

**MINUTES OF THE 2023-2024 INTERIM
LEGISLATIVE COMMISSION**

FEBRUARY 26, 2024

The meeting of the Legislative Commission was called to order by Chair Cannizzaro at 9:09 a.m. at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada. The meeting was adjourned at 12:11 p.m.

All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMISSION MEMBERS PRESENT IN LAS VEGAS:

Senator Nicole Cannizzaro, Senatorial District No. 6; Chair
Senator Dallas Harris, Senatorial District No. 11; Vice Chair
Senator Jeff Stone, Senatorial District No. 20
Assemblywoman Shea Backus, Assembly District No. 37
Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblyman Howard Watts, Assembly District No. 15 (Alternate for Assemblyman C.H. Miller)
Assemblyman Steve Yeager, Assembly District No. 9

COMMISSION MEMBERS PRESENT IN CARSON CITY:

Senator Skip Daly, Senatorial District No. 13
Senator Ira Hansen, Senatorial District No. 14
Assemblywoman Alexis Hansen, Assembly District No. 32
Assemblyman P.K. O'Neill, Assembly District No. 40 (Alternate for Assemblyman Rich DeLong)

COMMISSION MEMBERS PRESENT VIA VIDEOCONFERENCE:

Senator Lisa Krasner, Senatorial District No. 16

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Brenda Erdoes, Director
Roger Wilkerson, Deputy Director
Daniel Rushin, Chief Financial Officer
Heidi Remick, Chief Human Resources and Contracts Counsel
Brendan Bucy, Secretary of the Senate
Asher Killian, Legislative Counsel, Legal Division

Kevin Powers, General Counsel, Legal Division
Nicolas Anthony, Research Director, Research Division
Dan Crossman, Legislative Auditor, Audit Division
Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division
Wayne Thorley, Senate Fiscal Analyst, Fiscal Analysis Division
Broadcast and Production Services Staff, Administrative Division
Angela Hartzler, Secretary, Legal Division
Jordan Haas, Secretary, Legal Division

OTHERS PRESENT:

Barry Cole
Lea Case, Nevada Psychiatric Association
Ken Kunke, Nevada Pharmacy Alliance
Ellen Gifford
Zach Rosko, Nevada Pharmacy Alliance
Steven McDonald, Executive Director, State Board of Cosmetology
Victoria Carreon, Administrator, Division of Industrial Relations, Department of Business and Industry
Sean Sever, Deputy Administrator, Division of Research and Project Management, Department of Motor Vehicles
Shannon Bryant, Nevada Traffic Safety Resource Prosecutor, Washoe County District Attorney's Office
Kailey Musso, Management Analyst, Director's Office, Department of Wildlife
Shawn Espinosa, Administrator of Game Management, Department of Wildlife
Dave Wuest, Executive Secretary, State Board of Pharmacy
Michael Hillerby, State Board of Pharmacy
Colleen Platt, Board of Examiners for Alcohol, Drug and Gambling Counselors
Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors
Benjamin Lurie, Member, Chiropractic Physicians' Board of Nevada
Louis Ling
Troy Jordan, Deputy Director of Programs, Department of Employment, Training and Rehabilitation

Senator Nicole Cannizzaro (Senatorial District No. 6; Chair):

Good morning and welcome to the first meeting of the Legislative Commission this year in calendar year 2024, and thanks for those of you who are joining us who were pushed from January. We had some inclement weather that didn't enable us to go forward with that meeting, but we are here today and we are going to begin with our roll call. We have seven members attending here at the Grant Sawyer Building, four members I believe in Carson City and then one member who's joining us virtually.

It does look like we have a quorum this morning, so we'll go over a few housekeeping items before getting to our items for business on the agenda. As a reminder, anyone who wishes to testify today, please make sure to state and spell your name for the record so that we have an accurate record going forward. If anyone would like to receive a copy of the Commission's agendas, minutes or reports, you may be added to our mailing list by following the links on the Legislature's website or by providing information to our staff. Contact information for staff is also listed on the Legislature's website. In addition, we accept written comments, which may be emailed or mailed before, during or after the meeting, and the information regarding where to send written comments is also listed on the website and listed on the agenda for this meeting.

We are going to move on to item II on our agenda. That will be our first period of public comment this morning. Please note that we will be accepting public comment from anyone who wishes to testify in person here in Las Vegas, then we will move to Carson City and then we will move virtually to our phone lines. If you wish to give public comment in person, either here in Las Vegas or up in Carson City, you can go ahead and fill those seats. We'll start here and then go to Carson. For those of you who wish to give any public comment here at this meeting, our comments and public comment period will be limited to two minutes per person, and if you have any additional comments beyond that two minutes, you are more than welcome to submit those in writing. We will always take those and disseminate those to the members on the Commission. For everyone who wishes to come and speak, make sure that you identify yourself for the record every time you speak and ensure that you have signed in in the back of the room if you are here in person, either here in Las Vegas or in Carson City. I don't see anyone coming forward here in Las Vegas to provide public comment, so we will move to Carson City, and it does look like we have some public comment in Carson City. So, whoever would like to begin, you can start when you're ready. Just make sure you hit that microphone button and identify yourself.

