



# Arizona State Board of Dental Examiners

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

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## OPEN SESSION MINUTES

**December 2, 2022**

### **Board Meeting**

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) held a virtual/telephonic meeting. The Board met in executive session during its consideration of agenda items V.C.3, V. D.5, V.E.1, V.E.2, V.I.2 and V.K.1.as stated herein.

#### **BOARD MEMBERS**

	Anthony Herro, DDS	President and Licensed Dentist Member
	Lisa B. Bienstock, DMD	Vice-President and Licensed Dentist Member
X	Morgan B. Burg	Business Entity Member
X	Edward H. Christensen, DDS	Licensed Dentist Member
	Aditya Dynar	Public Member
X	Tamer El-Gendy	Licensed Dentist Member
	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
	Julie Cutler, DMD	Deputy 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**

	Julia L. Jackson, DMD	Applicant
	Jeffery J. Tonner, Esq.	Attorney for Respondents
	Michele Thompson, Esq.	Attorney for Respondents
	Leanne Hay, Esq.	Attorney for Respondents
	Dominique Barrett, Esq.	Attorney for Respondent

Michelle Tho, Esq.	Attorney for Respondent
Jefferson Hayden, Esq.	Attorney for Respondent
Kimberly Blaser	Respondent
Manu Arora	Respondent
Rita Bustos, Esq.	Attorney for Respondents
Jerod Pope	Respondent
Michael Templeton	Witness
Mark Edwards	Guest Speaker, CRDTS
Richael Cobbler	Guest Speaker, CRDTS
Kevin Earle	Guest Speaker, AzDA
Deborah Kappes	Guest Speaker, AZDHA
Stephen Conrad	Respondent
Arman Nafisi, Esq.	Attorney for Respondent
Darien Lazore	Respondent
Dina Anagnopoulos, Esq.	Attorney for Respondent
Kathleen Conderato	Respondent
Paul Sandstrom	Respondent
Spencer Wilson	Respondent
Michael Gardner	Respondent
Robert Zelms, Esq.	Attorney for Respondent
Inderraj Dhillion	Respondent
George Magnus	Respondent
David Raiffe	Respondent
My-Anh Tran	Respondent
Sydney Goodhand, Esq.	Attorney for Respondent
Sathish Chari	Respondent
Gregory Nyffeler	Respondent
John Garza	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. IV.E.2, IV.E.27, V.D.1 and V.J.1.

Dr. Morrow declared a conflict of interest with agenda item no. IV.E.17.

Dr. Herro declared a conflict of interest with agenda item no. IV.E.24

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

A. Discussion and approval of the Open Session Minutes from the October 7, 2022 board meeting.

B. Discussion and approval of the Executive Session Minutes from the October 7, 2022 board meeting.

- C. Discussion and approval of the Open Session Minutes from the November 4, 2022 board meeting.
- D. Discussion and approval of the Executive Session Minutes from the November 4, 2022 board meeting.

**Motion:** Dr. Herro moved to approve the meeting minutes of agenda items III.A-D.

**Second:** Mr. Dynar

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

*Mr. Goodman temporarily departed the meeting at 8:10 a.m.*

#### IV. **CONSENT AGENDA**

Dr. Herro removed agenda items IV.A.1, IV.E.2, IV.E.17, IV.E.24, IV.E.27 and IV.F.2 from the consent agenda.

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

- 1. Hegle, Trond, DMD (*Dental Consultant*)
- 2. Roberts, Eugenia Popescu, DDS (*Dental Consultant*)
- 3. Steinhilber, Andrew, DDS, MSD (*Dental Consultant*)

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

- |               |               |               |
|---------------|---------------|---------------|
| 1. 202100055  | 11. 202100104 | 21. 202200076 |
| 2. 202100058  | 12. 202100111 | 22. 202200078 |
| 3. 202100064  | 13. 202100112 | 23. 202200081 |
| 4. 202100067  | 14. 202100136 | 24. 202200092 |
| 5. 202100070  | 15. 202100264 | 25. 202200098 |
| 6. 202100071  | 16. 202100280 | 26. 202200113 |
| 7. 202100082  | 17. 202200018 |               |
| 8. 202100085  | 18. 202200034 |               |
| 9. 202100097  | 19. 202200057 |               |
| 10. 202100102 | 20. 202200067 |               |

