

**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 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, APRIL 13, 2018 -- 9:00 a.m.***

***Board Members Present***

Rachakonda D. Prabhu, M.D., President  
Mr. M. Neil Duxbury, Secretary-Treasurer  
Ms. Sandy Peltyn  
Victor M. Muro, M.D.  
Ms. April Mastroluca  
Aury Nagy, M.D.  
Michael C. Edwards, M.D., FACS  
Weldon Havins, M.D., J.D.

***Board Members Absent***

Wayne Hardwick, M.D., Vice President

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*Staff/Others Present*

Edward O. Cousineau, J.D., Executive Director  
Jasmine K. Mehta, J.D., Deputy Executive Director  
Donya Jenkins, Finance Manager  
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  
Pamela J. Castagnola, CMBI, 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 9:28 a.m.

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

Ms. Jenkins introduced new Finance Assistant Brenda Riviera.

Ms. Daniels introduced new Licensing Administrative Assistants Tara Bailey and Kristin Penley.

Mr. Kilroy announced that Dawn Gordillo had been hired as a Legal Assistant.

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**

- (a) December 1, 2017 Board Meeting – Open/Closed Sessions
- (b) January 12, 2018 Board Meeting – Open Session
- (c) February 7, 2018 Board Meeting – Open Session
- (d) March 9, 2018 Board Meeting – Open Session

Dr. Edwards moved that the Board approve the Minutes of the December 1, 2017 Board Meeting – Open/Closed Sessions, January 12, 2018 Board Meeting – Open Session, February 7, 2018 Board Meeting – Open Session and March 9, 2018 Board Meeting – Open Session. Ms. Peltyn seconded the motion, and it passed unanimously.

Agenda Item 4

REQUEST FOR BOARD AUTHORIZATION TO ANSWER AND DEFEND AGAINST PETITION FOR JUDICIAL REVIEW FILED WITH REGARD TO THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CHARLES P. VIRDEN, M.D.*, BME CASE NO. 16-10736-2

Mr. Fricke explained that due to a recent decision of a three-judge panel of the Nevada Supreme Court in the case of *the Nevada Commission on Ethics vs. Ira Hansen and Jim Wheeler*, Board legal counsel was requesting that the Board authorize them to answer and defend the Board's Findings of Fact, Conclusions of Law, and Order against a Petition for Judicial Review that has been filed by Dr. Virden in the matter of *the Nevada State Board of Medical Examiners vs. Charles P. Virden, M.D.*, BME Case No. 16-10736-2.

Ms. Peltyn moved that the Board authorize Board legal counsel to answer and defend the Board in the aforementioned Petition for Judicial Review. Dr. Nagy seconded the motion, and it passed unanimously.

Agenda Item 5

RECONSIDERATION OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DATED DECEMBER 20, 2017, IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES B. GABROY, M.D.*, BME CASE NO. 15-10986-1

Dr. Gabroy was not present. Colleen Platt, Esq., legal counsel for Dr. Gabroy, was present in Reno.

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

Ms. Rasul asked whether the adjudicating Board members had received all the materials related to the matter, and they indicated that they had.

Ms. Rasul stated there were two motions the Board needed to address, a Motion to Dismiss and a Motion to Strike, and it was her understanding the Hearing Officer's recommendation was to deny both.

Dr. Muro moved that the Board deny the Motion to Dismiss. Dr. Edwards seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Dr. Muro moved that the Board deny the Motion to Strike. Dr. Edwards seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Ms. Rasul then provided procedural instruction regarding the adjudication process.

Discussion ensued regarding whether Dr. Gabroy's records were timely, legible, accurate and complete, pursuant to NRS 630.3062(1), based upon the evidence presented.

Dr. Muro moved that the Board adopt the Hearing Officer's recommendations and synopsis. Ms. Mastroluca seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Dr. Havins moved that the Board find, by a preponderance of the evidence, that there was insufficient legibility, in violation of NRS 630.3062(1). Dr. Edwards seconded the motion.

Discussion ensued regarding the motion.

Dr. Havins amended his motion that the Board find, by a preponderance of the evidence, a violation of NRS 630.3062(1). Dr. Edwards seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Ms. Mehta presented the Investigative Committee's recommendations regarding discipline in the matter, which included a written public reprimand, completion of 10 hours of continuing medical education in medical record keeping, to be completed within the next 90 days, a fine in the amount of \$5,000.00, to be paid within 120 days, and reimbursement of the Board's costs and fees, to be reimbursed within the next 120 days. She stated the Memorandum of Costs and Fees was hand-delivered to Dr. Gabroy's counsel on November 6, 2017, so she had had several months to review them. She said the Investigative Committee was not seeking fees incurred since that time, and had previously conceded that the portions of attorneys' fees that were block billed and included tasks related to public records requests should be eliminated from the Memorandum of Costs and Fees, which would reduce the attorneys' fees by \$1,746.20. She then provided information in support of the costs and attorneys' fees, and stated the total was \$43,895.65.

Ms. Platt presented her recommendations regarding discipline in the matter, on behalf of Dr. Gabroy. She recommended that no discipline be imposed, made due process and regulatory rulemaking arguments, and argued that the discipline the Investigative Committee was seeking to impose was arbitrary, capricious, punitive, and served no further purpose to protect the public.

