



# Arizona State Board of Dental Examiners

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

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## OPEN SESSION MINUTES

**June 24, 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. The Board met in executive session during its consideration of agenda items IV.B.2, IV.J.2, and IV.K.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
X	Edward H. Christensen, DDS	Licensed Dentist Member
⌚	Aditya Dynar	Public Member
X	Tamer El-Gendy	Licensed Dentist Member
X	Nick Goodman	Public Member
	<i>Jaselyn K. Moffett, RDH</i>	Licensed Hygienist Member
	<i>Russell Jeffrey Morrow, DDS</i>	Licensed Dentist Member
⌚	Vicki B. Penna, RDH	Licensed Hygienist Member
	<i>Leslie D. Seaman, DDS</i>	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>Ryan P. Edmonson</i>	Executive Director
	<i>Kristina C. Gomez</i>	Deputy Director
	<i>Scott Donald, Esq</i>	Assistant Attorney General
	<i>John W. Dovgan, DDS</i>	Chief Investigator
	<i>Sherrie Biggs</i>	Assistant Deputy Director
	<i>Terry Bialostosky</i>	Chief Compliance Consultant
	<i>Mary Ford</i>	Compliance Officer
	<i>Selena Acuna</i>	Compliance Officer
	<i>Yazmin Bustamante</i>	Executive Assistant

*Staff members in italics participated in-person*

**GUESTS PARTICIPATING AND/OR PRESENT**

Jack Hou, DDS	Applicant
David Madder, DMD	Applicant
<i>Daniel J. Miller, DMD</i>	Applicant
Mark S. Thibault, DDS	Applicant
Natalee N. Trevino, DDS	Applicant
Alan D. Walker, DDS	Applicant
<i>Susan McLellan, Esq.</i>	Attorney for Respondents
Leah Schacher	Attorney for Respondents
<i>M.R.</i>	Complainant
<i>Jeffrey J. Tonner, Esq.</i>	Attorney for Respondents
<i>Ilan Shamos</i>	Respondent
David Williams, Esq.	Attorney for Respondent
Thomas Endicott	Respondent
Michele Thompson, Esq.	Attorney for Respondents
<i>Joseph Gallemore</i>	Respondent
<i>Stephen Brown</i>	Respondent
<i>Vicki Dike</i>	Guest
<i>Leanne Hay, Esq.</i>	Attorney for Respondent
<i>Stephen Brown</i>	Respondent
<i>F.O.</i>	Complainant
<i>Manuel Cairo, Esq.</i>	Attorney for Respondent
<i>Cindy Bachman</i>	Court Reporter
<i>Taylor Field</i>	Respondent
<i>Sarah Goff</i>	Respondent
<i>Gary Patrick</i>	Respondent
<i>V.B.</i>	Complainant
<i>K.B.</i>	Complainant
<i>Ella Johnson</i>	Respondent

*Guests in italics participated in-person*

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

Dr. Herro called the Board's meeting to order at 8:01 a.m. Roll call of the Board members was taken and a quorum was established.

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

Dr. Bienstock declared conflicts of interest with agenda item nos. IV.C.1, IV.E.5, IV.F.4, IV.F.6, IV.I.2, IV.K.1, IV.K.4 and IV.L.1

Dr. Morrow declared a conflict of interest with agenda item no. IV.I.1

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

A. Discussion and approval of the Open Session Minutes from the May 6, 2022 board meeting.

- B. Discussion and approval of the Executive Session Minutes from the May 6, 2022 board meeting.

**Motion:** Dr. Herro moved to approve the May 6, 2022 Board meeting minutes for open session and executive session.

**Second:** Dr. Morrow

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

#### 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. Hou, Jack, DDS

Dr. Hou 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. Seaman

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

2. Madder, David, DMD

Dr. Madder answered questions regarding previous Board action taken requiring the completion of continuing education. The Board proceeded to review his application for licensure.

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

**Second:** Dr. Bienstock

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

3. Miller, Daniel J., DMD

Dr. Miller 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:** Ms. Penna

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

4. Thibault, Mark S., DDS

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

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

**Second:** Dr. Morrow

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

5. Trevino, Natalee N., DDS

Dr. Trevino was available during the Board's consideration of her application for licensure and indicated that a lingual nerve incident occurred in 2015.

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

**Second:** Ms. Penna

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

6. Walker, Alan D., DDS

The Board thanked Dr. Walker for his service. Dr. Walker proceeded to answer questions during the Board's consideration of his application for licensure.

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

**Second:** Dr. Herro

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

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

1. 202000316; Lepetich, Clinton

Ms. McLellan requested that the case be dismissed. The Board agreed with IIRC's recommendation for dismissal.

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

**Second:** Dr. Morrow

**Vote:** 6-aye, 0-nay, 0-abstain, 1-recuse, 4-absent. Motion passed.

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

E. 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)

5. 202100013-MP; Brown, Stephen

The Board was informed that Dr. Brown was on his way and concurred to consider the case later in the meeting.

