



Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

November 4, 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 A, 1740 West Adams Street, Phoenix, Arizona 85007. The Board met in executive session during its consideration of agenda items III.D.2, III.I.1, III.L.1 and III.K.2 as stated herein.

BOARD MEMBERS

	Anthony Herro, DDS	President and Licensed Dentist Member
	Lisa B. Bienstock, DMD	Vice-President and Licensed Dentist Member
	Morgan B. Burg	Business Entity Member
	Edward H. Christensen, DDS	Licensed Dentist Member
	Aditya Dynar	Public Member
	Tamer El-Gendy	Licensed Dentist Member
	Nick Goodman	Public Member
	Jaselyn K. Moffett, RDH	Licensed Hygienist Member
	Russell Jeffrey Morrow, DDS	Licensed Dentist Member
	Vicki B. Penna, RDH	Licensed Hygienist Member
	Leslie D. Seaman, DDS	Licensed Dentist Member
	Joined/departed as denoted in the body of the minutes	
X	Absent	

STAFF AND ASSISTANT ATTORNEY(S) GENERAL PRESENT

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

GUESTS PARTICIPATING AND/OR PRESENT

Randall J. McDaniel, DMD	Applicant
Joseph W. Slaughter, DDS	Applicant
Trond Hegle	Respondent
Michele Thompson, Esq.	Attorney for Respondents

Robert Kethcart	Attorney for Respondent
Justin Van Dusen	Respondent
Leah Schachar, Esq.	Attorney for Respondents
Marshall Hunt, Esq.	Attorney for Respondent
Jefferson Hayden, Esq.	Attorney for Respondent
D.B.	Complainant
K.B.	Complainant
Stephen Resnick	Respondent
Jeffery J. Tonner, Esq.	Attorney for Respondents
Connor Stevensen	Respondent
Jenny Sun	Respondent
Reza Jafari	Respondent
Cody Hall, Esq.	Attorney for Respondent
Justin Christner, Esq.	Attorney for Respondent
Harleen Ahuja	Respondent
Jon Brase	Respondent
R.C.	Complainant
Thu Anh Bui	Respondent
John Patterson	Respondent
Elaine Mamola	Respondent
Akhil Mehta	Respondent
Leanne Hay, Esq.	Attorney for Respondents
Fatima Badreddine, Esq.	Attorney for Respondent
Rustin Reidhead	Respondent
S.M.	Complainant
D.M.	Complainant
Martin Zone	Respondent

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. III.D.2, III.D.9, III.H.1, III.H.2 and IV.C.2.

Ms. Moffett declared a conflict of interest with agenda item no. III.D.4

Dr. Morrow declared conflicts of interest with agenda item nos. III.B.1 and III.K.3.

Dr. El-Gendy declared conflicts of interest with agenda item nos. III.B.1, III.D.2, III.D.3, IV.C.3, IV.C.10 and IV.C.11.

Ms. Penna declared a conflict of interest with agenda item no. III.G.2.

III. 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. McDaniel, Randall J., DMD

Dr. McDaniel was available during the Board's consideration of his application for licensure and answered questions regarding the policy of his previous employment.

Motion: Dr. Herro moved to grant licensure.

Second: Mr. Goodman

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

2. Monteagudo, Roberto, DDS

There was no one present to speak on the matter. The Board reviewed the application for licensure.

Motion: Dr. Morrow moved to grant licensure.

Second: Dr. Herro

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

3. Slaughter, Joseph W., DDS

Dr. Slaughter was available during the Board's consideration of his application for licensure.

Motion: Dr. Herro moved to grant licensure.

Second: Dr. Christensen

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

B. Review of Investigation(s)

1. 202100059; Hegle, Trond U.

Dr. Hegle was available during the Board's consideration of the case and passed out additional information for the Board to review. Dr. Hegle referenced the consultant's report and addressed the allegations. Dr. Hegle further stated that a refund was provided to the patient. The Board proceeded to discuss the matter.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Christensen

Vote: 9-aye, 0-nay, 0-abstain, 2-recuse, 0-absent. Motion passed.

Drs. El-Gendy and Morrow were recused and did not participate in the matter.

2. 202100275; Martin, Alexander

Ms. Thompson expressed agreement with the Investigative Committee's recommendation for dismissal.

