, Dr. Harman, Ms. McClain, Dr. Morrow, Dr. Seaman and Dr. Taylor. The following Board member was absent: Dr. Bienstock.

VOTE: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

VI. CONSENT AGENDA

- A. Board Dental/Hygiene Consultant(s) and Anesthesia and Sedation Evaluator(s)
1. Steven R. Call, DDS, MSL, FICD – dental consultant
 2. George H. Master, DMD – dental consultant
 3. Mindy Motahari, DMD, MA, EDU – anesthesia/sedation evaluator and dental consultant
 4. Chandan S. Walia, DDS – dental consultant
- B. Executive Director Complaint Terminations A.R.S. § 32-1263.03
- | | |
|----------------|--------------------|
| 1. 201900199; | 14. 201900333-MP; |
| 2. 201900235; | 15. 201900336; |
| 3. 201900244; | 16. 201900337-MP; |
| 4. 201900253; | 17. 202000010; |
| 5. 201900261; | 18. 202000011; |
| 6. 201900262; | 19. 202000024; |
| 7. 201900273; | 20. 202000025; |
| 8. 201900276; | 21. 202000026; |
| 9. 201900286; | 22. 202000036; |
| 10. 201900289; | 23. 202000171; |
| 11. 201900309; | 24. 202000212; and |
| 12. 201900318; | 25. 202000315-AO |
| 13. 201900329; | |
- C. Termination of Board Order(s)/Consent Agreement(s)
1. 201900130-MP; Hang, Mark
 2. 201900185; Hirpara, Piyush
 3. 201900196; Grampp, Carter
 4. 201800161; Marks, George
 5. 201900121; Dr. Fawad Shah
 6. 201900219; Dr. Daniel M. Tee

MOTION: Dr. Taylor moved for the Board to accept all items listed under the Consent Agenda.

SECOND: Vice-President Herro
VOTE: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

VIII. BOARD ELECTION

President Hardy congratulated Vice-President Herro for becoming the new Board President.

MOTION: Dr. Taylor moved to nominate Dr. Bienstock for Board Vice-President.
SECOND: President Hardy
VOTE: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

Mr. Tonner thanked Board members Hardy, Harman and Taylor for their years of service on the Board.

IX. RECOGNITION OF SERVICE

Heather N. Hardy, RDH, Board Member.....	2013-2021
John N. Harman, IV, DDS, Board Member.....	2018-2021
Robert B. Taylor, DDS, Board Member.....	2013-2021

Board members Hardy, Harman and Taylor were recognized for their many years of service on the Board and Executive Director Edmonson shared his screen to display the plaques that were issued to each member. Dr. Harman stated that serving on the Board has been a great experience and stated his appreciation for the Board members and staff for their assistance and their hard work and efforts to serve the regulated community and protect the public. Dr. Taylor stated that it was an honor to serve on this Board and to work with the members and staff. Board staff thanked the members for their years of service, hard work and efforts and for also serving on the Board’s committees. Dr. Morrow stated that it has been an honor serving with them and stated his appreciation for President Hardy’s leadership.

Vice-President Herro stated that he enjoyed the mentorship that he received from all three members and that it has been an honor to work with them. Mr. Goodman stated that one of the biggest pleasures in his professional life is to serve on this Board and that much of it is because of these three members. He thanked them for the experience and opportunity to work with them. Ms. McClain thanked the members for their service, stated her appreciation for working with them and that they will be missed. President Hardy stated that it was an honor and privilege to serve on this Board and expressed her appreciation for having been elected as Board President. She stated that she enjoyed serving with the members and will miss them, and wished the Board the best of luck. President Hardy also thanked the Board staff for their hard work and efforts and stated that it was a pleasure working with them. She recognized the Executive and Deputy Directors for their leadership that has inspired such work ethics in the staff.

X. AMERICAN ACADEMY OF DENTAL SLEEP MEDICIEN (“AADSM”)

The Board reviewed, discussed and received input from a number of stakeholders regarding the August 2020 position paper by the AADSM on the scope of practice for dentists ordering or administering home sleep apnea tests; a request by multiple national organizations to adopt a policy clarifying that ordering, administering, and interpreting home sleep apnea tests is outside the scope of practice for dentists; and, the AADSM’s response to the request.