##### D. Termination of Board Orders(s)/Consent Agreements(s)

- 1. 202000255-AO; Benson David
- 2. 202100201; Raiffe, David

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

- 1. 202100036; Daley, David
- 3. 202100109; Espinoza, Mark
- 4. 202100119; Payne, Christopher
- 5. 202100121; Gallemore, Joseph
- 6. 202100139; Gentle Dental Prescott
- 7. 202100279; Lovio, Cathryn Denise
- 8. 202200024; Farnum, Ryan
- 9. 202200069; Miller, Derek
- 10. 202200086; Nordean, Jason

11. 202200111; Baker, Karl J.
12. 202200112; Baker, Justin A.
13. 202200117; Axx, Kevin
14. 202200119; Hamann, Elizaveta
15. 202200128; Mahn, Ingo Guenther
16. 202200132; Zeng, Rong
18. 202200140; Stratman, Matthew
19. 202200143; Krizman, Jeanne A.
20. 202200150; Arias, Lenny
21. 202200154; Colson, Cynthia
22. 202200160; Sadre, Avis
23. 202200169; Sims, Darrell
25. 202200171; Ebadi, Mehrdad
26. 202200202-MP; Van Dusen, Justin
28. 202200218; Petersen, Aric M.

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

1. 202200070; Brase, Jon M.
3. 202200161; Rauch, Corey

**Motion:** Dr. Herro moved to approve the remainder of the consent agenda.

**Second:** Dr. Bienstock

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

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. Jackson, Julia L., DMD

Dr. Jackson was available during the Board's consideration of her application for licensure. Dr. Jackson answered the Board's questions about her out-of-state licenses.

*Mr. Goodman rejoined the meeting at 8:15 a.m.*

**Motion:** Ms. Penna moved to grant licensure.

**Second:** Mr. Dynar

During discussion, members of the Board expressed concern for the applicant's history of malpractice settlements and considered denial of licensure pursuant to A.R.S. § 32-1232(C).

*Ms. Penna rescinded her motion.*

**Motion:** Dr. Herro moved to deny licensure pursuant to A.R.S. § 32-1232(C) for the history of malpractice settlements which resulted in harm performed by Dr. Jackson and for unprofessional conduct pursuant to A.R.S. § 32-1201(13).

**Second:** Mr. Goodman

Dr. Seaman stated he would vote against the motion because he is not sure the malpractice suits would rise to revocation of licensure if she had one. The Board further considered Dr. Jackson's intent to teach dental practice in Arizona.

Roll call

Herro-aye

Bienstock-nay

Dynar-nay

Goodman-nay

Moffett-nay

Morrow-aye

Penna-nay

Seaman-nay

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

**Motion:** Dr. Bienstock moved to grant licensure with a restriction of 3 years, that any disciplinary action imposed in any state during that time frame would result in her Arizona license being revoked.

**Second:** Ms. Moffett

Roll call

Herro-nay

Bienstock-aye

Dynar-nay because he would be in favor of granting licensure without any restrictions.

Goodman-nay

Moffett-aye

Morrow-aye

Penna-nay

Seaman-aye

**Vote:** 4-aye, 4-nay, 0-abstain, 0-recuse, 3-absent. Motion failed.

**Motion:** Ms. Penna moved to deny licensure pursuant to A.R.S. § 32-1232(C) for the history of malpractice settlements which resulted in harm performed by Dr. Jackson and for unprofessional conduct pursuant to A.R.S. § 32-1201(13).

