

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, 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
9600 Gateway Drive, Reno, Nevada 89521

and Videoconferenced to

The Conference Room at the Offices of the
Nevada State Board of Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

FRIDAY, SEPTEMBER 16, 2022 – 8:30 a.m.

Board Members Present

Victor M. Muro, M.D., President
Aury Nagy, M.D., Vice President
Ms. Maggie Arias-Petrel, Secretary-Treasurer
Bret W. Frey, M.D.
Chowdhury H. Ahsan, M.D., Ph.D., FACC
Ms. Pamela J. Beal
Col. Eric D. Wade, USAF (Ret.)
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.
Carl N. Williams, Jr., M.D., FACS

Board Members Absent

None

Staff/Others Present

Edward O. Cousineau, J.D., Executive Director
Donya Jenkins, Chief of Finance and Human Resources
Aaron Bart Fricke, J.D., General Counsel
Donald K. White, J.D., Senior Deputy General Counsel
Brandee Mooneyhan, J.D., Deputy General Counsel
Ian J. Cumings, Deputy General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Lynnette Daniels, Chief of Licensing
Johnna S. LaRue, CMBI, Deputy Chief of Investigations
Rosalie Bordelove, J.D., Chief Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Victor M. Muro, M.D., at 8:31 a.m.

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

Agenda Item 2

PUBLIC COMMENT

Dr. Muro 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

- June 10, 2022 Board Meeting – Open/Closed Sessions

Dr. Nagy moved that the Board approve the Minutes of the June 10, 2022 Board Meeting – Open/Closed Sessions. Ms. Beal seconded the motion and it passed unanimously.

Agenda Item 4

CONSIDERATION AND APPROVAL OF FY 2021 ANNUAL FISCAL AUDIT BY CASEY NEILON

Nicola Neilon, CPA, of Casey Neilon, said she wanted to thank Mr. Cousineau, Ms. Jenkins and all the staff for the support they provided to the auditing team. They were extremely responsive, everything requested was provided immediately, they are very detail-oriented and very dedicated to good financial reporting.

Ms. Neilon stated the Independent Auditor's Report was different from prior years; however, the conclusion was the same. It was an unmodified opinion, which is the highest level of assurance that auditors can provide on a set of financial statements. The Report is now expanded, and details the auditors' responsibilities, what they are required to do, and what management is required to do.

Ms. Neilon then highlighted the information contained in the financial statements. She said the first section, the Management's Discussion and Analysis, provides plain-English explanations of the amounts and information in the financial statements, and on page 7, there is a three-year comparison of the financial activity of the Board. The Statement of Net Position is essentially the equivalent of a governmental balance sheet, and shows the assets, deferred outflows, liabilities, deferred inflows and total net position. Total assets were almost \$12 million and cash and cash equivalents were sitting at \$8.4 million. It was a renewal year, so cash was much higher than in the prior year. She explained the deferred outflows are related to pensions and other post-employment benefits. Current liabilities were \$6.9 million. Again, these were higher due to the two-year licensing period because the renewal fees that are received in advance are deferred so they can be recognized in the next year. The noncurrent liabilities are comprised primarily of the pension liability and the OPEB liabilities, which are determined by the State's actuaries. Similarly, the different inflows for OPEB and pensions are determined by the State's actuaries. The total net position was a negative \$1,079,000, which sounds negative because it is a deficit. However, this is because \$3.4 million of the net position is restricted for the building, and we expect this will turn positive over the next few years. The negative is also created by those amounts that are determined by the State. So, when looking at the resources the Board has to fund its operations, you really should look at its total assets less its total liabilities, and take out the pension and OPEB liabilities to get to a good operational fund balance, and in that situation, it is a positive fund balance.

Ms. Beal asked how the net position could be communicated clearly to a member of the public.

Ms. Neilon explained that the pension and OPEB liabilities are extremely long-term liabilities, and are not something the Board is required to pay for tomorrow – they are something the Board pays as it goes along with its pension assessments and with its payments to the Public Employees Benefits Program. Therefore, to explain this, you would be looking at a cashflow analysis on those liabilities.

Ms. Beal asked whether we could just say that the Board has a strong financial position, and Ms. Neilon said she believed we could.

Dr. Spirtos asked how the pensions were funded, and Ms. Neilon stated they were funded by the State. The Nevada Public Employment Retirement System (PERS) handles all of the pensions and sets the rates. That is paid every month into the State PERS fund, and from there, the State determines actuarially what the future cost of benefits will be and pushes that out to every participant.

Ms. Neilon then highlighted the Statement of Revenues, Expenses, and Changes in Net Position section. She stated this was the equivalent of the Board's Income Statement. The change in net position was positive, as there was a \$692,000 increase in net position. So, when you talk about the financial position of the Board, you can see that the negative is being reduced each year. The licensing fees are split over two years, so we recognize essentially half of them in one year and half of them the next year. She stated the Statement of Cash Flows shows there was a very positive increase in cash flow of \$4.8 million, again because it was a renewal year.

Ms. Neilon stated the Notes to Financial Statements section explains in more detail the numbers on the financial statements. The Statement of Revenue and Expenses – Budget and Actual section shows the budget that was approved by the Board, what the actual results were, and how the

operations actually ended up for the year. There was \$330,000 more in operating revenue than was budgeted, \$215,000 less in personnel services than was budgeted, \$18,000 less in travel, and \$23,000 in general operating expenses, so the Board performed better than budgeted.

