

# AGENDA ITEM 3(a)

## APPROVAL OF MINUTES

**MARCH 3, 2023 BOARD MEETING –  
OPEN SESSION**

**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, MARCH 3, 2023 – 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  
William Shogren, J.D., Deputy General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems  
Ernesto Diaz, Chief of Investigations  
Kory Linn, Interim Chief of Licensing  
Rosalie M. 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 Aury Nagy, 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. Nagy 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**

- February 2, 2023 Board Meeting – Open Session

Dr. Ahsan moved that the Board approve the Minutes of the February 2, 2023 Board Meeting – Open Session. Dr. Williams seconded the motion and it passed unanimously.

Agenda Item 4

**LEGISLATIVE UPDATE**

Keith L. Lee, Esq. one of the Board's legislative representatives, stated that he had had the pleasure of serving as the Board's lobbyist for the Board since 2001, and said he appreciated the faith and confidence the Board has shown in him and in the company he is now consulting with, Tom Clark Solutions.

Mr. Lee said they were currently tracking 15 Assembly bills, 5 Senate bills, and there were 10 bill draft requests they had not yet seen. One bill draft request of importance to the Board is its clean-up bill. He said they met with the bill's sponsor, Assemblyman Nguyen, the previous day, and he had not yet seen the language of the bill draft. Once he sees the language, he will let them look at it before the bill is introduced to make sure it says what the Board wants it to. If it doesn't, the Board will have the

ability, through Assemblyman Nguyen, to change the language to bring it in line with what the Board is trying to accomplish.

Dr. Spirtos asked Mr. Lee for his opinion regarding which bills they are tracking that are of most interest or concern to them, and therefore, to the Board.

Mr. Lee said there is AB 198, that deals with telehealth. It is a fairly complicated bill, and they have been reviewing it and talking with the sponsor to determine how it fits. Additionally, Senate Bill 204 was introduced the previous day, which deals with licensure of foreign medical graduates and several other things. There are several bills that deal with boards and commissions, and they follow those even though they may not reflect on the Board of Medical Examiners. They always pay attention to any bills that talk about public meetings, public notice, the Open Meeting Law, and general administrative responsibilities of boards and commissions. The two they are currently following most closely are AB 198 and SB 204.

#### Agenda Item 5

#### ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. OSAMA OMAR HAIKAL, M.D.*, BME CASE NO. 22-9436-1

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

Ms. Bordelove said she wanted to confirm that all adjudicating Board members had received and reviewed the materials regarding the matter, and stated the evidentiary standard is preponderance of the evidence. She then provided procedural instruction regarding the adjudication process.

Ms. Bordelove asked whether Dr. Haikal was present.

Mr. White explained that Dr. Haikal was not present due to religious reasons. He was going to send a written statement for someone to read with regard to his recommendations for discipline, should the Board find a violation, but Mr. White had not received it.

Ms. Bordelove asked whether Dr. Haikal had acknowledged that he was properly served or whether Mr. White was looking to treat the matter in any way as a default.

Mr. White stated he was not treating the matter as a default. He had communicated with Dr. Haikal via email, and they had set up a time to talk about the statement Dr. Haikal was going to write, so Dr. Haikal acknowledged that he was aware of the Board meeting and that the Board would be adjudicating the matter.

Ms. Bordelove stated she was comfortable proceeding with that.

Dr. Williams moved that the Board support the recommendations of the Hearing Officer. Dr. Frey seconded the motion.

Dr. Williams said he finds it very concerning that Dr. Haikal did not comply with a request of the Board. There are six physicians on the Board, and all of them have patients and very busy practices, and yet they take the time to fulfill their responsibilities to the Board as physicians, so he looks at this as kind of a slap in the face.

Dr. Frey concurred with Dr. Williams. He said that physicians and other licensees of the Board serve at the pleasure of the people, and that is something that should not be taken lightly. This physician had a wanton disregard for this process and, in his opinion, has therefore given up a lot of his privilege to continue to practice in this state.

Mr. Wade stated that the Investigative Committee sent Dr. Haikal an order to appear and he had a couple of months to rearrange his schedule, but he refused to do so, and also claimed the Investigative Committee's refusal to accommodate him was some sort of abuse of power and intimidation, which it was not. The Investigative Committee sets the schedule, and a licensee is supposed to appear, or provide a valid reason for not appearing, and in this case, that did not happen. The Investigative Committees are very busy and the Board members rearrange their lives to make these meetings happen, and it is not incumbent upon them to move the meeting schedules around to accommodate one licensee.

Dr. Nagy called for a vote on the motion. Mr. Cousineau stated the motion was to adopt the Hearing Officer's recommendations as drafted. A vote was taken on the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Mr. White provided the Investigative Committee's recommendations regarding discipline in the matter. Pursuant to NRS 630.352, Dr. Haikal shall submit to and pass all five sections of the Ethics and Boundaries Assessment Services (EBAS) Examination, within 120 days of the Board's finding of a violation, at his expense. He shall reimburse the Board's costs and fees of \$4,672.91, pursuant to the Memorandum of Costs, within 60 days of the Board's finding of a violation. He shall pay a fine of \$1,000.00 within 60 days of the Board's finding of a violation. He shall receive a public reprimand. Mr. White outlined the reasons for the Investigative Committee's recommendations and the items included in the Memorandum of Costs and Fees.

Mr. Wade moved that the Board accept the Investigative Committee's recommendations for disciplinary action including the costs as presented. Dr. Ahsan seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 6

CONSIDERATION OF REVOCABLE DELEGATION AND AUTHORIZATION BY THE BOARD TO THE GENERAL COUNSEL OF THE BOARD TO DEFEND THE BOARD'S FINDINGS, CONCLUSIONS, ORDERS AND ACTIONS IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. OSAMA OMAR HAIKAL, M.D.*, BMECASE NO. 22-9436-1, 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. Williams seconded the motion and it passed unanimously.

Agenda Item 7

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

- (a) Review of Public Comments on, and Possible Adoption of, Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. T006-22
- (b) Review of Public Comments on, and Possible Adoption of, Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R177-22
- (c) Discussion and Possible Action Regarding Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R028-22

Ms. Bradley stated that Agenda Item 7(a) was a temporary regulation which will assist the Board with licensure renewals. A public workshop and a public hearing were held on the proposed regulation, and no comments were received during either. She explained there is documentation that all licensees have to provide pursuant to Nevada law, such as identity documents, a child support attestation, and an attestation that they understand their obligation to report child abuse, and sometimes when physicians apply through the Compact, we don't receive those up front, and we have to get them after they have been licensed. Once a licensee has received a couple of requests for those items, this would allow us to essentially place a hold on their file and when they go to renew, the Board could choose not to renew them until those items have been provided. This will ensure that the Board receives what Nevada law requires it to obtain. She asked that the Board adopt this temporary regulation. She then explained that this temporary regulation will be good until November 1, 2023, and in order to make this a permanent regulation, the Board would have to complete the process. The Board has already approved staff to go forward with this language, as well as some other things, in a different regulation the Board has submitted for drafting, but does not yet have back, so we are going through the temporary process on this in order to use it during the 2023 renewals season.

