

Arizona State Board of Dental Examiners "Caring for the Public's Dental Health and Professional Standards"

OPEN SESSION MINUTES

September 24, 2024 Investigative Committee Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners' ("Board") Investigative Committee ("Committee") held a virtual/telephonic meeting. The Committee did not meet in executive session.

COMMITTEE MEMBERS

Anthony Caputo, DDS Brown "Skip" Harris, DDS Mahshid "Mia" Asrari, DDS, MS

- Karren Lea Berrigan, DMD, MS
 David Dodell, DMD
- Mari Fukami, DMD, MS
 Umar Imtiaz, DDS, MS
 Sabah Kalamchi, DDS, FFDSRS
 Deborah Kappes, RDH
 - Katie Lee Martin, DMD, MPH, MS Mindy Motahari, DMD, MA Edu
- Joined/departed as denoted in the body of the minutes
- X Absent

STAFF PRESENT

Ryan P. Edmonson Kristina C. Gomez Seamus Monaghan, Esq. April Romero Jessica Solis Mary Ford Mercedes Meza Yazmin Bustamante Executive Director Deputy Director Assistant Attorney General Chief Compliance Officer Compliance Officer Compliance Officer Compliance Officer Executive Assistant

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 1:00 p.m. by Dr. Caputo. Roll call of the committee members was taken and a quorum was established.

II. DECLARATION OF CONFLICTS OF INTEREST – A.R.S. § 38-503

Dr. Martin declared a conflict of interest with agenda item no. IV.B.26.

Chairperson Vice-Chairperson Committee Member Dr. Harris declared a conflict of interest with agenda item no. IV.B.4 because he was one of the consultants on the matter.

Dr. Motahari declared a conflict of interest with agenda item no. IV.B.12.

Dr. Dodell declared a conflict of interest with agenda item no. IV.B.34.

Dr. Berrigan had technical issues with audio and confirmed she was present since the start of the meeting and does not have conflicts.

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

A. Discussion and approval of the Open Session Minutes from the August 6, 2024 committee meeting.

Audio Start Time: 0:09:30

Motion: Dr. Dodell moved to approve the minutes from the August 6, 2024 committee meeting. Second: Dr. Harris Vote: 9-aye, 0-nay, 2-abstain, 0-recuse, 0-absent. Motion passed. Drs. Fukami and Motahari abstained.

VI. 2025 COMMITTEE MEETING DATES

Audio Start Time: 0:10:20

The Committee directed staff to change the May 6th meeting date to May 13th and concurred to revisit the proposed dates at the next meeting.

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

B. <u>Review of Investigation(s)</u> 46. 202400320-AO

Audio Start Time: 0:14:35

The Committee confirmed with staff that agenda item IV.B.46 has been adjudicated by the Board and does not require further consideration from the Committee.

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

Audio Start Time: 0:15:50

Motion: Dr. Kalmachi moved to recommend that the Board dismiss cases IV.A.1.202300490, IV.B.1.202300486, IV.B.2.202300487, IV.B.3.202300498,

Investigative Committee September 24, 2024 Minutes Page |3 IV.B.4.202300503-AO, IV.B.5.202400001, IV.B.8.202400079, IV.B.10.202400098, IV.B.13.202400115. IV.B.16.202400134, IV.B.17.202400140, IV.B.26.202400196. IV.B.28.202400199, IV.B.29.202400200, IV.B.30.202400203, IV.B.31.202400204, IV.B.32.202400205, IV.B.36.202400218, IV.B.37.202400225, IV.B.39.202400234, IV.B.42.202400261, IV.B.44.202400293 and IV.B.45.202400294. Second: Ms. Kappes Vote: 9-aye, 0-nay, 0-abstain, 2-recuse, 0-absent. Motion passed. Drs. Harris and Martin were recused.

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Audio Start Time: 0:26:00

Motion: Dr. Dodell recommended that the Board issue letters of concern for cases IV.B.6, IV.B.33 and IV.B.35. Second: Dr. Harris Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

B. <u>Review of Investigation(s)</u>

6. 202400037-AO

Audio Start Time: 0:28:50

Motion: Dr. Harris moved to recommend that the Board issue a letter of concern emphasizing the importance of thoughtfulness and assessment for patients who identified recent upper respiratory tract infection such as a cold or cough as well as identifying BMI as a helpful indicator for potential respiratory issues and an OSA assessment.

