



STATE OF NEVADA
COMMISSION ON ETHICS
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MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS

The Commission on Ethics held a public meeting on
Wednesday, May 22, 2019, at 9:30 a.m.
at the following location:

Nevada State Capitol Building
Guinn Room
101 N. Carson Street, Second Floor
Carson City, NV 89701

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts are available for public inspection at the Commission's office.

1. Call to Order and Roll Call.

Chair Cheryl A. Lau, Esq. appeared in Carson City and called the meeting to order at 9:30 a.m. Also appearing in Carson City were Commissioners Brian Duffrin, Barbara Gruenewald, Esq., Philip K. (P.K.) O'Neill, and Kim Wallin, CPA. Appearing telephonically were Commissioners Teresa Lowry, Esq. and Amanda Yen, Esq. Vice-Chair Keith A. Weaver, Esq. was excused. Present for Commission staff in Carson City were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq., Senior Legal Researcher Darci Hayden and Executive Assistant Kari Pedroza.

The pledge of allegiance was conducted.

2. Public Comment.

The Chair asked for public comment.

Sandra Anderson, Executive Director of the Nevada State Board of Massage Therapy, provided public comment and thanked the Commission staff for their efforts and work pertaining to Agenda Item No. 4.

3. Approval of Minutes of the April 17, 2019 Commission Meeting.

Chair Lau stated that all Commissioners were present for the April meeting except Commissioner Yen who was excused from that meeting and would abstain from participating in this item.

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Commissioner Wallin moved to approve the April 17, 2019 Minutes as presented. Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye.
Commissioner Duffrin:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Lowry:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.
Commissioner Yen:	Abstain.

4. Discussion and consideration of Proposed Stipulation regarding Ethics Complaint Case No. 18-005C (Cooper).

Chair Lau recognized that along with Commissioners Duffrin and Lowry, she served on the Review Panel in this case and would be statutorily precluded from participating in this item. Noting that Vice Chair Weaver was excused from the meeting, she therefore asked the Commission to appoint an acting Chair for this matter and asked Commission Counsel to assist.

Commission Counsel Chase reiterated that pursuant to NRS 281A.220 (4), Chair Lau and Commissioners Duffrin and Lowry were precluded from participating in this matter because they served on the Review Panel. She explained the related quorum reduction provided by Statute and identified Commissioners Gruenewald, O'Neill, Wallin and Yen as eligible to participate in this item. She asked for a motion to appoint a temporary acting Chair over the Item pursuant to NAC 281A.175.

Commissioner Gruenewald made a motion to appoint Commissioner Wallin as the temporary acting Chair to preside over this item. Commissioner Yen seconded the motion. The Motion was put to a vote and carried as follows:

Commissioner Gruenewald:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.
Commissioner Yen:	Aye.

Commission Counsel Chase turned over the Agenda Item to Commissioner Wallin as presiding officer.

Acting Chair Wallin asked each attorney representing the parties to identify themselves for the record. Appearing on behalf of the Subject, Lisa Cooper, was Lynn Beggs, Esq. Counsel Beggs informed the Commission that Ms. Cooper could be available telephonically should they have questions for her client. Appearing on behalf of the Executive Director was Associate Counsel Judy A. Prutzman, Esq. and Executive Director, Yvonne Nevarez-Goodson.

Associate Counsel Prutzman provided a brief overview of the Proposed Stipulation. Associate Counsel Prutzman summarized that Complaint Case No. 18-005C alleged Lisa Cooper, former Executive Director of the State Board of Massage Therapy, violated the Ethics Law when she used her public position to receive additional unauthorized annual leave and compensation. She reported that the Review Panel determined that there was sufficient credible evidence for the Commission to render an opinion regarding the allegations pertaining to NRS 281A.400(1) and (2).

The Proposed Stipulation reflects that Ms. Cooper's conduct would result in a willful violation of the Ethics Law and a \$25,023 total civil penalty, \$5,000 pursuant to NRS 281A.790(1)(a) and \$20,023 pursuant to NRS 281A.790(3). Associate Counsel Prutzman referred

the Commission to a chart within the Proposed Stipulation which outlined the financial benefit experienced by Ms. Cooper.

Executive Director provided for the sake of transparency that any funds collected from civil penalties revert to the State General Fund and are not deposited into the Commission's budget.

Lynn Beggs, Esq., on behalf of Lisa Cooper, stated her client's agreement with the Proposed Stipulation as presented by Associate Counsel Prutzman.

Commissioner Gruenewald moved to accept the terms of the Stipulation as presented by the parties and direct Commission Counsel to finalize the stipulation in appropriate form. Commissioner Yen seconded the Motion. The Motion was put to a vote and carried as follows:

Commissioner Gruenewald:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.
Commissioner Yen:	Aye.

