NEVADA LEGISLATURE
SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
(*Nevada Revised Statutes* [NRS] 232B.210)

SUMMARY MINUTES

The fifth meeting of the Sunset Subcommittee of the Legislative Commission for the 2017–2018 Interim was held on Monday, April 23, 2018, at 8:30 a.m. in Room 4401, Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3137, Legislative Building, 401 South Carson Street, Carson City, Nevada.

The agenda, minutes, meeting materials, and video or audio recording of the meeting are available on the Committee's meeting page. In addition, copies of the audio or video record are available through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835) and may also be available at http://www.leg.state.nv.us/Granicus/.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman Irene Bustamante Adams, Chair
Senator Kelvin D. Atkinson, Vice Chair
Senator Moises (Mo) Denis
Assemblyman Keith Pickard
Carmen Amen

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator James A. Settelmeyer
Teresa P. Froncek Rankin

COMMITTEE MEMBERS ABSENT:

Assemblywoman Shannon Bilbray-Axelrod
William "Buzz" Harris (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Carol M. Stonefield, Deputy Research Director, Research Division
Jennifer Ruedy, Senior Principal Policy Analyst, Research Division

Patrick B. Ashton, Senior Policy Analyst, Research Division
Cesar O. Melgarejo, Senior Policy Analyst, Research Division
Jessica F. Dummer, Deputy Legislative Counsel, Legal Division
Rocky Cooper, Legislative Auditor, Audit Division
Janet Coons, Manager of Secretarial Services, Research Division
Jan Brase, Research Secretary, Research Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—CALL TO ORDER

Chair Bustamante Adams called the fifth meeting of the Sunset Subcommittee of the Legislative Commission to order. She welcomed Subcommittee members, staff, and the public and reviewed meeting protocol.

AGENDA ITEM II—PUBLIC COMMENT

Chair Bustamante Adams called for public comment.

Bruce Fong, D.O., H.M.D., Vice President, Board of Homeopathic Medical Examiners (BHME), provided written comments regarding the industry of homeopathy and his support for the Board. He addressed the outstanding legal bill with the Office of the Attorney General (AG) and urged the Subcommittee not to sunset the BHME (Agenda Item II A).

Tiffany Van der Stokker, Executive Director, Lobbyist, Nevada Homeopathic and Integrative Medical Association (NHIMA), shared written testimony expressing NHIMA's support for the BHME (Agenda Item II B). She offered NHIMA's assistance in negotiating and settling the Board's debt with the AG.

AGENDA ITEM III—APPROVAL OF MINUTES OF THE MEETINGS HELD ON FEBRUARY 21 AND MARCH 21, 2018

MOTION: Senator Atkinson moved to approve the minutes of the meeting held on February 21, 2018. The motion was seconded by Assemblyman Pickard and passed. Senator Settelmeyer was absent for the vote.

MOTION: Senator Atkinson moved to approve the minutes of the meeting held on March 21, 2018. The motion was seconded by Assemblyman Pickard and passed. Senator Settelmeyer was absent for the vote.

AGENDA ITEM IV—REVIEW OF AUDIT REPORTS RECEIVED FROM CERTAIN OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS

Rocky Cooper, previously identified, reviewed audit reports of certain occupational and professional licensing boards.

A. Chiropractic Physicians' Board of Nevada (NRS 634.020)

Mr. Cooper reviewed the following points from the audit report for the Chiropractic Physicians' Board of Nevada (CPBN) (Agenda Item IV A):

- Pursuant to Statement No. 68 of the Governmental Accounting Standards Board (GASB), the Public Employees' Retirement System (PERS) net pension liability is $260,000;

- The Board has: (1) marketable securities; (2) no plans for liquidation; and (3) no policy on investments;

- Approximately $20,000 in disciplinary fines will be collected over the next few years and turned over to the Office of the State Treasurer;

- The Board has $375,000 in cash;

- Accounts receivable in the amount of $84,000 are identified as net, which refers to an allowance for doubtful accounts;

- The Board has $206,000 in available reserves, which is equal to about seven months of operating costs;

- Licensing fees are consistent from year to year and make up a sizeable portion of the Board's revenue; other fees account for $54,000 in revenue; and fines and other income account for $26,000; and

- The Board spent $75,000 on general and administrative expenses and $45,000 on professional fees.

Mr. Cooper noted the budget's variances are significant for a small board. He suggested the Board improve its budgeting process and provide more transparency in its expenditures.

Ms. Rankin brought to the Subcommittee's attention that inconsistencies exist among the boards regarding risk management and the purchase of separate policies from independent parties for coverage of various risks, such as property liability and possibly errors and omissions. She questioned whether the Risk Management Division, Department of Administration, has a policy or procedure that covers the boards and commissions.

Assemblyman Pickard recalled that Assembly Bill 328 (Chapter 424, *Statutes of Nevada 2017*) required all boards to obtain insurance coverage, such as errors and omissions, through the state. He clarified the audit reports were prepared prior to the effective date of AB 328, which was October 1, 2017. Assemblyman Pickard said the boards need to make the transition to participate in the state's Fund for Insurance Premiums in the new biennium.

