

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 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 9, 2023 – 8:30 a.m.

Board Members Present

Aury Nagy, M.D., President
Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G., Vice President
Ms. Maggie Arias-Petrel, Secretary-Treasurer
Victor M. Muro, M.D.
Bret W. Frey, M.D.
Chowdhury H. Ahsan, M.D., Ph.D., FACC
Ms. Pamela J. Beal
Col. Eric D. Wade, USAF (Ret.)
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, 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, J.D., Senior Deputy General Counsel
Ian J. Cumings, J.D., Deputy General Counsel
William Shogren, J.D., Deputy General Counsel
Kory Linn, Interim Chief of Licensing
Rosalie M. Bordelove, J.D., Chief Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Aury Nagy, M.D., at 8:30 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Chowdhury H. Ahsan, M.D., Ph.D., FACC. Mr. Cousineau 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.

John Steinmetz, RRT, stated he is a respiratory care practitioner in Nevada and also a member of the Practitioner of Respiratory Care Advisory Committee to the Board of Medical Examiners, as well as a member of the Nevada Society of Respiratory Care. He said he was present on behalf of the Nevada Society of Respiratory Care to voice their concerns regarding the length of time that it takes for prospective respiratory care practitioners to obtain a license in the State of Nevada. He stated that on numerous occasions it has taken months for individuals to obtain a license, and in some cases those individuals became frustrated and left to go to other states. He said in these times of limited available staff, the inability of hospitals and other health care businesses to obtain licensed therapists can adversely affect their businesses, as they become inadequately staffed and are not able to deliver care for patients as designed. He said he has been in communication with Kory Linn, Interim Chief of Licensing for the Board, and he is aware of the challenges that her department faces. He said the Nevada Society of Respiratory Care was formally voicing their concerns and would like to know what steps the Board of Medical Examiners is taking to rectify this situation, and whether it has a timeline for resolution of the situation.

Dr. Nagy thanked Mr. Steinmetz for his comments on this issue, and said his request to address this issue was very timely, as later in the meeting the Board will be discussing changes it is making to the licensing process to make it more expedient, as well as a potential increase in staff to address the surge in the volume of applications that are now being received.

Agenda Item 3

APPROVAL OF MINUTES

- (a) March 3, 2023 Board Meeting – Open Session
- (b) March 22, 2023 Board Meeting – Open Session

Dr. Frey moved that the Board approve the Minutes of the March 3, 2023 Board Meeting – Open Session and the March 22, 2023 Board Meeting – Open Session. Ms. Beal seconded the motion, and it passed unanimously.

Agenda Item 4

LEGISLATIVE UPDATE

Tom Clark, one of the Board's legislative representatives, stated that the Board's Legislative Subcommittee, with whom they worked during the legislative session, was phenomenal. It was enlightening to have regular meetings with Board members, who provided feedback on the pieces of legislation that came before them, and there were quite a few. He also appreciated the participation by members of the Board when key pieces of legislation came forward during the session.

Mr. Clark then highlighted six bills that he said were most impactful to the Board and its operations, some of which had not yet been either signed or vetoed by the Governor. AB244 was brought forth by the Nevada Justice Association, which is a trial lawyers association, and allows a third party to be present during physical and mental examinations of a licensee under investigation, in the event the Board requests an examination of that licensee. That individual would have the ability to have a family member, a friend or a lawyer present during the examination. The Board opposed the legislation, and worked with the Nevada Justice Association to try to get the Board of Medical Examiners exempted from the legislation, but they refused to do so.

Mr. Clark said that AB270 provides for licensure of anesthesiologist assistants, and was supported by the Board's Legislative Subcommittee. The effective date of the bill will be upon passage and approval for the purpose of drafting regulations; however, licensure of anesthesiologist assistants will not begin until January 1, 2024.

Mr. Clark explained that AB318 is the Board's bill, and is administrative in nature. The Board amended the bill to increase the maximum fine allowed to be levied in disciplinary actions to \$10,000.00 because the maximum fine of \$5,000.00 hadn't been raised since the mid-80s. Additionally, instead of those fines going to the State General Fund, the fines will be delivered to the State Treasurer's Office, to be delivered to programs in the health care world, such as assisting medical students in paying off student loans. They worked very closely with the Treasurer's Office, who proposed AB45, which creates the account that allows medical students to apply for relief from their student loans if they dedicate themselves to rural practice.

Mr. Cousineau said he wanted to put on the record that it was Dr. Frey's idea to change where the fines go.

Mr. Clark said AB364 is the bill creating autonomy for physician assistants. It removed a lot of the supervision requirements, and the Board had opposed the bill based on what the Legislative Subcommittee put forward. It was very heavily debated throughout the legislative session. In the last six days of the session, they did what is called a "gut and replace." They removed every section of the bill with the exception of Section 20, which survived. The original bill would have replaced one of the physician members on the Board with a physician assistant, and what they settled on was adding a physician assistant and a practitioner of respiratory care to the Board.

Mr. Clark explained that AB404 was very contentious. It is commonly referred to as the "Med Mal Bill," and the Board opposed it throughout the entire session. It was in the last final days of the session that the trial lawyers were able to get the medical societies, other stakeholders and the Governor's Office on board for a compromise. The deal was made in a place where the Board was not invited. He said that is customary because the Board is a State agency, and not a lobbying association or something along those lines. He said they are continuing the Board's opposition with legislators and the Governor's Office.

Mr. Clark explained that SB431 makes a fundamental change to the way boards and commissions operate in the State. All boards and commissions will be moved under the purview of the Office of Nevada Boards, Commissions and Councils Standards which will be under the Department of Business and Industry. This entity will look at all of the boards and commissions and see where there are duplications of effort or shared standards, whether it be payroll or administrative tasks, that each board and commission does, in an effort to find some level of efficiency so all the boards can rely on one source to get certain administrative work done. The intent is not to destroy the boards and commissions, or the way they operate. All statutes the boards and commissions currently work under will move with them. This is not an effort to go in the direction of a "mother board" as had been proposed in previous legislative sessions. In a conversation he had with the Governor's Chief of Staff, the fact that the Board of Medical Examiners purchased its building and is not a tenant is a model they want to look to going forward.

Mr. Clark said there were two bills they worked really hard on that did not pass. AB442 was intended to create some level of communication between the Board of Medical Examiners staff and law enforcement regarding cases involving sexual assault and domestic violence. SB204 was brought forward by Senator Doñate. He has constituents in southern Nevada who are saying they cannot get licensed by the Board of Medical Examiners because they attended a foreign college or university. There was a lot of debate on the bill, and it ended up in the Finance Committee because it had almost an \$80 million fiscal note attached to it. The Board opposed that bill throughout the entire process, and it was ultimately scuttled.

Mr. Clark said in all, there were probably 70 bills that were discussed throughout the session, either with the Legislative Subcommittee or just internally.

Dr. Frey asked whether the structural administrative change contemplated by SB431 had been tried and been successful by other states.

Mr. Clark said he did not know the answer to the question, but that Colorado and Utah both have the "mother board" scenario, and that is not working.

Dr. Frey asked whether the Governor's Office had expressed a willingness to go back to the table, so to speak, if this structural change does not work.

Mr. Clark said they had, and said they would have to go back to the Legislature for any fundamental changes to be made.

Dr. Nagy asked whether the items the Legislative Subcommittee had voted on had been distributed to all members of the Board.

Ms. Bradley stated she had provided an Excel spreadsheet with all the bills and the Legislative Subcommittee's position on each to all Board members about a week ago, that was updated as of that

day; however, the status of some of the bills is still in flux. She thinks she will have a better idea on the status of the bills by June 15, and will send a final list once she does.

