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

SUMMARY MINUTES

The sixth meeting of the Sunset Subcommittee of the Legislative Commission for the 2017-2018 Interim was held on Monday, May 21, 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 Subcommittee's meeting page. The audio or video recording may also be found at http://www.leg.state.nv.us/Granicus/. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

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

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator James A. Settelmeyer
William "Buzz" Harris
Teresa P. Froncek Rankin

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Carol M. Stonefield, Deputy Research Director, Research Division
Cesar O. Melgarejo, Senior Policy Analyst, Research Division

James W. Penrose, Senior Principal Deputy Legislative Counsel, Legal Division
Jessica F. Dummer, Deputy Legislative Counsel, Legal Division
Rocky Cooper, Legislative Auditor, Audit Division
Janet Coons, Manager of Research Policy Assistants, Research Division
Jan Brase, Research Policy Assistant, 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 sixth 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.

Margi A. Grein, Executive Officer, State Contractors' Board, commented that members of the Commission on Construction Education welcome an evaluation of its grant program, as recommended by the Sunset Subcommittee in its Work Session Document (WSD) (Agenda Item VIII). She added that members of the Commission would like more information regarding the Subcommittee's recommendation for the Commission to align the priorities of the grant program with the vision of the Office of Workforce Innovation (OWINN), Office of the Governor, as stated in the WSD.

Chair Bustamante Adams reviewed the Subcommittee's recommendations for the Commission provided in the WSD (Agenda Item VIII), and she encouraged Ms. Grein and Manny Lamarre, Executive Director, OWINN, to work together to align the Commission's priorities with those of OWINN.

AGENDA ITEM III—APPROVAL OF MINUTES OF THE MEETING HELD ON APRIL 23, 2018

MOTION: Senator Denis moved to approve the minutes of the meeting held on April 23, 2018. The motion was seconded by Assemblyman Pickard and passed. Senator Atkinson was absent for the vote.

AGENDA ITEM IV—OVERVIEW OF DATA ON OCCUPATIONAL LICENSING PURSUANT TO SENATE BILL 69 (CHAPTER 518, *STATUTES OF NEVADA 2017*)

Manny Lamarre, previously identified, shared a presentation regarding the core strategies and policies of OWINN for 2018 through 2019 and provided an analysis of occupations regulated by a regulatory body pursuant to SB 69. He noted that 30 percent of Nevada's workforce is licensed through occupational licensing boards, and according to a 2017 report from the Institute for Justice, Nevada ranks second for the most burdensome licensing laws for low-income occupations (Agenda Item IV).

Mr. Lamarre and Subcommittee members discussed the following:

- The licenses analyzed were those reported to the LCB;

- The possibility of OWINN providing a list of data points that the Subcommittee might consider when reviewing boards and commissions;

- The analysis did not consider the fees of the licensing boards;

- Concern over inconsistent reporting whereby some boards include unlicensed individuals; and

- OWINN does not plan to recommend a bill draft request (BDR) for the 2019 Session regarding the analysis of the occupational licensing boards.

Mr. Lamarre said he would provide follow-up information regarding whether Nevada is the only state to regulate certain industries.

Chair Bustamante Adams clarified the Board of Hearing Aid Specialists and the Board of Examiners for Audiology and Speech Pathology were merged to create the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board.

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

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

A. Board of Psychological Examiners (NRS 641.030)

Mr. Cooper reviewed the following points from the audit report for the Board of Psychological Examiners (BPE) (Agenda Item V A):

- The Board has $88,000 in unrestricted funds, which is equal to five months of operating costs;

- The Board has over $300,000 in cash and certificates of deposit (CDs);

- Licensing fees are administered on a biennial basis and are due on the first day of January in odd-numbered years;

- The Board's reserves have decreased over the years;

- The Board joined the Public Employees' Retirement System (PERS) in January 2017;

- Licensing fees were budgeted at $279,000 (cash basis), but the actual amount was $156,000 (accrual basis);

- Actual attorney fees were $30,000, but were budgeted for $21,000;

- Examination expenses and professional fees have large variances that need explanation; and

- An audit finding indicated: (1) a lack of oversight and review due to limited staff and a lack of segregation of duties; (2) appropriate review and approved procedures were not in place; and (3) the executive director needs additional training and oversight to properly document, record, and report financial statements.

Mr. Cooper clarified that segregation of duties is typically a best practice rather than a rule.

