



Arizona State Board of Dental Examiners

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

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OPEN SESSION MINUTES

March 3, 2023 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 item V.J.1 as stated herein.

BOARD MEMBERS

	<i>Anthony Herro, DDS</i>	President and Licensed Dentist Member
	<i>Lisa B. Bienstock, DMD</i>	Vice-President and Licensed Dentist Member
🕒	Morgan B. Burg	Business Entity Member
🕒	<i>Edward H. Christensen, DDS</i>	Licensed Dentist Member
🕒	Aditya Dynar	Public Member
	<i>Tamer El-Gendy, DMD</i>	Licensed Dentist Member
🕒	Nick Goodman	Public Member
	<i>Jaselyn K. Moffett, RDH</i>	Licensed Hygienist Member
X	Russell Jeffrey Morrow, DDS	Licensed Dentist Member
🕒	Vicki B. Penna, RDH	Licensed Hygienist Member
	<i>Leslie D. Seaman, DDS</i>	Licensed Dentist Member
🕒	Joined/departed 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
	John W. Dovgan, DDS	Chief Investigator
	<i>April Romero</i>	Chief Compliance Consultant
	<i>Selena Acuna</i>	Compliance Officer
	<i>Lisa Schmelling</i>	Administrative Services Officer
	<i>Yazmin Bustamante</i>	Executive Assistant
	Jessica Thomas	Rules Administrator
	<i>Susie Adams</i>	Program and Project Specialist
	<i>Staff members in italics participated in-person</i>	

GUESTS PARTICIPATING AND/OR PRESENT

Michael Goldberg, Esq.	Attorney for Applicant
Rahil Akhtar, DMD	Applicant
Bruce W. Lee, DDS	Applicant
Rachel G. Neal, DMD	Applicant
Leanne Hay, Esq.	Attorney for Respondents
Maureen M. Toal	Respondent
Brianna Quinn	Attorney for Respondent
Wilma Weinreich	Court Reporter
Dina Anagnopoulos, Esq.	Attorney for Respondent
Luke Denton	Respondent
Cody Hall, Esq.	Attorney for Respondent
Lori Karen Anderson	Respondent
D.T.	Complainant
Leah Schachar, Esq.	Attorney for Respondents
Juan Carlos Valencia	Respondent
Rozbeh Hossieni	Respondent
Darren Line	Respondent
Vicky Dyck	Guest
Calvin Cephus Brown Jr.	Respondent
Enrico DiVito	Respondent
K.B.	Complainant
Manu Arora	Respondent
Andrew Noble	Respondent
David Lee Chaffee Jr.	Respondent
Jeff Tonner, Esq.	Attorney for Respondents
John Garza	Respondent
Christina Svoboda	Respondent
Sean Y. Kim	Respondent
Jefferson Hayden, Esq.	Attorney for 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. Herro declared conflicts of interest with agenda item nos. V.B.1, and V.C.3.
 El-Gendy declared conflicts of interest with agenda item nos. V.C.3, V.C.6 and V.E.1.
 Dr. Bienstock declared conflicts of interest with agenda item nos. IV.A.4, IV.A.6, V.C.1, V.C.2, V.C.8, V.J.1 and V.M.1.
 Mr. Goodman declared a conflict of interest with agenda item no. V.C.6.
 Dr. Christensen declared conflicts of interest with agenda item nos. V.C.6 and V.C.8.

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

A. Discussion and approval of the Open Session Minutes from the December 16, 2022 special board meeting.

- B. Discussion and approval of the Open Session Minutes from the January 27, 2023 board meeting.
- C. Discussion and approval of the Executive Session Minutes from the January 27, 2023 board meeting.

Motion: Dr. Herro moved to approve the minutes from the December 16, 2022 meeting and the minutes from the January 27, 2023 board meeting.

Second: Dr. Bienstock

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

IV. CONSENT AGENDA

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

1. 202000126; Nelson, Amanda
2. 202000278; Rosales, Daniel
3. 202000342; Tran, Bryan
4. 202100013-MP; Brown Stephen
5. 202100161; Wilcox, Donald
6. 202200001; Line, Darren
7. 202200036; Stein, Bruce
8. 202200178; LaFeber, Nicholas
9. 2019000216; Hawke, Robert

Motion: Dr. Herro moved to approve the consent agenda.