Dr. Spirtos asked whether a licensee who provided all of this information at the time of initial application would have to provide it again, and Ms. Bradley stated he or she would not.

Dr. Spirtos asked whether belonging to the Compact allows a licensee to avoid abiding by Nevada rules.

Mr. Cousineau stated that the Compact statute requires that we issue a license to these individuals within a number of days because the vetting process has been done by the primary state. The problem is that each state has state-specific requirements under statute. So, we can't wait more than two or three days to issue a license, and we may not get certain things prior to issuing the license. We are trying to get this temporary regulation in place now because the renewal cycle begins in mid-April.

Ms. Arias-Petrel moved that the Board adopt temporary regulation T006-22. Dr. Ahsan seconded the motion and it passed unanimously.

Ms. Bradley stated that the materials for Agenda Items 7(b) and (c) were put together because the public workshops and public hearings for them were held at the same time. No comments were received on R177-22. The regulation allows the Board to clarify a couple of things with regard to esthetic medical procedures and the supervision that our licensees can provide for that, which basically says it has to be part of their scope of practice. Additionally, the regulation contains some cleanup language. For example, we updated some requirements to comply with changes in Nevada law. Also, previously, the Board updated the requirements for physician assistants who have been out of

practice for 24 months. As with physicians, there is an exam, but a physician assistant cannot take the NCCPA exam if they are still certified, so we are providing an exam option for that. She then asked that the Board adopt R177-22.

Mr. Wade moved that the Board adopt R177-22. Dr. Frey seconded the motion and it passed unanimously.

Ms. Bradley explained that with regard to R028-22, we received a lot of comments with a lot of concern regarding the third-party patient attendant provision, so staff was recommending that the Board remove those portions of the draft, which would be Section 2, and send it back to the Legislative Counsel Bureau (LCB) for redrafting. The plan would be to review the comments received and perhaps come back to the Board at a future date with a different proposal regarding that piece. She said no comments were received regarding the other provisions of the regulation, most of which are cleanup provisions. One talks about expedited licensure and licensure by endorsement for physician assistants to clarify that those individuals would also have to be certified by the NCCPA.

Mr. Cousineau said so there is no confusion as to what is being redacted, he thought the best thing to do would be for the Board to move not to adopt R028-22, and the language that is not problematic can be submitted to the LCB anew and receive a new regulation number.

Ms. Bradley said in that event, the motion would be to withdraw the regulation completely.

Mr. Wade moved to withdraw R028-22. Dr. Spirtos seconded the motion and it passed unanimously.

## Agenda Item 8

### REPORTS

#### (a) Investigative Committees

Dr. Frey reported that at its February 17, 2023 meeting, Investigative Committee A considered 118 cases. Of those, the Committee authorized the filing of a formal complaint in 9 cases, sent 18 cases out for peer review, requested an appearance in 6 cases, issued 21 letters of concern, referred 5 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 59 cases.

Dr. Muro reported that at its February 8, 2023 meeting, Investigative Committee B considered 94 cases. Of those, the Committee authorized the filing of a formal complaint in 2 cases, sent 16 cases out for peer review, requested an appearance in 4 cases, issued 18 letters of concern, referred 6 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 48 cases.

Dr. Nagy reported that at its February 9, 2023 meeting, Investigative Committee C considered 58 cases. Of those, the Committee authorized the filing of a formal complaint in 1 case, sent 13 cases out for peer review, an appearance in 3 cases, issued 14 letters of concern, referred 3 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 24 cases.

**(b) Nevada State Medical Association**

Sarah Watkins, Interim Executive Director of the Nevada State Medical Association (NSMA), said she had been the Operations Manager for NSMA since 2016, and became the Interim Executive Director in December 2022. She reported that NSMA is actively lobbying and advocating for its members in healthcare and tracking bills that reflect that. NSMA is planning its Physician's Day at the Legislature on April 4, and its Annual Meeting will be held in Lake Tahoe in August, when it will install its incoming president and the House of Delegates will meet to decide on any policy it would like to pass for NSMA.

**(c) Clark County Medical Society**

Amber Carter, Executive Director of the Clark County Medical Society (CCMS), reported that CCMS had held its 2022 Virtual Research Symposium, which was the largest activity it had held to date. CCMS is working with the Las Vegas Medical District to provide a two-hour suicide awareness activity that will be open to the public, but will also provide CME credit for any physicians who want to attend. NSMA will be opening its nominations for its Winged Heart Awards, which are community-nominated awards for a first responder, a non-profit which is related to healthcare, and a nurse.

Dr. Nagy offered congratulations to CCMS for the scientific event it held. He said he was part of the judging for that and there are very high-quality research projects being done by our community.

**(d) Washoe County Medical Society**

Wendy Rodriguez, Membership Coordinator for the Washoe County Medical Society (WCMS), reported that WCMS welcomed its 2023 officers, and was currently planning its inauguration dinner on June 3. WCMS and UNR recently held a legislative preview at UNR. It was a "Health Policy 101" presentation for UNR students to get them involved and prepared for the upcoming legislative session. WCMS also recently held a webinar CME presentation regarding physicians' perspectives on medical aid in dying, at which there were about 45 attendees.

Dr. Frey stated we all heard the news this past week about the tragedy that occurred when a flight went down while transferring a patient. Five lives were lost. This reminds us all that heroic activities in taking care of people happen every day in the state. The two crew members and pilot all had young families, and our hearts go out to them.

**(e) Nevada Academy of Physician Assistants**

Ashley M. Cole, MSPAS, PA-C, President of the Nevada Academy of Physician Assistants (NAPA), reported that NAPA has turned their attention to the legislative session, as the rest of the boards have. The Legislature had a snow hiatus this week. NAPA was planning to hold Physician Assistant Day yesterday, but they rescheduled it to March 29 in respect for all the Legislature needed to catch up on.

Dr. Frey asked whether NAPA had any legislative updates regarding bills that NAPA was monitoring.

Ms. Cole stated there were a few bills they were monitoring. There are some chiropractor changes they are looking at, as well as those that the Board's lobbyist had mentioned.



Dr. Nagy asked whether NAPA was in support of the bill that would reconstitute the Board with the addition of physician assistant members.

Ms. Cole said it is something they are interested in, and are looking at. They have already talked to the Board's lobbyist and as they have more information regarding what will be put forward, they will be talking to the Board more as well.

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. RAVISHANKAR SRINIVAS KONCHADA, M.D.*, BME CASE NO. 22-42571-1

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

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

Ms. Arias-Petrel moved that the Board accept 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 10

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

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

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

Dr. Williams moved that the Board accept 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 11

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JOSE HIRAM ALVAREZ, M.D.*, BME CASE NO. 21-28177-2

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

Mr. White said that he had worked on this case with Mr. Cumings. Mr. White then stated a formal Complaint had been filed against Dr. Alvarez alleging 12 violations of the Nevada Medical Practice Act and outlined the terms of the proposed Settlement Agreement.

No motion was made by any Board member regarding the proposed Settlement Agreement.

Mr. Cousineau stated that because no motion was made to approve the proposed Settlement Agreement, it was deemed to be rejected.