Second: Dr. Fukami

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

33. 202400206

Audio Start Time: 0:35:30

Motion: Dr. Harris moved to recommend that the Board issue a letter of concern emphasizing the importance of having clear documentation of communications amongst patients or involved parties, such as family and having informed consent. **Second:** Dr. Dodell

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

35. 202400217

Audio Start Time: 0:39:50

Motion: Dr. Harris moved to recommend that the Board issue a letter of concern emphasizing the importance of complete and accurate records including sedation records and listing of local anesthesia.

Second: Dr. Kalamchi Vote: 10-aye, 1-nay, 0-abstain, 0-recuse, 0-absent. Motion passed. Dr. Fukami voted against the motion.

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(23) for non-compliance with a subpoena and recommend a \$500 fine.
Second: Dr. Kalamchi
Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

- A. <u>Open Investigation Case(s)</u>
 - 2. 202400210

Audio Start Time: 0:44:00

Motion: Dr. Harris moved to recommend that the Board dismiss the case against the respondent. **Second:** Dr. Dodell *Dr. Harris withdrew the motion after further discussion of the delay in referral.*

Motion: Dr. Harris moved to recommend that the Board issue a letter of concern emphasizing the importance of appropriate follow-up and referral despite the fact that there is another practitioner involved with the patient care. **Second:** Dr. Fukami

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

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(14) against C.B. Second: Dr. Harris Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Harris moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 30 hours of CE in implant diagnosis and treatment planning and placement, including management of complications of implant placement. Also, to place a practice restriction for any implant treatment until the CE is completed and order restitution in the amount of \$44,000.

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

3. 202400216

Audio Start Time: 0:57:28

Motion: Dr. Caputo moved to identify violations of A.R.S. § 32-1201.01(14), (16) and (23).
Second: Dr. Dodell
Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 12 hours of CE in diagnosis and treatment planning of periodontal disease and risk management. In addition, to impose a \$500 fine to T.T. for non-compliance with a subpoena.

Second: Dr. Harris

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

Motion: Ms. Kappes moved to recommend that the Board further order restitution in the amount of \$2,290. Second: Dr. Fukami Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(14) against R.S. Second: Ms. Kappes Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in periodontal assessment and treatment planning and 4 hours in risk management. Second: Dr. Caputo

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

4. 202400237

Audio Start Time: 1:18:30

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(14). Second: Dr. Harris Vote: 11-ave, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer A.Y. a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 6 hours in diagnosis and treatment planning. Also, to order restitution in the amount of \$216 to the insurance and \$54 to the patient. With respect to licensee B.L. moved to identify the same violation and recommended that the Board offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and 6 hours in restoration of crowns and management of complications. Also, to order restitution in the amount of \$462 to the insurance and \$386.90 to the patient.

Second: Dr. Harris

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

Audio Start Time: 1:23:00

Motion: Dr. Caputo moved to recommend that the Board dismiss the case against the respondent. Second: Ms. Kappes Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

- B. <u>Review of Investigation(s)</u>
 - 7. 202400061

Audio Start Time: 1:27:15

Motion: Ms. Kappes moved to recommend that the Board find Rodeo Dental in violation of A.R.S. § 32-1263(D)(5) for failure to register with the Board. **Second:** Dr. Caputo **Vote:** 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Ms. Kappes moved to recommend that the Board issue the respondent a non-disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management and jurisprudence. **Second:** Dr. Kalamchi

Vote: 8-aye, 3-nay, 0-abstain, 0-recuse, 0-absent. Motion passed. *Drs. Caputo, Fukami and Imtiaz voted against the motion.*

9. 202400085

Audio Start Time: 1:35:20

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(14) against B.B. and S.W. Second: Dr. Harris Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action against B.B. and S.W. requiring the completion of 4 hours of CE in risk management and 6 hours in diagnosis and treatment planning including periodontal disease.

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

Audio Start Time: 1:37:50

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(14). Second: Dr. Berrigan Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 4 hours of CE in risk management and 6 hours in diagnosis and treatment planning for orthodontic treatment. Second: Dr. Berrigan Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

12.202400112

Audio Start Time: 1:40:50

Motion: Dr. Caputo moved to identify violations of A.R.S. § 32-1201.01(14) and (19) against Dr. M. Second: Dr. Harris Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed. Dr. Motahari was recused and did not participate in the matter.

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action against Dr. M, requiring the completion of 4 hours of CE in risk management. Second: Dr. Harris Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.

