

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Nick M. Spirtos, M.D., F.A.C.O.G.
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
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

and Videoconferenced to

The Conference Room at the Offices of the
Nevada State Board of Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

FRIDAY, MARCH 1, 2024 – 8:30 a.m.

Board Members Present

Nick M. Spirtos, M.D., F.A.C.O.G., President
Bret W. Frey, M.D., Vice President
Ms. Maggie Arias-Petrel, Secretary-Treasurer
Aury Nagy, M.D.
Ms. Pamela J. Beal
Col. Eric D. Wade, USAF (Ret.)
Carl N. Williams, Jr., M.D., FACS
Irwin B. Simon, M.D., FACS
Joseph Olivarez, P.A.-C
Jason B. Farnsworth, RRT, MBA

Board Members Absent

Chowdhury H. Ahsan, M.D., Ph.D., FACC

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., Senior Deputy General Counsel
William Shogren, J.D., Deputy General Counsel
Alexander J. Hinman, J.D., Deputy General Counsel
Kory Linn, Chief of Licensing
Todd M. Weiss, J.D., Senior Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

The meeting was called to order by President Nick M. Spirtos, M.D., F.A.C.O.G., at 8:33 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. Spirtos asked whether there was anyone in attendance who would like to present public comment. No public comment was received.

Agenda Item 3

APPROVAL OF MINUTES

- December 1, 2023 Board Meeting – Open/Closed Sessions

Dr. Frey moved that the Board approve the Minutes of the December 1, 2023 Board Meeting – Open/Closed Sessions. Mr. Wade seconded the motion, and it passed unanimously.

Agenda Item 4

AFFILIATED MONITORS, INC. PRESENTATION

Vincent L. DiCianni, Esq., President of Affiliated Monitors, Inc., provided background regarding Affiliated Monitors, Inc. He said Affiliated Monitors, Inc. provides independent monitoring, and described the services it offers as part of that monitoring. He said the cost of the monitoring is paid for by the individual who is being monitored. Affiliated Monitors, Inc. thoroughly vets the monitors they use before recommending them to the Board, and their reports to the Board are very detailed and address each of the issues identified by the Board. He said Affiliated Monitors, Inc. wants to be a resource for the Board.

Dr. Frey asked about the monitoring services Affiliated Monitors, Inc. provides to Medicaid, and Mr. DiCianni described them.

Dr. Simon asked about Affiliated Monitors, Inc.'s baseline fees, and Mr. DiCianni outlined them.

Dr. Williams asked in what states Affiliated Monitors, Inc. provides services, and Mr. DiCianni listed them.

Agenda Item 5

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. NABIL ELKHOURY, M.D., BME CASE NO. 23-49864-1

Dr. Elkhoury was present with his legal counsel, Christian Balducci, Esq.

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

Mr. Weiss said he wanted to confirm that all adjudicating Board members had received and reviewed the materials regarding the matter, and they indicated they had.

Mr. Weiss provided procedural instruction regarding the adjudication process.

Ms. Contine further explained the adjudication process.

Mr. Farnsworth said that, paraphrasing the hearing officer's findings and recommendations, she found that Dr. Elkhoury failed to address his deviation from the maternal fetal medicine specialist's recommendations and/or document conversations with said specialist and reasons for not following the recommendations, and therefore recommended that Dr. Elkhoury be found to have committed malpractice and to have failed to maintain proper medical records.

Dr. Nagy moved that the Board adopt the hearing officer's findings and recommendations. Ms. Beal seconded the motion.

Dr. Spirtos outlined the counts contained in the Complaint filed against Dr. Elkhoury.

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

Mr. Cumings provided the Investigative Committee's recommendations regarding discipline in the matter. Pursuant to NRS 630.352 and NRS 622.400, Dr. Elkhoury shall be required to pay the Board's costs and fees in the amount of \$14,128.63 no later than September 2, 2024; he shall pay a fine of \$12,500 no later than September 2, 2024, \$10,000 for the count of malpractice and \$2,500 for the records count; he shall perform 5 hours of continuing medical education (CME) related to medical ethics and 10 hours of CME related to the management of high-risk pregnancies within 6 months of service of the Board's order; and he shall receive a public reprimand. Mr. Cumings then provided the reasons for these disciplinary recommendations.

Mr. Balducci said he would ask that the Board enter the discipline as requested by the Investigative Committee.

Mr. Farnsworth moved that the Board accept the Investigative Committee's recommendations for disciplinary action. Dr. Nagy seconded the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Dr. Simon moved that the Board accept the attorneys' fees and costs as they were reasonable and customarily incurred. Ms. Beal seconded the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 6

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. NABIL ELKHOORY, M.D., BME CASE NO. 23-49864-1, 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

Dr. Nagy moved that the Board authorize the Board's counsel to defend the Board's findings, conclusions, orders and actions in this matter. Mr. Farnsworth seconded the motion and it passed unanimously.

Agenda Item 7

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KEVIN C. PETERSEN, M.D., BME CASE NO. 23-19611-1

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

Agenda Item 8

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. KEVIN C. PETERSEN, M.D., BME CASE NO. 23-19611-1, 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.

CONSIDERATION AND ACTION REGARDING BOARD RESPONSE TO PETITION FOR ADVISORY OPINION SUBMITTED BY SASSAN KAVEH, M.D., ASKING WHETHER THE NEVADA STATE BOARD OF MEDICAL EXAMINERS MAY INITIATE DISCIPLINARY PROCEEDINGS IN THE ABSENCE OF A CITIZEN COMPLAINT OR A REPORT OF MALPRACTICE

Ms. Contine said the meeting materials contained a draft of a response to the petition for the Board's review and approval. She explained that essentially, the response states the Board has the authority to investigate alleged violations of the Medical Practice Act and has broad authority to effectuate its public purpose and responsibility to review and consider requests to look into potential violations of the Medical Practice Act.

Ms. Beal stated she agreed with the contents of the draft response because the Board should have the authority to investigate allegations that come to its attention, however they come to its attention, for the safety of the public.

Dr. Frey stated that interagency referrals are essential, and he would hate to go back to the Stone Age where everyone was so silent we had bad actors who could continue to practice.

