



Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

June 28, 2022

Investigative Committee Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) Investigative Committee (“Committee”) held a virtual/telephonic meeting. The Committee did not meet in executive session.

COMMITTEE MEMBERS


Anthony Caputo, DDS

Timothy, Cross, DDS

David Dodell, DMD

Mari Fukami, DMD, MS

Brown “Skip” Harris, DDS

 Sabah Kalamchi, DDS, FFDSRS


Deborah Kappes, RDH

Rebecca Lavene, DMD

Mindy Motahari, DMD, MA Edu

Vacant

Vacant

 Joined/deperted as denoted in the body of the minutes

X Absent

Committee members in italics participated in-person

Vice-Chairperson

Committee Member

Committee Member

Committee Member

Committee Member

Committee Member

Committee Member

Committee Member

Committee Member

Committee Member

Chairperson

STAFF PRESENT

Ryan P. Edmonson

Kristina C. Gomez

Scott Donald, Esq.

Julie Cutler, DMD

Terry Bialostosky

Selena Acuna

Mary Ford

April Romero

Yazmin Bustamante

Executive Director

Deputy Director

Assistant Attorney General

Deputy Chief Investigator

Compliance Consultant

Compliance Officer

Compliance Officer

Compliance Officer

Executive Assistant

Staff members in italics participated in-person

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 1:00 p.m. by Dr. Caputo. Roll call of the committee members was taken and a quorum was established.

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

The Committee concurred to declare conflicts of interest at the beginning of each case.

IV. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING THE ROLES FUNCTIONS AND PROCESSES OF THE COMMITTEE, THE INVESTIGATION PROCESS AND CASE ORGANIZATION ON COMMITTEE AGENDAS

The Committee discussed its approach for reviewing cases and its role to make recommendations to the Board. Each member proceeded to affirm that they had reviewed the material prior to the meeting.

Dr. Kalamchi joined the meeting at 1:08 p.m.

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

A. Review of Investigation(s)

1. 202000317-MP

Dr. Cutler provided the Committee an overview of the case and indicated that the investigation was a result of a malpractice settlement. A full mouth extraction was performed and immediate complete dentures were delivered. Possible deviations were related to record keeping, prescriptions for Peridex were given without a diagnosis and an excessive amount of anesthetic was administered.

Motion: Ms. Kappes moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. §§ 32-1201.01(24) and 32-1264 based on the deviations found in the consultants report stipulating failure to maintain patient records.

Ms. Kappes amended her motion to also include unprofessional conduct pursuant to A.R.S. § 32-1201.01(14) concerning local anesthetic given at each appointment.

Second: Dr. Harris

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

The Committee further discussed the matter and considered recommending disciplinary action.

Motion: Dr. Harris moved to recommend that the Board offer a disciplinary consent agreement with a restriction of dental implant practice until the respondent completes 6 hours of CE in implant. In addition, to complete 4 hours of CE in local anesthesia. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Dr. Kalamchi

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

2. 202000324

Dr. Cutler provided an overview of the case and indicated that deviations included inadequate orthodontic treatment, no documented diagnosis prior to starting ortho alignment treatment, no x-rays taken or reviewed prior to starting ortho alignment treatment and treatment was done on a patient with an existing periodontal condition.

Motion: Dr. Harris moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. § 32-1201.01(14) based on the deviations found in the consultants report for inadequate orthodontic treatment and recommended disciplinary action.

Second: Dr. Kalamchi

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

Motion: Ms. Kappes moved to recommend that the Board offer a disciplinary consent agreement, requiring 8 hours of CE in orthodontic diagnosis and treatment. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Ms. Kappes amended her motion to also request that the Board impose restitution in an amount to be determined, that shall be paid to the patient.

Second: Dr. Harris

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

Dr. Kalamchi was not available for the vote.

3. 202000337

Motion: Dr. Caputo recommended that the Board dismiss the case.

Second: Ms. Kappes

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

4. 202000364

Dr. Cutler provided an overview of the case and indicated that the patient filed a complaint due to office failure to release patient records to get her implant restored by a subsequent provider.

Motion: Dr. Harris moved to recommend that the Board issue a letter of concern to the licensee for record keeping and timely release of records.

Dr. Harris amended his motion to also recommend that the Board open a complaint against the licensee who owns the practice and issue a letter of concern for record keeping and timely release of records.

Second: Dr. Kalamchi

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

5. 202000365

Drs. Dodell and Fukami declared a conflict of interest.

Motion: Dr. Cpauto recommended that the Board dismiss the case.

