



# Arizona State Board of Dental Examiners

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

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## OPEN SESSION MINUTES

**May 12, 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 A, 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 items VI.J.1 and VI.F.4 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
🕒	Morgan B. Burg	Business Entity Member
🕒	Edward H. Christensen, DDS	Licensed Dentist Member
🕒	Aditya Dynar	Public Member
X	Tamer El-Gendy, DMD	Licensed Dentist Member
	<i>Nick Goodman</i>	Public Member
🕒	<i>Jaselyn K. Moffett, RDH</i>	Licensed Hygienist Member
	<i>Russell Jeffrey Morrow, DDS</i>	Licensed Dentist Member
X	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>Robert Pulver, Esq.</i>	Assistant Attorney General
	John W. Dovgan, DDS	Chief Investigator
	<i>Sherrie Biggs</i>	Assistant Deputy Director
	<i>April Romero</i>	Chief Compliance Officer
	<i>Selena Acuna</i>	Compliance Officer
	<i>Mary Ford</i>	Compliance Officer
	<i>Yazmin Bustamante</i>	Executive Assistant

*Staff members in italics participated in-person*

#### **GUESTS PARTICIPATING AND/OR PRESENT**

	<i>Jeffery J. Tonner, Esq.</i>	Attorney for Respondents
	<i>Michele Thompson, Esq.</i>	Attorney for Respondents

<i>Leah Schachar, Esq.</i>	Attorney for Respondents
<i>David Z. Barget</i>	Respondent
David E. Eccker	Respondent
<i>Danny J. Holtzclaw, DDS</i>	Applicant
Topelson, Ian M., DMD	Applicant
<i>Patrick Stanley, Esq.</i>	Attorney for Respondent
Mason Rice	Respondent
Roxana Imanian	Respondent
<i>Rita Bustos, Esq.</i>	Attorney for Respondent
<i>Todd Sadowski</i>	Respondent
<i>William Balestrino</i>	Guest
Teresa Watson	Court Reporter
<i>Trent Smallwood</i>	Respondent
<i>Morton Krieg</i>	Respondent
<i>Jefferson Hayden, Esq.</i>	Attorney for Respondent
<i>Van Dusen, Justin</i>	Respondent
<i>Cody Hall, Esq.</i>	Attorney for Respondent
<i>Mouzoon, Sassan</i>	Respondent
<i>Rachel De Avila</i>	Respondent
<i>Bryan De Avila</i>	Respondent
Leeza Birko, Esq.	Attorney for Respondent

*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.

**II. INTRODUCTION OF ASSISTANT ATTORNEY GENERAL, ROBERTO PULVER, AS THE BOARD'S NEW TEMPORARY LEGAL COUNSEL**

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

Dr. Herro declared a conflict of interest with agenda item no. V.C.1.  
 Dr. Morrow declared conflicts of interest with agenda item nos. V.C.3 and VI.C.7.  
 Dr. Christensen declared a conflict of interest with agenda item no. V.A.2.

*Ms. Moffett joined the meeting at 8:03 a.m.*

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

- A. Discussion and approval of the Open Session Minutes from the March 31, 2023 board meeting.
- B. Discussion and approval of the Executive Session Minutes from the March 31, 2023 board meeting.
- C. Discussion and approval of the Open Session Minutes from the April 19, 2023 special board meeting.

**Motion:** Dr. Herro moved to approve the minutes from the March 31st and April 19th board meetings.

**Second:** Dr. Morrow

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

## V. CONSENT AGENDA

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

1. 202000367; Thulasidas, Shreedevi
2. 202100011-MP; Williams, J. Ladd (*Christensen conflicted*)
3. 202100022; Valencia, Juan (*Bienstock conflicted*)
4. 202100079; Levy, Arlyn
5. 202200145; Sedell, Alan
6. 202200149; Tran, My-Anh
7. 202200290; Prescott Valley Dental Group (*Bienstock conflicted*)

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

1. 202200181; Hossieni, Rozbeh
2. 202200233; Kloss, David
3. 202200234; Salem, Danny
4. 202200240; Madi, Shahin
5. 202200243; Stein, Bruce Curtis
6. 202200248; Paje, Sarah
7. 202200259; Madi, Shahin
8. 202200267; Lill, Lauren
9. 202200274; Gale, Kelby
10. 202200283; Carroll, Jacob
11. 202200285; Barget, David Z.
12. 202200287; Easton, Nathan M.
13. 202200288; Oracle Modern Dentistry & Orthodontics
14. 202200289; Oracle Modern Dentistry & Orthodontics
15. 202200292; Yamamoto, Tracey
16. 202200301; Nguyen, Tuan-Anh
17. 202200304; Macdonald, Robert A.
18. 202200312; Schindler, Betty
19. 202200313; Tee, Daniel
20. 202200319; San Tan Dental Group
21. 202200320; Ardalan, Shahab
22. 202200321; Davis, Romona
23. 202200327; Huber, Kaylan

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

1. 202200228; Toal, Maureen (*Herro conflicted*)
2. 202200257; Nguyen, Vivian
3. 202200299; Lawson, Kyrah
4. 202200307; Carter, Ryan Dean

5. 202200322; Nielsen, Joseph
6. 202200325; Eccker, David E.

