

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 * * ***

LEGISLATIVE SUBCOMMITTEE MEETING

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

and teleconferenced 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, MARCH 10, 2023– 12:00 p.m.

Subcommittee Members Present

Victor M. Muro, M.D.
Aury Nagy, M.D.
Ms. Maggie Arias-Petrel
Col. Eric D. Wade, USAF (Ret.)
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

Subcommittee Members Absent

None

Staff/Others Present

Sarah A. Bradley, J.D., MBA, *Deputy Executive Director*

Mercedes Fuentes, *Legal Assistant*

Kory Linn, *Chief of Licensing*

Tom Clark, *Lobbyist*

Keith Lee, *Lobbyist*

Henna Rasul, *Senior Deputy Attorney General*

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by Ms. Bradley at 12:01 p.m.

Ms. Bradley took roll call, and all Subcommittee members were present. Ms. Bradley 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. Dr. Weldon Havins, M.D. was present in the Las Vegas office and provided comment on that there was a hearing yesterday on SB204 and it is recorded and available on YouTube and encourages the Subcommittee to watch it, as there are changes to licensing that the Subcommittee should be aware of.

Ms. Bradley stated that members of the public were in attendance in the Reno office, however there was no public comment.

Agenda Item 3

ELECTION OF SUBCOMMITTEE CHAIR

Dr. Nagy accepted nominations for the Subcommittee Chair position. Dr. Muro nominated himself. Dr. Spirtos also nominated Dr. Muro. There were no other nominations.

Dr. Spirtos moved to elect Dr. Muro as Subcommittee chair and the motion passed, with all Subcommittee members voting in favor of the motion.

Agenda Item 4

REVIEW AND DISCUSSION OF BILLS

Dr. Muro indicated he would like Ms. Bradley to state a synopsis of each bill and then the Subcommittee members, after discussion, will move to take a position on the bill either in support, in opposition, or take a neutral or no position on each bill.

a. AB108

Ms. Bradley stated that bill AB108 is a nurse licensure compact. This bill is more informational because it deals with nurses and not the Board's licensees. However, this does affect the medical community and the Board may be in favor of its passing due to the positive experience the Board has received with the Interstate Medical Licensure Compact (IMLC). Ms. Bradley stated that this bill proposes something similar to the IMLC but for nurses instead. Further, Ms. Bradley said that perhaps the Board could share with other interested parties how the licensure compact speeds up the process for licensing and the positive our board has experienced with it.

Dr. Spirtos stated he was in support of this bill, especially considering staffing shortages. Dr. Nagy supported Dr. Spirtos' comments. Dr. Muro further agreed with Dr. Spirtos and added that this would provide effective care and support and would be helpful to the medical community.

Dr. Spirtos moved to support AB108, Col. Wade seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

b. AB11

Ms. Bradley stated that bill AB11 is from the Patient Protection Commission and prohibits hospitals in Nevada from employing physicians directly, but they are able to employ residents. Though the underlying issue was not clear, this bill proposes that all physicians working in hospitals would have to be contractors and not employees of the hospital. Ms. Bradley is also unsure if and how this may affect the practice of medicine for physicians or how it may affect the Board.

Ms. Arias-Petrel asked who introduced the bill. Ms. Bradley answered that it is from the Patient Protection Commission, but again it has not been made clear why the bill was initiated or what issue it solves. Ms. Arias-Petrel stated she would like more information on the background of the bill.

Mr. Lee mentioned he is willing to review the minutes of the Patient Protection Commission meetings and see if he can determine what caused the initiation of the bill. Mr. Clark added that the Patient Protection Commission was created last session under Governor Sisolak and is part of the Department of Health and Human Services. The Commission was originally composed of doctors and representatives from hospitals and insurance companies but was changed in 2021. Currently, there's much less medical representation on the Commission than there used to be. He further stated that if there is a hearing on this bill, he will get back to the Subcommittee and provide more information.

Dr. Nagy voiced that he is indifferent to the proposed bill and does not see the advantage of its passing and that it creates a restriction on the freedom of how businesses operate.

Dr. Muro agreed with Dr. Nagy's comments and added that there is nothing positive that would come from passing this bill.

Dr. Spirtos moved to oppose AB11, Col. Wade seconded the motion. Discussion was had, and Dr. Nagy made a separate motion not to take a position on this bill and remain indifferent. Dr. Spirtos withdrew his motion. Dr. Nagy reiterated his motion to remain indifferent on AB11, Col. Wade seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

c. AB120

Ms. Bradley explained that bill AB120 removes the requirement for continuous practice for providers of voluntary healthcare services in Nevada. The current requirement is three years of continuous practice. The Board already has a special volunteer license under NRS 630.258, and the Board does not charge a fee for this license. The license is good for one year and the Board vets the physician before it is issued. Ms. Bradley stated that this bill should not affect the Board if it stays written as it is. However if the language changes, specifically the part stating “notwithstanding other provisions” it could potentially affect the Board and she wanted to ensure the Subcommittee was fully apprised of this issue with the bill.

