

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

*** * * MINUTES * * ***

OPEN SESSION BOARD MEETING

Held Via Telephonic Conference Call

FRIDAY, MARCH 5, 2021 – 9:00 a.m.

Board Members Present

Rachakonda D. Prabhu, M.D., President
Mr. M. Neil Duxbury, Vice President
Ms. April Mastroluca, Secretary-Treasurer
Victor M. Muro, M.D.
Aury Nagy, M.D.
Michael C. Edwards, M.D., FACS
Weldon Havins, M.D., J.D.
Ms. Maggie Arias-Petrel
Bret W. Frey, M.D.

Board Members Absent

None

Staff/Others Present

Edward O. Cousineau, J.D., Executive Director
Sarah A. Bradley, J.D., MBA, Deputy Executive Director
Donya Jenkins, Finance Manager
Robert Kilroy, J.D., General Counsel
Aaron Bart Fricke, J.D., Senior Deputy General Counsel
Donald K. White, J.D., Deputy General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Ernesto Diaz, Chief of Investigations
Lynnette L. Daniels, Chief of Licensing
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 Rachakonda D. Prabhu, M.D., at 9:03 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Ms. Arias-Petrel. Mr. Cousineau announced there was a quorum.

Agenda Item 2

PUBLIC COMMENT

Dr. Prabhu 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

- December 4, 2020 Board Meeting – Open Session

Dr. Havins moved that the Board approve the Minutes of the December 4, 2020 Board Meeting – Open Session. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 4

LEGISLATIVE UPDATE

Keith L. Lee, Esq. the Board's Legislative Representative, stated that Covid-19's impact upon the Legislature is that it has slowed a lot of things down. For instance, as of the previous night, 373 bills had been filed, which included 200 in the Assembly and 173 in the Senate, which was about half of what had been filed at this point during the last session. He said he and Tom Clark had been told that due to furloughs, illnesses, and that sort of thing, it is unclear when or if a number of bill drafts that are out there will ever be put into bill form, so they are not sure what we might expect. On behalf of the Board of Medical Examiners, they are tracking 25 bills that have been filed and another 20 bill draft requests that have not yet been filed, some of which are closely related to Nevada Revised Statutes Chapter 630 and what the Board does, and others which are only tangentially related in one form or another in terms of the Board's operations.

Mr. Lee said they are not allowed in the building, so they have not been able to meet a lot of new legislators. The way they go about it is to call the legislator's office and request a call or a Zoom meeting with him or her, and sometimes they receive a positive response and are able to talk with them, and sometimes they do not receive a response, so this session is different in that respect. During an ordinary session, by this point in the session, they will have met and talked with all of the new legislators. Mr. Lee said they may be allowed in the building in one form or another sometime between April 1 and April 15; however, that depends upon a number of things, including vaccinations and whether there are any positive Covid tests.

Dr. Havins asked whether there were any anticipated bills that are particularly egregious from the Board's point of view. Mr. Lee said there were several bill draft requests that may be

troublesome once we know what the language is; however, at that time there were no bills they had seen that were alarming, requiring any intervention on their part.

Ms. Arias-Petrel joined the meeting at 9:12 a.m.

Agenda Item 5

NEVADA PROFESSIONALS ASSISTANCE PROGRAM (NPAP) PRESENTATION

Michel Sucher, M.D., DFASAM, Medical Director, and Benjamin Seymour, CADC, CIP, Clinical Director, appeared on behalf of the Nevada Professionals Assistance Program (NPAP). Hard copies of a PowerPoint presentation by Dr. Sucher and Mr. Seymour had been provided to the Board members in advance of the meeting.

Dr. Sucher explained that NPAP is a joint venture of Southworth Associates from Idaho and Greenberg & Sucher, PC from Arizona. He said that in the last year, his long-time partner, Dr. Greenberg, had retired, so Greenberg & Sucher, PC is now known as Sucher Medical Management, Ltd. He said they assumed management of NPAP from Dr. Peter Mansky. Both he and Mr. Seymour have been in this business for a very long time. They are very much aligned with Dr. Mansky's philosophy of advocacy with accountability, and his tradition of quality, comprehensive, and compassionate care. They well-understand their mission and the Board's mission of protecting public safety as a primary purpose. Dr. Sucher then provided the Board with background on Greenberg & Sucher, PC, and Mr. Seymour provided background on Southworth Associates.

