



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

March 6, 2020
Board Meeting

Members of the Arizona State Board of Dental Examiners (“Board”) held a meeting at 8:04 a.m. on Friday, March 6, 2020 at the Board’s office in Boardroom A, 1740 West Adams Street, Phoenix, Arizona 85007. The Board met in executive session from 10:04 a.m. to 10:13 a.m., from 1:47 p.m. to 1:56 p.m. and from 1:59 p.m. to 2:02 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
[X] Aditya Dynar, Esq..... Public Member
Nick Goodman..... Public Member
John N. Harman, IV, DDS Licensed Dentist Member
Anthony Herro, DDS Licensed Dentist Member
[X] Marilyn J. McClain, RDH..... Licensed Hygienist Member
[X] Russell J. Morrow, DDS Licensed Dentist Member
Leslie D. Seaman, DDS Licensed Dentist Member
[X] Absent

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT:

- Ryan P. Edmonson..... Executive Director
Kristina C. Gomez Deputy Director
Marc Harris, Esq..... Assistant Attorney General
Carrie Smith, Esq..... Assistant Attorney General
Mary DeLaat Williams, Esq..... Assistant Attorney General
Miriam Thompson, LLB, LEC Chief Compliance Officer
Nancy Elia..... Licensing Administrator
Selena Acuna Legal Administrator
Lisa Schmelling Administrative Assistant

GUESTS PARTICIPATING AND/OR PRESENT:

- Sean Murphy, Executive Director..... Arizona Dental Association
Jonathan Richter, DDS..... Applicant
Cynthia C. Durley, Executive Director..... Dental Assisting National Board, Inc.
Katherine Landsberg, Government Relations..... Dental Assisting National Board, Inc.
Terri Y. Moore, RDH..... 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.

Mark Christensen, DDS	Western Regional Examining Board
Nick Thome, DDS	Applicant
Minseok Kang, DMD.....	Respondent
Jeffrey J. Tonner, Esq	Respondents' Attorney
Complainants	Case nos. 201800189-MP, 201800218, 201900033 & 201900302
Arman Nafisi, Esq.....	Respondent's Attorney
Marjan Nejad, DMD	Respondent
Complainant.....	Case No. 201900079
Joseph Fox, DDS	Respondent
Tophas Anderson, IV, Esq.....	Respondent's Attorney
Complainant.....	Case No. 201900108
Susan McLellan, Esq	Respondents' Attorney
Doug Chang, DMD.....	Respondent
Dina Anagnopoulos, Esq	Respondents' Attorney
Complainant.....	Case No. 201900085
Michael Dachs, DDS	Respondent
Complainant.....	Case No. 201900087
Complainant.....	Case No. 201900132
Leah Schachar, Esq.....	Respondent's Attorney
Complainant.....	Case No. 201900089
John J. Nay, DDS.....	Respondent
Complainant.....	Case No. 201900119
Melissa F. Villamor Ballecer, DDS	Respondent
Rachel DaPena, Esq.....	Respondent's Attorney
David Williams, Esq.....	Respondent's Attorney
Thomas A. Endicott, DDS	Respondent
Robert Bingham, DDS	Respondent
Magdalyn Thomas, DDS	Future Dentist

 Participated Telephonically

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.

INTRODUCTIONS AND WELCOME TO/FROM SEAN MURPHY, NEW EXECUTIVE DIRECTOR OF THE ARIZONA DENTAL ASSOCIATION

The Board greeted Sean Murphy who introduced himself as the new Executive Director of the Arizona Dental Association and announced the largest dental meeting for continuing education is coming up – the Western Regional Dental Experience April 2nd through the 4th, 2020.

CALL TO THE PUBLIC

No one from the public wished to address the Board.

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

Dr. Anthony Herro declared a conflict on agenda item VI.E.1. 201900075; Wright, Jack.

Dr. Robert B. Taylor declared a conflict on agenda item VI.N.2. 201600123 & 201700164; Margolis, Michael.

Nick Goodman declared a conflict on agenda item VI.L.1. 201900146-AO; Ray, Andrew William

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Application(s) for Licensing of Dentist(s) – A.R.S. § 32-1231 et seq.

Richter, Jonathan

Dr. Jonathan Richter participated by phone and responded to questions from the Board. Dr. Robert B. Taylor stated that Dr. Richter has multiple active and inactive licenses and asked why he was applying for an Arizona dental license. Dr. Richter said that he got involved in DSOs and was asked to help guide them in quality and control, insurance, set up protocols and to educate dentists relative to properly evaluate their patient to help avoid claims.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. John N. Harman, IV and passed unanimously to grant the applicant a dental license.

DENTAL ASSISTING NATIONAL BOARD (DANB)

Cynthia C. Durley, Executive Director and Katherine Landsberg, Director, Government Relations of the Dental Assisting National Board, Inc. (“DANB”) participated in-person and presented their organization to the Board. Below are some highlights of their presentation:

- Arizona statutes do not expressly define a requirement that dental assistants hold a certificate from the State of Arizona to be allowed to perform radiography procedures.
- History: Formerly, there were two radiography exams required (written and clinical) and the Arizona Radiologic Proficiency certificate was used as verification that the dental assistant had passed both exams (as a convenience for employers). The Board discontinued the clinical exam requirement in 2011.
- Currently, Arizona requires only one exam – DANB’s national Radiation Health and Safety (“RHS”) exam. Those who pass receive an official exam result document and a national Certificate of Knowledge-Based Competence in Radiation Health and Safety from DANB.
- Arizona has directed DANB to collect and store a social security number for every holder of an Arizona certificate (including the radiography certificate).
- DANB no longer collects SSNs for national RHS exam applicants, and therefore, it is necessary for DANB to have a separate application form for the AZ radiography certificate to collect the SSNs and charge an administrative fee to process that form.

Ms. Durley and Ms. Landsberg also discussed the low compliance levels with the Board – i.e., there is a great disparity between the number of Arizona candidates who passed the RHS exam in 2019 and the number of people who applied for and received the Arizona Radiologic Proficiency Certificate. They reported that about 1/3 of those with Arizona addresses who passed the RHS exam in 2019 had received the Arizona Radiologic Proficiency Certificate.

Below are questions that Ms. Durley and Ms. Landsberg asked the Board:

- The Board’s statute doesn’t require issuance of a certificate. Does the Board want DANB to issue only the RHS certificate and discontinue issuing the AZ radiography certificate?

- If the Board wants DANB to continue issuing a document, DANB would recommend that it be called an acknowledgment or verification form. (This is an administrative convenience and not a license or state-issued credential.)
- If DANB doesn't call it a "certificate," would it be necessary to continue collecting SSN?

The Board appreciated the questions, were not prepared to answer the questions and direct staff to work the Board's attorney to provide further direction at a future meeting.