Ms. Neilon explained that the Board's audit is conducted under *Government Auditing Standards*, and the auditors are required to report to the Board any findings they have on internal control and noncompliance. She said she was happy to report there were none. She said they encountered no difficulties in performing the audit. They did have two audit adjustments. One was to accrue a fairly immaterial amount of liabilities in the amount of \$7,875, and one was to change the manner in which rent is being recognized. Because of the move of the Las Vegas office and the very generous deferred rent period that was offered, there was a significant difference between the Straight-Line method and actual rent payments. They reported them using the Straight-Line method. There were no disagreements with management and there were no consultations with other independent auditors.

Mr. Cousineau stated that consistently, year after year, the Board has received clean audits, and he wanted to acknowledge the efforts of Ms. Jenkins and her team.

Dr. Frey moved that the Board approve the audit. Ms. Beal seconded the motion and it passed unanimously.

Agenda Item 5

CONSIDERATION OF REQUEST OF IVAN LEE GOLDSMITH, M.D., FOR REMOVAL OF CONDITIONS ON HIS MEDICAL LICENSE

Dr. Goldsmith was present with his legal counsel, John A. Hunt, Esq.

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

Mr. Hunt explained that on June 12, 2020, the Board ordered that Dr. Goldsmith could apply for a change of license status to "Active" and return to practice with certain conditions. Dr. Goldsmith has satisfied all the conditions imposed upon him and was requesting that the Board lift those conditions from his license.

Dr. Frey moved that the Board lift the conditions on Dr. Goldsmith's medical license. Dr. Spirtos seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 6

CONSIDERATION OF REQUEST OF RAYMOND TANGREDI, M.D., FOR BOARD AUTHORIZATION TO TAKE THE SPECIAL PURPOSE EXAMINATION (SPEX)

Dr. Tangredi was present with his legal counsel, Lyn E. Beggs, Esq.

Ms. Beggs explained that Dr. Tangredi currently did not hold an active license in the United States, so according to the rules of the SPEX, which is governed by the Federation of State Medical Boards, he requires Board sponsorship to be able to sit for the examination.

Dr. Muro asked whether Dr. Tangredi had ever held a license in the United States, and Dr. Tangredi stated he had previously held a training license in Nevada, and held licenses in Oregon, Washington and California.

Ms. Beal moved that the Board grant Dr. Tangredi's request that the Board sponsor him to sit for the SPEX. Dr. Williams seconded the motion and it passed unanimously.

Agenda Item 7

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. HAI THANH NGUYEN, M.D.*, BME CASE NO. 21-38084-1

Dr. Nguyen was not present. Olivia Campbell, Esq. was present as Dr. Nguyen's legal counsel.

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

Ms. Bordelove asked the adjudicating Board members to confirm that they had received and reviewed all the materials regarding the matter, and they indicated they had. Ms. Bordelove then provided procedural instruction regarding the adjudication process.

Ms. Mooneyhan stated that the Hearing Officer had found that the burden of proof had not been met as to either of the two counts of the Complaint.

Mr. Cousineau explained that the Hearing Officer's Synopsis spells this out. The Hearing Officer's recommendation was that the standard of proof was not met and the matter should be dismissed. Therefore, the adjudicating Board members could either adopt the Synopsis, and find there was no compelling evidence as to wrongdoing, or, if the adjudicating Board members wanted to deviate from that, they needed to discuss as to which count and why.

Dr. Nagy outlined the allegations of the Complaint and the facts of the case. He stated it was his opinion that the activities of the physician did not constitute malpractice and the finding of appropriate medical records was accurate.

Dr. Spirtos said he concurred with the findings regarding the allegation of malpractice; however, he thought the question regarding medical recordkeeping was rather gray.

Dr. Frey said he concurred with the findings regarding the allegation of malpractice, and agreed with Dr. Spirtos that the question regarding medical recordkeeping was gray; however, he thought the evidence regarding the medical recordkeeping did not meet the threshold.

Dr. Spirtos moved that the Board adopt the Synopsis and Recommendations of the Hearing Officer. Dr. Nagy seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Ms. Mooneyhan stated that NRS 630.352(3) states that if the Board determines no violation has occurred, the Board will dismiss the charges in writing, so she requested a motion to that effect for clarity's sake.

Dr. Frey moved that the Board dismiss the charges. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 8

CONSIDERATION OF REVOCABLE DELEGATION AND AUTHORIZATION BY THE BOARD TO THE GENERAL COUNSEL OF THE BOARD TO DEFEND THE BOARD'S FINDINGS, CONCLUSIONS, ORDERS AND ACTIONS IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. HAI THANH NGUYEN, M.D.*, BME CASE NO. 21-38084-1, 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

Dr. Muro stated this matter was no longer relevant, and it was not discussed at the meeting.

