



# Arizona State Board of Dental Examiners

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

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## OPEN SESSION MINUTES

### April 1, 2022 Board Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) held a board meeting at the Board’s office, in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. The meeting was also held virtually and telephonically due to the COVID-19 pandemic. The Board met in executive session during its consideration of agenda items IV.D.7 and IV.I.1 as stated herein.

#### BOARD MEMBERS

	<i>Anthony Herro, DDS</i>	President and Licensed Dentist Member
	<i>Lisa B. Bienstock, DMD</i>	Vice-President and Licensed Dentist Member
X	Morgan B. Burg	Business Entity Member
	<i>Edward H. Christensen, DDS</i>	Licensed Dentist Member
	Aditya Dynar	Public Member
	Tamer El-Gendy	Licensed Dentist Member
⌚	Nick Goodman	Public Member
⌚	Marilyn J. McClain, RDH	Licensed Hygienist Member
⌚	<i>Russell Jeffrey Morrow, DDS</i>	Licensed Dentist Member
	<i>Vicki B. Penna, RDH</i>	Licensed Hygienist Member
X	Leslie D. Seaman, DDS	Licensed Dentist Member
⌚	Joined/departed as denoted in the body of the minutes	
X	Absent	
	<i>Board members in italics participated in-person</i>	

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

	<i>Kristina C. Gomez</i>	Deputy Director
	<i>Scott Donald, Esq</i>	Assistant Attorney General
	<i>Benjamin Berschler, DMD</i>	Investigator
	<i>Sherrie Biggs</i>	Assistant Deputy Director
	<i>Lisa Schmelling</i>	Chief Compliance Officer
	<i>Selena Acuna</i>	Compliance Officer
	<i>Yazmin Bustamante</i>	Executive Assistant
	Jessica Thomas	Rules Administrator
	<i>Susie Adams</i>	Program and Project Specialist

*Staff members in italics participated in-person*

**GUESTS PARTICIPATING AND/OR PRESENT**

<i>Sham S. Chandok, DDS</i>	Applicant
<i>Stefanie R. Courson, RDH</i>	Applicant
<i>Rahul Kode</i>	Respondent
<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
<i>Susan McLellan, Esq.</i>	Attorney for Respondents
<i>Leah Schachar, Esq.</i>	Attorney for Respondents
<i>Terry Berkley</i>	Respondent
<i>Christopher Smith</i>	Respondent
<i>W.S.</i>	Complainant
<i>Bruce Crawford, Esq.</i>	Attorney for Respondent
<i>Brodie Cook</i>	Respondent
<i>Deborah Kappes</i>	Guest
<i>Candace Veneberg</i>	Respondent
<i>Ilan Shamos</i>	Respondent
<i>N.L.</i>	Complainant
<i>Bryan Tran</i>	Respondent
<i>Ekaterina Pollard</i>	Respondent
<i>Jefferson Hayden, Esq.</i>	Attorney for Respondent
<i>Morley Smith</i>	Respondent
<i>L.D.</i>	Complainant
<i>M.D.</i>	Complainant
<i>Dan Gafni</i>	Respondent
<i>Jason Brimley</i>	Respondent
<i>Jerry Burns</i>	Respondent
<i>Jason Barney</i>	Respondent
<i>Harjot Brar</i>	Respondent
<i>Dina Anagnopoulos, Esq.</i>	Attorney for Respondent
<i>Michele Thompson, Esq.</i>	Attorney for Respondent
<i>Matthew Jensen</i>	Respondent
<i>Ehsan Pourshirazi</i>	Respondent
<i>Andrew Seymour</i>	Respondent
<i>Y.L.</i>	Complainant
<i>Leung Eng</i>	Interpreter

*Guests in italics participated in-person*

**I. CALL TO ORDER AND ROLL CALL**

Dr. Herro called the Board's meeting to order at 8:03 a.m. Roll call of the Board members was taken and a quorum was established.

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

- A. Discussion and approval of the Open Session Minutes from the March 4, 2022 board meeting.
- B. Discussion and approval of the Executive Session Minutes from the March 4, 2022 board meeting.