Second: Dr. El-Gendy

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

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

VII. RECOMMENDATION TO REVIEW PRIOR HISTORY

The Board reviewed the Guideline Steering Committee's recommendation regarding the review of licensees' prior history once the Board establishes that a violation occurred, but before a motion regarding the final adjudication. During discussion, the Board concurred that when considering a letter of concern or dismissal, the Board would not review prior history.

Motion: Dr. Herro moved to adopt the recommendation from the Guideline Steering Committee.

Second: Dr. Bienstock

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

IX. ANESTHESIA AND INTRAVENOUS SEDATION COMMITTEE

The Board considered adding a new member to the Anesthesia and Sedation Committee to help with quorum issues. Dr. Herro recommended appointing Dr. Arnall who has attended most committee meetings.

Motion: Dr. Herro moved to appoint Dr. Arnall to the Anesthesia and Sedation Committee.

Second: Ms. Penna

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

Mr. Dynar and Dr. Christensen joined the meeting at 8:09 a.m.

V. 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. Akhtar, Rahil, DMD

Dr. Akhtar was present during the Board's consideration of his application for licensure. Mr. Goldberg made a brief statement on behalf of Dr. Akhtar and requested approval of Dr. Akhtar's application for licensure. In addition, Dr. Akhtar answered questions pertaining to disciplinary action that took place with his out of state licenses.

Motion: Ms. Penna moved to grant licensure.

Second: Mr. Dynar

Vote: 9-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Mr. Goodman voted against the motion.

2. Lee, Bruce W., DDS (by Credentials)

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

Motion: Dr. Bienstock moved to grant licensure.

Second: Dr. Christensen

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

3. Neal, Rachel G., DMD (by Credentials)

Dr. Neal was available during the Board's consideration of her application for licensure and made a provided clarification regarding her out-of-state licenses.

Motion: Dr. Herro moved to grant licensure.

Second: Dr. El-Gendy

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

B. Review of Investigation(s)

1. 202200097; Toal, Maureen M.

Dr. Toal and Ms. Hay were available during the Board's consideration of the matter. Ms. Hay made a statement and indicated that the patient had an oral infection and Dr. Toal discussed treatment options including full mouth crowns given the patient's long roots, anticoagulation and health conditions. Dr. Toal

proceeded to answer the Board's questions and discussed the technicalities of determining the vertical dimension of occlusion.

Motion: Dr. Bienstock moved to invite Dr. Toal to a formal interview based on the findings and facts cited in the consultant's report and discussion held during the meeting.

Second: Dr. El-Gendy

Vote: 9-aye, 0-nay, 0-abstain, 1-recuse, 1-absent. Motion passed.

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

2. 202200131; Whatcott, Josh

There was no one present to speak on the matter. Dr. Dovgan proceeded to provide the Board an overview of the case. The Board considered whether the patient lost a tooth because of an ill fitting crown. The Board took into consideration that there was a 2.5 year gap before the patient returned for treatment.

Motion: Dr. Bienstock moved to dismiss the case.

Second: Dr. Herro

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

3. 202200135; Scheckley, Sal

There was no one present to speak on the matter. Dr. Dovgan proceeded to provide the Board an overview of the case. The Board expressed concern that another provider extracted four teeth and left root tips in during the bone grafting procedure.

Motion: Dr. Herro moved to open a case against Dr. Patterson for investigation.

Second: Dr. El-Gendy

Vote: 9-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Dr. Christensen voted against the motion.

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 removable prosthodontics for violation of A.R.S. § 32-1201.01(14). The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: El-Gendy

Vote: 9-aye, 1-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Ms. Moffett voted against the motion.

4. 202200141-MP; Winterholler, Chris W.

Attorney Brianna Quinn was available on behalf of Dr. Winterholler during the Board's review of the matter.

Motion: Dr. Herro moved to invite Dr. Winterholler to a formal interview based on the potential violations cited in the consultant's report.

Dr. Herro withdrew his motion.