Barry Cole:

Good morning. Barry Cole, a Nevada physician, psychiatrist, neurologist by training, speaking about R059-23, a regulation establishing protocol for pharmacists to treat opioid use disorder. I've been certified initially under DATA-2000 (Drug Addiction Treatment Act of 2000). That was federal legislation to do buprenorphine prescribing. I just want you to see the telephone book that was the original core training I did in 2003 and then the streamlined training that was done in 2007. It needs to be understood that when doing this kind of prescribing, you're committing to hours with the patient normally because you've done an assessment, you've made a protocol for them going off to therapy in addition to receiving medicine. It was intended you would induce the patient in the office with medical supervision and that, if you didn't adhere to the two-week sobriety rule, you could precipitate florid opioid withdrawal, which for a pharmacist would mean clean up on aisle three. What I mean by that is the patient starts vomiting; they go into precipitated opioid withdrawal, for which this medicine is supposed to eventually capture their opioid receptors so they can't use other medications, but it's not to just be willy-nilly undertaken,

so I'm very concerned about the regulations, the education that will come along with it, what is required of medical physicians, osteopathic physicians, nurse practitioners, physicians' assistants, even our residents in training when learning to do this requires them to be supervised, to have competent, recurrent education and to have a system so that after starting medication, they go on to the counseling. It's not meds only, but meds in addition to counseling. I think this is going to be possible within health systems, but it may not be something that will be easily undertaken at your local commercial pharmacy. Those poor individuals are trying to fill 300 to 500 scripts every day. They're doing point-of-care testing, they're already doing birth control counseling, and they're already administering vaccines, and now we're going to add another obligation that will require a significant amount of education. Thank you.

Chair Cannizzaro:

Thank you. Please, go ahead.

Lea Case (Nevada Psychiatric Association):

Good morning, Madam Majority Leader and members of the Legislative Commission. Lea Case here today on behalf of the Nevada Psychiatric Association. Thank you to those of you who I've managed to check with on the phone, via text, via email. I know this was scheduled in January and was cancelled due to weather, so I appreciate this next bite at the apple here. The Nevada Psychiatric Association did submit a letter that's posted to the Legislative Commission website in opposition to regulation R059-23A (Agenda Item II A). There are concerns with the broad and vague nature of the regulation ensuring that, like the Legislature has done in years past, prescribing providers have the competency, the education, the training, the experience and the knowledge to do this task when you're working directly with patients to do that assessment. Does assess mean diagnosis? Are we now in the practice of medicine? You heard from Dr. Cole, a physician who has practiced doing this in the past. There are nine recommendations included in that letter. There's also a protocol that could be adopted from Rhode Island where pharmacists were doing this, and that protocol is outlined in that study. If that was adopted into regulation, it would meet all of the recommendations the Psychiatric Association has submitted in their letter. I also just really quickly wanted to point out, the Board of Medical Examiners—this document came from the Sunset Subcommittee, one of my favorite subcommittees—Board of Medical Examiners has been in statute since 1899. That's our physician regulatory board. The Board of Pharmacy has been in statute since 1913. So, this is a drastic departure in what has been in statute for well over 100 years, that we're now putting this assessment and prescribing power into a different authority. It's just been a really interesting moment to look at the different policies that we have for our prescribers, for our MDs (doctor of medicine), DOs (doctor of osteopathic medicine), for our APRNs (advanced practice registered nurse), for our physicians' assistants and now what we require for pharmacists, and just looking at those requirements statutorily and in regulation. They don't match, so we're treating our prescribing providers differently, and aligning those requirements would make a lot of sense. Thank you.

Chair Cannizzaro:

Great, thank you. Anyone else wishing to give public comment in person here in Las Vegas or Carson City? Seeing none, then we will move to our phone lines. BPS (Broadcast and Production Services), will you please move to anyone who wishes to give public comment to us via phone?

Ken Kunke (Nevada Pharmacy Alliance):

Hello, Chair. Hello, Committee. My name is Ken Kunke and I'm with the Nevada Pharmacy Alliance. I was hoping to attend in person, but I thought the meeting was at 2 p.m., so please excuse my phone call. The Nevada Pharmacy Alliance and Roseman University have submitted public comments written ([Agenda Item II B](#)), and we want to point out that all the concerns should be addressed in these letters that were sent in. Pharmacists are required to do the 8 hours of training to get a DEA (Drug Enforcement Administration) license that goes over what this training is, so we feel that this regulation needs to move forward because there's so many people in Nevada that are not getting the service, and we don't see— companies and pharmacies and pharmacists are going to do protocols. They're going to follow the actual guidelines that are out there by SAMHSA (Substance Abuse and Mental Health Services Administration) and the other organizations, and it's not like we're just going to be giving this to anybody, so we please encourage you to pass this legislation so we can move forward with this. Thank you.

Ellen Gifford:

Good morning. My name is Ellen Gifford, and I thank you for the opportunity to provide testimony this morning. Today you will be considering the Secretary of State's proposed regulation R094-23. This proposed regulation contradicts and seeks to change an existing statute, and that can only be done through a legislative session, therefore should not be approved today. NRS (Nevada Revised Statutes) 293.296 states that any registered voter who by reason of a physical disability or an inability to read or write English is unable to mark a ballot or use any voting device without assistance is entitled to assistance from a consenting person of his or her own choice. There is no mention of assistance from a device. A device cannot consent, and the words "consenting person" can in no way be misconstrued to mean a device of any kind. This law has been in place for many years, allowing a disabled person to bring someone, perhaps a friend or family member, with them to be of assistance. This law has worked very well all these years and spending taxpayer dollars to hand out mobile devices all over the state is absolutely unnecessary. In addition, we must consider that this proposed regulation could be looked upon as violating the Constitution of the State of Nevada, which declares that each voter has the right to equal access to the election system without discrimination. Will all voters be allowed to receive a mobile device? Please do not approve this proposed regulation. Thank you.