Dr. Nagy thanked Dr. Kaveh for bringing this information to the attention of the Board for discussion.

Melanie L. Thomas, Esq., stated the petition that was filed on behalf of Dr. Kaveh is a little bit more specific than just the Board's authority to initiate investigation or discipline. She said they were referring to formal discipline specifically. She stated there are protections offered to the public under NRS 630.299, which is the authority of the Board or Investigative Committee to issue a letter of warning, letter of concern, or a nonpunitive admonishment. That is where you come across things in the community that might not rise to the level of initiating a formal complaint, but it provides the Board some oversight to privately reprimand a physician if it believes the physician violated the Medical Practice Act. She said Dr. Kaveh's petition is with respect to initiating formal disciplinary proceedings. Under that process, and as stated in the Board's publicly available materials, which were attached as exhibits to the petition, it starts with the receipt of a public complaint. She said they had cited to the legislative history, where there was discussion regarding the Board having the authority to initiate a complaint and that was removed from what was enacted. There is another way that it can come before the Board, and that is in the form of a report of malpractice that can come from the hospital where the physician practices, the physician's insurer that pays the claim, settlement, reports from the Data Bank, etc. Those are things that statutorily very clearly provide the Board with authority to act. There are instances where the Board may have some oversight over an area that another agency typically covers. Those instances are also very expressly clear in the statute and relate to the prescription of controlled substances. It is important that licensees are on notice. She said their position is that the law is limited in this regard and the authority to initiate formal discipline is reserved to very few specific statutory instances that have been set forth here, and if the Board is taking a position outside of that, they would like the authority upon which the Board is relying.

Dr. Frey moved that the Board accept the response to the advisory opinion prepared by internal counsel. Ms. Beal seconded the motion and it passed unanimously.

Agenda Item 10

CONSIDERATION OF REQUEST OF JAMES B. GABROY, M.D., FOR MODIFICATION OF THE TERMS OF THE PREVIOUSLY APPROVED SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES B. GABROY, M.D., BME CASE NO. 15-10986-1

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

Dr. Nagy said he was very much in favor of the terms requested by Dr. Gabroy. He then outlined the background of the underlying case.

Dr. Gabroy said he was destitute, and any relief would be appreciated.

Ms. Bradley explained that the Board approved the Settlement Agreement with Dr. Gabroy last March, and Dr. Gabroy had made some payments towards the amounts owed. She said as she understood it, Dr. Gabroy was asking the Board to modify the terms of that Settlement Agreement to reduce the amount of the payments and increase the time in which he has to pay because he is struggling to make the payments right now given the income he has. He hasn't made any payments in the last few months. His license is currently suspended because he hasn't complied with the terms of the Settlement Agreement. If the Board decides to modify the terms, the pending disciplinary action, which is for noncompliance with the Settlement Agreement, would be resolved by the change the Board makes. If the Board doesn't modify the terms, the disciplinary proceedings will have to continue.

Dr. Gabroy explained he would like to extend the time to make the payments for two years from now and the amount of the payments to be determined by 24 payments.

Ms. Bradley stated Dr. Gabroy had made five payments. He still owed \$5,584 towards the costs and fees and \$2,919 towards the fine.

Dr. Spirtos said the payments would be \$354.29 and would start April 1, 2024.

Ms. Bradley said it would be up to the Board whether the suspension of Dr. Gabroy's license would be lifted upon payment of the first payment in April. She said staff does not object to the request and believes it would be fair.

Dr. Frey said he thought Dr. Gabroy's request was reasonable, but that failure to make a payment at any point should constitute a new suspension of his license.

Dr. Nagy moved that the Board grant Dr. Gabroy's request to extend the time for payment but not invoke a suspension of his license unless he is unable to make payments for 18 months. The motion died for lack of a second.

Dr. Simon moved that the Board grant Dr. Gabroy's request for a 24-month repayment schedule, with payments of \$354.29 per month, with the condition that being two months in arrears in payments will result in suspension of his license.

Mr. Cousineau added that upon receipt of Dr. Gabroy's first payment on April 1, 2024, or prior, Dr. Gabroy's license will be returned to "Active" status.

Ms. Jenkins said she wanted to remind the Board that this is a very, very small fraction of the costs that were incurred in the case, and 24 months is a lot longer than the Board normally allows.

Mr. Olivarez seconded the motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 11

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

- (a) Request for Authorization to Proceed With the Regulatory Adoption Process to Create Regulations Regarding the Supervising Physician of a Certified Registered Nurse Anesthetist Pursuant to Section 2.6(1)(a) of SB336 From the 2023 Legislative Session, Clarify the Requirements for Applicants Applying for Licensure by Endorsement as a Physician, Practitioner of Respiratory Care or Perfusionist, Provide That Engaging in Sexual Impropriety With a Patient is Grounds for Disciplinary Action for Physicians, Physician Assistants, Practitioners of Respiratory Care, Perfusionists, or Anesthesiologist Assistants, Requiring Physicians to Designate Their Medical Specialty to the Board as Provided in the Draft Regulation, and Allowing Applicants for Licensure as an Anesthesiologist Assistant, Practitioner of Respiratory Care, or Perfusionist to Appeal License Application Denials as Stated in the Proposed Draft
- (b) Request for Authorization to Proceed With the Regulatory Adoption Process on Proposed Amendments to NAC 630.290, NAC 630.360, NAC 630.370, NAC 630.420, NAC 630.440, NAC 630.450, NAC 630.455, NAC 630.475, NAC 630.505, NAC 630.513, NAC 630.700, and NAC 630.715
- (c) Request for Authorization to Proceed With the Regulatory Adoption Process to Repeal NAC 630.325 and NAC 630.430
- (d) Request That the Board Review NAC 630.415 Regarding the Physician Assistant Advisory Committee and NAC 630.560 Regarding the Practitioner of Respiratory Care Advisory Committee and Determine Whether These Committees Should Remain or Whether These Regulations Should be Repealed in Light of the Recent Addition of a Physician Assistant and a Practitioner of Respiratory Care to the Board Membership
- (e) Review of Public Comments on, and Possible Adoption of, Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R069-23

Ms. Bradley explained that Agenda Item 11(a) contains potential new regulations, Agenda Item 11(b) contains amendments to existing regulations, and Agenda Item 11(c) contains two provisions staff is requesting be repealed because the Board doesn't need them. Agenda Item 11(d) concerns the two regulations regarding the Physician Assistant Advisory Committee and the Practitioner of Respiratory Care Advisory Committee, and staff would like the Board to determine whether or not it believes those committees should continue now that there are members from each of those professions on the Board.

