

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 Capital Room at the Renaissance Las Vegas Hotel
3400 Paradise Road, Las Vegas, Nevada 89169

and Videoconferenced to

the Conference Room at the Offices of the Nevada State Board of
Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

FRIDAY, DECEMBER 6, 2019 – 8:00 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 at Renaissance Las Vegas Hotel in Las Vegas

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
Laurie L. Munson, Chief of Administration and Information Systems
Lynnette L. Daniels, Chief of Licensing
Rosalie M. Bordelove, J.D., Chief Deputy Attorney General

Staff/Others Present at Board Office in Reno

Pamela J. Castagnola, CMBI, Chief of Investigations
Aaron Bart Fricke, J.D., Deputy General Counsel
Donald K. White, J.D., Deputy General Counsel

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 8:03 a.m.

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

Dr. Prabhu asked the Board to observe a few moments of silence to honor the memory of the Pearl Harbor victims.

Dr. Prabhu said, borrowing a line from Shakespeare: “with a sorrowful kiss I bid thee farewell.” Farewell from all of us to our old rented building on Rainbow Boulevard. He said he was proud to announce the Board had finally leased its own building. Among many benefits, the new building will allow the Board to invest in its future by operating more efficiently. He thanked Mr. Cousineau and Ms. Mastroluca for their hard work in finding the new building so the Board can continue to grow and thrive for many years to come.

Dr. Prabhu welcomed new Board member, Bret W. Frey, M.D., who replaced Wayne Hardwick, M.D., thanked Mr. Duxbury for attending the Board’s October 17, 2019, meeting from Paris, where he was celebrating his 30th wedding anniversary, and welcomed new Deputy Executive Director Sarah A. Bradley, J.D., MBA. He then stated that the Board was one of only 13 boards to receive an “A” grade in an article published in *Ideal Medical Care* on how boards assess the mental health of physicians. The article basically discusses how many state medical boards are actually undermining physician mental health by breaching their confidentiality and privacy, often in violation of the Americans With Disabilities Act. The article states: “By breaking federal law and the AMA Code of Ethics, boards have weaponized mental health diagnoses against physicians.” He said this is a reminder that our role is not only to protect the public by ensuring high quality care, but also to respect, support and assist physicians in achieving their goals.

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) September 6, 2019 Board Meeting – Open/Closed Sessions
- (b) October 17, 2019 Board Meeting – Open Session

Dr. Edwards moved that the Board approve the Minutes of the September 6, 2019 Board Meeting – Open/Closed Sessions, and the October 17, 2019 Board Meeting – Open Session. Ms. Mastroluca seconded the motion, and it passed unanimously.

Agenda Item 4
CONSIDERATION OF REQUEST OF KENT A. SWAINE, M.D., FOR BOARD AUTHORIZATION TO TAKE THE SPECIAL PURPOSE EXAMINATION (SPEX)

Dr. Swaine said he started practicing medicine in 2001, in Las Vegas. In 2007, his medical license was suspended due to opiate addiction, and his license was revoked in 2008, at the request of Dr. Peter Mansky, who was the head of the diversion program at that time. The Board gave him his medical license back in 2011, and his medical license was suspended in 2014, again because of opiates. At that time, he had been writing prescriptions for opiates, and ended up pleading to a felony. He was put on probation, and completed that a year-and-a-half ago. He hasn't practiced medicine in almost six years, and was before the Board that day to request authorization to take the Special Purpose Examination (SPEX) because he would like to reapply for a medical license, and in order to do that, he must first take and pass the SPEX. He feels healthy now, and would really love to practice medicine again.

Dr. Edwards asked what Dr. Swaine had been doing since 2014, and how he was dealing with his opioid addiction.

Dr. Swaine said that since 2014, he had primarily been helping out with taking care of his daughter. With respect to his opioid addiction, from 2014 to about 2017, he was enrolled in a methadone clinic. He stopped the methadone, and the last time he used any chemicals was August 6, 2017. He attends meetings and he talks to friends.

Mr. Duxbury asked him to explain the contributing factors that led to his opioid addiction and his subsequent relapse.

Dr. Swaine said one of the big instigating factors was his difficulty in dealing with his emotions, particularly with respect to his marriage, and instead of asking for help, he was self-medicating. He now has those contributing factors under control.

Ms. Arias-Petrel joined the meeting at 8:15 a.m.