Agenda Item 12

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES BENTLEY MANNING, M.D.*, BME CASE NO. 22-8110-1

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

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

Dr. Spirtos moved that the Board accept 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 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. AMY RENEE SPARKS, M.D.*, BME CASE NOS. 22-19130-1 AND 22-19130-2

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

Mr. Cumings stated a First Amended Complaint had been filed against Dr. Sparks in Case No. 22-19130-1 alleging six violations of the Nevada Medical Practice Act, and a First Amended Complaint had been filed against Dr. Sparks in Case No. 22-19130-2 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. Ms. Arias-Petrel 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. MUHAMMAD N. TUFAIL, M.D.*, BME CASE NO. 22-12872-1

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

Mr. Cumings stated a First Amended Complaint had been filed against Dr. Tufail alleging three violations of the Nevada Medical Practice Act and outlined the terms of the proposed Settlement Agreement.

Ms. Arias-Petrel moved that the Board accept 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 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. EDWARD SOLLESA VICTORIA M.D.*, BME CASE NO. 22-33039-1

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

Mr. Cumings stated a formal Complaint had been filed against Dr. Victoria alleging 12 violations of the Nevada Medical Practice Act, and outlined the alleged violation and the terms of the proposed Settlement Agreement.

Dr. Spirtos 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 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MATTHEW OBIM OKEKE, M.D.*, BME CASE NO. 22-22461-1

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

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

Ms. Beal 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 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES B. GABROY, M.D.*, BME CASE NO. 15-10986-1

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

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

Dr. Nagy 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 18

EXECUTIVE STAFF/STAFF REPORTS

**(a) Investigations Division Report**

Mr. Diaz reported that between November 30, 2022, and March 1, 2023, the Investigations Division received a total of 294 complaints. Of those, 105 cases were opened as formal investigations, 81 were not within the Board's jurisdiction, 76 were referred to other agencies and regulatory bodies, 25 were resolved through proactive measures, and 7 were either duplicate complaints or are still pending review. There were a total of 159 peer reviews, 92 of which had been assigned and 67 of which were pending assignment to a peer reviewer. There were 23 licensees in compliance or diversion.

Dr. Nagy asked Mr. Diaz to opine on the average length of time it takes a case to go through the investigative process.

Mr. Diaz stated that when a complaint comes in, it is reviewed for jurisdiction, and if it is within the Board's jurisdiction, it is assigned to an investigator within 7 days. Letters go out to respondents within 30 days, and respondents have 30 days to respond. Orders for records are sent, and once received, our medical review process is 7 to 14 days. Based upon the type of complaint received, average investigations can be anywhere from 6 months to a year. It depends on whether it is sent out for a peer review or additional follow-up investigation.

#### (b) Quarterly Compliance Report

Ms. Jenkins reported that for the fourth quarter of 2022, there were 8 files in collections for a total amount of \$46,000.00. There were zero collections written off in the fourth quarter. The total costs outstanding were \$74,000.00, total fines outstanding were \$94,000.00, and total costs collected during the quarter were \$53,503.65.

#### (c) Quarterly Update on Finances

Ms. Jenkins stated that the Board's reserves were currently just over 5 months. She said the Board's total current assets were \$5.2 million, and noted that the Board had resumed using CDs as investments for the Board. She explained is a very conservative form of investment and is under the Wells Fargo agreement with the State. Short-term CDs are now paying over 4%.

Ms. Jenkins then highlighted the various sections of the Balance Sheet for the fourth quarter of 2022. Total assets were \$10.8 million, total current liabilities were \$3.1 million, and total liabilities plus net position were \$10.8 million. She said she wanted to point out that the net income line in the equities section is the year-to-date net income of \$448,440.97. She said she expects that during the audit there will be some adjustments to the Board's financial statements, primarily in the section of its long-term liabilities.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the fourth quarter of 2022. The Board's income for the quarter was \$1,492,000.00, which was 8.4% above budget. The Board's personnel expenses were 98.2% of budget, and the total expenses were 2.6% over budget. The net income for the quarter was \$42,123.56.

Ms. Beal asked for clarification regarding the adjustments for the long-term liabilities.

Ms. Jenkins stated those valuations don't come out until July, and that will be when the financials will be adjusted for those items, and the audit will be presented to the Board at the September meeting.

Ms. Beal said she just wanted to make sure that the auditors were aware of this ahead of time and it is not a surprise to them.

Ms. Arias-Petrel commended Ms. Jenkins for all of her hard work and said she enjoyed working with her.

Ms. Jenkins thanked Ms. Arias-Petrel for the time she spends with the staff in going over and assisting with these decisions.

## (d) Legal Division Report

Ms. Bradley reported that in the first quarter of 2023, the Legal Division filed 8 new formal complaints and 1 first amended complaint. She said there were 156 cases authorized for filing of a formal complaint that were not yet filed, 2 orders of summary suspension had been filed, 9 motions had been filed, and hearings were held on 2 formal complaints and 1 summary suspension. There were 10 cases before the Board on this agenda and 9 other cases were resolved this quarter – 2 by adjudication and 7 through reconsideration of one of the Investigative Committees. The Legal Division received additional cases from the February 2023 Investigative Committee meetings that they will be working on and 55 Letters of Concern were drafted. Ms. Bradley then introduced the Board's new Deputy General Counsel, William Shogren.

### Agenda Item 19

#### LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status  
Approved Since the December 2, 2022 Board Meeting

Mr. Wade moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the December 2, 2022 Board Meeting. Dr. Frey seconded the motion and it passed unanimously.

### Agenda Item 20

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

##### (a) Carrie Lynn Carda, M.D.

Dr. Carda was present with her legal counsel, John Cotton, Esq.

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

Dr. Spirtos asked Dr. Carda what she planned to do if granted a license to practice medicine in Nevada.

Dr. Carda said she wanted to relocate her family to Nevada. She has been doing a lot of traveling and been on call, and is looking to make a change in that regard.

Dr. Spirtos questioned Dr. Carda regarding her affirmative response to Questions 5 and 6 on her application for licensure and the large number of cases of malpractice that had been filed against her.

Dr. Carda described her practice history and said 18 cases of malpractice had been filed against her since she began practicing in 1996, but many of them were subsequently dropped.

Dr. Spirtos asked whether Dr. Carda felt responsible for the events that occurred in any of those cases.

Dr. Carda said any time a malpractice suit is filed, you have to do an audit of yourself and where you went wrong, whether it was that you communicated incorrectly or what perception you left to bring that lawsuit. So, she thinks you have to take responsibility in all of them. From a medical

standpoint, it always felt like she had a really good place to stand from, but sometimes it was more economical to settle, and there were a couple of cases she took to court and won them. But she changed some procedural things as a result of some of the outcomes over the years and has learned from them all.

Dr. Spirtos said he thought everyone present appreciates the fact that economic decisions are made regarding whether to defend a case or not; however, in reading through the cases, it seemed there was a reluctance to assume any responsibility and that all of these events were somebody else's problem.

Dr. Carda said she doesn't feel that way. She said she has taken continuing medical education to prevent reoccurrences as best she can and changed decision processes. Those cases all came with great consequence to her life and to her practice.

