



Douglas A. Ducey,  
Governor

# Arizona State Board of Dental Examiners

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

1740 West Adams Street, Suite 2470  
Phoenix, Arizona 85007  
P: 602.242.1492  
E: [info@dentalboard.az.gov](mailto:info@dentalboard.az.gov)  
W: [www.dentalboard.az.gov](http://www.dentalboard.az.gov)

## OPEN SESSION MINUTES

### March 4, 2022 Board Meeting

On the aforementioned date, members of the Arizona State Board of Dental Examiners’ (“Board”) held a board meeting at the Board’s office, in Boardroom C, 1740 West Adams Street, Phoenix, Arizona 85007. The meeting was also held virtually and telephonically due to the COVID-19 pandemic. The Board met in executive session during its consideration of agenda items IV.D.1 and IV.H.1 as stated herein.

#### BOARD MEMBERS

	<i>Anthony Herro, DDS</i>	President and Licensed Dentist Member
X	Lisa B. Bienstock, DMD	Vice-President and Licensed Dentist Member
	<i>Morgan B. Burg</i>	Business Entity Member
⌚	<i>Edward H. Christensen, DDS</i>	Licensed Dentist Member
	Aditya Dynar	Public Member
X	<i>Tamer El-Gendy</i>	Licensed Dentist Member
⌚	<i>Nick Goodman</i>	Public Member
⌚	Marilyn J. McClain, RDH	Licensed Hygienist Member
⌚	<i>Russell Jeffrey Morrow, DDS</i>	Licensed Dentist Member
	<i>Vicki B. Penna, RDH</i>	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>Scott Donald, Esq</i>	Assistant Attorney General
	<i>John W. Dovgan, DDS</i>	Chief Investigator
	Julie Cutler, DMD	Deputy Chief Investigator
	<i>Sherrie Biggs</i>	Assistant Deputy Director
	<i>Lisa Schmelling</i>	Chief Compliance Officer
	<i>Selena Acuna</i>	Compliance Officer
	<i>Yazmin Bustamante</i>	Executive Assistant
	Jessica Thomas	Rules Administrator

*Staff members in italics participated in-person*

**GUESTS PARTICIPATING AND/OR PRESENT**

<i>Brianna Jagaelski, Esq.</i>	Attorney for Respondent
<i>Chris Winterholler</i>	Respondent
Michele Thompson, Esq.	Attorney for Respondents
Kevin Mulmed	Respondent
<i>Complainant</i>	Case No. 202000225
<i>Leah Schachar, Esq.</i>	Attorney for Respondent
<i>Complainant</i>	Case Nos. 202000237, 202100032
<i>D. O.</i>	Case Nos. 202000237, 202100032
<i>Timothy Cadden</i>	Respondent
<i>Jackson Kuo</i>	Respondent
<i>Truman Seiler</i>	Respondent
<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
<i>Scott Pace</i>	Respondent
<i>Edward Kuch</i>	Respondent
<i>David Benson</i>	Respondent
<i>Ralph Juriansz</i>	Respondent
<i>Complainant</i>	Case No. 202100237
<i>Interpreter</i>	Case No. 202100237
<i>Sam Jacoby</i>	President, CRDTS, Inc.
Kim Laudenslager	Director of Communication and Education, CRDTS, Inc.
<i>Hugh T. Keeffe</i>	Respondent
<i>Kevin Earle</i>	AzDA Consultant
<i>John Patterson, DMD PLC</i>	Guest
<i>Sabrina McEuen</i>	Guest
<i>Jodi Jackson</i>	Guest
<i>Madalynn Zimmer</i>	Guest
<i>Jessica Kennah</i>	Guest
<i>Ariel Soltero</i>	Guest
<i>Arvy Steele</i>	Guest
<i>Oscar Romero</i>	Guest
<i>Jelena Bulatovic</i>	Guest

*Guests in italics participated in-person*

**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.

*Dr. Morrow joined the meeting at 8:04 a.m.*

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

Dr. Seaman declared a conflict of interest with agenda item no. IV.B.2.

