

MINUTES OF THE MEETING FOR THE NEVADA STATE BOARD OF ATHLETIC TRAINERS (NSBAT)

DATE & TIME: April 19, 2021

Public Access with Zoom:

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1. Meeting called to order by NSBAT Chair, Tedd Girouard at 1:02 PM.

Board Members Present: Tedd Girouard, Keoni Kins, Jay Cambridge, Kyle Moore, and Frank Sakelarios (arriving late).

Staff Present: Mike Detmer, Deputy Attorney General, appearing on behalf of Harry Ward, and Michelle Cothrun, Board Executive Secretary.

2. Public comment. Tedd Girouard invites both members of the public in attendance to introduce themselves. Michael Sepiol is speaking on behalf of the Nevada Athletic Trainers Association (NevATA), in opposition to SB 335. He states the following, “Our membership has done a lot of research over the past three weeks since this bill was initially brought before a hearing by Senator Hardy. We believe that the abolishment of the Board of Athletic Trainers does not serve our members and licensees in the State. This bill was mirrored after the Division of Occupational Licensing (DOPL) in the state of Utah, which governs all medical boards. I have spoken with constituents in Utah as well as a past President of the Association there. Only one advisory member from the Board of Athletic Trainers is not enough. Currently in Utah, their board is intact as an advisory board with one liaison that governs them. And their input is considered when it comes to disciplinary action and the practice act. We believe that this bill needs to be amended to include all allied health care professionals, so that the Board of Athletic Trainers is not singled out. As written, the only other allied health care professional board is the Dental Board. And this bill is unexpected after receiving good feedback from the Sunset Subcommittee review in 2019. Our Board is financially intact and would be able to defend itself in case of a lawsuit. It is confusing how and why our Board was included in this bill. That is my comment in opposition to SB 335 as it is currently written.”

Brittany Backofen is an athletic trainer and the Secretary for the Nevada Athletic Trainers Association. She summarizes the public comments from members regarding SB 335 from the organization’s meeting held on April 15, 2021, noting there were recording issues. She states the following, “Most of them disagree with how the bill was written by including Athletic Trainers. Like Mike stated, there were not many other healthcare professionals included, so we felt singled out. There were a couple of comments about not having specific criteria for inclusion in the bill, whether for athletic trainers or for the other groups, which caused much confusion. Many felt that at some point this bill would be passed but wanted to have more input as to how Athletic Trainers were going to be included and advocate for our profession. Fourteen members were on the call, including myself. Those were most of the comments I received in opposition to this bill.”

Tedd thanks both Michael and Brittany for attending and asks if there are any other members of the public in attendance. Michelle confirms that no other members of the public are attending on Zoom and that she has not received any emails with public comment for this meeting. There is no additional public comment.

3. Review and discuss Senate Bill 335, what position the Board would like to take regarding the bill, and if the Board would like to write a letter to submit an official opinion of either support, neutral, or opposition. (For Possible Action) Tedd thanks everyone for coming to the meeting on relatively short notice and asks the Board for their feedback on what was passed from the Committee meeting on Friday, April 9th. He informs the Board that he also attended the previous Committee meeting by phone to give his opinion, but he did not speak for the Board. This meeting is necessary to discuss as a Board a possible official response to SB 335.

Kyle Moore states that he agrees with Michael Sepiol's thoughts and is opposed to the bill as written. However, if the board can remain intact and is trusted to carry out its duties, he could support it. The way the bill is written now, athletic training is being singled out compared to the other allied healthcare professions. His stance is of opposition unless the bill were to be amended to include other allied health care professions.

Keoni Kins adds that his concerns are similar to what has been voiced. His biggest opposition to the bill as proposed is that there were no specific requirements that were met or not met by this Board to be considered for abolishment. He agrees with Michael Sepiol's comments in that our Board did have a successful Sunset Subcommittee review. To end up on the list for abolishment without a clear rationale is troubling. When boards are abolished, they ought to still have adequate representation of licensees on any subsequent advisory boards or committees formed through this legislation. The minimum requirement of one licensee on the advisory boards does not provide adequate input from those on the front lines of the profession. Healthcare professions change rapidly. Having individuals on those advisory committees who are not well informed of what contemporary practice looks like would not be improving the future Division's ability to protect the public. He believes that legislation like this will get passed eventually and there are benefits to having some centralization and standardization of processes to reduce duplication of efforts. Still, all medical and Allied Health Professions ought to be under its purview and not just some.