Agenda Item 9

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

- (a) Request for Authorization to Proceed With the Regulatory Adoption Process to Adopt a Regulation Regarding Requirements to Obtain Informed Consent by Physicians and Physician Assistants Prior to Providing a Specific Medical Intervention to a Patient
- (b) Request for Authorization to Proceed With the Regulatory Adoption Process Adopt a Regulation Requiring That the Board Send a Copy of Any Letter Sent to a Physician Assistant Pursuant to NRS 630.299 to the Physician Assistant's Supervising Physician(s)
- (c) Request for Authorization to Proceed With the Regulatory Adoption Process to Adopt a Regulation Regarding Additional Information Required in a Renewal Application for Physicians Licensed Pursuant to NRS 629A
- (d) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.460 Regarding Pre-Hearing and Post-Hearing Motions

Ms. Mooneyhan explained that all of these proposed regulations are at the beginning stages, there haven't been any workshops or hearings held on them, and the Legislative Counsel Bureau has not yet reviewed them. She said at this point, staff is seeking authorization to proceed with the regulatory adoption process on each of them. She then asked whether any Board members had questions.

Ms. Beal moved that the Board authorize staff to proceed with the regulatory adoption process on Agenda Items 9(a) through 9(d). Ms. Arias-Petrel seconded the motion.

Dr. Nagy said he thought the Board should discuss each proposed regulation separately.

Ms. Beal withdrew her motion.

Discussion ensued regarding the provision in Agenda Item 9(a) that would require the provider performing the procedure to announce his or her qualifications to perform the procedure, and whether the Board should make a determination as to what is considered "board certification."

Mr. Cousineau recommended that Agenda Item 9(a) be pulled from this agenda and brought back before the Board in December with revised language.

Dr. Muro asked the Board members provide their opinions regarding the language of the regulation proposed under Agenda Item 9(a) to the Legal Division so they can be included in the revised language.

Dr. Nagy moved that the Board authorize staff to proceed with the regulatory adoption process on Agenda Item 9(b). Dr. Williams seconded the motion and it passed unanimously.

Dr. Nagy asked for clarification as to the motivation for Agenda Item 9(c).

Mr. Cousineau explained that by statute, those who apply for licensure through the Interstate Medical Licensure Compact must be licensed by the Board in a number of days. The Board does this; however, we also recognize that there are certain unique statutory requirements that are required for those who apply for and obtain licensure in Nevada, such as continuing medical education on weapons of mass destruction and suicide prevention. He said the problem we are seeing is that once these individuals obtain a license, they have no incentive to meet these requirements subsequently. The Board can't pull the license back without going through the entire disciplinary process, which is very time consuming and arduous. Therefore, this is what we believe will not be a perfect remedy, but certainly an assist, in compelling people to comply or not be licensed going forward.

Dr. Muro described licensure through the Interstate Medical Licensure Compact.

Dr. Nagy moved that the Board authorize staff to proceed with the regulatory adoption process on Agenda Item 9(c). Dr. Ahsan seconded the motion and it passed unanimously.

Dr. Frey moved that the Board authorize staff to proceed with the regulatory adoption process on Agenda Item 9(d). Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 10

REPORTS

(a) Investigative Committees

Dr. Frey reported that at its August 19, 2022 meeting, Investigative Committee A considered 166 cases. Of those, the Committee authorized the filing of a formal complaint in 21 cases, sent 16 cases out for peer review, requested an appearance in 2 cases, issued 45 letters of concern, referred 11 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 71 cases. Dr. Frey thanked all of the staff for their preparation and thanked Dr. Williams for joining Investigative Committee A.

Dr. Muro reported that at its August 24, 2022 meeting, Investigative Committee B considered 112 cases. Of those, the Committee authorized the filing of a formal complaint in 5 cases, sent 22 cases out for peer review, requested an appearance in 9 cases, issued 18 letters of concern, referred no cases back to investigative staff for further investigation or follow-up, reviewed 1 case for compliance, and recommended closure of a total of 57 cases. Dr. Muro said he wanted to thank everyone involved with the Investigative Committees for all of their hard work that allows the Committee to move through a large number of cases in an efficient manner.

Dr. Nagy reported that at its August 11, 2022 meeting, Investigative Committee C considered 72 cases. Of those, the Committee authorized the filing of a formal complaint in 7 cases, sent 23 cases out for peer review, requested an appearance in 1 case, issued 29 letters of concern, referred 1 case back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 11 cases. Dr. Nagy thanked the staff for streamlining the processes and updating the spreadsheets. He said having the spreadsheets to work off makes things go faster and easier.

(b) Clark County Medical Society

Mr. Cousineau stated that Amber Carter, Executive Director of the Clark County Medical Society, had submitted a written report prior to the meeting, which had been provided to all Board members.

(c) Washoe County Medical Society

Mary Ann McCauley, Executive Director of the Washoe County Medical Society (WCMS), stated that she also represents the Carson-Douglas Medical Society, which does not have a status update, as its status remains the same.

Ms. McCauley then reported WCMS had held its annual inaugural dinner, at which it presented several awards to leaders. They also had some members recognized at the Nevada State Medical Association meeting at the end of August. They have students who are very active in the annual meetings of the Association. They have two student delegates and an alternate, and they presented their own resolution, which has left WCMS with a dilemma that really upsets her. Many of our medical students who age out of their parents' health insurance are on Medicaid, and they asked if there was any way they could help them get insurance. She doesn't know if there is a solution, but she finds it very disturbing that our future physicians are on Medicaid. They don't qualify for WCMS' group, so if someone has a great idea how to make students a group, to please let her know. Their concern is more about access than cost because there are many physicians in the community who just can't take on any more Medicaid patients because of how poorly they are reimbursed by Medicaid.