Assemblyman Pickard wondered whether it is typical practice for boards to place fines levied on a payment plan.

Mr. Cooper said the boards handle this differently; some remit the fines directly to the state and others record them as revenues.

B. State Board of Podiatry (NRS 635.020)

Mr. Cooper reviewed the following points from the audit report for the State Board of Podiatry (Agenda Item IV B):

- This is a biennial report due in even-numbered years;
- The Board collects penalties and fines, but the audit does not clearly show how the Board reports and deposits them;
- This Board is small, and the employees do not participate in PERS;
- The Board has $185,000 in cash and $163,434 in reserves;
- Fines are included as part of the Board's operating revenue;
- The executive director is a part-time position; and
- Contractual and professional services of approximately $50,000 in 2015 and $23,000 in 2016 are significant in relation to the size of the Board.

C. State Board of Pharmacy (NRS 639.020)

Mr. Cooper shared the following points from the audit report for the State Board of Pharmacy (SBP) (Agenda Item IV C):

- The Board's net position remains strong at year's end with adequate liquid assets to fulfill its responsibilities even though the net position is a deficit at the end of the year;
- The Board recognizes that its financial position is strong despite the GASB 68 pension adjustments;
- Cash and cash equivalents are approximately $3.7 million;
- The pension liability is about $2.6 million, creating a deficit of $755,277;
- The Board has approximately $1.9 million in available reserves, which equals eight months of operating costs;
- The Board has an unfavorable budget to actual balance when estimating license, renewal, and registration fees;
- Approximately $51,000 was collected in fines, forfeitures, and penalties;
- The Board has nearly $114,000 noted as "other income";

- Salaries increased from $1.2 million in 2016 to $1.5 million in 2017; and

- The Board spent $180,000 on professional services and $83,000 on contractual services.

D. Nevada Physical Therapy Board (NRS 640.030)

Mr. Cooper shared the following points from the audit report for the Nevada Physical Therapy Board (NPTB) (Agenda Item IV D):

- The opinion of the auditors is the Board did not maintain adequate records to support its expenditures and expenses for the years ended June 30, 2015 and 2016, but the balance sheets are presented fairly;

- In 2016, the Board had cash in the amount of $483,000;

- The Board had a net pension liability of approximately $216,000 and available funds of $114,000, which equal about ten months of operating costs;

- The Board indicated approximately $31,000 in other income, which may include fines;

- Fees for the AG were over $100,000 in both 2015 and 2016, which is unusual for a board of this size;

- The audit found several findings on the Board's internal controls: (1) expenditures were not supported by original invoices; (2) an approval process for payment of expenditures was not followed; (3) the prior executive director paid herself compensation that was not approved prior to leaving her position; and (4) a budget was not prepared for the year ended June 30, 2015, and not approved for the year ended June 30, 2016;

- The Board sent a response letter to Mr. Cooper regarding the auditor's note relating to expenditures and the lack of supporting documentation; and

- Mr. Cooper provided information to the Nevada Legislature regarding the findings of the Board's audit report.

E. Board of Occupational Therapy (NRS 640A.080)

Mr. Cooper shared the following points from the audit report for the Board of Occupational Therapy (BOT) (Agenda Item IV E):

- Since the report is biennial, the most recent information is from 2016;

- Board members do not belong to PERS;

- The Board has $816,000 available in cash and $654,000 in reserves, which represents about 43 months in operating costs;

- The Board subleases office space to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board and the Board of Registered Environmental Health Specialists, which provides an income of about $6,300;

- Other fees constitute $38,000 in income;

- There was no mention of the disposition of fines;

- Salaries and benefits equal approximately $108,000; and

- In 2014, the Board had a contract for $88,750 with the executive director; the personnel structure has since changed.

F. Board of Massage Therapy (NRS 640C.150)

Mr. Cooper shared the following points from the audit report for the Board of Massage Therapy (BMT) (Agenda Item IV F):

- The Board has $780,000 available in cash;

- The Board reported no receivables on its balance sheet for 2017, but in 2016, the Board had a receivable balance of $131,535;*

- The employees participate in PERS, and the Board has a net pension liability of $750,000;

- A deficit of $222,000 was reported;

- The Board has available reserves of approximately $527,000, which is equal to eight months of operating costs;

- The Board collected over $40,000 in administrative fees and fines and $36,000 in other income;

- The budget to actual for revenue was off by $151,000; the Board collected 19 percent more than what it budgeted, which may signify a trend, because the application and background investigation fees have significantly increased;

- Contract services equal $37,000; and

- The Board transferred $27,816 in fines to the State of Nevada.

*As noted on page 17 of the report:

> The Board recognizes the fine and administrative fee as revenue when it is collected. The fine is paid to the State of Nevada and is reported as a government transfer to the State of Nevada. Beginning in July 2016, the Board has recognized an allowance for doubtful accounts for the amount of fines and administrative fees not collected during the year. A prior period adjustment has been made to record this allowance; consequently, the net accounts receivable as of June 30, 2017 is zero.