Tedd asks Michelle if she knows the amendments that were passed on April 9th, as he has not been able to get a copy of what was passed. Michelle states that one amendment was to remove the Barbers Board from the bill. She lists the six Boards originally included for abolishment: Athletic Trainers, Barbers, Dental, Homeopathic Medical Examiners, Massage Therapists, and Oriental Medicine. She informs the Board of a conceptual amendment submitted by Elliott Malin on behalf of the Nevada Board of Homeopathic Medical Examiners to Senator Hardy. She contacted Mr. Malin to ask if the motion to amend and do pass included his amendment. He has not been able to confirm that. Tedd and Michelle discuss whether Elliot Malin's amendment was considered friendly or not.

Tedd adds that another amendment was to change the timeline to January 1, 2022 to allow for the five boards to work with the Administrator to make for a smoother transition. Tedd states that if this legislation is passed, being in this first group could be an advantage if we can have a discussion about the policies and what ends up transpiring with this new Division, specifically with the advisory boards. Having a say in this process could be a positive, not just us as a Board and for athletic trainers, but for the health and safety of the public in the state of Nevada.

Michelle discusses the work session document by Caesar Melgarejo and reads the second paragraph of the public comment submitted by Elliot Malin, dated April 1, 2021 (*attached as Exhibit 1*). "We would like to see the advisory boards as detailed in the bill to be empowered, as subject matter experts in their respective fields to have a greater role within the new division in the Department of Business and Industry. The role would not give the advisory board final say on any decisions but would allow them to have a substantial part in the proctoring and administering of the Licensure exam, reviewing continuing education credits, reviewing and making recommendations to update Regulations within industry standards, and to investigate bad actors and make recommendations to the administrator of the Division of Licensing on punitive measures that should be taken. We believe these are reasonable to help protect Nevadans as well for forging ahead in a new direction that will create a more efficient and effective regulatory body." Mr. Malin also proposed changing the language from one licensed individual to a majority of the members on this advisory committee should be licensed individuals, which addresses

the Board's main concern of adequate representation of these advisory boards. He wants to work with Business and Industry (B&I) to smooth over the transition to the new division.

Michelle reached out to Mr. Malin to voice her main concern that the new division would be powerless to stop unlicensed activity. Our Board receives more complaints about unlicensed activity than regarding our licensees. He responded that he is in contact with B&I and Senator Hardy, and that he would talk to them about her concerns about unlicensed activity.

The Board also considers if it is too late in the process to submit an official position regarding this legislation. Tedd suggests having a conversation with Mr. Malin, the lobbyist for the Homeopathic Board, to come together on language to propose an amendment when this comes up in the Senate. Kyle Moore agrees that is a great way to move forward to try to get as much representation as possible in a friendly manner.

Tedd adds that all current board members would automatically become members of the advisory board. Tedd, Frank, and Keoni's terms end on September 30, 2021. There may not be time for the Governor to appoint their replacements. They discuss the possibility of remaining on the Board during this transition. They are happy to serve and help that transition happen to hopefully make policies more friendly to the board. Tedd thinks that if this legislation ends up passing, the Board is better off working with the Homeopathic Board for proper representation. A main concern from legislators is that licensees are not able to do a good job of policing their own. They maintain it is a conflict of interest that has caused major problems in other boards. Tedd states there has not been an issue in the six years that he has served on the Board or in the sixteen years as a licensee in the State.

The question remains why the Board of Athletic Trainers is being singled out. Tedd states that in the first meeting, a question was asked about the composition of the boards being abolished. The representative of the Department of Business and Industry listed problems those boards have suffered. However, our Board has not suffered from those problems. Tedd made sure his public comment addressed each of the concerns listed. When the question was posed to Senator Hardy, he responded that they chose some larger, some medium sized, and some smaller boards.

Tedd's opinion is that our board has been singled out for some reason, perhaps being a new board. He cannot see how the board can fight being abolished. We are powerless. We were appointed by the government and our charge is public health and safety. How can we argue that this legislation would negatively impact public health and public safety? Kyle expresses concern that having someone other than an athletic trainer help approve and regulate Dry needling certainly poses a public safety risk. The Board agrees with Kyle's concerns.