Dr. Spirtos said she had indicated during the application process that she wanted to practice regenerative medicine, and asked her what regenerative medicine is, and whether she had training in that.

Dr. Carda said it is lifestyle medicine for preventive purposes, and described her training in that area.

Dr. Spirtos said Dr. Carda had indicated she would be working for the UFC.

Dr. Carda said she would like to start a private practice, but was currently working for IOX, and would be working for them in Nevada when they open a new location here and working with the UFC fighters.

Dr. Nagy asked Dr. Carda whether any of the malpractice suits that had been filed against her were regarding any of the work that she plans to do going forward, and Dr. Carda said they were not.

Dr. Nagy asked Dr. Carda how long she had been practicing in the current field of medicine that she plans to practice in Nevada.

Dr. Carda said she began her training in 2006 to 2007, and would consider practicing it with some degree of specialty since about 2012.

Dr. Nagy asked whether she planned to practice OB/GYN in Nevada, and Dr. Carda said she would like to have a full license to leave her options open.

Dr. Nagy asked Dr. Carda to explain what happened in the malpractice case which occurred in 2016.

Dr. Carda described the circumstances surrounding that case.

Dr. Williams asked whether she planned to practice cosmetic medicine in Nevada, and Dr. Carda said she did not.

Dr. Frey asked whether she planned to practice any other type of medicine besides regenerative medicine and OB/GYN in Nevada, and Dr. Carda said she did not.

Dr. Frey moved that the Board grant Dr. Carda's application for licensure. Ms. Beal seconded the motion and it passed unanimously.

(b) Aaron Harris Kuehl, PA-C

Mr. Kuehl was present with his legal counsel, Lyn Beggs, Esq.

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

Dr. Nagy stated that Mr. Kuehl had appeared before the Board last year on his application to practice as a physician assistant in Nevada. Dr. Nagy summarized the events that led to the California Medical Board placing his license on probation, revoking his ability to write prescriptions for seven years, requiring him to complete seven years of sobriety and requiring him to take an ethics course, which he completed successfully. There was an additional educational requirement, which he did not complete. He moved to Nevada and took a position in auto sales, which he did for a long period of time. In 2019, he was arrested in California, went to Veterans Court, and was required to attend AA meetings, attend an anger management course and undergo cognitive behavioral therapy, and he successfully completed those requirements. He has been sober since 2019. He underwent an evaluation by the Professional Recovery Network (PRN) in 2022, and they determined he was fit to practice. He has been shadowing physicians since August 2022.

Dr. Nagy asked Mr. Kuehl whether he had passed a written examination in the last two years. Mr. Kuehl stated he had passed the boards in 2022.

Dr. Frey stated the anticipated expiration date of Mr. Kuehl's current monitoring program is in November 2026. He said he applauded Mr. Kuehl for his decision to continue with the program and supports it.

Dr. Muro said he would like to see continued participation in the monitoring program as a condition if the Board grants Mr. Kuehl a license.

Mr. Cousineau asked Mr. Kuehl whether a condition on his license would be problematic for him, and he said it would not.

Mr. Cousineau stated that if the Board grants Mr. Kuehl a license with a condition, Mr. Kuehl will need to return to the Board at a future date to request that the condition be removed.

Dr. Nagy moved that the Board grant Mr. Kuehl a license with the following conditions: 1. that he continue to practice under physician supervision, and will not practice independently for five years; and 2. that he continue to participate in, and complete, his monitoring program with the Professional Recovery Network (PRN). Dr. Spirtos seconded the motion and it passed unanimously.

(c) Naphthali Red Mateo Alinsod, M.D.

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

Dr. Muro outlined Dr. Alinsod's medical education and training, and stated Dr. Alinsod was recertified by the American Board of Obstetrics and Gynecology on December 31, 2021.

Dr. Muro questioned Dr. Alinsod regarding his affirmative responses to Questions 5 and 6 on his application for licensure.

Dr. Alinsod described the circumstances surrounding four of the cases of malpractice that had been filed against him, which were those that had been filed against him that resulted in settlements.

Dr. Spirtos said that Dr. Alinsod indicated he is a reconstructive pelvic surgeon and his stationary also says Urogynecology. He asked Dr. Alinsod whether he had subspecialty training in Urogynecology in addition to his residency in OB/GYN or whether he had been boarded in Urogynecology.

Dr. Alinsod said at the time he finished his training, there were no boards in Urogynecology. He had worked with two Urogynecologic surgeons who were his mentors, so he performed a lot of pelvic reconstructive repairs. He said he believes the boarding of Urogynecologists wasn't until after 2010, and he chose not to take those boards because by that time, his career was not just pelvic reconstructive surgery; he had focused his career on Cosmetic Gynecology, which is what he does pretty much full time now.

Dr. Spirtos said one of the issues the Board faces is physicians practicing outside of the scope of their training. Since Dr. Alinsod hasn't gone through the board certification process for Urogynecology, Dr. Spirtos wanted to know whether it was his intent to practice Urogynecology and reconstruction or whether he going to practice Cosmetic Gynecology.

Dr. Alinsod said he wanted the opportunity to practice Urogynecology and described his qualifications to do so, but said the focus of his practice in Nevada will be in Cosmetic Gynecology.

Dr. Williams asked Dr. Alinsod what he meant by Cosmetic Gynecology, and Dr. Alinsod described the procedures he would be performing in Nevada.

Dr. Frey asked whether he would be joining a group or would be a solo practitioner, and Dr. Alinsod said he would be a solo practitioner. He said his primary practice will be in Dallas, but he had been asked by several surgeons in Nevada if he would come and assist them with some of their cases. He will not set up an office in Nevada.

Ms. Linn asked Dr. Alinsod why he didn't disclose the 1994 malpractice case on his application for licensure.

Dr. Alinsod said he had forgotten the case at the time he applied.

Dr. Muro moved that the Board grant Dr. Alinsod's application for licensure. Mr. Wade seconded the motion and it passed unanimously.

**(d) Robert Evan Share, M.D.**

Dr. Nagy asked Dr. Share 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 outlined Dr. Share's medical education and postgraduate training. He then questioned Dr. Share regarding being placed on probation during residency training at the University of



Cincinnati and his ultimate separation from the program, and why he had responded in the negative to the question regarding these types of events when he should have responded in the affirmative.

Dr. Share described the circumstances surrounding his separation from residency training at the University of Cincinnati, and explained why he responded to the question in the negative.

Dr. Williams questioned Dr. Share regarding his affirmative response to Question 8 and his negative response to Question 13 on his application for licensure.

Dr. Share described the circumstances surrounding the denial of his application for licensure in Ohio.

Dr. Williams stated that Nevada statutes require that a physician must have been in practice for five years prior to applying for licensure in Nevada, and questioned Dr. Share regarding whether he had practiced clinical medicine between February 2018 and March 2019.

Dr. Share described his activities during the aforementioned period of time, which included seeing patients under supervision while training in electronic brachytherapy.

Dr. Williams asked Dr. Share what he planned to do if granted a license to practice medicine in the State of Nevada.

