



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

### June 5, 2020 Board Meeting

Members of the Arizona State Board of Dental Examiners (“Board”) held a meeting at 8:04 a.m. on Friday, June 5, 2020, 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 from 2:44 p.m. to 2:56 p.m.

#### BOARD MEMBERS:

Heather N. Hardy, RDH.....	President and Licensed Hygienist Member
Robert B. Taylor, DDS .....	Vice-President and Licensed Dentist Member
Lisa B. Bienstock, DMD.....	Licensed Dentist Member
Morgan Burg.....	Business Entity Member
Aditya Dynar, Esq.....	Public Member
Nick Goodman.....	Public Member
John N. Harman, IV, DDS .....	Licensed Dentist Member
Anthony Herro, DDS .....	Licensed Dentist Member
Marilyn J. McClain, RDH.....	Licensed Hygienist Member
Russell J. Morrow, DDS .....	Licensed Dentist Member
Leslie D. Seaman, DDS .....	Licensed Dentist Member

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

Ryan P. Edmonson.....	Executive Director
Kristina Gomez .....	Deputy Director
Seth T. Hargraves, Esq.....	Assistant Attorney General
John W. Dovgan, DDS.....	Chief Investigator
Sherrie Biggs.....	Licensing Manager
Miriam Thompson, LLB, LEC .....	Chief Compliance Officer
Nancy Elia.....	Licensing Administrator
Selena Acuna .....	Legal Administrator
Lisa Schmelling .....	Administrative Assistant
Susie Adams.....	Program and Project Specialist
Jill Barenbaum .....	Information Processing Specialist

#### GUESTS PARTICIPATING AND/OR PRESENT:

Sean Murphy, Executive Director.....	Arizona Dental Association
Deb Kappes, RDH, MPH.....	Arizona Dental Hygienists’ Association
Paul Alan Varda, DMD.....	Applicant
Lance Don Bailey, DDS .....	Respondent
Matthew Arnall, DDS .....	Respondent

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

Katherine M. Corcoran, Esq. ....	Respondents’ Attorney
Manpreet S. Badyal, DDS.....	Respondent
Gus Emad Khalifa, DDS.....	Respondent
Terry Leroy Green, DDS .....	Respondent
Satish Bhadra Chari, DDS .....	Respondent
Thanh Du, DDS .....	Respondent
Jeffrey J. Tonner, Esq. ....	Respondents’ Attorney
Complainant.....	Case no. 201900063
Complainant.....	Case no. 201900223
Jeremy Yan-Min Chan, DDS.....	Respondent
Karly White, Esq.....	Respondent’s Attorney
Ivo Bohumil Sokol, DDS.....	Respondent
Kerry D. Burgess, DMD .....	Respondent
Kelli K. Williams, Esq.....	Respondents’ Attorney
Jenny V. Wang, DDS.....	Respondent
Robert F. Kethcart, Esq.....	Respondent’s Attorney
Complainants .....	Case No. 201900282-AO
Brown “Skip” Harris, III, DDS.....	Board’s Investigative Consultant
Tophas Anderson, IV, Esq.....	Respondent’s Attorney
Complainant.....	Case no. 201900096
Jefferson R. Hayden, Esq.....	Respondent’s Attorney
Dina Anagnopoulos, Esq. ....	Respondent’s Attorney
Susan McLellan, Esq. ....	Respondent’s Attorney

**OPEN SESSION**

**CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 8:04 a.m. by Heather N. Hardy. Roll call of the Board members was taken and a quorum was established. The following order of business was then considered.

**CALL TO THE PUBLIC**

Sean Murphy was present and requested that the Board consider its clinical examination and making allowances from the in-person, patient based requirements.

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

Dr. Russell J. Morrow declared conflicts on agenda items V.D.1. 201900207; Burgess, Kerry D. & V.B.4. 201900223; Bernard, Gary F.

Dr. Anthony Herro declared a conflict on agenda item V.B.1. 201900063; Badyal, Manpreet S.

Dr. Robert B. Taylor declared a conflict on agenda item V.K.1. 201800141; Shanahan, Bryan J.

Dr. Lisa B. Bienstock declared conflicts on agenda items V.B.3. 201900179; Khalifa, Gus Emad, V.D.1. 201900207; Burgess, Kerry D., V.K.1. 201800141; Shanahan, Bryan J., V.E.1. 201700256 & 201900135; Heiner, Nicholas P. & V.E.4. 201900056-MP; Wang, Jenny V.

