

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

*** * * MINUTES * * ***

OPEN SESSION BOARD MEETING

Held in the Conference Room at the Offices of the
Nevada State Board of Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

and Videoconferenced to

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

FRIDAY, DECEMBER 3, 2021 – 8:00 a.m.

Board Members Present

Victor M. Muro, M.D., President
Aury Nagy, M.D., Vice President
Ms. Maggie Arias-Petrel, Secretary-Treasurer
Bret W. Frey, M.D.
Chowdhury H. Ahsan, M.D., Ph.D., FACC
Ms. Pamela J. Beal
Col. Eric D. Wade, USAF (Ret.)
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.
Carl N. Williams, Jr., M.D., FACS

Board Members Absent

None

Staff/Others Present

Edward O. Cousineau, J.D., Executive Director
Sarah A. Bradley, J.D., MBA, Deputy Executive Director
Donya Jenkins, Finance Manager
Aaron Bart Fricke, J.D., General Counsel
Robert Kilroy, J.D., Senior Deputy General Counsel
Donald K. White, J.D., Deputy General Counsel
Brandee Mooneyhan, J.D., Deputy General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Ernesto Diaz, Chief of Investigations
Lynnette Daniels, Chief of Licensing
Rosalie Bordelove, J.D., Chief Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Victor M. Muro, M.D., at 8:08 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Dr. Frey and Dr. Ahsan. Mr. Cousineau announced there was a quorum.

Dr. Muro introduced new Board member Carl N. Williams, Jr., M.D., FACS.

Mr. Cousineau announced that Johnna LaRue had been promoted to Deputy Chief of Investigations for the Reno office and that Alexandra Lucas and Leah Hall had both been promoted to Deputy Chief of Licensing.

Agenda Item 2

PUBLIC COMMENT

Dr. Muro 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

- September 10, 2021 Board Meeting – Open/Closed Sessions

Dr. Nagy moved that the Board approve the Minutes of the September 10, 2021 Board Meeting – Open/Closed Sessions. Ms. Arias-Petrel seconded the motion, and it passed unanimously.

Agenda Item 4

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JON L. SIEMS, M.D.*, BME CASE NO. 19-13009-2

Dr. Siems' legal counsel, David J. Mortensen, Esq., was present on behalf of Dr. Siems.

Mr. White stated a formal Complaint had been filed against Dr. Siems alleging two violations of the Nevada Medical Practice Act. Subsequently, a First Amended Complaint was filed against Dr. Siems alleging three violations of the Nevada Medical Practice Act. Mr. White then outlined the terms of the proposed Settlement Agreement. He explained that the case had gone to hearing in September and December of 2020, for a total of three days. Dr. Siems participated in the hearing without the assistance of counsel, subsequently hired Mr. Mortensen and Jessica Gandy, Esq., as his counsel, and ultimately, this settlement was reached.

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

Dr. Ahsan joined the meeting at 8:15 a.m.

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

Agenda Item 5

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. JON L. SIEMS, M.D.*, BME CASE NO. 19-13009-2, 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

This matter was not discussed at the meeting.

Agenda Item 6

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ABDEL MALICK KHALEK, M.D.*, BME CASE NO. 21-8734-1

Dr. Khalek was not present.

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

Ms. Bordelove asked the adjudicating Board members to confirm that they had received and reviewed all the materials regarding the matter, and they indicated they had. Ms. Bordelove then provided procedural instruction regarding the adjudication process.

Dr. Frey joined the meeting at 8:18 a.m.

Mr. Fricke explained that, as reflected in the record, Board staff had gone to extraordinary lengths to serve Dr. Khalek, both at his address of record with the Board, as well as at additional addresses. Board staff also contacted him numerous times. Mr. Fricke personally spoke with Dr. Khalek on numerous occasions, but could not obtain his participation in the case. The Hearing Officer found that service on Dr. Khalek was effective. Mr. Fricke stated that although Dr. Khalek did not participate in the case, and the Board is permitted to make a presumption under the statute which is referred to as a default, the Investigative Committee made a full presentation of its case at the hearing. He said the Investigative Committee was requesting the Board to rule upon the merits based upon the record.

