



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, JUNE 5, 2015 – 8:30 a.m.

Board Members Present

Michael J. Fischer, M.D., President
Theodore B. Berndt, M.D., Vice President
Valerie J. Clark, BSN, RHU, LUTCF, Secretary-Treasurer
Beverly A. Neyland, M.D.
Bashir Chowdhry, M.D.
Wayne Hardwick, M.D.
Ann Wilkinson
Rachakonda D. Prabhu, M.D.
Sandy Peltyn

Board Members Absent

None

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Staff/Others Present

Edward O. Cousineau, J.D., Executive Director
Todd C. Rich, Deputy Executive Director
Alexia M. Emmermann, 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
Henna Rasul, J.D., Senior Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Michael J. Fischer, M.D., at 8:30 a.m.

Mr. Cousineau took roll call, and all Board members were present. Mr. Cousineau announced there was a quorum.

Dr. Fischer recognized Investigator Shawna M. Rice, CMBI, and Medical Reviewer Jerry C. Calvanese, M.D., for their long-term service to the Board of over ten years, and presented each with a service award pin memorializing the same.

Mr. Cousineau introduced new Investigator for the Las Vegas office, Lara Ward, and new License Specialist, Jason Man, and provided a brief summary of their backgrounds and experience.

Agenda Item 2

PUBLIC COMMENT

Dr. Fischer asked whether there was anyone in attendance who would like to present public comment. No public comment was received.

Agenda Item 3

APPROVAL OF MINUTES

- March 6, 2015 Board Meeting – Open Session

Dr. Prabhu moved that the Board approve the Minutes of the March 6, 2015 Board Meeting – Open Session. Dr. Berndt seconded the motion and it passed unanimously.

Agenda Item 4

LEGISLATIVE UPDATE

Keith L. Lee, Esq., Board Legislative Representative, thanked Board staff for their assistance during the legislative session. He stated that Governor Sandoval instituted a number of education reforms and changed drastically the taxes that are paid by businesses in the state. The Governor's original budget had about \$9 million of the \$30-plus million requested by UNLV for development of the UNLV Medical School, and through a last-minute deal with the

transportation network companies, there is now somewhere in the neighborhood of \$27 million for start-up of the medical school. There is also additional money in the Governor's budget for the development and furtherance of graduate medical education, which is crucial and vital to getting and keeping medical students in Nevada. The Board's bill, SB227, and the Interstate Medical Licensure Compact bill, SB 251, both passed and were signed by the Governor.

Mr. Cousineau stated Nevada was the ninth state to join the Interstate Medical Licensure Compact and that executive directors from the various states had held a telephonic conference regarding the Interstate Medical Licensure Compact the day before this meeting.

Mr. Lee explained that the telehealth bill, AB292, also passed and was signed by the Governor. A lot of work went into this bill and at the end of the day, the Board got what it felt was necessary, which is the requirement that if a physician practices telehealth in the state of Nevada, he or she must be licensed and is subject to the rules, laws and regulations of the state of Nevada, and at the same time maintained the ability for consults to be held between a licensed physician in Nevada and a licensed physician elsewhere without any change in the law.

Dr. Fischer asked whether the taxes that were authorized for education were specifically earmarked for education and would not go to the General Fund. Mr. Lee explained that some of the money would go to what is called distributed school accounts and some of it would be General Fund money but would be General Fund money that is appropriated to the Department of Education for distribution to programs such as all-day kindergarten.

Dr. Berndt said he wanted reassurance that the funding for the new medical school at UNLV did not come at the expense of funding for the medical school at UNR, and Mr. Lee stated it did not; that there are two separate funding streams.

Dr. Berndt asked whether the funding for graduate medical education had to come through the medical school or whether it also applied to private residency programs that are developed as well, and Mr. Lee said he thought it applied to private residency programs as well.