Motion: Dr. Herro moved to dismiss the case.

Second: Mr. Dynar

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

3. 202200172; Thomas, Kristine

There was no one present to speak on the matter. Dr. Dovgan proceeded to inform the Board that the complaint was opened for alleged inadequate crown and bridge; however, the respondent's contact information on record is incorrect and certified mail notices were returned as unable to forward.

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

Second: Dr. Bienstock

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

C. 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. 202200085; Weisenberg, Micah

Mr. Kethcart made a statement on behalf of Dr. Weisenberg to address the allegations of the complaint. The Board reviewed the Investigative Committee's recommendation and considered continuing education in risk management would be appropriate.

Motion: Dr. Herro moved to issue a letter of concern for lack of perio charting, lack of TMJ assessment and lack of restoration assessment.

Second: Dr. Morrow

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

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

1. 202100025; Van Dusen, Justin

Dr. Van Dusen provided additional information for the Board to review and discussed the sequence of events regarding the patient. Dr. Van Dusen stated that the patient signed a receipt; however, indicated that a treatment plan for an implant was not signed. Dr. Van Dusen further clarified that he only did treatment for tooth number 15.

Motion: Dr. Morrow moved to dismiss the case.

Second: Dr. Christensen

The Board further discussed the matter.

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

Motion: Dr. Herro moved to issue a letter of concern for lack of a signed treatment plan.

Second: Mr. Dynar

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

Ms. Moffett, Drs. Christensen, Morrow and Seaman voted against the motion.

2. 202100030; Line, Darren

Ms. Schachar addressed the Board and requested that the matter be tabled to a future meeting date.

Motion: Dr. Morrow 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: 9-aye, 0-nay, 0-abstain, 2-recuse, 0-absent. Motion passed.

Drs. Bienstock and El-Gendy were recused and did not participate in the matter.

The Board entered into executive session at 8:36 a.m.

The Board returned to open session at 8:43 a.m.

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

Motion: Dr Herro moved to table agenda items III.D.2, III.D.3 and III.D.9.

Dr. Herro rescinded the motion.

Motion: Dr. Herro moved to table agenda items III.D.2, III.D.3 and III.D.9. until the January Board meeting.

Second: Mr. Dynar

Vote: 9-aye, 0-nay, 0-abstain, 2-recuse, 0-absent. Motion passed.

Drs. Bienstock and El-Gendy were recused and did not participate in the matter.

4. 202100043; Resnick, Stephen

Dr. Resnick was available during the Board's consideration of the matter. Mr. Tonner made a statement and addressed the allegations. Dr. Resnick further answered questions regarding his procedure for nitrous and oxygen. The Board proceeded to discuss the matter and concurred with the consultant's report that the recurrent decay on tooth 15 was not diagnosed which resulted in root canal treatment.

Motion: Dr. Herro moved to issue a letter of concern for failure to diagnose tooth number 15.

Second: Dr. Bienstock

Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.

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

5. 202100057; Stevenson, Connor

Dr. Stevenson was available during the Board's consideration of the matter. Mr. Tonner made a statement to address the allegations for overdiagnosis of perio, overtreatment and billing out-of-network. In addition, Mr. Tonner referenced the consultant's report and ultimately requested that the Board dismiss the matter. The Board discussed the matter and concurred that a dismissal would be appropriate.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Morrow

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

6. 202100081; Sun, Jenny

Dr. Sun was available during the Board's consideration of the matter. Ms. Schachar made a statement and explained that the patient provided recent full mouth x-rays when seen by Dr. Sun. Ms. Schachar also clarified that the bite models and a refund were provided to the patient. The Board proceeded to discuss the standard of care and best practices.

Motion: Mr. Goodman moved to dismiss the case.

Second: Ms. Penna

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

7. 202100094; Anderson, Lori

There was no one present to speak on the matter.

Motion: Dr. Herro moved to combine this case with another case that is going before the Board in a formal interview.

Second: Dr. Morrow

Vote: 10-aye, 1-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Mr. Goodman voted against the motion because he would rather both cases go before the Board separately in a formal interview versus combined.

