



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, Nevada 89502

and videoconferenced to

the Conference Room at the Offices of the Nevada State Board of
Medical Examiners/Nevada State Board of Dental Examiners
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

FRIDAY, SEPTEMBER 6, 2013 – 8:30 a.m.

Board Members Present

Benjamin J. Rodriguez, M.D., President
Theodore B. Berndt, M.D., Vice President
Beverly A. Neyland, M.D.
Michael J. Fischer, M.D.
Sue Lowden (*in Las Vegas*)
Wayne Hardwick, M.D.
Ann Wilkinson

Board Members Absent

Valerie J. Clark, BSN, RHU, LUTCF, Secretary-Treasurer
Bashir Chowdhry, M.D.

LAS VEGAS OFFICE
Board of Medical Examiners
Building A, Suite 2
6010 S. Rainbow Boulevard
Las Vegas, NV 89118
Phone: 702-486-3300
Fax: 702-486-3301

RENO OFFICE
Board of Medical Examiners
Suite 301
1105 Terminal Way
Reno, NV 89502
Phone: 775-688-2559
Fax: 775-688-2321

Staff/Others Present

Douglas C. Cooper, CMBI, Executive Director
Edward O. Cousineau, J.D., Deputy Executive Director
Bradley O. Van Ry, J.D., General Counsel
Erin L. Albright, J.D., General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Pamela J. Castagnola, CMBI, Chief of Investigations
Lynnette L. Daniels, Chief of Licensing
Donya Jenkins, Finance Manager
Colleen L. Platt, J.D., Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Benjamin J. Rodriguez, M.D., at 8:32 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Valerie J. Clark, BSN, RHU, LUTCF, and Bashir Chowdhry, M.D. Mr. Cousineau announced there was a quorum.

Dr. Rodriguez introduced new Board member, Ann Wilkinson, and Ms. Wilkinson provided a brief summary of her background and experience.

Dr. Rodriguez announced that Dr. Fischer had been reappointed by the Governor for a second term on the Board.

Mr. Cooper informed the Board that Kim Friedman had been promoted to Investigator, replacing Steven Ray, who left the Board for a position with the Nevada State Board of Osteopathic Medicine. He then explained that Erin Albright had been promoted to General Counsel, due to restructuring of the Legal Division, so now there are two General Counsels instead of one General Counsel and one Deputy General Counsel.

Mr. Cooper advised the Board that the FBI has changed the rules regarding information received from criminal background checks, and all Board members will be required to sign an acknowledgement form and return it to the Board office to be kept on file.

Agenda Item 2

PUBLIC COMMENT

Dr. Rodriguez asked whether there were any members of the public who would like to present public comment.

Amie Duford, PA-C, President of the Nevada Academy of Physician Assistants (NAPA), said NAPA wanted to reiterate its commitment to finding a solution to the problem with the number of physician assistants a physician may supervise that was created by the Board's

reinterpretation of the current regulation in 2010, and would like to reaffirm the physician assistant profession's commitment to the physician-physician assistant team. They think this time-tested model assures excellent patient care and strengthens workforce capacity. They want to continue to work with the Board and other stakeholders in finding a solution to the problem. They are concerned about the proposal on this meeting's agenda because if it is consistent with the new Nevada State Medical Association resolution, it has the potential to impose new restrictions on doctors who work with physician assistants. The move across the country is to allow physicians to determine the number of physician assistants they can supervise, which is consistent with the policies of the AMA, AOA, ACP, ACEP, AAFP and FSMB.

Daniel Coll, PA-C, Board member of NAPA, stated NAPA very interested in Agenda Item 4 on this meeting's agenda. They know there was an issue created once reinterpretation of supervision occurred in 2010, and they are very much involved and concerned with the issue, and wish to be part of the process in reviewing the proposed changes in Agenda Item 4 and how they will affect many practices in the state.

Agenda Item 3

APPROVAL OF MINUTES

- June 7, 2013 Board Meeting – Open/Closed Sessions

Dr. Fischer moved that the Board approve the Minutes of the June 7, 2013 Board Meeting – Open/Closed Sessions. Dr. Hardwick seconded the motion.

Ms. Wilkinson stated she was abstaining from the vote because she was not a member of the Board at the time the Minutes were created. A vote was taken on the motion and it passed, with all other Board members voting in favor of the motion.

