STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of **STEVE EVENSON**,
Member, Pershing General Hospital, Board of Trustees,
Pershing County, State of Nevada,

Subject.
_____/

Request for Opinion No. 10-05C

PANEL DETERMINATION

NRS 281A.440(5); NAC 281A.440

Facts and Jurisdiction

The Nevada Commission on Ethics (Commission) received an Ethics Complaint against Steve Evenson (Evenson), member of the Pershing General Hospital Board of Trustees (Hospital Board), alleging certain violations of the Ethics in Government Law set forth in NRS 281A (Ethics Law). The Commission investigated these allegations and discovered issues and facts implicating additional possible violations of NRS 281A. Commission staff presented the following allegations of violations of the Ethics Law to the Panel:

1) NRS 281A.400(2) by using his position on the Hospital Board to further his personal interest in terminating the employment of the Hospital's administrator, Matt Rees (Rees);
2) NRS 281A.400(7) by using governmental time and property to benefit his personal interest in terminating Rees' employment;
3) NRS 281A.400(9) by seeking to benefit his personal interest in terminating Rees' employment through the influence of a subordinate;
4) NRS 281A.400(10) by seeking other employment though the use of his public position to "appoint himself" to serve or be appointed as the Hospital Board's legal counsel;
5) NRS 281A.420(1) by failing to disclose his pecuniary interest and/or his commitment in a private capacity to the interests of others when the Hospital Board considered implementing a discount policy on outstanding patient balances; and
6) NRS 281A.420(3) by failing to abstain from voting on the Hospital Board's motion to adopt a discount policy for outstanding patient balances from which he, or any person to whom he had a commitment in a private capacity, would have benefited.

At the time of the alleged conduct, Evenson was, and still is, a member of the Hospital Board, a public officer as defined in NRS 281A.160. Therefore, the Commission has jurisdiction in this matter.

Panel Proceeding

On April 8, 2010, pursuant to NRS 281A.440(5), a Panel consisting of Commissioners Jim Shaw and John Marvel reviewed the following: 1) Ethics Complaint; 2) Mr. Evenson's response to the Ethics Complaint, 3) Investigator's Report; and 4) Acting Executive Director's Recommendation and Submission of Investigator's Report.

The following are the Panel's unanimous findings and conclusions as to each of the allegations it considered:

1. Credible evidence exists to support a finding of just and sufficient cause for the Commission to render an opinion on whether Evenson violated NRS 281A.400(2) by using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself. The panel found that a minimum level of reliable and competent evidence exists to support a reasonable belief by the panel that:

    1) Between May 5, 2009 and May 23, 2009, for the purpose of satisfying his personal interest, preference or advantage in terminating Rees' employment, Evenson conferred with Littler Mendelson law firm in Reno, Nevada for the purposes of reviewing Matt Rees' employment contract and:

        a) Did not share all pertinent information with the Hospital Board regarding the legal advice provided by Littler Mendelson; and

        b) Made changes to Rees' employment contract without the Hospital Board's approval; and

    2) On October 28, 2009, December 30, 2009 and February 11, 2010, for the purpose of satisfying his personal interest, preference or advantage in terminating Rees' employment, Evenson engaged in a continuous pattern of abusive questioning, as though conducting an interrogation, which appeared to have the intent of terminating Rees' employment.

    Therefore, these alleged violations are referred to the Commission for a hearing to render an opinion.

2. Credible evidence does not exist to support a finding of just and sufficient cause for the Commission to render an opinion whether Evenson violated NRS 281A.400(7) by using governmental time, property, equipment and other facility to benefit his personal interest. The panel found that a minimum level of reliable and competent evidence did not exist to support a reasonable belief by the panel that on January 12, 2010 and May 20, 2009, Evenson used Mr. Rees' assistant, Rusty Kemp, to benefit his personal interest in pursuing Mr. Rees' employment termination by requesting information from Ms. Kemp related to Mr. Rees.

   Therefore, these alleged violations are not referred to the Commission for a hearing to render an opinion.

