OPENING STATEMENT
On Behalf of Meryl Nass, M.D.
October 4, 2022

"No provision in our Constitution thought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority." Thomas Jefferson, Speech to the New London Methodists, 1809 in *The Writings of Thomas Jefferson,* Vol. XVI.

My Name is Gene Libby and along with my partner, Tyler Smith, we are proud to represent Meryl Nass, M.D. in this unprecedented and novel attempt to discipline your colleague. Since the Hearing Officer requires us to submit our Opening Statement in writing, it is my obligation to synthesize a substantial amount of legal and factual information to help you understand that Dr. Nass is facing discipline only because she exercised her free speech rights against what Thomas Jefferson called "the civil authority." Dr. Nass has practiced medicine 42 years without a patient complaint. She stands before you today without a patient complaint. The only complaint lodged against her was initiated by the Board of Licensure in Medicine ("BOLIM"), no patient has complained about her outpatient prescriptions for Ivermectin and Hydroxychloroquine. No patient has complained that they received Dr. Nass's services for these medications without their informed consent.

Dr. Nass is here only because she criticized the safety and effectiveness of the vaccines distributed and promoted by the Federal and State government. Indeed, her patients love and respect her. Dr. Nass is revered among her patients. She will introduce 286 pages of e-mails and letters ~~mostly~~ from her patients and others, attesting to her competency, care and responsiveness to patient needs. *See* Licensee Exhibit ("LE") 157X. Dr. Nass is before you because she was caught up in a political cauldron that could not accept dissenting voices and attempted to vilify and discredit physicians who did not adopt the government narrative that mRNA vaccines were safe and effective.

The unprecedented public health emergency created by the pandemic began March 20, 2020, when Governor Mills entered one of many executive orders in response to the pandemic. It continues to this day. Not only do we have the events of 2 1/2 years to cover, but also the actions of the State and Federal government that were designed to restrict and limit the availability of two of the safest medications ever licensed by the FDA – Hydroxychloroquine and Ivermectin. Because there was no outpatient treatment available

to people suffering with COVID at the inception of the pandemic, many doctors started treating patients with a long-standing, safe and effective anti-viral: hydroxychloroquine and/or ivermectin.

On June 15, 2020, the FDA revoked emergency use authorization ("EUA") for chloroquine phosphate (CQ) and hydroxychloroquine sulfate (HCQ) based on doctored and erroneous information that the drugs may not be effective to treat COVID-19. Likewise, BOLIM alleges that the FDA has not authorized the use of Ivermectin for preventing or treating COVID-19. As you all know, and likely practice, once a drug is licensed by the FDA it may be used for any off-label purpose if a patient and a physician have a reasonable basis to believe it will treat the patient's condition.

Dr. Nass wrote in her blog as early as June 28, 2020, an article entitled, "How a false hydroxychloroquine narrative was created, and more." She writes:

> It is remarkable that a large series of events taken place over the past months produced a unified message about hydroxychloroquine (HCQ), and produced similar policies about the drug in the US, Canada, Australia, New Zealand, and Western Europe. The message is that generic, inexpensive hydroxychloroquine (costing only $1.00 to produce a full course) is dangerous and should not be used to treat a potentially fatal disease, COVID-19, for which there are no (other) reliable treatments. Hydroxychloroquine has been used safely for 65 years in many millions of patients. **And so the message was crafted that** the drug is safe for its other uses, but dangerous when used for COVID-19. It doesn't make sense, but it seems to have worked.
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> In the US, 'never Trump' morphed into 'never hydroxychloroquine,' and the result for the pandemic is 'never over.' But while anti-Trump spin is what characterized suppression strategies in the US, the frauds perpetrated about hydroxychloroquine and the pandemic include most western countries.

We have prepared a detailed timeline of the critical events beginning March 12, 2020 and concluding September 30, 2022 with BOLIM's "Third Amended Notice of Hearing." The timeline is intended to provide a reference to orient you to the major, but not comprehensive, events to establish that Dr. Nass has not committed professional misconduct. Instead, she has angered the government, and the government intends to make an example of her so that doctors throughout the state of Maine and beyond will not feel free to speak their own educated truth about vaccines, the mass COVID vaccination campaign, and the government instigated prohibition to treat Americans with well-known, safe and effective anti-viral medications.

The timeline will be especially helpful since you must hear the proceeding scattered over three or four months, requiring you to reorient yourself each time you return. The timeline will give you that capacity. It references federal government action, state government action, actions of BOLIM, and will introduce you to Patients 1, 2, and 3, who have not complained about Dr. Nass, but who have become the vehicle to discipline and silence her. You should not let that happen.