K. Neena Laxalt, representing BPE, stated that only staff—not the Board members—joined PERS.

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

Mr. Cooper reviewed the following points from the audit report for the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors (Agenda Item V B):

- The statutory deadline for receipt of this report was December 1, 2017, but the Audit Division did not receive it until April 26, 2018;

- The auditors qualified their opinion because the Board has employees in PERS but it has not adopted Statement No. 68 of the Governmental Accounting Standards Board (GASB 68) regarding financial reporting for pensions;

- The audit lacks financial statements, required supplemental information typically prepared by management, and budgetary comparison information;

- An employee loan of $1,800 is noted, which is unusual, but this is how the auditors accounted for money overpaid during one fiscal year and possibly repaid;

- The Board's reserve balance is $40,000, which is equal to three months of operating costs;

- Board operations equaled $162,076;

- Other charges for services totaled $20,270;

- A theft loss of $5,097 for the year ended June 30, 2017, was identified;

- The Board paid $10,643 for its operating lease for the year ended June 30, 2017, and there is a sizeable increase in the operating leases for 2019 ($15,951) and 2020 ($17,385); and

- The Board discovered a former employee made unauthorized disbursements during the year ended June 30, 2017, and subsequent to that date; the unauthorized disbursements consist of

an employee loan totaling $1,800, which was paid back in October 2017; the unapproved expenses for personal use have not been repaid; and the final outcome is unknown at this time.

Assemblyman Pickard questioned the reason for the increase in the lease rates. He explained that escalation clauses are negotiated terms, and it is rare to see anything outside a rate of 4, 5, or 6 percent per year.

Mr. Cooper clarified the audit note indicated an escalation clause started January 2018, but there were no other details regarding the large increase in the lease rates. He suggested other factors may contribute to the increase.

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

Mr. Cooper reviewed the following points from the audit report for the Board of Examiners for Social Workers (Agenda Item V C):

- The Board has a deficit in the amount of $329,660 in unrestricted reserves; however, the Board participates in PERS and has a pension liability of $327,186, which still leaves the Board in a deficit position of $2,474;
- The Board has $194,977 in cash; its reserves are very low as licensees pay in advance;
- Total revenues budgeted were $366,000 and total expenditures were $516,000, indicating an anticipated deficit of $150,000 for the year, which is highly unusual;
- The Board incurred all its anticipated expenditures, leaving a deficit of $34,169;
- Legal and court fees were $39,000;
- Lobbyist fees totaled $32,313, which is high for a Board that is struggling financially;
- Operating expenses were budgeted at $81,700 and actual expenses were $16,000, which is a variance of $65,000; and
- The Board reported $10,000 in "other revenue."

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

Mr. Cooper reviewed the following points from the audit report for the Board of Examiners for Alcohol, Drug and Gambling Counselors (Agenda Item V D):

- The Board has a deficit of $55,216 and a net pension liability under GASB 68 of $218,701, which leaves $163,000 in reserves, or about nine months of operating costs;

- Testing fee expenses were budgeted at $5,000 but the Board spent $12,000, which indicates growth;

- Actual revenue collected from exam, certificate, and license fees was more than the budgeted amount, which indicates rapid growth;
- Actual renewal fees were 13 percent less than anticipated, which is questionable;

- "Other revenue" totaled $18,101; and

- Lobbyist fees, one of the Board's largest expenditures, equaled $30,000.

AGENDA ITEM VI—REVIEW OF THE PROVISIONS OF ASSEMBLY BILL 457 (CHAPTER 363, *STATUTES OF NEVADA 2017*) RELATING TO THE PERFORMANCE OF THE DUTIES OF THE BOARD OF PSYCHOLOGICAL EXAMINERS; THE BOARD OF EXAMINERS FOR MARRIAGE AND FAMILY THERAPISTS AND CLINICAL PROFESSIONAL COUNSELORS; THE BOARD OF EXAMINERS FOR SOCIAL WORKERS; AND THE BOARD OF EXAMINERS FOR ALCOHOL, DRUG AND GAMBLING COUNSELORS

James W. Penrose, previously identified, reviewed the provisions of AB 457 (Agenda Item VI). He noted the following:

- Sections 1 through 9 relate to the Board of Psychological Examiners;

- Sections 10 through 16 relate to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors;

- Sections 17 through 23 cover the Board of Examiners for Social Workers;

- Sections 24 through 31 pertain to the Board of Examiners for Alcohol, Drug and Gambling Counselors; and

- The changes that occur in Sections 1 through 9 also occur in Sections 10 through 31.

He stated that under Sections 2, 11, 18, and 25, the boards must submit a report to the Legislative Committee on Health Care (LCHC) (NRS 439B.200) on or before February 1 of each year regarding the number of complaints received, investigations completed, cases dismissed and settled, and the issuance or renewal of licenses. Mr. Penrose also stated that on or before January 1, 2018, the boards were to conduct an analysis of costs and fees and the recognition of licenses outside the state and submit a report to the LCHC containing the results of the analysis.

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

A. Board of Psychological Examiners (NRS 641.030)

K. Neena Laxalt, previously identified, introduced Michelle G. Paul, Ph.D., President, BPE, and Morgan Gleich, Executive Director, BPE.