Mr. Clark added there is a lot of support for this bill and that it is primarily aimed towards dentists.

Dr. Muro asked if this bill provides any benefit to patients or affects our Board. Ms. Bradley reiterated that this bill, if left as is, will not affect the Board’s licensees because NRS 630.258 is already in place for special volunteer licensure. However if this bill changes in any way, it could affect the Board’s handling of voluntary licenses under that statute. Ms. Bradley wanted to apprise the Subcommittee the existence of the bill and suggested monitoring it for any changes.

Ms. Arias-Petrel moved to oppose AB120, Dr. Spirtos seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

d. AB158

Ms. Bradley stated that bill AB158 is an Adopting Emergency Medical Services Personnel Licensure Interstate Compact. It authorizes recognition of the registration or certification of emergency medical technicians, advanced emergency medical technicians, and paramedics from other states in Nevada. It is intended to facilitate movement of emergency medical personnel between states.

Mr. Clark stated that this bill was part of the last legislative session, however there was no hearing on it due to the pandemic. Paramedic care is struggling, and this bill allows paramedics and EMTs to achieve licensure more quickly than the current six to eight months, which is especially important in rural areas.

Dr. Nagy said he felt it reasonable to offer support for this bill. Dr. Muro agreed with Dr. Nagy and said that this would offer additional support for shortages.

Dr. Nagy moved to support AB158, Dr. Spirtos seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

e. AB196

Ms. Bradley explained that bill AB196 would allow vials of fillers to be used for more than one injection and on more than one patient. She believes this is against the FDA's recommendations based on her research and brings safety concerns for patients.

Dr. Muro asked if the FDA designates these vials as single use and this bill proposes multiple use on multiple patients. Ms. Bradley confirmed that the FDA designates vials of fillers to be for single use and this bill would allow multiple uses on multiple patients.

Dr. Spirtos stated that he opposes this bill as it creates a risk of accidents and/or possible abuse and brings forward safety concerns. Further there would have to be a modification and addition of procedures for using one vial on multiple patients.

Ms. Arias-Petrel agreed that there are no positive outcomes from this bill and that it is dangerous.

Col. Wade moved to oppose AB196, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

f. AB198

Ms. Bradley stated that bill AB198 enacts the Uniform Telehealth Act and would make major changes to the current telehealth provisions. This bill allows individuals not licensed in Nevada to provide healthcare services to Nevada patients via telemedicine if those individuals register with the appropriate licensing board and pay a fee to that board. Individuals must still meet the standard of care for the healthcare services provided. Nevada licensees could also supervise the non-Nevada licensees registered under this Act. Supervising physicians licensed in Nevada could supervise PAs licensed in another state but registered in Nevada. The license in the other state must be active, unrestricted, and substantially equivalent to a Nevada license, with no pending investigations or discipline in the other state. They are not allowed to have discipline at all in the preceding five years and any discipline in any other state must not be grounds for denying licensure here. They must also consent to personal jurisdiction in Nevada for complaints and investigations by the Board, appoint a registered agent in Nevada regarding medical services provided in Nevada, and must have professional liability insurance. This would eliminate the Board's special purpose license under NRS 630.261(1)(e), which is currently in place for telemedicine practice and replaces that special purpose license with the registration created by this bill.

Dr. Muro stated that this bill appears convoluted with potential gaps and replaces something that the Board has in place for telemedicine needs.

Dr. Nagy voiced concern that this bill would restrict the authority of the Board to make changes to its own regulations and is opposed to this bill.

Mr. Lee added that there are no co-sponsors and that he had a meeting with the Uniform Law Commissioner's Office. That Office has legislators from every state on it, and this bill is being advanced by that Office in order to have a form of common law and uniform law between all states regarding telemedicine. This bill is currently not set for hearing.

Dr. Spirtos stated that he would be concerned if individuals seeking to do telehealth medicine do not have to go through the licensing requirements of each state, then the standard that boards expect is not being met.

Dr. Spirtos moved to oppose AB198, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

g. AB45

Ms. Bradley provided that bill AB45 would allow for a student loan repayment program for healthcare providers in underserved areas and the program would be created by the State Treasurer's office. The Board might want to support it given the large number of rural areas in Nevada. Additionally, in disciplinary matters, instead of fines imposed going to the general fund, they could go towards this student loan repayment program. Dr. Frey has voiced his desire for fines to go towards the improvement of healthcare in Nevada and this seems like a possible fit for that goal.