Mr. Olivarez said some physician assistants are concerned they might lose representation without the Advisory Committee.

Dr. Frey said he thinks the representation has been delegated and having a representative on the Board is an advancement. So, he doesn't see that continuation of the Advisory Committee is necessarily warranted.

Mr. Farnsworth said he had reached out to the Practitioner of Respiratory Care Advisory Committee members and one of them indicated that during the course of his tenure on the Advisory Committee, the Committee had been utilized twice to perform a peer review, and that was the extent of their engagement with the Board from a respiratory therapy perspective. So, it seems to him the Advisory Committee might not add value to the Board. He said the Advisory Committee Member he spoke with would like to see the Advisory Committee continue due to the same perception of lack of representation. However, his opinion is that representation has been elevated as a result of the legislative changes.

Discussion ensued regarding whether the two advisory committees should continue.

Ms. Bradley said the Board would have to repeal NAC 630.415 and NAC 630.560 in order to dissolve the two advisory committees.

Dr. Frey moved that the Board support dissolution of the Physician Assistant Advisory Committee and the Practitioner of Respiratory Care Advisory Committee and authorize staff to proceed with the regulatory adoption process on Agenda Items 11(a) through 11(d). Mr. Farnsworth seconded the motion and it passed unanimously.

Ms. Bradley stated that Agenda Item 11(e) was a request for the Board to adopt the regulations regarding anesthesiologist assistants. She said there were two memos that contained changes she would like the Board to consider and there were individuals present who were prepared to provide comment if the Board would like to hear that. Ms. Bradley then outlined the changes to the LCB draft she would like the Board to accept as part of its adoption of these regulations in the event the Board voted to adopt them. She said there had been some opposition to the reference to certified registered nurse anesthetists in the regulations. They are mentioned three times. They are mentioned in a definition at the start of the draft, they are mentioned as a possible person that an anesthesiologist could turn supervision of a student anesthesiologist assistant over to, and they are mentioned in a portion of the regulation that talks about the transfer of care being documented in the medical record. She thinks they have some concerns particularly regarding student supervision. It is optional; it is not required. She said staff would urge the Board to adopt the regulations as drafted by the LCB with the changes outlined in the two memos she provided.

Discussion ensued regarding student anesthesiologist assistant supervision and the provision regarding being able to communicate adequately orally and in writing in the English language.

Dr. Frey moved that the Board adopt R069-23 with the changes recommended by Ms. Bradley, with the exception that the verbiage about being able to communicate adequately orally and in writing in the English language be retained. Dr. Olivarez seconded the motion and it passed, with Dr. Nagy abstaining and all other Board members voting in favor of the motion.

Agenda Item 12

REPORTS

(a) Investigative Committees

Dr. Frey reported that at its February 23, 2024 meeting, Investigative Committee A considered 76 cases. Of those, the Committee authorized the filing of a formal complaint in 3 cases, sent 9 cases out for peer review, requested an appearance in 2 cases, issued 18 letters of concern, referred 3 cases back to investigative staff for further investigation or follow-up, reviewed no cases

for compliance, and recommended closure of a total of 41 cases. Dr. Frey stated it was really nice to be caught up on some of the backlog in cases and he thanked the staff for their efficiency.

Dr. Frey stated he would provide the report for Investigative Committee B in Dr. Ahsan's absence. He then reported that at its February 14, 2024 meeting, Investigative Committee B considered 46 cases. Of those, the Committee authorized the filing of a formal complaint in 1 case, sent 6 cases out for peer review, requested an appearance in 7 cases, issued 6 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 24 cases.

Dr. Spirtos said he wanted to thank the staff on Dr. Ahsan's behalf.

Dr. Nagy reported that at its February 15, 2024 meeting, Investigative Committee C considered 50 cases. Of those, the Committee authorized the filing of no formal complaints, sent 5 cases out for peer review, requested an appearance in 1 case, issued 12 letters of concern, referred 1 case back to investigative staff for further investigation or follow-up, reviewed no cases for compliance, and recommended closure of a total of 31 cases. Dr. Nagy thanked the staff for the changes made to the process and said it had subsequently made a huge difference in the Board's ability to effectively adjudicate cases in a timely manner.

(b) Perfusionist Advisory Committee

Perfusionist Advisory Committee Member Daniel Rodriguez, MHS, CCP, FPP, said he would like the Board to consider requesting a statutory change regarding the examination passage requirements for perfusionists to bring them in line with those for other professions. Currently, they may only take the examination once and if they fail, they are no longer allowed to practice in Nevada.

Mr. Rodriguez said another item he would like the Board to address is with regard to extracorporeal membrane oxygenation (ECMO) services. He explained that currently, there is nothing that governs the procedure as to who can provide these services. He said a third issue he would like the Board to consider is regarding who is qualified to perform the procedures necessary to harvest organs for organ donations, as there is currently nothing that governs this.

Dr. Frey asked about the failure rate of those taking the perfusionist examination, and Mr. Rodriguez said the pass rate is in the high 90s. Dr. Frey asked Mr. Rodriguez to provide the Board with material regarding best practices for perfusionists for consideration as the Board approaches the next legislative session.

Dr. Simon said it would be good for Mr. Rodriguez to include information regarding the training for perfusionists. Mr. Rodriguez described their training.

Ms. Arias-Petrel said she appreciated Mr. Rodriguez' comments and, as a member of the community, we value everything that perfusionists do. She said the Board should look into these matters. Dr. Williams and Dr. Nagy concurred.

Ms. Bradley said there are 18 states that currently license perfusionists.