Agenda Item 5

CONSIDERATION AND APPROVAL OF FY 2014 ANNUAL AUDIT BY KOHN & COMPANY LLP, CERTIFIED PUBLIC ACCOUNTANTS

Beth Kohn-Cole, CPA, gave a PowerPoint presentation summarizing the FY 2014 audit results. She stated the Board had received an unmodified, or clean, audit opinion for fiscal year 2014. In addition, the report on internal control and compliance noted no material weaknesses and no instances of noncompliance. The auditors encountered no difficulties with management, there were no disagreements, and no material misstatements were corrected, so it was a very clean audit. Ms. Kohn-Cole summarized the revenue and expenses over the last four years. She stated they selected four years because the Board is on a biennial license renewal cycle. She explained the change in net position is the excess of revenue over expenses and stated there was a positive change in net position over each of the four years. She highlighted the Board's budget vs. actual for 2014, explaining that the Board's revenue exceeded its budget, its expenses were less than its budget, and its excess revenue over expenses was better than budget, so the Board had a good financial result for 2014. She then highlighted the Board's assets and liabilities over the last four years and stated the Board's net position is improving each year, with a current net position of a little over \$4 million.

Ms. Wilkinson asked for clarification regarding the two sets of numbers included on the chart on page 9 of the audit report. Ms. Kohn-Cole said she would use the numbers on the right side of the graph.

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

Agenda Item 6

**CONSIDERATION AND ACTION REGARDING PROPOSED AMENDMENTS TO
NEVADA ADMINISTRATIVE CODE (NAC) CHAPTER 630**

- (a) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.205 to Update Existing Language for Physicians and Physician Assistants Who Prescribe Appetite Suppressants. This Regulation Change Would Update the Dietary Guidelines to the Current Standards Set Forth by the Department of Health and Human Services.
- (b) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.280 to Clarify the Requirements for Physician Assistant Licensure by Updating an Approved Course of Training to the Current Applicable Name
- (c) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.505 to Clarify the Requirements for Respiratory Care Practitioner Licensure by Updating the Title of the Educational Program to the Current Applicable Name
- (d) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.525 to Change Language Which Defines the Timing for Biennial Registration for Respiratory Care Practitioners. The Amended Language Would Change the Date of Expiration From July 1 to June 30 of Each Odd-Numbered Year.

Mr. Rich explained staff was requesting authorization and approval to proceed with the regulatory adoption process to amend four existing regulations. The first was a change to NAC 630.205, which would update outdated language regarding prescription of appetite suppressants. Additionally, by making this change, the Board would not be required to go back every few years to ensure the language is correct and accurate. The proposed changes to NAC 630.280 and NAC 630.505 would change the word "Committee" to "Commission" to accurately reflect the current names of the organizations referred to within each regulation. The passage of SB227 changed the licensing cycle for physicians and physician assistants to expire on June 30 in each odd-numbered year, and the proposed change to NAC 630.525 would bring the licensing cycle for respiratory care practitioners in line with the licensing cycles for the other three license types regulated by the Board.

Ms. Wilkinson pointed out that the proposed change to NAC 630.205 refers to the Department of Health and Human Services, but does not specify whether it refers to the U.S. Department of Health and Human Services or the state Department of Health and Human Services, and requested that such clarification be included in the proposed amendment. Mr. Rich stated the change was intended to refer to the U.S. Department of Health and Human Services.

Dr. Prabhu moved that the Board authorize staff to proceed with the regulatory adoption process on the four proposed amendments to the NAC, including the requested clarification in the proposed language of NAC 630.205 to reflect that it refers to the U.S. Department of Health and Human Services. Dr. Neyland seconded the motion and it passed unanimously.

Agenda Item 7

CONSIDERATION OF REQUEST OF ELLIOTT SCHMERLER, M.D. THAT THE BOARD OF MEDICAL EXAMINERS SPONSOR HIM SO HE MAY TAKE THE SPECIAL PURPOSE EXAMINATION (SPEX)

Dr. Schmerler was not present. Dr. Schmerler's legal counsel, Maria Nutile, Esq., was present in Las Vegas.

Ms. Nutile explained that Dr. Schmerler was requesting that he be permitted to take the SPEX. She stated that a SPEX representative previously contacted the Board's former Executive Director and asked if the Board would sponsor Dr. Schmerler to take the SPEX, and the answer was an emphatic "no," with no reason provided. Ms. Nutile then provided the Board with a brief background related to Dr. Schmerler's two former Nevada medical licenses. She said that given the length of time Dr. Schmerler had been out of practice, as well as the length of time since he first received his medical training, he had to meet certain requirements before he could submit a new application. She stated that at that point in time, Dr. Schmerler was not asking the Board to opine as to whether he was professionally competent or whether he qualified for a medical license in Nevada; he was merely asking that the Board permit him to take the SPEX so he could apply. Dr. Schmerler had taken great steps to try to remain current in the practice of medicine, he had gone, at his own expense, to Pace for evaluation, Phases 1 and 2, and had taken literally a couple of hundred hours in continuing medical education courses over the last few years.