Discussion ensued regarding the issue of health insurance for these medical students.

Ms. McCauley said the American Medical Association Student Section is co-hosting a happy hour with WCMS in October for the students to meet physicians in the community, and a second-year medical student is doing most of the planning for that.

(d) Nevada Academy of Physician Assistants

Ashley M. Cole, MSPAS, PA-C, President of the Nevada Academy of Physician Assistants (NAPA), reported there were nearly 1,200 physician assistants practicing in Nevada in family medicine, internal medicine, surgical specialties, emergency medicine, and everything in between. Physician assistants are a vital part in filling the gaps in timely access and quality care to patients in the State. She said they wanted to introduce themselves to the Board and to let the Board know that National Physician Assistant Week is coming up October 6 through 12, and NAPA will be hosting a number of

events. She invited the Board members to join them to celebrate Nevada physician assistants. She said if the Board members would like more information about NAPA and its events, to reach out to either her or President-Elect Domonique Katona, DMSc, MHS, MSPAS, PA-C.

Dr. Muro said the Board appreciates their work and dedication, and partnering with them, and thanked them for attending the meeting to provide the Board with some insight.

Agenda Item 11

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ROBERT ANDREW KILPATRICK, M.D., BME* CASE NO. 22-20626-1

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

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

Ms. Arias-Petrel moved that the Board approve the proposed Settlement Agreement. Ms. Beal 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. GARY LYNN MANLEY, PA-C, BME* CASE NO. 22-36618-1

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

Mr. Fricke stated a formal Complaint had been filed against Mr. Manley alleging nine violations of the Nevada Medical Practice Act, and outlined the alleged violations and the terms of the proposed Settlement Agreement.

Dr. Nagy moved that the Board accept the proposed Settlement Agreement. Dr. Spirtos 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. CHRISTOPHER MICHAEL NEVAREZ, M.D., BME* CASE NO. 22-38761-1

Dr. Nevarez' legal counsel, Bridget Kelly, Esq., was present on behalf of Dr. Nevarez.

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

Ms. Mooneyhan stated a formal Complaint had been filed against Dr. Nevarez alleging one violation of the Nevada Medical Practice Act, and outlined the alleged violation and the terms of the proposed Settlement Agreement.

Dr. Muro moved that the Board approve the proposed Settlement Agreement. Dr. Spirtos 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. JEFFREY DAVID GROSS, M.D.*, BME CASE NO. 22-36323-1

Dr. Gross' legal counsel, Kathleen Janssen, Esq., was present on behalf of Dr. Nevarez.

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

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

Mr. Wade 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 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JEFFREY PATRICK NG, M.D.*, BME CASE NO. 22-29083-1

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

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

Dr. Ahsan moved that the Board approve the proposed Settlement Agreement. Ms. Beal 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. MORTON ISAAC HYSON, M.D.*, BME CASE NO. 22-8616-1

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

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

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

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ERIC JOSEPH PIPPI, PA-C*, BME CASE NO. 22-48045-1

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

Mr. Cumings stated a formal Complaint had been filed against Mr. Pippi alleging two violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Spirtos moved that the Board approve the proposed Settlement Agreement. Ms. Beal 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. ANTHONY EMMANUEL QUINN, M.D.*, BME CASE NO. 22-39868-1

Dr. Quinn's legal counsel, Bridget Kelly, Esq., was present on behalf of Dr. Quinn.

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

Mr. Cumings stated a formal Complaint had been filed against Dr. Quinn alleging two 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. Williams 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. TATIANA MICHAELOVNA WARNER, PA-C*, BME CASE NO. 22-31360-1

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

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

Dr. Spirtos moved that the Board approve the proposed Settlement Agreement. Mr. Wade seconded the motion.

Dr. Nagy stated if this is a practitioner who is going to come back and practice, the Board should have some evidence that she understands why this patient died the day after she treated her, and he doesn't know that she is going to have that understanding unless she has some basic CMEs regarding management of a patient with acute hypoxemia, and that should be a requirement.

Mr. Cousineau stated that physician assistants could not go inactive. Therefore, the matter would have to be tabled and go back to the Investigative Committee and opposing counsel for revision of the terms, and then be brought back before the Board in December.

After returning from a break in the meeting, Mr. Cousineau stated that in January of this year, a law went into effect that now allows physician assistants to go inactive, and he wanted to make that correction on the record. Therefore, the matter could be adjudicated at this meeting.

Mr. Cumings restated the allegations contained in the Complaint. He then explained that the term of the Settlement Agreement at issue was arrived at because Ms. Warner is semi-retired, preparing to retire completely, and it was felt CMEs weren't necessary unless she desired to continue to practice more fully. Costs were a bit of a concern as well, so that is why a payment plan was created. The issues in this case pertained more to records and less to the detection of the respiratory issue, so that is why the CMEs are related to records. The year timeline was proffered by Ms. Warner.

Dr. Muro again named the adjudicating Board members.

Dr. Frey moved that the Board approve the proposed Settlement Agreement. Mr. Wade seconded the motion.

Dr. Nagy said he thought it was a disservice to the family of the person who died to allow this physician assistant to go back and practice without having any education in this regard to make sure the same thing doesn't happen with the next patient she sees who has the same problem.

