

Sunset Subcommittee of the Legislative Commission
(*Nevada Revised Statutes 232B.210*)

WORK SESSION DOCUMENT



June 13, 2018

Prepared by the Research Division
Legislative Counsel Bureau

Agenda Item VI (SUNSET)
Meeting Date: 06-13-18



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(*Nevada Revised Statutes* [NRS] 232B.210)

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The following Work Session Document has been prepared by the chair and staff of the Sunset Subcommittee of the Legislative Commission. It is designed to assist the Subcommittee members to determine whether to recommend that a board or commission be terminated, modified, consolidated with another agency, or continued. The recommendations contained herein do not necessarily have the support or opposition of the Subcommittee. Rather, these possible actions are compiled and organized so the members may review them to decide whether they should be adopted, changed, rejected, or further considered. They are not preferentially ordered.

Each item in this document may be the subject of further discussion, refinement, or action. Any recommendations will be forwarded to the Legislative Commission for its consideration. Some of the recommendations may contain an unknown fiscal impact. Subcommittee members should be advised that Legislative Counsel Bureau (LCB) staff will coordinate with interested parties to obtain detailed fiscal estimates, if appropriate, for inclusion in the Subcommittee's final report.

Finally, please note that specific details of recommendations approved by the Subcommittee may require clarification by Subcommittee staff prior to reporting the recommendations to the Legislative Commission. Supporting documents for some recommendations may be obtained by contacting Carol M. Stonefield, Deputy Research Director, Research Division, LCB, at (775) 684-6825 or cstonefield@lcb.state.nv.us.

**RECOMMENDATIONS RELATING TO TERMINATING, CONTINUING,
MODIFYING, OR CONSOLIDATING BOARDS AND COMMISSIONS**

1. Peace Officers' Standards and Training Commission (NRS 289.500)

The Peace Officers' Standards and Training Commission (P.O.S.T.), created by the Legislature in 1981, consists of nine members appointed by the Governor. Members must represent geographic areas of the state as well as categories of peace officers.

The Commission must provide training opportunities for law enforcement personnel and establish minimum standards for the certification, recruitment, selection, and training of peace officers. It shall determine whether agencies of state and local government are complying with standards, carrying out duties relating to certain investigations, and performing any other duties necessary to meet its statutory functions.

The Sunset Subcommittee reviewed P.O.S.T. at its January 22, 2018, meeting. Subcommittee members and representatives of P.O.S.T. discussed funding for the activities of the Commission. The executive director stated that the only source of funding is through court assessment fees. Subcommittee members requested information on funding available to similar agencies in other states. The response from the executive director was included in the informational items provided to the Subcommittee at its meeting on February 21, 2018.

The Commission had no suggestions for consolidation with another entity. To stabilize and increase P.O.S.T.'s budget, the Commission suggested statutory revisions as follows:

- Provide a specific and mandatory portion of court assessment fees; or
- Add a source of funding, such as a surcharge, or other methods of funding utilized in other states.

Should the Peace Officers' Standards and Training Commission be terminated or continued?

If the Subcommittee recommends terminating the Commission, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Commission should continue:

- *Does the Subcommittee want to recommend any changes concerning the Commission?*
- *Does the Subcommittee want to recommend any changes to the duties of the Commission?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

- A. Include a statement in the Subcommittee's final report encouraging P.O.S.T. to:
 - 1. Request additional funding through the Executive Budget for the 2019–2021 Biennium; or
 - 2. Seek a sponsor for a bill draft request to provide for an increased portion of court assessment fees or a new source of funding; or
 - 3. Do both.
- B. Send a letter to the Governor and chairs of the Senate Committee on Finance and the Assembly Committee on Ways and Means recommending funding of the Northern Nevada Emergency Vehicle Operations Course, estimated in the State Public Works Board Project 7487 at approximately \$5.8 million.

2. State Board of Architecture, Interior Design and Residential Design (NRS 623.050)

The Legislature created the State Board of Architecture in 1949. Subsequently, the practice of residential design was defined in 1975, and the practice of interior design was defined in 1995. The Board consists of nine members appointed by the Governor to represent the three practices and the general public. The Board is authorized to issue licenses, discipline licensees and impose civil penalties, establish education and training requirements, and adopt a code of ethics.

The Sunset Subcommittee reviewed the Board at its meeting on February 21, 2018. Subcommittee members and representatives of the Board discussed the Board's policy of offering longevity pay to employees, budgeted travel costs, fees as they compare to surrounding states, and the retention of revenues from fines.

