

**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 Via Telephonic Conference Call

*FRIDAY, SEPTEMBER 11, 2020 – 9:00 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  
Bret W. Frey, M.D.

*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, Finance Manager  
Robert Kilroy, J.D., General Counsel  
Aaron Bart Fricke, J.D., Senior Deputy General Counsel  
Donald K. White, J.D., Deputy General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems  
Ernesto Diaz, 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 9:08 a.m.

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

Dr. Prabhu asked everyone to observe a moment of silence to honor the memory of the victims of the 9/11 attack.

Dr. Prabhu then announced the reappointment of Aury Nagy, M.D. to a second term on the Board.

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 5, 2020 Board Meeting – Open/Closed Sessions

Mr. Duxbury moved that the Board approve the Minutes of the June 5, 2020 Board Meeting – Open/Closed Sessions. Dr. Frey seconded the motion, and it passed unanimously.

Agenda Item 4

CONSIDERATION AND APPROVAL OF FY 2019 ANNUAL AUDIT BY CASEY NEILON

Nicola Neilon, CPA, of Casey Neilon, stated she had led the audit team that prepared the Board's financial statements. She said that Ms. Jenkins was amazing to work with, she is extremely knowledgeable, she provided them with all the information they needed as soon as they asked for it, she made the process smooth for them, and Ms. Neilon wanted to thank her for all of her help. She said they had given the Board an unmodified opinion, which is the highest level of assurance an auditor can provide on a set of financial statements, and means they are fairly stated in all material respects. They did have to report on a prior-period adjustment, which is an item Ms. Jenkins brought to their attention prior to the start of the audit, so it is not a finding in the audit. As Ms. Jenkins was preparing the reports for them, she identified there was an additional accrual that was not made at the end of last year. Ms. Neilon then highlighted the information contained in the financial statements. Total assets were \$10.236 million. Of that \$10 million, \$6.56 million was in cash, about \$110,000 was in compliance fees receivable, \$22,000 was in fines receivable and prepaid expenses, and \$3.5 million were capital assets that are being depreciated. The Board's total liabilities were \$13 million. Of that \$13 million, \$6.2 million were related to accounts payable, accruals for payroll and related liabilities, fines payable, compensated absences and \$5.7 million in licensing fees that were received in advance. Because the Board is on a two-year licensing cycle, these are fees that the Board has already received that have not yet been earned over that two-year window. Ms. Neilon explained that \$6.8 million of the Board's liabilities were considered to be noncurrent. Of those, the vast majority were attributable to the pension liability and the OPEB

liability. The pension liability is the Board's allocation of the entire State unfunded pension liability, which is the future cost of PERS, and \$1.9 million is the future cost of the health insurance program for retirees. The Board funds these liabilities on a pay-as-you-go basis by contributions to PERS and PEBS every year. These are not liabilities the Board would be expected to turn around and satisfy in cash immediately. The total net position was a negative \$2 million, which is attributable to the fact that the Board has to put these liabilities on its books. Without those, the Board would have had a positive net position. The unrestricted portion appears high, and the reason is that the Board also has to reflect in its net position the undepreciated value of its fixed assets. For the year ending December 31, 2019, the Board had \$5.4 million in operating revenues, \$4.3 of which were license and registration fees. Operating expenses were \$5.5 million. Of that, \$160,000 was depreciation, which is a non-cash outflow and reflects the costs of expensing the building and the Board's other fixed assets over their estimated useful life. Investment income was \$79,000, so the Board actually had a positive change in net position of \$23,652 for the year.

Ms. Neilon then outlined the Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance. She stated they are required to issue this report as part of the *Government Auditing Standards*. They do not give an opinion on internal controls, but they evaluate internal controls and bring to the Board's attention any items they believe are considered necessary. They also evaluate compliance with laws and regulations related to financial reporting, and again, they do not express an opinion on compliance, but do bring to the Board's attention anything they believe should be reported. The report indicates they did not find any internal control issues or compliance issues they felt needed to be reported. She explained that with respect to the status of prior year financial statement findings, the prior year, the auditors had issued a finding related to the State PERS and PEBS reports, which come out on a fiscal year basis and are a year behind, so they had to wait for the June 30, 2020 report in order to get the numbers on the Board's financial statements for December 31, 2019. That finding was cleared because they delayed the issuance of the Board's audit to account for those.