Zach Rosko (Nevada Pharmacy Alliance):

Hello, my name is Zach Rosko. I'm a licensed pharmacist in Nevada and here representing the Nevada Pharmacy Alliance, and I'm here to support regulation R059-23A as written. I wanted to just provide a brief example of what this regulation might look like in application in the state by pointing to the State of Idaho, where I am also employed and working remotely into Idaho as the Director for the Center for Advancement of Pharmacy Practice and Research at the Idaho State University. In July of 2023, regulations in Idaho were modified to allow pharmacists to independently prescribe controlled substances and provide patient assessments for associated services autonomously, very similar to the regulations we would have in place here in Nevada. These regulations do not require any additional training requirements beyond what is the standard of care in the community and what any pharmacist who would be engaging in these services would already seek out. As was mentioned earlier, pharmacists who obtain a DEA license are required to complete at least 8 hours of DEA required training. In Idaho, we don't see pharmacists at every pharmacy providing these services without care or consideration for the other services patients need. Small communities, those that are very resource deprived, have seen an uptake in independent community pharmacies who have appropriate space and connection with community partners to provide and refer to wraparound services for those who are engaging in providing buprenorphine and other opioid use disorder services. In a small community where there was not a single provider for Medicaid for opioid use disorder, an independent pharmacy was able to provide services—start providing them for their community and has now provided care for about 90 patients in their community.

Chair Cannizzaro:

I hate to interrupt, but you're just at two minutes, so if you could wrap up, and then if you have any additional substantive comments, you can submit them in writing.

Mr. Rosko:

I can submit them in writing, but I just wanted to give an anecdote of what this would look like, that this is not in every community pharmacy in settings where there's not appropriate patient privacy and additional services provided. Thank you.

Broadcast and Production Services Staff (Administrative Division, Legislative Counsel Bureau):

Chair, you have no more callers wishing to participate at this time.

Chair Cannizzaro:

Okay, thank you so much. Please note that we will have a second period of public comment at the end of the meeting, so if anybody missed us this first round, you can join

us at the end. We are going to go ahead and move to agenda item III, which is our review of administrative regulations (Agenda Item III). Members, you will note that we have with us our Legislative Counsel, Asher Killian. He is with us here in Las Vegas, and he will be able to help assist us with these particular items.

We are going to go ahead and talk a little bit about some of the items that have been requested for additional consideration by the Commission. There were originally 37 regulations that were submitted for today's agenda. However, we did have a request from the Treasurer's Office last week to pull R046-23 regarding the Nevada Capital Investment Corporation, so that one will be withdrawn from our consideration today. All except for 1 of the 36 regulations were submitted for approval pursuant to NRS 233B.067. We have one regulation to consider that was deferred at a previous meeting and will be considered pursuant to NRS 233B.0675. These regulations are all contained in the notebook provided to the members. They are posted also on the Nevada Legislature's website under the tab for this meeting, which you will find by hitting the "View Events" button in the upper right-hand corner of the Legislature's home page, and there is also a public copy of the notebooks at the sign-in table at the end of each of the videoconference places here in Las Vegas and Carson City.

With that, I do have some items that have been requested to be pulled prior to the beginning of this meeting, and so I'm going to go ahead and list those regulations and then I will ask the Commission if there are any additional regulations that you would like pulled for additional consideration. Otherwise, my intent is to take the remaining items that are not being pulled for consideration on a consent motion by the Commission to pass them. So, if you have questions or concerns, now would be the time.

Let's go over some of the ones that have been requested to be pulled thus far. I have R182-22 from the State Board of Cosmetology. I have R027-23 from the Division of Industrial Relations in the Department of Business and Industry. I have R053-23 for the Board of Wildlife Commissioners. I have R059-23 for the State Board of Pharmacy. I have R086-23 for the Board of Examiners for Alcohol, Drug and Gambling Counselors. I have R114-23 for the Chiropractic Physicians' Board, R117-23 for the Nevada State Board of Veterinary Medical Examiners and R129-23 for the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation. I will now go to members here in Las Vegas. Are there any additional regulations that anyone here would like to have pulled aside from those that I have just listed?

Assemblyman Steve Yeager (Assembly District No. 9):

Thank you, Madam Chair. I just had one additional one that I'd like to have pulled. It's the very first one on the agenda, R084-22 from the Department of Motor Vehicles.

Chair Cannizzaro:

Okay, great. We have that one on the list. I don't see anyone else here in Las Vegas raising their hand. We will go to Carson City and then we will go to you, Senator Krasner, virtually, if there's any additional ones that you want pulled after those joining us in Carson City. Anyone in Carson City wishing to have additional regulations pulled for further consideration? Senator Hansen.

Senator Ira Hansen (Senatorial District No. 14):

Thank you, Madam Chair. Yes, I have three, actually: R023-23, R056-23 and R122-23.

Chair Cannizzaro:

Can you say that last one again for me?

Senator Hansen:

Yes, Madam Chair. R122-23.

Chair Cannizzaro:

Okay, so R122-23, R056-23 and R086-23.

Senator Hansen:

That was R056-23.

Chair Cannizzaro:

Yes, R056-23 and then R086-23 and R122-23. Anyone else in Carson City? Senator Krasner, did you have any additional regulations to be pulled?

Senator Lisa Krasner (Senatorial District No. 16):

No, thank you.

Chair Cannizzaro:

Okay, great. Members of the Commission, that will leave us with several on our motion. If you have heard—and you are here on behalf of the agencies for which we just said you are being pulled, you are going to spend some time with us this morning. If you are not on that list, just hang tight for a few minutes as we go through the first item of business. We have then for consideration on a consent motion by the Commission R130-22, R188-22, R197-22, R016-23, R017-23, R019-23, R024-23, R028-23. I think I may have

misspoken on one of them. We are looking for—sorry, R023-23 and not R086-23. I believe that was from Senator Hansen, so I'm sorry. Before I get ahead of myself, let me make sure I have that correct. Senator Hansen, you wanted to pull R023-23, not R086-23?

