

Nevada State Board of Dental Examiners



6010 S. Rainbow Blvd., Bldg. A, Ste.1 • Las Vegas, NV 89118 • (702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

SECOND AMENDED NOTICE OF FORMAL HEARING & AGENDA

Meeting Date & Time

Friday, May 21, 2021
1:00 p.m.

If necessary, Formal Hearing may continue to Saturday May 22, 2021 starting at 9:00 a.m.

This meeting was held exclusively through telephonic means, in accordance with
with Emergency Directives issued by Governor Sisolak

MINUTES

PUBLIC NOTICE:

**** This formal hearing will be held via TELECONFERENCE ONLY, pursuant to Section 1 of the DECLARATION****
****OF EMERGENCY DIRECTIVE 006 ("DIRECTIVE 006") issued by the State of Nevada Executive Department****
****and as extended by Directives 016, 018, 021, 026, and 029.****
****There will be no physical location for this meeting for public attendance****

Note: Asterisks (*) "**For Possible Action**" denotes items on which the Board may take action.
Note: Action by the Board on an item may be to approve, deny, amend, or tabled.

1. Call to Order

- Roll call/ Quorum

Dr. Kevin Moore called the meeting to order and Executive Director Frank DiMaggio conducted the following roll call:

Dr. Kevin Moore(President)--Present	Dr. W. Todd Thompson (Dr. Thompson)—Present
Dr. Ronald West (Dr. West)---Present	Dr. Ronald Lemon(Dr. Lemon)—Present
Dr. Elizabeth Park(Dr. Park)---Present	Dr. David Lee(Dr. Lee) ---Not Present
Mrs. Jana McIntyre(Ms. McIntyre)---Not Present	Ms. Gabrielle Cioffi(Ms. Cioffi)---Present
Ms. Caryn Colie(Ms. Solie)---Present	Ms. Yamilka Arias (Ms. Arias)---Present
Dr. Adam York(Dr. York)---Present	

Others Present: Jason Dworin, Deputy General Counsel; Ogonna Brown, Special counsel for Nevada State Board Of Dental Examiners; Frank DiMaggio Executive Director of Nevada State Board of Dental Examiners, Phil Su General Counsel for Nevada State Board of Dental Examiners. Attorneys Nadia Ahmed ; Crane Pomerantz and David Barney appeared on behalf of Antonina Capurro, DMD. David Keene, General Counsel UNLV School of Dental Medicine; Pierron E. Tackes Attorney General's Office DHHS counsel; Margaret Dale with Lewis Roca paralegal; Julie Slabaugh, DHHS Counsel. Court reporter from Oasis Reporting Service, Dana Tavaglione.

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2. Public Comment (Public Comment is limited to three (3) minutes for each individual)

Note: Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.

There was no written public comment.

***3. Approve Agenda and Disclosures** (For Possible Action)

***4. Formal Hearing: Nevada State Board of Dental Examiners v. Antonina Capurro, DMD** (For Possible Action)

The purpose of this hearing is to consider the allegations regarding/related to the investigative complaint(s)/formal complaint filed with the Nevada State Board of Dental Examiners for alleged violation(s) of NRS 631 and NAC 631. The Board may take such action as they deem appropriate pursuant to NRS 631.350. (Pursuant to NRS 241.030(1)(a), the board may, by motion, enter into closed session)

Attorney David Barney, on behalf of Dr. Capurro, presented a motion to dismiss and argued the motion. Attorney Ogonna Brown provided the response; Attorney Barney replied in support of his motion. Attorney Bordelove advised the Board regarding the pending motion to dismiss and its options on how to proceed. Attorney Bordelove also invited members of the Board to make disclosures if they felt it necessary. President Kevin Moore disclosed that he had previously served as a guest lecturer at UNLV SDM since 2008, where he learned details about Dr. Capurro's dental degree from his colleagues. He further states that he does not believe his independent judgment would be affected by his pre-existing knowledge. Dr. Ronald Lemon disclosed that he, as a full-time member of UNLV SDM, including when Dr. Capurro was a student. Consequently, Dr. Lemon felt he had a conflict of interest in the case and would, therefore, recuse himself from voting. Ms. Solie disclosed that she sat on the Board that originally granted Ms. Capurro's dental license; however, she does not feel she has any conflict of interest. Attorney Bordelove noted that there was an abstention for ethical reasons, which therefore reduced the quorum requirement by that member's vote pursuant to NRS 281A. Dr. West made a motion to deny the motion to dismiss. Ms. Arias second. Roll call vote, all were in favor: motion passed.