Dr. Leslie D. Seaman declared a conflict on agenda item V.K.1. 201800141; Shanahan, Bryan J.

Marilyn J. McClain declared a conflict on agenda item V.K.1. 201800141; Shanahan, Bryan J.

## **ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

### Renewal Application(s) for Licensing of Dentist(s)

#### Varda, Paul Alan

Applicant was present to address the Board and answer questions. Dr. Paul Alan Varda briefly discussed his medical condition and his inability to work in a dental office.

After discussion, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to renew the applicant's dentist license.

### Review of Investigation(s)

#### 201900063; Badyal, Manpreet S.

Jeffrey J. Tonner, legal counsel for the respondent, was present on behalf of the respondent. Mr. Tonner stated that it appears that his client is having difficulty connecting or unmuting himself to participate, and therefore, due to the respondent's technical difficulties, the Board tabled the matter until the respondent could resolve his difficulties or Mr. Tonner would represent his client without the verbal testimony of his client.

*Dr. Anthony Herro declared a conflict and did not participate in the discussion.*

#### 201900150; Bailey, Lance Don

The respondent was not present. Katherine M. Corcoran, legal counsel for the respondent, was present on behalf of the respondent. The complainant was not present. Dr. John W. Dovgan was present to answer questions from the Board.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded by Dr. Russell J. Morrow and passed unanimously to offer a non-disciplinary consent agreement to include six hours of continuing education ("CE") in the area of periodontal treatment, four hours of CE in treatment and diagnosis planning, all to be completed in six months and all CE taken to fulfill the compliance terms of the order are in addition to the statutorily required CE and must be pre-approved by the Board or its designee.

#### 201900063; Badyal, Manpreet S.

The respondent was present with legal counsel, Jeffrey J. Tonner. The complainant was present and provided the Board with her experience and treatment by the dentist and summarized her complaint and desired outcome. Mr. Tonner described the procedures that were done by the respondent, including the respondent's referral to a different dentist for follow-up treatment and that the complainant was given a complete refund and the respondent also paid the successor dentist for his services with the patient.

*Due to the virtual format, both the complainant and respondent used the chat feature in Google Meets to correspond. For purposes of having a complete public record, the Board directed staff to read the chat session, between the complainant and respondent, into the record. Below is the verbatim chat session:*

*Complainant 8:50 AM Dr Day removed the implants I was in pain for 2 weeks*

*Respondent 8:53 AM The backing off was minimal*

*Complainant 8:53 AM please review all my records which tells that there was no ct scan initially done and only after it was prescribed was it i refused to have the rest of the work done due to my expernice*

*Complainant 8:55 AM I was refused my refund unless I signed a release form*  
*Complainant 8:56 AM that is why care credit refunded my payment to Badyals office*  
*Respondent 8:56 AM The reason for the refusal, which may have been my mistake*  
*was that I was going to pay for everything, but she chose to cut me out*  
*of everything so I let her dispute and take the money.*  
*Complainant 8:57 AM when I went in to see Badayl he asked me what I want him to*  
*do???*

After discussion, a motion was made by Dr. Russell J. Morrow, seconded by Dr. Robert B. Taylor and passed unanimously to dismiss the case and close the file.

*Dr. Anthony Herro declared a conflict and did not participate in the discussion or vote.*

201900179; Khalifa, Gus Emad

The respondent was present with legal counsel, Jeffrey J. Tonner. The complainant was not present. Mr. Tonner described the history of the complaint and the procedures performed by his client over several years. Mr. Tonner described that the complainant claimed to be hospitalized from treatments performed by the respondent, but neither he, nor the respondent have seen hospital records to validate the hospitalization. Mr. Tonner stated that the complainant paid roughly \$300 for her treatment and the complainant's insurance carrier paid roughly \$700 and she was fully refunded after making a request to the respondent and shortly after cashing her refund posted a one-star review on Yelp. After the review was posted, the respondent wrote a response to the Yelp review. Mr. Tonner stated that there is a federal case pending, but doesn't believe that the identity of the complainant was ever exposed. The Board asked the respondent a few questions, mostly about what he's learned and what he would do differently knowing what he knows now. He stated that he isn't ashamed of what his response read, but that he shouldn't have used the complainant's name. He also stated that he removed the response within 17 days.