Discussion ensued regarding the discipline to be imposed upon Dr. Gabroy in the matter.

Dr. Muro moved that the Board accept the disciplinary actions as outlined, including the fine and associated costs. He asked Ms. Mehta to reiterate the Investigative Committee's disciplinary recommendations.

Ms. Mehta restated the Investigative Committee's disciplinary recommendations.

Dr. Muro stated it was his motion to include the disciplinary actions as outlined. Ms. Peltyn seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 6

## REPORTS

### (a) Investigative Committees

Dr. Prabhu reported that at its February 7, 2018 meeting, Investigative Committee B considered 116 cases. Of those, the Committee authorized the filing of a formal complaint in 5 cases, sent 14 cases out for peer review, requested an appearance in 10 cases, issued 23 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 62 cases.

Mr. Duxbury reported that at its February 23, 2018 meeting, Investigative Committee A considered 136 cases. Of those, the Committee authorized the filing of a formal complaint in 16

cases, sent 22 cases out for peer review, requested an appearance in 6 cases, issued 27 letters of concern, referred 9 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 56 cases.

**(b) Nevada State Medical Association**

Catherine O'Mara, Executive Director of the Nevada State Medical Association (NSMA), reported that NSMA will hold its annual meeting on September 28-30, in Las Vegas. Howard Baron will be installed as the new President, and their CME activities will be focused on the emergency response on October 1 and what physicians can do to help out in emergencies, and also on antibiotic prescribing. She thanked the Board, its members and staff for the incredible engagement with respect to the R100-17 Subcommittee and the way they run those meetings. She said it has been a pleasure to work with them, and that the physician community really feels like it is being heard and that it is having an opportunity to constructively contribute to the process. She said she thinks the physician community has also started noticing, and appreciates, the level of engagement the Board members on the Subcommittee have had. She said we can learn from this process; that engagement of the Board members really goes a long way to demonstrate to the Board's licensees that they are taking an active role in things that are being decided through the regulatory process. She stated that through this process, it has also become clear that Board licensees have some concerns or confusion regarding the Board's general disciplinary process. NSMA has already started speaking with the Board's Executive Director regarding ways they can work together to write up a synopsis in a general way and send it out to the licensees so they can receive some education in that regard. Ms. O'Mara reported that NSMA is already starting to look forward to the 2019 legislative session. She recently had an opportunity to address the Assembly Democratic Caucus, and through the process of putting together a presentation, she decided to focus on the workforce in Nevada, and wanted to share some of the information she learned. The AMA prepares an economic impact study of physicians on state economies every two years. Its most recent statement indicates there are 5,056 physicians providing care to 2.99 million residents of Nevada, which is a high ratio. According to John Packham's most recent report, Nevada ranks 48th for number of physicians per 100,000 population, 50th in primary care and 51st in specialty care, if you consider Washington, D.C. So we have a lot of work to do. This has made NSMA really focus on investment in GME and how we can grow our workforce, and they will continue to work toward those goals. Investment in GME does work; the AAMC study on physician retention estimates that half of all students who complete residencies in Nevada stay in Nevada and practice. So NSMA will be working on growing the residency programs. Ms. O'Mara said we should also consider how to promote physicians in Nevada. With respect to physician burnout, Ms. O'Mara said there is a 2016 study in the Annals of Internal Medicine that has found that for every hour of patient time, a physician has to complete two hours filling out paper work, and that during an exam with a patient, 52.9% of the time of that exam is spent on the patient and 37% is spent on the paperwork, the tests, or whatever else is needed to process the patient. This is really impacting patient care and hurting physicians and patients. NSMA is looking at various ways, such as helping to make administrative burdens less, that will allow physicians and physician assistants to really practice medicine with the patients and focus on them.

**(c) Clark County Medical Society**

Alexandra P. Silver, Executive Director of the Clark County Medical Society (CCMS), said she wanted to echo Ms. O'Mara's gratitude regarding involvement with the Subcommittee; CCMS really appreciates being part of that process. She reported that CCMS' 64th annual installation dinner will be held on June 2, and one of the key parts of the program is the Winged Heart Awards, which CCMS has sponsored since 2013. This is a way for physicians and the community to give

back and pay recognition to the unsung heroes in the medical community. It honors one nurse, one health-related nonprofit and, beginning this year, one first responder. At the installation dinner, Dr. Jeffrey Roth will be installed as the new CCMS President, and honor will be paid to the Lou Ruvo Brain Center and the Children's Heart Center, with a special tribute for October 1, and a posthumous award will be presented to Dr. Leon Steinberg on behalf of Dr. David Steinberg. Ms. Silver stated that as part of CCMS' efforts to participate in attracting and retaining physicians in Nevada, and in particular, Clark County, CCMS will hold a resident job fair on August 16. Additionally, the CCMS Board recently approved a bylaw change allowing for one medical student and one resident to serve on the Board with full voting rights, which is expected to be approved by the full membership in May. Also, in an effort to combat physician burnout, CCMS is offering a CME on that topic on October 23. She explained the CCMS website is currently under construction, and that CCMS is currently hiring for a membership and engagement coordinator.