Dr. Muro said the Legislative Subcommittee had met six times and discussed the bills that were thought to be of interest, with the final decision being to oppose, support or remain neutral on each. The Subcommittee supported 17 bills, opposed 27, and remained neutral on 5. The idea was to maintain the charge of the Board, which is to maintain the quality and safety of the practice of medicine in the State of Nevada.

Ms. Arias-Petrel asked Mr. Clark whether he was aware of the meeting where AB404 was discussed that the Board was not invited to.

Mr. Clark said they were not invited to the meeting and were not aware of it.

Ms. Arias-Petrel said it was very disturbing to know that because of this law, the state will be losing a lot of doctors, and she hopes we don't have to regret it later.

Dr. Spirtos said it was important for everyone to know that the Washoe County Medical Society was not present at the meeting, the Clark County Medical Society was not present, and Dr. Andrew Eisen was not present as the President of the Nevada State Medical Association. They were told after the fact that the Governor was now in favor of this because he was told that all those societies had taken part.

Mr. Clark said he stood corrected. It had been his understanding that the medical societies across the state were in the room.

Dr. Nagy asked whether the Governor was aware of the Board's position on the other bills that were still before him for decision, and Mr. Clark stated that he was. Mr. Clark said when the Legislative Subcommittee took a position on a bill, he would testify in that position, so the Board was on the record on each.

Agenda Item 5

UPDATE REGARDING EXECUTIVE ORDERS 2023-003 AND 2023-004

Ms. Bradley explained that Executive Order 2023-003 required that the Board hold a meeting, which should be noticed similar to a public hearing for regulations. That notice went out on March 14, and she emailed the Board members on March 15 advising them of the meeting scheduled for April 14. The meeting was held on April 14, and no one attended the meeting. She is not sure why, as she sent it to everyone on the list that we have who is interested in regulations. She emailed the Board members that afternoon and advised them that the meeting was held and that no one attended.

Ms. Bradley stated there were two reports due to the Governor's Office. The 2023-004 report was due on April 1 and the 2023-003 report was due on May 1. Both reports were prepared pursuant to a form provided by the Governor's Office and were submitted to the Governor's Office. There wasn't much to report on the 2023-003 report because no one came to talk to the Board about the regulations or about any concerns they may have. Staff has not heard back from the Governor's Office other than to say they received the reports, that they seemed to be what they were looking for, and if they had questions, they would let us know.

Dr. Nagy asked Ms. Bradley to summarize the items contained in the report that the Board is recommending be brought to the attention of the Governor's Office.

Ms. Bradley explained that one report required the Board to review all of its regulations and identify 10 regulations that could be removed, and the Governor's order also said that if a profession is licensed in less than 26 states, it is deemed unnecessary. Therefore, staff put in the report that it is a possibility that the licensure of perfusionists could be removed. The other report required that the Board go through all of its license types, the requirements for each, whether or not the requirements are necessary, and in how many states those professions require a license. She said that physicians and physician assistants are licensed in all states, practitioners of respiratory care are licensed in about 32 states and perfusionists are licensed in 18 states. There are currently about 98 active perfusionists licensed in the State of Nevada. The Board provided everything the Governor's Office requested, and is in compliance with the Governor's orders.

Agenda Item 6
ETHICS TRAINING

Ross E. Armstrong, Esq., Executive Director of the Nevada Commission on Ethics, provided a PowerPoint Presentation on ethics law basics for government officials.

Agenda Item 7
FEDERATION OF STATE MEDICAL BOARDS' RECOMMENDATIONS RELATED TO THE NEVADA STATE BOARD OF MEDICAL EXAMINERS' LICENSING PROCESSES

Mike Dugan, MBA, Chief Operating Officer/Chief Information Officer for the Federation of State Medical Boards (FSMB), provided a PowerPoint presentation regarding the FSMB's site visit to the Board office in Reno on May 18, 2023, and their recommendations with regard to the Board's licensing processes. The presentation included an overview of the FSMB and the services offered by the FSMB to member boards.

Mr. Dugan outlined the observations made by the FSMB staff during the site visit to the Board. Mr. Dugan said Nevada has seen a sharp increase in licensure applications, and he can't name a single board that probably hasn't seen an uptick, due to telemedicine, the Interstate Medical Licensure Compact (IMLC), etc. Everyone is seeing more applications and from multiple sources. Therefore, existing practices that were built before these kinds of volumes and before some of these tools were in place cannot keep up with the current demand, and this is not something that is unique to this Board.

Mr. Dugan said that this Board was one of the first to take advantage of these site visits. He stated that the Board's senior staff is empowered, engaged and very capable, and had compiled detailed documentation ahead of the visit, which allowed the FSMB team to cut right to a number of specifics, and made the conversations very effective and productive. There are best practices already in place, but there are also opportunities for process and technological improvements that can help increase efficiency and reduce cycle times.

Mr. Dugan then highlighted the FSMB's recommendations: a comprehensive review of the existing licensure application processes to look for requirements that do not add value, rely upon trusted data sources that are available, take advantage of opportunities for automation, remove redundancies, consider LEAN training for staff to build a continuous improvement model, and evaluate the Board's database system ahead of the 2025 renewal cycle.

Mr. Dugan stated the Massachusetts board is a little ahead of this Board in the process and has implemented some of these processes, which has reduced their cycle time from 90 days down to roughly 21 days and, according to their Executive Director, they have not sacrificed anything in the way of quality of their processes.

Andrea Ciccone, Vice President of Engagement for the FSMB, thanked the Board for the opportunity to join them that day.

Dr. Spirtos asked what the standard is for background checks.

Mr. Dugan said he was specifically referring to the activities listing, and this Board's current requirement goes back to the month after graduation from medical school or just post-residency, which is a lot of information for long-term physicians to provide. What they see as best practice is in the 5-to-10-year range.

Dr. Spirtos said that looking at the rules for the IMLC, it seems as if they exclude new graduates from being eligible to apply through the IMLC because one of the requirements is they have to be board certified in a subspecialty, and most people just finishing their residency or their fellowship aren't board certified yet.

Mr. Dugan said the intent of the IMLC was to streamline the licensure processes for established physicians who have a clean track record. It was not intended to be a national license and is not for all physicians.

Dr. Frey asked whether digital fingerprinting was identified by the FSMB team as a way to streamline the process in Nevada.

Mr. Dugan said they did not get into the specifics of fingerprinting with the Board staff; however, identity, in general, is one of the opportunities for improvements, as technology in this area has really progressed.

Dr. Nagy thanked the FSMB team for coming to Reno to observe the Board's operations in licensing. He said in Nevada, we are facing an acute health care provider shortage, so streamlining licensing operations is a key factor to improving health care in the state. He said he had the opportunity to visit with Ms. Linn and Lisa Small the previous day. They walked him through the licensing process, and took a look at the licensing website and identified opportunities for improvement of the flow of information to the website, as well as discussing what the IMLC offers. There is currently about a three-day waiting time for return phone calls for people who are applying for a license, which is due to the fact the Board has a shortage of licensing staff. He thinks this is important to address. As they walked through the licensing process, they identified the following topic. Although licensing through the IMLC is two to three days, the turnaround time for the fingerprinting process is two to three months, which is a significant issue for the Board. He said he continues to receive complaints from physicians, and the Board heard from the respiratory therapists that morning about the perception of licensees of extended delays in licensing in our state as compared to other states. He asked whether the FSMB has seen software vendors that other boards work with that might speed up the Board's processing of applications.

