

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
9600 Gateway Drive, Reno, Nevada 89521

and Videoconferenced to

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

FRIDAY, JUNE 10, 2022 – 8:30 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
Donald K. White, J.D., Senior Deputy General Counsel
Brandee Mooneyhan, J.D., Deputy General Counsel
Ian J. Cumings, Deputy General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Ernesto Diaz, Chief of Investigations
Lynnette Daniels, Chief of Licensing
Homa S. Woodrum, 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 Victor M. Muro, M.D., at 8:32 a.m.

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

Agenda Item 2

PUBLIC COMMENT

Dr. 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

- March 4, 2022 Board Meeting – Open Session

Dr. Nagy moved that the Board approve the Minutes of the March 4, 2022 Board Meeting – Open Session.

Discussion ensued regarding the contents of the proposed Minutes with regard to the discussion held during the March 4, 2022 Board meeting concerning misleading advertising related to board certification.

Dr. Frey seconded the motion and it passed unanimously.

Agenda Item 4

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

(a) Review of Public Comments on, and Possible Adoption of, Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R171-20

- (b) Review of Public Comments on, and Possible Adoption of, Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R118-21
- (c) Request for Authorization to Proceed With the Regulatory Adoption Process to Add a Provision Regarding Reduced Fees for Applicants Who Apply for Licensure as Practitioners of Respiratory Care or Perfusionists by Endorsement for Active-Duty Military Members, Spouses of Active-Duty Military Members, Veterans, or Surviving Spouses of Veterans
- (d) Request for Authorization to Proceed With the Regulatory Adoption Process to Add a Provision Specifying the Examination Specified in NAC 630.280 if One is Required for a Physician Assistant Applicant
- (e) Request for Authorization to Proceed With the Regulatory Adoption Process to Specify the Quorum for an Investigative Committee of the Board
- (f) Request for Authorization to Proceed With the Regulatory Adoption Process to Add Regulations Regarding SB291 and the Supervision of Advanced Estheticians by Physicians and Physician Assistants

Ms. Bradley explained that Agenda Items 4(a) and 4(b) were requests that the Board adopt proposed regulations R171-20 and R118-21, as presented. A public workshop and public hearing were held, and no comments were received during either; however, she did speak with a couple of individuals regarding the proposed regulations prior to the public hearing.

Dr. Frey moved that the Board adopt proposed regulations R171-20 and R118-21. Ms. Beal seconded the motion and it passed unanimously.

Ms. Bradley stated that Agenda Items 4(c), (d), (e) and (f) contained new provisions. The change to NAC 630.080 would remove the written examination concerning statutes and regulations because we are no longer doing that. She explained that the Board previously voted to proceed with the regulatory adoption process on a regulation that would allow the Board to charge a reduced fee to active-duty military members, veterans or their spouses who apply for licensure by endorsement as physicians and physician assistants, and the first new provision would allow the Board to do so for practitioners of respiratory care and perfusionists that might fall into that same category. The Board previously adopted a regulation that an examination may be required for physician assistants who have been out of practice for 24 months, and the second new provision would allow the Board to specify an alternative examination to the examination offered by the National Commission on Certification of Physician Assistants (NCCPA) for those applicants who are unable to take the NCCPA examination. The third new provision would clarify that the quorum of an investigative committee is two out of three committee members. The remaining three new provisions have to do with a bill (SB291) that passed during the last legislative session which allows physicians and physician assistants to supervise advanced estheticians in certain locations. The new provisions would clarify that if a physician assistant is doing the supervision, that supervision must be approved by his or her supervising physician and must be within the scope of the physician assistant's training and scope of practice. These procedures are non-ablative; they are not generally invasive.

Discussion ensued regarding the requirements for supervision of advanced estheticians by physicians and physician assistants.

Dr. Spirtos said he thought the Board should update the language in NAC 630.290(1)(a) that requires an applicant to state "his or her sex" on an application for licensure. Ms. Bradley said she thought that language was currently contained throughout the statutes and regulations with regard to applications for licensure, but the Board could look at changing the language through future regulations.

Discussion ensued regarding the paragraph on page 21 of proposed regulation R171-20, which the Board had just voted to adopt, that was removed from NAC 630.700 requiring proof that an applicant is a citizen of the United States or is lawfully entitled to remain and work in the United States.