Ms. Mastroluca thanked Ms. Neilon, said her firm had done an excellent job, and thanked Ms. Jenkins for her due diligence in finding the firm.

Ms. Jenkins thanked Ms. Neilon, and said her firm was very efficient, they worked very quickly, they were very professional, and the Board really appreciated their services.

Ms. Mastroluca moved that the Board approve the audit. Dr. Havins seconded the motion, and it passed unanimously.

Agenda Item 5

CONSIDERATION OF REQUEST OF MICHAEL S. KAPLAN, M.D., FOR BOARD AUTHORIZATION TO TAKE THE SPECIAL PURPOSE EXAMINATION (SPEX)

Dr. Kaplan and his legal counsel, Patricia Daehnke, Esq., were present.

Dr. Prabhu, Ms. Arias-Petrel and Dr. Nagy all spoke in support of Dr. Kaplan's request.

Dr. Muro moved that the Board grant Dr. Kaplan's request for Board authorization to take the SPEX. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 6

CONSIDERATION OF REQUEST OF STEPHEN R. LAUTERBACH, M.D., FOR REMOVAL OF CONDITIONS ON HIS MEDICAL LICENSE

Dr. Lauterbach explained that the Board had granted him a license with conditions in March, and he was extremely grateful. However, his plan to join Dr. Lu in Las Vegas did not materialize, and there were no other board certified vascular surgeons in Las Vegas who could supervise him. He said the conditions on his license have made it prohibitive for him to obtain employment and he can't get malpractice insurance.

Dr. Frey asked Dr. Lauterbach whether he had notified the Board that there was a problem with Dr. Lu's preceptorship of him, and Dr. Lauterbach said that he had.

Dr. Frey asked Dr. Lauterbach whether he was still participating in his five-year contract with the PRN program, and Dr. Lauterbach said that he was.

Dr. Muro stated the reason for the preceptorship was that Dr. Lauterbach had not practiced medicine since 2016, and the Board felt he needed a preceptorship to confirm his skill set, and that need had not disappeared. If the Board were to eliminate the conditions, the Board would basically be granting him an unfettered license without any recent clinical practice, and four years is a long time.

Mr. Cousineau suggested one alternative would be for Dr. Lauterbach to undergo a peer review, at his own expense, and the Board could authorize the lifting of the conditions on his license if the results of the peer review were positive.

Dr. Lauterbach said he would be willing to undergo a peer review.

Discussion ensued regarding whether a peer review would be adequate to assess Dr. Lauterbach's technical skill set, due to the fact that his specialty is so procedure-dependent, or whether direct observation of vascular surgery cases should still be required. Discussion ensued regarding whether the University of California, San Diego, Physician Assessment and Clinical Education (PACE) program offered such a skills evaluation.

Dr. Nagy moved that the Board remove the conditions on Dr. Lauterbach's license if he successfully completes a PACE evaluation of his surgical skills and 30 cases proctored by a vascular surgeon in Nevada. Dr. Edwards seconded the motion.

Mr. Cousineau added that Dr. Lauterbach would be required to return to the Board to have the conditions lifted. He then asked Dr. Lauterbach whether he was amenable to this alternative, and Dr. Lauterbach said he would be if he could find a place of employment in Las Vegas.

A vote was taken on the motion, and 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 630.040, NAC 630.045, NAC 630.050, NAC 630.210, NAC 630.240, NAC 630.270, NAC 630.275, NAC 630.280, NAC 630.290, NAC 630.340, NAC 630.370, NAC 630.390, NAC 630.465, NAC 630.500, NAC 630.505, NAC 630.545, and NAC 630.700 in Order to Update Language to Be Consistent With Recent Statutory Changes and/or to Clarify Ambiguity
- (b) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.470 by Deleting Subsections 2 Through 6 Because Those Subsections Are Duplicative of NRS Chapter 622A
- (c) Request for Authorization to Proceed With the Regulatory Adoption Process to Repeal NAC 630.170 in Order to Be Consistent With Recent Statutory Changes
- (d) Request for Authorization to Proceed With the Regulatory Adoption Process to Repeal NAC 630.260 Because It Is Duplicative of NRS 233B.123(5)
- (e) Request for Authorization to Proceed With the Regulatory Adoption Process to Repeal NAC 630.460 Because It Is Duplicative of NRS Chapter 622A
- (f) Request for Authorization to Proceed With the Regulatory Adoption Process to Create a Regulation That Clarifies That the Board's Disciplinary Hearings Will Follow NRS Chapter 622 and NRS Chapter 622A in Addition to NRS Chapter 233B and NRS and NAC Chapters 630
- (g) Request for Authorization to Proceed With the Regulatory Adoption Process to Create a Regulation That Prescribes the Requirements of the Sign Required by NRS 630.139
- (h) Request for Authorization to Proceed With the Regulatory Adoption Process to Create a Regulation That Clarifies the Process for a Person Desiring to Reinstate Licensure After a Revocation Pursuant to NRS 622A.410
- (i) Request for Authorization to Proceed With the Regulatory Adoption Process to Create a Regulation That Specifies the Experience and Qualifications Required for Hearing Officers Utilized by the Board

