

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

*** * * MINUTES * * ***

OPEN SESSION BOARD MEETING

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

and Videoconferenced to

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

FRIDAY, SEPTEMBER 6, 2019 – 8:30 a.m.

Board Members Present

Rachakonda D. Prabhu, M.D., President
Mr. M. Neil Duxbury, Vice President
Ms. April Mastroluca, Secretary-Treasurer
Victor M. Muro, M.D.
Aury Nagy, M.D.
Michael C. Edwards, M.D., FACS
Weldon Havins, M.D., J.D.
Ms. Maggie Arias-Petrel

Board Members Present but Not Participating

Bret W. Frey, M.D.

Board Members Absent

None

Staff/Others Present

Edward O. Cousineau, J.D., Executive Director
Jasmine K. Mehta, J.D., Deputy Executive Director
Donya Jenkins, Finance Manager
Robert Kilroy, J.D., General Counsel
Aaron Bart Fricke, J.D., Deputy General Counsel
Donald K. White, 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
Henna Rasul, J.D., Senior Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

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

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

Dr. Prabhu welcomed new Board members Ms. Maggie Arias-Petrel and Bret W. Frey, M.D., and announced the reappointment of Victor M. Muro, M.D. to a second term on the Board.

Dr. Prabhu recognized Finance Manager Donya Jenkins and Investigations Coordinator Samantha M. Hendricks for their long-term service to the Board of 10 years.

Agenda Item 2

PUBLIC COMMENT

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

Agenda Item 3

APPROVAL OF MINUTES

- June 7, 2019 Board Meeting – Open/Closed Sessions

Dr. Edwards moved that the Board approve the Minutes of the June 7, 2019 Board Meeting – Open/Closed Sessions. Ms. Mastroluca seconded the motion, and it passed unanimously.

Agenda Item 4

CONSIDERATION AND APPROVAL OF FY 2018 ANNUAL AUDIT BY EIDE BAILLY LLP

Connie Christiansen, CPA, CFE, CGMA, of Eide Bailly LLP, explained that the audit was currently in draft form, and she expected it would be finalized in the next couple of weeks. She said the delay was due to administrative procedures on Eide Bailly's end, and not any delays on the part of the Board. She then gave a PowerPoint presentation summarizing the results of the audit. She stated the Board had received an unmodified opinion on its financial statements. With respect

to internal controls, no material weaknesses were identified. The auditors did not encounter any difficulties during the audit, there were no adjustments to the financial information, there were no disagreements with management, and there were no transactions that lacked authoritative guidance. She explained that the Governmental Accounting Standards Board (GASB) issued a new Statement, which resulted in a prior period adjustment for recognition of "other postemployment benefits" (OPEB), similar to that for the PERS liability, which was effective for all governmental entities.

Ms. Christensen stated the number of new licenses continues to increase. Because of the biennial licensing period, there is a normal ebb and flow of revenues over those two-year cycles, so there was a natural decrease in 2018 versus 2017, when there was a renewal period, but the overall revenue is continuing to increase. The Board's expenses also increased. Operating expenses decreased; however, personnel expenses increased due to bringing medical reviewers onboard. The change in overall net position declined in 2018, primarily due to the prior-period adjustment for the OPEB liability of about \$1.7 million, which was required to implement the new GASB standard. Revenues were slightly higher than budgeted and expenses were a little higher than budgeted, but the overall change in net position was within \$35,000 of budget.

Ms. Mastroluca thanked Ms. Christensen, and thanked Ms. Jenkins for all of her work as well. She then made a motion that the Board approve the audit in draft form, provided there are no substantial changes to the document when it is finalized. Dr. Edwards seconded the motion. Mr. Cousineau stated if there are any substantial changes, the Board will hold a special meeting to adopt the final document with those changes. A vote was taken on the motion, and it passed unanimously.

Agenda Item 5

CONSIDERATION OF REQUEST OF CORTLAND LOHFF, M.D. FOR REMOVAL OF CONDITION ON HIS MEDICAL LICENSE

Dr. Lohff appeared in Las Vegas. Bridget Kelly, Esq. appeared with Dr. Lohff as his legal counsel. Fermin Leguen, M.D., and Diana Kraushaar, M.D., Dr. Lohff's preceptors, were also present with Dr. Lohff.

Ms. Kelly stated that Dr. Lohff was there to request that the Board lift the preceptorship condition on his license, as they believed he had satisfied both the letter and the spirit of that preceptorship.