Senator Hansen:

Correct, Madam Chair.

Chair Cannizzaro:

Okay, I had circled the wrong one, so let us start over with those that we are not pulling that will be up for consideration for a vote by the Commission. Give us just a moment. Okay, I think I figured out what the issue was. I had attributed R086-23 to Senator Hansen, but I believe that was a request from Senator Daly in the initial list that I read for those to be pulled, so we are going to be pulling that one. We will be pulling both R023-23 for the Colorado River Commission of Nevada and R086-23 for the Board of Examiners for Alcohol, Drug and Gambling Counselors. Both of those will be pulled. Okay, we're going to try this consent motion one more time: R130-22, R188-22, R197-22, R016-23, R017-23, R019-23, R024-23, R028-23, R037-23, R057-23, R058-23, R062-23, R070-23, R075-23, R082-23, R091-23, R092-23, R093-23, R094-23, R106-23, R107-23, R115-23, R116-23 and R110-22.

ASSEMBLYMAN YEAGER MOVED TO APPROVE REGULATIONS R130-22, R188-22, R197-22, R016-23, R017-23, R019-23, R024-23, R028-23, R037-23, R057-23, R058-23, R062-23, R070-23, R075-23, R082-23, R091-23, R092-23, R093-23, R094-23, R106-23, R107-23, R115-23, R116-23 and R110-22

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

For those regulations that we just read on the consent agenda, those regulations have been approved by the Commission. If you were here for any of those items, you are welcome to leave us today. We are going to begin our consideration of the remaining regulations with R084-22 for the Department of Motor Vehicles. We will have representatives from whichever agency the regulation is being considered by approach us, either here in Las Vegas or in Carson City—I believe we should have folks mostly in

person—and then we will go ahead and turn it over to the legislator who has questions and let them ask their questions and hopefully get some answers. Do we have someone? I don't see anyone in Carson City. Do we have someone here from the Department of Motor Vehicles? Okay, I don't see anybody. We are going to go find somebody from the Department of Motor Vehicles. We're going to move to the next one so we can keep moving along this morning. We're going to go to R182-22 for the State Board of Cosmetology (Agenda Item III). Please go ahead and take seats up here at the dais and I am going to turn the microphone over to Assemblyman Watts.

Assemblyman Howard Watts (Assembly District No. 15):

All right. Thank you, Madam Chair. Thank you all for coming. I'm going to try and keep this brief. First of all, I just want to express my appreciation to the Board. I had some questions about this based on some concerns that were brought up from one of my constituents. I think there were a few letters that were submitted to the Commission expressing some of the concerns about the regulation, and after I initially read through the summary and the small business impact statement, I still had some concerns, and I just want to express my appreciation for a few rounds of emails that we went back and forth to get some additional clarity about this. Really this comes down—I support the vast majority of the regulation. In section 83—or no, subsection 84, subsection (1)(b)(5), changes to the application of false eyelashes. Really what it comes down to is there's—as we know, there's a lot of businesses that are now operating kind of a sort of mobile service where they'll go to a client at their home or at a hotel room to apply these false eyelashes. It sounds like we have a lot of issues in that industry with folks that are operating unlicensed. I think that figuring out enforcement for that is really important, and compliance. My concern is that this particularly would restrict a currently legal pathway for folks to do some of that work, particularly with eyelash extensions. Based on some of the concerns that I've heard, instead of restricting this further, I think that we should focus on addressing some of those enforcement and compliance issues and getting some folks from that industry together to figure out what a path forward looks like. I'm concerned that this will end up just pushing more folks into a kind of unlicensed or unregulated space. Particularly because of that section, I'm not going to be able to support this regulation at this time. Thank you.

Steven McDonald (Executive Director, State Board of Cosmetology):

Good morning, Madam Chair, Madam Vice Chair and members of the Legislative Commission. My name is Steven McDonald. I'm the Executive Director of the State Board of Cosmetology. I have here with me Ms. Janie Huggins, our Chief Compliance Officer, and next to her is Ms. Lauren Gossage, our Regulatory Compliance Specialist. We have had communications with Assemblyman Watts and we are willing to—the Board is willing to agree and not change that regulation. We'll leave it as-is and go back to the drawing board for that particular regulation in it to get with the industry and to work with Mr. Watts.

Assemblyman Watts:

Thank you very much.

Chair Cannizzaro:

Okay, thank you. I just want to clarify, then. It sounds like there may be, based on some of the concerns raised by Assemblyman Watts, some way to maybe rework this one so that it's sort of meeting that piece and addressing his concerns about the unlicensed practice areas, or folks who might be practicing unlicensed?

Mr. McDonald:

Absolutely, Madam Chair.

Chair Cannizzaro:

Okay. I appreciate that, and always appreciate when folks are willing to work with us. As you know, the Legislative Commission, we sort of have the ability to either approve a regulation in total or not approve it, and so I think at this point, given your statements today and the concerns that were raised, what I would like to do is to send this regulation back to you all to work on some of that language and hopefully bring us back something that does meet that particular issue and does address that concern so that we can approve it in a future meeting.

Mr. McDonald:

Madam Chair, this is a rewrite of all of our regulation's whole chapter. This is but one section that Assemblyman Watts had, and so we were going to take that out, but definitely approve the rest of the chapter.

