

NEVADA STATE BOARD OF MEDICAL EXAMINERS

1105 Terminal Way, Suite 301
Reno, NV 89502-2144

Michael J. Fischer, 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
1105 Terminal Way, Suite 301, Reno, Nevada 89502

and videoconferenced to

the Conference Room at the Offices of the Nevada State Board of
Medical Examiners/Nevada State Board of Dental Examiners
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

FRIDAY, JUNE 3, 2016 – 8:30 a.m.

Board Members Present

Michael J. Fischer, M.D., President
Rachakonda D. Prabhu, M.D., Vice President
Wayne Hardwick, M.D., Secretary-Treasurer
Beverly A. Neyland, M.D.
Sandy Peltyn
Victor M. Muro, M.D.
M. Neil Duxbury

Board Members Absent

Theodore B. Berndt, M.D.
April Mastroluca

Staff/Others Present

Edward O. Cousineau, J.D., Executive Director
Todd C. Rich, Deputy Executive Director
Robert Kilroy, J.D., General Counsel
Kevin Benson, J.D., Deputy General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Pamela J. Castagnola, CMBI, Chief of Investigations
Lynnette L. Daniels, Chief of Licensing
Donya Jenkins, Finance Manager
Peter K. Keegan, J.D., Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Michael J. Fischer, M.D., at 8:30 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Theodore B. Berndt, M.D. and April Mastroluca. Mr. Cousineau announced there was a quorum.

Mr. Cousineau introduced the Board's new License Specialist, Stacey McCleery, and new Deputy General Counsel, Kevin Benson, J.D.

Dr. Fischer recognized Chief of Licensing Lynnette L. Daniels for her long-term service to the Board of 15 years, and Ms. Daniels was presented with a service award memorializing the same.

Agenda Item 2

PUBLIC COMMENT

Dr. Fischer 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

- March 4, 2016 Board Meeting – Open/Closed Sessions

Dr. Prabhu moved that the Board approve the Minutes of the March 4, 2016 Board Meeting – Open/Closed Sessions. Dr. Neyland seconded the motion and it passed unanimously.

Agenda Item 4

CONSIDERATION AND APPROVAL OF FY 2015 ANNUAL AUDIT BY KOHN & COMPANY LLP, CERTIFIED PUBLIC ACCOUNTANTS

Connie Christiansen, CPA, CFE, CGMA, of Kohn & Company LLP, gave a PowerPoint presentation summarizing the results of the Board's 2015 financial audit. She stated there had been one big change in the financial statements this year, in that the auditors adopted the new

GASB pronouncements related to recording pension liabilities, which is now required. This resulted in a prior-period adjustment, which was an expected adjustment. They did not note any transactions that lacked authoritative guidance and all significant transactions were recorded in the proper period. The significant estimates involved in the Board's financial statements are the deferral of the license fees for the biennial period, the useful lives of the capital assets and the net PERS liability. Some of the significant disclosures in the financial statements relate to the cash and cash equivalents, the defined pension plan, the post-employment retirement benefits, disciplinary proceedings and the new accounting pronouncement. The audit was performed in accordance with government auditing standards and the Board received an unmodified opinion. There were no material weaknesses and no material instances of noncompliance found, so it was a very clean audit overall. The auditors encountered no difficulties in performing the audit, staff was extremely cooperative and information was readily available. Ms. Christiansen then outlined the adjustments that had been made, the Board's revenue, expenses and net position, and stated the Board's revenues exceeded the budget and its expenses were less than the budget, so the change in net position was very positive overall. She then outlined the Board's assets and liabilities and explained that the Board's net position had been steadily increasing in prior years; but there was a big drop in 2015 due to the prior-period adjustment for the pension liability. However, the Board still had an overall positive net position.

Dr. Hardwick asked Ms. Christiansen to explain what is included in the operating expenses, and Ms. Christiansen said it includes those items that are related to the general operations of the Board itself, such as the rent and insurance.

Dr. Hardwick asked about the Board's pension costs for its employees, and Ms. Christiansen said the Board's annual pension costs are between \$400,000 and \$450,000.