I. THE IMMEDIATE GOVERNMENT REACTION TO THE PANDEMIC.

On March 17, 2020, HHS issued a notice indicating that it would "[e]xercise its enforcement discretion and will not impose penalties for non-compliance with regulatory requirements under HIPAA Rules . . . in connection with the good faith provision of telehealth during the COVID-19 nationwide health emergency." *See* LE 38.

On March 20, 2020, Governor Mills issued an executive order suspending provisions of certain healthcare statutes and rules in order to facilitate treatment and containment of COVID-19. *See* LE 17. The Governor ordered:

> F. All physicians, physician's assistants and nurses licensed in Maine are authorized to perform services pursuant to this emergency order shall be allowed to perform health care services through the use of all modes of telemedicine or telehealth, including video and audio, audio-only, or other electronic media to treat the residents of Maine for all medically necessary services. The enforcement of state patient privacy and confidentiality laws to the contrary are

hereby suspended for the purposes of responding to the COVID-19 emergency. (Emphasis ours)

The evidence will show that on April 14, 2020, BOLIM and the Board of Osteopathic Licensure in Medicine issued a "Joint Statement" warning that prescribing HCQ prophylactically may be considered unprofessional conduct and noting that the FDA had issued an Emergency Use Authorization for chloroquine and hydroxychloroquine to be used for hospitalized patients.. *See* LE 174, p. 11. The statement also cautioned physicians that they must "adhere to evidence-based standards." There is no such Rule in Maine or nationally.

On June 15, 2020, the State Director of MaineCare adopted Rule 10-144, C.M.R. Ch. 101, sec. 4 Telemedicine Services. The Rule made permanent changes that "[w]ill be generally preemptive against any future spread of communicable disease, threat, or outbreak by decreasing in-person contact for pharmacy services, as medically and situationally necessary" through telehealth. *See* LE 36.

II. EVOLVING SUPPORTIVE RESEARCH: OUTPATIENT TREATMENT WITH HCQ AND IVM

The evidence will show that despite the government's efforts to suppress the public from using HCQ and IVM, research was being published supporting its safety and efficacy. Dr. Peter McCullough published an article catalogued in the National Library of Medicine on December 30, 2020 entitled "Multifaceted Highly Targeted Sequential Multi-Drug Treatment of Early Ambulatory High-Risk SARS-CoV-2 Infection (COVID-19)." The research indicated that both HCQ and IVM could be effective outpatient early treatment anti-viral medications. Dr. McCullough followed this article with another published January 20, 2021 entitled "Pathophysiological Basis and Rationale For Early Outpatient Treatment of SARS-CoV-2 (COVID-19) Infections" in the American Journal of Medicine.

On June 17, 2021, Dr. Harvey Risch, an esteemed professor of epidemiology at the Yale Medical School, published a meta-analysis of Hydroxychloroquine entitled "Hydroxychloroquine and Early Treatment of High-Risk COVID-19 Outpatients Efficacy and Safety Evidence." The meta-analysis concluded that there was a 44% reduction in hospitalization and a 75% reduction in mortality. *See* LE 151B. Dr. Risch, who will testify as an expert in this case, also performed a meta-analysis of Ivermectin entitled "Ivermectin-Based Prophylactic and Risk of COVID-19." *See* LE 151A. He concludes:

- Every one of the nine epidemiologically adequate studies of Ivermectin-based COVID-19 prophylaxis has shown risk reduction for developing the infection.

- Meta-analysis demonstrates 71% risk reduction (fixed-effects calculation), $p=10^{-35}$, and 82% risk reduction (random-effects calculation), $p=10^{-8.2}$.

- The FDA has no systematic evidence of fatal adverse events with IVM prophylaxis or early outpatient use.

See LE 151A.

Dr. Risch prepared a report for this case entitled "Ivermectin-Based Early Outpatient Treatment and Risk of COVID-19 Hospitalization and Morality." *See* LE 151C. He concluded as follows:

- For hospitalization risk, meta-analysis of 12 studies demonstrates 45% risk-reduction (fixed-effects calculation), $p=10^{-44}$, and 42 percent risk-reduction (random-effects calculation), p=.0011.

- For mortality risk, meta-analysis of nine studies demonstrates 28% risk-reduction (fixed-effects calculation), p=.00070, and 46% risk-reduction (random-effects calculation), p=.031.

