

State of Arizona Board of Chiropractic Examiners

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Members Present: Richard A. Guarino, D.C., Chair; Wayne Bennett, D.C., Vice-Chair; Steven Knauf, D.C.; Professional Member; Mitchell L. Turbenson; Public Member (Virtually)

Members Absent: Angela Giordano-Powell, Public Member

Staff Present: Seamus Monaghan, A.A.G.; Alissa Vander Veen, Interim Executive Director; Ryan Dominick, Investigator; Conny Gillum, Licensing and Operations Coordinator; Larry Acosta, Administrative Assistant

A. Call to Order

A meeting of the Arizona Board of Chiropractic Examiners was called to order on April 19, 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. Formal Hearing – 9:00 a.m. - Review, discussion, and possible action on the following cases scheduled for Formal Hearing pursuant to A.R.S. § 32-924 (G), (H) and (I):

Tab No. 1	2020-010, 2020-024 & 2020-025	David R. Magnan, D.C. (Lapsed)	8616
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Mr. Seamus Monaghan, A.A.G., appeared on behalf of the state.

Ms. Monique Coady, A.A.G., appeared to provide independent legal advice to the Board.

Dr. Magnan was not present and was not represented by legal counsel.

After review and discussion, the Board agreed to re-agendize this matter to the June 1, 2022 Board Meeting to allow Board staff to re-notice Dr. Magnan of the formal hearing.

Mr. Seamus Monaghan, A.A.G., appeared on behalf of the state.

Ms. Monique Coady, A.A.G., appeared to provide independent legal advice to the Board.

Dr. Scheible was not present and was not represented by legal counsel.

Board heard a preliminary matter regarding providing proper notice to Dr. Scheible for the formal hearing.

Dr. Scheible was not present nor was he able to be properly noticed for the formal hearing.

Ms. Vander Veen presented the Board with options regarding how to address this matter:

1. To dismiss this matter and allow the license to be placed into “lapsed” status.
2. To dismiss without prejudice and flag his file should he attempt to reapply for licensure.
3. To continue this matter and allow staff to attempt to locate the respondent.

After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf to dismiss the matter without prejudice and for Board staff to log and notate the complaints in the Respondent's licensure file.

ROLL CALL:

	Dr. Richard Guarino	Dr. Wayne Bennett	Dr. Steven Knauf	Ms. Angela Powell	Mr. Mitchell Turbenson
AYE	X	X	X		X
NAY					
ABSENT				X	

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

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

- E. 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, and forwarding the matter for further investigation or Formal Interview.**

1
2 Ms. Karvis made a statement on behalf of Dr. Bowman.

3 Complainants C.G. and S.C. appeared virtually via Zoom and provided testimony
4 regarding their complaints.

5 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; the
6 matter forward to a formal hearing based on the potential violations and finding of facts as
7 stated in the investigative report.

- 8 ● §32-924 (A)(21), Engaging in sexual intercourse or oral sexual contact with a
9 patient in the course of treatment.
- 10 ● §32-924 (A)(5), which states, “Unprofessional or dishonorable conduct of a
11 character likely to deceive or defraud the public or tending to discredit the
12 profession.”
 - 13 ○ R4-7-902 (11), which states, “Suggesting or having sexual contact, as defined
14 in A.R.S. § 13-1401, in the course of patient treatment or within three months
15 of the last chiropractic examination, treatment, or consultation with an
16 individual with whom a consensual sexual relationship did not exist prior to a
17 chiropractic/patient relationship being established.
 - 18 ○ R4-7-902 (12), states, “Intentionally viewing a completely or partially
19 disrobed patient in the course of an examination or treatment if the viewing is
20 not related to the patient’s complaint, diagnoses, or treatment under current
21 practice standards.”
 - 22 ○ R4-7-902 (27) Engaging in disruptive or abusive behavior in a clinical setting.