Dr. Havins asked whether Dr. Swaine was currently under a monitoring program, and Dr. Swaine said he was not. Dr. Frey asked when he last received a verification of sobriety under a monitoring program, and Dr. Swaine said it was in 2015, when he was with the PRN Program.

Dr. Havins moved that the Board grant Dr. Swaine's request. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 5

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. CYNTHIA V. IVEY, CRT, BME CASE NO. 19-30399-1*

This matter was not discussed at the meeting.

Agenda Item 6

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. CYNTHIA V. IVEY, CRT, BME CASE NO. 19-30399-1*, 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 7

REPORTS

(a) Investigative Committees

Mr. Duxbury reported that at its November 15, 2019 meeting, Investigative Committee A considered 95 cases. Of those, the Committee authorized the filing of a formal complaint in 10 cases, sent 6 cases out for peer review, requested an appearance in 2 cases, issued 16 letters of concern, referred 8 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 53 cases.

Dr. Prabhu thanked Ms. Castagnola and her Investigations Division team members, as well as his colleagues on the Investigative Committee, Dr. Muro and Ms. Mastroluca, for the wonderful work they have done. He then reported that at its October 23, 2019 meeting, Investigative Committee B considered 100 cases. Of those, the Committee authorized the filing of a formal complaint in 1 case, sent 7 cases out for peer review, requested an appearance in 2 cases, issued 18 letters of concern, referred 3 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 69 cases.

Denise Selleck, the new Executive Director of the Clark County Medical Society (CCMS), introduced herself, and said she had been with CCMS for only five days, so she did not have a report at that time.

Ms. Mastroluca said she had known Ms. Selleck for a long time, and she was a wonderful asset to CCMS and would be a great partner for the Board in getting information and communication to physicians.

(b) Nevada State Medical Association

Catherine M. O'Mara, J.D., Executive Director of the Nevada State Medical Association (NSMA), said NSMA was very busy trying to wrap up things from the 2019 Legislature and make sure physicians are aware of things that are coming down the pike. The main one is AB469, which is the out-of-network legislation, and the implementation date for that is January 1. Physicians should be aware that starting January 1, for all Nevada-based plans covering Nevada citizens, the rules on out-of-network billing for emergency care have changed. Another issue NSMA is working on is related to AB170. This bill allows the Office of Consumer Health Advocate to help patients when their insurance isn't providing them with enough physicians on the network, or if they can't find the right specialist or are having other issues. NSMA has seen some draft regulations come out on that, and it will be working to promote the ability for patients to contact that entity if they are having issues, and working with the plans to make sure their issues are getting resolved. She said there is a lot of interest in some public health issues that are coming up. The NSMA Annual Meeting will be held on August 28-30, and the NSMA Public Health Commission has designated climate change as the CME that will be offered. She said we are starting to see a lot of bad outcomes on lung disease related to e-cigarettes and vaping, and there will be some attention on that both by state policy makers and health officials, and physicians are poised to help as well, as it is a very important public health issue. NSMA is also working on veterans health care. There was some interest during the last legislative session to mandate some additional education, and make sure physicians are tracking how many of their patients are veterans, and they were able to work out an alternative with the bill's sponsor, which is to educate physicians that if they are treating veterans, there might be some benefits available to them or there may be some information they want to know about either combat or deployed-related illnesses. NSMA will provide something to the Board on this for its newsletter.

Ms. O'Mara said this would be her last meeting for the Board with the NSMA, as she was moving on to another opportunity. NSMA has hired a new Executive Director, Jaron Hildebrand, and he will be at the next quarterly Board meeting. Ms. O'Mara said she has loved representing physicians, and NSMA has been an incredible opportunity for her. She said part of that has been working with the Board, and she thanked the Board for a great four years.

(c) Washoe County Medical Society

Mary Ann McCauley, Executive Director of the Washoe County Medical Society (WCMS), reported the WCMS continues to focus on membership, and is seeing some small growth from some new groups. The WCMS group health plan is having an impact. WCMS is working on its Annual Meeting, scheduled for January 11, at which doctor Jay Morgan will be installed as the new WCMS President. WCMS has five candidates for one Board position; however, the WCMS Bylaws allow for the addition of another Board position, and WCMS decided to add it. So WCMS will now have two new Board members from those five applicants.

Agenda Item 8

ETHICS IN GOVERNMENT LAW: NRS 281A PRESENTATION

Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada Commission on Ethics, gave a PowerPoint presentation explaining the Nevada Ethics in Government Law, which is set forth in Chapter 281A of the Nevada Revised Statutes, and applies to all public officials, officers and employees.

