

**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  
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

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 2, 2022 – 8:30 a.m.***

***Board Members Present***

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

***Board Members Absent***

None

*Staff/Others Present*

Edward O. Cousineau, J.D., Executive Director  
Sarah A. Bradley, J.D., MBA, Deputy Executive Director  
Donya Jenkins, Chief of Finance and Human Resources  
Donald K. White, Senior Deputy General Counsel  
Brandee Mooneyhan, Deputy General Counsel  
Ian J. Cumings, Deputy General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems  
Ernesto Diaz, Chief of Investigations  
Lynnette Daniels, Chief of Licensing  
Sophia G. Long, J.D., Senior Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Aury Nagy, M.D., at 8:30 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Chowdhury H. Ahsan, M.D., Ph.D., FACC. Mr. Cousineau announced there was a quorum.

Agenda Item 2

PUBLIC COMMENT

Dr. Nagy asked whether there was anyone in attendance who would like to present public comment.

Weldon Havins, M.D., J.D., said he wanted to express some concerns that others had expressed to him regarding some of the Board's proposed regulations. One is with R028-22, regarding the patient advocate. There is concern about possible overreach, so physicians are very appreciative there will be a hearing on January 5, 2023, where they can express their concerns. Another concern is removal of the requirement for a jurisprudence exam, which is an open-book exam.

Ms. Bradley said she would welcome Dr. Havins to provide her with any information he wished, either at the scheduled hearings or in writing, and she thinks there may be a misunderstanding regarding the temporary regulation he just mentioned, which she would be happy to discuss with him.

Agenda Item 3

APPROVAL OF MINUTES

- September 16, 2022 Board Meeting – Open/Closed Sessions

Ms. Munson stated that after the draft of the minutes was sent to the Board for review, it was brought to her attention that in the last paragraph on page 20, under Agenda Item 26, the name of the assemblywoman who was mentioned by Mr. Cousineau was misspelled, and that correction would be made prior to finalizing and publishing the minutes.

Ms. Arias-Petrel moved that the Board approve the Minutes of the September 16, 2022 Board Meeting – Open/Closed Sessions with the aforementioned change. Dr. Frey seconded the motion and it passed unanimously.

#### Agenda Item 4

### CONSIDERATION AND ACTION REGARDING LEGISLATIVE INITIATIVES FOR THE 2023 LEGISLATIVE SESSION REGARDING NRS 630.267, NRS 630.3067, NRS 630.3068, NRS 630.3069 and NRS 630.318

Mr. Cousineau said Tom Clark, one of the Board's lobbyists, was present to answer questions and provide the Board with a general overview as to expectations during the upcoming legislative session, and Ms. Bradley would discuss the Board's proposed legislative initiatives, most of which are housekeeping matters, with a request for the Board's blessing to proceed with them. Assemblywoman Jauregui will be the Board's bill sponsor.

Ms. Bradley outlined the Board's proposed legislative initiatives. NRS 630.267 talks about expiration of licenses. For the other license types licensed by the Board, perfusionists, physician assistants, and practitioners of respiratory care, it says the Board is required to give them 60 days' notice prior to expiration of their licenses, but it does not currently say that for physicians. We do so, but we want to add this for consistency. Additionally, the statute currently requires that we provide a copy of the expiration notices to the DEA and the Board of Pharmacy. A list would be more useful than providing them with stacks of paper they need to go through because there are usually a couple of thousand licensees who don't renew each renewal cycle. The remainder of the changes are to make it clear that these provisions regarding malpractice payments apply to all license types licensed by the Board, rather than just physicians. Additionally, we are adding to NRS 630.3068 that the amount of the malpractice payment must be provided.

Dr. Spirtos said a question arose during an Investigative Committee meeting regarding malpractice reporting for those who are licensed through the Interstate Medical Licensure Compact (IMLC), and the expectation on the physician's part that when he or she reports an action to the IMLC, the IMLC will then report the action to the states, versus the physician's responsibility to report the action to the states, which leads to confusion on the physician's part regarding reporting.

Ms. Bradley stated that staff does the best it can to make sure a physician is not penalized unfairly. If an action is reported to the IMLC, she would advise the Investigative Committee, as counsel to the Board, that the licensee did his or her best, and tried to report it to the Board. The intent is to make sure that the Board is receiving reports, and the concern is intentionally not reporting.

Dr. Spirtos suggested that some language might be incorporated into the statute to clarify reporting requirements for these licensees.

Mr. Cousineau stated that since licensure through the IMLC is through Chapter 629A, and not Chapter 630, the Board should instead educate its IMLC licensees with respect to these provisions.