8. 202100099; Jafari, Reza

Dr. Jafari was available during the Board's consideration of the matter. Dr. Dovgan proceeded to provide the Board an overview of the case. Dr. Jafari subsequently clarified that he did not place the implants and indicated that he explained the reasoning of why custom abutments were a better option for the patient. Dr. Jafari further answered questions related to the technicalities of the procedure. During discussion, the Board's consensus was that there were no clinical issues.

Motion: Mr. Goodman moved to dismiss the case.

Second: Dr. Herro

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

10. 202100123; Inderraj; Dhillon

Motion: Dr. Herro moved to table the matter to a future meeting.

Second: Dr. Bienstock

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

11. 202100126; Gardner, Brent

Mr. Hall made a statement on behalf of Dr. Gardner to address the allegations. Mr. Hall explained that the patient complained that the broken file was causing pain and acknowledged that there was no informed consent for the treatment. Dr. Dovgan commented that there was also no indication of rubber dam use for RCT on tooth number 19 provided in the records, no length determinations and final length measurements for RCT on tooth number 19 provided in the records, no pulp test indicated, no diagnosis indicated, no pre-op radiograph, no periodontal charting records included and no oral cancer screening indicated. The Board proceeded to discuss the matter and considered that the patient was not referred to an endodontist within a reasonable timeframe.

Motion: Dr. Herro moved to offer a disciplinary consent agreement requiring the completion of 4 hours of CE in risk management and 6 hours in endodontics; based on the consultant's report, discussion held during the meeting and violation of A.R.S. §§ 32-1201.01 (14), (24) and 32-1264(A)(1).

Second: Dr. Morrow

Dr. Herro amended his motion to have hands on CE.

Second: Dr. Morrow

Vote: 10-aye, 1-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Mr. Goodman voted against the motion.

12. 202100127; Valencia, Juan Carlos

There was no one present to speak on this matter. Dr. Dovgan provided the Board an overview of the case with regard to the allegation of inadequate crown on tooth number 6. The Board proceeded to discuss the matter.

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

Second: Mr. Goodman

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

13. 202200029; Ahuja, Harleen

Dr. Ahuja made a statement to address the allegations and clarified that a pre-cementation radiograph of the bridge was referenced in the consultant's report. Dr. Ahuja also acknowledged the lack of documentation and indicated that she has taken continuing education. The Board proceeded to discuss the matter.

Motion: Dr. Morrow moved to issue a letter of concern for record keeping.

Second: Dr. Christensen

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

14. 202200153; Thulasidas, Shreedevi

There was no one present to speak on this matter. Dr. Dovgan proceeded to provide the Board an overview of the case and indicated that Dr. Thulasidas filed a complaint against Elizabeth Larijani for fraudulently representing herself as a hygienist. Ms. Larijani was arrested for working as a hygienist without a license.

Motion: Dr. Morrow moved to dismiss the case.

Second: Dr. El-Gendy

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

The Board took a break from 9:50 a.m. to 10:05 a.m.

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

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

1. 202200051; Brase, Jon

Dr. Brase was available during the Board's consideration of the matter. Ms. Thompson made a statement to address the lack of documentation issues and clarified that Dr. Brase did treat the patient's decay; however, when seen by another provider, new decay was seen. The Board proceeded to discuss the matter and discussed the risk management and record keeping issues.

Motion: Dr. Herro moved to issue a non-disciplinary consent order requiring the completion of 4 hours of CE in risk management; based on the consultant's report. The CE shall be completed within six months.

Second: Dr. Morrow

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

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

1. 201800221; Walker, Ronald and 3. 202000147; Walker, Ronald

Staff informed the Board that the respondent surrendered his license.

Motion: Dr. Herro moved to combine cases 201800221 and 202000147 and terminate the orders.

Second: Dr. El-Gendy

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

2. 201900054; Fair Michael

Motion: Dr. Herro moved to offer a consent agreement for voluntary surrender of his license. If not signed within 15 days, refer the matter to OAH.

Second: Dr. Bienstock

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

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

1. 202100106; Rosenberg, John

Compliant R.C. made a statement and indicated that it has been 863 days since she filed a records request with Dr. Rosenberg and has only received partial records. The Board discussed the matter and indicated that the patient has a legal right to her full charts.

Motion: Mr. Goodman moved to reject the Executive Director Complaint Termination and re-open the case. In addition, to find out what records were provided to the patient.