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

- The decline in the reserve balance is partly due to a general increase in costs and $30,000 in legal fees for cases regarding unlicensed practices;

- There is no written reserve policy in place, but during a Board retreat scheduled for July, a proper reserve policy will be developed with the assistance of legal counsel and the auditor;

- At its July retreat, the Board will also address the budget and costs, going live with online renewal in the fall, and limiting travel expenses;

- The behavioral analyst (BA) license was placed under the Department of Health and Human Services (DHHS) due to a delay in licensing technicians; losing the regulation of BA licenses will reduce the Board's revenue by approximately $70,000 biennially;

- There will be a small decline in administrative expenses with the loss of regulating the BA license. The Board will initiate a new registration process with a smaller fee receipt, but hard costs will remain the same;

- Registration fees are lower than the licensure fees currently received from the BA license;

- The Board recommends increasing its fees as they were last increased in 1997;

- The Board has $130,000 in CDs and may use one to account for the loss in BA license fees;

- Senate Bill 162 (Chapter 385, *Statutes of Nevada 2017*) allows psychologists who supervise psychological assistants, interns, and trainees to seek reimbursement from Medicaid, which will require the Board to register trainees and may help offset the loss of BA license fees;

- The Board does not include outstanding legal fees in its budget; disciplinary costs recovered are included in the actual line budget, but unlicensed activity is hard to track;

- The Board recently decided to hire investigators and will seek reimbursement for their costs;

- In 2017, the Board moved to a biennial budget. The majority of the Board's income is received from license renewals at the end of even years; it recently switched to Kohn and Company LLP, a full-service accounting firm; and it will align its budget on the accrual basis;

- The Board uses the Office of the Attorney General (AG) for legal counsel; attorney's fees increased due to the unlicensed activity of a school psychologist;

- Examination expenses increased due to the development of and transition to a computer-based exam;
- The cost of office supplies increased because the Board's office became a testing site, and it had to buy a separate computer to meet testing requirements;

- Professional fees include the services of a lobbyist, exam developer, exam commissioner, and an accountant;

- The Board contracted with an exam developer to design three reliable exams based on best practices and analyze the results of the exams. The Board has a close affiliation with the Association of State and Provincial Psychology Boards (ASPPB), which is developing a second part of the national exam; this will eliminate the need for Nevada to have its own exam and allow the Board to reduce its examination fees;

- Even though the Board appears to be running at a $35,000 deficit according to the audit, the Board is running closer to its actual budget now that it is finishing out its two-year budget; this is explained by the difference between the cash and accrual situation; and

- To separate the Board's duties, the following procedures have been established or completed:

    - Transition to a new secretary-treasurer in July 2017;

    - Update of internal controls;

    - An online banking procedure giving the secretary-treasurer full access to accounts;

    - E-mail notifications when bills are paid;

    - All bills, expense forms, invoices, receipts, and bank and reconciliation statements are sent to the secretary-treasurer monthly;

    - The secretary-treasurer signs off on all expense forms and the reconciliation statement to indicate they been reviewed and agree with the bank statement;

    - The executive director and secretary-treasurer meet monthly before each Board meeting;

    - The executive director, secretary-treasurer, and the public member received proper training in reviewing reports from the auditors; and

    - Expenses over $200 require Board review.

Ms. Gleich offered to provide additional information regarding the increase in the cost of office supplies as well as the increase in operating expenses.

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

- It is the best practice of the Board to require both parents or multiple guardians with legal authority to consent to therapy or testing of children. The Board has adopted principals from the American Psychological Association (APA) and has not augmented the APA's Ethics Code 3.10 Informed Consent;

- The Board uses the Psychology License Universal System (PLUS), an online application management system offered by ASPPB that is free to all students;

- To become a licensed psychologist, the Board requires: (1) proof of education; (2) proof of pre-and postdoctoral training; and (3) character references;

- Applicants can take the exam within 45 days of completing the application; any lag in time falls on the shoulders of the applicants;

- 10 percent of recent applications have come from other PLUS jurisdictions;

- The ASPPB offers a certificate of professional qualification to enhance professional mobility across the states, which Nevada has accepted; this means immediate temporary licensure is issued to someone from another state who can take the state exam within a year;

- The shortage of psychologists in Nevada is a multipronged problem and not just a result of the time it takes to become licensed; the use of the PLUS system provides a dedicated license specialist at the ASPPB office; a subcommittee has been created to process applications; and new regulations have been developed to illustrate equivalency from nonaccredited programs;

- The Board offers the state exam six times a year at a testing center in either Reno, Nevada, or Las Vegas, Nevada, and takes two hours to complete; the national exam is offered through ASPPB and takes three hours to complete; the exams are not taken simultaneously; and

- The 2017 Nevada Legislature agreed to join the Psychology Interjurisdictional Compact. The Compact will become enacted with the adoption of seven states, which may be possible at the end of the year.