#### (d) Nevada Academy of Physician Assistants

Julie Thomas, PA-C, President of the Nevada Academy of Physician Assistants (NAPA), reported that the healthcare workforce has seen a sustained growth in the number of physician Assistants (PAs) applying to practice in Nevada over the past several years. There has been an increase in PAs in the state of Nevada by 150% from 2006 to 2016. NAPA sees this as an efficient way to improve access to care for patients in Nevada. Nevada had one PA program, but as of last week, there are now two; the University of Nevada Reno will be starting its PA program on July 2. NAPA is working hard to capture the attention of these new PAs by rolling out a new website, which will be a user-friendly source for important information and a functional space for members to communicate. It is also in the beginnings of working with medical societies and the NSMA to improve memberships collectively. Additionally, NAPA has strengthened its relationship with the Nevada State Board of Medical Examiners Physician Assistant Advisory Committee, with regular updates given to the NAPA Board by that Committee. This, in turn, allows NAPA to communicate effectively with its members on important Board issues. An example of this is the work NAPA is doing to educate its members regarding AB474. She then thanked Dr. Havins, who will be giving a CME presentation, hosted by NAPA, to all providers and prescribers, on May 12. She said NAPA is committed to working with the Board in an effort to ensure all PAs understand the laws which govern PA practice in the state. The change in the healthcare landscape in the state, with the increase in the number of PAs in the state, has reached a critical mass. There are approximately 900 PAs licensed in Nevada. NAPA would like to engage in discussions regarding PA representation on the Board, and she is open to working with the Board in ensuring that education regarding Board statutes and regulations is incorporated into the PA curriculum.

#### (e) RI00-17 Subcommittee

Ms. Mehta explained that AB474, Section 15(6), required the Board to implement a disciplinary regulation for violations of AB474. At its meeting last September, the Board unanimously voted to authorize staff to proceed with a disciplinary regulation, which included proposed language for the regulation. Once staff received revised approved language from the Legislative Counsel Bureau, they set a workshop and hearing. At the workshop on January 3, 2018, significant feedback was received regarding questions on how to comply with the substantive provisions of AB474, and several people suggested a working group to address those questions. There was concern about disciplinary action when licensees were still unsure how to comply with the law. As a result, staff cancelled the February hearing on the proposed regulation and instead, on February 7, 2018, sought the Board's approval to form a subcommittee to address questions on how to comply with the law, as well as to make recommendations on the disciplinary regulation. The purpose and scope of the subcommittee, as approved by the Board, is to make

recommendations to this Board on potential regulations that the Pharmacy Board could adopt to clarify the requirements of AB474, and to make recommendations to this Board regarding the disciplinary regulation that is required to be implemented by AB474. To date, there have been five subcommittee meetings. The subcommittee has 18 members, including Board members and licensees that represent numerous areas of practice. It has comprehensively vetted the issues, including the disciplinary regulation. There is one more meeting scheduled for May 2, at which the subcommittee will vote on approval of its recommendations, and those recommendations will be provided to the Board at its June 1 meeting. Ms. Mehta said she would like to recognize the members of the subcommittee, who have all given up a significant amount of time to attend these meetings and have been prepared with well-thought-out questions. She said Ms. O'Mara has been a significant contributor, and we appreciate her participation.

#### Agenda Item 7

**CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. WILLIAM ALVEAR, M.D.*, BME CASE NO. 17-11277-1**

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

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

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

#### Agenda Item 8

**CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. STEVEN VICTOR GURLAND, M.D.*, BME CASE NO. 18-40263-1**

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

Mr. White stated a Complaint had been filed against Dr. Gurland alleging six 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. Dr. Edwards seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

#### Agenda Item 9

**CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. EDWIN KULUBYA, M.D.*, BME CASE NO. 18-8298-1**

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

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

Ms. Mastroluca moved that the Board approve the Settlement Agreement. Dr. Havins seconded the motion, and it passed, 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. JORGE HERNAN PEREZ-CARDONA, M.D.*, BME CASE NO. 17-25257-1

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

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

Ms. Mastroluca moved that the Board approve the Settlement Agreement. Dr. Havins seconded the motion, and it passed, with Dr. Muro voting against the motion and all other 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. HECTOR RODRIGUEZ M.D.*, BME CASE NO. 17-30588-1

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

Mr. Kilroy stated a Complaint had been filed against Dr. Rodriguez 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. Dr. Havins 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. ROBERT G. RAND, M.D.*, BME CASE NO. 17-25704-1

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. Rand alleging three violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

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



EXECUTIVE STAFF/STAFF REPORTS

**(a) Investigations Division Report**

Ms. Castagnola reported the current number of open investigative cases was 688 and the current number of cases per investigator was approximately 98. There were 59 peer reviews in the field and 19 peer reviews awaiting assignment.

**(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 2017 was 8, for a total of \$45,951.66. There were no collections written off during the quarter. The total outstanding in costs and fines was \$74,711.94, and the total costs collected during the quarter was \$13,810.86.