5. Discussion and consideration of Proposed Stipulation regarding Ethics Complaint Case No. 18-039C (Allan).

A brief recess was taken while subject Judie Allan connected telephonically to participate in this item. Judie Allan then appeared telephonically before the Commission.

Commission Counsel Chase stated that pursuant to NRS 281A.220(4), Chair Lau and Commissioners Duffrin and Lowry served as members of the Review Panel in this case and would be precluded from participating further in this matter. She identified Commissioners Gruenewald, O'Neill, Wallin and Yen as eligible to participate in this item. She asked for a motion to appoint a temporary acting Chair over the matter pursuant to NAC 281A.175.

Commissioner Gruenewald made a motion to appoint Commissioner Wallin as the temporary acting Chair to preside over this item. Commissioners O'Neill and Yen seconded the motion. The Motion was put to a vote and carried as follows:

Commissioner Gruenewald:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.
Commissioner Yen:	Aye.

Commission Counsel Chase turned over the Agenda item to Commissioner Wallin as presiding officer.

Acting Chair Wallin asked each attorney representing the parties to identify themselves and their clients for the record. Appearing before the Commission in this matter was Subject Judie Allan, who was not represented by legal counsel. The Executive Director appeared and was represented by Associate Counsel Judy A. Prutzman, Esq.

Associate Counsel Prutzman provided a brief overview of the Proposed Stipulation Agreement. Associate Counsel Prutzman summarized that Complaint Case No. 18-039C, which alleged Judie Allan, a member of the Lander County Board of County Commissioners, violated the Ethics Law by misusing her authority as a Commissioner to direct a subordinate to settle a county lawsuit, resulting in an effort to secure an unwarranted privilege for a person with whom she has a commitment in a private capacity. The Proposed Stipulation reflects that Ms. Allan's conduct would result in a willful violation of NRS 281A.400 subsections (1), (2) and (9) of the Ethics Law and a \$500 civil penalty. Associate Counsel Prutzman indicated that the Proposed

Stipulation signified the Commission's public reprimand of Commissioner Allan's conduct and the requirement she attend an Ethics Training.

Judy Allan informed the Commissioners that she did not have any bad intentions but realizes in hindsight that she violated the Ethics Law and accepts responsibility.

Commissioner Gruenewald moved to accept the terms of the Proposed Stipulation as presented by the parties and direct Commission Counsel to finalize the Stipulation in appropriate form. Commissioner Yen seconded the Motion. The Motion was put to a vote and carried as follows:

Commissioner Gruenewald:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.
Commissioner Yen:	Aye.

6. Report and recommendations by Executive Director on agency status and operations and possible direction thereon. Items to be discussed include, without limitation:

- Quarterly Case Status Update
- Complaint/ Advisory Cases by City and County (FY17-FY19)
- Upcoming Commission Meetings
- FY19 Budget Status
- 2019 Legislative Updates, including, with limitation:
 - Commission's Bill (SB 129);
 - Bills affecting the Commission;
 - Commission's Biennial Budget (FY20-FY21)

Quarterly Case Status Update: Executive Director Nevarez-Goodson provided a general update on the quarterly Case Status Log. She explained that the log was provided earlier than usual since there might not be a June or July meeting and reflects the status of all of the cases received during the fiscal year along with the status of those cases.

Complaint/ Advisory Cases by City and County (FY17-FY19): Executive Director Nevarez-Goodson referred the Commission to the breakdown of Complaints and Advisory Opinions by city/county, a copy of which was provided in their materials as requested during the last Commission meeting. She pointed out that in the last three fiscal years the Commission has not received any Complaints or Advisory Requests originating from cities which are not currently assessed for a portion of the Commission's budget with the exception of the City of Ely with approximately only three cases over three years. She further added that counties not assessed have produced more Complaints and Advisory Opinions, and there may be a future appetite for the Legislature to amend provisions in NRS 281A. 270 to assess those counties with a population under 10,000. Accordingly, staff will continue to track this data for the next Legislative Session.

Commissioner Duffrin expressed his appreciation for the data and agreed that the Commission may want to review the information prior to the next Legislative Session to determine whether other cities or counties should be assessed.

Commissioner Wallin added that this information may be beneficial to include in the Annual Report.

Executive Director highlighted that the notes reflected on the reports which indicate the difficulty in capturing the number of Complaints and Advisory Opinions received and investigated/ reviewed by the Commission in a given Fiscal Year as there may be complaints received in a previous Fiscal Year that staff continues to process or investigate over the next Fiscal Year and sometimes beyond.