Dr. Sucher described the NPAP operations in Nevada.

Mr. Seymour explained NPAP's goal is to continue to establish good-working relationships with this Board, the Nevada State Board of Dental Examiners and the Nevada State Board of Osteopathic Medicine, to give presentations to a number of hospitals and medical groups to extend awareness of the services they offer, and to expand their efforts to increase awareness of NPAP throughout the state to improve their presence in the State of Nevada.

Dr. Sucher and Mr. Seymour outlined the services NPAP provides. Mr. Seymour stated NPAP's requirements fall in line with the Federation of State Physician Health Programs, which NPAP is part of.

Dr. Sucher outlined several coming additions to NPAP and its operations.

Dr. Prabhu thanked Dr. Sucher and Mr. Seymour for their presentation and for their work in Nevada.

Agenda Item 6

CONSIDERATION OF REQUEST OF VICTOR RONALD BRUCE, M.D., FOR REMOVAL OF CONDITIONS/RESTRICTIONS ON HIS MEDICAL LICENSE

This matter was not discussed at the meeting.

Agenda Item 7

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JON L. SIEMS, M.D.*, BME CASE NO. 19-13009-2

This matter was not discussed at the meeting.

Agenda Item 8

CONSIDERATION OF REVOCABLE DELEGATION AND AUTHORIZATION BY THE BOARD TO THE GENERAL COUNSEL OF THE BOARD TO DEFEND THE BOARD'S FINDINGS, CONCLUSIONS, ORDERS AND ACTIONS IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JON L. SIEMS, M.D.*, BME CASE NO. 19-13009-2, IN ANY CIVIL OR CRIMINAL PROCEEDING, STATE OR FEDERAL, THAT IMPLICATES THE BOARD'S ADJUDICATION OF THIS CASE, TO PARTICIPATE IN, DEFEND AGAINST, OR TO INITIATE ON ITS BEHALF ANY PETITION FOR JUDICIAL REVIEW OR APPEAL THEREFROM, TO FILE A NOTICE OF APPEAL OR STATEMENT OF INTENT TO PARTICIPATE ON ITS BEHALF, TO NEGOTIATE AND SETTLE CLAIMS ON ITS BEHALF, AND TO TAKE COMPARABLE ACTIONS AND MAKE COMPARABLE DECISIONS ON ITS BEHALF

This matter was not discussed at the meeting.

Agenda Item 9

REPORTS

(a) Investigative Committees

Mr. Duxbury reported that at its February 19, 2021 meeting, Investigative Committee A considered 125 cases. Of those, the Committee authorized the filing of a formal complaint in 5 cases, sent 16 cases out for peer review, requested an appearance in 14 cases, issued 29 letters of concern, referred 6 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 57 cases. He then thanked his fellow members on Investigative Committee A for their hard work.

Dr. Muro thanked his fellow members on Investigative Committee B and the staff for their preparation and hard work. He then reported that at its February 10, 2021 meeting, Investigative Committee B considered 117 cases. Of those, the Committee authorized the filing of a formal complaint in 6 cases, sent 15 cases out for peer review, requested an appearance in 9 cases, issued 35 letters of concern, referred 5 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 47 cases.

Ms. Mastroluca thanked Dr. Muro for making the meetings run so smoothly. She said that Investigative Committee B's caseload has pretty much doubled, and she really appreciates that. Dr. Havins concurred.

Dr. Nagy said he really appreciates the good job staff has done in catching up on the backlog of cases.

(b) Nevada State Medical Association

No report was presented at the meeting.

(c) Clark County Medical Society

Denise Selleck, Executive Director of the Clark County Medical Society, was not in attendance at the meeting, but had submitted a written report prior to the meeting, which had been provided to all Board members.

(d) Washoe County Medical Society

Mary Ann McCauley, Executive Director of the Washoe County Medical Society, was not in attendance at the meeting, but had submitted a written report prior to the meeting, which had been provided to all Board members.