Agenda Item 4

CONSIDERATION AND ACTION REGARDING PETITION FROM CLARK COUNTY MEDICAL SOCIETY PURSUANT TO NAC 630.420 THROUGH NAC 630.440, FOR AMENDMENTS TO NAC 630.370, NAC 630.490 AND NAC 630.495

Michael Edwards, President-Elect of the Clark County Medical Society (CCMS), summarized the contents of CCMS' petition for amendments to NAC 630.370, 630.490 and 630.495, regarding supervision of physician assistants. The Nevada State Medical Association (NSMA) reviewed and approved the submissions contained in the petition by unanimous vote of the House of Delegates at the April annual NSMA meeting and by the CCMS Board of Trustees. NSMA and CCMS think there should be more clarity in the regulation, with greater direction and control by the Board of Medical Examiners. They also agree that the regulations of the two medical boards pertaining to physician assistants should be more in concert with respect to the time frame for review of physician assistants by their supervising physicians, they think the monthly time frame required by the Board of Medical Examiners' regulations should remain, as opposed to the quarterly time frame required by the Board of Osteopathic Medicine's regulations. Fundamentally, NSMA and CCMS suggest that the Board of Medical Examiners should directly control, but not unduly restrict, agreements greater than three between physician assistants and supervising physicians. They think there should be more clarity in

NAC 630.370(2) in terms of the number of charts to be reviewed, and it is felt that 10 percent per month would be a good number and would bring the Board of Medical Examiners in line with the Board of Osteopathic Medicine in that respect. The petition adds a section to NAC 630.370 requiring notification of the supervising physician when care is rendered under that physician's license, providing protection to the physician. With respect to the proposed changes to NAC 630.495, limiting the number of supervisory agreements a physician assistant can enter into, they don't think the changes will restrict anyone's ability to practice or enter into agreements; they will just require physicians and physician assistants to petition the Board for permission to enter into additional agreements if they deem it appropriate to do so.

Mr. Cousineau stated some modifications may need to be made to the proposed language prior to advancing this to the Legislative Counsel Bureau (LCB) for its consideration. Since advanced practitioners of nursing are now termed "advance practice registered nurses," that language will need to be updated.

Mr. Edwards stated that would not be a problem.

Mr. Cousineau noted the proposed language changes titles under NAC 630.490 and 630.495, and explained that titles are assigned by the LCB, and not advanced by those proposing regulatory amendments, so the LCB would be the one to make those changes. Additionally, the amendment to subsection 3 of NAC 630.370 recognizes the new requirements created by SB327, requiring adoption of regulations by the Board related to supervision of physician assistants by telemedicine, and he thinks that is reasonable, but noted there is additional language in SB327 which requires the Board to adopt regulations that relate to a physician assistant's use of equipment that transfers information concerning the condition of a patient by telemedicine and it would be pragmatic to include some language with respect to that within this section as well. He thinks review of 10 percent of charts is reasonable and fair, if the Board is in agreement. He thinks the language in Subsection 8 under NAC 630.370, requiring physician assistants to write the name of the supervising physician in the medical record when they have more than one supervisory agreement is pragmatic and something that was agreed to and recommended by the physician assistant community when the Board previously discussed its proposed regulation R182. However, he thinks the language requiring a physician assistant to notify the supervising physician of the name, date and location of a patient seen within 24 hours could prove onerous in certain settings, such as a critical care or urgent care setting, and does not understand the motivation or expectation for including that language.

Mr. Edwards explained that a physician may not know the patients a physician assistant is seeing and rendering care to, and as a physician he would want to know where his name and his license were being used, so it is protective of the physician to know the details.

Discussion ensued regarding the requirements contained in Section 8 of the proposed amendment to NAC 630.370 and regarding the requirement that a physician review 10 percent of the medical charts of a physician assistant he or she supervises. Dr. Berndt suggested it be clarified that physicians are responsible only for reviewing 10 percent of the charts of a physician assistant where that physician was the supervising physician, and not 10 percent of all of the charts of a physician assistant.

Mrs. Lowden asked whether the physician assistant community was in agreement with the proposed regulation amendments or whether they take issue with any of the proposed amendments.

Daniel Coll, PA-C, indicated that he was not involved in the process nor was the Nevada Academy of Physician Assistants (NAPA). With respect to the chart review requirement, California recently went from requiring 10 percent to 5 percent, because it was found to be very clinically onerous for supervising physicians to comply with that requirement, and although the California Board believes chart review is important, they did not believe it would affect care significantly to reduce the number to 5 percent. With respect to limiting the number of providers with which a physician assistant can enter into supervising agreements, NAPA is very concerned with that language.

Discussion ensued regarding the number of supervising physicians a physician assistant would be allowed to have under the proposed amendments.

Mr. Cousineau stated that completely removing the language in NAC 630.495 relating to collaborative agreements with advanced practitioners of nursing, now advance practice registered nurses, is very problematic. He has spoken with representatives of the Board of Nursing, and they still want and encourage collaborative agreements where appropriate and where desired. Although AB170 did away with those requirements in many instances, there are circumstances where collaborative agreements would have to exist, so the language has to remain. Further, the new language regarding petitioning the Board for additional supervisory agreements is more ambiguous than the current language; the current language is more specific, more broad, and allows more flexibility for Board staff to make that determination, so he doesn't think NAC 630.495 should be modified to any agree.

Mr. Cousineau explained that what the CCMS petition is requesting is for the Board to authorize Board staff to proceed with the normal regulatory adoption process, which would include a workshop and a hearing.

Dr. Hardwick moved that the Board approve moving forward with the regulatory adoption process on the amendments as written by the CCMS with recommended changes. Dr. Fischer seconded the motion and it passed unanimously.