Ms. Durley and Ms. Landsberg agreed that if there is any change to the administration of the radiography certificate, then the Board will also need to take a look at the "Certification by Credential" section of their rules and make sure everything is accurate reflected. Lastly, they discussed DANB's radiography certificate and two separate options:

1. DANB can assume administration of AZ radiologic proficiency certificate by credential, using a list of accepted states provided by the Board, or
2. Arizona can discontinue this process and require applicants moving from out of state to take DANB's RHS exam?

Again, the Board requested that staff work the Board's attorney and provide more information at a future meeting. The Board thanked Ms. Durley and Ms. Landsberg for coming and presenting.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Voluntary Surrender(s)

201900162; Moore, Terri Y.

The respondent was present but did not wish to speak; she was present to answer questions from the Board.

After discussion, a motion was made by Heather N. Hardy and seconded by Dr. Robert B. Taylor to accept the proposed consent agreement for a voluntary surrender. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

Ryan P. Edmonson recommended for the Board to enter into the record a motion to vacate the hearing with Ms. Moore.

A motion was made by Nick Goodman and seconded by Dr. Robert B. Taylor to vacate the hearing scheduled for Ms. Moore with the Office of Administrative Hearing. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

SUBSTANTIVE POLICY STATEMENT(S)

Dental Assistants' Scope of Practice

Dr. John N. Harman, IV asked if the substantive policy would be sufficient after listening to the presentation from DANB and asked if the Board needed a rule change instead. Ryan P. Edmonson stated that the purpose of the substantive policy is to help guide in what the Board's current statutes and rules already state. He stated that based on how the substantive policy is written, the Board will need to go back and change the statutes and rules. Mr. Edmonson also stated that the Board currently has a rule package open and if desired, the Board can add a rule amendment to the document, which may need an exemption from the rule moratorium.

After discussion, a motion was made by Dr. John N. Harman, IV, seconded by Dr. Robert B. Taylor and passed unanimously to adopt the substantive policy regarding Dental Assistants' Scope of Practice.

Marc Harris stated that the Board adopted a substantive policy statement, but the Board needs to promulgate rules in support of this substantive policy statement. Mr. Harris stated that he is not sure the correct motion would be to approve the substantive policy statement, but rather to direct staff based upon the draft of the substantive policy statement to come back at a future Board meeting with some proposed rule language that the Board can consider, directing staff to move forward. The Board can still operate under the current substantive policy statement, while staff develops language. Mr. Harris stated that the first motion can stand, and it is his understanding that the Board will direct staff to come back to the Board with some proposed rule language for the Board to consider with respect to the content of the substantive policy statement. Ms. Heather N. Hardy stated so directed.

EXAMINATION REQUIREMENTS – A.R.S. §§ 32-1233, 32-1276.01(B)(3), 32-1281(F) and 32-1285

Dr. Mark Christensen with Western Regional Examining Board (“WREB”) made a statement and responded to questions from the Board. Dr. Christensen expressed his gratitude for the invitation to address the Board. He spoke about the positive working relationship between WREB and the Board and that they would like to continue with the positive working relationship and help the Board in whatever they are trying to accomplish.

Ryan P. Edmonson stated that this matter is on the Board's agenda per their request, and a scheduling conflict delayed the discussion. He stated that the Board requested the discussion because they were not happy when WREB started making optional test components in the test that most applicants take and the Board statutes and rules require applicants to take and pass WREB.

Dr. Christensen said that states all over the country recognize examinations that do not have all components – for example a periodontal component. The periodontics section has always been part of the WREB examination and it continues to be a part of the exam but some states do not require that. WREB decided to make it optional for those states. We have states that have been wanting some kind of prosthodontic component similar to what ADEX, CDCA has etc. That has been a request going on for years. Finally, WREB developed that, it is very similar to the one that ADEX has and it is not much different in terms of what the candidate needs to perform for that section of the examination. In addition, Dr. Christensen stated that WREB has some states that require independent passage of separate restorative procedures. WREB now has a comprehensive score report that shows a lot of the detail.

Heather N. Hardy stated that the Board started to investigate this when some of the things changed within WREB. And, with the way the Board's statutes and rules are written, by default WREB's optional changes became the Board's standard test made components optional for the candidates.

Dr. Christensen stated that in every section of the exam, every section is conjunctive. That the performance on that section has no impact on the performance of any other section. Regardless of how you perform on the endodontics procedures, you pass or fail that section and it has no impact on your performance in the operative or CPT. However, within sections things are scored together. For example, with WREB – in the prosthodontics section there are three preparations, the candidates have to prepare a ceramic crown on an anterior tooth, two abutments for post fixtural partial dentures and they get scored according to criteria of all three of those procedures. The scores are combined to give you a pass/fail for that section. They are not required to pass each of those preparations independently. The same is true with the endodontics section and operative.

Nick Goodman stated that the problem is the Board indexed their statutes and rules to WREB. Could WREB have waited for Arizona to decide if the change were good? Dr. Christensen said that the Board could put in writing a request for WREB to let the Board know of changes. After a person takes the exam, they can practice dentistry independently.

Ms. Hardy created a committee, because the Board is processing legislative changes. This is changing what we have in law. Ms. Hardy volunteered herself and requested Dr. Russell J. Morrow, Dr. Anthony Herro and Nick Goodman to be on the committee to review the examination components for licensure in Arizona.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Request for Reconsideration of Board's Decision for Application for Licensing of Dentist – A.R.S. § 32-1231 et seq.

Thome, Nick

The applicant was present and thanked the Board for the opportunity to speak. Dr. Nick Thome stated that he was on the phone during the last board meeting on January 31, 2020 and he wanted an opportunity to make it known to the Board that his license was important to him. He requested the Board's reconsideration for no monitoring requirements, because the incidents took place in the past and even before he entered dental school. Dr. Thome continued to make his statement and took questions from the Board.

Dr. Robert B. Taylor asked Dr. Thome about his license in California. Dr. Thome said he has a license in California and he has a license in Minnesota, South Dakota as well with no discipline in those states.

A motion was made by Dr. Robert B. Taylor and seconded by Dr. Anthony Herro to grant an Arizona dental license without entering into the monitoring program. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

The Board took a break from 9:50 a.m. to 10:01 a.m.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Board Review – A.A.C. R4-11-1701
201800147; Kang, Minseok

Heather N. Hardy stated that the matter is not a formal interview and stated that the only item under review is the issue about the patient's blood pressure and administered anesthesia. The Board reviewed a letter from Dr. Stanley Malamed and whether the Board still believes that the blood pressure raised or caused, qualifies that to be unprofessional conduct, which then developed in a disciplinary order.

The respondent was present with legal counsel, Jeffrey J. Tonner. Mr. Tonner requested clarification because he believes he requested a review/rehearing regarding the placement of implants. Mr. Tonner said that they are asking to review both of the issues.

