

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



LEGISLATIVE BUILDING:
401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
Fax No.: (775) 684-8533
Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Brian Wallace, President
Nevada State Board of Accountancy
1325 Airmotive Way, Suite 220
Reno, Nevada 89502-3240

Dear President Wallace:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on January 22, 2018, the Subcommittee considered the Nevada State Board of Accountancy (NRS 628.035). Subcommittee members and representatives discussed the Board's efficiencies in operations, enforcement procedures, and revenues and reserves.

At its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to note that the Board had indicated it would develop and adopt a reserve policy. Please be advised the Subcommittee has received the Board's reserve policy from the Executive Director, which was adopted by the Board on July 18, 2018. We will include this in our records.

Thank you for your attention to that request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Because the Subcommittee has adjourned for this interim, please plan to submit information regarding the reserve policy at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182341
cc: Viki A. Windfeldt, Executive Director, Nevada State Board of Accountancy



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Carson City, Nevada 89701-4747

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www.leg.state.nv.us

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3800 Reflection Way
Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Darlene Dufault, President

Board of Examiners for Alcohol, Drug and Gambling Counselors

2725 East Desert Inn, Suite 180

Las Vegas, Nevada 89121-3627

Dear President Dufault:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on May 21, 2018, the Subcommittee reviewed the Board of Examiners for Alcohol, Drug and Gambling Counselors (NRS 641C.150). At that time, Subcommittee members discussed with Board representatives application fees for new registrants, expenses and revenues of the Board, and growth in the number of licensees. The members and the Board representatives also reviewed the provisions of Assembly Bill 457 (Chapter 363, *Statutes of Nevada 2017*), which requires the Board to establish certain policies relating to staff performance and Board operations. In addition, the legislation mandates that the Board report to the Legislative Committee on Health Care (LCHC) its licensing and enforcement data and submit to the Commission on Behavioral Health (CBH), Division of Public and Behavioral Health, Department of Health and Human Services, any proposed regulations for review.

At its final work session on June 13, 2018, the Subcommittee voted to support the activities of the LCHC and the CBH to monitor the Board, as provided in AB 457. Expressing its continued support for the Board, the Subcommittee intends this letter to serve as notification that it wishes the Board to report during the 2019–2020 Interim on its progress in complying with the provisions of AB 457.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee when it convenes again in the

Darlene Dufault, President

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October 1, 2018

2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182342

cc: Assemblywoman Teresa Benitez-Thompson, Assembly District 27

Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors

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ASSEMBLYWOMAN
District No. 42



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Carson City, Nevada 89701-4747
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www.leg.state.nv.us

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Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

James Mickey, Chair
State Board of Architecture, Interior Design and Residential Design
2080 East Flamingo Road, Suite 120
Las Vegas, Nevada 89119-5176

Dear Chair Mickey:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on February 21, 2018, the Subcommittee considered the State Board of Architecture, Interior Design and Residential Design (NRS 623.050). At that time, Subcommittee members and representatives of the Board discussed the Board's policy of offering longevity pay to employees, its budgeted travel costs, fees as they compare to surrounding states, and the retention by the Board of revenues from fines.

In a subsequent letter to the Subcommittee, the Board indicated that longevity pay has been a part of the employment policy for a number of years. Information was provided about travel costs and fees for examinations and first-time registration. In addition, the Board indicated that, because no provision is included in Chapter 623 ("Architects, Interior Designers and Residential Designers") of NRS to deposit money from fines in the Office of the State Treasurer, the Board's retention of revenues from fines does not pose due process risks.

At its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to send a letter to the Board urging it to discontinue the practice of longevity pay; reduce its travel expenses; review its fees for examinations and first-time registrations; and bring its procedures regarding fines in line with the other professional licensing boards. The Subcommittee intends this letter to serve as notification that it wishes the Board to address the Subcommittee's concerns as stated.

James Mickey, Chair

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October 1, 2018

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit the requested information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182343

cc: Monica Harrison, Executive Director, State Board of Architecture, Interior Design and Residential Design

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



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401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
Fax No.: (775) 684-8533
Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

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3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Jason O. Jaeger, D.C., President
Chiropractic Physicians' Board of Nevada
4600 Kietzke Lane, Suite M-245
Reno, Nevada 89502-5000

Dear President Jaeger:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on April 23, 2018, the Subcommittee considered the Chiropractic Physicians' Board of Nevada (NRS 634.020). At that time, Subcommittee members reviewed the Board's financial information, including its possession of marketable securities, lack of a policy guiding the adequacy of its reserves, variances in budgeted and actual revenues and expenses, and the level of its licensing fees.

Subsequently, at its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to recommend that the Board divest itself of certain securities, establish a reserve policy, and improve its budgeting process. The Subcommittee intends this letter to serve as notification that it wishes the Board to report on the status of these recommendations during the next interim.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee, when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182344
cc: Julie Strandberg, Executive Director, Chiropractic Physicians' Board of Nevada





DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Shawn Danoski, Chair
Commission on Construction Education
2310 Corporate Circle, Suite 200
Henderson, Nevada 89074-7729

Dear Chair Danoski:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on February 21, 2018, the Subcommittee reviewed the Commission on Construction Education (NRS 624.570). At that time, Subcommittee members discussed with Commission representatives the grant program, including priorities of the program and outcomes of each grant.

At its work session on May 21, 2018, the Subcommittee voted to encourage the Commission to revise the grant program to require each recipient to evaluate the outcomes of its proposal and report those findings to the Commission. In this way, later recipients may be able to build on a program funded through a grant, while others interested in supporting construction education might also replicate a successful program. Further, the Subcommittee voted to encourage the Commission to align the priorities of the grant program with the vision and objectives of the Office of Workforce Innovation, Office of the Governor, to support state apprenticeships and work-based learning.

Expressing its continued support for the Commission, the Subcommittee intends this letter to serve as notification that it wishes the Commission to report during the 2019–2020 Interim on the Commission's enactment of both recommendations.

