



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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MEETING OF THE ARIZONA STATE BOARD OF DENTAL EXAMINERS MINUTES OF THE SPECIAL BOARD MEETING JULY 16, 2018

Board Members Present Via Conference Call:

Gregory A. Waite, DDS, President
Howard J. Sorensen, DDS, Vice President
Russell J. Morrow, DDS
John N. Harman IV, DDS
Heather N. Hardy, RDH
Marilyn J. McClain, RDH
Mr. Aditya Dynar

Board Members Present:

Mr. Charles E. Jackson

Board Members Absent:

Robert B. Taylor, DDS
Lisa B. Bienstock, DMD

Staff Present:

Ms. Nancy Chambers, Deputy Director
Ms. Mary DeLaat Williams, Assistant Attorney General
Ms. Sherrie Biggs, Licensure Manager
Ms. Dee Woodard, Legal Administrator

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 ANNOUNCEMENTS

Dr. Waite called the telephonic meeting to order at 4:35 p.m.

Agenda Item No. 2 Review, discussion and possible action on July 9, 2018 letter from Governor Ducey to the Board regarding Pankaj Goyal, D.D.S. and Board's response.

Upon MOTION by Dr. Sorensen, second by Dr. Morrow, the Board voted to APPROVE the letter to Governor Ducey regarding Pankaj Goyal, D.D.S. MOTION PASSED UNANIMOUSLY.

Agenda Item No. 3 Review, discussion and possible action regarding re-opening of investigations related to Pankaj Goyal, D.D.S.'s 1301 anesthesia permit.

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Ms. Susan McLellan, attorney for Dr. Goyal was present and addressed the Board. She stated this was the first time the new Board members had interacted with her. She said it was unfortunate under these circumstances. Ms. McLellan invited the new Board members to ask the other Board members about her and her background with the Board, which had been over many years. She said she has built a reputation with the Board of credibility, honesty, and candor. She asked the new Board members to confirm with the other Board members her reputation she has with the Board. Ms. McLellan stated Dr. Goyal was innocent of the allegations of falsifying any documents. Ms. McLellan stated she wanted to put to rest the issue of Dr. Goyal endangering the public, and she said he was not. She stated Dr. Goyal had met the requirements for the 1301 permit: he had military training, hundreds of hours of training in general anesthesia and deep sedation that qualified him to apply and obtain his 1301 permit. Ms. McLellan stated Dr. Goyal through the process had been vetted, clinically examined, orally examined. She stated Dr. Goyal was questioned by three different Board consultants on general anesthesia. Ms. McLellan stated other dental anesthesiologists stated this type of vetting, questioning and clinical examinations cannot be faked, either you know the information, or it is not possible to pass the examination. Ms. McLellan stated Dr. Goyal passed the examinations with three of the Board clinical examiners on dental anesthesia. She said Dr. Goyal has never had an adverse occurrence with general anesthesia, or a patient complaint related to his administration of general anesthesia. Ms. McLellan stated Dr. Goyal is a safe and competent practitioner, and he is qualified to hold his 1301 permit.

Ms. McLellan stated she could avow to Dr. Goyal's innocence and affirm it. Ms. McLellan stated she had Dr. Goyal polygraphed by a specialist who worked as a Drug Enforcement Administration (DEA) agent in the Office of Professional Responsibility and Internal Affairs for DEA performing his specialty of polygraph testing for 26 years, and currently is with the United States Department of State Special Investigations, with top secret clearance in performing polygraph testing. Ms. McLellan stated Dr. Goyal passed every single question on the polygraph examination. She said he was asked "Did you have anything to do with the falsification of the certificate of achievement?" She said he answered "no", and that was a truthful answer. Dr. Goyal was asked "Did you ever intentionally provide false information to the Arizona State Board of Dental Examiners for any reason?" She said he answered "no", and that was a truthful answer. She said he was asked "Did you ever tell anyone at Midwestern University that you had falsified a certificate of achievement from Metro Health Medical Center?" She said he answered "no", and that was a truthful answer. Dr. Goyal was asked "Have you provided any false information today in the polygraph examination or in your interview about your anesthesia credentials?" He answered "no", and that is a truthful answer. Ms. McLellan stated Dr. Goyal had not knowingly utilized any falsified documents. Ms. McLellan stated the Board had reviewed the investigative files; there was a person who alleged that Dr. Goyal admitted to falsifying his certificate. She said the Board needed to stop and think about the alleged allegation. She stated that person had no knowledge of what the interviews were because he was not a part of the interviews at any time. Ms. McLellan asked what motive was behind a witness submitting false information to the Board. She said the witness was a competitor of Dr. Goyal's, who in her opinion was trying to blackball Dr. Goyal. Ms. McLellan stated the two previous investigations conducted by Board staff were thorough and in accordance with proper rules and regulations of the Board. She said Board staff came to the conclusion with all of the evidence presented, interviews, and different witness discussions that there was no substantial evidence to uphold the allegation against Dr. Goyal of falsifying his credentials. Ms. McLellan stated she believed this issue had been reviewed pursuant to Board rules. These are final decisions by the Board. She stated the Board was given a list of the Executive Director Terminations and had the opportunity to review the cases further, and this was not the case with Case No. 201400099-ED, and Case No. 201700101-ED because the investigations were very thorough, detailed, and conducted properly. Ms. McLellan asked the Board not to re-open any cases that were previously investigated. She said the correct decision had been reached in those investigations. Ms. McLellan stated if the Board had concerns about Dr. Goyal's 1301 permit, and his qualifications with his military training, the three consultant's evaluations he might be a harm to the public, which she adamantly stated he was not. Ms. McLellan stated Dr. Goyal was willing to enter into a voluntary agreement to stay his use of the 1301 permit as a showing of goodwill, and to lift any concerns the Board may have of Dr. Goyal continuing to utilize his 1301 permit if anything moved forward with any type of investigation. Ms. McLellan stated this was not any type of admission that Dr. Goyal had done anything wrong; it is a showing of his goodwill to cooperate with the Board.