Tom Clark said his business partner, Keith Lee, had been representing the Board for some time, and this would be Mr. Clark's third legislative session representing the Board. He had a conversation with Assemblywoman Jauregui the previous day, and she has been elevated to the position of Majority Floor Leader. He said we have seen this previously, where senior legislators take administrative issues

such as the Board's initiatives and give them to someone else on the Committee. He has a meeting scheduled with Assemblyman Duy Nguyen, who won Assembly District 8 with 55%. He is a young rising star within the Democratic Caucus, who will be serving on the Assembly Committee on Commerce and Labor, and he is very eager to carry this particular piece of legislation. As we have seen in the past, one legislator will take on a lot of Boards and Commissions matters, and we have a couple of other legislators on the bench who are willing to carry the bill draft request (BDR). Once that determination is made, we will submit the language to the Legislative Counsel Bureau, and they will either pre-file the bill or will bring the bill forward when the legislative session starts on February 6.

Mr. Clark said there have been rumblings regarding a provisional license for those folks that are educated and trained internationally, and we usually will see proposed legislation from the physician assistants to either increase the size of this Board or to make changes within the statutes. He said they will, of course, always bring these to the Board so they can advocate on the Board's behalf going forward.

Dr. Williams moved that the Board approve the proposed legislative initiatives. Mr. Wade seconded the motion and it passed unanimously.

#### Agenda Item 5

#### CONSIDERATION OF REQUEST OF STEVEN WINSLOW GORDON, M.D., FOR AUTHORIZATION TO PERFORM CERTAIN COSMETIC PROCEDURES

Dr. Gordon described the circumstances surrounding his request to the Board, and asked the Board to remove the restrictions from his license. He said he now has a healthcare technology company that is poised to do some very meaningful work for underserved populations. He does not plan to perform any surgical procedures. He wants an unrestricted license because the restrictions have been an impediment to his forward progress.

Dr. Spirtos asked Dr. Gordon how the Board could be assured that problems or complications similar to those that led to his previous disciplinary problems will not occur with this new technology.

Dr. Gordon said he had no interest in returning to surgery.

Dr. Muro stated he has reservations with reversing what previous Boards have done, as it in a way negates what they have done and the thought process that was behind it, and despite Dr. Gordon's assurances, giving him an unrestricted license would allow him to do whatever he wishes, which is a public safety concern.

Dr. Nagy named the adjudicating Board members who would be considering the matter, and asked whether any of the adjudicating Board members wanted to make a motion to grant Dr. Gordon's request. No motion was tendered.

Mr. Cousineau said it had only been about two-and-a-half years since the restrictions were put in place, and the Board obviously still had concerns. He suggested that Dr. Gordon return to the Board with his request at a later date.

Dr. Frey said as he read the materials provided by Dr. Gordon and heard Dr. Gordon speak that day, he felt empathy for what Dr. Gordon was doing for the rest of the world; however, empathy for what happened to those two individuals previously didn't come through in Dr. Gordon's statements.

Agenda Item 6

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DIETRICH VON FELDMANN, M.D.*, BME CASE NO. 22-31575-1

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

Ms. Long provided procedural instruction regarding the adjudication process.

Ms. Munson took a roll-call poll of the adjudicating Board members to confirm whether they had received and reviewed all the materials regarding the matter, and all stated they had.

Ms. Long provided additional procedural instruction regarding the adjudication process.

Dr. Spirtos said he was in support of the Hearing Officer's findings, and stated his reasons.

Dr. Nagy concurred, and stated his reasons.

Dr. Frey moved that the Board adopt the findings of the Hearing Officer that malpractice occurred. Dr. Williams seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mr. Cumings provided the Investigative Committee's recommendations regarding discipline in the matter, to include that Dr. Von Feldmann submit to a physical and mental examination to assess his competence and ability to practice medicine, pursuant to NRS 630.352, at his cost; that he pay a fine of \$2,000.00; that he receive a public reprimand; and that he reimburse the fees and costs incurred by the Board in this matter.

Dr. Von Feldmann stated there should be no discipline imposed because he doesn't believe he committed malpractice.

Dr. Frey moved that the Board adopt the Investigative Committee's recommendations for disciplinary action. Ms. Arias-Petrel seconded the motion.

Dr. Nagy requested that, should Dr. Von Feldmann be found competent to practice medicine, some continuing medical education (CME) also be required regarding appropriate management of surgical patients with potential colon perforation.

Discussion ensued regarding the number of CME hours that Dr. Von Feldman should be required to complete.

Dr. Frey amended his motion to include that should Dr. Von Feldmann be found to be competent to practice medicine, that he complete 12 hours of CME regarding management of surgical patients with potential colon perforation, in addition to the number of hours required to maintain licensure in Nevada. Ms. Arias-Petrel seconded the amended motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Ms. Long stated that Dr. Von Feldmann had the right to object to any of the costs and fees included in the Memorandum of Costs and Fees.

Dr. Von Feldmann stated he had no objection to any of the costs and fees.