Ms. Bradley explained this requirement was removed by the legislature in 2019. However, removal of the language does not mean it is permissible to work without proper authority, it just means you don't have to be a citizen first before obtaining a license.

Mr. Cousineau stated that the language was removed from statutes across all licensing boards, and removal of the language in the regulation merely reflects the statute.

Dr. Frey moved that the Board authorize staff to proceed with the regulatory adoption process on Agenda Items 4(c) through (f). Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 5

REPORTS

(a) Investigative Committees

Dr. Frey reported that at its May 31, 2022 meeting, Investigative Committee A considered 174 cases. Of those, the Committee authorized the filing of a formal complaint in 13 cases, sent 28 cases out for peer review, requested an appearance in 10 cases, issued 30 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up, reviewed 1 case for compliance, and recommended closure of a total of 90 cases. Dr. Frey thanked the other members of Investigative Committee A and the staff for all of their hard work.

Dr. Muro reported that at its May 11, 2022 meeting, Investigative Committee B considered 143 cases. Of those, the Committee authorized the filing of a formal complaint in 13 cases, sent 20 cases out for peer review, requested an appearance in 11 cases, issued 19 letters of concern, referred 4 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 76 cases. Dr. Muro said he wanted to echo what Dr. Frey had said, and also thank everyone that participates in the investigative committee process.

(b) Clark County Medical Society

Mr. Cousineau stated that Amber Carter, Executive Director of the Clark County Medical Society, had submitted a written report prior to the meeting, which had been provided to all Board members.

(c) Washoe County Medical Society

Mary Ann McCauley, Executive Director of the Washoe County Medical Society (WCMS), reported that WCMS would be holding its annual inaugural dinner the following evening, at which it would be honoring several of its members with awards. WCMS presented a two-hour continuing medical education (CME) course in April regarding pain management and palliative care for both cancer and non-cancer patients and will be hosting a CME in the fall regarding unintentional bias in health care. WCMS is continuing to hold networking events, and in August will hold its annual family event at Bartley Ranch in Reno.

Ms. McCauley stated that she is also the Executive Director of the Carson-Douglas Medical Society. The Medical Society continues to struggle, with its membership down 50% from three years ago, but she is working to rebuild its membership with networking events.

(d) Physician Assistant Advisory Committee

Physician Assistant Advisory Committee Member Janet Wheble, PA-C, said that she and Advisory Committee Member Amie Duford, PA-C, were there to welcome the new Board members and staff, and introduce themselves to the new Board members and staff. She said the third Advisory Committee Member, Jessica Radivan, PA-C, was unable to attend this meeting, but the Board and staff had met her at the last meeting.

Ms. Wheble stated she had been a physician assistant in Nevada for approximately 35 years. She said the Advisory Committee has had a good relationship with the Board with respect to providing information and assistance to advance the physician assistant profession to increase access to health care as well as public safety, and that the Advisory Committee members are available to answer any questions or address any concerns the Board may have with respect to the physician assistant profession. She said they look forward to continuing to work with the Board going forward.

Physician Assistant Advisory Committee Member Amie Duford, PA-C, stated she had been a licensed physician assistant in Nevada since 2008, and had been on the Advisory Committee since 2014. She said they were looking forward to continuing to collaborate with the Board in improving patient safety, quality of health care and access to health care for all.

Agenda Item 6

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KAREN FRANCES ARCOTTA, M.D.*, BME CASE NO. 22-5972-1

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

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

Dr. Nagy 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 7

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ROBERT STEPHEN FREDERICKS, M.D.*, BME CASE NO. 22-5901-1

Dr. Fredericks was present.

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

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

Mr. Wade 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 8

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JULIO LUIS GARCIA, M.D.*, BME CASE NO. 22-9968-1

Dr. Garcia was present with his legal counsel, John A. Hunt, Esq.

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

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

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

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TODD LINCOLN JACKSON, M.D.*, BME CASE NO. 22-36323-1

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

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

Dr. Spirtos moved that the Board 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 10

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JEFF CHEN, M.D.*, BME CASE NO. 22-30509-1

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

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

Ms. Beal moved that the Board approve the proposed Settlement Agreement. Dr. Williams 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. BYRON LEONARD PERKINSON, M.D.*, BME CASE NO. 22-39567-1

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

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

Mr. Wade moved that the Board approve the proposed Settlement Agreement. Dr. Frey seconded the motion.