Tedd states that the licensees can be more open and freer to lobby and voice their opinions. He expresses that this legislation caught everyone by surprise and suggests that the Board hire someone whose job is to watch the legislation coming through and keep track of what happens in the Legislative sessions. Michelle explains that even the Boards that have lobbyists were caught off guard by this legislation.

Michelle reminds the Board that Senator Hardy's goal with this legislation is to eventually have all boards under this new division. Keoni states that if it is just a matter of time until all boards are absorbed, we ought to be aiming our efforts to make sure that we have adequate licensee representation on those advisory boards when the time comes. He would support our board talking to the Homeopathic Board with that end in mind.

Tedd asks DAG Mike Detmer if he, as the Chair of the Board, can contact the Homeopathic Board or its lobbyist, Eliot Malin, to discuss working together. He would report back to Michelle, and then she could provide a summary to the other Board members. DAG Mike Detmer confirms that Tedd will not be committing an OML violation by speaking with a member of a different board or a lobbyist. However, he cautions the Board that Michelle can also be the facilitator of an OML violation. He explains to the Board how to avoid a walking quorum. Michelle can provide Board members an informational summary, but it must be a one-way conversation with no cross talk.

Tedd Girouard motions that he, as Chair of the Board of Athletic Trainers, will be in communication with the Homeopathic Board and/or their lobbyist to have conversations with them regarding the amendments that they

proposed at the last Senate subcommittee work group, and see if we can work with them to have better representation of our licensees in SB 335. Keoni Kins seconds the motion, and it passes.

The Board then discusses the time sensitivity of this matter. Keoni suggests giving the Board Chair preapproval to sign the Board's name to a supportive letter that discusses increasing licensee representation on advisory boards.

Tedd Girouard amends the existing motion to also give the Board Chair the ability to sign as the representative of the Board on any documentation in concert with another board to increase representation on the advisory boards in regard to SB 335. Keoni Kins seconds the amendment, and it passes.

Kyle Moore thanks Tedd and Michelle for being on top of this legislation. There is no further discussion.

4. Review and discuss the findings made by the Subcommittee on Dry Needling. Discuss and approve their recommendations on which licensees fulfill the statutory requirements for dry needling. (For Possible Action) Michelle explains that most of the licensees who submitted their dry needling applications have been reviewed. One application needs a second review and two new applications have been received. The database notes which applicants the Subcommittee recommends passing as having fulfilled the statutory requirements for Dry needling. The final step is for the Board to vote on whether to approve those recommendations or not.

Tedd asks about the two applications listed as needing more information. Kyle Moore explains that the Subcommittee requested continued education in the adult population because the one licensee's graduate education focused on the pediatric population. Michelle explains that the other licensee has moved out of state and withdrawn their application to dry needle. Kyle adds that the Subcommittee has agreed to meet on an as needed basis when new applicants come in and can schedule another meeting to review the two new applications Michelle has received. Tedd asks Michelle if the two new applications appear to be complete. If so, the Board can take the time to review them now. Michelle explains that she has not had a chance to upload the documentation to the database. Tedd proposes that the Board can schedule a special meeting to approve the Subcommittee's recommendations when new applications are received.

Tedd Girouard motions that the Board accept the list of 25 licensees (*attached as Exhibit 2*) recommended to pass from the Subcommittee on Dry Needling and subsequently give those licensees the approval to dry needle in the state of Nevada. Keoni Kins seconds the motion. Kyle Moore, having recused himself from voting for his application during the Subcommittee meeting, recuses himself now. The motion passes with four votes and one recusal.

Tedd thanks the Subcommittee for their hard work in getting this first set of reviews done. There is no further discussion.

5. Review and discuss the licensees who currently dry needle and are dual licensed as Physical Therapists (PTs). If they are working under their PT license, then the Board will decide whether to have them submit proof of training and education or whether they fall under the jurisdiction of the PT Board for dry needling. (For Possible Action) Michelle explains that the Subcommittee wanted the Board to discuss licensees that are dual licensed as athletic trainers and physical therapists. Kyle Moore states that if the licensee is practicing and employed as a physical therapist, then they should fall under the Physical Therapy Board and their guidelines for dry needling. The issue that can occur with a dual credentialed PT/AT is they could be working as a physical therapist, but then cover and practice as an Athletic Trainer to make some extra money on a weekend. The Subcommittee wanted to bring this gray area, although rare, to the Board's attention. Keoni adds that Kyle summarized the Subcommittee's concern well and that more specific questions on the applications could alleviate some confusion. The matter of adding the questions to the initial and renewal applications will be reviewed next.