**Second:** Dr. Herro

Roll call

Herro-aye

Bienstock-nay

Dynar-nay

Goodman-aye

Moffett-nay

Morrow-aye

Penna-aye

Seaman-nay

**Vote:** 4-aye, 4-nay, 0-abstain, 0-recuse, 3-absent. Motion failed.

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

**Second:** Mr. Dynar

Roll call

Herro-nay

Bienstock-aye

Dynar-aye

Goodman-nay

Moffett-aye

Morrow-aye

Penna-aye

Seaman-aye

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

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

2. 202100090; Blaser, Kimberly

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

**Second:** Mr. Dynar

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

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

17. 202200136; Arora, Manu

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

**Second:** Dr. Bienstock

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

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

24. 202200170; Toal, Maureen

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

**Second:** Mr. Dynar

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

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

27. 202200213; Wiesner, Enoch

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

**Second:** Mr. Dynar

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

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

F. Review of Investigation(s) – Case(s) Recommended for a Letter of Concern  
2. 202200099; Samain, Omaima

Mr. Tonner made a statement on behalf of Dr. Samain and indicated that crowns on teeth 15 and 19 were placed. Mr. Tonner explained that existing amalgam was left as a buildup; however, the temporary crown fell off and at the patient's request the crowns were replaced with regular buildup. During the Board's discussion, Mr. Tonner clarified that the amalgam was removed.

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

**Second:** Dr. Herro

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

V. **ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

A. Initial Review

1. Pope, Jared, DDS

Dr. Pope was available during the Board's consideration of the matter. Mr. Tonner made a statement and indicated that Dr. Pope enrolled in a 16 hour anger management class and counseling. During Board discussion, Mr. Tonner clarified that it was a timely self-reported case.

**Motion:** Ms. Penna moved to dismiss the case.

**Second:** Dr. Morrow

The Board considered there is no danger to the public under the unique circumstances.

**Amended Motion:** Ms. Penna moved to not open a case.

**Second:** Dr. Morrow

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

B. Review of Investigation(s)

1. 202100029; Ung, David

Mr. Tonner made a statement on behalf of Dr. Ung and indicated that a crown on tooth 14 was dislodged and was recemented. When the patient returned for a second time, there was a disconnect of communication with the office. The Board reviewed the x-ray and indicated that a photograph would be helpful to justify treatment. During discussion, the Board considered issuing the letter of concern for aggressive crown treatment or lack of diagnostic information.

**Motion:** Dr. Herro moved to issue a letter of concern for lack of diagnostic information.

**Second:** Dr. Bienstock

**Vote:** 4-aye, 4-nay, 0-abstain, 0-recuse, 3-absent. Motion failed.

The Board further discussed whether a crown was needed.

**Motion:** Mr. Goodman moved to dismiss the case.

**Second:** Ms. Moffett

Dr. Cutler pointed out that the records show that tooth 14 was diagnosed as having a chipped fracture with large existing restoration. The Board further discussed the standard of care and considered a photo would have been helpful documentation to justify the crown.

Mr. Goodman rescinded his motion.

**Motion:** Dr. Herro moved to issue a letter of concern for lack of documentation and risk management.

**Second:** Dr. Morrow

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

2. 202100271; Chu, Catherine

Mr. Tonner made a statement on behalf of Dr. Chu and presented information to clarify proper documentation was taken.

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

**Second:** Dr. Herro

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

3. 202200135; Sheckley, Sal

The respondent was not available during the Board's consideration of the matter. Dr. Cutler stated that the Investigative Committee recommended dismissal of the case.

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

**Second:** Dr. Morrow

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

*The Board took a break from 9:13 a.m. to 9:33 a.m.*

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

M.T. informed the Board that he wished to speak on agenda item IV.B.3; however was having technical difficulties. Dr. Herro rescinded the motion to dismiss Dr. Sheckley's case. M.T. proceeded to make a statement and indicated that he is a subsequent dentist and requested that the Board subpoena his records and not dismiss the case.



**Motion:** Dr. Herro moved to direct staff to continue the investigation and subpoena Dr. Templton's records.

**Second:** Dr. Bienstock

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

**VII. CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. ("CRDTS")**

Ms. Richael Cobler, CRDTS' Executive Director and Dr. Mark Edwards, Director of Dental Examinations presented an overview of CRDTS' remediation program. The Board concurred to include CRDTS' remediation program as a component of its future orders and consent agreements.

**VIII. FEDERATION OF ASSOCIATIONS OF REGULATORY BOARDS ("FARB")**

**Motion:** Dr. Herro moved to approve having Board staff, a Board member and the Board's legal counsel attend the 2023 FARB Forum on Professional Regulation held from Thursday, January 26, 2023 – Saturday, January 28, 2023 in Nashville, Tennessee.

