

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, May 12, 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. Muro at 12:02 p.m.

Ms. Bradley took roll call, and all Subcommittee members were present. Ms. Bradley 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.

Ms. Bradley stated that there was one member of the public in attendance in the Reno office, however they did not want to provide public comment.

There was one member of the public present in the Las Vegas Board Office, however they did not want to provide public comment.

Agenda Item 3

REVIEW AND APPROVAL OF PRIOR MEETING MINUTES

Dr. Muro asked the committee members if they had reviewed the minutes prior to the meeting. They responded that they had and that there were no changes to be made.

There was no discussion regarding the minutes.

Dr. Spirtos moved to approve the minutes for the meetings of March 10, 2023, March 24, 2023, April 7, 2023, and April 28, 2023, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Agenda Item 4

REVIEW AND DISCUSSION OF BILLS

Dr. Muro 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. AB244

Ms. Bradley stated that proposed bill AB244 has been amended but does not remove concerns regarding the examinations ordered by the IC. The bill is still stating that when someone has a mental or physical examination that there is a right for an observer to be there and take notes, and the amendments have now exempted some types of exams but still not the ones that the Board uses pursuant to Title 54 or NRS 630.

Dr. Nagy asked if this would impair the ability to evaluate a physician with a mental or physical evaluation or affect PACE evaluations. Ms. Bradley answered that it did not with those types specifically but she believes that it could affect fitness for duty evaluations or potentially sexual evaluations for sexual deviancy or other concerns. If they could have an observer present during those exams the Board has always said in the past that someone could not be present based on the investigation process being confidential and she believes that with this bill people will challenge the exams that the Board orders and demand to have someone present

Dr. Nagy further asked if it would create bias or be unfair if someone was present in the examination and if that person could be used as a witness and testify in a proceeding. Ms. Bradley answered that there are standard testing protocols and examiners normally do not want those protocols to be made public. Ms. Bradley added that she is concerned that examiners would not want someone in the room with them, such as a lawyer who may lead their client by shaking their head or gesturing to not answer a question. Allowing an interpreter to be present may be appropriate but not an observer.

Dr. Muro asked if the integrity of the examination might be comprised if there was a third-party present in the exam room. Ms. Bradley confirmed that that was the concern and that there are a lot of examiners who do not want anyone else present.

Dr. Nagy moved to oppose proposed bill AB244, Dr. Muro seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Ms. Bradley asked Mr. Clark and Mr. Lee if they have heard anything about this bill or if there is a chance to exempt the Board's examinations or be able to add an amendment to exempt specific examinations. Mr. Lee answered that he can talk to the assemblywoman behind the bill and bring up the concerns brought forward today. Mr. Clark added that this would need to be done in the next week.

b. AB404

Ms. Bradley stated that proposed bill AB404 increases the non-economic damages in medical malpractice cases cap to \$2.5 million from \$350,000, and then that amount would go up every January 1 based on the consumer price index. She further stated that other concerns with this bill

are that it removes language that limits cap to one total amount regardless of the number of plaintiffs, defendants, or theories of liability. It removes limitations on the contingency fees that lawyers may charge in medical malpractice cases. It also removes joint and several liability and now all possible defendants must be named and liability can be given to them by a percentage of their negligence, so for example one defendant could be liable for 100% even if their negligence was 20%, and they would have to sue the others involved in order to get a recovery. She stated she believes this would be very bad and create more lawsuits and be unfair to those that do get sued.

Dr. Spirtos voiced that this bill needed to be stopped.

Ms. Arias-Petrel asked if this bill was from an attorney. Ms. Bradley answered yes, this bill is from the Nevada Justice Association. Ms. Arias-Petrel further added that this would create more issues and more doctors leaving the state and we cannot have that.

Dr. Nagy voiced that he is not in favor of the proposed bill.

Mr. Lee stated that he believes that this bill will go forward to the Governor for signature and what we could do is make sure that the Governor understands the concerns surrounding this bill so that he can veto it.

Dr. Muro added that in the perspective of the safety and practice of medicine as the Board's mission, he could not think of anything more detrimental to the safety and practice of medicine in the State of Nevada than this. 20 years ago, the state faced a similar situation across all specialties, and this will make it difficult to attract providers to come back to the state and decreases the access to health care by decreasing the number of providers available, especially in rural areas where there is already limited access. He believes we should strongly oppose this bill.

Ms. Arias-Petrel stated that hospitals will also be affected, and this would be detrimental and cannot be allowed.

Mr. Lee added that there has been strong lobbying effort from the hospitals, the medical society, and the state medical association, raising all the same concerns that have been discussed today.

Dr. Spirtos asked about the timeline when it would pass and be given to the Governor. Mr. Clark answered that he does not know, most likely early next week. Ms. Bradley also added that she will send the link of where she checks on the status of the bills to the committee and can also send the list of the Assembly Committee on Judiciary members that sponsored the bill.

Ms. Arias-Petrel asked if she could testify as a member of the public and not as a Board member to voice the opposition to this bill and the detrimental effect it would have. Ms. Bradley answered that she and members of the Subcommittee could testify as both members of the public and as members of the Board since the Subcommittee has taken a stance of strong opposition and that could be relayed on behalf of the Board and also her thoughts as a citizen.

