



State of Arizona Board of Chiropractic Examiners

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Members Present: Richard A. Guarino, D.C., Chair; Steven Knauf, D.C.; Professional Member; Angela Giordano-Powell, Public Member; Mitchell L. Turbenson; Public Member

Members Absent: Wayne Bennett, D.C., Vice-Chair

Staff Present: Seamus Monaghan, A.A.G; Alissa Vander Veen, Interim Executive Director; Jackie Kennell, Investigator; Ryan Dominick, Licensing Manager

A. Call to Order:

A meeting of the Arizona Board of Chiropractic Examiners was called to order on March 4, 2022, at 9:00 a.m. with Dr. Guarino presiding.

B. Roll Call of Board Members Present

See above.

C. Recognition, Instruction, and Dialogue with New Licensees

Dr. Guarino recognized new licensees present for Continuing Education.

D. Initial Action on Complaints – *Review, discussion, and possible action on the following cases before the Board for the first time. The Board may consider dismissing the complaint; issuing a Non-Disciplinary Advisory Letter; Order for Non-Disciplinary Continuing Education, forwarding the matter for further investigation or Formal Interview.*

TAB 01 & 02	2021-029	Ralph Bigler	License 3127
(Retired)	2022-022		

Ms. Vander Veen provided a summary of the allegations:

1. Practicing Chiropractic on a Retired License
2. Failure to Renew Yearly License
3. Noncompliance with Subpoena

Mr. Bigler and his attorney, Danny Hill, appeared in person and addressed the Board.

After review and discussion, upon MOTION by Dr. Guarino, SECOND by Ms. Powell; the Board voted to move this to the superior court and issue an injunction and send a cease and desist letter.

Motion passed 4-0-0-1-0-0

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2 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

3 **TAB 03** **2021-024** **Warren Birdsong, D.C.** **License 5468**

4 Ms. Vander Veen provided a summary of the allegations:

- 5 1. Practicing while license is suspended (Administrative Suspension)

6 Dr. Birdsong and his legal counsel, Matt Anderson, were present virtually via Zoom and
7 addressed the Board.

8 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to issue a
9 Non-Disciplinary Advisory Letter pursuant to §32-924 (E)(2) and §32-900(1)(b) the violation is
10 a minor or technical violation that is not of sufficient merit to warrant disciplinary action for
untimely renewal and for incorrectly answering “No” to question #18 on his 2022 Renewal
Application.

11 Motion passed 4-0-0-1-0-0

12 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

13 **TAB 04** **2021-004** **John Duff, D.C.** **License 7297**

14 Dr. Duff appeared in person and was not represented by legal counsel.

15 Ms. Vander Veen provided a summary of the allegations:

- 16 1. Patient abandonment
17 2. Breach of confidentiality
18 3. Failure to release medical records
19 4. Noncompliance with Board Subpoena
20 5. Failure to provide information to the Board
21 6. Unprofessional conduct

22 Dr. Duff answered questions from the Board.

23 Complainant A.C. appeared virtually via Zoom and provided testimony regarding the complaint.

24 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to issue a
25 Non-Disciplinary Order for Continuing Education pursuant to 32-924(E) for six hours of
documentation and 6 hours for case management, to be completed within 90 days, in addition to
the required hours for continuing education for renewal and if not completed be forwarded to a
formal hearing.

26 Motion passed 3-1-0-1-0-0

27 3-Aye 0-Nay 1-Abstained 1-Absent 0-Recused 0-Vacant

28 **TAB 05** **2021-021** **James P. Garrett, D.C.** **License 4416 (Adm. Suspension)**

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2 Dr. Garrett appeared in person and was not represented by legal counsel.

3 Ms. Vander Veen provided a summary of the allegations:

- 4 1. Misleading advertising
5 2. Practicing on a suspended license
6 3. Failure to renew yearly license

7 Dr. Garrett answered questions from the Board.

8 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to
9 continue the matter to the next Board Meeting and allow Dr. Garrett to submit additional
10 documentation related to his 2022 renewal application and work with staff to reinstate his
11 license.