Assemblyman Pickard questioned whether the Board's net pension liability is unusually large since it is almost as much as the total current assets.

Mr. Cooper explained the Board does have a significant net pension liability, but the figure is based solely on the number of Board employees and the number of employees in PERS.

AGENDA ITEM V—PUBLIC HEARING CONCERNING THE TERMINATION, MODIFICATION, CONSOLIDATION, OR CONTINUED OPERATION OF CERTAIN ENTITIES PURSUANT TO NRS 232B.240

A. Chiropractic Physicians' Board of Nevada (NRS 634.020)

Julie Strandberg, Executive Director, CPBN; Louis Ling, Legal Counsel, CPBN; and Dan Musgrove, Lobbyist, CPBN, introduced themselves.

Chair Bustamante Adams asked the Board to explain its investment and whether it has a policy regarding investments.

Mr. Ling stated he received an e-mail from Jessica F. Dummer, previously identified, regarding Article 8, Section 9 of the *Nevada Constitution*. According to Mr. Ling, pursuant to Article 8, Section 9 of the *Nevada Constitution,* the Board should not hold securities. Based on research he conducted, Mr. Ling explained that in 2007—before he worked for the CPBN—the Board's workers' compensation carrier changed from a mutual association to a publicly traded company. At that time, the Board was given two options: (1) take a cash payout; or (2) take the stock. Not having any knowledge about the constitutional prohibition, the Board took the stock, and has since treated it as part of its reserves. Due to a budget shortfall in 2008–2009, the Board cashed some of the stock, which currently is worth approximately $166,000. Mr. Ling reported the following two items will be placed on the Board's July agenda: (1) authorization for the Board to sell the stock; and (2) the establishment of a reserve policy. He added that the money from the sale of the stock would be rolled into a bank account, which the Board is allowed to have, and it will become part of the Board's reserves.

Ms. Dummer stated the Legal Division has not issued an opinion on the applicability of the constitutional provision. The Division contacted the Board to see whether it had an opinion on the provision. She commented this is a complicated issue, and the Legal Division can provide additional research if requested by the Subcommittee.

Chair Bustamante Adams requested Ms. Dummer to proceed with additional research in order to provide clarity on this issue.

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item IV A) presented earlier by Rocky Cooper, previously identified, Ms. Strandberg clarified the following information:

- Amounts due to the State Treasurer are fines collected from disciplinary actions;
- Other income is made up of miscellaneous items, such as license verifications, letters of good standing, and continuing education fees;
- Professional fees include payments to a contracted investigator; Mr. Ling, Board counsel; and a lobbyist; and
- Professional fees decreased from 2016 to 2017 due to fewer payments to the investigator resulting from fewer complaints made to the Board.

Ms. Strandberg said this was her first budget submitted to the Board in her role as executive director. She stated she used an average of the last two to three years of expenditures for her projections, which explains the large variance from budget to actual amounts. Moving forward, Ms. Strandberg said she will make necessary adjustments so that her projections are closer to actual expenses.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item V A-1) and supplemental information (Agenda Item V A-2) submitted by the Board, Ms. Strandberg clarified the following information:

- Morgan Rovetti, D.C., Vice President, CPBN, represents the interests of uninsured individuals;
- The Board does not have a current policy on handling its reserves, but one will be discussed at the Board's meeting in July;
- New applicants are charged an initial license fee of $225;
- Each licensee pays a renewal fee of $700 biennially;
- The Board has one office in northern Nevada, and members are available to answer questions from 7 a.m. to 4 p.m., Monday through Friday;
- Renewal reminders are still mailed to licensees;
- 85 percent of licensees are located in the south;

- For public safety purposes, chiropractic assistants must be certified in Nevada; and
- The Board does not have any requests for policy changes regarding chiropractic assistants.

Senator Settelmeyer shared that the Board had a bill from a previous legislative session that would have allowed chiropractic assistants to perform various duties—such as placing ice packs or electrodes on patients without the presence of the doctor in the office—but the Governor vetoed the bill. He noted chiropractic assistants in Nevada do more than assistants in other states, which in his opinion, justifies charging a fee.

Ms. Strandberg will provide follow-up information regarding:

- Accounts receivable from cost reimbursements and fines from disciplinary actions;
- Cost-saving measures to help reduce fees;
- Services provided for fees paid;
- What constitutes "other income";
- The large increase from 2016 to 2017 in general and administrative operating expenses;
- How Dr. Rovetti represents indigent, uninsured, or low-income individuals; and
- The structure of the Idaho Board of Chiropractic Physicians and its funding sources.