Dr. Stacey Layman reported that she does not support the AADSM and other organizations that have come out and stated that dentists should not have sleep study equipment in the office. She

stated that dentists use this equipment to test patients and refer them to the appropriate sleep specialists or clinic.

Ms. Burg departed from the meeting around 6:16 p.m.

Dr. Dovgan stated that the American Association of Dental Boards held an hour lecture about this and promoted how dentists are an integral part in the treatment because of appliances. He stated that the dental profession does not make the diagnosis, but can provide the sleep study apparatus and provide the material to the patient's physician to make the diagnosis. He stated that dentists are not making the diagnosis and are simply an adjunct provider.

Dr. Alpa Merchant stated that she recognized the value in the screening and asked the Board to consider allowing dentists to be able to use home sleep apnea tests for screening purposes to streamline the process and help patients. Dr. Roger Roybal stated that the screening is very important and that the information is being transmitted to the physician to determine whether therapy is needed. Mr. Murphy asked the Board to reject the request to adopt a policy clarifying that this is outside the scope of practice for dentists. Dr. Taylor commented that diagnosing sleep apnea is outside the scope of dentistry. Dr. Layman agreed that making such diagnoses is outside the scope of dentistry, but dentists should have the ability to use the equipment in the office to screen or titrate the appliance. Dr. Morrow stated that if they eliminate this, it will eliminate a lot of their ability to help the public and provide access to care.

Dr. Seaman departed from the meeting around 6:32 p.m.

Mr. Murphy reiterated that everyone was in agreement that making the diagnosis is outside the scope of dentistry and stated that testing is not equivalent to diagnosing. Mr. Goodman questioned whether anyone could order the testing and obtain an appliance and whether a clinical understanding of sleep apnea was required in order to do so. Dr. Layman pointed out that anyone can order a home sleep test online. Dr. Roybal explained that he submits the testing information to the physician with his clinical notes and a copy of the sleep study with the disclosure that it is an uninterpreted study used solely for determination of the therapeutic physician as to whether therapy was needed.

The Board discussed whether to take a position in this matter. Mr. Dynar spoke in favor of the Board taking no position at this time and spoke against creating a substantive policy. Executive Director Edmonson reported that substantive policy statements do expire and that the Board would be subject to the legislative process in order to modify its statutory authority. Vice-President Herro spoke in favor of the Board taking no position at this time and stated that these providers should continue what they are doing. Dr. Morrow stated that eliminating this would eliminate the expansion of their scope of practice. President Hardy stated that she agreed with other members' comments and spoke in favor of the Board taking no position at this time.

MOTION: President Hardy moved for the Board to reject the request to take a position at this time.

SECOND: Dr. Morrow

VOTE: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

XI. CONTINUING EDUCATION ("CE")

A. Accredited Continuing Education

- B. Promethean Dental Systems Custom Continuing Education Courses.

This item was tabled to the Board's next meeting.

XII. BOARD RULES ADVISORY GROUP AND ANESTHESIA & SEDATION COMMITTEE

The Board discussed the current memberships of these subgroups and considered reaffirming the existing membership versus revising the memberships based on the current/new Board membership.

Mr. Goodman departed from the meeting around 6:48 p.m.

The Board observed that the membership of the Rules Advisory Group included Mr. Dynar, Vice-President Herro, Dr. Taylor and President Hardy. President Hardy and Dr. Taylor expressed their desire to continue to serve on the Group after their Board memberships have expired.

MOTION: Mr. Dynar moved for the Board to reaffirm the four Board member participants to the Rules Advisory Group membership.

SECOND: Dr. Morrow

VOTE: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

The Board observed that the Anesthesia & Sedation Committee membership included new Board member Dr. Christensen as well as Vice-President Herro, Mr. Goodman and Dr. Bienstock. Vice-Dr. Morrow spoke in favor of reaffirming the current Committee membership. Vice-President Herro also spoke in support of maintaining the Committee's current membership. AAG Hargraves clarified that the Board has historically limited the number of Board member participants on this Committee, but that it was not required in rule or statute and that four Board members do not constitute a quorum of the Board. Mr. Dynar spoke in favor of maintaining the Committee's current membership.

MOTION: Vice-President Herro moved for the Board to reaffirm the Committee's current membership.

SECOND: Mr. Dynar

VOTE: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent.