Dr. Dovgan proceeded to provide the Board an overview of the case which included deviations from the standard of care in charting and recordkeeping, radiographic evaluation of implant placement and patient evaluation for All-on-4 in maxilla.

Motion: Dr. Herro moved to invite Dr. Winterholler to a formal interview based on the potential violations cited in the consultant's report and possible deviation of A.R.S. § 32-1201.01(14).

Second: Dr. Bienstock

Roll Call

Herro-aye

Bienstock-nay

Burg-aye

Christensen-nay

Dynar-nay

El-Gendy-nay

Goodman-aye

Moffett-nay

Penna-aye

Seaman-nay

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

Motion: Dr. Christen moved to uphold the Investigative Committee's recommendation to dismiss the case.

Second: Dr. Moffett

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

Drs. Herro, Bienstock, Mr. Goodman and Ms. Penna voted against the motion.

VI. NOTICES OF PROPOSED RULEMAKING ("NPR")

The Board reviewed the NPR related to Advertising.

Motion: Dr. Bienstock moved to accept the draft language with a slight modification to subsection A in the comment regarding services provided by an Arizona licensed general dentist and moved to keep the language that requires a general dentist to disclose "Dentist is not a specialist and is licensed as a general dentist in the state of Arizona" to avoid misleading the public.

Second: Ms. Penna

During discussion, Mr. Dynar stated that he would not be in favor of the proposal and suggested that the Board form a subcommittee to further review the language. Staff requested that Dr. Bienstock and Mr. Dynar collaborate with the language as opposed to creating a subcommittee. Mr. Earle addressed the Board and stated that AzDA's concerns were included in the draft NPR. Mr. Dynar suggested that the dentist should truthfully disclose their qualifications and expressed concern with the language in Subsections A through D. The Board further considered whether the draft language could be micromanaging.

Roll Call

Herro-aye

Bienstock-aye

Burg-aye

Christensen-aye

Dynar-nay

El-Gendy-aye

Goodman-nay

Moffett-nay based on Mr. Dynar's explanation about changing the language.

Penna-nay

Seaman-nay

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

Motion: Dr. Herro moved to table the matter to the next meeting to establish a collaborative meeting.

Second: Dr. Christensen

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

The Board proceeded to review the NPR related to fees and discussed the mobile dental permit facility fees based on the annual statutory requirement.

Ms. Penna temporarily departed the meeting at 9:32 a.m.

Motion: Dr. Herro moved to have Dr. Bienstock, Mr. Dynar and Mr. Earle collaborate before the next meeting to review the NPR related to fees.

Second: Dr. Bienstock

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

The Board took a break from 9:50 a.m. to 10:03 a.m.

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

V. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION

E. Formal Interview(s)

1. 202200142-MP; Denton, Luke

Dr. Denton was available during the Board's consideration of the matter. Ms. Anagnopoulos made a statement on behalf of Dr. Denton and elaborated on the work that Dr. Denton is doing. Ms. Anagnopoulos clarified that Dr. Denton's job does not require a dental license. Dr. Dovgan proceeded to provide the Board an overview of the case with respect to the implants. Dr. Denton proceeded to inform the Board of his educational background and elaborated on his experience as a practicing dentist. Dr. Denton clarified that his license is under disabled status due to medical issues. Dr. Denton further answered questions regarding the technicalities of the procedure and explained that the buccal crown of tooth number 19 loosened up every three to four years. The Board proceeded to discuss the matter. Dr. Christensen considered that the patient is functioning on the fixed partial denture. The Board also considered its options with respect to the respondents disabled license status.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Christensen

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

Dr. El-Gendy was recused and did not participate in the matter.