B. State Board of Podiatry (NRS 635.020)

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item IV B) presented earlier by Mr. Cooper, Carolyn J. Cramer, Esq., Executive Director, State Board of Podiatry, shared the following information:

- The Board currently does not have a reserve policy, but one will be developed when the new budget is submitted during the summer;
- The Board has the authority to assess fines, which should be remitted to the State of Nevada;
- The Board keeps late fees assessed from the renewal cycle;
- The former director is paying restitution in the amount of $150 per month as part of her felony obligation for her conviction of embezzlement from the Board;
- The executive director is the Board's only employee and cannot work more than 15 hours a week;

- Contractual and professional services include retention of private counsel, bookkeeping services, retention of a lobbyist for the upcoming session, and retention of an auditor to review the Board's records; and

- Internal controls used to monitor the budget include: (1) the profit and loss statement, the balance sheet, and reconciled statements for the checking account and money market are presented at every Board meeting; (2) a narrative operations report details financial transactions; (3) the bookkeeper issues direct deposit for the executive director's paycheck; (4) the secretary-treasurer approves all expenditures over $250 each month; (5) the Board has no credit cards; (6) equipment and software expenditures are approved by the Board; and (7) one signature is required for the checking account.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item V B-1) and supplemental information (Agenda Item V B-2) submitted by the Board, Ms. Cramer clarified the following information:

- The new executive director has not yet had an opportunity to train a new board member;

- The Board accepts cashier's checks, personal checks, and money orders for payment; it does not accept cash or credit cards;

- Applications and complaint forms must be mailed to the Reno office;

- Four of five board members' terms will expire in 2020; some members may be retained by the Governor;

- The Board has 145 licensees;

- The initial licensure fee is $600 and the annual renewal fee is $400; and

- The Board has nine licensed podiatric hygienists; the position is analogous to that of a physician's assistant. The initial application fee is $100, and the annual renewal fee is also $100.

Ms. Cramer will provide follow-up information pertaining to:

- Whether the Board is depositing all fines with the State Treasurer;

- Future plans regarding electronic payments and transfer of funds;

- Training provided to Board members;

- The number of licensees in the north and the south;

- The number of podiatric hygienists from previous years and whether the license is necessary; and

- The general rate structure of Utah's Podiatric Physician Board, Department of Commerce.

C. State Board of Pharmacy (NRS 639.020)

Brett Kandt, General Counsel, SBP, introduced Dave Wuest, Deputy Executive Secretary, SBP, and he acknowledged Robert Sullivan, Public Member, SBP, in the audience in Carson City.

Mr. Kandt requested the Subcommittee consider the following regarding the Board's financial statements: (1) it operates on a biennial licensing cycle pursuant to statute; (2) it currently has over 27,000 licensees across 19 different licensing categories; (3) it renews the registrations of over 9,000 pharmacists in odd-numbered years; (4) it renews the licenses of the other 18 licensing categories, which is another 18,000 licensees, in even-numbered years; and (5) the Board requires sufficient operating capital for the two-year licensing cycle, which accounts for the year-to-year variance in the Board's registration and renewal fee revenue.

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item IV C) presented earlier by Mr. Cooper, Mr. Kandt and Mr. Wuest shared the following information:

- Factors that contribute to the variance are: (1) the Board has a biennial budget; and (2) the Board estimates the number of new license applications and the number of renewals;

- The biennial cycle and fee schedule is set forth in NRS 639.170;

- The terminology in the audit report referring to *fines* actually reflects late fees assessed by the Board for late renewals;

- If the Board imposes a fine upon a licensee, the licensee is required to remit payment directly to the State Treasurer, which the Board monitors to ensure payment is made. Payment plans are not standard practice;

- Other income includes: (1) fancy certificates; (2) lists requested by businesses; and (3) the recovery of attorney's fees and costs in a disciplinary matter;

- The 22 percent increase in salary reflects the employment of another licensed pharmacist to serve as an inspector in the Las Vegas area;

- Contract services reflect maintenance for information and technology as well as equipment;

- Professional services include: (1) regulatory and legislative support from the law firm of Kaempfer Crowell, Las Vegas; (2) a contract for a retired law enforcement officer with expertise in pharmacy who holds a commission from the United States Food and Drug

Administration, U.S. Department of Health and Human Services; and (3) maintenance for the Board's licensing system; and

- The Board does not have a reserve policy but one will be presented to the Board in the future.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item V C-1) and supplemental information (Agenda Item V C-2) submitted by the Board, Mr. Kandt and Mr. Wuest clarified the following information:

- Even though the Board has the authority to retain hearing officers for disciplinary matters, it prefers to hear the cases itself. The Board is advised by a Deputy Attorney General (DAG) during all hearings;

- The fee structure is biennial;

- 27,000 licensees cover 19 license categories, of which one-third are registered pharmacists;

- The initial registration for a pharmacy license costs $500 for two years;

- Approximately 80 percent of license renewals are completed online, and they can be paid via credit cards;

- New applications require a cashier's check or money order, but the Board is exploring a transition to electronic payment;

- The Board has an office in the north, which houses the administration and the licensing specialist, and one in the south. Board members will travel to the south to assist any licensees when necessary;

- The majority of the 27,000 licensees are located in the south; and

- The Board holds four meetings in the north and four in the south annually.

Mr. Wuest offered to provide the following:

- A breakdown of the number of licensees in the north and south; and

- The address of the office in the south.

D. Nevada Physical Therapy Board (NRS 640.030)

K. Neena Laxalt, representing the NPTB, introduced Sherise R. Smith, Chair, NPTB; Charles Harvey, Executive Director, NPTB; and Tina L. Baum, former Chair, NPTB.