Mr. Cousineau stated that at the last Board meeting, the Board required Dr. Lohff to see a minimum of 45 patients before he came back before the Board, and Dr. Lohff had seen 51. Dr. Prabhu added that Dr. Lohff had met all the conditions.

Ms. Mastroluca asked for clarification regarding whether Dr. Lohff would be providing direct patient care or supervising residents.

Dr. Lohff said he would not be providing direct supervision for the residents or providing direct patient care in the clinics.

Dr. Havins moved that the condition be removed and Dr. Lohff be given an unrestricted license. Dr. Nagy seconded the motion, and it passed unanimously.

Agenda Item 6

CONSIDERATION OF REQUEST OF KARTIKA SHETTY, M.D. FOR APPROVAL OF COLLABORATION AGREEMENT WITH IULIA GABRIELA SIMON, APRN

Dr. Shetty said he was the Facility Medical Director for a physician staffing company called TEAMHealth, at MountainView Hospital, and is also the Program Director for its Internal Medicine Residency Program. He said they had been trying to recruit Ms. Simon for TEAMHealth at MountainView and, as part of her credentialing process, they were asked to appear and explain an infraction in her CV that happened years ago when she was a nurse.

Dr. Prabhu said he had read the entire story, and it looked like a very innocent mistake she had made, and that she has more than paid her dues and done very well ever since. He also knows Dr. Shetty, and he is a great supervisor.

Ms. Mastroluca moved that the Board approve the request for collaboration. Mr. Duxbury seconded the motion, it passed unanimously.

Agenda Item 7

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

- (a) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC Chapter 630 to Recognize Continuing Education Credit for Continuing Education Courses on the Diagnosis of Rare Diseases
- (b) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC Chapter 630 Procedural Rules for Consistency With NRS Chapter 622A

Ms. Mehta stated that one of the proposed regulation amendments would amend the Board's hearing procedures. She explained that the Board used to be excluded from the provisions of NRS Chapter 622A, which governs regulatory bodies in general and their hearing procedures; however, that exclusion was removed by the Legislature and there are minor inconsistencies between the hearing procedures in NRS 622A and the Board's hearing procedures as embodied in Nevada Administrative Code (NAC) 630. This amendment would make the two consistent.

Ms. Mehta explained that the second proposed regulation would grant additional credits for taking continuing medical education courses on rare diseases. This past legislative session, the Legislature passed legislation encouraging health care providers to take continuing medical education on rare diseases. The Board already has a regulation that grants additional credits for taking CME on Alzheimer's or geriatrics, and this amendment will incorporate courses on rare diseases in that regulation.

Ms. Mehta requested authorization from the Board to go through the regulatory adoption process on the two proposed amendments.

Dr. Havins moved that the Board authorize staff to proceed with the regulatory adoption process on the proposed regulation amendments. Dr. Edwards seconded the motion, and it passed unanimously.

Agenda Item 8

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ISAAC JOHN HEARNE, M.D.*, BME CASE NO. 18-28607-1

Dr. Hearne was not present.

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

Ms. Rasul asked whether the adjudicating Board members had received and reviewed the materials related to this matter, and they indicated that they had.

Ms. Rasul then provided procedural instruction regarding the adjudication process with respect to this matter.

Dr. Nagy summarized the background of the case and outlined the seven counts contained in the Complaint against Dr. Hearne.

Dr. Nagy moved that the Board adopt the Hearing Officer's synopsis and recommendations. Mr. Duxbury seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Mr. White stated for the record that the incorrect synopsis had inadvertently been included in the original adjudication materials as Exhibit 27, and the adjudicating Board members had been provided with the correct synopsis that morning. He then stated the Investigative Committee's recommendations regarding discipline in this matter included revocation of Dr. Hearne's license, that Dr. Hearne may not apply for reinstatement of his license for a period of two years, pursuant to NRS 630.352 and NRS 622A.410, and that he receive a public reprimand.

Mr. Duxbury asked whether there had been any communication with Dr. Hearne, and Mr. White stated there had been none of any substance.

Mr. White outlined the Investigative Committee's Memorandum of Costs and Fees submitted in the matter, and stated the total was \$7,314.40.

Ms. Arias-Petrel asked whether Dr. Hearne would only have to pay the costs and fees if he reapplied for licensure, or whether he would have to pay them either way. Mr. Cousineau stated that is something that should be included in the Board's order.