Chair Cannizzaro:

The issue for the Legislative Commission, and I'm sure Mr. Killian can certainly address this, is that we have limited authority to be able to change regulations that come before us. We're tasked with reviewing the regulation as it comes before us and either approving that regulation as it is presented in total. We do not have the authority to make amendments or to change pieces of it. Even if there was one word that should be different, we don't have the authority to make that change. We have to just wholesale approve those regulations, so it's tough when we do have something that in large part is agreeable but there are concerns about a particular piece of it, and so that's a little bit different than when we're in the legislative process. If there's even a piece of this that needs to be reworked, certainly I think on a smaller time frame—I don't hear any other concerns from members of the Commission at this point so far on the remainder of the regulations, but to change that piece, we would have to send the whole thing back and then have it come

back to us with those changes, if that makes sense. I will defer to Mr. Killian if there's anything in that that might be clarified more than I—that you would want to clarify a bit.

Asher Killian (Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Thank you, Madam Chair. Asher No, that was correct. Under NRS 233B.067, the only power the Legislative Commission has is to approve or object to a regulation. It does not have the power to amend regulations, so any change requires it going back to the agency to adopt a revised version to bring back before Legislative Commission for approval.

Assemblyman Watts:

If I might just try and tie this up, I think what it sounds like is it would be great if you could bring back and have ready for us at our next meeting a revised regulation that just has the change in that one section removed, and then I think it sounds like we would be ready to approve that at the next meeting.

Chair Cannizzaro:

Yeah, and I think that would work for us. We'll take a moment and I'll just check and see if anybody else has questions for the Board. I'm not seeing any. Anyone in Carson City? I think I see a hand. Please.

Senator Skip Daly (Senatorial District No. 13):

Thank you, Madam Chair. Just a comment, seeing as how it's going back to the drawing board. I know we're supposed to give a clear and concise explanation of the need for the adopted regulation, but the one sentence, necessary because of legislative changes, again doesn't cut it for me. If it's going back anyway, can you at least give us the bill number or what you're talking about or what some of the explanation is, because that really doesn't help. I don't think it meets the intent of what the legislation is that requires you to give that statement. If you could do a better job with that in the future, I'd appreciate it.

Mr. McDonald:

Yes, Senator Daly, we'll follow up with that. If I may, Madam Chair, I'd like to say thank you to the LCB's (Legislative Counsel Bureau) attorneys, Joe Steigmeyer—I hope I didn't ruin his name—and Sam Quast. We worked closely with them, and I want to say thank you so much, as well as with Angi Hartzler. I think she's the Deputy Administrator over there now. They've been a pleasure to work with. You have a wonderful staff. Thank you so much.

Chair Cannizzaro:

No, thank you, and I really do appreciate your willingness to work on this with us so we can feel comfortable about approving the regulation, so we will go ahead and—we're going to go ahead and send this one then back to you all to rework some of that language and hopefully have it back to us at the next meeting for approval, but thank you.

Mr. McDonald:

Thank you, Madam Chair, Commission members.

Chair Cannizzaro:

We are going to move on to our next regulation, which is R023-23 for the Colorado River Commission of Nevada, and I am going to let Senator Hansen take the lead on that one.

Senator Hansen:

Thank you, Madam Chair. Colorado River people coming to the table in Vegas? Nobody here.

Chair Cannizzaro:

I don't see any. Oh, yes, give us just a moment. We are changing chairs.

Senator Hansen:

Okay. All this for what I'm going to say. Okay, all right, feeling a little guilty now. First of all, thank you for being here. The reason I pulled the reg actually has nothing to do with the reg specifically. I'm totally in favor of it. I actually wanted to compliment you because, as you know, the Governor issued an executive order, 2023-003, asking all the different boards and regulatory agencies throughout the state to look at reducing the amount of regulation, and when I looked at your informational statement, a clear and concise explanation of the need for the adopted regulation, you guys listed every single one of the ones and you say very clearly, this regulation is not needed, so I honestly wanted to just get you guys in front of this Legislative Commission, thank you, number one for listening to the Governor's executive order. You are an executive branch agency and I wanted to thank you for your clear and concise explanation. What Senator Daly just said a minute ago is kind of near and dear to my heart. This informational statement started in 2013. It was actually an effort by then-Speaker Marilyn Kirkpatrick, who actually asked me to co-sponsor it. Quite an honor, honestly. I was on the Legislative Commission in 2011 and 2013, and the informational statement is kind of almost a cheat sheet for legislators to really find out what the regulation is all about, and what Senator Daly mentioned is a great concern to me, and that is a lot of these regulations do not have a very decent, concise but fairly thorough explanation for us to understand, and he just

jumped on the Cosmetology Board about that. I will say that the Legislative Counsel Bureau has been very thorough in making sure that—in fact, I've seen them kick back to the agency this statement when it is not full enough, enough explanation as to the need for the regulation. Anyway, I just wanted to haul you up here, apologize for bringing you here and not letting you go earlier with all the other people that went marching out, but thank you for doing a really outstanding job in the presentation of this regulation and listening to the Governor's executive order trying to reduce some of the excessive amounts of red tape that frankly clog up our Nevada Administrative Code. With that, Madam Chair, thank you, and if they want to introduce themselves, I didn't even give them that opportunity, but I do want to thank them for doing a great job on a regulatory cleanup.

Chair Cannizzaro:

Senator Hansen, with all of that time this morning on that, and we certainly appreciate all the good work that our boards and commissions and executive agencies do, do you have a motion to approve?

Senator Hansen:

Yes, Senator Daly just reminded me that I needed to do that. Madam Chair, I make a motion that we approve R023-23.

SENATOR HANSEN MOVED TO APPROVE REGULATION R023-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you all for being here this morning. You can send a special note of thanks to Senator Hansen for hanging out a little longer. Thank you so much for joining us this morning. All right, we're going to move on to the next item of business on our agenda, R027-23 for the Division of Industrial Relations in the Department of Business and Industry (Agenda Item III), and we are going to shuffle chairs here in Las Vegas so we'll give you just a moment, and then I'm going to turn the microphone over to Senator Daly. Senator Daly, whenever you are ready.