2. 202100115 & 202100094; Anderson, Lori Karen

Dr. Anderson was available during the Board's consideration of the matter. Dr. Dovgan provided the Board an overview of case 202100094 and indicated that the patient alleges that the screw of implant on tooth #28 broke and a poor job of trying to remove the screw was done, which hurt the patient's gum tissue. Stitches had to be placed twice. The patient saw two periodontists for tissue grafting and tissue transplant on the implant side of tooth #28. A crown has since been placed by another provider; however, the patient alleges that permanent indentations and holes between her teeth catch everything. Dr. Dovgan also provided an overview of case 202100115 for alleged inadequate dental implant. The patient alleges that an implant was placed in a slanted position, which resulted in a narrow ridge. The patient was symptomatic since the implant placement and is requesting a refund. Mr. Collins proceeded to make a statement to address the allegations for complaint 202100115 with regard to the use of implants with narrow diameter implants and indicated that the investigative committee did not raise concern about the size of implants that were used. Mr. Collins also addressed complaint 202100094 with regard to the screw that broke off the implant and the multiple appointments it took to resolve the matter. Dr. Anderson proceeded to elaborate on her education and experience with implants. Dr. Dovgan indicated that the standard of care is a pano and a 3.5 milligram implant can be placed as long as the ratio is adequate. Dr. Anderson answered questions pertaining to her documentation and record keeping practice. Dr. Anderson indicated that the buccal bone on tooth #28 was adequate at the time of placement. Overall, there was no periodontal charting, TMJ, oral cancer screening, preoperative and postoperative x-rays done in a timely manner. The patient has pain in the area that affects the patient's ability to clean the area. In less than one year the implant was

removed and the patient is requesting restitution. The Board considered that there seems to be a pattern in lack of documentation. Dr. Anderson further answered questions regarding the technicalities of implant placement. Complainant D.T. addressed the Board and confirmed that her other treating dentist informed her that there was no bone in the site when the implant was placed.

Motion: Dr. Bienstock moved to find unprofessional conduct pursuant to A.R.S. §§ 32-1201.01(14) as it relates to 32-1263 and 1201.01(12) as it relates to 32-1264 regarding record keeping. To adopt the findings and facts and conclusions of law as cited in the consultant's report and discussion held during the meeting for lack of a comprehensive examination, soft tissue, missing torque numbers, failed implant, failed crown with periapical radiolucency that needed to be extracted, but was not identified.

Second: Dr. Herro

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

Motion: Dr. Bienstock moved to issue a disciplinary order, requiring the completion of 3 hours of CE in crown and bridge, 3 hours in implants and 4 hours in risk management; which includes record keeping. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. In addition, to pay restitution for case 202100094: \$2,258.50 to the patient and \$1,430.50 to the insurance and restitution for case 202100115: \$380.50 to the patient.

Second: Dr. Herro

Roll call

Herro- aye

Bienstock- aye

Burg-aye

Christensen-aye

Dynar- aye

El-Gendy- aye

Goodman- nay

Moffett- aye

Seaman- aye

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

The Board took a break from 11:44 a.m. to 12:01 p.m.

Ms. Penna re-joined the meeting during the break.

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

3. 202100127; Valencia, Juan Carlos

After the break, Mr. Goodman re-joined the meeting at 12:04 p.m.

Dr. Valencia was available during the Board's consideration of the matter. Ms. Schachar was also available to represent Dr. Valencia. Dr. Dovgan provided the Board an overview of the case and indicated that complainant R.M. went to see Dr. Valencia for forefront crowns. Ms. Schachar stated that the crowns were seated and tooth number 12 was not considered restorable. Dr. Valencia proceeded to answer questions pertaining to his education and experience practicing dentistry. Dr. Valencia stated that crown 6 came off and it was recemented. Dr. Valencia indicated that the crown on tooth number 12 fell and broke down to the gumline; at that time he checked occlusion and took other measures and came to the conclusion that the patient was grinding. Dr. Valencia clarified that crowns on tooth numbers 6 and 12 were previously placed by an oral surgeon and answered additional questions regarding the insurance coverage for the patient's treatment. The Board proceeded to discuss the matter and did not find a violation with the treatment.

Dr. Christensen departed the meeting at 12:34 p.m.

Motion: Dr. El Gendy moved to dismiss the case.