Ms. Bradley said that before the Board were suggested edits to NAC Chapter 630. She explained that a lot of these proposed changes are cleanup provisions to clarify areas of ambiguity or to make sure all of the Board's license types are included where they need to be, and there were also four new provisions. She explained the first new provision is found directly under the heading of Petitions, Orders, Opinions and Rules of Practice, and clarifies the procedure the Board will follow, to make sure the Board is in compliance with NRS Chapter 622A. For a really long time, certain boards and other entities were exempt from Chapter 622A; however, the Board is not any longer, so some of the things in the Board's chapter are actually in Chapter 622A, and the new provision clarifies the Board is going to follow that. The second new provision prescribes the requirements and wording for the sign required by NRS 630.139 that informs patients the Board could access their records if their physician becomes incapacitated. There is a requirement for a sign regarding the destruction of records, which was done by the State Board of Health, and she used that regulation and modified it for the Board's purposes. The third new provision clarifies the process for someone whose license has been revoked to again obtain licensure in Nevada. The last new provision adds to the Board's regulations the requirements for hearing officers. The Board already follows this in practice, but this will ensure it is very clear.

Dr. Edwards asked about the proposed deletion of the wording regarding citizenship and the need to be lawfully entitled to work in the United States.

Ms. Bradley explained that in the last legislative session, the Legislature removed those requirements from the Board's statutory provisions. They are not saying that people can work if they are not authorized to work; only that licensure is not necessarily dependent on citizenship or the ability to work, and she thinks they recognized that in some situations, getting a license first can help a person get a job. Because those provisions were removed from the statutes in the last legislative session, staff is recommending those same revisions be made in the Board's regulations in order to be consistent and follow what the Legislature has directed.

Discussion ensued regarding the changes to the statutes with respect to citizenship requirements.

Dr. Frey moved that the Board authorize staff to proceed with the regulatory adoption process on the proposed changes. Mr. Duxbury seconded the motion, and it passed unanimously.

Agenda Item 8

## REPORTS

### (a) Investigative Committees

Mr. Duxbury reported that at its August 21, 2020 meeting, Investigative Committee A considered 118 cases. Of those, the Committee authorized the filing of a formal complaint in 6 cases, sent 6 cases out for peer review, requested an appearance in 8 cases, issued 19 letters of concern, referred 10 cases back to investigative staff for further investigation or follow-up, reviewed 1 case for compliance, and recommended closure of a total of 68 cases.

Dr. Prabhu reported that at its August 19, 2020 meeting, Investigative Committee B considered 101 cases. Of those, the Committee authorized the filing of a formal complaint in 6 cases, sent 10 cases out for peer review, requested an appearance in 11 cases, issued 27 letters of concern, referred 8 cases back to investigative staff for further investigation or follow-up, and recommended closure of a total of 39 cases. There were no cases reviewed for compliance. Dr. Prabhu then thanked Dr. Muro and Ms. Mastroluca, and said they are doing a wonderful job.

### (b) Nevada State Medical Association

No report was presented at this meeting.

### (c) Clark County Medical Society

Denise Selleck, Executive Director of the Clark County Medical Society, was not in attendance at the meeting, but had submitted a written report prior to the meeting, which had been provided to all Board members.