Dr. Morrow requested to pull some cases from the consent agenda for discussion.

**Motion:** Dr. Herro moved to pull agenda items V.A.3, V.B.4, V.B.11, V.B.20, V.C.1, V.C.2, V.C.3, V.C.5 and V.C.6.

**Second:** Dr. Morrow

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

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

**Second:** Dr. Morrow

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

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

2. 202100011-MP; Williams, J. Ladd

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

**Second:** Mr. Dynar

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

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

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

3. 202200299; Lawson, Kyrah

**Motion:** Dr. Herro moved to issue a letter of concern.

**Second:** Ms. Moffett

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

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

1. 202200228; Toal, Maureen

The Board tabled the matter to a future meeting.

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

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

4. 202200240; Madi, Shahin

During the Board's discussion, Dr. Morrow pointed out that there was missing standard documentation such as lot numbers for the implants and torques.

**Motion:** Dr. Morrow moved to issue a letter of concern for record keeping issues for not having lot numbers and torques for the implants.

**Second:** Dr. Herro

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

## 11. 202200285; Barget, David Z.

Dr. Barget answered the Board's questions pertaining to the timing of treatment and the patient's medical history.

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

**Second:** Dr. Herro

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

## 20. 202200319; San Tan Dental Group

During the Board's review, staff confirmed that a separate case has been opened against the licensee identified in the consultant's report.

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

**Second:** Dr. Herro

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

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

## 2. 202200257; Nguyen, Vivian

The Board reviewed the consultant's report and considered the perio was acceptable.

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

**Second:** Mr. Goodman

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

## 5. 202200322; Nielsen, Joseph

The Board reviewed the consultant's report and concurred that the treatment was aggressive. Based on the x-rays more conservative treatment could have been offered considering the amount of decay.

**Motion:** Dr. Morrow moved to find unprofessional conduct and offer a disciplinary consent agreement, requiring the completion of 6 hours of CE in treatment planning in diagnosis and pedo and 4 hours in risk management; based on the findings in the consultant's report and discussion held during the meeting. The CE hours shall be in addition to the hours required for license renewal and shall be completed within six months.

**Second:** Dr. Herro

During the Board's discussion, Dr. Dovgan stated that there were only two teeth that had incipient or minor decay.

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

## 6. 202200325; Eccker, David E.

The Board reviewed the consultant's report and discussed that there was a perforated canal when doing a root canal on tooth number 20. The Board considered issuing non-disciplinary action because it was a single rooted tooth and did not have much decay.

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

**Second:** Dr. Herro

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

Later in the meeting, Dr. Eccker requested to speak on the matter.

**Motion:** Dr. Morrow moved to rescind the motion for a non-disciplinary order to allow Dr. Eccker to speak.

**Second:** Dr. Herro

**Vote:** 5-aye, 1-nay, 0-abstain, 0-recuse, 3-absent. Motion passed.

*Dr. Morrow voted against the motion.*

Dr. Eccker made a statement to indicate that he treated the patient about 6 months prior to selling his practice. Since then, he has started his endodontic residency. Dr. Eccker further stated that the case was presented to the faculty in the department of endodontics at the University of Kentucky and indicated that the materials as well as the methods used to repair the perforation are at the standard of care for which the AAE guidelines would agree with. Additionally, the risk management assessment from the AAE would put the case as something as his capabilities. Dr. Eccker also explained that the patient saw multiple dentists and had the teeth extracted shortly after and stated that it is unknown if the perforation had anything to do with it. Dr. Eccker proceeded to answer the Board's questions and indicated that the apex locator went off around 16 millimeters, but the tooth was longer. Dr. Eccker also clarified that the patient was provided a refund. The Board proceeded to discuss the matter.

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

**Second:** Mr. Dynar

The Board further discussed the matter and clarified that the perforation was a mistake.

