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STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900  
Las Vegas, Nevada 89101

October 5, 2020

**Via U.S. Mail**

Rhonda Link



**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-358  
Northern Nye County Hospital District Board of Trustees**

Dear Ms. Link:

You filed a complaint (Complaint) with the Office of the Attorney General (OAG) alleging violations of the Nevada Open Meeting Law (OML) by the Northern Nye County Hospital District Board of Trustees (Board). The Complaint alleges that the Board violated the OML by two members discussing and taking action outside of a public meeting.

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. The investigation of the Complaint included OAG review of the Complaint the response to the Complaint from the Board's counsel, and attachments thereto, including minutes of the Board's September 19, 2019 meeting.

**FACTUAL BACKGROUND**

The Board was created by the Nye County Commission under its authority in NRS Chapter 450. The Board is a "public body" as defined in NRS 241.015(4) and is subject to the OML. At the time of the circumstances regarding the Complaint, it was made up of five Trustees.

Beginning in 2019, the Board was engaged in negotiations with Central Nevada Regional Clinic regarding provider services in the area. A document considered confidential by the Board relating to those negotiations was delivered to Renown Health Clinic, the current provider in the area. Two Board Trustees, Justin Zimmerman and Karmin Greber, discussed the issue and determined that Trustee Zimmerman would investigate the document disclosure. Trustee Zimmerman then discussed the issue with the Board's counsel and asked the Board's counsel to look into it.

At the Board's September 19, 2019 meeting, Trustee Zimmerman read a statement wherein he described the aforementioned events and announced that Complainant, who had been a Trustee during the above events, had resigned from the Board. Complainant subsequently filed the instant Complaint alleging that the discussions between Trustees Zimmerman and Greber and decision by them to talk to the Board's counsel are a violation of the OML.

### **DISCUSSION AND LEGAL ANALYSIS**

As a preliminary matter, the Board questioned the timeliness of the Complaint in its Response. The AGO must investigate any violation of the OML alleged in a complaint filed not later than 120 days after the alleged violation. NRS 241.039. The document disclosure that started the instant allegations occurred on August 27, 2019. While the file stamp on the Complaint states February 10, 2020, the Complaint was signed and mailed on November 8, 2019 and received by the AGO Mailroom a few days later, less than 120 days from the activity alleged to have violated the OML. Thus, the AGO finds that this Complaint was filed in a timely manner.

The OML requires that "all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies" unless otherwise provided by specific statute. NRS 241.020(1). A "meeting" generally requires a "gathering of members of a public body at which quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power." NRS 241.015(3). A "quorum" is a simple majority of the membership of a public body or another proportion established by law. NRS 241.015(5).

At the time of the circumstances alleged in the Complaint, the Board had five members, making three members required for a quorum. As only two members discussed the document disclosure issue, they did not constitute a quorum and did not violate the OML. Further, Trustee Zimmerman's actions in discussing the issue with the Board's counsel did not violate the OML as discussions with counsel seeking legal advice are not required to occur during a public meeting. *See* NRS 21.015(3)(b).

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**CONCLUSION**

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD  
Attorney General

/s/ Rosalie Bordelove  
ROSALIE BORDELOVE  
Chief Deputy Attorney General

cc: Thomas A. Vallas, Counsel for the Board