Tedd asks Keoni for his perspective as a dual credentialed professional. Keoni states that he would not consider himself an athletic trainer, unless he were specifically contracted for athletic training coverage. He agrees with Kyle that it would be rare to dry needle while covering for a weekend as an athletic trainer.

The Board discusses how the education requirements for athletic trainers and physical therapists to perform dry needling are very similar. Tedd adds that if a licensee has been approved to dry needle by the Physical Therapy Board, they should be approved as an athletic trainer as well. Mike Detmer, Deputy Attorney General, states that he represents the Physical Therapy Board and can speak with DAG Ward about any questions if necessary. Tedd expresses confidence in the PT Board's process to adequately assess their licensees' qualifications to dry needle.

Keoni reiterates that the primary question is if they dry needling as an athletic trainer. If so, they must submit their documentation for review and approval. Once they have gathered their paperwork together for one Board, they can easily submit it to the other. There is no further discussion, and no action is taken.

6. Review and discuss adding a question on the initial and renewal applications if the applicant or licensee dry needles and if they are dual licensed. If they will be working as a PT and not an AT, they will need to provide the PT Board with their proof of training and education. (For Possible Action) Tedd states that this matter has been discussed already and asks for any comments. Keoni Kins would like to clarify the questions that are being added to the applications and a place for applicants to acknowledge their dual licensing in a different profession that can dry needle. The Board discusses possible questions and settles on the following: 1) Do you currently dry needle as an athletic trainer? 2) Are you dual licensed?

Tedd Girouard motions to add the language to the renewal application or initial application asking if the applicant dry needles. And if they are dual licensed, under which of those licenses they intend to dry needle under. Kyle Moore seconds the motion and the motion passes.

7. Review and discuss the renewal application and whether to add questions regarding dry needling. (For Possible Action) Tedd Girouard states that the previous motion covered this agenda item. No action is taken.

8. Review and approve the cost of printing reminder postcards for Renewals. (For Possible Action) Michelle Cothrun informs the Board that the cost for printing reminder postcards was around \$100.00 last renewal season; however, the cost may be more this year. Tedd Girouard motions to approve the cost of printing the reminder postcards up to \$200.00 for this application cycle. Jay Cambridge seconds the motion, and it passes.

9. Review and discuss when the Subcommittee on Dry Needling should meet to review dry needling documentation, whether on a regular basis or as needed when new applications are received. (For Possible Action) Kyle Moore states that this matter was discussed briefly earlier in the meeting. The Subcommittee has already discussed and agreed to meet on an as needed basis. The Board discusses if it would be best to set the next Subcommittee meeting after renewals. Michelle will email the Subcommittee members to set a date soon after the renewal period ends on July 1st. Tedd requests for Michelle to inform licensees that submit their applications about the timeline of the next Subcommittee meeting and the Board meeting after that. There is no further discussion, and no action is taken.

10. Review and discuss the closing of the Puliz storage account, the fees associated with the closing of the account, and the account being sent to collections. (For Possible Action) Michelle Cothrun clarifies that the Puliz storage account was sent to an internal collections department. The Board was paying Puliz \$10.00 per month for storage fees. The December 2020 bill was sent with a letter dated in October that a company called VRC took over Puliz. VRC would not honor the Puliz rates and would be charging over \$50.00 per month. Michelle outlines the steps she took to close the account. In February, when she went to pick up the Board's three boxes, she paid the \$73.46 to close the account. VRC is still sending invoices and charging a 1.5% late fee. Tedd suggests that Michelle send a certified letter outlining the steps she took to close the account. As far as the Board is concerned, the account

is closed. Kyle Moore suggests adding this matter to a future agenda item when Harry Ward is present. Tedd agrees and the matter is tabled until the next Board meeting. There is no further discussion.

11. Report from Executive Secretary, Michelle Cothrun. (Discussion) Michelle Cothrun reports that the Board's name has been added to the door at the new office location on Mae Anne Avenue. In addition, she is in the process of updating all the vendors with the new address. Lastly, the Board website was reviewed and is ADA compliant except for one document, which is from the Department of Public Safety. She is working on making it compliant. There is no further discussion.