Thank you for your attention to this request and for all of the assistance provided by members of the Commission, the State Contractors' Board, and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the

Shawn Danoski, Chair

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Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182345

cc: Margi A. Grein, Executive Officer, State Contractors' Board

Manny Lamarre, Executive Director, Office of Workforce Innovation, Office of the Governor

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



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401 South Carson Street
Carson City, Nevada 89701-4747
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Las Vegas, NV 89147-4442
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State of Nevada Assembly

October 1, 2018

Heidi Konsten, Chair
Certified Court Reporters' Board of Nevada
5135 Camino Al Norte, Suite 270
North Las Vegas, Nevada 89031-2389

Dear Chair Konsten:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on January 22, 2018, the Subcommittee considered the Certified Court Reporters' Board of Nevada (NRS 656.040). At that time, Subcommittee members reviewed with Board representatives the increasing use of videography in depositions. Additionally, Board representatives informed the Subcommittee that the declining number of certified court reporters has affected the Board's revenues. The provisions of Senate Bill 406 (Chapter 361, *Statutes of Nevada 2017*), which changed examination requirements and qualifications for licensure, were discussed.

Subsequently, at its work session on June 13, 2018, the Subcommittee voted to require the Board to provide a status report during the 2019–2020 Interim. Expressing its continued support for the Board, the Subcommittee intends this letter to serve as notification that it wishes the Board to report on the impact of the provisions of SB 406 on applications for licensure and on the Board's revenues. The Subcommittee also requests that the Board report any recommendations from the Nevada Rules of Civil Procedure Committee of the Nevada Supreme Court regarding the regulation of videographers.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182347
cc: Debbie Uehara, Executive Secretary, Certified Court Reporters' Board of Nevada



IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

401 South Carson Street
Carson City, Nevada 89701-4747

Office: (775) 684-8803

Fax No.: (775) 684-8533

Email: Irene.BustamanteAdams@asm.state.nv.us

www.leg.state.nv.us

DISTRICT OFFICE:

3800 Reflection Way
Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Ryan Hansen, President
State Board of Landscape Architecture
Post Office Box 34143
Reno, Nevada 89533-4143

Dear President Hansen:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on February 21, 2018, the Subcommittee considered the State Board of Landscape Architecture (NRS 623A.080). At that time, Subcommittee members reviewed with representatives the Board's continuing education policies, its fees and expenses, and accessibility to forms and other functions online for the convenience of certificate holders. Representatives of the Board also noted that statutes limit certain financial transactions involving the Board to United States currency in the form of a cashier's check, check, or money order.

The Board representatives also identified a revision to its practice act governing operations. Existing statutes provide that the president of the Board or a designated Board member must review a complaint filed with the executive director. Because this requirement effectively eliminates that person from subsequent participation in a later hearing on the complaint, the Board suggested revising these procedures by substituting the executive director for the president or any Board member.

At its work session on March 21, 2018, the Subcommittee recommended continuation of the Board. It also voted to recommend amending provisions of NRS to provide that the executive director, rather than the president or any designated Board member, consider a complaint that is filed with the Board to determine if further proceedings are warranted. In addition, the Subcommittee voted to recommend revisions to statutory provisions to authorize, but not require, each board or commission provided for in Title 54 ("Professions, Occupations and Businesses") of NRS to enter into or participate in a contract to accept credit cards and other electronic transfers

Ryan Hansen, President

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October 1, 2018

of money or to participate in such a contract entered into by the director of the Office of Finance, Office of the Governor.

Finally, in March, the Subcommittee voted to request to be informed when the Board's continuing education policy is implemented. The Subcommittee intends this letter to serve as notification that it wishes the Board to provide such information in the next interim.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit the requested information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182349

cc: Ellis L. Antunez, F.A.S.L.A., Executive Director, State Board of Landscape Architecture

IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

401 South Carson Street
Carson City, Nevada 89701-4747

Office: (775) 684-8803

Fax No.: (775) 684-8533

Email: irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

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Las Vegas, NV 89147-4442

Office: (702) 542-3900

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Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Jake Wiskerchen, President
Board of Examiners for Marriage and Family Therapists and
Clinical Professional Counselors
7324 West Cheyenne Avenue, Suite 9
Las Vegas, Nevada 89129-7426

Dear President Wiskerchen:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on May 21, 2018, the Subcommittee reviewed the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors (NRS 641A.090). At that time, Subcommittee members discussed with Board representatives board operations and staff performance, budgets and audits, and financial and licensing records. The members and Board representatives also reviewed the provisions of Assembly Bill 457 (Chapter 363, *Statutes of Nevada 2017*), which requires the Board to establish certain policies relating to staff performance and Board operations. In addition, the legislation mandates that the Board report licensing and enforcement data to the Legislative Committee on Health Care (LCHC) and submit any proposed regulations for review to the Commission on Behavioral Health (CBH), Division of Public and Behavioral Health, Department of Health and Human Services.

At its final work session on June 13, 2018, the Subcommittee voted to support the activities of the LCHC and the CBH to monitor the Board, as provided in AB 457. Expressing its continued support for the Board, the Subcommittee intends this letter to serve as notification that it wishes the Board to report during the 2019–2020 Interim on the Board's progress in complying with the provisions of AB 457.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. We have received your report on recent Board training and will retain this information for our records.



Jake Wiskerchen, President

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October 1, 2018

Because the Subcommittee has adjourned for this interim, please plan to submit information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182352

cc: Assemblywoman Teresa Benitez-Thompson, Assembly District 27

Stephanie Steinhiser, Executive Director, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



LEGISLATIVE BUILDING:
401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
Fax No.: (775) 684-8533
Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

April Whiting, L.M.T., Chair
Board of Massage Therapy
1755 East Plumb Lane, Suite 252
Reno, Nevada 89502-3656

Dear Chair Whiting:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on April 23, 2018, the Subcommittee considered the Board of Massage Therapy (NRS 640C.150). At that time, Subcommittee members reviewed with Board representatives the process for reporting doubtful accounts to the Office of the State Controller for collection. The members and Board representatives also discussed Board training, disciplinary procedures, and investigations. Further, the Subcommittee expressed an interest in the Board's implementation of the provisions of Assembly Bill 179 (Chapter 275, *Statutes of Nevada 2017*), including the licensing of reflexologists and structural integrationists.