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SHOUPING LI, M.D.*, BME CASE NO. 19-32638-1

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

Mr. Fricke stated a formal Complaint had been filed against Dr. Li alleging three violations of the Nevada Medical Practice Act, all related to a federal criminal prosecution for unlawful distribution of controlled substances, and outlined the terms of the proposed Settlement Agreement.

Dr. Nagy 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 10

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DIGBY MAXWELL PRESTON, M.D.*, BME CASE NO. 19-10778-1

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

Mr. Fricke stated a formal Complaint had been filed against Dr. Preston alleging one violation of the Nevada Medical Practice Act related to an inadvertent wrong level spine surgery he performed in 2014, 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. EDWARD MICHAEL OUTLAW, M.D.*, BME CASE NOS. 19-28023-1, 19-28023-2 AND 19-28023-3

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

Mr. Fricke stated three separate formal Complaints had been filed against Dr. Outlaw alleging multiple violations 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. Muro 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. CHRISTOPHER SEUNG CHOI, M.D.*, BME CASE NO. 18-19369-01

Eric K. Stryker, Esq. appeared with Dr. Choi as his legal counsel.

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

Mr. White stated a First Amended Complaint had been filed against Dr. Choi 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 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ILEANA C. DEFTU, M.D.*, BME CASE NO. 19-29210-1

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

Mr. Duxbury moved that the Board accept the 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. ROGER R. MEHTA, M.D.*, BME CASE NO. 19-38522-1

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

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

Agenda Item 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. HUGH ARTHUR BURT M.D.*, BME CASE NO. 19-12263-1

Dr. Burt's legal counsel, Eric K. Stryker, Esq., was present in Las Vegas.

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. Burt alleging one violation 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, and it passed, with all 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. BINH M. CHUNG, M.D.*, BME CASE NO. 15-20478-1

This matter was not discussed at the meeting.

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SU YOUNG PAK M.D.*, BME CASE NO. 19-35720-1

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

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

Dr. Muro 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 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KATHLEEN D. SMITH, M.D.*, BME CASE NO. 19-28205-1

Dr. Smith's legal counsel, John A. Hunt, Esq., was present in Las Vegas.

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Smith alleging four 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. Ms. Arias-Petrel seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KATHLEEN D. SMITH, M.D.*, BME CASE NO. 19-28205-2

Dr. Smith's legal counsel, John A. Hunt, Esq., was present in Las Vegas.

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Smith 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. Muro seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 20

CONSIDERATION OF ERRATA TO SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MATTHEW OBIM OKEKE, M.D.*, BME CASE NO. 19-22461-1

Dr. Okeke's legal counsel, L. Kristopher Rath, Esq., was present in Las Vegas.

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

Mr. Kilroy stated this Errata was to correct an error in the Settlement Agreement that was accepted by the Board and filed on September 6. The proper amount is outlined in the Errata, both attorneys have signed it, and Dr. Okeke paid the proper amount.

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

Agenda Item 21

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Ms. Castagnola reported the current number of open investigative cases was 951 and the current number of cases per investigator was 135. There were 62 peer reviews in the field and 45 peer reviews awaiting assignment.

Discussion ensued regarding staffing and caseloads of the Investigations Division.

(b) Quarterly Compliance Report

Ms. Jenkins reported the total number of files in collection with the State Controller's Office for the third quarter of 2019 was 8, for a total of \$45,951. The total outstanding in costs was \$76,931, the total outstanding in fines was \$17,000, and the total costs collected during the quarter were \$24,689.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the third quarter of 2019. The total current assets were \$7,320,000, total fixed assets of \$3,591,000, for total assets of \$11,924,000. The total current liabilities were \$6,772,000. The bulk of that is in deferred income from the license renewals, which the Board reserves and recognizes over the course of the licensing biennium. The Board's net position was a negative \$1,216,000, primarily as a result of the long-term liabilities of \$6,367,000, all of which is the deferred post-retirement liability.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the third quarter of 2019. The total income was \$1,213,000, which was at 96% of budget. She explained that we expect to be a little under budget in this quarter because of the manner in which the Board receives income. This year, 2019, is a renewal year, so the second quarter of this year showed what she would consider a large profit, and the first quarter in which we start to recognize a portion of the renewal income is going to be the smallest quarter of the biennial licensing cycle. Therefore, 96% of budget is very good for this quarter. The personnel expenses are at 5% over budget, which she expects to see in a quarter where the Board has three payrolls in one month. Operating expenses were 94% of budget, total expenses were 2% over budget, and the difference is \$68,598. She then highlighted the Profit and Loss Budget vs. Actual for the year to date. She said she included this because of the nature of the ebb and flow of income in a renewal year, so the Board can see how we are doing for the year to date. For the year to date, the income was at 9.5% ahead of budget, personnel expenses were right on budget, operating expenses were at almost 97% of budget, and the total addition to the Board's reserves was \$381,800,000. The Board's reserves are sitting at just over 3 months. She said the goal is still to get to 6 to 12 months, and these financials and the Board's budget reflect the Board's efforts to move in that direction.

