



# Nevada State Board of Medical Examiners

## **\* \* \* MINUTES \* \* \***

### **OPEN SESSION BOARD MEETING**

**Held in the Conference Room at the offices of the  
Nevada State Board of Medical Examiners**

**1105 Terminal Way, Suite 301, Reno, NV 89502**

**and videoconferenced to**

**the conference room of the Nevada State Board of Dental Examiners**

**6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118**

***FRIDAY, SEPTEMBER 14, 2007 – 8:30 a.m.***

#### ***Board Members Present***

Javaid Anwar, M.D., President

Sohail U. Anjum, M.D., Vice President

Charles N. Held, M.D.

Jean Stoess, M.A.

S. Daniel McBride, M.D.

Benjamin J. Rodriguez, M.D.

Renee West

#### ***Board Members Absent***

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

#### ***Staff Present***

Drennan A. Clark, J.D., Executive Director/Special Counsel

Laurie L. Munson, Deputy Executive Director/  
Information Systems Administrator/Chief of Administration

Bonnie S. Brand, J.D., General Counsel

Edward O. Cousineau, J.D., Deputy General Counsel

Douglas C. Cooper, Chief of Investigations

Lynnette L. Daniels, Chief of Licensing

Jerry C. Calvanese, M.D., Medical Reviewer

#### ***Also Present***

Christine M. Guerchi-Nyhus, J.D., Chief Deputy Attorney General

Peter A. Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation (in Las Vegas)

John Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)

Peggy Alby, R.R.T., Practitioner of Respiratory Care Committee Member (in Las Vegas)

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Roll Call/Quorum
- Announcement of Appointment by the Governor and introduction of new Board member Renee West
  - Javid Anwar, M.D., President

The meeting was called to order by President Javid Anwar, M.D., at 8:35 a.m. Dr. Anwar welcomed new Board member, Renee West, to the Board.

Ms. Guerri-Nyhus took roll call, and all Board members were present with the exception of Dr. Baepler. Ms. Guerri-Nyhus announced that there was a quorum.

Agenda Item 2

**APPROVAL OF MINUTES**

- May 2, 2007 Board Retreat Meeting – Open Session
- June 8 & 9, 2007 Board Meeting – Open/Closed Sessions

Dr. McBride moved to approve the Minutes of the May 2, 2007 Board Retreat Meeting – Open Session, and the June 8 & 9, 2007 Board Meeting – Open/Closed Sessions. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 3

**PERSONNEL** *(tabled from June 8 & 9, 2007 Board meeting)*

**Closed Session**

- Annual Review and Discussion of Professional Competency of Staff; Staff Announcements
  - Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**Open Session**

- Set Staff Compensation
  - Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

- **Annual Review and Discussion of Professional Competency of Staff; Staff Announcements**
- **Set Staff Compensation**

Dr. McBride moved to go into Closed Session to discuss the professional competency of Board staff. Dr. Held seconded the motion, and it passed.

Upon returning to Open Session, Dr. Anwar suggested the Board wait until Dr. Anjum arrived to continue the discussion on this agenda item.

Agenda Item 8

**CONSIDERATION OF APPOINTMENT OF TASK FORCE TO DEVELOP A PROGRAM FOR RE-ENTRY INTO PRACTICE OF MEDICINE**

- Javaid Anwar, M.D., President; Cindy Lamerson, M.D., Board Member;  
S. Daniel McBride, M.D., Board Member

Dr. Lamerson stated that one of the items that came up at the Board's retreat was the difficulty physicians have encountered when trying to return to the practice of medicine after they have been away from it for an extended period of time. There are several programs available throughout the country and it has been suggested that the Board create a task force to investigate the possibility of developing a program or find existing programs to assist physicians to re-enter practice.

Dr. McBride stated that some existing programs are relatively new and innovative, and the Board has discussed the possibility of implementing such a program with the University of Nevada Medical School and how to encourage their participation. It would be nice if the Board could offer physicians a program in the state which could be modeled after successful programs that currently exist elsewhere. Perhaps the Board could obtain assistance from state medical societies and the state medical association.

Mr. Clark stated that the Oregon Board might be willing to assist, as they recently implemented such a program.

[Dr. Anjum joined the meeting at 8:48 a.m.]

Dr. McBride suggested the Board look into this issue within the next calendar year, and possibly make an on-site visit to an existing program, such as the Oregon program.

Dr. Lamerson suggested that the Board might be able to refer physicians to existing programs, and there could be reciprocity for the training.

Dr. Rodriguez moved to create a task force to investigate the possibility of establishing a re-entry program feasible for the state of Nevada. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion. Dr. Held suggested Dr. McBride and Dr. Lamerson as the task force committee members, and they accepted.

Agenda Item 3 **(CONTINUED)**

**PERSONNEL** *(tabled from June 8 & 9, 2007 Board meeting)*

**Closed Session**

- Annual Review and Discussion of Professional Competency of Staff; Staff Announcements
  - Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

**Open Session**

- Set Staff Compensation
  - Sohail U. Anjum, M.D., Vice-President and Chairman of the Internal Affairs Committee;
  - Drennan A. Clark, J.D., Executive Director/Special Counsel

- **Annual Review and Discussion of Professional Competency of Staff; Staff Announcements**
- **Set Staff Compensation**

Dr. Anjum stated that the competency reports had been reviewed by the Internal Affairs Committee. They had found nothing unusual and the reviews were very good. He stated that in the future, reviews should be kept confidential and not shown to the individuals until they had been reviewed by the Internal Affairs Committee.

Ms. Stoess moved that the Board approve a 3.2% salary increase for all staff members, effective July 1, 2007, the beginning of the fiscal year. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Ms. Guerci-Nyhus asked whether the proposed bonuses were meant to be included in her motion, and Ms. Stoess stated they were. Dr. McBride stated that he also seconded that portion of the motion.

Agenda Item 9

**REPORT ON STATUS OF THE BOARD'S CONTRACT WITH NEVADA HEALTH PROFESSIONALS ASSISTANCE FOUNDATION FOR THE BOARD'S DIVERSION PROGRAM FOR JULY 1, 2007 THROUGH JUNE 30, 2009**

- Drennan A. Clark, J.D. Executive Director/Special Counsel

Mr. Clark stated that the Board had received all insurance certificates from the Nevada Health Professionals Assistance Foundation that were required for the Board to enter into a new contract with it, and the signed contract had been submitted to the state Board of Examiners for approval at its October 9, 2007 meeting.