Senator Daly:

Thank you, Madam Chair, and quick question. I think it'll be relatively easy depending on your answer on how easy it is, I guess, but at the very end of section 1 regarding a variance that someone may be asking if it's not denied that they can have a hearing, you're deleting quite a bit of that language, and then it says, that last sentence, "and will have the decision published in at least two daily newspapers." Now, I understand we've changed away from newspapers, but things go on websites and various things, and then in section 2, you say, "Hey, we're going to keep an electronic—or stenographic electronic record must be kept at the hearing of the application for the variance," and then it says copies can be available to the parties, so I'm just wanting to know if people are asking for these types of variances and applications and hearings and you were making them public. What's going to be the process, time, place, manner for those to be made public? It doesn't say they have to be any more, so I don't know if I want to rest just on your word, but why are you not making them public anymore, and if you are planning on doing that, how are you doing that and why don't we have it in writing?

Victoria Carreon (Administrator, Division of Industrial Relations, Department of Business and Industry):

Good morning, Senator Daly. I'm the Administrator of the Division of Industrial Relations. In answer to your question, for variances, since it will no longer be published in daily newspapers, we will be posting those on our website so there will be public information available. In section 2 where you're referring to transcripts of hearings, those are actually the hearings of the OSHA (Occupational Safety and Health Administration) Review Board that hears contested cases, so in those cases, yes, there will continue to be electronic recordings and those will be available in a transcript.

Senator Daly:

Understood, so you're going to put it on your website so there'll be a link or some fashion for you to make it public?

Ms. Carreon:

Thank you, Senator Daly. Yes, the variances, those will be on our website and will be public. The transcripts for OSHA Review Board hearings, those would have to be requested and somebody would have to actually pay for those if they wanted a copy of that.

Senator Daly:

Understood. We had a different issue with the Court Reporters' Board. We'll be asking some of those questions, but not here. That was my question and I'm satisfied that it's

going to be made public. That's all I wanted to be clear on. Ready to make a motion if you were ready, Madam Chair, if no one else has questions.

Chair Cannizzaro:

Do any other members of the Commission have any questions? I don't see any here. I don't see—Senator Krasner is saying no. So yes, Senator Daly, we would accept a motion.

SENATOR DALY MOVED TO APPROVE REGULATION R027-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much for being here this morning. We are going to go back to the first regulation on our agenda. I believe we do have someone from the Department of Motor Vehicles (DMV), Mr. Sever, joining us, and so we will go to R084-22 (Agenda Item III), and I am going to begin that one with Speaker Yeager.

Assemblyman Yeager:

Thank you so much, Madam Chair, and thank you for being here, Mr. Sever. Just a couple of questions about the regulation. I think I understand what you're trying to do, but wanted to hear just a little bit more I guess from you on what's driving the change. It looks like changes are being made to the DUI (driving under the influence) school, which I think has been in place for quite some time, so could you just give me a little background in terms of what was driving the agency to want to make changes with the DUI course?

Sean Sever (Deputy Administrator, Division of Research and Project Management, Department of Motor Vehicles):

Hello there. Sean Sever from the DMV. Sorry I was late to the meeting today. I thought it started at 2 p.m. My apologies. The general intent behind these regulation amendments was for the purpose of increasing the value of DUI education to recipients and to become more effective in changing behavior and preventing future incidences of impaired driving. We worked a lot with the DUI consortium. It's a group comprised of representatives of the Departments of Public Safety, Motor Vehicles, Traffic Safety, education foundations, law

enforcement, the judiciary, driver education businesses and treatment centers, and all of us worked together to develop these changes which are reflected in the proposed language under consideration here. To the regulations overseeing education for impaired drivers to include increasing the required hours in the educational component of impaired driving programs from 8 to 12 hours, which includes evidence-based elements that are shown to change behavior and produce successful outcomes and reduce recidivism. If you have any further questions regarding the changes, I have Shannon Bryant here. He's a member of the consortium and the Washoe County District Attorney's Office to provide additional information.

Assemblyman Yeager:

Thank you, Madam Chair. Thank you, Mr. Sever. One question I had was if we were to approve this today, how soon do you anticipate the new DUI curriculum would be offered to offenders?

Mr. Sever:

Shannon, can you answer that one?

Shannon Bryant (Nevada Traffic Safety Resource Prosecutor, Washoe County District Attorney's Office):

Hi, good morning. I'm the Nevada Traffic Safety Resource Prosecutor, and I apologize for not wearing a tie because I actually thought the meeting was at 2 p.m. as well, so I'll just say that. The timeline for putting this into effect would be, we would obviously want some lead time, but we hadn't—I had not discussed that with Sean at this point. I believe that Meg Matta, who's not here, had discussed that, but it would be obviously after the passage that we would want to give some time to the existing schools to either adjust or close down their operations because they would not be then meeting the minimum qualifications for the DUI curriculum.

Assemblyman Yeager:

Great. Thank you, and thanks for the latitude, Madam Chair. I think that makes sense. I guess the last question I have is just, you sort of indicated a little bit that there are existing schools who probably aren't going to be able to meet the new minimum requirements. In your work on this, were there any concerns expressed that there won't be enough providers, my concern being that we have unfortunately quite a few DUI offenders in the state, and do we have any concerns about availability of the new course given the stepped up requirements?