Beth Kohn-Cole, CPA, CGMA, stated she thought it was important to note that pursuant to statute, the Board is not really responsible for the PERS liability; it is just required to be reflected on the Board's financials. The reality is that the PERS rates go up to cover the future liability on an annual basis.

Dr. Neyland moved that the Board accept the audit report. Ms. Peltyn seconded the motion, and it passed unanimously.

Ms. Kohn-Cole thanked Ms. Jenkins for all she does in connection with the audit and said she does an amazing job for the Board.

Agenda Item 5

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

- Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.810 to Clarify the Training Requirements for Medical Assistants, as Well as the Functions they may Perform

Mr. Rich explained that the impetus to amend NAC 630.810 was some concerning issues staff had seen relative to recent Board investigations regarding the functions of medical assistants. Medical assistants in Nevada are not licensed, but licensed medical practitioners can

delegate tasks and functions to these individuals. Therefore, the accountability for the actions of medical assistants falls upon the licenses of the delegating medical practitioners. The objective in amending this regulation is to ensure that medical assistants are appropriately trained for the tasks they perform, as well as clarify the functions that medical assistants may not engage in. Staff has seen evidence that indicates medical assistants are engaging in such functions as administering injections of dangerous drugs, performing liposuction and laser skin treatments. We want to ensure these individuals are competent to perform these functions and that there is documentation demonstrating they have been adequately trained. Additionally, we believe the procedures being performed by medical assistants should be documented in the patient's medical record, as well as the fact that these procedures were ordered and authorized by the delegating practitioner. Finally, we want to ensure that medical assistants are not engaging in the practice of medicine, that they do not make diagnoses, initiate treatment or prescribe any drugs to patients. We believe this amendment is clearly in line with the Board's mission of protecting Nevada consumers and are requesting the Board's approval to move forward with the regulatory adoption process on the proposed amendment.

Discussion ensued regarding whether standards of appropriate training and competency will be set or whether that will be left to the supervising providers.

Dr. Prabhu moved that the Board authorize staff to proceed with the regulatory adoption process on the proposed amendment. Dr. Muro seconded the motion, and it passed unanimously.

Agenda Item 6

CONSIDERATION AND ACTION REGARDING REQUEST FROM RENOWN HEALTH FOR SUPPORT IN AMENDING NRS 634A.200 TO INCLUDE PHYSICIANS LICENSED UNDER CHAPTER 630 IN THE LIST OF THOSE TO WHOM THE CHAPTER IS NOT APPLICABLE

Margo Piscevich, Esq. stated she was present on behalf of Renown Health and they were requesting support to amend NRS 634A.200 to exclude physicians under Chapters 630 and 633. She explained that there are many licensing boards whose statutes exclude physicians from their licensing requirements, such as podiatry, optometry, audiology, etc.; however, the Board of Oriental Medicine does not exclude or exempt physicians from their licensing requirements. It has come to Renown's attention they have five M.D.s practicing acupuncture. They are licensed by the Medical Board, but they do not comply with the requirements of the Oriental Medicine statute because of their background, education and training. Renown would like to see an amendment to the statute that excludes physicians from their oversight because we already have a board that oversees physicians. There are sunset provisions under consideration involving the Board of Oriental Medicine, but the Legislature does not want to include this in the sunset legislation, and wants a separate bill. Nevada and Hawaii are the only two states who have Oriental Medicine statutes that do not exempt physicians from them. There are now thousands of physicians in the United States practicing acupuncture as one of their areas. At Renown, their physicians are also board certified in internal medicine, family medicine, and those kinds of specialties. Currently, Chapter 634A requires anyone practicing acupuncture to be licensed by the Board of Oriental Medicine and requires graduation from an Oriental Medicine medical school. She is requesting this Board's cooperation and assistance in supporting a proposed amendment that will exclude physicians. This would be consistent with the other professions that overlap.

Discussion ensued regarding whether the Board should support such an amendment.

Dr. Hardwick moved that the Board support amendment of the statute to exclude physicians. Dr. Fischer seconded the motion, and it passed unanimously.