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

Motion: Dr. Caputo moved to identify violations of A.R.S. § 32-1201.01(14) and (19) against Dr. P.
Second: Ms. Kappes
Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.
Dr. Motahari was recused and did not participate in the matter.

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action against Dr. P. requiring the completion of 4 hours of CE in risk management.
Second: Dr. Fukami
Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.
Dr. Motahari was recused and did not participate in the matter.

Motion: Dr. Caputo further identified violations of A.R.S. 32-1201.01(15) and (17) and recommended that the Board continue the investigation.
Second: Dr. Harris
Vote: 10-aye, 0-nay, 0-abstain, 1-recuse, 0-absent. Motion passed.
Dr. Motahari was recused and did not participate in the matter.

Audio Start Time: 2:12:40

Motion: Dr. Dodell moved to identify violation of A.R.S. § 32-1201.01(14) for allowing a dental assistant to take final impressions, which is outside of their scope of work and it was done without supervision. Second: Dr. Harris Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

Motion: Dr. Dodell moved to recommend that the Board offer disciplinary action, requiring the completion of 4 hours of CE in risk management. Second: Dr. Caputo Vote: 11-aye, 0-nay, 0-abstain, 0-recuse, 0-absent. Motion passed.

15.202400132

Audio Start Time: 2:20:00

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1263(D)(15) and recommended that the Board impose a \$2,000 fine for the aforementioned violation.

Second: Dr. Harris

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

18.202400174

Audio Start Time: 2:23:30

Motion: Dr. Dodell moved to recommend that the Board issue a letter of concern against R.P. emphasizing the importance of appropriate coding and complete and thorough treatment planning. **Second:** Dr. Kalamchi

Dr. Kalamchi departed the meeting at 3:30 p.m.

Amended Motion: Dr. Fukami moved to recommend that the Board issue a non-disciplinary order against R.P and T.N. requiring the completion of 4 hours of CE in risk management.
Second: Dr. Caputo
Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

The Committee took a break from 3:30 p.m. to 3:36 p.m. Roll call of the Board members was taken and a quorum was established.

Audio Start Time: 2:37:50

Motion: Dr. Caputo moved to identify violations of A.R.S. §32-1201.01(14), (23) and (24).
Second: Dr. Harris
Vote: 8-aye, 0-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 20 hours of CE through CRDTS' C.A.R.E.S. program in risk management, diagnosis, treatment planning and treatment for crown and bridge and root canals and the PIP program for recordkeeping and management. In addition, to order restitution in the amount of \$1,463.10 to the insurance and \$6,212.40 to the patient. In addition, recommend a practice restriction for crown and bridge and root canal therapy until the CE is completed. Also, to impose a \$500 penalty for non-compliance with a subpoena. **Second:** Dr. Harris

Dr. Dodell rejoined the meeting at 3:40 p.m.

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

20. 202400178

Audio Start Time: 2:42:45

Dr. Berrigan rejoined the meeting at 3:42 p.m.

Motion: Dr. Caputo moved to identify violations of A.R.S. § 32-1201.01(14) and (23).

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

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 6 hours of CE in root canal therapy and impose a \$500 penalty for non-compliance with a subpoena. In addition, to order restitution in the amount of \$2,276.

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

Audio Start Time: 2:45:55

Motion: Dr. Dodell moved to identify violation of A.R.S. § 32-1201.01(14). **Second:** Dr. Harris **Vote:** 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board issue non-disciplinary action, requiring the completion of 4 hours of CE in risk management and 6 hours in fixed prosthodontic restoration. Second: Dr. Dodell Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Dr. Dodell further recommended that the Board order restitution in the amount of \$1,031.20 to the insurance and \$895.60 to the patient. Second: Dr. Caputo Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

22. 202400189

Audio Start Time: 2:53:35

Motion: Dr. Caputo moved to identify violations of A.R.S. § 32-1201.01(14) and (24).

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

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 4 hours of CE in risk management, 6 hours in diagnosis and treatment planning and 6 hours in fixed prosthodontic restoration. Also, to include completion of the PIP program for recordkeeping and management. In addition, to order restitution in the amount of \$1,488 to the insurance.

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

23. 202400192

Audio Start Time: 3:02:55

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1201.01(17). Second: Dr. Harris Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

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Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 4 hours of CE in risk management. **Second:** Dr. Fukami **Vote:** 10-ave, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

24. 202400193

Audio Start Time: 3:05:40

Motion: Ms. Kappes moved to dismiss the case. Second: Dr. Harris Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

25.202400194

Audio Start Time: 3:07:50

Motion: Dr. Caputo moved to identify violation of A.R.S. § 32-1263(D)(14) and recommended that the Board impose a \$2,000 penalty. Second: Dr. Harris Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Dr. Caputo further directed staff to request a data collection to support training, duties, responsibility and any certification of assistants employed at this location to ensure assistants have the proper certification for the duties they have at the practice.