Ms. Hardy stated, according to what the Board decided from the last meeting, the only thing that was put under review for the meeting was for the blood pressure elevation. That is the only thing that the Board could discuss. Mr. Tonner then asked if they had to come back to the Board for the other issue, because he believed it was in his petition. Carrie Smith, Esq., stated that if the Board granted review on a particular item, and denied review on the other item then the only item the Board can discuss is the issue they granted for review.

The Board discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by Dr. Anthony Herro, seconded by Heather N. Hardy and passed unanimously to go into executive session at 10:04 a.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) for case no. 201800147.

After consideration in executive session, the Board reconvened in open session at 10:13 a.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Board Review – A.A.C. R4-11-1701

201800147; Kang, Minseok

The respondent was present along with legal counsel, Jeffrey J. Tonner. Mr. Tonner made a statement on behalf of Dr. Minseok Kang. Mr. Tonner stated that when the patient appeared, she was 61 years old and she had a terrible experience as a child in dentistry. He then said that the patient said in her own words on the health history – twice that she said she had a panic disorder. Mr. Tonner stated that the patient answered no to the high blood pressure question or shortness of breath. Mr. Tonner stated that she listed three medications that she took, none of them had to do with high blood pressure. Her blood pressure at that time of the procedure was at 191/105 and that was without any treatment.

The patient agreed to a treatment plan to extract several teeth and do an implant. Mr. Tonner stated that six days later she went back for the treatment and sobbed when she saw the dental instruments. Her blood pressure at the time was 189/93. It was a two-hour surgery and before it was completed, she started to awaken and became restless, so the doctor decided to abort the procedure at that time. Mr. Tonner said that Dr. Kang wrote, in his records, that the implant or revision surgery would be needed. The patient then came back a third time for suture removal and at that time a refund was agreed upon and she signed an agreement saying she would not file a board complaint. Mr. Tonner stated that the patient went to go see Dr. Allen, who is an oral surgeon because she wanted to have the work done under general anesthesia as opposed to what Dr. Kang could do. Additionally, the revision surgery that Dr. Kang said was needed was done by Dr. Allard. She breached her contract by filing the complaint.

Mr. Tonner stated that the consultant who reviewed the case made no mention of the blood pressure, and the first time they heard about that was during the formal interview. That was based upon the American Heart Association guidelines and please note that the American Heart Association self-styles those guidelines, not absolutes. Mr. Tonner stated that they enlisted the help of Dr. Stanley Malamed, DDS, who is probably the leading dental anesthesiologist in America. Dr. Malamed produced an affidavit claiming that he reviewed everything, including the audio of the formal interview and in his affidavit he stated that this is situational anxiety or white coat syndrome. According to Mr. Tonner, Dr. Malamed stated that once both Dr. Kang and the oral surgeon initiated the anesthesia, the systolic pressure dropped.

Nick Goodman stated that there was a contract to get a refund if the patient would not report the incident to the Board. What is happening with that contract? Mr. Tonner stated that she breached the contract and the patient still has the money. Dr. Anthony Herro stated that he had a question regarding Dr. Malamed's letter, paragraph 21 which states, "requires no medication to manage her blood pressure". Dr. Herro stated that he was assuming that Dr. Malamed means that she is not on medication to manage her blood pressure because the assumption that she does not need to be on medication is being made. There is no way we can know if she needed to be on medication for blood pressure or not. A differential diagnosis would include follow up with a primary care physician to see if there is a primary hypertension, she is diagnosis with hyperthyroidism. You can have secondary hypertension based on hyperthyroidism, if it is not stable. Dr. Herro also stated that it certainly could be white coat hypertension, but stated without some type of correspondence with the primary care physician, we cannot know for sure.

Additionally, Dr. Herro wanted to make a note that in Dr. Kang's clinical notes there was not a discussion had with the patient about her blood pressure being elevated. The patient's blood pressure was noted as being taken, but specifically, at the sedation consult visit there is a review

of system that is done and the very first system that was reviewed was cardiovascular. The only notation taken after that is regular rate and rhythm. No discussion about the blood pressure was made at that point. In paragraph 23, Dr. Malamed discusses the patient's treatment with Dr. Allard. Dr. Allard is a dual degree doctor as an MD and a DDS and has a 1301 certificate. Dr. Allard elected to bring in an MD anesthesiologist to put the patient to sleep, he himself did not. Dr. Herro stated that Dr. Berger, MD was brought in to put the patient to sleep. According to Dr. Herro, yes, blood pressure fell both times at the beginning, however, the difference with Dr. Berger's anesthesia the post-op blood pressure reading was 122 / 94. With Dr. Kang, the post-op blood pressure reading was 191 / 105.

Dr. Herro brought up Dr. Malamed's written comments that Dr. Kang chose to discontinue the procedure due to the patient's elevated blood pressure and noncompliance. At no point in the record did it say that Dr. Kang discontinued with the treatment, because he was worried about the blood pressure. In fact, it says that the patient was awake and insisted on not continuing herself. According to the records, Dr. Kang was encouraging her to go back so he could realign the implants. It was somewhere around an hour to an hour and a half later that the patient's diastolic was a hundred or higher during Dr. Kang's sedation that's a long time. Dr. Herro rhetorically asked if it were white coat hypertension and you initiate a sedation and the blood pressure falls and then it goes back up is it prudent to continue for an hour to an hour and a half with it being elevated and not coming back down?

Dr. Herro wanted to discuss one of the questions brought up at the prior Board meeting about whether the decision by Dr. Kang was made in neglect or because he knew an expert would agree with him. Dr. Herro stated that Dr. Kang saw the patient on several different dates for several different appointments. He stated that there was a sedation counsel; there was a surgery appointment and a follow up and at no point was there a conversation with the patient about her blood pressure being high. Nor did he communicate that the high blood pressure could be white coat hypertension and that he was going to proceed and will abort it if the patient becomes unstable during the treatment. Dr. Herro stated that there was no mention of it in Dr. Kang's clinical notes. The patient was clear that she was extremely nervous and suffers from dental phobia. Dr. Herro stated that does not automatically equate to high blood pressure, not every patient has a high blood pressure and not every patient that has high blood pressure is anxious.

Dr. Herro proposed, the reasonable and prudent way to proceed when you have patient whose blood pressure was as elevated as this patient's blood pressure was is to recheck it once, twice, three times to see if you are getting an accurate pressure. No notation was made about rechecking in Dr. Kang's notes. Dr. Herro stated that Dr. Kang should have corresponded with the primary care physician to see if there is underlining cardiac pathology or anything else and that was never done. If it were done, and this is going to touch on one of President Hardy's questions. Once you can rule out a systemic issue through correspondence with the primary care physician, you would have a conversation with the patient that we suspect it is white coat hypertension; we are going to sedate you, see how you respond. If you respond favorable then we will initiate the treatment. Dr. Herro then stated that if the patient, during treatment, would have become unstable, he would have stopped the treatment, and abort the case until we could come up with another plan to potentially stabilize her better. Dr. Herro stated that Dr. Malamed's letter does not change what the Board's initial review, discussion and decision was, but Dr. Herro wanted to hear from other members of the Board.