### (d) Washoe County Medical Society

Mary Ann McCauley, Executive Director of the Washoe County Medical Society (WCMS), reported that WCMS was doing pretty well, given the pandemic. Membership renewals were coming in at what appeared to be a little faster rate for this time of year than usual. A new group,

Sierra Nevada Nephrology, has joined the WCMS with 12 members, and is bringing on a 13th member later this month. They are joining because of the health plan, and she hopes WCMS will continue to see growth there. WCMS has a number of educational programs planned for the fall. On October 14, Dr. Kevin Murphy is going to provide the latest update on Covid-19, and that will be followed monthly with a 30-minute update session that will be open to all members. On October 22, NORCAL is sponsoring a two-part, two-hour CME program. The first part will cover how to deal with challenging patients and the second will address how to fire difficult patients. The Alliance With the Washoe County Medical Society is sponsoring the Wellness Coalition Series. The first program was held yesterday morning, and it will continue monthly through February. There were 95 people in attendance yesterday. The WCMS Annual Dinner will be held in two parts this year due to Covid-19. In January, there will be a virtual meeting to install new officers, in order to be in compliance with the WCMS bylaws, and they are hoping to do a face-to-face dinner in April or May.

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. PAUL M. STUMPF, M.D.*, BME CASE NO. 20-10382-1

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

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

Dr. Edwards said when a specimen has a clip placed in it by radiology, he believes it is standard practice to get a radiograph of the specimen before it is sent to pathology to ensure that they've got that clip, and he hopes this provider recognized the error in this case, or if it is not their standard policy, that they would adopt that.

Dr. Frey moved that the Board adopt the proposed Settlement Agreement. Mr. Duxbury 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. GARY MANLEY, PA-C*, BME CASE NO. 20-36618-1

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

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

Dr. Frey moved that the Board adopt the proposed Settlement Agreement. Dr. Prabhu 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. GARY MANLEY, PA-C*, BME CASE NO. 20-36618-2

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

Mr. Kilroy stated a First Amended Complaint had been filed against Mr. Manley alleging six violations of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Frey moved that the Board approve the proposed Settlement Agreement. Dr. Muro 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. IBRAHIM FAKHOURI, M.D.*, BME CASE NO. 20-38677-1

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Fakhouri alleging six 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 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BEN HUON LEE, M.D.*, BME CASE NO. 19-48498-1

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Lee 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. Frey 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. AMY SUE HAYES, M.D.*, BME CASE NO. 20-11777-1

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



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

Dr. Frey 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 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CHARLES WAYNE FLEISHER, M.D.*, BME  
CASE NO. 20-11931-1

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

Mr. Kilroy stated a formal Complaint had been filed against Dr. Fleisher 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 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. AYMAN NICOLAS AWAD, M.D.*, BME  
CASE NO. 20-10721-1

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

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

Dr. Frey moved that the Board adopt the Settlement Agreement. Ms. Arias-Petrel seconded the motion.

Dr. Muro stated for the record that Dr. Awad served 90 days' jail time, he paid \$25,000 to charity, he was put on criminal probation, which was still in place, he had completed all the terms of his probation with the Arizona Medical Board, and that probation had been terminated on July 9, 2020.

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

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that between January 1 and September 8, 2020, the Investigations Division received approximately 800 complaints, not counting self-reports or hospital privileges cases. A total of 365 cases were opened by the Division, there were 398 no-jurisdiction complaints that were referred to other agencies or boards, and there were 37 complaints that were proactively resolved through engaging the licensees and complainants to see if the matter could be resolved without having to open a formal investigation. That was an increase of 23 over the previous quarter. As of September, there was a total of 869 open investigations, a decrease of 150 from the previous quarter, and the average caseload per investigator was 97, a decrease of 16 from the previous quarter. Mr. Diaz said he credits the reduction in the number of open cases and case averages per investigator to prioritizing of investigations, clearing backlogs, and working collaboratively with the Legal Division to settle some investigations that had been out there for a period of time. The Division has also improved the medical review process, and the Medical Reviewers have been able to timely turn around their reports, which has assisted the Division in moving cases forward. Overall, the Investigations Division is working closely with the Legal Division to improve its processes and ensure that all investigations are thoroughly investigated and provided to the Investigative Committees as quickly as possible. He reported there were 52 peer reviews that had been assigned and 27 peer reviews pending assignment, for a total of 79. Last quarter there were 43 peer reviews assigned and 48 pending assignment, for a total of 91. He said he believes the reduction in these numbers is due to improving the medical review process.

Mr. Duxbury stated that Mr. Diaz is doing a fantastic job, and it is apparent that things are moving in the right direction.