Ms. Beggs stated the Answer to the Complaint that was filed by Ms. Warner provided some mitigating information and background information regarding Ms. Warner and her current practice. She asked whether that had been provided to the adjudicating Board members.

Mr. Cousineau stated it had not, but that was not abnormal because an Answer is not always filed in a case. Therefore, to avoid potential confusion, the adjudicating Board members are only provided with the Complaint and the proposed Settlement Agreement for each case.

Ms. Beggs stated that in her Answer, Ms. Warner did take full responsibility. There was a systems error in the practice and the medical assistant who took the vitals did not follow protocol in alerting Ms. Warner to the extremely low blood oxygen, the hypoxia. Had Ms. Warner known that, she would have taken immediate emergent action. Ms. Warner did not realize the patient's blood oxygen level was at the 67th percentile, and certainly understands that is an emergent level. Ms. Warner is working on a very part-time basis, but is in the process of retiring, and she anticipates that will be occurring in the next several months.

Dr. Nagy thanked Ms. Beggs for the clarification regarding the circumstances surrounding Ms. Warner's treatment of the patient.

A vote was taken on the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 20

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JOSETTE ELLEN SPOTTS, M.D.*, BME CASE NO. 21-10144-1

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

Ms. Mooneyhan stated a formal Complaint had been filed against Dr. Spotts alleging three violations of the Nevada Medical Practice Act, and outlined the alleged violations and the terms of the proposed Settlement Agreement.

Ms. Arias-Petrel moved that the Board accept the proposed Settlement Agreement. Dr. Spirtos 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. LaRue reported that between June 8, 2022, and September 13, 2022, the Investigations Division received a total of 329 complaints. Of those, 169 cases were opened as formal investigations, 76 were not within the Board's jurisdiction, 55 were referred to other agencies and regulatory bodies, 24 were resolved through proactive measures, and 5 were either duplicate complaints or are still pending review. The total case count for 7 Investigators, the Chief and 2 Deputy Chiefs was 711, for an average of 71 cases per Investigator. There were a total of 147 peer reviews, 60 of which had been assigned and 87 of which were pending assignment to a peer reviewer, and there were 28 licensees in the diversion programs that the Board was monitoring.

(b) Quarterly Compliance Report

Ms. Jenkins reported that for the second quarter of 2022, the total amount in collections was \$45,951.66, a total of eight files. The total costs outstanding were \$103,479.15, total fines outstanding were \$83,500.00. Total costs collected during the quarter were \$40,797.99.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the second quarter of 2022. The Board's total current assets were \$7.2 million, total assets were \$12.8 million, total current liabilities were \$5 million, and total liabilities and net position were \$12.8 million.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the second quarter of 2022. The Board's income for the quarter was 15.8% above budget. The Board's personnel expenses were almost right at 96% of budget, and the total expenses were 3.7% over budget. The addition to net position for the quarter, under the title of net income, was \$244,473.48.

Dr. Frey asked why the Investigative line item was over budget, and Ms. Jenkins explained that particular line item is almost entirely peer reviews, so she thinks it can reasonably be said that the Board is over budget in the amount it projected to spend on peer reviews. That trend continues into the third quarter, so that is a point we will examine for the budget for next year.

Dr. Nagy asked whether the reimbursement for costs and fines collected from licensees as part of the disciplinary action process are returned to the Board or go to the General Fund of the State.

Mr. Cousineau stated that pursuant to statute, the fines go to the State General Fund and the Board has the ability to recoup its actual costs and attorney's fees.

Ms. Jenkins explained that when you look at the Balance Sheet, the fines are shown as both receivable and as payable. They are equal on the balance sheet because they are sent to the State General Fund on a quarterly basis, which allows the Board to remain impartial on imposing fines. The reimbursement of costs is on an actual basis, and we are required to maintain a record of those costs. These are listed on the Board's financials under Number 430.

Dr. Muro asked about the Board's investments, and Ms. Jenkins explained that the Board has a very conservative investment policy and right now the only thing available to it are the funds that it receives from interest on checking.

Dr. Nagy asked whether the current inflation rate would be reflected in the salaries for Board employees.

Ms. Jenkins explained that under the Board's policies and procedures, the Board is tied to the California cost of living, so in the next few months, we will review that, and the Board can consider up to that amount for a cost-of-living increase, but we also consider what the State is able to give for a cost-of-living increase.

Mr. Cousineau added that we usually try to mirror the State.

Dr. Nagy suggested that American Rescue Plan Act (ARPA) Funds are available to assist with losses incurred due to the overall depression of the economy, and perhaps the Board could apply for some assistance to use in this regard.

(d) Legal Division Report

Ms. Mooneyhan reported that from June 6, 2022, through September 8, 2022, the Legal Division filed 15 new formal complaints and 3 first amended formal complaints, and held 1 hearing on a formal complaint. During that quarter, 11 cases were resolved through settlement agreements and 1 was resolved through adjudication. Currently, the Legal Division has 157 open matters, which includes cases from the August Investigative Committee meetings.

Agenda Item 22

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status
Approved Since the June 10, 2022 Board Meeting

Dr. Frey moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the June 10, 2022 Board Meeting. Ms. Beal seconded the motion and it passed unanimously.

