



# Arizona State Board of Dental Examiners

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

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## OPEN SESSION MINUTES

**May 10, 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. The Committee did not meet in executive session.

#### **COMMITTEE MEMBERS**

<b>X</b>	Louis Sommerhalter, DDS	Chairperson
	Anthony Caputo, DDS	Committee Member
	Timothy, Cross, DDS	Committee Member
	David Dodell, DMD	Committee Member
<b>X</b>	Michael Domingo, DDS	Committee Member
	Mari Fukami, DMD, MS	Committee Member
	Brown “Skip” Harris, DDS	Committee Member
	Sabah Kalamchi, DDS, FFDSRS	Committee Member
	Deborah Kappes, RDH	Committee Member
<b>X</b>	Rebecca Lavene, DMD	Committee Member
	Mindy Motahari, DMD, MA Edu	Committee Member



Joined/departed as denoted in the body of the minutes

**X** Absent

*Committee members in italics participated in-person*

#### **STAFF PRESENT**

Ryan P. Edmonson	Executive Director
<i>Kristina C. Gomez</i>	Deputy Director
Scott Donald, Esq.	Assistant Attorney General
John W. Dovgan, DDS	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
Yazmin Bustamante	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 discussed conflicts of interest and what may be perceived as such. Mr. Donald advised the Committee to disclose possible conflicts of interest to have them on record.

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

**B. Reconsideration of Prior Recommendation**

1. 202000120

**Motion:** Dr. Harris moved to re-affirm the decision that was previously recommended to the Board.

**Second:** Dr. Kalamchi

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

**A. Review of Investigation(s)**

Dr. Caputo proposed to consider cases on a consent calendar and allow members to pull any case they want to further discuss. Any cases remaining on the consent calendar would be recommended for dismissal to the Board. Then, the Committee would discuss each case that was pulled off. The Committee consensus was to implement Dr. Caputo's suggestion as it would allow for better meeting efficiency.

**Motion:** Dr. Kalamchi moved to recommend that the cases under IV.A be dismissed, with the exception of IV.A.1, IV.A.4, IV.A.11 and IV.A.12.

**Second:** Dr. Cross

*Dr. Kalamchi withdrew his motion.*

After further discussion, the Committee concurred to consider cases on a consent calendar at future meetings and proceeded to discuss each case individually.

1. 202000306

Dr. Berschler provided the Committee an overview of the case and stated that there is no indication or diagnosis for the bone grafting procedure for tooth number 17 and 32. Additional deviations include failure to document the titrated sedation medication dosage and time intervals; only the name and total amount given were documented. Dr. Harris stated that the anesthesia record keeping is outside the standard of care and there was lack of informed consent. The Committee further discussed that it is the licensee's responsibility to keep patient records.

**Motion:** Dr. Harris requested an additional investigation and data mining with regards to the third molar extraction and bone graft and how this practice manages anesthesia records. This will include an audit for the last 12 months for every third molar extraction

case that was done in the practice with and without bone grafting for which the respondent was the billing provider and every anesthesia record that was recorded for every general anesthesia.

**Second:** Dr. Kalamchi

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

2. 202000316

Dr. Berschler provided the Committee an overview of the case and indicated that the complainant alleged over billing issues; however, the allegations were not substantiated. Dr. Berschler directed the Committee's attention to the licensee's images, which show extensive decay and poor hygiene making it difficult to provide a definitive treatment plan to a six year old patient with this condition.

**Motion:** Kalamchi moved to recommend that the case be dismissed.

**Second:** Dr. Harris

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

3. 202000321

Dr. Berschler provided the Committee an overview of the case and indicated that there was a potential overcharge for duplication of radiographs. The Committee discussed a possible deviation for billing irregularities. Mr. Edmonson clarified that restitution to the patient for what they paid can only be required if the case ends in disciplinary action.

**Motion:** Dr. Harris moved to recommend that the Board dismiss the case against the licensee and open a complaint against the corporate entity or subsequent dentist or both for the purpose of issuing a letter of concern for overbilling and potential duplicate billing.

**Second:** Dr. Kalamchi

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

*Dr. Dodell abstained.*

4. 202000335

Dr. Berschler provided the Committee an overview of the case and indicated that treatment took place at a senior care facility. Deviations included misdiagnosis in treatment of caries before the partial denture was initiated, inadequate lower partial and failure to maintain records.

**Motion:** Ms. Kappes moved to recommend that the Board find that there is unprofessional conduct pursuant to A.R.S. §§ 32-1201.01(14), (24) and 32-1264 based on the deviations found in the consultants report that identify those acts that constitute a danger to the health, safety and welfare of the patient and failure to maintain adequate patient records.

**Second:** Dr. Harris

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

The Committee proceeded to discuss previous Board action regarding quality of care and record keeping.