Dr. Havins asked whether the Investigative Committee was recommending a fine, and Mr. White stated it was not. Mr. White added that the Board was allowed to impose a time frame for reimbursement of the costs and fees.

Dr. Havins moved that the Board revoke Dr. Hearne's license, with the earliest possible time for him to apply for a new license in two years, that he reimburse the costs and fees in the amount of \$7,314.40, to be paid within six months, and that he receive a public reprimand. Ms. Arias-Petrel seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 9

CONSIDERATION OF REVOCABLE DELEGATION AND AUTHORIZATION BY THE BOARD TO THE GENERAL COUNSEL OF THE BOARD TO DEFEND THE BOARD'S FINDINGS, CONCLUSIONS, ORDERS AND ACTIONS IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ISAAC JOHN HEARNE, M.D., BME CASE NO. 18-28607-1, 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

Mr. White stated that staff was seeking the Board's authorization to defend the Board or take any other actions on its behalf with respect to this matter.

Ms. Mastroluca moved that the Board authorize the General Counsel to defend the Board's findings, conclusions, orders and actions in this matter. Dr. Nagy seconded the motion, and it passed unanimously.

Agenda Item 10

REPORTS

(a) Investigative Committees

Mr. Duxbury reported that at its August 16, 2019 meeting, Investigative Committee A considered 98 cases. Of those, the Committee authorized the filing of a formal complaint in 8 cases, sent 7 cases out for peer review, requested an appearance in 2 cases, issued 15 letters of concern, referred 7 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 59 cases.

Dr. Prabhu thanked Dr. Muro and Ms. Mastroluca for their extraordinary involvement and very hard work. He then reported that at its July 31, 2019 meeting, Investigative Committee B considered 125 cases. Of those, the Committee authorized the filing of a formal complaint in 5 cases, sent 13 cases out for peer review, requested an appearance in 9 cases, issued 17 letters of concern, referred 4 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 77 cases.

(b) Nevada State Medical Association

Catherine M. O'Mara, J.D., Executive Director of the Nevada State Medical Association (NSMA), said she wanted to make sure the Board was aware that all applications had been submitted for the Governor's Patient Protection Commission, and they expected the Commission and Executive Director to be announced at the end of September or the beginning of October. She said that under the law, the Commission has very broad authority to deal with a lot of different issues with respect to health care. She said the other major item in the works is development of regulations related to AB469, the out-of-network emergency billing legislation, which will be implemented January 1. Regulations are needed to create the arbitration process the bill has set forth, mechanisms for self-funded entities to opt in, ways for reporting on whether the system is working, and to determine whether there is an impact on the market and the outcomes of arbitration.

Ms. O'Mara reported that NSMA has developed a number of one-pagers on some of the legislation, which can be found at nvdoctors.org, under the Advocacy tab. NSMA's Annual Meeting would be held the following week, at which they would swear in Dr. Ronald Swanger, a Radiologist in Reno, as President. Ms. O'Mara then described some of the programming that would be offered at the meeting, and said that Dr. Havins would be receiving a Distinguished Physician Award and Mike Willden would be receiving the Nicholas J. Horn Award. She said all the information regarding the Annual Meeting can be found on the NSMA website under the Annual Meeting tab.

Ms. O'Mara said she wanted to make sure the Board was aware that there is growing pressure on physicians on the front end of operating a business in the state of Nevada. Reimbursement rates and payment rates are not keeping up with inflation. At the same time, the expenses of running an office are increasing, including everything from licensing to mandates for upgrading systems with respect to prescribing. Yesterday, the Board of Pharmacy voted to approve an increase in its license fee from \$80 every two years to \$200 every two years. NSMA understands they haven't increased their fees since 1997, but it is still a 12.5% increase every year, and all of those increases are not being proportionally met by the compensation on the other end, which is creating a strain on physicians.

Discussion ensued regarding the Patient Protection Commission.