Dr. Nagy agreed with Dr. Muro's comments and suggested the Board could discuss with the sponsors of the bill to make an amendment to the bill regarding these issues as this bill would diminish capacity to provide care due to no providers.

Ms. Arias-Petrel stated she believed the Board needs to be very vocal about the opposition to this bill and we need to have as many people as possible testify against it.

Dr. Muro moved to strongly oppose proposed bill AB404, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

c. AB442

Ms. Bradley stated that proposed bill AB442 has been talked about a few times on prior agendas, it is regarding requiring 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. There was supposed to be an amendment to apply to all Title 54 boards and would amend Chapter 629. That amendment hasn't been published online yet on the Legislature website.

Mr. Clark added that he should get the amendment sometime next week.

Ms. Bradley recommended that this item be placed on another meeting, perhaps next Friday (May 19, 2023) if the Subcommittee would like.

Dr. Muro moved to table proposed bill AB442 to a future agenda for discussion and possible action, Col. Wade seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

d. SB204

Ms. Bradley stated that proposed bill SB204 gives licensure for medical graduates that have not completed residency and the now states that foreign medical graduates that do not match into a residency would be called "bridge graduate physicians" and would be licensed only by our Board and not the Board of Osteopathic Medicine (DO Board). No passing of any USMLE steps would be required (removes requirements Step 1 and Step 2 CK). Bridge graduate physician license would be valid for two years from issuance and the licensee could apply for a second two-year period however the maximum total of practice as a bridge graduate physician would be four years. Ms. Bradley further stated that the areas of practice are no longer limited and now only limited to where their supervisor is working. Supervising physicians must be present on the premises at all times while the bridge graduate physician is practicing. The language still reads that they must be in a medically underserved area of the State, however Ms. Bradley stated that she verified on the Department of Health and Human Services' Division of Public and Behavioral Health website, all 17 counties in Nevada have some type of shortage designation due to very high ratios of population to provider, so there is a good potential that these bridge graduate physicians could be working in Clark county and not just the rural counties alone. Bridge graduate physicians must be credentialed and billed in the same manner as other providers of health care and can register with the Board of Pharmacy to prescribe, dispense, or administer dangerous drugs.

Dr. Muro asked why the DO Board was removed. Ms. Bradley answered that she was not sure and perhaps it was because of the fiscal note that was placed on implementing it. Dr. Muro further asked what fiscal concerns would the DO Board have that our Board would not have and stated that changing the name to a bridge graduate physician does not change the level of training they would have at the time that they start practicing medicine. He added that his concerns are

basically allowing physicians to practice right after medical school when medical school is a foundation to training, the residency training programs are an extension and critical part of every medical trainee, and he believes this bill does not acknowledge that medicine is more complicated than that and practicing coming right out of medical school is not right.

Dr. Nagy asked if there was any information from the department of health on any outcomes where this process has already been approved. Ms. Bradley answered no, not that she was aware of, but that she is aware that the same type of bill is being reviewed in the Alabama legislature at the moment and that this bill was modeled after that bill.

Dr. Muro stated that the intent is to provide more access to healthcare is always a great goal and mission but to give access to less qualified physicians available is not beneficial.

Dr. Nagy moved to oppose proposed bill SB204, Dr. Muro seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

e. SB283

Ms. Bradley explained that proposed bill SB283 has been on previous agendas and the Subcommittee has already voted to oppose it, however there were new amendments that she wanted the Subcommittee to review. The amendments now state that the fees charged to provide electronic records cannot exceed \$15 total or the per page fee allowed in NRS 629.061, whichever is less. Records must be provided electronically if the requester asks for them to be provided electronically and ambulances are now exempt from these requirements. It is her understanding that this change indicated that if the records are asked to be electronic, they must be electronic.

Dr. Muro stated that charts can be voluminous and time consuming to scan and it is not an easy process.

Ms. Bradley stated that it reads that if it is asked for electronic it *must* be electronic, and it does not address the situation of if the records on hand are only paper.

Dr. Spirtos added that this is a lot of work and is not suitable.

Dr. Muro stated that he thinks this is trying to enhance easy access to records, but the reality is that is not an easy thing to do and will have an overreaching impact on practices.

Dr. Spirtos moved to oppose proposed bill SB283; Dr. Nagy seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Agenda Item 5

PUBLIC COMMENT

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

Ms. Bradley stated that there was no public comment in the Reno office.

Dr. Havins, in the southern office, wanted to mention AB404 emphasize the importance of testifying so that the Governor has a stronger basis to veto the bill and to be aware if one Republican could be flipped, then the Legislature could override a veto on the bill at the beginning of the next legislative session.

There was no further public comment in the Board's Las Vegas Office.

Agenda Item 6

ADJOURNMENT

Dr. Muro moved to adjourn the meeting and thanked all of the Subcommittee, staff and public members for joining, Ms. Arias-Petrel seconded the motion and it passed with all Subcommittee members voting in favor.

The meeting was adjourned at 1:00 p.m.

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