Dr. Fischer asked for clarification whether Dr. Schmerler was asking the Board for permission to take the SPEX or whether he was asking the Board to sponsor him to take it.

Ms. Nutile explained that SPEX says a board has to consent to it. Dr. Schmerler had gone to other boards where he held licenses, and Iowa said he had to go to the home state where his issues occurred and ask for its consent to take the exam. She stated she didn't know the distinction in the eyes of SPEX between giving permission to take the exam versus sponsoring.

Mr. Cousineau stated that all the Board was considering at that meeting was whether to grant Dr. Schmerler the ability to sit for the SPEX. He said he would not say it was a sponsorship, but that it was an endorsement to allow Dr. Schmerler to do so. The Federation of State Medical Boards would then contact the Board and ask if it was agreeable. Mr. Cousineau then clarified that this was just the first step in the process. Dr. Schmerler would then have to pass the test and, if he passed, he would have to come back before the Board, and then all the past issues Ms. Nutile had touched on would be something that would be contemplated by the Board. It was not a guarantee that once Dr. Schmerler came back, the Board would grant him a license; it would just allow him the ability to apply for a license.

Ms. Nutile stated the request was just whether the Board would permit Dr. Schmerler to take the exam if asked by another organization.

Dr. Hardwick moved that the Board allow Dr. Schmerler to take the SPEX. Ms. Clark seconded the motion.

Discussion ensued regarding possible ramifications to the Board if it denied Dr. Schmerler's request.

A vote was taken on the motion and it passed unanimously.

Agenda Item 8

CONSIDERATION OF REQUEST OF ANDREW S. MARTIN, M.D. FOR
MODIFICATION OF THE TERMS OF HIS CURRENTLY EXISTING SETTLEMENT
AGREEMENT WITH THE NSBME, SPECIFICALLY TO REMOVE HIS PROBATIONARY
STATUS

Dr. Martin explained that at the time he entered into the Settlement Agreement with the Board, neither he nor his attorney knew the ramifications having a probationary status would have upon his ability to practice medicine. There has been a lot of litigation regarding the credentialing practices of third-party payers, and as a result, he thinks they have taken a hard line in the credentialing process and are very tough on physicians who have had any negative actions against their licenses, such as restrictions or probation. He said he had provided the Board with rejection letters from a majority of the carriers with which he was previously credentialed, many of them stating they could not credential him because of his probationary status. He appealed to the majority of them and was told by representatives of the insurance carriers that their legal counsels said there was too much of a liability for them to put someone with probationary status back on their plan, but that once his probationary status was removed, they would be able to reconsider him for credentialing. He said he was now only on Medicaid and Medicare, which makes up only a small portion of his practice. With regard to the public safety aspect, Dr. Martin stated the circumstances that brought the action by the Board against his license was the result of an investigation by the Las Vegas Metropolitan Police Department, where they found drugs in his possession at his home, but there were never any allegations or claims that he was ever under the influence while treating patients. Shortly after his suspension, he was asked to be evaluated by Dr. Peter Mansky of the Nevada Professionals Assistance Program (NPAP), and following the evaluation, Dr. Mansky diagnosed him with a mild substance abuse disorder. Dr. Mansky recommended a treatment plan for him, which he completed, and he was discharged with a good prognosis for long-term recovery. He has entered into a five-year contract with the NPAP, and has remained compliant with the program. Dr. Mansky has provided the Board with a letter stating he has remained compliant with the program and that he feels it is safe for Dr. Martin to practice medicine. With respect to the other terms of the Settlement Agreement, Dr. Martin said he had completed more than 100 hours of community service, he had paid the investigative costs, and he continues to participate in the alumni recovery program and the IDAA and attend weekly meetings. He said he had learned a great deal from this experience and he would never risk putting himself, his practice or his family in this situation again. With respect to the criminal charges, Dr. Martin explained he had entered into a plea with the Clark County District Attorney's Office on three counts of possession, which carried with it mandatory probation with a stay of adjudication, which means that after completion of the probationary period, the charges will be dismissed, and later he will have the ability to have his record expunged. He said the probationary status on his license does not restrict his ability to practice medicine, and therefore does not provide any additional safety to the public, but it greatly restricts his ability to reestablish his practice. He stated the criminal probation has not affected his ability to be credentialed with insurance carriers.