MOTION PASSED.

XIII. EXECUTIVE DIRECTOR'S REPORT

- A. Budget Update

1. Renewal fees for 2021, 2022 and 2023, which may include a vote regarding the appropriate fee pursuant to A.R.S. §§32-1236, 32-1276.02, 32-1287 and 32-1297.06.

Mr. Goodman rejoined the meeting around 7:00 p.m.

Executive Director Edmonson reported that staff created a formula to cover this and that the calculation they came up with was a 40% cost or 60% reduction of total price. He stated that if the Board's request for a fund increase is approved, the Agency could handle a 60% reduction for the next three years and still have the ability to operate on its budget. Mr. Murphy recognized the Executive Director and Board staff for working with the Association and coming up with those numbers. He stated that 40% is reasonable and that licensees will be appreciative of these efforts.

Vice-President Herro questioned whether the Board would have the ability to operate with this reduction in the event that the budget increase request is denied. Executive Director Edmonson confirmed and stated that these fees should be revisited in three years. Ms. McClain noted that the new costs would be \$204 for dentist renewals and \$102 for hygienists.

MOTION: Vice-President Herro moved for the Board to approve the fees as proposed by the Executive Director for the next three years of licensure fees.

SECOND: Mr. Goodman

VOTE: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

B. Agency Operations

1. Continuation of virtual, in-person, hybrid or livestreamed meetings.

The Board discussed the different meeting formats for future meetings. Mr. Goodman spoke in favor of proceeding in the hybrid format. Dr. Taylor spoke in support of the hybrid format with appropriate measures in place for safe social distancing. Mr. Dynar spoke in favor of the hybrid format and pointed out that while Board members may have already received their vaccines, members of the public may not have. He proposed continuing in the virtual format until the Fall and then proceeding with hybrid meetings at that time. Vice-President Herro spoke in favor of proceeding with the hybrid format as soon as possible and that he preferred to meet in person going forward. Ms. McClain spoke in favor of the hybrid format. Dr. Taylor proposed requiring in-person meeting attendees to undergo screening before entering the Board room and to provide their vaccine card if they have one.

MOTION: Dr. Taylor moved for the Board to proceed with holding its meetings in a hybrid format to allow for in-person and virtual participation.

SECOND: Vice-President Herro

President Hardy appreciated Dr. Taylor's comments and cautioned the Board against requiring meeting attendees to produce vaccine cards due to HIPAA concerns. She stated that she was confident the Board's staff and Executive Director had the ability to facilitate the meeting format approved by the Board. Ms. McClain spoke in support of screening meeting attendees that appear in person.

VOTE: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

C. Legislation update on the following Bills:

1. Dental Specific:

- h. SB1372

Executive Director Edmonson reported that this Bill appeared to have died.

- d. SB1013

Executive Director Edmonson reported that this Bill will become effective in January 2022 at which time the license renewal cycle will switch from a June 30th expiration date to the licensee's birth month. He stated that this has been added to the Rules Advisory Group's agenda and that they are currently seeking exemption from the rule writing moratorium.

Dr. Morrow questioned the status of the Bill that was seeking approval for dentists to administer vaccinations as well as Botox. Mr. Murphy reported that despite multiple efforts, the Bill was not successful and that they will try again next year. He pointed out that dentists have the ability to help with COVID vaccination efforts under President Biden's Executive Order. Executive Director Edmonson clarified that dentists administering vaccines must do so as a volunteer and not collect payment.

XIV. SUMMARY OF CURRENT EVENTS

Executive Director Edmonson updated the Board regarding Dr. Morrow and Ms. McClain were confirmed by the WREB for their continued participation. He also reported that an email blast was transmitted to help the regulated community stay informed and keep them from having to appear before the Board.

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

The Board instructed staff to agendize the following topics for future meeting agendas:

- Training requirements for a 1304 permit to be considered by the Anesthesia and Sedation Committee.
- Possible formation of an investigative committee or review process to help the Board review cases.
- Consideration to require hygienists to display their license in the office.

XVI. NEXT BOARD MEETING DATE

A. May 7, 2021

XVII. ADJOURNMENT

MOTION: Dr. Taylor moved for the Board to adjourn.

SECOND: Mr. Dynar

VOTE: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

The Board's meeting adjourned at 7:15 p.m.