The Board provided a response to questions raised, which was included in the informational items provided to the Subcommittee at its meeting on May 21, 2018. The Board indicated the following:

- Longevity pay has been an employment policy since 2001 as part of its compensation package. The Board offered to discontinue this policy.
- In-state travel costs include travel for board meetings, exam administration, continuing education seminars, and educational outreach programs. Several Board members participate in national organizations, generating out-of-state travel expenses.
- First-time registration fees are higher than surrounding states because the Board is entirely self-funded. It provides certain services, including free continuing education, participation in an alternative path to licensure for some qualified interior designers, and faster licensing.
- NRS 623.310 provides a ceiling of \$800 for an examination. Fees have not been raised since 2002.
- With regard to fines and assessments, the Board takes the position that its legal authority “seems to differ from the authority that governs other” licensing boards in Nevada.
 - NRS 623.365 provides for a civil penalty not to exceed \$10,000.
 - No provision in Chapter 623 (“Architects, Interior Designers and Residential Designers”) of NRS specifically directs the Board to deposit money from fines in the Office of the State Treasurer, although NRS 623.165 provides that if the Board does make such deposits, it can request reimbursement for investigative costs from the Interim Finance Committee. The Board asserts that its “present

processes do not post the kinds of due process risks” of concern to the Sunset Subcommittee.

The Board had no recommendations for consolidation with another entity nor any recommendations for revisions to its practice act.

Should the State Board of Architecture, Interior Design and Residential Design be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- ***Does the Subcommittee want to recommend any changes concerning the Board?***
- ***Does the Subcommittee want to recommend any changes to the duties of the Board?***

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

A. Send a letter to the Board:

1. Urging it to discontinue the practice of longevity pay and reduce its travel expenses; and
2. Urging it to review its fees for examinations and first-time registrations and direct the Board to report to the Subcommittee during the 2019–2020 Interim on the results of its review.

B. Note in the Subcommittee’s final report that the Board’s practice of retaining revenues from levying fines and civil penalties, rather than depositing them with the Office of the State Treasurer, is not aligned with provisions of some other practice acts.

3. State Board of Professional Engineers and Land Surveyors (NRS 625.100)

The State Board of Professional Engineers and Land Surveyors was established by the Legislature in 1919. The practice of land surveying was recognized by the Legislature in 1947. The Board consists of nine members appointed by the Governor.

The Board is responsible to issue licenses, define the scope of the disciplines by regulation, discipline licensees, and investigate complaints.

The Sunset Subcommittee considered the Board at its meeting on February 21, 2018. A review of the Board's financial audit indicated the Board has a reserve balance that would cover approximately 35 months of operating expenses. The Board reported it:

- Does not have a reserve policy;
- Had submitted its rules of practice to the Secretary of State; and
- Retains all money from the imposition of fines, collected pursuant to NRS 625.150.

The Board had no recommendations for consolidation with another entity nor any recommendations for statutory changes. A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on May 21, 2018. The Board indicated that "internal procedures have been implemented to ensure that all future fines" imposed by the Board will be deposited with the Office of the State Treasurer.

The Board submitted a reserve policy that was adopted on May 10, 2018, and a business plan effective June 2018.

Should the State Board of Professional Engineers and Land Surveyors be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- ***Does the Subcommittee want to recommend any changes concerning the Board?***
- ***Does the Subcommittee want to recommend any changes to the duties of the Board?***

4. Nevada State Board of Accountancy (NRS 628.035)

The Nevada State Board of Accountancy was established by the Legislature in 1913. The Board consists of seven members appointed by the Governor. The Board has the authority to regulate Chapter 628 (“Accountants”) of NRS, including adopting regulations concerning professional conduct, issuing certificates, establishing educational requirements, prescribing examinations, registering corporations for the practice of public accounting, and disciplining holders of certificates.

The Subcommittee reviewed the Board at its meeting on January 22, 2018. Subcommittee members and representatives of the Board discussed the following:

- The Board has approximately 22 months of operating reserves;
- Cost efficiencies implemented by the Board resulted in a reduction of operating expenses; and
- Board members who are involved in enforcement committee proceedings abstain from voting.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on March 21, 2018. The Board explained the actions it implemented in 2004 to improve its financial position, which resulted in a growing reserve. The Board noted its concerns with a suggestion that it maintain reserves of only three to six months to cover operating costs.

The Board included on the agenda for its March 21, 2018, meeting a discussion of a reserve policy. A message from the executive director indicated that the Board has approved the drafting of a reserve policy, which will likely be adopted at its scheduled meeting in July 2018.

Should the Nevada State Board of Accountancy be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend the following:

- A. Include a statement in the Subcommittee's final report that the Board indicated it is in the process of developing and adopting a reserve policy.

