STATE OF NEVADA
COMMISSION ON ETHICS
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MINUTES

of the meeting of the

COMMISSION ON ETHICS

January 14-15, 2010

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. A verbatim transcript of the open session proceeding is available for inspection at the Commission office in Carson City.

The Commission on Ethics held a public meeting on Thursday, January 14 and 15, 2010, beginning at 9:00 a.m. at the following locations:

Nevada Legislative Building
Room 3143
401 South Carson Street
Carson City, NV

Or via video-teleconference at

Grant Sawyer State Building
Room 4406
555 E. Washington Avenue
Las Vegas, NV

1. Call to Order, Roll Call.

In Carson City, Acting Chairman, Paul H. Lamboley, Esq. called the meeting to order and called the roll at 9:03 a.m., Thursday, January 14, 2010.

Also present in Carson City were Commissioners Erik Beyer, P.E., Gregory Gale, C.P.A., John W. Marvel and James Shaw. Commissioner Mark Hutchison, Esq. attended via video-teleconference. Also present in Las Vegas was Michel Vavra, Investigator. Commissioners George Keele, Esq. and John T. Moran, III, Esq. were excused.

Also present in Carson City were Executive Director, Caren Jenkins, Esq., Commission Counsel, Yvonne Nevarez-Goodson, Esq. and Executive Assistant, Michelle Ene.

2. Open session pursuant to NRS 281A.440(6) to hear testimony, receive evidence, deliberate and render an opinion relating to Request for Opinion No. 09-11C, submitted pursuant to NRS 281A.440(2)(b) alleging that certain conduct of Soon Kim, M.D., Trustee, Humboldt General Hospital Board of Directors, violated NRS 281A.420(2) and NRS 281A.420(4).

All witnesses and the subject were sworn in by the Court Reporter prior to their testimony. Bob Dolan, Esq., counsel for Soon Kim, M.D., made an opening statement outlining the arguments.

The following witnesses were called: Debra Aitken Whittaker, Jessica Moyrong, Sharleen Cooney, Miranda Allen, Larry Hutcheson, James Parish and, Kent Maher. The subject, Soon Kim, was also called to testify.

A break was taken at 11:03 a.m., and the Commission meeting resumed at 11:13 a.m. The examination and testimony of witnesses continued. A lunch recess was taken at 12:06 p.m. and the meeting resumed at 1:00 p.m. The examination and testimony of witnesses continued.

Both Subject's counsel and the Commission questioned the witnesses and the subject. The Acting Chairman closed the testimony.

A break was taken at 4:59 p.m. and the Commission meeting resumed at 5:04 p.m.

The Subject's counsel made a closing argument. The Commission deliberated and made the following findings of fact and conclusions of law.

Following the examination of witnesses and Commissioners' deliberation, Commissioner Hutchison moved that the Commission find that Dr. Soon Kim did violate NRS 281A.420(4), as that statute existed on February 24, 2009, with the amendments set forth in Section 9 of Senate Bill 160 of the 2009 Legislative Session, by failing to disclose her pecuniary interest in the reimbursement check issued to her on January 16, 2009, before voting to approve the issuance of that check at the February 24, 2009 Board meeting. Seconded by Commissioner Marvel. The motion passed four to two, with Commissioners Beyer and Shaw voting nay.

Commissioner Hutchison moved that the Commission find that Dr. Soon Kim's conduct with respect to disclosure was willful. Hutchison stated that Dr. Kim had an obligation to look at the materials, educate herself, understand fully what she was being presented, and then ultimately vote. The motion failed for lack of a second.

Commissioner Lamboley moved that the Commission find that Dr. Soon Kim's failure to meet her duty to disclose her conflict of interest, having been found a violation of NRS 281A.420(4), was not willful. Commissioner Beyer seconded the motion. The motion passed four to two, with Commissioners Hutchison and Shaw voting nay.