Agenda Item 10

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KRISTIN ADELE HESTDALEN, M.D.*, BME CASE NO. 21-25351-1

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

Mr. Fricke stated a formal Complaint had been filed against Dr. Hestdalen alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Edwards moved that the Board approve the proposed Settlement Agreement. Dr. Frey seconded the motion, and it passed, 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. CHRISTOPHER JOSEPH FISHER, M.D.*, BME CASE NO. 21-29183-1

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

Mr. Fricke stated a formal Complaint had been filed against Dr. Fisher alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Nagy moved that the Board approve the proposed Settlement Agreement. Mr. Duxbury seconded the motion, and it passed, 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. STEPHEN WINSLOW GORDON, M.D.*, BME CASE NO. 21-11531-1

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

Mr. Fricke stated a formal Complaint had been filed against Dr. Gordon alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Muro moved that the Board reject the proposed Settlement Agreement. The motion failed for lack of a second.

Ms. Mastroluca moved that the Board approve the proposed Settlement Agreement. Dr. Havins seconded the motion, and it passed, 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. ARTURO MARCHAND, JR., M.D.*, BME CASE NO. 21-21202-1

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

Mr. White stated a formal Complaint had been filed against Dr. Marchand alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Frey moved that the Board approve the proposed Settlement Agreement. Dr. Havins seconded the motion, and it passed, 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. QUINTON KEITH THOMAS, M.D.*, BME CASE NO. 21-20969-1

This matter was not discussed at the meeting.

Agenda Item 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TERRANCE J. KWIATKOWSKI, M.D.*, BME CASE NO. 19-21834-1

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

Mr. Kilroy stated a First Amended Complaint had been filed against Dr. Kwiatkowski alleging two violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Havins moved that the Board approve the Settlement Agreement. Ms. Arias-Petrel seconded the motion.

Ms. Mastroluca said that, based upon the information provided to the adjudicating Board members, she thought the fine was too low.

A vote was taken on the motion, and it passed, with Ms. Mastroluca and Dr. Muro voting against the motion and the remaining adjudicating Board members voting in favor of the motion.

Agenda Item 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. STEPHANIE COLLEEN JACKSON, M.D.*, BME CASE NO. 20-41027-1

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

Mr. Kilroy stated a First Amended Complaint had been filed against Dr. Jackson alleging three violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Edwards moved that the Board approve the Settlement Agreement. Mr. Duxbury seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ANJMUN SHARMA, M.D.*, BME CASE NO. 20-42785-1

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

Ms. Bradley stated that a formal Complaint had been filed against Dr. Sharma alleging one violation of the Nevada Medical Practice Act in both cases, and outlined the terms of the proposed Settlement Agreement.

Dr. Havins moved that the Board approve the Settlement Agreement. Ms. Arias-Petrel seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. HUGO PAULSON, M.D.*, BME CASE NO. 20-4039-1

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

Ms. Bradley stated a formal Complaint had been filed against Dr. Paulson alleging two violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Frey moved that the Board adopt the Settlement Agreement. Dr. Muro seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that since December 5, 2020, the Investigations Division had received approximately 295 complaints. Of those, 160 cases were opened as formal investigations, 69 were determined not to be not under the Board's jurisdiction, 41 were referred to other agencies and regulatory bodies, 3 were resolved through proactive measures, and 22 were either duplicate complaints or are still pending review. The total case count for 7 investigators, 1 deputy chief and 1 chief was 977 open investigations, which is an average of 108 each. For 7 investigators only, the average would be 127 each. He said there were a total of 90 peer reviews, 42 of which had been assigned and 48 which were pending assignment. There were currently 23 cases in Diversion. Mr. Diaz thanked the Investigative Committees for accommodating additional discussion cases, as it has definitely assisted the Investigations Division with the backlog.

(b) Quarterly Compliance Report

Ms. Jenkins reported the total number of files in collection with the State Controller's Office for the fourth quarter of 2020 was 8, for a total of \$45,952. There was 1 collection written off during the quarter for a total of \$874.86. The total costs outstanding at the end of the quarter was \$64,626, the total fines outstanding was \$17,770, and the total costs collected during the quarter was \$32,294.50.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the fourth quarter. The Board's total current assets were approximately \$3.6 million, total assets were \$8.2 million, total current liabilities were \$2.7 million, and the total liabilities and net position were \$8.2 million. She said the net income for the year was \$408,000, which is unaudited, and we expect to have changes upon audit for the long-term liability. The Board's reserves were at 5 months.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the fourth quarter of 2020. Total income for the quarter was above budget by 7%. The personnel expenses were above budget by 10%, which was primarily due to the accrued payroll adjustments at the end of the year, and the year-to-date percentage of budget for payroll was at 96%. Total operating expenses were at 99.7% of budget for the quarter, which left a net difference of \$30,800.