Agenda Item 10

**ETHICS CME FOR PHYSICIAN MEMBERS OF THE BOARD FOR PARTICIPATION AS MEMBERS OF THE BOARD** *(tabled from June 8 & 9, 2007 Board meeting)*

- Charles N. Held, M.D., Board Member

Dr. Held stated the matter had been tabled at the June meeting to allow time for the attorneys to research the question of whether the proposed CME credits would constitute additional compensation to Board members.

Ms. Guerci-Nyhus stated she had researched the matter and had spoken with Ms. Brand and Mr. Cousineau concerning same. She also looked into whether other boards gave their board members CE credits for their work with the board, and there are none, so this Board would be setting a precedent in doing so. The Board's statutes give the Board authority to create the qualifications for continuing medical education (CME) and set the standards for CME, and NAC 630.153 could be amended to add provisions granting ethics CME credits to physician Board members for their work on the Board. She did not think the Board has authority to do this through a motion and it would require going through the normal regulation adoption procedures. Therefore, the recommendation of the Attorney General's Office would be to go through the regulatory process.

Discussion ensued concerning the intent of the current regulation and the procedure that should be followed in order to adopt the provisions.

Ms. Guerci-Nyhus stated that going through the regulatory process would allow the Board to avoid any appearance that the Board was trying to give some of its members something that they are not entitled to and avoid potential conflicts and opposition down the road because people would have the opportunity to voice any objections in advance.

Dr. Anwar agreed that would be the best way to pursue the matter.

#### Agenda Item 4

#### **CONSIDERATION AND APPROVAL OF 2006-2007 AUDIT BY SOLARI & STURMER**

- David Silva, CPA, Solari and Sturmer, LLC; Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

John Solari of Solari and Sturmer, LLC, introduced David Silva and himself.

Mr. Silva stated the Board had received an unqualified opinion from the audit, which is a clean opinion, and is the highest level of assurance a CPA firm can provide to a client. He then outlined and explained the audit. The Board's total net assets, which is also referred to as the Board's reserve, is \$350,000. Of those total net assets, the portion that is available for spending is approximately \$71,000. Last year that number was approximately \$741,000, so there has been a significant decrease. The net assets have been decreasing at a fairly steady rate over the last few years and it has gotten to the point where the Board needs to give consideration as to future plans for reestablishing reserve levels that the organization will be comfortable with. There are some guidelines available from various organizations and institutes that serve as benchmarks and Solari and Sturmer would be happy to discuss these and assist in looking at opportunities available to the Board to boost those reserve levels.

Dr. Anwar stated it does not appear the Board has significant revenue above its expenses and he did not see anything in the operating expenses that appeared unusual that was a one-time expenditure.

Mr. Silva stated that one notable expense the Board incurred last fiscal year that it didn't incur in previous years was bank fees related to the online renewal process, and although they aren't apparent from looking at the audit, there were also additional expenses related to the online process because it was new, such as setup costs and training.

Dr. Anwar asked about the miscellaneous revenue and Mr. Silva stated those were fees collected not specifically related to applications or renewals.

Discussion ensued concerning areas where expenses could be reduced, and where they have already been reduced for the current fiscal year. Discussion ensued concerning funding to the Diversion Program.

Mr. Silva stated the auditors had encountered difficulty in performing some of the reconciliations with respect to revenue generated by the Board, as obtaining information on a consistent basis and verifying the correctness of the information utilizing the Board's database and reports as they are currently configured was difficult.

Dr. Anwar asked what needed to be done by the Board to provide the auditors with the information that they need in the future.

Mr. Silva suggested the Board work with its software vendor to customize existing reports and create additional reports to extract the information from the database. If additional training is necessary in addition, that would be another recommendation.

Dr. McBride asked whether the auditors were recommending that the Board raise its fees and whether the Board was in danger of going into a deficit.

Mr. Silva stated raising fees was one thing the Board could look into, but that it would also be prudent for the Board to look for ways to reduce expenditures. The auditors prepared a quick projection as to where the Board might be cash-wise in a few years and the projection was that by the end of 2010 the Board would be in a cash deficit position.

Dr. McBride asked whether the auditors could provide the Board with a recommendation for increasing fees at its December meeting and Mr. Silva stated they could.

Mr. Clark stated that the maximum fees are set by statute and the Board is currently at the maximum fee, so the Legislature would have to approve an amendment to the statute to increase the fees any further.

Dr. Rodriguez moved that the Board accept the audit report as presented. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

#### Agenda Item 5

#### **COMMITTEE REPORT ON BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM**

- Jean Stoess, M.A., Board Member, Chairperson; Drennan A. Clark, J.D., Executive Director/  
Special Counsel

Mr. Clark stated that the contract with Nevada Broadcasters Association runs through the end of the month and the current public service announcements will run through the end of the month as well. The Board did not renew the contract with Nevada Broadcasters.

Ms. Stoess suggested that since there are zero dollars in the budget for the next biennium for public relations, the committee report on the public service announcement program could be deleted from future agendas unless there is something to report.

Dr. Lamerson stated there are ways the Board could continue with its public relations that would not cost the Board anything, such as having members of the Board speak with television stations about what the Board does and what services it offers, and she offered to look into that if the Board so desired. Dr. Anwar agreed that would be a worthwhile undertaking.

Agenda Item 6

**CONSIDERATION OF ADOPTION OF AMENDMENTS TO NEVADA ADMINISTRATIVE CODE CHAPTER 630**

- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, Authorizing Physician Assistants to Act Under the Supervision of Any Physician at the Scene of an Accident or a Natural or Manmade Disaster When Rendering Emergency Care (a temporary regulation is already in effect; if approved, the regulation will become permanent)
- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Require Licensees and Applicants to Sign All Notifications, Applications and Communications They Have With the Board (a temporary Regulation is already in effect; if approved, the regulation will become permanent)
- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Provide a Procedure for Licensure of Eminent Physicians (a temporary regulation is already in effect; if approved, the regulation will become permanent)
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Revise Time Limits and Number of Attempts Allowed for Passage of All Three Steps of the USMLE
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Add Additional Circumstances Under Which an Applicant Will be Deemed to Have Satisfied the Requirements of NAC 630.080(2) (Ten-Year Rule)
- Consideration of Amendment to Nevada Administrative Code Chapter 630, Creating Grounds for Initiating Administrative Sanctions Against a Licensee for Failure to Submit to the Board a Report as Required Under NRS 630.30665
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Add Language to Define a "Chemotherapeutic Agent"
  - Edward O. Cousineau, J.D., Deputy General Counsel
- **Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, Authorizing Physician Assistants to Act Under the Supervision of Any Physician at the Scene of an Accident or a Natural or Manmade Disaster When Rendering Emergency Care**