3. Credible evidence does not exist to support a finding of just and sufficient cause for the Commission to render an opinion whether Evenson violated NRS 281A.400(9) by seeking to benefit his personal interest through the influence of his subordinate. The panel found that a minimum level of reliable and competent evidence did not exist to support a reasonable belief by the panel that on January 12, 2010 and May 20, 2009, Evenson sought to benefit his personal interest in pursuing Mr. Rees' employment termination by requesting information related to Mr. Rees from Mr. Rees' assistant, Rusty Kemp.

   Therefore, these alleged violations are not referred to the Commission for a hearing to render an opinion.

4. Credible evidence exists to support a finding of just and sufficient cause for the Commission to render an opinion on whether Evenson violated NRS 281A.400(10) between April 30, 2008 and about September 24, 2008 by seeking other employment through the use of his official position. The panel found that a minimum level of reliable and competent evidence exists to support a reasonable belief by the panel that Evenson used his position as a member of the Hospital Board to "appoint himself" or to become appointed to serve as the Board's legal counsel during the temporary absence of the Board's regular legal counsel, even though he was only informally appointed to negotiate Mr. Rees' employment contract as a liaison between the Board and a law firm specializing in employment contracts.

   Therefore, this alleged violation is referred to the Commission for a hearing to render an opinion.

5. Credible evidence exists to support a finding of just and sufficient cause for the Commission to render an opinion on whether Evenson, on August 4, 2009, violated NRS 281A.420(1) by failing to disclose his pecuniary interest or his commitment in a private capacity to a member of his household or family before voting on the approval of a discount policy for outstanding balances on patient accounts. The panel finds that a minimum level of reliable and competent evidence exists to support a reasonable belief by this panel that Mr. Evenson knew that on August 4, 2009, he, or a member of his household or family, had an outstanding balance with the hospital and that he

or a member of his family would benefit from the approval of the discount policy and despite this knowledge, Evenson did not disclose his interest or commitment.

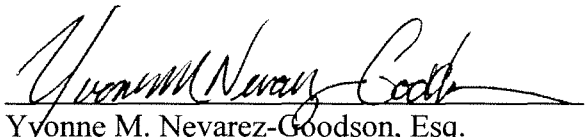
Therefore, this alleged violation is referred to the Commission for a hearing to render an opinion.

6. Credible evidence exists to support a finding of just and sufficient cause for the Commission to render an opinion whether Evenson, on August 4, 2009, violated NRS 281A.420(3) by failing to abstain from voting on a matter regarding a discount policy for outstanding patient balances with respect to which he had a pecuniary interest or commitment in a private capacity to a member of his household or family and as a result of which the independence of judgment of a reasonable person in his situation would have been materially affected. The panel finds that a minimum level of reliable and competent evidence exists to support a reasonable belief by this panel that Mr. Evenson knew that on August 4, 2009, he, or a member of his household or family, had an outstanding balance with the hospital and that he or a member of his family would benefit from the approval of the discount policy and that his interest created a matter in which he should have abstained from voting, but he did not abstain from voting on the matter.

   Therefore, this alleged violation is referred to the Commission for a hearing to render an opinion.

The above mentioned allegations in Request for Opinion 10-05C are, therefore, REFERRED TO THE NEVADA COMMISSION ON ETHICS for a hearing.

Dated: April 15, 2010



Yvonne M. Nevarez-Goodson, Esq.
Commission Counsel
Acting Executive Director for RFO 10-05C

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I placed a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-05C**, in an envelope and caused same to be mailed via certified mail, return receipt requested, through the State of Nevada Mailroom to Steve E. Evenson's Legal Counsel, Alice Campos Mercado, Esq., and a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-05C** to Steve E. Evenson, Esq., and the Requestor, Matthew Rees, care of his legal counsel, Nicole Harvey, Esq., via regular mail through the State of Nevada Mailroom addressed as follows:

Alice Campos Mercado, Esq. Lemons, Grundy & Eisenberg 6005 Plumas Street, Suite 300 Reno, Nevada 89519	Cert. No. 7002 2030 0005 8442 4171
Steve E. Evenson, Esq. P.O. Box 492 Lovelock, NV 89419	First Class Mail
Nicole M. Harvey, Esq. Harvey Law Firm 458 Court Street Reno, NV 89501	First Class Mail

DATED: 04/15/10

Michelle A Ené
An employee, Nevada Commission on Ethics