After discussion, a motion was made by Dr. Robert B. Taylor to issue a letter of concern regarding the use of sharing names of patients. Prior to a second to the motion, Dr. Russell J. Morrow requested to hear from board member Aditya Dynar and his perception of the case. Heather N. Hardy stated that before there is any additional discussion that there would need to be a second to the motion.

Dr. Robert B. Taylor rescinded his motion to allow for further discussion.

Mr. Dynar stated that he believes that the complainant probably shouldn't have argued in an open forum such as Yelp, but since she did, she also self-revealed herself. He stated that the respondent only responded to what the complainant already self-disclosed and thinks the case should be dismissed.

A motion was made by Dr. John N. Harman, IV and seconded by Aditya Dynar to dismiss the case and close the file. The motion failed 3 – 7 – 1 by the following roll call vote:

Heather N. Hardy, RDH – Nay  
Robert B. Taylor, DDS – Nay  
Lisa B. Bienstock, DMD – Abstained  
Morgan Burg – Aye

Aditya Dynar, Esq – Aye  
Nick Goodman – Nay  
John N. Harman, IV, DDS – Aye  
Anthony Herro, DDS – Nay  
Marilyn J. McClain, RDH – Nay  
Russell J. Morrow, DDS – Nay  
Leslie D. Seaman, DDS – Nay

*Dr. Lisa B. Bienstock declared a conflict and did not participate in the discussion or vote.*

A motion was made by Dr. Robert B. Taylor and seconded by Heather N. Hardy to issue a letter of concern to the respondent to respond more appropriately to patients, especially when using public, social media outlets. The motion passed 7 – 3 – 1 by the following the roll call vote:

Heather N. Hardy, RDH – Aye  
Robert B. Taylor, DDS – Aye  
Lisa B. Bienstock, DMD – Abstained  
Morgan Burg – Aye  
Aditya Dynar, Esq – Nay  
Nick Goodman – Aye  
John N. Harman, IV, DDS – Nay  
Anthony Herro, DDS – Aye  
Marilyn J. McClain, RDH – Aye  
Russell J. Morrow, DDS – Nay  
Leslie D. Seaman, DDS – Aye

*Dr. Lisa B. Bienstock declared a conflict and did not participate in the discussion or vote.*

201900223; Bernard, Gary F.

The respondent was not present, but was represented by his legal counsel, Jeffrey J. Tonner. The complainant was present and provided the Board with his experience when receiving implants by the dentist and requested that the Board take action against the respondent today. Mr. Tonner described the procedures that were done by the respondent, including the subsequent treating dentist's treatment. Mr. Tonner stated that the respondent treated the patient appropriately, but could have done a better job at recording the visits. The Board commented that the complaint appears to be about dentures received by the complainant, but the respondent did not treat the patient for dentures; he treated him for implants.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Anthony Herro and passed 9 – 1 – 1 to issue a letter of concern regarding the respondent's need to record better records of patient visits.

*Nick Goodman voted against the motion.*

*Dr. Russell J. Morrow declared a conflict and did not participate in the discussion or vote.*

*The Board took a break from 9:52 a.m. to 9:58 a.m.*

201900250; Stoor, Michael James

Neither the respondent, nor the complainant were present or represented by an attorney.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Anthony Herro and passed unanimously to dismiss the case and close the file.

201900258; Green, Terry Leroy

The respondent was present with legal counsel, Jeffrey J. Tonner. The complainant was not present. Mr. Tonner explained that it appears that the complaint was opened on the wrong doctor.

A motion was made by Dr. Russell J. Morrow, seconded by Dr. John N. Harman, IV and passed unanimously to dismiss the case and close the file.

After discussing the appropriate doctor, a motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed 10 – 1 to open a complaint file on Robin P. Lenaker, Jr.

*Aditya Dynar voted against the motion.*

201900260; Chan, Jeremy Yan-Min

The respondent was present with legal counsel, Karly White. The complainant was not present. Ms. White describe the treatment of the patient and stated that the complainant signed an informed consent regarding the risks and benefits of the procedure performed and that there was no harm or inadequate diagnosis. Dr. Jeremy Yan-Min Chan stated that he should have documented the patient's visit better, but that he did not do anything clinically incorrect.

A motion was made by Dr. Russell J. Morrow, seconded by Heather N. Hardy and passed 10 – 1 to issue a letter of concern regarding the respondent's need to record better records of patient visits.