Agenda Item 23

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Kiarash L. Mirkia, M.D.

Dr. Mirkia was present with his legal counsel, Nausheen Peters, Esq.

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

Dr. Frey stated that Dr. Mirkia was before the Board because he wanted to change his licensure status from “Inactive-Probation” to “Active.” He asked Dr. Mirkia to outline the terms of his license probation pursuant to the Settlement Agreement.

Dr. Mirkia explained that in June 2019, he voluntarily moved his license to “Inactive” status, and in December 2020, he entered into the Settlement Agreement with Board. The terms of the Settlement Agreement included 20 hours of CME, a PACE evaluation and payment of fees. He has done the 20 hours of CME, completed the PACE program and was deemed fit for duty, and paid all the fees imposed upon him. Part of the Settlement Agreement was that he not practice surgery for two years, and it has been more than two years now, so he is requesting that the Board approve his request to change his license status to “Active.”

Dr. Frey stated the two-year term that was agreed upon actually ends in December 2022.

Ms. Peters stated that the Settlement Agreement was entered into towards the end of 2019. There was a period of time that the Board took to adopt and confirm it, so she would submit that the probationary term of two years ended at the end of 2021.

Dr. Muro stated that the time period commences when the Settlement Agreement is accepted, not when it is submitted, so that would be December 2022.

Dr. Frey said since the probationary term hasn't fully elapsed, an action that day would, in essence, be premature.

Ms. Peters stated she would like to establish for the record the date that is actually entered on the Settlement Agreement in terms of the Board's adoption or ratification of that Agreement, but she would also like to submit that if the Board is inclined to find this meeting is premature, there should be some remedy for a later meeting because she understands these meetings only take place approximately twice a year.

Mr. Cousineau stated the next meeting would be held in December, which will be contemporaneous with the expiration of the 24-month probationary term. He said that Paragraph 5(c) on Page 4 of the Settlement Agreement entered on December 4, 2020, states: “Respondent's license shall be subject to a term of probation for a period of time not less than 24 months from the date of the Board's acceptance, adoption and approval of this Agreement (Probationary Period).” Therefore, he agrees this is something that could be argued is premature, and the potential aspect is the Board may require Dr. Mirkia to return in December.

Ms. Peters asked whether the Board would be willing to extend some type of conditional approval and address the substantive aspects so that as soon as the 24-month period is officially expired, Dr. Mirkia's license can go "Active" at that time.

Mr. Fricke said he wanted to clarify that Dr. Mirkia's petition to lift the probation was contemplated in the Settlement Agreement, pursuant to Paragraph 5(c)(vi) of the Agreement, and was supposed to be done within 24-months, so it is actually timely. Certainly, the probation shall be for no less than 24 months, but it was contemplated that Dr. Mirkia would complete the terms of his probation and petition in advance of the expiration of 24 months. Mr. Fricke said he didn't see any impediment to the Board ruling on it that day, if it wished to, or asking Dr. Mirkia to come back if it would like more time for the expiration of the probation to be in place, but there was nothing unusual about his request.

Dr. Frey stated that Dr. Mirkia holds unrestricted licenses in Arizona, Michigan, New York and Wisconsin, and there is an open investigation in Arizona.

Dr. Mirkia stated he has never practiced in Arizona, and the investigations in Arizona, Michigan, New York and Wisconsin are based on the action taken by the Nevada State Board of Medical Examiners.

Dr. Frey asked Dr. Mirkia to describe the events that were the underlying basis for the Complaint filed against him by the Nevada State Board of Medical Examiners, which resulted in the aforementioned Settlement Agreement, and Dr. Mirkia did so.

Dr. Frey asked what Dr. Mirkia had learned from the complaint filed against him the same year by a patient that was sordid in detail.

Dr. Mirkia said he usually has five or six other people in the room with him, and they all unanimously said there was nothing inappropriate. The initial complaint was dismissed by the judge, they refiled the case, and the case was settled three or four months ago. He said he learned that he needs to be more careful and to have a second person in the room at all times.

Mr. Cousineau said he thought the Board needed to decide whether it was inclined to change Dr. Mirkia's status to "Active" and attach a probationary term up and through, at a minimum, the 24-month time frame. Additionally, if there is a desire to grant Dr. Mirkia's request that day, the Board should potentially contemplate some kind of a condition requiring a chaperone, or some type of monitor, and it sounds as though Dr. Mirkia already recognizes that is a good idea. Since that would be a conditional requirement of the license, he suggested that the Board table the matter to allow Dr. Mirkia to confer with his attorney, after which time the Board will re-call the agenda item.

Upon returning to this agenda item, Dr. Muro asked Dr. Mirkia whether he wanted further consideration of his application to be considered in closed session, with the public being excluded, and he said that he did.

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

Upon returning to open session, Ms. Beal moved that the Board grant Dr. Mirkia a change of status to "Active."

The motion failed for lack of a second.

Dr. Spirtos moved that the Board grant Dr. Mirkia a change of status from "Inactive" to "Active" with the condition that he uses a chaperone.

Dr. Muro stated that would be a conditional license.

Ms. Beal seconded the motion.

Discussion ensued regarding whether the Board should restrict Dr. Mirkia from performing robotic surgeries, based upon the PACE recommendation.

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

Dr. Mirkia asked for clarification regarding the gender of the chaperone.

Dr. Muro stated the chaperone is usually the gender of the patient.

Mr. Cousineau stated said this would be memorialized in an Order of the Board.

(b) Shouping Li, M.D.

Dr. Li was present with his legal counsel, Lyn E. Beggs, Esq.

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

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

Upon returning to open session, Dr. Nagy moved that the Board grant Dr. Li a conditional license subject to the requirements that both preceptors provide bi-monthly reports, with 100% chart review for the first six months, 50% chart review for the following six months, and 25% chart review for the following six months, and that every six months Dr. Li provide to the Board an evaluation by a neurologist documenting his fit health, with the first evaluation as soon as possible. Dr. Spirtos seconded the motion and it passed unanimously.

(c) Neda Azizian, M.D.

Dr. Muro asked Dr. Azizian 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. Azizian was applying for licensure by endorsement because she had not passed a major examination in the past 10 years, and there was also a gap in her training related to some family issues.

Dr. Azizian provided a timeline of her training.

Dr. Muro stated that Dr. Azizian had taken the American Board of Internal Medicine (ABIM) certification examination and was awaiting the results.

Dr. Muro explained that licensure by endorsement is usually reserved for those who bring a special skillset or practice in a specialty that is in need in the State, and he doesn't know that Dr. Azizian meets the criteria. Dr. Muro stated another option would be for her to proceed via a normal pathway as far as an application and it could be granted contingent upon her passing the ABIM certification examination she just took. He said the Board understands there is a delay in the reporting, and she took the exam in August, so she will probably receive the results sometime in November or December. The urgency is she has found employment that is supposed to begin in October.

Dr. Azizian said she had signed a contract, so she can't work under her other license.

Ms. Daniels stated that the Licensing Division has ongoing conversations with applicants and tells them not to sign any contracts until they have their license in hand.

Dr. Frey moved that the Board grant Dr. Azizian an unrestricted license contingent upon successful passage of the ABIM certification examination, as verified by staff. Mr. Wade seconded the motion and it passed unanimously.

(d) Marco Antonio Sobrino, M.D.

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

Dr. Williams said if Dr. Sobrino was granted a license, he planned to work for a company called Sono Bello in Las Vegas.

Dr. Sobrino stated he had worked for Sono Bello for 13 years, and wants to come to Las Vegas.

Dr. Williams said that Dr. Sobrino was a general surgeon who is trained in general surgery, but has been performing liposuction for Sono Bello for 13 years in Washington State. Dr. Williams said there had been four malpractice cases filed against Dr. Sobrino that had been settled and two cases that were never completely filed, and he was concerned that five of those cases were related to Dr. Sobrino performing liposuction. He asked Dr. Sobrino what experience he had as far as plastic surgery was concerned.

Dr. Sobrino stated he is not a plastic surgeon, he is a general surgeon, but he was trained in cosmetic surgery, and also trained in liposuction with Jeffrey Klein. He said the majority of cosmetic surgery in the United States is performed by non-board-certified plastic surgeons, and the training that many non-board-certified plastic surgeons have sometimes surpasses that of those who attend a plastic surgery program.

Dr. Muro stated there is a difference between training and experience. Those that are doing it without having gone through a formal training fellowship program may have a tremendous amount of experience, but the training does not get replaced. The training within any subspecialty is much broader than any one procedure.

Dr. Williams asked Dr. Sobrino to describe his training with Jeffrey Klein, and Dr. Sobrino described the course he took with him, and further described his training and experience.

Dr. Spirtos said that being taught to do a procedure and having the training and experience to handle complications related to the procedure are not the same, and from a review of his malpractice cases, it was not necessarily the procedure, but the follow up and treatment of the complication related to the procedure is where the deficiencies were noted.

Dr. Sobrino described the circumstances surrounding two of the cases of malpractice that had been filed against him.

Discussion ensued regarding the training and experience of those who are board-certified plastic surgeons versus that of non-board-certified plastic surgeons.

Mr. Cousineau said it was possible the Board may deny Dr. Sobrino's application, which has very negative consequences, and advised Dr. Sobrino that he had the option to withdraw his application.

Dr. Sobrino said he was disappointed to hear that, and asked how a board-certified surgeon such as himself could be denied a license — whether there is a statute that would prohibit him from coming to Nevada.

Mr. Cousineau stated inability to practice medicine with reasonable skill and safety is one that comes to mind, based on Dr. Sobrino's past record.

Dr. Muro stated some significant concern has been voiced regarding the number of malpractice cases, his training, and the fact that he would not only be practicing, but also helping run an operation that further magnifies the impact of his license.

Dr. Sobrino stated that he wanted to withdraw his application.

Agenda Item 24

CONSIDERATION AND APPROVAL OF PROPOSED 2023 MEETING SCHEDULE

Dr. Muro asked whether the Board members had had an opportunity to review the proposed meeting schedule, and whether anyone had any major conflicts.

Mr. Cousineau explained that the March and December Board meetings would be held in Las Vegas and the June and September meetings would be held in Reno, following the same schedule as for 2022.

Dr. Muro added that the respective Investigative Committee meeting dates were also included on the proposed schedule.

Dr. Frey moved that the Board approve the 2023 meeting schedule as presented. Mr. Wade seconded the motion, and it passed unanimously.