Second: Dr. Seaman

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

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

1. 202000306; Hossieni, Rozbeh

Dr. Hossieni was available during the Board's consideration of the matter. Ms. Schachar made a statement and addressed the allegations of unnecessary treatment with bone grafting, inadequate IV sedation record and record keeping. Ms. Schachar indicated that the age 26 became the cut off to do bone grafting. With respect to the lack of IV sedation records, it was a shock that they were not part of the chart. Dr. Hossieni took remedial action and completed CE courses. Dr. Dovgan referenced the consultant's report and indicated that there was no documented local anesthetic in any of the audited cases, no indication for diagnosis for bone grafting after third molar extractions 93% of the time, no appropriate time oriented anesthetic records 86% of the time, no electro cardiac records 55% of the time and no time of discharge and sedation end time recorded 17% of the time. In addition, none of the carpules were listed in the audited cases. Dr. Dovgan indicated that the standard of care with grafting third molars is less than 1% of the time. Dr. Hossieni's percentage for bone grafting was 93% of the time and there was no diagnosis for the bone grafting. Dr. Dovgan further clarified that the healing rate changes after the age of 26. The Board considered that the lack of documentation, particularly for anesthesia, is a concern for public safety.

Motion: Dr. Herro moved to offer a disciplinary consent agreement for suspension of Dr. Hossieni's 1301 Permit for 12 months; then the Board will

reevaluate. In addition, to require the completion of 24 hours of CE in anesthesia and sedation, 24 hours in oral surgery and 4 hours in risk management. During that time, to go through practice monitoring to review extraction of third molars to review the presence or absence of bone grafting associated with it. Based on the consultant's report, discussion held during the meeting and violation of A.R.S. § 32-1201.01(14) and (24).

Second: Mr. Goodman

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

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

2. 202100030; Line, Darren

Dr. Line was available during the Board's consideration of the matter. Ms. Schachar made a statement and indicated that Dr. Line recognizes issues with the case and took CE in endo and crown and bridge for a previous complaint. During discussion, Ms. Schachar clarified that treatment of this case pre-dated the other case against the respondent. In addition, Ms. Schachar indicated that tooth number 13 was recommended for a crown; however, a few months later the tooth broke off and was considered non-restorable. The patient was provided a full refund.

Motion: Dr. Herro moved to issue a non-disciplinary consent agreement requiring the completion of 4 hours of CE in diagnosing and treatment planning; based on the findings in the consultant's report, discussion held during the meeting and violation of A.R.S. § 32-1201.01(14). The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Ms. Moffett

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

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

4. 202100131; Brown Jr., Calvin Cephus

Dr. Dovgan provided the Board an overview of the case and indicated that the patient had teeth 18, 19 and 20 extracted and the implants of teeth 18 and 19 failed. The consultant found deviations, which included lack of consent forms for implants, prescriptions were not listed, lots not included for membrane or bone graft material, no reference number with 2 of the 3 implants, poor recordkeeping, no perio charting, no EOBs, no TMJ evaluations, no pilot hole x-rays, but chart stated they were done, number 19 failed once and was immediately replaced the same day, numbers 20 and 19 had buccal threads showing, number 20 had no buccal bone and the respondent proceeded with major treatment without a full exam or treatment plan. New treatment plan by the subsequent dentist has both numbers 19 and 20 being removed and redone for proper inclination and bone. Dr. Brown subsequently proceeded to elaborate on his education and experience and addressed the allegations. Dr. Brown clarified the documents in question were provided and discussed the technicalities of implant placement.

Motion: Dr. Herro moved to accept the Investigative Committee's recommendation to offer a disciplinary consent agreement for violation of A.R.S. §§ 32-1201.01(14), (24) as it relates to 32-1264, requiring the completion of 4 hours of CE in risk management and 6 hours in implant treatment planning and placement. The CE hours shall be in addition to the hours required for license renewal and shall be completed within 12 months. In addition, to pay \$3,649 in restitution.

Second: Dr. El-Gendy

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

3. 202100034; DiVito, Enrico

Dr. Divito was available during the Board's consideration of the matter. Ms. Schachar made a statement and indicated that the patient was not compliant during the course of treatment and stated that there was no fracture on the tooth that was diagnosed. Dr. DiVito explained his rationale to the treatment and the difficulties he had with patient compliance to wear a mouth guard.

Mr. Dynar departed the meeting at 1:46 p.m.

The complainant's mother indicated that Dr. DiVito suggested crowning 13 primary teeth and the patient has experienced severe nerve damage, constant tooth aches and requested a full refund. Dr. DiVito clarified that the patient continued to be seen for four additional appointments after treatment and did not report complaints with the progress. The Board proceeded to discuss the matter and took into consideration the complexity of the case and that a long span bridge was done on primary teeth.