Second: Mr. Dynar

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

2. 202200068; Fazel, Abbas

There was no one present to speak on the matter. Dr. Dovgan proceeded to provide the Board an overview of the case and indicated that the patient was not satisfied with the color of the teeth.

Motion: Dr. Christensen moved to accept the E.D. Term

Second: Dr. El-Gendy

Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.

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

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

1. 202200075; Kassisieh, Sulieman

There was no one present to speak on this matter during the Boards review of the case.

Motion: Dr. Herro moved to dismiss the case.

Second: Mr. Goodman

Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.

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

2. 202200040; Baeza, Jacqueline

There was no one present to speak on this matter during the Boards review of the case.

Motion: Mr. Goodman moved to send a cease and desist letter and refer the matter to the Attorney General's Office.

Second: Ms. Penna

Vote: 8-aye, 2-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.

Mr. Dynar voted against the motion because he agrees with a cease and desist letter; not the referral.

Dr. Seaman voted against the motion because he also agrees to only send a cease and desist letter.

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

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

1. 202100148; Jensen, Matthew T.

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: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

The Board entered into executive session at 9:58 a.m.

The Board returned to open session at 10:55 a.m.

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

The Board indicated that the substantive policy is advisory.

Motion: Dr. Herro moved to modify the order to reflect restitution in the correct amount.

Second: Dr. Morrow

Vote: 10-aye, 0-nay, 1-abstain, 0-recuse, 0-absent. Motion passed.

Mr. Goodman abstained.

J. Response/Non-Response to Offered/Issued Consent Agreement(s)/Board Order

1. 201800220; Christensen; Cory

Staff informed the Board that Dr. Christensen was not compliant with the previous order.

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

Second: Dr. Morrow

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

2. 202000239; Phillips, Matthew D.

Ms. Schachar made a statement on behalf of Dr. Phillips to address record keeping issues and failure of implants. Ms. Schachar indicated that it is Dr. Phillips's practice to document and that he is not responsible for Wellness Dental not providing all the records to the Board.

Motion: Dr. Herro moved to re-offer the disciplinary consent agreement; if not accepted, move to a formal interview.

Second: Mr. Goodman

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

IV. CONSENT AGENDA

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

1. 202000312
2. 202000356
3. 202000372
4. 202100002
5. 202100006
6. 202100054
7. 202100096
8. 202100100
9. 202100238

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

1. 201000301; Robison, Brent Tyler
2. 202000243; Kloss, David
3. 202100008-MP; Bains, Harjot K.
4. 202100190; Smith, Bradley
5. 202100098; Spillers, Jeffrey

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

1. 202100024; Lee, Dongwook
2. 202100038; Dentists of Vail
3. 202100053; Mehranfar, Mehrdad
4. 202100076; Whalen, Michael
5. 202100080; Associated Dental Care Providers
6. 202100129-MP; Richardson, Steven
7. 202100132; Marischen, Paul
8. 202200009; Ostler, David
9. 202200013; Vizcarra, Sara
10. 202200035; Keber, Kristine
11. 202200049; Scholes, H. Kendall
12. 202200050; Kirch, Justin Alexander
13. 202200059; Velangi, Amogh
14. 202200061; Patel, Hetal
15. 202200064-MP; Holly, Jacob
16. 202200065; Hwang, Erik
17. 202200071; Gershkovich, Candace
18. 202200084; Sheckley, Sal
19. 202200089; Wallin, Ryan
20. 202200093; Dundas, Mark
21. 202200094; Rubisch, Stephen
22. 202200100; Garza, John
23. 202200108; Nguyen, Nam-Rene
24. 202200120; Dachs, Michael

25. 202200121; Dachs, Michael
26. 202200122; Dachs, Michael
27. 202200135; Sheckley, Sal
28. 202200144; Pontikas, Aristidis
29. 202200147; Henderson, Harold
30. 202200148; Ward Jr., John
31. 202200166; Ho, Garick
32. 202200201; Salwin, Gary
33. 202200204; Reed II, Leon Brannon
34. 202200209; Ewell, Justin
35. 202200210; Mikszta, Gregory

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

1. 202100029; Ung, David
2. 202100042; Kim, Sean
3. 202100068; Wainwright, Clayton
4. 202100086; Harmon, Matthew
5. 202100265; Reidhead, Rustin
6. 202100271; Chu, Catherine
7. 202100277; Parks, Tonya
8. 202200021; Le, Keeley
9. 202200042; Merlanti, Morgan
10. 202200054; Fazeli, Cheyanne
11. 202200062; Ward Jr., John
12. 202200073; Howard, Jessica
13. 202200082; Zone, Martin
14. 202200137; Koo, Bonjung

Staff informed the Board that there is new information pertaining to IV.C.27.