*Mr. Goodman rescinded the motion.*

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

**Second:** Dr. Herro

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

*Mr. Dynar and Dr. Seaman voted against the motion.*

## **VI. ITEMS FOR BOARD REVIEW, DISCUSSION AND POSSIBLE ACTION**

### **J. Initial Review of Felony Charges**

#### **1. Gold, Daniel**

Ms. Thompson was present on behalf of Dr. Gold and requested to go into executive session to discuss privileged information under HIPAA.

**Motion:** Dr. Herro moved for the Board to enter into executive session to obtain legal advice and invite Ms. Thompson to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) and (3).

**Second:** Dr. Morrow

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

*The Board entered into executive session at 8:25 a.m.*

*The Board returned to open session at 9:10 a.m.*

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

Mr. Edmonson proceeded to read the findings of facts of the draft disciplinary consent agreement which show that the Maricopa County Attorney's Office charged the respondent with eight felony counts and one misdemeanor count. During investigation, it was discovered that the victims were previous dental patients. After review of the charges that the respondent admitted to, the Board stated that Dr. Gold used classified patient information to create identity theft. The Board also stated that its primary concern is to protect the public and considered pursuing a summary suspension with the intent to revoke Dr. Gold's license. During discussion, the Board considered allowing the respondent time to review and sign the offered disciplinary consent agreement.

**Motion:** Dr. Herro moved to re-offer Dr. Gold the disciplinary consent agreement that was previously offered for immediate voluntary surrender of his license and table the matter until 3:00 p.m.

**Second:** Mr. Goodman

The Board further discussed that each HIPAA violation can have a financial penalty and considered referring the matter to the appropriate agency.

**Amended Motion:** Dr. Herro amended his motion to place a deadline for the disciplinary consent agreement to be signed by 3:00 p.m. If not signed, move forward with summary suspension of Dr. Gold's license with the intent for revocation. The violations are based on the findings of facts, conclusions of law and statutory violations cited in the disciplinary consent agreement.

**Second:** Mr. Goodman

Roll Call

*Herro -aye*

*Burg -aye*

*Christensen -aye*

*Dynar -aye*

*Goodman -aye*

*Moffett -aye*

*Morrow -aye*

*Seaman -aye*

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

**Motion:** Mr. Dynar moved to forward the matter to the Consumer Protection of the Arizona Attorney General's Office or any other appropriate office for civil prosecution for misuse of patient information.

**Second:** Dr. Morrow

Roll Call

*Herro -aye*

*Burg -aye*

*Christensen -aye*

*Goodman -aye*

*Dynar -aye*

*Moffett -aye*

*Morrow -aye*

*Seaman -aye*

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

Later in the meeting, the Board was informed that Dr. Gold is willing to surrender his license; however, the respondent's counsel requested to amend the findings of facts and conclusions of law.

**Motion:** Dr. Herro moved to allow counsel to submit proposed changes by 3:00 p.m.

**Second:** Dr. Morrow

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

*Mr. Goodman voted against the motion.*

Later in the meeting, the Board reviewed the amended proposed draft agreement.



**Motion:** Dr. Herro moved to accept the modifications to the draft agreement.

**Second:** Dr. Morrow

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

**Motion:** Dr. Morrow moved to extend the deadline to sign the agreement until 4:00 p.m. If not signed, to move forward with summary suspension with the intent to revoke Dr. Gold's license.

**Second:** Dr. Herro

Roll Call

Herro -aye

Burg -aye

Dynar -aye

Moffett -aye

Morrow -aye

Seaman -aye

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

A. Application(s) for Licensing of Dentist(s) or Hygienist(s) – A.R.S. §§ 32-1231 et seq. and 32-1281 et seq. respectively

1. Hagen, Terry, DDS

Staff informed that the applicant wasn't able to attend and requested to table the matter for the applicant to answer questions. Based on the Board's review of the application for licensure, the Board did not find it necessary to table the matter and moved forward with granting licensure.

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

**Second:** Dr. Morrow

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

2. Holtzclaw, Danny J., DDS

Dr. Holtsclaw was available during the Board's consideration of his application for licensure. Dr. Holtsclaw indicated that his out of state licenses are unencumbered and proceeded to answer the Board's questions.

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

**Second:** Dr. Morrow

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

3. Love, Christopher J., DMD

The applicant was not available during the Board's consideration of his application for licensure. The Board reviewed the application for licensure and moved forward with granting licensure.

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

**Second:** Ms. Moffett

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

4. Topelson, Ian M., DMD

Dr. Topelson was available during the Board's consideration of his application for licensure. The Board reviewed the application and moved forward with granting licensure.

