



Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

April 5, 2022

Investigative Committee Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) Investigative Committee (“Committee”) held a meeting at the Board’s office, in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. The meeting was also held virtually and telephonically due to the COVID-19 pandemic. The Committee did not meet in executive session.

COMMITTEE MEMBERS

	<i>Louis Sommerhalter, DDS</i>	Chairperson
	Anthony Caputo, DDS	Committee Member
	Timothy, Cross, DDS	Committee Member
	David Dodell, DMD	Committee Member
X	Michael Domingo, DDS	Committee Member
	Mari Fukami, DMD, MS	Committee Member
	<i>Brown “Skip” Harris, DDS</i>	Committee Member
	Sabah Kalamchi, DDS, FFDSRS	Committee Member
	<i>Deborah Kappes, RDH</i>	Committee Member
	Rebecca Lavene, DMD	Committee Member
X	Mindy Motahari, DMD, MA Edu	Committee Member
	Joined/deperted as denoted in the body of the minutes	
X	Absent	
	<i>Committee members in italics participated in-person</i>	

STAFF PRESENT

<i>Kristina C. Gomez</i>	Deputy Director
<i>Mary D. Williams, Esq.</i>	Assistant Attorney General
John W. Dovgan, DDS	Chief Investigator
<i>Julie Cutler, DMD</i>	Deputy Chief Investigator
Benjamin Berschler, DMD	Investigator
<i>Terry Bialostosky</i>	Compliance Consultant
<i>Selena Acuna</i>	Compliance Officer
<i>Mary Ford</i>	Compliance Officer
<i>April Romero</i>	Compliance Officer
<i>Yazmin Bustamante</i>	Executive Assistant

Staff members in italics participated in-person

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 2:00 p.m. by Dr. Sommerhalter. Roll call of the committee members was taken and a quorum was established.

II. REVIEW, DISCUSSION AND POSSIBLE ACTION ON COMMITTEE MEETING MINUTES

A. Discussion and approval of the Open Session Minutes from the March 8, 2022 committee meeting.

Motion: Ms. Kappes moved to approve the minutes from the March 8, 2022 committee meeting.

Second: Dr. Harris

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

III. ITEMS FOR REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD RECOMMENDATIONS

A. Review of Investigation(s)

1. 202000265

Dr. Cutler provided the Committee an overview of the case and indicated that the patient had an extraction that became infected and the patient ended up in the hospital. The Committee discussed helping doctors review the medical history and how it may impact patients' care. The Committee requested clarification for non-disciplinary options. In response, Ms. Williams informed the Committee that a letter of concern would allow the Committee to counsel the doctor in a non-disciplinary manner. The Committee proceeded to further discuss the matter.

Motion: Dr. Harris moved to recommend that the case be dismissed.

Second: Dr. Caputo

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

2. 202000268

Dr. Cutler provided the Committee an overview of the case and indicated that the patient alleges that the crown did not fit well, it fell out and cracked. The patient ultimately saw another provider and was referred to a doctor for TMJ issues.

Motion: Dr. Caputo moved to recommend that the case be dismissed.

Second: Dr. Harris

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

Dr. Kalamchi abstained.

3. 202100120

Dr. Cutler provided the Committee an overview of the case and indicated that the father of the patient filed the complaint. The Committee identified violations of unprofessional conduct and discussed that the parents were not aware of the treatment that was being

done and there were no x-rays of any sort to confirm the diagnosis that the dentist had made with respect to treatment. The consensus was that the case merits disciplinary action.

Motion: Dr. Harris moved to recommend that the Board find that there is unprofessional conduct under A.R.S. §§ 32-1201.01(24), 32-1264(A), based on the five deviations found in the consultant's report, including failure to maintain records and no diagnostic x-ray on tooth number 18.

Second: Dr. Caputo

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

Motion: Dr. Harris moved to recommend the completion of disciplinary CE for 4 hours in record keeping, 4 hours in risk management and 2 hours in pediatric restorative dentistry.

Dr. Harris amended his motion to remove 2 hours of CE in pediatric restorative dentistry.

Second: Dr. Caputo

Ms. Williams clarified that disciplinary action is reportable to the national practitioner data bank.

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

4. 202100219

Dr. Cutler informed the Committee that the consultant did not find deviations and that the patient was provided a refund for the treatment. The Committee considered whether there were abandonment issues; however, concluded that was not the case. Dr. Cutler indicated that patient care was transferred to another provider.

Motion: Dr. Harris moved to recommend that the case be dismissed.

Second: Dr. Caputo

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

5. 202100239

Dr. Cutler provided the Committee an overview of the case, which included a possible deviation for performing an extraction on tooth number 2 without signed consent. However, it was clarified that the provider notated that treatment was verbally discussed with the patient. The Committee discussed whether verbal consent would suffice and concluded that written consent is best practice.

Motion: Ms. Kappes moved to recommend that the case be dismissed.

Second: Dr. Caputo

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

6. 202100241

Dr. Cutler provided the Committee an overview of the case and indicated that the patient alleges that the respondent did not manage the follow-up on the biopsy. Dr. Cutler further directed the Committee's attention to the timeline of the treatment and indicated that it is outside of the statute of limitations.

Dr. Sommerhalter directed staff to administratively close the case.

IV. SELECTION OF A VICE CHAIRPERSON

Motion: Dr. Kalamchi moved to nominate Dr. Caputo as the Vice Chairperson.

Second: Dr. Harris

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

V. SUMMARY OF CURRENT EVENTS

None were discussed.

VI. DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS

Dr. Sommerhalter requested that board staff add an agenda item to allow the Committee to discuss and establish procedures for risk assessment. In addition, Dr. Dodell requested to discuss if there is a way to identify if a complaint is outside of the statute of limitations.

VII. NEXT COMMITTEE MEETING DATE

A. May 10, 2022

VIII. ADJOURNMENT

Dr. Sommerhalter adjourned the meeting at 2:14 p.m.