Mr. Dugan said in the past there were about six prominent vendors and a lot of homegrown systems, and what is interesting is that no matter which system you talked about, you could find one board that loved the system and another that hated it. It is a tough field, and FSMB has not evaluated it and doesn't feel that endorsing one system or another is really in their wheelhouse.

Dr. Nagy asked if Mr. Dugan could provide an average wait time for licensure nationally, and Mr. Dugan said he would be happy to do some research and provide that number.

Agenda Item 8

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARYANNE DEFOREST PHILLIPS, M.D.*, BME CASE NO. 21-10032-1

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

Dr. Nagy said he needed to recuse himself from consideration of the case, as Dr. Phillips had been employed by him years ago.

Ms. Bordelove said she wanted to confirm there was still a quorum of adjudicating members to discuss this matter due to Dr. Nagy's recusal.

Ms. Bradley stated there were only four remaining adjudicating Board members.

Mr. Cousineau stated there was no longer a quorum, so the matter could not proceed that day.

Agenda Item 9

CONSIDERATION OF REVOCABLE DELEGATION AND AUTHORIZATION BY THE BOARD TO THE GENERAL COUNSEL OF THE BOARD TO DEFEND THE BOARD'S FINDINGS, CONCLUSIONS, ORDERS AND ACTIONS IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARYANNE DEFOREST PHILLIPS, M.D.*, BME CASE NO. 21-10032-1, IN ANY CIVIL OR CRIMINAL PROCEEDING, STATE OR FEDERAL, THAT IMPLICATES THE BOARD'S ADJUDICATION OF THIS CASE, TO PARTICIPATE IN, DEFEND AGAINST, OR TO INITIATE ON ITS BEHALF ANY PETITION FOR JUDICIAL REVIEW OR APPEAL THEREFROM, TO FILE A NOTICE OF APPEAL OR STATEMENT OF INTENT TO PARTICIPATE ON ITS BEHALF, TO NEGOTIATE AND SETTLE CLAIMS ON ITS BEHALF, AND TO TAKE COMPARABLE ACTIONS AND MAKE COMPARABLE DECISIONS ON ITS BEHALF

This matter was not considered by the Board at this meeting.

Agenda Item 10

CONSIDERATION OF REQUEST OF WAZIR ALI, M.D., FOR BOARD AUTHORIZATION TO TAKE THE SPECIAL PURPOSE EXAMINATION (SPEX)

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

Ms. Beggs explained that since Dr. Ali currently did not hold an active license to practice medicine in the United States and his last major examination was more than 10 years ago, he needs to take and pass the SPEX examination before he is eligible to apply for licensure. However, due to the fact that he does not hold an active license in another state, he can only take SPEX on the sponsorship of a medical board. Dr. Ali's request that day was simply to allow him to sit for the examination. He was not applying for licensure at that point, and no application had been submitted.

Dr. Frey asked for clarification as to whether, if the Board were to sponsor Dr. Ali and he took and passed the SPEX examination, that would allow him to apply for licensure in any state.

Ms. Beggs said it would.

Dr. Frey asked what Dr. Ali's specialty was, and Dr. Ali said it was internal medicine.

Dr. Nagy asked whether a similar request had been made to the California Board.

Ms. Beggs said the request had only been made to this Board, and that it was just a request to sit for the examination, which would not in any way imply what the Board would do should Dr. Ali submit an application to the Board.

Dr. Frey asked whether the Board could obtain additional information in order to make a more informed decision.

Mr. Cousineau said he thought what Ms. Beggs was saying was that Dr. Ali was currently only asking for the ability to sit for the SPEX examination and details of his background would be more thoroughly disclosed, vetted and discussed if he passes SPEX and applies for licensure.

Dr. Spirtos asked whether Dr. Ali was currently living in Nevada, and Ms. Beggs said he resides in California.

Dr. Nagy said at that time the Board was being asked to sponsor Dr. Ali for the exam not knowing his background, and that Dr. Ali has some record in California of which the Board is unaware, and he is concerned about the lack of information regarding the nature of the issues in that state, which may cause the Board to have concerns later about why it sponsored such an individual.

Ms. Beggs stated that SPEX is an examination that is given by the Federation of State Medical Boards. The qualifications to sit for that examination require that if a physician does not currently hold an active license, he may be allowed by a state medical board to sit for the examination. That was all Dr. Ali was asking the Board to do. She said the Board just sponsored another physician to sit for the SPEX examination about six months ago, so it would be in keeping with the Board's prior conduct to allow Dr. Ali to sit for the examination.

Discussion ensued regarding whether the Board should sponsor Dr. Ali to take the SPEX examination.

Dr. Muro moved that the Board decline to grant Dr. Ali's request that the Board sponsor him to sit for the SPEX. Dr. Frey seconded the motion and it passed unanimously.

Agenda Item II

CONSIDERATION OF REQUEST OF STEVEN WINSLOW GORDON, M.D., FOR AUTHORIZATION TO PERFORM CERTAIN COSMETIC PROCEDURES

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

Dr. Gordon said he had the unfortunate experience of having two patients die as a result of Brazilian butt lift surgery, one in 2014 and one in 2018. He voluntarily stopped performing Brazilian butt lift surgery as of 2018, and in 2019, he entered into a settlement agreement with the Board, which put the restrictions on his license into place. He said he has been in compliance with everything the Board asked him to do for five years and three months. He has retired from active surgical practice, and has no intention of performing Brazilian butt lift surgery in the future, but it would be of great benefit to him if the Board would remove the restrictions from his license so he can continue to seek employment in some medical field, as it is the only vocation he knows. He said he was deeply affected by those two incidents. He feels he has suffered and done his penance. He is an experienced surgeon, he is not careless, and those were very rare and unusual circumstances.

Dr. Frey said if the Board were to lift the restrictions, Dr. Gordon would have an unrestricted license, and he could participate in the surgical arts again and potentially perform those types of procedures again, and there would be no way for the Board to prevent that.

Dr. Gordon said he is rehabilitated, and has changed his direction, and has no interest in performing those procedures again.

Dr. Muro said he echoed Dr. Frey's concerns. His concern is that an unrestricted license is just that, and it would open the doors to potential risk to the public should Dr. Gordon somehow find himself navigating down those roads again.

Dr. Spirtos said that Dr. Gordon indicated the restriction prevents him from working, but he had worked at Sunrise Hospital as a full-time wound care physician, and asked Dr. Gordon why he left that position.

Dr. Gordon said he didn't leave the position voluntarily. He left because the restriction kept him from being eligible for insurance companies to pay him for the work he was doing at the burn and wound care center. The restriction also prevented him from getting privileges at Doctor's Hospital in Augusta, Georgia, where they wanted him to go to get some specialized training to make him a better fit with the burn and wound care service. He was at Sunrise Hospital since the spring of 2018. He was told he was being terminated without cause because the burn and wound care service was tired of his billings not being up to speed, which was because the insurance companies were denying him.

Dr. Spirtos asked whether Dr. Gordon had experienced any other serious problems or complications related to his performance of cosmetic or plastic surgery prior to the Brazilian butt lift complications.

Dr. Gordon said he had not had any other patient deaths. He did have wound infections and unhappy patients, and said the nature of plastic surgery is such that a person is paying for their surgery out of their own resources, and consequently surgeons are held to a higher standard because patients are looking for perfection.

Dr. Spirtos asked what Dr. Gordon's practice would be comprised of if he had an unrestricted license.

Dr. Gordon said he had submitted over 50 applications to various medical insurance companies for jobs as a medical arbitrator or medical director. He is not interested in performing body contouring.