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

**Second:** Mr. Dynar

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

B. Review of Investigation(s)

1. 202200168; Abaie, Kathleen Ashley and 4. 202300136; Hariri, George

Dr. Dovgan provided the Board an overview of the case and indicated that the case is tied to agenda item IV.B.4. The Board had previously requested additional information and considered more information is needed.

**Motion:** Dr. Herro moved to invite Dr. Abaie and Dr. Hariri to a formal interview for potential violations cited in the consultant's report.

**Second:** Dr. Morrow

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

2. 202200208; Orange DMSO

Mr. Stanley informed the Board that the business owners are not licensed dentists and that they had registered as a business entity. However, the business owners were informed that the registration did not go through and they immediately attempted to rectify the issue when they became aware.

The Board concurred with the Investigative Committee's findings with respect to violation of A.R.S. §§ 32-1263(C) and (D)(5) for non-compliance with A.R.S. § 32-1213(B). Violation of A.R.S. §§ 32-1263(11)(a) for fraudulent and misleading statements and A.R.S. §§ 32-1263(D)(11)(b) for advertising with the intent to defraud the public.

**Motion:** Dr. Herro moved to issue the business entity a \$2,000 fine.

**Second:** Dr. Morrow

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

*Mr. Dynar voted against the motion because he would be in favor of dismissing the case.*

## 3. 202200308; Sandhu, Ivraj Singh

Dr. Dovgan provided the Board with an overview of the case and indicated that the night guard was not given to the patient before the practice closed.

**Motion:** Dr. Herro moved to dismiss the case against Dr. Sandhu and open a case against Perfect Teeth.

**Second:** Dr. Christensen

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

C. Review of Investigation(s) – Case(s) Recommended for Issuance of a Non-Disciplinary Order for Continuing Education – A.R.S. § 32-1263.02(F)(3)

## 1. 202200253; Fox, Joseph R.

The complainant addressed the Board and stated that the bridge fell out and she was charged \$130 by another dentist to have the bridge recemented. The complainant requested that Dr. Fox reimburse her for the expense. The Board reviewed the Investigative Committee's recommendation and discussed the record keeping issues.

**Motion:** Dr. Herro moved to find violation of A.R.S. § 32-1201.01(14) and (24).

**Second:** Mr. Goodman

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

Staff informed the Board of previous board action taken which included restitution for inadequate crowns, probation until passing the Jurisprudence exam, another order with restitution for inadequate crowns, continuing education in fabrications of complete dentures and risk management. The Board identified a pattern of crown and risk management issues.

**Motion:** Dr. Morrow moved to invite Dr. Fox for a formal interview.

**Second:** Mr. Goodman

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

*Ms. Moffett voted against the motion.*

## 3. 202200270; Rice, Mason

Ms. Schachar and Dr. Rice were available during the Board's review of the matter. Ms. Schachar stated that the complaint was a result of an allegation of overbilling which was unsubstantiated. There were no clinical issues with the treatment.

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

**Second:** Dr. Christensen

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

## 4. 202200272; Imanian, Roxana

Mr. Tonner and Dr. Imanian were available during the Board's review of the matter. Mr. Tonner stated that Dr. Imanian put crowns on the patient, four months later the patient came back and indicated feeling tightness. After inconclusive tests, the patient was referred to an endodontist. In addition, Mr. Tonner referenced page 3 of the consultant's report and addressed the allegations. The Board further reviewed the PA.

**Motion:** Dr. Morrow moved to issue a letter of concern for marginal integrity.  
*Motion failed due to a lack of a second.*

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

**Second:** Mr. Goodman

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

## 5. 202200273; Copeland, Maricon

Ms. Schachar made a statement to address the allegation of failure to provide services. Ms. Schachar clarified that two treatment plans were provided, with the treatment option for a final denture, but the patient did not pay for that. In addition, Ms. Schachar indicated that Dr. Copeland recognizes the lack of perio charting and notes for denture reline appointment.

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

**Second:** Dr. Christensen

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

## 6. 202200280; Larece, Phillip M.

Ms. Bustos made a statement on behalf of Dr. Larece and indicated that the allegation of pulling the wrong tooth on emergency treatment was unsubstantiated. Dr. Larece proceeded to inform the Board that he did a perio probe on tooth 31 and answered the Board's questions. After review, the Board expressed concern for the lack of diagnostic testing.

