

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, 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 Teleconferenced 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

WEDNESDAY, MARCH 22, 2023 – 12:00 NOON

Board Members Present at Board Office in Reno

None

Board Members Present at Board Office in Las Vegas

None

Board Members Present by Telephone

Aury Nagy, M.D., President
Ms. Maggie Arias-Petrel, Secretary-Treasurer
Victor M. Muro, M.D.
Bret W. Frey, M.D.
Ms. Pamela J. Beal
Col. Eric D. Wade, USAF (Ret.)
Carl N. Williams, Jr., M.D., FACS

Board Members Absent

Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., Vice President
Chowdhury H. Ahsan, M.D., Ph.D., FACC

Staff/Others Present at Board Office in Reno
Edward O. Cousineau, J.D., Executive Director
Sarah A. Bradley, J.D., MBA, Deputy Executive Director
Donya Jenkins, Chief of Finance and Human Resources
Laurie L. Munson, Chief of Administration and Information Systems
Ernesto Diaz, Chief of Investigations
Deonne E. Contine, J.D., General Counsel
Donald K. White, Senior Deputy General Counsel
Brandee Mooneyhan, Deputy General Counsel
Ian J. Cumings, Deputy General Counsel
Kory Linn, Interim Chief of Licensing

Staff/Others Present by Telephone
Henna Rasul, J.D., Senior Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

President Aury Nagy, M.D., called the meeting to order at 12:01 p.m.

Ms. Bradley took roll call, and all Board members were present with the exception of Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., Chowdhury H. Ahsan, M.D., Ph.D., FACC, and Carl N. Williams, Jr., M.D., FACS. Ms. Bradley announced there was a quorum.

Agenda Item 2

PUBLIC COMMENT

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

Agenda Item 3

REVIEW AND DISCUSSION of BDR 54-761

Dr. Nagy stated that BDR 54-761 is now AB318.

Ms. Bradley explained that the Board had not received the language of the bill at the time the Legislative Subcommittee met, so there wasn't a lot of discussion other than to let the Subcommittee know this is the language the Board approved in December. She said she had compared the language of the bill with what the Board submitted, and it is substantially similar. The only difference is in Section 1 of the bill. When the legislative staff drafted it, they gave the Board until September 30 to send the list of expired licenses to the Drug Enforcement Administration and the Board of Pharmacy. We plan to send it much before that, but they added a timeframe. There currently is no timeframe for us to send the copies of the expiration notices, which would be replaced by the list. The bill is mostly just cleanup language, updating the Board's Chapter to ensure that all licensees have to report to the Board regarding lawsuits and payments, as

well as the amount of the payments, and making it clear that the Investigative Committees can order examinations of any of the Board's licensees.

Dr. Muro said there wasn't much discussion at the Legislative Subcommittee meeting, but generally there was a consensus to support the bill because there isn't anything really substantive in it.

Ms. Beal moved that the Board support the bill. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 4

REVIEW AND DISCUSSION ABOUT INCREASING THE MAXIMUM FINE CHARGED IN DISCIPLINARY ACTIONS PURSUANT TO NRS 630.352(4)(h)

Ms. Bradley stated that currently, the maximum fine the Board can assess for a disciplinary violation is \$5,000.00 per violation. That amount was added in 1985. There has been some discussion among Board members during Investigative Committee meetings whether \$5,000.00 is sufficient, given the change in the value of money from 1985 to today. This was placed on the agenda so that Board members could decide whether to increase the amount. She recommended that it be increased to \$10,000.00. She said some other agencies have a maximum of \$10,000.00. She hasn't seen anything higher, but that doesn't mean it is not allowed. If the Board votes to do this, we will request that this be an amendment to AB318, the bill the Board just discussed, to update NRS 630.352(4)(h) to increase the maximum fine amount to the amount the Board sets.

Ms. Beal asked for the rationale for increasing the maximum fine.

Ms. Bradley said she would say \$5,000.00 per violation is a bit low in comparison to other regulatory agencies. A good number of them have a maximum of \$10,000.00, and the \$5,000.00 maximum we have was set in 1985. The Board doesn't get to keep any of this money; it goes to the General Fund, but if the goal is to punish and make somebody think harder about their choices, perhaps increasing the fine amount will make the punishment more real for them because the \$5,000.00 maximum may no longer be high enough to accomplish that.

Ms. Beal said she was trying to get a feel for how increasing the maximum would impact the Board's licensees in their ability to pay.

Ms. Bradley explained that increasing the maximum fine does not mean that every fine assessed will be \$10,000.00; it will just provide that opportunity for more egregious cases. If a licensee needs payment arrangements, it is included in a settlement agreement that the Board approves. She said probably about half pay within 60 days and about half request payment plans.

Ms. Beal asked what percentage of fines imposed were assessed at the maximum amount in the last one to two years, and Ms. Bradley said she thought it was no more than 10%.

Dr. Williams joined the meeting at 12:15 p.m.

Dr. Frey moved that the Board approve the agenda item as proposed: Ms. Arias-Petrel seconded the motion and it passed unanimously.

Agenda Item 5

REVIEW AND DISCUSSION REGARDING THE DISPOSITION OF FINES COLLECTED BY THE BOARD IN DISCIPLINARY MATTERS PURSUANT TO NRS 630.110(4)(b)

Ms. Bradley stated this agenda item was placed on the agenda at the request of Dr. Frey. She then explained the intent is to possibly change where fines go when the Board collects them. Currently, when the Board assesses a fine, the Board does not get to keep that money, so it does not pay for anything the Board does. State law requires that we give that money to the State Treasurer, it goes into the General Fund, and the State Treasurer/General Fund appropriations people decide where the money goes. She said Dr. Frey has talked to her a few times about changing where the money goes to help make Nevada healthier or improving healthcare. AB45 is currently pending this session, and it would create a fund in the State Treasurer's office to help repay student loans for all types of healthcare providers working in the rural areas and underserved areas. Ms. Bradley said she thinks this would be a nice fit if the Board votes to change where its fines get deposited.

Dr. Frey said another option would be that we give the Director of the Department of Health and Human Services latitude, but he likes how eloquent this solution is regarding potentially improving rural access and care.

Dr. Nagy moved that the Board approve the agenda item as proposed. Dr. Frey seconded the motion.

Ms. Bradley said we don't know what will happen during the legislative session. Assuming the Board votes in favor of the motion, staff will work with the Board's lobbyist and the Legislature to see where this best fits. In other words, it may go to AB45, but if AB45 doesn't pass, we will try to see what else we can do to achieve this intent.

Dr. Nagy said if AB45 passes, he would like staff to generate a report annually to let the Board know how much the Board contributed to that fund and to which types of providers it went to support.

Ms. Bradley said if AB45 passes, the State Treasurer will have the fund and will have those numbers, and we know how much we collect in fines. This last year we collected about \$90,000.00. In prior years, it wasn't quite as much, as we had fewer disciplinary actions in those years. With the increase in the maximum fine, she doesn't think it will double, but it may go up a bit.

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

Agenda Item 6

PUBLIC COMMENT

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

Agenda Item 7

ADJOURNMENT

Dr. Nagy adjourned the meeting at 12:22 p.m.

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