*Robert B. Taylor voted against the motion.*

201900283; Sokol, Ivo Bohumil

The respondent was not present, but was represented by his legal counsel, Kelli K. Williams. The complainant was not present. Ms. Williams stated she just wanted to point out that the consultant did not find a violation of standards and would be available to answer questions. She stated that the respondent agreed to issue a refund, did so and the complainant refused to cash the check.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Russell J. Morrow and passed unanimously to dismiss the case and close the file.

Review of Investigation(s) – Cases Recommended for Offer of Non-Disciplinary Consent Agreements

201900113; Ferraris, Valentine Robert

Neither the respondent, nor the complainant were present or represented by an attorney. After the Board asked about the draft consent agreement and the \$500.00 civil penalty, Seth T. Hargraves defined the Board's statute, A.R.S. § 32-1263.02(F)(4) regarding a non-disciplinary civil penalty of up to \$500.00 for failure to respond to a board subpoena.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Russell J. Morrow and passed unanimously to accept the draft consent agreement and offer it to the respondent and if not accepted to invite the respondent to a formal interview.

201900124; Arooni, Majid

Heather N. Hardy provided an update regarding the respondent's request to be present to discuss his case, but his inability to be present at the Board's June 5 meeting.

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to table the matter until the Board's August meeting to allow the respondent time to make scheduling adjustments to be present for the Board's discussion.

201900197; Gentle Dental

Neither the respondent, nor the complainant were present or represented by an attorney.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded by Dr. Anthony Herro and passed unanimously to dismiss the case and close the file.

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

201900207; Burgess, Kerry D.

The respondent was present with legal counsel, Kelli K. Williams. The complainant was not present. Ms. Williams stated that she and the respondent were present to answer questions from the Board, but offered no initial statement. The Board asked the respondent about his knowledge of rubber dams.

A motion was made by Dr. Robert B. Taylor, seconded by John N. Harman, IV and passed 9 – 0 – 2 to issue the letter of concern as drafted and in the Board's meeting materials.

*Drs. Lisa B. Bienstock and Russell J. Morrow declared conflicts and did not participate in the discussion or vote.*

Response/Non-response to Offered Consent Agreement(s)

201700256 & 201900135; Heiner, Nicholas P.

The Board discussed its options due to the respondent's non-compliance.

A motion was made by Heather N. Hardy and seconded by Dr. Robert B. Taylor to file a complaint and notice of hearing to revoke for his failure to comply and respond to his professional regulatory board. The motion passed 10 – 0 – 1 by the following roll call vote:

Heather N. Hardy, RDH – Aye  
Robert B. Taylor, DDS – Aye  
Lisa B. Bienstock, DMD – Abstained  
Morgan Burg – Aye  
Aditya Dynar, Esq – Aye  
Nick Goodman – Aye  
John N. Harman, IV, DDS – Aye  
Anthony Herro, DDS – Aye  
Marilyn J. McClain, RDH – Aye

Russell J. Morrow, DDS – Aye  
Leslie D. Seaman, DDS – Aye

*Dr. Lisa B. Bienstock declared a conflict and did not participate in the discussion or vote.*

201800224; Coleman, John Scott

The respondent was not present, but was represented by his legal counsel, Katherine M. Corcoran. Ms. Corcoran thanked the Board and stated that the only reason why the matter was on the Board's agenda was due to the errors written in the Findings of Fact, which appeared to be from a template consent agreement. She stated that her client is willing to sign the consent agreement, but only when the Findings of Fact are correct and reflect his case.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to amend the Board's consent agreement to reflect the respondent's amendments and re-offer the consent agreement for his signature.

201900054; Fair, Michael C.

After the Board discussed the respondent's request, a motion was made by Dr. Robert B. Taylor and seconded by John N. Harman, IV to reject the respondent's request and re-offer the consent agreement as originally offered and if not accepted to invite the respondent to a formal interview. Prior to the vote and during the discussion, the Board discussed amending the consent agreement's Finding of Fact, paragraph 6 from, "Since Respondent's x-rays show the over fill and the separated instrument he obviously knew there was an issue" to "Respondent's x-rays show an over fill and the separated instrument". Having accepted the proposed amendment, the motion passed unanimously.

201900056-MP; Wang, Jenny V.