**Second:** Ms. Penna

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

**IX. THE ARIZONA DENTAL ASSOCIATION ("AzDA") AND THE ARIZONA DENTAL HYGIENE ASSOCIATION ("AzDHA")**

Ms. Kappes addressed the Board on behalf of AzDHA and stated that when SB1074 took effect, it was the association's interpretation that the new law allows the administration of BOTOX and/or dermal fillers by dental hygienists. Ms. Kappes further requested that the Board draft and adopt a substantive policy statement to provide clarity to licensees. Mr. Earle also addressed the Board and indicated that the statutory language was envisioned to apply specifically for dentists and stated that the AzDHA's request is premature. During discussion, the Board expressed its intent to have both dentist and dental hygienists be able to administer BOTOX and/or dermal fillers. The Board also took into consideration that estheticians currently administer BOTOX without the qualifications and knowledge that a dentist and dental hygienist have in head and neck anatomy. The Board expressed full support of dental hygienists being able to administer BOTOX and/or dermal fillers and directed staff to continue to research the matter and agendaize it for a future meeting.

*The Board took a break from 10:51 a.m. to 9:32 a.m.*

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

**V. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

**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. 202100037; Conrad, Stephen**

Dr. Conrad was available during the Board's consideration of the matter. Mr. Nafisi made a statement to address the documentation issues and clarified that Dr. Conrad took handwritten notes that were not properly transcribed by Perfect Teeth.

**Motion:** Ms. Moffett moved to uphold the Investigative Committee's recommendation to issue a non-disciplinary order, requiring the completion of 4 hours of CE in risk management. The CE hours shall be in addition to the hours required for license renewal and shall be completed within twelve months.

**Second:** Dr. Herro

Ms. Moffett rescinded the motion. The Board tabled the matter for later in the meeting to allow the respondent to resolve technical issues.

Later in the meeting, Dr. Conrad made a statement and indicated that he reviewed the patient's health history each time he saw the patient and offered to re-do the bridge.

**Motion:** Ms. Moffett moved to uphold the Investigative Committee's recommendation to issue a non-disciplinary order, requiring the completion of 4 hours of CE in risk management; based on the findings in the consultant's report and discussion held during the meeting. 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:** 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.

2. 202200134; Lazore, Dariene V.

Dr. Lazore was available to answer questions during the Board's consideration of the matter. Ms. Bustos made a statement to address the allegations and indicated that a supplemental response was provided. Ms. Bustos further clarified that written consent was included in the records. In addition, Dr. Lazore clarified that the crown was not seated correctly and sent it back to the lab; however, the patient did not return.

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

**Second:** Dr. Herro

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

3. 202200142-MP; Denton, Luke

Ms. Anagnopoulos made a statement on behalf of Dr. Denton to address the allegation of the abutment was not completely seated; however due to his health condition he was no longer practicing and was not able to attempt to work with the patient to correct the implant. Ms. Anagnopoulos also clarified that the implant was asymptomatic at the time of treatment.

**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:** Bienstock

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

*The Board entered into executive session at 11:41 a.m.  
The Board returned to open session at 11:47 a.m.  
No legal action was taken by the Board during executive session.*

**Motion:** Dr. Herro moved to invite Dr. Denton to a formal interview to discuss the current case and his role in the dental practice; based on the consultant's report and discussion held during the meeting.

**Second:** Dr. Morrow

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

4. 202200145; Sedell, Alan

The respondent was not available during the Board's consideration of the matter. Dr. Cutler proceeded to provide the Board an overview of the case and indicated that there was an allegation of improper management of sodium hypochlorite as a possible cause of post-operative swelling and bruising. The investigator found possible deviation for failure to document the use of rubber dam isolation and sodium hypochlorite.

**Motion:** Dr. Herro moved to issue a non-disciplinary order requiring the completion of 4 hours of CE in endodontic therapy; based on 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:** Mr. Dynar

**Vote:** 4-aye, 4-nay, 0-abstain, 0-recuse, 3-absent. Motion failed.

**Motion:** Dr. Herro moved to issue a non-disciplinary order requiring the completion of 4 hours of CE in endodontic therapy; based on the consultant's report and discussion during the meeting. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

**Second:** Mr. Dynar

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

*Dr. Morrow voted against the motion.*

F. Formal Interview(s)

1. 20170000175-MP & 202000129; Trujillo, Victor

The respondent and attorney were not available during the Formal Interview. Dr. Bienstock proceeded to provide an overview of factual information of the cases and stated that to date Dr. Trujillo has not complied with the board order for case 20170000175-MP that was due May 12, 2022. To date, Dr. Trujillo has also not complied with the board order for case 202000129 that was due April 5, 2022.