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

27.202400197

Audio Start Time: 3:20:35

Motion: Dr. Caputo moved to identify violations of A.R.S. § 32-1201.01(14) and (24).

Second: Dr. Harris **Vote:** 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 30 hours of CE through CRDTS' C.A.R.E.S. program in the areas of risk management, diagnosis and treatment planning, restorative, crown and bridge or fixed prosthodontics and local anesthesia administration. Additionally, 30 hours of CE in the area of minimal moderate sedation to include patient selection, safe sedation techniques, appropriate monitoring and managing complications. Also, to require the completion of the PIP program for recordkeeping and management. In addition, to place a practice

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restriction for no crown and bridge until the CRDTS program is completed and a practice restriction for 5 years of no sedation at any level for any patient which will also require the completion of the CE training as listed above. Additionally, to order restitution in the amount of \$23,101.20 to the patient and \$1,768.80 to insurance.

Second: Dr. Harris

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

34. 202400211

Audio Start Time: 3:33:00

Motion: Dr. Harris moved to recommend dismissal of the case against the respondent.

Second: Dr. Berrigan

Vote: 9-aye, 0-nay, 0-abstain, 1-recuse, 1-absent. Motion passed. Dr. Dodell was recused and did not participate in the matter.

Motion: Dr. Caputo moved to recommend that the Board issue a letter of concern against J.M. for filling a complaint with false allegations. Second: Dr. Harris Vote: 9-aye, 0-nay, 0-abstain, 1-recuse, 1-absent. Motion passed. *Dr. Dodell was recused and did not participate in the matter.*

38. 202400228

Audio Start Time: 3:43:45

Motion: Dr. Harris moved to identify violations of A.R.S. § 32-1201.01(14) and (24).

Second: Dr. Caputo

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

Motion: Dr. Caputo moved to recommend that the Board offer disciplinary action, requiring the completion of 4 hours of CE in risk management and completion of the PIP program for record keeping and management. Second: Dr. Harris Vote: 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Dr. Fukami moved to recommend that the Board consider whether restitution is owed to the patient for improper placement of two implants. The amount is unable to be determined based on the information provided. Second: Dr. Caputo

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

Audio Start Time: 3:53:40

Motion: Dr. Harris moved to identify violation of A.R.S. § 32-1201.01(14). **Second:** Dr. Caputo **Vote:** 10-aye, 0-nay, 0-abstain, 0-recuse, 1-absent. Motion passed.

Motion: Dr. Caputo moved to recommend that the Board offer a disciplinary agreement, requiring the completion of 6 hours of CE in diagnosis and treatment planning and root canal treatment and 3 hours in managing complications with endodontically involved teeth and appropriate referral. In addition, to order restitution in the amount of \$342 to the insurance and \$98 to the patient. **Second:** Dr. Harris

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

Dr. Dodell departed the meeting at 5:02 p.m.

41. 202400244

Audio Start Time: 4:02:25

Motion: Dr. Harris moved to identify violation of A.R.S. § 32-1201.01(14). **Second:** Dr. Caputo **Vote:** 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

Motion: Dr. Harris moved to recommend that the Board offer a disciplinary agreement, requiring the completion of 8 hours of CE in diagnosis and treatment planning in restorations with removable and complete dentures and 4 hours in risk management.

Second: Dr. Caputo **Vote:** 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

43.202400277

Audio Start Time: 4:10:00

Motion: Dr. Harris moved to recommend that the Board issue a non-disciplinary order, requiring the completion of 4 hours of CE in risk management and 4 hours in management of medically complex patients. Second: Dr. Motahari Vote: 9-aye, 0-nay, 0-abstain, 0-recuse, 2-absent. Motion passed.

V. COMPLAINT LOG

There was no discussion.

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VII. SUMMARY OF CURRENT EVENTS None were discussed.

- VIII. DISCUSSION AND POSSIBLE ACTION ITEMS FOR FUTURE MEETING AGENDAS None.
- IX. NEXT COMMITTEE MEETING DATE A. October 29, 2024
- X. ADJOURNMENT Dr. Caputo adjourned the meeting at 5:15 p.m.