The respondent was present with legal counsel, Robert F. Kethcart. Mr. Kethcart made a brief statement and requested that the Board issue a letter of concern versus any other form of adjudication. He also stated that the respondent is willing to do the continuing education in the consent agreement, but would rather do them willingly with a letter of concern versus mandated in a consent agreement. Mr. Kethcart provided amendments to the consent agreement if the Board keeps with the non-disciplinary consent agreement versus issuing a letter of concern.

Dr. Lisa B. Bienstock pointed out that the respondent was originally notified that she would be offered a disciplinary consent agreement, but requested something less and the Board agreed an offered a non-disciplinary consent agreement with continuing education and now she is coming back requesting a letter of concern. Dr. Jenny Wang stated that she was unaware of the change in statute requiring the Board to post even non-disciplinary agreements and that's why she is now requesting a letter of concern.

A motion was made by Dr. Robert B. Taylor, seconded by Nick Goodman and passed unanimously to accept the proposed amendments by the respondent's attorney and re-offer the amended, non-disciplinary consent agreement to the respondent and if not accepted to invite the respondent to a formal interview.

Review of Investigation(s)

201900282-AO; Pourshirazi, Ehsan

The respondent was not present, nor was he represented legal counsel. The complainants were present and summarized the procedure their family member received, which ultimately led to the patient's death in the hospital due to the anesthesia administered by the CRNA who the respondent invited to the procedure. The complainants were curious and wanted answers to questions regarding the incident and the incident report. They also stated that they are seeking justice for the death of their family member. Seth T. Hargraves stated that answering many of the complainants' questions during an open investigation may jeopardize the Board's investigation because the complaint is deemed confidential until there is a final disposition and only if the disposition is publicly available.

Dr. Brown "Skip" Harris, III was present to summarize his investigative report and answer questions from the Board. Dr. Harris defined what a 1304 anesthesia permit holder is and stated that the respondent did not have a 1304 anesthesia permit, but still employed a CRNA to come to his office to administer anesthesia. Dr. Harris stated that in order to employ a CRNA to come to a dental practice to administer anesthesia that the dental provider must have at least a 1304 anesthesia permit. Having a 1304 permit requires that the holder of the permit has advanced cardiac life support training. Dr. Harris explained that the patient was not treated in the appropriate dental practice because the respondent didn't even recognize that the 76-year old, obese, diabetic patient was receiving oral surgery in a general dentist's office and it should have been referred out.

The Board discussed seeking emergency action and asked Mr. Hargraves about the process of summarily suspending the respondent's license and moving to a hearing to revoke. Mr. Hargraves stated the Board will have to set forth interim Findings of Fact, interim Conclusions of Law and the rationale that supports the need to take immediate action to protect the safety and welfare of the public.

Based upon the information presented through the investigation and during the Board's discussion, a motion was made by Dr. Russell J. Morrow and seconded by Nick Goodman to take emergency action in order to protect the public's health, safety and welfare. The motion passed 11 – 0 by the following the roll call vote:

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

A motion was made by Dr. Russell J. Morrow and seconded by Heather Hardy to adopt the Dental Consultant's Deviations from the Standard of Care/Practice and Aggravating Factors from his investigative report and summary as the interim Findings of Fact.

The motion passed 11 – 0 by the following the roll call vote:

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

A motion was made by Dr. Russell J. Morrow and seconded by Aditya Dynar to adopt the following interim Conclusions of Law – A.R.S. §§ 32-1201.01(14), 32-1263(A)(1), 32-1263(A)(4), 32-1263(A)(5) and A.A.C. R4-11-1304. The motion passed 11 – 0 by the following the roll call vote:

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

Based on the interim Findings of Fact, interim Conclusions of Law and the requirement to take emergency action, a motion was made by Dr. Russell J. Morrow and seconded by Nick Goodman to summarily suspend the respondent's license effective upon service of the order. The motion passed 11 – 0 by the following the roll call vote:

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

A motion was made by Dr. Russell J. Morrow and seconded by Nick Goodman to refer the matter for formal hearing before the Office of Administrative Hearings and to be commenced as expeditiously as possible from the date of the issuance of the order. The motion passed 11 – 0 by the following the roll call vote:

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

The Board directed staff to add the evaluation of the 1304 permits to the Anesthesia and Sedation Committee.

#### **INVESTIGATOR/INTERNAL CONSULTANT POSITION**

Ryan P. Edmonson and Dr. John W. Dovgan provided an update regarding the Board's investigative process, the compliance division changes and the scheduled training for all consultants in an effort to create some uniformity in conducting investigations.