Agenda Item 7

CONSIDERATION OF REQUEST OF RONALD FOOTE, M.D. FOR ORDER LIFTING INDEFINITE SUMMARY SUSPENSION AND RETURNING HIS MEDICAL LICENSE TO ACTIVE STATUS WITH CONDITIONS

Dr. Foote appeared in Las Vegas. L. Kristopher Rath, Esq. was present with Dr. Foote as his legal counsel.

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

Mr. Rath described what Dr. Foote had done since getting a DUI arrest two years ago, including voluntarily advising the Board that it happened, voluntarily advising Dr. Mansky that it happened and voluntarily checking himself into a treatment and recovery center. He said Dr. Foote understood the Board's concerns for public safety and not only did not fight his summary suspension, he stipulated to it. Dr. Foote has not had a drink since this occurred, has been monitored the entire time, and all results have come back negative. He will continue to be regularly monitored and randomly tested, and will continue with Dr. Mansky's program. There have been no relapses, and Dr. Foote is committed to having no relapses. Dr. Mansky and Promises Treatment Center are supportive of Dr. Foote returning to practice with certain limitations, which Dr. Foote has agreed to.

Dr. Hardwick asked if the DUI occurred while he was in treatment, and Dr. Foote stated it did. He explained what he had done since to prevent that from occurring again.

Dr. Muro stated he was concerned that this lapse was part of what appears to be a pattern with Dr. Foote.

Mr. Rath stated the treatment Dr. Foote underwent over the last two years was significantly more intensive than what he had undergone previously, and it involved multiple providers. He said there were a number of other allegations of behavioral misconduct, but those have never been proven.

Dr. Foote stated he has the disease of alcoholism and he understands clearly it will always be part of his life and something he can't rid himself of; however, there are things he can do daily to maintain his recovery and prevent a relapse.

Dr. Muro stated that his concern, first and foremost, is public safety, and there have been patterns where Dr. Foote's behavior has put public safety in jeopardy. The Board is entrusted to protect the public, so he has issues not only with the DUI, but Dr. Foote's other behavior, as well as the fact that Dr. Foote's compliance with the stipulated agreements and so forth has not always been there.

Mr. Rath stated they had taken measures in the Settlement Agreement to assuage concerns the Board may have of protecting the public with respect to those behavioral issues.

Dr. Foote said that by having a really strong recovery and strong life skills to process incidences of stress in ways other than by drinking, he thinks he has arrived at a way to assure the Board there won't be any reoccurrence of that behavior. He then described what he has been trained to do to deal with stress and described his involvement with AA.

Mr. Duxbury stated that in reading the report, it indicated that Dr. Foote had greater than 17 sexual boundary violations, yet Dr. Foote says they were all without merit, which he finds a little difficult to comprehend.

Dr. Foote said he was shocked at some of the conclusions in the report and thinks he had a great miscommunication with the therapist. He thinks the report contains a lot of erroneous information.

Dr. Muro stated the report also mentions a failed polygraph test regarding questions of sexual misconduct and boundaries.

Discussion ensued regarding whether it would be appropriate for the Board to accept the Settlement Agreement and lift the summary suspension.

Dr. Prabhu moved that the Board accept the Settlement Agreement and lift the suspension. Dr. Neyland seconded the motion, and it passed, with Dr. Muro voting against the motion and all other adjudicating Board members voting in favor of the motion.

Agenda Item 8

REPORTS

(a) Investigative Committees

Dr. Hardwick reported that at its May 13, 2016 meeting, Investigative Committee A considered 124 cases. Of those, the Committee authorized the filing of a formal complaint in 10 cases, sent 14 cases out for peer review, requested an appearance in 11 cases, issued 22 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up and recommended closure of a total of 65 cases.

Dr. Neyland reported that at its May 3, 2016 meeting, Investigative Committee B considered 104 cases. Of those, the Committee authorized the filing of a formal complaint in 5 cases, sent 7 cases out for peer review, requested an appearance in 3 cases, issued 22 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up and recommended closure of a total of 65 cases.

