



# 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 Dental Examiners  
6010 S. Rainbow Boulevard, Building A, Suite I, Las Vegas, Nevada 89118

and videoconferenced to

the conference room of the Nevada State Board of Medical Examiners  
1105 Terminal Way, Suite 301, Reno, NV 89502

***WEDNESDAY, JULY 1, 2009 – 9:30 A.M.***

***Board Members Present at Dental Examiners Board Office***

Renee West, Secretary-Treasurer

Van V. Heffner

Beverly A. Neyland, M.D.

Ronald Kline, M.D. (*ad hoc*)

Robert Wiencek Jr., M.D. (*ad hoc*)

***Board Members Present at Medical Examiners Board Office***

None

***Board Members Absent/Not Participating***

Charles N. Held, M.D., President

Benjamin J. Rodriguez, M.D., Vice President

Javaid Anwar, M.D.

Sohail U. Anjum, M.D.

Jean Stoess, M.A.

S. Daniel McBride, M.D.

***Staff Present at Dental Examiners Board Office***

Louis Ling, Executive Director

Lyn E. Beggs, J.D., General Counsel

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*Staff Present at Medical Examiners Board Office*  
Laurie L. Munson, Chief of Administration and Information Systems  
Edward O. Cousineau, J.D., General Counsel  
Douglas C. Cooper, Chief of Investigations

*Also Present at the Dental Examiners Board Office*  
Kimberly A. Arguello, Esq., Deputy Attorney General  
David J. Mortensen, Esq.  
Thomas F. Pitaro, Esq.

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Roll Call/Quorum
- Renee West, Secretary-Treasurer

The meeting was called to order by Secretary-Treasurer Renee West, at 9:30 a.m.

Mr. Ling stated there was a quorum present.

Agenda Item 2

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ELADIO SANTANA CARRERA, M.D.*, BME CASE NO. 08-9241-1**

- Lyn E. Beggs, J.D., General Counsel

Ms. Beggs asked the adjudicating Board Members whether they had received and reviewed the information provided relative to the matter before them, and all indicated they had.

Mr. Mortensen entered his appearance on behalf of Dr. Carrera. He then explained that Dr. Carrera was not present at the meeting because he was fulfilling a previous commitment to serve a medical mission in Uruguay.

Mr. Pitaro also entered his appearance on behalf of Dr. Carrera.

Ms. Beggs outlined the facts of the case. The original complaint was filed against Dr. Carrera in April 2008. An injunction was obtained through the Eighth Judicial District Court in Las Vegas and Dr. Carrera has been enjoined from practice since April 30, 2008. Complaints have also been filed against Dr. Desai and Dr. Carrol. The investigation into the case and preparation of the case has continued, and since September 2008, Ms. Beggs, Mr. Mortensen, Mr. Pitaro and Mr. Ling have held many discussions concerning Dr. Carrera's involvement in the Hepatitis C outbreak, as well as the Endoscopy Center of Southern Nevada. Through those conversations and the continued investigation into the case, it has become apparent that Dr. Carrera's case was substantially different and his involvement in the Endoscopy Center was substantially different from that of the other individuals involved. Competing theories have arisen as to how the patients contracted Hepatitis C, but the one thing the parties agree upon is that the three patients Dr. Carrera saw that day contracted Hepatitis C through no action or inaction of Dr. Carrera, and that most likely the infection occurred outside of his presence. The reason the proposed settlement agreement was before the Board is that not only do they feel Dr. Carrera's involvement in the Endoscopy Center of Southern Nevada was

substantially different from the other individuals involved, but also because they believe Dr. Carrera can be a definite asset to the Investigative Committee as it proceeds forward in the hearings regarding the other individuals involved in the case. They believe his testimony at hearing could provide some much-needed context to the cases that they have been unable to obtain anywhere else from any other witnesses. Therefore, Dr. Carrera's willingness to be a fact witness at the hearings would be a substantial benefit to the Investigative Committee's cases against the other individuals.

Mr. Mortensen stated that Dr. Carrera has been unable to practice medicine since April 2008, and has been unable to defend himself due to Fifth Amendment issues with witnesses and now with the Southern Nevada Health District refusing to provide testimony on anything on any level, even though they made the original complaint against Dr. Carrera. The second amended complaint filed by the Investigative Committee alleges that Dr. Carrera did not have a management role in the facility. A settlement agreement has been drafted and if adopted by the Board, it will allow Dr. Carrera to return to work. He is a Spanish-speaking physician and his intent is to serve the Hispanic community, which is woefully lacking in the services he can provide. Mr. Mortensen then explained the reason notice of the meeting was short was that Dr. Carrera had taken a leave of absence from some of the hospitals where he held privileges during the pendency of the case, and there were limitations on his ability to extend those leaves of absence. He had to have a decision in relation to his ability to practice medicine by the end of the following week or he would lose his privileges at those particular hospitals.

Ms. Beggs added that because the Investigative Committee feels that Dr. Carrera's testimony would be so vital to its other cases related to the matter, and that his case is substantially different from those of the other individuals involved in the matter, they wanted to do their best to accommodate Dr. Carrera by bringing the proposed settlement before the Board at this time so that Dr. Carrera could maintain his hospital privileges if the Board accepts the settlement. She wanted to stress that the Investigative Committee has authorized her to bring the settlement before the Board.

Discussion ensued concerning how Dr. Carrera's involvement in the case was different from the other individuals involved.

Ms. Beggs then described the terms of the proposed settlement agreement, and responded to questions by the adjudicating Board Members concerning the specifics of those terms.

Discussion ensued concerning the constraints that would be imposed upon Dr. Carrera's practice during his probationary period pursuant to the terms of the settlement agreement and what type of practice Dr. Carrera intended to pursue if the Board approved the settlement agreement.

Both Ms. Beggs and Mr. Mortensen recommended that the Board accept the proposed Settlement Agreement.

Mr. Heffner moved that the Board accept the proposed Settlement Agreement. Dr. Neyland seconded the motion.

Dr. Wiencek stated the only reservation he had with accepting the settlement was that he has a problem with a physician stepping back and saying he had no knowledge and therefore shouldn't be held responsible for what happened. Dr. Kline agreed.

Ms. Beggs noted that the way Hepatitis C was contracted by the patients had not yet been litigated or proven and that for the sake of these proceedings, the Board should not make any assumptions as to how it was contracted.

Discussion ensued concerning the responsibility of a physician for incidents that occur at the office, when they occur outside of his presence and when he is not part of the management, but he is aware of unsafe practices at the office and continues to work at the office.

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

Agenda Item 3  
PUBLIC COMMENT

There was no comment offered from any member of the public.

ADJOURNMENT

Mr. Heffner moved to adjourn the meeting. Dr. Neyland seconded the motion, and it passed. The meeting was adjourned at 10:15 a.m.

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