**Motion:** Ms. Penna moved to approve the minutes for agenda items A and B.

**Second:** Dr. Herro

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

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

Dr. Bienstock declared conflicts of interest with agenda item nos. IV.D.3, IV.E.8, IV.G.1, IV.I.1 and IV.J.1

Dr. El-Gendy declared a conflict of interest with agenda item no. IV.D.2

Dr. Christensen declared a conflict of interest with agenda item no. IV.D.1

*Ms. McClain joined the meeting at 8:06 a.m.*

## IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

### A. Application(s) for Licensing of Dentist(s) or Hygienist(s) – A.R.S. § 32-1231 et seq. and 32-1281 et. seq. respectively

#### 1. Chandok, Sham S., DDS

Dr. Chandok was available during the Board's consideration of his application for licensure. The Board proceeded to review his application.

**Motion:** Dr. Morrow moved to grant licensure.

**Second:** Dr. Bienstock

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

#### 2. Courson, Stefanie R., RDH

Ms. Courson made a statement to thank the Board for taking her application for licensure into consideration.

**Motion:** Ms. Penna moved to grant licensure.

**Second:** Dr. Bienstock

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

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

#### 1. 202000188-MP; Kode, Rahul

Dr. Kode was available during the Board's consideration of the matter. Mr. Tonner made a statement on behalf of Dr. Kode to address the treatment done and indicated that a refund was provided to the patient. Dr. Kode answered the Board's questions pertaining to the dosage of anesthetics given during the procedure.

**Motion:** Dr. Herro moved to dismiss the case.

**Second:** Dr. Morrow

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

## 2. 202000253-MP; Sanford, Stacey

Dr. Sanford was not available during the Board's consideration of the case. Ms. McLellan made a statement on behalf of Dr. Sanford and explained that a high speed suction was used to attempt to retrieve the aspirated crown. Ultimately, the patient had a bronchoscopy done for the removal of the aspirated crown. The Board proceeded to discuss the standard of care and indicated that it is a known complication in dentistry.

**Motion:** Dr. Morrow moved to dismiss the case.

**Second:** Dr. Christensen

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

## 3. 202000264; Zahiri, Sheyda

Dr. Zahiri was not available during the Board's consideration of the case. Mr. Tonner made a statement on behalf of Dr. Zahiri and requested that the case be dismissed. Mr. Tonner explained that the patient asked Dr. Zahiri to commit billing fraud.

**Motion:** Dr. Herro moved to dismiss the case.

**Second:** Dr. Bienstock

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

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

## 1. 202000252; Merlanti, Morgan

Ms. Schacher made a statement to request that the Board table the matter to a future meeting date.

**Motion:** Dr. Herro moved to table the matter to a future meeting date.

**Second:** Dr. Morrow

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

## 2. 202000282; Berkley, Terry

Dr. Berkley was available to answer questions during the Board's consideration of the case. Dr. Berschler proceeded to provide the Board an overview of the case and indicated that the bridge broke three times within one year and there was lack of documentation including, no informed consent, no diagnosis or indication for extractions. Dr. Berkley stated that he communicates with the patients and that he notates the discussion. The Board proceeded to discuss the matter.

**Motion:** Dr. Herro moved to issue a letter of concern for no diagnosis and failure to have informed consent for the crown and bridge.

**Second:** Dr. Morrow

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

## 3. 202100192; Nay, John

Ms. Schacher made a statement to address the allegations of unprofessionalism and indicated that the patient was referred to endo for the significant decay and that the patient was provided a refund for the treatment and crown.

**Motion:** Dr. Herro moved to dismiss the case.

**Second:** Dr. Morrow

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

## 4. 202100243; Smith, Christopher

Dr. Smith was available to answer questions during the Board's consideration of the case. Dr. Berschler proceeded to provide an overview of the case and indicated that Dr. Smith prescribed a misappropriate prescription for Amoxicillin. However, the pharmacist picked up on the issue and no harm was done to the patient. The Board proceeded to discuss the matter.