(d) Legal Division Report

Mr. Kilroy reported there were currently 159 cases in the Legal Division, which was a decrease from the previous quarter. There were 11 settlements in the quarter, which gives the Board a total of 42 disciplines for the year, and represents a collective effort from the Investigative Committee members, the investigators, the lawyers and the support staff. This is up from 32 disciplines last year, which is a 30% increase in productivity. Mr. Kilroy thanked the teams he previously mentioned. He further reported that in this quarter, there were no cases for adjudication and 2 cases were closed and/or dismissed by the Investigative Committees upon a subsequent review of the matter. There were 123 cases authorized for filing of a formal complaint but not yet filed, and 19 cases in which a formal complaint had been filed that were pending hearings. For the year to date, 56 complaints have been filed, which is roughly a 50% increase in productivity over last year, when 36 complaints were filed. There were 37 letters of concern approved by the Investigative Committees during their October and November meetings, and there were 5 hearings this year, 4 of which were conducted by Mr. White. Mr. Kilroy provided an update regarding the single pending civil court case in which the Board was currently involved.

Mr. Kilroy said that Jasmine Mehta was a great colleague to work with and added a lot, and the Board will dearly miss her. At the same time, he is excited and enthusiastic about the Board's new Deputy Executive Director, Sarah Bradley, whom he was fortunate enough to work with at the Attorney General's Office. She brings a whole skill set, and her finger is on the pulse in Carson City, and he is thrilled to have her on the team.

Agenda Item 22

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the September 6, 2019 Board Meeting

Dr. Edwards moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the September 6, 2019 Board Meeting. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 23

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Yvonne Anne Barry, M.D.

Heather Armantrout, Esq., appeared with Dr. Barry as her legal counsel.

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

Dr. Barry stated she was appearing before the Board with a request to change her license status from inactive to active. She went inactive this past May because she felt she needed further treatment for alcohol addiction. She had successfully maintained sobriety for four-and-a-half years, but had a relapse last summer, after a family trauma, and a second one this past March. She thought it would be best to receive treatment for PTSD and for relapse prevention, and she completed those successfully and has maintained sobriety since. She attends AA meetings, weekly NPAP meetings, and undergoes random drug screening, and feels her health is at its optimum right now and would like to return to practicing medicine. She is currently in a five-year monitoring program. In 2010, her license was suspended, and then she was placed on active-probation until 2012, and was active after that.

Dr. Edwards stated that Dr. Barry had taken a continuing medical education course on Aesthetic Medicine, and asked whether she had planned to change her practice scope. Dr. Barry explained that she had done some Botox and Sclerotherapy in the past, and wanted to maintain that so she could again perform some cosmetic procedures.

Ms. Mastroluca asked Dr. Barry why she answered "no" to the questions on her application that require an applicant to attest to understanding the requirements for reporting abuse or neglect of a child and compliance with safe injection practices.

Dr. Barry explained she answered that way because she didn't think those questions applied to her.

Dr. Edwards moved that the Board grant Dr. Barry's application for a change of status from inactive to active, with the condition that she continue with her five-year monitoring program. Ms. Mastroluca seconded the motion, and it passed unanimously.

(b) Craig Mitchell Weingrow, M.D.

Jeffrey B. Setness, Esq., appeared with Dr. Weingrow as his legal counsel.

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

Dr. Weingrow said this had been a very humbling experience, which had taught him that practicing medicine was a privilege and not a right. As a physician, he is 100% responsible for everything that goes on in his office, and he is committed to maintaining the highest standards of practice from this point forward. He then described what he learned from the PACE program in San Diego and from the University of Nevada, Reno School of Medicine Best Practices for Prescribing Controlled Substances course, and described what he had been doing while his license was inactive. He then explained how he planned to improve his practice and apply what he has learned, and described his future practice plans.