Dr. Williams moved that the Board adopt the Findings and Recommendations of the Hearing Officer. Ms. Arias-Petrel seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Mr. Fricke outlined the Investigative Committee's recommendations for disciplinary sanctions, which included the following: that Dr. Khalek receive a public reprimand; that his license to practice medicine in Nevada be revoked, and he may not reapply for a license for a period of 2 years, pursuant to NRS 622A.410; that he pay a fine of \$2,500.00 for each violation of the Medical Practice Act, for total fines of \$5,000.00, within 60 days of the Board's decision on the matter; and that he reimburse the Board's costs and expenses incurred in the investigation and prosecution of the case, pursuant to NRS 622.400, in the amount of \$11,570.68, as outlined in the Memorandum of Costs distributed to the adjudicating Board members, within 60 days of the Board's decision on the matter.

Dr. Williams moved that the Board adopt the disciplinary sanctions as outlined by Mr. Fricke. Dr. Spirtos seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 7

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. ABDEL MALICK KHALEK M.D.*, BME CASE NO. 21-8734-1, 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. Fricke requested the Board's authorization to defend the Board or take any other actions on its behalf with respect to this matter.

Ms. Arias-Petrel moved that the Board authorize Board counsel to defend the Board's findings, conclusions, orders and actions in this matter. Dr. Frey seconded the motion, and it passed unanimously.

Agenda Item 8

CONSIDERATION OF REQUEST OF FRANK P. SILVER, M.D., FOR MODIFICATION OF TERMS OF THE PREVIOUSLY APPROVED SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. FRANK P. SILVER, M.D., BME CASE NO. 20-4041-1

Dr. Silver was present with his legal counsel, Valarie Fujii, Esq.

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

Ms. Fujii stated that Dr. Silver was requesting the Board remove the condition on his medical license. As a result of this condition being attached to his medical license, Cigna terminated Dr. Silver's ability to treat gynecological patients insured by them. Dr. Silver retained counsel and was successfully reinstated. Most damaging to Dr. Silver was when the United States Immigration Services terminated his ability to be considered a Civil Surgeon. He had been designated for 40 years, and his immigration physicals generated over \$100,000 in annual income. He again had to retain counsel, and successfully overturned that decision. She said she believed that it was neither of the parties' understanding that such punishment would be the result of the resolution of the matter a year ago. She said Dr. Silver has satisfied all the terms of the Settlement Agreement.

Dr. Williams moved that the Board remove the condition on Dr. Silver's medical license. Dr. Spirtos seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 9

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TAMMY LYNN HANKINS, PA-C, BME CASE NO. 21-51633-1

Ms. Hankins was not present.

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

Ms. Bordelove asked the adjudicating Board members to confirm that they had received and reviewed all the materials regarding the matter, and they indicated they had. Ms. Bordelove then provided procedural instruction regarding the adjudication process.

Mr. Fricke explained that Board staff's efforts at service, and proof of service, were enumerated extensively in the record. Ms. Hankins was served at her address of record with the Board. She renewed her license during the pendency of the case, and renewed her address; therefore, all documents were served at that address. The Hearing Officer found that service was actually made. Based upon that, and statute, the Board is entitled to take a default against Ms. Hankins. However, the Investigative Committee made a substantive presentation of its case, and was requesting that the Board rule upon the merits based upon the record.

Dr. Williams moved that the Board adopt the Findings and Recommendations of the Hearing Officer. Dr. Nagy seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Mr. Fricke outlined the Investigative Committee's recommendations for disciplinary sanctions, which included the following: that Ms. Hankins receive a public reprimand; that her license to practice medicine in Nevada be revoked, and she may not reapply for a license for a period of 10 years, pursuant to NRS 622A.410; that she pay a fine of \$1,000.00 for each violation of the Medical Practice Act, for total fines of \$53,000.00, within 60 days of the Board's decision on the matter; and that she reimburse the Board's costs and expenses incurred in the investigation and prosecution of the case, pursuant to NRS 622.400, in the amount of \$17,745.81, as outlined in the Memorandum of Costs distributed to the adjudicating Board members, within 60 days of the Board's decision on the matter.