Clearly, Dr. Nass has a reasonable scientific and medical basis to treat Patients 1, 2, and 3 with Hydroxychloroquine and Ivermectin. Dr. Nass consulted with Patients 1 and 2 before they were sick and both requested Ivermectin. Both were prescribed Ivermectin in September 2021. Both Patients 1 and 2 developed COVID in December 2021. Patient 3, a woman 6 months pregnant, called Dr. Nass September 21, 2021 after testing positive for COVID. She requested Ivermectin. Dr. Nass told her that Ivermectin was not approved for treatment of pregnant women but did prescribe her Hydroxychloroquine. She took the medication and recovered without incident.

III. THE MAINE BOARD OF PHARMACY

On September 28, 2021, the Maine Board of Pharmacy issued a statement on dispensing Ivermectin. The Board had no legal authority to issue such a statement. The statement misleadingly noted that the FDA had not approved Ivermectin for treatment of COVID-19 (no such approval is legally necessary) and instructed pharmacists to take appropriate steps to verify that the medication was being taken for "legitimate medical purposes." *See* LE 174, p. 14.

The evidence will show Dr. Nass, consistent with her ethical responsibility to patients, appeared before the Board of Pharmacy on November 4, 2021 and asked them to reconsider their statement restricting the use of Ivermectin. The Board ignored her.

IV. THE BOARD ADOPTS UNENFORCEABLE STATEMENT OF FEDERATION OF STATE MEDICAL BOARDS REGARDING COVID-19 MISINFORMATION

The federal and Maine state government and its regulatory agencies were casting a web in Maine and other states to discourage, discredit and delicense doctors like Dr. Nass who believed HCQ and IVM were effective and safe outpatient medications for COVID-19. It must be emphasized there were no other effective outpatient antiviral treatments available. In its Fall 2021 BOLIM Newsletter, Maroulla S. Gleaton, MD, Chair, republished the following Federation of State Medical Boards' ("FSMB") statement:

> "physicians who generate and spread COVID-19 vaccine misinformation or disinformation are risking disciplinary action by state medical boards, including the suspension and revocation of their medical license."

Dr. Gleaton wrote, "The Maine Board of Licensure in Medicine ("BOLIM") supports the position taken by the FSMB regarding COVID-19 vaccine misinformation spread by physicians and physician assistants. *See* LE 24. Dr. Gleaton also campaigned for a position as a director at large on the FSMB Board. Her election was successful and she is now a member of its Board of Trustees.

V. PATIENTS 1, 2, and 3

Patients 1, 2, and 3 will testify before you. They will swear under oath that Dr. Nass provided them the medical services they asked for. None of the patients were vaccinated and all of the patients were looking for alternative outpatient treatment, specifically ivermectin or hydroxychloroquine.

Referring to the attached Timeline, the evidence will show that Governor Mills suspended certain statutes and rules on March 20, 2020. *See* LE 17. The Governor's Order encouraged use of telemedicine or telehealth and provided:

> All physicians, physician assistants, and nurses licensed in Maine or authorized to perform services pursuant to this Emergency Order shall be allowed to perform health care services through the use of all modes of telemedicine or telehealth, including video and audio, audio only, or other electronic media to treat the residents of Maine for all medically necessary services. The enforcement of state patient privacy and confidentiality laws to the contrary are hereby suspended for the purposes of responding to the COVID-19 emergency. (Emphasis ours)

On December 10, 2016, BOLIM enacted a joint rule regarding telehealth standards of practice. Paragraph 6 of the rule provides as follows:

> 6. LICENSEE-PATIENT RELATIONSHIP.
>
> A. A licensee who uses telehealth in providing healthcare shall establish a valid licensee-patient relationship with the person who receives telehealth services. The licensee-patient relationship begins when:
>
> (1) The person with a health-related matter seeks assistance from licensee;
>
> (2) The licensee agrees to undertake examination, diagnosis, nursing assessment, consultation, more treatment of the person; and
>
> (3) The person agrees to receive healthcare services from the licensee whether or not there has been an in-person encounter between the licensee and the person. (Emphasis ours)

Consistent with the rule and the Governor's Executive Order, Dr. Nass consulted with Patients 1, 2, and 3 by phone. Dr. Nass offered patients 1 and 2 an in-person visit. Each patient selected telehealth. Patient 3, with acute COVID was only offered telehealth. Although Dr. Nass was targeted for her speech, the Board latched on to alleged deficiencies in Dr. Nass's simple consultation with patients seeking treatment with Ivermectin and Hydroxychloroquine. All of the remaining grounds not as yet withdrawn, concern Dr. Nass's telemedicine consultations.

Dr. Nass is faulted for communicating with the son of Patient 1 and the wife of Patient 2, both after they developed COVID and were seriously ill and chose to have a relative speak for them. You, as Dr. Nass's colleagues, will have to decide whether Dr.