**Motion:** Dr. Herro moved to find violation of A.R.S. § 32-1201.01(14).

**Second:** Mr. Goodman

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

**Motion:** Dr. Herro moved to issue a non-disciplinary order, requiring the completion of 3 hours of CE in diagnosis and treatment planning and 4 hours in risk management; based on violation of A.R.S. § 32-1201.01(14) and the findings 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:** Ms. Moffett

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

*Mr. Goodman abstained.*

7. 202200306; Arora, Manu

Ms. Bustos made a statement on behalf of Dr. Arora and indicated that Dr. Arora took on the case voluntarily and did not do the initial crown prep. Two other dentists treated the patient prior to Dr. Arora's involvement. Ms. Bustos clarified that the patient was provided a refund and that Dr. Arora conducted a clinical exam.

**Motion:** Dr. Herro moved to issue a letter of concern for cementing a crown with a poor buildup material underneath.

**Second:** Dr. Christensen

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

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

8. 202200311; Sadowski, Todd

Drs. Sadowski and Balestrino were available during the Board's review of the matter. Mr. Tonner made a statement to address the allegations for billing issues, billing irregularities and overdiagnosis. Mr. Tonner indicated that the office corrected the billing issue and refunded the patient. Dr. Dovgan pointed out that the discoloration of the tissue looks ischemic and concurred that the allegation for overdiagnosis was not substantiated.

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

**Second:** Dr. Herro

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

2. 202200268; Erickson, Jeffrey

The Complainant expressed that she has had many complications with treatment provided by Dr. Erickson. The Complainant has since seen other providers which informed her that the foundation is compromised. The complainant further stated that she felt there was lack of professionalism, integrity and medical care provided. She explained that at one point, a tooth broke into the crown and when she called Dr. Erickson, she was advised to go to the drug store to get glue and glue it herself. The respondent was not available during the Board's consideration of the matter. The Board proceeded to review the matter. Dr. Dovgan pointed out that he didn't see the steps that are usually done to do full mouth rehabilitation. There is no indication that occlusion was addressed, or if there was any type of VDO opening.

*Mr. Dynar temporarily departed the meeting at 10:58 a.m.*

**Motion:** Dr. Herro moved to invite Dr. Erickson to a formal interview and assign to Dr. El-Gendy as the lead board member.

**Second:** Dr. Morrow

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

*The Board took a break from 11:01 a.m. to 11:18 a.m.*

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

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

4. 202200334; DeBaker, Jesse

Mr. Tonner made a statement on behalf of Dr. DeBaker with regard to a patient claiming to have smelled alcohol in Dr. DeBaker's breath.

**Motion:** Dr. Morrow moved for the Board to enter into executive session to obtain legal advice and to invite Dr. DeBaker and Mr. Tonner to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) and (3).

**Second:** Dr. Herro

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

*The Board entered into executive session at 11:40 a.m.*

*The Board returned to open session at 11:48 a.m.*

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

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

**Second:** Ms. Moffett

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

*Drs. Herro, Christensen and Mr. Goodman voted against the motion.*

*Mr. Dynar re-joined the meeting at 11:55 a.m.*

H. Formal Interview(s)

1. 201800220; Christensen, Cory

Dr. Christensen was available during the Board's consideration of the matter. Dr. Dovgan proceeded to provide the Board with an overview of the case and stated that Dr. Christensen was non-compliant with a Board order that was due October 19, 2021. Dr. Christensen's license was suspended in lue of expiration. Dr. Christensen subsequently explained that he sold his practice, moved out of state and decided to retire from the profession. Dr. Christensen further answered the Board's questions pertaining to the non-compliance of the Board order. Staff confirmed that to this date, Dr. Christensen has not submitted CE certificates to satisfy the Board order requirements. The Board considered that the respondent has shown a pattern of not being willing to be regulated.

*The Board took a break from 12:25 p.m. to 12:35 p.m. due to technical difficulties. Ms. Burg departed the meeting during the break. Roll call of the Board members was taken and a quorum was established.*

**Motion:** Ms. Moffett moved to adopt the findings of facts. The terms of the disciplinary consent agreement were to complete any outstanding CEs and pay the administrative penalty for defaulting on the remainder of all required pre-approved courses in a timely manner.

**Second:** Dr. Herro

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

**Motion:** Ms. Moffett moved to adopt conclusions of law, which are the conduct and circumstances described in the findings of facts. The findings of facts constitute unprofessional conduct and grounds for disciplinary action pursuant to A.R.S. § 32-1201.01(22) for failing to comply with a board order and A.R.S. § 32-1263.01 appearing to be unregulated.

**Second:** Dr. Herro

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

**Motion:** Ms. Moffett moved to offer a disciplinary consent agreement for the respondent to voluntarily surrender his license. The order shall be signed and completed in ten days; if not signed, forward to OAH for revocation.