**Motion:** Dr. Morrow moved to issue a letter of concern for inadequate perio-charting and record keeping.

**Second:** Dr. Bienstock

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

*Dr. Christensen was recused and did not participate in the matter.*

## 5. 202100272; Gallemore, Joseph

Dr. Gallemore and legal counsel were not available during the Board's consideration of the matter. Dr. Berschler proceeded to provide the Board an overview of the case and stated that there was no perio-charting for the treatment done. The Board discussed who is responsible for the perio-charting when there are multiple dentists and considered requesting additional information.

**Motion:** Dr. Bienstock moved to invite the respondent to a formal interview to address the Board's questions.

**Second:** Dr. Morrow

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

*Mr. Dynar and Ms. McClain voted against the motion.*

D. Review of Investigation(s) – Case(s) Recommended for Issuance of a Non-Disciplinary Order for Continuing Education – A.R.S. § 32-1263.02(F)(3)

## 1. 202000243; Kloss, David

Dr. Kloss and legal counsel were not available during the Board's consideration of the matter. Dr. Berschler proceeded to inform the Board that the patient was provided a refund; however, the clinic did not provide proof of a full refund.

**Motion:** Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 3 hours in implants. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

**Second:** Dr. Morrow

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

2. 202000284; Cook, Brodie

Complainant W.S. made a statement to express the complications experienced with crowns 14 and 15 and indicated that Dr. Cook caused a soft tissue injury with a disk. Dr. Cook subsequently made a statement and answered the Board's questions pertaining to the technicalities of the procedure. In addition, Mr. Crawford indicated that the practice was purchased by another company and that Dr. Cook does not have access to the patient's records. The Board considered that there was significant effort to try to rectify the situation and that the patient was not charged.

**Motion:** Dr. Morrow moved to dismiss the case.

**Second:** Ms. Penna

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

*Dr. Herro and Dr. Bienstock voted against the motion.*

*Dr. El-Gendy was recused and did not participate in the matter.*

**X. NOTICES OF PROPOSED RULEMAKING (“NPR”)**

Ms. Thomas informed the Board that the requested changes were incorporated into the draft NPRs. This included adding cultural competency and health disparity as acceptable credit courses. Mr. Dynar expressed opposition towards accepting those changes because the Rules Group took into consideration the Auditor General's recommendation to reduce the number of credit hours and the Rules Group reached a proper balance of credit hours in each subject. The reason for excluding cultural competency and health disparities was because all other areas are connected to medicine. During the Board's discussion, Ms. Thomas stated that the language reads “in any one or more of the following areas”, which would allow someone to take courses enlisted in that section in one topic. The Board further reviewed the draft NPRs.

**Motion:** Mr. Dynar moved to not adopt cultural competency and health disparity in A.A.C. R4-11-1203, 1204 and 1205 in the CE NPR.

**Second:** Dr. Herro

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

*Ms. Penna voted against the motion.*

The Board proceeded to review the General NPR. Ms. Thomas informed the Board of the amendment to remove R4-11-601 (C),(D),(E) and (F). Ms. Kappes clarified that the language in rule is conflicting with statutory language.

**Motion:** Mr. Dynar moved to accept the deletion in red that is in the General NPR.

**Second:** Dr. Morrow

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

D. Review of Investigation(s) – Case(s) Recommended for Issuance of a Non-Disciplinary Order for Continuing Education – A.R.S. § 32-1263.02(F)(3)

3. 202000313; Veneberg, Candace

Dr. Veneberg was available during the Board’s consideration of the case. Ms. Schacher made a statement to address the allegations of lack of consent for treatment and indicated that the patient was not cooperative and eligible for anesthesia and acknowledged that communication could have been better.

**Motion:** Dr. Morrow moved to issue a letter of concern for risk management and treatment planning discrepancies.

**Second:** Dr. Herro

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

*Dr. Bienstock was recused and did not participate in the matter.*

*The Board took a break from 9:48 a.m. to 10:02 a.m.*

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

*Mr. Goodman joined the meeting at 10:02 a.m.*

H. Formal Interview(s)

1. 202000190; Shamos, Ilan Hiram

Dr. Shamos was available during the Board’s consideration of the case. Mr. Tonner indicated that additional information was available for the Board to review and requested that the matter be tabled to a future meeting.