Ms. Hardy stated that she disagreed. She said that when she reviewed the case, in the beginning and before the formal interview her first thought was that the Board should dismiss the case. Then it changed, upon hearing what Dr. Herro discussed at the formal interview. Then when reading Dr. Malamed's letter, Ms. Hardy believes that the Board should dismiss the case. Ms. Hardy stated that there could have been other things, like consulting with a physician, that could have happened, but she thinks with Dr. Kang's experience as a dentist and the patient's health history and her anxiety from her previous experience that he probably knew why her blood level was elevated. Ms. Hardy believes the Board should dismiss the case.

Dr. Lisa B. Bienstock stated that she does not see how Dr. Malamed's letter makes a difference, because he was not present during the formal interview, nor the meeting for the Board to ask him follow up questions. Dr. Bienstock stated that anyone could ask someone to write a letter but how would the Board know that he truly knows all the facts of the case, or would believe the same when asked other questions. The Board knows that they got Dr. Malamed to write a letter. Mr. Tonner stated that in paragraph three Dr. Malamed wrote that as of the execution of this declaration, Dr. Malamed stated that he has reviewed the following specific documents: a) Dr. Kang's treatment records, b) Dr. Allard's treatment records, c) the American Heart Association leaflet of understanding blood pressure, d) audio of Arizona State Board of Dental Examiners meeting from October 2019, and e) board order dated November 26, 2019. Mr. Tonner stated that Dr. Malamed stated under oath that he read all of that.

Dr. Leslie D. Seaman asked what the blood pressure level would have to be for Dr. Kang to abort the procedure. Dr. Kang stated that his decision-making criteria has many directions. He then said you as a doctor, you have to fulfill the patients desire as well. Dr. Kang said that she wanted everything done in one setting; she said that she did not want to come back again, that she wanted to do it one time and Dr. Kang do everything. Dr. Kang stated that he was under that pressure as well. He said that he was trying to stay within the safer situation. Dr. Kang said that he has done hundreds of sedations and if you only select patients in the green zone, how many patients can you give care to. Dr. Kang stated that they are in the frontline, giving care to patients who are in need of dental and oral health care. Dr. Seaman asked again at what point you would consider someone in the red zone. Dr. Kang said that when the patient could not physically continue, then he could not continue to help her. Dr. Seaman asked based on what, physically what? Dr. Kang stated that he has all the monitors to make sure that the patient is breathing. Dr. Seaman stated that he was asking for a blood pressure number and what that number would have to be for Dr. Kang to discontinue treatment. Dr. Kang stated 180 or 120 in between range. Dr. Kang stated that it would have to be both numbers.

Ms. Smith stated that if Dr. Kang was going to continue to give some additional testimony then it might be prudent to put him under oath. Ms. Smith proceeded to place Dr. Kang under oath. Mr. Goodman asked if the question that he asked earlier, if that was under oath. Dr. Kang said yes. Mr. Goodman believes patient safety is the Board's number one concern. Mr. Goodman said that based on his non-clinical education he is concerned about patient safety to the level of discipline, much more today than before. Dr. Bienstock agreed. Mr. Goodman stated that he did not know if they could hear a motion or that he should be the one to make it but he is very concerned.

Dr. Bienstock stated that she wanted to make a motion to leave everything as is. Ms. Smith stated would that be to move to reaffirm the Board's prior decision in this matter? Dr. Bienstock said yes and Dr. Harman seconded. Mr. Goodman requested clarification on what the Board's prior

decision was so that everyone is on the same page. The Board referenced the Board order. Dr. Robert B. Taylor stated pursuant to the Board order, the respondent in six months from the effective date from this order should take and complete six hours in continuing education in IV sedation, six hours of continuing education in diagnosis of treatment planning of implant placement and four hours of continuing education in risk management and this is a disciplinary action. Mr. Goodman asked if there is anything in the order about issuing the patient a refund or having the patient keep the refund. Mr. Tonner indicated that the patient has already kept the refund. Mr. Goodman stated so far, but depending on what Mr. Tonner said about the Board's discussion, Dr. Kang could receive legal fees as well as the refund. Mr. Goodman wanted to know where the Board was as far as helping the patient keep the refund. Mr. Goodman asked if they could say that a refund has to be done as part of the disciplinary action is his question. Ms. Smith stated that the motion on floor is to reaffirm the decision. Dr. Bienstock asked if the Board could amend the reaffirmation to add in a refund? Ms. Hardy stated that a refund has been given. Mr. Goodman said with the possibility of the legal action from Dr. Kang asking for the refund back. Ms. Smith asked if the issue of the refund was an issue raised previously. Mr. Goodman stated no, it was an issue brought up today.

A motion was made by Dr. Lisa B. Bienstock, seconded by Dr. John N. Harman, IV to reaffirm the Board's prior decision in this matter. The motion passed 7 – 1 by the following roll call vote:

Heather N. Hardy, RDH – Nay
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

Review of Investigation(s)

Heather N. Hardy provided instructions to the public regarding the process of speaking with the Board. Ms. Hardy then swore in the public, so they could testify before the Board.

201800220, Christensen, Cory

Heather N. Hardy stated that this was a review of an investigation to take possible action on the results of the investigation. Neither the respondent nor the complainant were present for the discussion. Ms. Hardy asked board staff if the patient had received a refund. Ryan P. Edmonson stated that the Board had the entire record, so either the refund wasn't paid or the staff cannot ascertain one way or the other.

Dr. Robert B. Taylor stated that based on the investigative report it appears that dentures failed, the respondent needs to write a better surgical report and the informed consent should include what the patient hopes to accomplish. The Board discussed that the respondent should have completed a very thorough, comprehensive examination, noting that the informed consent should also include the risks associated with the procedure and based on the patient's health. The Board also discussed that any discipline imposed should include restitution to the patient.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy to offer a disciplinary consent agreement to include continuing education in the areas of six hours in complete dentures, six hours in implants, six hours in ethics and three hours in record keeping. The motion also included complete restitution to the complainant. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

201800189-MP, 201800218, 201900033 & 201900302; Unger, Erik

The respondent was not present, but was represented by his legal counsel, Jeffrey J. Tonner. The complainants were present and one made a brief statement and provided the Board with an update on his health condition. He stated that another doctor informed him that he has multiple infections in his mouth and now has lupus. He explained that his health is a direct result of the oral health treatment that he received from the respondent.

The spouse, of the patient, also made a statement regarding the history of her husband’s dental treatment with Dr. Erik Unger. She stated that Dr. Unger abandoned her husband and that due to finances and never being issued a refund that he has had no care for his oral conditions.

