



Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

September 2, 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.E.1 and IV.E.5 as stated herein.

BOARD MEMBERS

	<i>Anthony Herro, DDS</i>	President and Licensed Dentist Member
X	Lisa B. Bienstock, DMD	Vice-President and Licensed Dentist Member
	<i>Morgan B. Burg</i>	Business Entity Member
X	Edward H. Christensen, DDS	Licensed Dentist Member
X	Aditya Dynar	Public Member
X	Tamer El-Gendy	Licensed Dentist Member
	<i>Nick Goodman</i>	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
	Leslie D. Seaman, DDS	Licensed Dentist Member
	Joined/deperted 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>Seamus Monaghan, Esq.</i>	Assistant Attorney General
	<i>Julie Cutler, DMD</i>	Deputy Chief Investigator
	<i>Sherrie Biggs</i>	Assistant Deputy Director
	<i>Terry Bialostosky</i>	Chief Compliance Consultant
	<i>Selena Acuna</i>	Compliance Officer
	<i>Yazmin Bustamante</i>	Executive Assistant
	Jessica Thomas	Rules Administrator

Staff members in italics participated in-person

GUESTS PARTICIPATING AND/OR PRESENT

<i>Bill Sowders, Esq.</i>	Attorney for Respondent
<i>Frank Altier</i>	Respondent
R.L.	Complainant
<i>Leanne Hayes, Esq.</i>	Attorney for Respondents
<i>Ryan Arthurs</i>	Respondent
<i>Christopher Ballew</i>	Respondent
<i>Kevin Earle</i>	Guest
Alida Montiel	Guest
<i>Leah Schachar, Esq.</i>	Attorney for Respondents
<i>Trond U. Hegle</i>	Respondent
M.R.	Complainant
<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
<i>Chris Winterholler</i>	Respondent
<i>Kevin Nicholas, Esq.</i>	Attorney for Respondents
<i>Robert Oro</i>	Respondent
<i>Debra Oro</i>	Respondent
<i>Michele Thompson, Esq.</i>	Attorney for Respondents
<i>John Patterson</i>	Respondent
<i>Victor Trujillo</i>	Respondent
F.M.	Complainant
<i>Susan McLellan, Esq.</i>	Attorney for Respondents
Deborah Kappes	Guest
<i>Cindy Bachman</i>	Court Reporter

Guests in italics participated in-person

I. CALL TO ORDER AND ROLL CALL

Dr. Herro called the Board’s meeting to order at 8:00 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

Ms. Burg declared conflicts of interest with agenda item nos. IV.B.1, IV.C.2 and IV.F.4.
Ms. Penna declared a conflict of interest with agenda item no. IV.A.1.

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

- A. Discussion and approval of the Open Session Minutes from the August 5, 2022 board meeting.
- B. Discussion and approval of the Executive Session Minutes from the August 5, 2022 board meeting.

Motion: Dr. Herro moved to approve the Open Session and Executive Session Minutes from the August 5, 2022 board meeting.

Second: Dr. Morrow

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

The following **highlighted** agenda items have been carried over from the August 5, 2022 meeting. The Board was unable to consider these items due to a loss of quorum and may review the highlighted items before taking action on any new items.

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. Bingham, Ashlyn M., RDH

No one requested to speak during the Board's consideration of the application for licensure.

Motion: Dr. Morrow moved to grant licensure.

Second: Dr. Herro

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

Ms. Penna was recused and did not participate in the matter.

2. Matthews, Barrie L., DMD

No one requested to speak during the Board's consideration of the application for licensure.

Motion: Dr. Herro moved to grant licensure.

Second: Dr. Morrow

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

B. 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. 202100021; Altier, Frank Jr.

Dr. Altier and his attorney Mr. Sowders, were available during the Board's consideration of the matter. Dr. Cutler proceeded to provide the Board an overview of the case and indicated that Dr. Altier did not take the final seat of the prosthodontics due to the patient possibly being pregnant. The patient did not return for treatment of tooth number five. The consultant found possible record keeping deviations for not taking post-insertion radiographs for the delivery of the fixed prosthodontic, no documentation regarding possible pregnancy, no periodontal evaluation, no oral cancer screening and treatment plans recorded prior to providing treatment. Dr. Altier subsequently informed the Board of his protocol and clarified that the patient provided radiographs that were taken a few days before treatment.