Dr. Dovgan declared a conflict of interest with agenda item no. IV.B.5.

Dr. Cutler declared a conflict of interest with agenda item no. IV.F.1.

Dr. Morrow declared a conflict of interest with agenda item no. IV.E.1.

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

- A. Discussion and approval of the Open Session Minutes from the January 28, 2022 board meeting.
- B. Discussion and approval of the Executive Session Minutes from the January 28, 2022 board meeting.

**Motion:** Dr. Herro moved to approve the open session and executive session minutes from the January 28, 2022 board meeting.

**Second:** Mr. Goodman

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

**IV. 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. Kouyoumdjian, Raffy, DMD

Dr. Kouyoumdjian was not present during the Board's consideration of his application for licensure. The Board proceeded to discuss that in 2010 the applicant's registration expired, but continued to issue prescriptions. The Board took into consideration that the applicant moved out of state at the time and rectified the situation.

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

**Second:** Dr. Morrow

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

*Mr. Goodman voted against the motion.*

2. Newman, Frank R., DMD

Dr. Newman was not present during the Board's consideration of his application for licensure. The Board proceeded to review the incident regarding negligent placement of implants with a settlement in 2017 and discussed that with settlement cases there may sometimes not be a true deviation.

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

**Second:** Dr. Herro

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

*Ms. McClain joined the meeting at 8:14 a.m.*

- B. Review of Investigation(s)

1. 201900091; Winterholler, Chris

Dr. Winterholler made a statement to address the allegations regarding the All-on-4 dental implants and elaborated on the patient's oral health conditions which included extensive dental decay, a demolished dentition, an hourglass mandible amongst other factors and

ultimately requested that the Board dismiss the case. Dr. Dovgan proceeded to provide the Board an overview of the case and indicated that different restorative options could have been provided. Dr. Winterhaller answered additional questions regarding the provisionals and stated that they broke two or three times. The Board confirmed that there was no new information since the consent agreement was drafted.

**Motion:** Dr. Herro moved to uphold the previous consent agreement that was offered in 2020. If rejected, invite the respondent to a formal interview.

**Second:** Mr. Goodman

Mr. Dynar expressed concern on the language of lines five through ten regarding restitution.

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

*Ms. Penna voted against the motion.*

*Mr. Goodman temporarily departed the meeting at 8:42 a.m.*

2. 202000235; Mulmed, Kevin

Dr. Mulmed was available during the Board's consideration of the case. Ms. Thompson made a statement on behalf of Dr. Mulmed to address the potential deviations regarding implant placement and implant documentation. Ms. Thompson clarified that Dr. Mulmed is retired and that another doctor placed the implant. Ms. Thompson also addressed the deviation regarding lack of follow-up or referral for the broken screw and explained what steps were taken to address the issue. Mr. Edmonson stated that pursuant to A.R.S. §32-3202 a license is suspended on the date it would otherwise expire or terminate pending the outcome of an investigation.

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

**Second:** Dr. Morrow

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

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

## IX. NOTICES OF PROPOSED RULEMAKING (“NPR”)

The Board reviewed and discussed the oral proceeding public comments. Mr. Edmonson provided an overview of the requested changes which included adding cultural competency as an option for CE courses, eliminating language pertaining to local anesthesia and nitrous oxide courses and certification, eliminating language in rules regarding placement of interrupted sutures and the requirement of a certification for the procedure as it is no longer part of a dental hygienist's scope of practice. Ms. Penna stated that incorporating cultural competency as an acceptable CE course would be beneficial. After further discussion, the Board directed staff to work with Jessica Thomas to incorporate the requested amendments and bring them back for review at a future meeting. Mr. Dynar expressed opposition to the direction given to board staff as it would further delay the rulemaking process.

**IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION****G. Review of Executive Director Complaint Terminations and Subsequent Grievances Filed by the Complainants – A.R.S. § 32-1263.03****1. 2020000225: Winterholler, Chris**

The Complainant made a statement to express the complications and discomfort experienced with the All-on-4 dental implants. Dr. Winterholler proceeded to address the allegations and indicated that the patient was delivered a final prosthesis. Dr. Dovgan subsequently informed the Board that there were no deviations.

**Motion:** Dr. Herro moved to uphold the Executive Director Complaint Termination.

**Second:** Dr. Morrow

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

**B. Review of Investigation(s)****3. 202000237; Benting; Douglas and 4. 202100032; Marischen, Paul F.**

The Complainant made a statement and indicated that her complaints are against Drs. Benting and Marischen. The complainant indicated that she has had full mouth temporaries for three and a half years and that Drs. Benting and Marischen did not comply with A.R.S. § 32-1264(A) to keep patient records. Ms. Schacher addressed the allegations of the case on behalf of Dr. Benting and indicated that adjustments were made, that the patient was provided a letter of termination and that a partial refund was issued. Ms. Schacher further clarified that HIPAA permits doctors to discuss and consult. Dr. Dovgan informed the Board that he did not find deviations from the standard of care.

**Motion:** Dr. Morrow moved to dismiss both cases on Drs. Benting and Marischen.

**Second:** Dr. Christensen

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

**5. 202100209; Spillers, Jeffrey**

Ms. Thompson made a statement on behalf of Dr. Spillers and indicated that the patient was seen for three extractions and was instructed to go to the emergency room if the swelling did not resolve. Ms. Thompson further stated that they were informed of the patients passing the following day. After discussion, the Board consensus was that the patient was properly treated and discharged.

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

**Second:** Ms. Penna

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

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

*The Board took a break from 9:30 a.m. to 9:40 a.m.*

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

**VIII. RENEWAL OF PERMIT, EDUCATION AND CONTINUED COMPETENCY**

Dr. Herro informed the Board of the Anesthesia & Sedation (“A&S”) Committee’s recommendation to interpret the rule based on the level of sedation; not the route of admission. The Board directed staff to draft a substantive policy to clarify the requirements outlined in A.A.C. R4-11-1306 and 1307 when renewing a Section 1301, 1302 and/or 1303 permit to review at a future meeting. In addition, the A&S Committee recommended that permit holders that do not have the required caseload reach out to a Board approved permit holder to shadow them and acquire the required cases to renew their permit.

**IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION****C. Review of Investigation(s) – Case(s) Recommended for a Letter of Concern****1. 202100160; Cadden, Timothy P.**

Dr. Cadden was available during the Board’s consideration of the case to make a statement. Dr. Cadden discussed the technicalities of the procedure and indicated that the patient was reimbursed. During discussion, the Board requested clarification on Dr. Cadden’s use of rubber dams.

**Motion:** Dr. Morrow moved to issue a non-disciplinary order requiring the completion of 3 hours of hands on CE in endo. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

**Second:** Dr. Herro

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

*Dr. Christensen, Mr. Dynar, Ms. McClain and Dr. Seaman voted against the motion.*

**Motion:** Dr. Christensen moved to issue a letter of concern for failure to use a rubber dam.

**Second:** Dr. Herro

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

*Dr. Morrow and Ms. Penna voted against the motion.*

**2. 202100186; Higgs, Richard Brian**

The respondent was not present during the Board’s consideration of the case. Dr. Dovgan proceeded to provide the Board with an overview of the investigation and indicated that there was lack of documentation pertaining to the laser used for gingivectomy.

**Motion:** Dr. Morrow moved to issue a letter of concern for lack of documentation on the laser usage.

**Second:** Dr. Herro

After further discussion, Dr. Morrow rescinded his motion.

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

**Second:** Dr. Herro

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

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

1. 202100066-AO; Endicott, Thomas A.

The respondent was not present during the Board’s consideration of the case.

**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. Morrow

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

*The Board entered into executive session at 10:03 a.m.*

*The Board returned to open session at 10:16 a.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 and facts and potential statutory violations found in the consultants report.