5. Board of Medical Examiners (NRS 630.050)

The Board of Medical Examiners was created by the Legislature in 1899. It consists of nine members appointed by the Governor. One of the members must represent the interests of persons or agencies that provide health care to indigent, uninsured, or low-income patients.

The Board shall enforce the provisions of Chapter 630 (“Physicians, Physician Assistants, Medical Assistants, Perfusionists and Practitioners of Respiratory Care”) of NRS. It shall establish standards for the practice of licensure, conduct examinations, and investigate applicants. It is authorized to hold hearings, conduct investigations, inspect premises, and discipline licensees.

The Board was reviewed by the Subcommittee on March 21, 2018. Subcommittee members and representatives of the Board discussed the Board’s reserve policy and fees. Representatives reported the Board established a policy to maintain reserves equal to approximately 12 months of operating expenses, based on an audit from the Federation of State Medical Boards. Subsequently, it reduced fees for all licensure categories. The members noted that the Board’s fees remain higher than surrounding states in most categories, including background checks, initial application fees, and renewal fees.

Representatives explained the use of hearing officers in administrative hearings. The hearing officers are independent contractors who conduct initial proceedings, make a finding of the credibility of witnesses, and prepare a record that is provided to the Board members who conduct the formal hearing.

The Board had no recommendations for consolidation with another entity nor any recommendations for statutory revisions.

Should the Board of Medical Examiners be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend the following:

- A. Send a letter to the Board urging it to review its fee schedules, including aligning fees charged for background checks with costs to obtain the information; and
- B. Direct the Board to report the results of its review to the Subcommittee during the 2019–2020 Interim.

6. Board of Homeopathic Medical Examiners (NRS 630A.100)

The Board of Homeopathic Medical Examiners was established by the Legislature in 1983. The Board consists of seven members appointed by the Governor, including one member who must represent the interests of persons or agencies that provide health care to indigent, uninsured, or low-income patients.

The Board has the authority to regulate the practice of homeopathic medicine, determine qualifications of applicants, issue licenses or certificates, and investigate complaints.

The Subcommittee reviewed the Board at its meeting on March 21, 2018. Discussion between Subcommittee members and representatives of the Board included a review of the Board's expenditures, revenues, and its debt of approximately \$145,000 owed to the Office of the Attorney General, which has been accruing since 2004. Representatives of the Board indicated most patients are not Nevada residents; they generate medical tourism revenue during their stay for treatment. In addition, the Board reported that new applications for a license indicate a growing trend in homeopathic medicine.

The Subcommittee requested additional information, as follows:

- Subsequent to the March review, the chair requested information on the amount of money generated from homeopathic medical tourism, the number of pending applications, and the number of individuals practicing homeopathic medicine without a license in Nevada. A report addressing the requested information was submitted by Capitol Partners, LLC, on behalf of the Board. The report and letters of support are included in the informational items on the agenda for the Subcommittee's meeting on June 13, 2018.
- At the Subcommittee's meeting on April 23, 2018, the members voted to request information from the Attorney General regarding the circumstances of the amounts payable and any suggestions for resolution. The Subcommittee requested the Attorney General submit a response for consideration at the June 13, 2018, meeting.

Should the Board of Homeopathic Medical Examiners be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- ***Does the Subcommittee want to recommend any changes concerning the Board?***
- ***Does the Subcommittee want to recommend any changes to the duties of the Board?***

The Subcommittee may wish to consider the following in making its recommendation:

- A. If the Subcommittee wishes to recommend termination of the Board, it may wish to recommend transferring the authority to issue licenses to homeopathic physicians and homeopathic assistants to the Division of Public and Behavioral Health, Department of Health and Human Services (DHHS).
- B. If the Subcommittee wishes to recommend continuation of the Board, it may wish to:
 - 1. Submit to the Legislative Commission a recommendation for an audit of the Board, which would: (a) consider the information provided by the Office of the Attorney General regarding the Board's liability to that Office; and (b) determine what actions may be taken to reduce or eliminate the liability;
 - 2. Recommend continued monitoring of the Board by the Subcommittee during the 2019–2020 Interim; and
 - 3. Recommend the director of the Department of Administration to establish a procedure to monitor the activities of the Board and provide assistance as appropriate to improve performance of duties.
- C. If the Subcommittee wishes to recommend continuation of a newly constituted board to license practitioners, the Subcommittee may wish to recommend that:
 - 1. The terms of any members of the current Board and the employment of any current staff expire on a particular date;
 - 2. The Governor appoint new members to the newly constituted board;
 - 3. The newly constituted board hire new staff;
 - 4. The newly constituted board adopt policies and procedures to address its financial status and its processes to enforce the provisions of Chapter 630A (“Homeopathic Physicians, Advanced Practitioners of Homeopathy and Homeopathic Assistants”) of NRS;
 - 5. The newly constituted board report its activities to the Sunset Subcommittee throughout the 2019–2020 Interim; and
 - 6. The director of the Department of Administration establish a procedure to monitor the activities of the newly constituted board and provide assistance as appropriate to improve performance of duties.

7. State Board of Osteopathic Medicine (NRS 633.181)

The State Board of Osteopathic Medicine was created by the Legislature in 1925. The Board consists of seven members, including one member who must represent the interests of persons or agencies that provide health care to indigent, uninsured, or low-income patients. The Board is authorized to adopt regulations to carry out its duties, issue licenses, investigate complaints, and discipline licensees.

The Board was reviewed by the Subcommittee at its meeting on March 21, 2018. Subcommittee members and representatives of the Board discussed:

- The Board's reserves of approximately \$1 million, which are equal to 20 months of operating costs;
- An increase in applications that generated increased revenue;
- The Board's retention of fines for disciplinary actions;
- The Board's hearing process, including the selection of a hearing officer;
- The level of fees in Nevada, which are higher than most surrounding states;
- The Board's plans to review its fees and consider necessary adjustments.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on April 23, 2018. The Board provided information in response to questions from the Subcommittee, including the following:

- The Board will consider a reserve policy at its scheduled meeting in June 2018;
- Criteria considered when selecting a hearing officer include experience, education, and references; and
- The Board will review licensing, renewal, and fingerprint processing fees to determine whether adjustments are necessary.

The Board had no recommendations for consolidation with another entity nor any recommendations for statutory changes.

Should the State Board of Osteopathic Medicine be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

A. Send a letter to the Board:

1. Urging it to review its fee schedules, including aligning fees charged for background checks with costs to obtain the information; and
2. Directing it to report the results of its review to the Subcommittee during the 2019–2020 Interim.

B. Note in the Subcommittee’s final report that the Board’s practice of retaining revenues from levying fines and civil penalties, rather than depositing them with the Office of the State Treasurer, is not aligned with provisions of some other practice acts.

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

The Legislature created the Chiropractic Physicians' Board of Nevada in 1923. The Board consists of seven members appointed by the Governor, including one member who must represent the interests of persons or agencies that provide health care to indigent, uninsured, or low-income patients. The Board is authorized to adopt regulations to carry out its duties, issue licenses, inspect premises, investigate complaints, and discipline licensees.

The Sunset Subcommittee reviewed the Board at its meeting on April 23, 2018. The members and representatives of the Board discussed the following:

- The Board possesses marketable securities with no plans for liquidation and no policy on investments;
- The Board has reserves of \$206,000, which are equivalent to seven months of operating costs, and it has no reserve policy; and
- Licensing fees are higher than most surrounding states.

At the meeting, Board counsel explained how the Board came to hold stock in a publicly traded company. Counsel stated the Board will place on the agenda for its July meeting items proposing to divest itself of this stock and to establish a reserve policy.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on May 21, 2018. The Board provided information in response to questions from the Subcommittee, including the following:

- Doubtful accounts that are turned over to the Office of the State Controller;
- Sources of other income;
- An explanation for variances in budgeted and actual revenues and expenditures; and
- Services provided to licensees that are funded from fees.

The Board had no recommendations for consolidation with another entity. It did indicate that it may seek legislation to revise provisions of Chapter 634 ("Chiropractic Physicians and Chiropractors' Assistants") of NRS during the 2019 Legislative Session.

Should the Chiropractic Physicians' Board of Nevada be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend the following:

- A. Send a letter to the Board recommending the following:
 1. Divestiture of certain securities;
 2. Establishment of a reserve policy; and
 3. Improvement in the budgeting process.
- B. Direct the Board to report back to the Subcommittee during the 2019-2020 Interim on steps taken to improve the budgetary process and manage its finances.

9. State Board of Podiatry (NRS 635.020)

The Legislature established the State Board of Podiatry in 1949, although it first regulated the practice by requiring certification through the Board of Medical Examiners in 1917. The Board consists of five members appointed by the Governor, including one member who must represent the interests of persons or agencies that provide health care to indigent, uninsured, or low-income patients.

The Board is authorized to adopt regulations to carry out the provisions of Chapter 635 (“Podiatric Physicians and Podiatry Hygienists”) of NRS. It may examine applicants, issue licenses, require training, inspect premises, and discipline licensees.