**(c) Quarterly Update on Finances**

Ms. Jenkins highlighted the various sections of the Balance Sheet for the fourth quarter of 2017. She stated the Board's total assets as of December 31, 2017 were \$10,600,000.00, and the total liabilities and net position were also \$10,600,000.00.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the fourth quarter of 2017. She stated the Board's income was at 90.3% of budget, the personnel expenses were at 94.5% of budget, and the total expenses were at 111.6% of budget. She explained that in order to provide the Board with a comparison, she had also included a Profit and Loss Budget vs. Actual for the year in total, January through December 2017. The income was over budget by 1.1% and the total expenses were over budget by 3.7%. She stated those percentages were right on, and the budgeting process for the year worked well. There were a few adjustments made at year's end to a couple of the categories to hopefully make them even more accurate in the current year. She advised the Board that the audit of the 2017 financial statements had begun, and the field work had been completed, and she expected the official audit would be presented to the Board at its June 1 meeting.

Mr. Duxbury said he wanted to commend Ms. Jenkins on her fine work and that she does a fantastic job.

**(d) Legal Division Report**

Mr. Kilroy reported there were currently 175 cases in the Legal Division, 7 of which had been presented to the Board for action at this meeting; 83 cases pending the CMT process; 64 cases awaiting filing of a formal complaint; 15 cases in which a formal complaint had been filed that were pending hearings, 5 since the last Board meeting. He provided an update regarding the pending civil court cases in which the Board was currently involved.

Agenda Item 14

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the December 1, 2017 Board Meeting

Dr. Edwards moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the December 1, 2017 Board Meeting. Dr. Havins seconded the motion, and it passed unanimously.

Agenda Item 15

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Alfonso A. Ortiz, M.D.

L. Kristopher Rath, Esq. appeared with Dr. Ortiz as his legal counsel.

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

Ms. Peltyn asked Dr. Ortiz to explain why he was before the Board, and Dr. Ortiz stated he was reapplying and had obtained counsel to help him clear up his application.

Mr. Rath explained that Dr. Ortiz had signed a contract with Southwest Medical Associates and was eager and ready to start. He will be working in an underserved area where patients greatly need treatment by an experienced physician like Dr. Ortiz. His goal is to start practicing as soon as possible to serve this patient population. He had some issues in the past, but they were all 15 years ago, he's more than paid for those, and he is eager to get back into practice.

Ms. Peltyn suggested that Dr. Ortiz consider taking the PACE assessment.

Dr. Edwards said he was concerned with Dr. Ortiz's lapses in memory in terms of loss of his DEA license and loss of his privileges at a hospital, which are significant events. He said this was the genesis for the recommendation that Dr. Ortiz undergo the PACE evaluation, and depending on the recommendation received from the PACE program, the Board could make a decision at that point.

Mr. Rath asked whether the Board could vote that day to grant Dr. Ortiz a license if he takes and passes the program, rather than him having to appear before the Board again.

Mr. Cousineau said that the program is not a pass/fail. It is an evaluation, and recommendations are made, and there would probably also be conditions, which would make it a conditional license, so he would not feel comfortable having the Board take a position that they are willing to grant Dr. Ortiz a license with these unknown conditions. He thinks the evaluation and the recommendations that come from that evaluation are what the Board is looking for.

Discussion ensued regarding Mr. Rath's request. Dr. Muro said he personally would want to avail himself of any recommendations from the evaluation and assessment prior to moving forward.

Mr. Cousineau said the next Board meeting is June 1, and Dr. Ortiz's application will be placed on the agenda for that meeting.

Dr. Prabhu stated Dr. Ortiz's application would be tabled until the June 1 Board meeting.

**(b) Sapna Malik, M.D.**

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

Dr. Muro moved that the Board go into closed session pursuant to NRS 241.030. Mr. Duxbury seconded the motion, and it passed unanimously.

Upon returning to open session, Dr. Havins moved that the Board grant Dr. Malik a license by endorsement. Dr. Muro seconded the motion, and it passed unanimously.

**(c) Gary Alan Edwards, M.D.**

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

Dr. Havins stated that Dr. Edwards had changed his status to inactive in May 2015, and had been out of clinical practice for more than two years.

Dr. Havins asked Dr. Edwards why he wanted to reactivate his license.

Dr. Edwards stated his latest offer was to be a supervisor of a med spa where they perform Restylane and Botox injections. It would be primarily a desk job where they would submit the potential customers' medical files to make sure they are not allergic to one of the ingredients that were going to be used. He would not be seeing the patients.

Dr. Havins asked what training Dr. Edwards had had in medical spa administration.

Dr. Edwards stated he retired from Ophthalmology in Honolulu. He is still board certified and licensed in Hawaii. He moved to Reno with the idea of retiring, but he wanted to keep his feet in the medical world, so before he moved to Nevada, he got licensed here. But then he had some medical issues, which were hopefully behind him. Initially, he was going to work at a medical research place where they do clinical studies. One thing led to another and that didn't happen. Then he was interested in a job at a marijuana clinic, where a patient comes in and says he is having chronic pain to see if he qualified to get a recommendation for marijuana, but the medical issues again made that go away. The last thing was this med spa position, which has also probably has gone away because it took place last October and November and he naively thought that it would be just as easy to reactivate his license as to inactivate it. He would like to be able to participate in a position where it requires that you have an M.D. after your name but he no longer has any desire to go out and start a clinical practice.