(c) Washoe County Medical Society

Mary Ann McCauley, Executive Director of the Washoe County Medical Society (WCMS), reported the WCMS' current focus is on growth and retention of its membership. In July, WCMS began offering a group health plan to its members through Providence. This offers its members who have 50 or fewer employees access to group health insurance, and currently gives them access to two of the three medical systems in the area. She said this is bringing back some past members and bringing in new members. She said that WCMS has offered free student, resident and fellow memberships for some years now, but until a year ago, WCMS hadn't really engaged them. They now have seats on the WCMS Board, and some are beginning to express interest in serving on committees and volunteering for networking events. There will be a student delegate and two alternates, as well as a resident delegate, at the NSMA Annual Meeting the following week, and some student members have volunteered to help NSMA staff at its Annual Meeting. Additionally, WCMS is focusing on member networking, with both large and small group events, including its annual family barbeque at Bartley Ranch in August. In July, WCMS held two separate one-hour CME programs, and is working on additional CME programs. WCMS has also begun hosting the Women and Children's Center of the Sierra, which provides a lot of services to women and their families. She said WCMS is starting to plan its Annual Meeting, which will be held on January 11, at which Jay Morgan will be installed as the WCMS President.

Agenda Item 11

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DEVENDRAKUMAR I. PATEL, M.D.*, BME CASE NOS. 18-29352-1, 18-29352-2 AND 18-29352-3

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

Mr. Fricke stated that three formal Complaints had been filed against Dr. Patel alleging numerous violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

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

Agenda Item 12

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. COREY DANIEL BUENO, CRT, BME CASE NO. 19-36900-1*

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

Mr. Fricke stated that concurrently with an Order for Summary Suspension, the Investigative Committee authorized the filing of a formal Complaint against Mr. Bueno alleging two violations 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. Havins 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. JAIRO ALEJANDRO RODRIGUEZ, PA-C, BME CASE NO. 19-34006-1*

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

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

Discussion ensued concerning the terms of the proposed Settlement Agreement.

Dr. Nagy moved that the Board reject the Settlement Agreement. Dr. Edwards seconded the motion.

Further discussion ensued regarding the terms of the proposed Settlement Agreement.

Dr. Nagy withdrew his motion.

Dr. Nagy moved that the Board approve the Settlement Agreement. Mr. Duxbury 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. STEVEN LEE OLENCHAK, PA-C, BME CASE NO. 19-22430-1*

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

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

Dr. Muro moved that the Board accept the Settlement Agreement. Dr. Havins 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. LANE FIELDING SMITH M.D.*, BME CASE NO. 19-24424-1

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

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

Ms. Mastroluca moved that the Board accept the Settlement Agreement. Dr. Muro 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. RONALD HOPE FOOTE, M.D.*, BME CASE NO. 19-12899-1

Dr. Foote's legal counsel, L. Kristopher Rath, Esq., was present in Las Vegas.

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

Mr. Fricke stated a formal Complaint had been filed against Dr. Foote alleging eight violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement. He said he wanted to note for the record that Dr. Foote had already been in inactive status for more than a year-and-a-half, and he would not be permitted to practice medicine for at least another year, if not longer, and not until he has demonstrated full compliance with the terms of the Settlement Agreement, as well as compliance with his criminal probation, and he has demonstrated his current competency and qualifications for an active license pursuant to NRS 630.255. Dr. Foote is still subject to the terms of a previous Settlement Agreement, entered into in June 2016, and these terms are in addition to those.

Dr. Havins moved that the Board approve the Settlement Agreement. Dr. Edwards 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. MANE SULAIMAN SHAH, M.D.*, BME CASE NO. 18-33803-1

John A. Hunt, Esq. appeared with Dr. Shah as his legal counsel.

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

Mr. White stated a formal First Amended Complaint had been filed against Dr. Shah alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement. He added that Dr. Shah has had self-imposed chaperones in place since about 2013.

Dr. Edwards asked whether the monitors proposed in the proposed Settlement Agreement would be employees or outside individuals, and Mr. White said he thought they would be employees.

Dr. Muro requested that the monitors be individuals who are outside of a direct employment relationship with Dr. Shah, with a reporting structure.

Mr. Hunt stated that this matter was over six years old, and over the last six years, Dr. Shah has practiced in good standing, and instituted the self-imposed monitoring, ensuring that someone was present at all times. Prior to this, Dr. Shah had never had an incident, and since this incident, his record has been unblemished and exemplary. The alleged victim never filed a civil complaint nor complained to the Board. He said the issue regarding whether or not it be an employee was not foreseen because it is a huge burden. The monitoring has already been in place for six years, and the agreement is that the Board has final say, so that safeguard is there. He asked that the Board agree that the monitoring as written should be more than effective and adopt it as written.

Discussion ensued regarding the formal structure that is in place with respect to the monitors.