Dr. Share said he would be providing electronic brachytherapy to patients in Henderson and Sparks.

Dr. Frey stated he had concerns with regard to whether Dr. Share had fulfilled the requirement of five years of clinical practice prior to applying for licensure in Nevada, as he did not hold a medical license from February 2018 to March 2019, and he does not think shadowing is bedside clinical practice.

Ms. Linn stated that initially, Dr. Share listed his activities from February 26, 2018 to March 1, 2019 as zero percent clinical, which is why the licensure issue didn't come up at that time. When he was advised that he was outside of the statute that requires five years clinical practice with a lifetime certification, Dr. Share then explained he believed it was clinical.

Dr. Nagy said if the Board were to vote on approval of his application that day, he wasn't sure the Board would feel Dr. Share met the criteria for a license through the traditional pathway. He advised Dr. Share he had the option to withdraw his application, and that he could reapply for licensure by endorsement.

Mr. Cousineau explained that Dr. Share could withdraw his application and reapply for a license by endorsement now, or could wait until he has another year of clinical practice and apply again through the traditional route. If he applies by endorsement, the application would initially be vetted by the Board President and the Executive Director, which would potentially give Dr. Share the opportunity to avoid having to reappear before the Board. However, if one or both of them do not agree with licensure by endorsement without full vetting, Dr. Share would have to reappear before the Board.

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

(e) Alyssa Lorraine Callorina Banlao, RRT

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

Ms. Arias-Petrel outlined Ms. Banlao's certification as a respiratory therapist. She stated that Ms. Banlao had been arrested for DUI in 2016 and twice in 2018, and that Ms. Banlao had entered into a contract with the PRN program. She asked Ms. Banlao to describe what she had done since 2018.

Ms. Banlao said that after the arrest at the end of 2018, she decided to turn her life around. She completed the program at Carrington College, has better relationships in her life and is in a better place.

Ms. Arias-Petrel asked what she planned to do if granted a license to practice respiratory therapy in Nevada.

Ms. Banlao said she was interested in working in a hospital setting. She really loved working in the NICU and she is also interested in a management path in the medical field, as she also has a bachelor's degree in healthcare administration.

Ms. Beal said that working in a hospital can be stressful, and asked what plans Ms. Banlao has in place for times of stress, when she starts to feel those triggers.

Ms. Banlao said she had been working on a self-care program for the last two months and will continue with the PRN program for the next two years. She gave an example of how she has handled moments of stress.

Mark Chase, MA, MBA, Clinical Program Director, spoke in support of Ms. Banlao's work with the PRN. He said she is probably the most motivated person he has ever worked with.

Ms. Arias-Petrel moved that the Board grant Ms. Banlao a license with the condition that she continue to participate in, and complete, her monitoring program with the Professional Recovery Network (PRN). Ms. Beal seconded the motion and it passed unanimously.

Agenda Item 21

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED INTERNAL DISCIPLINARY GUIDELINES FOR FINES

Ms. Bradley explained that one of the concerns raised by the auditors during the legislative audit of the Board was regarding the fines imposed against licensees and how staff determined what was appropriate in each case. She explained this is something she believes staff was informally already doing, but wanted to put it on paper so it would be more formalized. She said staff wanted the Board to be aware of it so the Board would understand that when staff brings settlement agreements before the Board that include fines, we are using this as our guideline, and we will also be using this in recommendations we bring before the Board during adjudications. Ms. Bradley then outlined the proposed guidelines.

Dr. Muro said he thought this is a good attempt to provide some consistency in what we do as a board and he welcomes this sort of structure in the sense that it applies to consistency and equal application of disciplinary actions.

Dr. Spirtos asked where a licensee who is asked to appear and doesn't appear would fall within the proposed guidelines.

Ms. Bradley said she would say that would probably be considered reckless conduct or negligence. It is obviously not malpractice or patient care, but it is still concerning.

Dr. Spirtos said if the lesser malpractice with prior discipline goes up to \$5,000.00, you would think serious malpractice, either intentional or egregious, would be more than \$5,000.00.

Ms. Bradley explained that currently, the maximum fine the Board can charge per violation of law is \$5,000.00. So, the reason we say that lesser malpractice with prior discipline is \$2,500.00 to \$5,000.00 is that we wanted some room there, depending on how bad the prior discipline was or how many times the licensee had previously been disciplined. If the statute changes, we would adjust this as well.

Dr. Frey said the \$5,000.00 maximum has not changed in many years and the value of money has changed significantly.

Ms. Bradley stated the \$5,000.00 maximum fine was added to the Board's chapter in 1985.

Ms. Arias-Petrel moved that the Board approve the proposed disciplinary guideline for fines. Ms. Beal seconded the motion and it passed unanimously.

#### Agenda Item 22

#### CONSIDERATION OF, AND POSSIBLE APPROVAL OF, INCREASE IN LICENSURE REGISTRATION FEES

Mr. Cousineau stated that from 2015 to 2016, the Board reduced fees across the board for its licensure categories by about 10%. That was done in response to a significant surplus the Board had in its reserves where we realized if we continued to charge the fees we had been charging, the reserves would continue to grow unnecessarily. Since then, the Board has done a lot of things. As the Board is aware, we used our reserves to purchase the building in Reno in 2018 and have increased our staff exponentially, and the responsibilities to the Board's licensees has increased accordingly. What we are proposing is that while still keeping all licensure categories either at or well below the statutory maximum the Board can charge for licensure fees, the Board return to the 2015 to 2016 numbers.

Mr. Cousineau said Ms. Jenkins has projected that over the course of the biennium, this would probably result in additional revenue in the amount of \$600,000.00, which the Board can use to expand the staff to further assist the Board in fulfilling its mission. Additionally, Governor Lombardo, in his State of the State Address, indicated he will be seeking an 8% raise for all State employees. If that happens, we think it would be appropriate to follow suit with that, as we think it is appropriate that the Board staff receive those in-kind raises. The proposed increase in fees would more than accommodate that. He requested that the Board approve the proposed fees.

Dr. Muro moved that the Board accept the proposed increases in licensure fees. Dr. Ahsan seconded the motion.

Mr. Cousineau stated the increases would be effective for current licensees beginning this renewal cycle and for all new applicants as of July 1, 2023.

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

REVIEW AND DISCUSSION REGARDING THE OFFICE OF THE GOVERNOR'S EXECUTIVE ORDERS 2023-003 AND 2023-004

Ms. Bradley stated that Executive Order 2023-003 requires that the Board hold a public hearing and provide a report to the Governor's office by May 1, 2023. She said we will need to notice the public hearing relatively soon because it requires 30 days' notice. Executive Order 2023-004 requires that the Board submit a report to the Governor's office by April 1, 2023. She explained that essentially, these Executive Orders require an extensive review of the Board's regulations. She said we do that anyway, and some of the proposed regulations on the agenda today for review and adoption are a result of the extensive review we have done. Nevada law requires that we review our rules of practice every 3 years and our regulations every 10 years. Ms. Bradley performed the 10-year review in 2021, and has been bringing changes to the Board based on that review. She said the point is, we do this anyway, but the Governor wants us to do a little bit more thorough of a review and provide him with a specific report on that review. She said she was requesting that the Board give staff the authority to do the work, hold the hearing, and submit the reports to the Governor.