Dr. Edwards stated that Dr. Weingrow's license was currently in Inactive-Probation status, and Dr. Weingrow was requesting that the status be changed to Active-Probation.

Dr. Edwards questioned Dr. Weingrow regarding his affirmative response to Question 8 on his application for a change of status.

Dr. Weingrow explained that he was seeing way too many patients and was cutting corners. He was giving his administrative staff way too much authority and was not following guidelines for prescribing various medications.

Dr. Muro said that Dr. Weingrow had alluded to the fact that perhaps he was seeing too many patients, and it sounds as though his practice pattern was a big part of the problem. He asked Dr. Weingrow to tell the Board what his previous patient volume was and how he planned to change that.

Dr. Weingrow said previously, he was seeing anywhere from 50 to 60 patients a day, and his plan was to see maybe 20 patients a day. He has also incorporated an electronic medical records system, which he previously wasn't using 100% of the time. The system includes a prescribing app that will be very helpful in his practice as well.

Dr. Havins asked whether he planned to have a solo practice or practice with a group, and Dr. Weingrow said he planned to practice with another physician.

Dr. Havins asked where he stood with regard to his ability to write controlled substances.

Dr. Weingrow said the Nevada State Board of Pharmacy took his controlled substance license away, and the DEA followed, so he no longer had controlled substance licenses, but he plans on reapplying to the Nevada State Board of Pharmacy and DEA for controlled substances licenses.

Dr. Frey asked what percentage of his practice would be dedicated to weight loss, and Dr. Weingrow estimated if he were to see 20 patients a day, it may be 2 or 3 patients a day.

Dr. Nagy said he was concerned that Dr. Weingrow would be going into an independent practice, as opposed to joining a group of physicians with established practice patterns and more structure, since some of the issues he faced in the past were with management of the office practice.

Dr. Weingrow said he had thought about going with a larger group, but with his background, he didn't know how easy it would be to get a job with a larger group at that time.

Ms. Arias-Petrel asked whether Dr. Weingrow was replacing those who did not follow his instructions, and Dr. Weingrow said he had replaced the entire staff, with the exception of his office manager, who was not directly involved in the past activities.

Dr. Edwards moved that the Board approve Dr. Weingrow's application for a change of status from Inactive-Probation to Active-Probation, with all existing terms of probation remaining in place. Dr. Havins seconded the motion, and it passed unanimously.

Mr. Setness thanked Mr. Kilroy and Mr. Fricke for their assistance and their professionalism.

(c) Gabrielle Julie Goodrick, M.D.

L. Kristopher Rath, Esq., appeared with Dr. Goodrick as her legal counsel.

Dr. Prabhu asked Dr. Goodrick 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 left the meeting at 11:30 a.m.

Dr. Muro asked Dr. Goodrick to provide the Board with a timeline with respect to her opiate dependency issues.

Dr. Goodrick described the circumstances that led to her becoming addicted to an opiate in 2010, and her treatment and monitoring for the addiction. She was released from monitoring in December 2015. She did not voluntarily continue monitoring, and briefly relapsed approximately two months later. She said she quickly recognized it, and stopped on her own. She described her subsequent treatment and monitoring, and the steps she has taken to prevent another relapse. She said her last formal monitoring program terminated in August 2018.

Dr. Muro asked whether she had given any consideration to reentering a formal monitoring program, and Dr. Goodrick said she was open to discussion as to what would reassure the Board for her to practice in Nevada. She described the various changes that have occurred in her personal life, and stated she has had about 3-1/2 years of continuous sobriety. She said she is open to continued monitoring, which she is doing voluntarily with Dr. Sucher.

Dr. Muro asked what she planned to do if granted a license in Nevada, and Dr. Goodrick said she planned to work in both Arizona and Nevada, part-time, possibly going to full-time.

Dr. Edwards asked about continuity of care, since Dr. Goodrick would be working part-time.

Dr. Goodrick explained that most of her practice is women's family planning care, which are episodic visits – a one-time visit with maybe a two-week follow up – so there isn't a lot of continuity of care with those patients, and said she would work with her colleagues to ensure appropriate follow-up care for those patients.

Dr. Frey asked whether Dr. Sucher had a duty to disclose, with her permission, a positive result of any drug test to any entity in the state of Arizona or any other state, and Dr. Goodrick said she assumed so.

Dr. Muro proposed that the Board put in place a formalized monitoring program for a period of anywhere from three to five years. He said that as Dr. Goodrick had indicated she wants to do this for the rest of her life, he didn't see five years being an issue.