Discussion ensued regarding organ donation and transplantation.

Mr. Olivarez asked who currently provides ECMO services. Mr. Rodriguez said these services are primarily provided by perfusionists, but there are people being flown into the state because we have a shortage of clinicians in Nevada and there is no oversight of these people being flown in. He said there is currently no formal language so this needs to be created.

Discussion ensued regarding ECMO services and who provides them.

Dr. Spirtos said he thinks these are terribly important issues and the Board should have a thorough discussion regarding them at the next meeting.

(c) Nevada State Medical Association

Sarah Watkins, Executive Director of the Nevada State Medical Association (NSMA), reported that NSMA was preparing for its 120th annual meeting in September. She said at the Board's December meeting, she reported that NSMA had done some restructuring of its organization and had hired Jacqueline Nguyen as its Policy Director. She said Ms. Nguyen had hit the ground running and is located in Las Vegas. Going into the 2025 Legislative Session, she and Ms. Nguyen are working on establishing relationships with community partners and working with NSMA's lobbying team to prioritize NSMA's needs and its members' needs.

(d) 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.

Agenda Item 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARY PAIGE DAVIS, RRT, BME CASE NO. 23-52310-1

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

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

Dr. Frey stated the case involved a respiratory therapist who applied for licensure and did not disclose an arrest on her application. He said this occurred under the old methodology with respect to the Board's fingerprinting process wherein the Board often did not find out about unreported arrests until many months later. The Board has since improved the process by offering digital fingerprinting, which should allow the Board to get ahead of these instances in the future, rather than behind. He then outlined the counts of the complaint filed against Ms. Davis and said he felt there was supporting documentation for all counts.

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

Agenda Item 14

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ANURANJAN BIST, M.D., BME CASE NO. 23-31267-1

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

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

Dr. Frey moved that the Board adopt the proposed Settlement Agreement. Mr. Olivarez 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. ERIC M. MATH, M.D., BME CASE NO. 21-10474-1

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

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

Dr. Frey stated that Dr. Math had admitted and declared under penalty of perjury that he was part of a distribution ring, if you will, for illegal distribution of oxycodone that was not for legitimate medical purposes, which he believes clearly supports Count I of the Complaint, illegal distribution of controlled substances. Counts II and III are kind of prima facie disreputable conduct and unsafe and unprofessional conduct. So, he believes all three counts were well supported.

Discussion ensued regarding the fact that the fine, costs and fees would be stayed until such time as Dr. Math applies for licensure.

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

Agenda Item 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MICHAEL EUGENE CLIFFORD, M.D., BME CASE NO. 23-8517-1

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

Mr. Cousineau introduced the Board's new attorney, Alexander J. Hinman, J.D., to the Board, and Dr. Spirtos welcomed Mr. Hinman.

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

Dr. Frey outlined the underlying facts of the case and stated he believed the count of malpractice was well-supported.

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

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BARRY JAMES RIVES, M.D., BME CASE NOS. 23-28365-1 and 23-28365-2

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

Mr. Cumings stated the first Complaint had been filed against Dr. Rives alleging two violations of the Nevada Medical Practice Act, and the second Complaint filed against him alleged three violations of the Nevada Medical Practice Act. He then outlined the terms of the proposed Settlement Agreement.

Dr. Simon stated he was recusing himself from consideration of the matter because Dr. Rives crossed covers with him.

Because there was no longer a quorum to consider the matter, the matter was tabled.

Agenda Item 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SHELDON W. PAUL, M.D., BME CASE NO. 23-11328-1

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

Mr. Cumings stated a formal Complaint had been filed against Dr. Paul alleging four 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. Ms. Beal seconded the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TREVOR ANDREAS SCHMIDT, PA-C, BME CASE NO. 23-36566-1

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

Ms. Bradley stated a formal Complaint had been filed against Mr. Schmidt alleging four violations of the Nevada Medical Practice Act and outlined the alleged violations and the terms of the proposed Settlement Agreement.

Dr. Williams said he thinks the Board should require something more punitive than fines for licensees who are practicing beyond their scope. This is an issue the Board is seeing more and more, and he thinks it is going to come to a point where the Board needs to take a better stand on it.

Discussion ensued regarding supervision of physician assistants who perform surgical procedures and the terms of the proposed Settlement Agreement.

Dr. Williams stated this physician assistant was also administering the anesthesia to the patient.

Further discussion ensued regarding supervision of physician assistants who perform surgical procedures.

Dr. Frey moved that the Board not accept the proposed Settlement Agreement as written with the hopes that counsel can come up with one that memorializes some of the concerns voiced and discussion had by the Board that day. Mr. Olivarez seconded the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 20

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DEB KUMAR MUKHOPADHYAY, M.D., BME CASE NO. 23-12850-1

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

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

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

Agenda Item 21

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BABUK GHUMAN, M.D., BME CASE NO. 23-31541-1

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

Mr. Shogren stated a First Amended Complaint had been filed against Dr. Ghuman alleging three violations of the Nevada Medical Practice Act and outlined the terms of the proposed Settlement Agreement.

Dr. Nagy 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 22

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. STEPHEN PAUL DUBIN, M.D., BME CASE NO. 23-11289-2

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

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

Mr. Olivarez moved that the Board accept the proposed Settlement Agreement. Dr. Nagy seconded the motion and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 23

EXECUTIVE STAFF/STAFF REPORTS

(a) Investigations Division Report

Mr. Diaz reported that from December 1, 2023, through February 28, 2024, the Investigations Division received a total of 269 complaints. Of those, 86 cases were opened as formal investigations, 98 were not within the Board's jurisdiction, 52 were referred to other agencies and regulatory bodies, 22 were resolved through proactive measures, and 11 are still pending review. The total case count for 8 investigators, which includes the supervisors, was 279, for an average of 35 cases per investigator. There were a total of 40 peer reviews, 14 of which had been assigned and 26 of which were pending assignment to a peer reviewer. Mr. Diaz said there were 27 licensees in compliance or diversion.