(b) Nevada State Medical Association Report

Catherine O'Mara, Executive Director of the Nevada State Medical Association (NSMA), introduced Jared Hershewe, who is interning for the NSMA for the summer. NSMA will hold its Annual Meeting on September 16 in Las Vegas. Dr. Don Havins will be inducted as its incoming President, CME focused on the ethics of prescribing will be offered, and there will be a poster contest to incorporate some medical students from both Touro University and the University of Nevada. NSMA has a contingent going to the AMA conference next Friday, including Dr. Hardwick, and NSMA is offering scholarships to one University of Nevada student

and one Touro University student to attend. Ms. O'Mara said it should be no surprise that physicians will have some input on the proposed regulation regarding medical assistants that was discussed earlier in the meeting. NSMA has concerns with some of the language and looks forward to working with Board staff to ensure that those concerns are addressed as the amendment goes through the workshop process. She stated that NSMA is taking a very active role in the opioid prescription problem, and provided examples of some of the ways it has been involved. She said there are many groups from different factions that are asking the question of what should be done to solve this problem. The Washington Post had an article this morning that Prince's death was officially ruled an opioid overdose, and this is on everyone's mind. It is a national problem, but it is also specifically a Nevada problem. NSMA has decided to create a physician-focused task force where candid discussions can be held regarding appropriate protocols when a physician is presented with a patient who has either drug-seeking behavior or chronic pain, as well as how they can work together as a physician community to educate physicians in a non-mandated way to help them understand what the bench mark should be. What happens now is a physician's prescribing is determined by the standard of care for each specialty. If someone comes in and mandates to the physician community that you cannot be a 95th percentile prescriber without adjusting for your specialty, we are setting ourselves up for an inaccurate count of what is appropriate prescribing. NSMA would like to see some sort of non-punitive, peer review-type solution to assist physicians in knowing whether or not they are prescribing within the appropriate bounds for their specialty. That may or may not involve the Board, so as NSMA gets its ideas together, it will keep Board staff in the loop as to what it thinks is appropriate and NSMA will be back at the next Board meeting with its ideas. NSMA hopes to receive the Board's collaboration and ideas about what should happen. She said if we don't work together to solve this problem, someone will present us with the solution and we won't have any say in it, and probably won't like it, so we really want to be proactive on this.

Discussion ensued regarding electronic prescribing issues and the problems the opioid prescription crisis has created for physicians, their practices, and delivery of healthcare to patients.

(c) Clark County Medical Society Report

Loretta Moses, Executive Director of the Clark County Medical Society (CCMS), stated she wanted to echo everything that Ms. O'Mara had said. She said she realizes the focus is in the north because of the most recent incidents, but it is a statewide problem and a nationwide problem, and CCMS is working closely with the NSMA and the task force to make sure they have great representation for their physicians in addressing this issue. She then reported that CCMS will hold its installation of officers on June 18, and Dr. Souzan El-Eid is their incoming President. On August 20, the CCMS Board will meet for strategic planning. As part of that strategic planning, there will be a huge emphasis on education and wellness CMEs and a lot of the topics we are discussing will be programmed for the next year. CCMS will be launching its patient education series and will be working with the public to educate it on issues dealing with patients and physicians. On August 17, CCMS will hold its third annual Residents and Fellows Job Fair, it will hold its candidates mixer with the MedPAC on September 29, and its fall Mini Internship Program will be held October 10-21. CCMS is looking to get its occupancy cleared by June 30, will be moving to the new building July 1 through 8, and will be demolishing its old building on July 19. CCMS will hold a grand opening towards the end of the year.

(d) Washoe County Medical Society Report

Catherine O'Mara, Executive Director for the NSMA, advised the Board she had received word that morning from Jeanie Catterson, Executive Director of the Washoe County Medical Society (WCMS), that she had fallen ill. Ms. O'Mara wanted to pass on one update for Ms. Catterson, which was that WCMS held its Mini Internship Program in May, and it was very well attended. She thanked the Board for sending one of its staff members, Mollie Miller.