Discussion ensued whether it would be appropriate for the Board to lift Dr. Martin's probationary status at that time.

Dr. Hardwick stated that the Board's decision was well thought out when setting Dr. Martin's probationary period at 24 months, and the Board could not control what insurance companies decided to do with its decisions.

Dr. Martin said if he knew at the time he entered into the Settlement Agreement with the Board the effect the probationary status would have, he didn't think he would have been so eager to agree to probation.

Dr. Hardwick moved that the Board not change the probationary status on Dr. Martin's license. Dr. Chowdhry seconded the motion and it passed, with Dr. Prabhu voting against the motion and the remaining Board members voting in favor of the motion.

Agenda Item 9

REPORTS

(a) Investigative Committees

- Consideration of Cases Recommended for Closure by the Committees

Dr. Berndt reported that at its May 15, 2015 meeting, Investigative Committee A considered 138 cases. Of those, the Committee authorized the filing of a formal complaint in 7 cases, sent 7 cases out for peer review, requested an appearance in 6 cases, issued 41 letters of concern, referred 4 cases back to investigative staff for further investigation or follow-up and recommended closure of a total of 73 cases.

Dr. Hardwick moved to approve for closure the cases recommended by Investigative Committee A. Dr. Chowdhry seconded the motion and it passed unanimously.

Dr. Neyland reported that at its May 5, 2015 meeting, Investigative Committee B considered 72 cases. Of those, the Committee sent 1 case out for peer review, requested an appearance in 3 cases, issued 14 letters of concern, referred 1 case back to investigative staff for further investigation or follow-up and recommended closure of a total of 53 cases.

Dr. Hardwick moved to approve for closure the cases recommended by Investigative Committee B. Ms. Clark seconded the motion and it passed unanimously.

(b) Nevada State Medical Association Report

Grayson Wilt, Policy Research and Information Technology Specialist for the Nevada State Medical Association (NSMA), said the 2015 legislative session was an interesting one for a number of reasons and that NSMA would distribute a report to the Board at a later date regarding the issues they had been tracking.

(c) Clark County Medical Society Report

Loretta Moses, Executive Director of the Clark County Medical Society (CCMS), reported that on Saturday, June 27, Nevada Supreme Court Justice Michael Cherry would install the CCMS 2015-2016 Board of Trustees and its 61st President, Dr. Andrew Eisen, with the dinner and awards ceremony being held at the World Market Center. She invited the Board members to attend and stated Ms. Peltyn does a really great job of helping out with the silent auction and event décor for these events. On August 20, CCMS will be hosting their Second Annual Residents and Fellows Job Fair at the Golden Nugget, in collaboration with Touro University and the University of Nevada, School of Medicine. CCMS is looking at hosting an AMA candidate training school with the NSMA in late September and October, and will hold its

mini-internship program for adults October 12 through 22. CCMS' new office building was approved by the County Commission and they are looking at possibly breaking ground at the end of September, with a grand opening possibly at the end of the first quarter.

(d) Washoe County Medical Society Report

No report was presented at this meeting.

Agenda Item 10

CONSIDERATION AND ACCEPTANCE OF VOLUNTARY SURRENDER OF MEDICAL LICENSE OF EMMANUEL ACOSTA, M.D., LICENSE NO. 10462

Dr. Acosta was not present.

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

Ms. Emmermann explained that Dr. Acosta had submitted a sworn, written statement of voluntary license surrender and that his voluntary license surrender would be deemed to have occurred while under investigation. Dr. Acosta was unable to return his actual license to practice medicine because it was misplaced when he relocated to Florida. Dr. Acosta is not currently practicing medicine. His medical licenses in Kentucky, Florida and Nevada have been suspended.