Subsequently, at its work session on May 21, 2018, the Subcommittee voted to direct the Board to provide information to the Subcommittee in the 2019–2020 Interim on the implementation of such regulations. Expressing its continued support for the Board, the Subcommittee intends this letter to serve as notification that it wishes the Board to report during the 2019–2020 Interim on the Board's promulgation of regulations and the initial stages in regulating and licensing these occupations.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182350
cc: Sandy Anderson, L.M.T., Executive Director, Board of Massage Therapy



IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

401 South Carson Street
Carson City, Nevada 89701-4747

Office: (775) 684-8803
Fax No.: (775) 684-8533

Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:

3800 Reflection Way
Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Rachakonda D. Prabhu, M.D., President
Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521-8953

Dear President Prabhu:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on March 21, 2018, the Subcommittee considered the Board of Medical Examiners (NRS 630.050). At that time, Subcommittee members reviewed with representatives the Board's financial statements, investigative procedures, and fees charged to licensees, including fees for background checks. It was noted the level of fees charged in Nevada is higher than in most neighboring states.

At its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to urge the Board to review its fee schedule, including aligning fees charged for background checks with costs to obtain the information. The Subcommittee intends this letter to serve as notification that it wishes the Board to report the results of its review to the Subcommittee during the next interim.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182351

cc: Edward O. Cousineau, J.D., Executive Director, Board of Medical Examiners



IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



LEGISLATIVE BUILDING:
401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
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DISTRICT OFFICE:
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Las Vegas, NV 89147-4442
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Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Deena McKenzie, M.S.N., R.N., C.N.M.L., President
State Board of Nursing
5011 Meadowood Mall Way, Suite 300
Reno, Nevada 89502-6547

Dear President McKenzie:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on March 21, 2018, the Subcommittee considered the State Board of Nursing (NRS 632.020). At that time, representatives reviewed the Board's policy of maintaining funds in reserve. The Legislative Auditor reported to the Subcommittee that the Board has approximately \$4 million in contingency funds and another \$5 million in reserves from its pension liability and unrestricted funds.

Subsequently, at its work session on April 23, 2018, the Subcommittee voted to recommend continuation of the Board and direct the Board to report on any plans to provide value to its licensees in the form of services, including professional development and continuing education. The Subcommittee intends this letter to serve as notification that it wishes the Board to address the Subcommittee's concerns about the ratio of its contingency funds and reserves to its operating expenses.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit information regarding reserves and services to licensees at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182353
cc: Cathy Dinauer, M.S.N., R.N., Executive Director, State Board of Nursing

IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

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Carson City, Nevada 89701-4747

Office: (775) 684-8803

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Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Elizabeth Straughan, O.T.R./L., Chair
Board of Occupational Therapy
6160 Mae Anne Avenue
Reno, Nevada 89523-4724

Dear Chair Straughan:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on April 23, 2018, the Subcommittee considered the Board of Occupational Therapy (NRS 640A.080). At that time, Subcommittee members reviewed with Board representatives its unrestricted funds in reserve equal to over 40 months of operating costs. The growth in license applications was also discussed.

At its work session on May 21, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to urge the Board to develop a policy to provide guidelines for maintaining adequate reserves to cover its operating costs. It was the understanding of the Subcommittee, at the time, that the Board planned a retreat in August 2018 to review its operations and fee structure and to establish a reserve policy in accordance with a long-term plan. The Subcommittee would welcome a report on the development of a reserve policy.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit information regarding a reserve policy at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182354

cc: Loretta L. Ponton, Executive Director, Board of Occupational Therapy



IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

401 South Carson Street
Carson City, Nevada 89701-4747

Office: (775) 684-8803
Fax No.: (775) 684-8533

Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:

3800 Reflection Way
Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Ronald Hedger, D.O., President
State Board of Osteopathic Medicine
2275 Corporate Circle, Suite 210
Henderson, Nevada 89074-7720

Dear President Hedger:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on March 21, 2018, the Subcommittee considered the State Board of Osteopathic Medicine (NRS 633.181). At that time, Subcommittee members and Board representatives discussed the Board's process to hear complaints and conduct investigations, reserves, and revenues from fees charged to applicants and licensees.

The Board indicated in subsequent correspondence with the Subcommittee that it plans to consider the adoption of a policy to manage its reserves. On June 13, 2018, at its work session, the Subcommittee voted to recommend continuation of the Board. It also voted to request that the Board review its fee schedules, including aligning fees charged for background checks with costs to obtain the information.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit the requested information, including the reserve policy and the results of the review of fees, at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182355

cc: Sandy Reed, M.P.A., Executive Director, State Board of Osteopathic Medicine



IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

401 South Carson Street
Carson City, Nevada 89701-4747

Office: (775) 684-8803

Fax No.: (775) 684-8533

Email: Irene.BustamanteAdams@asm.state.nv.us

www.leg.state.nv.us

DISTRICT OFFICE:

3800 Reflection Way
Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Leo Basch, R.Ph., President
State Board of Pharmacy
431 West Plumb Lane
Reno, Nevada 89509-3766

Dear President Basch:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on April 23, 2018, the Subcommittee considered the State Board of Pharmacy (NRS 639.020). Subcommittee members and Board representatives discussed the Board's deficit in 2017, when expenditures exceeded revenues. Representatives also indicated that the Board does not have a reserve policy.

At its work session on May 21, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to urge the Board to develop a policy to provide guidelines for maintaining adequate reserves to cover its operating costs. The Subcommittee also voted to direct the Board to report during the next interim regarding its budget and actual revenues and expenditures for Fiscal Years 2017–2018 and 2018–2019, including an analysis of the adequacy of its fees to support its operations.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. We have received a copy of the Board's operating reserve policy and will include it in our records. Because the Subcommittee has adjourned for this interim, please plan to submit information regarding the reserve policy and analysis of the adequacy of revenue streams at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182356

cc: Larry L. Pinson, Executive Secretary, State Board of Pharmacy



DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Sherise R. Smith, P.T., M.S.P.T., C.B.I.S., Chair
Nevada Physical Therapy Board
7570 Norman Rockwell Lane, Suite 230
Las Vegas, Nevada 89143-6013

Dear Chair Smith:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on April 23, 2018, the Subcommittee considered the Nevada Physical Therapy Board (NRS 640.030). At that time, Subcommittee members reviewed with representatives the Board's annual budgets and audits, Board training, lack of internal controls, and its revenues and expenditures. Representatives of the Board also discussed the actions of the previous executive director, resulting in unauthorized payments to herself.