Chair Bustamante Adams requested the Board to provide information on: (1) streamlining the application process and the progress the Board has made; (2) the reasons why 25 of the 46 license applications reported in March 2018 were not processed; and (3) the Board's policy on record retention and storage.

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

Jake Wiskerchen, President, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, presented written comments regarding the status of the Board. He reported the Board seeks to implement sweeping changes to both NRS and the *Nevada Administrative Code* (NAC) in order to foster and promote behavioral health workforce development in Nevada. Mr. Wiskerchen emphasized the Board does not use the services of a lobbyist. He expressed optimism that the Board will be in full compliance with AB 457 by December 2018 (Agenda Item VII B-1).

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item V B) presented earlier by Mr. Cooper, Mr. Wiskerchen clarified the following information:

- The $1,800 employee loan was not approved or authorized by the Board and was immediately paid back. The rest of the money taken has been referred to the Office of the AG, and an agreement has been reached that the former employee will repay the amount due;
- The increase in the lease rate is not solely due to the escalation clause; the Board was given a 30-day eviction notice and had to sign a new lease agreement for a new location;
- Mr. Wiskerchen was selected as president of the Board in June 2017;
- A policy and operations manual has been developed for Board members and staff;
- The Board has complied with the recommendation of the audit report to adopt GASB 68;
- The analysis and budgetary comparison in the audit was based on speculation due to a lack of follow-through, on any level, by the previous management; a profit and loss budget overview for July 2014 through June 2016 was submitted (Agenda Item VII B-2);
- Three previous board members were retained;
- The Board's website will be fully paperless, except for fingerprints, which will decrease administrative fees and operating costs; and
- The Office of the AG is following up with any possible criminal charges relating to the theft by the previous employee; Fiscal Year (FY) 2017-2018 captures part of the theft, and the next fiscal year will also reflect some loss and recoupment.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item VII B-3) and supplemental information (Agenda Item VII B-4) submitted by the Board, Mr. Wiskerchen clarified the following information:

- The Board is authorized to fine or assess practitioners if they have fallen below standards, and the money is turned over to the state;
- A potential fee increase would be used to hire an outside investigator;

- Regarding informed consent, Nevada has adopted the rules of ethics from the American Association for Marriage and Family Therapy and the ethical code from the National Board for Certified Counselors, Inc. and Affiliates; the Board president has proposed to revise NAC to include its own code of ethics for license holders;
- Obtaining the consent of both parents for minor children is not codified; the matter is based on clinician or agency discretion;

- New Board members did not complete an orientation within 60 days of their appointment, pursuant to AB 457, but an orientation manual has been developed and disseminated to the members; training is scheduled for July 20; and K. Neena Laxalt, previously identified, has been contacted regarding training on legislative processes;

- Applicants for the position of executive director will be interviewed in June;

- The Board last raised its fees in 1989; based on an inflation rate of 102 percent, the Board anticipates a BDR to provide fee step increases up to $300 and additional fees for supervisory and education services; and

- The Board adopted the record and retention policy of the Division of State Library, Archives and Public Records, Department of Administration.

Assemblyman Pickard said he would further pursue the matter of obtaining the consent of both parents for minor children with Mr. Wiskerchen.

Chair Bustamante Adams requested Mr. Wiskerchen to provide follow-up information regarding the Board's completion of its training per AB 457. She stated she may have additional questions upon her review of the profit and loss budget overview submitted (Agenda Item VII B-2).

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

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item V C) presented earlier by Mr. Cooper, Sandy Lowery, L.C.S.W., L.A.D.C., Deputy Executive Director, Board of Examiners for Social Workers, clarified the following information:

- For the budget year ended June 30, 2017, the Board had almost $200,000 in reserves; currently, at the end of the third quarter of 2018, the Board has approximately $163,000 in reserves;

- "Other revenue" includes penalties for the submittal of late renewal applications, disciplinary cost reimbursement, mailing labels, and training completed by Board staff;

- The Board uses the services of the Office of the AG and saw an increase in legal expenses for FY 2016–2017 due to processing backlogged disciplinary cases;

- A lobbyist was retained in 2016 for the 2017 Session, and it anticipates using a lobbyist for the 2019 Session to assist with the Board's upcoming request to increase its fees;

- $70,000 was budgeted for online computer software, but it was not spent in FY 2016–2017;

- The Board is in the process of seeking a new vendor for online licensing and expects to be totally functional with online renewals before the end of the year;
- Regarding the negative fund balance of $150,000 reported on page 28 of the audit, the balance sheet showed the Board had income, including its fund balance coming into the fiscal year of $587,811. Total expenses of $398,802 left a reserve of $194,827 at the end of FY 2017; and

- The Board participates in PERS, and GASB 68 is figured into the budget.