Ms. Laxalt commented that since 2016, this new team has been working to correct the issues that have plagued the Board in the past by taking the following actions:

- The Reno office has been closed;

- The Board now works with a DAG and employs one on-call legal counsel rather than full-time legal counsel, which has decreased legal costs;
- The current DAG has decreased the number of disciplinary caseloads; and

- Invoices and regulations are routinely reviewed.

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item IV D) presented earlier by Mr. Cooper, Ms. Baum, Mr. Harvey, and Ms. Laxalt shared the following information:

- The new executive director has been with the Board since November 2017;

- Since the resignation of the executive director in 2016, the Board has put new policies in place in an effort to be more accountable for the maintenance of its financial records;

- "Other income" includes revenue from name changes, lost licenses, business mailing lists, and continuing education courses;

- During the last fiscal year, legal costs decreased from approximately $100,000 to $20,000 due to the use of a DAG rather than full-time outside legal counsel;

- The disciplinary caseload dropped to almost zero with the use of the DAG;

- The previous executive director resigned two days before the Board's February 15, 2016, meeting. She signed checks and cashed out her sick leave and vacation. A complaint was filed against the director in November 2016, and Mr. Harvey submitted a subsequent complaint to the AG's office in December 2017;

- The new executive director has reviewed and updated financial internal controls to provide effective and efficient operations and has implemented the following policies: (1) the segregation of duties between multiple individuals; (2) a review of financial reports by the Board; (3) annual financial compilation and reconciliation; and (4) the use of an outside audit firm; and

- Moving to an annual audit would be beneficial for the Board.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item V D-1) and supplemental information (Agenda Item V D-2) submitted by the Board, Ms. Baum, Mr. Harvey, and Ms. Smith clarified the following information:

- License renewals are completed online, and this will be the first year for initial licenses to be completed online;

- Salaries and cost of living adjustments are determined by the Board;

- Employee performance evaluations are now in place;

- Board training includes: (1) a meet-and-greet with office staff; (2) a list of websites related to Nevada ethics, government, the Open Meeting Law, and information relevant to the industry; (3) legislative training by the Board's lobbyist; and (4) recommendations on education and training events;

- The executive director is in the process of developing a Board manual;

- Complaints go to the executive director, who then sends valid complaints to an investigator. The investigator submits a report to the executive director, which is then submitted to an investigative Board member and the DAG;

- The Board has 2,500 active licensees;

- The Board has two new members—a physical therapist assistant and a public member. The position of the vice chair and secretary/treasurer will be coming up for reappointment in November 2018; and

- Fees are collected annually; the initial application is $300 for a physical therapist and the renewal is $150.

Ms. Smith stated she has been the chair of the Board for the past three months and a member of the Board since 2014. She reassured Subcommittee members that she takes her Board responsibilities seriously and is working diligently with Mr. Harvey to move the Board in a positive direction.

Acknowledging the Board has challenges, Mr. Harvey declared his goal is to implement sound policies and practices going forward, correct all the deficiencies of the past Board, and create a secure structure and foundation for the future.

Mr. Harvey offered to provide follow-up information regarding the following:

- The remittance of fines collected; and

- The number of licensees in the north and the south.

E. Board of Occupational Therapy (NRS 640A.080)

Loretta L. Ponton, Executive Director, BOT, introduced Paula Berkley, lobbyist representing the BOT; Melissa Genovese, Board Member, BOT; and Allison Stone, Board Member, BOT.

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item IV E) presented earlier by Mr. Cooper, Ms. Ponton shared the following information:

- The Board does not have a written reserve policy;
- The Board adopted a new regulation in 2018 to revise the term of the license to two years with no change to the fee structure;
- 70 percent of the licensees renew on June 30;
- The number of licensees directly affects the reserve balance, and the Board has regularly experienced about a 10 percent increase in licensees since 2008;
- The Board is almost 100 percent electronic—it has offered online renewals since 2008; online applications will begin in 2018; and it accepts and encourages credit cards for all payments, which has reduced the need for additional staff;
- The Board's operating costs are low due to its cost-effective and efficient procedures;
- The license turnaround period is three days; licensees can log in and print their own licenses;
- An increase in the number of complaints filed with the Board has precipitated the hiring of a part-time investigator;
- "Other fees" include: (1) the application processing fee; (2) late renewal fees; and (3) reimbursement of legal costs incurred resulting from disciplinary actions;
- Legal fees collected in 2015 totaled $220; $1,420 in 2016; and $1,850 in 2017. Payment plans can be established, which explains why there were no legal fees uncollected as of the audit date;
- The Board hired Ms. Ponton in 2006 as an independent contractor and she worked from home. In 2014, the Board moved to a physical office and the position was changed to salary; the executive director receives no benefits and pays into social security;
- Ms. Ponton holds independent contracts with the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board as well as the Board of Registered Environmental Health Specialists; and
- The Board will hold a retreat in August 2018 to review its entire operation and fee structure and establish a reserve policy in accordance with its long-term plan.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item V E-1) and supplemental information (Agenda Item V E-2) submitted by the Board, Ms. Ponton clarified the following information:

- The one-time initial application fee is $150, which supports the electronic data system; the initial active license fee is $250, which is prorated over two years; and the renewal of an active license is $175 for a two-year cycle;

- The Board is contemplating reducing the $250 license fee to $175;

- There has been a vacancy on the Board for a public member since January 1, 2018;

- The Board meets minimally four times per year—one meeting is held in the north, another is held in the south, and the rest are teleconferenced;

- There are approximately 1,300 licensees with a projected growth of 9 to 10 percent this year;

- 93 percent of the licensees are located in the Las Vegas area; less than six are in the rural areas; the balance is located in the north; and there has been an increase to the rural areas via telehealth;

- Pursuant to LCB Regulation 067-17, Ms. Ponton developed a Nevada juris prudence examination, which is an online, open book examination for continuing education credit. Pursuant to proposed regulations, new applicants will be required to take the exam every five years;

- The Board has the authority for license by endorsement, but it has not seen the need to use it because of its electronic licensing process; and

- Reduced fees are provided for veterans.

F. Board of Massage Therapy (NRS 640C.150)

Sandy Anderson, L.M.T., Executive Director, BMT, introduced Colleen Platt, Legal Counsel, BMT.

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item IV F) presented earlier by Mr. Cooper, Ms. Anderson shared the following information:

- The Board retained a new auditing firm, which was of the opinion the Board was carrying old debt—or potential accounts receivable—forward, most of which had been turned over to the Office of the State Controller approximately three to five years ago, and nothing had been received to the Board. The auditor said the Board's net worth was erroneously overstated by having $132,000 in accounts receivable; therefore, the auditor completely removed the old debt and modified the financial statements accordingly;

- The Board's process for tracking and collecting accounts receivable has not changed. It still maintains accounts receivable in its QuickBooks tracking system and periodically reviews them. The Board communicates with the State Controller's office to see whether it has received any revenue from the old debt;

- "Other revenue" includes: (1) late fees; (2) temporary licenses issued; (3) copies made for licensees; and (4) fees for the AG's office paid by the licensees for disciplinary action;

- Contract services cover expenses for: (1) legal counsel; (2) a database management company; (3) computer maintenance; and (4) a lobbyist for the 2017 Legislative Session;

- 760 new licensees increased the actual to budgeted revenue; the budget is projected to maintain a 10 percent increase as well as a 10 percent expiration rate;

- The Board maintains disciplinary actions for prostitution that occur in the industry; legal counsel serves as the prosecutor and the DAG serves as Board counsel during the proceedings. The Board imposes fines and education for first-time offenders and higher fines and revocation for second- and third-time offenders;

- Salary amounts decreased because the prior executive director was paid more than the current executive director and there were two vacant positions in Las Vegas; and

- The "Transfer to the State of Nevada" category under expenditures includes fines received by the Board and then paid back to the Controller's office. When a fine is assessed, it appears in revenue and rolls over to accounts receivable; fines collected are processed back to the Controller's office.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item V F-1) and supplemental information (Agenda Item V F-2) submitted by the Board, Ms. Anderson clarified the following information:

- Law enforcement agencies notify the Board when someone who practices massage therapy has been arrested for prostitution; the Board subpoenas the arrest records and files a complaint against the licensee. The Board must also prosecute licensees who inappropriately touch clients on the table;

- The Board maintains a full-time compliance investigator in the north. When the Board receives a complaint, the investigator and executive director interview the licensee, complainant, and others related to the complaint. Legal counsel reviews the evidence and prosecutes the case;

- Training for new Board members includes: (1) meeting with the executive director and the chair to review protocols; (2) attending training provided by the AG; (3) holding retreats every 16 to 18 months that offer additional legal training; (4) training at Board meetings when needed; and (5) providing a transcript on how to conduct a meeting;

- The fingerprinting fee has been reduced from $125 to $85, with the possibility of further reductions; and

- LCB Regulation 108-17, which pertains to AB 179 (Chapter 275, *Statutes of Nevada 2017*), has been implemented, and Regulation 040-18, which also pertains to AB 179, is currently being finalized by LCB's Legal Division; and

- The Board anticipates implementing the reflexology licensure by July 1, 2018, and licensing all applicants by October 1, 2018; the exam will be offered on May 21.

AGENDA ITEM VI—WORK SESSION—DISCUSSION AND POSSIBLE ACTIONS ON RECOMMENDATIONS RELATING TO:

Carol M. Stonefield, previously identified, explained that the Work Session Document (WSD) contains suggestions or ideas for possible recommendations from the Subcommittee (Agenda Item VI). According to statute, she said the Subcommittee may recommend that an entity be terminated, modified, consolidated with another entity, or continued.

A. Requesting Information From the Office of the Attorney General Regarding the Board of Homeopathic Medical Examiners (NRS 630A.100)

Ms. Stonefield reminded the Subcommittee of its concern expressed at the March 21, 2018, meeting regarding the Board's outstanding debt of approximately $145,000 to the AG. She addressed the recommendation in the WSD (Agenda Item VI) to write a letter to the AG requesting certain information regarding the Board's indebtedness. Ms. Stonefield pointed out a letter in the WSD dated October 28, 2008, from the Board to the AG regarding the outstanding fees.