12 Motion passed 4-0-0-1-0-0

13 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

14 **TAB 06 2021-020 Jason M. Gemmer, D.C. License 8935**

15 Dr. Gemmer appeared virtually via Zoom and was not represented by legal counsel.

16 Ms. Vander Veen provided a summary of the allegations:

- 17 1. Misleading advertising
18 2. Making false statements

19 After review and discussion, upon MOTION by Mr. Turbenson, SECOND by Ms. Powell; to
20 issue a Non-Disciplinary Advisory Letter pursuant to §32-924(E)(2) and §32-900(1)(b) the
21 violation is a minor or technical violation that is not of sufficient to merit or warrant disciplinary
22 action for misleading advertising and making false statements.

23 Dr. Knauf was rescued from this matter.

24 Motion passed 3-0-0-1-1-0

25 3-Aye 0-Nay 0-Abstained 1-Absent 1-Recused 0-Vacant

26 **TAB 07 2021-010 Brett Alan Guthrie, D.C. License 8543**

27 Dr. Guthrie appeared virtually via Zoom and was not represented by legal counsel.

28 Ms. Vander Veen provided a summary of the allegations:

1. Failure to complete continuing education
2. Failure to release records
3. Inadequate record-keeping
4. Failure to renew his license for 2021 & 2022

1 5. Unprofessional conduct

2 Dr. Guthrie answered questions from the Board.

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4 After review and discussion, upon MOTION by Ms. Powell, SECOND by Dr. Knauf; to
5 continue this matter to the June 1, 2022 Board Meeting to allow Dr. Guthrie to demonstrate 2019
6 continuing education compliance.

7 Motion passed 4-0-0-1-0-0

8 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

9 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to refer
10 the matter to the Arizona Department of Health Medical Marijuana Services for their review.

11 Motion passed 4-0-0-1-0-0

12 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

13 *The Board took a break at 10:06 a.m., reconvening its public meeting at 10:15 a.m.*

14 **TAB 08 2021-003 Dean Micalizio, D.C. License 4280**

15 Dr. Micalizio and his legal counsel, Sara Stark, were present virtually via Zoom and addressed
16 the Board.

17 Ms. Vander Veen provided a summary of the allegations:

- 18 1. Making false statements
- 19 2. Danger to the health, safety, and welfare of the public
- 20 3. Advertising pain-free, specialist
- 21 4. Misleading advertising (superiority)
- 22 5. Failure to renew chiropractic license in a timely manner

23 Dr. Micalizio answered questions from the Board.

24 After review and discussion, upon MOTION by Dr. Guarino, SECOND by Ms. Powell; to
25 formal interview pursuant to A.R.S. §32-924 (F) based on the potential violations of law and
26 factual allegations: making false statements; advertising pain-free, specialist; misleading
27 advertising (superiority); failure to renew in a timely manner based on the potential violations
28 stated in the report:

- A.R.S. §32-924(A)(5)-Unprofessional conduct or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession
 - A.A.C. R4-7-902(2)-Knowingly making a false statement or misleading statement to a patient or a third party.
- A.R.S. §32-924(A)(13)-Advertising in a false, deceptive or misleading manner.

- A.A.C. R4-7-901-The Board shall cause a license to be investigated, suspended, or revoked for advertising that is likely to deceive or defraud the public, including but not limited to the following examples:
 - Advertising painless procedures
 - Advertising complete health services
 - Advertising that uses the words “specialist”, “specializing”, or “expert”
- A.R.S. §32-923(B)-An individual licensed under A.R.S. Title 32, Chapter 8, shall renew the license every year before January 1.

Motion passed 4-0-0-1-0-0

4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

TAB 09 2021-024 Dean Micalizio, D.C. License 4280

Dr. Micalizio and his legal counsel, Sara Stark, were present virtually via Zoom and addressed the Board.

Complaint S.B.B. appeared in person and addressed the Board.

Ms. Vander Veen provided a summary of the allegations:

1. Improper billing
2. Making false statements
3. Misleading advertising (superiority) (pain-free) (specialist)
4. Unprofessional conduct
5. Failure to maintain adequate records
6. Failure to renew chiropractic license in a timely manner
7. Failure to provide documentation for continuing education (2020 & 2021)

After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to formal interview pursuant to A.R.S. §32-924 (F) based on the potential violations of law and factual allegations: making false statements; misleading advertising (superiority) (pain-free) (specialist); unprofessional conduct; failure to maintain adequate records; failure to renew chiropractic license in a timely manner; failure to provide documentation for continuing education (2020 & 2021) and combine with the previous Tab 08 Case No. 2021-003, based on the potential statutory and rule violations stated in the report:

- A.R.S. § 32-924 (A) (22) - Billing or otherwise charging a patient or third party payor for services, appliances, tests, equipment, an x-ray examination, or other procedures not actually provided.
- A.A.C. R4-7-902 (13) - Improper billing. Improper billing means:
 - a. Knowingly charging a fee for services not rendered;
 - b. Knowingly charging a fee for services not documented in the patient record as being provided;
 - c. Charging a fee by fraud or misrepresentation, or willfully and intentionally filing a fraudulent claim with a third-party payor;
 - d. Misrepresenting the service provided for the purpose of obtaining payment;

- e. Charging a fee for a service provided by an unlicensed person who is not a chiropractic assistant under A.R.S. § 32-900 or for services provided by an unsupervised chiropractic assistant; and
- f. Repeatedly billing for services not rendered or not documented as rendered Or repeatedly engaging in acts prohibited under subsections (c) through(e).
- A.A.C. R4-7-902 (5) - Failing to create an adequate patient record that includes the patient's health history, clinical impression, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, notes for each patient visit, and a billing record. The notes for each patient visit shall include the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided services to the patient.
- A.R.S. § 32-924 (A) (5) - Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession.
 - A.A.C. R4-7-902 (2) - Knowingly making a false or misleading statement to a patient or a third party payor.
 - A.A.C. R4-7-902 (26) - Claiming professional superiority in the practice of chiropractic under A.R.S. § 32-925.
- A.A.C. R4-7-901-The Board shall cause a license to be investigated, suspended, or revoked for advertising that is likely to deceive or defraud the public, including but not limited to the following examples:
 - Advertising painless procedures
 - Advertising complete health services
 - Advertising that uses the words “specialist”, “specializing”, or “expert”
- A.R.S. §32-923(B)-An individual licensed under A.R.S. Title 32, Chapter 8, shall renew the license every year before January 1.

Motion passed 4-0-0-1-0-0

4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

The Board took a break at 11:19 a.m., reconvening its public meeting at 11:30 a.m.

TAB 10 2021-011 Noel Shaw, D.C. License 4092

Dr. Shaw was present virtually via Zoom and not represented by legal counsel.

The complainant was not present.

Ms. Vander Veen provided a summary of the allegations:

1. Failure to release records
2. Failure to maintain adequate records
3. Making false statements
4. Incorrect diagnosis
5. Improper billing
6. Breach of confidentiality
7. Unprofessional conduct

1 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to issue a
2 Non-Disciplinary Order for continuing education pursuant A.R.S. § 32-924(E) for four hours of
3 documentation in addition to the 12 hours of continuing education required for licensure renewal
4 to be completed in 90 days.

5 Motion passed 4-0-0-1-0-0

6 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

7 **TAB 11 2021-023 David L. Slebodnik, D.C. License 4955 (Adm. Suspension)**

8 Dr. Slebodnik appeared in person and was not represented by legal counsel.

9 Dr. Slebodnik answered questions from the Board.

10 Ms. Vander Veen provided a summary of the allegations:

- 11 1. Patient abandonment
- 12 2. Practicing on a suspended license
- 13 3. Unprofessional conduct
- 14 4. Noncompliance with subpoena

15 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Mr. Turbenson; to
16 move to a formal interview pursuant to A.R.S. §32-924(F) based on the potential violations of
17 law and factual allegations: practicing on a suspended license, unprofessional conduct, and
18 noncompliance with a Board subpoena based on the potential statutory and rule violations stated
19 in the report:

- 20 ● A.R.S. § 32-924(A)(16) - Violating or attempting to violate, directly or indirectly, or
21 assisting in or abetting the violation of or conspiring to violate any of the provisions of this
22 chapter or any board order.
- 23 ● A.R.S. § 32-923(B) - an individual licensed under A.R.S. Title 32, Chapter 8, shall renew
24 the license every year before January 1.
- 25 ● A.R.S. § 32-924(A)(15) - Any conduct or practice contrary to recognized standards in
26 chiropractic or any conduct or practice that constitutes a danger to the health, welfare, or
27 safety or the patient or the public or any conduct, practice or condition that impairs the
28 ability of the licensee to safely perform and skillfully practice chiropractic.
- A.R.S. § 32-924(A)(5) - Unprofessional or dishonorable conduct of a character likely to
deceive or defraud the public or tending to discredit the profession.
 - A.A.C. R4-7-801(A) - to be eligible to renew a license, a licensee shall complete 12
credits of continuing education between January 1 and December 31 of each year,
and document compliance with continuing education requirements on the license
renewal application as required by R4-7-503(C).
 - A.A.C. R4-7-902(14) - Failing to timely comply with a board subpoena pursuant to
A.R.S. § 32-929 that authorizes Board personnel to have access to any document,
report, or record maintained by the chiropractic physician relating to the
chiropractic physician's practice or professional activities.