Assemblyman Pickard requested clarification from the auditors regarding the Board's negative fund balance.

Responding to questions from Subcommittee members regarding the Sunset review form (Agenda Item VII C-1) and supplemental information (Agenda Item VII C-2) (Agenda Item VII C-3) (Agenda Item VII C-4) submitted by the Board, Ms. Lowery clarified the following information:

- The terms of two members will expire in June 2018, and both have submitted paperwork for reappointment;

- Ms. Lowery was the interim executive director beginning March 2017 and became the deputy executive director when the new executive director started on April 2, 2018;

- Forms for the complaint process are online;

- Electronic payment for fees will be available by the end of October 2018 when the electronic process for online renewal is rolled out;

- There are 2,739 social workers in Nevada; 40 percent are in the north and 60 percent are in the south;

- On average, 50 licenses are removed each cycle due to a variety of reasons, such as attractive salaries of other professions, retirement, moving out of the state, or changing careers where licensure is not required;

- There is a high demand for social workers in the state; the University of Nevada, Reno, and the University of Nevada, Las Vegas, are doing their best to provide graduates; and the Board provides training for graduates to assist with the licensure process and national exam;

- The state is above the national average passing rate of 87 percent;

- The Board is involved with a workforce development committee, and it has been invited to work with OWINN;

- The Board submitted its report to the LCHC regarding licensure by endorsement on December 31, 2017; it added an addendum on March 9, 2018, and testified before the LCHC on March 19, 2018. Licensure by endorsement has increased 400 percent from 2014 to 2017; 24 licenses were issued in 2014 and 102 issued in 2017; and the Board is on track to exceed that number in 2018;
- The Board is proposing to increase its one-time application fee from $40 to $100, which is lower than the average of the surrounding states. The licensees have been notified about the potential increase in fees, and the Board has not received any negative comments since renewal fees will not be impacted;

- The increase in the application fee and the initial fee for a licensed clinical social worker will bring in about $30,000 a year; and

- If the application fee ceiling is raised, the Board will use the additional revenue to provide computer programming, improve office efficiencies, and build its reserve funds.

Responding to Assemblyman Pickard's request for clarification of the Board's negative fund balance, Mr. Cooper questioned why the Board is requesting fee increases when it claims to have ample reserves. He explained that the Audit Division evaluates all reserves of the boards consistently by using the government-wide financial statements, which include all liabilities. The amount of reserves on page 8 of the audit (Agenda Item V C) is an unrestricted negative fund balance, which includes everything government-wide. The unearned license revenue of $125,000 and deferred license income of $25,000 on page 8 are liabilities, because, as of June 30, 2017, the Board had not provided services for those payments in advance. These are payments made in advance using the accrual method, which are allocated to future years; he considers this the preferred method.

Mr. Cooper pointed out the confusion arises on page 10 of the audit, which is another presentation of the balance sheet for governmental funds that does not include the $125,000 in revenues received in advance. The Board is focusing on near-term inflows and outflows of spendable resources, which is closer to the cash basis of accounting. Essentially, the Board has received money in advance to fund its operations, and it will apply those funds to the next fiscal year, which means the funds are not true reserves. He suggested the Board is using its cash to operate right now, which is why it wants to increase its fees in the future. It is not a true reserve accounting for all assets and liabilities.

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

Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors, introduced Colleen Platt, Legal Counsel, Board of Examiners for Alcohol, Drug and Gambling Counselors.

Darlene Dufault, President, Board of Examiners for Alcohol, Drug and Gambling Counselors, introduced herself.

Responding to questions from the Subcommittee regarding the Board's audit report (Agenda Item V D) presented earlier by Mr. Cooper, Ms. Gawronski clarified the following information:

- The discrepancy between the actual and budgeted amount in revenue and fees was due to: (1) the biennial renewal structure; (2) intern renewal fees were included in the audit; (3) the increase in testing fees was not considered; and (4) a large number of licensees retired;

- The actual revenue from exam and certificate fees significantly increased from the budgeted amount when the Board switched to a new consortium in 2015, and the testing company allowed more frequent testing;

- "Other revenue" includes charges for mailing lists, continuing education units, and the recoupment of legal fees; and

- Lobbyist fees were high due to possible consolidation of the behavioral health boards during the 2017 Session; lobbyist fees for the 2019 Session will be discussed at the Board's June meeting;

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

- Pursuant to AB 457: (1) the Board reported to the LCHC in March; (2) it does not propose any changes to its fees; and (3) training was provided for the Board at its February meeting with the help of legal counsel;

- The Board did not enter into an agreement with DHHS to improve its functions as it has a solid system in place; it updated its policies and procedures last year; and online renewals have been offered since 2014;

- A dual relationship, which was reported on the LCB website, is when boundaries have been crossed between a counselor and a patient, such as in a romantic relationship or marriage;

- The reporting of licenses on the LCB's website is simple and does not reflect the many reasons why licenses have been removed;

- There are 1,300 licensees in the state, with 60 percent in the south and 40 percent in the north and the rural counties;

- No estimates have been made for licensees in 2018; and

- Expenditures exceeded revenue due to $35,000 in lobbyist fees, which is not a normal expense.