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Upon MOTION by Dr. Waite, second by Ms. McClain, the Board voted to the Board voted to go into EXECUTIVE SESSION for legal advice. MOTION PASSED UNANIMOUSLY

****EXECUTIVE SESSION****

RETURN TO OPEN SESSION

Upon MOTION by Dr. Sorensen, second by Dr. Morrow, the Board voted to RE-OPEN Case No. 201400099-ED, and Case No. 201700101-ED. MOTION PASSED UNANIMOUSLY.

Mr. Dynar stated the Board needed to give Board staff direction as to what needed to be investigated.

Upon MOTION by Dr. Sorensen, second by Dr. Morrow, the Board voted to ACCEPT the interim voluntary consent agreement to stay Dr. Goyal's 1301 permit. MOTION PASSED UNANIMOUSLY.

Mr. Jackson stated his concern was the investigation not take too long. He asked was it reasonable to assume the investigation could be completed in a short period of time. He asked if there was a way to expedite the investigation or set a time limit for completion of the investigation since Dr. Goyal had stayed his 1301 permit and was not allowed to practice general anesthesia. Dr. Sorensen stated Dr. Goyal was allowed to continue practicing general dentistry. Dr. Waite stated the Board wanted to see this investigation done quickly and would like to see it placed on the October 5, 2018 Board agenda. Mr. Jackson stated he wanted this investigation conducted as quickly as possible. Dr. Waite stated yes, he also wanted it resolved quickly for everyone involved.

Mr. Dynar stated there were some discrepancies in the investigations that had occurred up to this point. He stated he would like to see the transcripts from the Air Force archives to get a better sense of the educational qualifications of Dr. Goyal. He said he would like Board staff to speak with the two individuals who were mentioned in the 2017 correspondence written on Dr. Goyal's behalf who would have firsthand knowledge of some of the occurrences on the Airforce Base. Mr. Dynar stated he would like to see the polygraph referenced in her statement by Ms. McLellan to the Board as part of the investigation.

Dr. Waite stated one of the issues in the past, according to the records, is that Board staff had tried to contact the Air Force, or Ohio Reserves, and did not get a lot of cooperation. Dr. Waite stated if the Board directed Board staff to do that, if the Board does not get a response within two weeks, then the Board will have to proceed without that. He stated the Board cannot sit and wait for a response if the Air Force is not willing to respond.

Mr. Dynar stated the difference was they were contacted, but not informed that the Board was exercising subpoena authority. He stated the Board needs to issue their subpoena authority in the investigation and there should be some cooperation the Board can expect.

Dr. Waite directed Board staff to contact the Attorney General's office to collaborate with them. Dr. Waite wanted to know if the Attorney General's office had any new evidence in this case to pursue the arrest warrant they obtained, or if it was the same information the Board had. Dr. Waite asked to subpoena the arrest information. He said it was information the Board should have.

Agenda Item No. 4 Review, discussion and possible action regarding reports of Pankaj Goyal, D.D.S.'s arrest.

Dr. Waite asked Ms. Williams, Assistant Attorney General, if she had any comments regarding this agenda item and she stated she did not. Ms. Williams stated she was not able to obtain any public information from the courts. She stated this agenda item was for information only for the Board.

Mr. Dynar stated he wanted to know was there any cooperation the Board could expect from the Attorney General's office regarding Dr. Goyal's arrest. Dr. Waite stated he would like to have that information also.

CALL TO THE PUBLIC

Agenda Item No. 5 MEMBERS OF THE PUBLIC

Nothing to Report.

Agenda Item No. 6 FUTURE AGENDA ITEMS

- A. Ms. Elaine Hugunin – Review and discussion regarding Ms. Hugunin’s work and efforts during her tenure with the Board.

Agenda Item No. 7 NEXT MEETING DATE – AUGUST 3, 2018

Agenda Item No. 8 ADJOURNMENT

Upon MOTION by Dr. Waite, second by Dr. Sorensen, the Board voted to ADJORN the Board meeting.
MOTION PASSED UNANIMOUSLY.

Dr. Waite adjourned the meeting at 5:21 PM.



Gregory A. Waite, D.D.S., President