Dr. Spirtos said he feels the Board was deliberately left in the dark as to why Sunrise let him go and the circumstances surrounding that, and it is difficult to adjudicate when you don't have all the facts.

Dr. Nagy asked whether there was a motion to grant or deny Dr. Gordon's request. As no motion was received, Dr. Nagy stated there was no action by the Board on the request.

Mr. Cousineau said that the Board made its decision by not advancing a motion either pro or con, and Dr. Gordon was free to petition the Board again in the future.

Agenda Item 12

CONSIDERATION OF APPOINTMENT OF DANIEL RODRIGUEZ, MHS, CCP, FPP, AS REPLACEMENT PERFUSIONIST ADVISORY COMMITTEE MEMBER

Mr. Cousineau stated that Daniel Rodriguez, MHS, CCP, FPP, was desirous of being appointed to the Perfusionist Advisory Committee, and that his CV had been provided to the Board members as part of their meeting materials. Mr. Cousineau stated that regulation allows for three members on the Advisory Committee, and there was currently only one, so the Board would welcome an additional member. He said there were only approximately 95 perfusionists in the state, and that is one reason why he believes we have limited participation on the Advisory Committee. Mr. Cousineau requested that the Board approve Mr. Rodriguez' appointment to the Advisory Committee.

Dr. Frey moved to approve the appointment of Daniel Rodriguez, MHS, CCP, FPP, to the Perfusionist Advisory Committee. Mr. Wade seconded the motion and it passed unanimously.

Agenda Item 13

REPORTS

(a) Investigative Committees

Dr. Frey reported that at its May 19, 2023 meeting, Investigative Committee A considered 120 cases. Of those, the Committee authorized the filing of a formal complaint in 12 cases, sent 15 cases out for peer review, requested an appearance in 2 cases, issued 25 letters of concern, referred 7 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 59 cases.

Dr. Muro reported that at its May 10, 2023 meeting, Investigative Committee B considered 98 cases. Of those, the Committee authorized the filing of a formal complaint in 12 cases, sent 17 cases out for peer review, requested an appearance in 2 cases, issued 8 letters of concern, referred no cases back to investigative staff for further investigation or follow-up, reviewed 2 cases for compliance, and recommended closure of a total of 57 cases.

Dr. Nagy reported that at its May 11, 2023 meeting, Investigative Committee C considered 61 cases. Of those, the Committee authorized the filing of a formal complaint in 2 cases, sent 9 cases out for peer review, an appearance in 2 cases, issued 17 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 29 cases.

(b) Nevada State Medical Association

Sarah Watkins, Interim Executive Director of the Nevada State Medical Association, was not present, but had submitted a written report prior to the meeting, which had been provided to all Board members.

(c) Clark County Medical Society

Amber Carter, Executive Director of the Clark County Medical Society, was not present, but had submitted a written report prior to the meeting, which had been provided to all Board members.

(d) Nevada Academy of Physician Assistants

There was no report provided by the Nevada Academy of Physician Assistants at this meeting.

Agenda Item 14

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DAVID ARI LAPIDES, M.D.*, BME CASE NO. 22-53598-1

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

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

Dr. Frey moved that the Board approve the proposed Settlement Agreement. Dr. 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. JOSE HIRAM ALVAREZ, M.D.*, BME CASE NO. 21-28177-2

Dr. Ahsan joined the meeting at 11:22 a.m. via telephone.

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

Mr. White said that he had worked on this case with Mr. Cumings. Mr. White then stated a formal Complaint had been filed against Dr. Alvarez alleging 12 violations of the Nevada Medical Practice Act and outlined the terms of the proposed Settlement Agreement.

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

Agenda Item 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CHRISTINA LYNNE KUSHNIR, M.D.*, BME CASE NO. 23-32717-1

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

Dr. Spirtos said he needed to recuse himself from consideration of the case.

As there was no longer a quorum to consider the matter, the matter was removed from the agenda.

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ZHENG KUN LIU, M.D.*, BME CASE NO. 23-28372-1

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

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

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

Agenda Item 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KOFI EBENEZER SARFO, M.D.*, BME CASE NO. 22-29257-1

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

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

Dr. Muro stated the counts of malpractice were not part of the settlement nor was there an acknowledgment that should the case go to hearing, malpractice would possibly be proven, and he was concerned there was no acknowledgement that there was something there.

Dr. Spirtos said the lack of acknowledgement regarding malpractice was concerning, but out of respect for the Board's attorneys, if they thought the settlement was appropriate, he would move to accept it. Ms. Beal seconded the motion.

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

Dr. Ahsan left the meeting at 11:32 a.m.

Agenda Item 19

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DAN GARY SNOW, M.D.*, BME CASE NO. 23-30078-1

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

Mr. Cumings stated a formal Complaint had been filed against Dr. Snow alleging five violations of the Nevada Medical Practice Act and outlined 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.

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that from March 2, 2023, and June 7, 2023, the Investigations Division received a total of 383 complaints. Of those, 146 cases were opened as formal investigations, 123 were not within the Board's jurisdiction, 91 were referred to other agencies and regulatory bodies, 16 were resolved through proactive measures, and 8 were either duplicate complaints or are still pending review. The total case count for 11 investigators, which includes 3 supervisors, was 450, for an average of 41 cases per investigator. There were a total of 129 peer reviews, 87 of which had been assigned and 42 of which were pending assignment to a peer reviewer. There were 29 licensees in compliance or diversion.

Dr. Nagy asked Mr. Diaz if he would like to increase the staff in the Investigations Division, and Mr. Diaz said he would like to add two additional investigators in Las Vegas and one in Reno.

(b) Quarterly Compliance Report

Ms. Jenkins reported that for the first quarter of 2023, there was a total amount in collections of \$45,951.00, the total costs outstanding were \$84,647.00, the total fines outstanding were \$86,587.00, and the total costs collected during the quarter were \$45,278.00.

(c) Quarterly Update on Finances

Ms. Jenkins stated that the Board's total current assets were \$4,389,000.00, total assets were \$9,977,000.00, total current liabilities were \$1,796,000.00 and total liabilities and net position were \$9,977,000.00.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the first quarter of 2023. The Board's total income for the quarter was \$1,682,000.00, which was 10.4% above budget. The Board's personnel expenses were at 86% of budget, total operating expenses were at 100% of budget, and total expenses were at 88.9% of budget. She said the Board is ahead of its budget in interest income by \$4,790.00, for a total of \$7,540.00, and the amount added to the Board's net position for the quarter was \$422,474.23. She said the Board was currently at 6.3 months of reserves.

Dr. Nagy asked Ms. Jenkins if she would like to increase the staff in her department to assist with workload or efficiencies, and Ms. Jenkins said she felt that the current personnel in the Finance Division was able to fulfill the mission of the Board in their capacities.

(d) Legal Division Report

Ms. Contine reported that the current case total in the Legal Division, following the May Investigative Committee meetings, was 229. In the second quarter of 2023, the Legal Division filed 21 new formal complaints, prosecuted 3 complaints at hearing, resolved 14 legal cases, and issued 54 letters of concern from the May Investigative Committees.

Dr. Nagy asked Ms. Contine if she would like to increase the staff in the Legal Division.

Ms. Contine stated the Legal Division had recently added another attorney, who has been a great asset. He has jumped in and has filed many complaints. The Division has also been implementing new efficiencies. She said at this point, she would like to see how the new efficiencies work and the impact having an additional attorney will have, and will have a better idea in another quarter or six months.