Dr. Williams expressed concern with the excessive amount of medication that Dr. Perkinson had prescribed in a year, along with the fact that he didn't see a lot of the patients for whom he wrote the prescriptions.

A vote was taken on 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. PAMELA ELAINE ALBO, PA-C*, BME CASE NO. 22-367-1

Ms. Albo's legal counsel, Bridget Kelly, Esq., was present on behalf of Ms. Albo.

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

Mr. White stated a formal Complaint had been filed against Ms. Albo alleging one violation of the Nevada Medical Practice Act, and outlined the alleged violation and the terms of the proposed Settlement Agreement.

Mr. Wade 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 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ELENA GERAYMOVYCH, M.D.*, BME CASE NO. 22-46417-1

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

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

Ms. Beal moved that the Board approve the proposed Settlement Agreement. Dr. Spirtos seconded the motion.

Dr. Frey stated that it was not for this case, but was a broader issue that is going to arise more and more with the number of provider networks that are operating in the State. When a physician is compelled to refer a patient to a specialist, and cannot do so because of the lack of that type of specialist in his or her area, or even in the region, some of this has to fall to the network provider insurance companies. It can't all be on the back of the physician who can't find a specialist in the area. He said he thinks it behooves the Board to be aware of this.

A vote was taken on 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. RAVI SWAMINATHAN RAMANATHAN, M.D.*, BME CASE NO. 21-11844-1

Dr. Ramanathan was present with his legal counsel, John A. Hunt, Esq.

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

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

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

Agenda Item 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. NAYAB MOHAMMAD ZAFAR, M.D.*, BME CASE NO. 22-34257-1

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

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

Dr. Spirtos 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. JOSE HIRAM ALVAREZ, M.D.*, BME CASE NO. 21-28177-2

Dr. Alvarez' legal counsel, John A. Hunt, Esq., was present on behalf of Dr. Alvarez.

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

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

Ms. Arias-Petrel moved that the Board approve the proposed Settlement Agreement. Ms. Beal seconded the motion.

Dr. Williams stated that Dr. Alvarez is an OB/Gyn and was performing plastic surgery procedures without general anesthesia and was performing procedures that are tremendously dangerous in the best-trained hands. One of the procedures he was performing is the most dangerous procedure plastic surgeons perform, and he thinks Dr. Alvarez should be restricted from performing those types of procedures, as they require specialized training which he does not possess.

Mr. Cousineau explained that the Board cannot unilaterally add a term to a settlement agreement that has been entered into between the Investigative Committee and a licensee. Therefore, if an adjudicating Board member is uncomfortable with the proposed terms of the proposed Settlement Agreement, he or she should vote against it.

Discussion ensued regarding misleading advertising by physicians with regard to board certification, and regarding the terms of the proposed Settlement Agreement in this case.

Mr. Cousineau explained the process in the event the proposed Settlement Agreement was not accepted by the Board.

Dr. Muro stated he was troubled that the proposed Settlement Agreement contained no admission of malpractice.

Ms. Bradley explained that the Board could only consider the Complaint and the proposed Settlement Agreement at this time; they could not consider extraneous information.

A vote was taken on the motion and it failed, with all adjudicating Board members voting against the motion.

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. LUKE ST. JOHN CESARETTI, M.D.*, BME CASE NO. 21-7235-1

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

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

Dr. Williams moved that the Board approve the proposed Settlement Agreement. Dr. Spirtos seconded the motion.

Dr. Frey stated that as we see more artificial intelligence (AI) being used, both nationally and internationally, especially in the MRI world, it probably behooves the Board to understand when a matter comes before the Board whether or not it involved an AI read.

A vote was taken on 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. KIM MARIE HIATT, M.D.*, BME CASE NO. 22-43341-1

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

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

Dr. Williams moved that the Board approve the proposed Settlement Agreement. Dr. Nagy 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. KAREN MARIE TIERNEY, M.D.*, BME CASE NO. 22-19851-1

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

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

Ms. Arias-Petrel 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 20

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. RANDI FULTZ GRINSELL, M.D.*, BME CASE NO. 21-27634-1

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

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

Dr. Frey moved that the Board approve 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 21

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JEFFREY LOREN JOHNSON, M.D.*, BME CASE NO. 21-10772-1

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

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

Dr. Frey moved that the Board approve the proposed Settlement Agreement. Dr. Spirtos seconded the motion.