Motion: Dr. Herro moved to issue a non-disciplinary order, requiring the completion of 4 hours of CE in risk management and 3 hours in crown and bridge; based on the deviations found in the consultant's report. The CE hours shall be in addition to the hours required for license renewal and shall be

completed within six months.

Second: Dr. Morrow

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

Ms. Burg was recused and did not participate in the matter.

2. 202200101; Le, Loan K.

Dr. Cutler provided the Board an overview of the case and indicated that Dr. Le saw the patient for an initial exam only. The consultant found possible deviations for inaccurate perio probe measurements and record keeping issues for not recording restorations, TMJ evaluation and oral cancer screening. Complainant R.L. subsequently stated that the primary reason for the complaint is due to the unnecessary treatment planning.

Motion: Ms. Moffett moved to dismiss the case.

Second: Ms. Penna

The Board further discussed the record keeping issues.

Ms. Moffett rescinded the motion.

Motion: Ms. Moffett moved to issue a letter of concern for lack of record keeping.

Second: Ms. Penna

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

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

1. 202000357; Arthurs, Ryan

Dr. Arthurs was available during the Board's consideration of the matter. Ms. Hayes made a statement and indicated that the patient refused to let the assistant take x-rays and wanted to speak to the doctor alone. Dr. Arthurs suggested having a different assistant with him, but the patient got upset and left. Dr. Arthurs then instructed his office manager to send a patient termination letter. Ms. Hayes further explained that staff were trained with office policies and procedures; and Dr. Arthurs did not have reason to believe that it was not taken care of until the complaint was filed.

Motion: Dr. Herro moved to issue a letter of concern for lack of a termination letter.

Dr. Herro rescinded his motion.

The Board further discussed the procedure for terminating a patient. Dr. Cutler clarified that the standard of care is to not end the relationship while in the middle

of treatment and indicated that the patient should be notified and be given a timeframe for emergency care.

Motion: Dr. Herro moved to issue a letter of concern for the missing termination letter in the patient's file.

Second: Dr. Morrow

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

Dr. Seaman voted against the motion.

2. 202100103-MP; Tran, Bryan

No one requested to speak during the Board's consideration of the matter. Dr. Cutler proceeded to provide the Board an overview of the case and indicated that the patient experienced pain and numbness after an implant on tooth number 28 was placed by Dr. Tran. There was damage to the right mental nerve. The consultant noted that Dr. Tran did not take adequate final x-rays on the day of the implant placement to verify the implant position. In addition, the vertical measurement before surgery was 15.82mm; however, Dr. Tran placed a 15mm implant about 3 mm below the alveolar crest; at least 2mm into the mental nerve area. Dr. Cutler further stated that there was no written consent for the extraction and implant in the records.

Motion: Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 3 hours of CE in implants and 3 hours in oral sedation; based on the findings and facts and the statutory violations that the consultant found. The CE hours shall be in addition to the hours required for license renewal and shall be completed in person; within six months.

Dr. Herro amended the motion to require 8 hours of CE in implants.

Second: Mr. Goodman

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

Ms. Burg was recused and did not participate in the matter.

3. 202100247; Ballew, Christopher

Dr. Ballew was available to answer questions during the Board's consideration of the matter. Dr. Cutler proceeded to provide the Board an overview of the case. The consultant found that the allegations for misdiagnosis of acute dental pain and inadequate treatment, a root tip left on tooth number 15, were substantiated. Additional record keeping deviations included lack of verbal or written informed consent and diagnosis for extraction of tooth number 15 was not documented in the records. Dr. Ballew explained that after various tests, nothing stood out and he referred the patient for an endo evaluation. However, the patient refused and Dr. Ballew ultimately extracted tooth number 15.

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 oral

surgery; based on the deviations found in the consultant's report. The CE hours shall be in addition to the hours required for license renewal and shall be completed in person; within six months.

Second: Mr. Goodman

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

6. 202100257; Robison, Gary

No one requested to speak during the Board's consideration of this matter. Dr. Cutler proceeded to inform the Board that the patient alleges that Dr. Robison did not provide a proper fitting removable denture. Dr. Robison did not submit records as part of the subpoena. A refund was provided to the patient and the consultant was only able to review documents that were submitted by the complainant.

Motion: Dr. Herro moved to invite Dr. Robison to a formal interview.

Second: Mr. Goodman

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

Later in the meeting, Dr. Herro rescinded his motion to invite Dr. Robison to a formal interview.