Ms. Arias-Petrel stated she had reviewed the costs and fees, and determined that they were actually incurred and were necessary and reasonable, and moved that Dr. Von Feldmann be assessed those costs and fees, to be paid within six months. Dr. Spirtos seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Spirtos moved that Dr. Von Feldmann pay the \$2000.00 fine within six months and that he complete the CMEs within six months of being found competent to practice medicine. Dr. Frey seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 7

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. DIETRICH VON FELDMANN, M.D.*, BME CASE NO. 22-31575-1, 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. Frey moved that the Board authorize Board counsel to defend the Board's findings, conclusions, orders and actions in this matter. Dr. Spirtos seconded the motion and it passed unanimously.

Agenda Item 8

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MATTHEW OBIM OKEKE, M.D.*, BME CASE NO. 21-22461-1

Dr. Okeke was present with his legal counsel, Liborius Agwara, Esq.

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

Ms. Long provided procedural instruction regarding the adjudication process.

Ms. Munson took a roll-call poll of the adjudicating Board members to confirm whether they had received and reviewed all the materials regarding the matter, and all stated they had.

Ms. Long provided additional procedural instruction regarding the adjudication process.

Dr. Muro stated the Hearing Officer found that Dr. Okeke fell below the standard of care, and thus committed malpractice, and when it came to the records, he found similarly. Dr. Muro said he believed there was enough information presented to support those findings, and he agrees with the findings.

Dr. Spirtos said he agreed with the Hearing Officer's findings regarding the medical recordkeeping because he thinks it was clear in the record that Dr. Okeke did not review the Prescription Monitoring Program (PMP) website on a regular basis. However, he does not support the finding of malpractice because in his opinion, the expert who testified on behalf of the Investigative Committee was not very solid in her position. Multiple times throughout her testimony, the expert, Dr. Chen indicated that Dr. Okeke's practice was perhaps within the standard; however, her standard was above the standard of care, and there was a large question as to whether or not she was holding him to a standard that was above the normal practice of medicine.

Dr. Muro stated that the finding of malpractice was predicated upon whether Dr. Okeke reviewed the PMP or not, and it was acknowledged that Dr. Okeke had not done so regularly.

Dr. Muro moved that the Board adopt the Hearing Officer's findings regarding Count I, malpractice, and Count II, failure to maintain appropriate medical records. No second to the motion was received, therefore, the motion failed.

Dr. Spirtos moved that the Board adopt the Hearing Officer's findings regarding Count II. Dr. Williams seconded the motion and it passed, with Dr. Muro voting against the motion and all other adjudicating Board members voting in favor of the motion.

Ms. Bradley provided the Investigative Committee's recommendations regarding discipline in the matter. She explained that at that time, Dr. Okeke held an active license that was on probation, so the Investigative Committee's recommendations were being made taking that into account. In September of 2019, Dr. Okeke's license was suspended, the suspension was stayed and Dr. Okeke was placed on probation for two years. He could have come back to the Board in September 2021 to request that the probation be lifted, but he did not do so, so he was still on probation. The Investigative Committee was asking that the probation be extended for two years from today's date, and if Dr. Okeke fails to comply with the terms and conditions of this order, or commits a new violation of the Medical Practice Act during the probationary period, there will be an order to show cause, and if the new allegation is proven, the suspension will go into effect.

Ms. Bradley then provided the terms the Investigative Committee would like to see during the probationary term, including the following. A current term on Dr. Okeke's license is that he has to be accompanied by a chaperone during any and all interactions with female patients. The Investigative Committee would like that term to be continued during the probationary period, for 2 more years. The Investigative Committee would like Dr. Okeke to be monitored by Strategic Management Services, or another monitoring company approved in the reasonable judgment of the Board, with the monitoring company to provide quarterly reports to the Board regarding its review of Dr. Okeke's charts and patient records. The Investigative Committee would like the monitoring company to review 10% of Dr. Okeke's patient charts each quarter, not to exceed fifty charts per quarter, and to provide a report to the Board. At the end of the first year, the monitoring company should review 50 patient charts and provide a report to the Board. The monitoring company will be reviewing all aspects of these patient charts, including legibility and completeness of records, verification of the presence of a chaperone for visits with female patients, and compliance with Nevada law regarding prescribing controlled substances, such as proof of regular PMP queries for each patient. The Investigative Committee would like Dr. Okeke to pay the costs associated with the monitoring. At the end of one year, assuming the reports are satisfactory, Dr. Okeke may come back before the Board and request that the Board remove the monitoring requirement. If the Board removes the monitoring requirement, the

Investigative Committee requests that the chaperone during any and all interactions with female patients remain in place for the duration of the probationary period.

Ms. Bradley said additionally, the Investigative Committee requests that Dr. Okeke receive a public reprimand, reimburse the Board for its costs and expenses incurred in the case, pay a fine of \$2,500.00 within 60 days of the Board's order, and complete 8 hours of CME regarding recordkeeping and documentation and 22 hours in the best practices in prescribing controlled substances, in addition to the required CME for maintenance of licensure. These CME credits are to be completed on or before December 31, 2023. The Board's Order will be reported to the National Practitioner Data Bank, as all Board discipline is.