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2 After review and discussion, upon MOTION by Ms. Powell, SECOND by Dr. Knauf; to
3 continue the matter and in the interim have the Assistant Attorney General draft a consent
4 agreement considering the matters discussed today specifically a violation of A.R.S.
§32-3208(D).

5 Motion passed 4-0-0-1-0-0

6 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

7 **E. Whether to Open** – *Review, discussion, and possible action on whether to open a complaint*
8 *or take other action on the following:*

9 **TAB 14 WTO Margaret Colucci, D.C. License 4694**

10 The professional’s attorney, Mandi Karvis, appeared virtually and addressed the Board.

11 Ms. Vander Veen summarized the matter that the professional answered “Yes” to question 18
12 regarding disciplinary action in another jurisdiction.

13 Ms. Karvis addressed the Board and answered questions from the Board.

14 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; to take no
15 action at this time.

16 Motion passed 4-0-0-1-0-0

17 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

18 **F. Licensure** – *Review, discussion, and possible action on the following applications for*
19 *licensure upon payment of appropriate fees:*

20 **TAB 15 Licensure by Examination Stephanie Clay, D.C.**

21 Dr. Clay was present virtually via Zoom and not represented by legal counsel.

22 Ms. Vander Veen provided the Board with a brief summary of the licensure application.

23 Dr. Clay provided testimony regarding this matter and answered questions from the Board.

24 After review and discussion, upon MOTION by Ms. Powell, SECOND by Dr. Knauf; to grant
25 licensure in accordance with A.R.S. §32-921 presuming all fees and monetary dues have been
26 resolved.

27 Motion passed 4-0-0-1-0-0

28 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

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2 February 25, 2022, Formal Hearing Open Session Meeting Minutes

3 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Ms. Powell; the Board
4 voted to ACCEPT THE MINUTES AS AMENDED.

5 Motion passed 4-0-0-1-0-0

6 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

7 **TAB 18 Executive Director's Report**

8 Ms. Vander Veen provided a budget update.

9 Ms. Vander Veen provided an annual renewal update.

10 Ms. Vander Veen provided a report on licensure applications approved by the Interim Executive
11 Director.

12
13 Ms. Vander Veen provided an update on the status of complaints and investigations.

14 Ms. Vander Veen provided an update on a legislative matter that the Board staff is monitoring.

15 Ms. Vander Veen provided an update on the changes and updates to the Board's website.

16 **H. Review, Discussion, and Action on the Following Misc. Items.** *The Board may hold an*
17 *executive session to discuss records exempt by law from public inspection pursuant to A.R.S.*
18 *§ 38-431.03(A)(2) and receive legal advice pursuant to A.R.S. § 38-431.03(A)(3).*

19 Ms. Vander Veen requested the Board direct the Interim Executive Director to register a
20 position of support for SB 1607 Board of Chiropractic Examiners; Continuation and SB 1077
AHCCCS; Chiropractic Care; Report

21 After review and discussion, upon MOTION by Dr. Guarino, SECOND by Ms. Powell; the
22 Board voted to advocate and support SB 1607 and SB 1077.

23 Motion passed 4-0-0-1-0-0

24 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

25 **I. Call to the Public - Pursuant to A.R.S. § 38-431.01(H), Board members are not allowed to**
26 *discuss or take legal action on matters raised during an open call to the public unless the*
27 *matters are properly noticed for discussion and legal action. However, members may ask*
28 *staff to review a matter or may ask that a matter be placed on a future agenda.*

The Board did not receive a comment from the public.

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I. Adjournment

Meeting adjourned at 1:13 p.m.



Richard A. Guarino, D.C., Chairman



Alissa M. Vander Veen,
Interim Executive Director