At that meeting, Board representatives informed the Subcommittee that the Board has taken steps to address some of the issues it faces, including working with the Office of the Attorney General (OAG) rather than outside counsel. Internal financial controls have been established and employee performance evaluations have been implemented.

At its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to recommend improvements to the Board's training by revising provisions of Chapter 640 ("Physical Therapists, Physical Therapist Assistants and Physical Therapist Technicians") of NRS to require Board members to attend training offered by the OAG and report documentation of training in which each Board member participates. The Subcommittee also voted to urge the Board to create an annual budget, establish an annual audit cycle, and improve its budgeting process and maintenance of records. The Subcommittee intends this letter to serve as notification that it wishes the Board to address the Subcommittee's concerns about the Board's operations.

Sherise R. Smith, P.T., M.S.P.T., C.B.I.S., Chair

Page 2

October 1, 2018

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit the requested information regarding Board training, as well as the results of the Board's investigation into the conduct of the previous executive director and steps taken by the Board to correct its problems identified during the review. The Subcommittee will provide direction when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182357

cc: Charles Harvey, Executive Director, Nevada Physical Therapy Board

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



LEGISLATIVE BUILDING:
401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
Fax No.: (775) 684-8533
Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Douglas S. Stacey, D.P.M., President
State Board of Podiatry
1325 Airmotive Way, Suite 175-I
Reno, Nevada 89502-3274

Dear President Stacey:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on April 23, 2018, the Subcommittee considered the State Board of Podiatry (NRS 635.020). At that time, Subcommittee members and representatives of the Board considered contractual and professional services, electronic payments, fines included as part of the Board's operating revenues, the former director's restitution for felony embezzlement, and lack of a reserve policy. In addition, the members and the Board representatives discussed the small number of licensed podiatric hygienists.

Subsequent to the review, the Board indicated in a letter to the Subcommittee that civil penalties will be deposited with the Office of the State Treasurer in the future. The Board will also consider online license renewals and board training. The need for a podiatric hygienist license may be reviewed at a future date.

At its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also voted to urge the Board to adopt electronic renewals and payments. The Subcommittee intends this letter to serve as notification that it would welcome a report on the Board's finances and operations, as well as its review of licenses issued by the Board. Further, the Board should be informed that the Subcommittee voted to recommend to the Legislative Committee on Health Care (LCHC) that it review the need to license podiatric hygienists.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please

Douglas S. Stacey, D.P.M., President

Page 2

October 1, 2018

plan to submit this information at the direction of the Subcommittee when it convenes again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182360

cc: Carolyn J. Cramer, Esq., Executive Director, State Board of Podiatry
Senator Patricia (Pat) Spearman, Chair, LCHC
Assemblyman Michael C. Sprinkle, Vice Chair, LCHC
Marsheilah D. Lyons, Chief Principal Policy Analyst, Research Division, Legislative Counsel Bureau (LCB)
Megan Comlossy, Principal Policy Analyst, Research Division, LCB

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



LEGISLATIVE BUILDING:
401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
Fax No.: (775) 684-8533
Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

James "Jim" Nadeau, Chair
Private Investigator's Licensing Board
3110 South Durango Drive, Suite 203
Las Vegas, Nevada 89117-9198

Dear Chair Nadeau:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on January 22, 2018, the Subcommittee considered the Private Investigator's Licensing Board (NRS 648.020). At that time, Subcommittee members reviewed the Board's vetting process for new applicants and online processing of license applications and payments. The Board representatives also discussed the high cost of personnel, including providing state benefits to all employees.

In subsequent correspondence, the Board reported that Nevada's fees are higher than states selected for comparison. The Board attributed this to the in-depth background investigations of applicants and their companies that the Board regularly conducts. The Board also suggested that, if the state would purchase Rap Back services from the Federal Bureau of Investigation, the need for repeated background checks on an applicant would be eliminated.

At its work session on June 13, 2018, the Subcommittee voted to recommend continuation of the Board. It also recommended further review by the Subcommittee in the 2019–2020 Interim. The Subcommittee intends this letter to serve as notification that it wishes the Board to conduct a study of its fees and operations and report the results of that study to the Subcommittee.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit the requested information at the direction of the Subcommittee when it convenes

James "Jim" Nadeau, Chair

Page 2

October 1, 2018

again in the 2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/er:W182359

cc: Kevin L. Ingram, Executive Director, Private Investigator's Licensing Board

IRENE BUSTAMANTE ADAMS
ASSEMBLYWOMAN
District No. 42



LEGISLATIVE BUILDING:
401 South Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-8803
Fax No.: (775) 684-8533
Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:
3800 Reflection Way
Las Vegas, NV 89147-4442
Office: (702) 542-3900
Email: ibustamanteadams@gmail.com
Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Michelle G. Paul, Ph.D., President
Board of Psychological Examiners
4600 Kietzke Lane, Suite B-116
Reno, Nevada 89502-5036

Dear President Paul:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on May 21, 2018, the Subcommittee reviewed the Board of Psychological Examiners (NRS 641.030). At that time, Subcommittee members discussed with Board representatives the adequacy of revenues available for operations, its budgeting process, and the Board's lack of financial oversight. The members and the Board representatives also reviewed the provisions of Assembly Bill 457 (Chapter 363, *Statutes of Nevada 2017*), which requires the Board to establish certain policies relating to staff performance and Board operations. In addition, the legislation mandates that the Board report licensing and enforcement data to the Legislative Committee on Health Care (LCHC) and submit any proposed regulations for review to the Commission on Behavioral Health (CBH), Division of Public and Behavioral Health, Department of Health and Human Services.

At its final work session on June 13, 2018, the Subcommittee voted to support the activities of the LCHC and the CBH to monitor the Board, as provided in AB 457. Expressing its continued support for the Board, the Subcommittee intends this letter to serve as notification that it wishes the Board to report during the 2019–2020 Interim on the Board's progress in complying with the provisions of AB 457.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee when it convenes again in the

Michelle G. Paul, Ph.D.