Dr. Frey said he had the same comments as before with regard to AI overreads.

A vote was taken on 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. ALEXANDER NORTON, JR., M.D., BME* CASE NO. 21-27350-1

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

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

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

Agenda Item 23

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MICHAEL LEE PERNULA, M.D., BME* CASE NO. 22-38864-1

Dr. Pernula's legal counsel, Bridget Kelly, Esq., was present on behalf of Dr. Pernula.

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

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

Dr. Frey moved that the Board not approve the proposed Settlement Agreement. Mr. Wade seconded the motion.

Dr. Frey stated the patient was on the table undergoing a procedure, went into arrest, CPR was performed and the patient was resuscitated, but rather than cancel the procedure and transfer the patient to a higher level of care, the physician proceeded to operate, which he thought was egregious.

Mr. Wade added the proposed Settlement Agreement included no admission to any of the counts contained in the Complaint, which he also thought was pretty egregious.

Ms. Kelly said she wanted to clarify that there was no arrest of this patient during the procedure; it occurred after the procedure was concluded.

Ms. Bradley explained that although Dr. Pernula was not admitting the malpractice count outright, this was, in effect, an admission by consenting to the Board making that finding. It is essentially an administrative nolo contendere plea. She said what the Board had before it was the Complaint and the proposed Settlement Agreement, and generally speaking, discussing the facts of the case is not something we do during consideration of a settlement agreement. If the Board rejects this proposed Settlement Agreement, she will reach out to Dr. Pernula's counsel to discuss other potential options.

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

Mr. Cousineau explained that Board members are able to reach out and ask questions of counsel for the Investigative Committee, or of the Legal Division staff, with regard to a proposed settlement agreement in advance of any Board meeting, and asked that they take advantage of that whenever necessary.

Agenda Item 24

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that between March 2, 2022, and June 9, 2022, the Investigations Division received a total of 336 complaints. Of those, 204 cases were opened as formal investigations, 38 were not within the Board's jurisdiction, 46 were referred to other agencies and regulatory bodies, 39 were resolved through proactive measures, and 9 were either duplicate complaints or are still pending review. The total case count for 8 Investigators, the Chief and 2 Deputy Chiefs was 789, for an average of 79 cases per Investigator. There were a total of 152 peer reviews, 74 of which had been assigned and 78 of which were pending assignment to a peer reviewer, and there were 23 licensees in compliance or diversion that the Board was monitoring.

(b) Quarterly Compliance Report

Ms. Jenkins reported that for the first quarter of 2022, the total amount in collections was \$45,951.66, and no collections were written off during the quarter. The total costs outstanding were \$83,530.62, and total fines outstanding were \$93,600.00. Total costs collected during the quarter were \$76,152.85.

Ms. Beal asked whether there was a timeline with regard to collection of the outstanding balances that are in collections.

Ms. Jenkins explained that the amounts we refer to as in collections are those that are referred to the State to be collected. From an accounting standpoint, we normally don't refer those as collectable, and it is very rare that the State is able to collect on them. These are the only amounts that we don't expect to collect. We do reserve some portions on our financial statements if we think they are collectable, and normally, we have a lot of success. We work very closely with the Board's legal team and its executive staff, and we do very well. The balances of outstanding costs and fines are very low for the kind of money we are moving through.

Ms. Beal asked how the amount of costs collected during the first quarter of this year compared with the first quarter of last year.

Ms. Jenkins stated the amount was higher because the Legal Division is completing more cases.

(c) Quarterly Update on Finances

Ms. Jenkins explained that the Balance Sheet is a snapshot of the Board's assets, liabilities and net position. She then highlighted the various sections of the Balance Sheet for the first quarter of 2022. The Board's total current assets were \$7.8 million, its total current liabilities were \$6 million, and the Board's net income for the quarter was \$109,609.65. She said the Board was in a very solid financial position.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the first quarter of 2022. She stated the Board was following its budget. Total income for the quarter was \$1.3 million, which was 96.8% of budget. The Board's personnel expenses were low, at 83.7% of budget. One of the reasons for this is because we schedule the payroll to be even throughout the year, and we won't have our extra payroll that occurs in a biweekly situation until the third and fourth quarters. Therefore, these expenses will be a little higher in the second half of the year, but she expects them to be on the lower side for the first and second quarters. The Board's total expenses were at 89.6% of budget, and the Board's positive net position for the quarter was \$109,609.65.