Mr. Cousineau stated that the Board adopted this regulation as temporary at its March meeting. Pursuant to the Administrative Procedures Act, the temporary regulation is only in full force and effect until November 1 of this year, and this will apply to two other regulations that he will be submitting for approval at this meeting. He then stated that workshops and a hearing had been held again, pursuant to the Administrative Procedures Act, and there was no significant input beyond what was already provided at the previous workshops and hearing on the regulation. He asked that the Board approve the regulation as permanent.

Dr. Rodriguez asked whether there were any changes to the regulation since the Board approved it in March, and Mr. Cousineau stated the only changes made were not substantive to the Board's concerns, and had been made by LCB in order to reconcile the regulation with a couple of other sections of the Administrative Code that were somewhat synonymous with this regulation.

Dr. Held moved to adopt the regulation as permanent. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Require Licensees and Applicants to Sign All Notifications, Applications and Communications They Have With the Board**

Mr. Cousineau stated this regulation was put in place to ensure that documentation submitted to the Board is submitted by the individual, and not some other person or entity. The original genesis for this regulation was that the Licensing Division had found that materials received were not always prepared by the applicants themselves, as required, and there may also have been a concern by the Investigative Committees that responses provided by respondents were being prepared by counsel representing the respondents, and not the respondents themselves. Additionally, this regulation will obviate any defense that an individual was not aware of the representations made in a document submitted to the Board on his or her behalf.

Dr. Rodriguez moved to adopt the regulation as permanent. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Provide a Procedure for Licensure of Eminent Physicians**

Mr. Cousineau stated that in December of last year, the Board adopted this regulation in the form currently before it, and there was no additional input offered at the most recent workshops and hearing that was in contravention to the temporary regulation that is in place, so it would be reasonable to adopt the regulation as permanent.

Mr. Clark stated the law had been changed to allow the Board to grant eminent, foreign-trained physicians a license to practice at a specific institution and this regulation provides the procedure they are required to follow to obtain a license.

Dr. McBride moved to adopt the regulation as permanent. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Revise Time Limits and Number of Attempts Allowed for Passage of All Three Steps of the USMLE**

Mr. Cousineau requested authority to proceed with adoption of a regulation amending NAC 630.080(3), concerning passage of the USMLE as a requirement for licensure. He stated the current language would be modified to require an applicant to pass Step 3 of the USMLE in no more than three attempts and would change the time limit for passage of all three steps to seven years from the date on which the applicant first passes any step of the examination, or 10 years if the applicant first sought a Ph.D. The regulation currently requires an applicant to have passed all three steps within seven years from the time he or she first takes any step of the examination, or ten years if the applicant also holds a Ph.D.

Discussion ensued concerning the timeframes included in the proposed regulation.

Dr. Held moved that the Board authorize staff to proceed with adoption of the proposed regulation. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Add Additional Circumstances Under Which an Applicant Will be Deemed to Have Satisfied the Requirements of NAC 630.080(2) (Ten-Year Rule)**

Mr. Cousineau stated that in response to SB 412, he was requesting authority to proceed with adoption of a regulation amending NAC 630.080(2), to expand the language already in place to bring it into accord with the provisions of SB 412.

Ms. Brand explained it is essentially a “grandfather” clause.

Dr. Rodriguez moved that the Board authorize staff to proceed with adoption of the proposed regulation. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, Creating Grounds for Initiating Administrative Sanctions Against a Licensee for Failure to Submit to the Board a Report as Required Under NRS 630.30665**

Mr. Clark advised the Board that it had been directed by the Legislature to adopt a regulation in this regard to provide for administrative punishment for those licensees who fail to respond, or respond timely, to the annual report on in-office surgeries using various levels of sedation.

Mr. Cousineau stated this was a difficult regulation to draft in that the language as enunciated in SB 412 was equivocal and made it difficult to put it into regulation form. He requested authority to proceed with adoption of the proposed regulation.

Dr. Lamerson asked for the percentage of those physicians who did not report. Mr. Cooper estimated the number was between 12 and 20 percent. He stated part of the problem is that the Board is still receiving reports from the last reporting period.

Discussion ensued concerning the reasoning behind the provisions of SB 412.

Discussion ensued concerning procedures the Board would need to follow in order to implement the regulation and whether automatic fines could be put in place as part of the regulation, which would obviate the necessity of instituting costly disciplinary proceedings to collect the fines.

Ms. Guerci-Nyhus stated that the Board can specify a specific administrative sanction, such as if the report is due Feb 1st, and it's 30 days late, the sanction is \$100 for a first offense, if 60 days late, it's \$200 for a first offense, and other amounts for a second offense, and so on.

If the Legislature has given the Board authority to institute an administrative sanction, the Board could include specific sanctions in the regulation and then issue a licensee a notice of sanction as opposed to going through the disciplinary process.

Mr. Cousineau stated the provisions currently contained in the proposed regulation were consistent with what was mandated by SB 412 and was a basic framework, which could be, and most likely would be, modified as it proceeded through the regulatory process.

Dr. Held moved that the Board authorize staff to proceed with adoption of the proposed regulation. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Add Language to Define a “Chemotherapeutic Agent”**

Mr. Cousineau stated the proposed regulation had been drafted in response to Section 5 of SB 385, which deals with injection of chemotherapeutic agents by persons who are not physicians. Since “chemotherapeutic agent” was not defined therein, the Legal Division thought it would be prudent to define the term.

Discussion ensued concerning the difficulties in adopting a set definition of “chemotherapeutic agent” because the term is a dynamic one which is constantly changing.

Dr. Lamerson asked why the Legal Division thought a definition was necessary, and Ms. Brand explained that they receive calls from individuals asking whether supervision by a physician is necessary for injectables, to which they currently respond that it is, but felt if there was a definition of “chemotherapeutic agent” in the regulations, it would help to clarify the issue.

