

CENTRAL OFFICE

1677 Old Hot Springs Rd., Ste. A
Carson City, Nevada 89706
<http://parole.nv.gov>
(775) 687-5049
Fax (775) 687-6736

CHRISTOPHER P. DERICCO, *Chairman*
SUSAN JACKSON, *Member*
MARY K. BAKER, *Member*
SCOTT WEISENTHAL, *Member*

KATIE FRAKER, *Executive Secretary*

STATE OF NEVADA

JOE LOMBARDO
Governor



LAS VEGAS OFFICE

4000 S. Eastern Ave., Ste.130
Las Vegas, Nevada 89119
<http://parole.nv.gov>
(702) 486-4370
Fax (702) 486-4376

CHRISTOPHER P. DERICCO, *Chairman*
ERIC CHRISTIANSEN, *Member*
DONNA VERCHIO, *Member*
LAMICIA BAILEY, *Member*

NEVADA BOARD OF PAROLE COMMISSIONERS

MINUTES

Meeting of the

Board of Parole Commissioners

March 29, 2023

MINUTES APPROVED ON APRIL 27, 2023

NOTE: The following minutes have not been approved and are subject to revision at the next meeting of the Board.

The Board of Parole Commissioners held a public meeting on March 29, 2023, beginning at 1:00 PM at the following locations:

Conference room at the central office of the Board of Parole Commissioners, located at 1677 Old Hot Springs Road, Ste. A, Carson City, NV, and video conference at the Parole Board Office, 4000 S. Eastern Avenue, Ste. 130, Las Vegas, NV.

I. Open Meeting, call to order, roll call 1:00 PM.

The meeting was called to order by Chairman DeRicco. Present in Carson City were Commissioner Jackson, Commissioner Baker, and Chairman DeRicco. Present in the Las Vegas office were Commissioner Weisenthal, Commissioner Christiansen, and Commissioner Bailey. Commissioner Verchio was absent, excused.

Support staff in attendance:

- Katie Fraker, Executive Secretary
- Kelly Mellinger, Hearings Examiner II
- Mary Flores, Administrative Assistant III

Members of the public present in Carson City included:

- Katie Brady, Senior Deputy Attorney General

Members of the public present in Las Vegas included:

- Patricia Adkisson
- Kristina Wildeveld
- Robert Stockmeier

II. Public Comment. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Public comment – Carson City, NV

See attached written public comment from Patricia Adkisson.

See attached written public comment from Advocates from the Inmates and the Innocent.

Public comment – Las Vegas, NV

Patricia Adkisson – See attached public comment dated March 27, 2023.

III. For possible action: Review/Approval of minutes from the November 30, 2022, Board meeting.

Motion:	Approve the minutes from the November 30, 2022, Board meeting as distributed.
Made:	Commissioner Baker
Seconded By:	Commissioner Jackson
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed

IV. For discussion and possible action: Pursuant to the Governor’s Executive Order 2023-003 section 1, and in accordance with NRS 233B, 10-year review of regulations. The Board will conduct a comprehensive review of the current regulations as codified in NAC 213 and determine if any regulations can be streamlined, clarified, reduced or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth.

This discussion will include an opportunity for Public Comment.

Chairman DeRicco opened this agenda item by introducing Kelly Mellinger, Hearings Examiner II to lead the agenda item and provide an overview. He provided that when she is done the Board will discuss while also considering public comments received regarding this agenda item.

Ms. Mellinger stated all Board members received packets which included a copy of the Governors Executive Order 2023-003 which required each executive branch department, agency board and commission to complete a comprehensive review of regulations subject to its enforcement and how the regulation subject to its enforcement can be streamlined, clarified, reduced or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth. Additionally, NRS233B.050 requires a review of regulations at least once every 10 years to determine whether it should amend or repeal any of the regulations. She provided that the last time this was done was in 2013.

Ms. Mellinger continued by stating that the Board amended 3 regulations last year. Since the Nevada Legislature has not updated the Nevada Administrative Code website, the packet included the new language along with the few new regulations that were completed in 2020 and 2021. She provided that there are some regulations in NAC 213 that pertain to NDOC, P&P and the Pardon’s Board, the Board will only be reviewing the regulations that pertain to the Board.

Ms. Mellinger read through the summary of relevant Nevada Revised Statutes sections and relevant Nevada Administrative Code sections.

Ms. Mellinger further stated that the Board received written public comments prior to the meeting and should consider their comments during discussion.

Chairman DeRicco asked if there was any public comment regarding agenda item IV.

There was no public comment.

Chairman DeRicco stated that in the last few years the Board has been going through the regulations, and some have already gone through the process to be updated and signed off by the Secretary of State's office, and have been given R numbers.

Chairman DeRicco opened floor for discussion.

Chairman DeRicco asked if anyone had any questions or required any clarification with any of the regulations. He further stated there is only one regulation that is not tied to a statute that states the Board "shall" have a regulation. He stated there is an Early Discharge statute that refers to a "may" have a regulation.

There was no further discussion.

Chairman DeRicco stated in accordance with NRS 233B.050(e) and Executive Order 2023-003, the Board of Parole Commissioners has reviewed its regulations today which complies with both the 10-year review and the Governor's Executive Order. He stated that the discussion today has been centered on determining whether the Board should amend or repeal any of the regulations and on how any of these regulations could be streamlined, clarified, reduced, or otherwise improved to ensure the regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth. He provided that within 30 days after completion of this review, the Board must submit a report to the Legislative Counsel for distribution to the next regular session of the Legislature, as well as a report to the Governor's Office. The report must include the date on which the agency completed its review of the regulations and describe any regulation that must be amended or repealed as a result of the review.

