



# Arizona State Board of Dental Examiners

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

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## OPEN SESSION MINUTES

**October 11, 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	Chairperson
X	Brown “Skip” Harris, DDS	Vice-Chairperson
X	Timothy, Cross, DDS	Committee Member
	David Dodell, DMD	Committee Member
	Mari Fukami, DMD, MS	Committee Member
🕒	Sabah Kalamchi, DDS, FFDSRS	Committee Member
	Deborah Kappes, RDH	Committee Member
	Rebecca Lavene, DMD	Committee Member
	Mindy Motahari, DMD, MA Edu	Committee Member
	Vacant	Committee Member
	Vacant	Committee Member
🕒	Joined/deperted as denoted in the body of the minutes	
X	Absent	

#### **STAFF PRESENT**

Ryan P. Edmonson	Executive Director
Kristina C. Gomez	Deputy Director
Seamus Monaghan Esq.	Assistant Attorney General
John W. Dovgan, DDS	Chief Investigator
Terry Bialostosky	Compliance Consultant
Selena Acuna	Compliance Officer
Mary Ford	Compliance Officer
April Romero	Compliance Officer

#### **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**

Dr. Motahari declared conflicts of interest with agenda item nos. IV.A.7 and IV.A.8.

Dr. Fukami declared conflicts of interest with agenda item nos. IV.A.8 and IV.A.24.

The Committee differed agenda item IV.A.8. 202100059 to the Board without a recommendation due to a lack of quorum.

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

A. Discussion and approval of the Open Session Minutes from the September 13, 2022 committee meeting.

**Motion:** Dr. Dodell moved to approve the Open Session Minutes from the September 13, 2022 committee meeting.

**Second:** Dr. Kalamchi

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

### V. COMMITTEE TRAINING

Mr. Monaghan provided training to assist the Committee in their review of complaint investigations and determining appropriate dispositions to present to the Board. Mr. Monaghan also discussed the Committee's role and function as well as the investigator's/consultant's roles within the process. In addition, the Committee was provided with training on Arizona's Open Meeting Law and Conflict of Interest Law.

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

A. Review of Investigation(s)

**Motion:** Dr. Caputo moved to recommend that the Board dismiss agenda items IV.A.1. 202100024, 5. 202100038, 7. 202100053, 9. 202100076, 10. 202100080, 16. 202100129-MP, 17. 202100132, 19. 202100275, 20. 202200009, 21. 202200061, 22. 202200064-MP, 23. 202200065, 24. 202200071, 26. 202200089, 28. 202200094, 29. 202200100, 31. 202200108, 32. 202200120, 33. 202200121, 34. 202200122, 36. 202200135, 39. 202200144, 41. 202200147, 42. 202200148, 44. 202200154, 45. 202200166, 46. 202200201, 47. 202200204, 48. 202200209, and 49. 202200210.

Dr. Dodell requested to remove agenda item IV.A.19. 202100275 and Dr. Fukami requested to remove IV.A.44. 202200154 for further discussion.

**Amended Motion:** agenda items IV.A.19. 202100275, 24. 202200071 and 44. 202200154 were removed from the list of cases recommended for dismissal.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend dismissal of agenda item IV.A.24. 202200071.

**Second:** Dr. Dodell

**Vote:** 6-aye, 0-nay, 0-abstain, 1-recuse, 2-absent, 2-vacancies. Motion passed.

*Dr. Fukami was recused.*

2. 202100025

Dr. Dovgan provided the Committee an overview of the case and indicated that the respondent ordered an implant without the patient's consent and did not provide a refund. The consensus of the Committee was that the patient should have been provided a refund and concurred with the violations cited in the consultant's report.

**Motion:** Dr. Kalamchi moved to find a violation of A.R.S. § 32-1201.01(14) based on the information in the consultant's report.

**Second:** Ms. Kappes

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 4 hours in ethics and two hundred dollars in restitution to the patient, in addition to any Care Credit interest accrued.

**Second:** Dr. Kalamchi

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

3. 202100030

Dr. Dovgan provided the Committee an overview of the case. The Committee concurred that the allegations of inadequate treatment planning and improper care for tooth number 13 are substantiated.

**Motion:** Ms. Kappes moved to find a violation of A.R.S. § 32-1201.01(14) based on the information contained in the consultant's report.

**Second:** Dr. Kalamchi

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 3 hours of CE in treatment planning and 3 hours in restorative crowns.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

4. 202100034

Dr. Dovgan provided the Committee an overview of the case. Of the eight allegations, the consultant found that four are substantiated. Tooth J had an abscess or fracture and would require an extraction, the patient presented with oral facial pain, Subsequent treating dentists along with their radiographs, photos and mounted models show an anterior open bite with only 2 molars contacting on each side and photos show that when the patient moves his mandible anteriorly there is an increase in tooth contact.

**Motion:** Ms. Kappes moved to find a violation of A.R.S. § 32-1201.01(14) based on the information contained in the consultant's report.

**Second:** Dr. Kalamchi

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in diagnosis and management of occlusion. In addition, 6 hours in treatment planning of full mouth rehabilitation.

**Second:** Dr. Lavene

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

6. 202100043

Dr. Dovgan provided the Committee an overview of the case. The consultant found that substantiated allegations included the patient having tooth 31 filled three times and tooth 15 needing a root canal due to failure to diagnose decay.