**Motion:** Dr. Herro moved to table the matter to a future meeting to review additional documents.

**Second:** Dr. Morrow

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

D. Review of Investigation(s) – Case(s) Recommended for Issuance of a Non-Disciplinary Order for Continuing Education – A.R.S. § 32-1263.02(F)(3)

4. 202000342; Tran, Bryan

Complainant N.L. made a statement to express the complications experienced since treatment and requested a refund. The respondent was not available during the Board’s consideration of the case. Dr. Berschler proceeded to provide an overview of the case and indicated that the deviations included lack of record keeping, the radiographs fell short of the standard and there was improper billing. The Board discussed having the respondent to answer the Board’s questions.

**Motion:** Dr. Morrow moved to offer a disciplinary consent agreement for record keeping and improper billing for the gingivectomy. In addition, to provide the patient with restitution for the gingivectomy. If declined, invite the respondent to a formal interview.

**Second:** Dr. Herro

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

5. 202000347; Pollard, Ekaterina

Dr. Pollard was available during the Board's consideration of the case. Mr. Hayden made a statement on behalf of Dr. Pollard to address the alleged deviations. Mr. Hayden clarified that a written consent was done and indicated that the treatment notes, although minimal, did not fall under the standard of care. The Board was further informed that reimbursement was ultimately provided to the patient.

**Motion:** Dr. Herro moved to dismiss the case.

**Second:** Dr. Christensen

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

*Dr. Bienstock, Dr. Morrow and Ms. Penna voted against the motion.*

*Dr. Morrow temporarily departed the meeting at 10:30 a.m.*

6. 202000360; Smith, Morley

Dr. Smith was available to answer questions during the Board's consideration of the case. Ms. McLellan made a statement to indicate that verbal patient consent was given; however, the patient left the clinic and did not sign the written consent. Ms. McLellan further indicated that the patient was provided post-op instruction that addressed smoking and requested that the case be dismissed. Dr. Berschler proceeded to provide an overview of the case and indicated that there was no concern with the clinical treatment.

**Motion:** Dr. Christensen moved to dismiss the case.

**Second:** Ms. Penna

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

7. 202100155; Walker, Ronald

Complainant L.D. made a statement to express the complications experienced with the veneers and requested a refund. The respondent and legal representation were not available during the Board's consideration of the case.

**Motion:** Dr. Herro moved for the Board to enter into executive session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

**Second:** Dr. Bienstock

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



*The Board entered into executive session at 9:51 a.m.*

*The Board returned to open session at 10:51 a.m.*

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

**Motion:** Dr. Herro moved to invite Dr. Walker to a formal interview and combine this case with the formal interview that is to be conducted at a future meeting.

**Second:** Dr. Bienstock

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

8. 202100201; Raiffe, David

Dr. Raiffe was not available during the Board's consideration of the case. Mr. Tonner made a statement on behalf of Dr. Raiffe and indicated that the patient complained eight months after the crown was deliberated and alleged that the crown disintegrated. Mr. Tonner further addressed the allegation of no diagnoses and lack of documentation. The Board proceeded to discuss the case and considered CE would be appropriate.

**Motion:** Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 3 hours of CE in crown and bridge and 4 hours in risk management. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

**Second:** Dr. El-Gendy

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

*Dr. Bienstock, Dr. Christensen and Mr. Dynar voted against the motion.*

9. 202100221; Meng, Tzuyu

The respondent was not available during the Board's consideration of the case. Mr. Tonner made a statement on behalf of Dr. Meng to address the alleged deviations for not referring the patient to an oral surgeon.

**Motion:** Dr. Christensen moved to dismiss the case.

**Second:** Dr. Bienstock

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

10. 202100232; DeAvila, Rachel

Complainant M.D. made a statement to request that the insurance company be refunded. Dr. DeAvila and legal counsel were not available during the Board's consideration of the matter. Dr. Berschler proceeded to provide the Board an overview of the case. The Board considered having the respondent present to address the allegations of fraudulent activity.