Motion: Dr. Herro moved to accept the consent agenda and table items IV.C.27, D.1, D.6, D.12 and D.13.

Second: Mr. Dynar

Vote: 9-aye, 0-nay, 0-abstain, 2-recuse, 0-absent. Motion passed.

Drs. Bienstock and El-Gendy were recused.

The Board took a break from 11:10 a.m. to 11:22 a.m.

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

L. Failure to Report Charges Pursuant to A.R.S. § 32-3208

1. Bui, Thu Anh, RDH

Mr. Bui made a statement that he and his family moved from Iowa and indicated that he was not aware of the timeframe to report the charges of aggravated assault.

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. Goodman

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

The Board entered into executive session at 11:24 a.m.

The Board returned to open session at 11:37 a.m.

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

During discussion, the Board considered requiring the respondent to take PROBE ethics courses and disciplinary action for violation of A.R.S. §§ 32-3208 and 32-1201.01(14).

Motion: Dr. Morrow moved to open a case against Mr. Bui

Second: Dr. Herro

Dr. Morrow rescinded his motion.

The Board proceeded to further discuss the matter and consider appropriate action.

Motion: Mr. Dynar moved to issue a letter of concern for failure to report charges.

Second: Dr. Christensen

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

K. Formal Interview(s)

1. 202000333; Patterson, John

Dr. Patterson and Ms. Thompson were available during the Board's consideration of the matter. Dr. Dovgan provided the Board an overview of possible deviations which included irregular and overbilling, double billing of insurance, failure to refer to a specialist and billing for procedures not conducted and possible billing for surgical procedures that were not surgical. Ms. Thompson subsequently stated that the ledger that was provided to the Board shows no duplicate charges and instead reflects proper charges for treatment. Dr. Patterson elaborated on his experience and indicated that he is IAC accredited. During discussion, Dr. Patterson clarified that the patient's medical insurance was billed only when the dental insurance did not cover the procedure. Dr. Patterson then proceeded to answer questions pertaining to the coding and billing of the procedures. The Board further reviewed the consultant's report and discussed the standard of care.

Motion: Dr. Morrow moved to refer the matter to the Arizona Department of Insurance and evaluate the case after DIFI reviews the case.

Second: Dr. Herro

Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

*The Board took a break from 1:31 p.m. to 1:41 p.m.
Roll call of the Board members was taken and a quorum was established.*

2. 201800126; Mamola, Elaine

Ms. Mamola and Mr. Tonner were available during the Board's consideration of the matter. Mr. Tonner stated that in 1999 the legislature amended Arizona Administrative Code to allow hygienists to treat home bound patients and in 2017 the legislature introduced the affiliated practice. Mr. Tonner further stated that a business can operate under the traditional law or an affiliated practice. Ms. Mamola proceeded to answer questions and indicated that she provides dental care to patients in nursing homes who are bed bound. Ms. Penna provided Ms. Mamola a list of patients seen and inquired on the location of where the dental services were provided. Ms. Mamola indicated that Smiles by Delivery is not an affiliated practice.

Dr. Christensen departed the meeting at 2:18 p.m.

Motion: Ms. Penna 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: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Board entered into executive session at 2:18 p.m.

The Board returned to open session at 8:49 a.m.

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

Ms. Mamola further answered questions about the documentation and record keeping practices of the business. Ms. Mamola stated that perio charting should be done before restorative treatment. However, there are multiple patient charts that show the perio charting was done after treatment started. The Board further inquired on the business policies.

Ms. Burg departed the meeting at 3:00 p.m.

Motion: Ms. Penna moved to adopt the findings and facts & conclusions of law as stated in the consultant's report.

Second: Dr. Herro

Mr. Dynar stated that the case should be dismissed because there was no law that applied at the time of the complaint. The legislature was in support of homebound services. The case was sitting in OAH for two years. Meanwhile, the Dental Board was going through a rulemaking process and the law has liberalized in the last 4 to 5 years. After further discussion, the Board considered that the case is not a direct reflection of the business owner.