Dr. Anwar stated that injection of “chemotherapeutic agents” are always supervised by a physician.

Dr. Held moved that the Board not define “chemotherapeutic agent” at this time. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 7

**REVIEW OF STATUS OF MINI-INTERNSHIP PROGRAM ATTENDED BY  
GLEN D. LYBBERT, M.D. AND POTENTIAL FOR FULL REINSTATEMENT OF LICENSE**

*(tabled from June 8 & 9, 2007 Board meeting)*

- Glen D. Lybbert, M.D.

Mr. Clark stated that the Board had received a letter from Dr. Sheldon Paul, the physician who is supervising Dr. Lybbert’s training. The letter indicates Dr. Lybbert needs one or two additional months’ training before he will be able to proceed with full independence. Dr. Lybbert is not available to attend the meeting today, but he agrees that he needs additional supervision, and they will report to the Board at the December meeting.

## Agenda Item 11

### **REPORTS**

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
  - Consideration of Request for Approval of Appointment of Replacement Committee Member
- Practitioner of Respiratory Care Advisory Committee - Peggy Alby, R.R.T., Advisory Committee Member
- Investigative Committees - Charles N. Held, M.D., Board Member, Chairperson, Investigative Committee A
  - Sohail U. Anjum, M.D., Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations; Terri L. Ward, Investigator/ Compliance Officer
  - Status of Investigative Caseload
  - Compliance Program Report
- Nevada State Medical Association Liaison Report - Cindy Lamerson, M.D., Board Member; Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Member; Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
  - Status of Finances

#### **- Diversion Program: Quarterly Report**

Peter A. Mansky, M.D., Director of the Nevada Health Professionals Assistance Foundation, stated the Foundation is continuing to work on various methods to obtain financial support for the Foundation in addition to what they receive from the Board. He wanted to make the Board aware of an article that he and Dr. Roger Belcourt had submitted to the *Reno Gazette-Journal*, stating that although the Nevada Board may be ranked low in serious disciplinary actions against physicians, it is high in preventing the need for serious disciplinary actions against physicians. The number of physicians being monitored by the Foundation is 12.4 doctors per 1000 and the average is 3.18 per 1000. This statistic could be very helpful to the Board. He also stated the Foundation could be helpful to the Board in consultation concerning licensing of physicians with mental health problems. The Foundation's monitoring statistics remain similar to the last report.

#### **- Physician Assistant Advisory Committee**

#### **- Consideration of Request for Approval of Appointment of Replacement Committee Member**

John Lanzillotta, P.A.-C, requested that the Board approve the appointment of Roy Cary, P.A.-C to the Physician Assistant Advisory Committee. He presented the Board with an overview of Mr. Cary's qualifications and background. Mr. Lanzillotta then introduced Mr. Cary to the Board. Mr. Cary gave a brief summary of his background.

Dr. Held moved that the Board approve the appointment of Roy Cary, P.A.-C to the Physician Assistant Advisory Committee. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Practitioner of Respiratory Care Advisory Committee**

Peggy Alby, R.R.T., advised the Board that the Advisory Committee would be submitting a request for appointment of a replacement committee member for Steve Kessinger at the Board's December meeting.

**Investigative Committees – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,  
Chairperson, Investigative Committee A  
Sohail U. Anjum, M.D., Vice President, Chairperson,  
Investigative Committee B**

**- Consideration of Cases Recommended for Closure by the Committees**

Dr. Held reported that Investigative Committee A considered 140 cases, authorized the filing of a formal complaint in 4 cases, requested an appearance in 8 cases, issued 11 letters of concern, sent 2 cases out for a peer review and recommended closure of 114 cases.

Dr. Anjum reported that Investigative Committee B considered 107 cases, authorized the filing of a formal complaint in 3 cases, requested an appearance in 10 cases, issued 4 letters of concern, sent 1 case out for a peer review and recommended closure of 93 cases.

Dr. McBride moved to approve for closure the cases recommended by the Investigative Committees. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**- Investigations Division**

**- Status of Investigative Caseload**

Mr. Cooper stated that 247 cases were reviewed by the Investigative Committees and 207 cases were recommended for closure. The investigative caseload has dropped significantly. There are 492 open cases, down from 665 around the end of July. This is the lowest per-investigator case count the Board has had in years, which is 73. A concerted effort by the Medical Reviewer, the Investigators and the Investigative Committees, in the way peer reviews are processed and in trying to cut down on the number of peer reviews required without degrading the quality of the Board's investigations, has resulted in a significant drop. In March there were 99 peer reviews out, in June there were 79, and the current number is 45. The new process should keep the number of peer reviews down.

With respect to the question he was asked earlier in the meeting regarding the percentage of physicians who failed to report their in-office surgeries last year, the percentage was 12%, not counting those who have reported since March.

**- Compliance Program Report**

Mr. Cooper reported that the total outstanding debt owed to the Board has dropped to \$94,101. There are currently 51 open compliance cases. The Board has received a couple of large payments from disputed claims. The Attorney General's Office has become quite active in obtaining judgments against those who owe the Board money. There is one uncollectible debt from a terminally-ill physician in the amount of \$19,000 that the Board will have to write off.

**- Nevada State Medical Association Liaison Report**

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, stated their Commission on Governmental Affairs has begun drafting strategy for the 2009 legislative session. He offered his assistance to Dr. Lamerson and Dr. McBride on the re-entry task force and to Dr. Lamerson and Ms. Stoess concerning earned media opportunities in terms of discussing the Board's activities and the issues facing the Board.

**- Clark County Medical Society Liaison Report**

Dr. Rodriguez stated Florence Jameson had completed her term as President and Dr. Havins was the new President. They are proceeding with a community health clinic that will provide care to those who cannot afford it.

Dr. Havins was not in attendance at the meeting.

**- Washoe County Medical Society Liaison Report**

Dr. Lamerson stated she had nothing to report. Jeanie L. Catterson was not in attendance at the meeting.

**- Secretary-Treasurer  
- Status of Finances**

Mr. Clark stated that the latest profit and loss statement and balance sheet, which show the current financial status of the Board, had been provided to all Board members.