Dr. Spirtos thanked the Investigations Division for their excellent work. He asked whether the number of complaints was increasing or decreasing relative to the number of licensees. Mr. Diaz said the number of complaints received had remained steady over the last four quarters.

(b) Quarterly Compliance Report

Ms. Jenkins reported that for the fourth quarter of 2023, the total amount in collections was \$37,213.68. The total costs outstanding were \$144,152.83, total fines outstanding were \$68,394.00 and total costs collected during the quarter were \$51,497.44.

(c) Quarterly Update on Finances

Ms. Jenkins stated the Balance Sheet reflects the assets and liabilities of the Board. She then highlighted the various sections of the Balance Sheet for the quarter ending December 31, 2023. The total current assets totaled \$11,300,000, the total assets were \$17,500,000. The total current liabilities were \$8,300,000, with total liabilities and net position of \$17,500,000. The year-to-date addition to net income or net position of the Board was \$638,000.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the fourth quarter of 2023. The total income for the fourth quarter was at 98.5% of budget. In the expense section, the personnel expense was 7% over budget. This was as the result of year-end

adjustments regarding accrued payroll. Year-to-date, the personnel section is under budget. Total expenses were 98% of budget. The interest income for the quarter was \$50,193 and the reduction to net position was \$119,800. The reserves of the Board were at 5.3 months. These particular financial statements will be adjusted upon audit, and the item that will be adjusted is the post-retirement benefits because they are not valued by the State until July. So, when the Board's audited financial statements are presented to the Board in September, those adjustments will be made, and they can be significant.

Dr. Spirtos asked Ms. Jenkins to provide the amount of the adjustment from last year to give people a sense of what that was and what to expect this year, and Ms. Jenkins said it was more than \$200,000.

Dr. Spirtos thanked Ms. Jenkins and the rest of the staff for their detailed work.

Ms. Arias-Petrel thanked Ms. Jenkins for her diligent work in keeping the Board on budget.

(d) Legal Division Report

Ms. Contine reported that from November 23, 2023, through February 23, 2024, the Legal Division had a total case count of 186, with 100 formal complaints to be filed. During the quarter, the Legal Division filed 30 formal complaints, conducted 4 formal hearings and a summary suspension hearing, did prehearing conference work on 7 cases, and resolved 22 cases.

Dr. Spirtos thanked Ms. Contine for the Legal Division's excellent work and diligence on difficult cases.

Agenda Item 24

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the December 1, 2023 Board Meeting

Ms. Arias-Petrel moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the December 1, 2023 Board Meeting. Dr. Williams seconded the motion and it passed unanimously.

Agenda Item 25

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

(a) Thomas Owen McNamara, M.D.

Dr. McNamara appeared via telephone.

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

Mr. Olivarez stated that Dr. McNamara changed his status to Inactive in 2019 and was now requesting to change his status back to Active.

Mr. Olivarez asked Dr. McNamara whether he was an interventional radiologist when he previously practiced in Nevada, and Dr. McNamara said he practiced radiology, but primarily interventional radiology, including pain management procedures.

Mr. Olivarez asked Dr. McNamara to describe what he had done while his license was placed in Inactive status.

Dr. McNamara said he was a member of the faculty at UCLA teaching pain management and interventional radiology.

Mr. Olivarez asked what medical-related training or CMEs he had done during that time, and Dr. McNamara described what he had done.

Mr. Olivarez asked whether he had a practice plan set up or a group he would be working with when he returned to Active status, and Dr. McNamara said he planned to work with a primary care physician, Daniel Peterson, in Incline Village, and also practice at a medical spa in Gardnerville.

Mr. Olivarez stated that having been out of practice for a number of years, there are sometimes recommendations from the Board such as a period of being proctored or perhaps examinations, and asked him whether he would be willing to do that if the Board recommended something of that nature, and Dr. McNamara said he would.

Dr. Spirtos asked whether Dr. McNamara whether he would be willing to voluntarily undergo neurocognitive testing as recommended by the American College of Surgeons, and Dr. McNamara said he would.

Dr. Spirtos asked Dr. McNamara whether he would be willing to withdraw his application pending the neurocognitive testing, and Dr. McNamara said he would.

Mr. Cousineau stated that Dr. McNamara did not need to withdraw his application, as the Board could keep his application open pending the evaluation. He said the issue staff was most concerned about was Dr. McNamara's time away from clinical practice, and in cases like this, in the past, the Board has traditionally requested a peer review. Oftentimes, if the recommendation from the peer review is positive, in lieu of having to reappear before the Board, the applicant is granted a license based on the positive recommendation. He understands that there is a desire for a cognitive evaluation, and if Dr. McNamara is willing to do that, that is great, but he doesn't think it is necessary for Dr. McNamara to withdraw his application and the Board can just table it in expectation of the evaluation.

Mr. Farnsworth moved that the Board table Dr. McNamara's application pending the outcome of the neurocognitive testing and potentially a peer review. Ms. Arias-Petrel seconded the motion and it passed unanimously.

(b) Charles Denis Howard, M.D.

Dr. Spirtos asked Dr. Howard 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 stated there is a need for Dr. Howard's specialty in the State. He asked Dr. Howard why he had held licenses in several states. Dr. Howard listed the nine states in which he had held or currently held licenses and the reasons for each.

Dr. Nagy asked Dr. Howard if he was bilingual, since he attended medical school in Mexico, and Dr. Howard said he was. Dr. Nagy stated Nevada has a very large Hispanic population.

Dr. Spirtos asked Dr. Howard if he would be interested in taking a neurocognitive examination, and Dr. Howard said he would if it was required or desired by the Board.

Mr. Cousineau said he wanted to remind the Board that Dr. Howard was applying for licensure by endorsement, so as far as the desire to have some kind of evaluation, it would be entirely discretionary and voluntary and would not be a condition of licensure because the Board cannot put conditions on licensure by endorsement.

Dr. Frey said it is important to say why the Board is granting a license by endorsement. In this case, Dr. Howard is fulfilling a particularly sensitive and underserved niche because he and his crew want to take a medical bus into a prison and serve that population, and that is the main mission he was pursuing.