**Second:** Dr. Herro

*Ms. Moffett rescinded her motion.*

**Motion:** Dr. Herro moved to rescind the previous motions of findings of facts.

**Second:** Dr. Morrow

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

**Motion:** Dr. Herro moved to rescind the previous conclusions of law and order.

**Second:** Dr. Morrow

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

**Motion:** Mr. Dynar moved to adopt the findings of facts as stated on pages 9936-9937 of the Board's materials.

**Second:** Dr. Morrow

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

**Motion:** Ms. Moffett moved to adopt conclusions of law, which are the conduct and circumstances described in the findings of facts. The findings of facts constitute unprofessional conduct and grounds for disciplinary action pursuant to A.R.S. § 32-1201.01(22) for failing to comply with a board order, A.R.S. § 32-1263.01 for appearing to be unregulated and failure to inform the Board of the address change.

**Second:** Dr. Herro

*Ms. Moffett rescinded her motion.*

**Motion:** Dr. Herro moved to amend the findings of facts to add failure to inform the Board of address change based on the admission of moving to Oregon without notifying the Board of his address change in a timely manner.

**Second:** Dr. Morrow

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

**Motion:** Dr. Herro moved to adopt the previously stated conclusions of law, which constitute unprofessional conduct and grounds for disciplinary action pursuant to A.R.S. § 32-1201.01(22) for failure to comply with a board order, A.R.S. § 32-1263.01 for appearing to be unregulated and failure to inform the Board of the address change.

**Second:** Dr. Morrow

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

**Motion:** Mr. Dynar moved to order the respondent to pay a \$2,000 administrative penalty within 30 days and complete the 18 hours of continuing education within 60 days. Failure to comply with either of the two orders would send the matter to OAH for revocation.

**Second:** Dr. Morrow

Roll Call

*Herro -nay*

*Christensen -aye*

*Dynar -aye*

*Goodman -nay*

*Moffett -nay*

*Morrow- aye*

*Seaman -nay*

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

**Motion:** Ms. Moffett moved to offer a consent agreement for Dr. Christensen to voluntarily surrender his license within 10 days; if not signed, to refer the matter to OAH for revocation.

**Second:** Dr. Herro

Roll Call

*Herro -aye*

*Christensen -nay*

*Dynar -nay*

*Goodman -aye*

*Moffett -aye*

*Morrow -aye*

*Seaman -aye*

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



## 2. 202100278; Endicott, Thomas A.

The respondent was absent during the Board's consideration of the matter and no legal counsel was present to represent the licensee. Staff confirmed that the notice of the formal interview was sent to Dr. Endicott. Dr. Dovgan proceeded to provide the Board an overview of the case and indicated that Dr. Endicott slipped and drove an instrument through the bottom of the patient's tongue. Dr. Endicott could not find the remains of the broken tooth and dismissed it thinking the patient must have swallowed it. The Board proceeded to discuss the allegation of losing part of a tooth and indicated that it could not substantiate it because the soft tissue fully healed following the extraction of tooth number 21. The allegations of unnecessary treatment and failure to maintain records were substantiated. Dr. Endicott failed to document the diagnosis and detailed treatment notes, no informed consent for extraction and bone graft in the records. There was no documented periodontal evaluation charting prior to root canal of tooth number 21 and according to the radiographs rubber dam isolation during the root canal was not documented. The consultant's report indicates restitution would be \$2,021.

**Motion:** Dr. Herro moved to adopt the findings of facts as listed in the consultant's report.

**Second:** Ms. Moffett

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

**Motion:** Dr. Seaman moved to find violation of A.R.S. § 32-1201.01(14) and (24) as the conclusions of law.

**Second:** Dr. Morrow

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

Staff informed the Board that five previous disciplinary actions have been taken.

**Motion:** Dr. Herro moved to refer the matter to OAH for revocation.

**Second:** Dr. Morrow

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

## 3. 202100286; Smallwood, Trent

Dr. Smallwood was present during the Board's review of the matter. Dr. Dovgan proceeded to provide the Board with an overview of the case and indicated that the patient alleges that Dr. Smallwood did not place the veneers that she paid for. The patient was left with temporary veneers for four months; however, refused the second try-ins after she was unhappy with the initial try-in. Dr. Smallwood refunded the cost for the lab. Dr. Smallwood subsequently stated that the patient was not satisfied with the aesthetics of the veneers. The patient would not let him try in the veneers and indicated that all that needed to be done was place them in. The Board considered there were no deviations from the standard of care.

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

**Second:** Mr. Goodman

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

4. 202200097; Toal, Maureen M. (*Herro conflicted*)

This matter was not considered.