Dr. Held moved to adopt the report. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 12

**EXECUTIVE STAFF REPORTS**

- Consideration of Request for Staff Attendance at Educational Meetings
- Consideration of Utilizing Same Hotel (Embassy Suites on Paradise Road) Used for December 2006 Meeting for December 2007 Meeting or Looking for Another Hotel
- Informational Items
- Drennan A. Clark, J.D., Executive Director/Special Counsel

**- Consideration of Request for Staff Attendance at Educational Meetings**

Mr. Clark requested authority for staff to attend the educational training outlined on the list provided to Board members as part of the agenda packet, and stated funding for training is incorporated into the Board's budget.

Dr. McBride moved to approve the requests for training as outlined in the materials provided as part of the agenda packet. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark asked the Board whether the facility used for the December meeting last year was acceptable to them to hold this year's December meeting. Dr. Anwar stated it was.

Mr. Clark requested authority for he and Ms. Brand to conduct interviews to replace Ms. Brand as General Counsel and make a recommendation to the Executive Committee.

Dr. McBride moved to authorize Mr. Clark and Ms. Brand to conduct interviews to replace Ms. Brand as General Counsel.

Dr. Anjum suggested that one of the Board members participate in the interviews. Ms. Stoess volunteered to participate.

Ms. Stoess seconded the motion to authorize Mr. Clark and Ms. Brand to conduct interviews to replace Ms. Brand as General Counsel. A vote was taken on the motion and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 13

**LEGAL REPORTS** - Bonnie S. Brand, J.D., General Counsel  
Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

- Board Litigation Status

**- Board Litigation Status**

Ms. Brand reported there were 2 cases pending adjudication, 4 cases pending settlement and 3 cases pending dismissal during the current meeting. Nineteen letters of concern were sent out after the June Investigative Committee meetings and there are between 15 and 17 more coming out of the recent Investigative Committee meetings. There are 21 cases pending hearings through June 18, 2008 and 11 cases pending the filing of formal complaints, plus 8 more authorized at the recent Investigative Committee meetings. One case is pending an offer of a consent agreement, and the first administrative address change fine will be sent out, which does not require a hearing. There are 36 cases in the Legal Department pending Investigative Committee summaries, which has come down from an average of 50 each quarter. The Wick appellate case is pending settlement at the Nevada Supreme Court level. The Fani-Salek case has been filed with the Nevada Supreme Court and the Board's brief is due on October 8th. The Lakner judicial review case began in 2002 and was stayed while Dr. Lakner was in Iraq. He notified the Court in October of last year that he was back and ready to be set for oral argument, but nothing has happened, so staff will probably do some kind

of motion to the Court to alert it that the case has fallen through the cracks. Dr. Ezeanolue prevailed in his judicial review and a decision was made not to appeal the case to the Nevada Supreme Court. There is one additional case in the district court that has been sealed and is pending oral argument next week. Dr. James Murphy has filed a petition for judicial review of his license denial. The Giarrusso case has been settled.

Ms. Guerci-Nyhus stated the Attorney General's Office has become more aggressive with collections for the Board. Additionally, she has talked with Mr. Clark and Ms. Brand about the way the Board meetings are conducted and having a Deputy Attorney General sit through the entire meeting, which is atypical for boards who have their own general counsel. The Board can opt to continue to do that or can opt to have the Deputy Attorney General there for business items, adjudications and settlements, but not for license applications, which will save the Board some money. So today she will be present though the adjudications and settlements, and the one petition for declaratory order, but will not remain for the license applications.

Agenda Item 14

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. JERRY HUNTER, M.D., BME CASE NO. 04-9238-1**

- Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

**OPEN SESSION**

Michelle Schwarz, Esq., was present in Las Vegas and stated she was representing Dr. Hunter.

Ms. Guerci-Nyhus named the adjudicating members and summarized the facts of the case.

Ms. Guerci-Nyhus then asked the adjudicating Board members whether they had reviewed the information provided relative to the adjudication. Dr. Rodriguez indicated he had not reviewed the materials, and that he was abstaining from consideration of the matter. The remaining adjudicating members indicated they had reviewed the materials.

Dr. McBride stated he had reviewed the case carefully, particularly the testimony of the two expert witnesses. He found Dr. Hunter's expert witness, Dr. Wilkin, to be very credible as a wound care expert and agrees with his assessment that the standard of care was met.

Discussion ensued concerning Dr. Hunter's care of the patient and whether the standard of care was met in this case.

Dr. McBride moved that the Board dismiss the complaint against Dr. Hunter as his treatment of the patient met the standard of care and there was no malpractice. Dr. Held seconded the motion.

Discussion ensued concerning follow-up treatment of patients in these types of cases.

A vote was taken on the motion and it passed, with Dr. Rodriguez abstaining from the vote and all remaining adjudicating Board members voting in favor of the motion.

Agenda Item 15

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. JAMES ALLEN, M.D., BME CASE NO. 06-9697-1**

- Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

**OPEN SESSION**

Ms. Guerci-Nyhus named the adjudicating members and summarized the facts of the case.

Ms. Guerci-Nyhus then asked the adjudicating Board members whether they had reviewed the information provided relative to the adjudication. Dr. Rodriguez indicated he had not reviewed the materials, and that he was abstaining from consideration of the matter. The remaining adjudicating members indicated they had reviewed the materials.

Dr. Anwar stated the case was straightforward as far as the facts were concerned.

Dr. McBride moved that the Board find Dr. Allen guilty of the charges contained in the complaint against him for possession of child pornography, which constitutes a crime of moral turpitude. Ms. Stoess seconded the motion, and it passed, with Dr. Rodriguez abstaining from the vote and all remaining adjudicating Board members voting in favor of the motion.

Ms. Guerci-Nyhus summarized the sanctions available to the Board based upon its finding of a violation.

Mr. Cooper stated the costs related to the case were \$3,691.31.

Discussion ensued concerning what sanctions should be imposed upon Dr. Allen.

Dr. McBride moved that the Board revoke Dr. Allen's license to practice medicine and order that he reimburse the Board's costs of investigation and prosecution of the case against him. Ms. Stoess seconded the motion.

Dr. McBride amended his motion to add that Dr. Allen be prohibited from reapplying for licensure for the maximum time allowed. Ms. Stoess again seconded the motion.