Ms. Arias-Petrel thanked Ms. Jenkins for doing a great job.

Ms. Jenkins advised the Board that the 2021 financial audit had begun, with the field work currently in progress, and the Board currently had just over six months in reserves.

(d) Legal Division Report

Ms. Bradley reported that from February 26, 2022, through June 3, 2022, the Legal Division had filed 20 formal complaints, there were 103 cases authorized for filing of a formal complaint that had not yet been filed, and 1 order of summary suspension and 1 other order had been filed. She further stated there had been some motion practice on various cases, perhaps a little more than normal, there was 1 case pending in district court on a petition for judicial review of a Board decision, there was 1 hearing on a formal complaint, 3 pre-hearing statements were filed, there were 19 cases resolved by settlement agreements, 22 new cases were received in May, and 54 letters of concern were drafted from the May Investigative Committee meetings.

Dr. Frey asked Ms. Bradley about the status of the backlog in the Legal Division.

Ms. Bradley said there were the 103 cases that have not yet been filed plus the 22 new cases, and that was the current backlog. She explained that the Legal Division is doing its best to get through it, and is on target to resolve 28 cases this quarter. She said their goal is to do this every quarter, so the backlog can be caught up in a few years.

Mr. Wade thanked Ms. Bradley and the Legal Division for all of their hard work.

(e) Report on Federation of State Medical Boards 2022 Annual Meeting

Mr. Cousineau stated this was the first in-person Federation meeting since 2019, and it was nice to see some people in person he hadn't seen for several years. Dr. Nagy, Dr. Frey and Dr. Spirtos all attended in person. Dr. Muro participated virtually and was the Board's voting delegate. The content of the meeting was unique and diverse, and it was a good networking opportunity and experience.

Dr. Frey commented on a presentation regarding trends in medicine, such as artificial intelligence.

Dr. Nagy commented on a presentation by the Department of Health and Human Services regarding a lack of mortality reports being made to the National Practitioner Data Bank by hospitals in several states, including Nevada.

Dr. Muro said he was impressed by how well-attended the voting session was by the various states and territories. Their most lively conversation had to do with physicians and their role in society as people who speak with authority and the messages they convey, as so many people take what they say as an expert point of view.

Dr. Spirtos said he thought the meeting was highly politicized, including the discussion around doctors voicing their opinions. He said in instances such as COVID, when the guidance is changing literally on a weekly basis, it is almost impossible for a physician to be consistent with that guidance because that guidance is a moving object.

Agenda Item 25

CONSIDERATION AND APPROVAL OF REVISION TO BOARD POLICY AND PROCEDURE MANUAL MODIFYING EXISTING POSITION DESCRIPTION FOR FINANCE MANAGER TO INCLUDE A CHANGE IN POSITION TITLE

Mr. Cousineau explained that the change in title from “Finance Manager” to “Chief of Finance and Human Resources” was being requested to more accurately reflect Ms. Jenkins’ role and responsibilities with the Board, which she has been performing for years. Additionally, it provides clarity to the staff that if they have human resources needs, Ms. Jenkins is the person to go to.

Dr. Frey moved that the Board adopt the change. Ms. Arias-Petrel seconded the motion and it passed unanimously.

Agenda Item 26

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the March 4, 2022 Board Meeting

Dr. Frey moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the March 4, 2022 Board Meeting. Dr. Nagy seconded the motion and it passed unanimously.

Agenda Item 27

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Shouping Li, M.D.

Dr. Li was present with his legal counsel, Lyn E. Beggs, Esq.

Dr. Muro asked Dr. Li 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. Spirtos seconded the motion and it passed unanimously.

Upon returning to open session, Ms. Beggs requested that consideration of Dr. Li's application be tabled until the Board's September meeting.

Dr. Nagy moved that the Board accept the request to table consideration of Dr. Li's application until the Board's September meeting. Ms. Beal seconded the motion and it passed unanimously.