Dr. Havins moved that the Board approve the Settlement Agreement. Dr. Edwards seconded the motion., and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. STEVEN A. HOLPER, M.D.*, BME CASE NO 19-8552-1

Dr. Holper's legal counsel, L. Kristopher Rath, Esq., was present in Las Vegas.

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

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

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

Agenda Item 19

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ALLISON KAY DAVIS, M.D.*, BME CASE NO. 19-27984-1

Dr. Davis' legal counsel, Kathleen Janssen, Esq., was present in Las Vegas.

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

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

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

Agenda Item 20

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MATTHEW OBIM OKEKE, M.D.*, BME CASE NO. 19-22461-1

Dr. Okeke's legal counsel, L. Kristopher Rath, Esq., was present in Las Vegas.

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Okeke alleging six violations of the Nevada Medical Practice Act. A settlement was reached in the matter, which was presented to the Board for approval at the last Board meeting. At the meeting, the proposed Settlement Agreement was pulled, and subsequent to that, a new settlement was reached. He then outlined the terms of the revised proposed Settlement Agreement.

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

Agenda Item 21

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. PRIYA CHIB, M.D.*, BME CASE NO. 19-46237-1

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

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

Dr. Edwards moved that the Board approve the Settlement Agreement. Dr. Havins seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 22

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. LIBBY KRISTAL M.D.*, BME CASE NO. 19-40909-1

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

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

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

Agenda Item 23

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. PATRICIA MORALES, M.D.*, BME CASE NO. 19-9829-1

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Morales alleging two violations of the Nevada Medical Practice Act. A settlement was reached in the matter, which was presented to the Board for approval at the last Board meeting. At the meeting, the proposed Settlement Agreement was rejected. Subsequent to that, Dr. Morales retired, and allowed her license to expire. The proposed Settlement Agreement, without any changes, was placed on the Agenda for this meeting because it is believed the terms may now be acceptable to the Board in light of these developments. He then outlined the terms of the revised proposed Settlement Agreement.

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

Dr. Prabhu commended the Board's Legal Division for doing a great job.

Mr. Kilroy thanked Dr. Prabhu and commended the Legal Division team, as well as the Investigations Division, for their efforts.

Agenda Item 24

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Ms. Castagnola reported the current number of open investigative cases was 901 and the current number of cases per investigator was 129. There were 66 peer reviews in the field and 38 peer reviews awaiting assignment. During the renewal period, the Investigations Division reviewed 803 renewal applications that were referred to them. This was Libi Anders' first time handling these, and she did a great job. These were referred to the Investigations Division due to affirmative answers to certain questions on the licensees' renewal applications. This generated an additional

238 cases to be opened in addition to the Divisions' regular caseload. She thanked her staff for working diligently and keeping up with the caseload.

Dr. Prabhu thanked the Investigations Division staff.

Discussion ensued regarding the 238 cases generated from the licensure renewal period.

Dr. Nagy asked whether the Investigations Division was adequately staffed. Ms. Castagnola said the Board does need additional investigative staff, and is looking to expand staff in the Las Vegas office, hopefully in the next several months.

(b) Quarterly Compliance Report

Ms. Jenkins reported the total number of files in collection with the State Controller's Office for the second quarter of 2019 was 8, for a total of \$45,951. The total outstanding in costs was \$58,750.53, the total outstanding in fines was \$13,500, and the total costs collected during the quarter were \$26,918.39.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the second quarter of 2019. She explained that June 30 was the end of the renewal cycle, and the money for the next biennium was collected at that point. It is being held and will be deferred and recognized each quarter throughout the next two years. It was also the end of the previous renewal period, so the Board recognized in this quarter all the balance of income that it had deferred over the last two years. Therefore, the Board's cash was high, its deferred income was high to offset it, and its income was high due to the recognition of the rest of the balances. She stated the total checking and investments were \$7.4 million, total assets were \$12.3 million, total deferred income was \$6.7 million, and total liabilities and net position were \$12.3 million.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the second quarter of 2019. She explained that the Board's income was 30% more than had been budgeted for the quarter, due to recognition of the deferred income from the previous renewal period. The personnel expenses were at 90% of budget, total expenses were at 95.8% of budget, and the Board's net income was \$434,213 over budget. She said the standing of the Board's reserves went from 2.6 months to 3.7 months. It was a very good quarter for the Board. The renewals were very successful, and everything Lynnette and her staff do during renewal time is appreciated. It is very important to the finances of the Board and it is a lot of work.

