



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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December 9, 2015

Lyle Scott Brooksby
8960 West Cheyenne #190
Las Vegas, Nevada 89129

Re: Open Meeting Law File No. 13897-161, Dental Board of Examiners

Dear Mr. Brooksby:

We have reviewed your Open Meeting Law (OML) complaint alleging the Nevada State Board of Dental Examiners (Board), Debra Schaffer-Kugel, the Board's Executive Director (Director) and John Hunt Esq., Board Counsel (Counsel), prohibited you from speaking during the Board's first period of public comment at its meeting on July 31, 2015. The alleged prohibition from speaking during public comment appears to be based on your demand to lodge a written and verbal complaint which alleges "civil extortion, duress, abuse of power, violation of due process and fraud."

We reviewed the audio of the relevant portion of the public comment period and the "Written and Signed Complaint" sought to be "filed" with the Board during public comment. Board Counsel provided the Board's July 31, 2015 agenda and minutes and documents in response to our request for a written statement in defense to the Complainant's allegations of OML violation—specifically the allegation that Dr. Brooksby was prohibited from speaking during a public comment agenda item.

Counsel also provided public record of the Board's Findings of Fact and Conclusions of Law in Case No. 74127-02772, a complaint brought by the Board against L. Scott Brooksby D.D.S. We were also provided with a copy of the District Court Order Granting Permanent Injunction (also a public record) against Andrea Brooksby Smith in Case No. A-15-718338-C. The injunction prohibits Andrea Smith from practicing dental hygiene in Nevada.

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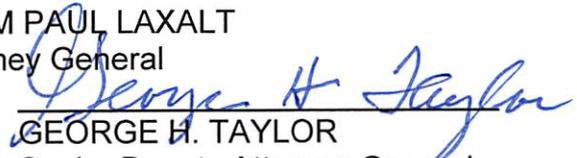
The Attorney General's office has jurisdiction to investigate OML complaints and seek civil remedies against public bodies, including injunctive relief, to require compliance with the OML or to prevent violations of the OML. A criminal misdemeanor penalty and a monetary penalty are also authorized relief against individuals in any court of competent jurisdiction. NRS 241.037; NRS 241 .040.

The sole issue in Dr. Brooksby's OML complaint is whether the OML was violated when Counsel and the Board stopped him during public comment from attempting to "file" a "Written and Signed Complaint" with the Board. We do not find a violation of the OML for a two reasons. First, the Board is not empowered to investigate any natural person for the alleged violations in the "Written and Signed Complaint" (NRS 631.350), and secondly, no public body has to accept a document such as "Written and Signed Complaint" during public comment, because random submissions not reflecting a person's actual comment do not have to be accepted by the public body for inclusion in its minutes or even if offered for another purpose like the "Written and Signed Complaint" offered by Dr. Brooksby.¹

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:


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

Cc: John a. Hunt, Esq., General Counsel
Board Members
Debra Schaffer-Kugel, Executive Director

¹ **NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.**

1. Each public body shall keep written minutes of each of its meetings, including:
 - (a) The date, time and place of the meeting.
 - (b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.
 - (c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.
 - (d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.
 - (e) Any other information which any member of the public body requests to be included or reflected in the minutes.