Dr. Neyland moved that the Board accept the voluntary surrender of Dr. Acosta's license. Dr. Chowdhry 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. STEVEN HOLPER, M.D.*, BME CASE NO. 14-8552-1

Dr. Holper was not present. Dr. Holper's legal counsel, L. Kristopher Rath, Esq., was present in Las Vegas.

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

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

Dr. Chowdhry 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

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. IRINA VOLKOVA, M.D.*, BME CASE NO. 14-38887-1

Dr. Volkova was not present.

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

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

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

Agenda Item 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MICHELLE STACEY, M.D.*, BME CASE NO. 14-29866-1

Dr. Stacey was not present.

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

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

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

Agenda Item 14

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ARNOLD KLEIN, M.D.*, BME CASE NO. 15-31252-1

Dr. Klein was not present.

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

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

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

EXECUTIVE STAFF/STAFF REPORTS

(a) Consideration and Approval of 2014 Board Annual Report

Mr. Cousineau outlined the contents of the proposed 2014 Annual Report, noting a strong uptick in the Board's licensee base overall.

Dr. Prabhu moved to approve the 2014 Board Annual Report.

Ms. Wilkinson requested an amendment to the 2014 Board Annual Report removing the last sentence of her biography on page 2.

Dr. Prabhu accepted the amendment to his motion. Ms. Peltyn seconded the amended motion and it passed unanimously.

(b) Investigations Division Report

Ms. Castagnola reported the current number of open investigative cases was 507 and the current number of cases per investigator was 63. There were 19 peer reviews in the field and 7 peer reviews awaiting assignment.

Dr. Prabhu moved that the Board accept the report. Dr. Chowdhry seconded the motion and it passed unanimously.

(c) Quarterly Compliance Report

Ms. Jenkins explained that a change had been made in the way staff tracks compliance and that the financial part of compliance was now being handled by her as the Finance Manager, so the report will now only include the financial portion of compliance. Additionally, the Board's collections are now being sent to the State Controller's Office for collection and a number of cases were sent to them during the first quarter. Ms. Jenkins reported there were five files in collections, for a total of \$34,863.77, there were eight files written off during the quarter, for a total of \$10,667.00, the total costs outstanding at the end of the quarter were \$189,016.47, the total fines outstanding were \$37,467.00, and the total costs collected were \$18,635.36.

Discussion ensued regarding collection of monies outstanding in the case where a licensee is deceased.

Dr. Hardwick moved that the Board accept the report. Dr. Chowdhry seconded the motion and it passed unanimously.

(d) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the first quarter of 2015. She explained that the Balance Sheet shows the total assets and liabilities of the organization. The total assets at the end of the first quarter were \$5,519,423.18 and the total liabilities and equity were the same. The current liabilities were down to \$1,221,539.56, which is a reflection of the Board coming to the end of the biennial renewal period. This is the amount of deferred income that we set aside to use during the biennium. Because we are near the close of

the biennium, there is very little left in this category, and the rest will be recognized during the second quarter.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the first quarter of 2015. She explained that this shows how the Board is doing compared to its budget. The income was 107.8% of actual, so the Board was 7.8% above its projected income. The total over budget was \$77,000, which was primarily in registration and application fees for M.D.s, as there were a significant number of new applications during the first quarter of 2015. The personnel expenses were at 89.5% of budget and the operating expenses were at 98.5% of budget. The Board's interest income was \$1,417.03 above budget. The net income was \$228,024.01, which was \$71,000 above budget. To date, the Board had received a little over \$3 million in renewal fees.

Dr. Hardwick asked how much was projected for total renewal fees, and Ms. Jenkins estimated it at \$7 million.

Dr. Berndt moved that the Board accept the report. Dr. Hardwick seconded the motion and it passed unanimously.

(e) Legal Division Report

Ms. Emmermann reported there were currently 80 cases in the Legal Division, 5 of which had been presented to the Board for action at this meeting. There were 16 cases pending the CMT process, 17 cases awaiting filing of a formal complaint, 32 cases in which a formal complaint had been filed that were pending hearings, 6 miscellaneous cases requiring further investigation, research, or something to that extent, and 57 letters of concern were approved by the Investigative Committees at their May meetings. She stated the status of the four pending civil cases in which the Board was currently involved had not changed since the last Board meeting.

Dr. Prabhu moved that the Board accept the report. Dr. Berndt seconded the motion and it passed unanimously.