**Motion:** Dr. Lavene moved to find a violation of A.R.S. § 32-1201.01(14), (24) and 32-1264(A) based on the information contained in the consultant's report.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

The Committee further considered there was inappropriate management and administration of nitrous.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in treatment planning, 4 hours in diagnosis and 4 hours in nitrous oxide oxygen administration.

**Second:** Dr. Kalamchi

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

11. 202100099

Dr. Dovgan provided the Committee an overview of the case. The Committee concurred with the consultant's report that allegations for improper implant placement and restoration are substantiated.

**Motion:** Ms. Kappes moved to find a violation of A.R.S. § 32-1201.01(14) based on the information contained in the consultant's report.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 8 hours of CE in diagnosis and treatment planning in the area of placement and restoration of implants and 4 hours in risk management. In addition, six thousand, three hundred and fifty-one dollars of restitution to the patient.

**Second:** Dr. Kalamchi

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

12. 202100112

Dr. Dovgan provided the Committee an overview of the case. The Committee concurred with the consultant's report that the allegation related to record keeping is substantiated.

**Motion:** Dr. Caputo moved to find a violation of A.R.S. § 32-1201.01(14) and (24) based on the information contained in the consultant's report.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 4 hours in medical history assessment and interpretation.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

The Committee further directed staff to open a case against Dr. Morris based on the information in the consultant's report.

13. 202100123

Dr. Dovgan provided the Committee an overview of the case. The Committee concurred that the allegation of no after-hours emergency care is substantiated. The Committee also discussed that there was no referral for the oral surgeon in the chart, no prescription logged into the chart and poor record keeping.

**Motion:** Dr. Kalmachi moved to find a violation of A.R.S. § 32-1201.01(14) and (24) based on the information contained in the consultant's report.

**Second:** Ms. Kappes

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Ms. Kappes moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 4 hours in ethics.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

14. 202100126

Dr. Dovgan provided the Committee an overview of the case. The consultant found that there was no consent for root canal treatment on tooth number 19 and there was no indication in the records that the patient had been informed of the broken file. The Committee concurred that it is below the standard of care when the provider does not inform the patient of a complication.

**Motion:** Dr. Kalmachi moved to find a violation of A.R.S. § 32-1201.01(14) and (24) based on the information contained in the consultant's report.

**Second:** Dr. Lavene

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

The Committee further reviewed the chart notes and concluded that there was a violation for inappropriate sedation.

**Motion:** Dr. Caputo moved to also find a violation of A.R.S. § 32-1263(A)(4) and A.A.C. R4-11-1303(F).

**Second:** Dr. Fukami

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in treatment planning of oral sedation and monitoring, 4 hours in endodontic complications and 4 hours in risk management.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

*Dr. Kalamchi departed the meeting at 4:16 p.m.*

*The Committee took a break from 4:16 p.m. to 4:21 p.m.*

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

15. 202100127

Dr. Dovgan provided the Committee an overview of the case and indicated that the patient was dissatisfied with the faulty crown and the provider's recommendation for an implant instead of repairing the crown.

**Motion:** Dr. Lavene moved to find a violation of A.R.S. § 32-1201.01(14) and (24) based on the information contained in the consultant's report.

**Second:** Ms. Kappes

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

18. 202100133

Dr. Dovgan provided the Committee an overview of the case. The consultant found violations for over diagnosis and misdiagnosis of restorative and perio treatment. The Committee further discussed the lack of consent and restitution.

**Motion:** Ms. Kappes moved to find a violation of A.R.S. § 32-1201.01(14) based on the information contained in the consultant's report.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 4 hours in diagnosis and treatment planning. In addition, one thousand, seven hundred and fifty dollars of restitution.

**Second:** Dr. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

19. 202100275

Dr. Dovgan provided the Committee an overview of the case and indicated that the mother of the patient works for the respondent as his dental assistant. Without the doctor's knowledge, the dental assistant falsified records and performed an exam, cleaning, filling of a decayed tooth on her child and ordered a prescription. After discussion, the Committee concurred that the employee acted without the doctor's knowledge and considered action against the dental assistant for practicing dentistry without a license.

**Motion:** Dr. Dodell moved to recommend that the Board open an investigation against the dental assistant for practicing dentistry without a license.

**Second:** Dr. Fukami

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

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

**Second:** Dr. Motahari

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

25. 202200085

Dr. Dovgan provided the Committee an overview of the case. The Committee reviewed the consultant's report and concurred that there was a lack of documentation.

**Motion:** Dr. Caputo moved to recommend that the Board offer a non-disciplinary order, requiring the completion of 4 hours of CE in diagnosis and treatment planning and 4 hours in risk management; based on the information 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. Dodell

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

**Motion:** Dr. Caputo moved to recommend that the Board open a case against Dr. Costes; based on the information in the consultant's report.

**Second:** Dr. Lavene

**Vote:** 7-aye, 0-nay, 0-abstain, 0-recuse, 2-absent, 2-vacancies. Motion passed.

The Committee tabled agenda items IV.A.27. 202200090-MP, 30.202200104, 35. 202200134, 37. 202200140, 38. 202200142-MP, 40. 202200145, and 43. 202200149 due to a loss of quorum.

**VI. 2023 COMMITTEE MEETING DATES**

There was no discussion.

**VII. SUMMARY OF CURRENT EVENTS**

None were discussed.

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

There was no discussion.

**IX. NEXT COMMITTEE MEETING DATE**

A. November 8, 2022

**X. ADJOURNMENT**

Dr. Caputo adjourned the meeting at 5:00 p.m.