*The Board took a break from 12:39 p.m. to 12:45 p.m.*

#### **ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

##### Response/Non-response to Offered Consent Agreement(s)

##### 201900122; Templeton, Michael

The respondent was not present, but was represented by his legal counsel, Tophas Anderson, IV. Mr. Anderson stated that he his client wants to put this matter behind him and think that the consent agreement is fair, but would like the Board to consider amending the consent agreement to change the in-person continuing education to online or home study, and either amending or removing the second sentence of Findings of Fact #11.

A motion was made by Dr. Russell J. Morrow, seconded by John N. Harman, IV and passed unanimously to amend the Board's consent agreement to reflect the respondent's amendments, including online continuing education due to the COVID-19 pandemic and re-offer the consent agreement for his signature. The motion passed 10 – 0 – 1 by the following the roll call vote:

Heather N. Hardy, RDH – Aye  
Robert B. Taylor, DDS – Aye  
Lisa B. Bienstock, DMD – Aye  
Morgan Burg – Aye  
Aditya Dynar, Esq – Aye  
Nick Goodman – Absent for the vote  
John N. Harman, IV, DDS – Aye

Anthony Herro, DDS – Aye  
Marilyn J. McClain, RDH – Aye  
Russell J. Morrow, DDS – Aye  
Leslie D. Seaman, DDS – Aye

201900044; Meyer, Nicholas

The respondent was not present. The Board discussed the options they could take, including inviting the respondent to a formal interview or filing a complaint and notice of hearing for failure to comply with a Board subpoena and cooperate with the Board's investigation.

A motion was made by Heather N. Hardy and seconded Dr. Robert B. Taylor to file a complaint and notice of hearing to revoke the respondent's license. During the discussion and prior to the vote, the Board requested more information regarding the notification sent to the respondent. Staff was unable to verify the notification.

Both Ms. Hardy and Dr. Taylor rescinded their respective motions.

A motion was by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to table the matter to a future agenda, including the possibility of a special meeting between now and the Board's August 7, 2020 meeting.

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

Board staff requested that item 8; file no. 201900215 be tabled until a future meeting.

201800193

201900031

201900076

201900081

201900151

201900173

201900203

201900225

201900247

201900256

201900274

201900292

201900295

201900316

201900322

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Russell J. Morrow and passed unanimously accept the executive director complaint terminations, pursuant to A.R.S. § 32-1263.03.

Review Compliance/Non-compliance with Consent Agreement/Board Order

201500190; Chari, Satish Bhadra (tabled from March 6 board meeting)

The respondent was present with legal counsel, Jeffrey J. Tonner. Mr. Tonner explained that the current board order is an old order, but not practical considering his client's current health status and his inability to complete the continuing education due to the health of the respondent and

requested that the Board consider modifying the board order. Dr. Satish Bhadra Chari briefly described his inability to practice due to his health, and therefore, his inability to meet the terms of compliance under the current board order. The Board discussed Dr. Chari's continuing education and whether he has been practicing from the date of the agreement in 2016 to now. He stated that he hasn't practiced since 2017 when he sold his practice. He did not want to limit his opportunity from ever practicing again and requested an amendment to the current board order. Seth T. Hargraves briefly summarized the history of the case and explained that the respondent was unable to do any dentistry in the area of crown and bridge until he completed the required continuing education. Mr. Hargraves stated that the Board could consider a modification to extend the crown and bridge restriction until the respondent can complete continuing education in the area of crown and bridge and until the respondent can demonstrate that he can safely practice.

A motion was made by Dr. Russell J. Morrow, seconded by Nick Goodman and passed unanimously to give limited authority to the Board's attorney to work with the respondent's attorney to draft an appropriate consent agreement for the Board's review and approval at a future meeting.

Malpractice, Adverse Occurrence Report and/or Disciplinary Action  
201900325-AO; Arnall, Matthew

The Board discussed the consultant's investigative report and whether or not they should assign the case to a dental anesthesiologist. The respondent was not present, but was represented by his legal counsel, Katherine M. Corcoran. Ms. Corcoran stated that she would also like the case reviewed by a dental anesthesiologist because her client is a dental anesthesiologist. She also requested a copy of the investigative report once one is completed.

