

When necessary, the Board may go into Executive Session intermittently throughout the meeting for discussion and consultation for legal advice regarding any of the agenda items. A.R.S. § 38-431.03 (A)(3). The Board may also go into Executive Session to discuss personnel matters A.R.S. § 38-431.03 (A)(1), records exempt by law from public inspection A.R.S. § 38-431.03(A)(2) or for legal advice and consultation regarding pending or contemplated litigation A.R.S. § 38-431.03 (A)(4). The Board reserves the right to change the order of items on the Agenda and to call cases in random order.

**I. CALL TO ORDER AND ROLL CALL**

P. Dianne Haydon, D.C., Chairperson called the meeting to order at 1:05 p.m.

The roll was called by Patrice A. Pritzl, Executive Director. The following Board members were present at roll call: P. Dianne Haydon, D.C., Chairperson; S. Steven Baker, D.C., Vice-Chairperson; and Susan Wenberg, D.C., Member. Evelyn T. Gittinger, Member was connected to the meeting at 1:10 p.m.

Attendance: Melissa Cornelius, Assistant Attorney General, from the Office of the Attorney General; Patrice A. Pritzl, Executive Director; and Charles D. Brown, Deputy Director/Investigator.

**II. REVIEW, CONSIDER, DISCUSS, AND TAKE ACTION TO DETERMINE IF GOOD CAUSE EXISTS TO CONSIDER APPLICANT'S LATE APPEAL**

**Tab 01 Sean Moran, D.C.**

Ms. Cornelius informed the Board that Mr. Woods has filed for a judicial action in the matter of the license denial of Sean Moran, and provided a summary of the allegations.

Dr. Haydon provided Mr. Woods with the opportunity to present his argument for a waiver of the thirty-five 35-day period in which to file a motion to appeal the Board's denial of Mr. Moran's license application.

Mr. Woods stated that the notice of denial erroneously cited Title 42, instead of Title 41, regarding the timeframe provided to file a motion to appeal a Board action. Mr. Woods also stated that he believed that the notice was ambiguous because it stated that an appeal must be filed within thirty-five (35) days of service, but did not provide sufficient clarification or reference to law that service of the notice was deemed made upon depositing the notice as certified mail in the United States mail. Mr. Woods concurred that the statute does only provide thirty (30) days to file a motion to appeal a denial, and that he did not look at the statute, but contends that the notice he received was ambiguous and misleading regarding when service was made.

Ms. Gittinger joined the meeting at 1:10 pm.

Mr. Woods reiterated his argument for Ms. Gittinger. Mr. Woods then asked the Board to exercise its discretion to waive the thirty-five 35-day deadline, based on the ambiguity of the notice.

The Board considered whether waiver of the deadline in this case would set a precedence eroding the applicability of statute in future matters. Dr. Baker stated that he did not think a waiver in this matter would set a precedence to be applied to other cases since it would be based on error(s) or ambiguity in the notice.

After review and discussion, a motion was made by Dr. Baker and seconded by Ms. Gittinger to exercise the Board's discretion to waive the thirty-five 35-day period for filing of a motion to appeal the Board's denial of the license application of Sean Moran.

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

4-Yes      0-No      0-Abstained      0-Absent      0-Recused      1-Vacant

After further review and discussion, an amended motion was made by Dr. Baker and seconded by Ms. Gittinger to note that the waiver is based on the extenuating circumstance that the notice of license denial was ambiguous regarding the number of days allowed under law for the filing of the motion to appeal.

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

4-Yes      0-No      0-Abstained      0-Absent      0-Recused      1-Vacant

Patrice A. Pritzl, Executive Director, conducted a roll call for this agenda item.

Yes    P. Dianne Haydon, D.C., Chairperson  
Yes    S. Steven Baker, D.C., Vice Chairperson  
Yes    Susan Wenberg, D.C., Member  
Yes    Evelyn T. Gittinger, Member

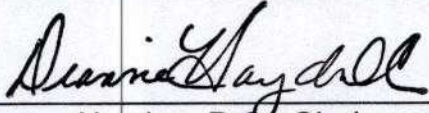
### III. ADJOURNMENT

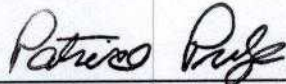
A motion was made by Dr. Baker and seconded by Ms. Gittinger to adjourn the meeting.

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

4-Yes      0-No      0-Abstained      0-Absent      0-Recused      1-Vacant

Meeting adjourned **Thursday, September 11, 2008 at 1:23 p.m.**

  
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P. Dianne Haydon, D.C., Chairperson

  
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Patrice A. Pritzl, Executive Director