Board member Dr. Edwards asked whether he had ever done Botox and fillers in his practice.

Dr. Edwards said as an Ophthalmologist, you do all kinds of injections, and when he was discussing doing this with the med spa people, they were planning to go work with Allergan for a while and get a preceptorship, if you will. He never did med spa-type work as an Ophthalmologist.

Board member Dr. Edwards stated he was concerned as to whether Dr. Edwards would know what to do if there was an issue with an injection at the med spa.

Dr. Edwards said presumably he would after he had been through the training.

Dr. Havins asked Dr. Edwards if it was correct that he had not been in clinical practice since February 2013, and Dr. Edwards stated that was correct.

Dr. Muro said he echoed Board member Dr. Edwards' concerns. One of them was the timeline since he had practiced medicine, and the other was that he was venturing into areas in which he hadn't been practicing. An unrestricted license would leave the whole world of medicine open, and that was of concern to the Board. He said he personally did not feel comfortable at that point moving forward with that.

Mr. Cousineau stated that in the materials he submitted, Dr. Edwards indicated he had no interest in a preceptorship or any other type of remedial training, and based on his experience, that is what the Board would hope and expect in circumstances like these, so he wanted to know if that was something Dr. Edwards would reconsider.

Dr. Edwards said he was not willing to do that.

Mr. Cousineau explained that a denial of Dr. Edwards' request would not be a reportable event; however, Dr. Edwards had the option to withdraw his application.

Discussion ensued regarding whether it would be appropriate to grant Dr. Edwards' request to change his license status to active.

Dr. Edwards asked whether he could reapply for an administrative license, and Mr. Cousineau stated he could, but that would preclude any clinical practice.

Dr. Edwards withdrew his application.

**(d) Anthony Gerald Bledin, M.D.**

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

Dr. Nagy stated Dr. Bledin was appearing before the Board because he had not completed 36 months of progressive postgraduate training. He then outlined Dr. Bledin's medical education, training, and practice, and stated Dr. Bledin's plans were to open an MRI facility in Henderson. He said Dr. Bledin had been disciplined by the California Board of Medicine 25 years ago for kick-back violations and reimbursing people through inappropriate payments for sending patients, and has had no other infractions.

Dr. Bledin stated he was six or eight weeks short of three years of training in the United States, but had a total of seven years of training before he became a radiologist, and was asking for an exemption for a couple of weeks for the training he had in South Africa and prior.

Mr. Cousineau stated the training had to be ACGME-approved.

Dr. Havins asked whether Dr. Bledin was certified by the American Board of Radiology. Dr. Bledin stated he was and also had a nuclear medicine board exam.

Dr. Nagy asked Dr. Bledin whether he was bringing new technology or innovation to Henderson, and Dr. Bledin explained that he was bringing an MRI machine called a 12XGE, and has some unique software that will enable him to offer some new ideas to people, and then described those.

Ms. Daniels stated that Dr. Bledin had answered in the negative to Question 28 on his application for licensure when he should have answered in the affirmative because he had been disciplined by the California Medical Board.

Dr. Bledin stated the question had been answered incorrectly, and explained that he had hired a company to complete the application, and he didn't catch the error.

Discussion ensued regarding whether Dr. Bledin's training at MD Anderson was ACGME-accredited.

Ms. Daniels asked Dr. Bledin whether the Texas Medical Board had taken disciplinary action against him based on the disciplinary action taken by the California Medical Board, and Dr. Bledin stated it had, and described the action taken by the Texas Medical Board. Ms. Daniels stated he had been restricted from the practice of medicine in Texas and that should have been reported on his application.

Dr. Nagy stated that in light of the fact that Dr. Bledin didn't have three years of ACGME-accredited postgraduate training and the fact that there were irregularities with his application in terms of veracity, whether they were oversight or not, he did not find a compelling reason to grant him licensure by endorsement.

Dr. Nagy moved that the Board deny Dr. Bledin's application for licensure by endorsement. Dr. Muro seconded the motion.

Discussion ensued regarding the motion.

A vote was taken on the motion, and it passed, with Mr. Duxbury and Dr. Havins voting against the motion, and all other Board members voting in favor of the motion.

**(e) Spencer Andrew McDonald, M.D.**

Hal Taylor, Esq. appeared with Dr. McDonald as his legal counsel.

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

Dr. Edwards questioned Dr. McDonald about his medical education and the fact that he did not have an undergraduate degree before attending medical school.

Dr. McDonald stated there are quite a few medical schools around the world where they do a joint medical doctor and undergraduate program, and this was a five-year joint program where you attend school three semesters a year and get through the course work within a five-year period of time. When he was pursuing his medical degree, he decided to take an elective undergraduate degree at the same time through Davenport University to round out his medical education. He started his residency in July 2014, and his first and second rotations were ER Medicine and ICU. At that point he had four classes left in his undergraduate at Davenport and he decided he needed to put it on pause while he did his residency because his schedule was not permitting him to give it the time it needed. So at this point, he has 159 credits at Davenport and you need 120 to graduate. The reason he has a surplus is because of electives. He intends to finish the remaining four courses.