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

4. 202100185; Nazar, America

The Board discussed the allegations for inadequate operative dentistry and failure to maintain records. After discussion, the Board considered de-escalating IIRC's recommendation to non-disciplinary action.

**Motion:** Dr. Morrow moved to issue a non-disciplinary order for inadequate restorative care and diagnosis, requiring the completion of 3 hours of CE in operative dentistry and 4 hours in risk management. The CE hours shall be in addition to the hours required for license renewal and shall be completed in person within six months.

**Second:** Dr. Herro

**Vote:** 4-aye, 2-nay, 0-abstain, 1-recuse, 4-absent. Motion passed.

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

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

6. 202200001; Line, Darren

Dr. Dovgan provided the Board an overview of the case. Alleged deviations included inadequate endodontic treatment, failure to use rubber dam isolation for root canal appointments, lack of documentation, failure to maintain records and the crown margin on distal number 29 appeared to be on buildup.

**Motion:** Dr. Herro moved to accept IIRC's recommendation to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 3 hours in endodontics and 3 hours in crown and bridge for the reasons cited in the investigative report and the statutory violation of A.R.S. §§ 32-1201.01(14) and 32-1264. In addition, to pay restitution or provide proof of paid restitution for the treatment provided.

**Second:** Dr. Morrow

**Vote:** 5-aye, 1-nay, 0-abstain, 1-recuse, 4-absent. Motion passed.

*Roll call*

*Dr. Herro– aye*

*Mr. Dynar– nay*

*Ms. Moffett– aye*

*Dr. Morrow– aye*

*Ms. Penna– aye*

*Dr. Seaman– aye*

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

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

1. 202100077; Hegle, Trond

Complainant M.R. made a statement and indicated that he was seen for a root canal and had filled out medical documents to indicate he is a diabetic patient. M.R. further indicated that he was hospitalized after receiving Medrol. Ms. Schacher subsequently made a statement to indicate that it can not be determined that the outcome resulted from the medication and requested that the Board uphold the Executive Director Complaint Termination.

**Motion:** Dr. Herro moved to reject the Executive Director Complaint Termination and invite the respondent to a formal interview.

**Second:** Dr. Bienstock

**Vote:** 6-aye, 0-nay, 0-abstain, 1-recuse, 4-absent. Motion passed.

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

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

1. 202200040

**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:** Mr. Dynar

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

*The Board entered into executive session at 8:39 a.m.*

*The Board returned to open session at 8:52 a.m.*

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

The Board considered that the respondent may be misrepresenting herself as a dental hygienist in her resume. After discussion, the Board directed staff to further communicate with the respondent to request a response and proof of a bachelors of science in dental hygiene prior to being hired at the orthodontics office. In addition, to agendize the matter for a future meeting.

4. 202200075

The Board directed staff to formulate and disseminate a questionnaire to the orthodontist owner of the practice to provide clarity on what the individual was hired for and her responsibilities while employed. In addition, to provide a response regarding how long they were unaware of her lack of license and education and how long she continued to work there once they found out.

J. Formal Interview(s)

1. 202000190; Shamos, Ilan Hiram

Dr. Shamos was available during the Board's consideration of the case. Mr. Tonner made a statement and indicated that the patient has a history of smoking, has Alzheimer's and that his daughter was involved with the decision making of treatment. The patient was provided two lower implants on number 22 and 27; however, the implants failed. Ultimately, Dr. Shamos provided a refund of four thousand and two dollars for expenses that the patient paid out of pocket. Dr. Dovgan proceeded to provide the Board an overview of the case and indicated there was extensive lack of documentation. Dr. Shamos subsequently answered the Board's questions, provided clarification regarding the standard documents that were initially missing from the file and explained the technicalities of the

procedure. The Board proceeded to discuss clinical concerns and concluded that there was an outstanding issue for no implant consent.

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

**Second:** Dr. Herro

**Vote:** 6-aye, 1-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

*Mr. Dynar voted against the motion because he would have dismissed the case.*

*The Board took a break from 9:49 a.m. to 10:05 a.m.*

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

2. 202100066-AO; Endicott, Thomas A.

Dr. Endicott was available during the Board's consideration of the matter and was accompanied by Mr. Williams, legal counsel. Dr. Dovgan provided the Board an overview of the case and indicated that as a result of a self-reported adverse occurrence report, an investigation was opened against Dr. Endicott. The patient had twelve teeth extracted for immediate dentures. Deviations included failure to submit the complete medical records, failure to identify a cardiac medical emergency and failure to place oxygen on the patient with difficulty breathing. Mr. Williams proceeded to explain that records were not obtained because the owner of the practice did not provide them and Dr. Endicott is no longer employed there. Mr. Williams further explained that the patient self administered a Nitro pill and after a while self administered a second pill, at which time Dr. Endicott stopped treatment and called EMS. The patient took a third pill and called EMS, which was already on route from Dr. Endicott's call. Dr. Endicott proceeded to answer the Board's questions pertaining to the patient's health history and how the patient was monitored.