Mr. Agwara said that if the Board was inclined to impose CME upon Dr. Okeke, it should take into consideration the 41 hours of CME that he had already taken, and that he didn't see the need to continue the probation.

Ms. Bradley stated that the terms the Investigative Committee was requesting were the same as what were currently in place. The only difference was a change to the monitoring company to Strategic Management Services or a different company. Dr. Okeke was currently supposed to be monitored by Affiliated Monitors. She also clarified the chart review because in the previous Settlement Agreement, it said that he was to be monitored, but didn't speak to the number of charts or other specifics. As far as the CMEs Dr. Okeke had taken, if the Board was going to give him credit for any of those as part of his discipline, he should have to take additional hours, because he is already required to take 40 hours every 2 years.

Ms. Bradley restated the Investigative Committee's recommendations regarding disciplinary action.

Dr. Williams moved that the Board adopt the Investigative Committee's recommendations regarding disciplinary action in the case. Ms. Beal seconded the motion.

Dr. Muro stated that some of the CMEs recommended by the Investigative Committee were not consistent with the Board's findings.

Discussion ensued regarding the CMEs recommended by the Investigative Committee and the specifics of the monitoring.

Ms. Bradley said the Investigative Committee had not added any terms that weren't in the original agreement in 2019, with the exception of the fine and the CMEs.

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

Ms. Long asked Dr. Okeke whether he had objections to any of the costs or fees.

Mr. Agwara said the costs and fees were very high. Since the Board found on one count, but not on the other count, the costs should at least be reduced by half.

Ms. Bradley described the items included in the Memorandum of Costs and Fees.



Dr. Muro moved that the Board modify the costs to a reduced sum of \$10,000.00, given what the Board found, because they were actually incurred and were necessary and reasonable, to be paid within 90 days of the Board's order. Dr. Spirtos seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 9

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. MATTHEW OBIM OKEKE, M.D.*, BME CASE NO. 21-22461-1, 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. Spirtos moved that the Board authorize Board counsel to defend the Board's findings, conclusions, orders and actions in this matter. Dr. Williams seconded the motion and it passed unanimously.

Agenda Item 10

CONSIDERATION OF REQUEST OF KENT ALAN SWAINE, M.D., FOR REMOVAL OF PRECEPTORSHIP CONDITION ON HIS MEDICAL LICENSE

Dr. Swaine was present with his legal counsel, Maria Nutile, Esq.

Ms. Nutile stated that it was just over 30 days ago that Dr. Swaine found out that his preceptor would not be able to continue to preceptor him because he was leaving his place of employment at CrossRoads. She explained that Dr. Swaine appeared before the Board a year ago and the Board granted him a license with two conditions. One condition was that Dr. Swaine have a preceptor for a year, pursuant to the preceptorship plan approved by the Board. The other condition was that Dr. Swaine continue in his monitoring program for the next 3 years. Unfortunately, the preceptor the Board approved was unable to serve as his preceptor due to his employer not permitting it, so in March of 2022, Dr. Swaine appeared before the Board with Dr. Saran, and the Board approved Dr. Saran as Dr. Swaine's preceptor. Dr. Saran was Dr. Swaine's preceptor at CrossRoads for the last nearly 8 months, and reviewed over 1,000 charts. The exact number of patients Dr. Swaine saw, and the charts Dr. Saran reviewed, was 1,071. They are asking that the Board consider the number of patients Dr. Swaine has seen rather than the length of time, and lift the preceptorship condition short of a year. To find another preceptor for Dr. Swaine would probably take at least a year because when you have a history of issues in the past, it is very difficult to find someone willing to serve as your preceptor.

Dr. Swaine said he knew it was asking a lot for the Board to lift the condition early.

Dr. Williams said he thought Dr. Swaine has more than shown he has gone through the necessary changes, and monitoring of over 1,000 charts was well above what was required, and was commendable, so he saw no reason not to lift the condition.

Ms. Beal asked Dr. Swaine what position CrossRoads had offered him.

John Seeland, J.D., MBA, MHA, CMPE, Chief Operating with CrossRoads of Southern Nevada, stated they were offering Dr. Swaine a full-time position, as the patients love him and they can hardly do without him.

Mr. Wade said he thought Dr. Swaine has more than met the intent of the preceptorship.

Ms. Beal moved that the Board lift the preceptorship condition. Mr. Wade seconded the motion and it passed unanimously.

## Agenda Item II

### REPORTS

#### (a) Investigative Committees

Dr. Frey said he wanted to recognize his team, including Mr. Wade and Dr. Williams, as well as Ms. Bradley and Mr. Diaz and their teams, for their hard work. He then reported that at its November 18, 2022 meeting, Investigative Committee A considered 134 cases. Of those, the Committee authorized the filing of a formal complaint in 19 cases, sent 26 cases out for peer review, requested an appearance in 8 cases, issued 25 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 54 cases.