Dr. Nagy moved that the Board grant Dr. Goodrick's application for licensure, subject to a formalized monitoring program under the Nevada Professionals Assistance Program. Dr. Muro seconded the motion, and it passed unanimously.

Mr. Cousineau stated the details of the monitoring program would be memorialized in an order.

(d) Won Sam Yi, M.D.

Mr. Duxbury asked Dr. Yi 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 outlined Dr. Yi's medical education and training, as well as his clinical practice history. He then said the reason Dr. Yi was before the Board was because while he was the Director of Radiation Oncology facility which employed 350 employees, a complaint for performing unnecessary procedures had been brought against him by a competing Oncology group. Dr. Nagy said the question was whether that really occurred, and if so, what Dr. Yi's degree of involvement was, and at that time, the Board didn't have information that demonstrated it one way or the other. An accusation has been made and the state of New York is currently attempting to determine the truth or falsehood of that accusation.

Dr. Yi stated his vision was to create a high-quality clinical practice covering a comprehensive range of services, including primary care as well as different specialties, in a community setting that was non-academic and non-hospital. He said he thought with their movement toward creating a value-based type of care model, it was important for them to be as efficient as possible, and he realized whenever hospital or university people get involved, it creates a lot of inefficiency. Obviously, this triggered quite a bit of political backlash from the medical community, and he became a big target because he was heading a multi-specialty group that seemed to threaten hospital systems and university systems. He said he has taken care of his patients with a clear conscience that this is what is best for the patients, and there is no question in his mind that he did the right thing for the patients, and no question looking hindsight that those seven patients whose treatment was questioned benefitted clinically from the radiation treatment course he provided.

Dr. Nagy asked Dr. Yi why he wanted a license to practice medicine in Nevada.

Dr. Yi said he is looking for a permanent position. He had been doing some on and off locum tenens work, and that is why he has licenses in multiple states. A good friend of his said Dr. Yi could help him with his medical practice in Reno.

Dr. Nagy asked whether he had an estimate as to when the investigation in New York would be concluded, and Dr. Yi said he hoped it would be in six to nine months.

Mr. Cousineau explained it has been the previous precedent and practice of the Board not to grant a license to someone who has an active investigation in another jurisdiction. So while he appreciates that Dr. Yi's specialty would be desirable in the State, he doesn't think it would be good practice for the Board to consider giving him a license at that time, based on the active investigation, especially because it involves gross negligence. He said that Dr. Yi had the opportunity to withdraw his application.

Dr. Muro said the Board is charged with ensuring the quality and integrity of the care delivered in the State, and the goal of that is to provide for the safety of the public. The Board is in a situation where it is being asked to make a decision without all the adequate information, and it is incapable of meeting its charge and its task given the information that is out there. The Board can empathize with the hardships that he is currently facing, but the Board's mandate is very clear.

Dr. Yi withdrew his application.

(e) Fredrick Lajuan Bowman, CRT

Mr. Duxbury asked Mr. Bowman 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 Mr. Bowman regarding his negative response to Question 13 on his application for licensure.

Mr. Bowman explained the circumstances surrounding his arrest in 1994 for possession of cocaine with intent to sell. He said he answered the question in the negative because his attorney told him that he did not have to answer those questions affirmatively because he successfully completed the diversion program, and he had been answering that way for years.

Ms. Mastroluca asked how that experience had influenced his life.

Mr. Bowman said he was blessed with the opportunity to get into a program with the California College for Health Science, through King Daughter's Hospital in Greenville, Mississippi, where he started doing sleep disorder testing. He completed respiratory therapy school, then became registered in sleep disorders, and went on to have a child and get married.

Ms. Mastroluca asked what he had been doing since he graduated from respiratory therapy school, and Mr. Bowman explained.

Ms. Mastroluca asked what Mr. Bowman planned to do if granted a license in Nevada, and Mr. Bowman said he wanted to return to the west, as he had lived in California as a child.

Ms. Daniels asked Mr. Bowman how he would answer an arrest question on an application going forward, and Mr. Bowman said he would answer "yes."

Dr. Nagy moved that the Board grant Mr. Bowman's application for licensure. Ms. Mastroluca seconded the motion, and it passed unanimously.

(f) LaVias Martez Burns, M.D.

Mr. Duxbury asked Dr. Burns 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. Burns regarding his affirmative response to Questions 5a and 5b on his Uniform Application for Licensure.