Mr. Clark added that this bill has gone through two hearings. This bill is looking to expand the number of providers that are in the State of Nevada. Mr. Lee added that he was at the hearing for this bill, and it received a great deal of support with no opposition. Further, there might be some tweaking of language of the bill as some questions were raised that if the physician attended an out-of-state university but is going to be practicing in Nevada, if this would still apply to them.

Dr. Spirtos stated that he believes that this would be a good way to provide support for rural areas that need it.

Dr. Nagy moved to support AB45, Dr. Spirtos seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

h. AB7

Ms. Bradley advised that bill AB7 has to do with healthcare records and stated that as long as a healthcare provider uses reasonable care and submits electronic records through the health information exchange, or access something from the health information exchange, that there would not be any civil or criminal liability for them, and this would also ease the burden of patients gaining access to their records.

Dr. Spirtos stated that he believes this bill is helpful so patients can get their records and give physicians some relief of liability in managing healthcare records. So, he asserts that the Board should be in support of the bill. Dr. Muro agreed with Dr. Spirtos' comments as this furthers the exchange of information between patients and providers.

Dr. Nagy agreed that improving access to imaging improves the quality of care and helps with quick diagnoses. Ms. Arias-Petrel agreed with Dr. Nagy that this would create a better outcome in healthcare.

Ms. Arias-Petrel moved to support AB7, Dr. Nagy seconded the motion. Discussion ensued from Dr. Spirtos asking if there could be any amendments made to the language. Mr. Clark answered

that if the bill does go to hearing then we would have the opportunity to make amendments if necessary. The motion passed with all Subcommittee members voting in favor of the motion.

i. SB120

Ms. Bradley stated that bill SB120 changes the type of services that advanced esthetic personnel can perform. This bill allows for advanced estheticians to perform more invasive procedures. Currently they cannot perform any procedures that go below the surface of the skin. This bill would allow them to perform certain procedures where they do go under the surface of the skin, such as platelet rich plasma and micro needling. It also proposed that these estheticians can be supervised by a physician or physician assistant up to 60 miles away, but they do not have to be on-site. She further added that there might be safety concerns with these changes.

Dr. Spirtos voiced concern if this would include the use of lasers and without the supervision of an on-site physician and believes this would not be appropriate.

Dr. Muro agreed that the lack of specificity and on-site supervision can create problems and the layers of distance being created is concerning.

Dr. Nagy asked if the American Association of Dermatologist or plastic surgeons have a position on these issues. Mr. Clark answered that they are opposed to this bill.

Dr. Nagy moved to oppose SB120, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Ms. Bradley added that she will let the Executive Director of the Cosmetology Board know that the Subcommittee has concerns.

j. SB204

Ms. Bradley explained that bill SB204 would allow people that have gone to a foreign medical school, but that have not matched into a residency program, to be licensed in Nevada as an “associate physician” and all associate physicians would be supervised by a physician. Ms. Bradley added that NRS 630.264 currently states that if someone is working in a medically underserved area, they can ask their Board of County Commissioners to waive the requirements for completing their residency. However, they still are required to complete at least one year of residency, instead of the normal three years. This bill would not require any residency at all. Additionally, this bill also lacks specificity regarding “medically underserved areas” as it is using federal language and therefore, as written, is including the *entire* State of Nevada – this would mean associate physicians would be allowed in every city, including larger areas like Reno or Las Vegas because they are still “underserved” areas. From a staff perspective, there was a concern regarding the licensure aspect of this bill, currently all licenses expire June 30 of all odd years, whereas this bill states that the associate physician would be issued an associate physician license for two years, however it would expire two years from the day it was issued, and the licensing division believes that this would be labor intensive to implement using our current software and hard to keep track of for the staff and licensees. Ms. Bradley further added that this bill allows for an associate physician to qualify for full unrestricted licensure after three years. This brings concerns regarding the doctor not completing a residency and the Board not knowing the knowledge or experience the doctor has gained during their time as an associate physician. There are also no fees set forth for these

licenses, which the Board *could* set a fee, however the legislature does not allow the Board to set fees without limits. She also added that in section 7 of the bill, it states the areas of practice that an Associate Physician could work in and that includes OBGYNs and psychiatry, both of which are areas of practice about which the Board receives a substantial number of complaints. There seems to be less strict requirements regarding their supervising physician, as well as some confusing language in section 9(3) regarding discipline. This bill also allows the associate physician to submit their own charts to their supervising physician, which also raises a concern. Section 10(4) also allows 28 days a year with no supervision, this would never be allowed for a physician assistant or resident and there should be some kind of backup. Ms. Bradley also drew attention to section 13 of this bill where it mandates that the Board, in conjunction with medical schools and the Osteopathic Board, create a residency program so that after three years these doctors qualify for full licensure, Ms. Bradley stated that she is not sure what Board's role would be regarding this.