Roll call

Herro- nay

Bienstock- nay

Dynar- nay

El-Gendy- nay

Goodman- nay

Moffett- aye

Morrow- nay

Penna- aye

Seaman- nay

Vote: 2-aye, 7-nay, 0-abstain, 0-recuse, 2-absent. Motion failed.

Motion: Mr. Goodman moved to dismiss the case.

Second: Dr. Morrow

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

Ms. Moffett, Ms. Penna, and Dr. Seaman voted against the motion.

The Board took a break from 3:37 p.m. to 3:46 p.m.

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

Dr. Seaman departed the meeting at 3:47 p.m.

3. 202100122; Mehta, Akhil

Dr. Mehta was available during the Board's consideration of the matter. Ms. Schachar made a statement and addressed the allegations for inadequate crown and bridge and inadequate operative dentistry. Ms. Schachar acknowledged that although Dr. Mehta should not allow the patient to dictate treatment, the patient signed consent knowing it was a guarded prognosis. Ultimately, the patient was provided a refund. Dr. Mehta proceeded to answer questions pertaining to the decay of tooth 30 and treatment provided. Dr. Mehta indicated that although the patient was not consistent with treatment, there were no changes in radiolucency and he continued to monitor the teeth. The Board proceeded to discuss the matter.

Motion: Dr. El-Gendy moved to issue a letter of concern for lack of integrity of the margin, infringement on biologic width and lack of postoperative bite wing.

Second: Dr. Herro

Vote: 6-aye, 1-nay, 0-abstain, 1-recuse, 3-absent. Motion passed.

Ms. Penna voted against the motion.

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

V. CALL TO THE PUBLIC

No one addressed the Board during the call to the public.

VI. INVESTIGATION COMMITTEE

Staff informed the Board of the Investigation Committee's recommended selections.

Motion: Herro moved to approve the Investigation Committee's recommended committee member selections to fill the current vacancies.

Second: Mr. Goodman

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

VII. EXECUTIVE DIRECTOR'S REPORT

A. Budget Update

1. Renewal fees for 2023, 2024, 2025 and 2026 which may include a vote regarding the appropriate fee pursuant to A.R.S. §§ 32-1236, 32-1276.02, 32-1287 and 32-1297.06.

Mr. Edmonson encouraged the Board to change the renewal fee waiver starting January 2023 to prevent further budget problems. Mr. Edmonson informed the Board that there is a rule promulgated by statute that limits the fee amount for dentists to five hundred and ten dollars. Mr. Edmonson further encouraged the Board to open a rulemaking package to increase the max fee to be consistent with statute.

Motion: Mr. Goodman moved to increase the renewal fee to the max for all licensees starting January 1, 2023 based on the statute that limits us at the time.

Second: Mr. Dynar

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

Motion: Mr. Dynar moved to direct staff to open a rulemaking package to amend A.A.C. R4-11-403(A) to increase the Board's renewal fees to match their respective statutes.

Second: Mr. Goodman

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

2. Other applicable fee-related statutes and rules.

Mr. Edmonson informed the Board that as a result of the audit, a fee needs to be established to comply with A.R.S. § 32-1299.23(A) & (B) for mobile dental permits.

Motion: Dr. Herro moved to direct staff to include in the rulemaking package that the Board collect a fee to comply with A.R.S. § 32-1299.23(A) & (B).

Second: Dr. Morrow

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

Mr. Edmonson requested that the Board establish a universal licensing fee to comply with A.R.S. § 32-4302.

Motion: Dr. Herro moved to establish the credentialing fee for universal licensing.

Second: Mr. Dynar

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

B. Agency Operations

Motion: Mr. Dynar directed staff to repeal A.R.S. § 32-1298(B).

Second: Dr. Herro

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

VIII. SUMMARY OF CURRENT EVENTS

None were discussed.

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

Dr. Morrow requested that staff agendaize discussion for posting hygienist and dental therapist licenses in the offices and to consider seeking a rule change.

X. NEXT BOARD MEETING DATE

A. December 2, 2022 (virtual meeting)

XI. ADJOURNMENT

Dr. Herro adjourned the meeting at 4:47 p.m.