(d) Legal Division Report

Mr. Kilroy reported there were currently 164 cases in the Legal Division, there were 8 settlements before the Board at this meeting, and 2 cases had been dismissed by the Investigative Committees upon subsequent review. He then updated the Board with respect to the single pending civil court case in which the Board was currently involved. He said there were 131 cases authorized for filing of a formal complaint and 27 cases in which a formal Complaint had been filed

which were in the hearing process. During the quarter, the Legal Division filed 17 formal complaints, including 2 amended complaints, and drafted and sent out 63 letters of concern on behalf of the Investigative Committees. Mr. Kilroy expressed his gratitude to the Licensing and Investigations Divisions for their assistance, and thanked the Investigative Committees for all their good work and the Board for approving the settlement agreements.

Agenda Item 20

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the December 4, 2020 Board Meeting

Ms. Mastroluca moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the December 4, 2020 Board Meeting. Ms. Arias-Petrel seconded the motion, and it passed unanimously.

Agenda Item 21

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) David Harvey Segal, M.D.

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

Ms. Mastroluca moved that the Board go into closed session pursuant to NRS 241.030. Dr. Havins seconded the motion, and it passed unanimously.

Upon returning to open session, Dr. Segal said he was withdrawing his application.

(b) Zvika Jacob Schreiber, M.D.

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

Dr. Frey said that in reviewing Dr. Schreiber's application, he had a question as to whether there had been multiple errors in omission or some intent in omission, and he thinks there is a big difference in the two. He asked Dr. Schreiber to elaborate as to the repetitive nature of those omissions.

Dr. Schreiber explained he is a pathologist and works in a laboratory in New York. He said the reason he was applying for multiple licenses is that it is a national lab, and they receive specimens from multiple states. With that in mind, the lab contracted with a company to complete applications in multiple states. He said he currently has 15 licenses. In the process of having the company complete his applications, sometimes he did not notice errors in an application, and other times, such as with this application, he did notice errors, and he told the company to fix the errors, and send the application back in. He said there was no ill intent and he was not trying to hide anything.

Dr. Frey said the issue is the accuracy and precision of the work in the application, and whether or not Dr. Schreiber personally was able to review the application prior to submission.

Dr. Schreiber said he did review it, and he told them to correct the errors, and they told him they corrected them and submitted it. He did not review it again after he requested them to correct it.

Mr. Duxbury asked whether the same omissions had been made in his other licensure applications, and Dr. Schreiber said in some, but not in all. Dr. Schreiber stated that the lab has used different companies at different points, and he was not in charge of choosing the companies that were used.

Mr. Duxbury said he was a little surprised that having gone through this process multiple times, and having had previous issues with applications, that Dr. Schreiber was not concerned enough to be more diligent about submitting an accurate application.

Dr. Frey stated this lends to the Board's concern about the precision of Dr. Schreiber's work overall.

Dr. Frey moved that the Board deny Dr. Schreiber's application for licensure, due to concerns with the precision of his application. Ms. Mastroluca seconded the motion, and it passed unanimously.

(c) Ignacio Acosta-Martinez, CRT

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

Ms. Mastroluca said what concerned her the most was the number of times Mr. Acosta-Martinez had been arrested versus the number of arrests he had disclosed on his application, and asked Mr. Acosta-Martinez to explain the discrepancy.

Mr. Acosta-Martinez said he had explained to the License Specialist to the best of his abilities what he recalled about what happened back in the 1980s and early 1990s, and asked for clarification regarding the question.

Ms. Mastroluca stated Mr. Acosta-Martinez had 13 arrests on his record, but he only disclosed 6 of them when he applied for licensure, and staff repeatedly asked him for additional information, and he ignored those requests. So, she had great concern about his willingness to follow direction and to be responsive when being asked questions like this.

Mr. Acosta-Martinez said he didn't think he needed to report those other cases because they had been closed.

Ms. Mastroluca said the other concern she had with Mr. Acosta-Martinez' application was that he said he hadn't had a license revoked, suspended or surrendered in any state, yet he did in Texas, and he didn't declare that.