Dr. Frey moved that the Board grant Dr. Howard's application for licensure by endorsement. Ms. Arias-Petrel seconded the motion and it passed unanimously.

(c) Morton Isaac Hyson, M.D.

Dr. Hyson was present with his legal counsel.

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

Dr. Frey moved that the Board go into closed session. Mr. Olivarez seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Frey moved that the Board decline to grant Dr. Hyson a license by endorsement, with the hopes that Dr. Hyson will consider the SPEX examination pathway. Dr. Simon seconded the motion and it passed, with Dr. Williams abstaining and all remaining Board members voting in favor of the motion.

(d) Logan Paul Marcus, M.D.

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

Dr. Spirtos asked Dr. Marcus 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. Marcus to remind the Board what his practice plans were.

Dr. Marcus explained that he would be practicing clinical medicine in Nevada and would also, as an auxiliary task or role, be overseeing clinics in Utah as well.

Dr. Spirtos asked if he would be overseeing three clinics in Utah, and Dr. Marcus said he would.

Dr. Spirtos asked how many total physician assistants he would be overseeing in Nevada and Utah, and Dr. Marcus said he would be overseeing three physician assistants in Nevada but would not be overseeing any mid-levels in Utah.

Dr. Spirtos asked Dr. Marcus when he would be taking his board certification examination, and Dr. Marcus said it would be in October because it is only offered once a year.

Dr. Williams asked Dr. Marcus what led him to the path of occupational environmental medicine, and Dr. Marcus explained. He said the reason he was applying for licensure by endorsement was there is a statute in Nevada that says one has to do three years PGY training at one institution and he has done six years of PGY training but at three different institutions. His specialty is only a two-year specialty training program so anyone practicing occupational environmental medicine will have to apply for licensure by endorsement.

Dr. Nagy said he acknowledged that it does create a difficulty for anyone who hasn't completed residency immediately after their internship.

Dr. Frey explained that licensure by endorsement is a special pathway for those with special skills or who fill a special need, so he has some questions about the need, about the deficiency that has been identified, other than by his business and himself. He said he hasn't seen anything in the materials that provides independent verification of that need.

Ms. Beggs asked for verification that the Board had received the additional information from the American College of Occupational Environmental Medicine and from Concentra.

Dr. Frey said the Board receiving information from Concentra saying there is a need in the state is different from getting it from a State entity.

Dr. Marcus said he had attended a talk at a meeting last year that was about how to get additional occupational environmental medicine physicians in rural western states, specifically highlighting Nevada. He said in speaking with the President of the American College of Occupational and Environmental Medicine (ACOEM), they, as an organization, have identified Nevada as a state in dire need for occupational environmental medicine physicians. There are only 13 ACOEM members in a state of 3 million people.

Dr. Spirtos said his expectation was that Dr. Marcus would come back before the Board after taking and passing the examination because the implication of the discussion at the last meeting was that was what he was going to do.

Ms. Beggs said she had attended the Board meeting in Reno in December. She wasn't representing Dr. Marcus at the time but was present at the time of his appearance. She said part of the discussion at the last meeting was about the need and also what was unique about the specialty, so she thinks what Dr. Marcus took from that was he needed to provide the Board with more information about what Dr. Marcus would be doing in the State and with more information about occupational environmental medicine. Concentra has moved Dr. Marcus and his family to Nevada, so he would prefer not to have to wait until after October, when he would still have to come back before the Board because he would still not meet the qualifications for the administrative licensure process due to the lack of three consecutive years. She said agrees board certification is a feather in your cap, but that doesn't change what Dr. Marcus could bring to the patients in Nevada at this moment in time.

Dr. Frey said he appreciated that, but it was putting the cart before the horse. His company moved him to Nevada thinking his pathway to licensure was a foregone conclusion.

Discussion ensued regarding the statutory intent of licensure by endorsement.

Ms. Linn said because occupational environmental medicine is a two-year program, there is a carve-out in NRS 630.162(c) that if a physician is board certified, he or she can potentially be licensed with 24 months progressive training rather than 36 months without having to go the endorsement route. Family medicine, preventive medicine and emergency medicine fall under that carve-out, and occupational medicine may fall under the umbrella of preventive medicine.

Ms. Linn asked Dr. Marcus to confirm that he was in his second year of occupational environmental medicine residency in Pennsylvania, and Dr. Marcus said he was.

Dr. Frey said the Board wants Dr. Marcus to be here, but he is concerned that Dr. Marcus hasn't finished his residency in occupational environmental medicine yet.

Dr. Marcus said his understanding was the statutory requirement in Nevada was three years continuous training at the same institution. He didn't have an interruption of training; he just did his training at three different institutions.

Ms. Linn clarified that the requirement is not that the training be done at the same institution but that it be three years progressive training, indicating the subject of the training as well as not having a break in it. Because Dr. Marcus' other four years of training were in specialties completely different from occupational medicine, it is not considered progressive. The information the Board has shows he is in his second year in occupational environmental medicine, which will conclude on June 30, 2024. At that point, if he gets board certified, he could qualify for the carve-out and would not need the endorsement route.

Dr. Frey said he finds it problematic that Dr. Marcus is applying for licensure by endorsement without finishing his residency in his chosen specialty. If he were applying for licensure by endorsement after finishing his residency, in his mind, Dr. Marcus would be in a different category. Dr. Frey said Dr. Marcus has his family here and wants to be here, and he supports him being here. But he also supports Dr. Marcus returning after completion of his residency.

Ms. Beggs asked if the Board wanted Dr. Marcus to simply finish the residency or also take the board certification exam. If the Board wants him to take the board certification exam, the soonest he could return before the Board is December.

Mr. Cousineau said if Dr. Marcus becomes board certified, he would just transfer his application to a traditional application, and he doesn't think that would be a problem because there aren't any other issues. However, if Dr. Marcus would prefer to proceed with the application by endorsement and table it at that time, the Board could do that as well.

Ms. Beggs said either way, the soonest he could return before the Board would be September.

Dr. Nagy moved that the Board grant Dr. Marcus' application for licensure by endorsement. The motion died for lack of a second.

Ms. Beggs said Dr. Marcus would like to table his application.