(b) James Ernest Smith, PA-C

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

Dr. Muro asked Mr. Smith 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 Mr. Smith regarding his affirmative response to Questions 25, 26 and 28 on his application for licensure.

Mr. Smith described the circumstances surrounding the disciplinary action taken against him in the State of California and his voluntary surrender of his license there. He said that he surrendered his license in California rather than complete the terms of probation imposed upon him by the California Board because he was told by the Arizona Board that they could not move forward with his application for a license there until he either completed the terms of the California probation or voluntarily surrendered his California license. He said he is now in the process of trying to reinstate his California license, and will have to complete the probationary terms once it is reinstated. He would like to hold licenses in California, Arizona and Nevada.

Dr. Frey said it would be preferable if Mr. Smith were to resolve the issues he had in California and Arizona before proceeding with his application in Nevada.

Mr. Cousineau stated that Mr. Smith had the option to withdraw his application and reapply once he resolved the matters in California and Arizona, rather than continue to a vote on his application by the Board, which could possibly result in a denial.

Ms. Beggs asked what the statutory basis would be for denial of Mr. Smith's application, and Ms. Bradley said it would probably be NRS 630.301(3).

Ms. Arias-Petrel asked Mr. Smith what he planned to do if granted a license to practice medicine as a physician assistant in Nevada.

Mr. Smith explained that he planned to work for the same medical group he worked for previously, at its main two offices located in Bullhead City, Arizona, and Laughlin, Nevada, both underserved areas.

Dr. Frey asked Mr. Smith whom his supervising physician would be, and Mr. Smith said it would be the same physician who was his supervising physician when he previously worked for that medical group.

Dr. Muro asked Ms. Bradley whether the Legal Division considered Mr. Smith's case in California to be closed.

Ms. Bradley said that she considered it to be closed. In reviewing the California documents, the voluntary surrender resolved the case, and Mr. Smith currently owes no obligation to California. However, as he stated, most likely, if the California Board grants him a new license, it will require him to fulfill the terms previously imposed upon him by that Board.

Ms. Beal moved that the Board grant Mr. Smith's application for licensure. Dr. Frey seconded the motion and it passed, with Dr. Muro voting against the motion and all other Board members voting in favor of the motion.

(c) Mark Lawrence Harshany, M.D.

Dr. Muro asked Dr. Harshany 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. Frey seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Frey asked Dr. Harshany to, in the future, consider making commentary when poor quality films are in front of him, so the films can be repeated. He stated that recordkeeping is important to this Board.

Dr. Frey moved that the Board grant Dr. Harshany's application for licensure. Dr. Williams seconded the motion and it passed unanimously.

(d) Douglas Alan Slaughter, M.D.

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

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

Upon returning to open session, Dr. Frey moved that the Board grant Dr. Slaughter's application for licensure. Dr. Williams seconded the motion and it passed, with Dr. Nagy voting against the motion and all other Board members voting in favor of the motion.

(e) Norman Maurice Rowe, M.D.

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

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

Upon returning to open session, Dr. Williams moved that the Board grant Dr. Rowe's application for licensure. Dr. Spirtos seconded the motion and it passed unanimously.

(f) Curtis Kareen Lawrence, M.D.

Mr. Lawrence was present, as was his legal counsel, Lyn E. Beggs, Esq.

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

Mr. Wade stated that Dr. Lawrence was requesting a change of status from inactive to active, and provided a timeline regarding Dr. Lawrence's license status with the Board. He stated Dr. Lawrence had practiced in Florida from 2020 until March 2022, and asked whether Dr. Lawrence held licenses in other states.

Dr. Lawrence explained that he had held multiple licenses because he practiced locum tenens for a period of time, so many of them were temporary licenses, but he currently holds licenses in Pennsylvania, Florida and Arizona.

Mr. Wade questioned Dr. Lawrence regarding his responses to Questions 5 and 6 on his application for a change of status.

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

Mr. Wade asked Dr. Lawrence why he had responded in the negative to Question 5 and in the affirmative to Question 6.

Ms. Beggs explained that the wording on the application states, "the following questions refer to the time period since your last renewal or within the last 24 months prior to your submission of the form." Dr. Lawrence was named in May of 2018, so he properly answered "no" to Question 5 and properly answered "yes" to Question 6 because the settlement was paid out in December of 2019.

Mr. Wade asked Dr. Lawrence what he planned to do if granted a license to practice medicine in Nevada.