*The Board took a break from 1:32 p.m. to 1:48 p.m.*

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

*Dr. Christensen departed the meeting during break.*

K. Initial Review

1. Krieg, Morton

Dr. Krieg was present during the Board's consideration of the matter and indicated that he was not aware of a case with North Dakota at the time of renewing his Arizona license. Dr. Krieg proceeded to elaborate on the case that led to his license in Dakota being revoked.

The Board tabled the matter to get more information regarding the specifics of the case that led to the revocation.

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

3. 202300072-AO; Gomes De Souza, Sergio

Mr. Hayden requested clarification on the six month practice restriction. The Board clarified that it is a six month restriction regardless of when the CE is completed. In addition, Mr. Hayden informed the Board that Dr. Gomes de Souza has already started the process of the Board's Order.

**Motion:** Dr. Herro moved to accept the consent agreement as written.

**Second:** Dr. Morrow

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

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

3. 202200162; Van Dusen, Justin

Dr. Van Dusen was available during the Board's consideration of the matter. Mr. Hall clarified that the CE was taken after the previous board complaints and indicated that additional CE and monitoring is not necessary. Dr. Van Dusen indicated that he did not record that he used a rubber dam; however, he assured the Board that he did use a rubber dam. Dr. Van Dusen further stated that he has changed how he writes his notes to ensure they are in compliance with the

standard of care. After discussion, the Board did not consider there was new information to warrant modifying the previous agreement.

**Motion:** Dr. Morrow moved to uphold the previous agreement.

**Second:** Dr. Herro

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

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

2. 202100094 & 202100115; Anderson, Lori

There were no questions for the draft consent agreement.

**Motion:** Dr. Herro moved to approve the consent agreement.

**Second:** Dr. Morrow

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

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

3. 202200239; Kaushesh, Ashutosh

Dr. Kaushesh was available during the Board's review of the matter. Ms. Schachar made a statement to address the allegation of performing a procedure without proper consent. Ms. Schachar indicated that the patient was told various times that she needed to have tooth number 14 re-done because it had open margins on the crown. Dr. Kaushesh was going to do treatment for tooth 15 and was advised again on re-treatment of tooth number 14. When the patient saw Dr. Kaushesh for the implant, the patient was symptomatic and wanted to get it done in that setting. In her complaint the patient acknowledged that there was a conversation about consent and prior to treatment being rendered. In the end, the patient was provided a refund for treatment. Ms. Schachar further explained the technicalities pertaining to the placement of the implant. Dr. Kaushesh also answered the Board's questions with respect to sedation and medication. After discussion, the Board concluded that there wasn't a violation of the standard of care.

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

**Second:** Dr. Herro

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

9. 202200279; Bullock, Chandler J.

Dr. Bullock was available during the Board's review of the matter. Ms. Schachar made a statement to address the allegation of negligent root canal and failing to diagnose that a tool was left behind in the tooth. Ms. Schachar further indicated that Dr. Bullock did not recognize there was a tool that had separated during the procedure and acknowledges failure to take a post extraction x-ray. Dr. Bullock now requires a CBT for all root canals and requires practitioners to write their own notes. Dr. Bullock stated that the patient was provided a refund.

**Motion:** Dr. Herro moved to issue a non-disciplinary order, requiring the completion of 4 hours of CE in endo, 4 hours in crown and bridge and 4 hours in risk management. The CE hours do not need to be hand-on. The CE hours shall be in addition to the hours required for license renewal and shall be completed within 12 months. Based on the findings in the consultant's report and discussion held during the meeting.

**Second:** Dr. Morrow

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

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

1. 202200033; Mouzoon, Sassan

Dr. Mouzoon was available during the Board's consideration of the matter. Ms. Schachar made a statement and addressed the allegation of inadequate dentures. Ms. Schachar indicated that there were problems with the dental software and Dr. Mouzoon now uses a custom fit lab. The patient was given a full refund of the treatment. Ms. Schachar further requested a non-disciplinary order given the fact that the concerns are mainly related to record keeping.

**Motion:** Dr. Herro moved to downgrade the order to a non-disciplinary order requiring the completion of the same CEs and finding the same violations from the previous agreement.

**Second:** Dr. Morrow

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

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

7. 202200260; De Avila, Rachel

Dr. De Avila and Mr. Tonner were available during the Board's review of the matter. Dr. Dovgan indicated that the billing irregularities included billing for procedures that were not done.

**Motion:** Dr. Herro moved to refer the matter to the department of insurance for alleged insurance fraud and offer a consent agreement to be signed within 10 business days for a voluntary surrender of license. If not accepted, move the matter to a formal interview.