Dr. Williams moved that the Board table Dr. Marcus' application. Dr. Frey seconded the motion and it passed unanimously.

(e) James Michael Murphy, M.D.

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

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

Dr. Simon asked Dr. Murphy about the status of his board certification. Dr. Murphy said he is in the process of recertifying and just completed a simulation course.

Dr. Simon stated the Board had tabled Dr. Murphy's application at the December 2023 Board meeting to allow him time to develop a reentry plan and provide it to the Board. He asked Dr. Murphy to summarize the reentry plan for the Board, and Dr. Murphy did so.

Dr. Simon said the reentry plan states the managing partners of Red Rock Anesthesia Consultants are willing to precept him. There are four signatures on the reentry plan. He asked Dr. Murphy who he would actually be working with. Dr. Murphy said he would primarily be working with Dr. Flores and Dr. Sorensen.

Ms. Beggs said they would be happy to modify the preceptorship plan if the Board desired.

Discussion ensued regarding Dr. Murphy's proposed preceptorship plan.

Dr. Simon asked Dr. Murphy in what facilities he would be working. Dr. Murphy said he would probably apply for privileges at Valley Hospital but before he can apply for hospital privileges, he will be working in a surgery center one-on-one with Dr. Flores and Dr. Sorensen to obtain the required number of cases to allow him to apply.

Dr. Simon asked him if he would be seeing close to the full gamut of anesthesia practice or if he would just be doing monitored care with propofol for colonoscopies or something like that. Dr. Murphy said he thinks it will be a little broader than that.

Dr. Frey said if there was one identifiable main preceptor and perhaps an alternative if, for some reason, the main preceptor was unable to precept Dr. Murphy for some reason, that would give the Board peace of mind.

Ms. Beggs said they could certainly have Dr. Flores denoted as the primary preceptor and Dr. Sorensen as the secondary.

Dr. Frey moved that the Board grant Dr. Murphy a license with the provision discussed regarding a main preceptor and a secondary preceptor. Dr. Williams seconded the motion and it passed unanimously.

Mr. Cousineau stated he wanted to put it on the record that Dr. Murphy is aware the license will be a conditional license. Ms. Beggs stated Dr. Murphy was aware.

(f) Luis Espinosa, M.D.

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

Mr. Wade summarized Dr. Espinosa's medical education and training, and stated he was licensed in California, Colorado and New York, with no disciplinary actions in any of those states.

Mr. Wade stated Dr. Espinosa was before the Board because he answered the question regarding whether he had ever been investigated during a training program in the negative when he should have answered it in the affirmative.

Dr. Espinosa described the circumstances surrounding the investigation and stated he was unaware that there was any disciplinary action on his record, as he had never been shown his record by the training program.

Mr. Wade asked Dr. Espinosa what he planned to do if granted a license to practice medicine in the State of Nevada.

Dr. Espinosa said he planned to practice psychiatry in rural communities in Nevada via telemedicine.

Dr. Spirtos asked Dr. Espinosa if he was board certified, and Dr. Espinosa said he was.

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

(g) Diana DeAngelis Parnell, M.D.

Dr. Spirtos asked Dr. Parnell whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did not.

Dr. Williams summarized Dr. Parnell's medical education and training, and stated she became board certified in 1970 and had practiced in California for 15-plus years.

Dr. Williams said that Dr. Parnell had not taken a major examination in the past 10 years.

Dr. Parnell stated she has a lifetime board certification in dermatology.

Dr. Williams stated that Dr. Parnell answered in the negative to Questions 5 and 6 on her application for licensure when she should have answered in the affirmative.

Dr. Parnell explained that she hadn't gone into the applicant portal in a couple of weeks. She had some trouble getting in and when she finally did, the application looked totally different from what she had been working on before. She said she is not sure what happened, but she couldn't open any of the line items and all of them had been checked as having been done. Therefore, she thought the information had been added. She knows she didn't add the information, but she had the outlying institutions send the information to the Board, so she thought it had been added.

Dr. Williams said that Dr. Parnell had not worked for five consecutive years prior to applying for licensure, which is a requirement for licensure through the regular pathway.

Dr. Parnell said she retired in December 2022 and described what she had been doing since then.

Dr. Williams asked Dr. Parnell what she planned to do if granted a license to practice medicine in the State of Nevada.

Dr. Parnell said she is interested in doing some volunteer work, work at the VA or part-time teaching at the University.

Dr. Williams stated Dr. Parnell's record in California was exemplary.

Dr. Spirtos asked Dr. Parnell why she didn't want to take the SPEX examination. Dr. Parnell said she just heard about it in January, and she thinks she could pass it, but she would prefer not to take it if she didn't have to.

Dr. Williams moved that the Board grant Dr. Parnell's application for licensure. Mr. Farnsworth seconded the motion and it passed unanimously.

(h) James Edward Lowery Jr., CRT

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

Mr. Farnsworth summarized Mr. Lowery's previous appearances before the Board regarding his previous applications for licensure.

Mr. Farnsworth asked Mr. Lowery whether he currently held licenses in any other states, and Mr. Lowery said he did not.

Mr. Farnsworth asked Mr. Lowery whether he had surrendered his license in California while on probation in the state and Mr. Lowery said that he had.

Mr. Farnsworth said Mr. Lowery is currently working as a respiratory therapist at the Gallup Indian Medical Center in New Mexico without a license because New Mexico does not require a license in the state to work at a federal Indian health facility.

Mr. Farnsworth asked Mr. Lowery whether the surrender of his license in California while on probation was to be deemed disciplinary action, and Mr. Lowery stated it was.

Mr. Farnsworth stated that Mr. Lowery had applied twice, withdrawn once, been denied once and his appeal of the denial was denied by the Board. He has been before the Board numerous times. He asked Mr. Lowery what was different that day than previously.

Mr. Lowery said there are facilities who have asked him to apply for state licensure. He has talked with them and they are aware of his background and everything that occurred in California. He has now completed everything the California Board required of him.

Ms. Beal asked whether the Board had received verification from the California Board that Mr. Lowery had paid the fines, and Ms. Linn stated it had.

