

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 * * ***

LEGISLATIVE SUBCOMMITTEE 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

FRIDAY, APRIL 28, 2023– 12:00 p.m.

Subcommittee Members Present

Victor M. Muro, M.D.
Aury Nagy, M.D.
Ms. Maggie Arias-Petrel (*joined at 1:00 p.m.*)
Col. Eric D. Wade, USAF (Ret.)
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

Subcommittee Members Absent

None

Staff/Others Present

Sarah A. Bradley, J.D., MBA, *Deputy Executive Director*
Mercedes Fuentes, *Legal Assistant*
Tom Clark, *Lobbyist*
Keith Lee, *Lobbyist*
Zoe Houghton, *Lobbyist*
Henna Rasul, *Senior Deputy Attorney General*

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by Dr. Nagy at 12:02 p.m.

Ms. Bradley took roll call, and all Subcommittee members were present, with the exception of Ms. Arias-Petrel, who had previously indicated that she would join the meeting at 1:00 p.m. 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.

Ms. Bradley stated that members of the public were in attendance in the Reno office who would like to provide public comment.

Mikaela Rezaei from McDonald Carano presented public comment and asked that the Board support AB270 on behalf of both the Nevada State Board of Osteopathic Medicine and Nevada State Society of Anesthesiologists, both have voted to support AB270 because it allows anesthesiologists to supervise certified anesthesiologist assistants thereby providing much needed and highly trained physician extenders which is in the best interest of the public.

Dr. Nagy thanked Ms. Rezaei for her comments.

Stephanie Zunini who is a certified anesthesiologist assistant from Reno, Nevada, working in Denver, Colorado, presented public comment and was speaking on behalf of the Nevada Academy of Anesthesiologist Assistants and urges the Board to support AB270 to license anesthesiologist assistants in Nevada.

Dr. Nagy thanked Ms. Zunini for her comments.

Ms. Bradley confirmed that there was no further comment in the Reno Office.

Dr. Weldon Havins was present in the Las Vegas Board Office presented public comment and stated that he has a copy of a list of all the bills that the Board is taking positions on and offered copies to anyone who would like one.

There was no further comment from the Las Vegas Board Office. Dr. Spirtos thanked Ms. Bradley for all of the work she has put forth regarding these meetings and reviewing the bills.

Agenda Item 3 REVIEW AND DISCUSSION OF BILLS

Dr. Nagy indicated that, like in the previous meetings, he would like Ms. Bradley to state a synopsis of each bill and then the Subcommittee members, after discussion, will move to take a position on the bill either in support, in opposition, or take a neutral or no position on each bill.

a. SB419

Ms. Bradley stated that proposed bill SB419 has been amended and she believed that it seems workable with the amended language. The new language reads that all licensing boards will receive notifications from the Department of Health and Human Services (HHS) if a licensee is not in compliance with required protocols established by HHS for electronic health care records. Licensees can request waivers from HHS, if needed. It also expands Medicaid coverage to those under the age of 27 who otherwise qualify, except for their immigration or citizenship status. And finally, it amends NRS 629 and requires health care providers to create, use, and exchange electronic health care records, unless a waiver is requested and granted by HHS. It would also amend NRS Chapter 629 to state that if the licensee does not comply with the provisions, the Board will have the ability to have a hearing regarding the failure to comply and the Board may impose corrective action or a fine. Ms. Bradley stated that it no longer is required that a licensee be immediately suspended for a failure to comply so she believes that this language is a lot better and more workable for the Board.

Mr. Clark stated that the amendment also includes that the HHS will be responsible for defining the provisions so there would not be an adverse effect or impact on the Board.

Dr. Nagy asked to clarify how this would change the current requirements for sharing healthcare records and information. Ms. Bradley answered that it's adding the requirement that will be defined by HHS for electronic health care records and is also adding potential grounds for disciplinary action if someone does not comply with the new regulations and new requirements. Any licensee who does not have electronic records will either have to get them or get a waiver approved by HHS.

Dr. Spirtos asked if the physician does not treat patients that have government insurance, currently they do not have to use electronic healthcare records with those insurances, would they now have to provide electronic records with the new provision. Ms. Bradley confirmed that those physicians would now have to comply with these new provisions. Dr. Spirtos further asked about the waiver portion of the bill. Ms. Bradley answered that in Section 6, page 10 of the bill it states that a healthcare provider may apply to HHS for a waiver from the provisions of subsection 4 on the basis that the provider does not have the infrastructure necessary to comply with those provisions including, without limitation, because the healthcare provider does not have access to

the internet. Ms. Bradley further stated that the HHS shall grant a waiver, so it is not optional, if they determine that the provider does not have the infrastructure necessary and obtaining the infrastructure is not reasonably practical.