A vote was taken on the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 16

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DAVID EVANS, M.D., BME CASE NO. 04-29123-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

Ms. Brand stated the Board summarily suspended Dr. Evans' license approximately two years ago. Last December Dr. Evans was convicted in court of two counts of sexual assault of

a minor under the age of 14, and he chose not to contest the Board's disciplinary action or have a hearing. Ms. Brand stated she would represent to the Board that the Board has in its possession a certified copy of the conviction from the court where it occurred and that is the only evidence in the case. She stated that although the matter was couched as a settlement, it was not exactly a settlement, in that Dr. Evans had signed a waiver of all rights knowing that his license would be revoked by the Board. The Board will need to discuss the matter and determine whether it wants to find Dr. Evans guilty of the counts against him, and if so, then proceed to impose sanctions. She has represented to Dr. Evans that the sanction would be revocation of his license, and that is the basis upon which he signed the waiver of rights.

Ms. Stoess moved that the Board find Dr. Evans guilty of both counts contained in the complaint against him. Dr. McBride seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. McBride moved that the Board revoke Dr. Evans' license to practice medicine. Ms. Stoess seconded the motion.

Discussion ensued concerning whether reimbursement of costs should be imposed against Dr. Evans. No amendment to the motion was made.

A vote was taken on the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 17

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF  
THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KURT BUZARD, M.D.,  
BME CASE NO. 06-9589-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

Maria Nutile, Esq., was present and stated she was representing Dr. Buzard. She advised the Board that Dr. Buzard had been on disability for over a year and had not practiced medicine since June of 2006. He had given up his license in the state of New York and he was in the process of doing the same in California and Arizona.

Ms. Brand stated this settlement was made in resolution of a case which involved one count of malpractice concerning two cataract surgeries. The terms of the settlement are that Dr. Buzard will no longer practice medicine, he will reimburse the costs of investigation and prosecution of the case, and the complaint will be dismissed without prejudice, which means that in the event Dr. Buzard should recover, which is doubtful, and apply to reactivate his license, the Investigative Committee would reserve its right to reactivate the complaint. The Investigative Committee felt this was a good resolution for the protection of the citizens of Nevada.

Dr. Anjum moved that the Board accept the settlement as presented. Ms. Stoess seconded the motion.

Dr. McBride recused himself, stating that Dr. Buzard had been a treating physician of his in the past.

A vote was taken on the motion, and it passed, with Dr. McBride abstaining from the vote and all remaining adjudicating Board members voting in favor of the motion.

Agenda Item 18

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF  
THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DENNIS HOOPER, M.D.,  
BME CASE NO. 07-7744-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

Ms Brand stated that Dr. Hooper had failed to report to the Board action taken on his California license. Dr. Hooper appealed the California action, and it has been on appeal for approximately two years. He has agreed to sign a settlement which would impose a stayed revocation with probationary terms while he is on appeal. If he prevails on his appeal, he has the right to renegotiate the settlement. There will be no costs, which were minimal, as it was an out-of-state action and there wasn't a lot of investigation involved.

Dr. Rodriguez moved that the Board accept the settlement as presented. Dr. Anjum seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. FRANK SHALLENBERGER, M.D.,  
BME CASE NO. 06-7127-1**

- Edward O. Cousineau, J.D., Deputy General Counsel

**OPEN SESSION**

Mr. Cousineau stated the facts of the case involved Dr. Shallenberger's care and treatment of a patient over the course of several years and Dr. Shallenberger's failure to diagnose the patient's cancer in a timely manner. The peer reviewer felt the doctor should have been more diligent in his diagnostic course and more deliberate in his documentation as to his chosen course of treatment. Mr. Cousineau then described the terms of the proposed settlement that had been reached with Dr. Shallenberger. Dr. Shallenberger would plead guilty to one count of malpractice as it related specifically to his allopathic care of the patient, he would receive a public reprimand, would reimburse the Board's costs incurred in the investigation and prosecution of the case within 60 days, and would complete 16 hours of CME on the subject of cancer screening and diagnosis within one year. The CME must be approved in advance by the Chairman of the Investigative Committee.

Discussion ensued concerning the appropriateness of the settlement terms and possible additional sanctions.

Dr. Rodriguez moved that the Board accept the settlement as presented with the addition of a \$5,000 fine. The motion failed for lack of a second.

Ms. Stoess moved that the Board table the matter. The motion failed for lack of a second.

Dr. Rodriguez moved that the Board reject the settlement as presented, but accept the settlement as it is written with the addition of a \$5,000 fine, to be paid within 90 days. Ms. Stoess seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 20

**RECOMMENDATION FOR DISMISSAL WITHOUT PREJUDICE IN THE MATTER OF  
THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SANJAY VOHRA, M.D.,  
BME CASE NO. 06-8654-1**

- Edward O. Cousineau, J.D., Deputy General Counsel

**OPEN SESSION**

Mr. Cousineau stated he was recommending dismissal without prejudice so that if there is similar conduct on the part of Dr. Vohra in the future, the Board would not be precluded from looking at this incident in determining an appropriate sanction in a new case involving similar conduct. He described the facts of the case. The peer reviewer's primary concern was Dr. Vohra's failure to obtain adequate informed consent before performing the procedure on the patient. Subsequent to filing the case, additional documentation was provided by Dr. Vohra, and upon review of that material, the peer reviewer determined that adequate informed consent had in fact been obtained by Dr. Vohra. Based upon this finding, the Investigative Committee recommended dismissal of the matter.

Dr. Anjum moved that the Board dismiss the case against Dr. Vohra without prejudice. Dr. Rodriguez seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 21

**RECOMMENDATION FOR DISMISSAL WITH PREJUDICE IN THE MATTER OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. THEODORE POTRUCH, M.D.,  
BME CASE NO. 06-4905-1**

- Lyn E. Beggs, Deputy General Counsel

**OPEN SESSION**

Mr. Cousineau stated that the peer reviewer on the matter was initially of the opinion that the case merited the filing of a complaint; however, later indicated he no longer found malpractice. A second peer review was conducted by another peer reviewer, who found no malpractice. Based upon those facts, the Investigative Committee recommended dismissal of the matter.