Dr. Muro said he thought it was important to streamline the licensing process, but he doesn't want to see a dilution of the quality of training and requirements for individuals the Board licenses because the safety and integrity of the practice of medicine is the main task and charge of the Board.

Dr. Nagy moved that the Board authorize staff to create the reports due on April 1, 2023 and May 1, 2023, and to hold the public hearing. Dr. Spirtos seconded the motion.

Dr. Nagy asked whether the Board would review the reports prior to their submission.

Ms. Bradley stated that wasn't contemplated because there isn't a meeting of the Board scheduled before the deadlines. She explained that staff can't go through the regulatory process and make any changes without the Board approving them, so the plan had been to draft the reports and bring them, as well as the comments received at the public hearing, to the Board in June, to fully brief the Board and request approval from the Board for any recommendations staff has made as a result of the work that had been done in this regard.

Dr. Nagy asked whether the draft reports could be sent to Board members a week in advance of the April 1 report submission.

Ms. Bradley said she thought if she could blind copy the Board members and they didn't discuss it outside of a Board meeting, it might be permissible.

Ms. Bordelove said Ms. Bradley could send it to Board members and they could ask questions directly to her, but the Board members would need to be cautioned not to discuss it collectively, reaching a quorum, outside of a meeting.

Dr. Nagy asked whether Board members would be notified of the date of the public meeting in case they would like to attend.

Ms. Bradley said that they would be.

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

Agenda Item 24

CONSIDERATION AND DISCUSSION REGARDING ADDING A STANDING AGENDA ITEM TITLED "NEW BUSINESS" TO BOARD MEETING AGENDAS

Dr. Nagy said this item came up because on previous agendas, there was no obvious place for Board members to suggest items to be placed on a future agenda for discussion other than during the public comment periods. He said to clarify, Open Meeting Law requirements restrict the Board members' ability to interact ahead of a Board meeting, so to his knowledge, that would be the only time a Board member would be able to present something to the Board to be placed on the agenda for potential action at the next meeting.

Discussion ensued regarding the options for a Board member to request that an item be placed on a future agenda for discussion.

Ms. Bordelove said there were two issues to clarify regarding where the law is with regard to this topic. With regard to having a standing agenda item titled "New Business," she said she doesn't think the item is intended to include detail; is intended to be a place where Board members can bring up an item, and the law will allow kind of an overview discussion, but you can't get to the point of deliberation. In terms of an agenda item that is proposed to staff between meetings, or that is proposed during a "New Business" item for a future agenda, that agenda item needs to have enough detail that it can clear the complete standard under the law, that is, agenda items are required to contain a clear and complete statement of the topics that will be discussed.

Dr. Frey moved that the Board add "New Business" to Board meeting agendas. Ms. Arias-Petrel seconded the motion and it passed unanimously.

Agenda Item 25

CONSIDERATION AND DISCUSSION REGARDING ADOPTING *ROBERT'S RULES OF ORDER* FOR USE AT BOARD MEETINGS

Dr. Nagy stated that this item came up because of two issues. At the last meeting, Dr. Ahsan raised a question regarding who was running the meeting and who had the authority to speak, as there was a lot of overtalking and people speaking out of turn at that meeting. The second issue is regarding how things are placed on the agenda and who makes those decisions; whether the Board has any authority to add an item to the agenda. He spoke with Mr. Cousineau about this, and as he rightly noted, *Robert's Rules of Order* are quite complex. There are many organizations in our state that follow *Robert's Rules of Order* and have successfully implemented those into their operations.

Dr. Spirtos said he thought *Robert's Rules of Order* is too complex for a small board and it is over 700 pages. A lot of organizations have adopted it as an unofficial guide, so they are not bound by it, but there are a number of other simplified rules of order of parliamentary procedure to keep a meeting running and how to place items on an agenda. *Roberts Rules of Order* requires a parliamentarian, and every time the President wants to speak, he has to literally hand the gavel off to the Vice President because he can't have the gavel and speak to a motion. There are other options out there that provide some rules of order.

Ms. Beal said *Robert's Rules of Order* are quite complex and very time-consuming. She has been on several boards that used them. When the Board held the telephonic meeting, it was a little chaotic because of the nature of what the Board was trying to accomplish, but since she has been on the Board, she feels this Board has run smoothly for the most part and we know who is in charge. She is unclear

who places items on agendas. She assumes it is the Executive Director in conversation with the Board President. Her overall point is she feels everything has run smoothly with regard to how the meetings have been run and we haven't had chaos, even with very full agendas. She doesn't think the Board needs to use *Robert's Rules of Order* because it will add confusion and some chaos.

Dr. Ahsan said his opinion is that generally, the Board meetings run well. His experience with *Robert's Rules of Order* was at another organization, and it generally followed *Robert's Rules of Order* but it was not binding.

Ms. Arias-Petrel said she has served on boards for the past 20 years, and the way this Board conducts its meetings may not be perfect, but to bring in more will complicate things. She thinks it is all about communication and for the most part, the Board has great communication with the Executive Director and the staff.

Dr. Muro said he thinks the Board has navigated a lot of very complex issues in a very collaborative manner, and the staff has always been open to any input and suggestions from the Board. He thinks things like *Robert's Rules of Order* can be used as a reference, as opposed to policy and guidelines, because that carries with it different implications. For the past close to eight years, he thinks the Board has operated in a very transparent manner and can continue to do that without encumbering itself with things that will add to the complexities of what it does and take away from the job it is supposed to do.

Dr. Nagy said it appeared there was not a motion in favor of adopting *Robert's Rule of Order*, other than potentially using it as reference, and asked whether there was any value in taking a look at how other boards are run.

Mr. Cousineau said that staff would perform a comparative analysis, put something together and bring it to the Board. He said he thinks sometimes simplicity is better, and when we do have some difficulties and it is not entirely fluid, it is possibly because it is something the Board doesn't do regularly. The more you do something, the more comfortable it becomes. He said we could possibly incorporate some training at a Board meeting to provide an overview and reminder regarding some of the more common issues that visit the Board during meetings. Staff will provide its findings and recommendations at the next Board meeting, which will include alternatives to *Robert's Rules of Order*.

Agenda Item 26

**CONSIDERATION AND DISCUSSION REGARDING AUTHORIZING A REQUEST FOR PROPOSAL (RFP) PURSUANT TO NRS/NAC CHAPTERS 333 FOR THE BOARD TO ENGAGE A PUBLIC RELATIONS FIRM**

Dr. Nagy said he functions as a representative of this Board with the Clark County Medical Society. Part of his function there is every month he is requested to prepare a written description of the Board's activities for the previous month and present items that would be useful for the body of physicians in Clark County to know about and to facilitate communication between that body and the Board where relevant. He has been doing that since about four months after he became a member of the Board, and it is very time-consuming. He has come to understand there is a lot of misunderstanding and negative emotion about what the Board does, in spite of a lot of outreach efforts. Those Board members who have attended Federation of State Medical Boards meetings have had the opportunity to meet the communications directors employed by other boards that govern large bodies of people, and they find those things to be effective and useful in communicating both positive information about the board and

positive information that makes the members of the medical community feel as though they are participants in the activities of helping to improve medicine in the state as opposed to being objects of punishment only. The other potential action a public relations firm could provide for the Board would be to help elevate the overall perception of medicine in our State. For these reasons, he thinks it would be a good thing for the Board to consider.