Dr. Muro asked what the timeline would be for when the requirements would have to be implemented because this would add significant costs even for a small practice and not just for the equipment but also for the software and the maintenance as well. Ms. Bradley answered that she believes that the bill would actually be effective July of 2024 as regulations in place can sometimes take some time, so that would give about a year to get things set up to comply, but that she will double-check the dates that are stated in the bill, it is not effective right away.

Dr. Nagy stated that he is aware of a completely free electronic record-keeping system that also works with government insurances and is called Practice Fusion. Dr. Nagy added that if this entity is still in business by the time these provisions would go into effect it could be an option and alleviate some of the concerns and burden of the costs for an electronic records system.

Mr. Clark added that the bill was moved to Senate finance and that there are 16 fiscal notes with some of them being zeroed out and some of them upwards of a million dollars, and that there is a lot more work to do with this bill and that he will definitely continue to track it.

Dr. Muro added that one-year sounds like a long time but for actually setting up all of the technology the year will go by very quickly even if the financial burden is relieved.

Dr. Nagy stated that he suggest to ask the people that are drafting this bill to, or perhaps amend the bill, to clarify that the information that is being compelled to be shared is at limited or no cost to the health information exchange, currently they want to charge huge fees to build the software interface systems between the health information exchange and the people that are housing the information and he believes that if we are going to expect this to work that is one of the primary barriers to the health information exchange.

Mr. Clark noted that it is an expensive bill with policy issues and suggests that the Subcommittee does not take a position on it at this time.

Dr. Spirtos moved to table proposed bill SB419 to a future agenda for action, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

b. SB439

Ms. Bradley stated that proposed bill AB234 is mostly about communicable diseases and policies and procedures that the Department of Health and Human Services, the Department of Corrections, and the Department of Education will be putting into place regarding communicable diseases. Ms. Bradley stated she wanted to draw the Subcommittee's attention to the amendments that will be made to NRS 630 and a few other amendments to Chapters 422 and 629. Section 20 of the bill amends NRS 422 to define "Primary care" to include the practice of family medicine, pediatrics, internal medicine, obstetrics and gynecology, and midwifery. Section 27 of the bill amends NRS 629 and authorizes continuing education credits for courses in "the stigma, discrimination, and unrecognized bias toward persons who have acquired or are at high risk of acquiring human immunodeficiency virus." And Section 28 of the bill amends NRS 630 and requires that physicians and physician assistants providing "emergency medical services or

supervising the provision of emergency medical services in a hospital or primary care” to take two hours of CMEs in the stigma, discrimination, and unrecognized bias toward persons who have acquired or are at high risk of acquiring human immunodeficiency virus. It is also adding a definition of primary care to NRS Chapter 630 and this definition will include the practice of family medicine, pediatrics, internal medicine, obstetrics and gynecology, and midwifery. She wanted to bring this to the attention of the Subcommittee because she wanted to know their opinion if they agree that this is an appropriate definition of primary care in case they had concerns before it becomes a law, as well as ensure that the Subcommittee was aware of the additional CME requirement that will apply to license renewals for some physicians and physician assistants.

Dr. Nagy asked if the CME requirement was annual or bi-annual. Ms. Bradley confirmed that it is bi-annual and would be required with renewal.

Mr. Clark added that this bill is also in Senate Finance and there is a high fiscal note of about \$10 million on it and the likelihood of this bill moving forward is 50/50; however, it is his opinion that with that type of policy and that type of fiscal note he does not foresee it passing, but he will keep a close eye on it while it is in Senate finance and keep the Subcommittee posted on its progress.

Dr. Nagy asked who oversees the activities of the midwives in our state. Ms. Bradley answered that to her knowledge there is not a board for that and she believes perhaps the HHS may have a role, but that she is not sure. Dr. Nagy further asked if there should be an oversight entity that specifically oversees midwives and possibly would they be brought under the Board of Medical Examiners since now being defined as a provider of primary care. Ms. Bradley answered that is beyond the scope of the presented bill. Dr. Spirtos added that he believes that the oversight for midwives is lacking.

Mr. Clark added that AB386 does deal with the licensure of midwives if that is something that the Subcommittee would like to review at a future meeting.

Dr. Muro agreed that there is a concern with the oversight of midwives and believes that it would be prudent for the Board to take a look at bill AB386.

Mr. Lee stated he suggests that because the bill is in Senate Finance the Subcommittee should table this bill to another agenda to see the status then and then take apposition.