Mr. Bryant:

Yes, it is my understanding that this was discussed. It was discussed in the course of our meetings with the consortium members. That concern was voiced by a couple of members who are in fact providers. They wanted time to transition and to be able to have the appropriate curriculum. There is though, however, an overwhelming agreement among the members of the consortium, especially those who are providers, that the existing schools, many of them are not actually providing meaningful DUI education with evidence-based curriculum, and that this change was in fact needed for the betterment of the DUI education program at reducing recidivism and basically treating the offender. This approach of treating the offender as I believe, if you have the materials, or at least the citations to the materials that I provided in the fact sheet, as well as information that was provided to DMV, shows to be very effective and more effective than taking a more punitive approach to addressing DUI recidivism. The existing schools, although they are numerous, we would need to ramp up on the number of actual providers. However, this opens up an opportunity for licensed providers, licensed treatment providers to again enter the foray of and enter the industry of providing DUI education. I've been around for a little bit, and basically the DUI education used to be provided by those that were in fact qualified to provide these DUI education courses, but over the course of years, particularly with the COVID-19 pandemic, there's been a dramatic increase in the number of, I don't want to use anything pejorative, but certainly not schools that were—that were just interested in basically checking a box, and they were providing prerecorded materials that perhaps weren't of the best quality. Someone could just sit there and click next and have the DUI education course with no meaningful information being provided to the offender. Once this is corrected, it is our understanding and belief that the treatment providers that were once providing this education will then have the opportunity to get back into providing this meaningful service and also be a part of that, the industry and providing the 12 hours of evidence-based curriculum.

Assemblyman Yeager:

Thank you, Madam Chair. I did have one further question, and thank you for the explanation. Obviously in favor of anything we can do that's more evidence based and effective in deterring recidivism. Did the group discuss or do you have a plan for how to track the efficacy of the new course once it's in place? Is that something that's going to be handled by local prosecutors or is the group that actually worked on recommending this change going to look at recidivism to determine what impact the new course had?

Mr. Bryant:

Thank you, sir. That is something actually I raised and I want to—and I've already made a request to the Office of Traffic Safety to divert funds, or allocate funds, rather, for performing an outcome-based evaluation to start looking at the evidence of recidivism at specific periods of time after the program to see if we can determine if the person did in fact recidivate after going through the curriculum. Also want to look at whether there's

been a relapse. There will be the outcome-based evaluations that will be performed through interviewing the offender. It would have to be done within a fairly short period of time, because we're not going to be able to keep track of everybody like a year after they finish the program, but within a very short period of time at least to get an idea of their feelings, their subjective viewpoints on the effectiveness of the program, and with these two approaches, the subjective approach and the objective recidivism, it is my belief that we'll be able to track the efficacy of the DUI curriculum.

Chair Cannizzaro:

Okay, thank you. Senator Stone.

Senator Jeff Stone (Senatorial District No. 20):

Thank you, Madam Chair, and thank you for answering those questions. I kind of want to piggyback on the Speaker's questions. I'm certainly in support of going from 8 to 12 hours evidence-based curriculum. Obviously, for any of us that pay for auto insurance in Nevada, we know that it's probably one of the highest in the country, probably due in part to the number of DUIs and DUIs with injuries that we have, and I know that we have a number of dedicated instructors that have basically dedicated their lives to helping people that have alcohol abuse problems, and my concern is that we're now requiring a degree, if you will, in psychology, social work, which is great, but I'm very concerned that we're going to be pushing people out that have really dedicated their lives that could adjust to this new curriculum, and because we're requiring a degree, I assume that's going to increase costs. A lot of these people that find themselves with DUIs sometimes are lower economic folks that may not be able to afford these programs, so did you discuss affordability and the adaptation of people that are qualified to teach these courses, even with a new curriculum, without the necessary credentialing that's required in this regulation?

Mr. Bryant:

Thank you for the question. As to affordability for the offender that's taking the course, yes, it was discussed that the court would—there would be a mandatory fee, of course, but the courts always have discretion to adjust whatever fees are assessed to the offender. There can be a sliding scale for those that are in need of that. As far as the DUI course providers or the curriculum course providers that you say, and correctly so, that they would require a degree, it's because they are in fact treatment providers as defined in Chapter 484C. We have not discussed what would be provided or what would be done to address the industry as a whole because the belief again was that these treatment providers, these folks with degrees, were in fact prior to COVID in large part providing these courses, and prior to COVID, we did have predominantly treatment providers dedicated their careers to providing this service, but during the remote learning push and remote attendance push we saw a huge increase in the number of, I want to say, types of schools that were like AA (Alcoholics Anonymous), affordable DUI education, or

something like this that actually had no physical address, that had no actual providers, that they were just people that used prerecorded materials and posted them online. So, this is the primary problem that we're addressing by requiring live, one-on-one, either simultaneous videoconferencing or live, in-person instruction, and so with that as well as being a qualified person, we're trying to address the unqualified persons. It is my opinion that we're not going to see a sudden large amount of people drop off of the industry or drop out of the industry because they're unable to accommodate. It will in fact open it back up to those that are in fact qualified and wish to continue with what they were doing.

Senator Stone:

If I could just follow up? Certainly even a provider that is educated can use a recording. I think that's just a matter of you strengthening your policies. But I hope if we pass this regulation today and you find that we have a shortage of providers due to costs or availability, understanding we have a health care provider shortage in Nevada, that you quickly get back to us so we can take a second look at this regulation. Thank you.

Assemblyman Yeager:

Madam Chair, if there are no other questions, I would move to approve the regulation.