Agenda Item 5

**CONSIDERATION OF REQUEST OF ANGELA SHOHO, M.D. FOR REMOVAL OF
CONDITION ON HER MEDICAL LICENSE**

Dr. Shoho appeared in Las Vegas. Rita B. Chuang, M.D. appeared with her.

Dr. Shoho stated she had spent the last eight months working with Dr. Chuang in her clinic and feels very comfortable seeing patients. She was out of practice for six years because she has two small children, and one of them has special needs, so the Board required that she be supervised for a period of time to ensure she was capable of practicing medicine safely. She has worked closely with Dr. Chuang and Dr. Venkat and plans to continue working with them.

Dr. Rodriguez stated that Dr. Chuang had provided the Board with admirable reviews of Dr. Shoho and it appeared Dr. Shoho had complied with all of the Board's requirements.

Dr. Chuang advised the Board that Dr. Shoho saw patients every day, is very professional and gets her work done on time.

Dr. Rodriguez moved that the Board remove the restrictions on Dr. Shoho's license. Dr. Neyland seconded the motion and it passed unanimously.

Agenda Item 6

CONSIDERATION OF REQUEST OF SARAH NGUYEN, PA-C FOR REMOVAL OF CONDITION ON HER MEDICAL LICENSE

Ms. Nguyen appeared in Las Vegas. Samuel M. Sohn, M.D. appeared with her.

Ms. Nguyen explained she had taken a leave of absence from work for 11 years to stay at home and be a full-time mom. She had spent the last year working closely with Dr. Sohn as her preceptor and had learned a lot. She still has a lot to learn and takes no steps without running them by Dr. Sohn first. She said she planned to continue working with Dr. Sohn.

Dr. Sohn stated Ms. Nguyen has demonstrated a good fund of knowledge, takes good care of patients and has been an asset to their practice.

Dr. Rodriguez moved that the Board remove the restrictions on Ms. Nguyen's license. Dr. Berndt seconded the motion and it passed unanimously.

Agenda Item 7

REPORTS

(a) Physician Assistant Advisory Committee

Physician Assistant Advisory Committee Member Janet Wheble, PA-C appeared in Las Vegas. She stated the Advisory Committee had met with representatives of the Board of Medical Examiners, the Nevada Academy of Physician Assistants and the American Academy of Physician Assistants regarding the supervising physician numbers and terminology. After lengthy discussion, they decided to table the previous regulatory proposal and work with the stakeholders involved. They think more time is needed to hash out better terminology and not restrict the physician assistant practice, and want to make sure that while increasing access to primary care, they are not decreasing the supervision or the quality of oversight.

(b) Investigative Committees

- Consideration of Cases Recommended for Closure by the Committees

Dr. Berndt reported that Investigative Committee A met and considered 119 cases. Of those, they sent 5 cases out for peer review, requested an appearance in 17 cases, issued 32 letters of concern and recommended closure of a total of 61 cases.

Dr. Neyland reported that Investigative Committee B met and considered 55 cases. Of those, they authorized the filing of a formal complaint in 1 case, sent 2 cases out for peer review, requested an appearance in 6 cases, issued 10 letters of concern and recommended closure of a total of 34 cases.

Dr. Fischer moved to approve for closure the cases recommended by the Investigative Committees. Dr. Rodriguez seconded the motion and it passed unanimously.

(c) Investigations Division

(1) Status of Investigative Caseload

Ms. Castagnola reported the current number of open investigative cases was 450 and the number of cases per investigator was 80.

(2) Quarterly Compliance Report

Ms. Castagnola reported that a total of \$20,649.82 in costs and \$2,500.00 in fines had been collected as of the end of the second quarter of 2013. From July 1 to the present, an additional \$25,325.07 in costs and \$4,000.00 in fines had been collected. The amounts currently outstanding to the Board were \$275,027.53 in costs and \$65,150.00 in fines.

Dr. Rodriguez moved to accept the Investigations Division reports. Dr. Berndt seconded the motion and it passed unanimously.

(d) Nevada State Medical Association Report

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association (NSMA), stated this would be his last report to the Board as Executive Director of the NSMA. He reported the search for a new Executive Director was near completion. They were down to seven candidates and the Executive Committee and members of the Council were in the process of conducting interviews. The Council meeting was moved from September 7 to September 21 so the recommendation on a new Executive Director can be made at that meeting, rather than waiting until October. NSMA is working with key stakeholders to write regulations required as a result of legislation passed this year. They are reconvening the Nevada Medical Specialties Council, in which they hope to have all of the specialties represented, to look at issues such as dealing with all of the practice changes that are coming with the Affordable Care Act.

Dr. Rodriguez and Mrs. Lowden thanked Mr. Matheis for his service.

(e) Clark County Medical Society Report

Loretta Moses, Executive Director of the Clark County Medical Society (CCMS), reported they would resume their full board meetings in September, they have a strategic planning session scheduled for October 12 and they will be hosting their mini-internship program October 7 through 17. Additionally, they have a general membership meeting scheduled for November 6, with Nevada Medicaid, and one in February, at which Mayor Goodman will be speaking regarding the medical district and health and wellness tourism. Dot Freel recently retired, and Yanné Givens will be taking over some of her responsibilities.