**Motion:** Dr. Bienstock moved to recommend to offer a consent agreement for a voluntary surrender, if not accepted move to formal hearing for revocation pursuant to A.R.S. § 32-1263.01 for failure to comply with two board orders and

A.R.S. § 32-1263 for engaging in conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public since he seems unregulatable. The respondent has 60 days to sign.

**Second:** Dr. Morrow

Roll call

Herro-aye

Bienstock-aye

Dynar-aye

Goodman-aye

Moffett-aye

Morrow-aye

Penna-aye

Seaman-aye

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

3. 202200022; Conderato, Kathleen

Ms. Thompson made a statement to clarify that the dental assistant did not fabricate the partial dentures; they were done by a lab. Dr. Conderato stated that it is standard protocol to take the final impressions and bite registrations.

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

**Second:** Dr. Herro

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

2. 201900145; Sandstrom, Paul

Dr. Sandstrom was available during the Formal Interview. Dr. Cutler proceeded to provide an overview of the case and indicated that to this date, the CE requirements from the disciplinary board agreement have not been completed. The CE was due June 10, 2021. Dr. Sandstrom explained that he took online courses; however, in 2020 there were no in person courses available. The Board clarified that online courses were acceptable. During discussion, the Board considered finding that there is a violation of A.R.S. § 32-1263 and considered imposing a fine per violation pursuant to A.R.S. § 32-1268.

**Motion:** Dr. Herro moved to offer a disciplinary consent agreement mimicking the original order, requiring hands on CE and a \$2000 civil penalty. If not completed within 30 days, refer the matter to OAH.

**Second:** Dr. Bienstock

Roll call

Herro-aye

Bienstock-nay because she would prefer a higher civil penalty.

Dynar-aye

Goodman-aye because he would prefer a higher civil penalty.

Moffett-aye  
Morrow-aye  
Penna-aye  
Seaman-aye

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

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

1. 202200269-AO

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

**Second:** Dr. Bienstock

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

H. Motion to Associate Counsel Via Pro Hac Vice Status

1. 202000324; Nelson, Amanda

**Motion:** Dr. Herro moved to grant the request to associate counsel via pro hac vice statuses.

**Second:** Mr. Dynar

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

*The Board took a break from 12:43p.m - 12:53 p.m.*

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

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

1. 202000306; Hossieni, Rozbeh

**Motion:** Dr. Herro moved to invite Dr. Hossieni to a formal interview based on the findings in the consultant's report.

**Second:** Dr. Morrow

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

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

11. 202200179; Boyse, Brent

**Motion:** Dr. Herro moved to invite Dr. Boyse to a formal interview based on the findings in the consultant's report.

**Second:** Dr. Morrow

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

2. 202100052; Gardner, Michael

Dr. Gardner was available during the Board's consideration of the matter. Mr. Elms made a statement to indicate that no harm was done to the patient and that

there was a disconnect between the dental office, the dentist and patient. Dr. Cutler proceeded to provide the Board an overview of the case. Although treatment was not provided, the Board considered there was overdiagnosis.

**Motion:** Ms. Penna moved to follow the Investigative Committee's recommendation to offer a disciplinary consent agreement requiring the completion of 4 hours of CE in risk management and 2 hours in ethics; based on the information provided in the consultant's report and discussion during the meeting. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

**Second:** Ms. Moffett

Dr. Morrow commented that disciplinary action is too harsh and considered non-disciplinary action with CE would be more beneficial.

*Ms. Penna rescinded her motion.*

Dr. Gardner clarified that he did not diagnose periodontal disease. The Board further discussed the doctors accountability of accurate records.

**Motion:** Dr. Morrow moved to issue a non-disciplinary order requiring the completion of 3 hours of CE in perio and 4 hours in risk management. The CE hours may be done online and shall be in addition to the hours required for license renewal and shall be completed within six months.

**Second:** Dr. Herro

Mr. Dynar commented that a letter of concern would be more appropriate due to the miscommunication between the dentist and front office. Harm is speculated if a similar miscommunication happens in the future.