Dr. Edwards asked whether Windsor was an accredited medical school in the Caribbean Accreditation Authority for Education in Medicine.

Dr. McDonald said his understanding about Windsor's accreditation is that it is recognized by the World Health Organization and listed in the World Directory of Medical Schools, and its graduates are allowed by ECFMG to apply to sit for the USMLE exams as well as participate in the matches in Canada and the U.S.

Dr. Edwards said his understanding is it is not accredited, and has never been accredited.

Ms. Daniels stated Dr. Edwards was correct. If an island school is not accredited by a CAM HP by 2023, those students cannot sit for the USMLE or become certified by ECFMG. She said she believed Windsor was visited and did not gain accreditation.

Dr. Edwards said that Nevada law requires that in order to receive a medical license, you have to be a citizen of the United States or have a valid visa, and asked whether Dr. McDonald fit either one of those.

Dr. McDonald said he had a recently issued H-1B Visa, so that issue had been resolved.

Ms. Daniels said Board staff would have to verify this with the USCIS.

Dr. Edwards stated Dr. McDonald is board certified in Family Medicine; however, his training doesn't strike him as equivalent to an American or Canadian board.

Dr. Muro said he had serious concerns regarding the continuity of Dr. McDonald's education and the fact that he attended non-accredited institutions.

Dr. Havins asked if Dr. McDonald was licensed in any other states, and Dr. McDonald said he is licensed in Washington.

Dr. Havins asked what Dr. McDonald planned to do if granted a license to practice medicine in Nevada.

Dr. McDonald said he had accepted a contract to work at UMC in Las Vegas as a Hospitalist.

Dr. Havins moved that the Board grant Dr. McDonald's application contingent upon proof of a valid H-1B Visa. Mr. Duxbury seconded the motion, and it passed unanimously.

(f) David James Smith, M.D.

Matt Rifat , Esq. appeared with Dr. Smith as his legal counsel.

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

Dr. Muro questioned Dr. Smith regarding the fact that he had not disclosed on his application for licensure three cases of malpractice that had been filed against him.

Dr. Smith explained he didn't think he had been named on two of those cases, and the other case was one that was pending.

Mr. Rifat stated the omission was his office's fault, as his office provided the initial listing of cases to the Board. Those cases were included in an addendum after it was brought to their attention.

Dr. Smith then described the circumstances surrounding five cases of malpractice that had been filed against him that resulted in settlements.

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

Dr. Smith said he would like to start with doing some locum tenens and see how it goes, and over the next several years transition to Nevada, doing primarily Interventional Pain Medicine.

Dr. Muro moved that the Board grant Dr. Smith's application for licensure. Dr. Nagy seconded the motion, and it passed unanimously

(g) Hans Jeffrey Hulsebos, M.D.

Dr. Prabhu asked Dr. Hulsebos 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 questioned Dr. Hulsebos regarding the fact that he had not completed 36 months progressive postgraduate training.

Dr. Hulsebos explained that the reason he had only 24 months was he had completed a year of residency with the Navy in 2011-2012, spent four years as a general medical officer and another year in general surgery and was changing his career direction.

Ms. Mastroluca asked what he planned to do if granted a license to practice medicine in Nevada.

Dr. Hulsebos explained he was currently practicing wound care in California and Arizona, but he was most likely going to apply for an Anesthesia residency.

Ms. Mastroluca asked Dr. Hulsebos about his proposed preceptorship, and Dr. Hulsebos explained it would be in wound care.

Dr. Hulsebos said he was interested in going into Anesthesiology because he wants to be involved with the operating room and be part of the operative team, but the stress and strain to his body when he was performing surgery did not work out for him.

Dr. Edwards asked Dr. Hulsebos where he planned to work if granted a license to practice medicine in Nevada, while he was contemplating applying to a residency program.

Dr. Hulsebos said he works for a company called Advantage Surgical and Wound Care, and they have an operation in Nevada.

Ms. Mastroluca explained that licensure by endorsement is reserved for the types of medicine that are missing in the state or there is a high need for, and asked if Dr. Hulsebos had done any research to show that Wound Care is an area of need in Nevada.

Dr. Hulsebos stated he had not; however, he has found that it is in high demand in both California and Arizona, and he would be surprised to find it is not in high demand in Nevada as well.

Dr. Edwards asked Dr. Hulsebos what his path was, and Dr. Hulsebos said it was to finish a residency, and if he can get into Anesthesiology, he would complete that residency.

Mr. Cousineau said he didn't think the Board recognized a compelling need to grant Dr. Hulsebos a licensure by endorsement.

Dr. Nagy suggested that Dr. Hulsebos could apply for a position at a federal facility because he holds a license in another state.

Dr. Hulsebos withdrew his application.

**(h) Erik Peter Kohler, M.D.**

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

Dr. Nagy reviewed Dr. Kohler's education, training and practice history with him.

Dr. Nagy questioned Dr. Kohler regarding his affirmative response to Questions 9 and 13 on his Uniform Application for licensure.