**Motion:** Dr. Herro moved to invite the respondent to a formal interview.

**Second:** Ms. Penna

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

## 11. 202100274; Gafni, Dan

Dr. Gafni made a statement to inform the Board that there are documents that could be provided regarding the case.

Dr. Herro directed staff to table the matter to a future meeting date to allow the respondent to provide documentation.

## 12. 202200002; Brimley, Jason

Dr. Brimley made a statement to inform the Board that at the time he was working at a different dental practice and answered questions pertaining to the use of a rubber dam and treatment done.

**Motion:** Dr. Herro moved to issue a letter of concern for lack of informed consent.

**Second:** Dr. Christensen

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

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

## 1. 202000300-MP; Burns, Jerry

Dr. Burns was available during the Board's consideration of the matter. Mr. Tonner made a statement and indicated that Dr. Burns saw the patient to place implants. However, seventeen months later the patient had an unidentified object found, possibly porcelain and ultimately settled with the insurance company. In addition, Mr. Tonner indicated that the treatment was properly done and provided clarification on the alleged documentation issues. The Board proceeded to discuss the matter.

**Motion:** Ms. Penna moved to dismiss the case

**Second:** Dr. Christensen

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

## 2. 202000304-MP; Barney, Jason

Dr. Barney was available during the Board's consideration of the matter. Ms. Schacher made a statement to indicate that Dr. Barney exercised caution during the root canal and referred the patient to a specialist for head and neck pain and has further made reforms in his practice. The Board proceeded to discuss the over extrusion and the outcome.

**Motion:** Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 3 hours in endodontics. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

**Second:** Dr. Bienstock

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

*Dr. Christensen voted against the motion.*

*Mr. Goodman abstained.*

3. 202100008-MP; Brar, Harjot

Dr. Brar was available during the Board's consideration of the matter. Ms. Anagnopoulos made a statement to indicate that Dr. Brar made multiple attempts to have the patient satisfied with the dentures; however, the patient became verbally aggressive and was ultimately dismissed. The Board proceeded to discuss the technicalities of the procedure.

**Motion:** Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 6 hours in implants and 3 hours in implant placement or implant surgery. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

*Dr. Herro amended his motion to remove the requirement of 4 hours of CE in risk management.*

**Second:** Dr. Bienstock

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

4. 202100098; Spillers, Jeffrey

Dr. Spillers and legal counsel were not available during the Board's consideration of the case. Dr. Berschler proceeded to provide the Board an overview of the case and indicated there was concern on the bridge provided in addition to deviations for lack of documentation, treatment planning, consent forms, oral cancer screening, TMJ eval and no restorations charted.

**Motion:** Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 3 hours in crown and bridge. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

**Second:** Dr. Bienstock

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

5. 202100148; Jensen, Matthew

Dr. Jensen was available during the Board's consideration of the case. Ms. Thompson made a statement and indicated that a refund was provided for the implant and addressed the deviation of not having a sedation permit. Ms. Thompson indicated that Dr. Jensen contracted with an anesthesiologist; however, did not have the necessary permit at the time and has since been issued a 1304 Permit. Dr. Jensen subsequently addressed the

implant placement and indicated that the post-operative imaging provided by his office is clear. The Board proceeded to discuss the technicalities of implant placement.

**Motion:** Dr. Herro moved to issue a disciplinary consent agreement, requiring the completion of 3 hours of CE in risk management, 8 hours in sedation and 6 hours in implants. The CE hours shall be in addition to the hours required for license renewal and shall be completed within twelve months. Online courses are acceptable due to COVID-19 restrictions. If rejected, invite the respondent to a formal hearing.