Assemblyman Pickard is of the opinion the letter from the Board presented in the WSD does not address the issue of whether the AG has waived or agreed to forbear on collection of the outstanding fees. He recalled prior testimony that stated the AG's office did not seek reimbursement for attorney's fees at the time and, as a result, intends not to collect on them. He reiterated this idea is not reflected in the Board's letter. Assemblyman Pickard said he would like the AG's office to opine on: (1) whether it believes the agreement suggested by the Board is in place; and (2) how it wants to handle the outstanding fees. He stated it is standard litigation practice to always request attorney's fees. Assemblyman Pickard wondered whether this was a failure on the part of the AG's office at the time, whether this is an ongoing liability, or should the fees be removed from the books and waived by the AG's office.

MOTION: Assemblyman Pickard moved to approve sending a letter to the Office of the Attorney General requesting items A (1 through 7), B, and C as stated in the WSD. In addition, the letter should request an explanation of the AG's understanding of the nature of any verbal agreement between the Board of Homeopathic Medical Examiners and the Office and any resolution the Office may suggest to settle the Board's outstanding debt. The motion was seconded by Senator Settelmeyer and passed unanimously.

B. Terminating, Continuing, Modifying, or Consolidating the Board of Registered Environmental Health Specialists (NRS 625A.030)

Ms. Stonefield provided a brief history of the Board and its duties (Agenda Item VI). She said the Board informed the Subcommittee that it intends to recommend the following to the Legislature during the 2019 Session:

- Revisions to Chapter 625A ("Environmental Health Specialists") of NRS authorizing the Board to issue licenses rather than certificates and impose civil penalties as a means of disciplinary action; and

- That the Board be given the option to delegate to a hearing officer its authority to take disciplinary action.

Ms. Stonefield said the Board had no recommendations for consolidation with another board or commission.

MOTION: Senator Denis moved to recommend continuation with the grant of authority to delegate a hearing officer. The motion was seconded by Assemblyman Pickard and passed unanimously.

C. Terminating, Continuing, Modifying, or Consolidating the State Board of Nursing (NRS 632.020)

Ms. Stonefield provided a brief history of the Board, reviewed its membership, and summarized its responsibilities and duties (Agenda Item VI). She mentioned the Board indicated its intention to pursue the Enhanced Nurse Licensure Compact during the 2019 Session.

Ms. Stonefield explained the Subcommittee's options if it wishes to recommend continuation of the Board, as stated in the WSD (Agenda Item VI):

A. Revise NRS 632.030, relating to the appointment of a Board member:

   1. One member **who represents the interests of patients** who are indigent, uninsured, or unable to afford health care. This member may be licensed under the provisions of this chapter.

      OR

   2. One member **who represents the interests of the persons or agencies that provide health care primarily to patients** who are indigent, uninsured, or unable to afford health care. This member may be licensed under the provisions of this chapter.

B. Send a letter to the Board directing it to report to the Sunset Subcommittee during the 2019–2020 Interim on its reserves, including its plans to provide value to its licensees in the form of professional development, continuing education, and other increased services.

Senator Denis questioned whether the Board presented testimony indicating its preference for option 1 or 2 in Recommendation A.

Ms. Stonefield recalled that Board representatives indicated the person who currently fills this position is an emergency room nurse with a major hospital, which prompted the question of whether this member represents the interests of persons or agencies that regularly provide health

care to patients who are indigent, uninsured, or unable to afford health care, as stated in NRS 632.030.

Senator Denis questioned the difficulty of filling the position in the two options presented in Recommendation A.

Assemblyman Pickard wondered whether providing appropriate care fits into the purview of the Board.

Jessica F. Dummer, previously identified, said she would need to look into this issue further.

MOTION: Senator Settelmeyer moved to continue the State Board of Nursing and send a letter to the Board directing it to report to the Sunset Subcommittee during the 2019–2020 Interim on its reserves, including its plans to provide value to its licensees in the form of professional development, continuing education, and other increased services. The motion was seconded by Assemblyman Pickard and passed unanimously.

D. Terminating, Continuing, Modifying, or Consolidating the Advisory Committee on Nursing Assistants and Medication Aides (NRS 632.072)

Ms. Stonefield presented a brief history of the Advisory Committee, discussed its membership, and summarized its duties. She pointed out an e-mail in the WSD (Agenda Item VI) from the executive director of the State Board of Nursing indicating the Board sees no advantage to moving the Advisory Committee from NRS to the *Nevada Administrative Code*.

MOTION: Senator Atkinson moved to continue the Advisory Committee on Nursing Assistants and Medication Aides. The motion was seconded by Assemblyman Pickard and passed unanimously.