**Second:** Dr. Morrow

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

E. 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. 202000230-MP; Kuo, Jackson Tai Hong

Dr. Kuo was available during the Board’s consideration of the case and made a statement to address the deviation regarding lack of informed consent. Dr. Kuo indicated that staff shredded the patient’s file prior to scanning it; however, he has since improved the scanning process in his dental practice. Dr. Dovgan proceeded to indicate that the deviations included no informed consent for the implants, the bone graft and the extraction and failure to refer to an oral surgeon for the parasthesia in over a year.

**Motion:** Dr. Herro moved to issue a non-disciplinary consent agreement, requiring the completion of 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. Online courses are acceptable due to COVID-19 restrictions.

**Second:** Ms. Penna

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

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

2. 202100198; Seiler, Truman John

Dr. Seiler was available during the Board’s consideration of the case. Mr. Tonner made a statement on behalf of Dr. Seiler to address the documentation issues and indicated that the dental practice reimbursed the insurance company for the bridge in question. Dr. Dovgan proceeded to enlist the deviations for lack of documentation.

**Motion:** Dr. Herro moved to issue a letter of concern for failure to maintain records.

**Second:** Dr. Christensen

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

3. 202100210; Pace, Scott

Dr. Pace was available during the Board's consideration of the case and made a statement to acknowledge the lack of documentation and clarified that a rubber dam was used during the procedure.

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

**Second:** Dr. Herro

Dr. Dovgan pointed out that the use of a rubber dam, Apex locator and type of irrigation were not documented and recommended a letter of concern. The Board further discussed the standard for documentation.

**Motion:** Ms. McClain moved to issue a letter of concern for lack of documentation.

**Second:** Dr. Herro

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

*Dr. Morrow voted against the motion.*

4. 202100220; Kuch, Edward V.

Dr. Kuch was available during the Board's consideration of the case. Mr. Tonner addressed the deviations for lack of documentation and clarified that the paresthesia came as a result of surgeries; not the treatment provided by Dr. Kurch.

**Motion:** Dr. Morrow moved to issue a letter of concern for lack of documentation.

**Second:** Dr. Herro

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

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

1. 202000255-AO; Benson, David A.

Dr. Benson was available during the Board's consideration of the matter to answer questions. Dr. Dovgan proceeded to provide the Board an overview of potential deviations, including IV Sedation / General Anesthesia without supplemental oxygen available and in continuous use, elective IV Sedation / General Anesthesia without deliberate preoxygenation prior to induction, failure to provide reversal drugs, Naloxone and Flumazenil early during the Desaturation / Apnea / Airway Emergency, failure to utilize an oral or nasal airway when attempting to ventilate with a bag valve mask, ventilating a patient in desaturation with bag valve mask without supplemental oxygen at 15 LPM, failure to provide high flow oxygen during an emergent desaturation / respiratory emergency during IV Sedation, documenting the use of the drug oxygen and

preoxygenation when it did not occur and failure to alter automatic chart template entries to match what actually happened during the procedure. Dr. Herro commented that the deviations rise to unprofessional conduct. Dr. Benson subsequently explained the circumstances surrounding the complications with the use of oxygen.

**Motion:** Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, and 18 hours in sedation, of those, 12 hours didactic and 6 hours to be completed hands on. The CE hours shall be in addition to the hours required for license renewal and shall be completed within twelve months. A formal interview can be requested if not accepted.

**Second:** Dr. Christensen

Roll call

*Dr. Herro– aye*

*Ms. Burg– aye*

*Dr. Christensen– aye*

*Mr. Dynar– aye*

*Ms. McClain– aye*

*Dr. Morrow– aye*

*Ms. Penna– aye*

*Dr. Seaman– aye*

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

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

2. 202000286; Nordean, Jason H.

The respondent was not available during the Board's consideration of the case. Dr. Dovgan proceeded to provide the Board an overview of the investigation. The deviations included missing consents for treatment, missing treatment plan and signatures on multiple documents, missing periodontal charting in the records provided and no periodontal or hygiene treatment provided before restorative treatment.