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

*Mr. Dynar voted against the motion.*

*Dr. Bienstock voted against the motion because she agreed with Mr. Dynar that a letter of concern would be appropriate.*

3. 202100118; Koo, Bonjung (Jane)

The respondent was not available during the Board's consideration of the matter.

**Motion:** Dr. Herro moved to offer a consent agreement requiring the completion of 4 hours of CE in risk management and 2 hours in ethics; based on the consultant's report which includes potential statutory violation of A.R.S. §§ 32-1263(A)1, 32-1263(D)(10),(12),(15), 32-1201.01(13), (25) and 32-1264(A). 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:** 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.

4. 202100123; Dhillion, Inderraj

Ms. Bustos made a statement on behalf of Dr. Dhillion and indicated that he is not the owner of American Family Dentistry and a supplemental response was submitted to rectify the documents that were not initially provided by American Family Dentistry. Ms. Bustos also clarified that the allegation of a fraudulent note is false and ultimately requested dismissal of the case.

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

**Second:** Ms. Penna

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

5. 202100278; Endicott, Thomas A.

The respondent was not available 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 alleges he lost a tooth after a root canal and there were multiple record keeping issues. Tooth 21 was non-restorable from the onset of treatment and rubber dam isolation was not documented.

**Motion:** Dr. Bienstock moved for the Board to enter into executive session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3) for agenda items V. D.5, V.E.1, V.E.2, V.I.2 and V.K.1.

**Second:** Dr. Herro

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

*The Board entered into executive session at 1:40 p.m.*

*The Board returned to open session at 1:49 p.m.*

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

**Motion:** Dr. Herro moved to invite Dr. Endicott to a formal interview based on the findings in the consultant's report and discussion held during the meeting. In addition, to agendaize this matter for the same meeting as his other formal interview.

**Second:** Dr. Bienstock

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

6. 202100284; Magnus, George

Dr. Magnus was available during the Board's consideration of the matter. Dr. Magnus answered questions and clarified that restitution was provided to the patient.

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

**Second:** Dr. Bienstock

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

7. 202200104; Escala, Ernesto E.

The respondent was not available during the Board's consideration of the matter. Dr. Cutler proceeded to provide the Board an overview of the case and indicated there were multiple documentation issues and that Dr. Escala voluntarily offered to surrender his license.

**Motion:** Dr. Bienstock moved to offer Dr. Escala a disciplinary consent agreement for voluntary surrender of his license.

**Second:** Dr. Herro

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

8. 202200106; Raiffe, David

Dr. Raiffe was available during the Board's consideration of the matter. Mr. Tonner made a statement to address the allegations that tooth fillings caused the root canal. Mr. Tonner further stated that the requested refund for crowns 14 and 18 was provided.

**Motion:** Dr. Herro moved to offer a disciplinary consent agreement requiring the completion of 4 hours of CE in diagnosis and treatment planning and 4 hours in risk management. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. The respondent has 30 days to sign the agreement.

**Second:** Dr. Morrow

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

*Ms. Moffett voted against the motion.*

9. 202200149; Tran, My-Anh

Ms. Goodhand made a statement on behalf of Dr. Tran to address the allegations for lack of a treatment plan and x-ray for teeth number 2 and 3. Ms. Goodhand clarified that the patient refused x-rays; however, ultimately agreed to have x-rays taken at a future appointment. Dr. Tran proceeded to state that she attempted to establish a doctor patient relationship to help the patient with his periodontal health.

**Motion:** Dr. Herro moved to issue a non-disciplinary order requiring the completion of 4 hours of CE in diagnosis and treatment planning; based on the consultant's report.

**Amended Motion:** Dr. Herro amended his motion to issue a non-disciplinary order requiring the completion of 4 hours of CE in risk management; based on 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:** 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.



10. 202200156; Smile Now (The B.L.H.G. Group, LLC)

There was no one available during the Board's consideration of this matter. Dr. Cutler proceeded to provide an overview of the case and stated that payment was collected for treatment that was not provided. The Board considered directing staff to find out who is liable to refund the patient and to continue the investigation to find out the financial relationship between the entity and dentist.

**Motion:** Dr. Bienstock moved to offer a disciplinary consent agreement to Smiles Now ordering restitution to be paid to the patient and impose a \$2000 penalty pursuant to A.R.S. § 32-1213(H).

