

ADAM PAUL LAXALT
Attorney General



NICHOLAS A. TRUTANICH
Chief of Staff

KETAN D. BHIRUD
General Counsel

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101

December 13, 2017

via Electronic Mail

Dean Estes

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-236
Nevada State Board of Nursing**

Dear Mr. Estes:

The Office of the Attorney General (OAG) is in receipt of your complaint (Complaint) alleging a violation of the Open Meeting Law (OML) by the Nevada State Board of Nursing (Board). The Complaint alleges that items on the Board's agenda (Agenda) for its July 25, 2017 and July 26, 2017 meetings failed to clearly and completely state the topics scheduled to be considered during the 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. In response to the Complaint, the OAG reviewed the Complaint as well as the agenda and minutes of the Board's July meetings.

FACTUAL BACKGROUND

The Complaint alleges that Agenda Items A(2) and A(22) did not provide sufficient information for members of the public to determine whether or not to attend the July Board meetings.

Item A(2) of the Board's Agenda included the description "Executive Director Report." During discussion of Agenda Item A(2), the Board's Executive Director, Cathy Dinauer, issued her report to the Board regarding personnel changes to the board's staff, upcoming legislative update sessions related to advanced practice registered nurses, and safety and information technology related concerns in the Board's Las Vegas office.

Item A(22) of the Board's Agenda included the description "Review, discussion, and possible action regarding the roles of the Disability Advisory Committee and possible regulatory changes." During discussion of Agenda Item A(22), Executive Director Dinauer reported on the history of the Disability Advisory Committee (DAC) and the subsequent creation of the Professional Evaluation Group (PEG). The Board's General Counsel, Fred Olmstead, provided the Board with copies of the statutes and regulations that govern the DAC and PEG and the Board discussed possible changes to the Board's probation and monitoring programs. The Board voted to direct its staff to develop options for Board evaluations and possible changes to its regulations.

DISCUSSION AND LEGAL ANALYSIS

The Board is a "public body" as defined in NRS 241.015(4), and is therefore subject to the OML. The Nevada Legislature intends that the actions of public bodies "be taken openly and that their deliberations be conducted openly." NRS 241.010(1); see *McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). The Legislature included the "clear and complete statement" standard to the OML because "incomplete and poorly written agendas deprive citizens of their right to take part in government' and interfere with the 'press' ability to report the actions of government." *Sandoval v. Bd. of Regents of Univ. & Cmty. Coll. Sys. Of Nev.*, 119 Nev. 148, 154, 67 P.3d 902, 905 (2003).

Here, Agenda Item A(2) clearly and completely stated that the Executive Director would present her report to the Board. The Executive Director, as the day-to-day operational manager of the Board, reported on the Board's personnel and technical issues. The Board's Agenda clearly and completely described Agenda Item A(2) and the Board's discussion did not exceed the scope of the description. Therefore, the Board did not violate the OML's clear and complete statement requirement regarding Agenda Item A(2).

Agenda Item A(22) clearly and completely stated that the Board would discuss and take possible action regarding the DAC including possible regulatory changes. The Board discussed the role of the DAC, in relation to the PEG, and took action directing its staff to develop possible changes to its regulations. The description of Agenda Item A(22) clearly and completely stated the scope of the discussion and placed the public on notice that the Board may take action regarding possible changes to its regulations regarding the DAC. Therefore, the Board did not violate the OML's clear and complete statement requirement regarding Agenda Item A(22).


Dean Estes
Page 3
December 13, 2017

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred because the Board met the OML's clear and complete statement requirement for its Agenda. The OAG will close the file regarding this matter.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: 
CAROLINE BATEMAN
Chief Deputy Attorney General
Boards and Open Government Division

CB:arz

cc: Fred Olmstead, General Counsel,
Nevada State Board of Nursing