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARK HOEPFNER, M.D.*, BME CASE NO. 16-8164-1

Neither Dr. Hoepfner nor his legal counsel was present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Dr. Hardwick moved that the Board accept the Settlement Agreement. Dr. Fischer seconded the motion, and it passed unanimously, 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. ANDREW J. WELCH, M.D.*, BME CASE NO. 15-5474-1

Neither Dr. Welch nor his legal counsel was present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Dr. Hardwick moved that the Board accept the Settlement Agreement. Dr. Fischer seconded the motion, and it passed unanimously, 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. WESLEY WILKINSON HALL, M.D.*, BME CASE NO. 14-3719-1

Neither Dr. Hall nor his legal counsel was present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Dr. Hardwick moved that the Board accept the Settlement Agreement. Dr. Fischer seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 12

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JOHN WERT VAN HORN, M.D.*, BME CASE NO. 15-9568-1

Dr. Van Horn was not present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Dr. Hardwick moved that the Board accept the Settlement Agreement. Dr. Fischer seconded the motion, and it passed unanimously, 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. JENNIFER MCKIM WILSON, M.D.*, BME CASE NO. 14-21994-1

This item was not discussed at the meeting.

Agenda Item 14

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARIA CORAZON OROZCO REGALADO, M.D.*, BME CASE NO. 15-12597-1

Dr. Regalado was not present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Dr. Prabhu moved that the Board approve the Settlement Agreement. Ms. Peltyn seconded the motion, and it passed unanimously, 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. DEANNE LONG, M.D.*, BME CASE NO. 15-40633-1

Neither Dr. Long nor her legal counsel was present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Dr. Neyland moved that the Board accept the Settlement Agreement. Ms. Peltyn seconded the motion, and it passed unanimously, 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. MAHESH R. KUTHURU, M.D.*, BME CASE NO. 14-32161-1

Neither Dr. Kuthuru nor his legal counsel was present.

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

Mr. Kilroy outlined the terms of the proposed Settlement Agreement.

Ms. Peltyn moved that the Board approve the Settlement Agreement. Dr. Neyland seconded the motion, and it passed unanimously, 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. SIMMON L. WILCOX, M.D.*, BME CASE NO. 16-30572-1

Dr. Wilcox was not present. John A. Hunt, Esq. was present in Las Vegas as Dr. Wilcox's legal counsel.

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

Mr. Hunt explained that Dr. Wilcox had gone to trial on criminal charges because he believed in his innocence. Pursuant to the proposed Settlement Agreement, if Dr. Wilcox is sentenced to probation or supervised release and is not taken into custody, the terms and conditions of the federal government probation will run concurrent with the terms and conditions of Dr. Wilcox's probation with the Board, including a stayed suspension. About three weeks ago, Dr. Wilcox was sentenced to a period of 7 to 8 years. Although Dr. Wilcox has to report in 90 days, the federal judge indicated he could file an appeal during the interim and his incarceration would be stayed pending the appeal. If Dr. Wilcox is given a stay, he will not be taken into custody, and, therefore, the probationary provisions of the Settlement Agreement will go into effect. If Dr. Wilcox is not given a stay and is taken into custody, the matter is resolved, Dr. Wilcox's license will be revoked, and upon his release, certain conditions would have to be met, and then he would be given the possibility to apply to the Board for reinstatement.

Mr. Kilroy said the Investigative Committee's recommendation was that the Board approve the Settlement Agreement.

Dr. Fischer said Dr. Wilcox needs to know that if he is incarcerated and his license is revoked, he won't practice medicine for six to eight years and it may be difficult for him to get his license reinstated.

Mr. Hunt said Dr. Wilcox has been made fully aware that reinstatement of his license will be totally at the Board's discretion.

Discussion ensued regarding the status of Dr. Wilcox's license under the terms of the proposed Settlement Agreement in the event Dr. Wilcox is not incarcerated.

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

Agenda Item 18

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Ms. Castagnola reported the current number of open investigative cases was 610 and the current number of cases per investigator was approximately 77. There were 36 peer reviews in the field and 23 peer reviews awaiting assignment.

Dr. Hardwick complimented the Investigations Division. He said they do an unbelievable job, they are so knowledgeable, they work incredibly hard and it is a pleasure to work with them.