(e) Report on Status of Processing 2023-2025 Biennial Licensure Registration Renewals

Ms. Linn stated as of that week, 61 perfusionists had renewed their licenses, with 37 yet to renew, 874 physician assistants had renewed, with 733 yet to renew, 977 practitioners of respiratory care had renewed, with 1,022 yet to renew, and 6,965 physicians had renewed, with 5,775 yet to renew.

Dr. Nagy said he had already spoken with Ms. Linn regarding potential additional staffing in the Licensing Division.

Ms. Linn said it was difficult to gauge the number that may be needed at that time. She said she was confident that the changes the staff plans to implement will have a significant impact, as well as the reduction in call volume and such that will occur once license renewals and resident licensing and renewals for this year have concluded.

Dr. Nagy asked Ms. Linn to speak to the things that she learned from the Federation of State Medical Boards' visit.

Ms. Linn said she found it very beneficial. They were very helpful, and the changes staff wants to make are very in line with their recommendations. They were very supportive of everything we discussed.

Ms. Beal asked which of the changes staff was planning to implement would have the most significant impact.

Mr. Cousineau stated the changes to the clinical activity lookback and the criminal history lookback will both be huge. He said in six months or so, staff will be able to provide the Board with an update as to the changes that have been made and how those changes have benefited the staff and the licensing processes.

Discussion ensued regarding possible alternatives, such as working remotely, to the potential need for additional office space down the road, if the staff continues to grow.

Agenda Item 21

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the March 3, 2023 Board Meeting

Mr. Cousineau said he wanted to acknowledge the Licensing Division staff. Last year, almost 2,100 new licenses were issued, and he wanted to express his appreciation to Ms. Linn and her staff.

Dr. Frey moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the March 3, 2023 Board Meeting. Dr. Muro seconded the motion and it passed unanimously.

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) James Edward Lowery Jr., CRT

Dr. Nagy asked Mr. Lowery whether he wanted his appeal to be considered in closed session, with the public being excluded, and he said that he did not.

Mr. Wade stated that Mr. Lowery was before the Board that day to appeal the Board's denial of his application for licensure in December 2022. Prior to that, Mr. Lowery had appeared before the Board, and had withdrawn his application. Mr. Wade stated the issues at hand were thoroughly discussed at the December 2022 meeting, and he outlined those six issues. He said Mr. Lowery was appealing the Board's denial of his application based on NRS 630.200, and had cited three reasons. The first reason was that a Board member did not allow him to respond to comments and questions regarding his timeline and reasons for leaving the State of California prior to casting a "no" vote on his application.

Mr. Lowery said it seemed to him that that particular person was starting to become confrontational and starting to get very loud so he thought it best to say nothing and thank the Board for its time.

Mr. Wade said Mr. Lowery's second reason for appeal was a non-Board person repeatedly interrupted with derogatory and nonprofessional comments while he was attempting to respond to other questions and comments from Board members and no actions were taken by Board members regarding this person's actions.

Mr. Lowery said he was trying to explain to the Board why he left California in the first place, and was unable to complete his answers due to the interruptions.

Mr. Wade said Mr. Lowery's last reason for appeal was that documents he had supplied to the Licensing Division with his application were not forwarded to the Board members. Mr. Wade asked Mr. Lowery how he would know whether the documents were received or not

Mr. Lowery said the person who handled his file said they did not receive the documents, even though he uploaded them with his original application with respect to the question of whether he had been arrested. There were two documents, both from the State of California.

Mr. Wade asked whether the Board members had received those documents, and Ms. Linn stated the Board members were provided with those documents before Mr. Lowery's last appearance.

Mr. Wade stated that since the Board had been provided with those documents, that was no longer a reason for Mr. Lowery's appeal.

Mr. Lowery described the circumstances surrounding the investigation and his subsequent suspension in the State of California.

Mr. Wade said this was Mr. Lowery's opportunity to convince the Board to overturn its denial of his application.

Mr. Lowery said the reason he was asking the Board to overturn its denial was based on what he perceived was occurring during his last appearance. He perceived it as becoming confrontational and he was being interrupted as he was trying to answer questions, so he stopped and thanked the Board for its time. At that point, he should have asked the President to withdraw his application. He said he would still like to withdraw his application and felt that everyone was being professional at this meeting.

Ms. Bradley stated that NRS 630.200 says the Board may deny an application for a license to practice under this Chapter, and subsection (3) says any unsuccessful applicant may appeal to the Board if the applicant files the appeal within 90 days after the date of rejection of the application by the Board. Upon appeal, the applicant has the burden to show that the action of the Board was erroneous. So, if Mr. Lowery showed that the Board made the wrong choice, she supposes the Board could do something different, but the first threshold would be for Mr. Lowery to show that the Board's action was erroneous in December.

Dr. Muro said he thought the first question was whether Mr. Lowery could withdraw his application after it was denied, and he believes the answer is "no," unless the Board is told otherwise. The second question was whether Mr. Lowery has shown that the Board denied his application in error. Dr. Muro said he personally had not heard anything that would substantially change the conversation that led him to move in favor of denial. He does not think Mr. Lowery has presented anything that would warrant overturning the denial.

Ms. Bordelove said the statute says the applicant has the burden to show the action of the Board was erroneous. The applicant could make an argument that the Board's decision wasn't based on his application, it was based on his actions, or it was in some way improper, and the Board has the ability to decide if it was wrong and grant the appeal, which would overturn the previous decision and grant the application, but the Board would have to make a finding that its prior action was erroneous.

Dr. Muro said the question was whether, if the Board chose to uphold its decision, Mr. Lowery could then withdraw his application.

Ms. Bordelove said he could not.

Discussion ensued regarding whether the Board should grant Mr. Lowery's appeal.

Dr. Muro moved that the Board deny Mr. Lowery's petition appealing the denial. Dr. Frey seconded the motion and it passed unanimously.

(b) Robert Evan Share, M.D.

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

Dr. Williams stated that when Dr. Share previously appeared before the Board, he withdrew his application, and he was now applying for licensure by endorsement. He said there were three items of concern to the Board during Dr. Share's previous appearance. One of those was he had not been in practice for five years prior to applying for licensure in Nevada. Dr. Share had been in a fellowship for a year, but was only employed for four years. The second item of concern was Dr. Share's separation from residency training at the University of Cincinnati.

Dr. Share described the circumstances surrounding his separation from the program.

Dr. Williams said the third concern the Board had was regarding denial of his application for licensure in Ohio.

Dr. Share described the circumstances surrounding the denial of his application for licensure in Ohio.

Dr. Williams stated that Dr. Share was board certified and in good standing. He asked Dr. Share to describe electronic brachytherapy.

Dr. Share described his work in electronic brachytherapy and said there are facilities in Henderson and in Sparks that wish to offer their patients this as an alternative treatment.

Dr. Spirtos asked Dr. Share who would be providing coverage in Nevada since he will be practicing in multiple states.

Dr. Share said he provides the treatments and the follow-up appointments are with dermatologists.

Dr. Muro asked Dr. Share if he would be willing to take the SPEX examination, which would allow him to be licensed through the regular pathway.

Dr. Share said his understanding was the reason to go through the endorsement pathway was to get around the five-year requirement. That was the reason given to him; that was the understanding he walked out with.

Mr. Cousineau said he had reviewed the minutes and listened to the audio recording of the previous meeting, and it was made clear by him that Dr. Share's application might be denied at that time, but he had the ability to withdraw and apply by endorsement. He said he also qualified it by saying there was no guarantee Dr. Share would get a license just because he reapplied, and also that he may not have to appear before the Board again because, based on statute, he, as the Executive Director, and the President of the Board can agree to issue a license between Board meetings, which basically has the same effect as an applicant appearing and being granted a license.