**Second:** Ms. Penna

Roll call

Dr. Herro- aye

Dr. Bienstock- aye

Dr. Christensen- aye

Mr. Dynar- aye

Dr. El- Gendy- aye

Mr. Goodman- aye

Ms. McClain- aye

Ms. Penna- aye

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

*The Board took a break from 12:12 p.m. to 12:23 p.m.*

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

**V. CONSENT AGENDA**

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

1. Ray, Andrew W., DDS, MD

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

- |               |               |               |               |
|---------------|---------------|---------------|---------------|
| 1. 202000176  | 11. 202000273 | 21. 202000299 | 31. 202100189 |
| 2. 202000183  | 12. 202000274 | 22. 202000303 | 32. 202100200 |
| 3. 202000213  | 13. 202000276 | 23. 202000308 | 33. 202100223 |
| 4. 202000231  | 14. 202000279 | 24. 202000309 | 34. 202100235 |
| 5. 202000244  | 15. 202000281 | 25. 202000334 | 35. 202100236 |
| 6. 202000246  | 16. 202000289 | 26. 202100144 | 36. 202100251 |
| 7. 202000249  | 17. 202000291 | 27. 202100152 | 37. 202100253 |
| 8. 202000250  | 18. 202000294 | 28. 202100162 |               |
| 9. 202000263  | 19. 202000295 | 29. 202100171 |               |
| 10. 202000271 | 20. 202000298 | 30. 202100180 |               |

**C. Termination of Board Orders(s)/Consent Agreements(s)**

1. 201900238; Goodman, Caleb
2. 201900278; Kaocharoen, Tony
3. 202000058; Unger, Eric M.
4. 202100075; Northup, Paul W.

**Motion:** Dr. Herro moved to approve the consent agenda.

**Second:** Mr. Dynar

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

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

6. 202100179; Mann, Roopinder

Ms. Schacher requested that the case be tabled to a future meeting date to allow Dr. Mann to be present.

**Motion:** Dr. Herro moved to table the matter to allow Dr. Mann to be present.

**Second:** Dr. Bienstock

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

7. 202100191; Smallwood, Trent

Dr. Smallwood and legal counsel were not available during the Board's consideration of the case. Dr. Berschler proceeded to provide the Board an overview of deviations, including no signature on the treatment plan and no postoperative x-rays. In addition, the implants placed show multiple exposed threads of the implant placed without surrounding crestal bone. The likelihood of implant failure and a difficult restorative success is likely. The Board considered the deviations rise to possible unprofessional conduct.

**Motion:** Dr. Herro moved to invite the respondent to a formal interview for possible unprofessional conduct.

**Second:** Dr. Bienstock

Roll call

*Dr. Herro- aye*

*Dr. Bienstock- aye*

*Ms. Burg- aye*

*Dr. Christensen- nay*

*Mr. Dynar- nay*

*Dr. El- Gendy- aye*

*Mr. Goodman- aye*

*Dr. Morrow- aye*

*Ms. McClain- aye*

*Ms. Penna- nay*

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

8. 202100213-MP; Pourshirazi, Ehsan

Dr. Pourshirazi was available during the Board's consideration of the matter. Ms. Schacher informed the Board that she was recently retained and has additional information and requested that the case be tabled to a future meeting.

**Motion:** Dr. Herro moved to table the matter to a future meeting.

**Second:** Ms. Penna

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

*Dr. Bienstock was recused and did not participate in the matter.*

*Dr. Morrow rejoined the meeting at 12:33 p.m.*

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

1. 202100128-AO

Ms. McLellan made a statement on behalf of the dentist associated with the investigation. Ms. McLellan indicated that the doctor was improperly advised and that since this was not a sedation case it did not need to be reported. Ms. McLellan stated that the doctor responded adequately to the case by quickly contacting the paramedics, the patient did not lose consciousness and has since indicated that the doctor now takes blood pressure before any procedure and updates patient health history. The doctor proceeded to answer the Board's questions.

The Board directed staff to assign a consultant to the case and agendaize it for a future meeting.

G. Review of Executive Director Complaint Terminations and Subsequent Grievances Filed by the Complainants – A.R.S. § 32-1263.03

1. 202100237; Seymour, Andrew

Complainant Y.L. gave a statement and informed the Board of the expenses paid for the treatment and indicated that a full refund has not been provided. Dr. Seymour proceeded to address the Board and indicated that he could issue a full refund to the patient.