Motion: Dr. Morrow moved to issue a five hundred dollar civil penalty for non-compliance with the subpoena; to be paid within 30 days.

Second: Mr. Goodman

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

IX. FIVE-YEAR RULE REVIEW

Motion: Dr. Herro moved to approve the amendment to the draft Five-Year Rule Review and submit it to the Governor's Regulatory Review Council.

Second: Dr. Morrow

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

X. NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING ("NPR")

Ms. Thomas informed the Board that substantive changes need to be re-noticed with the Secretary of State. The Board reviewed comments from the oral proceeding. Mr. Edmonson explained that the term psychomotor would need to be removed since it did not pass through legislation. The Board proceeded to review the request to add the Jurisprudence Examination as a requirement for licensure by credential in A.A.C. R4-11-202.

Motion: Dr. Morrow moved to adopt the Jurisprudence Examination as a requirement for licensure by credential and directed staff to add it to the rulemaking process.

Second: Ms. Penna

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

The Board reviewed the request to incorporate substantive policy statement number 27 related to digital impressions into A.A.C. R4-11-701(A)(10) of the draft NPR.

Motion: Dr. Herro moved to add the substantive policy statement related to final digital impressions by a dental assistant.

Second: Dr. Morrow

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

The Board also discussed the request to add language in rule for notifying the respondent of a complaint. Mr. Edmonson explained that staff provide a copy of the investigator's report at the time of notice. The Board consensus was that A.R.S. § 32-3206(A) already addresses the request and there is no need to add it in rule.

Ms. Montiel addressed the Board and requested further consideration to add language from 25 U.S.C. 1616L to help clarify that dental therapists in Tribal communities are required by federal law to follow the scope of practice and the requirements that are outlined in rule. Ms. Thomas explained how statute works in conjunction with rule and clarified that State statutes provide the authority for rule. Federal law allows individuals to practice in tribal facilities as provided by statute. The Board consensus was that it is not necessary to incorporate language from federal law.

Motion: Dr. Herro moved to approve the proposed notice of supplemental proposed rulemaking.

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

K. Formal Interview(s)

2. 202100077; Hegle, Trond U.

Dr. Hegle was available during the Board's consideration of the matter. Attorney, Ms. Schachar was also present. Dr. Cutler proceeded to provide the Board an overview of the case and indicated that the patient informed the doctor that he is diabetic and was on ibuprofen for pain. According to the records, Dr. Hegle diagnosed tooth number 2 with necrotic acute apical abscess, visibly swollen. Risks and benefits were discussed with the patient and a Medrol dose pack was prescribed with the need to consult with his Endocrinologist before taking the medication. The consultant did not find deviations to the standard of care. Dr. Hegle proceeded to answer the Board's questions pertaining to his training and understanding of how Medrol pack affects diabetic patients. Ms. Schachar subsequently stated that there is no indication that the patient's condition was poorly controlled; however, people with diabetes can be prescribed Medrol which include precautions that were made known to the patient. The Board did not find a direct connection to the medication causing the patient to be hospitalized two days after cessation of treatment.

Motion: Dr. Seaman moved to dismiss the case.

Second: Dr. Herro

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

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

The Board took a break from 10:14 a.m. to 10:26 a.m.

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

1. 201800126; Mamola, Elaine

The Board directed staff to place the matter on a future meeting agenda.

3. 202100281; Winterholler, Chris

Dr. Winterholler was available during the Board's consideration of the matter. Attorney, Mr. Tonner was also present. Dr. Winterholler answered the Board's questions and clarified that a final prosthesis was not delivered. Dr. Winterholler expressed understanding of the patient's frustration with the loose screw and further explained his attempts to reschedule the patient after the rosen screw problem was resolved. The Board proceeded to discuss the matter and took into consideration that the software problems were out of the dentist's control and that the patient did not return to complete treatment.

Motion: Dr. Morrow moved to dismiss the case.

Second: Ms. Penna

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

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

4. 202100254-MP; Oro, Robert

Dr. Oro was available during the Board's consideration of the matter. Attorney, Mr. Nicholas stated that the matter stems from a settlement notification from the National Practitioner's Data Bank; not from a patient's complaint. Mr. Nichiolas denied the allegation of inadequate full mouth restoration for improper performance of dental face-lift and read a statement pertaining to Dr. Oro's education and experience. Mr. Nicholas further stated that the patient contacted a lawyer and was advised to have an independent medical examination ("IME") done. The Oro's were not notified of the IME or any of the complaints after they saw the patient. Corrective dental treatment was done by another dentist; therefore, the respondent's were not afforded an opportunity to reevaluate the patient.