Mr. Wade moved that the Board adopt the disciplinary sanctions as outlined by Mr. Fricke. Dr. Spirtos seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 10

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. TAMMY LYNN HANKINS, PA-C*, BME CASE NO. 21-51633-1, 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. Fricke requested the Board's authorization to defend the Board or take any other actions on its behalf with respect to this matter.

Dr. Frey moved that the Board authorize Board counsel to defend the Board's findings, conclusions, orders and actions in this matter. Dr. Spirtos seconded the motion, and it passed unanimously.

Agenda Item 11

CONSIDERATION OF REQUEST OF CLINTON ANDERSON, PA-C, FOR MODIFICATION OF THE TERMS OF THE PREVIOUSLY APPROVED SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CLINTON ANDERSON, PA-C*, BME CASE NO. 20-36612-1

Mr. Anderson was present with his legal counsel, Johnathon Fayeghi, Esq.

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

Mr. Fayeghi stated that Mr. Anderson was requesting that the probationary terms associated with the Settlement Agreement he entered into with the Board's Investigative Committee in August 2020 be lifted. Mr. Anderson has complied with all the requirements of that Settlement Agreement, and the minimum probationary period of 12 months has expired. Mr. Anderson understands the issues that resulted in the Settlement Agreement and the imposition of the probationary period, and has taken steps to ensure that those issues do not occur again. Mr. Anderson was requesting that the stayed revocation of his license be rescinded as well.

Mr. Anderson said this had been a very humbling experience, and a growing period for him. He does not intend to be in this situation again. He is very sorry for what happened, and is looking forward to being able to leave this behind him, and move on and serve his community further.

Mr. Fricke said Mr. Anderson had conducted himself in an exemplary fashion since imposition of his probation. His request was consistent with the Settlement Agreement, as the probationary term was to be between 12 and 24 months, and he had completed 16 months of that term.

Dr. Spirtos moved that the Board grant Mr. Anderson's request. Dr. Frey seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 12

CONSIDERATION OF REQUEST OF STACEY LYNNE SCHIRMER, M.D., FOR BOARD AUTHORIZATION TO TAKE THE SPECIAL PURPOSE EXAMINATION (SPEX)

Dr. Schirmer explained that she had been a very successful physician in Sonora, California, and described her practice. However, the California Medical Board suspended her license in 2011 for suspected substance abuse. She ultimately surrendered her California medical license in 2013 because she couldn't afford to go through the hearing process. She achieved sobriety on July 4, 2014, and has been sober since. She reapplied for a California license, and was granted a probationary license in July of 2019. She met with someone in the probationary unit in August, and they discussed the probationary terms. One of the terms was to undergo a clinical diagnostic evaluation. She saw a psychiatrist in Los Angeles, who conducted the evaluation. She was to start work in November 2019, and about 2 weeks prior to that, she received an email from a representative of the probationary unit stating that the psychiatrist had found her to be unsafe to practice, and set forth various items she would be required to do in order to be able to practice. She was not able to see the evaluation. California revoked her license in January 2021 for failing to comply with the probationary terms. She then began applying for licensure in other states. When she applied in Nevada, she was told by Board staff that she would be required to take the SPEX because she had not passed a major exam in the last 10 years. However, when she signed up to take the SPEX, she was told she could not take it without being sponsored by a medical board. She did not petition the State of California to sponsor her, as they do not sponsor individuals to take the SPEX.

Mr. Cousineau stated that what was before the Board for consideration that day was a request that the Board sponsor Dr. Schirmer to take the SPEX. If she passes the SPEX, she will then potentially be eligible to apply for licensure in Nevada.

Dr. Frey moved that the Board grant Dr. Schirmer's request to sponsor her to sit for the SPEX. Ms. Beal seconded the motion.