A motion was made by Dr. Anthony Herro and seconded by Lisa B. Bienstock to table the matter for a future meeting agenda and direct staff to assign the case to a dental anesthesiologist to complete an investigative report and once complete to provide a copy to the respondent for his review prior to the board meeting. Prior to the vote and during the discussion, the Board discussed also opening a case on the pediatric dentist to review her treatment plan. The motion passed unanimously.

A motion was made by Dr. Anthony Herro, seconded by Heather N. Hardy and passed unanimously to direct staff to open a complaint case against Kyla Hollen, DMD and assign the case to a consultant to complete an investigative report.

Non-Compliance with Subpoenas  
201900331, 202000040, 202000070, 202000086; Botar, Andrea Judith

After discussion, a motion was made by Dr. Russell J. Morrow and seconded by Nick Goodman to file a complaint and notice of hearing for revocation of the respondent's license for her failure to comply and respond to board issued subpoenas, patient abandonment and failure to notify the Board of an address change. The motion passed 10 – 1 by the following the roll call vote:

Heather N. Hardy, RDH – Aye  
Robert B. Taylor, DDS – Aye  
Lisa B. Bienstock, DMD – Aye  
Morgan Burg – Aye  
Aditya Dynar, Esq – Nay

Nick Goodman – Aye  
John N. Harman, IV, DDS – Aye  
Anthony Herro, DDS – Aye  
Marilyn J. McClain, RDH – Aye  
Russell J. Morrow, DDS – Aye  
Leslie D. Seaman, DDS – Aye

*Aditya Dynar voted against the motion. He stated that he agrees with the allegations, but believes that the matter should proceed to superior court to enforce the subpoenas versus going through the administrative route.*

#### Review of Proposed Board Orders

##### 201900096; Wallin, Derek M.

The complainant was present and stated that she feels that the respondent made several false and defamatory statements. She described her treatment, experience and treatments she will still have to undergo. She also stated that Dr. Wallin has never refunded her costs. The respondent was not present, but was represented by his legal counsel, Jefferson R. Hayden. Mr. Hayden stated that he believed that the matter was placed on the agenda for review of the proposed order and that the complainant has had ample opportunity to appear before the Board, prior to today, and that the Board should consider the draft consent agreement before them today. The Board discussed amending the consent agreement to allow the respondent to take continuing education online in light of the COVID-19 pandemic.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to amend the consent agreement to allow for online continuing education due to the COVID-19 pandemic and offer the consent agreement, as amended, to the respondent for his signature.

#### Review of Request(s) for Extension(s) and/or Online Continuing Education Course(s)

##### 201800141; Shanahan, Bryan J.

A motion was made by Dr. Russell J. Morrow, seconded by Heather N. Hardy and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

*Dr. Lisa B. Bienstock, Marilyn J. McClain, Dr. Leslie D. Seaman and Dr. Robert B. Taylor declared conflicts and did not participate in the discussion or the vote.*

##### 201800161; Marks, George Thomas

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

##### 201800172-MP; Sokol, Ivo Bohumil

The respondent was not present, but was represented by legal counsel, Dina Anagnopoulos. Ms. Anagnopoulos simply reiterated her client's request to complete the required continuing education online and an extension of time to complete it.

A motion was made by Dr. Russell J. Morrow, seconded by Dr. Robert B. Taylor and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

201800213; Richins, Troy

A motion was made by Dr. Russell J. Morrow, seconded by Dr. Robert B. Taylor and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

201900028; Du, Thanh

The respondent was present with his legal counsel, Jeffrey J. Tonner. Mr. Tonner simply reiterated his client's request to complete the required continuing education online and an extension of time to complete it.

A motion was made by Dr. Russell J. Morrow, seconded by Dr. Robert B. Taylor and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

201900087; Mehanna, Sally Gabbour

A motion was made by Dr. Russell J. Morrow, seconded by Dr. Robert B. Taylor and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

201900129; Kamel, Andrea

The respondent was not present, but was represented by legal counsel, Susan McLellan. Ms. McLellan simply reiterated her client's request to complete the required continuing education online and an extension of time to complete it.

A motion was made by Dr. Russell J. Morrow, seconded by Dr. Robert B. Taylor and passed unanimously to grant the respondent's request due to the COVID-19 pandemic and allow for the respondent to complete the required continuing education online and an additional three months to complete it.

Voluntary Surrender(s)

202000103; Sweetland, Violet

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Russell J. Morrow and passed unanimously to accept the voluntary consent agreement to surrender the respondent's license in lieu of disciplinary proceedings.