Motion: Dr. Bienstock moved to offer a disciplinary consent agreement, requiring the completion of 3 hours of CE in diagnosis and management of occlusion and 6 hours in treatment planning in full mouth rehabilitation. In addition, to pay \$38,818 in restitution; based on the consultant's report and discussion held during the meeting.

Dr. Bienstock rescinded her motion to further determine restitution.

The Board further discussed the matter and considered finding violation of A.R.S. § 32-1201.01(14) for performing a procedure with the potential of teeth lasting 10 years.

Motion: Dr. Bienstock moved to invite Dr. DiVito to a formal interview based on potential violation of A.R.S. § 32-1201.01(14) and potential billing irregularities.

Second: Mr. Goodman

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

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

5. 202100133; Arora, Manu

Dr. Arora was available during the Board's consideration of the matter. Ms. Hay made a statement regarding the allegation of treatment without proper consent and indicated that the patient understood and consented to invisalign with necessary periodontal treatment. During review, the Board took the Investigative Committee's recommendation into consideration.

Motion: Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 4 hours in diagnosis and treatment planning; based on the violations cited in the consultant's report.

Second: Mr. Goodman

Amended motion: Dr. Herro moved to find violations as cited in the consultant's report.

Second: Mr. Goodman

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

Motion: Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 4 hours in diagnosis and treatment planning; based on the violations cited 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. El-Gendy

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

6. 202200179; Boyse, Brent

Ms. Schachar made a statement on behalf of Dr. Boyse and indicated that the patient was referred to Dr. Boyse and another provider was overseeing the restorative case. There was collaboration between both providers and there were no issues with the implants. The Board proceeded to discuss the matter and inquired on who was overseeing the case.

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

Second: Dr. Bienstock

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

Drs. Christensen, El-Gendy and Mr. Goodman were recused and did not participate in the matter.

7. 202200216; Noble, Andrew

Dr. Noble was available during the Board's consideration of the matter. The Board reviewed the Investigative Committee's recommendation.

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 implants; for violation of A.R.S. § 32-1201.01(14) and (24). In addition, to pay \$3,011 in

restitution. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

Second: Dr. El-Gendy

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

8. 202200220-MP; Chaffee Jr., David Lee

Dr. Chaffee was available during the Board's consideration of the matter. Ms. Schachar stated that the patient was in pain and had been turned away from other offices. Dr. Chaffee was concerned about the patient's blood pressure and was able to get a slightly lower blood pressure before the procedure. Since Dr. Chaffee was not proceeding with general anesthetic, he thought the procedure could be safely performed with local infiltration. Dr. Chaffee also acknowledges lack of documentation. The Board proceeded to review the Investigative Committee's recommendation.

Motion: Dr. Herro moved to adopt violations of A.R.S. § § 32-1201.01(14), (24) and 32-1264.

Second: Dr. Seaman

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

Drs. Bienstock and Christensen were recused and did not participate in the matter.

Motion: Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 6 hours of CE in treatment of medically complex patients and 4 hours in risk management; based on the factual allegations 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. Seaman

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

Drs. Bienstock and Christensen were recused and did not participate in the matter.

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

1. 202200187; Yuen, Alex W.

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 complainant M.L. had two teeth extracted due to temporary crowns falling off and teeth being ground down too much. The patient allowed Dr. Yuen to place an implant in its place and waited almost a year to restore. When restored the tooth did not look or feel right. After 3 weeks, the pain increased and the patient's eye and face began to swell. The patient saw another dentist to check the implant and the dentist removed the implant with her fingers. The new dentist Dr. Szabo stated that this is one of the most egregious cases of negligence she has seen. The patient then

asked for a copy of her dental records in January; however, has still not received them. The Board took the Investigative Committee's recommendation into consideration.

Motion: Dr. Herro moved to offer a consent agreement for voluntary surrender for violation of A.R.S. 32-1201.01(14) and (24). If not accepted, to schedule the matter for a formal interview for revocation.

Second: Dr. El-Gendy

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

Dr. Bienstock abstained.