Upcoming Commission Meetings: Executive Director Nevarez-Goodson reiterated that there may not be a need for a formal Commission meeting in June and July. She reminded the Commissioners that due to certain statutory deadlines they will continue to receive emails which require their immediate attention in some cases or the need for a telephonic meeting. She let the Panel Members know that they may be needed for a June panel teleconference and she will reach out to them separately to coordinate the time and place for a Panel Hearing.

2019 Legislative Updates - Commission's Bill (SB 129): Executive Director Nevarez-Goodson provided an update regarding the status of the Commission's Bill, SB 129. She reminded the Commission that the Bill passed unanimously out of the Senate with various amendments. She stated that she and Commission Counsel Chase reviewed the amendments and were amenable to those changes. She explained that the bill was later considered by the Assembly Committee on Legislative Operations and Elections where she and Commission Counsel Chase addressed the Assembly Committee's questions in regard to the Bill. During work session, the Assembly Committee approved last minute amendments to the bill which were more concerning than the amendments from the Senate. The Executive Director referred the Commission to the copy of the amendments, provided as supplemental materials to them in their meeting materials, and outlined the changes which included the following eliminations from the Bill:

1. The requirement for public employees and public officers to cooperate in an investigation;
2. The elimination of the ability of the Commission to confidentially refer Ethics Complaints involving State Legislators to the appropriate House Ethics Committee at the Legislature;
3. The requirement for the Executive Director to be an attorney;
4. The requirement of the Commission to provide a specific and definite timeframe for any extensions during a pending jurisdictional review or investigation of a Complaint;
5. The Commission's authority to delegate litigation or legal decisions to the Executive Director and/or the Commission Chair as well as to authorize Commission Counsel to pursue litigation on behalf of the Commission, including during confidential cases.

Commissioner O'Neill asked if the deletions were made by the Chair of the Committee and not by an individual member. Executive Director Nevarez-Goodson responded that the work session documents indicated the amendments were made by the Chair of the Committee. She added that based upon questions during the Committee hearing and follow-up meetings, the changes may have also been initiated by Assemblyman Daly.

Executive Director Nevarez-Goodson explained the potential ramifications of the Amendments. She stated that she anticipated the bill would pass through Assembly, as amended, this week as the deadline for the bill to pass out of the second house was Friday, May 24. She informed the Commission that it would have two options: 1) accept the Bill as amended and let it proceed to the Governor's office for signature; or 2) reach out to the Senate to see if there is interest to not concur in some or all of the Amendments proposed by the Assembly. She outlined how each scenario would play out and asked the Commission for its input, but reiterated that the Bill needs to first pass out of the full Assembly. Specifically, Executive Director Nevarez-Goodson informed the Commission that it could prioritize any specific concerns with the Amendments and determine whether the Senate would be inclined to not concur in them and cause a Conference Committee to work out those concerns.

Importantly, Executive Director Nevarez-Goodson cautioned the Commission about potentially compromising passage of the Bill, even as amended, which included some very important legal changes that were not affected by the Amendments. If the Commission were inclined to seek non-concurrence by the Senate, Executive Director Nevarez-Goodson recommended that the Commission focus only on the following concerning Amendments:

1. Elimination of the Commission's authority to delegate litigation matters; and
2. Elimination of the Commission's authority to refer confidential complaints to the Legislature.

Notably, the Executive Director pointed out that AB 70 was already passed by the full Assembly, which authorizes public bodies to delegate litigation decisions to staff, but the Commission's bill included a crucial distinction to allow the Commission to delegate such matters outside of the Open Meeting Law for confidential Advisory cases and Complaint cases during the confidential phase of proceedings.

The Executive Director reminded the Commission of its goal in SB129 regarding referring appropriate cases to the Legislature as a compromise worked through with LCB Legal Division to provide a procedural mechanism for the Commission to confidentially refer a complaint involving a State Legislator whereas current law requires that the Commission cannot confirm or deny the existence of a complaint.

Commissioner Wallin suggested that Executive Director Nevarez-Goodson meet with Senator Ohrenschall, the Chair of the Senate Committee on Legislative Operations and Elections who ensured unanimous support in the Senate, to relay the Commission's concerns regarding the Amendments, in particular the concerns about the amendments to delete the referral of Complaints to the Legislature and the delegation of litigation authority during confidential cases. She opined that the other amendments could be revisited next session. Chair Lau agreed with Commissioner Wallin and asked Ms. Nevarez-Goodson if she needed a motion from the Commission regarding this matter. Executive Director Nevarez-Goodson stated that she would appreciate a motion from the Commission.