(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 2020 was 8, for a total of \$45,000, the total outstanding in costs was \$38,000, the total outstanding in fines was \$10,000, and the total costs collected during the quarter were \$45,000.

(c) Quarterly Update on Finances

Ms. Jenkins stated she had performed a calculation on the status of the Board's reserves as of June 30, and they were just shy of five months. She then highlighted the various sections of the Balance Sheet for the second quarter. The Board's total current assets were \$5.3 million, total assets were \$10 million, total current liabilities were \$4.4 million, and the total liabilities and net position for the quarter was \$10 million.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the second quarter of 2020. She stated the Board had a very strong quarter as far as its income was concerned, as it was 5.4% above budget, with a total of \$1.3 million. Total operating expenses were at 100% of budget, total expenses were at 87% of budget, resulting in a positive net position of \$261,000 for the quarter.

#### (d) Legal Division Report

Mr. Kilroy reported there were currently 156 cases in the Legal Division. Eight cases were presented to the Board for settlement at this meeting, and no cases were presented to the Board for adjudication. In the last quarter, 17 cases were closed and/or dismissed by the Investigative Committees upon a subsequent review of the matter, 16 of which were closed with letters of concern. He thanked Ms. Bradley, Mr. Díaz and Ms. Daniels for their diligent work in effectively resolving those cases. He said there was one pending civil court case in which the Board was currently involved. There were 121 cases authorized for filing of a formal complaint in which complaints had not yet been filed, 19 cases in which a formal Complaint had been filed that were pending hearings, with 13 cases in which a formal Complaint had been filed in the last quarter, and 54 letters of concern were drafted by the Legal Division on behalf of the Investigative Committees.

Mr. Duxbury gave kudos to the Legal team. He said their hard work was paying off and the numbers were moving in the correct direction, and it was nice to see the Legal and Investigations Divisions working so closely, hand in hand, as things are working as they should.

#### Agenda Item 18

##### LICENSURE RATIFICATION

Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the June 5, 2020 Board Meeting

Dr. Edwards moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the June 5, 2020 Board Meeting. Dr. Havins seconded the motion, and it passed unanimously.

#### Agenda Item 19

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

##### (a) Lee Scott Marcus, M.D.

Bridget Kelly, Esq., was present with Dr. Marcus as his legal counsel.

Dr. Prabhu asked Dr. Marcus 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. Dr. Nagy seconded the motion, and it passed unanimously.

Upon returning to open session, Dr. Edwards moved that the Board grant Dr. Marcus' application for licensure. Mr. Duxbury seconded the motion, and it passed unanimously.

##### (b) Dacelin St. Martin, M.D.

Dr. Prabhu asked Dr. St. Martin 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. Dr. Havins seconded the motion, and it passed unanimously.

Upon returning to open session, Dr. Frey moved that the Board decline to grant licensure by endorsement to Dr. St. Martin. Mr. Duxbury seconded the motion, and it passed unanimously.

(c) Izuchukwu Daniel Okpara, M.D.

Dr. Prabhu asked Dr. Okpara 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 Dr. Okpara was applying for licensure by endorsement because he had not completed 36 months of progressive postgraduate training, and that Dr. Okpara had been practicing wound care.

Dr. Okpara said he had been approached by two colleagues, Gigi Diaz and Jane Fraykass, about starting a wound care clinic with them in Las Vegas and neighboring cities.

Dr. Nagy explained that licensure by endorsement was generally granted to those in specialties in which there is a lack of able providers in the state, and he was not aware of a dearth of providers who provide wound care in the state, and asked Dr. Okpara if there was anything special about the care he provides that is different from what most physicians provide in this area.

Dr. Okpara said his practice was mobile-based; they go to the patients' homes to provide care for those who are homebound, disabled, and cannot drive to a wound care center or clinic for a variety of medical reasons. He would be the overall Medical Director for physician assistants and nurse practitioners who provide the services.

Dr. Nagy said at this moment, he didn't believe the services Dr. Okpara provides aren't already offered by physicians in the state.

Ms. Arias Petrel asked Dr. Okpara whether he planned to move to Nevada if granted a license in Nevada.

Dr. Okpara said it was not his intention to move to Nevada at this time, but to expand his practice to Nevada.