Dr. Kohler described the circumstances surrounding the disciplinary actions taken against him in Alaska and Washington and denial of licensure by California.

Dr. Nagy questioned Dr. Kohler regarding his affirmative response to Questions 5a and 5b on his Uniform Application for licensure.

Dr. Kohler described the circumstances surrounding several malpractice cases that had been filed against him.

Dr. Havins stated Dr. Kohler hadn't practiced clinical medicine since December 2015, and asked whether Dr. Kohler had an unrestricted, active license in any state. Dr. Kohler said he would have to check, but he thought his Washington license was current.



Dr. Nagy said he had concerns with Dr. Kohler's malpractice history and the disciplinary actions taken against him in other states.

Dr. Edwards said he shared Dr. Nagy's concerns. Dr. Muro said there was a lot in Dr. Kohler's history to be concerned about.

Mr. Cousineau advised Dr. Kohler he had the option to withdraw his application.

Dr. Edwards stated he was also concerned with the fact that Dr. Kohler had not practiced clinical medicine for two years.

Dr. Cousineau said that Dr. Kohler could apply anew and include a proposed preceptorship plan.

Dr. Kohler withdrew his application.

**(i) Chemanthi Rochelle Kalen, M.D.**

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

Dr. Prabhu outlined Dr. Kalen's medical education and training and said Dr. Kalen was applying for a license by endorsement because she had not completed 36 months of progressive postgraduate training.

Dr. Kalen explained that typically in Canada, Family Medicine residency programs are two years, and the third year is optional and reserved for further training.

Dr. Prabhu asked whether she was board certified in Family Practice. Dr. Kalen said she was in Canada; that she has the CCFP, and there is a reciprocal agreement between Canada and the United States, so once she has practiced in the United States for six months, she will be eligible to take the American Board of Family Medicine exam.

Dr. Havins asked how long Dr. Kalen had been practicing. Dr. Kalen said she had been practicing since 2014, described her practice history since that time, and what she planned to do if granted a license to practice medicine in Nevada.

Ms. Daniels said that Dr. Kalen holds a current medical license in Texas, and she wouldn't have to apply by endorsement if she got her board certification. If she completes six months in Texas, she would be eligible to take the board certification exam, and if she passes, she would meet the requirements for licensure in Nevada through the regular path.

Dr. Muro suggested that Dr. Kalen could work for six months at one of the federal facilities in Nevada.

Dr. Kalen explained that the problem with the federal facilities is she has a Green Card and those job positions are typically reserved for U.S. citizens only. She said she was really hoping to stay here because her husband's family is all in Nevada.

Mr. Cousineau explained that licensure by endorsement was generally reserved for those individuals who bring a unique skill set, whether it be in a specialty or otherwise.

Dr. Kalen explained she was a subspecialist in Cannabinoid Medicine and saw a lot of chronic pain patients in Nova Scotia. She did some further training in Cannabinoid Medicine and had been working with a Canadian company doing consulting work in British Columbia. She has seen hundreds of patients in consultation and follow-up, and has developed expertise and knowledge in that field as well. This is an alternative modality, but something that can be offered to patients who have tried all the conventional therapies, as long as it is prescribed by someone who is knowledgeable and knows how to safely guide patients when they are using that therapy. She added that she is also an educator and does CME talks on Cannabinoid Medicine.

Dr. Nagy stated there is a dearth of knowledge among the medical community here about how to properly handle cannabinoids and prescribe them to patients who have chronic pain, and our state would benefit from having that knowledge. That is not what she is coming to the state to practice, so that raises a question, but her knowledge would benefit us.

Dr. Kalen said she still planned to sit for the boards in Family Medicine and also wanted to get the American Board of Wound Healing certification.

Discussion ensued regarding whether it would be appropriate to grant Dr. Kalen a license by endorsement.

Dr. Muro moved that the Board deny Dr. Kalen's application for licensure by endorsement. Ms. Mastroluca seconded the motion, and it failed, with Dr. Muro, Ms. Mastroluca, Dr. Nagy and Dr. Edwards voting in favor of the motion and Dr. Prabhu, Mr. Duxbury, Ms. Peltyn and Dr. Havins voting against the motion.

Dr. Havins moved that the Board grant Dr. Kalen's application for licensure by endorsement. Mr. Duxbury seconded the motion.

Discussion ensued regarding the motion.

A vote was taken on the motion, and it passed, with Dr. Prabhu, Mr. Duxbury, Ms. Peltyn, Dr. Nagy and Dr. Havins voting in favor of the motion and Dr. Muro, Ms. Mastroluca and Dr. Edwards voting against the motion.

#### (j) Gregory Donald Basye, PA-C

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

Mr. Duxbury questioned Mr. Basye regarding his affirmative response to Questions 12 and 12a on his application for licensure.

Mr. Basye described the circumstances surrounding two cases of malpractice that had been filed against him.

Ms. Mastroluca asked Mr. Basye what he planned to do if granted a license to practice medicine in Nevada.

Mr. Basye said he had been offered a position to practice in the emergency room in Pahrump.

Mr. Duxbury moved that the Board grant Mr. Basye's application for licensure. Dr. Edwards seconded the motion, and it passed unanimously.