Dr. Lawrence said he had accepted a position with Sound Physicians in Las Vegas to work as a hospitalist at St. Rose Dominican, Dignity Campus.

Dr. Frey moved that the Board grant Dr. Lawrence's application for a change of status to "active." Mr. Wade seconded the motion and it passed unanimously.

(g) Ronald Lewis, M.D.

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

Mr. Wade stated that Dr. Lewis was initially certified by the American Board of Orthopaedic Surgery in July of 2001, and recertified in January of 2012. He then asked Dr. Lewis why he had answered Questions 5 and 6 in the negative, when he should have answered them in the affirmative.

Dr. Lewis explained that a licensing agency was assisting him with his application, and the answers to those questions were checked off incorrectly. He has been named in some malpractice cases, and the answer to those questions is "yes."

Mr. Wade questioned Dr. Lewis regarding the two cases of malpractice that had been filed against him that he had failed to disclose on his application.

Dr. Lewis said those cases were dismissed and he did not know whether he needed to include them. He then described the circumstances surrounding those two cases, as well the circumstances surrounding two other cases of malpractice that had been filed against him that were pending.

Dr. Frey moved that the Board grant Dr. Lewis' application for licensure. Dr. Williams seconded the motion and it passed unanimously.

(h) Roy Christian Gan, M.D.

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

Ms. Arias-Petrel summarized Dr. Gan's medical education and training and stated that Dr. Gan had indicated he planned to work in Las Vegas with Las Vegas Surgical Associates if granted a license to practice medicine in Nevada. She said he attempted to gain certification with the American Board of Surgery, and passed the qualifying examination, but failed the certifying examination in March of 2022, and cannot not re-take the certifying examination until 2023.

Dr. Gan said he thought the issue was that he did not pass all three steps of the USMLE within seven years, and he explained why it took him nine years to do so.

Ms. Arias-Petrel stated that Dr. Gan was applying for licensure by endorsement.

Dr. Nagy asked what type of surgery Dr. Gan would be performing in Nevada, and Dr. Gan said he would be performing bariatric and general surgery.

Mr. Cousineau stated that one requirement for licensure by endorsement is that the applicant hold a license in good standing in another jurisdiction, which Dr. Gan does.

Dr. Nagy said generally the Board will grant a license by endorsement when there is a need for the applicant's specialty in the State, but there is not a shortage of bariatric surgeons in Las Vegas.

Dr. Gan explained that he would also be doing general surgery, and would be practicing in an underserved area of Las Vegas, in Pahrump.

Ms. Beal moved that the Board grant Dr. Gan a license by endorsement. Ms. Arias-Petrel seconded the motion and it passed unanimously.

(i) Aaron Ryan Osborne, M.D.

Dr. Muro asked Dr. Osborne 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. Mr. Wade seconded the motion and it passed unanimously.

Upon returning to open session, Mr. Wade moved that the Board grant Dr. Osborne's application for licensure. Dr. Frey seconded the motion and it passed unanimously.

(j) Stefanie Kristine Caley, PA-C

Dr. Muro asked Ms. Caley 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 Ms. Caley why she had not practiced clinical medicine for the past four years.

Ms. Caley explained that she had started a family and stayed at home with her children during that time.

Dr. Spirtos asked Ms. Caley to describe the PANRE recertification program, and she did so.

Dr. Spirtos asked Ms. Caley what she planned to do if granted a license to practice medicine as a physician assistant in Nevada.

Ms. Caley said she had previously received job offers, but was unable to take them because she did not yet have a license. She decided to stop applying for jobs until she received her license, so she doesn't currently have any job offers, but is looking at pediatrics or work in a med spa or possibly general practice.

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

(k) Philip Allen Case, CRT

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

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

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

Upon returning to open session, Dr. Frey moved that the Board grant Mr. Case's application for licensure contingent upon a mental health evaluation which results in no significant findings. Otherwise, Mr. Case will need to come back before the Board at a subsequent Board meeting to address the findings of the evaluation. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 28

CONSIDERATION AND APPROVAL OF 2021 BOARD ANNUAL REPORT

Mr. Cousineau thanked Ms. Munson for compiling the report, as well as the other staff members who provided statistics for the report. He then highlighted some of the items contained in the proposed report. He said the staff had grown significantly, particularly in the Licensing and Investigations Divisions. The Board had also added two attorneys in the last year, which has significantly contributed to the increase in actions that have been prosecuted by the Legal Division. The Board's licensee base continues to grow, and we expect that to continue in 2022. Mr. Cousineau said you would think during the last year or so, due to COVID, things would have slowed down, but they have not, and since the waivers to practice under Directive 011 were lifted, the Board has seen a very significant increase in the number of applications received. He said the Licensing Division has been busier than ever, and he thanked them for all of their efforts.