(b) Quarterly Compliance Report

Ms. Jenkins reported the total costs outstanding for the first quarter of 2016 were \$45,000.00 and total fines outstanding were \$8,500.00, for a combined total of \$53,500.00. The total costs collected during the quarter were \$7,091.35. The total number of cases with the Controller's Office for collections at the end of the quarter was 7, for a total of \$39,700.00.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the first quarter of 2016. She explained the Board's assets were \$9,500,000.00, with \$8,780,000.00 in cash and investments. The total current liabilities, which are primarily the Board's deferred income (the money the Board receives from licensing fees), was \$4,294,000.00. The PERS liability, which was discussed earlier, is included in the long-term liability, and the total long-term liability was \$3,822,000.00. That left the Board's reserves at \$1,397,000.00.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the first quarter of 2016. She explained the Board budgeted high this year, projecting for revenue growth, which is the first year it has done that. The Board came in at 92% of that projection for the first quarter. The personnel expenses are the largest part of the Board's

expenses, and those came in at 79% for the first quarter. The total operating expenses were only 2.5% over budget, and interest income was about \$10,000 more than expected. The net income was \$124,423.36, and the budget was only \$37,800.00, so the Board was much better than budget in this area.

(d) Legal Division Report

Mr. Kilroy reported there were currently 99 cases in the Legal Division, 8 of which had been presented to the Board for action at this meeting. There were 12 cases pending the CMT process, 31 cases awaiting filing of a formal complaint, 32 cases in which a formal complaint had been filed that were pending hearings, 4 since the last Board meeting, and 15 miscellaneous legal matters requiring further investigation, etc. He then provided an update regarding the 4 pending civil court cases in which the Board was currently involved.

(e) Report on Federation of State Medical Boards 2016 Annual Meeting

Mr. Cousineau reported the meeting was well attended by both staff and Board members. The highlight for him was when the Surgeon General, Vice Admiral Murthy, spoke. His comments focused on the opioid epidemic and the issues that are on a national level, Educating the public and turning the tide in prescribing was the general theme. He also talked about the first-ever substance abuse report detailing prevention and treatment issues, as well as policy decisions, which is due to be published later this year. Other subjects that were touched on were the Interstate Medical Licensure Compact, which the Board is a part of, a USMLE update, physician stress and medical marijuana.

Agenda Item 19

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the March 4, 2016 Board Meeting

Dr. Hardwick moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the March 4, 2016 Board Meeting. Dr. Prabhu seconded the motion, and it passed unanimously.

Agenda Item 20

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) David Smith Owens, M.D.

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

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

Dr. Owens explained the circumstances surrounding the two cases of malpractice that had been filed against him.

Dr. Fischer asked Dr. Owens what he planned to do if granted a license to practice medicine in Nevada.

Dr. Owens stated he is the Medical Director for a teleradiology company in Austin, Texas, and has about 30 licenses. The more licenses he has, the more he is able to assist with coverage.

Dr. Muro questioned Dr. Owens regarding his negative response to Question 31 on his application for licensure.

Dr. Owens explained that the state of Georgia reviews every case of medical malpractice. In this particular case, they contacted him and his attorney requested that they review the matter at length. Dr. Owens spoke with them voluntarily, they looked at it, and then came back with a closure letter.

Dr. Prabhu moved that the Board grant Dr. Owens' application for licensure. Dr. Hardwick seconded the motion, and it passed unanimously.

(b) Brenda Rae Russell, M.D.

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

Dr. Muro questioned Dr. Russell regarding her affirmative responses to Questions 5a and 5b on her application for licensure.

Dr. Russell explained the circumstances surrounding the three cases of malpractice that had been filed against her that resulted in settlements.

Dr. Muro recommended that Dr. Russell undergo a peer review since she had not practiced clinical medicine since February 2014. Dr. Russell asked for an explanation as to the peer review process, and Mr. Cousineau described what the process entailed. Dr. Russell stated she would be amenable to that but it would be contingent upon her company's willingness to pay the related costs.

Dr. Muro moved that the Board grant Dr. Russell an unrestricted license contingent upon successful passage of a peer review. Dr. Prabhu seconded the motion, and it passed unanimously.