Nass's communication with two family members violated privacy or confidentiality laws. They do not. On March 20, 2020, the Governor, by Emergency Order, suspended from enforcement "state-patient privacy and confidentiality laws" to treat patients during the COVID-19 emergency.

Other than communications with family members, keeping in mind there are no patient complaints, the Board faults Dr. Nass for her record keeping. You will be able to look at Dr. Nass's records. You will hear Dr. Paul Marik and others tell you that Dr. Nass's consultation and prescriptions met the standard of care. The evidence will show that to prescribe these drugs, Dr. Nass needed to know the patient's comorbidities, weight, allergies, and all medications being taken. Her medical records document she took all of these steps.

But for Dr. Nass's speech and courage to speak out in the face of government censorship and suppression, she would not be here before you. The Board is trying to bootstrap discipline against Dr. Nass for picayune record keeping violations only because she had the courage to speak out. The Board immediately suspended her license, demanded a neuropsychological examination and the Board's Executive Director encouraged media 'hit pieces' in collaboration with reporters at Maine Public Radio and elsewhere. But now, because Dr. Nass turned out to be correct in everything she said and did, the Board has dismissed all the charges against her, with the exception of minor recordkeeping issues and a self-admitted lie to a pharmacist to get a high-risk patient a potentially life-saving medication.

This is not a legitimate attempt to discipline a doctor's judgment. This has been a concerted effort to publicly punish, shame, and discredit Dr. Nass for her courage to thoughtfully reject the government supported vaccine and COVID treatment narrative. Dr Nass studied the medical literature and developed treatment plans that yielded better outcomes than the government's recommended treatment: which was nothing at all until hospitalization.

The treatment of each patient will be discussed chronologically below.

A. Patient 2.

On September 2, 2021, Dr. Nass conducted a telehealth consultation with Patient 2. She noted the patient was high-risk with several comorbidities. She took a detailed listing of all medications and the patient's weight and overall health. Patient 2 was not sick at the time of consultation. She wrote a prescription for Ivermectin. The prescription was not filled by local pharmacies so Dr. Nass arranged for a New York pharmacy to fill the

prescription. Dr. Nass later prescribed HCQ on December 11 after Patient 2 became sick with COVID. Knowing that pharmacists had been encouraged to ask for the diagnosis and refuse to dispense HCQ when the diagnosis was COVID, Dr. Nass told the pharmacist who called to check on her diagnosis that the patient had Lyme disease.

In an attempt to change the State's unwritten Orwellian policy, Dr. Nass immediately self-reported to BOLIM that she was forced to hide the true nature of her diagnosis in order to procure potentially life-saving medication for the patient, and asked BOLIM to change the policy that had led to the restriction. *See* Board Exhibit ("BE") 18.

BOLIM likes to characterize Dr. Nass's statement as a "lie." It was not. The American Medical Association Code of Medical Ethics ("AMACME") Principle III states "A physician shall respect the law and also recognize her responsibility to seek changes in those requirements which are contrary to the best interest of the patient." (Emphasis ours). The AMA Opinions on Medical Ethics, 1.2.10 Political Action by a Physician, states, "Like all Americans, physicians enjoy the right to advocate for change in law and policy, in the public arena, and within their institutions. Indeed, physicians have an ethical responsibility to seek change when they believe the requirements of law or policy are contrary to the best interest of patients." (Emphasis ours)

Likewise, 1.2.11 Ethically Sound Innovation in Medical Practice states, "Innovation in medicine can span a wide range of activities. It encompasses not only improving an existing intervention, using an existing intervention in a novel way, or translating knowledge from one clinical context into another, but also developing or implementing new technologies to enhance diagnosis, treatment, and health care operations. Innovation shares features with both research and patient care, but it is distinct from both." (Emphasis ours)

The evidence will show that Dr. Nass did what she was ethically obligated to do – advocate for her patient who wanted to be treated with Hydroxychloroquine after being infected with COVID-19. Why was Dr. Nass put in this position? Clearly by the policies of the Federal and State government designed to restrict the availability of HCQ and force the entire world population to be vaccinated. Did Dr. Nass lie or did she rail against illegal government overreach to limit access to a safe, cheap, and effective medication to treat her patient? Had the Federal and State government not attempted to restrict the availability of HCQ and IVM, no false statement would have been necessary. Is Dr. Nass to blame for failed government policy and overreach when her ethical obligation was to provide life-saving medication to her patient? You must decide.