Page 2

October 1, 2018

2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182361

cc: Assemblywoman Teresa Benitez-Thompson, Assembly District 27
Morgan Gleich, Executive Director, Board of Psychological Examiners

IRENE BUSTAMANTE ADAMS

ASSEMBLYWOMAN

District No. 42



LEGISLATIVE BUILDING:

401 South Carson Street
Carson City, Nevada 89701-4747

Office: (775) 684-8803

Fax No.: (775) 684-8533

Email: Irene.BustamanteAdams@asm.state.nv.us
www.leg.state.nv.us

DISTRICT OFFICE:

3800 Reflection Way
Las Vegas, NV 89147-4442

Office: (702) 542-3900

Email: ibustamanteadams@gmail.com

Twitter: @BustamanteAdams

State of Nevada Assembly

October 1, 2018

Vikki Erickson, L.C.S.W., President
Board of Examiners for Social Workers
4600 Kietzke Lane, Building C, Suite 121
Reno, Nevada 89502-5033

Dear President Erickson:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has completed its work for the 2017–2018 Interim, including reviews of several occupational and professional licensing boards established by acts of the Nevada Legislature. Pursuant to statute, the Subcommittee is charged with determining whether those entities should be continued, modified, consolidated, or terminated. At the completion of each interim, the Subcommittee reports its recommendations to the Legislative Commission.

At its meeting on May 21, 2018, the Subcommittee reviewed the Board of Examiners for Social Workers (NRS 641B.100). At that time, Subcommittee members discussed with Board representatives adequacy of revenues, the increasing demand for licensed social workers, and online licensing procedures. The members and the Board representatives also reviewed the provisions of Assembly Bill 457 (Chapter 363, *Statutes of Nevada 2017*), which requires the Board to establish certain policies relating to staff performance and Board operations. In addition, the legislation mandates that the Board report licensing and enforcement data to the Legislative Committee on Health Care (LCHC) and submit any proposed regulations for review to the Commission on Behavioral Health (CBH), Division of Public and Behavioral Health, Department of Health and Human Services.

At its final work session on June 13, 2018, the Subcommittee voted to support the activities of the LCHC and the CBH to monitor the Board, as provided in AB 457. Expressing its continued support for the Board, the Subcommittee intends this letter to serve as notification that it wishes the Board to report during the 2019–2020 Interim on the Board's progress in complying with the provisions of AB 457.

Thank you for your attention to this request and for all of the assistance provided by members of the Board and staff as the Subcommittee conducted its reviews and completed its work. Please plan to submit this information at the direction of the Subcommittee when it convenes again in the

Vikki Erickson, L.C.S.W., President

Page 2

October 1, 2018

2019–2020 Interim. As always, please do not hesitate to contact me if the Subcommittee or I may be of assistance.

Sincerely,

Assemblywoman Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission

IBA/cr:W182362

cc: Assemblywoman Teresa Benitez-Thompson, Assembly District 27

Karen Barsell L.I.S.W., Executive Director, Board of Examiners for Social Workers

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600

RICK COMBS, *Director*
(775) 684-6800



LEGISLATIVE COMMISSION (775) 684-6800
JASON FRIERSON, *Assemblyman, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
JOYCE WOODHOUSE, *Senator, Chair*
Mark Krmpotic, *Fiscal Analyst*
Cindy Jones, *Fiscal Analyst*

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
ROCKY COOPER, *Legislative Auditor* (775) 684-6815
MICHAEL J. STEWART, *Research Director* (775) 684-6825

December 14, 2018

The Honorable Steve Sisolak, Governor-elect
101 North Carson Street, Suite 1
Carson City, Nevada 89701-4786

Dear Governor-elect Sisolak:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* 232B.210) has recommended to the 80th Session of the Nevada Legislature the restoration of funding for the Northern Nevada Emergency Vehicle Operations Course (EVOC), a training course requested previously by the State Public Works Board (SPWB) on behalf of the Peace Officers' Standards and Training (P.O.S.T.) Commission.

Pursuant to its statutory duties, the Sunset Subcommittee considered P.O.S.T. at its meeting on January 22, 2018. At that time, representatives of the Commission presented background information to the Sunset Subcommittee members regarding the earlier funding.

In 2007, the Legislature approved funding for the EVOC. Included in Senate Bill 578 (Chapter 347, *Statutes of Nevada*), the project entailed constructing an asphalt paved course for training first responders to drive safely during dangerous conditions. The facility was to be used by several state agencies, including divisions of the Department of Public Safety, the Nevada System of Higher Education, and the Department of Wildlife, as well as local law enforcement and other emergency services. The revenue was identified as agency funding from court assessments. According to the SPWB, much of the funding had already been transferred to the Board for the bidding process to begin; subsequently, all funds were reverted to the State General Fund and the project was cancelled in 2008 in response to the economic downturn.

During its review, a representative of P.O.S.T. indicated to the Sunset Subcommittee that the Commission has repeatedly requested the reinstatement of funds, most recently in 2017 as SPWB Project 7487. At its final meeting on June 13, 2018, the Sunset Subcommittee members voted to request that the Legislature and the governor-elect work together to fund the EVOC construction. Since the Sunset Subcommittee intends this letter to serve as notification of its request, the SPWB and the chair of the P.O.S.T. Commission have been copied.



The Honorable Steve Sisolak, Governor-elect

Page 2

December 14, 2018

Thank you for your attention to this matter. Please feel free to contact me, the members of the Sunset Subcommittee, or staff if we may be of assistance as we all work to resolve this matter.

Sincerely,

Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission
2017–2018 Interim

IBA/jc:W190176

cc: Troy Tanner, Chair, P.O.S.T.

Mike Sherlock, Executive Director, P.O.S.T.