**Second:** Dr. Morrow

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

*Mr. Dynar voted against the motion.*

8. 202200261; De Avila, Bryan

Mr. Tonner indicated that the audited cases were not from patients treated by Dr. De Avila and that billing was not done by him.

The Board moved to table the matter and directed staff to perform a chart audit of a minimum of 20 cases, but up to 45 cases to evaluate for billing irregularities over the course of calendar year 2022.

4. 202200247; Dentists of North Glendale

Ms. Schachar made a statement to address the failure to respond to a board subpoena. Dr. Dovgan indicated that the patient was informed that the insurance would pay for the implant, but the insurance did not cover the implant. In addition, records were an issue.

**Motion:** Dr. Morrow moved to uphold the Investigative Committee's recommendation to issue a \$,2000 penalty for violation of A.R.S. § 32-1263(D)(12) and (14).

**Second:** Dr. Herro

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

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

1. 202000317-MP; Grampp, Carter

Ms. Schachar made a statement on behalf of Dr. Grampp and indicated that Dr. Grampp recognizes the failure to maintain records and knows that it's not an excuse that his assistant was not charting. The assistant was let go and Dr. Grampp has since sold the practice. Dr. Grampp has also scaled back his practice and no longer does large implants cases; only single tooth replacements. As a result, Ms. Schachar requested removal of the probationary chart audit.

**Motion:** Dr. Herro moved to uphold the original agreement that was offered.

**Second:** Dr. Morrow

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

*Mr. Dynar voted against the motion.*

G. Malpractice, Adverse Occurrence Report and/or Self-Report Pursuant to A.R.S. § 32-3208 and/or A.A.C. R4-11-1305

1. 202300060-AO

**Motion:** Dr. Herro moved to offer a disciplinary agreement, requiring the completion of 12 hours of CE in anesthesia and sedation; online courses are acceptable. In addition, probation for 12 months and to engage in services of a board approved monitor to conduct quarterly audits of a random sample of the respondent's treatment records for patients treated under anesthesia or sedation. During the 12 month probation period, a minimum of 10 patient records shall be audited. The audit focus shall be on the respondent's staging surgical procedures for patients treated under anesthesia or sedation and his administration of local anesthesia. The first audit shall be conducted during the month following the first completed quarter after the effective date of the consent agreement. The agreement shall mimic the terms that were offered to Dr. Sheth.

**Second:** Dr. Morrow

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

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

1. 202200309; Pourshirazi, Ehsan

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

**Second:** Dr. Seaman

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

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

1. 202200172; Thomas, Kristine

Ms. Birko made a statement on behalf of Dr. Thomas and indicated that Dr. Thomas completed treatment for crowns and a night guard. The patient was referred to an endodontist for root canals. Dr. Thomas had retired and voluntarily surrendered her license and has not practiced since April 2021. Staff informed the Board that staff does not have records of the respondent's attempts to retire or surrender her license. The Complainant addressed the Board and made a statement and indicated that she asked for a treatment plan three times; which she did not receive. The complainant further stated that the crown on tooth number 5 fell out and she was given glue at the dental office to glue her own tooth. The complainant also stated that she was denied her dental records. The complainant had nine teeth fail and had to pay for everything again.

**Motion:** Dr. Herro moved to offer a consent agreement requiring \$7,081 in restitution to be paid to the patient within 30 days and for Dr. Thomas to voluntarily surrender her license. If restitution is not provided, move to OAH for revocation; based on the deviations found in the consultant's report.

**Second:** Mr. Goodman

*Due to technical difficulties, the Board took a break from 3:00 p.m. to 4:08 p.m.*

Mr. Dynar pointed out that A.R.S. § 32-1263(I) does not exist and indicated that the reference needs to be removed from the order. The statutory violations are A.R.S. §§ 32-1201.01(14) and 32-1263(A)(4) as it relates to A.A.C. R4-11-501(F).

*Dr. Herro amended the motion to adopt the aforementioned change to the statutory violations.*

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

**VII. CALL TO THE PUBLIC**

None.

**VIII. EXECUTIVE DIRECTOR'S REPORT**

- A. Budget Update
- B. Agency Operations
  - 1. Dental Related Legislative Bills
- C. Complaint Log

There was no discussion.

**IX. SUMMARY OF CURRENT EVENTS**

None were discussed.

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

None.

**XI. NEXT BOARD MEETING DATE**

- A. June 23, 2023

**XII. ADJOURNMENT**

Dr. Herro adjourned the meeting at 4:10 p.m.