Dr. Spirtos moved to table proposed bill SB439 to a future agenda for action, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

c. AB364

Ms. Bradley stated that proposed bill AB364 is regarding physician assistants and giving them autonomy after the completion of a certain number of hours. Ms. Bradley explained that this was on a previous agenda and this bill has now received amendments and she wanted to highlight the changes to the Subcommittee. The new amendments would change the Board's composition to five physicians and one physician assistant, after a physician terms out, and three public members, but it would keep it being 9 members rather than 11 as initially proposed. It also increases the collaboration time from 4,000 hours to 6,000 hours. It also now specifies that if physician

assistant changes the field of medicine in which they practice, they must do another 6,000-hour collaboration in that field. Ms. Bradley voiced that there is still concerns about the bill such as Section 12 of the bill removes the Board's ability to require examinations of physician assistant applicants, as well as the lack of a requirement that a physician assistant provide the collaboration agreement to the Board because the bill language states that the collaboration agreements would only be given to the Board "upon request." If completion of a collaboration agreement sets the physician assistant's scope of practice, the Board should have all the information needed in order to track this and be aware of what they are doing.

Mr. Clark stated that it appears the amendments were made to try and address the concerns that were previously voiced by the Board, however even with the amendments the Nevada Medical Society is still strongly opposed to the bill and that he and Mr. Lee have made it very clear as well that the Board is opposed. Mr. Clark will maintain that position unless told otherwise.

Dr. Muro stated that he remains opposed to this bill and that the increase of hours does not justify the amount of changes indicated. He also added that the charge of the medical board is to ensure the safety and the practice of medicine and that this would not help do that by removing a physician spot off of the Board and believes that physician assistants are viewed and respected as valuable partners in the practice of medicine, but to have a physician assistant on the Board would be overrepresentation and would be watering down the requirements to be on a Board.

Dr. Nagy indicated that he had a prior discussion with Dr. Spirtos and Dr. Frey and the question that came about was that if a physician assistant were to be on their own, then who would have jurisdiction over regulating them? Currently, physician assistants being supervised by medical doctors are licensed and regulated by our Board and physician assistants being supervised by doctors of osteopathic medicine are licensed and regulated by the Nevada State Board of Osteopathic Medicine. He further added that if there are questions of representation or the oversight of physician assistants, he believes it would be beneficial to model after the California Medical Board, where they have a physician assistant review committee that is part of the California Medical Board and reports to them.

Ms. Bradley stated that as written they would be licensed by our Board when they are collaborating with a medical doctor, but the bill does not specify which board would license them after a collaboration is completed. Mr. Clark added that it was also his understanding that our Board would still license them after a collaboration is completed but agrees that there is no specificity.

Mr. Lee stated we continue to be in opposition of this bill and suggest that the Subcommittee continue strong opposition of this bill and not budge from that position.

Dr. Muro moved to oppose proposed bill AB364, Dr. Spirtos seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

Dr. Spirtos stated that he had a prior obligation and needed to leave the meeting. Dr. Spirtos left the meeting at 12:54 p.m.

d. AB442

Ms. Bradley stated that proposed bill AB442 requires the Board to notify law enforcement about consumer complaints that may constitute domestic violence or sexual assault and give the information to law enforcement if the consumer consents. Ms. Bradley stated that this would be a formal addition, but she believes that the Board already does this currently. She also added that the domestic violence section was interesting because the Board generally never gets a domestic violence complaint, just self-reports if the licensee is arrested or charged with it. It did get amended from the initial draft that stated that if there was more than one complaint regarding sexual assault against a licensee, the Board would have to summarily suspend them, however it now says the Board would have to set parameters and make regulations on it.

Mr. Clark stated that he spoke with the bill sponsor and that there are some concerns from the law enforcement side and there is still work to be done on this bill.

Dr. Muro stated that the bill potentially eliminates due process in an investigation, and he does not think that this bill is beneficial. Ms. Bradley replied that previously the Subcommittee did not take a stance on this bill due to it still being a work in progress and the issues with the due process language, however she believes those concerns have been alleviated with the amendment. It is also helpful that the language has been modified to require consumer consent before the Board shares information received in a consumer complaint with law enforcement.

Dr. Muro stated that he believes that this bill is redundant. Ms. Bradley answered that yes, we already have authority for summary suspensions right now under existing law.

Mr. Clark added that the bill has a lot of work to be done to it language-wise and the intent was that there is communication with law enforcement and boards and that there is another meeting coming up for this bill.

Dr. Nagy supported Dr. Muro's position that appears to be an attempt to solve a problem that he is not sure actually exists and that he believes the Board already has proven things in place. Dr. Muro added that nothing changed drastically that would change his mind regarding this bill.

Dr. Muro moved to table proposed bill SB439 to a future agenda for action, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Ms. Arias-Petrel joined the call at 1:00 p.m.

e. SB249

Ms. Bradley explained that proposed bill SB249 was supposed to fix issues identified in SB291. The original bill draft did not fix anything and was potentially problematic, the amendments to it get rid of provisions relating to RNs in first bill draft and it clarifies advanced esthetics procedures. It does not, however, fix the issues identified in SB291 and physicians will still have to comply with NRS 644A if they are performing advanced esthetics procedures in their offices. This means that existing staff performing these procedures will need to be advanced estheticians.