Dr. Nagy said at this point, the Board has no information that Dr. Schirmer would be able to practice medicine safely, after another state has already found that she could not, so in the event she passes the SPEX, and applies for a license in Nevada, she should obtain an analysis from someone the Board deems is an appropriate person to perform such an analysis that indicates she can safely practice.

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

Agenda Item 13

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 630.165 to Clarify the Definition of “Gross Medical Negligence”
- (b) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.240 Regarding Requirements Related to the Voluntary Surrender of a License to Practice Medicine
- (c) Request for Authorization to Proceed With the Regulatory Adoption Process to Repeal NAC 630.251 Because It Is No Longer Necessary
- (d) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.270 Regarding Service of Board Decisions
- (e) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.280(7) to Require That Physician Assistants Possess a Postsecondary Degree
- (f) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.415 Regarding the Advisory Committee of Physician Assistants
- (g) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.560 Regarding the Advisory Committee of Practitioners of Respiratory Care
- (h) Request for Authorization to Proceed With the Regulatory Adoption Process to Amend NAC 630.790 Regarding the Advisory Committee of Perfusionists

Ms. Bradley stated that one change had been made to the wording of the proposed amendment to NAC 630.560 after the first draft had been provided to the Board, and the Board had before it a supplement containing that change. She explained there are three advisory committees, and two of them have three advisory committee members and one has five. This change will make the advisory committees consistent, with all having three advisory committee members each. Ms. Bradley asked whether any Board members had questions regarding any of the proposed changes, and there were none. She requested the Board authorize staff to proceed with the regulatory adoption process.

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

Agenda Item 14

REPORTS

(a) Investigative Committees

Dr. Frey thanked Mr. Diaz for the revising the format in which the materials are presented to the Investigative Committees. He said he believes going forward, it is going to result in a great deal of increased efficiency. Dr. Frey then reported that at its November 19, 2021 meeting, Investigative Committee A considered 146 cases. Of those, the Committee authorized the filing of a formal complaint in 12 cases, sent 20 cases out for peer review, requested an appearance in 10 cases, issued 30 letters of concern, referred 7 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 67 cases.

Dr. Muro said he wanted to echo Dr. Frey’s sentiments, and thank the Board staff for all their hard work in preparing the materials that are reviewed by each of the Investigative Committees. Dr. Muro then reported that at its November 10, 2021 meeting, Investigative Committee B considered

135 cases. Of those, the Committee authorized the filing of a formal complaint in 8 cases, sent 13 cases out for peer review, requested an appearance in 5 cases, issued 26 letters of concern, referred 5 cases back to investigative staff for further investigation or follow-up, reviewed 1 case for compliance, and recommended closure of a total of 77 cases.

(b) Nevada State Medical Association

No report was presented at the meeting.

(c) Clark County Medical Society

Amber, Carter, Executive Director of the Clark County Medical Society (CCMS), reported that CCMS had seen a 10% increase in its membership over the last 12 months, and believes it is doing the utmost to meet its physicians' needs in providing CME courses, as well as other activities. CCMS has also seen an uptick in the number of residents over the last 6 months, and believes that is due to the results of the Resident Job Fair, among other things. CCMS is doing its utmost to keep our physician residents in the state.

(d) Washoe County Medical Society

No report was presented at the meeting.

Agenda Item 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. VIVIAN ANN HENDRIX, CRT, BME* CASE NO. 21-23256-1

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

Mr. Fricke stated a formal Complaint had been filed against Ms. Hendrix alleging one violation 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. Williams 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. THEODORE MELVIN THORP, M.D., BME* CASE NO. 21-4518-1

Dr. Thorp's legal counsel, Kathleen T. Janssen, Esq., was present on behalf of Dr. Thorp.

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

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

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

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TRI MINH TRUONG, BME CASE NO. 21-12776-1

Dr. Truong's legal counsel, Kathleen T. Janssen, Esq., was present on behalf of Dr. Truong.

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

Mr. Fricke explained that this case was a companion case to the previous case that was just discussed. He then stated a formal Complaint had been filed against Dr. Truong alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement.

Dr. Williams moved that the Board accept the proposed Settlement Agreement. Dr. Spirtos 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. SHERMAN WASHINGTON, M.D., BME CASE NO. 21-41427-1

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

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

Ms. Beal moved that the Board accept the proposed Settlement Agreement. Dr. Frey 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. ASHER SHAHZAD, M.D., BME CASE NO. 19-38390-1

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

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

Dr. Williams moved that the Board accept the proposed Settlement Agreement. Dr. Spirtos 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. ALEXANDAR JOVANOVIĆH, M.D.*, BME
CASE NO. 21-47483-1

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

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

Ms. Beal moved that the Board accept the proposed Settlement Agreement. Dr. Williams 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. DAVID POTTER, M.D.*, BME
CASE NO. 21-50908-1

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

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

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

Agenda Item 22

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. YAAKOV DAVID KOTLARSKY, PA-C*, BME
CASE NO. 21-41977-1

Mr. Kotlarsky's legal counsel, Kathleen T. Janssen, Esq., was present on behalf of Mr. Kotlarsky.

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

Mr. White stated a formal Complaint had been filed against Mr. Kotlarsky alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement. He stated that the time frame for completion of the required hours of Continued Medical Education was inadvertently left out of the Settlement Agreement, and should be completed within six months of the Board's adoption of the Settlement Agreement. Ms. Janssen stated Mr. Kotlarsky was agreeable to that.

Dr. Frey moved that the Board accept the proposed Settlement Agreement. Dr. Spiros 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. JENNIFER LAUREN RELPH, PA-C*, BME CASE NO. 21-40578-1

Ms. Relph's legal counsel, Kathleen T. Janssen, Esq., was present on behalf of Ms. Relph.

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

Mr. White stated a formal Complaint had been filed against Ms. Relph alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement. He stated that the time frame for completion of the required hours of Continued Medical Education was inadvertently left out of the Settlement Agreement, and should be completed within six months of the Board's adoption of the Settlement Agreement. Ms. Janssen stated Ms. Relph was agreeable to that.

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

Agenda Item 24

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BERALDO A. VAZQUEZ-CORREA, M.D.*, BME CASE NO. 21-8144-1

Dr. Vazquez-Correa was present.

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

Mr. White stated a formal Complaint had been filed against Dr. Vazquez-Correa alleging one violation of the Nevada Medical Practice Act, and outlined the terms of the proposed Settlement Agreement. He stated that the time frame for completion of the required hours of Continued Medical Education was inadvertently left out of the Settlement Agreement, and should be completed within six months of the Board's adoption of the Settlement Agreement. Dr. Vazquez-Correa stated he was agreeable to that.

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

Agenda Item 25

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DOUGLAS JACKSON FIFE, M.D.*, BME CASE NO. 21-35135-1

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

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

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

Agenda Item 26

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SYED F. RAHMAN, M.D.*, BME CASE NO. 20-19605-1

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

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

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

Agenda Item 27

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARK JASON ROSEN, M.D.*, BME CASE NO. 21-10020-1

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

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

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

Agenda Item 28

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. GUIDO ALBERT TORRES, M.D.*, BME CASE NO. 21-7212-1

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

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

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

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that between September 6, 2021, and November 29, 2021, the Investigations Division received 181 complaints. Of those, 93 cases were opened as formal investigations, 26 were not within the Board's jurisdiction, 26 were referred to other agencies and regulatory bodies, 13 were resolved through proactive measures, and 23 were either duplicate complaints or are still pending review. The average total case count per Investigator, which includes the Chief and 2 Deputy Chiefs, is 86. He said there were a total of 140 peer reviews, 86 of which had been assigned and 54 of which were awaiting assignment to a peer reviewer. There were 23 licensees in compliance or diversion that the Board was monitoring. Mr. Diaz thanked the Investigations Division staff. He said many changes had been implemented in the last year, and they have all adapted to them, and he was very appreciative.

(b) Quarterly Compliance Report

Ms. Jenkins reported that for the third quarter of 2021, there were eight files in collections with the State Controller's Office, for a total of \$45,951.66. The total costs and fines outstanding at the end of the quarter were \$88,048.50, and the total costs collected during the quarter were \$14,192.20.