Motion: Dr. Herro moved to invite Dr. Oro to a formal interview; based on the allegations found in the consultants report, potential statutory violations and the Investigative Committee's recommendation.

Second: Mr. Goodman

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

Dr. Morrow voted against the motion.

5. 202100255-MP; Oro, Debra

Dr. Oro was available during the Board's consideration of the matter.

Motion: Dr. Herro moved to invite Dr. Oro to a formal interview, based on allegations in the consultant's report, potential statutory violations and the Investigative Committee's recommendation. In addition, to consolidate case 202100255-MP with 202100254-MP.

Second: Mr. Goodman

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

D. Review of Investigation(s) – Case(s) Recommended for a Formal Interview(s)

1. 202000333; Patterson, John

Dr. Patterson was available during the Board's consideration of the matter. Attorney, Ms. Thompson indicated that a detailed response was provided to address the majority of the concerns outlined in the consultant's report for irregular billing and overbilling practices. The Board considered that a formal interview format would better allow for a detailed review of the information.

Motion: Dr. Morrow moved to invite the respondent to a formal interview; based on the allegations in the consultant's report.

Second: Dr. Herro

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

2. 202200032; Hales, Kent

Ms. Thompson made a statement on behalf of Dr. Hales and indicated that extensive discussion took place with the patient to discourage extractions and clarified that Dr. Hales did not do the extractions, but instead referred the patient to an oral surgeon. Ms. Thompson further indicated that Dr. Hales placed implants and made dentures and acknowledged the lack of written consent.

Motion: Dr. Morrow moved to dismiss the case.

Second: Dr. Herro

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

E. Review of Compliance/Non Compliance for Consent Agreement(s)/Board Order(s)

1. 201700175-MP; Trujillo, Victor and 5. 202000129; Trujillo, Victor

Dr. Trujillo stated that noncompliance with the orders is due to family health issues and financial hardship. He indicated that employers ask about the

disciplinary action that shows on his profile on the Board website. The Board informed Dr. Trujillo that there are numerous free and low cost CE courses. The Board further stated that for case 201700175-MP, Dr. Trujillo was ordered to complete CE and reimburse the Board for its costs in the amount of six thousand, seven hundred eighty-two dollars and sixty-three cents. He was also placed on probation for one year. The Board confirmed that to date, Dr. Trujillo has not completed the terms of his Orders.

Motion: Mr. Goodman 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 11:30 a.m.

The Board returned to open session at 11:48 a.m.

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

Motion: Dr. Herro moved to combine cases 201700175-MP and 202000129 and invite the respondent to a formal interview with the possibility of being referred to OAH for revocation for non-compliance with Board orders.

Second: Mr. Goodman

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

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

4. 202200044; Elrod, Gina

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

Second: Dr. Morrow

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

Ms. Burg was recused and did not participate in the matter.

Mr. Goodman departed the meeting at 11:55 a.m.

E. Review of Compliance/Non Compliance for Consent Agreement(s)/Board Order(s)

2. 201900145; Sandstrom, Paul

No one requested to speak during the Board's consideration of the matter. Staff informed the Board that continuing education was due June 10, 2021. The Board confirmed that to date, Dr. Sandstrom has not completed the terms of his Order.

Motion: Dr. Herro moved to invite the respondent to a formal interview with the possibility of being referred to OAH for revocation for non-compliance with a Board order.

Second: Dr. Morrow

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

3. 201900189; Nunez, Hector

Staff clarified that Dr. Nunez completed the terms of his order on time. The Board did not take further action.

4. 201900216; Hawke, Robert

Ms. Thompson made a statement on behalf of Dr. Hawke and requested an extension to complete the CE courses. Ms. Thompson explained that Dr. Hawke initially registered for a course on time; however, got COVID and could not find another course within the Board Order time frame.

Motion: Dr. Morrow moved to issue a non-disciplinary order requiring 4 hours of CE in risk management to be completed by November 1, 2022 due to the non-compliance of his existing Board Order for case 201900216. In addition, to accept the pre-approved course and rescind the previous Board Order.