Mr. Tonner provided a statement on behalf of Dr. Unger. Mr. Tonner stated that he was there to talk about whether or not Dr. Unger is regulatable versus the substance of each complaint. Mr. Tonner indicated that the last time he was present there were four pending cases – the first, Dr. Unger agreed to pay a fine, but had not signed the paperwork or paid the fine, the second, included an investigative report and summary, but neither he, nor Dr. Unger had filed a response and cases three and four involved Dr. Unger’s failure to respond to the subpoenas for records. Mr. Tonner explained that he told Dr. Unger that he had to respond to his Board and Dr. Unger requested that Mr. Tonner apologize to the Board and especially, Miriam, for his behaviors.

Mr. Tonner stated since the Board met on January 31, 2020, the following items have been done: Dr. Unger changed his mailing address from Arizona to Minnesota and included Mr. Tonner’s office, Dr. Unger responded to the report and summary, Dr. Under paid Mr. Tonner personally to go to the dental office, which has now been sold and the new owner gave Mr. Tonner the patient records, which Mr. Tonner hand delivered to the Board. Mr. Tonner recommended that the Board fine Dr. Unger for his past conduct and continue to investigate the three pending cases.

Prior to board discussion, another complainant made a statement about her experience with Dr. Unger. The complainant forgot to tell the Board during the last meeting that she requested her records numerous times from Dr. Unger. She also sent a certified letter and never received her complete records from Dr. Unger nor has she received a return phone call from the office. She is still paying for her treatment that and according to her has been completely botched. She requested that the Board grant her restitution, so she could seek other oral health treatment.

Heather N. Hardy and Dr. Robert B. Taylor asked questions about proceeding to the Office of Administrative Hearings (OAH), restitution and review of the other cases against Dr. Unger. Carrie Smith stated that if the patients' requests for restitution are in the record already, which sound like they are, then that can be part of a disciplinary order or complaint before OAH. Ms. Smith also indicated that the Board would have to present the case as it is right now, so the Board would have whatever information the Board has been able to gather to date. In addition, Ms. Smith stated that the main issues of the case would be the failure to cooperate and the failure to respond timely. OAH could still make the recommendation for restitution if those requests are in the record. Ms. Hardy stated that it seems that all documents have started to be submitted. Mr. Tonner asked how does OAH make a recommendation for restitution without looking at the merits. Mr. Tonner respectfully disagreed with Ms. Smith.

Dr. Taylor asked if the Board could open up the three other investigations and then send them to OAH. Ms. Smith stated that is an option that the Board could pursue and direct that the matters be reviewed since the board now has the information.

A motion was made by Heather N. Hardy and seconded by Nick Goodman to file a complaint and notice of hearing before OAH for revocation due to the respondent's failure to cooperate with the Board regarding the current open cases and the respondent's failure to respond to subpoenas. The motion included opening investigations on the three cases that were not reviewed due to the lack of patient records, which have now been provided and direct those cases to be assigned to a dental consultant for review.

Prior to the vote and during discussion, Ms. Smith informed the Board that restitution would be part of the investigation process. Ms. Hardy asked if OAH would determine the restitution, Ms. Smith stated yes. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

201900115; Montes, Sergio

Neither the respondent, nor the complainant were present. Heather N. Hardy stated that the allegation was for an inadequate crown, failure to diagnosis and numerous areas of recurrent decay. The recurrent decay was within six months after the patient left the office and the respondent offered to reimburse the patient \$8,000. Dr. Robert B. Taylor stated that the subsequent treating dentist saw areas of multiple areas of decay six months after the patient left Dr. Montes practice. Dr. Taylor continued to read the consultant report into the record.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to issue a Non-Disciplinary Consent Agreement to include continuing education in the areas of six hours of diagnosis and treatment planning, six hours of crown and bridge and six

hours of record keeping. The motion included that if the Non-Disciplinary Consent Agreement is not accepted, then the matter will move to a formal interview.

201900147; Sokol, Ivo Bohumil

The respondent was not present, but was represented by his legal counsel, Arman Nafisi. Dr. Robert B. Taylor asked why the respondent was prescribing ophthalmic. Mr. Nafisi read a letter that Dr. Sokol wrote to the Board. Mr. Nafisi stated that Dr. Sokol's patient and employee urgently needed her prescription eye drops to be filled, because she was leaving on vacation. Dr. Sokol made an error in judgement and prescribed the refill of the eye drops. Dr. Sokol deeply regrets what happened.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. John N. Harman, IV and passed unanimously to issue a letter of concern that Dr. Sokol should not write prescriptions other than what is acceptable in the scope of practice for dentistry in accordance with A.R.S. § 32-1201.01(3).

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

201900173; Nejad, Marjan

The respondent was present. The complainant was not present. Dr. Marjan Nejad stated that the reason why she disregarded the complaint notification and request for records is because she called the phone listed, on the notification, and spoke with Dr. Sam Palmer, who stated that he would check on the case and call her right back. Dr. Nejad said that Dr. Palmer said that yes, this is a mistake and that she didn't have to respond. Dr. Nejad stated that she knew there must have been some sort of mistake based on the relationship she has with the patient. Nick Goodman stated that she is under oath and reaffirmed that Dr. Nejad understand that she is under oath. Dr. Nejad stated she understood.

After discussion, a motion was made by Nick Goodman and seconded by John N. Harman, IV to dismiss the case. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

Review of Investigation(s) – Cases Recommended for Offer of Disciplinary Consent Agreement

201900079; Fox, Joseph

The respondent was present. The complainant was present and provided a statement and describe the patient treatment she received from the respondent, including that her denture issues and ongoing problems with her gums not healing. Dr. Joseph Fox responded to Board questions. Dr. Robert B. Taylor asked Dr. Fox about the type of bone replacement graph used on the patient and several other follow up questions. Dr. Fox stated that he has not pulled a tooth in 10 years without graphing it. Dr. Leslie D. Seaman asked Dr. Fox about his procedures for dental reconstruction.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to offer a non-disciplinary consent agreement to include continuing education in the areas of six hours of record keeping and six hours in complete dentures and if Dr. Fox does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

201900122; Templeton, Michael

The respondent was not present, but was represented by his legal counsel, Tophas Anderson, IV. The complainant was not present. Mr. Anderson provided a statement on behalf of Dr. Michael Templeton and stated that Dr. Templeton admits that he made a mistake with filling the canals with gutta percha and regrets the impact on the patient and respectfully requested for the Board to issue a letter of concern. Nick Goodman asked if the dental insurance company was paid back. Mr. Anderson did not know the answer. Mr. Anderson stated that Dr. Templeton had a teaching obligation, therefore, he could not attend the board meeting. Dr. Robert B. Taylor was concerned about Dr. Templeton not seeing a post op x-ray to see the canal and see that all the canals were not filled properly and the crown cementation was not finished.