Mr. Acosta-Martinez said he had provided a letter to the Board from the state of Texas in which it clearly states that there was no wrongdoing by him.

Ms. Mastroluca said he had voluntarily surrendered his license and he was supposed to declare that on his application, and he didn't.

Dr. Muro asked Mr. Acosta-Martinez how many times he had been incarcerated, and Mr. Acosta-Martinez said he couldn't say exactly how many times.

Dr. Muro asked Mr. Acosta-Martinez how many times he had been arrested in the United States, and Mr. Acosta-Martinez said maybe 10 times, but he didn't know exactly. Dr. Muro asked him whether he had disclosed all that he could recall on his application, and Mr. Acosta-Martinez said he had.

Dr. Muro said he didn't think that coincided with the information that was before the Board, and that he was concerned with not only the number of times Mr. Acosta-Martinez had been arrested and incarcerated, but also his disclosure of that information. There is the issue that there wasn't complete candor and honesty in the filling out of the application, and integrity is essential to the practice of medicine and any of the practices and ancillary services that we rely on to take care of patients.

Mr. Duxbury moved that the Board deny Mr. Acosta-Martinez' application for licensure, based on NRS 630.304(1), which states obtaining, maintaining or renewing, or attempting to obtain, maintain or renew a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement is grounds for denial. Ms. Mastroluca seconded the motion, and it passed unanimously.

(d) Linda Michelle Petrovich, M.D.

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

Mr. Duxbury questioned Dr. Petrovich regarding her affirmative response to Questions 5a and 5b on her Uniform Application for Licensure.

Dr. Petrovich described the circumstances surrounding the two cases of malpractice that had been filed against her.

Mr. Duxbury questioned Dr. Petrovich regarding her affirmative response to Question 10 on her application for licensure.

Dr. Petrovich explained the reason she had been investigated by so many different boards and disciplined by several of them was due to the initial disciplinary action in Kentucky, which was related to the malpractice case against her that resulted in a settlement.

Dr. Edwards moved that the Board grant Dr. Petrovich's application for licensure. Mr. Duxbury seconded the motion.

Dr. Prabhu asked Dr. Petrovich what she planned to do if granted a license to practice medicine in Nevada, and Dr. Petrovich said she had planned to continue practicing teleradiology.

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

Agenda Item 22

**CONSIDERATION OF SUSPENDING CONTINUING MEDICAL EDUCATION/
CONTINUING EDUCATION REQUIREMENTS FOR LICENSURE RENEWAL IN 2021**

Mr. Cousineau referred the Board to Governor Sisolak's Emergency Directive 011, which took effect on April 1, 2020. Language in Sections 11 and 12 of that Emergency Directive indicates that the failure by a licensee to accomplish certain actions is not a basis for expiring or not renewing a license. Specifically, as it relates to continuing medical education (CME)/continuing education (CE), As the Board is aware, the Board's renewal period will begin in April and end on July 1. The concern is that the Directive will be effective for 60 days after it is lifted, and if it is not lifted by April 30 of this year, then we will be suffering the concerns he was about to bring to the Board. If it is lifted by April 30, then nothing discussed today will be relevant, and we will handle the process as we normally would without the Directive. Traditionally, as of July 1, the licenses of those licensees included in the random audit who have not provided proof of continuing CME/CE, or who haven't met other requirements for renewal, expire effective July 1, and they have 2 years, pursuant to statute and regulation, to reinstate their licenses back to the original status, with the fee for reinstatement being double that of the regular renewal fee. That being said, the renewal process will not be any different this year if the Directive is still in place, but he is asking the Board to dispense with the CME/CE random audit requirement because, based on the Directive, if a licensee hasn't completed his or her CME/CE requirements, the Board will not be able to withhold renewing his or her license. The law has not been changed; it has just been suspended. If the Directive is lifted by April 30, then all of this will not be of any merit. He said he was requesting the Board to allow staff to dispense with the normal CME/CE audit protocols, contingent upon the Directive being in place beyond July 1.

Dr. Havins asked whether, once the Directive is no longer in effect, licensees would have to have all of their required CME/CE completed at that time.