Dr. Frey asked Mr. Lowery about the level of personal accountability he takes in reflecting upon all that has brought him there, specifically the MRI patient abandonment issue.

Mr. Lowery explained he should have been inside the trailer with the patient and not standing outside, and said it was his mistake.

Mr. Farnsworth said he was concerned about Mr. Lowery's accountability and follow-through. He said Mr. Lowery had met the requirements asked of him by the Board during his last appearance, and thanked Mr. Lowery for his diligence in doing so. He said professionalism is important and he encouraged Mr. Lowery to continue to behave and act accordingly. He stated this is a relatively new profession and it is their responsibility to ensure they are engaging in the profession and with patients appropriately and professionally.

Mr. Farnsworth moved that the Board grant Mr. Lowery's application for licensure. Ms. Beal seconded the motion and it passed unanimously.

(i) Nazih Michel Haddad, M.D.

Dr. Spirtos asked Dr. Haddad 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 summarized Dr. Haddad's medical training and stated that his residency training at Thomas Jefferson University has now been verified by Board staff, which had been an issue during his previous appearance. Dr. Haddad has a lifetime board certification in otolaryngology.

Dr. Frey said one of the other issues at Dr. Haddad's last appearance was his inaccurate responses to three different questions relating to malpractice settlements and in 2023, there was some sort of condition placed on Dr. Haddad's medical license regarding unprofessional conduct, failure to maintain records and failure to conduct an examination. There was also an allegation regarding proper consent and failure to maintain records. To speak to the pattern, whoever reviews these records in retrospect, can't say it is a decent record reflecting consent and subsequent care. He asked Dr. Haddad what he has done since to make more legible records and enhance his practice.

Dr. Haddad explained the circumstances surrounding the cases filed against him and explained how he has improved his medical records process.

Dr. Williams says he has no problem with Dr. Haddad performing facial plastics, but he has a problem with Dr. Haddad performing plastic surgery below the head and neck – breast augmentations, breast reductions, tummy tucks, liposuction and body contouring. Four or five of Dr. Haddad's malpractice suits were related to breast augmentations. Dr. Williams said he firmly believes if you want to perform plastic surgery, you need to do a plastic surgery residency. Dr. Haddad is a member of the American Board of Cosmetic Surgery. There are 24 specialty boards recognized by the American Board of Medical Specialties and that is not one of them.

Dr. Williams said another concern he had is that when Dr. Haddad appeared before the Board previously, he said he planned to work at a medical spa, and now he says he is planning on opening a practice.

Dr. Haddad said he works for a medical spa in California, and they opened a medical spa in Las Vegas and asked him to come and see their patients.

Dr. Spirtos said he echoed Dr. Williams' concerns. He said we are trying to make very strong efforts in the State of Nevada to keep everyone in the lane of their surgical expertise. He said if Dr. Haddad wants to practice ENT, that is not a problem and we would welcome Dr. Haddad, but the idea that he is thinking of doing this in a spa is particularly problematic due to the lack of oversight there and ability to handle complications, and most of Dr. Haddad's problems have been with breast augmentations and other procedures. He would like to hear that Dr. Haddad is not going to be performing these types of procedures.

Dr. Frey said he would like Dr. Haddad to provide an affidavit to the effect he will stay within the scope of his training, which is in ENT.

Mr. Cousineau said if there are concerns with Dr. Haddad's scope of practice, that could be a condition placed on his license, which could have possible ramifications for him in other jurisdictions, so Dr. Haddad would have to agree to that, but he doesn't think an affidavit would be appropriate. He said if Dr. Haddad has concerns or may not understand the possible consequences of a condition on his license, he should engage legal counsel and he would not encourage Dr. Haddad to allow the Board to vote on his application at this time, because once that vote takes place and if it is conditional, then it would be reportable to the Data Bank and other entities as necessary.

Dr. Haddad said he would like to consult with an attorney.

Mr. Cousineau said the Board could table further consideration of Dr. Haddad's application to allow Dr. Haddad time to consult with legal counsel or he could withdraw and reapply when he is ready.

Dr. Frey moved that the Board table the matter until such time as it can be agendized in the future. Mr. Wade seconded the motion and it passed unanimously

Agenda Item 26

NEW BUSINESS

Dr. Nagy asked whether staff could provide to the Board members at a future Board meeting a summary regarding the different types of licenses that providers can obtain from this Board, and he would like an update on the progress of the public relations team that has been engaged by the Board.

Dr. Simon said the Board had seen a physician that day who was doing a remote residency, and he is seeing medical students coming through who did OB/GYN as a virtual rotation. He asked whether the Board could discuss this and possibly say that these sorts of things are not going to be acceptable to the Board.

Agenda Item 27

STAFF COMMENTS/UPDATES

Mr. Cousineau said he wanted to remind Board members who were going to be attending the Federation of State Medical Boards' Annual Meeting to reach out to Ms. Munson if they hadn't yet made their travel arrangements.

Ms. Linn provided an update with regard to the Board's fingerprint process. As of February 13, the Board has been accepting electronic fingerprints from applicants who are within the State of Nevada. So far, it has been successful, and applicants are overwhelmingly opting to take the

electronic route if they are in state. The fingerprinting instructions have been updated accordingly, they are sent out to every applicant and are also on the Board's website.

Dr. Spirtos thanked Ms. Linn and thanked the staff for installing wi-fi in the Las Vegas office, for the new meeting management software, and for all they do.

Mr. Farnsworth said he had been told by one of the respiratory therapy deans at one of the schools in the southern part of the state that the time from application to licensure for a recent respiratory therapy graduate was 12 days.

Mr. Cousineau said it had been a year since staff implemented many of the recommendations made by the Federation of State Medical Boards, as well as others, which were approved by the Board, and an update on the changes made would be agendaized for the June meeting. He said he thinks the Board will see some really improved numbers.

Agenda Item 28

PUBLIC COMMENT

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

Agenda Item 29

ADJOURNMENT

Dr. Nagy moved that the Board adjourn. Mr. Olivarez seconded the motion and it passed unanimously. The meeting was adjourned at 2:30 p.m.

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