The Board was reviewed by the Sunset Subcommittee at its meeting on April 23, 2018. Subcommittee members and representatives of the Board discussed the following issues:

- The former director’s restitution for felony embezzlement;
- Contractual and professional services, which represent significant expenditures for a relatively small board;
- The Board does not accept electronic payments;
- The Board has no reserve policy;
- The number of licensed podiatric hygienists at nine; and
- Fines are included as part of the Board’s operating revenues.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on May 21, 2018. The Board provided information in response to questions from the Subcommittee, including the following:

- Civil penalties, not previously deposited with the Office of the State Treasurer, will be deposited there in the future;
- Online renewals will be considered by the Board;
- Board training will be considered at future Board meetings;
- The need for podiatric hygienists may be considered by the Board at a later date.

The Board had no recommendations for consolidation with another entity. It indicated that it is discussing potential revisions to Chapter 635, but it had no recommendations to suggest to the Subcommittee.

Should the State Board of Podiatry be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

- A. Send a letter to the Board urging it to adopt electronic renewals and payments.
- B. Recommend to the Legislative Committee on Health Care (LCHC) (NRS 439B.200) that it review the need for a podiatric hygienist.

10. Nevada Physical Therapy Board (NRS 640.030)

The Legislature established the Nevada Physical Therapy Board in 1995. The Board consists of five members appointed by the Governor. In addition, in 2017, the Legislature authorized the Board to select any person to serve as a nonvoting advisory member of the Board.

The Board is authorized to enforce the provisions of Chapter 640 (“Physical Therapists, Physical Therapists’ Assistants and Physical Therapists’ Technicians”) of NRS, evaluate applicants, issue licenses, investigate complaints, discipline licensees, forward to law enforcement any substantiated information concerning a person who allegedly practices without a license, and approve educational programs leading to licensure.

The Sunset Subcommittee reviewed the Board at its meeting on April 23, 2018. Subcommittee members and Board representatives discussed the following:

- Lack of internal controls in Board operations, including the segregation of duties and maintaining adequate records to enable the financial audit;
- Expenditures exceeding revenues;
- No budget was prepared for Fiscal Year (FY) 2015 or FY 2016;
- The conduct of the previous executive director in making unauthorized payments to herself prior to resignation;
- Moving to an annual audit to assist the Board in the accountability and maintenance of its financial records; and
- Board training consisting of providing members with lists of websites relating to ethics, government, and the Open Meeting Law; instruction in the legislative process provided by the lobbyist; and recommendations for education and training events.

The Board has taken the following steps to address some of these issues:

- Working with the Office of the Attorney General rather than full-time, outside legal counsel;
- Reviewing invoices and regulations;
- Establishing internal financial controls;
- Providing online access to licensing renewals; and
- Putting employee performance evaluations in place.

The Board had no suggestions for consolidation with another entity. On its review form, the Board indicated that it is undertaking a comprehensive review of its administrative regulations for the purpose of updating and revising licensing procedures, professional standards and conduct, and disciplinary actions.

Should the Nevada Physical Therapy Board be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- ***Does the Subcommittee want to recommend any changes concerning the Board?***
- ***Does the Subcommittee want to recommend any changes to the duties of the Board?***

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

A. Send a letter to the Board urging it to:

1. Establish an annual audit cycle; and
2. Establish an annual budget and improve its budgeting process and maintenance of records.

B. Recommend improvement of Board training, either by:

1. Revising provisions of Chapter 640 to require Board members to attend training offered by the Attorney General; or
2. Requiring the Board to report to the Subcommittee during the 2019–2020 Interim with documentation of training in which every Board member participated.

C. Report to the Subcommittee during the 2019–2020 Interim on the outcome of the investigation into the conduct of the previous executive director.

11. Board of Psychological Examiners (NRS 641.030)

The Board of Psychological Examiners was established by the Legislature in 1963. The Board consists of six members appointed by the Governor, including one member who must represent the interests of persons or agencies that provide health care to indigent, uninsured, or low-income patients. In 2017, the Legislature created the Board of Applied Behavior Analysis, transferred the responsibility for regulation of that profession from the Board of Psychological Examiners, and reduced the membership from seven members to six.

The Board is authorized to enforce the provisions of Chapter 641 (“Psychologists, Behavior Analysts, Assistant Behavior Analysts and Autism Behavior Interventionists”) of NRS, including licensing applicants, disciplining licensees, investigating complaints, and requiring a mental or physical examination of a licensee who is named in a complaint.

In 2017, the Legislature enacted Assembly Bill 457 (Chapter 363, *Statutes of Nevada*) to require the Board to establish policies concerning compensation and performance of the staff, to authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and to adopt online application forms for issuance or renewal of licenses and certificates.