Agenda Item 8

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. THOMAS ABDELLA, M.D.*, BME CASE NO. 12-11024-1

This item was not discussed at the meeting.

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JOSEPH EMPEY, M.D.*, BME CASE NO. 13-38678-1

Dr. Empey was not present.

Dr. Rodriguez named the adjudicating Board members who would be considering the matter.

Mr. Cousineau outlined the allegations contained in the Complaint filed against Dr. Empey and the terms of the proposed Settlement Agreement. He explained the reason the count alleging a violation of NRS 630.306(11) was being dismissed was that Dr. Empey was applying for licensure at the time Utah was investigating the matter and he disclosed the investigation on his application, so he didn't feel he needed to follow through with notice to the Board of the settlement, which Mr. Cousineau felt was a plausible explanation.

Dr. Neyland moved that the Board accept the Settlement Agreement. Mrs. Lowden seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 10

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. THEODORE THORP, M.D.*, BME CASE NO. 12-4518-1

Dr. Thorp was not present.

Dr. Rodriguez named the adjudicating Board members who would be considering the matter.

Ms. Albright outlined the allegations contained in the Complaint filed against Dr. Thorp and the terms of the proposed Settlement Agreement.

Dr. Hardwick moved that the Board accept the Settlement Agreement. Dr. Neyland seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 11

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MOHAMED SALEH, M.D.*, BME CASE NO. 13-31149-1

Dr. Saleh was not present.

Dr. Rodriguez named the adjudicating Board members who would be considering the matter.

Mr. Van Ry outlined the facts of the case, the allegations contained in the Complaint filed against Dr. Saleh and the terms of the proposed Settlement Agreement.

Dr. Rodriguez moved that the Board accept the Settlement Agreement. Dr. Neyland seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 12

EXECUTIVE STAFF/STAFF REPORTS

(a) Final Report on 2013-2015 Biennial Licensure Registration Renewals

Ms. Daniels reported that 7,108 physicians, 622 physician assistants, 1,308 practitioners of respiratory care and 24 perfusionists renewed their licenses, for a total of 9,062. Of those who renewed, 432 renewed on paper. Of those who did not renew, there were 657 physicians, 71 special purpose physicians, 63 physician assistants, and 7 perfusionists, for a total of 1,034. There were 3 licensees who requested non-renewal and there have been 35 reinstatements to date. She then thanked everyone who was involved with the renewals process.

Discussion ensued regarding why licensees may have chosen to renew on paper rather than online, how the 2013 renewal numbers compared to the 2011 numbers, and how Nevada's physician population compares to other states.

Mr. Cooper stated Ms. Daniels' individual effort this year was outstanding. Deputy Chief of Licensing Carolyn Castleman was injured, and although she worked from home, there was still a void trying to fill all that she usually does. Additionally, one License Specialist left and the new License Specialist was still in training. Even with a part-time temp hired to help with administrative duties, the amount of work was amazing, so he wanted to acknowledge her outstanding individual effort.

Mrs. Lowden said she had talked with Mr. Cooper about putting an item on the December meeting agenda to discuss the rules for licensing a physician. Numerous people in Clark County have asked her why it is so difficult for a doctor to be licensed.

Ms. Platt asked that further comments on this subject be reserved for the item on the agenda regarding future agenda items.

Dr. Rodriguez moved that the Board accept the final report on the licensure registration renewals. Dr. Hardwick seconded the motion and it passed unanimously.

(b) Consideration and Approval of Request for Staff Attendance at Educational Meetings

Mr. Cooper described the requests for staff training that were before the Board for approval.

Dr. Fischer moved that the Board approve the requests for training. Dr. Neyland seconded the motion, and it passed unanimously.

(c) Quarterly Update on Finances

Ms. Jenkins summarized the information contained in the Balance Sheet for the second quarter of 2013. She explained how the income figures are derived. She then stated the majority of the Board's assets are held in cash and CDs and because it was the end of the licensing renewal period, that number is the highest it will be for the next two years. The remaining assets are small compared to that.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the second quarter of 2013. She explained the income was significantly better than budget for this quarter because it was the end of the licensing biennium and the majority of the income was from licensing registration fees. She then explained the individual areas where the Board was over budget and stated that overall the expenses were only over budget by 4 percent. The Board's other income, which is the interest received from the Board's CDs, was better than budget by \$969, which is very good. The Board's net income for the quarter was \$350,830.

Ms. Wilkinson asked if the employees of the Board pay any portion of the PERS contribution. Ms. Jenkins explained that Board employees have the option, extended to all employees of an agency that participates in PERS, to choose either an employer/employee plan or an employer plan, and the Board has employees participating in both types of plans. The employee's initial wage is set based on which plan they choose.

Ms. Wilkinson asked about the PERS increases that are usually put in place on an annual or biennial basis, and Ms. Jenkins explained they come into effect in the next quarter, but she is expecting that since the cost of the employee insurance through PEBS went down a little, she is expecting a bit of an offset there.