Dr. Edwards moved that the Board decline to grant licensure by endorsement to Dr. Okpara. Dr. Havins seconded the motion, and it passed unanimously.

(d) Patrick Zim Pearce, M.D.

Dr. Prabhu asked Dr. Pearce 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 questioned Dr. Pearce regarding his affirmative response to Question 31 on his application for licensure.

Dr. Pearce stated he had made a stupid mistake, and took full responsibility for what he did, and had complied with all of the stipulations imposed upon him by the Washington Department of Health Medical Quality Assurance Commission. He had gone through all of the opioid training, he developed an opioid program when he was still practicing in Washington, and he had chosen not to prescribe opioids any more. If granted a license in Nevada, he just intends to work with a

professional hockey team and won't be prescribing any narcotics. He described his experience in attending the CPEP PPROBE course.

Dr. Muro questioned Dr. Pearce regarding his affirmative response to Question 13 on his application for licensure.

Dr. Pearce described the circumstances surrounding his arrest in 2007.

Dr. Edwards asked Dr. Pearce to describe what his role would be with the hockey team, and possibly other teams in the future, if granted a license to practice medicine in Nevada.

Dr. Pearce stated he is a primary care sports medicine physician, and his role would be to take care of the medical issues of the players, attend games, and if there is a laceration, he will sew it up, but if it's a fracture, he will refer it to the orthopedist, who also attends the games. Anything that would require a narcotic medication would be prescribed by the orthopedist. Dr. Pearce said he is basically bumps and bruises, and if it goes beyond that in an initial evaluation of a painful joint or contusion, it goes to the orthopedist, who continues care. Dr. Pearce is not opening an office in Nevada. He will only practice out of the training room and only for the players. It is game coverage and mainly primary care type issues for the athletes.

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

(e) Ramin Sarshad, M.D.

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

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

Upon returning to open session, Dr. Edwards moved that the Board decline to grant licensure by endorsement to Dr. Sarshad. Dr. Havins seconded the motion, and it passed unanimously.

Agenda Item 20

CONSIDERATION AND APPROVAL OF REVISION TO BOARD POLICY AND PROCEDURE MANUAL REGARDING MEAL AND REST PERIODS

Ms. Bradley explained the proposed revision to the Policy and Procedure Manual was a small change with respect to employee meal periods. During the current pandemic, we have allowed employees to forego their meal periods, and this change clarifies that and makes reference to the State statute with regard to same. The law specifies we have to offer meal periods, but not that employees have to take them, and this way it is clear, and we will have a written record of any employees who want to work an alternate schedule and forego their meal periods.

Mr. Duxbury moved that the Board adopt the change. Ms. Mastroluca seconded the motion, and it passed unanimously.

Agenda Item 21

REVIEW AND POTENTIAL APPROVAL OF CHANGES TO THE SCHEDULE OF FEES CHARGED BY THE BOARD FOR BACKGROUND CHECKS, REGISTRATION AND RENEWAL FEES CHARGED TO APPLICANTS AND LICENSEES

Mr. Cousineau explained that in the materials, there was a letter that he penned to the Chair of the Sunset Subcommittee in April of this year, responding to two questions that came out of the previous Sunset Subcommittee in 2018, the first time the Board was before them. In the letter, he indicated staff intended to put the matter of licensure fees and background check costs before the Board for contemplation of potential modification, and that was what was now before the Board. The materials provided to the Board included a comparative analysis of the fees charged by various jurisdictions surrounding Nevada. He said in some instances, the fees are lower, in some instances they are on par, and in some instances, they are higher. He explained that the Board previously lowered its fees by about 10% across the board less than 5 years ago. As Ms. Jenkins indicated earlier in the meeting, the Board currently has a 5-month fiscal reserve, and the policy adopted by the Board a couple of years ago is that we would try to have a fiscal reserve of 6 to 12 months. That being said, it was staff's recommendation that the Board keep the fees intact at this time, and the Board can revisit the situation again, possibly after the next renewal cycle in 2023, to determine whether the Board's financial circumstances justify a modification in the fees, potentially lowering them.

Dr. Frey stated the Board is losing money on the background checks.

Mr. Cousineau said it is not a significant loss, and he thinks the fee the Board is charging is fair and we can justify it and absorb it, and it is factored into the budget.