A motion was made by Dr. Robert B. Taylor and seconded by Heather N. Hardy to offer a disciplinary consent agreement to include continuing education (“CE”) in the areas six hours of endodontics and six hours of ethics. The motion included credit for CE if Dr. Templeton has completed any of the aforementioned CE, but only post notification of the complaint; not post the procedure. If Dr. Templeton does not sign the order then the matter would be placed on a future Board agenda for a formal interview. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

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

201900108

The complainant was present and made a brief statement regarding her case and appeal. The complainant stated that she had no other issues except for tooth no. 10, which required a permanent crown. The complainant invested over a \$1,000 for treatment. The crown was too heavy and became loose. The complainant requested a refund due to the dissatisfaction with the dental care. The respondent was not present, but was represented by Susan McLellan. Ms. McLellan made a brief statement regarding the case and stated that the dental investigator, Dr. Sam Palmer found nothing wrong with the dental care. Ms. McLellan asked that termination of the case be upheld.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Anthony Herro and passed unanimously to deny the appeal and accept the Executive Director’s termination.

The Board took a break from 11:58 a.m. to 12:14 p.m.

Review of Investigation(s) – Cases Recommended for Offer of Disciplinary Consent Agreement
201900153; Heng, Sophon

Neither the respondent, nor the complainant were present.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded by Dr. John N. Harman, IV and passed unanimously to offer a disciplinary consent agreement, to include continuing education in the areas of six hours of ethics, six hours of crown and bridge and four hours of risk management. If Dr. Heng does not sign the order then the matter would be placed on a future Board agenda for a formal interview. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

201900159; DC Dental

Dr. Doug Chang was present on behalf of DC Dental and stated he is present to respond to Board questions. Dr. Robert B. Taylor asked Dr. Chang what has been done related to infection control from the inspection. Dr. Chang stated that they have monthly meetings and follow the Occupational Safety and Health Administration (OSHA) standards at the office. They created a survey form that is certified and complies with OSHA standards.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. Anthony Herro and passed unanimously to offer a non-disciplinary consent agreement, to include six hours of continuing education in OSHA training and if Dr. Chang does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

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

201900075; Wright, Jack

The respondent was not present, but was represented by his legal counsel, Dina Anagnopoulos. The complainant was not present. Ms. Anagnopoulos stated that Dr. Wright had to leave the meeting to see patients. Ms. Anagnopoulos stated that the investigation was done in June of 2019 and the case has been pending since April of 2019, it was not due to a patient complaint, but rather the patient's mother filed a lawsuit against the treating dentist, who was not Dr. Wright.

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

201900085; Dachs, Michael

The respondent was present. The complainant was present and summarized her dental health treatment. Dr. Michael Dachs responded to board questions.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to accept and offer the recommended non-disciplinary consent agreement, to include three hours of continuing education and if Dr. Dachs does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

201900087; Mehanna, Sally Gabbour

The respondent was not present. The complainant was present and summarized her treatment. The complainant stated that two years ago, there was an issue related to a filling for her tooth. The complainant went back to see Dr. Mehanna, received two root canals and the patient felt that the root canals were not necessary.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to accept and offer the recommended non-disciplinary consent agreement, to include continuing education in area of six hours in crown and bridge and if Dr. Mehanna does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

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

201900100; Lee, Mike C.Y.

Neither the respondent, nor the complainant were present.

After discussion, a motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to accept and offer the recommended non-disciplinary consent agreement, to include continuing education in the area of three hours in record keeping and if Dr. Lee does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

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

201900132; Dhillon, Inderraj

The respondent was present with legal counsel Jeffrey J. Tonner. The complainant was present and summarized the treatment received by Dr. Inderraj Dhillon. Dr. Dhillon stated that the complainant had periodontal disease, bone loss and needed teeth pulled in order to fit a full set of implants. Mr. Tonner made a statement and discussed all the complaints filed by the complainant and summarized the treatment performed by Dr. Dhillon.

After a discussion, a motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy to draft a disciplinary consent agreement for the Board's review at a future board meeting to include continuing education in the areas of six hours in diagnosis and treatment planning, six hours of ethics and restitution to the patient. The motion passed 8 – 0 by the following roll call vote:

Heather N. Hardy, RDH – Aye
Robert B. Taylor, DDS – Aye
Lisa B. Bienstock, DMD – Aye
Morgan Burg – Aye
Nick Goodman – Aye
John N. Harman, IV, DDS – Aye
Anthony Herro – Aye
Leslie D. Seaman, DDS – Aye

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

201800137; Kliener, Aaron

The respondent was not present, but was represented by legal counsel, Dina Anagnopoulos. Ms. Anagnopoulos addressed the 12 hours of continuing education ordered by the Board. Ms. Anagnopoulos stated that Dr. Kliener took continuing education in record keeping on March 1, 2019 and he was required to take six hours of endodontics and found an eight-hour endodontics course, but he forgot to submit that information to the Board. Now, Dr. Kliener is seeking approval for the course taken in endodontics on October 24, 2019 and the record keeping course taken on March 1, 2019.

Nick Goodman summarized the request by legal counsel and the Board questioned the validity of the courses already taken and that others may try to circumvent the process by making similar requests. Heather N. Hardy had issue with the eight-hour continuing education course in endodontics, because there is no information if the course was hands-on, which was ordered by the Board.

After a discussion, a motion was made by Dr. Robert B. Taylor and seconded by Dr. Anthony Herro to amend and offer consent agreement to include continuing education in the areas of six (6) hours in ethics and six hours in endodontics and remove the three hours of record keeping continuing education since that has been completed. The motion included restitution in the amount of \$697 be paid to the patient and if Dr. Kleiner does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

After discussion regarding the restitution and before the vote, Dr. Taylor and Dr. Herro rescinded their motion.

A motion was made by Dr. Taylor, seconded by Heather N. Hardy and passed 7 – 1 to amend and offer consent agreement to include continuing education in the areas of six (6) hours in ethics and six hours in endodontics and remove the three hours of record keeping continuing education since that has been completed. The motion included that if Dr. Kleiner does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

Nick Goodman voted against the motion.

Continuing Education Extension Request(s)

201800141; Shanahan, Bryan J.

The respondent was not present. Dr. Robert B. Taylor explained that the matter was tabled from the last meeting due to a lack of quorum.

After discussion, a motion was made by Dr. John N. Harman, IV, seconded by Dr. Robert B. Taylor and passed 4 – 1 – 2 to grant the requested extension until March 21, 2020, so the respondent can complete the course that he has requested.

Nick Goodman voted against the motion

Dr. Lisa B. Bienstock and Dr. Leslie D. Seaman declared conflicts and did not participate in the discussion or the vote.

Proposed Board Order(s)

201800221; Walker, Ronald D. (action taken December 6, 2019)

The respondent was not present, but was represented by legal counsel, Susan McLellan. Ms. McLellan stated that the case went to formal interview and when asked about the amount paid by the complainant, she provided the wrong amount. Ms. McLellan submitted documentation to the Board to correct the mistake. The amount of \$430.50 to the insurance company is correct. And, the amount owed in restitution to the patient, for the two crowns, should be \$818.00.