Dr. Havins asked how many licensees did not renew, and Ms. Daniels said there were 1,468.

(d) Legal Division Report

Mr. Kilroy reported there were currently 177 cases in the Legal Division, 14 of which had been presented to the Board for action at this meeting. In the last quarter, 2 cases were closed and/or dismissed by the Investigative Committees upon a subsequent review of the matter. There were 114 cases authorized for filing of a formal complaint, 30 cases in which a formal complaint had been filed that were pending hearings, and 38 letters of concern approved by the Investigative Committees during their July and August meetings. Since the last Board meeting, formal complaints had been filed in 14 cases. Mr. Kilroy then provided an update regarding the pending civil court case in which the Board was currently involved.

Agenda Item 25

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the June 7, 2019 Board Meeting

Dr. Edwards moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the June 7, 2019 Board Meeting. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 26

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Stephen Mark Cohen, M.D.

Dr. Cohen appeared before the Board via telephone.

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

Dr. Edwards outlined Dr. Cohen's medical education and training, as well as the Board certifications currently held by Dr. Cohen. He stated that Dr. Cohen currently holds licenses in a number of states, and asked whether he practiced clinical Colorectal Surgery in any of those states. Dr. Cohen said he did so only at the VA Medical Center in Richmond, Virginia.

Dr. Edwards questioned Dr. Cohen regarding his affirmative responses to Questions 5a and 5b on his application for licensure.

Dr. Cohen described the circumstances surrounding the single case of malpractice that had been filed against him, which resulted in a settlement.

Dr. Edwards stated that Dr. Cohen had indicated in his application that he planned to practice telemedicine in Nevada if granted a license, and asked Dr. Cohen how a Colorectal Surgeon practices telemedicine.

Dr. Cohen said he was employed at the VA by the federal government, and explained that he was practicing Acute Care telemedicine.

Dr. Edwards moved that the Board grant Dr. Cohen's application for licensure. Mr. Duxbury seconded the motion, and it passed unanimously.

(b) Joseph Moza, M.D.

Lyn E. Beggs, Esq., appeared with Dr. Moza as his legal counsel.

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

Mr. Duxbury moved that the Board go into closed session pursuant to NRS 241.030. Ms. Mastroluca seconded the motion, and it passed unanimously.

Upon returning to open session, Mr. Duxbury moved that the Board rescind its denial of licensure to Dr. Moza. Dr. Nagy seconded the motion, and it passed, with Ms. Mastroluca and Dr. Muro voting against the motion and all other Board members voting in favor of the motion.

Ms. Beggs stated that Dr. Moza was withdrawing his pending application for licensure.

(c) Craig Mitchell Weingrow, M.D.

This matter was not discussed at the meeting.

(d) Allison Ann Morgan, M.D.

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

Dr. Nagy outlined Dr. Morgan's medical education and training, as well as her clinical practice history.

Dr. Morgan explained the circumstances surrounding her resignation from her Hematology-Oncology Fellowship at Scripps Clinic in La Jolla, California. She said she was willing to participate in a preceptorship because she has been out of practice for some time.

Dr. Prabhu suggested an alternative would be for her to undergo a peer review. Mr. Cousineau described the peer review process. Dr. Morgan said she would do whatever the Board recommended.

Discussion ensued regarding what should be required as part of a potential preceptorship for Dr. Morgan.

Dr. Nagy moved that the Board grant Dr. Morgan's application for licensure with the condition that she have a preceptor for 90 days and see 90 patients in that time, and she can come back before the Board at any time after she has seen 90 patients to petition the Board to lift the condition. Dr. Edwards seconded the motion, and it passed unanimously.

(e) Charles Herbert Stewart, M.D.

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

Dr. Edwards summarized Dr. Stewart's medical education and training, as well as his clinical practice history. Dr. Edwards stated that Dr. Stewart had received a score of 74 on his recent Special Purpose Examination (SPEX), and the Nevada Revised Statutes require a passing score of 75. Dr. Edwards said that Dr. Stewart was applying for licensure by endorsement, and explained that licensure by endorsement is generally reserved for those who practice in a specialty for which there is a need in the state.

Dr. Edwards questioned Dr. Stewart regarding the fact that he responded in the negative to Questions 12 and 12a on his application for licensure when he should have responded in the affirmative.

Dr. Stewart explained that the company he works for has a credentialing assistant, who did most of the legwork for him in the application process. When she filled that part out, she asked whether he had had any malpractice in the last 10 years, and he told her he had not.