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

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

25 *The Board took a break at 9:57 a.m., reconvening its public meeting at 10:08 a.m*

26 **F. Previously Before the Board** – Review, discussion, and possible action on the following
27 items previously before the Board:

28 Tab No. 6	2022-015	Caron Pedersen, D.C.	5882
		<i>(AD Suspension)</i>	

Dr. Pedersen was not present at the meeting, her legal counsel Mr. Flynn Carey was present in person.

Ms. Vander Veen provided an update to the Board regarding the status of Dr. Pedersen’s completed reinstatement application and reviewed the communication from Mr. Carey regarding the status of Dr. Pedersen’s license.

Mr. Carey provided a statement regarding the legal precedence on their view as to how best to proceed with this matter and reach an agreement regarding the status of Dr. Pedersen’s license.

1
2 Dr. Guarino moved, seconded by Dr. Bennett to go into executive session pursuant to
3 A.R.S. § 38-431.03(A)(3) to obtain legal advice. The motion passed unanimously and the
4 Board went into executive session at 10:11 a.m., reconvening its public meeting at 10:25
5 a.m.

6 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
7 rescind the previous motion from the January 12, 2022 meeting that stated the following:
8 *due to clear failure to continue reporting or renew licensure in accordance with A.R.S. §*
9 *32-924 (16) and due to her license has been refused or revoked by another licensing Board*
10 *during the same time frame according to A.A.C. R4-7-902 (33) to move the matter to a*
11 *Formal Hearing.*

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

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

14 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Mr. Turbenson;
15 to begin the process of denying the reinstatement application based on:

- 16 • A.A.C. R4-7-503(K)(2) *The applicant of license has not had any professional*
17 *disciplinary sanction taken against the applicant's or licensee's license by a*
18 *licensing board since the last application for licensure.*

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

20 4-Aye 0-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

21 **G. Whether to Open – Review, discussion, and possible action on whether to open a**
22 **complaint or take other action on the following:**

23 **Tab No. 7 WTO 22-002 Billie Barefoot, D.C. 7996**
24 **(Probation)**

25 Ms. Vander Veen provided a summary of the allegations of the Whether to Open:

26 1. Unprofessional conduct-sexual improprieties

27 Dr. Barefoot was not present and his legal counsel, Ms. Sara Stark appeared virtually via
28 Zoom.

Ms. Stark addressed the Board.

After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
open the complaint and combine with complaints 2022-026 and 2022-027.

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

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

2 **Tab No. 8 WTO 22-003 Youn C. Ryoo D.C. (Active) 7775**

3
4 Dr. Ryoo was present in person and his legal counsel, Mr. Charles Hover appeared
5 virtually via Zoom.

6 Ms. Vander Veen provided a summary of the allegations of the Whether to Open:

- 7 1. *Inappropriate Physical Contact* - A.R.S. § 32-924 (A)(5) Unprofessional or
8 dishonorable conduct of a character likely to deceive or defraud the public or
9 tending to discredit the profession.
10 a. A.A.C. R4-7-902 (11) Suggesting or having sexual contact, as defined in
11 A.R.S. § 13-1401, in the course of patient treatment or within three months
12 of the last chiropractic examination, treatment, or consultation with an
13 individual with whom a consensual sexual relationship did not exist prior to
14 a chiropractic/patient relationship being established.
- 15 2. *Danger to Health, Safety, Welfare* - A.R.S. § 32-924 (A)(15) Any conduct or
16 practice contrary to recognized standards in chiropractic or any conduct or
17 practice that constitutes a danger to the health, welfare, or safety of the
18 patient or the public or any conduct, practice or condition that impairs the
19 ability of the licensee to safely and skillfully practice chiropractic.

20 Mr. Hover addressed the Board on behalf of his client.

21 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
22 take no action.

23 Motion passed 3-1-0-1-0-0

24 3-Aye 1-Nay 0-Abstained 1-Absent 0-Recused 0-Vacant

25 **H. Consent Agreements – Review, discussion, and possible action on proposed Consent**
26 **Agreements.**

27 **Tab No. 9 2019-030 & Scott M. Johnson, D.C. (Lapsed) 7360**
28 **2020-004**

Ms. Vander Veen summarized the request for the Consent Agreement for Voluntary
Surrender of License.