Dr. Fischer moved that the Board accept the report. Dr. Neyland seconded the motion and it passed unanimously.

Agenda Item 13

LEGAL REPORTS

- Board Litigation Status

Mr. Van Ry reported there were currently 84 cases in the Legal Division, 3 of which were presented to the Board for decision at this meeting. There were 11 cases pending the CMT process, 10 cases awaiting filing of a formal complaint, 6 cases in which orders of summary

suspension had been issued which were not yet resolved by settlement or adjudication, and 42 cases in which a formal complaint had been filed that were pending hearings, 14 of which were filed subsequent to the last Board meeting. Fifty letters of concern were approved by the Investigative Committees at their August meetings and there were several miscellaneous legal matters and 1 petition for judicial review pending. Mr. Van Ry then provided a summary and update regarding the various civil court cases in which the Board is involved. He advised the Board of an emerging trend in responses by physicians to Board complaints. There was a huge jury verdict in Las Vegas in a case related to Dr. Desai and the Endoscopy Center. The ultimate jury verdict included over \$500 million in punitive damages against insurers for claims of negligent credentialing. As a result, insurers have become almost hypersensitive to any blemish on a physician's record because they are concerned they may be subsequently liable for some sort of negligent credentialing, and if there has been prior discipline against a physician, the insurers are refusing to either include them on their payee panels or to credential them and put them on a panel in the first place. Board legal staff is experiencing significant push-back from many Las Vegas attorneys as a result of this new trend, which is making it difficult to settle some cases.

Discussion ensued regarding how this issue may affect the Board, including a potential delay in resolving some cases.

Agenda Item 14

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the June 7, 2013 Board Meeting

Dr. Rodriguez moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the June 7, 2013 Board Meeting. Dr. Neyland seconded the motion, and it passed unanimously.

Agenda Item 15

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

15(a) Matthew O. Okeke, M.D.

Dr. Okeke was present in Reno. Liborius Agwara, Esq. was present in Las Vegas as Dr. Okeke's legal counsel.

Dr. Rodriguez asked Dr. Okeke 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 that the Board go into closed session pursuant to NRS 241.030. Dr. Neyland seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Rodriguez moved that the Board grant Dr. Okeke's application for licensure. Dr. Fischer seconded the motion and it passed, with Dr. Hardwick voting against the motion and all other Board members voting in favor of the motion.

15(b) Kenneth E. Francus, M.D.

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

Dr. Neyland questioned Dr. Francus regarding the fact that he responded in the negative to Questions 12 and 12a on his application for licensure when he should have responded in the affirmative.

Dr. Francus explained that at the time he applied for licensure, the 2008 malpractice case had been closed for 2-1/2 years and he did not recall it, and there was another case in 2003 that he didn't recall, from which he had been dismissed. He then described the circumstances surrounding the 2008 case.

Dr. Neyland moved that the Board grant Dr. Francus' application for licensure. Dr. Fischer seconded the motion and it passed unanimously.

15(c) Cam-Tu L. Jones, M.D.

Jon Hunt, Esq. was present with Dr. Jones as her legal counsel.

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

Dr. Rodriguez moved that the Board go into closed session pursuant to NRS 241.030. Dr. Hardwick seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Rodriguez moved that the Board table consideration of Dr. Jones' licensure application until the next regularly scheduled Board meeting. Dr. Neyland seconded the motion and it passed unanimously.

15(d) Thomas S. Bartley, CCP

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

Dr. Berndt questioned Mr. Bartley regarding the fact that he did not include some of his past arrests on his application for licensure.

Mr. Bartley explained that he did not include the arrest in 1985 because it was such a long time ago he had forgotten about it or didn't really think it was relevant, and the other was a domestic disturbance he did not recall at the time, as he couldn't remember whether there had been two or three.

Dr. Berndt questioned Mr. Bartley regarding his affirmative response to Question 26 on his application for licensure.

Mr. Bartley explained the circumstances surrounding his resignation from Providence Hospital in Alabama in 2007.

Dr. Berndt asked Mr. Bartley about his current practice and what he planned to do if granted a license in Nevada.

Mr. Bartley explained that he recently became employed in Lake of the Ozarks in Missouri and he no longer plans to come to Nevada at this time because he is happy in his current position, but he has family in Nevada and would like to have a Nevada license in the event an opportunity arises here in the future that he would like to pursue.

Dr. Hardwick asked Mr. Bartley whether he was in any kind of diversion program. Mr. Bartley stated he was asked to meet with PRN in Las Vegas, which he did, and they were supposed to provide a report to the Board.

Ms. Daniels stated the Board had received a report from PRN which indicated a five-year contract, so if the Board were to grant Mr. Bartley a license, there would be a condition on the license of participation in and completion of the program.

Mr. Cousineau suggested that if Mr. Bartley had no immediate plans to come to Nevada to practice, it might be in his best interest to withdraw his application at that time because there would likely be a condition on his license in Nevada to sign up and remain compliant with the PRN program terms, which would be logistically difficult to accomplish and cost him money, and might also have a negative impact on his licenses in other jurisdictions.