Dr. Edwards said the question actually is worded “have you ever had”

Dr. Stewart said that was correct, and he told the credentialing assistant he had, but she said she thought it was only asking for the last 10 years. However, it was his responsibility.

Dr. Edwards discussed with Dr. Stewart one of the cases of malpractice that had been filed against him, which involved the death of the patient.

Discussion ensued regarding whether it would be appropriate to grant Dr. Stewart licensure by endorsement.

Mr. Duxbury moved that the Board decline to grant a Dr. Stewart a license by endorsement. Dr. Edwards seconded the motion, and it passed unanimously.

(f) Mark Thomas Bernardi, M.D.

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

Mr. Duxbury asked Dr. Bernardi to describe his timeline since medical school and the issues that occurred during his residency training.

Dr. Bernardi described what he had done since graduating from medical school and explained the circumstances surrounding his being placed on probation during medical school and during his residency training at the University of Arizona. He stated the reason he responded in the negative to Question 8 on his uniform application for licensure because he thought of it as academic probation and not an official hospital probation.

Mr. Duxbury moved that the Board grant Dr. Bernardi’s application for licensure. Ms. Mastroluca seconded the motion, and it passed unanimously.

(g) Jennifer Courtney Gianopulos, M.D.

Hal Taylor, Esq., appeared with Dr. Gianopulos as her legal counsel.

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

Ms. Mastroluca asked Dr. Gianopulos to describe the circumstances surrounding her affirmative response to Question 19 on her application for licensure.

Dr. Gianopulos explained the circumstances surrounding her resignation from her residency training program at the University of California, San Francisco.

Ms. Mastroluca asked what she had been doing since she resigned from the residency program, and Dr. Gianopulos described her activities to date.

Ms. Mastroluca asked Dr. Gianopulos to describe her future plans, and Dr. Gianopulos explained that she had been accepted by the Internal Medicine residency program at the University of Nevada, Reno School of Medicine, and hoped to join that program and stay in Nevada.

Ms. Mastroluca moved that the Board grant Dr. Gianopulos a limited license. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 27

CONSIDERATION AND APPROVAL OF PROPOSED 2020 MEETING SCHEDULE

Mr. Cousineau asked whether any Board members had any conflicts with any of the proposed meeting dates. Dr. Edwards said he may have a conflict in March.

Mr. Duxbury moved that the Board approve the proposed 2020 Meeting Schedule. Dr. Nagy seconded the motion, and it passed unanimously.

Agenda Item 28

STAFF COMMENTS/UPDATES

Mr. Cousineau said that the Board members had been provided with a copy of the recap that Ian Cumings, the Board's law student intern, had put together before he left. Mr. Fricke had taken the lead in facilitating the position, as well as guiding Mr. Cumings through his internship. Mr. Cumings was currently back in school in Sacramento, but was present at the meeting. He then thanked Mr. Cumings and said he had done a wonderful job. Everyone he talked to on the staff was very impressed with his professionalism, his decency, his kindness and his intellect.

Dr. Edwards asked how Mr. Cumings came to become a law student intern for the Board, and Mr. Cumings explained that he met Mr. Fricke through an LSAT class he took. Mr. Fricke was the instructor. Mr. Cumings said it had been one of the best experiences in his short legal career thus far.

Mr. Fricke explained that staff had given Mr. Cumings a variety of projects to try to give him a real sense of what it is to practice law in the capacity as a government attorney. He thinks Mr. Cumings learned a great deal, and ultimately, he was helpful to staff. He completed some projects that culminated in actual usable work product. He did an excellent job, and he set the bar very high for future law student interns, and he wishes him the best of luck in his future endeavors.

Mr. Duxbury asked whether Mr. Cumings had any takeaways from his internship.

Mr. Cumings said the level of competency required to be an attorney for the Board is high and the workload that you have to deal with is immense, and it is a credit to the attorneys here that they have done so well. You have to be in and out of cases and in a day you are wearing a lot of different hats.

Mr. Cousineau explained that the Executive Director of the Ethics Commission will be presenting ethics training for the Board members at the December Board meeting, and the meeting will be held at the Renaissance Las Vegas Hotel in Las Vegas.

Agenda Item 29
PUBLIC COMMENT

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

Agenda Item 30
ADJOURNMENT

Dr. Prabhu adjourned the meeting at 2:12 p.m.

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