Mr. Cousineau stated that in this year's budget, we allocated \$30,000.00 for this specific purpose. He said first, staff will need confirmation that the Board would like it to initiate the RFP process. He said staff would like input from the Board members as to what their hopes and desires are in order to create the RFP. The \$30,000.00 figure is what has been allocated for this year, and if the Board decides to continue with a public relations firm, we will include money in the budget for the next year, in an amount based upon what we deem the value is.

Discussion ensued regarding the value of hiring a public relations firm and items the Board members would like the public relations firm to provide, such as public service announcements.

Dr. Frey moved that the Board authorize the RFP process. Dr. Spirtos seconded the motion.

Ms. Beal said she would like the Board to authorize an RFP to engage a public relations firm and/or look at hiring the Board's own public relations person. She said there is a definite difference when you have a public relations firm versus having your own public relations person.

Mr. Cousineau said the agenda only refers to consideration of an RFP. Additionally, adding a public relations position to the staff would cost more than \$30,000.00, so it is something the Board could look at in the future.

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

#### Agenda Item 27

#### DISCUSSION AND POSSIBLE REVISION OF THE LEGISLATIVE SUBCOMMITTEE'S DUTIES TO INCLUDE OVERSIGHT OF THE REGULATIONS PROCESSES FOR THE BOARD

Dr. Nagy said there are actions the Board takes when it changes regulations, and it may be of benefit for the Legislative Subcommittee to be made aware of potential changes earlier on in the process so they can comment on the potential regulatory changes, which would make it a more fluid process.

Mr. Cousineau asked whether the Legislative Subcommittee will dissolve after the conclusion of the legislative session or whether it will continue until it is dissolved by the Board.

Ms. Bordelove said it depends upon the terms under which it was created.

Mr. Cousineau said he didn't think it was defined.

Ms. Bordelove said if it was undefined, it will continue until the Board dissolves it.

Mr. Cousineau explained that the Board has to follow basic procedural guidelines for adoption of regulations, which are spelled out in statute, and we can only deviate so much from those. He asked what role the Legislative Subcommittee would have in that.

Ms. Bordelove said with other boards she represents, usually their legislative subcommittees do have regulatory duties which usually involves a more detailed discussion regarding the language itself. They still have to go through the regulatory adoption process.

Mr. Cousineau asked whether that step would be prior to going to the Board for authorization to proceed with the regulatory adoption process, and Ms. Bordelove said it would be.

Discussion ensued regarding whether the addition of oversight of the regulatory adoption process should be added to the duties of the Legislative Subcommittee or whether it would be better to create a separate subcommittee to oversee the regulatory adoption process.

Mr. Cousineau recommended that there be two separate subcommittees, and said discussion regarding the addition of a Regulations Subcommittee will be added to the agenda for the next meeting.

#### Agenda Item 28

### DISCUSSION AND POSSIBLE CREATION OF THE FOLLOWING SUBCOMMITTEES OF THE BOARD

- (a) Investigations Subcommittee to Oversee Operations in the Investigations Division
- (b) Legal Subcommittee to Oversee Operations in the Legal Division
- (c) Licensing Subcommittee to Oversee Operations in the Licensing Division
- (d) Continuing Medical Education (CME) Subcommittee to Review and Approve Courses Authorized for CME Requirements

Dr. Nagy stated the Continuing Medical Education Subcommittee is really intended as a subcommittee for continuing education for Board members. That subcommittee could do things such as create a manual for new Board members to provide guidelines for what they can expect, what their obligations are and what the Board does, and could possibly bring in speakers from time to time. He explained that these subcommittees are not intended to be time-consuming or demanding. The intent is that they meet twice a year, and primarily their focus would be to allow Board members to enlighten themselves or receive feedback on what it is that each division does, and then they will have that knowledge and can present it to the Board overall, with the intent that you can't improve something without having something against which you can measure. The subcommittees could show up twice a year, meet with the people who are doing that particular piece of work, find out how the subcommittee could help them do their jobs better and what resources they needed. Additionally, this would allow the subcommittee members to respond to complaints they hear in the community about the processes of the Board because they will have the answers. There will be no decisions made; it will be purely informative, and no recommendations will come out of it.

Ms. Bordelove said she wanted to clarify that the definition of a subcommittee, which is basically a part of the definition of a public body under the Open Meeting Law, includes subcommittees or working groups consisting of at least two persons who are appointed by a public body if a majority of the membership of the subcommittee or working group are members or staff members of the body or that make recommendations. So, the existence of a multi-member body that the Board as a body appoints, even without making recommendations, would be a public body under the law and would have to comply with the Open Meeting Law. A potential alternative is to delegate these tasks to a single member. A single member is not a public body. If that single member chooses, as part of his or her own working process, to talk with staff members or other Board members, that would not violate the Open Meeting Law because it is their decision what they are doing. Then, the presentation would come from that one person.



Dr. Muro said the staff has been more than willing to engage in any conversation when he has reached out to them. He thinks a lot of the things contemplated by the creation of these subcommittees are covered by mechanisms that are already in place. He said he has two concerns: redundancy and meaningful purpose. He is not against the creation of the subcommittees; he is just trying to determine exactly what the Board is trying to accomplish by creating them.

Discussion ensued regarding whether the Board should create the proposed subcommittees and how creating them may be of benefit.

Dr. Nagy said his thought was that each subcommittee would be comprised of three Board members, with Dr. Muro as the Chair of the Investigations Subcommittee, Ms. Beal as the Chair of the Continuing Education Subcommittee, Dr. Williams as the Chair of the Licensing Subcommittee, and Dr. Ahsan as the Chair of the Legal Subcommittee.

Dr. Spirtos suggested that each subcommittee be assigned to one Board member.

Further discussion ensued regarding whether the Board should create the proposed subcommittees.

Dr. Nagy moved that the Board authorize creation of subcommittees, who may or may not choose to communicate with other members of the Board in a number of people lesser than a quorum, whose tasks will be to communicate to the Board on a biannual basis improvements or potential for improvements, within the following subdivisions and activities of the Board, those being the actions of the Investigations Division, the actions of the Legal Division, the actions of the Licensing Division and a committee for potential improvements to education of Board members in their tasks and learning about Board processes. The motion failed for lack of a second.

Dr. Spirtos suggested that the Board table this item and discuss it again at the next Board meeting. Dr. Nagy and Dr. Ahsan concurred.

#### Agenda Item 29

#### STAFF COMMENTS/UPDATES

Mr. Cousineau said the Federation of State Medical Boards 2023 Annual Meeting will be held May 4 through 6, 2023, in Minneapolis. He encouraged all Board members to attend, particularly those who have not yet attended a meeting, and said that Ms. Munson will reach out to Board members to determine their desires regarding travel.