(c) Quarterly Update on Finances

Ms. Jenkins highlighted the various sections of the Balance Sheet for the third quarter of 2021. The Board's total current assets were approximately \$9.3 million and the total assets were \$13.8 million. The Board's total current liabilities were \$7.6 million, and the Board's total liabilities and net position were \$13.8 million. She said she wanted to draw the Board's attention to the last line of the equity section, in the amount of \$760,467.05, which is the net income, and represents the Board's year-to-date addition to its net position, in a positive way.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the third quarter of 2021. Total income for the quarter was \$1.3 million, which was at 95.8% of budget, total expenses for the quarter were also approximately \$1.3 million, which was over budget by about 3.9%, and the total negative net position for the quarter was at \$56,700. The Board's reserves are at almost six months.

Dr. Nagy said he wanted to acknowledge Ms. Jenkins and her team for their hard work. Ms. Arias-Petrel said she wanted to echo what Dr. Nagy said, and added it was a pleasure working with Ms. Jenkins.

(d) Legal Division Report

Ms. Bradley stated she was providing a year-to-date report. She said that as of Monday, the Legal Division had filed 65 complaints, which is the highest number since 2015. The Division had also filed 9 first amended complaints, there had been 42 settlement agreements submitted to the Board, 3 findings of fact, conclusions of law and orders had been filed, and there would be more following the

Board meeting because there had been adjudications. The Division had filed 3 orders of summary suspension and 5 other orders, 27 memorandums had been drafted to the Investigative Committees to review cases and for clarification, and 269 letters of concern had been drafted, which she did not believe included the November numbers. She said the total number of open cases in the Legal Division was 159.

Dr. Nagy said he wanted to acknowledge Ms. Bradley and her team for the transformation in the Legal Division and its current state of efficiency. He said he had seen an increase in the speed of turnover of cases and we have been able to catch up on the huge backlog we had, which has brought us to our current state, wherein people can file a complaint and we can take action within a reasonable amount of time, and therefore better deter further negative activity.

Ms. Bradley thanked Deputy General Counsel Brandee Mooneyhan, who had assisted her in drafting the proposed regulatory changes that were before the Board that day.

Dr. Muro thanked Board staff, and said all the hard work they do behind the scenes is what makes the Board function as well as it does.

Agenda Item 30

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the September 10, 2021 Board Meeting

Dr. Frey moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the September 10, 2021 Board Meeting. Mr. Wade seconded the motion, and it passed unanimously.

Agenda Item 31

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Kent Alan Swaine, M.D.

Dr. Swaine was present with his legal counsel, Maria Nutile, Esq.

Dr. Muro asked Dr. Swaine 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. Williams seconded the motion, and it passed unanimously.

Upon returning to open session, Dr. Frey moved that the Board grant Dr. Swaine's application for licensure with the following conditions: that he participate in the preceptorship as outlined and continue his participation in the monitoring program for another three years to complete the program. Ms. Beal seconded the motion, and it passed unanimously. Mr. Cousineau stated that the conditions would be memorialized in an order.

(b) Michael Stanley Kaplan, M.D.

Dr. Kaplan was present with his legal counsel, Patricia Daehnke, Esq.

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

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

Upon returning to open session, Dr. Kaplan requested that the Board table his application.

(c) Kathryn Ann Cox, M.D.

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

Dr. Spirtos asked Dr. Cox why she wanted a license to practice medicine in Nevada.

Dr. Cox said she was hoping to retire in Nevada. She purchased a home in the Reno area two years ago, and was thinking of closing her practice in New York. Currently, she continues to go back to New York for several days a month to see her patients there, but when she finishes that, she plans to let her New York medical license go, and would like to have a medical license somewhere. She has no specific plans, but would like to be available if something comes up to do something part-time, volunteer, etc.

Dr. Spirtos questioned Dr. Cox regarding her affirmative responses to Questions 5 and 6 on her application for licensure.

Dr. Cox described the circumstances surrounding one of the malpractice cases that had been filed against her, which had resulted in a large monetary settlement.