Dr. Share said the way he looks at that is, "we don't think your medical knowledge and skill is up to snuff." That would be the reason to take that exam. He said he would have to disagree with that. He has been in practice for 35 years, has been named in only two lawsuits that were part of hospital suits, and has never had to give a deposition, so the answer would be "no." He said he practices medicine extraordinarily well and he provides a service that he thinks is fairly unique and that patients like.

Dr. Nagy moved that the Board grant Dr. Share a license by endorsement. Dr. Williams seconded the motion, and it failed, with Dr. Nagy, Mr. Wade and Dr. Williams voting in favor of the motion and Dr. Spirtos, Ms. Arias-Petrel, Dr. Muro, Dr. Frey and Ms. Beal voting against to the motion.

(c) Eric Jacques Keyser, M.D.

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

Dr. Frey stated that Dr. Keyser was before the Board due to some inaccuracies in his application, specifically, that he answered Questions 5 and 6 on the application in the negative when he should have answered in the affirmative.

Dr. Frey said Dr. Keyser was an accomplished surgeon. He voluntarily resigned from his fellowship in La Jolla, based on antisemitism he perceived from his superiors, and he subsequently completed a fellowship with Zucker School of Medicine in 2004.

Dr. Frey said that Dr. Keyser used a third party to complete his application, and asked Dr. Keyser to reflect on his thought process behind using a third party rather than completing the application himself.

Dr. Keyser said his decision to use a third party to complete his Nevada application was based on a very positive third-party experience when he applied for a license in Florida. His file has some complexities, and he is a busy cardiothoracic surgeon. He did have an opportunity to review the application prior to it being filed with the Board, and he thought it was accurate, but he thinks several files were open simultaneously and he doesn't believe he reviewed the same file that was submitted. He was well aware the malpractice lawsuit had been reported to the National Practitioner Data Bank, so there is no reason he would intentionally misrepresent that.

Dr. Spirtos said that Dr. Keyser seemed to have moved around a bit, and asked him to describe his moves over the last 10 years and why.

Dr. Keyser described what he had done during that period of time. He says he now has a very good opportunity at Sunrise Hospital in Las Vegas, where he will be working for the Physicians Foundation.

Dr. Frey moved that the Board grant Dr. Keyser's application for licensure. Mr. Wade seconded the motion and it passed unanimously.

(d) Daniel James Kenan, M.D.

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

Dr. Nagy outlined Dr. Kenan's postgraduate training, his research work and his practice history. He stated that Dr. Kenan had not practiced medicine for just under five years, as he took a leave of absence from the beginning of June in 2018 to April 10, 2023. He has been practicing since.

Dr. Kenan explained that he has to have a license in any state for which he reads biopsies.

Dr. Frey said he thinks Dr. Kenan fits the exception that endorsement speaks to.

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

Dr. Kenan said his practice is telepathology, so he reads cases from wherever they come. He works out of Virginia; he just moved there. He accesses everything remotely.

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

(e) Tyler Paul Heeren, M.D.

Dr. Heeren was present with his legal counsel.

Dr. Nagy asked Dr. Heeren 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 stated that Dr. Heeren graduated in 2016, completed a residency between 2017 and 2020, and since then hasn't practiced medicine or been licensed in any state. He asked Dr. Heeren to explain this.

Dr. Heeren said during his second year of residency, he was supposed to take Step 3 of the USMLE. It got delayed, and he had to take it at the beginning of his third year of residency. The school had a rule that you aren't supposed to take Step 3 during your third year, so they started a process that they were possibly going to remove him from the program by that October if he hadn't taken it. He signed up, took his test in September, and passed it. The problem was they had forgotten to reapply for his license, so he practiced from October until he graduated the following June without a license, unbeknownst to him. He finished residency during COVID, and he was informed at the end he was not allowed to apply for his medical license because there was an ongoing investigation or something. So, he wasn't able to practice, he wasn't able to go to a fellowship, and all of his plans were gone. He basically got a phone call in October that said it should be taken care of and he could apply for his license. He also had health concerns at the time and he chose to take care of himself, and he was also taking care of his family, and wanted to spend some more time with his parents at that time. He didn't know about the two-year thing or he would have applied before then. In March of 2022, he started the application process, but unfortunately caught COVID at that time, which delayed his application. He got back into the swing of things because he met a practice that was very willing to work with him and they got him on the right track in January, and he applied for his medical license in Nevada at that time.

Dr. Muro asked Dr. Heeren what he was currently doing.

Dr. Heeren said he was currently working with this practice as basically a consultant for research. He was not involved in medical decision-making or anything of that nature. He is just supervising in certain aspects. He wants to get involved with this practice so he has been shadowing the physicians in their offices and watching what they do to stay abreast of medical knowledge and keeping up to date as far as that goes.

Dr. Muro said Dr. Heeren's internal medicine residency ended in 2020 and he has not taken the American Board of Internal Medicine certification exam.

Dr. Heeren said he was scheduled to take the exam the first year, but unfortunately the building caught on fire, so he is scheduled to take it in August of this year.

Dr. Muro said Dr. Heeren had no clinical practice for over three years, he is involved in research and what he is doing is in wound care.

Dr. Heeren said the people he usually shadows practice general wound care.

Dr. Muro said Dr. Heeren had indicated he would be willing to do a preceptorship for three to six months.

Dr. Heeren said he would prefer three months, but he would be willing to do whatever the Board deemed necessary.

Dr. Frey said that Dr. Heeren was a unique candidate for this consideration, so he thought a three-month preceptorship with an average of eight patients a day seemed a little light because he hasn't had substantial post-residency experience. Dr. Frey said he would feel more comfortable if it was more in the order of half a year coincident with passage of the boards. He doesn't think licensure should be predicated upon that but passage of the boards would nicely coincide with that and he thinks it would speak a lot to his dedication to the craft.

Mr. Cousineau asked Dr. Heeren if he was willing to consider extending the preceptorship. He said Dr. Frey had suggested six months, but he thinks since Dr. Heeren hadn't been in practice that long before his hiatus, six months would be the minimum, and perhaps it should be a year. He said he was not trying to make things more difficult, and perhaps the number of cases reviewed could be reduced. The license would be a conditional license, and Dr. Heeren could come back to petition the Board to end the preceptorship sooner, which is why he was recommending a year to begin with.

Dr. Muro said he agree with Dr. Frey's thoughts. He thinks it is different when someone has years of seasoning versus someone who is starting out, and he thinks passage of the boards would help, in the event Dr. Heeren wanted to petition the Board to end the preceptorship early, but he doesn't think it was necessary as a condition for licensure.

Discussion ensued regarding the number of charts that should be reviewed and the reports to the Board.

Dr. Muro moved that the Board grant Dr. Heeren a conditional license with the condition that he participate in a preceptorship for a year, with 100% chart reviews for three months, 75% chart reviews for the next three months, 50% chart reviews for the next three months and 25% chart reviews for the last three months, with monthly reports to the Board by the preceptor. Dr. Frey seconded the motion and it passed unanimously.

(f) Paul Gordon Preston, M.D.

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

Dr. Spirtos asked Dr. Preston to provide the Board with his background, his medical education, his work at Kaiser and his work elsewhere.

Dr. Preston described his medical education and training, and his practice history.

Dr. Spirtos asked Dr. Preston what he planned to do if granted a license to practice in Nevada.