2. Patient 3.

On September 21, 2021, Dr. Nass received a call from a woman who was 6 months pregnant after testing positive for COVID-19. She asked for Ivermectin. Dr. Nass declined because it was not approved for pregnancy, but HCQ was a safe medication for pregnant women. The patient has not complained. However, her midwife complained, asserting that there was no attempt to coordinate treatment and that she would have used a different approach. First, there is no obligation whatsoever to coordinate treatment for COVID-19 with a midwife, who is not a doctor. In any event, the Governor's executive order suspended collaborative practice requirements. *See* LE 17. Patient 3 was prescribed HCQ, took the medication, and recovered nicely.

3. Patient 1.

On September 28, 2021, Dr. Nass consulted with Patient 1 who was also looking for an Ivermectin prescription. She was not sick at the time and obtained a prescription from Dr. Nass after learning she was basically healthy, took no medications, and had no comorbidities. Patient 1 developed COVID, like Patient 2, in December.

The Third Amended Notice of hearing contains a litany of alleged deficiencies in Dr. Nass's consultation with Patient 1. She is faulted for no medical history, no physical exam, no chief complaint, no coordination of care, no diagnosis, and no patient informed consent. As I hope you realize, a telemedicine consult requesting Ivermectin for a perfectly healthy person requires none of the above. Dr. Nass did take a medical history and learned the patient was healthy with no comorbidities and taking no medications. She was healthy and Dr. Nass prescribed Ivermectin to be taken at the first sign of COVID symptoms. When the patient became ill, Dr. Nass communicated by text messages with her son. Dr. Nass made a note dated December 19, 2021 indicating, "Go to Pen Bay ER." The patient was reluctant, truly fearful, of going to the hospital. Despite her reluctance, Dr. Nass convinced her to go. Her note follows, "Admitted to Pen Bay."

VI. THE TARGETING OF DR. NASS FOR ALLEGED MISINFORMATION

The evidence will demonstrate that Dr. Nass was targeted only because of her viewpoints and activism regarding her viewpoints. After BOLIM published the FSMB statement regarding misinformation in its Fall Newsletter, the complaints followed. On October 6, 2021, Steven Demitriou contacted BOLIM claiming Dr. Nass was spreading COVID misinformation. *See* BE 40. The very next day, on October 7, 2021, BOLIM issued a Notice of Complaint to Dr. Nass. The Notice of Complaint was emailed even

before BOLIM knew the substance of the complaint. Mr. Demitriou did not provide that until October 11, 2021, when he provided a transcript of Dr. Nass's interview with Regis Tremblay. *See* BE 40. This sentence belongs elsewhere: the Board has now withdrawn all misinformation grounds as a basis of discipline. Dr. Nass fought back. On October 14, 2021, Dr. Nass questioned the Board's jurisdiction. BOLIM responded:

> The basis of the Board's jurisdiction is that there is alleged unprofessional conduct, particularly where you have communicated in your capacity as a physician in the interview and on the website that could allow patients and the public to view the information you provide as misleading and/or inaccurate. (Emphasis ours)

See BE 43. The evidence will show that Dr. Nass immediately responded on October 15, 2021 with an opinion of the Nebraska Attorney General Opinion Statement that physicians cannot be disciplined for prescribing of Ivermectin or Hydroxychloroquine off-label. *See* BE 48.

The next complaint followed on November 7, 2021, from Katherine Moors, an LCPC in her hometown, Ellsworth. Ms. Moors complained Dr. Nass was spreading COVID misinformation on Twitter. On November 16, 2021, the Board's investigator, Nicolette Alexander, interviewed Ms. Moors and asked her to identify patients seeing Dr. Nass. Why is the Board soliciting the identity of patients when no patients are complaining?

On November 23, 2021, the executive director, Dennis Smith, emails BOLIM counsel, Assistant Attorney General Michael Miller, regarding Dr. Nass's November 22, 2021 email. Dr. Nass writes:

> I am concerned about the use of the terms 'misinformation' and 'disinformation' and the new threat to physician licenses issued by the Board today for undefined behaviors.

This was a reference to the Fall Newsletter adopting the FSMB statement on misinformation. Who wouldn't be concerned?

VII. FDA AGAIN CONTACTS FSMB TO ENCOURAGE IT TO NOFIFY/ INFORM ITS MEMBERS IVERMECTIN IS NOT APPROVED FOR COVID TREATMENT

On December 13, 2021, the FDA contacts the Federation of State Medical Boards notifying them that Ivermectin is not an approved COVID-19 treatment. *See* LE 174, p. 19. This is more government disinformation since FDA approval is not legally necessary for off-label prescribing. In fact, in the *Association of American Physicians and Surgeons v. U.S. Food and Drug Administration, et al*., Case: 20-1784 in the United States Court of Appeals, Sixth Circuit, the FDA's chief counsel acknowledged to the Court in its Brief as follows:

> As explained above, physicians can choose to prescribe hydroxychloroquine for off-label use and the drug is commercially available.

See LE 87. When the chief counsel of the FDA makes this representation to the Court, there is no better evidence -- neither FDA, CDC, or HHS have the legal authority to "approve" what licensed medications are chosen by a doctor and a patient.

VIII. DR. NASS' STATEMENTS TO THE MAINE LEGISLATURE

Dr. Nass and other physicians were invited to appear before a group of Maine legislators to discuss COVID-19 on December 14, 2021. No sooner had the information been released then Molly Bogart, the Director of Governmental Relations at the Department of Health and Human Services, e-mailed Jackie Beausang, senior policy advisor to Governor Mills. The e-mail was sent at 12:28 p.m. and alerted the Governor of Dr. Nass's appearance before the legislators. At 12:53 p.m. on the same day, Jackie Beausang notifies Elise Baldacci, Governor Mills' Deputy Chief of Staff. Governor Mills responds to Beausang at 1:02 p.m., "Senator K cites Robert Kennedy's blog. Gosh. Where does she get her breakthrough statistics . . . they don't make sense." Michelle Myer, a Democratic legislator, sends to Jackie Beausang at 2:13 p.m. links with negative comments about the presenters, including Dr. Nass. At 4:08 p.m. Ryan Fecteau, the Democratic Speaker of the House, sent a message to Elise Baldacci, the Governor's Deputy Chief of Staff. The message is "Re: Keim's e-mail and some experts." The e-mail forwarded another email from Jenna Howard containing negative information regarding RFK vaccination propaganda. *See* LE 174, p.50. Elise Baldacci responds at 4:43 p.m. stating, "Thanks, sounds like all efforts have failed." *See* LE 174, p. 54.

Dr. Nass will introduce evidence that Dr. Nass's appearance and the public media reporting that followed was brought to BOLIM's attention. BOLIM then redoubled its efforts to silence Dr. Nass on January 11, 2020. Dr. Nass's legislative appearance apparently sealed her fate before BOLIM.

IX. DR. NASS IS SUSPENDED WITHOUT A HEARING FOR MISINFORMATION.

Dr. Nass appeared without counsel on January 11, 2022, before BOLIM. She had difficulties securing counsel because BOLIM would not release the names of the complainants or Patients 1, 2, and 3, making it difficult for lawyers to complete conflict checks before engaging in representation. BOLIM went into Executive Session and voted unanimously to issue an order directing a neuropsychological evaluation of Dr. Nass. The wave of COVID misinformation is now crashing down upon Dr. Nass. The BOLIM, a regulatory extension of policies enacted by Governor Mills, was intent on silencing her. The Board used this novel procedure, ordering a psych exam to make her appear to be mentally impaired, to justify ordering an immediate suspension and sending her name to the National Practitioners Database. This included the false assertion Dr. Nass was a "public health threat."

There can be no doubt that Dr. Nass was targeted for her speech. Indeed, paragraph 2 of the Order directing evaluation specifies nine statements of "misinformation regarding SARS-CoV-2 pandemic and the official public health response calling for vaccinations." (Order of Evaluation, ¶ 2, Statements a-i.)

The BOLIM cited in paragraph 3 that Dr. Nass had the temerity to question the Board's authority; ("Please inform me how the Board of Registration in Medicine is authorized to investigate my private life.") The Board then references in paragraph 4 the allegation by Katherine Moors that Dr. Nass was spreading misinformation on Twitter.

The summary suspension without a hearing was an abuse of regulatory authority designed to humiliate and discredit Dr. Nass. Once BOLIM released to the public the order directing evaluation, they had effectively labeled Dr. Nass as either mentally unstable or a quack. This was exactly their intent.

X. ON THE EVE OF HEARING, BOLIM HAS ABANDONED ANY CLAIMS OF MISINFORMATION

BOLIM has now withdrawn all grounds that assert Dr. Nass violated the American Medical Association Code of Medical Ethics. They have also withdrawn Ground XVI that

Dr. Nass engaged in disruptive behavior and Ground XVII alleging that Dr. Nass violated the AMACME Code for Professionalism and the Use of Social Media.

On September 3, 2022, BOLIM issued its Third Amended Notice of Hearing. The Third Amended Notice of Hearing withdrew factual allegations in paragraphs 19 and 20 that asserted Dr. Nass engaged in misinformation.

I will ask Board members, some of whom are new and were not around for the crucifixion of Dr. Nass, what happened to misinformation? The grounds asserting misinformation have been withdrawn. The factual allegations quoting Dr. Nass have been withdrawn. So what happened? BOLIM has now relented and recognizes that it cannot discipline Dr. Nass for her thoughts, viewpoints, or advocacy for her patients. It cannot discipline Dr. Nass for prescribing Hydroxychloroquine and Ivermectin off-label. So what the Board is left with are Patients 1, 2, and 3, the vehicle by which the Board hopes to save face and be able to discipline Dr. Nass for violations that would have never come before the Board but for being targeted for her viewpoints. The evidence will establish beyond any doubt that Dr. Nass needed to be silenced and the Board intended to accomplish just that.

XI. THIS IS NOT AN EXERCISE IN MEDICINE – IT IS AN EXERCISE IN THE POLITICS OF MEDICINE

We have marked exhibits 121A-D. These exhibits contain opinions from the Attorney Generals of Nebraska, South Carolina, Indiana, Kansas acknowledging physicians have a right to prescribe HCQ and IVM and that physicians cannot be disciplined for exercising their medical judgment. We have also attached LE 188B, a publication of the Federation of Statement Medical Boards, the instigator to silence Dr. Nass. The FSMB has summarized legislation introduced in 31 states that either restrict Board [Medical Board] authority, explicitly allow~~ing~~ for the off-label treatment of COVID-19, or both. Four states have enacted legislation to protect doctors from professional discipline for exercising their reasonable medical judgment in prescribing HCQ or IVM. Again, the politics of medicine.

The government's effort to suppress two cheap, effective and safe anti-viral medications is nothing but a big money grab by Big Pharma. As I trust the Board knows, the Pfizer mRNA vaccines, as well as the others, initially received emergency use approval. As such, they cannot be sold to the public and can only be sold to governments. And sold they have, over $33 billion dollars for the initial vaccine and the boosters, which now appear to be needed every three to four months. If you want to talk about misinformation,

we should focus on the false statements by the FDA and CDC concerning the safety and effectiveness of mRNA vaccines.

XII. ONGOING LITIGATION REGARDING COVID TREATMENT SUPPRESSION NATIONWIDE

Dr. Paul Marik and others are plaintiffs in litigation against HHS and FDA in the Southern District of Texas. The allegations involve the FDA unlawfully taking formal, unequivocal and conclusory actions to prohibit or otherwise interfere with the use of Ivermectin as a treatment for COVID-19. *See* LM 152M.

In California, Dr. Douglas MacKenzie and Physicians for Informed Consent are suing the Executive Director and the State Board of Medicine for threatening to impose discipline pursuant to the FSMB July 29, 2021 statement regarding misinformation. *See* LE 152Q.

The States of Missouri and Louisiana, plus individual plaintiffs, are suing President Biden, HHS, and numerous other government actors for government censorship of dissenting voices asserting they were spreading "misinformation" and "disinformation." *See* LE 160A.

There will indeed be subsequent revelations about the government's effort to limit cheap, anti-viral outpatient medications to promote Big Pharma's mRNA vaccines. However, you are in a position to protect at least one physician who has been caught in the Federal and State censorship of physicians. Dr. Nass has been vilified, shamed, and discredited by this Board's regulatory abuse. Dr. Nass has done nothing wrong. If anything, she deserves an apology from the Board for losing her medical license, her malpractice insurance, and the enormous damage to her reputation from this unprecedented and unlawful attempt to punish her for what she says and for practicing safe and thoughtful medicine.

XIII. THE TESTIMONY OF STEVEN B. KATSIS, MD, F.A.C.S.

Dr. Katsis is the Vice President of the Oklahoma Board of Medicine. He is a surgeon by training and is certified by the American Board of Surgery. He will testify that in his opinion it is well outside the Board's purview to discipline a physician exercising medical judgment in the care of a specific patient, even more so in the face of an emerging pandemic where established modalities of care are everchanging. He will testify that the Amended Notice of Hearing and immediate suspension as a threat to public health was

completely unnecessary and inappropriate. He will testify there was no patient harm and disciplining Dr. Nass with an emergency suspension was simply a political tool to intimidate her and other practitioners in Maine. He will testify that off-label use of medications has long been recognized as a valuable tool in patient treatment.

Dr. Katsis will testify that it is not within the Board's jurisdiction to review a particular therapy employed by a physician. He will testify that the medication Dr. Nass prescribed for Patient 2 should have been honored since it was for active disease and not prophylaxis. The fact that Dr. Nass resorted to "misinformation" was a product of an inappropriate understanding of the Board of Pharmacy Statement by the pharmacist. He will conclude that Dr. Nass's management and behavior throughout the entire process, based on the information provided to him, was competent, conscientious, compassionate, and well within the standard of care. He further will testify that Dr. Nass should be commended for "self-reporting" the statement to the pharmacy.

XIV. THE TESTIMONY OF PAUL MARIK, MD, FCCA, FCCP

Dr. Marik reviewed the telemedicine consults with Patients 1, 2, and 3. He will testify that Dr. Nass's consults and prescriptions for Ivermectin were entirely appropriate. Yes there was. Finally, Patient 3 was a consult with a woman who had tested positive and was 6 months pregnant. She was advised by Dr. Nass to stop taking Montelukast, a prescription for her husband, and start taking Hydroxychloroquine, 200 mg.

He notes that the Board alleges again the Progress Note contains no evidence of recorded patient history, no record of a physical examination, no single 'medical decision-making,' no patient informed consent, no coordination of care, and no recommended follow up. Dr. Marik concludes that these accusations are false and unfounded. The telemedicine consult occurred when Patient 3 was acutely ill with COVID. She was treated with HCQ and Azithromycin and rapidly improved. The complaints by the patient's midwife, Renata Moise, that Dr. Nass failed to coordinate care, according to Dr. Marik are absurd. She is a midwife, not a treating physician. She is not an MD. She is not a licensee of the Board and is not considered in the intent of the regulation that stipulates to consult with all 'treating physicians.'

XV. CONCLUSION

At the end of the case, we will ask you to acknowledge the egregious mistake the Board has made in attempting to discipline Dr. Nass. She was caught in a web of government lies to the public. There are too many to list. Perhaps the most egregious is

creating the impression that Hydroxychloroquine and Ivermectin were not approved medications to treat COVID-19. No federal agency has that authority after a drug is licensed. It is the independent judgment of a physician and patient. The patients who sought Dr. Nass were looking for a therapy she provided. They were not looking for vaccination. As time passes, more evidence is coming to the forefront that the American public was sold a bill of goods about the effectiveness and safety of the vaccinations. They neither protected against infection, decreased hospitalizations, or mortality.

Indeed, Salmaan Keshavjee, MD, PhD, ScM, the Director of Harvard Medical School's Center for Global Health Delivery and Professor of Global Health and Social Medicine in the Department of Global Health and Social Medicine (DGHSM) at Harvard Medical School, recently published an article entitled "COVID-19 Vaccine Boosters for Young Adults: A Risk-Benefit Assessment and 5 Ethical Arguments Against Mandates at Universities." *See* LE 158A.

In the article, contributed to by 11 of the most prestigious medical schools in the United States, the United Kingdom, and Canada, the article concludes:

> Based on public data provided by the CDC, we estimate that approximately 22,000 to 30,000 previously *uninfected* young adults ages 18-29 years must be boosted with an mRNA vaccine to prevent one COVID-19 hospitalization. Given the fact that this estimate does not take into account the protection conferred by prior infection nor a risk-adjustment for comorbidity status, this should be considered a conservative and optimistic assessment and benefit. Our estimate shows that university COVID-19 vaccine mandates are likely to cause net expected harms to young healthy adults – between 18 and 98 serious adverse events requiring hospitalization and 1,373-3,234 disruptions of daily activities – that is not outweighed by a proportionate health benefit. Serious COVID-19 vaccine-associated harms are not adequately compensated for by current U.S. vaccine injury systems. As such, these severe infringements of individual liberty are ethically unjustified.

A famed British doctor, Aseem Malhotra, calls for a global pause and reappraisal of global vaccination policies for COVID-19. The results of his study published in the Journal of Insulin Resistance, September 26, 2022, states, "Reanalysis of randomized control trials using the messenger ribonucleic acid (mRNA) technology suggests a greater risk of serious adverse events from the vaccines than being hospitalize for COVID-19.

Dr. Malhotra summarizes his research as follows:

> **Results**: In the non-elderly population the "number needed to treat" to prevent a single death runs into the thousands. Re-analysis of randomized controlled trials using the messenger ribonucleic acid (mRNA) technology suggests a greater risk of serious adverse events from the vaccines than being hospitalized from COVID-19. Pharmacovigilance systems and real-world safety data, coupled with plausible mechanisms of harm, are deeply concerning, especially in relation to cardiovascular safety. Mirroring a potential signal from the Pfizer Phase 3 trial, a significant rise in cardiac arrest calls to ambulances in England was seen in 2021, with similar data emerging from Israel in the 16-39-year-old age group.
>
> **Conclusion**: It cannot be said that the consent to receive these agents was fully informed, as is required ethically and legally. A pause and reappraisal of global vaccination policies for COVID-19 is long overdue.
>
> Free Dr. Nass from this nightmare. The evidence will show that she was right!

/s/ Gene R. Libby