Senator Joyce Woodhouse, Chair, Senate Committee on Finance

Assemblywoman Maggie Carlton, Chair, Assembly Committee on Ways and Means

Patrick Cates, Director, Department of Administration

Bryce Clutts, Chair, SPWB

Carol M. Stonefield, Deputy Research Director, Research Division, Legislative Counsel Bureau (LCB)

Jennifer Ruedy, Senior Principal Policy Analyst, Research Division, LCB

Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division, LCB

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
JASON FRIERSON, *Assemblyman, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
JOYCE WOODHOUSE, *Senator, Chair*
Mark Krmpotic, *Fiscal Analyst*
Cindy Jones, *Fiscal Analyst*

RICK COMBS, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
ROCKY COOPER, *Legislative Auditor* (775) 684-6815
MICHAEL J. STEWART, *Research Director* (775) 684-6825

December 14, 2018

Bruce Fong, D.O., H.M.D., President
Board of Homeopathic Medical Examiners
1301 Cordone Avenue, Suite 126
Reno, Nevada 89502-2745

Dear President Fong:

The Sunset Subcommittee of the Legislative Commission (*Nevada Revised Statutes* [NRS] 232B.210) has recommended to the 80th Session of the Nevada Legislature the termination of the Board of Homeopathic Medical Examiners (NRS 630A.100) and the transfer of its licensing duties to the Division of Public and Behavioral Health (DPBH), Department of Health and Human Services. In addition, the Sunset Subcommittee requests a resolution of the debt owed by the Board to Nevada's Office of the Attorney General (OAG).

Pursuant to its statutory duties, the Sunset Subcommittee considered the Board of Homeopathic Medical Examiners at its meeting on March 21, 2018, when the legislative auditor reviewed the balance sheet submitted by the Board. The auditor stated that at the date of the balance sheet, the Board owed the OAG approximately \$145,000, a debt that has accumulated since 2004.

At its meeting on April 23, 2018, the Sunset Subcommittee voted to request from the OAG an accounting of this debt. In reply, the OAG noted it is statutorily obligated to provide legal services to the Board upon request (NRS 630A.400 through 630A.410). The OAG has continued to provide services, even though the Board has made little attempt over the past 14 years to pay for services. For example, as noted in the enclosed letter from the OAG dated June 6, 2018, the Board used 850 hours of legal services estimated at \$76,515 since 2004. The OAG has also represented the Board in cases relating to charges of violating Nevada's Open Meeting Law.

The Board claimed it had a verbal agreement with the OAG that the Board would receive legal services and the OAG would not collect the fees. The OAG reported that the only verbal agreement in its records was a reference to an understanding that the Board would pay \$500 a month to retire the debt. No payments have been received since 2007.

The Sunset Subcommittee asked the OAG to recommend a solution to this situation. The OAG indicated that to this point it has been able to absorb the costs associated with providing legal



services. The OAG also indicated that it may seek an appropriation to augment the budget deficiency at some point.

At its final meeting on June 13, 2018, the Sunset Subcommittee concluded the Board has not managed its affairs effectively or efficiently and voted to recommend terminating the Board. The Sunset Subcommittee members also voted to recommend that the Board's licensing function be transferred to DPBH.

The Sunset Subcommittee wishes to see the Board's affairs settled in anticipation of legislative action to terminate the Board. In a separate motion, the Sunset Subcommittee members voted to request that the Legislature, the governor-elect, the attorney general-elect, and the Board work to resolve the matter of the outstanding debt. The Sunset Subcommittee intends this letter to serve as notification of its wishes.

Thank you for your attention to this request. As always, please feel free to contact me, the members of the Sunset Subcommittee, or staff if we may be of assistance as we all work to resolve this matter.

Sincerely,

Irene Bustamante Adams, Chair
Sunset Subcommittee of the Legislative Commission
2017–2018 Interim

IBA/jc:W190169

Enc.

cc: The Honorable Steve Sisolak, Governor-elect
The Honorable Aaron D. Ford, Attorney General-elect
Senator Joyce Woodhouse, Chair, Senate Committee on Finance
Assemblywoman Maggie Carlton, Chair, Assembly Committee on Ways and Means
Carol M. Stonefield, Deputy Research Director, Research Division, Legislative Counsel Bureau (LCB)
Jennifer Ruedy, Senior Principal Policy Analyst, Research Division, LCB
Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division, LCB
Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB

ADAM PAUL LAXALT
Attorney General



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

J. BRIN GIBSON
First Assistant Attorney General

NICHOLAS A. TRUTANICH
Chief of Staff

KETAN D. BHIRUD
General Counsel

June 6, 2018

The Honorable Irene Bustamante Adams
State of Nevada Assembly
Legislative Commission, Sunset Subcommittee
401 South Carson Street
Carson City, Nevada 89701

Dear Assemblywoman Bustamante Adams:

The Office of the Attorney General (OAG) is in receipt of your request for information, on behalf of the Sunset Subcommittee of the Legislative Commission, regarding debt owed by the Board of Homeopathic Medical Examiners (Board) to the OAG for legal services. Please allow the following to address the specific requests you outlined in your May 2, 2018 correspondence.

Pursuant to attorney-client confidentiality requirements, the OAG's response only details matters which are public in nature, such as court cases, matters in which the Board has waived confidentiality by discussing the details before the Sunset Subcommittee or another public hearing, or matters in which the OAG is responding to allegations made by the Board concerning the OAG's legal representation. Any additional billing information that is not disclosed herein is privileged and should be obtained through the Board.

A. MATTERS FOR WHICH THE OAG HAS RENDERED LEGAL SERVICES

1. GENERAL LEGAL ADVICE

The OAG provides general legal advice to the Board for day-to-day matters including, but not limited to, advising the Board and its staff on Open Meeting Law compliance, attending meetings as board counsel, establishing procedures for license applications and disciplinary complaints, creating and revising administrative regulations, and ensuring compliance with statutory changes.

The OAG has performed approximately 850 hours of general legal services for the Board since 2004 at an average rate of approximately 5 hours per month. The Board currently owes the OAG \$76,515.68 for services related to general legal advice.

The Board required the largest amount of general legal services between 2004 and 2007. The Board initiated disciplinary investigations and prosecutions, which counsel from the OAG performed, and it conducted frequent meetings, at times more than one per month, which OAG counsel attended as board counsel and advised the Board. Since 2007, the Board has consistently utilized the services of the OAG for day-to-day legal representation.

2. LITIGATION AND DISCIPLINARY MATTERS

a. Harvey Bigelsen Case

In 2004, Harvey Bigelsen, a previous applicant for licensure, filed a civil action in federal court against the Board seeking damages for alleged civil rights violations.¹ The OAG successfully defended the Board in the action, conducting significant discovery and prevailing on a partial motion to dismiss due to absolute immunity and a partial motion for summary judgment on the limited issue of actual bias. The Court dismissed the matter on September 14, 2005.