Motion:	No regulations be amended, repealed, streamlined, clarified, or reduced, as a result of our comprehensive review today and that a report be submitted to the Legislative Counsel in accordance with NRS 233B.050(e), and to the Governor's Office in accordance with Executive Order 2023-003, section 1.
Made:	Chairman DeRicco
Seconded By:	Commissioner Baker
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed

V. **For discussion and possible action:** Pursuant to the Governor's Executive Order 2023-003 section 2, every executive branch department, agency, board and commission shall provide a list of not less than ten (10) regulations recommended for removal, ranking them in descending order of priority.

This discussion will include an opportunity for Public Comment.

Chairman DeRicco opened this agenda item by asking Kelly Mellinger, to provide a brief overview of this agenda item.

Ms. Mellinger stated as Chairman DeRicco just stated Governor’s Executive order 2023-003 is requiring every executive branch department, agency, board and commission to provide a list of not less than ten (10) regulations recommended for removal, ranking them in descending order of priority. She referred to the packet and that the majority of the Board’s regulations are mandated by statute which are highlighted in yellow for “shall” and green for “may.” She stated that she would like everyone to be aware that the regulations attached to the term “may adopt” are also connected to a statute that states the board “shall adopt a regulation”. There is only one regulation which is LCB File # R118-19 which only has a “may adopt” statute which is NRS 213.1543.

Ms. Mellinger further asked the Board to also consider the submitted written public comment from Patricia Adkisson and Tonja Brown, while discussing this agenda item.

Chairman DeRicco asked if there was any public comment regarding agenda item IV.

There was no public comment.

Chairman DeRicco began the discussion by stating that after reviewing all the Board’s regulations with exception of 1 are tied to a statute that states the Board “shall” adopt a regulation. The only regulation that solely refers to a “may” adopt a regulation is the early discharge regulation, which was created after the passage of AB 236. Additionally, he stated that he was not sure how they would come up with a list of 10 as they are all statutorily mandated, except the early discharge regulation. Further he stated he knew a report needed to be generated to send to the Governor’s office. He stated his initial thought was to craft a motion that states the Board’s hands are statutorily tied, and if the statutes were “may” that would not be the case.

Chairman DeRicco opened floor for discussion.

Commissioner Baker stated that she had reviewed Executive Order 2023-003, and she did not think there were any regulations to remove, unless the Board violated statute and her suggestion was to make a statement back to the Governor’s office stating the same.

Chairman DeRicco asked if there was any additional discussion or comments.

There was no further discussion.

Motion:	The Board draft a letter to the Governor’s Office signed by all Board members detailing that no regulations be recommended for removal. Further, the letter should include information indicating that if the Governor’s Office still wishes to remove any regulation, that the only regulation that could be removed that does not conflict with statutorily mandated language that we “shall” have a regulation is referenced in NRS 213.1543 (Early Discharge - LCB File No. R118-19).
Made:	Chairman DeRicco

Seconded By:	Commissioner Christiansen
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed

VI. For discussion and possible action: The Board will discuss and may take action to update and or modify the Aggravating and Mitigating Factors Definitions.

Chairman DeRicco opened this agenda by asking Kelly Mellinger to give an overview of this agenda item.

Ms. Mellinger stated recently the question was asked by one of the hearing examiners whether or not the Board should be using Aggravating Factor # 24, “Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision,” when someone is on lifetime supervision. She read the definition of this factor, “This factor may be indicated if the inmate has ever been convicted of a crime while incarcerated, on bail, on escape status, or while under gross misdemeanor or felony probation, or felony parole. This factor may be indicated if the inmate eluded or attempted to elude capture during a prior or current offense. Count misdemeanors, gross misdemeanors, and felony convictions or delinquency adjudications.”

Chairman DeRicco stated that this is a clarification to the definition of the factor “Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision” if that should qualify for lifetime supervision. All board members work up files and want to be as clear and transparent as possible and believe that adding lifetime supervision is warranted or not.

Commissioner Jackson stated she believes that is it warranted and should be considered.

Commissioner Baker stated that lifetime supervision is community supervision similar to probation and parole supervision and agreed that it should be counted.

Commissioner Bailey agreed with Commissioner Baker’s comment and should be considered.

Chairman DeRicco asked if there was no further discussion.

Motion:	The Aggravating Factor titled - Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision be modified to read – This factor may be indicated if the inmate has ever been convicted of a crime while incarcerated, on bail, on escape status, while under gross misdemeanor or felony probation, or parole, or lifetime supervision. This factor may be indicated if the inmate eluded or attempted to elude capture during a prior or current offense. Count misdemeanors, gross misdemeanors, and felony convictions or delinquency adjudications.
Made:	Commissioner Jackson
Seconded By:	Commissioner Weisenthal
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None

Results:	Motion passed
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VII. Public Comment. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

VIII. For possible action: The Board may act to adjourn the meeting.

Motion:	To adjourn the March 29, 2023, meeting of the Nevada Board of Parole Commissioners.
Made:	Commissioner Bailey
Seconded By:	Commissioner Baker
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed