

**NEVADA STATE BOARD OF MEDICAL EXAMINERS**

1105 Terminal Way, Suite 301  
Reno, NV 89502-2144

Rachakonda D. Prabhu, M.D.  
*Board President*



Edward O. Cousineau, J.D.  
*Executive Director*

**\* \* \* 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

***FRIDAY, JANUARY 12, 2018 – 12:00 NOON***

*Board Members Present at Board Office in Reno*

None

*Board Members Present by Telephone*

Rachakonda D. Prabhu, M.D., President

Ms. Sandy Peltyn

Victor M. Muro, M.D.

Ms. April Mastroluca

Michael C. Edwards, M.D., FACS

Weldon Havins, M.D., J.D.

*Board Members Absent*

Wayne Hardwick, M.D., Vice President

Mr. M. Neil Duxbury, Secretary-Treasurer

Aury Nagy, M.D.

*Staff/Others Present at Board Office in Reno*  
Edward O. Cousineau, J.D., Executive Director  
Jasmine K. Mehta, J.D., Deputy Executive Director  
Robert Kilroy, J.D., General Counsel  
Aaron Bart Fricke, J.D., Deputy General Counsel  
Donald K. White, J.D., Deputy General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems

*Staff/Others Present by Telephone*  
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 12:04 p.m.

Mr. Cousineau took roll call of the Board members present via telephone. Board members not present were Wayne Hardwick, M.D., Vice-President, Mr. M. Neil Duxbury, Secretary-Treasurer, and Aury Nagy, M.D. Mr. Cousineau announced there was a quorum of the adjudicative body.

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

CONSIDERATION OF PETITIONS FOR RECONSIDERATION OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES B. GABROY, M.D., BME CASE NO. 15-10986-1*

Dr. Prabhu asked whether the adjudicating Board members had received and reviewed the material, and the Board members indicated they had.

Dr. Prabhu said he would like to discuss the petition submitted by the attorney for the Investigative Committee first.

Dr. Havins said he wanted to put on the record that he did not receive the initial petition for reconsideration; that he had spoken with counsel for the Investigative Committee the previous afternoon and requested that it be emailed to him, and was told it was included in the information that was sent with the other pleadings.

Ms. Mehta said she believed what Dr. Havins had requested was the August 2016 Motion to Dismiss filed by Respondent's counsel, and Dr. Havins said that was correct. Ms. Mehta said she wanted to clarify for the record that Dr. Havins did receive the Investigative Committee's Petition for Reconsideration that was filed on December 28, 2017, and Dr. Havins stated he did. Ms. Mehta stated the Motion to Dismiss was not attached to the Investigative Committee's Petition for Reconsideration or its Opposition to Respondent's Petition for Reconsideration, and that matter was not before the Board at this meeting.

Dr. Havins stated he had not seen in the past the Board rescind its decision and findings of fact, conclusions of law, and adjudicate a matter *de novo*, and asked whether this was something that was provided in statute or in the Administrative Procedure Act.

Ms. Mehta explained that NRS 622A.390 specifically provides for petitions for reconsideration; that previously, Chapter 622A was not applicable to the Board of Medical Examiners, but the Legislature removed that exemption during the 2017 Legislative Session.

Dr. Havins stated that the statute on the Legislative Counsel Bureau (LCB) website still listed the Board of Medical Examiners as one of the agencies that is exempted from NRS 622A.

Colleen Platt, Esq., attorney for Respondent, explained that the codification process takes quite some time at the LCB and the website does not yet reflect the codification.

Dr. Muro moved that the Board decline the Petition for Reconsideration.

Discussion ensued regarding Dr. Muro's motion.

Ms. Mehta said she believed there was some confusion as to whether the proposed motion was to grant or deny the Investigative Committee's Petition for Reconsideration, and asked Ms. Rasul for clarification.

Ms. Rasul explained that the Board would be addressing each petition separately, and the petition filed by the Investigative Committee would be considered first.

Dr. Havins asked whether Respondent had objected to the Investigative Committee's petition, and Ms. Rasul stated no opposition to the Petition had been filed.

Discussion ensued regarding the outcome being sought by the Investigative Committee's Petition for Reconsideration.

Dr. Muro rescinded his first motion on the floor. He then moved that the Board accept the Investigative Committee's Petition for Reconsideration. Dr. Edwards seconded the motion, and it passed unanimously.

Dr. Havins asked whether the Respondent's Petition and the Opposition to the Petition were moot since the Board had already voted to grant the Investigative Committee's Petition.

Ms. Rasul explained that the Board was still required to consider Respondent's Petition.

Dr. Muro moved that the Board deny Respondent's Petition for Reconsideration. Dr. Havins seconded the motion, and it passed unanimously.

Agenda Item 4  
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 5  
ADJOURNMENT

Dr. Edwards moved to adjourn the meeting. Ms. Mastroluca seconded the motion, and Dr. Prabhu adjourned the meeting at 12:25 p.m.

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