Dr. Anjum moved that the Board dismiss the case against Dr. Potruch with prejudice. Dr. Rodriguez seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 22

**RECOMMENDATION FOR DISMISSAL WITHOUT PREJUDICE IN THE MATTER OF  
THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. THOMAS DALY, M.D.,  
BME CASE NO. 07-11505-1**

- Bonnie S. Brand, J.D., General Counsel

**OPEN SESSION**

Ms. Brand stated that after filing the complaint against Dr. Daly, she had a conversation with Dr. Daly and obtained additional facts. Dr. Daly had been in retirement for over ten years when he decided to practice again. He did some pathology work part-time, had some problems with that, and was disciplined by the state of New York. As part of the settlement with the state of New York, he agreed he would only perform IMEs for insurance companies. California took action on his license and offered him a choice of a voluntary surrender of his license or a hearing in California. Without realizing the seriousness of the action, he accepted the voluntary surrender because he couldn't afford to go to California. He is not going to move to Nevada and is just performing IMEs in New York, and will notify the Board if he decides to come to Nevada. Based upon these facts, the Investigative Committee recommended that the case be dismissed.

Dr. Rodriguez moved that the Board dismiss the case against Dr. Daly without prejudice. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 24

**LICENSURE RATIFICATION**

Dr. Held moved that the Board ratify the licenses issued and reinstatements of licensure and changes of licensure status approved since the June 8 & 9, 2007 Board meeting. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**RECESS**

Dr. Anwar recessed the meeting for lunch at 12:20 p.m.

**RECONVENE**

Dr. Anwar reconvened the meeting at 1:15 p.m.

*Agenda Item 25*

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE**

**25(a) Pankaj Bhatnagar, M.D.**

Pankaj Bhatnagar, M.D. appeared before the Board on his application for licensure.

Dr. Anwar asked Dr. Bhatnagar whether he wanted his application to be considered in closed session, with the public being excluded, and he said he did not.

Dr. McBride questioned Dr. Bhatnagar, who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Bhatnagar explained the circumstances surrounding the malpractice claims against him.

Dr. McBride moved that the Board grant Dr. Bhatnagar's application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(b) Joshua Jewell, M.D.**

Joshua Jewell, M.D. appeared before the Board on his application for limited license to attend residency training.

Dr. Anwar asked Dr. Jewell whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Rodriguez moved to go into Closed Session. Dr. Anwar seconded the motion and it passed.

Upon returning to Open Session, Dr. Anjum moved that the Board grant Dr. Jewell's application for a limited license to attend residency training, contingent upon successful participation in the Nevada Health Professionals Assistance Foundation program. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

*Agenda Item 23*

**PETITION FOR ADVISORY OPINION FROM THE BOARD REGARDING THE SCOPE AND  
DEFINITION OF THE PRACTICE OF MEDICINE IN NRS 630.020**

- Bonnie S. Brand, J.D., General Counsel; John Hunt, J.D.; Clive Segil, M.D.

John Hunt, Esq., attorney for Clive Segil, M.D., stated that courts have long held that independent medical examinations are not the practice of medicine. Nevada has a tremendous opportunity to have a renowned surgeon, Dr. Segil, who is seeking licensure in the state of Nevada. However, Dr. Segil performed an independent medical examination and presented testimony which was critical in a case, in which the party for whom he testified prevailed, and

the attorney of the non-prevailing party filed a complaint against Dr. Segil with the Board based upon his performing that independent medical examination. Dr. Segil's application for licensure is being held in abeyance until such time as he receives a ruling from the Board as to whether an independent medical examination is the practice of medicine in the state of Nevada. This is obviously critical to Dr. Segil because he wants to know the Board's position on this prior to it ruling on his application. Beyond this, there is a bigger picture, in that independent medical examinations are critical in assisting citizens in obtaining the best ruling possible based upon the best testimony possible. They are asking the Board to issue an opinion that indicates an independent medical examination is not the practice of medicine as it is defined in NRS 630.

Ms. Brand stated that Nevada law states that "diagnosis" is the practice of medicine, and Mr. Hunt used the word "diagnosis" in his petition and stated that what Dr. Segil had done was "diagnosis."

Mr. Hunt stated that if one looks at the way in which he used the term, the question becomes whether the diagnosis is for the purpose of treatment. This is not an examination; it is an assessment, and anything that is done by the independent medical examination doctor is not being done for the purpose of treatment, and therefore it does not violate the statute.

Dr. Anwar stated the term "independent medical examination" is problematic because in the practice of medicine an independent medical examination is considered an independent medical examination for the purpose of treatment, and Nevada law requires that if someone is going to take an action that directly or indirectly affects patient care, he or she has to have a Nevada license.

Ms. Guerci-Nyhus advised the Board that the attorney has asked for a declaratory order or advisory opinion, and under NRS 233B, the Board is required to respond, and under NRS 630, the Board is required to respond within 30 days. The Board is deemed to be the proper interpreter of its own statutes, so the Board is required to hold a discussion towards issuing an opinion within 30 days.

Ms. Brand suggested that Mr. Hunt review NRS 630.047 in conjunction with NAC 630.225.

Dr. Lamerson stated it is her understanding that these physicians are coming from out of state, examining Nevada residents in the state of Nevada, and making a diagnosis.

Mr. Clark added that the physician takes a history and does a physical, then writes a report which goes to the attorneys and the doctor testifies at the trial.

Ms. Brand added that the doctor generally testifies about his findings, i.e., his diagnosis, and his recommendations as to what the person needs based upon that diagnosis.

Dr. Anjum moved that the Board respond to the petition by declaring that independent medical examinations are the practice of medicine. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 25 ***(CONTINUED)***  
**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS  
FOR LICENSURE**

**25(c) Azza Halim, M.D.**

Azza Halim, M.D. appeared before the Board on her application for licensure.

Dr. Anwar asked Dr. Halim whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did.

Dr. Anjum moved to go into Closed Session. Dr. Rodriguez seconded the motion and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board grant Dr. Halim's application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(d) Jeffery Gardner, M.D.**

Jeffery Gardner, M.D. appeared before the Board on his application for licensure.

Dr. Anwar asked Dr. Gardner whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Anjum moved to go into Closed Session. Dr. Rodriguez seconded the motion and it passed.

Upon returning to Open Session, Dr. Anjum moved that the Board grant Dr. Gardner's application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(e) Ati Hakimi, M.D.**

Ati Hakimi, M.D. appeared before the Board with her attorney, Maria Nutile, Esq., on her application for licensure

Dr. Anwar asked Dr. Hakimi whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did.

Dr. Anjum moved to go into Closed Session. Dr. Rodriguez seconded the motion and it passed.

Upon returning to Open Session, Dr. Anjum moved that the Board grant Dr. Hakimi's application for licensure. Ms. Stoess seconded the motion.

Dr. McBride stated that the Board has denied licenses to other applicants because it could not verify their medical training, so he doesn't think it would be proper to issue Dr. Hakimi a license until the confusion can be cleared up. The explanations she has provided concerning her training and the gap in her training are not satisfactory based upon the documents the Board has received from a medical school she attended stating that she attended another medical school she claims she did not attend.

Ms. Nutile stated this case is different from other applications she is aware of where the Board was unable to verify graduation from medical school, because they can verify that Dr. Hakimi graduated from Sint Eustatius.

Ms. Brand stated that the Board needs clarification from Sint Eustatius as to why it says Dr. Hakimi participated in clinical clerkships at Grace University if, as she claims, she did not.

Dr. McBride stated there is no dispute that Dr. Hakimi received a medical degree, but the documentation received from the medical school from which she graduated contains conflicting information from that provided by Dr. Hakimi concerning attendance at another medical school and he is uncomfortable granting her a license until the issue is clarified in some way by Sint Eustatius.

Ms. Daniels stated Grace University operated from 2000 to 2004 so it was open during that time span.

Dr. Anwar stated the bottom line is that the Board has received conflicting information concerning the year of time which is unaccounted for from Dr. Hakimi and from the documentation received from Sint Eustatius, and clarification is needed from Sint Eustatius concerning their statements.

Discussion ensued concerning what information would be required in order to clarify the issue

Dr. McBride stated he had concerns with someone who can't remember a year of her life from not long ago, particularly when the individual was before the Board a year ago without recollection of issues during probation when there was documentation of serious problems on a number of different rotations. The Board needs independent source verification for all documents and it would not be appropriate for the Board to go outside the Board's ordinary standards and accept Dr. Hakimi's verbal statements without verification. He could not support Dr. Hakimi's application at this time, given the conflicting information received and with what occurred at her appearance the previous year and would like to give Dr. Hakimi the opportunity to provide additional documentation to clarify the issue.

Dr. Anwar stated the Board needs a copy of the letter received by Dr. Hakimi from the ECFMG stating that Grace University does not exist and an explanation form Sint Eustatius clarifying the statements made by them concerning Dr. Hakimi's attendance at Grace University.

Dr. McBride asked that Dr. Hakimi provide the information to the Board and that the Board be allowed to review the information and ask follow-up questions of her concerning same.

Ms. Daniels stated the Board could table her application until the December meeting.

Dr. Anjum withdrew his motion.

**25(f) Kent Elliott, M.D.**

Kent Elliott, M.D. appeared before the Board on his application for licensure.

Dr. Anwar asked Dr. Elliott whether he wanted his application to be considered in closed session, with the public being excluded, and he said he did not.

Dr. Rodriguez questioned Dr. Elliott, who appeared before the Board to respond to questions concerning his negative response to Question 12 on his application for licensure.

Dr. Elliott explained that he answered Question 12 incorrectly because he misunderstood how to answer it. He had been notified by a letter from the naval hospital that he was to meet with an attorney to discuss the case but he doesn't recall being specifically told that he was a defendant, and he met with some attorneys and then received a letter stating the case was paid but not in his name because they felt he had met the standard of care, so he didn't feel that he had been sued himself. He realized his name was with the case so he kept the information and submitted it with his application anyway. He explained the circumstances surrounding the case. He stated he was not aware of any other case against him and was never notified of the other case the Board has record of.

Dr. Rodriguez moved that the Board grant Dr. Elliott's application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(g) David Harshfield, M.D.**

David Harshfield, M.D. appeared before the Board on his application for licensure.

Dr. Anwar asked Dr. Harshfield whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Anjum moved to go into Closed Session.

Upon returning to Open Session, Dr. McBride moved that the Board grant Dr. Harshfield's application for licensure. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(h) Arthur Smith, M.D.**

Arthur Smith, M.D. appeared before the Board on his application for licensure.

Dr. Anwar asked Dr. Smith whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Anjum moved to go into Closed Session.

Upon returning to Open Session, Dr. Lamerson moved that the Board grant Dr. Smith's application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(j) Leila Poole, P.A.-C**

Leila Poole, P.A.-C appeared before the Board on her application for licensure.

Dr. Anwar asked Ms. Poole whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did.

Dr. Anjum moved to go into Closed Session.

Upon returning to Open Session, Ms. Stoess moved that the Board grant Ms. Poole's application for licensure, contingent upon participation in the Diversion Program. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**25(k) Joseph DeCorso Jr., M.D.**

Joseph DeCorso Jr., M.D. appeared before the Board on his application for licensure by endorsement.

Dr. Anwar asked Dr. DeCorso whether he wanted his application to be considered in closed session, with the public being excluded, and he said he did not.

Dr. Held explained the circumstances under which the Board grants licensure by endorsement, and asked Dr. DeCorso what special circumstances he could cite that would qualify him for licensure by endorsement when he otherwise doesn't meet the requirements for licensure.

Dr. DeCorso described his work experience.

Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Dr. DeCorso. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved that the Board grant an unrestricted license to Dr. DeCorso, subject to successful passage of a peer review. Dr. McBride seconded the motion, and it passed, with Dr. Lamerson voting against the motion and the Chair voting in favor of the motion.

Agenda Item 26

**MATTERS FOR FUTURE AGENDA**

Mr. Clark stated the following matters will be on the Agenda for the December 2007 meeting: consideration of the proposed meeting schedule for 2008, and any regulation amendments that have been approved at this meeting and will have gone through the workshop and public hearing process.

Mr. Clark stated that additionally, the Board has hired security to be present for the public comments session at this meeting, and he asked whether the Board wanted to have security for the meeting in Las Vegas during the public comments session. The consensus of the Board was to have security present at the meeting.

Ms. Brand stated that there is a regulation in the state of Maryland that requires the Board, as a first step in its disciplinary proceedings, to offer a conference ahead of time to discuss settlement possibilities, and she suggested that the Board might want to adopt a similar regulation in Nevada because it may aid in settling more cases. She stated staff would draft something and bring it to the Board for review at a future meeting.

Agenda Item 27

**PUBLIC COMMENT**

No members of the public were present to comment.

**ADJOURNMENT**

Dr. McBride moved to adjourn the meeting. Dr. Held seconded the motion, and it passed. Dr. Anwar adjourned the meeting at 4:28 p.m.