Second: Ms. Kappes

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

Dr. Kalamchi abstained.

Drs. Dodell and Fukami were recused and did not participate in the matter.

6. 202100010

Motion: Dr. Caputo recommended that the Board dismiss the case.

Second: Dr. Fukami

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

7. 202100011-MP

Dr. Dodell recused himself due to being the investigator and proceeded to provide the Committee an overview of the case. Deviations included incomplete notes, failure to take post-operative radiographs to confirm complete tooth was removed before proceeding with a restorative procedure and unprofessional conduct for failure to provide the patient informed consent.

Motion: Ms. Kappes moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. § 32-1201.01(14), (24) and 32-1264 based on the deviations found in the consultants report.

Second: Dr. Kalamchi

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

Motion: Dr. Harris moved to recommend that the Board issue a non-disciplinary consent agreement, requiring the completion of 4 hours of CE in record keeping and informed consent. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Dr. Fukami

The Committee further discussed the clinical issues and considered disciplinary action for treatment done below the standard of care.

Amended Motion: Dr. Harris recommended that the Board offer a disciplinary consent agreement, requiring the completion of 6 hours of CE in diagnosis, treatment planning and informed consent, 4 hours in record keeping and documentation and 4 hours in fundamentals of oral surgery. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Dr. Fukami

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

Dr. Dodell was recused and did not participate in the matter.

8. 202100020

Dr. Cutler provided the Committee an overview of the case and indicated that deviations included lack of informed consent or diagnosis for root canal treatment on tooth number 14, failure to document use of rubber dam and no weight on patient to determine if the correct amount of anesthesia was administered.

Motion: Ms. Kappes moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. §§ 32- 1201.01(14), (24) and 32-1264.

Second: Dr. Kalamchi

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

Motion: Dr. Cross moved to recommend that the Board offer a non-disciplinary consent agreement, requiring the completion of 6 hours of CE in endodontic diagnosis, treatment planning, case assessment and administration of local anesthesia for root canal and 4 hours in record keeping. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Dr. Kalamchi

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

9. 202100022

Dr. Cutler provided the Committee an overview of the case and indicated that deviations include failure to diagnose periapical radiolucency in preoperative x-ray on tooth number 19 and failure to refer to an endodontist prior to the crown treatment.

Motion: Dr. Kalamchi moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. § 32-1201.01(14), (24) and 32-1264 based on the deviations found in the consultants report.

Second: Dr. Dodell

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

Motion: Dr. Kalamchi moved to recommend that the Board offer a disciplinary consent agreement, requiring restitution to be paid to the patient and insurance company, 4 hours of CE in endodontic diagnosis, treatment planning and case assessment, 4 hours in record keeping and 4 hours in crown and bridge.

Second: Dr. Dodell

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

10. 202100023

Dr. Cutler provided the Committee an overview of the case and stated that the patient alleged that the dentist mis-diagnosed two teeth with cavities that other providers did not see. Dr. Cutler further indicated that the consultant did not find any deviations.

Motion: Dr. Caputo moved to recommend that the Board issue a letter of concern.

Second: Dr. Cross

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

Dr. Caputo further indicated that the letter of concern is for caries risk assessment and diagnosis management.

11. 202100047

Motion: Dr. Caputo recommended that the Board dismiss the case.

Second: Dr. Harris

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

12. 202100059

Drs. Motahari, Fukami and Kalamchi declared a conflict of interest. The matter was tabled due to a lack of quorum.

13. 202100122

Dr. Cutler provided the Committee an overview of the case and indicated that deviations include inadequate crown and bridge and treatment on number 18 is below the standard of care. The Committee further discussed the allegation for inadequate operative dentistry and considered it is substantiated.

Motion: Dr. Caputo moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. § 32-1201.01(14) based on the deviations in the report for inadequate crown and bridge

Second: Dr. Dodell

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

The Committee considered a hands-on clinical approach; however the consensus was to recommend a non-clinical approach.

Motion: Dr. Caputo moved to recommend that the Board issue a disciplinary consent agreement, requiring the completion of 8 hours of CE in diagnosis and treatment planning, perio diagnosis and assessment, case assessment and prognosis and crown and bridge treatment. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. In addition, to order restitution to the patient and the insurance company.

Second: Dr. Kalamchi

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

14. 202100125

Motion: Dr. Caputo moved to recommend that the Board dismiss the case.

Second: Dr. Harris

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

Dr. Fukami abstained.

15. 202100167

Motion: Dr. Caputo moved to recommend that the Board dismiss the case.