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

1. 202200278-AO

Dr. S was available to answer questions during the Board's consideration of the matter. Mr. Tonner made a statement and indicated that the patient was cleared for anesthesia under the supervision of a CRNA. Dr. S answered the Board's questions and elaborated on his education and experience with sedation and implant placement. For the procedure, he acted as a mentor supervising the student. Dr. S clarified that the procedure can last about 9 hours in a teaching environment and elaborated on the precautions that are taken for the procedure. The Board expressed concern for the duration of the procedures. In addition, the Board inquired on the carpules of anesthetic that were given over the period of the procedure. Dr. S further indicated that the patient's recovery was quick, the patient was stable during the procedure and was responsive. Dr. Dovgan stated that 13 carpules for an ASA 3 patient was not prudent.

Motion: Dr. Herro moved to open a complaint and investigation against Dr. S and offer an interim consent agreement to restrict the use of his permit during investigation and prevent from applying for another permit. If not signed within 5 business days to agenda for the next meeting.

Second: Dr. El-Gendy

Dr. Herro amended his motion to also notify the Nursing Board of the adverse occurrence with the CRNA.

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

Ms. Burg departed the meeting at 3:18 p.m.

2. 202200282-AO

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. El-Gendy

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

3. 202200297-AO

Motion: Dr. Herro moved to open a case for investigation because the anesthesia record was deficient.

Second: Dr. Bienstock.

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

4. 202200342-AO

Dr. F was available during the Board's review of the matter. Ms. Schachar indicated that the treatment was rendered without incident. The patient had a seizure roughly 20 minutes after being extubated. The patient continues with treatment.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Bienstock

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

5. 202300005-AO

Motion: Dr. Herro moved to open a case and assign a consultant for review.

Second: Dr. El-Gendy

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

6. 202300006-AO

Dr. Dovgan provided the Board an overview of the case and indicated that the adverse occurrence occurred after the anesthesia was administered and no treatment was provided. Ms. Schachar indicated that Dr. C used the patient's epi-pen at which time symptoms improved by the time EMS arrived. The patient was discharged from the hospital with no treatment provided. Dr. C answered the Board's questions and stated a bronchospasm may have caused the adverse occurrence.

Motion: Dr. Herro moved to dismiss the case.

Second: Dr. Bienstock

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

G. Board to Conduct Rehearing/Review – A.A.C. R4-11-1701

1. 202000343; Garza John

Dr. Garza was available during the Board's review of his case and elaborated on his experience in dental practice. During discussion, Dr. Garza indicated that the patient was seen for root canal treatment and she expressed concern that her sinus was infected and indicated that her eye may be involved. Dr. Garza prescribed the patient Clindamycin. The Board proceeded to discuss the standard of care. Dr.

Dovgan stated that it is below the standard of care to pair Clindamycin with another antibiotic orally.

Motion: Dr. Herro moved to uphold the previous order.

Second: Dr. El-Gendy

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

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

1. 201900282-AO, 202100213-MP; Pourshirazi, Ehsan

Motion: Dr. Herro moved to terminate case 202100213-MP.

Second: Dr. Bienstock

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

Mr. Tonner made a statement on behalf of Dr. Pourshirazi pertaining to case 201900282-AO and indicated that the CE was completed four months late.

Motion: Dr. Herro moved to terminate the order based on compliance.

Second: Dr. El-Gendy

Dr. Herro rescinded the motion.

Motion: Dr. Herro moved to take no action based on the compliance with CE.

Second: Ms. Moffett

Vote: 5-aye, 2-nay, 0-abstain, 0-recuse, 4-absent. Motion passed.

Dr. Bienstock voted against the motion because of principal.

Mr. Goodman voted against the motion.

J. Review of Prior Board Action

1. 202100112; Garagozloo, Behzad

Ms. Schachar made a statement on behalf of Dr. Garagozloo and indicated that based on principles of finality the Board no longer has jurisdiction.

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: Dr. El-Gendy

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

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

The Board entered into executive session at 4:00 p.m.

The Board returned to open session at 4:14 p.m.