Mr. Duxbury stated that with respect to the comparative analysis, without understanding what the other states' financial status is, whether they are backed by the government or they are wholly independent, it is difficult to compare them to us; however, he thinks we are on par with where we should be.

Dr. Muro said he wanted to reiterate that as a Board, we have several tasks, and those require adequate staffing, because otherwise the job is not going to be done in a timely manner. That is also something that is expected of us as a board – that we are efficient in what we do and that we do so in a manner so as not to become an impediment to come to the state, and we can't do one without potentially compromising the other. We must also look at the funding requirements. There are a lot of requirements that happen in the background, and we must look at the big picture as far as the job at hand, what it requires and what other regulatory requirements are there in order to remain financially and fiscally sound. Therefore, he would advocate for keeping the fees where they are, always to be reconsidered should the environment change dramatically, as we did five years ago.

Dr. Frey moved that the Board retain the current fee schedule. Dr. Edwards seconded the motion, and it passed unanimously.

## Agenda Item 22

### STAFF COMMENTS/UPDATES

Mr. Cousineau advised the Board that staff had met with the Sunset Subcommittee several times over the course of the last several months via Zoom, and ultimately, at the last meeting of the Subcommittee, on August 31 of this year, it was recommended by the Subcommittee that the Board be allowed to continue in its existence, and there were no recommendations made or requests of the Board to bring to the Subcommittee in the 2022 interim. The Federation of State Medical Boards (FSMB) completed its audit of the Board in late August. The audit was conducted via Zoom over the course of two days. The FSMB team did a pretty exhaustive and thorough job, spending about an hour or more with all senior staff, and they had plenty of materials provided to them in advance that obviously assisted them with their inquiry and questioning. We are expecting a final report from the audit in early fall, and he is expecting it to be fairly positive, with some real-world recommendations that we will, of course, contemplate implementation of, as we did following the last audit in 2012. He said at this time, we are uncertain whether the December meeting will be open to the public; however, he has spoken to all members of the Executive Committee, and they have requested that the meeting itself be held in Reno, as opposed to what we have done traditionally in the past, when it has been held in Las Vegas. This is mainly predicated on the fact that we are uncertain whether the new office space will be ready, so rather than try to push that or try to get a separate venue, as we have done in the past, which costs thousands of dollars, we thought it more pragmatic and fiscally practical to hold the meeting in Reno, in the event we have an in-person meeting.

Ms. Bradley explained that as part of the lease, the landlord is making improvements to the new office space in Las Vegas; however, those improvements require permits from the City of Las Vegas, and there have been delays in obtaining them due to Covid-19. They are hoping to get the permits this week, and once they get those, they will begin their work. They anticipate once they receive the permits, the demo part will go rather quickly. The good news is we will have a nice meeting space there for Board meetings and other things we need to do, and we are not paying rent on the building yet, since we are not in it yet.

Ms. Bradley advised the Board that staff is working with Thentia, the new software vendor that was chosen, to implement the changeover, and we are still hoping to be live with that in November, and then begin training.

Mr. Cousineau added that we expect to have the new system fully in place well before the 2021 renewal cycle.

## Agenda Item 23

### ELECTION OF OFFICERS AND APPOINTMENT OF INVESTIGATIVE COMMITTEE MEMBERS

Mr. Duxbury nominated Dr. Prabhu for President. Dr. Havins seconded the nomination. No other nominations were received. A vote was taken, and Dr. Prabhu was elected President by unanimous vote.

Ms. Mastroluca nominated Mr. Duxbury for Vice President. Dr. Prabhu seconded the nomination. No other nominations were received. A vote was taken, and Mr. Duxbury was elected Vice President by unanimous vote.

Dr. Prabhu nominated Ms. Mastroluca for Secretary-Treasurer. Dr. Edwards seconded the nomination. No other nominations were received. A vote was taken, and Ms. Mastroluca was elected Secretary-Treasurer by unanimous vote.

Dr. Prabhu said that Investigative Committee A would remain as is at that time, with Mr. Duxbury remaining the Chairman, and Dr. Nagy and Dr. Edwards as the physician members. There will be a change to Investigative Committee B. He is appointing Dr. Muro as the Chairman of Investigative Committee B, and he is stepping down from the Investigative Committee and appointing Dr. Havins as the replacement physician member.

Agenda Item 24  
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 25  
ADJOURNMENT

Dr. Prabhu adjourned the meeting at 12:57 p.m.

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