Second: Dr. Dodell

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

16. 202100216-MP

Motion: Dr. Caputo moved to recommend that the Board dismiss the case.

Second: Ms. Kappes

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

17. 202100226

Dr. Cutler provided the Committee an overview of the case and indicated that the consultant did not find deviations.

Motion: Dr. Caputo moved to recommend that the Board dismiss the case.

Second: Dr. Fukami

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

18. 202100244

Dr. Cutler provided the Committee an overview of the case and indicated that the patient's perio condition was documented as good to fair and no deviations were found.

Motion: Dr. Kalamchi moved to recommend that the Board dismiss the case.

Second: Dr. Motahari

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

19. 202100252

Motion: Dr. Caputo moved to recommend that the Board dismiss the case.

Second: Dr. Dodell

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

20. 202100254-MP

Dr. Cutler provided the Committee an overview of the case and indicated there was inadequate full mouth restoration, lack of documentation and excessive treatment for a 70 year old patient. The Committee proceeded to discuss the matter and also expressed concern for aggressive over treatment.

Motion: Ms. Kappes moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. § 32-1201.01(14).

Second: Dr. Kalamchi

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

Motion: Ms. Kappes moved to recommend that the Board issue a disciplinary consent agreement, requiring the completion of 8 hours of CE in full mouth rehabilitation that include diagnosis, treatment planning, case assessment and prognosis, 4 hours in occlusion, 4 hours in risk management. The CE hours shall be in addition to the hours required for license renewal and shall be completed within 12 months.

Second: Dr. Dodell

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

21. 202100255-MP

Motion: Dr. Caputo moved to duplicate the recommendation and determination of case 202100254-MP for case 202100255-MP.

Second: Ms. Kappes

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

22. 202100256

Motion: Dr. Caputo moved to recommend that the Board dismiss the case.

Second: Dr. Fukami

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

23. 202100258

Dr. Cutler provided the Committee an overview of the case and indicated that the treating doctor failed to obtain a 1304 Permit prior to utilizing a CRNA for IV sedation during surgery.

Motion: Dr. Caputo moved to recommend that the Board find that there is unprofessional conduct for violation of A.R.S. § 32-1201.01(14), 32-1263(A)(4), and A.A.C. R4-11-1304.

Second: Dr. Harris

Dr. Kalamchi temporarily left the meeting at 4:00 p.m.

Vote: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

The Committee further discussed that the provider should not have done the treatment because she did not have the permit to do so. In addition, the provider had knowledge that the patient did not have an escort after surgery, drove the patient to the hotel and left the patient without a caretaker.

Motion: Dr. Harris moved to recommend that the Board refer the CRNA to the Arizona State Board of Nursing for evaluation of their conduct.

Second: Dr. Fukami

Vote: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

Motion: Dr. Harris moved to recommend that the Board deny the respondents application for a 1304 Permit and reevaluate in six months.

Second: Dr. Dodell

Vote: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

Motion: Dr. Harris moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 8 hours in sedation and order restitution in the amount of four thousand dollars. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Dr. Dodell

Vote: 7-aye, 0-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

Dr. Kalamchi re-joined the meeting at 4:40 p.m.

24. 202100263; 25. 202100265; 26. 202100267; 27. 202100271; 28. 202100276;
29. 202100277; 30. 202100280; 31. 202100284; 32. 202100286; 33. 202200003;
34. 202200006; 35. 202200008; 36. 202200013; 37. 202200026; 38. 202200029;
39. 202200030; 40. 202200041; 41. 202200047; 42. 202200058; and 43. 202200068.

Motion: Dr. Caputo moved to recommend that the Board dismiss cases 28. 202100276, 34. 202200006, 35. 202200008, 37. 202200026, 39. 202200030 and 41. 202200047.

Second: Dr. Kalamchi

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

Considering a potential loss of quorum, the Committee concurred to review the remaining cases at a later date.

VI. SELECTION OF COMMITTEE MEMBERS

The Committee reviewed the list of candidates and considered that it would be beneficial to have a pediatric, orthodontist and general dentist fill the vacancies. During discussion, the Committee concurred to further review the list of candidates and make recommendations at the next meeting.

VII. SUMMARY OF CURRENT EVENTS

None were discussed.

VIII. DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS

None were discussed.

IX. NEXT COMMITTEE MEETING DATE

A. August 9, 2022

X. ADJOURNMENT

Motion: Dr. Caputo moved to adjourn the meeting at 5:01 p.m.

Second: Dr. Dodell

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