**Motion:** Dr. Kalamchi moved to recommend that the Board offer a disciplinary consent agreement requiring the completion of 8 hours of CE in diagnosis and treatment planning and 8 hours in record keeping and documentation. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. In addition, to provide the patient restitution for treatment rendered surrounding the fabrication of the lower partial denture.

**Second:** Ms. Kappes

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

5. 202000341

Dr. Berschler provided the Committee an overview of the case and indicated that after evaluating the ledgers, there were no deviations for overbilling.

**Motion:** Dr. Harris 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.

6. 202000367

Dr. Berschler provided the Committee an overview of the case and indicated that the treating dentist decided that the best treatment for the patient was a bridge with extraction of the four lower teeth. There was a biocompatibility issue and the bridge was ultimately removed. The Committee discussed that the patient should not dictate 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) based on the deviations identified in the consultant's report.

**Second:** Dr. Kalamchi

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

*Drs. Harris and Kalamchi abstained.*

The Committee proceeded to discuss non-disciplinary action.

**Motion:** Dr. Motahari moved to recommend that the Board issue a non-disciplinary consent agreement, requiring the completion of 8 hours of CE in treatment planning. The CE hours shall be in addition to the hours required for license renewal and shall be completed within three months.

**Second:** Dr. Dodell

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

*Drs. Cross and Harris voted against the motion.*

7. 202100153

Dr. Berscheler provided the Committee an overview of the case and indicated that the patient was provided a refund.

**Motion:** Dr. Harris 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.

8. 202100264

Dr. Berscheler provided the Committee an overview of the case and indicated that there were no deviations. Dr. Berschler further stated that the patient was ultimately provided a refund. The Committee considered directing staff to verify if records were provided to the patient.

**Motion:** Dr. Kalamchi recommended that the case be dismissed with the contingency that staff verify if patient records were provided to the patient.

**Second:** Dr. Harris

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

9. 202100268

Dr. Berschler provided the Committee an overview of the case and directed the Committee's attention to the radiograph for tooth number 9 and indicated that a full comprehensive exam was charged, but was not provided in the record. The Committee did not see proof of a health history for an extraction.

**Motion:** Dr. Harris moved to recommend that the Board issue a letter of concern for record keeping and not providing complete records.

**Second:** Dr. Dodell

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

10. 202100290-MP

**Motion:** Dr. Harris 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.

11. 202200023

Dr. Berschler provided the Committee an overview of the case and indicated that a Hygienist provided treatment and stated that the patient complained about numbness on the lower left quadrant. The Committee proceeded to review the case and discussed the lack of documentation.

**Motion:** Dr. Harris moved to recommend that the Board offer non-disciplinary action requiring the completion of 4 hours of CE in record keeping.

*Motion failed for lack of a second.*

**Motion:** Dr. Kalamchi recommended that the Board issue a letter of concern for record keeping.

**Second:** Ms. Kappes

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

*Drs. Cross, Harris and Motahari voted against the motion.*

12. 202200025

Dr. Berschler provided the Committee an overview of the case and indicated that the patient alleged that the root canal was done on the wrong tooth. Dr. Berschler further clarified that another dentist provided the treatment that was referred to in the complaint.

**Motion:** Dr. Kalamchi moved to recommend that the case against the primary licensee named in the complaint be dismissed.

**Second:** Ms. Kappes

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

**Motion:** Ms. Kappes directed the Executive Director to open a complaint against the treating dentist and request records from the subsequent consulting dentist.

*Motion failed for lack of a second.*

13. 202200027

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

**Second:** Dr. Motahari

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

*Dr. Cross was recused and did participate in the matter.*

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

A. Discussion and approval of the Open Session Minutes from the April 5, 2022 committee meeting.

**Motion:** Ms. Kappes moved to approve the Open Session Minutes from the April 5, 2022 committee meeting.

**Second:** Dr. Kalamchi

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

**V. SUMMARY OF CURRENT EVENTS**

Mr. Edmonson informed the Committee that the Board's current statutes and rules will be provided in the meeting packets.

**VI. DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS**

Mr. Edmonson encouraged members to RSVP for each meeting to help determine if there will be a quorum. Mr. Edmonson further informed the Committee that staff received a resignation letter from a committee member; therefore, staff will agendize the selection of a new member for the next meeting. In addition, the Committee opted to hold the next meeting in virtual and telephonic format.

*Dr. Kalamchi departed the meeting at 4:07 p.m.*

**VII. NEXT COMMITTEE MEETING DATE**

A. June 28, 2022

**VIII. ADJOURNMENT**

**Motion:** Dr. Dodell moved to adjourn the meeting at 4:08 p.m.

**Second:** Dr. Cross

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