**Motion:** Dr. Morrow moved to uphold IIRC's recommendation to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 3 hours in periodontal and restitution of six hundred and eight dollars for the buildups. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months. Online courses are acceptable due to COVID-19 restrictions.

**Second:** Dr. Herro

Roll call

*Dr. Herro– aye*

*Ms. Burg– aye*

*Dr. Christensen– aye*

*Mr. Dynar– aye*

*Ms. McClain– aye*

*Dr. Morrow– aye*

*Ms. Penna– aye*

*Dr. Seaman– aye*

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

3. 202100143; Juriansz, Ralph L.

Dr. Juriansz was available during the Board’s consideration of the case. Mr. Tonner made a statement on behalf of Dr. Juriansz to address the allegations and agreed that there was lack of documentation. Dr. Juriansz proceeded to explain why he did not use a rubber dam and discussed the technicalities regarding the open margin on 6 and the lingual decay remaining on 9. The Board further reviewed the case and expressed concern on Dr. Juriansz performing a fixed partial dental treatment without a comprehensive exam.

**Motion:** Dr. Herro moved to offer a disciplinary consent agreement, requiring the completion of 4 hours of CE in risk management, 6 hours in crown and bridge, 4 hours in diagnosing and treatment planning and 4 hours in endo. The CE hours shall be in addition to the hours required for license renewal and shall be completed within twelve months. The courses shall be taken in person.

**Second:** Dr. Morrow

*Dr. Herro amended his motion to include full restitution for the root canal on 9 and FPD on 7 through 9.*

*Roll call*

*Dr. Herro– aye*

*Ms. Burg– aye*

*Dr. Christensen– nay*

*Mr. Dynar– aye*

*Ms. McClain– aye*

*Dr. Morrow– aye*

*Ms. Penna– nay*

*Dr. Seaman– aye*

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

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

2. 202100202; Guelinas, Jeffrey

There was no one present to speak on this case. Dr. Dovgan proceeded to inform the Board that Dr. Guelinas did not place the implants for which the patient filed the complaint.

**Motion:** Dr. Christensen moved to uphold the Executive Director Complaint Termination.

**Second:** Dr. Herro

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

The Board further directed staff to open a complaint against Matthew Phillips.

## 3. 202100237; Seymour, Andrew

The complainant made a statement to indicate that she did not agree to the changes in the treatment plan and explained the complications experienced with the bridge. Dr. Dovgan proceeded to inform the Board that Dr. Seymour was the orthodontist and that another doctor was responsible for the crown and bridge.

**Motion:** Ms. Penna moved to uphold the Executive Director Complaint Termination.

**Second:** Dr. Herro

After further discussion, Ms. Penna rescinded her motion. The Board directed Board staff to confirm if a refund was issued to the complainant and table the matter to a future meeting.

*The Board took a break from 11:26 a.m. to 11:40 a.m.*

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

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

Dr. Sam Jacoby, CRDTS’ President and Ms. Kim Laudenslager, Director of Communication and Education provided information regarding CRDTS’ exam platform for patient based and simulated patient examinations and other CRDTS enhancements. The Board directed staff to agenize discussion of a membership with CRDTS for a future meeting.