Dr. Spirtos moved that the Board grant Dr. Cox's application for licensure. Dr. Nagy seconded the motion, and it passed unanimously.

(d) Michael Ennis Jackson, M.D.

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

Dr. Frey stated that Dr. Jackson is board certified, and that he was appearing before the Board that day because of some of his answers on his application and because he did not have three years of contiguous postgraduate training. He then asked Dr. Jackson to explain why he was unable to obtain a California license to complete his residency program at Martin-Luther King/Drew Medical Center.

Dr. Jackson explained that in order to obtain a California medical license, you must have completed Step 3 of the USMLE, and he had not yet done so.

Dr. Frey stated that if the Board granted Dr. Jackson a license, he would be required to maintain his board certification, and Dr. Jackson said he understood that.

Dr. Frey asked Dr. Jackson when he last actively practiced medicine, and Dr. Jackson said it was in December 2019.

Ms. Daniels asked Dr. Jackson how he would now answer a question regarding whether he had been disciplined, put on probation or resigned from a program, if he were to apply for licensure somewhere else.

Dr. Jackson said he would answer it in the affirmative. The reason he answered the question in the negative in the past is that he didn't realize he had been placed on probation during his postgraduate training.

Dr. Frey said that attention to detail when completing an application is reflective of your attention to detail in your medical practice.

Dr. Frey moved that the Board grant Dr. Jackson's application for licensure, contingent upon his maintaining his board certification. Dr. Williams seconded the motion, and it passed unanimously. Mr. Cousineau stated this would be memorialized in an order.

(e) Kevin Westray Holcombe, M.D.

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

Dr. Holcombe described the circumstances surrounding the single case of malpractice that had been filed against him.

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

Dr. Holcombe said he planned to do locums coverage and eventually set up a practice.

Dr. Frey asked Dr. Holcombe when he last practiced in an emergency department, and Dr. Holcombe said it was in December 2020.

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

(f) Terence Alon Heath, M.D.

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

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

Dr. Heath described the circumstances surrounding the two cases of malpractice that had been filed against him that resulted in monetary settlements.

Dr. Spirtos questioned Dr. Heath regarding his affirmative response to Question 9 on his application for licensure.

Dr. Heath described the circumstances surrounding the peer review conducted by the U.S. Navy as a result of the aforementioned malpractice cases.

Dr. Frey moved that the Board grant Dr. Heath's application for licensure. Ms. Arias-Petrel seconded the motion, and it passed unanimously.

Agenda Item 32

PERSONNEL

- Annual Performance Evaluation of Executive Director

Ms. Arias-Petrel said she wanted to highlight Mr. Cousineau's hard work as Executive Director. He is a wonderful leader for the Board, and she couldn't be more in agreement with his performance evaluation. She thanked him for his continued work on behalf of the Board and with his team.

Ms. Beal thanked Mr. Cousineau for his attention to detail, and for the orientation he provided to her, which was very informative and helpful, and said she really appreciated it.

Dr. Muro said he wanted to echo what had been said. He thinks Mr. Cousineau's diligence and efforts are well-recognized locally and at a national level. He represents the state well, and we are all better for it. On a personal level, he has always been there to answer questions and provide guidance. Dr. Muro said he wanted to thank him personally, and also on behalf of the Board.

Ms. Arias-Petrel moved that the Board accept the Annual Performance Evaluation of the Executive Director. Dr. Nagy seconded the motion, and it passed unanimously.

Agenda Item 33

CONSIDERATION AND ADOPTION OF BUDGET FOR CALENDAR YEAR 2022, TO INCLUDE ANY POTENTIAL STAFF SALARY INCREASES

Ms. Jenkins outlined the proposed budget for calendar year 2022. She explained that for the income section, staff used a 6% growth model, based on a 10-year average of growth in the Board's licensee base, for a total of \$5.5 million in income. She then outlined the expenses. She stated the personnel section was a total of \$4.3 million, and included a 1% cost-of-living increase for the staff, a 2% merit raise based on performance, an additional attorney and an additional administrative assistant. She explained that each line item in the operating expenses section was either the same as it was in the 2021 budget, the actual numbers from the last non-renewal year, the actual costs based on contracts, or staff's projections. Each of these numbers is reviewed at length to ensure that we have an appropriate budget and have allotted the appropriate amounts. She said the total operating expenses are \$1.1 million, with total expenses of \$5.4 million. The interest is projected based on current amounts, and the budgeted net income is \$60,000.