**(k) Donald Cary Blake, M.D.**

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

Dr. Muro questioned Dr. Blake regarding his affirmative responses to Questions 5a and 5b on his Uniform Application for licensure.

Dr. Blake explained the circumstances surrounding three cases of malpractice that had been filed against him.

Dr. Muro asked Dr. Blake if he was currently practicing teleradiology, and Dr. Blake stated he is working into doing more and more teleradiology, and it is his main thing now, but he is still doing some on-site work in Florida.

Ms. Peltyn asked what he planned to do if granted a license to practice medicine in Nevada, and Dr. Blake said he would be practicing teleradiology and had no plans to do on-site practice in Nevada at this point.

Dr. Muro moved that the Board grant Dr. Blake's application for licensure. Dr. Edwards seconded the motion, and it passed unanimously.

Agenda Item 16

**CONSIDERATION OF ADOPTION OF A STRATEGIC PLAN FOR THE NEVADA STATE BOARD OF MEDICAL EXAMINERS**

Mr. Cousineau explained staff had put together a five-year strategic plan. There was no real impetus for it, but at the same time, had thought it was a good idea. Mr. Cousineau outlined the proposed strategic plan, stating there are five objectives enunciated and spoken to – protection of consumers, access to quality care, education of the public and the licensee base, operational effectiveness and financial stewardship. He said it is a dynamic document, and could be modified well before the expiration of the five-year period. He asked the Board members for any comments or questions, and stated if the plan is adopted by the Board, staff will put it in final form and advance it to the Federation of State Medical Boards, probably to the Nevada State Legislature, along with the Board's annual report, and also post it on the website.

Dr. Havins asked, with respect to Objective No. 5, who would own the building in the event it were to be purchased, and Mr. Cousineau said it would be owned by the State. Dr. Havins said he would just ask that tight math be done on the projections to demonstrate that it indeed makes fiscal sense for the State to purchase a building that the Board would hopefully be able to occupy rent-free. Mr. Cousineau said the motivation to purchase the building would be to minimize the Board's rental costs, with the understanding that before proceeding, Board approval would be required, as well as, very likely, that of the Board of Examiners.

Dr. Edwards suggested, with regard to Objective No. 3, that the Board might build a short, five-minute presentation of some kind that licensees could view when renewing their licenses, to educate them as to how the Board works.

Dr. Havins said in the past, the Board had been able to approve AMA Category 1 CMEs, and suggested the Board could develop a CME course to explain how the Board functions.

Mr. Cousineau suggested, as to Dr. Edwards' point, that the Board's two-hour outreach program could possibly be made into a more consolidated or truncated version, as was done for the program that is presented to medical school residents, which is a one-hour program; however, there is a lot to talk about, so it may be difficult to consolidate it much further. He stated that in the last two years, staff had presented no less than seven outreach presentations, and is planning additional presentations in the near term. He said it would be great if a Board member or members wanted to participate in the outreach program. He explained, as to Dr. Havins' point, the Board has never approved CMEs; the CMEs that are offered through the Board's outreach program are approved through University of Nevada Reno School of Medicine, as the approving entity has to be an agent of the AMA.

Dr. Nagy moved to approve the strategic plan. Dr. Muro seconded the motion, and it passed unanimously.

#### Agenda Item 17

#### STAFF COMMENTS/UPDATES

Mr. Cousineau advised the Board it is anticipated the Board's 2017 financial audit will be presented to the Board for consideration at the June meeting. He said the Federation of State Medical Boards Annual Meeting will be held April 26-28 in Charlotte, and several Board members and staff will be attending. He will be presenting a panel discussion with representatives of three other states/territories, to include Texas and Puerto Rico, regarding major catastrophes that took place in those areas and how the regulatory bodies assisted in responding to them. He reported that he and Mr. Kilroy participated in a health fair in Elko the second week in March, which was attended by approximately 450 to 500 people. At the health fair, they promoted the knowyourpainmeds website, and also talked with attendees about various other matters. He said the Board's Reno office will be moving next week. He thanked every member of the staff for their contributions and wanted to acknowledge Ms. Mehta, Ms. Munson, Ms. Daniels and Ms. Jenkins for their extra efforts. He said the Board's mailing address will be effectively changed on April 18, and stated Mr. Duxbury had helped out immeasurably in obtaining the building.

Dr. Nagy said with respect to the subcommittee regarding AB474, he realized CCMS and NSMA had not received the letter from Dr. Shawn McGivney that had been submitted to the Board regarding AB474, and he thought the Board should share that with them. Dr. Muro said if Dr. Nagy forwarded it to the subcommittee, the subcommittee could distribute it. Mr. Cousineau stated that Dr. McGivney had indicated he would be requesting a formal advisory opinion, but that had not been received to date.

Ms. Daniels asked whether the Board would like hold a discussion regarding questionable medical schools. Mr. Cousineau said that could be a matter for a future agenda.

#### Agenda Item 18

#### 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 19  
ADJOURNMENT

Dr. Edwards moved to adjourn the meeting. Dr. Nagy seconded the motion, and it passed unanimously. Dr. Prabhu adjourned the meeting at 4:33 p.m.

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