(c) Consuelo Aurea Kinahan, M.D.

Dr. Muro stated that his group had interviewed Dr. Kinahan, so he was recusing himself from consideration of her application.

Dr. Fischer asked Dr. Kinahan whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did.

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

Upon returning to open session, Dr. Neyland moved that the Board grant Dr. Kinahan an unrestricted license contingent upon successful passage of a peer review. Dr. Prabhu seconded the motion, and it passed unanimously.

(d) Demara Nicole Wright, M.D.

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

Dr. Hardwick questioned Dr. Wright regarding her affirmative responses to Questions 13 and 19 on her application for licensure.

Dr. Wright explained the circumstances that led to her suspension while in residency training at the University of Texas Health Science Center in San Antonio, her subsequent resignation from the residency program, her receipt of an Article 15 from the U.S. Air Force, investigations by the Nebraska and Texas medical boards, and her entry into a remedial plan with the Texas Medical Board.

Dr. Hardwick moved that the Board grant Dr. Wright a limited license for residency training. Dr. Neyland seconded the motion, and it passed unanimously.

(e) Reem Manoor Shuja, M.D.

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

Dr. Fischer questioned Dr. Shuja regarding the fact that she had not practiced clinical medicine since 2008 and had not passed a major examination within the last ten years.

Dr. Shuja stated she had recently sat for the Boards, but did not yet know the results.

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

Dr. Shuja said she had done outpatient work in New York for 8 years and that is what she planned to start with in Nevada. She explained that she had been working with a physician in his office, seeing patients under his supervision, trying to get her skills back.

Ms. Daniels stated Dr. Shuja had submitted a preceptor plan, and Dr. Shuja stated that was the preceptor plan that she had started. She said she understands that she is not supposed to practice medicine in the state of Nevada, and she is not. Her understanding was that she was to work in an office under somebody's supervision and the Board would instruct her as to what should be done after. She isn't seeing any patients on her own and she doesn't write prescriptions.

Ms. Daniels explained that preceptorship plans are not supposed to commence until the Board approves them.

Dr. Shuja said she was not aware of that and did not do that intentionally.

Mr. Cousineau stated the Board needed to determine whether to grant Dr. Shuja a license by endorsement, which he did not think was appropriate, and if not, whether to allow her to practice in a limited capacity pursuant to the preceptorship, and it would be his recommendation that the 12-month term of the preceptorship not begin until it has been approved by the Board, so whatever she has done prior will not count towards the 12-month term.

Dr. Muro said there are two issues here. One is, at best, a misunderstanding regarding the preceptorship, so it cannot count until it is approved and is allowed to move forward. There is also the gap in clinical practice, so even if Dr. Shuja passes the Boards, we are still left with the gap in clinical practice, which will be handled by the preceptorship.

Discussion ensued regarding whether it would be appropriate to grant Dr. Shuja a license contingent upon successful completion of a peer review rather than requiring her to complete the preceptorship plan.

Dr. Fischer moved that the Board grant Dr. Shuja a conditional license subject to the terms in the preceptorship plan she provided and, after a period of time, she can come back to the Board to petition to have the condition removed.

Dr. Shuja asked if she could change the preceptor, and Mr. Cousineau stated she would have to come back to the Board for approval of the change.

Dr. Hardwick seconded the motion, and it passed unanimously.

Agenda Item 21

CONSIDERATION AND APPROVAL OF 2015 BOARD ANNUAL REPORT

Mr. Cousineau outlined the contents of the proposed 2015 Annual Report. He noted there had been some turnover in the Legal Division and the number of disciplinary actions was down significantly for 2015 from previous years; however, we are again trending in a positive direction and he anticipates the 2015 number in to be entirely disparate from what it will be this year. There was a very slight decrease in the ratio of physicians to population, from 174 per 100,000 people in Nevada to 173, although physician licensure for active, in-state physicians increased slightly. He believes this is indicative of the fact that people are returning to the State. We are obviously trying to increase our physician numbers, which is a constant issue. The number of physician assistants increased, the number of respiratory therapists decreased slightly, and there was a significant decrease in perfusionists. We have recently brought on additional License Specialists and all the License Specialists are very busy. They do a great job and should be commended.