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

*The Board entered into executive session at 10:36 a.m.*

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

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

The Board proceeded to ask Dr. Endicott additional questions regarding the adverse occurrence and further discussed the matter. The Board expressed concern for Dr. Endicott's failure to consult with a cardiologist, mismanagement of local anesthesia, mismanagement of handling angina and mismanagement of CPR. In addition, Dr. Endicott failed to provide records to the Board even though he had the opportunity to do so after the incident was reported. During discussion, Dr. Endicott stated he is not currently practicing.

**Motion:** Dr. Herro moved to table the matter, agendize it for a potential summary suspension and/or referral to a formal hearing for possible suspension or revocation and directed staff to subpoena the records from the custodian of records.

**Second:** Dr. Morrow

**Vote:** 6-aye, 1-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

*Ms. Penna voted against the motion.*

3. 202100272; Gallemore, Joseph

Dr. Gallemore was available during the Board's consideration of the matter and was accompanied by Ms. Thompson, legal counsel. Dr. Dovgan provided the Board an overview of the case and indicated there was no periodontal charting and clarified four different practitioners also treated the patient. Ms. Thompson subsequently indicated it was an isolated error and periodontal probings are typically documented by the hygienist. Dr. Gallemore proceeded to answer the Board's questions pertaining to treatment and clarified that another provider did the dental bridge.

**Motion:** Dr. Seaman moved to issue a letter of concern for lack of perio charting.

**Second:** Dr. Herro

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

**Motion:** Dr. Morrow moved to open a case against Dr. Strandling.

**Second:** Dr. Bienstock

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

E. 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)

5. 202100013-MP; Brown, Stephen

**Motion:** Dr. Herro moved to table the case to allow the respondent to obtain legal counsel.

**Second:** Dr. Morrow

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

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

2. 202100156; Brown, Stephen

Dr. Brown was available during the Board's consideration of the matter. The respondent's attorney indicated that the complaint is outside of the statute of limitations and requested that the Board uphold the Executive Director Complaint Termination.



**Motion:** Dr. Herro moved to uphold the Executive Director Complaint Termination.

**Second:** Dr. Morrow

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

L. Investigation/Audit Update

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

Dr. Morrow provided the Board an update on the audit and stated that there is no clear indication that the group practice is overbilling; therefore, recommended that the Board not take further action as it would not be a good use of resources.

*The Board took a break from 11:58 a.m. to 12:09 p.m.*

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

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

2. 202000321; Babych, Christopher
3. 202000341; Anthem Dentistry
4. 202100130; Winterholler, Chris
5. 202100134-AO; Brinks, Austin R.
6. 202100153; Haynes, Susan
7. 202100234-AO; Fryberg, Harrison D.
8. 202100290-MP; Parry, Dale
9. 202200025; Dickerson, Michael
10. 202200027; Ogunware, Caroline

**Motion:** Dr. Herro moved to dismiss cases IV.C.2 - IV.C.10.

**Second:** Dr. Morrow

**Vote:** 5-aye, 2-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

*Ms. Moffett and Ms. Penna voted against the motion.*

11. 202200028; Patterson, Charles

Complainant R.O. made a statement to indicate that she was billed for a crown that was placed and came off the same day. Dr. Dovgan provided an overview of the case and the Board concurred there were no deviations in the practice of dentistry. The complainant was directed to contact board staff for further questions.

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

**Second:** Dr. Herro

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

B. Review of Investigation(s)

## 2. 202100195; Midwestern University Dental Clinic

Mr. Cairo informed the Board that he was representing Midwestern University Dental Clinic and proceeded to make a statement. Mr. Cairo referenced Senate Bill 1240 and read from the legislative journal, which indicates that the intent of the amendments of A.R.S. § 32-1231(8) are to remove the Arizona State Board of Dental Examiners from having any jurisdiction over dentists, dental hygienists, or dental therapists whether licensed in Arizona or not, who are participating for educational purposes on behalf of a recognized school. Mr. Cairo then requested that the Board dismiss the case. During discussion, Dr. Dovgan stated that the bill of rights pursuant to A.R.S. §§ 12-2293, 2294 and 2294.01 indicates that patients are entitled to their records with the name of the treating dentist and expressed concern because that information was not provided to the complainant.

**Motion:** Dr. Bienstock 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. Herro

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

*The Board entered into executive session at 12:32 p.m.*

*The Board returned to open session at 12:50 p.m.*

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

*Ms. Penna departed the meeting at 12:50 p.m.*

**Motion:** Dr. Morrow moved to dismiss the case for lack of information on the treating doctor.

**Second:** Dr. Herro

**Vote:** 6-aye, 0-nay, 0-abstain, 0-recuse, 5-absent. Motion passed.

The Board further indicated that the patient can file another complaint when they have the necessary information.

*Mr. Dynar departed the meeting at 12:58 p.m.*

The meeting adjourned at 12:58 p.m due to a loss of quorum.