Second: Dr. Herro

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

Motion: Dr. Morrow moved to issue a disciplinary consent agreement for non-compliance of case 201900216 and not completing the risk management CE in a timely fashion. In addition, to administer a \$500 administrative penalty for non-timely compliance. The civil penalty shall be paid within ninety days.

Second: Dr. Herro

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

Dr. Herro, Ms. Burg and Ms. Penna voted against the motion.

The Board requested further clarification on the timeline of events that lead to non-compliance with the Board Order.

Motion: Dr. Morrow moved to rescind his motion for a non-disciplinary order and extend CE in risk management.

Second: Dr. Herro

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

Dr. Seaman voted against the motion.

Motion: Dr. Morrow moved to modify the existing order to grant an extension for 4 hours of CE in risk management and add 3 hours of ethics due to non-compliance of the existing order in a timely manner. The CE shall be completed by the end of calendar year 2022.

Second: Dr. Herro

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

Dr. Seaman voted against the motion.

6. 202100140-C

The Board did not take further action on this matter.

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

1. 202100245; Salim, Hoda

Complainant F.M. made a statement and indicated that she is aware of the difference between a high speed drill and a hand instrument and requested re-consideration of the termination of the complaint. Ms. Haye proceeded to make a statement and indicated that there is no deviation from the standard of care for an assistant to use a scaler to remove residual cement from the enamel. Dr. Salim had informed the patient that there was a space that required further treatment; however, the patient did not want to continue treatment. Ms. Hayes further stated that there was no complaint until six weeks after the treatment and two subsequent providers did not see damage to the tooth.

Motion: Dr. Morrow moved to reject the Executive Director Complaint Termination and move the matter to an initial review and direct staff to subpoena the respondent.

Second: Dr. Herro

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

2. 202100269; Cho, Jae

Mr. Tonner was available to answer questions on behalf of Dr. Cho. Dr. Morrow expressed concern for how the denture was set up. Mr. Tonner clarified that the images seen are for provisionals.

Motion: Dr. Herro moved to uphold the E.D. termination.

Second: Ms. Moffett

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

3. 202200014; Smith, Matthew

No one requested to speak during the Board's consideration of this matter.

Motion: Dr. Herro moved to uphold the E.D. termination.

Second: Dr. Morrow

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

G. Review Draft Board Order(s)/Consent Agreement(s)

1. 202000201-MP & 202100155; Walker, Ronald

Motion: Dr. Herro moved to accept the revised consent agreement.

Second: Dr. Morrow

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

2. 202100161; Wilcox, Donald Lynn

Ms. Hay made a statement on behalf of Dr. Wilcox and addressed issues with regard to restitution. Ms. Hay indicated that Dr. Wilcox disagrees with the restitution because the bridges are intact, non-symptomatic and have been functional for four years. Ms. Hay requested that restitution only be imposed for teeth numbers 9 and 10. After discussion, the Board considered that Dr. Wilcox did inappropriate treatment planning and diagnosis on teeth that needed alternate treatment.

Motion: Dr. Morrow moved to accept the proposed order; rejected revisions and directed staff to issue the order.

Second: Dr. Herro

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

VI. CONSENT AGENDA

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

1. Velangi, Amogh, DDS (*Anesthesia and Sedation Evaluator*)

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

1. 202100003
2. 202100031
3. 202100033
4. 202100038
5. 202100051
6. 202100063
7. 202100087
8. 202100089
9. 202100095
10. 202200095

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

1. 201700266-AO; Roberts, Aaron LeGrande
2. 202000304-MP; Barney, Jason

Motion: Dr. Herro moved to accept the consent agenda as is for items A, B and C.

Second: Dr. Morrow

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

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

1. 202100048; Kalika, Jonathan

Ms. McLellan made a statement on behalf of Dr. Kalika and requested that the Board dismiss the case. Ms. McLellan stated that the patient was upset that Dr. Kalika refused to go through the patient's request to place an implant. Ms. McLellan also clarified that what was included in the consultant's report are

journal notes; however, progress notes were provided in response to the complaint.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Morrow

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

2. 202200060; Samain, Omaima

Mr. Tonner made a statement on behalf of Dr. Samain and indicated that a treatment plan was made to extract the teeth and place a snap in denture. The relationship deteriorated and a dismissal letter was sent. Mr. Tonner stated that there was only one billing error and requested dismissal of the case.