AGENDA ITEM VII—INFORMATIONAL ITEMS PROVIDED IN RESPONSE TO QUESTIONS RAISED AT PRIOR MEETINGS OF THE SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION

A. Grant Recipient Quarterly Reports (2017) From the Commission on Construction Education in Response to Questions Raised on February 21, 2018

Carol M. Stonefield previously identified discussed the 2017 grant recipient quarterly reports (Agenda Item VII A) provided by Margi A. Grein, Executive Officer, State Contractors' Board.

B. Information From Staff Regarding Certified Court Reporters and Videography in Response to Questions Raised on January 22, 2018

Ms. Stonefield shared a memorandum (Agenda Item VII B) from Cesar O. Melgarejo, Senior Policy Analyst, Research Division, LCB, regarding certified court reporters and videography, which answers the following questions raised at the January 22, 2018, Subcommittee meeting:

1. How do other states regulate videotaped depositions?;

2. Are the licensing boards for court reporters regulating the production of transcripts from videotaped depositions?; and

3. How do other states ensure protection for the public, confidentiality of testimony, and reliability of content?

C. Information From Staff Regarding the Licensing of Homeopathic Physicians in Response to Questions Raised on March 21, 2018

Patrick B. Ashton, previously identified, presented a memorandum (Agenda Item VII C) that: (1) discussed other states that license homeopathic physicians; and (2) shared arguments presented during legislative committee hearings on Senate Bill 237 (Chapter 524, *Statutes of Nevada 1983*), which created the Board of Homeopathic Medical Examiners. Mr. Ashton noted that other than Nevada, Arizona and Connecticut are the only other states that license homeopathic physicians.

D. Information From the State Board of Osteopathic Medicine in Response to Questions Raised on March 21, 2018

Ms. Stonefield shared a letter (Agenda Item VII D) from Sandra Reed, Executive Director, State Board of Osteopathic Medicine, that responded to questions raised by the Subcommittee at its March 21, 2018, meeting regarding the following items: (1) a reserve policy; (2) a policy regarding the criteria for hiring a hearing officer; (3) licensing and renewal fees; (4) fingerprint processing fees; and (5) other fines.

AGENDA ITEM VIII—PUBLIC COMMENT

Chair Bustamante Adams called for public comment; however, no testimony was presented.

Chair Bustamante Adams reminded the Subcommittee that its next meeting is May 21, 2018.

AGENDA ITEM IX—ADJOURNMENT

There being no further business to come before the Subcommittee, the meeting was adjourned at 12:13 p.m.

Respectfully submitted,

_____
Janet Coons
Manager of Secretarial Services

_____
Carol M. Stonefield
Deputy Research Director

APPROVED BY:

_____
Assemblywoman Irene Bustamante Adams, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	WITNESS/ENTITY	DESCRIPTION
Agenda Item II A	Bruce Fong, D.O., H.M.D., Vice President, Board of Homeopathic Medical Examiners	Written testimony
Agenda Item II B	Tiffany Van der Stokker, Executive Director, Lobbyist, Nevada Homeopathic and Integrative Medical Association	Written testimony
Agenda Item IV A	Rocky Cooper, Legislative Auditor, Audit Division, Legislative Counsel Bureau (LCB)	Audit report for the Chiropractic Physicians' Board of Nevada (CPBN)
Agenda Item IV B	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report for the State Board of Podiatry
Agenda Item IV C	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report for the State Board of Pharmacy
Agenda Item IV D	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report for the Nevada Physical Therapy Board (NPTB)
Agenda Item IV E	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report for the Board of Occupational Therapy (BOT)
Agenda Item IV F	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report for the Board of Massage Therapy (BMT)
Agenda Item V A-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information for the CPBN
Agenda Item V A-2	Julie Strandberg, Executive Director, CPBN	Supporting information for the CPBN
Agenda Item V B-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information for the State Board of Podiatry
Agenda Item V B-2	Carolyn J. Cramer, Esq., Executive Director, State Board of Podiatry	Supporting information for the State Board of Podiatry
Agenda Item V C-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information for the State Board of Pharmacy (SBP)
Agenda Item V C-2	Dave Wuest, Deputy Executive Secretary, SBP	Supporting information for SBP
Agenda Item V D-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information for the NPTB
Agenda Item V D-2	Charles Harvey, Executive Director, NPTB	Supporting information for the NPTB

Agenda Item V E-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information for the BOT
Agenda Item V E-2	Loretta L. Ponton, Executive Director, BOT	Supporting information for the BOT
Agenda Item V F-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information for the BMT
Agenda Item V F-2	Sandy Anderson, L.M.T., Executive Director, BMT	Supporting information for the BMT
Agenda Item VI	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	Work Session Document
Agenda Item VII A	Margi A. Grein, Executive Officer, State Contractors' Board (SCB)	Information regarding the SCB
Agenda Item VII B	Cesar O. Melgarejo, Senior Policy Analyst, Research Division, LCB	Memorandum regarding certified court reporters and videography
Agenda Item VII C	Patrick B. Ashton, Senior Policy Analyst, Research Division, LCB	Memorandum regarding the licensing of homeopathic physicians
Agenda Item VII D	Sandra Reed, Executive Director, State Board of Osteopathic Medicine (SBOM)	Letter regarding the SBOM

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