**Motion:** Dr. Herro moved to dismiss the case.

**Second:** Dr. Morrow

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

*Dr. Bienstock was recused and did not participate in the matter.*

I. Notice of Violation(s) – A.R.S. §§ 32-1288 & 32-3227

1. 202200040; Baeza, Jacqueline

**Motion:** Dr. Herro moved for the Board to enter into executive session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

**Second:** Dr. Morrow

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

*Dr. Bienstock was recused and did not participate in the matter.*

*The Board entered into executive session at 12:57 p.m.*

*The Board returned to open session at 1:10 p.m.*

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

**Motion:** Dr. Herro moved to direct staff to open an investigation on the supervising dentist or organization with the intention of accumulating information on the respondents duties in the practice.

**Second:** Dr. Christensen

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

*Dr. Bienstock was recused and did not participate in the matter.*

J. Investigation/Audit Update

1. 202000023; 202000256-AO; Lam Kenny D.

The Board was provided the following update: the matter was referred to the Arizona Department of Insurance ("DOI") and to AHCCCS. The DOI is not planning on pursuing anything because the matter is AHCCCS related and AHCCCS is still investigating the matter. In addition, board staff reached out to Affiliated Monitors ("AM") to conduct the audit of Dr. Lam's associates at the practices where Dr. Lam practices(ed). AM believes there is an investigative aspect to the Board's request; therefore, will not perform the audit. The Board considered contracting with a forensic CPA to conduct the audit or referring the case to the Fraud Division from the Attorney General's Office. In addition, the Board considered directing staff to open additional cases against the practices involved while simultaneously conducting an audit. However, the Board ultimately directed staff to form a committee to discuss auditing for the practices and present to the Board at a future meeting.

*Dr. Bienstock was recused and did not participate in the matter.*

VI. **CALL TO THE PUBLIC**

No one addressed the Board.

IV. **ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

K. Initial Review

The Board reviewed the information received from a complainant to determine whether cause exists to open an investigation file. After discussion, the Board directed staff to reach out to the complainant to request additional information and agendaize the matter for a future meeting.

IX. **CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. ("CRDTS")**

**Motion:** Dr. Herro moved to have the Board become a member state with CRDTS and assign Ms. Penna as a steere member.

**Second:** Dr. El-Gendy

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

**VII. SUBSTANTIVE POLICY**

A. Continued competency and education for the renewal of anesthesia/sedation permits

**Motion:** Dr. Herro moved to accept the substantive policy.

**Second:** Dr. Bienstock

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

**VIII. JURISPRUDENCE EXAMINATION**

The Board directed staff to form a subcommittee to update the Board's Jurisprudence Examination.

**XI. EXECUTIVE DIRECTOR'S REPORT**

A. Budget Update

Ms. Gomez provided the Board with an overview of the budget and indicated that expenditures are higher to cover Attorney General services.

B. Agency Operations

Ms. Gomez informed the Board that the State is transitioning to a new platform for the Board's website. In addition, staff is working to update the equipment for boardrooms B and C and share the expenses with other State Boards. Staff continues to work on the process of going paperless.

C. Cases referred to OAH

Mr. Donald provided the Board a generic timeframe for cases that are referred to OAH.

D. Update on 2022 Legislative Session Bills

1. Dental Specific:

a. SB1074

b. SB1112

c. SB1240

d. SB2167

e. SB1316

Ms. Gomez provided the Board an update on legislative session bills. SB1074 was signed by the Governor on March 18, 2022 and goes into effect 90 days after session ends. In addition, SB1112 to modify the scope of practice for dental hygienists is moving forward. Ms. Gomez further indicated SB1240, which is a cleanup bill, had an amendment to not regulate those who work in a school setting. Furthermore, SB2167 and SB1316 are technical corrections without any update.

2. Other Impactful Bills

Ms. Gomez informed the Board that SB1568 mandates that complaints be adjudicated within 180 days; however additional appropriation and staffing have not been approved.



**XII. SUMMARY OF CURRENT EVENTS**

None were discussed.

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

Ms. Penna requested that meeting dates for 2023 be reviewed at the August board meeting.

**XIV. NEXT BOARD MEETING DATE**

A. May 6, 2022

**XV. ADJOURNMENT**

Dr. Herro moved to adjourn the meeting at 2:07 p.m.