Dr. Spirtos asked if this bill would allow physicians to skip Step 3 of the USMLE. Ms. Bradley confirmed that was correct, the physicians licensed under this bill would not have to take Step 3 or provide proof of completion of a residency program.

Mr. Clark stated that there was a hearing on this bill yesterday, where he testified as neutral on behalf of the Board, since this predated this Subcommittee meeting. He further added that the section regarding residency has been taken out, and there was discussion regarding seven amendments being added to it to clarify the language. He further added that there is an \$80 million fiscal note.

Dr. Spirtos voiced his concerns that this bill would lower requirement mandates, especially excluding Step 3 of the USMLE, and would make no sense with regard to patient safety.

Dr. Muro stated that the purpose of the bill is to help access to providers in medically underserved areas, however he believes it is not helpful if we provide substandard or unqualified providers and that it negates the function of the Board to provide and uphold the integrity of the practice of medicine in the state.

Dr. Nagy stated that this might open avenues where someone could open a foreign medical school in another country that is fraudulent and could issue a doctorate to someone and then they would automatically become licensed here in Nevada.

Col. Wade moved to oppose SB204, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

k. SB22

Ms. Bradley stated that bill SB22 changes the requirements of legal notices regarding service by publication. Ms. Bradley further stated that NRS 630.344 is the Board's statute governing service of process, where the Board must publish a legal notice in the newspaper if the licensee cannot be served personally or by certified mail. Ms. Bradley added that she wanted to make the Subcommittee aware of this bill, because if there were any changes it could affect the Board's current statute and it would need to be updated.

Mr. Clark noted that the bill had a hearing, and an amendment was presented, but is being worked on with the Press Association to get final language for it. Mr. Lee added that this has been an ongoing issue for about 20 years with the technology changes and some newspapers only appearing online or by electronic means.

Col. Wade moved to support SB22, Dr. Muro seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

I. BDR 761

Ms. Bradley stated that this is the Board's bill and will contain the language approved by the full Board at the December 2022 Board meeting. However, there is no language on BDR 761 yet, but that she placed it on the agenda, so that the Subcommittee was aware of it. She further stated that this, once it is a proposed bill, will require that any Board licensee that has any malpractice suit or malpractice payment report that information to the Board and that the insurance company, and the licensee will also need to include the amount that was paid out. NRS Chapter 630 currently only requires physicians to report this information and the law is not specific that the amount of the malpractice payment has to be disclosed with all reports.

Mr. Clark added that there will be some time before there is any hard language as LCB is backed up with bill draft requests.

Agenda Item 5

REVIEW AND DISCUSSION ABOUT INCREASING THE MAXIMUM FINE CHARGED IN DISCIPLINARY ACTIONS PURSUANT TO NRS 630.352(4)(h)

Ms. Bradley stated that the maximum fine in Board disciplinary actions is \$5,000 per violation added in 1985. Ms. Bradley recommended that this amount be revised and offered that perhaps instead it should be \$10,000 per violation, given that that is what many other Boards currently have in place as well as economic changes in the last 30 years.

Dr. Muro stated he is in support if it but asked if this should be discussed at a full Board meeting rather than this Subcommittee. Ms. Bradley replied that if the Board would like, a telephonic Board meeting can be conducted, before the next June 9, 2023, scheduled meeting for discussion of this item. Ms. Rasul confirmed that this would need to be brought before the full Board at a public meeting.

Dr. Spirtos moved to offer support and to bring this agenda item before the full Board during a telephonic board meeting, Dr. Nagy seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Agenda Item 6

REVIEW AND DISCUSSION REGARDING THE DISPOSITION OF FINES COLLECTED BY THE BOARD IN DISCIPLINARY MATTERS PURSUANT TO NRS 630.110(4)(b)

Ms. Bradley stated that this item is similar to Agenda Item 5 and therefore should be presented to the full Board. She further stated that this is regarding possibly redistributing the fines collected from

disciplinary actions from going to the general fund to go elsewhere to support the medical community or improvement of healthcare.

Ms. Arias-Petrel and Dr. Nagy agreed that this is something that should go before the full Board at a scheduled telephonic meeting.

Dr. Spirtos moved to bring this agenda item before the full Board during a telephonic board meeting, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Agenda Item 7
PUBLIC COMMENT

Dr. Muro asked whether there was anyone in attendance who would like to present public comment. There was no public comment received at the Reno Office.

Dr. Havins, in the southern office, noted that he was happy that this Subcommittee was created and happy to see everyone involved and complimented Ms. Bradley for her presentation and work.

Agenda Item 8
ADJOURNMENT

Ms. Bradley discussed with the members when the best time to meet again would be. The Subcommittee members agreed that noon in two weeks was best for everyone.

Col. Wade moved to adjourn the meeting, Dr. Muro seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Dr. Muro adjourned the meeting at 1:55 p.m.

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