AGENDA ITEM VIII—WORK SESSION—DISCUSSION AND POSSIBLE ACTIONS ON RECOMMENDATIONS RELATING TO TERMINATING, CONTINUING, MODIFYING, OR CONSOLIDATING THE:

(This agenda item was taken out of order.)

A. State Contractors' Board (NRS 624.040)

Carol M. Stonefield, previously identified, discussed the membership of the Board and its duties. She reported the Board made no suggestions to the Subcommittee for revisions to NRS or consolidation with another entity (Agenda Item VIII).

MOTION: Assemblyman Pickard moved to approve continuation of the State Contractors' Board with no recommendations for revision. The motion was seconded by Senator Denis and passed unanimously.

B. Commission on Construction Education (NRS 624.570)

1. ***Requirement That Recipients of Grants Evaluate the Outcomes of Grants and Report Results to the Commission***

2. ***Revision of Priorities of the Grant Program as Necessary to Correspond With Objectives of the Office of Workforce Innovation, Office of the Governor, Relating to the Support of State Apprenticeships and Work-Based Learning***

Ms. Stonefield reviewed the Commission's membership, its duties, and the recommendations before the Subcommittee regarding the evaluation of the grant program and aligning the priorities of the program with the vision of OWINN. She noted the Commission did not have any recommendations for revisions to NRS or consolidation with another entity (Agenda Item VIII).

Mr. Harris disclosed that he has worked with the Commission in the past and recommended continuation with the adoption of Recommendation A (2) in the WSD.

Assemblyman Pickard agreed the grant program is worthwhile and would like to better define and measure its outcomes, but he suggested NRS does not need to be revised at this time.

Assemblywoman Bilbray-Axelrod expressed concern that sending a letter may not be enough, and the Subcommittee may not get the information it needs to make meaningful policy.

Chair Bustamante Adams commented that in the past, the Subcommittee has requested Boards to report back during the following interim to confirm that recommendations have been enacted.

Senators Denis and Settelmeyer expressed their approval for Recommendation A (2).

Chair Bustamante Adams agreed that NRS 624.570 should not be revised at this time. However, in order to move Nevada forward, she suggested the need for alignment between the Commission and OWINN, especially for those wanting to enter the construction field. Therefore, she recommended the Subcommittee also consider Recommendation B (2) in the WSD.

MOTION: Senator Atkinson moved to approve continuation of the Commission on Construction Education with the adoption of Recommendations A (2) and B (2) as stated in the WSD. The motion was seconded by Assemblywoman Bilbray-Axelrod and passed unanimously.
MOTION: Senator Denis moved to request the Commission on Construction Education report back to the Subcommittee during the 2019–2020 Interim regarding the enactment of Recommendations A (2) and B (2). The motion was seconded by Assemblywoman Bilbray-Axelrod and passed unanimously.

C. State Board of Pharmacy (NRS 639.020)

1. ***Development by the Board of Policy to Provide Guidelines for Maintaining Adequate Reserves***

2. ***Report by the Board to the Sunset Subcommittee During the 2019–2020 Interim on Budgeted and Actual Revenues and Expenditures of the Board for Fiscal Years 2017--2018 and 2018–2019***

Ms. Stonefield reviewed the Board's membership and duties, and she outlined the recommendations stated in the WSD (Agenda Item VIII).

MOTION: Senator Denis moved to approve continuation of the State Board of Pharmacy with the adoption of Recommendations A and B as stated in the WSD. The motion was seconded by Assemblyman Pickard and passed unanimously.

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

1. ***Development by the Board of Policy to Provide Guidelines for Maintaining Adequate Reserves***

Ms. Stonefield reviewed the Board's membership, its duties, its operating reserves, and the recommendations presented in the WSD (Agenda Item VIII). She noted the Board had no recommendations for consolidation with another entity or revisions to NRS.

MOTION: Assemblywoman Bilbray-Axelrod moved to approve continuation of the Board of Occupational Therapy with the adoption of Recommendation A as stated in the WSD and require the Board to report back to the Subcommittee when Recommendation A has been enacted. The motion was seconded by Senator Denis and passed unanimously.