*Mr. Goodman rejoined the meeting at 11:47 am.*

*Dr. Christensen departed the meeting at 12:02 p.m.*

**IV. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION****H. Formal Interview(s)**

## 1. 202100176; Keeffe, Hugh T.

Dr. Keeffe was available during the Board’s consideration of the case. Mr. Tonner was also available in representation of Dr. Keeffe and indicated that they did not have new information for the Board to review. Dr. Cutler proceeded to provide an overview of deviations which included inconsistent prescribed medication records documented than what was prescribed, missing documentation of medical history review and treatment notes, missing signed consent forms and diagnosis and missing postoperative x-rays of perio infections. Other deviations found included inadequate implant position placement for over dental construction and inconsistent billing. Dr. Cutler further stated that a full refund was issued to the patient. Mr. Tonner addressed the infection issues and indicated that the patient was referred to an oral surgeon. In addition, Mr. Tonner conceded to the allegations regarding records and disagreed on the allegations of inadequate implants, CDEF referral and billing irregularities. Dr. Keeffe proceeded to answer the Board’s questions regarding the patient’s medical history, oral health and the discrepancies between his records and the pharmacy’s records on prescriptions. The Board further reviewed the amount of antibiotics prescribed, local anesthetic used for the procedure and informed Dr. Keeffe that it is standard of care to take blood pressure prior to surgery. The Board expressed concern for patient safety as a result of Dr. Keeffe’s responses. Mr.

Thompson stated that from a due process standpoint, the information regarding the tilted placement of the implants should be thrown out and indicated that Dr. Keeffe has been practicing for forty years without issues.

**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. Morrow

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

*The Board entered into executive session at 1:05 p.m.*

*The Board returned to open session at 1:38 p.m.*

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

The Board requested clarification on Dr. Keeffe and Mr. Tonner's statement of not having problems in forty years. Board staff confirmed that Dr. Keeffe has had previous complaints. The Board expressed concern on Dr. Keeffe's statement of not knowing what CDEF is and concurred that CDEF is a standard term understood in the dental profession and further expressed concern for the public's safety due to Dr. Keeffe's lack of pharmacology knowledge and previous board complaints. The Board commented that providers need to have a profound understanding in pharmacology and medical history when treating elevated risk patients.

**Motion:** Given that Dr. Keeffe treats an adult medically compromised population and seems to lack understanding of medical history complexities and pharmacology, there is a clear and present danger to his patients. Dr. Herro moved for a summary suspension of Dr. Keeffe's license, pending a formal hearing for revocation proceedings.

**Second:** Ms. McClain

Mr. Tonner requested that the Board consider an alternative for suspension of practice if Dr. Keeffe completes CEs. During discussion, the Board considered whether CEs would be beneficial due to the fact that extensive CEs have been ordered in previous complaints.

*After further discussion, Dr. Herro rescinded his motion.*

Mr. Tonner stated that his client would be willing to enter a disciplinary consent agreement for suspension from now until CEs are completed and voluntarily surrender his license summer of 2023. The Board considered eliminating Dr. Keeffe's ability to administer local anesthesia and prescription writing for a year until Dr. Keeffe surrendered his license to protect the public without creating an access to care issue; however, concluded that the primary interest is public safety.

**Motion:** Mr. Goodman moved for a summary suspension of Dr. Keeffe's license, pending a formal hearing for revocation proceedings with pharmacological practice, risk management and unprofessional conduct as the basis for danger of patient safety in addition to infection control, ethics, maintenance of records, lack of records as potential violations.

**Second:** Ms. Penna

Roll call

*Dr. Herro– nay*

*Ms. Burg– nay*

*Mr. Dynar– nay*

*Mr. Goodman– aye*

*Ms. McClain– aye*

*Dr. Morrow– nay*

*Ms. Penna– aye*

*Dr. Seaman– nay*

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

The Board further considered offering a disciplinary consent agreement with practice restrictions in local anesthesia and prescription writing, requiring the licensee to voluntarily surrender his license, requiring the completion of CEs in risk management, infection control and instituting a monitoring service. However, after extensive discussion, the Board concurred that the public needs care from a competent provider.

**Motion:** Dr. Herro moved to offer a disciplinary consent agreement to have Dr. Keeffe relinquish his license within 48 hours; otherwise, hold an emergency meeting to pursue a summary suspension.