Mr. Cousineau said we were not saying they don't have to do it now, as we believe they do, we just don't want to go through the exercise of trying to establish that because even if they don't, the Board cannot withhold renewal of their licenses. So, we are going to trust them if they answer "yes" that they have completed the statutorily required CME/CE. However, if a licensee answers "no" to having completed his or her CME/CE, he has directed the Licensing Division to reach out to the licensee and obtain an explanation as to why, because it is still a requirement for renewal of licensure. Hopefully, the vast majority will answer in the affirmative and it won't be an issue.

Ms. Mastroluca asked whether he had been in contact with the Governor regarding this issue, and Mr. Cousineau said he had not because it is at the Governor's discretion and we shouldn't opine as to what we think the Governor should do.

Ms. Mastroluca moved that the Board allow staff to dispense with the biennial CME/CE audit under statute and regulation for the 2021-2023 renewal cycle. Mr. Duxbury seconded the motion, and it passed unanimously.

Discussion ensued regarding the waivers that had been received by the Board under the Directive, and what will occur with regard to those who have provided waivers once the Directive is lifted. Ms. Daniels stated the Board had received just under 3,000 waivers.

Agenda Item 23

STAFF COMMENTS/UPDATES

Mr. Cousineau stated the 2020 Federation of State Medical Boards' (FSMB) audit of the Board had been presented to the Legislative Commission in late December, and he had provided a copy to the Board members. On the heels of that, the Legislative Counsel Bureau (LCB) has been directed to perform a performance audit of the Board. This is something that emanated from a meeting in December 2019, wherein it was directed that after the FSMB eight-year audit was received by the Legislative Commission, the Legislative Commission Audit Subcommittee should review the contents of the FSMB audit and determine whether this audit should proceed. That didn't take place. He was approached unilaterally by the LCB in mid-January, and advised the audit would take place. He met with the various audit members in late January, and was advised the audit would likely be accomplished anywhere between six to nine months out. A CPA from the LCB has been in the building since the Monday before last, and has been meeting with various staff and reviewing various files and other documents.

Mr. Cousineau said he wanted to touch on the fact that Larry Espedero, who was the Director of the Professionals Recovery Network (PRN), and with whom the Board had worked with since 2010, had passed away. He was a very good man, and had done a lot for the Board and helped the Board's licensees.

Mr. Cousineau said the FSMB Annual Meeting would be virtual this year, and would be held April 29 through May 1, for any Board members who were interested in attending virtually. At the direction of Dr. Prabhu, Mr. Cousineau will be the Voting Delegate on behalf of the Board.

Mr. Cousineau said Mr. Duxbury and Ms. Mastroluca will both term out at the end of June, and Dr. Prabhu will term out at the end of August, so the annual election of officers will be held at the June meeting, and the newly-elected officers will take their positions effective July 1 or August 31 of this year.

Ms. Bradley said the Board had transitioned to the new database software system called Open Regulate, through a Canadian-based company named Thentia. What this means is that when consumers go to the Board's website and do a Licensee Lookup, they now have additional ways to search, such as by specialty. Licensees and applicants can now create a login. Applicants can now apply online and licensees can update their addresses in real time and can pay for items online. It hasn't been an easy transition, going from a system we had for many, many years to a new one, so we are still working through some of that, but are really excited to be doing so.

Ms. Mastroluca thanked the staff for all of their work, as this is going to make a huge difference for the Board's licensees.

Ms. Bradley said with the legislative session going on, the LCB Research Division reached out and had some questions regarding licensing and the Board's license fees, as compared to specific other states, and she had been doing some research regarding these items, and corresponding with

LCB staff. In the course of doing so, she had an opportunity to review multiple other states' websites. One of the FSMB audit recommendations was that the Board compare what is on the Board's website with these other websites. She said it is almost impossible to get any information off of the Colorado and South Dakota websites, and ours is a lot more user-friendly than most. We are also one of the few states that has all of our disciplinary actions and public filings right there for anyone to access. Most states don't have this as clearly laid out and as detailed as we do, and she thinks that is helpful for consumers, as well as other interested parties.

Mr. Cousineau said that through the exercise of comparing the Board's website to other states' websites, we think the Board's website is where it should be with respect to transparency and in ease in researching information on licensees, discipline, etc., and we have no intent to change the website any more than would be required from an administrative perspective.

Agenda Item 24
PUBLIC COMMENT

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

Agenda Item 25
ADJOURNMENT

Dr. Prabhu adjourned the meeting at 11:55 a.m.

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