**Second:** Dr. Herro

*Roll call*

Herro-aye

Bienstock-aye

Dynar-nay

Goodman-aye

Moffett-aye

Morrow-nay

Penna-aye

Seaman-aye

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

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

2. 201700191-MP; Chari, Sathish

Mr. Tonner indicated that CE was completed within the required timeframe; however, it was not sent to the Board on time. Staff confirmed receipt of the CE certificates.

**Motion:** Dr. Herro moved to terminate the order.

**Second:** Mr. Dynar

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

1. 201500190; Chari, Sathish

Mr. Tonner informed the Board that Dr. Chari is not able to complete hands on CE due to health issues.

**Motion:** Dr. Herro moved to terminate part of the order that relates to the CE requirement and uphold the restriction to practice unless approved by the Board.

**Second:** Dr. Morrow

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

I. Renewal Application Disclosure(s)

1. Nyffeler, Gregory, DDS

**Motion:** Dr. Herro moved to offer a disciplinary consent agreement for renewal of license subject to fulfilling the terms in the agreement that are imposed in Wisconsin.

**Second:** Dr. Bienstock

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

2. Svoboda, Christina, RDH

The respondent was not present during the Board's consideration of the matter.

**Motion:** Dr. Herro moved to invite Ms. Svoboda to a formal interview and in the meantime present a consent agreement for a drug and alcohol evaluation to be completed within the next week which consists of a 13 panel urinalysis and hair follicle test.

Staff informed the Board that Superior Court notified staff that the respondent has three DUIs.

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

*The Board entered into executive session at 3:00 p.m.*

*The Board returned to open session at 3:10 p.m.*

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

**Motion:** Dr. Herro moved to issue an order for a substance abuse evaluation with drug and alcohol testing to be completed within 24 hours of receiving the order.

**Second:** Mr. Dynar

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

**Motion:** Dr. Herro moved to offer an interim consent agreement for a practice restriction of voluntary surrender of license giving the Board's AAG authority to negotiate voluntary surrender.

**Second:** Dr. Morrow

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

J. Failure to Respond/Timely Respond to Subpoena – A.R.S. § 32-1208

1. 202200103; Laveen Modern Dentistry

There was no one present to speak on the matter during the Board's consideration.

**Motion:** Dr. Herro moved to continue the matter and request full records and legible x-rays.

**Second:** Mr. Dynar

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

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

K. Motion for Rehearing/Review – A.A.C. R4-11-1701

1. 202000343; Garza John

Dr. Garza was available during the Board’s consideration of the matter.

**Motion:** Dr. Herro moved to grant the request for a rehearing.

**Second:** Dr. Binestock

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

**VI. CALL TO THE PUBLIC**

No one requested to speak during the call to the public.

**X. NOTICES OF PROPOSED RULEMAKING (“NPR”)**

There was no discussion for this agenda item.

**XI. BOARD ELECTIONS – A.R.S. § 32-1205**

A. Nomination and Election of Board President

**Motion:** Dr. Bienstock moved to nominate and elect Dr. Herro as Board President for Calendar year 2023.

**Second:** Dr. Morrow

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

*Dr. Herro abstained.*

B. Nomination and Election of Board Vice-President

**Motion:** Dr. Herro moved to nominate and elect Dr. Bienstock as Vice-President for Calendar year 2023.

**Second:** Dr. Morrow

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

**XII. EXECUTIVE DIRECTOR’S REPORT**

A. Budget Update

Ms. Gomez provided an update on the Board’s budget with recent expenditures.

B. Agency Operations

Mr. Edmonson informed the Board that staff will be attending a Joint House and Senate Health and Human Services Committee of Reference to address the Board’s Audit.

**XIII. SUMMARY OF CURRENT EVENTS**

The Board congratulated Dr. Morrow for his new position as the Chief Dental Officer at BIOLASE.

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

Mr. Edmonson inquired if the Board would like to keep letters of concerns on the consent agenda. The Board directed staff to continue to place letters of concern on the consent agenda.

**XV. NEXT BOARD MEETING DATE**

A. January 27, 2023

**XVI. ADJOURNMENT**

Dr. Herro adjourned the meeting at 3:32 p.m.