Ms. Beal asked whether the budgets for the last two years were based on 6% growth as well.

Ms. Jenkins explained that last year, staff was concerned about the general fiscal environment, so we only projected 4% growth, in order to be more conservative, even though we had seen growth of

6% over 10-plus years. She said as we saw today, we are considerably ahead of budget, so staff decided to return to the 6% model, due to continued growth in the Board's licensee base, even during COVID.

Ms. Beal asked whether the additional attorney was related to the growth in the licensee base, and Ms. Jenkins said it was.

Dr. Muro thanked Ms. Jenkins for taking into consideration the items that were just discussed.

Ms. Arias-Petrel said that although the last two years have been challenging with COVID, the Board has been able to continue to navigate the waters in a very positive way, thanks to Ms. Jenkins and the team, and she is very pleased to see where the Board is going.

Mr. Cousineau stated that the Board had added eight personnel in the last three years, and that was through COVID, when we weren't sure exactly what kind of licensee base we would be looking at – whether people would be renewing their licenses or not renewing them. He said we have seen a substantial uptick in the licensee base, which is pleasing, and has allowed us to anticipate bringing on two additional individuals, including, most importantly, an attorney, because the true backlog, as Dr. Nagy acknowledged earlier, with the Board's processes is probably in the Legal Division. Increasing personnel at every level, in Licensing, Investigations and Legal, over the last several years has decreased our timelines, which are all related, and also recognizes the significant growth in the Board's licensee base in all categories over the last few years.

Ms. Jenkins added that when staff is preparing financial statements and working on strategic planning, it is always the objective given to her by the Executive Director that we move towards, in every way, moving timelines down in all divisions. Therefore, we are always working on making sure all the funds are used to improve those timelines.

Dr. Ahsan asked how this Board's licensing fees compare to those of other states.

Ms. Jenkins explained that a study had been conducted by Board staff for the Legislative Commission Sunset Subcommittee comparing licensing fees in surrounding states, and some are higher and some are lower. The Board is not charging the statutory maximum that it could. The Board could elect to increase the fees, but staff is not recommending that we do so at this time.

Mr. Cousineau added that in 2017, the Board voted to lower the fees by approximately 10% across the Board for all licensure categories.

Mr. Wade asked where the Board advertises employment opportunities with the Board. Ms. Bradley said that they are posted on the Board's website, as well as the State Human Resources website, and we also advertise them on Indeed.

Ms. Beal moved that the Board approve the 2022 budget. Mr. Wade seconded the motion, and it passed unanimously.

Agenda Item 34

STAFF COMMENTS/UPDATES

Mr. Cousineau explained the Legislative Counsel Bureau's audit of the Board had begun in late January, and the auditors completed their field work in late September. Board staff met with the

auditors about two weeks ago to go over the preliminary findings. We are awaiting receipt of their draft findings, and will have an opportunity to comment and rebut. Ultimately, after receiving our comments and rebuttal, the final audit findings will be presented to the Legislative Commission Audit Subcommittee, most likely in April. After that, it will become a matter of public record, and Mr. Cousineau will share the formal audit findings with the Board at the June Board meeting.

Mr. Cousineau said the Federation of State Medical Boards (FSMB) Annual Meeting will be held the last week of April 2022, in New Orleans. Monies are budgeted for any and all Board members to attend. Ms. Munson will reach out to Board members with information as it is received from the FSMB. He said these meetings are very educational, and a great way to network and see how the process works on a national level.

Agenda Item 35
PUBLIC COMMENT

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

Agenda Item 36
ADJOURNMENT

Dr. Muro adjourned the meeting at 1:12 p.m.

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