12. Report from Harry B. Ward, Deputy Attorney General. (Discussion) Harry Ward is not in attendance. Therefore, this agenda item is tabled until the next meeting.

13. Future agenda items. (Discussion) Michelle Cothrun informs the Board that Frank Sakelarios forwarded a healthcare careers manual with statistics compiled by the University of Nevada, Reno (UNR) for the Board to review. It incorrectly states the statistics for athletic trainers as being 2,500 in the state of Nevada. That number may represent the number of personal trainers in the state. She will add it to a future agenda to see if the Board would like to send the authors a letter. Tedd suggest that Michelle forward the manual to the Association (NevATA), as it may be Association business as well. There is no further discussion.

14. Public comment. Tedd Girouard asks the two members of the public still in attendance if they have any comment. Michael Sepiol from the Nevada Athletic Trainers Association (NevATA) wants to follow up and confirm that those individuals who have met the minimum requirements are allowed to practice Dry needling and asked how those members would be notified. Michelle answers that she will be contacting them by email to let them know the results. She adds that at a previous meeting, the Board voted to have an additional column added to the active licensees list that indicates whether the licensee is approved to dry needle or not. In addition, those individuals who are approved to dry needle are going to have a line added to their licenses stating that they meet the requirements per NRS to dry needle. Michael then asks what the process is if an individual is deemed not to meet the requirements. Tedd replies that they can petition the Board to review their application, rather than just before the Subcommittee. There is no further comment.

15. Adjournment. (For Possible Action) Before adjourning the meeting, Tedd Girouard would like to schedule the next Board meeting. The Board discusses dates and times for the next meeting and settles on July 12, 2021 at 3:00 PM. Tedd thanks everyone in attendance, especially Mike Detmer from the Attorney General's office for stepping in. The meeting is adjourned at **2:38 PM**.

Exhibit 1 - SB335_Testimony_Elliot Malin_Nevada Board of Homeopathic Medical Examiners

April 1, 2021

Good morning,

Vice Chair Neal and Members of the Senate Committee on Commerce and Labor, for the record my name is Elliot Malin, first name E-L-L-I-O-T last name M-A-L-I-N, representing the Nevada Board of Homeopathic Medical Examiners. Thank you for the opportunity to speak with you today. We are neutral on SB 335 and have communicated with Senator Hardy that we stand ready to work with him to make this bill work with a few changes.

We would like to see the advisory boards as detailed in the bill be empowered as subject matter experts in their respective fields to have a greater role within the new Division in the Department of Business & Industry. This role would not give the advisory board final say on any decisions but would allow them to have a substantial part in the proctoring and administering of the licensure exam, reviewing continuing education credits, reviewing and making recommendations to update regulations within industry standards, and to investigate bad actors and make recommendations to the Administrator of the Division of Licensing on punitive measures that they should be taken. We believe these are reasonable to help protect Nevadans while forging ahead in a new direction that will create a more efficient and effective regulatory body.

We look forward to continuing to work with the sponsor and continue our conversations on this bill.

I stand ready to answer any questions, and I thank you for your time today.

Exhibit 2 – List of applications that are recommended to pass after Subcommittee on Dry Needling review

#	ID #	Last Name	Subcommittee Review Notes
1	1	Munroe	Recommended to Pass
2	45	Biancuzzo	Recommended to Pass
3	47	Lobo	Recommended to Pass
4	48	Moore	Recommended to Pass
5	49	Touton	Recommended to Pass
6	50	Mellette	Recommended to Pass
7	52	McCauley	Recommended to Pass
8	53	Muir	Recommended to Pass
9	54	Lindl	Recommended to Pass
10	58	Oudyk	Recommended to Pass
11	59	Piegaro, Jr	Recommended to Pass
12	60	Mosley	Recommended to Pass
13	61	Bustamante	Recommended to Pass
14	62	Bosch	Recommended to Pass
15	63	Perlsweig	Recommended to Pass
16	64	Derreth	Recommended to Pass
17	66	Richardson	Recommended to Pass
18	69	Thompson	Recommended to Pass
19	71	Fryer	Recommended to Pass
20	72	Huntsman	Recommended to Pass
21	74	Seyalioglu	Recommended to Pass
22	80	DeMartini	Recommended to Pass
23	81	Rainone	Recommended to Pass
24	82	Jeffries	Recommended to Pass
25	84	Sallaway	Recommended to Pass