Dr. Muro reported that at its November 9, 2022 meeting, Investigative Committee B considered 97 cases. Of those, the Committee authorized the filing of a formal complaint in 4 cases, sent 12 cases out for peer review, requested an appearance in 4 cases, issued 22 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 54 cases. Dr. Muro said he wanted to echo Dr. Frey's comments and thank the Investigative Committee members, as well as the staff for providing all the information very timely and in a concise manner.

Dr. Nagy reported that at its November 10, 2022 meeting, Investigative Committee C considered 71 cases. Of those, the Committee authorized the filing of a formal complaint in 8 cases, sent 13 cases out for peer review, requested no appearances, issued 26 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 23 cases. Dr. Nagy said he also wanted to echo Dr. Frey's and Dr. Muro's comments and thank the Investigative Committee members and staff.

#### (b) Nevada State Medical Association

Dr. Frey stated that Jaron Hildebrand had tendered his resignation to the Nevada State Medical Association, and there was an active search ongoing for his replacement.

Ms. Bradley said she had spoken with Mr. Hildebrand the previous day, who said they had a plan in place and the Office Manager would become the Interim Executive Director.

#### (c) Clark County Medical Society

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.

Dr. Nagy said he wanted to take note of the research fair CCMS is hosting on January 28, 2023, and commend them on their efforts to improve the quality of healthcare in the State.

(d) Washoe County Medical Society

No report was provided at the meeting.

(e) Nevada Academy of Physician Assistants

Ashley M. Cole, MSPAS, PA-C, President of the Nevada Academy of Physician Assistants (NAPA), reported that NAPA had held a membership drive during National Physician Assistant Week in October and was able to triple its membership for the coming year. As they go forward, they want to work very closely with the Board and other medical associations to close the gaps in access and ensure quality care for all patients in Nevada.

Agenda Item 12

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KATRINA NICOLE HASLETT, M.D.*, BME CASE NO. 21-34045-1

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

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

Dr. Frey moved that the Board approve the proposed Settlement Agreement. Mr. Wade 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. MICHAEL SCOTT MALL, M.D.*, BME CASE NOS. 22-8666-1, 22-8666-2 AND 22-8666-3

This matter was not discussed at the meeting.

Agenda Item 14

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ZIAD AHMED SAWI, M.D.*, BME CASE NO. 22-28048-1

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

Mr. White stated a formal Complaint had been filed against Dr. Sawi alleging two violations of the Nevada Medical Practice Act, and outlined 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 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. HAMID SHAKERI, M.D., BME CASE NO. 22-20775-1

This matter was not discussed at the meeting.

Agenda Item 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. AJUMOBI CHARLES AGU, M.D., BME CASE NO. 22-12518-1

Dr. Ahsan joined the meeting at 10:30 a.m.

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

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

Ms. Beal moved that the Board approve the proposed Settlement Agreement. Dr. Spiros 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. FRANK VICTOR RUECKL, M.D., BME CASE NO. 22-6386-1

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

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

Mr. Wade moved that the Board approve the proposed Settlement Agreement. Dr. Williams seconded the motion and it passed, with Dr. Nagy abstaining and all other 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. GEORGE DAISUKE MOMII, M.D., BME CASE NO. 22-7395-1

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

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

Mr. Wade moved that the Board accept the proposed Settlement Agreement. Dr. Williams seconded the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Dr. Ahsan left the meeting at 10:35 a.m.

Agenda Item 19

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARK TAYLOR, M.D.*, BME CASE NO. 22-24456-1

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

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

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

Agenda Item 20

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that between September 14, 2022, and November 29, 2022, the Investigations Division received a total of 278 complaints. Of those, 123 cases were opened as formal investigations, 86 were not within the Board's jurisdiction, 44 were referred to other agencies and regulatory bodies, 19 were resolved through proactive measures, and 6 were either duplicate complaints or are still pending review. The case count for 7 Investigators, the Chief and 2 Deputy Chiefs was an average of 60 cases per Investigator. Several years ago, the average was about 120, so the Division has done a good job of reducing the case count per Investigator. There were a total of 171 peer reviews, 89 of which had been assigned and 82 of which were pending assignment to a peer reviewer, plus 1 psychosexual evaluation, and there were 26 licensees in compliance/diversion programs that the Board was monitoring.

(b) Quarterly Compliance Report

Ms. Jenkins reported that for the third quarter of 2022, the total amount in collections was \$45,951.66, a total of eight files. The total costs outstanding were \$80,291.67, total fines outstanding were \$78,408.79, and total costs collected during the quarter were \$48,376.25.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the third quarter of 2022. The Board's total current assets were \$6 million, total assets were \$11.7 million, and total current liabilities were \$4 million. The net income figure represents a year-to-date change in net position, which shows a total of \$423,000.00 that was added to the Board's reserves for the year-to-date through September 30, 2022. The Board is currently using the Legislative Counsel Bureau's recommendation for figuring its reserves, which are just above five months.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the third quarter of 2022. The Board's income for the quarter was 5% above budget, a total of \$1.4 million. The Board's personnel expenses were 97.2% of budget, and the total expenses were 3.1% over budget. There was a negative net position for the quarter of nearly \$34,000, but that was better than was projected, and was better than budget by \$23,000.