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

Discussion and approval of the Open Session Minutes from the March 6, 2020 board meeting

A motion was made by Heather N. Hardy, seconded by Dr. Russell J. Morrow and passed unanimously table the matter to a future board meeting agenda.

Discussion and approval of the Amended Open Session Minutes from the October 4, 2019 board meeting

Discussion and approval of the Executive Session Minutes from the March 6, 2020 board meeting

Discussion and approval of the Open Session Minutes from the March 17, 2020 special board meeting

Discussion and approval of the Open Session Minutes from the April 10, 2020 special board meeting

Discussion and approval of the Open Session Minutes from the April 24, 2020 special board meeting

A motion was made by Heather N. Hardy, seconded by Dr. Russell J. Morrow and passed unanimously to approve the Amended Open Session Minutes from the October 4, 2019 board meeting, the Open Session Minutes from the March 17, 2020 special board meetings and the Executive Session Minutes from the March 6, 2020 board meeting.

### **PROPOSED RULE MAKING REGARDING ADVERTISING**

Dr. Lisa B. Bienstock thanked the Board for the opportunity to draft something for the Board's consideration regarding advertising, especially advertising as a specialist. The Board thanked Dr. Bienstock for her draft and a foundation to work with. The Board discussed the proposed draft and made one amendment to the first sentence.

After discussion, a motion was made by Dr. Russell J. Morrow, seconded by Aditya Dynar and passed 10 – 0 – 1 to amend the draft language and once amended to include it in the Board's current Notice of Proposed Rule Making.

*Nick Goodman abstained from the vote.*

### **CONSENT AGENDA**

The Board discussed going into executive session to discuss confidential information and to seek legal advice.

### **EXECUTIVE SESSION**

A motion was made by Heather N. Hardy, seconded by Dr. Lisa B. Bienstock and passed unanimously to go into executive session at 2:44 p.m. to seek legal advice and discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) & (3) regarding items on the consent agenda.

After consideration in executive session, the Board reconvened in open session at 2:56 p.m.

### **OPEN SESSION**

*The Board took a break from 2:57 p.m. to 3:06 p.m.*

### **CONSENT AGENDA**

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

Berschler, Benjamin (dental consultant)

Carlson, Edward (dental consultant)

Sorensen, Howard (dental consultant & anesthesia and sedation evaluator)

Vassilidades, Nathan (dental consultant)

A motion was made by Dr. Robert. B. Taylor, seconded by Marilyn J. McClain and passed unanimously to approve all the applicants' requests to be Board Dental/Hygiene Consultant(s) and Anesthesia and Sedation Evaluator(s).

## **ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

### **Review of Investigation(s)**

#### **201900282-AO; Pourshirazi, Ehsan**

The Board received an update from staff that the respondent was now present based on information he received from an attorney who was present at the meeting earlier today and now wished to join the meeting and discuss his matter. The Board discussed whether or not to have further discussion or continue with the vote from earlier in the meeting. The Board elected not to have further discussion for several reasons, including the fact that the complainants were now not present.

## **ARIZONA STATE BOARD OF DENTAL EXAMINERS' FUND BALANCE**

Board staff provided a summary of a discussion had with Nick Goodman and the possibility of refunding applicants' monies from FY2019 to present due to the COVID-19 pandemic and the large fund balance. Based on all the other waivers, provisional licenses, the logistics of completing refunds and several other benefits that the Board has recently voted on, the Board opted not to consider refunding applicants fees that were already received and processed.

## **EXECUTIVE DIRECTOR'S REPORT**

The Board Executive Director provided an update of the Board's budget and licensing and compliance statistics.

## **SUMMARY OF CURRENT EVENTS**

No discussion was made.

## **DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS**

The Board directed staff to add a discussion of the 1304 permits on the Anesthesia and Sedation Committee's agenda.

The Board directed staff to add the examination requirements and the CompeDont™ to a future board meeting agenda.

Dr. Russell J. Morrow would like to further discuss the issues with dental care being done at home using teledentistry, administering "at home" orthodontics and dental assistants taking final impressions.

## **NEXT BOARD MEETING DATE**

Friday, August 7, 2020

## **ADJOURNMENT**

A motion was made by Dr. Russell J. Morrow, seconded by Nick Goodman and passed unanimously to adjourn the Board meeting at 3:41 p.m.