Agenda Item 25

DISCUSSION AND POTENTIAL ACTION CONCERNING GOVERNOR SISOLAK'S EXECUTIVE ORDER 2022-08 REGARDING PROTECTING ACCESS TO REPRODUCTIVE HEALTH SERVICES IN NEVADA

Mr. Cousineau stated the Governor issued Executive Order 2022-08 on June 28, 2022. Paragraph 2 on Page 2 of the Order states the Board of Medical Examiners shall "implement policies that will ensure that no person shall be disqualified from licensure or subject to discipline by a Nevada board or commission for providing or assisting in the provision of reproductive health care services or as a consequence of any judgment, discipline, or other sanction threatened or imposed under the laws of another State so long as the services as provided would have been lawful and consistent with standards for good professional practice in the State of Nevada."

Mr. Cousineau explained that the Executive Order doesn't specifically call for a regulation. Policies don't have the force and effect of law like a regulation does, however, we can implement a policy much quicker than we can a regulation. Therefore, he wants to go with the intent of the Executive Order and put together a policy containing well-thought-out language for the Board's review that recognizes the directives of the Executive Order. He said he was requesting authorization from the Board to proceed with the policy option.

Dr. Nagy moved that the Board authorize staff to draft policy language. Mr. Wade seconded the motion, and it passed unanimously.

Mr. Cousineau said the language would likely be brought before the Board at its December meeting.

Agenda Item 26

STAFF COMMENTS/UPDATES

Mr. Cousineau advised the Board that after 22 years with the Board, Ms. Daniels will be retiring in early next February, and December will be the last time she will attend a Board meeting. He said it is a tremendous loss to the Board, but he is happy for her as she moves on to her next chapter. He said he is going to miss her and appreciates all that she does, and has done over the years. She has been an amazing asset to the Board and to him.

Mr. Cousineau said that Investigative Committee C held its first meeting on August 11. He sat in on the meeting and served as legal counsel for that, and he was very appreciative and impressed with Dr. Spirtos, who is new to the Investigative Committee, and of course, Dr. Nagy and Ms. Arias-Petrel. They accomplished a lot, and having a third Investigative Committee has taken some burden off of the other Investigative Committees. This is increasing the Board's efficiency and cutting down on its timelines. He said he thought it was a very good decision and thanked the Board for authorizing it at the last Board meeting.

Mr. Cousineau stated the Board would have a bill in the 2023 Legislative Session, containing some general housekeeping items and other items. The proposed legislative initiatives will be before the Board at the December meeting, and the Board lobbyists, Tom Clark and Keith Lee, or at least one of them, will be here to discuss them. Assemblywoman Heide will sponsor the bill. The Board will have an opportunity to comment on the proposed statutory language in the bill at that time.

Agenda Item 27

ELECTION OF OFFICERS AND APPOINTMENT OF INVESTIGATIVE COMMITTEE MEMBERS

Ms. Bordelove stated that pursuant to NRS 630.090, the Board needed to elect a President, Vice President and Secretary-Treasurer. The Board does not have any specific statutory requirements regarding length of terms; however, she believes the Board's practice has been for about a year. She requested that any motion specify the term so that it is clear. She then asked whether there were any nominations for President.

Dr. Williams nominated Dr. Nagy. Dr. Spirtos seconded the nomination. Dr. Frey nominated Dr. Muro. Dr. Wade seconded the nomination.

A vote was taken on the nominations, as follows:

For Dr. Nagy: Dr. Nagy, Ms. Arias-Petrel, Dr. Ahsan, Dr. Spirtos, Dr. Williams.

For Dr. Muro: Dr. Muro, Dr. Frey, Ms. Beal, Mr. Wade.

Ms. Bordelove stated that Dr. Nagy had received a majority of the votes.

Dr. Spirtos moved that Dr. Nagy be President of the Board until the Board's next elections, likely next September. Dr. Williams seconded the motion and it passed unanimously.

Ms. Bordelove asked whether there were any nominations for Vice President.

Dr. Nagy nominated Dr. Spirtos for Vice President until the next elections of the Board, likely next September. Dr. Williams seconded the nomination. No other nominations were received. A vote was taken on the nomination and it passed unanimously.

Ms. Bordelove asked whether there were any nominations for Secretary-Treasurer.

Mr. Wade nominated Dr. Frey. Dr. Muro seconded the nomination. Ms. Beal nominated Ms. Arias-Petrel. Dr. Spirtos seconded the nomination.

A vote was taken on the nominations, as follows:

For Dr. Frey: Dr. Muro, Dr. Frey, Mr. Wade.

For Ms. Arias-Petrel: Dr. Nagy, Ms. Arias-Petrel, Dr. Ahsan, Ms. Beal, Dr. Spirtos, Dr. Williams.

Ms. Bordelove stated that Ms. Arias-Petrel had received a majority of the votes.

Ms. Beal moved that Ms. Arias-Petrel be elected Secretary-Treasurer until the Board's next elections, anticipated to be next September. Dr. Spirtos seconded the motion and it passed unanimously.

Dr. Nagy moved that the three Investigative Committees continue with the current composition. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 28
PUBLIC COMMENT

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

Agenda Item 29
ADJOURNMENT

Dr. Muro adjourned the meeting at 1:50 p.m.

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