Dr. Preston said his desire with regard to work in a clinical setting in the United States is to take locum tenens positions in Reno or in other locations in Nevada, somewhere within driving distance, primarily just to maintain the choreography of working in an operating room. He is not going back to the operating room until he has a thorough practice evaluation. He plans to participate in a refresher/reentry program offered at Mt. Sinai in New York.

Dr. Spirtos asked Dr. Preston about his board certification status, and Dr. Preston said that he is lifetime board certified by the American Board of Anesthesiology.

Dr. Frey said he would feel much better if Dr. Preston were to reapply once he has completed the Mt. Sinai program.

Dr. Nagy said that it appeared at that time that the Board was not going to grant Dr. Preston a license by endorsement until he completed the Mt. Sinai course, so it was not necessary that the Board make a motion that day. He said Dr. Preston could reapply after completing the course and he may or may not have to appear before the Board again.

(g) Ahmed Mokhtar Mahmoud Elbayer, M.D.

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

Dr. Williams stated that Dr. Elbayer was applying for licensure by endorsement. Dr. Elbayer doesn't meet the requirements for board certification by the American Board of Medical Specialties because he did not complete 36 months postgraduate training in Canada or the United States. He also did not pass the USMLE within the required seven-year period.

Dr. Elbayer explained that after seven years, the old exams expired and he had to retake them.

Dr. Williams outlined Dr. Elbayer's medical education and postgraduate training.

Dr. Williams asked Dr. Elbayer what type of surgery he would be performing, and Dr. Elbayer said he would be performing body contouring.

Dr. Williams asked Dr. Elbayer to describe Mia Aesthetics, the company he planned to work for.

Dr. Elbayer said Mia Aesthetics is a chain of plastic surgery clinics and they have a branch in Las Vegas.

Dr. Williams asked Dr. Elbayer what type of procedures he had performed previously, and Dr. Elbayer described them.

Dr. Williams said he had reservations regarding whether Dr. Elbayer's qualifications met the standard of other plastic surgeons practicing in the state.

Dr. Nagy said that licensure by endorsement is reserved for those who bring a skill set to the state that there is a shortage of or there is a dire need for. He said at that time, it did not appear the Board was inclined to grant Dr. Elbayer a license because he didn't meet the threshold for the regular licensure pathway and there is not a shortage of plastic surgeons in Nevada.

No motion was made with regard to Dr. Elbayer's application for licensure by endorsement, so it was deemed not granted.

Agenda Item 23

CONSIDERATION AND APPROVAL OF 2022 BOARD ANNUAL REPORT

Mr. Cousineau highlighted the items and statistics contained in the proposed report. He said the Board licensed approximately 2,100 new licensees in 2022, which was a further acknowledgement of how hard the Licensing staff is working. He noted the increase in the number of in-state, active-status physicians, as well as the increase in the number of out-of-state, active-status physicians, which

he stated is indicative of telemedicine licensees, and the vast majority of those licensees are coming through the Interstate Medical Licensure Compact. He said as Mr. Dugan of the Federation of State Medical Boards (FSMB) discussed, this is a nationwide trend, and there is a desire to increase efficiencies everywhere. He said staff intends to implement some of the recommendations offered by the FSMB and he intends to come back to the Board in September or December with a report as to changes made to our processes, as well as the efficiencies that hopefully have made a difference, which he believes they will. He said there were also increases in the number of physician assistants and practitioners of respiratory care in 2022.

Dr. Spirtos said the population in Clark County has increased by 16% over the last 10 years and the medical doctors have increased by 30%, so we are making some headway.

Ms. Arias-Petrel moved that the Board approve the 2022 Board Annual Report as presented. Dr. Muro seconded the motion and it passed unanimously.

Agenda Item 24

CONSIDERATION AND ADOPTION OF AMENDED BUDGET FOR CALENDAR YEAR 2023, TO INCLUDE ANY POTENTIAL STAFF SALARY INCREASES

Ms. Jenkins explained that when we have changes to our budget which are significant enough, the Board's independent auditors have recommended that the Board adopt an amended budget.

Ms. Jenkins then highlighted the proposed changes to the budget. She stated the changes to the Income section were all in registration fees. These changes include the increased fees the Board approved in March and the 10% the Board was over budget in fees for the first quarter of 2023. This comes to a total income of \$6,456,300.00, whereas the total income in the approved budget was \$6,098,400.00. The only change to the Expenses section were under Personnel. She explained that the Board tries to model its policies after the policies of the State. The pay bill signed by the Governor for State workers includes a 12% pay increase and quarterly retention bonuses of \$250.00 per employee. Both of these figures for the Board's current staff were included in the projections, as well as a 3.75% increase in PERS. In the latter part of this year, we will present a new budget for 2024. The changes in the total expenses and net ordinary income are included, and the net income is \$106,500.00.

Ms. Arias-Petrel said she wanted to make sure all Board members understood these amendments to the budget are necessary. The Board needs to keep its talent and needs to provide them with an adequate and comparable salary. The Board is short-staffed and, not just in our area, it is difficult to find good, qualified and loyal employees.

Dr. Frey moved that the Board approve the proposed amended budget for January 2023 through December 2023, to include staff salary increases that are commensurate with the upticks in the pay bill signed by the Governor.

Agenda Item 25

CONSIDERATION AND DISCUSSION REGARDING PROPOSED LANGUAGE OF REQUEST FOR PROPOSAL (RFP) PURSUANT TO NRS/NAC CHAPTERS 333 FOR THE BOARD TO ENGAGE A PUBLIC RELATIONS FIRM

Ms. Bradley explained that she and Ms. Jenkins and her staff had prepared the draft of the RFP that was included in the meeting materials. They sent it to the Purchasing Division for review because it was the first one the Board has done and because it is in their area of expertise. They didn't have any comments, other than they wanted to make sure that if we go forward, we have a member on the

evaluation committee that is from another agency. She explained that the way the RFP was currently written, the committee would be comprised of the Board's nine members and a volunteer from another agency. She explained the process and outlined the timeline for the RFP.

Discussion ensued regarding the criteria for evaluation and ranking of the proposals received.

Ms. Bradley suggested that the Board delegate the authority to Ms. Beal to assist staff in finalizing the point allocation of the RFP, as she has experience and expertise in this area.

Dr. Spirtos moved that the Board approve the proposed RFP, with Ms. Beal being the Board's representative in assigning valuations to the various categories to assist staff in finalizing the RFP. Dr. Muro seconded the motion and it passed unanimously.

Agenda Item 26

UPDATE REGARDING USE OF *ROBERT'S RULES OF ORDER* BY OTHER PUBLIC BODIES

Ms. Bradley said the Board had been provided with a summary of the research staff performed on the question of whether other agencies use *Robert's Rules of Order*. She said staff also plans to present motion training to the Board at a future meeting.

Dr. Nagy asked whether standards for board operation will change as a result of SB431 in the event the Governor signs the bill.

Ms. Bordelove said she did not know what the Department of Business and Industry's plans were under that. The bill is not something the Attorney General's Office was part of. For there to be substantial changes in administration, most would require additional statutory changes. It is likely there will be standards and guidelines given to boards with respect to operations; however, we will probably not see anything being issued for a while.

Dr. Nagy said he would like to reassess this at the conclusion of the first quarter of 2024.