(f) Report on Status of Processing 2015-2017 Biennial Licensure Registration Renewals

Ms. Daniels reported that renewals began in April, and thanked the Board's beta testers for their assistance. To date, 4,225 of 8,216 M.D.s have renewed, 349 of 813 physician assistants have renewed, 607 of 1640 respiratory therapists have renewed and 12 of 40 perfusionists have renewed. She then thanked all staff involved in the renewal process.

Discussion ensued regarding the impact the Interstate Medical Licensure Compact will have upon Board staff.

Mr. Cousineau stated that he would be asking the Board in September to appoint a Commissioner to represent the Board on the Interstate Commission.

Discussion ensued regarding the additional attestations on the Board's renewal applications due to legislation that had been passed.

Dr. Prabhu moved that the Board accept the report. Ms. Peltyn seconded the motion and it passed unanimously.

(g) Report on Federation of State Medical Boards 2015 Annual Meeting

Mr. Cousineau named the Board members and staff who attended the Federation of State Medical Boards' 2015 Annual Meeting in Fort Worth in April. He stated the meeting was very informative and it is clear that issues that are prevalent in medicine in Nevada are prevalent in medicine nationwide, such as opioid abuse, medical marijuana, telemedicine and the Interstate Compact.

Dr. Berndt said one of the more important sessions he attended was a discussion regarding the Supreme Court decision with respect to accusations by the Federal Government against the North Carolina Dental Board for antitrust violations, and said he would like to hold a discussion at a future Board meeting regarding how this Board can protect itself from getting into a similar situation.

Mr. Cousineau stated there are a lot of distinctions between what occurred with the North Carolina Dental Board and how this Board does business and how it regulates; however, staff could present something that showed the pitfalls on the part of the North Carolina Dental Board and how this Board can avoid them.

Dr. Fischer stated that something we all need to be aware of is that in the United States, we are using more opiates than anywhere else in the world, put together, and these medications are expensive. Some of the patients who are placed on these medications lose their insurance and those who are addicted are going out on the street and getting heroin because it is less expensive.

Discussion ensued regarding doctor shopping by patients to obtain these types of medications, and how this has become a major problem.

Agenda Item 16

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the March 6, 2015 Board Meeting

Ms. Peltyn moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the March 6, 2015 Board Meeting. Dr. Chowdhry seconded the motion and it passed unanimously.

Agenda Item 17

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

17(a) Paul W. Nelson, M.D.

Dr. Nelson was present in Reno. Hal Taylor, Esq. was present with Dr. Nelson as his legal counsel.

Dr. Fischer asked Dr. Nelson 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 asked Dr. Nelson about his current practice and what he planned to do if granted a license to practice medicine in Nevada.

Dr. Nelson explained that he currently practiced surgery in Indianapolis and his practice consists of general surgery and trauma surgery. He is also the surgery residency program director at St. Vincent Hospital in Indianapolis. About half of his time is spent administering and running the residency program and the other half is his clinical practice. He has been offered a position in Las Vegas to direct a new surgery residency program at Mountain View Hospital. Their expectation is that his work would be 70% administrative and 30% clinical in the first year.

Dr. Berndt questioned Dr. Nelson regarding his affirmative responses to Questions 13 and 15 on his application for licensure.

Dr. Nelson explained the circumstances surrounding his resignation from Saint Luke's Hospital in Kansas City, Missouri, and those surrounding his withdrawal of his application for licensure in South Dakota while under investigation.

Dr. Berndt questioned Dr. Nelson regarding his affirmative responses to Questions 5a and 5b on his application for licensure.

Dr. Berndt explained the circumstances surrounding the case of malpractice that had been filed against him which resulted in a settlement of over \$2 million and the case filed against him which was still pending.

Dr. Berndt cautioned Dr. Nelson that when communicating with medical boards, it is better to provide more information than not enough information.

Dr. Berndt moved that the Board grant Dr. Nelson's application for licensure. Dr. Prabhu seconded the motion and it passed unanimously.

17(b) Erik D. Pearson, M.D.

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

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

Upon returning to open session, Ms. Clark moved that the Board grant Dr. Pearson's application for licensure. Dr. Prabhu seconded the motion and it passed unanimously.