Discussion ensued regarding whether a diversion program in another state which contained the same requirements as that of the PRN program would be acceptable to the Board in the event Mr. Bartley reapplied for licensure in Nevada in the future, if that was something Mr. Bartley wanted to pursue.

Mr. Bartley stated he was withdrawing his application.

15(e) Eileen J. Haley, RRT

Dr. Rodriguez asked Ms. Haley whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did not.

Ms. Daniels explained that Ms. Haley had appeared before the Board previously. The Board's recommendation was that she undergo a psychiatric evaluation, which she did, and the evaluation had been provided to the Board for review.

Dr. Hardwick stated Ms. Haley had done everything the Board had requested her to do. The recommendation of the examining psychiatric physician was that either her current treating physician certify her ongoing treatment on a quarterly basis for one year or that there be quarterly psychiatric monitoring for a year if she changes physicians. This would not be a condition on her license; it would be an order of the Board, and her doctor would have the responsibility to inform the Board of her quarterly treatment. He asked Ms. Haley whether that was satisfactory to her.

Ms. Haley stated it was acceptable, but she would be changing physicians because her current physician no longer accepts her insurance.

Dr. Hardwick moved that the Board grant Ms. Haley's application for licensure with no conditions, but with an order by the Board that a psychiatric evaluation be submitted to the Board every three months for one year. Dr. Rodriguez seconded the motion and it passed unanimously.

[Mrs. Lowden left the meeting at 12:20 p.m.]

15(f) Shailini Singh, M.D.

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

Dr. Rodriguez moved that the Board go into closed session pursuant to NRS 241.030. Dr. Neyland seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Neyland moved that the Board grant Dr. Singh's application for licensure. Dr. Hardwick seconded the motion and it passed unanimously.

15(g) Dominador T. Perido, M.D.

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

Dr. Fischer questioned Dr. Perido regarding his affirmative responses to Questions 12 and 12a on his application for licensure.

Dr. Perido described the circumstances surrounding the four malpractice cases that had been filed against him.

Dr. Fischer asked Dr. Perido what he planned to do if granted a license in Nevada, and Dr. Perido stated he was thinking of working in an urgent care or covering physicians in a clinic.

Dr. Fischer moved that the Board grant Dr. Perido's application for licensure. Dr. Rodriguez seconded the motion and it passed unanimously.

15(h) David S. Alnajjar, M.D.

[Mrs. Lowden returned to the meeting at 1:50 p.m., during discussion of this item.]

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

Dr. Hardwick stated that Dr. Alnajjar was appearing before the Board because the Board had been unable to verify his medical education in Baghdad. The Board was aware that he had tried diligently to obtain that verification and that both California and Michigan have granted him licenses, but the Board has nothing independently from the medical school that states he graduated, and he is not comfortable granting anyone a license who cannot verify he or she graduated from medical school.

Dr. Alnajjar explained that in Iraq, there is no accountability and the person who receives the request letter can just throw it away without recourse and there is nothing the graduates from countries like these can do. There is no way to force them to respond if they do not want to respond.

Dr. Hardwick stated the Board had received copies of two letters from classmates who attended the same medical school as Dr. Alnajjar, verifying he was there, and also a copy of a diploma and an English translation of that, but the Board does not have either a Form 1 or transcripts.

Dr. Fischer asked Dr. Alnajjar whether he could go to the medical school in Iraq to obtain the verification, and he stated the way it is right now, he would not even think about it.

Dr. Neyland asked if he knew someone in Baghdad who could go to the medical school and request the information with his authorized signature, and Dr. Alnajjar stated it was a possibility.

Mr. Cousineau stated that granting Dr. Alnajjar a license without verification of his medical education would be precedence-setting, and may even violate the law, even though there are extenuating circumstances and he is Board Certified, has his ECFMG in place and two other states have licensed him.

Ms. Wilkinson asked what an acceptable "other source" would be for proof of a medical doctor degree under NRS 630.195, and Mr. Cousineau stated he didn't think it had ever been defined.

Ms. Daniels stated staff had tried to obtain the verification from sister boards and from the ECFMG, and none of them had it.

License Specialist Brett Canady stated Dr. Alnajjar and his staff have provided documentation of recent requests sent to the medical school and confirmation that the medical school had received the requests.

Dr. Berndt asked whether the Board had ever granted a license to someone when it could not verify the applicant's medical school graduation. Ms. Daniels stated the Board had issued licenses in cases where the Board had received a Form 1, but not the transcripts; however, in this case, the Board has received nothing.

Discussion ensued regarding how long the Board could keep Dr. Alnajjar's application open for receipt of verification of his medical education. Ms. Daniels suggested a six-month period, and suggested that Dr. Alnajjar contact the FCVS, a service through the Federation of State Medical Boards that will retrieve direct-source verification information from medical schools as well as postgraduate training information, exam information, etc., and hold a master packet of his core education information.

Mrs. Lowden suggested that since this is not the first applicant with whom the Board has faced these difficulties and may not be the last, the Board may want to think about how it can broaden the interpretation of the statute.