**Second:** Mr. Goodman

Roll call

*Dr. Herro– aye*

*Ms. Burg– aye*

*Mr. Goodman– aye*

*Mr. Dynar– aye*

*Ms. McClain– aye*

*Dr. Morrow– aye*

*Ms. Penna– aye*

*Dr. Seaman– aye*

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

*Dr. Seaman departed the meeting at 2:32 p.m.*

**X. EXECUTIVE DIRECTOR'S REPORT**

D. Update on 2022 Legislative Session Bills

1. Dental Specific:

a. SB1074

b. SB1112

c. SB1240

d. SB2167

e. SB1316

Mr. Edmonson provided the Board an update on dental specific legislative bills which included the removal of language to mandate an AED machine in each place of practice due to lack of support, an amendment to strike psychomotor, language to clarify the renewal timeframe and to allow the Board to subpoena records free of charge. In addition, Mr. Earle informed the Board that there was a change in the definition of members of the investigative committee that says their license should be unencumbered and unrestricted. Mr. Earle further updated the Board on SB1074 regarding botox administration and indicated it is expected to go through the house on consent. Mr. Earle also indicated that the AzDA is opposed to the bill that amends dental hygienists scope of practice to diagnose and treat.

## 2. Other Impactful Bills

Mr. Edmonson informed the Board that SB1568 reforms boards with a timeline of one hundred-eighty days to complete investigations. The Board consensus was to adopt a neutral position with SB1568. In addition, Mr. Earle informed the Board that Dr. Cobb, Chairperson of the Appropriations Committee is aware of the Board's budgetary needs for four FTE and indicated they will do their best to help the Board be appropriately staffed.

## V. CONSENT AGENDA

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

1. Conner Vinikoor, DDS (*Anesthesia and Sedation Evaluator*)

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

- |              |               |
|--------------|---------------|
| 1. 202000170 | 9. 202000267  |
| 2. 202000189 | 10. 202100159 |
| 3. 202000196 | 11. 202100165 |
| 4. 202000210 | 12. 202100166 |
| 5. 202000226 | 13. 202100172 |
| 6. 202000227 | 14. 202100178 |
| 7. 202000233 | 15. 202100187 |
| 8. 202000240 | 16. 202100193 |

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

1. 201900047; Phillips, Matthew D.
2. 201900074; Garagozloo, Behzad
3. 201900325-AO; Arnall, Matthew
4. 202000004; Farrell, Jack
5. 202000063; Yole, Jason
6. 202000153-MP; Schmidtke, Gabriel
7. 202000163-MP; Shanaz, Pourya

**Motion:** Dr. Herro approved all items under the consent agenda.

**Second:** Mr. Goodman

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

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

**I. Review of Prior Board Action/Notice of Violation(s) – A.R.S. §§ 32-1288 & 32-3227**

1. 202200031; Froehlich, Denis J.

**Motion:** Dr Herro moved to rescind the Board’s vote from January 28, 2022 to file an injunction in Superior Court and directed board staff to post on the board's public website that Denis Froehlich engaged in the unauthorized practice of dentistry.

**Second:** Dr. Morrow

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

**X. EXECUTIVE DIRECTOR’S REPORT**

**A. Budget Update**

Mr. Edmonson directed the Board’s attention to the budget report in the packet.

**B. Agency Operations**

Mr. Edmonson introduced Terry Bialostosky as a Compliance Consultant. Mr. Edmonson further informed the Board that the delay in processing applications is due to lack of staff and has requested appropriation for additional staff.

**C. Investigative Committee**

Mr. Edmonson indicated that the Committee had a meeting in January and is scheduled to meet again in March.

**VI. CALL TO THE PUBLIC**

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

**XI. SUMMARY OF CURRENT EVENTS**

There was no discussion.

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

Dr. Herro requested an update on the cases that have been referred to OAH and that have not made it there for a future meeting agenda. In addition, Dr. Herro requested that staff agendize the substantive policy and an update from the third party auditing company regarding Dr. Lam’s case.

**XIII. NEXT BOARD MEETING DATE**

- A. April 1, 2022

**XIV. ADJOURNMENT**

**Motion:** Ms. Penna moved to adjourn the meeting at 3:04 p.m.

**Second:** Dr. Herro

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