Attorney Nadia Ahmed requested permission to present two additional motions. Dr. Thompson moved to entertain further motions; Dr. Moore seconded. All were in favor. Motion passed. Attorney Ahmed presented two motions: first, to request recusal of Dr. Lee, Ms. McIntyre and Dr. Moore not participate or attend the hearing, and, second, a motion in limine to disregard comments made by Attorney Brown at the Board's May 18, 2021 board meeting, regarding costs of litigation, public perception of board regarding the proceedings, and potential precedent for other licensees. Response by Attorney Brown, reply by Attorney Ahmed. Attorney Bordelove advised the Board of its options regarding the two motions. Dr. Thompson moved that Dr. Lee and Ms. McIntyre are not permitted to participate in the voting in this hearing. Dr. Park second. Roll call vote, all were in favor: motion passed. Dr. West moved to order that Dr. Moore is not disqualified, Dr. Park second. Roll call vote, all were in favor: motion passed. Attorney Bordelove instructed the Board only to focus on evidence that has been admitted during these proceedings, then explained the Board's options as the motion in limine. Dr. Thompson moved that the Board consider the evidence in the hearing. Ms. Arias second. Roll call vote, all were in favor: motion passed.

Colloquy regarding the parties' exhibit lists. Attorney Ahmed objected to presence of Mr. DiMaggio and Attorney Su from the proceedings, as percipient witnesses. Attorney Brown objected, noted that these objections were raised the day before in state court. Attorney Bordelove advised the Board. Dr. West moved to deny motion to exclude Mr. DiMaggio and Mr. Su. Dr. Thompson second. Roll call vote, all were in favor: motion passed.

94 Dr. Moore requested opening statements be limited to ten minutes for each party. Attorney Brown
95 gave opening statement for prosecution. Attorney Ahmed gave opening statement for
96 respondent. Attorney Brown called her first witness: Ms. Kristen DeBraga. Ms. DeBraga was
97 administered the oath by the court reporter and provided testimony in response to direct and
98 cross-examination. Attorney Brown called her second witness: Mr. Jeffery Chaffin, of A.T. Still
99 University. Mr. Chaffin was sworn in by the court reporter and provided testimony in response to
00 direct and cross-examination, and questions from the Board. Attorney Brown called her third
01 witness, Ron Blaze, of UNLV School of Dental Medicine. Mr. Blaze was given the oath by the Court
02 reporter and provided testimony in response to direct examination. Witness Blaze dismissed, to be
03 recalled at next hearing date.

04 **5. Public Comment** (Public Comment is limited to three (3) minutes for each individual)

Note: Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.

05 There was no public comment.

06 ***6. Adjournment** (For Possible Action)


07 Colloquy regarding Board office receipt of six or seven written public comments, all facially relating
08 to the contested case. Attorney Bardelove advised the Board regarding its options. Statement from
09 Attorney Pierron Tackes, on behalf of DHHS witnesses, regarding their availability for future hearing
10 dates. Colloquy regarding future hearing continuation dates and exhibit lists.

11 Dr. West made a motion to adjourn. Dr. Park seconded the motion. All were in favor. Motion
12 passed.

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17 Agenda items may be taken out of order by motion of the Board. The Board may remove an agenda item or delay
18 discussion relating to any item on the agenda at any time. (See NRS 241)
19 Pursuant to NRS 241.030(a), the board may, by motion, enter into closed session to consider the character, alleged
20 misconduct, professional competence, or physical or mental health of a person.

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23 **PUBLIC NOTICE POSTED TO:**

24 Nevada State Board of Dental Examiners website: www.dental.nv.gov
25 Nevada Public Posting Website: www.notice.nv.gov
26 Legislative Counsel Bureau website: www.leg.state.nv.us
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33 **X** 
34 _____
35 Frank DiMaqala
36 Executive Director
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