Dr. Rodriguez moved that the Board table further consideration of Dr. Alnajjar's application for up to six months.

Dr. Alnajjar agreed to the Board tabling the matter for a six-month period.

Dr. Hardwick seconded the motion and it passed unanimously.

15(i) Carlo C. Brizzolara, M.D.

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

Dr. Fischer explained that Dr. Brizzolara had not passed a major examination in the last 10 years and had not completed at least 36 months postgraduate training, so he didn't qualify for a traditional license, and asked Dr. Brizzolara whether he had considered taking the SPEX.

Dr. Brizzolara stated he hadn't considered taking the SPEX at the time he applied for licensure in Nevada because it wasn't required in order to apply for licensure by endorsement.

Dr. Berndt asked Dr. Brizzolara why he wanted a license in Nevada when one wasn't required to work at the V.A., where he was currently employed, and Dr. Brizzolara explained that he wanted a license in Nevada because he didn't want to leave the state and if something were to happen with the V.A., he would be able to work elsewhere in the state.

Discussion ensued regarding the qualifications required for licensure by endorsement under the statute. Mr. Cousineau stated that in similar cases, the Board has required successful passage of a peer review in order to grant a license, as opposed to granting or denying a license by endorsement.

Discussion ensued regarding whether it would be appropriate to grant Dr. Brizzolara a license by endorsement or whether the Board should require him to undergo a peer review.

Dr. Rodriguez asked Dr. Brizzolara whether he would be amenable to undergoing a peer review as an emergency physician, and Dr. Brizzolara stated he would. Mr. Cousineau explained the peer review process to Dr. Brizzolara and Dr. Brizzolara said he would be willing to bear the costs of the peer review. Dr. Rodriguez advised Dr. Brizzolara that taking the SPEX was another option.

Dr. Fischer moved to grant Dr. Brizzolara a license contingent upon successful passage of a peer review or passage of the SPEX within three months. Dr. Rodriguez seconded the motion and it passed, with Dr. Hardwick voting against the motion and all other Board members voting in favor of the motion.

Agenda Item 16

PERSONNEL

- Consideration of Adjustment to Staff Compensation

Mr. Cooper explained this was a request for the Board to consider a cost-of-living increase of 3 percent for Board staff. The Board has been in lock-step with two Governors and the Legislature with regard to freezing salaries, etc., but there has been some positive movement lately and he would like the Board to consider that positive movement as support to grant a cost-of-living increase to the staff. It has been four years since the staff received any kind of increase. The Board has no step system. Staff only receives raises when the Board grants them, and they are usually based on merit, and we do not have anyone who has not merited a raise in the last four years. AB511 gave a 2.5 percent restorative salary increase to classified employees, which was effective July 1, 2013, and although not immediate, pursuant to AB511, the semiannual payment of longevity pay is still only temporarily suspended and merit increases are only temporarily suspended for 2013 and 2014. Board employees do not receive longevity pay. Mr. Cooper stated this is the single best quarter financially the Board has ever had, and he thanked the staff for their participation in the austerity program. He stated if the Board were to give the staff a 3 percent cost-of-living increase retroactive to July 1, it would cost the Board \$32,000 for the period of July 1 through December 31.

Dr. Fischer moved that the Board grant the staff the cost-of-living raise. Dr. Hardwick seconded the motion.

Ms. Wilkinson asked whether Board employees were subject to the 2.5 percent pay cut and furloughs instituted in 2011.

Mr. Cooper explained that Board employees were not subject to the pay cut or furloughs because the pay cut was designed to have an impact on the General Fund and the Board does not have an impact on the General Fund, other than to give money to the General Fund, and the Board has an opinion from the Legislative Counsel Bureau wherein they state it would be absurd for boards and commissions to take furloughs when it would have no affect on the General Fund.

Discussion ensued regarding whether it would be more appropriate to give Board staff a 2.5 percent increase, in light of the fact that the Legislature granted a restorative 2.5 percent increase to state employees.

Discussion ensued regarding the Board's authority to grant the cost-of-living increase.

Dr. Fischer amended his motion to grant the staff a 2.5 percent cost of living increase. Dr. Hardwick seconded the amended motion and it passed, with Ms. Wilkinson voting against the motion and all other Board members voting in favor of the motion.

Agenda Item 17

CONSIDERATION AND APPROVAL OF PROPOSED 2014 MEETING SCHEDULE

Mr. Cooper outlined the proposed Board meeting dates and stated the Investigative Committee meeting dates were proposed for almost the same dates as in 2013.

Dr. Rodriguez moved that the Board approve the 2014 meeting schedule. Dr. Fischer seconded the motion and it passed unanimously.

Agenda Item 18

STAFF COMMENTS/UPDATES

Mr. Cooper explained the Board had received positive press recently with respect to the Purdue Pharma matter. Purdue Pharma has a list of 1,800 doctors in the United States it considers problem doctors, 29 of whom have licenses in Nevada. Two California senators asked Purdue Pharma to make the list public, and it refused to do so. Then Nevada Senator Segerblom asked Purdue Pharma to provide the Nevada list to the Board, and within a few days the Board had received the list. After review, Board staff found the Board had already taken action on every one of those doctors and some are still under investigation. This is due mostly to the fact that over the last two years, the Board has put a lot of extra effort into the overprescribing and illicit drug problems. Since the press on the matter, the Board has received several requests for a copy of the list. The list was given to the Board as an investigative tool and is protected by NRS 630.336, so we cannot, and will not, be releasing the list to anyone.