17(c) Charlie A. Collenborne, M.D.

Dr. Collenborne appeared before the Board on her application for a limited license for residency training.

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

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

Upon returning to open session, Dr. Neyland moved that the Board grant Dr. Collenborne's application for a limited license. Dr. Chowdhry seconded the motion and it passed unanimously.

17(d) Kevin P. Rosenblatt, M.D.

Dr. Fischer asked Dr. Rosenblatt 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. Rosenblatt had passed the third step of the USMLE a month beyond the time limit allowed by Nevada regulation and was applying for licensure by endorsement.

Dr. Rosenblatt said he thought he was a special case. He explained that he had encountered this issue in only a couple of other states – Massachusetts, South Carolina and New Hampshire – but it was not an issue in the other states in which he had applied. He has a molecular diagnostics laboratory that provides services throughout the country and is currently licensed in about 25 states and has another 20 applications pending. He is an M.D./Ph.D. graduate and when in an M.D./Ph.D. program, you complete your first two years of medical school, you take Step 1 of the USMLE, and then you go into your Ph.D., which can take 3 or more years. It took him approximately 5 or 6 years to complete his Ph.D. He then completed his third year of medical school and took Step 2 of the USMLE in the fourth year of medical school, when one normally would, and took Step 3 during the first year of residency, which is when most take it.

Ms. Daniels asked Dr. Rosenblatt why he never became ABMS certified.

Dr. Rosenblatt explained that it was not necessary in most states – that most accepted his training and waived that requirement; however, he planned to take the ACMG and ABCC Boards.

Dr. Chowdhry asked Dr. Rosenblatt whether he would be doing laboratory work only or whether he would also be doing some clinical work, and Dr. Rosenblatt said he would be doing laboratory work only. He said he was applying for licensure in as many states as possible because the law firm he uses recommended it.

Dr. Fischer moved that the Board grant Dr. Rosenblatt a license by endorsement. Dr. Neyland seconded the motion and it passed unanimously.

17(e) Craig H. Selzman, M.D.

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

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

Dr. Selzman explained the circumstances surrounding two of the three cases of malpractice that had been filed against him that resulted in settlements.

Dr. Chowdhry asked Dr. Selzman what he planned to do if granted a license to practice medicine in Nevada.

Dr. Selzman explained that the University of Utah is collaborating with several groups in Las Vegas, as well as with Carson-Tahoe Hospital. He is Director of the Heart Transplant and Mechanical Circulatory Artificial Heart Program. They have a contract with St. Mary's to provide transplant services and a lot of patients in Nevada who have this insurance are going to Utah for transplants. There are no heart transplant programs or mechanical circulatory support programs in Nevada, and they have been asked to potentially assist in developing these programs with a couple of groups and one or two hospitals in Las Vegas. One of the reasons he is applying for licensure at this time is due to their relationship with Carson-Tahoe Hospital. There is a single surgeon there who hasn't taken a vacation in two-and-a-half years and he has offered to relieve this surgeon. It is also to help build their relationships in Nevada, but he has no plans to move to Nevada.

Dr. Chowdhry moved that the Board grant Dr. Selzman's application for licensure. Dr. Prabhu seconded the motion and it passed unanimously.

17(f) Mohamed O. Saleh, M.D.

Dr. Saleh appeared before the Board on his application for a change of status from inactive to active.

Dr. Fischer asked Dr. Saleh 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 questioned Dr. Saleh regarding the fact that he had not paid the full amount of costs he agreed to pay or completed the 10 hours of continuing medical education (CME) in opioid prescribing and pain management he agreed to attend as part of the September 16, 2013 Settlement Agreement with the Board.

Dr. Saleh stated he had not been working and did not have the funds.

Dr. Hardwick stated the Board's Compliance Officer had attempted to contact Dr. Saleh multiple times, both by mail and email, all with no response, yet Dr. Saleh had communicated with his License Specialist. Dr. Saleh agreed to do both these things in 2013 and had not completed either one, yet he was before the Board asking for a change in license status from inactive to active.

Dr. Saleh said he was not aware he had a Compliance Officer in Nevada.

Dr. Hardwick stated that in addition to completing the two items he agreed to do as part of the Settlement Agreement, he would also need to present to the Board a signed preceptor

agreement and the preceptor would be required to appear before the Board with Dr. Saleh to explain how the preceptorship would operate.