After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
accept the Consent Agreement for Voluntary Surrender of License.

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

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

1
2
3 **I. Licensure – Review, discussion, and possible action on the following applications for**
4 **licensure upon payment of appropriate fees:**

5 **Tab No. 10 *Licensure by Examination* **John A Marino, D.C.****

6 Dr. Marino, was present virtually via Zoom.

7 Ms. Vander Veen provided information regarding the application.

8
9 Dr. Marino responded to questions from the Board regarding the findings from the
10 National Practitioner Data Bank query for malpractice claims.

11 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
12 grant licensure in accordance with A.R.S. §32-921 presuming all fees and monetary dues
13 have been resolved.

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

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

15 **Tab No. 11 *Licensure by Endorsement* **Chad A. Martin, D.C.****

16 Dr. Martin was present virtually via Zoom.

17 Ms. Vander Veen provided information regarding the application.

18 Dr. Marino responded to questions from the Board regarding the disposition of the
19 non-adverse actions that took place in the State of Washington.

20 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
21 grant licensure in accordance with A.R.S. §32-921 with a Non-Disciplinary Consent
22 Agreement for Continuing Education in Documentation taken within six months.

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

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

25 **Tab No. 12 *Licensure by Examination* **David A. Shipitofsky, D.C.****

26 Dr. Shipitofsky appeared in person.

27 Ms. Vander Veen provided information regarding the application.

28 Dr. Shipitofsky provided a statement to the Board and answered questions from the
Board.

1
2 After review and discussion, upon MOTION by Dr. Bennett, SECOND by Dr. Knauf; to
3 grant licensure in accordance with A.R.S. §32-921 presuming all fees and monetary dues
4 have been resolved.

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

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

7 **J. Board Business** – *Review, discussion, and possible action regarding the following:*

8 **Tab No. 13 Board Meeting Minutes**

9 March 4, 2022, Open Session Meeting Minutes

10 After review and discussion, upon MOTION by Dr. Knauf, SECOND by Mr. Turbenson;
11 the Board voted to ACCEPT THE MINUTES AS AMENDED.

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

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

14 **Tab No. 14 Interim Executive Director’s Report**

15 Ms. Vander Veen provided a budget update which included an update regarding current
16 staff changes and moving forward with the contract for the e-licensing cloud database
17 Thentia.

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

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

21 Ms. Vander Veen provided an update on the status of the Interim Executive Director’s
22 Leader Standard Work and the current activities that she is responsible for.

23 Ms. Vander Veen reviewed for the Board the status of previous actions taken by the Board
24 and that staff had completed all the necessary follow-up items.

25 Ms. Vander Veen discussed with the Board that due to construction work on Board Room
26 A that most likely the Board would have to meet in Board Room B for the months of
27 June, July, and August. The Board discussed this issue and requested that Ms. Vander
28 Veen and staff see if it is an option to meet in Board Room B and use Zoom Meeting for
the audio and recording of the meeting.

K. Call to the Public - *Pursuant to A.R.S. § 38-431.01(H), Board members are not allowed
to discuss or take legal action on matters raised during an open call to the public unless*

1 *the matters are properly noticed for discussion and legal action. However, members may*
2 *ask staff to review a matter or may ask that a matter be placed on a future agenda.*


3 The Board did not receive a comment from the public.


4 **L. Establishment of the future meeting date(s)-**

5 The next regular meeting is scheduled for Wednesday, June 1, 2022, at 9:00 a.m., at 1740
6 W. Adams St., Board Room B.

7 **M. Adjournment**

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9 Meeting adjourned at 11:26 a.m.

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11 _____
Richard A. Guarino, D.C., Chairman

12 
13 _____
Alissa M. Vander Veen,
14 Executive Director