#### Agenda Item 30

#### PUBLIC COMMENT

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

#### Agenda Item 31

#### ADJOURNMENT

Dr. Nagy adjourned the meeting at 2:23 p.m.

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**AGENDA ITEM 3(b)**

**APPROVAL OF MINUTES**

**MARCH 22, 2023 BOARD MEETING –  
OPEN SESSION**

**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 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

***WEDNESDAY, MARCH 22, 2023 – 12:00 NOON***

*Board Members Present at Board Office in Reno*

None

*Board Members Present at Board Office in Las Vegas*

None

*Board Members Present by Telephone*

Aury Nagy, M.D., President  
Ms. Maggie Arias-Petrel, Secretary-Treasurer  
Victor M. Muro, M.D.  
Bret W. Frey, M.D.  
Ms. Pamela J. Beal  
Col. Eric D. Wade, USAF (Ret.)  
Carl N. Williams, Jr., M.D., FACS

*Board Members Absent*

Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., Vice President  
Chowdhury H. Ahsan, M.D., Ph.D., FACC

*Staff/Others Present at Board Office in Reno*  
Edward O. Cousineau, J.D., Executive Director  
Sarah A. Bradley, J.D., MBA, Deputy Executive Director  
Donya Jenkins, Chief of Finance and Human Resources  
Laurie L. Munson, Chief of Administration and Information Systems  
Ernesto Diaz, Chief of Investigations  
Deonne E. Contine, J.D., General Counsel  
Donald K. White, Senior Deputy General Counsel  
Brandee Mooneyhan, Deputy General Counsel  
Ian J. Cumings, Deputy General Counsel  
Kory Linn, Interim Chief of Licensing

*Staff/Others Present by Telephone*  
Henna Rasul, J.D., Senior Deputy Attorney General

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Roll Call/Quorum

President Aury Nagy, M.D., called the meeting to order at 12:01 p.m.

Ms. Bradley took roll call, and all Board members were present with the exception of Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Carl N. Williams, Jr., M.D., FACS. 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. No public comment was received.

Agenda Item 3

**REVIEW AND DISCUSSION of BDR 54-761**

Dr. Nagy stated that BDR 54-761 is now AB318.

Ms. Bradley explained that the Board had not received the language of the bill at the time the Legislative Subcommittee met, so there wasn't a lot of discussion other than to let the Subcommittee know this is the language the Board approved in December. She said she had compared the language of the bill with what the Board submitted, and it is substantially similar. The only difference is in Section 1 of the bill. When the legislative staff drafted it, they gave the Board until September 30 to send the list of expired licenses to the Drug Enforcement Administration and the Board of Pharmacy. We plan to send it much before that, but they added a timeframe. There currently is no timeframe for us to send the copies of the expiration notices, which would be replaced by the list. The bill is mostly just cleanup language, updating the Board's Chapter to ensure that all licensees have to report to the Board regarding lawsuits and payments, as

well as the amount of the payments, and making it clear that the Investigative Committees can order examinations of any of the Board's licensees.

Dr. Muro said there wasn't much discussion at the Legislative Subcommittee meeting, but generally there was a consensus to support the bill because there isn't anything really substantive in it.

Ms. Beal moved that the Board support the bill. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 4

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

Ms. Bradley stated that currently, the maximum fine the Board can assess for a disciplinary violation is \$5,000.00 per violation. That amount was added in 1985. There has been some discussion among Board members during Investigative Committee meetings whether \$5,000.00 is sufficient, given the change in the value of money from 1985 to today. This was placed on the agenda so that Board members could decide whether to increase the amount. She recommended that it be increased to \$10,000.00. She said some other agencies have a maximum of \$10,000.00. She hasn't seen anything higher, but that doesn't mean it is not allowed. If the Board votes to do this, we will request that this be an amendment to AB318, the bill the Board just discussed, to update NRS 630.352(4)(h) to increase the maximum fine amount to the amount the Board sets.

Ms. Beal asked for the rationale for increasing the maximum fine.

Ms. Bradley said she would say \$5,000.00 per violation is a bit low in comparison to other regulatory agencies. A good number of them have a maximum of \$10,000.00, and the \$5,000.00 maximum we have was set in 1985. The Board doesn't get to keep any of this money; it goes to the General Fund, but if the goal is to punish and make somebody think harder about their choices, perhaps increasing the fine amount will make the punishment more real for them because the \$5,000.00 maximum may no longer be high enough to accomplish that.

Ms. Beal said she was trying to get a feel for how increasing the maximum would impact the Board's licensees in their ability to pay.

Ms. Bradley explained that increasing the maximum fine does not mean that every fine assessed will be \$10,000.00; it will just provide that opportunity for more egregious cases. If a licensee needs payment arrangements, it is included in a settlement agreement that the Board approves. She said probably about half pay within 60 days and about half request payment plans.

Ms. Beal asked what percentage of fines imposed were assessed at the maximum amount in the last one to two years, and Ms. Bradley said she thought it was no more than 10%.

Dr. Williams joined the meeting at 12:15 p.m.

Dr. Frey moved that the Board approve the agenda item as proposed: Ms. Arias-Petrel seconded the motion and it passed unanimously.

Agenda Item 5

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 this agenda item was placed on the agenda at the request of Dr. Frey. She then explained the intent is to possibly change where fines go when the Board collects them. Currently, when the Board assesses a fine, the Board does not get to keep that money, so it does not pay for anything the Board does. State law requires that we give that money to the State Treasurer, it goes into the General Fund, and the State Treasurer/General Fund appropriations people decide where the money goes. She said Dr. Frey has talked to her a few times about changing where the money goes to help make Nevada healthier or improving healthcare. AB45 is currently pending this session, and it would create a fund in the State Treasurer's office to help repay student loans for all types of healthcare providers working in the rural areas and underserved areas. Ms. Bradley said she thinks this would be a nice fit if the Board votes to change where its fines get deposited.

Dr. Frey said another option would be that we give the Director of the Department of Health and Human Services latitude, but he likes how eloquent this solution is regarding potentially improving rural access and care.

Dr. Nagy moved that the Board approve the agenda item as proposed. Dr. Frey seconded the motion.

Ms. Bradley said we don't know what will happen during the legislative session. Assuming the Board votes in favor of the motion, staff will work with the Board's lobbyist and the Legislature to see where this best fits. In other words, it may go to AB45, but if AB45 doesn't pass, we will try to see what else we can do to achieve this intent.

Dr. Nagy said if AB45 passes, he would like staff to generate a report annually to let the Board know how much the Board contributed to that fund and to which types of providers it went to support.

Ms. Bradley said if AB45 passes, the State Treasurer will have the fund and will have those numbers, and we know how much we collect in fines. This last year we collected about \$90,000.00. In prior years, it wasn't quite as much, as we had fewer disciplinary actions in those years. With the increase in the maximum fine, she doesn't think it will double, but it may go up a bit.

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

Agenda Item 6

PUBLIC COMMENT

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

Agenda Item 7

ADJOURNMENT

Dr. Nagy adjourned the meeting at 12:22 p.m.

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