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

1. ***Reduction in the Number of Licensed Massage Therapists Serving as Members of the Board and Revision of Residency Requirements for Such Members***

2. ***Report by the Board to the Sunset Subcommittee During the 2019–2020 Interim on the Implementation of Regulation and Licensure of Reflexologists and Structural Integrationists***

Ms. Stonefield reviewed the history of the Board, its membership, and its duties. She explained that AB 179 (Chapter 275, *Statutes of Nevada 2017*) authorized the Board to issue licenses to practice reflexology and structural integration and increased the size of the Board to represent these new areas of practice. Ms. Stonefield commented the Board had no suggestions for consolidation with another entity; however, the Board did recommend a statutory revision to reduce its membership from nine to seven (Agenda Item VIII).

Subcommittee members discussed the rationale for the Board's desire to change its membership back to seven members when the 2017 Legislative Session recently increased it to nine.

Ms. Stonefield clarified the Board consists of six massage therapists, one reflexologist, one structural integrationist, and one public member.

Colleen Platt, Legal Counsel, Board of Massage Therapy, said nine members have made it difficult for the Board to manage its costs, and when the Board added two new members to represent reflexology and structural integration, it did not reduce the number of massage therapists on the Board. She added that for a nine-member board, five members constitute a quorum, and for a seven-member board, four members constitute a quorum. Ms. Platt stated the Board does not have a problem with assembling a quorum for its meetings.

Subcommittee members expressed concern that a quorum consists of only a simple majority, and without specific requirements, a quorum could possibly consist of all massage therapists.

Senator Denis suggested the Board has not had much of an opportunity to operate with nine members. He suggested continuing the Board with the adoption of Recommendation B in the WSD, and the Board can propose legislation during the 2019 Session to change its membership back to seven if it so chooses.

MOTION: Assemblyman Pickard moved continuation of the Board of Massage Therapy with the adoption of Recommendation B as stated in the WSD. The motion was seconded by Senator Atkinson and passed unanimously.

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

A. Information From Staff Regarding Fingerprinting and Background Checks in Response to Questions From Members of the Sunset Subcommittee

Cesar O. Melgarejo, previously identified, presented information on fee structures for processing fingerprint-based background checks in response to questions raised during previous Subcommittee meetings regarding the difference in fees charged by the boards. He reported the Federal Bureau of Investigation (FBI) and the state establish their own fee structures for processing fingerprint-based criminal background checks. Fees in Nevada are the same regardless of whether they are submitted electronically or manually. Effective October 1, 2016, the FBI established its fee for background checks for manual and electronic fingerprints at $12.75, and the state fee is $23.50, for a total fee of $36.25. He shared that some of the boards charge more than $36.25 to recoup staff fees for costs incurred to use Idemia, which is the only approved contractor to submit prints to the Central Repository for Nevada Records of Criminal History (Agenda Item IX A).

Chair Bustamante Adams requested Ms. Stonefield to break down the fingerprinting fees of all boards reviewed during the interim.

B. Information From the State Board of Pharmacy in Response to Questions Raised on April 23, 2018

Carol M. Stonefield, previously identified, shared a letter from the general counsel of the State Board of Pharmacy, which provides the address of the Board's office in Las Vegas. It also reports the percentage of active licensees located in Clark County at 59.18 percent (Agenda Item IX B).

C. Information From the State Board of Architecture, Interior Design and Residential Design (NRS 623.050) in Response to Questions Raised on February 21, 2018

Ms. Stonefield presented a letter from the executive director of the State Board of Architecture, Interior Design and Residential Design that responds to questions raised at the Board's review on February 21, 2018. She said the letter addresses longevity pay provided to employees—which the Board said it could remove as part of its employee compensation package—travel expenses incurred, fees charged for first-time registrations, and due process issues related to imposing fines and other assessments (Agenda Item IX C). Ms. Stonefield noted the Board has concluded there have been no due process risks; therefore, the Board maintains the revenues generated from civil penalties but not from fines.

Assemblyman Pickard asked for the opinion of James W. Penrose, previously identified, as to whether there is a legal distinction between civil penalties and fines and where they should be sent.

Mr. Penrose said he does not believe there is a distinction between fines and civil penalties; in one relevant opinion issued by the Office of the AG, the two terms are used interchangeably. The problem with the Board's statute, to the extent it speaks to the disposition of this kind of money, is that it refers only to fines and not civil penalties, as the Board has pointed out. Beyond that, he stated the Board's statutes are effectively silent on how this money is to be disposed of, which is the basic problem with the Board.

D. Information From the State Board of Professional Engineers and Land Surveyors (NRS 625.100) in Response to Questions Raised on February 21, 2018

Ms. Stonefield presented a letter from the executive director of the State Board of Professional Engineers and Land Surveyors that responds to questions raised at the Board's review on February 21, 2018. The letter addresses the issue of depositing funds received from fines assessed by the Board rather than a hearing officer. The letter advises the Subcommittee that internal procedures have been implemented to ensure that all future fines imposed by the Board without the use of a hearing officer will be deposited with the Office of the State Treasurer (Agenda Item IX D).