Dr. Burns described the circumstances surrounding the three cases of malpractice that had been filed against him, two which resulted in a settlement and one which was still pending.

Dr. Prabhu re-joined the meeting at 1:31 p.m.

Dr. Havins asked why he wanted to come to Las Vegas, and Dr. Burns listed several reasons.

Dr. Edwards asked whether he planned to have a solo practice, and Dr. Burns said he planned to practice with a group.

Ms. Mastroluca moved that the Board grant Dr. Burns' application for licensure. Dr. Edwards seconded the motion, and it passed unanimously.

(g) Sirikanya Sastri, M.D.

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

Dr. Sastri described her medical education and training, as well as her clinical practice history, and explained why she had not obtained board certification. She then explained what she planned to do if granted a medical license in Nevada.

Dr. Prabhu stated Dr. Sastri was applying for a license by endorsement because she has not passed a major examination in the last 10 years.

Dr. Edwards suggested that Dr. Sastri take the Special Purpose Examination (SPEX). Dr. Sastri said she is not a good test taker, and was scared that if she didn't do well on the exam, it would look bad on her, but if the Board strongly advised it, she was willing to do it.

Dr. Edwards stated that endorsement is generally granted to physicians who fill a need in the State. He then questioned Dr. Sastri regarding her affirmative response to Question 12 on her application for licensure.

Dr. Sastri described the circumstances surrounding the single case of malpractice that had been filed against her that was pending.

Discussion ensued regarding whether it would be appropriate for the Board to grant Dr. Sastri a license by endorsement or whether it should require her to pass a major examination, such as the SPEX.

Dr. Havins moved that the Board grant Dr. Sastri a license by endorsement. The motion died for lack of a second.

Dr. Frey moved that the Board grant Dr. Sastri a license if she successfully passes the SPEX by March 3, 2020. Dr. Nagy seconded the motion, and it passed, with Dr. Havins voting against the motion and all other Board members voting in favor of the motion.

(h) Jamie Adam Jacobsohn, M.D.

Dr. Prabhu asked Dr. Jacobsohn 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 questioned Dr. Jacobsohn regarding his affirmative response to Questions 12 and 12a on his application for licensure.

Dr. Jacobsohn described the circumstances surrounding the single case of malpractice that had been filed against him, which resulted in a settlement.

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

(i) Marvinus Spartacus Johnson, RRT

Dr. Prabhu asked Mr. Johnson 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. Johnson regarding his negative response to Question 13 on his application for licensure.

Mr. Johnson said that he had misread the question,

Mr. Duxbury asked Mr. Johnson why, after being notified by Board staff that some of his responses were deficient, he only disclosed one arrest, and not the other two.

Mr. Johnson said he thought that California and Nevada were different, so when the License Specialist asked for the arrest records, he provided the one for the case in Nevada. When the License Specialist informed him he needed to provide all arrest records, he went back and got the ones from California.

Mr. Duxbury asked what he was currently doing, and Mr. Johnson said he was working as a respiratory therapist in Palmdale, and had been there a year.

Mr. Duxbury asked about his future plans.

Mr. Johnson said he and his wife planned to open a daycare center in Nevada, but in order to do so, they needed funds, and that is why they were both continuing to work in health care. He is working to obtain a Bachelor's Degree in Applied Sciences and, ultimately, he would like to become a director of respiratory care.

Dr. Frey stated when practitioners go about their daily work, they have to be as exacting as possible, and read thoroughly the information before them. The application process is just like clinical practice, where you have to be exacting in the way you read and interpret and respond, and those mistakes can't be made on an application, and certainly can't be made in clinical practice.

Mr. Duxbury moved that the Board grant Mr. Johnson's application for licensure. Ms. Mastroluca seconded the motion, and it passed unanimously.

(j) Steven Frederick Richardson, Jr., PA-C

This matter was not discussed at the meeting.

(k) Rebecca Edith Slomovic, M.D.

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

Dr. Muro stated that Dr. Slomovic had not practiced clinical medicine since 2016, and was board certified in Gastroenterology. He asked whether she wanted to practice clinical medicine in the future, and she said she would like to.

Discussion ensued regarding whether it would be appropriate to require Dr. Slomovic to undergo a peer review or, alternatively, participate in a preceptorship.

Dr. Muro moved that the Board grant Dr. Slomovic's application for licensure contingent upon successful passage of a peer review. Ms. Arias-Petrel seconded the motion, and it passed unanimously.