Ms. Beal commended the staff on the Board's reserves.

Ms. Arias-Petrel commended Ms. Jenkins for all of her hard work.

#### (d) Legal Division Report

Ms. Bradley reported that in the third quarter, the Legal Division filed 8 new formal complaints and 6 first amended complaints, and there were 130 cases that were pending the filing of a formal complaint. During the quarter, 1 order, 1 motion and 8 prehearing statements were filed, there was 1 case pending in the District Court, 2 hearings were held on formal complaints, and 80 letters of concern were sent out. Thirteen cases were disposed of during the quarter, 6 through settlement agreements, 2 through adjudication and 5 through reconsideration by the Investigative Committees.

#### Agenda Item 21

##### LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status  
Approved Since the September 16, 2022 Board Meeting

Dr. Frey moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the September 16, 2022 Board Meeting. Mr. Wade seconded the motion and it passed unanimously.

#### Agenda Item 22

##### APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

#### (a) Michael Allan Koning, M.D.

Dr. Koning was present with his legal counsel, Maria Nutile, Esq.

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

Dr. Williams moved that the Board go into closed session pursuant to NRS 241.030 to consider the character, alleged misconduct, professional competence or physical and mental health of Dr. Koning. Dr. Muro seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Williams asked Dr. Koning what he planned to do if granted a license to practice medicine in the State of Nevada.

Dr. Koning said he is interested in practicing in Las Vegas.

Dr. Williams stated there is a shortage of anesthesiologists in Nevada.

Dr. Frey moved that the Board grant Dr. Koning's application for licensure. Dr. Spirtos seconded the motion and it passed unanimously.

**(b) James Edward Lowery Jr., CRT**

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

Dr. Williams moved that the Board go into closed session pursuant to NRS 241.030 to consider the character, alleged misconduct, professional competence or physical and mental health of Mr. Lowery. Dr. Muro seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Muro stated he had concerns regarding the truthfulness of Mr. Lowery's answers provided in his statements because they don't compare with the other information the Board has. He sees Mr. Lowery's leaving the State of California as an attempt to evade accountability and ownership for events that occurred. The lack of consistent truthful answers that don't require supporting documents is also very concerning. He thinks it is at best disingenuous, but a willful attempt to deceive is also something he thinks might be in play here.

Mr. Lowery said he really wasn't trying to hide anything.

Dr. Muro moved that the Board deny Mr. Lowery's application for licensure. Dr. Frey seconded the motion and it passed unanimously.

**(c) Debra Lee Weinstein, M.D.**

Dr. Nagy asked Dr. Weinstein 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 explained that Dr. Weinstein was applying for licensure by endorsement and that licensure by endorsement is generally reserved for those who bring a special skill set the State is lacking or something that will add to the care of patients in the State. He stated Dr. Weinstein's last major exam was in 1990, for board certification in Internal Medicine, and that she was not currently board certified.

Dr. Muro asked Dr. Weinstein what she planned to do if granted a license to practice medicine in the State of Nevada.

Dr. Weinstein stated she works for an organization that operationalizes clinical research trials virtually, through telemedicine, and they do so with patients in all 50 states. She is currently expanding her licensure in order to see patients in the context of these clinical trials only.

Dr. Muro said he doesn't think Dr. Weinstein meets the criteria for licensure by endorsement and is concerned that she hasn't taken a major examination in a very significant amount of time. He suggested that she could take the Special Purpose Examination (SPEX), which would qualify her to apply for licensure under the normal pathway.

Dr. Spirtos asked Dr. Weinstein who in her organization is currently recruiting patients on protocol in Nevada, and how many Nevada patients they have put on protocol.

Dr. Weinstein stated that physicians in her organization who are licensed in Nevada are handling the recruiting in Nevada, but she couldn't say how many patients from Nevada they have in their studies or how many protocols are open in Nevada.

Dr. Muro moved that the Board not grant Dr. Weinstein a license by endorsement. Dr. Spirtos seconded the motion and it passed unanimously.

#### Agenda Item 23

#### PERSONNEL

##### - Annual Performance Evaluation of Executive Director

Dr. Nagy stated he had requested input from the Board members regarding Mr. Cousineau's performance, and had provided that to the Board members for review. He said Mr. Cousineau has been with the Board for 19 years, and has been the Executive Director for 8 years. Mr. Cousineau takes great pride in his commitment to protect the people of the State of Nevada and to improving healthcare in Nevada. During the period of time Dr. Nagy has been with the Board, the State has witnessed an increase in the number of physicians and, thus, the number of complaints. The Board has dealt with the opioid crisis and found ways to help physicians to amend their practices in a rapid fashion to reduce the number of opioid-related deaths from physician prescriptions. It has dealt with the COVID-19 crisis and found a way to allow physicians in the State to practice in a way that is consistent with their beliefs while still protecting the public. The staff has dramatically reduced the backlog of complaints. Mr. Cousineau has increased the staff in the Licensing Division and has brought the Board into participation in the IMLC, which have improved the speed with which licensing is accomplished. He has brought in new staff in the Investigations and Legal Divisions who are strikingly competent and appear to have a very high degree of integrity, which is quite impressive given the financial limitations of the Board. He has continued to maintain the financial solvency of the Board and has an unwavering commitment to ethics and the mission of the Board. Dr. Nagy stated it is his hope that over the next few years, Mr. Cousineau will continue to provide the excellent leadership that he has so far as the Board navigates the new challenges that face the State of Nevada, and then he provided examples of some of these challenges.