E. Information From the Chiropractic Physicians' Board of Nevada (NRS 634.020) in Response to Questions Raised on April 23, 2018

Ms. Stonefield reviewed the letter from the executive director of the Chiropractic Physicians' Board of Nevada that addresses a number of issues raised at the Board's review on April 23, 2018. These include accounts receivable from cost reimbursements and fines assessed as disciplinary actions, other income, operating expenses, Board services provided to licensees, and fees charged in Idaho (Agenda Item IX E).

F. Information From the State Board of Podiatry (NRS 635.020) in Response to Questions Raised on April 23, 2018

Ms. Stonefield shared a letter from the executive director of the State Board of Podiatry that responds to questions raised at the April 23, 2018, meeting of the Subcommittee regarding the deposit of revenues from fines, access to Board documents and functions online, the number of licensed podiatric hygienists, and the licensing fees charged in Utah. The letter also reports that approximately one-third of licensees are in northern Nevada, while two-thirds of licensees are in southern Nevada (Agenda Item IX F).

AGENDA ITEM X—PUBLIC COMMENT

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

Chair Bustamante Adams reminded Subcommittee members that the next and final meeting will be held on Wednesday, June 13, 2018.

AGENDA ITEM XI—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:44 p.m.

Respectfully submitted,

_____
Janet Coons
Manager of Research Policy Assistants

_____
Carol M. Stonefield
Deputy Research Director

APPROVED BY:

_____
Assemblywoman Irene Bustamante Adams, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	WITNESS/ENTITY	DESCRIPTION
Agenda Item IV	Manny Lamarre, Executive Director, Office of Workforce Innovation, Office of the Governor	Microsoft PowerPoint presentation
Agenda Item V A	Rocky Cooper, Legislative Auditor, Audit Division, Legislative Counsel Bureau (LCB)	Audit report of the Board of Psychological Examiners
Agenda Item V B	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors
Agenda Item V C	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report of the Board of Examiners for Social Workers
Agenda Item V D	Rocky Cooper, Legislative Auditor, Audit Division, LCB	Audit report of the Board of Examiners for Alcohol, Drug and Gambling Counselors
Agenda Item VI	James W. Penrose, Senior Principal Deputy Legislative Counsel, Legal Division, LCB	Assembly Bill 457 (Chapter 363, *Statutes of Nevada 2017*)
Agenda Item VII A-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information regarding the Board of Psychological Examiners
Agenda Item VII A-2	Morgan Gleich, Executive Director, Board of Psychological Examiners.	Supporting information regarding the Board of Psychological Examiners
Agenda Item VII B-1	Jake Wiskerchen, President, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors	Written comments
Agenda Item VII B-2	Jake Wiskerchen, President, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors	Profit and loss budget overview, July 2014 through June 2016
Agenda Item VII B-3	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information regarding the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors
Agenda Item VII B-4	Jake Wiskerchen, President, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors	Supporting information regarding the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors

Agenda Item VII C-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information regarding the Board of Examiners for Social Workers
Agenda Item VII C-2	Sandy Lowery, L.C.S.W., L.A.D.C., Deputy Executive Director, Board of Examiners for Social Workers	Supporting information regarding the Board of Examiners for Social Workers (Part 1)
Agenda Item VII C-3	Sandy Lowery, L.C.S.W., L.A.D.C., Deputy Executive Director, Board of Examiners for Social Workers	Supporting information regarding the Board of Examiners for Social Workers (Part 2)
Agenda Item VII C-4	Sandy Lowery, L.C.S.W., L.A.D.C., Deputy Executive Director, Board of Examiners for Social Workers	Supporting information regarding the Board of Examiners for Social Workers (Part 3)
Agenda Item VII D-1	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	General information regarding the Board of Examiners for Alcohol, Drug and Gambling Counselors
Agenda Item VII D-2	Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors	Supporting information regarding the Board of Examiners for Alcohol, Drug and Gambling Counselors
Agenda Item VIII	Carol M. Stonefield, Deputy Research Director, Research Division, LCB	Work Session Document
Agenda Item IX A	Cesar O. Melgarejo, Senior Policy Analyst, Research Division, LCB	Memorandum
Agenda Item IX B	Brett Kandt, General Counsel, State Board of Pharmacy	Letter
Agenda Item IX C	Monica Harrison, Executive Director, State Board of Architecture, Interior Design and Residential Design	Letter
Agenda Item IX D	Patty Mamola, Executive Director, State Board of Professional Engineers and Land Surveyors	Letter
Agenda Item IX E	Julie Strandberg, Executive Director, Chiropractic Physicians' Board of Nevada	Letter
Agenda Item IX F	Carolyn J. Cramer, Executive Director, State Board of Podiatry	Letter

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