Motion: Dr. Morrow moved to dismiss the case.

Second: Dr. Herro

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

IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

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

1. 202200159-AO

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Seaman

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

I. Practicing as a Hygienist with an Expired License – A.R.S. §§ 32-1287, 32-1288, 32-1201.01(17) & 32-3227

1. Griswold, Jason, RDH

The Board discussed its options for when someone practices with an expired license and considered it the licensee's responsibility to know when their license expires.

Motion: Dr. Morrow moved to open a complaint and issue a disciplinary consent agreement for a civil penalty of two thousand dollars to be paid within six months for practicing with an expired license.

Second: Dr. Seaman

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

J. Failure to Report Charges Pursuant to A.R.S. § 32-3208**1. 202200205; Rudolph, Lawrence**

The Board was informed that Dr. Rudolph was found guilty for the murder of his wife. The Board stated that they are monitoring the case with the intent to revoke his license.

Motion: Dr. Herro moved to offer a disciplinary consent agreement to voluntarily surrender his license and if not signed by the sentencing date, move to OAH for revocation.

Second: Dr. Morrow

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

V. CALL TO THE PUBLIC

No one requested to speak.

VII. CONTINUATION OF THE DENTAL HYGIENE COMMITTEE AND DENTAL AUDIT COMMITTEE – A.A.C. R4-11-605 – 607

The Board discussed whether there is a need to continue to have a dental hygiene committee and dental audit committee based on the new expiration dates due to the legislative bills that passed in 2021 and 2022. Mr. Edmonson informed the Board that the new robust database system would allow for a one hundred percent audit of CE. Ms. Kappes addressed the Board and stated that although auditing CE is no longer necessary; there may be other things that a dental hygiene committee can do to assist the Board. Ms. Kappes requested that the Board allow the committee to propose a way for it to fulfill the statutory requirements. The Board further discussed the matter and considered that dental hygiene is under the umbrella of dentistry.

Motion: Ms. Penna moved to amend the Anesthesia & Sedation Notice of Proposed Rulemaking to repeal A.A.C. R4-11-605-607.

Second: Ms. Moffett

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

VIII. CONTINUING EDUCATION (“CE”) EXTENSIONS – A.A.C. R4-11-1202

The Board directed staff to draft a policy for CE.

XI. JURISPRUDENCE EXAMINATION

The Board reviewed the Board’s jurisprudence examination for initial licensure to amend or update the questions and/or answers of the jurisprudence examination.

Motion: Dr. Herro moved to accept the updated changes for the jurisprudence examination.

Second: Dr. Morrow

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

XII. EXECUTIVE DIRECTOR’S REPORT

A. Budget Update

Ms. Gomez informed the Board that the budget in the packet reflects a balance for July 2022 and indicated that it will be updated by CSB. Ms. Gomez also informed the Board that a ten percent statewide increase was given to staff. In addition, Ms. Gomez stated that a request was submitted to the Governor’s Office for four FTE positions.

B. Agency Operations

1. Sunset Audit – A.R.S. § 41-3023.07

Mr. Edmonson informed the Board that a draft response to the audit findings will be provided at a future meeting.

2. Board meeting folders

Mr. Edmonson directed the Board’s attention to their board meeting folders and explained the importance of completing the Conflict of Interest Disclosure Form. Mr. Edmonson also informed the Board that the Open Meeting Law pamphlets are for the Board to refer to as needed.

3. Complaint log– introduction

Mr. Edmonson informed the Board that the Complaint Log will be provided on a regular basis to allow members to review ongoing complaints and declare conflicts on cases that will be placed on future meeting agendas.

C. Complaint Log

Mr. Edmonson directed the Board’s attention to the Complaint Log.

D. 2023 Board Meeting Dates

1. January 27, 2023

2. March 3, 2023

3. April 14, 2023

4. May 12, 2023

5. June 23, 2023

6. August 25, 2023

7. October 13, 2023

8. November 17, 2023

9. December 15, 2023

XIII. SUMMARY OF CURRENT EVENTS

None were discussed.

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

Dr. Seaman informed the Board that Central Regional Dental Testing Service, Inc. (“CRDTS”) has a remediation program.

XV. NEXT BOARD MEETING DATE

A. October 7, 2022

XVI. ADJOURNMENT

Dr. Herro adjourned the meeting at 2:02 p.m.