Dr. Muro said he thinks Mr. Cousineau has, through his careful stewardship and guidance, maintained staff in all the departments who have done an exemplary job of keeping the Board in a very sound financial position. Additionally, the fact that Mr. Cousineau and Ms. Daniels have given the Board representation on a national level is a reflection of them personally, as well as their work and dedication. They have served this Board and the citizens of the State extremely well. He thinks the challenges which Dr. Nagy has outlined have been met, and will continue to be met.

Ms. Arias-Petrel said in the time she has been with the Board, she has admired Mr. Cousineau's leadership and everything he has accomplished. For those who think it is an easy job, it is not. He is a hard worker, and is a great team leader, and the team appreciates him for his guidance and all that he does.

Ms. Arias-Petrel moved that the Board accept the Annual Performance Evaluation of the Executive Director. Dr. Nagy seconded the motion, and it passed unanimously.



CONSIDERATION AND ADOPTION OF BUDGET FOR CALENDAR YEAR 2023, TO INCLUDE ANY POTENTIAL STAFF SALARY INCREASES

Ms. Jenkins outlined the proposed budget for calendar year 2023. She explained that when discussing the budget, we use five-years of actual numbers and previous budgeted numbers as we decide on each of the figures. In the income section, we are using a 6% growth model, which has served the Board well for the last five years. That is how we determined the numbers that are in the income section, for a projected total income of \$6,098,400.00.

Ms. Jenkins then outlined the expenses. She stated in the personnel section, we are proposing to add four new positions to our staff – two in Legal, one in Investigations and one in Licensing. Additionally, we are proposing to provide to our employees a 1% cost-of-living increase and up to a 3% merit increase based on performance. Of course, we will abide by the salary limits that are recommended by the Governor's Office of Finance as we determine those amounts. In addition, we are proposing to add an additional \$2,000.00 a year to all of our current Administrative Assistants' salaries. The objective of this across-the-board raise is to increase the starting wage we use for hiring new Administrative Assistants. We are also proposing an increase of \$3,000.00 a year for all of the License Specialists for the same purpose. This will continue to keep our License Specialists within a range that has been approved by the Board.

Ms. Jenkins then outlined the operating expenses section. She stated in this section we use either the same number as the previous year's budget, the actual for our last renewal year, or the actual budget from the previous year, and in this comparison, we use a like year. So, because next year is going to be a licensing renewal year, we used the numbers from the last renewal year. We did add some projections in Number 531, in Investigations, which is our peer review expenses. We added an additional \$136,000.00 from our previous year in this section because of the trend in numbers we have had in our year to date. In the financials we presented for the third quarter, we were over budget by \$60,000.00 in that area, and we follow our budgets very carefully, so we added the additional \$136,000.00 to that expense. Number 548, the depreciation, includes \$50,000.00 in information technology purchases. The reason these lie in the depreciation section is because they are considered fixed assets, so the only expense incurred there on our profit and loss will be in depreciation. We are also recommending an additional \$30,000.00 under Number 558, which is web hosting fees. This is the money we spend on our current licensing software. The Board has been using the system for two years, and it is much improved, but still needs improvements, and there are things we would like to do with the system that will better serve the public. This addition will facilitate those improvements in the current system. The total operating numbers are \$1,402,700.00, with total expenses of \$5,982.00 and a projected increase in net position of \$127,000.00. Based on the current growth of the Board's licensee base, she expects in the coming year the Board will perform well with these numbers, that we will stick to our budget and we will increase our reserves. The Board's reserve policy is that we will endeavor for 6 months to 12 months in reserves.

Ms. Jenkins said there is a possibility, as we watch the legislation coming out in the next session, that we will see some changes in the State with salaries and salary ranges. If that occurs, staff would like the Board to know that we will come back to the Board in June or September to possibly increase the Board's salary ranges, and if the amount is significant, even to amend the budget, if necessary, in order to improve the pay that is available to the staff.

Mr. Cousineau said that every legislative session, there is a pay bill, and we are anticipating an uptick in the pay for State employees this session. As everyone is aware, it is getting more and more difficult to employ people. About four years ago, the Board adopted salary ranges for its various positions that were basically akin to other positions in State government, and those are still in place. We believe there may potentially be a modification to those positions and we will conduct a re-review of the Board's positions that rely upon those salary ranges. There may be a monetary cost attached that wasn't budgeted, and we may need to come back to the Board in September to not only ask for approval for modification of salary ranges, but also to approve additional monies that were not expected based on those adjustments. He thinks we all agree we want to pay our people well, as it is difficult to keep good people.