Mr. Clark added that there is a meeting scheduled where he will argue that exemptions be put into the bill. Dr. Nagy clarified that the exemptions were for the people licensed under our Board to not be supervised under the Nevada State Board of Cosmetology. Mr. Clark confirmed.

Dr. Muro suggested to either table this bill to another agenda or take a neutral position on it.

Dr. Nagy moved to support Mr. Clark's actions on proposed bill SB439, as it accurately reflects the position of the Subcommittee, specifically that the Subcommittee supports conversations exempting Board licensees fully from NRS Chapter 644A and that the Board is otherwise opposed to SB249, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

f. AB270

Ms. Bradley stated that proposed bill AB270 creates a licensure category of anesthesiologist assistants, the Subcommittee has previously looked at this bill however there have been some amendments. The amendments clarify the rules regarding possessing and administering drugs to comply with Board of Pharmacy rules. She added she placed this back on the agenda to review the amendments and that they were not substantial and that last time the Subcommittee took a neutral position on it.

Dr. Muro asked if they would be exempt from civil liabilities. Ms. Bradley answered that there are some certain civil liability exemptions, according to Section 92 and 93 of the bill if an anesthesiologist assistant gives instruction or provides supervision to EMS while acting in good faith in an emergency situation would make them immune. She further clarified that other healthcare providers are included in that, and it is just adding an anesthesiologist assistant to the list. Dr. Nagy and Dr. Muro added that seems appropriate.

Dr. Nagy added that he is aware that hospitals and surgeons of the city struggle with shortage of anesthesiologists, and he has had difficulty in scheduling patients for surgeries. To the extent that this bill may help facilitate physicians being able to perform surgeries in a timely fashion, then he is in favor of that. Dr. Nagy also added that he had a question about how many assistants could one anesthesiologist supervise at one time. Ms. Bradley answered that as of now the total number of collaboration agreements including APRNs and PAs there is a limit of three, however they can petition to add an additional number if they had good reason to. This issue is not specifically addressed with regard to anesthesiologist assistants in the bill at this time.

Col. Wade moved to support proposed bill AB270, Dr. Nagy seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Agenda Item 4 PUBLIC COMMENT

Dr. Nagy asked whether there was anyone in attendance who would like to present public comment.

Stephanie Zunini in the Board Reno Office stated that she is a 5th generation Nevadan and current President of the Nevada Anesthesiologist Assistants Society and an anesthesiologist assistant practicing clinically in Denver and wanted to make it clear to the Subcommittee that certified anesthesiologist assistants (CAA) will always work under the direction of physician anesthesiologists and it is clear in the federal regulations that anesthesiologist assistants will always be required to work under the medical direction of a physician anesthesiologist. There was some commentary about in regards to the ratio, the

current federal regulation is 4:1 and this is also the ratio in every jurisdiction (currently 21) where CAAs can practice, except in South Carolina. CAAs carry our own malpractice insurance, I'd be happy to expand on the education and training or safety if you wish but just wanted to add that maybe there was a concern previously there was no provision in the bill to allow the Board to require CMEs but currently in order to be certified by the national certifying body which is the National Commission for Certification of Anesthesiologist Assistants in collaboration with the National Board of Medical Examiners, the CAAs are required to complete 50 hours of CME every two years as well as pass a CVQ board exam upon graduation after the first four years and then ten years thereafter, so even if there was no specific provision for the Board in this bill, the CAAs will still have to do both to maintain their national certification. Dr. Nagy mentioned that there is an extensive shortage of anesthesia providers across the state and there is a growing list of CAAs with deep ties to this state that wish to come home to their families and help continue the access to the anesthesia services here. Ms. Zunini thanked all the members of the Subcommittee for the opportunity to share her comments.

Dr. Nagy thanked Ms. Zunini and that he appreciated her commentary very much and asked if there was any further public comment. Ms. Bradley stated that there was no further comment in the Reno Board Office.

Dr. Havins, in the southern office, wanted to mention that SB204 and that he hoped that the Board was opposing this bill as he believes that it is problematic and that the Nevada State Medical Association is opposed to this bill and hopes that the Boards lobbyist will convey an opposition given that this bill it is in its last stage before passing.

Dr. Nagy thanked Dr. Havins for his commentary and added that on the Subcommittee's March 10, 2023 agenda this item was discussed, and the Subcommittee was in fact in opposition to this bill. Dr. Nagy asked if there was any further public comment. There was no further public comment in the Board's Las Vegas Office.

Agenda Item 5
ADJOURNMENT

Dr Nagy moved to adjourn the meeting and thanked all of the Subcommittee, staff and public members for joining.

The meeting was adjourned at 1:29 p.m.

* * * * *