The OAG expended 419.2 hours on the case and billed \$34,826.07, none of which has been paid.

b. Robert Rozen Case

In 2004, Robert Rozen initiated a medical malpractice action against a Board licensee in the Second Judicial District Court.² The Board was not a named party in the action. However, a subpoena was issued to the Board for records, some privileged and some confidential by statute. The OAG represented the Board in contesting portions of the subpoena and in coordinating the document production pursuant to the subpoena.

The OAG expended 52 hours on the matter and billed \$3,838.96. The Board has paid \$155.51 and owes \$3,683.45.

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¹ United States District Court for the District of Nevada Case No. 3:04-cv-00534-HDM-RAM.

² Second Judicial District Court Case No. CV01-03499.

c. Dorea Shoemaker Case

In 2004, at the Board's request, the OAG filed a civil complaint against Dorea Shoemaker seeking a temporary restraining order and preliminary injunction.³ The OAG represented the Board in the matter and reached a settlement with Ms. Shoemaker that included a permanent injunction and a payment of \$1,372.00 by Ms. Shoemaker to the Board.

The OAG expended 34.7 hours on the matter and billed \$3,027.99. The Board has paid \$54.89 and owes \$2,973.10.

d. Daniel Royal Disciplinary Matter

In 2006, the Board initiated a disciplinary investigation into Dr. Daniel Royal and the OAG filed a formal complaint against him in 2007. The Board summarily suspended Dr. Royal's license, but later vacated the suspension.

The OAG expended 36.7 hours on the disciplinary matter and billed \$4,588.56, none of which has been paid. As the Board vacated Dr. Royal's suspension, and elected not to issue a final order regarding disciplinary action, it could not recover attorney's fees.

e. Michael Gerber Case

In February of 2017, the Board initiated a disciplinary investigation into Dr. Gerber. The OAG filed a formal complaint against Dr. Gerber in May 2017, prosecuted the disciplinary hearing before the Board in July and August 2017, and issued a final order in October 2017. Prior to the Board hearings, Dr. Gerber filed numerous challenges to the proceedings in front of the Board and in the Second Judicial District Court. The OAG represented the Board in the court matters as well.

The OAG expended 334.2 hours to the investigation, prosecution and court proceedings in the matter and billed \$45,327.76, \$15,157.97 of which has been paid.⁴ The Board's October 2017 Order requires Dr. Gerber to pay \$30,000 in attorney's fees and costs to the Board.

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³ Second Judicial District Court Case No. CV04-02076.

⁴ Following discussions with the Board, the OAG reduced the Board's bill for the disciplinary matter to \$30,000. The balance owed to the OAG in this matter is now \$14,842.03.

Dr. Gerber filed a Petition for Judicial Review of the October Order, which is currently awaiting a decision.⁵ The OAG has represented the Board with the Petition for Judicial Review. The OAG has expended 49.3 hours on the matter, billing \$1,234.89, none of which has been paid.⁶

f. Disciplinary Investigations

The Board receives and investigates complaints from members of the public against licensees and other parties associated with the practice of homeopathic medicine alleging that said parties have violated provisions of NRS 630A and NAC 630A. The Board regularly requests the assistance of the OAG in performing its investigations and determining whether to prosecute the subject licensees and associates. The Board previously utilized an Investigative Committee which reviewed disciplinary files presented by the OAG and determined whether to pursue formal actions or dismiss the matters.

Since 2004, the OAG has expended approximately 188.9 hours on disciplinary matters that were dismissed by the Board's Investigative Committee, settled, or otherwise did not rise to the level of a formal disciplinary hearing.⁷ The OAG has billed \$8,020.84 for these services, \$202.69 of which has been paid, and the Board owes \$7,818.15.

3. OPEN MEETING LAW (OML)

Numerous OML complaints were filed against the Board between 2006 and 2008. The OAG represented the Board in researching the OML, reviewing the Board's actions, and

⁵ Second Judicial District Court Case No. CV17-02142.

⁶ Upon conclusion of the Gerber disciplinary hearing, but prior to the start of briefing on the Petition for Judicial Review, legal representation of the Board was transferred to a new Deputy Attorney General. The hours required for the Board's new counsel to familiarize herself with the Gerber matter, as well as the Board's governing statutes and regulations, were not billed to the Board, thus explaining the amount of the Board's bill in relation to the hours expended.

⁷ Nevada Revised Statute (NRS) 622.400 provides for the recovery of attorney's fees in disciplinary matters where a regulatory body either (1) enters a final order in which it finds that the person has violated a provision of the chapter in which the regulatory body has the authority to enforce, or (2) enters into a settlement agreement in which the regulatory body finds or the person does not contest that they violated any provision of the chapter the regulatory body has the authority to enforce. NRS 622.400(1). Where the Board's Investigative Committee chose to dismiss disciplinary matters after an investigation or where the Board staff elected not to prosecute a matter, the Board could not collect attorney's fees.

responding to the OML complaints. The OML complaints resulted in five separate decisions issued by the OAG, with two containing violations of the OML.

The OAG expended 11.7 hours to prepare responses to one group of OML Complaints, billing \$963.33, none of which has been paid. The OAG expended 9.7 hours to prepare responses to a second group of the OML complaints, billing \$798.65 to the Board's general legal advice account. The Board was only billed for the time its counsel spent in representing the Board, not for any time spent by other attorneys at the OAG in investigating and adjudicating the Open Meeting Law complaints.

B. FEES DISPUTED BY THE BOARD (2008)

The Sunset Subcommittee has also requested a statement from the OAG addressing the Board's 2008 correspondence, to former Attorney General Catherine Cortez Masto, in which the Board disputed OAG fees incurred between 2003 and 2008. A review of OAG records and billing from that time period reveals the following information:

1. TRANSITION OF NEW OAG LEGAL COUNSEL

The Board alleges that the OAG billed it for time spent by its new counsel to research the Board's existing matters and to familiarize herself with the statutes and regulations governing the Board. A review of OAG records reveals that the OAG did not bill the Board for time spent by its new counsel to become up to speed on issues relating to representation of the Board.