Dr. Frey asked about the projected growth in the licensee base.

Mr. Cousineau said the projected growth is 6%, which is the same that was projected last year. However, last year it ended up being about 8%. It is nice if it is more, because we don't have to come back to the Board to request some kind of adjustment.

Dr. Muro asked whether the IMLC had significantly added to the number of licensees.

Mr. Cousineau said approximately 40% to 45% of new applicants were now applying through the IMLC. The vast number of them are not coming to the State, but are being licensed to practice telemedicine.

Dr. Muro moved that the Board adopt the budget as proposed. Dr. Spirtos seconded the motion, and it passed unanimously.

#### Agenda Item 25

#### STAFF COMMENTS/UPDATES

Mr. Cousineau said that, at Dr. Nagy's request, he planned to set up a telephonic Board meeting, to discuss a few matters. Most importantly, he would like to do this sometime in mid to late January, prior to the commencement of the 2023 Legislative Session, as one item will be to set up a subcommittee to contemplate BDRs and legislative matters that come before the Board between Board meetings. The subcommittee will be empowered to meet regularly and review those BDRs that are relevant to the activities of the Board, which will allow the Board to testify and comment on a more effective basis. He suggested this to the Board's lobbyists and they thought it would be a great idea. There are a few other committees Dr. Nagy might consider empaneling as well. Creation of these subcommittees needs to be agendaized and contemplated in an open Board meeting. He said he appreciates the fact that Dr. Nagy suggested this.

Mr. Cousineau said he wanted to remind everyone that this is Ms. Daniels' last Board meeting. She has been the Board's Chief of Licensing for almost 20 years, and has been an employee of the Board for almost 22 years. She is retiring in early February and it goes without saying it is a tremendous loss. He is so thankful for all of his senior staff and so thankful for the last 8 years to have had Ms. Daniels' assistance with his and the Board's efforts in Licensing. She knows she will be missed and knows that he appreciates her, but he wanted to make sure that is part of the record. He asked for a round of applause for Ms. Daniels.

Ms. Daniels said it goes without saying that it is hard to leave. She said it has been such an honor and a privilege to have been a public servant for the Board for nearly 22 years. This is a difficult job, and thanked Ms. Arias-Petrel for recognizing that. She is currently the longest running employee of the Board, and has worked for 5 Executive Directors during her time with the Board. The first was Larry Lessly, who had such faith in her and promoted her to Chief of Licensing. She said she would be forever grateful to him. Being the Executive Director is not an easy job; there are a lot of moving parts and people are always throwing curves your way, and for the past 8 years, it has been amazing to watch Mr. Cousineau navigate all of those items, and he has done so with strength and grace, and she appreciates all of the support he has given her. She thanked all of her team members for all of their hard work and for always stepping up to do the job. She said she could not do what she does without her team, appreciates each and every one of them for all that they do, is so grateful they are in her life and she is proud to be their leader. She acknowledged and commended all of the efforts and hard work of Ms. Bradley, Ms. Jenkins, Ms. Munson, Mr. Diaz and his team, Senior Investigator Don Andreas and former Senior Investigator Kim Friedman in particular. She said a person doesn't get to a moment like this alone, and she is thankful to each and every one for being on this journey with her. She thanked the Board for allowing her to be a public servant for the last nearly 22 years, and said she wished them all the luck in the world.

Dr. Muro said the aforementioned subcommittees are a new concept, and feels they will assist the Board in accomplishing its goals.

Dr. Nagy said it was really impressive when attending the FSMB meetings to hear Ms. Daniels speak because her knowledge of the licensing process in Nevada is encyclopedic, and it seems it is also so for a lot of other states. That by itself is impressive. Then there is her level of preparation. Whenever there is a question about a particular applicant, or almost any other applicant, she has the answers immediately. She is so well prepared and has so much knowledge, and it is truly very impressive. He thanked Ms. Daniels for all of the hard work she has put in on behalf of the Board.

Dr. Muro said today's meeting was an example of everything Dr. Nagy just described. He said, as a Board member, it has been extremely helpful, and he thanked Ms. Daniels.

Agenda Item 26  
PUBLIC COMMENT

Dr. Nagy asked whether there was anyone in attendance who would like to present public comment.

Weldon Havins, M.D., J.D., said he absolutely concurred with the increase in salaries for Board staff, as it is difficult to keep good people because there are other options. He thought the Board might want to consider raising the registration fees for physicians back to the previous amount of \$800.00, from the current amount of \$750.00, as the increase would not make a lot of difference to those licensees but would make a huge difference to the Board in income.

Agenda Item 27  
ADJOURNMENT

Dr. Nagy adjourned the meeting at 12:54 p.m.

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