Dr. Neyland moved to approve the 2015 Board Annual Report. Dr. Hardwick seconded the motion, and it passed unanimously.

Agenda Item 22

CONSIDERATION AND APPROVAL OF REDUCTION IN LICENSURE REGISTRATION FEES

Mr. Cousineau explained that in 2015, the Board reduced its renewal registration fees by approximately 10% in recognition of the continuing uptick in the Board's fiscal reserves;

however, it did not result in a significant impact on the reserves. Staff believes that a small step the Board can take to further reduce the Board's fiscal reserves would be to reduce the registration fees for new applicants in line with the 2015 renewal fee reductions. Based on staff's projections, the negative impact to the Board's projected budget will be approximately \$45,000.00, so it will not have a significant impact upon the Board's fiscal reserves, but it is a small step that will benefit new applicants. The Board may have to consider additional reductions in fees for renewals in 2017.

Discussion ensued regarding the increase in the number of physicians who are being employed by entities such as hospitals and how the Board's fees compare to those of other states.

Dr. Hardwick moved to approve the proposed reduction in fees. Dr. Neyland seconded the motion, and it passed unanimously.

Agenda Item 23

CONSIDERATION AND APPROVAL OF REVISIONS TO BOARD POLICY AND PROCEDURE MANUAL, TO INCLUDE MODIFICATION OF SECTIONS RELATED TO SUPERVISION OF STAFF BY EXECUTIVE DIRECTOR, ADDITION OF NEW SECTION RELATIVE TO EMPLOYEE MANAGEMENT, AND MODIFICATION OF POSITION DESCRIPTIONS FOR EXECUTIVE DIRECTOR, CHIEF OF INVESTIGATIONS AND DEPUTY CHIEFS OF INVESTIGATIONS

Mr. Rich explained that in March, the Board approved changes to the Public Information Officer and Research Analyst position, as well as the creation of a Senior Investigator position. In accordance with those changes, there was a need to update the policy manual. Additionally, management is requesting a change to the Executive Director position description to clarify the authority of the Executive Director to approve all staff training, education and travel requests. The Board will still approve the budget that contains line items for education, training and travel, so the Board will retain that authority. Finally, management would like to add a new section that outlines the concept of progressive discipline. The objective is to address any potential employee performance challenges. Progressive discipline is a framework to get an employee back to an acceptable level of performance, and it is important to note that this addition will not change the status of the staff employed by the Board and they will remain at-will.

Dr. Hardwick moved that the Board accept the changes and additions to the Board Policy and Procedure Manual. Dr. Prabhu seconded the motion, and it passed unanimously.

Agenda Item 24

MATTERS FOR FUTURE AGENDAS

Mr. Cousineau stated the following items would be on the agenda for a future meeting: (1) election of officers and appointment of committee members at the September meeting; (2) a peer review trend report at the September meeting; (3) consideration and approval of the 2017 meeting schedule at the September meeting; (4) legislative initiatives for the 2017 legislative session at the September meeting; (5) consideration of an advisory opinion regarding independent medical examinations (IMEs); (6) consideration of the 2017 budget at the December meeting; and (7) annual review of staff at the December meeting.

Agenda Item 25

STAFF COMMENTS/UPDATES

Mr. Cousineau stated this was potentially Dr. Neyland's last Board meeting. She is terming out after eight years and we are going to miss her. It is possible if the Governor does not appoint a new member in her stead, she could serve at the September meeting. He talked to Dr. Neyland a few weeks ago about her retirement dinner and we will be holding that in Las Vegas in December.

Agenda Item 26

PUBLIC COMMENT

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

Dr. Hardwick said that Dr. Neyland works so hard and had been wonderful to work with.

Agenda Item 27

ADJOURNMENT

Dr. Prabhu moved to adjourn the meeting. Dr. Hardwick seconded the motion, and it passed unanimously. Dr. Fischer adjourned the meeting at 1:25 p.m.

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