In the fall of 2007, the OAG transferred representation of the Board from its existing counsel to new counsel. In October of 2007, the Board's new counsel spent 66.8 hours on researching the Board's past and pending legal matters. The OAG did not bill any of said hours to the Board.

In October of 2007, the Board's new counsel also spent 24.6 hours advising the Board on current legal matters, as well as traveling to and attending a Board meeting as board counsel. The OAG billed the Board \$2,938.75 for counsel's services. The OAG bills were included in the Board's general legal advice account (as described in section A(1)).

As the OAG only billed the Board for research and legal advice related to new matters, rather than time spent by counsel in familiarizing herself with the Board's existing matters, it does not believe that elimination of attorney's fees is warranted.

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2. HARVEY BIGELEN LAWSUIT – ATTORNEY’S FEES

The Board requests that the OAG reduce or eliminate fees associated with representing the Board in the *Bigelsen* matter, which spanned between 2003 and 2005 as detailed in section A(2)(a), because the OAG should have recovered attorney’s fees from Bigelsen after prevailing in court. A review of the case records, including the significant discovery that the parties conducted in the matter, fails to reveal any grounds for which the Board would have prevailed on a motion for attorney’s fees. The Board’s claim that it “won the lawsuit, protected the public from possible harm and fulfilled its legislative mandate” fails to provide sufficient grounds to recover attorney’s fees.⁸ OAG counsel who defended the Board in the matter determined that a motion for attorney’s fees would not be successful and so she did not pursue the matter.

The OAG successfully represented the Board in the *Bigelsen* matter and it does not believe that elimination of the attorney’s fees is warranted.

3. NEVADA INSTITUTIONAL REVIEW BOARD

The Board requests that the OAG eliminate the debt the Board incurred between 2005 and 2007 in supervising the Nevada Institutional Review Board (NIRB). The Legislature created the NIRB in 2005 with the purpose of protecting the public by controlling research studies using devices, therapies, and substances regulated by the Board. The Legislature subsequently repealed all statutes pertaining to the NIRB and suspended its activities in 2007.

Through the period in which the NIRB existed, the Board’s OAG counsel billed the Board for less than 10 hours for services related to NIRB. The hours were billed to the Board’s general legal advice account. OAG records reveal two separate NIRB-specific Board billing accounts but the Board was not billed for any time in either account.

The OAG provided the Board with legal representation related to the supervision of the NIRB and it does not believe that elimination of the bills related to the NIRB is warranted.

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⁸ See Nevada Revised Statute 18.010. The Court may, in addition to cases in which attorney’s fees are authorized by statute, award attorney’s fees to a prevailing party if a complaint was “brought or maintained without reasonable ground or to harass the prevailing party” or to “punish for and deter frivolous or vexatious claims and defenses.”

4. DEFENSE OF FRIVOLOUS COMPLAINTS

The Board requests that the OAG eliminate debt incurred by the Board between 2003 and 2008 related to the defense of the Board, its members, and its licensees, against frivolous complaints.

The Board's primary duty is to protect the public health and safety of Nevadans by regulating the practice of homeopathic medicine. NRS 630A.155(1). As such, the Board must investigate and, if required, hear and decide complaints against any homeopathic physicians, advanced practitioners of homeopathy, homeopathic assistants, or any associated agents. NRS 630.155(4). Neither the Board nor the OAG can determine whether a complaint is frivolous until the completion of an investigation. The OAG has incurred costs related to assisting and representing the Board in the investigation and adjudication of complaints.

The OAG provided the Board with legal representation related to the investigation of complaints against homeopathic physicians, practitioners, assistants, and agents. The OAG does not believe that elimination of the bills related to the Board's performance of its statutory duties is warranted.

5. DANIEL ROYAL LAWSUIT

The Board asserts that its former member, Dr. Daniel Royal, sued the Board's former President, Dr. David Edwards, as well as OAG legal counsel, and requests that any costs billed to the Board by the OAG, in defending the Board's OAG counsel, be eliminated. A review of OAG records fails to reveal any lawsuit against Dr. Edwards or OAG counsel and the OAG did not bill the Board for any hours related to such a lawsuit.

OAG records reveal that Dr. Royal filed a number of OML complaints against the Board, and the bills related to the representation of the Board in responding to the OML complaints are outlined above in Section A(3). The OAG provided legal services to the Board in responding to the OML complaints and it does not believe that elimination of the bills related to preparing OML complaint responses is appropriate.

C. OAG COLLECTION EFFORTS AGAINST THE BOARD AND PAYMENT AGREEMENTS

The Sunset Subcommittee has requested information regarding the OAG's understanding of any verbal agreements with the Board not to collect on fees owed to the OAG. Upon review, the only agreement that the OAG has uncovered is referenced in the

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minutes from the Board's April 1, 2006, meeting. The board's meeting minutes reference a verbal agreement, which existed at one time, in which the OAG agreed to accept payments of \$500/month from the Board. OAG records fail to reveal when the supposed agreement was terminated. However, OAG billing records show that the Board has failed to make consistent, monthly payments to the OAG since mid-2007.

The OAG elected not to take collections proceedings against the Board because it recognized, given the Board's financial status, that such proceedings would be fruitless.

D. OAG RECOMMENDATIONS

The Sunset Subcommittee has requested the OAG's suggested resolution to settle the Board's outstanding debt. The Board, as a licensing body, will continue to require legal services including, but not limited to, the investigation and prosecution of complaints, open meeting law compliance, and day-to-day legal advice. Regardless of debt owed by the Board to the OAG, the OAG is statutorily obligated to represent the Board upon the Board's request. *See* NRS 630A.400-410. As such, absent a statutory change to the contrary, the OAG will fulfill its statutory duty and continue to represent the Board in its mission to ensure the safety and general welfare of Nevadans.

To date, the OAG has been able to fulfill its statutory obligations without full reimbursement of its costs and fees, but it may become necessary in the future to request an appropriation to augment this budget deficiency.

Please advise if you require any additional information.

Respectfully submitted,

ADAM PAUL LAXALT

Attorney General

By: 
CAROLINE BATEMAN

Chief Deputy Attorney General

Bureau of Gaming and Government Affairs

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