



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**  
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**MEETING OF THE ARIZONA  
STATE BOARD OF DENTAL EXAMINERS  
MINUTES OF THE BOARD MEETING  
NOVEMBER 1, 2018**

**Board Members Present Via Conference Call:**

Gregory A. Waite, DDS, President  
John N. Harman IV, DDS  
Russell J. Morrow, DDS  
Lisa B. Bienstock, DMD  
Marilyn J. McClain, RDH  
Mr. Charles E. Jackson

**Absent:**

Robert B. Taylor, DDS  
Heather N. Hardy, RDH  
Mr. Aditya Dynar  
Mr. Nick Goodman

**Staff Present:**

Ms. Nancy Chambers, Deputy Director  
Ms. Terry Bialostosky, Investigations Supervisor  
Ms. Sherrie Biggs, Licensure Manager  
Ms. Dee Woodard, Legal Administrator  
John Tellier, Assistant Attorney General

**NOTICE:**

Roll Call votes are recorded and provided as an attachment to these minutes pursuant to A.R.S. §32-3205 which reads "If a disciplinary action requires a vote of Board members, the health professional regulatory Board shall conduct that vote by roll call. The Board shall maintain a record of each member's vote. This section does not prohibit a Board from using a Consent Agenda."

**GENERAL BUSINESS**

**Agenda Item No. 1 - Call to Order, Introductions, and Roll Call**

Dr. Waite called the meeting to order at 4:00 PM.

Ms. Sherrie Biggs took roll call. Robert B. Taylor, DDS, Heather N. Hardy, RDH, Mr. Aditya Dynar and Mr. Nick Goodman were absent.

**Agenda Item No. 2 – Dr. Pankaj R. Goyal - Cases 201400099 & 201700101**

Dr. Pankaj R. Goyal - Cases 201400099 & 201700101 – Review, discussion and possible action on Dr. Goyal's request to stay the Board's proceedings pending the completion of the parallel criminal proceeding and Dr. Goyal's offer to enter into a voluntary agreement not to practice as a condition of the stay.

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Ms. Susan McLellan, attorney for Dr. Goyal was present and addressed the Board. Ms. McLellan stated the Board received two letters from her; a formal request to stay, and an addendum letter the Board could consider. Ms. McLellan stated Dr. Goyal is facing simultaneous prosecutions on the same issue by two state agencies, the Office of the Attorney General and the Arizona State Board of Dental Examiners. She stated both of the cases with both agencies arose from the same issue regarding a 1301 permit. Ms. McLellan stated this issue was not regarding Dr. Goyal's general dentistry license. Ms. McLellan stated the courts have set out some guidelines for the Board to look at to determine whether a stay in this case would be appropriate. She recommended the Board proceed with the criminal case first, and stay the case with the Board. Ms. McLellan stated there were special factors for the Board to consider. She stated the Board should consider Dr. Goyal's fifth amendment rights, and was there a burden to Dr. Goyal to defend both cases at the same time. Ms. McLellan stated her reason for asking for the stay was there was a risk Dr. Goyal's constitutional rights could be invaded. She stated it would be prejudicial to Dr. Goyal for the Board case to proceed before the criminal case. She stated findings and facts from the Board could be used against Dr. Goyal in the criminal case. Ms. McLellan stated the criminal case was expected to be heard on March 27, 2019. Ms. McLellan stated this had been a life altering event for Dr. Goyal. She stated it was important for Dr. Goyal to be able to practice dentistry in some capacity, and that was the reason she suggested a restricted permit.

Ms. McLellan presented the Board with four options:

1. Deny the request to stay, moving forward with the proceedings, which would result in an unfair outcome for Dr. Goyal.
2. Grant the stay and to ask for the voluntary stay on Dr. Goyal's dental license.
3. Grant the stay and allow Dr. Goyal to have a restricted license. The restricted license would allow Dr. Goyal to volunteer his time, and practice dentistry at a charitable clinic or organization without any pay.
4. Grant the stay and allow Dr. Goyal to continue to practice on his active dental license.

Ms. McLellan stated the investigation with the Board was not about Dr. Goyal's general dentist license. She stated Dr. Goyal had been practicing dentistry safely. She asked the Board to grant the stay and allow Dr. Goyal to continue to practice dentistry. Mr. Jackson stated Dr. Goyal should be allowed to continue to practice dentistry. He stated he wanted the investigation to take place in an expeditious manner but it seemed to be dragging out. Mr. John Tellier, Assistant Attorney General, was present and addressed the Board. He expressed his concern with the agenda. He stated there was nothing on the agenda regarding a restricted license. He stated the Board could consider a restricted license when placed properly on the agenda. Ms. McLellan asked the Board to grant the stay to Dr. Goyal, if he qualified for a restricted license, there would be certain criteria he would have to meet. She stated an interim consent agreement could be constructed and the terms could be placed in the consent agreement. Ms. McLellan stated if Dr. Goyal reached the specifications according to A.R.S. § 32-1237 the permit would be granted to him. Mr. Tellier stated the consent agreement could be amended. Dr. Morrow stated Dr. Goyal's ability to practice dentistry had never been called into context. He stated he did not see the harm in allowing Dr. Goyal to practice dentistry. Mr. Jackson stated the issue before the Board was Dr. Goyal's sedation permit. He stated Dr. Goyal should be allowed to practice general dentistry to provide support for his family. Dr. Waite stated the Board should accept the offer for the stay of Dr. Goyal's license. He stated in the future the Board could look at accepting the restricted permit. Mr. Tellier suggested the Board to make a motion to grant the stay on two conditions; Dr. Goyal would enter into an interim consent agreement that called for a suspension of his dental license, and upon proper application, the Board would consider whether or not to grant a restricted permit.

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Upon MOTION by Dr. Waite, second by Mr. Jackson, the Board voted to accept Dr. Goyal's request to STAY the Board's proceedings pending the parallel legal proceeding, and to ask Dr. Goyal to enter into a voluntary consent agreement to stay his license. In the future time, if a proper application was submitted for a restricted license, the Board would determine if the restricted license will be granted. MOTION PASSED UNANIMOUSLY.

Dr. Waite directed staff and the attorneys to draft the consent agreement, they will consider the restricted permit in the future.

**Agenda Item No. 3 – Call to the Public**

Nothing to report.

**Agenda Item No.4 – Adjournment**

Dr. Waite adjourned the meeting at 4:26 PM.

*Nancy Chambers*

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Nancy Chambers, Interim Executive Director