The Subcommittee reviewed the Board at its meeting on May 21, 2018. Subcommittee members and representatives of the Board discussed the following:

- A lack of oversight, segregation of duties, and proper documentation as reported in the financial audit;
- A decline in the reserve balance over the past several years and large variances in the budget in certain fees;
- Reserves equivalent to approximately five months of operating costs;
- Loss in revenue due to the creation of the new Board of Applied Behavior Analysis; and
- Testing and licensing procedures, including the development of a computer-based exam.

The Board reported that it has developed procedures to separate duties; the executive director and the secretary-treasurer meet monthly to reconcile statements. The deficit was due to services of a lobbyist, exam developer, exam commissioner, and an accountant. The actual expenditures will be closer to the budget as it finishes its two-year budget.

The Board had no suggestions for consolidation with another entity, but it recommends the Board membership be returned to seven. It also requested an increase in the statutory limits placed on fees, which have not been increased since 1997.

Should the Board of Psychological Examiners be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

- A. Recognize that the Board recommends a revision to NRS 641.030 to increase the membership to seven by:
 1. Sending a letter to the Board urging it to request its own bill draft to accomplish this revision; and
 2. Including a statement in the Subcommittee's final report that the Board has made the recommendation.
- B. Recommend that the LCHC and the Commission on Behavioral Health, DHHS, continue to monitor the Board, pursuant to AB 457.
- C. Require the Board report to the Sunset Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

12. Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors (NRS 641A.090)

The Legislature established the Board of Marriage Counselor Examiners in 1973. Licensing clinical professional counselors was authorized in 2007. The Board currently consists of nine members, appointed by the Governor.

The Board has the authority to enforce the provisions of Chapter 641A (“Marriage and Family Therapists and Clinical Professional Counselors”) of NRS, including examining applicants, granting licenses, disciplining licensees, and establishing criteria for courses of study for licensing and continuing education.

In 2017, the Legislature enacted AB 457 to require the Board to establish policies concerning the compensation and performance of Board staff, authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and adopt online application forms for issuance or renewal of licenses and certificates.

The Sunset Subcommittee reviewed the Board at its meeting on May 21, 2018. Subcommittee members and representatives of the Board discussed the following:

- An employee loan that was not authorized or approved by the Board and other loss attributed to theft;
- Lack of documentation to prepare a budget and an audit;
- Efforts to manage Board operations without a staff director; and
- A records retention policy.

The Board reported that it has developed a policy and operations manual, will interview applicants to fill the executive director position, and has requested the Office of the Attorney General to investigate the loss attributed to theft.

The Board had no suggestions for consolidation with another entity. It reported that at its April meeting, the Board voted to support a number of revisions to Chapter 641A, including increases in the statutory limits on fees, which have not been increased since 1989. It may propose a biennial license to increase revenues and address cash flow problems.

Should the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

- A. Recommend that the LCHC and the Commission on Behavioral Health continue to monitor the Board, pursuant to AB 457.
- B. Require the Board report to the Sunset Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

13. Board of Examiners for Social Workers (NRS 641B.100)

The Board of Examiner for Social Workers was established by the Legislature in 1987. The Board consists of five members appointed by the Governor.

The Board is authorized to adopt regulations to carry out the provisions of Chapter 641B (“Social Workers”) of NRS, including issuing licenses and disciplining licensees. The Board shall maintain a list of licensed social workers.

In 2017, the Legislature enacted AB 457 to require the Board to establish policies concerning the compensation and performance of Board staff, authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and adopt online application forms for issuance or renewal of licenses and certificates.

The Board was reviewed by the Sunset Subcommittee at its meeting on May 21, 2018. Subcommittee members and the Board discussed the following:

- The Board’s reported deficit and expenditures exceeded revenues according to the financial audit;
- Online licensing, including the purchase of computer software and contracting with a new vendor; and
- The increasing demand for social workers in Nevada.

The Board reported it is proposing to increase the application fee and the initial licensure fee for licensed clinical social workers, which will bring in additional revenue. If its statutory limits are increased, the Board plans to use the additional revenue to provide computer programming, improve office efficiencies, and build its reserve funds. Representatives stated statutory fees were last increased in 1995.

The Board had no recommendations for consolidation with another entity.

Should the Board of Examiners for Social Workers be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- ***Does the Subcommittee want to recommend any changes concerning the Board?***
- ***Does the Subcommittee want to recommend any changes to the duties of the Board?***

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

- A. Recommend the LCHC and the Commission on Behavioral Health continue to monitor the Board, pursuant to AB 457.
- B. Require the Board report to the Sunset Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

14. Board of Examiners for Alcohol, Drug and Gambling Counselors (NRS 641C.150)

In 1999, the Legislature created the Board of Examiners for Alcohol and Drug Abuse Counselors. The Board was revised in 2003 to include gambling counselors. The Board consists of seven members appointed by the Governor. The Board is authorized to adopt regulations relating to examinations, licensing, and discipline.