Commissioner Hutchison moved that the Commission find that Dr. Soon Kim did not violate NRS 281A.420(2), as that statute existed on February 24, 2009, as amended by Senate Bill 160 of the 2009 Legislative Session, by failing to abstain from voting on the February 24, 2009, check run which included the reimbursement check issued to Dr. Kim on January 16, 2009. Commissioner Marvel seconded the motion. Commissioner Hutchison clarified that the basis for the motion is that the resulting benefit or detriment accruing to Dr. Kim was no greater than the benefit or detriment accruing to any other physician entitled to a reimbursement check

under similar circumstances. Commissioner Marvel seconded the clarification to the motion. The motion was passed by unanimous vote.

6. Public comment.

Dr. Soon Kim stated that she appreciated all the time that the Commission invested into this case. She stated that it would be wonderful if she could have a Board like the Commission on Ethics in Winnemucca. She stated that being a board member is a work in progress. She stated that a public servant needs to be held accountable, but the entity that governs that board needs to also help its board to get there.

Mr. Allen Violette stated that it was an honor to sit and listen to the hearing.

Acting Chairman Lamboley recessed the meeting at 6:20 p.m.

January 15, 2010

Chairman, George M. Keele, Esq., called the meeting to order and called the roll at 9:03 a.m., Friday, January 15, 2010 telephonically.

Present in Carson City were Commissioners Erik Beyer, P.E., Paul H. Lamboley, Esq. and James M. Shaw. Commissioners Gregory Gale, C.P.A. and John T. Moran, III, Esq. attended via video-teleconference in Las Vegas. Also present in Las Vegas was Michel Vavra, Investigator. Commissioners Mark Hutchison and John W. Marvel were excused due to scheduling conflicts.

Also present in Carson City was Executive Director, Caren Jenkins, Esq., and Commission Counsel, Yvonne Nevarez-Goodson, Esq. No members of the public were present.

3. Closed session pursuant to NRS 281A.440(15) to hear testimony, receive evidence, deliberate and render an opinion on Request for Opinion No. 09-90A submitted pursuant to NRS 281A.440(1).

This matter is confidential and was held in closed session.

4. Open session for discussion of agency status and operations.

Executive Director Caren Jenkins reported that the Commission received 53 requests for opinion from July 1 to December 31, 2009. January to June 2009, the Commission received 43 requests for opinion, which indicates a 25% increase in this fiscal year, July to December, over last fiscal year's final six months.

Ms. Jenkins also reported that she received a directive from the Governor's Office to propose additional budgets cuts of 3%, bringing the total for this fiscal year to 4.6%. Ms. Jenkins stated that she submitted a memo to Budget Director Andrew Clinger outlining reductions. Her recommendations were trimming operating costs, using more video teleconferencing in Commission meetings rather than traveling, and having panels at the same time as Commission meetings.

Ms. Jenkins reported that in January she received a request from the Governor's Office for proposals for 6%, 8% and 10% reductions to the Commission budget. She was able to respond due to salary savings of the Executive Director and Commission Counsel positions having been vacant, reductions experienced by furloughs and the closing of the Las Vegas office as of July 1, 2010.

Ms. Jenkins stated that the closing of the Las Vegas office was not offered simply for budget reduction purposes. She stated that it has become apparent that the Legal Research Analyst position needs to be in the Carson City office since that position works so closely with Commission Counsel and therefore she proposed the position transfer to the Carson City office starting July 1. Ms. Jenkins stated that regardless of the Governor's eventual mandate, she recommended that the Commission move forward with closing the Las Vegas office.

The investigator position will remain in Las Vegas and have a non-public-access office, probably in the Grant Sawyer State Building.

Ms. Jenkins stated that she would be giving ethics training in White Pine County in March and that she would be putting together an all-Nevada tour to do outreach ethics training in all Nevada counties.

There was a brief discussion regarding bill draft requests for the 2011 Legislative session.

5. Open session for Commissioner comments.

   There were no comments made by the Commissioners.

6. Open session for public comment.

   Chairman Keele opened up the meeting once again for public comment. There was no public comment.

7. Adjournment.

   Chairman Keele adjourned the meeting at 12:02 p.m.

Minutes prepared by:

Valerie Carter

Executive Assistant

Minutes approved September 13, 2011:

Erik Beyer

Erik Beyer, P.E.
Chairman