Commissioner Gruenewald stated that she concurred with Commissioner Wallin and also added that the Commission may want to consider proceeding with the Bill in its present form in lieu of pursuing anything further at this time. She suggested that Executive Director Nevarez-Goodson get a real sense of whether Senator Ohrenschall is genuinely interested in opposing the amendments before proceeding.

Commissioner O'Neill asked whether Assembly Bill 70 (AB 70) was in conflict with SB 129; Executive Director Nevarez-Goodson assured him that SB 129 was intended to be consistent with the provisions of AB 70 related to delegation of legal issues and offered one nuance that AB 70 does not address, which is the Commission's need for confidential proceedings during confidential cases outside of an open public meeting. She also reiterated that the delegation provisions of AB 70 were brought forward by the Ethics Commission for consideration of the Attorney General for inclusion into AB 70.

Commissioner O'Neill agreed that a meeting with Senator Ohrenschall would be beneficial and asked that Executive Director Nevarez-Goodson emphasize the Commission's concern regarding the discrepancy between SB 129 and AB 70.

Commissioner Duffrin made a motion to authorize Executive Director Nevarez-Goodson to act on behalf of the Commission in seeking guidance from Senator Ohrenschall to potentially ask the Senate to reject certain amendments, consistent with the Commission's intent regarding the Commission's bill. Commissioner Gruenewald seconded the motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye.
Commissioner Duffrin:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Lowry:	Aye.
Commissioner O'Neill:	Aye.

Commissioner Wallin:
Commissioner Yen:

Aye.
Aye.

2019 Legislative Updates - Bills affecting the Commission: Executive Director Nevarez-Goodson informed the Commission that Assembly Bill 70 (AB 70), the Nevada Open Meeting Law bill, presented by the Attorney General's office, is currently pending before the Senate and includes a provision that authorizes any public agency to delegate legal decisions to its staff in appropriate circumstances.

2019 Legislative Updates - Commission's FY20-21 Biennial Budget: The Executive Director reiterated that the agency's enhancement requests were not included in the Governor's Recommended Budget and that in compliance with the Commission's direction she has continued to advocate for increased salary enhancements based upon the Interim Salary Study. She informed the Commission that she and Commission Counsel Chase held numerous meetings with members of the Budget Committees to represent that the Commission would be submitting a flat budget as approved in the Governor's Recommended Budget, however would like a forum to articulate the Commission's additional budgetary needs such as Information Technology services, additional training funds for a digital training platform and an additional Management Analyst position. She described a misunderstanding with Assemblywoman Swank during the Budget Closing in regard to the Commission's request for an additional position and additional funding for digital outreach and asked the Commission if it would like her to follow-up with Assemblywoman Swank to clarify the Commission's intentions. Specifically, the Executive Director reminded the Commission of its direction to the Executive Director to seek an additional position to assist with fiscal, administrative and communications responsibilities that would assist with training and outreach, and additional funding to support a digital training platform. Assemblywoman Swank made a request for the Commission to work with LCB Fiscal staff for an additional training position. Executive Director Nevarez-Goodson explained she attempted to clarify with the Budget Committee that the Commission's direction was not for a training position, but for digital training and a separate position, and Assemblywoman Swank indicated her frustration that the agency did not specifically request a training officer as she proposed and therefore denied the Commission's requests. The Commission asked Executive Director Nevarez-Goodson to set up a meeting with Assemblywoman Swank during the Interim and discuss the issues as the budget had already closed.

Commissioner Gruenewald moved to accept the Executive Director's report on agency status and operations as presented. Commissioner Wallin seconded the motion. The motion was put to a vote and carried unanimously.

7. Commissioner comments and identification of future agenda items. No action will be taken under this agenda item.

Commissioner Wallin thanked Commission staff for their hard work and specifically Executive Director Nevarez-Goodson and Commission Counsel Chase for their efforts at the Legislature.

Commissioner O'Neill requested an update as to whether or not the Attorney General's office had reviewed Complaint Case No. 18-005C or if the Commission needs to refer the Complaint to them in compliance with NRS 281A.790(7). Commission Counsel Chase informed him that his request would constitute identification of a future Agenda Item and that as such no discussion could occur presently, however staff would bring the matter before the Commission in a future Agenda Item.

8. Public Comment.

No public comment.

9. Adjournment.

Commissioner Wallin made a motion to adjourn the public meeting. Chair Lau seconded the motion. The Motion was put to a vote and carried unanimously.

The meeting adjourned at 10:45 a.m.

Minutes prepared by:

/s/ Kari Pedroza

Kari Pedroza
Executive Assistant

/s/ Yvonne M. Nevarez-Goodson

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved July 17, 2019:

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.
Chair