In 2017, the Legislature enacted AB 457 to require the Board to establish policies concerning the compensation and performance of Board staff, authorize the Board to enter into agreements with DHHS to assist in improving performance of duties, and adopt online application forms for issuance or renewal of licenses and certificates.

The Board was reviewed by the Sunset Subcommittee at its meeting on May 21, 2018. Subcommittee members and Board representatives discussed the following:

- The Board has reserves equivalent to nine months of operating costs;
- Both examination expenses and revenue collected from exams and fees indicate growth in the field;
- The Board's initial application fee is higher than surrounding states; and
- Expenditures exceeded revenues due to lobbyist fees for the 2017 Legislative Session.

The Board reported it has not entered into an agreement with DHHS because it has a solid system of governance in place. The Board also reported it updated its policies and procedures in 2017 and has offered online renewals since 2014. The Board had no recommendations for consolidation with another entity or suggestions for statutory revisions.

Should the Board of Examiners for Alcohol, Drug and Gambling Counselors be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend one or more of the following:

- A. Recommend the LCHC and the Commission on Behavioral Health continue to monitor the Board, pursuant to AB 457.
- B. Require the Board report to the Sunset Subcommittee during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

15. Private Investigator's Licensing Board (NRS 648.020)

The Private Investigator's Licensing Board was established by the Legislature in 1953. Prior to that, the Legislature authorized the Nevada State Police to issue a private detective's license in 1947. The Board consists of five members appointed by the Governor.

The Board has the authority to carry out the provisions of Chapter 648 ("Private Investigators, Private Patrol Officers, Polygraphic Examiners, Process Servers, Repossessors, Dog Handlers and Registered Employees") of NRS, including classifying licensees according to the type of business. The Board may limit the operations of a licensee. It shall establish criteria for authorizing self-insurance and levying fines for violations. It may establish qualifications of licensees and the directors and officers of corporate licensees. It may also require licensees to attend courses in firearms safety.

The Board was reviewed by the Sunset Subcommittee at its meeting on January 22, 2018. Subcommittee members and representatives of the Board discussed the following:

- The vetting process for new applicants;
- The high cost of personnel due to employing six investigators, running background checks, and providing state benefits to all employees;
- Online processing of license applications, renewals, and credit card payments; and
- Licensing fees in Nevada compared to surrounding states.

A subsequent letter from the executive director was included in the informational items provided to the Subcommittee at its meeting on March 21, 2018. The Board provided information in response to questions from the Subcommittee, including the following:

- A comparison of fees in Nevada with selected states indicates that Nevada's fees are higher;
- The Board reported that Nevada is the only state that performs an in-depth background investigation on applicants and their companies, including credit checks and other public records; and
- The Board suggested that funding from the state would enable the Board to obtain Rap Back services from the Federal Bureau of Investigation, which allows authorized agencies to receive notification of activity by individuals who hold positions of trust or who are under criminal justice supervision or investigation. This would eliminate the need for repeated background checks on a person from the same applicant agency.

On its review form, the Board had no suggestions for consolidation with another entity. It did report that it is reviewing the provisions of Chapter 648 of NRS and Chapter 648

(“Private Investigators, Private Patrol Officers, Polygraphic Examiners, Process Servers, Repossessors and Dog Handlers”) of the *Nevada Administrative Code* and anticipates several changes to propose.

Should the Private Investigator’s Licensing Board be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- ***Does the Subcommittee want to recommend any changes concerning the Board?***
- ***Does the Subcommittee want to recommend any changes to the duties of the Board?***

If the Subcommittee wishes to recommend continuation, it may wish to recommend the following:

- A. Further review of the Board during the 2019-2020 Interim, including a study of its fees and operations.

16. Certified Court Reporters' Board of Nevada (NRS 656.040)

The Certified Court Reporters' Board of Nevada was created by the Legislature in 1973. The Board consists of five members appointed by the Governor.

The Board is authorized to examine applicants for certification, issue licenses to conduct business as a court reporting firm, fix the fees, and discipline a licensee. In 2017, the Legislature enacted Senate Bill 406 (Chapter 361, *Statutes of Nevada*), which made changes to examination requirements and qualifications.

The Board was reviewed by the Subcommittee at its meeting on January 22, 2018. Subcommittee members and representatives of the Board discussed the following:

- The increasing use of videography in depositions and changes in technology;
- Concerns for the protection of the public and the accuracy of the record created via videography;
- The lack of authority provided to the Board to oversee these methods; and
- The impact of declining numbers of licensees on the revenues of the Board.