Agenda Item 27

DISCUSSION REGARDING THE PRACTICE OF MEDICINE WITH RESPECT TO UTILIZATION REVIEWS AND DENIALS OF INSURANCE CLAIMS

Dr. Nagy thanked Ms. Bradley for obtaining information from the Division of Insurance with respect to this issue. He said it appears the Division has indicated that entities that perform utilization reviews are required to have a medical director who ultimately assumes authority and responsibility for all medical decisions that are made by the entity. We have case law in the state that hopefully will keep them accountable for their actions and accountable to the extent that they should, in their own personal interests, carry malpractice insurance. Based on discussions he has had with judges in the state, those judges who used to practice in this arena advised their physician clients who were adjudicating on these types of issues to obtain that sort of insurance. That would imply that our state interprets those decisions as medical decisions, and therefore our Board has authority. To this issue, he has been talking with physicians in the state about what it would look like in our state for the Board to pursue an issue like this. The concern was that the physician should have an instance in which they received a denial from an insurance company for care they believe would have been authorized by any group of their peers as the current standard of care. So, should the physician have something they feel is obviously the standard of care, and submits it to an insurance company, and the insurance company denies it, in that event, they could submit it to the Board. The Board would ultimately send it out to one of the peers of the person who submitted it, and if the peer also said it is the standard of care and

doesn't understand why the insurance company declined it, it would give the Board a basis for action. As he has been talking to people in the community, he has recommended they are very careful in their selection, as the Board would be, of which cases we would take forward. The rationale for the extreme care we would use in this is the anticipation that any case we would bring against an insurance company in this fashion will be met with extreme resistance by the insurance companies who have millions of dollars to fight claims such as this, and they would be inclined to utilize that against any entity they see as opposition. Our Board has limited funds and limited attorney time to fight these kinds of cases. So, although he has encouraged physicians to report instances in which they think physician reviewers for insurance companies are abusing the privileges they have to hold a medical license, they should be extremely careful in the ones they choose so the ones the Board pursues are extremely likely to be very obvious wins. To the extent he has overestimated the risks to the Board, he asked that he be corrected, but he thinks it is important to take these risks into account when considering which case, if any, of these to take to set a precedent.

Discussion ensued regarding whether the Board should become involved in these matters.

Ms. Beal suggested it would be more appropriate for the Division of insurance to take on these matters, but perhaps the Board could partner with them if they wanted to do so.

Dr. Muro said the Board would have jurisdiction over the medical reviewer because he or she is a physician; however, he thinks it may be an overreach for the Board to pursue these matters.

Ms. Beal agreed that it is an overreach just because of the amount of time and money the insurance companies have and a lot more resources than the Board.

Dr. Williams said this would create liability for the Board because if something goes south, the first one they will want to sue is the Board.

Further discussion ensued regarding whether the Board should become involved in these matters.

Ms. Beal said this might be something to bring to the next legislative session to make it a bigger issue and bring more people to the table.

Dr. Nagy said this item did not require action that day so the Board will wait and see what kinds of cases are presented and will wait to hear from the Investigations Division as these cases come up.

Mr. Cousineau said every case is unique and will be handled as appropriate during the investigation.

Agenda Item 28

DISCUSSION AND POSSIBLE CREATION OF THE FOLLOWING SUBCOMMITTEES OF THE BOARD

- (a) Regulatory Subcommittee to Oversee the Regulatory Adoption Process of the Board
- (b) Investigations Subcommittee to Oversee Operations in the Investigations Division
- (c) Legal Subcommittee to Oversee Operations in the Legal Division
- (d) Licensing Subcommittee to Oversee Operations in the Licensing Division
- (e) Board Member Continuing Education Subcommittee

Dr. Nagy stated the intent of establishing these subcommittees was the idea that Board members would be able to provide more information to the Board as a whole with regard to the activities that underly the operations of the Board so they would be better informed and able to answer questions that come to them from the public. He spoke at length with Ms. Bordelove about the structure that would be allowable, and she indicated that any subcommittee created by the Board to review any of these things would be subject to the Open Meeting Law. Some of matters the subcommittees might want to review or discuss would contain sensitive information about Board processes or the specifics of a particular case, which may not be appropriate for Open Meeting Law sessions. The alternative to that is an individual person could review those things and come back and discuss it with the Board. But to ask any one Board member to take on that kind of responsibility is perhaps a lot to ask because Board members already do a lot of work on the Board. There are logistical issues with creating committees. Therefore, he has started interviewing different individuals in the different divisions and have found them to be very forthcoming with information and open to providing information to the Board to make decisions. So, for right now, to the extent any Board member would like to do the same, they are welcome to do so.

Dr. Muro said the infrastructure of committees can be, for obvious reasons, very difficult, and he has always found the staff in all of the areas the subcommittees were contemplated to oversee to be amenable, available and transparent.

Ms. Arias-Petrel said she doesn't think the Board needs to proceed with creating new subcommittees. As Dr. Muro indicated, we have a great team and there is transparency and communication with the staff.

Dr. Nagy said he did think the Legislative Subcommittee did a good job and added a lot of value.

Agenda Item 29 NEW BUSINESS

Ms. Beal suggested we look to other boards that may have enhanced their technology and database systems with respect to licensing.

Dr. Muro said going from hard copies of fingerprints to digital is a no-brainer, and will give us a quick decrease in time without compromising the process.

Ms. Linn stated that she and Mr. Diaz have been working on moving to Live Scan, and the big hurdle they are finding is that the Department of Public Safety (DPS), the State agency in Nevada that processes the fingerprints, cannot accept Live Scan from out of state. Some applicants are out of state, so they would still have to utilize fingerprint cards. She and Mr. Diaz attended a seminar the previous day and there was a discussion about this but they didn't have any information as to whether that is something they are actively looking into. She said they are still looking into Live Scan for in-state applicants.

Ms. Linn explained that DPS has a four-to-six-week turnaround time for fingerprint results and for traditional licenses, they are often issued prior to receipt of the results because we can't control that and don't want to penalize the applicants. The issue arises when someone is licensed prior to receipt of the results and later we find an undisclosed arrest, and it ends up being an Investigations issue because now they are a licensee, and we would really like to avoid that.

Discussion ensued regarding other possible options for digital fingerprinting. Ms. Linn said they would look into other options.

Dr. Nagy said he thought the Board could make a compelling argument to the Governor or the Legislature that we have a dire need in the State of Nevada to add additional resources to our Board, so to the extent that we can make a plea for additional funds to help us with this, he would like to discuss options that may be available to the Board for that. Some options are to prevail upon the legislators to create a bill draft request which incorporates the Board's wish list, to dip into the Board's funding surplus, to raise fees or to draw from capital in the building. Additionally, the Board could hire temporary employees during peak licensing times.

Mr. Cousineau said the Board already has some seasonal employees.

Ms. Beal said it would be really helpful to know where in the application process help is needed the most.

Mr. Wade suggested that, in the interest of time management, the Board member who is leading the discussion during an applicant's appearance should endeavor to keep the conversation focused on the issues that are germane to the application.

Agenda Item 30

STAFF COMMENTS/UPDATES

Mr. Cousineau reported that the Federation of State Medical Boards (FSMB) 2023 Annual Meeting was held in May, and was attended by Dr. Nagy, Dr. Spirtos, Ms. Arias-Petrel, Ms. Beal and Mr. Wade. He said these meetings are a good opportunity to make liaisons, learn how other boards do things, and learn about the FSMB in general. He encourages Board members to attend whenever they can.

Mr. Cousineau said he wanted to acknowledge this was Dr. Muro's last Board meeting. He said it had been an honor to work with Dr. Muro, and thanked him for his service over the past eight years and the support he had always given to the staff. He said he would like to hold a retirement dinner, as we traditionally do for Board members, possibly the Thursday night before the September Board meeting, depending upon Dr. Muro's availability.

Agenda Item 31

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 32

ADJOURNMENT

Dr. Nagy adjourned the meeting at 3:45 p.m.

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