Agenda Item 24

CONSIDERATION AND APPROVAL OF REVISIONS TO BOARD POLICY AND PROCEDURE MANUAL, TO INCLUDE CREATION OF NEW POSITION DESCRIPTION FOR SENIOR DEPUTY GENERAL COUNSEL

Mr. Cousineau explained that both the Investigations Division and Licensing Division have senior positions, and he would like to create a senior position in the Legal Division. The requirements for the Senior Deputy General Counsel position are synonymous with the other two senior positions, i.e., three years in the Division or commensurate experience and training.

Dr. Havins moved that the Board approve creation of the new position description. Dr. Edwards seconded the motion, and it passed unanimously.

Agenda Item 25

PERSONNEL

Annual Performance Evaluation of Executive Director

Dr. Prabhu stated that Mr. Cousineau continues to excel in the position of Executive Director. He said he asked for comments from his fellow Board members, and one of them said, "Ed's leadership and organizational skills have been critical to our being able to accomplish the work that we have been tasked with. It has been a privilege to work with Ed and the team that he

has created. I look forward to the continuation of his direction and leadership.” Another Board member said, “I think Ed runs the organization with a steady hand and seems to have his finger on the pulse on the Board, yet allows his highly capable staff to function autonomously. He is organized, efficient, and an asset to us as Board members, physicians, PAs and perfusionists, and to the public.” Dr. Prabhu said he definitely concurs with these sentiments, and is personally very proud that the Board has Mr. Cousineau leading it through the next decade.

Agenda Item 26

CONSIDERATION AND ADOPTION OF BUDGET FOR CALENDAR YEAR 2020, TO INCLUDE ANY POTENTIAL STAFF SALARY INCREASES

Ms. Jenkins outlined the proposed budget for calendar year 2020. She said the income section is based on projections of a 6% growth in the Board’s licensing base, which is based on a study over 10 years of the average, and is a little below the average. She said the Board has used the same percentage for approximately 5 years, and it has performed very well for the Board. It is a conservative figure, and we used 2018 figures to project the figures for 2020 because of the differences in income in a renewal versus a non-renewal year. The total projected income for 2020 is \$4,985,800.

Ms. Jenkins then outlined the proposed expenses. She explained the proposed budget for the personnel section includes a 1.5% cost-of-living (COLA) increase for the staff, which is based on mirroring the State. The State approved a 3% COLA for this year, and has not approved a COLA for next year, so to mirror that, we have proposed a 1.5% COLA this year, with the intention that we will propose another 1.5% COLA next year. An additional position is also included in those projections for a Deputy Chief of Investigations in the Las Vegas office. She said the total operating expenses are forecasted to be \$1,059,000. Included in that is an adjustment to reflect the lease for new office space in Las Vegas, which will be a larger office space. The total projected net income will be \$66,000, to be added to the Board’s reserves.

Ms. Mastroluca thanked Ms. Jenkins. She stated that to be able to get your numbers so close to actual year after year is really impressive.

Ms. Mastroluca moved that the Board approve the budget. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 27

STAFF COMMENTS/UPDATES

Mr. Cousineau said the Federation of State Medical Boards Annual Meeting will be in San Diego, April 30 through May 2 next year. As always, all Board members are welcome to attend. Ms. Munson will be sending out information on the meeting in the coming month or so. On December 18, at noon, we will hold a special telephonic Board meeting. In September, the Board adopted the draft 2018 financial audit. Subsequently, we received the final audit, and there were a couple of changes made to it that staff believes require it to go before Board for re-adoption.

Ms. Bradley said the Board is in the final stages of getting the lease for the Las Vegas office space approved. The landlord is located in Texas, and the lease was overnighted to the Board that day. It will be in the Las Vegas office on Monday, Dr. Prabhu will sign it on Monday, and then it will be sent to the Reno office. Staff will obtain a signature from the Board’s representative at the Attorney General’s Office, and take the lease to the Budget Office. The lease will be added to the

January agenda for review by the Board of Examiners (BOE). It will have to be approved by the BOE before it will be an official, active lease. The Board got a great price, \$1.90 per square foot, as the average price the State has been paying for property in Las Vegas is \$1.91. The lease term includes five months rent-free. The space is 4,500 square feet, which will give the Board room to grow, and is located at 325 Warm Springs.

Dr. Havins complimented Dr. Prabhu on the efficiency with which meetings have been conducted since he has been President.

Agenda Item 28
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 29
ADJOURNMENT

Dr. Prabhu adjourned the meeting at 2:41 p.m.

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