Ms. Beal said she really appreciated the metrics and data. Since we are in a state where we have a shortage of health professionals, it is really important to see the numbers are increasing, and good to see we are making some progress in this regard.

Dr. Muro said the Licensing Division does a great job of licensing individuals in a very timely manner and they are very efficient.

Ms. Beal moved that the Board approve the 2021 Board Annual Report. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 29

STAFF COMMENTS/UPDATES

Agenda Item 30

CONSIDERATION OF ADDING ADDITIONAL INVESTIGATIVE COMMITTEE OF THE BOARD

Mr. Cousineau said the annual financial audit should be completed and before the Board for approval at the September Board meeting.

Mr. Cousineau explained that in May, he had sent the Board members a copy of the LCB audit, which was adopted by the Legislative Commission's Audit Subcommittee on May 4, 2022. The audit contained 10 findings and recommendations, most of which involved streamlining procedures that we were using, or are currently using, in the Investigations and Legal Divisions. We have already implemented the vast majority of those, and are in the process of implementing the rest. There was discussion in the audit regarding a review of how fines are assessed, and a need for more consistency there, which the Legal Division is working on, and a second review of complaints that are received by the Board that are deemed to be outside of the Board's jurisdiction to ensure the appropriateness of that finding. He doesn't believe anything the auditors reviewed regarding complaints deemed to be outside of the Board's jurisdiction was inconsistent with the staff's findings, but this ensures there is a double-check in cases where there is a question. The auditors also recommended adding more cases to the quarterly meetings of the investigative committees or adding a third investigative committee. He said he wanted to dovetail this into Agenda Item 30, which is consideration of creation of a third investigative committee, which would be Investigative Committee C. He would like to put that in place beginning in August. This third investigative committee may not be permanent, and it may not need to meet quarterly, but he would like to try it out to lessen the load on the current investigative committees. Ultimately, all nine Board members would become investigative committee members. In speaking with most of the Board members, to include Dr. Muro, most feel it is a good idea. If we find out later it is no longer needed, we can dial it back, but he likes the value of having all nine Board members involved in the investigative committee process.

Ms. Arias-Petrel moved that the Board authorize the creation of a third investigative committee. Dr. Nagy seconded the motion and it passed unanimously.

Mr. Cousineau stated that Dr. Muro is vested with making the decision as to the composition of the investigative committees. He discussed this with Dr. Muro, and suggested the composition of the investigative committees to be as follows:

Investigative Committee A: Dr. Frey will remain as the Chair, Mr. Wade will remain the public member, and Dr. Williams will be the other physician member.

Investigative Committee B: Dr. Muro will remain as the Chair, Dr. Ahsan will be the other physician member, and Ms. Beal will be the public member.

Investigative Committee C: Dr. Nagy will be the Chair, Ms. Arias-Petrel will be the public member, and Dr. Spirtos will be the other physician member.

Investigative Committee A will be held in the Reno office and Investigative Committees B and C will be held in the Las Vegas office.

Dr. Muro confirmed Mr. Cousineau's suggested composition of the investigative committees, explaining the thought was to balance the composition of the committees with those who are currently on investigative committees, to provide some experience, and those who are new to the investigative committees.

Mr. Cousineau said returning to Agenda Item 29, the LCB audit, the Board has a requirement under statute to submit a 60-day follow-up with its amended findings, which will be on August 1, 2022, and then a 6-month follow-up that goes before the Legislative Commission's Audit Subcommittee, which will be on February 1, 2023. Once that takes place, and the Legislative Commission's Audit Subcommittee signs off on it, the matter will be concluded. The audit is public and is available on the Nevada Legislature website.

Agenda Item 31
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 32
ADJOURNMENT

Dr. Muro adjourned the meeting at 2:08 p.m.

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