A motion was made by Heather N. Hardy, seconded by Dr. John N. Harman, IV and passed unanimously to accept and issue the proposed board order as amended reflecting the corrected amount of restitution.

201900117; Barnwell, Stacy (action taken January 31, 2020)

The respondent was not present.

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to accept and issue the proposed board order.

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

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed to accept the executive director's terminations.

Malpractice, Adverse Occurrence Report and/or Disciplinary Action

201900146-AO; Ray, Andrew William – Internal Investigative Review Committee recommended that the Board take no action and close the file.

The respondent was not present, but was represented by legal counsel, Leah Schachar, who stated that she was present on behalf of Dr. Andrew William Ray and to respond to any questions from the Board.

A motion was made by Dr. Robert B. Taylor, seconded by John N. Harman, IV and passed unanimously to take no action and close the file.

Nick Goodman declared a conflict and did not participate in the discussion or the vote.

201900176-AO; Kelly, Paul J. – Internal Investigative Review Committee recommended that the Board take no action and close the file.

The respondent was not present, but was represented by legal counsel, Leah Schachar, who stated that she was present on behalf of Dr. Paul J. Kelly and to respond to any questions from the Board.

A motion was made by Dr. Robert B. Taylor, seconded by John N. Harman, IV and passed unanimously to take no action and close the file.

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

201900054

After discussion, a motion was made by Dr. Robert B. Taylor and seconded by Nick Goodman to deny the appeal on case no. 201900054 and accept the executive director's termination. During discussion and prior to the vote, Heather N. Hardy asked the dentist board members about the overfill and broken instrument.

After discussion regarding the overfill and broken instrument, Dr. Taylor and Mr. Goodman rescinded their motion.

A motion was made by Heather N. Hardy, seconded by Nick Goodman and passed unanimously to reject the executive director's termination, accept the complaint appeal and offer a non-disciplinary consent agreement for continuing education in the areas of six hours in endodontics and six hours in ethics. The motion included that if the respondent does not sign the order then the matter would be placed on a future Board agenda for a formal interview.

201900089

The respondent was present. The complainant was present and made a statement. The patient stated that the complaint was against Western Dental and two dentists who work for the company because she was abandoned as a patient. Heather N. Hardy stated that there was an appeal by the complaint and there was a different recommendation. The respondent, Dr. John J. Nay stated that in order to do the lower partial, he needed to take out teeth 24 and 25 to do the lower partial. He was doing the procedure when Western Dental moved him to another practice. He always had the intention on completing the patient's procedure. Ms. Hardy stated that after the reevaluation, there was no patient abandonment.

A motion was made by Nick Goodman, seconded by Dr. Robert B. Taylor and passed unanimously to direct staff to open an investigation against Western Dental on this case.

The Board discussed the issue of record keeping and the lower partials related to the case.

A motion was made by Heather N. Hardy, seconded by Dr. Taylor and passed unanimously to reject the executive director's termination and issue a letter of concern to Dr. Nay regarding record keeping.

201900119

The complainant was present and made a statement. The complainant stated that the case goes back to 2018 with two teeth pulled and two years later never received a settlement. The respondent, Dr. Melissa Ballecer was present with legal counsel, Rachel DaPena to answer questions from the Board. Ms. DaPena stated that the case was reviewed and the investigation found there was no violation of the dental practice act and asked the Board to reaffirm the termination.

A motion was made by Dr. Robert B. Taylor, seconded by Dr. John N. Harman, IV and passed unanimously to deny the appeal and approve the executive director's termination of the case.

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

201600123 & 201700164; Margolis, Michael

The respondent was not present, but was represented by legal counsel, David Williams. Mr. Williams stated that he was present to respond to board questions. Heather N. Hardy stated that there have been some repetitive issues for all three of the reports, which is why the board was reviewing the matter. Mr. Williams stated that he and his client do not agree with some comments made in the monitoring report, but stated that Dr. Margolis is rectifying how he charts patient notes.

Ms. Hardy asked Mary DeLaat Williams what are the board's option with this case. Ms. Williams stated that if the Board is fine with Mr. Williams explanation then the Board can wait for the next report to see if there are any changes. The Board thanked Mr. Williams for his time and comments and took no action.

Dr. Robert B. Taylor declared a conflict and did not participate in the discussion.

201500190; Chari, Satish Bhadra

The respondent was not present, but was represented by legal counsel, Jeffrey J. Tonner. Mr. Tonner stated that Dr. Chari was ordered to do some continuing education ("CE") and he completed all of the CE except for the hands-on for crown and bridge due to a medical condition. Mr. Tonner stated that he believes there are restrictions on his practice before he can perform crown and bridge procedures.

The Board discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to go into executive session at 1:47 p.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) for case no. 201500190.

After consideration in executive session, the Board reconvened in open session at 1:56 p.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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

201500190; Chari, Satish Bhadra

Heather N. Hardy stated that the Board will table the matter for a few minutes.

201800174; Endicott, Thomas A.

The respondent was present and made a brief statement regarding the matter and summarized his current situation. The respondent stated that he is having difficulty finding contractors to fulfill the agreement and discussed his medical problems. Dr. Endicott requested a 4 to 5-month extension to complete the continuing education hours.

The Board discussed going into executive session to seek legal advice.

EXECUTIVE SESSION

A motion was made by Heather N. Hardy, seconded by Nick Goodman and passed unanimously to go into executive session at 1:59 p.m. to seek legal advice pursuant to A.R.S. § 38-431.03(A)(3) for case no. 201800174.

After consideration in executive session, the Board reconvened in open session at 2:02 p.m.

OPEN SESSION

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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

201800174; Endicott, Thomas A.

A motion was made by Nick Goodman, seconded by Dr. Robert B. Taylor and passed unanimously to grant a six-month extension until to August 2, 2020 to complete continuing education in the non-disciplinary consent agreement.

201500190; Chari, Satish Bhadra

Mary DeLaat Williams stated that the Board may ask for additional information from Jeffrey J. Tonner or from his client, Dr. Satish Bhadra Chari regarding his health. Heather N. Hardy would like to see Dr. Chari's medical records and receive a doctor's note to validate the health concern. Ms. Williams stated that the Board may table the matter for two weeks and request that Mr. Tonner receive the health related information and provide it to staff. Then, staff would be able to review the information and report to the Board. Ms. Williams stated the Board could hold a special board meeting, if desired.

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to direct staff to request medical records and a doctor's note from Dr. Chari's health care provider. The motion included the receipt of those records within two weeks and board staff would determine if the Board needs to meet before its next scheduled meeting or meet on its next scheduled meeting.

Failure to Respond to Subpoena – A.R.S. §§ 32-1201.01(23), 32-1263(A)(1), 32-1208

201900320; Bingham, Robert

The respondent was present and summarized his failure to respond to a subpoena, including his staff's involvement in terrorist activities and their involvement in an FBI investigation. Dr. Robert Bingham stated that the original subpoena was mailed to him on December 12, 2019 and he submitted a response on December 31, 2019 that stated he could not provide records due to the FBI's confiscation of his office records. He also stated that he had been going through health issues over the past six months.