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

The Board indicated that it will move forward with the case because it is not bound by board staff's error of incorrectly agendaizing the matter. Ms. Schachar proceeded to address the allegation regarding the patient's blood pressure and

clarified that it was not an IV sedation case and the patient had a pulse oximeter throughout the entire procedure. With regard to the allegation for record keeping, Ms. Schachar stated that an oral cancer screening and perio-probing were noted. Dr. Garagozloo documented that he gave the patient Clindamycin.

Motion: Dr. Herro moved to rescind the E.D. Termination.

Second: Ms. Moffett

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

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

The Board further discussed the matter.

Motion: Dr. Seaman moved to issue a letter of concern for recordkeeping.

Second: Dr. Herro

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

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

K. Request for Termination of Practice Restriction

1. 201300033; Raiffe, David

Dr. Raiffe was present during the Board's consideration of the matter. Mr. Tonner made a statement regarding the ortho restriction in 2013. Dr. Raiffe has taken CE in endo and requested that the restriction be lifted.

Motion: Dr. Herro moved to lift the restriction for endo from the Boards 2013 Order.

Second: Dr. Bienstock.

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

N. Review of Application(s) for Issuance of a Sedation Permit – A.A.C. R4-11-1301

1. Sharma, Ashish P.

Mr. Tonner made a statement on behalf of Dr. Sharma and requested that the Board lift its previous order to obtain a letter from the ABOMS stating that he is Board eligible because they do not provide a letter for that and allow Dr. Sharma to proceed with the next step of his permit application for an evaluation.

Motion: Dr. Herro moved to lift the previous order and declared that he has satisfied the requirements under C.3.

Second: Dr. Bienstock

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

L. Initial Review

Motion: Dr. Herro moved to take no action on IV.L

Second: Dr. El-Gendy

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

H. Review of Compliance/Non Compliance for Consent Agreement(s)/Board Order(s)
2. 202200330; Svoboda, Christina

Ms. Svoboda was available during the Board's consideration of the case. The Board offered to discuss the matter during executive session. Ms. Svoboda agreed to continue discussion of the matter in open session. Staff proceeded to provide the Board a chronological overview of the case.

Motion: Dr. Herro directed staff to contact Dr. Lout to comment on the hair follicle test.

Second: Dr. El-Gendy

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

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

1. 202200284; Kim, Sean Y.

Ms. Hay made a statement on behalf of Dr. Kim and requested that the Board not issue a civil penalty based on a late response to a subpoena.

Motion: Dr. Herro moved to not take action on a civil penalty, but continue the investigation.

Second: Dr. Seaman.

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

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

I. Rescission of Formal Hearing and Reconsideration of Matter

1. 201900084; Black Canyon City Dentistry

Motion: Dr. Herro rescinded the motion for a formal hearing and moved to close the matter.

Second: Dr. Bienstock

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

VIII. AGENCY SUBSTANTIVE POLICY STATEMENTS (“SPS”)

Motion: Dr. Herro moved to have the Guideline Steering Committee review the Agency Substantive Policy Statements and report back to the Board.

Second: Dr. El-Gendy

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

X. CALL TO THE PUBLIC

No one addressed the Board.

XI. EXECUTIVE DIRECTOR’S REPORT

A. Budget Update

The Board directed staff to add the budget for review at the next meeting.

B. Agency Operations

1. Adverse Occurrence Policy & Procedure – A.A.C. R4-11-1305

Motion: Dr. Herro moved to have the Anesthesia and Sedation Committee review and provide direction regarding the Adverse Occurrence Policy.

Second: Dr. Bienstock

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

C. Complaint Log

There was no discussion with regard to the complaint log.

D. Anesthesia Model(s)

Motion: Dr. Herro moved to approve the letter regarding anesthesia model(s) and disseminate it.

Second: Dr. Bienstock

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

E. Dental Related Legislative Bills

The Board considered taking a position on SB1602.

Motion: Dr. Herro moved to oppose SB1602.

Second: Dr. El-Gendy

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

Mr. Goodman abstained.

XII. SUMMARY OF CURRENT EVENTS

None were discussed.

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

None were discussed.

XIV. NEXT BOARD MEETING DATE

A. March 31, 2023

XV. ADJOURNMENT

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