



STATE OF NEVADA
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April 11, 2016

Via First Class Mail

Rachel Kohl
7250 Peak Drive
Las Vegas, Nevada 89128

Re: Open Meeting Law Complaint, A.G. File No. 13897-152
Oriental Medicine Board

Dear Ms. Kohl:

The Attorney General's Office (OAG) is closing its investigation in this matter. We were asked to investigate a violation of the Open Meeting law alleging that Dr. Park, Chairman (Chairman Park) of the Oriental Medicine Board (Board), violated the Open Meeting Law (OML) in the way he handled public comment during a public regulation workshop. The workshop was held in conjunction with a regular meeting on May 6, 2015.

The purpose of the public regulation workshop was to solicit comments from interested persons regarding the proposed regulation. NRS 233.061(5) requires each public workshop to be conducted in accordance with the OML.¹ The proposed regulation was the first item on the agenda after adoption of agenda.²

¹ **NRS 233B.061 Proposed permanent or temporary regulation: Public comment; workshop; public hearing; applicability of Open Meeting Law.**

5. Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of chapter 241 of NRS.

(Added to NRS by 1983, 1125; A 1989, 571; 1997, 185; 2005, 1407; 2007, 873; 2009, 2284)

² (4) Public workshop Proposed Regulation relating to: Approved Schools, Licensee Fees, Application Requirement Hours, CEU's, Exam Requirements, Professional Conduct etc. per LCB File No. R 072-14, NAC 634 (for possible action) (As of this writing the proposed regulation has not been returned from LCB)

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Members of the public were not prevented from speaking, except when their time limit was up. Chairman Park allowed repetitive testimony and permitted other individuals to comment multiple times. He allowed public testimony for two hours before moving on to the next agenda item.


The role of the moderator of a public meeting, when enforcing rules like the public comment time limit, is highly discretionary.³ No speaker was prevented from making comments about the proposed regulation because of his or her viewpoint—whether in favor or against it. *White v. City of Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990). Mere allegations to that effect do not require action from the OAG. The speaker's viewpoint was not the basis for preventing further comment from the speaker.

We found no violation; we are closing our file.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:



GEORGE H. TAYLOR
Senior Deputy Attorney General
Bureau of Government Affairs
Boards and Open Government Division
Open Meeting Law

Cc: Farolyn McSweeney, OMD, President, State Board of Oriental Medicine
Sophia Long, Deputy Attorney General

³ The interpretation and the enforcement of rules during public meetings are highly discretionary functions. See *White v. City of Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990) (“[T]he point at which speech becomes unduly repetitious or largely irrelevant is not mathematically determinable. The role of a moderator involves a great deal of discretion.”). See *Norse v. City of Santa Cruz*, 586 F.3d 697, 699 (9th Cir. 2009), on reh'g en banc, 629 F.3d 966 (9th Cir. 2010)