The Board took no action.

CALL TO THE PUBLIC

Dr. Magdalyn Thomas was present and stated she was Louisiana and is in the process of relocating to Phoenix and practicing in Arizona. She was present only to observe the board meeting and thanked the Board for holding open meetings in Phoenix.

REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEETING MINUTES

Discussion and approval of the Open Session Minutes from the January 31, 2020 board meeting

Discussion and approval of the Executive Session Minutes from the January 31, 2020 board meeting

A motion was made by Dr. Robert B. Taylor, seconded by Nick Goodman and passed unanimously to approve the Open Session Minutes from the January 31, 2020 board meeting and the Executive Session Minutes from the January 31, 2020 board meeting.

ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

Application(s) for Licensing of Dentist(s) – A.R.S. § 32-1231 et seq.

Chang, Michael W.

Heather N. Hardy summarized the matter and the incident back in Virginia regarding record keeping. Dr. Robert B. Taylor stated that he thinks it's best for Dr. Chang to appear before the

Board to answer questions regarding his Virginia license and why is he requesting an Arizona dental license. Nick Goodman agreed with Dr. Taylor.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to direct board staff to invite Dr. Chang to a future meeting to discuss his previous licensures and answer other questions.

Continuing Education Audit(s) for Licensee(s) – A.A.C. R4-11-1202(G)
Sweetland, Viola L.

Heather N. Hardy stated that the respondent would like to let her license lapse, but she has already renewed it. She was randomly selected for a continuing education audit and in lieu of responding to the audit, the respondent requested to let her license lapse. The Board questioned whether or not they could allow for the license to expire or do they need to open a case. Mary DeLaat Williams stated that the board could open a case and offer the respondent a consent agreement to voluntary surrender. The Board stated that either she can produce her 54 continuing education hours or surrender her license.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy to open a case and passed unanimously to offer the respondent a consent agreement to voluntary surrender or comply with the audit and produce 54 continuing education hours.

Failure to Notify the Board of Criminal Charges – A.R.S. § 32-3208
201900183; Balmer III, Thomas Albert

Heather N. Hardy summarized the matter and the respondent's failure to notify the Board of criminal charges.

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously to direct staff to invite Dr. Thomas Albert Balmer, III to a formal interview.

Failure to Respond to Subpoena – A.R.S. §§ 32-1201.01(23), 32-1263(A)(1), 32-1208
201900221; Larson, Clark D.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to offer a non-disciplinary consent agreement for a civil penalty of \$500.00 for failure to comply with A.R.S. § 32-1208; failure to respond to a board-issued subpoena.

201900264; Smith, Colin Melville

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to offer a non-disciplinary consent agreement for a civil penalty of \$500.00 for failure to comply with A.R.S. § 32-1208; failure to respond to a board-issued subpoena.

202000044; Meyer, Nicholas

A motion was made by Heather N. Hardy, seconded by Dr. Robert B. Taylor and passed unanimously that if Dr. Nicholas Meyer does not respond to the subpoena by March 11, 2020 to direct staff to offer a non-disciplinary consent agreement for a civil penalty of \$500.00 for failure to comply with A.R.S. § 32-1208; failure to respond to a board-issued subpoena.

CONSENT AGENDA

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

Bill, Crystal – (anesthesia & sedation evaluator)

Hanf, Glenn – (dental consultant)

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

CONTINUING EDUCATION MONITORING

Ryan Edmonson briefly reviewed the board's options for a continuing education program. Dr. John N. Harman, IV summarized his discussion with Ms. Sherrie Biggs and the benefits of working with a company from a dental audit committee perspective.

A motion was made by Dr. Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to accept CE Broker's proposal and direct staff to continue to investigate how to move forward with this company.

RECORDS MANAGEMENT COMMITTEE RECOMMENDATION

Nick Goodman summarized the committee's outcome. Mr. Goodman stated that the committee decided to stop focusing on investigating the record and make sure the focus is on investigating the complaint and the actions of the licensee. He stated that compliance cases will proceed versus waiting for the records to proceed. Mr. Goodman also stated that this allows staff direction and requires accountability directly toward the licensee.

A motion was made by Heather N. Hardy, seconded by Nick Goodman and passed unanimously to accept the committee's recommendation to focus on the complaint and not the patient records during the investigation process – if records are not obtained, then the matter should proceed to the Board for its consideration, including failure to comply with a subpoena.

HEALTH PROFESSIONALS MONITORING AND ASSESSMENT SERVICES

Ryan Edmonson summarized the Board's options. The Board believes that people should have more choices. Mr. Edmonson stated that this was a model similar to the Arizona Medical Board. The medical board operates with two of the three State Procurement vendors and staff is uncertain if the third vendor is still open. Mr. Edmonson also stated that Board could discuss using more assessors similar to the medical board, which allows for applicants and licensees other outlets to decide whom they would like to see.

A motion was made by Dr. Robert B. Taylor, seconded by Nick Goodman and passed unanimously to approve Community Bridges and Gateway Recovery Institute as the Board's health professional monitors, continue to review whether or not Arizona Pharmacy Foundation can be used for the same and approve the assessor list.

AMERICAN ASSOCIATION OF DENTAL ADMINISTRATORS (AADA) AND AMERICAN ASSOCIATION OF DENTAL BOARDS (AADB)

Consideration for the approval of a board member and staff attendance at the 2020 AADA/AADB Mid-Year Meeting held from Saturday, April 4, 2020 – Sunday, April 5, 2020 in Chicago, Illinois.

A motion was made by Dr. Robert B. Taylor, seconded by Nick Goodman and passed unanimously to approve Dr. John N. Harman, IV and board staff to attend the American Association of Dental

Administrators (AADA) and American Association of Dental Board on Saturday, April 4, 2020 – Sunday, April 5, 2020 in Chicago, Illinois.

EXECUTIVE DIRECTOR’S REPORT

The Board reviewed the budget and agency operations with Ryan Edmonson, including the legislation update on the following proposed bills: HB2133; HB2134; HB2244; HB2423; HB2535; HB2184; HB2288; HB2424; HB2727; HB2740; SB1138; SB1170; SB1227; SB1211; and SB1274. The Board directed staff to put triennial fees and the future of IIRC on a future agenda item.

SUMMARY OF CURRENT EVENTS

Ryan Edmonson discussed the dental investigator, investigators at board meetings and oral medicine as well as dental anesthesiology.

DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS

The Board stated future agenda items under the executive director’s report and AADA & AADB update.

NEXT BOARD MEETING DATE

Friday, May 1, 2020

ADJOURNMENT

A motion was made by Dr Robert B. Taylor, seconded by Heather N. Hardy and passed unanimously to adjourn at 3:13 p.m.