Dr. Saleh said he wanted to generate some funds in order to attend a review course for board recertification. He said between Florida and Nevada, it had been very difficult to keep track of both agencies, plus he was not working and didn't have the funds. He said he had letters coming from a million different directions and he was by himself trying to juggle all of it.

Dr. Fischer said he was concerned with the fact that Dr. Saleh is a physician and as a physician he has to keep records of patients to document the diagnosis and treatment, and if he was having trouble with this, he wondered what type of records system he has in his practice.

Dr. Saleh said he wanted to do the 10 hours of CME as part of his review course for the board recertification exam.

Dr. Fischer asked Dr. Saleh whether he had asked anyone at the Board whether he could do that, and Dr. Saleh said he had only communicated with Mr. Siva.

Mr. Cousineau asked Dr. Saleh whether he recognized the name Johnna LaRue, and Dr. Saleh said he did not.

Investigator Johnna LaRue explained that after a settlement agreement is approved, it is her job to produce a compliance packet containing a compliance letter and a copy of the settlement agreement. Every time she communicated with Dr. Saleh, it was sent certified mail and it came back "unclaimed return to sender," and the address she used matches his current address. He also never responded to any emails she sent him.

Dr. Hardwick moved that the Board table any decision on a status change until Dr. Saleh complies with the Settlement Agreement and presents a coherent preceptorship. Ms. Clark seconded the motion.

Dr. Hardwick clarified that even if Dr. Saleh provides the items that were included in his motion, there is no guarantee that the Board will grant a status change. Dr. Fischer added that the Board may also request that he undergo an evaluation of some type.

Mr. Cousineau stated that he had been with the Board for about 11 years and he couldn't recall a time when an individual had come before the Board and asked for a change of status or to get back into practice when he or she had been out of practice for some time where the applicant didn't have a cogent preceptor plan in place and didn't have the preceptor with him or her. He said it is not a requirement, but he believed it would behoove Dr. Saleh to have the preceptor present with him because the Board members would be able to hear from the preceptor that he or she agreed to the terms as they were spelled out, and also in the event the Board didn't agree with what was proposed, the preceptor plan could be amended at that time and the preceptor could attest that he or she was willing to agree to those amendments.

A vote was taken on the motion and it passed unanimously.

Agenda Item 18

CONSIDERATION AND APPROVAL OF REVISIONS TO BOARD POLICY AND PROCEDURE MANUAL, TO INCLUDE POTENTIAL CHANGES TO THE BOARD'S PAYROLL SCHEDULE AND BENEFITS

Mr. Rich explained that the proposed changes before the Board were minor in nature and were really just clean-up language related to revisions to the Policy and Procedure Manual approved by the Board in March which changed paydays for employees from a twice-a-month schedule to a biweekly schedule. These proposed changes would create consistency in the language throughout the policies within the manual regarding payroll.

Dr. Berndt moved that the Board approve the revisions to the policy and procedure manual. Dr. Chowdhry seconded the motion and it passed unanimously.

Agenda Item 19

STAFF COMMENTS/UPDATES

Mr. Cousineau advised the Board that at Dr. Prabhu's request, Mr. Rich was in the process of putting together some potential venues and costs related to holding a Board meeting in Las Vegas for presentation to the Board at its September meeting. Additionally, Mr. Cousineau would be going to Washington, D.C., for a July 24 press event sponsored by the Federation of State Medical Boards regarding the Interstate Compact.

Ms. Peltyn offered her assistance in putting together a meeting in Las Vegas and said she would work with Mr. Rich.

Agenda Item 20

MATTERS FOR FUTURE AGENDAS

Mr. Cousineau stated the following items would be on the agenda for a future meeting: the annual election of officers and appointment of committee members in September; consideration and approval of the 2016 meeting schedule; a final report on the 2015-2017 biennial licensure renewals; consideration of holding the December Board meeting in Las Vegas; consideration and approval of the 2016 budget; and the annual review of staff.

Agenda Item 21

PUBLIC COMMENT

Dr. Fischer asked whether there was anyone in attendance who would like to present public comment. No public comment was received.

ADJOURNMENT

Dr. Fischer adjourned the meeting at 1:52 p.m.

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