Mr. Cooper advised the Board its outreach program is going strong. He recently presented the program, along with Investigators Don Andreas and Kim Friedman, to the Nevada Chapter of Special Investigative Units, at the State office building in Las Vegas. In October, presentations will be made to the North Valleys Republican Women's organization and the Truckee Meadows Chapter of the Veterans of Foreign Wars.

Mr. Cooper stated that since the last Board meeting, staff looked into the possibility of providing state email addresses to Board members for Board business. After looking into this, it was found that no other boards are doing this and it was determined that this would be another account and password that each Board member would have to remember and another account subject to being hacked. Therefore, since we haven't received any objections from any Board members about using their own email accounts for Board business, unless there is any further comment from the Board, we are going to go ahead and nix that.

Mr. Cooper said he had indicated at the last Board meeting that this meeting would include a recapitulation of the laws passed by the 2013 Legislature that affect the Board; however, it was not included on the agenda because a full recap was included in the latest Board newsletter, which all Board members should have received. The 2012 Annual Report was also included in that newsletter and it shows that the M.D. population is currently at a ratio of 173 physicians to every 100,000 residents.

Agenda Item 19

MATTERS FOR FUTURE AGENDA

Mr. Cooper stated one item that will be included on the agenda of a future Board meeting is discussion regarding the Board's medical licensing laws. Mrs. Lowden requested this item be discussed and he is going to send her the licensing laws and ask if she can provide examples of doctors who have said it took too long to get their licenses. Staff needs specifics in order to research what occurred in those particular instances.

Mrs. Lowden said she was not comfortable with providing specific names at that time but would ask if she could come forward with names. She had been approached by individuals from various organizations with concerns and she thought it would be healthy to have a public discussion about it.

Ms. Wilkinson stated she is trying to understand Nevada's licensing requirements as they compare to other states. She has not received any specific concerns about doctors not getting their licenses, but she has been approached, both in the north and the south, and it has been expressed to her that Nevada is one of the most difficult states in which to get a license. She appreciates there are pros and cons to that; on the one hand it means we are careful and taking extra steps to make sure the public is protected; but we also have to look at the medical community and whether there are things we require that other states don't which we should or shouldn't require. It would be helpful when responding to these inquiries to have some comparisons with other states that are comparable either in size or in licensee population.

Dr. Berndt suggested the journalistic press from Las Vegas be included in any public discussion that the Board may hold on this subject.

Discussion ensued regarding how a comparison with other states' licensing requirements could be accomplished.

Mr. Cooper stated other items that would be included on the agenda of a future meeting were as follows: consideration and approval of the budget for fiscal year 2014; review and approval of a new policy and procedure manual; consideration of bi-monthly Board meetings; consideration of holding two-day or two one-half-day Investigative Committee meetings – appearances versus discussion items; and a replacement for Dr. Rodriguez as the Board's liaison with the Clark County Medical Society.

Agenda Item 20

ELECTION OF OFFICERS AND APPOINTMENT OF COMMITTEE MEMBERS

Mr. Cooper stated that Ms. Clark had asked him to announce that even though she was absent, she would accept a nomination for any position and if she was elected, she would serve.

Dr. Rodriguez nominated Ms. Clark for Secretary-Treasurer. Dr. Berndt seconded the nomination and Ms. Clark was elected Secretary-Treasurer by unanimous vote.

Dr. Rodriguez nominated Dr. Berndt for President. Dr. Neyland seconded the nomination.

Dr. Berndt stated he would be very willing to serve in some other capacity and contribute to the Board, but he declined to serve as President.

Dr. Hardwick nominated Dr. Fischer for President. Dr. Rodriguez seconded the nomination.

Dr. Fischer stated if elected, he would serve.

A vote was taken on the nomination and Dr. Fischer was elected President by unanimous vote.

Dr. Hardwick nominated Dr. Berndt for Vice President. Dr. Fischer seconded the nomination.

Dr. Berndt stated if elected, he would serve.

A vote was taken on the nomination and Dr. Berndt was elected Vice President, with Dr. Berndt abstaining from the vote and all other Board members voting in favor of the nomination.

Agenda Item 21
PUBLIC COMMENT

On behalf of the Nevada Academy of Physician Assistants, Amie Duford, PA-C reiterated their commitment to solving the current physician-physician assistant ratio problem and stated they are willing, open and ready to dialogue with the other stakeholders, including the Board, the Nevada State Medical Association and the Clark County Medical Society, in finding a solution that truly benefits the Nevada community as a whole in improving access to care, as well as quality of care, to Nevada residents.

ADJOURNMENT

Dr. Rodriguez adjourned the meeting at 3:07 p.m.

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