A staff memorandum was provided to the members at its meeting on April 23, 2018, that provided the following information relating to the regulation and licensing of videography in Nevada and other states:

- States do not regulate legal videographers as they do certified court reporters;
- The National Court Reporters Association (NCRA) has taken no position on state licensure; and
- The Certified Legal Video Specialist Council, within the NCRA, holds that a court reporter should be present during a deposition and should be responsible for creating and maintaining the written testimony.

In addition, in 2017, the Nevada Supreme Court created the Nevada Rules of Civil Procedure Committee to review and make recommendations whether to update and revise the Nevada Rules of Civil Procedure and related rules. By the date of the Subcommittee's work session on the Board, the Committee had made no recommendations regarding the structure of rules to accommodate both videography and court reporting.

On its review form, the Board had no recommendations for consolidation with another entity. The Board did suggest that an officer in a deposition should be defined to be a "certified court reporter or certified voice writer to protect the public from noncertified persons reporting legal proceedings."

Should the Certified Court Reporters' Board of Nevada be terminated or continued?

If the Subcommittee recommends terminating the Board, should it be consolidated with another entity or have its duties transferred to another entity?

If the Subcommittee recommends that the Board should continue:

- *Does the Subcommittee want to recommend any changes concerning the Board?*
- *Does the Subcommittee want to recommend any changes to the duties of the Board?*

If the Subcommittee wishes to recommend continuation, it may wish to recommend either Option A or Option B:

- A. Require the Board to report to the Subcommittee during the 2019-2020 Interim on:
1. An update of the impact of the provisions of SB 406 relating to the revisions of examination requirements and qualifications, including the number of licensees and total revenues; and
 2. Any recommendations from the Nevada Rules of Civil Procedure Committee of the Nevada Supreme Court regarding the regulation of videographers.

OR

- B. Urge the Board to seek revisions of Chapter 656 ("Certified Court Reporters; Court Reporting Firms") of NRS to license videographers under the jurisdiction of the Certified Court Reporters' Board of Nevada.

17. General Findings and Recommendations Regarding Occupational and Professional Licensing Boards

During the 2017–2018 Interim, the Sunset Subcommittee reviewed 23 professional and occupational licensing boards. Over the previous three interims, the Subcommittee has reviewed an additional nine licensing boards.

As the Subcommittee conducted its work, members became aware of issues that the Legislature may wish to address. The following is a summary of the Subcommittee’s concerns, findings, and observations:

- A. In many instances, NRS provides that a board may delegate its authority to hear complaints made against licensees. It would appear that NRS does not provide for qualifications of hearing officers who receive this delegated authority from licensing boards.
- B. The training of board members is not uniform among the boards. While NRS 622.200 provides that a member of a regulatory body must be provided training on duties and responsibilities by the Attorney General, it appears that not all board members and staff participate.
- C. Although the Legislative Auditor receives financial audits and balance sheets, they are not available for public inspection, creating a lack of transparency.
- D. Some boards obtain only biennial audits. The lack of oversight by a board reduces accountability, which increases the possibility of mismanagement, fraud, and embezzlement. Annual audits may provide more structure to the budgeting processes of these boards.
- E. Board reserves range from several million dollars to less than three months of operating costs. Many boards have no policy with regard to reasonable reserves.
- F. Most boards are empowered to discipline licensees, including levying a fine or a civil penalty as a form of discipline. Practice acts are not uniform with regard to provisions requiring the deposit of such revenues with the Office of the State Treasurer. Some boards follow that practice, while other boards retain the revenues, creating a potential for conflict of interest.
- G. Fee structures are not uniform. Some boards charge more than is required to obtain fingerprint and background check information. Some boards are provided a range and limitation on the amounts they may charge licensees, while the fees for other boards are set in NRS. Some boards charge fees that are considerably more than what neighboring states levy.

- H. Not all boards have explicit authority to investigate individuals reported as practicing the profession without a license. Others are required to report such alleged activity to law enforcement. Some have the authority to seek injunctive relief.
- I. A review of budgets informed the Subcommittee that many boards utilize outside legal counsel, instead of obtaining assistance from the Office of the Attorney General, and hire the services of a lobbyist, leading to increased expenditures. Some boards fail to obtain approval of such contracts from the State Board of Examiners.
- J. The status of staff is not consistent among the boards. Some employees are members of the Public Employees' Retirement System; others participate in Social Security; and some are contractors, receiving few if any benefits at all.

If the Subcommittee wishes to address these concerns, it may wish to:

1. Include in its final report a summary of its findings and observations regarding the operations of the professional and occupational licensing boards;
2. Recommend the Legislature establish an interim study of the operations of the professional and occupational licensing boards during the 2019–2020 Interim.