ASSEMBLYMAN YEAGER MOVED TO APPROVE REGULATION R084-22.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much for joining us. Okay, we are going to move again to the remaining regulations we have for consideration. We are going to welcome up the Board of Wildlife Commissioners. We actually have two regulations that were requested to be pulled from the Board of Wildlife Commissioners. We're going to start with R053-23, and I believe that one was a request from Senator Daly, so we will hear that one first, and when we have concluded our discussion on that regulation, we'll move to R122-23, which is also the Board of Wildlife Commissioners, and I'll turn that one over to Senator Hansen. I believe we have someone with us in Carson City. Senator Daly, when you are ready for consideration of R053-23 (Agenda Item III).

Senator Daly:

Thank you, Madam Chair, and I think it'll be fairly straightforward and quick, but I believe it's in sections 8, 9 and 10. You guys delete the reference to a driver's license number that you have to put in the application, and from what I could glean reading your statement of the need and some of the things is that people request public information documents in the list so you wanted to take out any conflict, where I think you could have held it back before because it's personal identifying information, but this just makes it clear that they don't have to submit it in the first place. That's what I understood or gleaned a little bit from that is—go ahead and answer that question, and then I have a follow up.

Kailey Musso (Management Analyst, Director's Office, Department of Wildlife):

Thank you, Senator Daly, and you are absolutely correct in that assumption. We did remove that in order to make it easier to comply with PII (personal identifiable information).

Senator Daly:

Well, and then this is the part where I—for consistency purposes, I don't know exactly, but in section 18, subsection 1(e), for falconry licenses, it's still there. It says driver's license number and applicant, if he or she has a driver's license, is still required to be submitted. Is that just an oversight, an error, or did you leave it there? Why aren't we being consistent?

Ms. Musso:

Thank you, Senator Daly, for pointing that out. I believe that was left in there because, for falconry licenses, they do like to have multiple addresses to be able to go inspect the conditions that falconer keeps those raptors in, so I think it is pertinent to leave the addresses in that falconry section.

Senator Daly:

Thank you for that. I was wondering if—why there was a question and why we weren't being consistent with the other licenses—we took it out, and again, you can still collect that information without necessarily having that. I'm okay with your explanation. We can pass the regulation. It was there before and wasn't an issue; I'm not sure it will be now. But you should probably think about being consistent in the future.

Ms. Musso:

Thank you, Senator Daly. I will take that back with us, and we do want to take a look at all of our permits down the road in the future to make that process easier for customers as well, so I'll make sure to take that back to our Department.

Senator Daly:

Thank you, and if there's no other questions, I'm ready to make a motion, Madam Chair.

SENATOR DALY MOVED TO APPROVE REGULATION R053-23.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN YEAGER WAS EXCUSED FROM THE VOTE).

Chair Cannizzaro:

We will move now to R122-23, and we will turn that one over to you, Senator Hansen.

Senator Hansen:

Thank you, Madam Chair. Yeah, and we have here in Carson City—we have two folks from NDOW (Nevada Department of Wildlife) here. Question is, this simply allows the Department to establish a moose season, as I understand it. Is that correct?

Shawn Espinosa (Administrator of Game Management, Department of Wildlife):

Thank you, Senator Hansen. Shawn Espinosa, Game Division Administrator. Yes, that is the first step in establishing a season for moose.

Senator Hansen:

Now, is NDOW planning on actually trying to implement this hunting season this year, or is this further down the road?

Mr. Espinosa:

Yes, that is correct. This will be for the 2024 season.

Senator Hansen:

Okay, now how many tags are you guys estimating you're going to put out for the antlerless and the antlered moose?

Mr. Espinosa:

It will be very limited. That process is still in—I guess what you would say in process, for lack of a better word, but it'll be heard before our May Wildlife Commission, but it's going to be very limited, somewhere between one and five tags.

Senator Hansen:

How many moose are you guys estimating are in Nevada now and what—they're all in Elko County, I understand, aren't they? How many have you guys estimated your rough population is?

Mr. Espinosa:

Yeah, so the estimated moose population is somewhere between 100 and 120 animals, and it exists beyond Elko County, but the majority of the population does exist in Elko County. We don't know if there are moose that exist in White Pine County. That is a possibility, but there have been sightings in Humboldt County as well.

Senator Hansen:

Now, there's always transitory animals that show up, but we have actually got an established moose population. As far as I know, there's never been a moose population in Nevada, I'm thinking. I've read all sorts of archaeological reports, digging up bones and so forth. We have bison. We had all sorts of stuff, but I don't recall ever having moose. Is this kind of a unique—what do you attribute moose coming into Nevada? Moose in my mind are cold weather, Canada type animals. Their furthest range south would be maybe Wyoming, upper Idaho, Montana. Now we've got them in Nevada. What do you attribute that to?

Mr. Espinosa:

Thank you for the question, Senator Hansen. They're relatively a newcomer into North America as far as that size of an ungulate goes, but they are moving southward and expanding into available habitats. We feel that at some point in Nevada, they will reach their carrying capacity and will stabilize, but right now they are increasing. We've had nine cows collared and four bulls. The cows have been productive. There's 14 calves that we know that have been produced out of that. We've requested sightings from folks since 2018, and that number has increased each year to the point last year we had over 170 sightings of moose in Elko County, just on its own. What is causing that expansion is difficult to say, and where they're coming from is a little difficult to know for sure, but we feel that they've moved in from Utah and southern Idaho.

Senator Hansen:

It's actually fascinating. Now, you guys have the Bruneau River wildlife management area. Have you had any moose reported on the Bruneau drainage?

Mr. Espinosa:

Yes, absolutely. From basically the Nevada border with Utah all the way down to the Rubies and westward, all the way over to the Santa Rosas, the Snowstorm range, but the stronghold of the population appears to be in the Snake Range, Merritt Mountain, Elk Mountain, Jarbidge Wilderness and Bruneau River and Marys River drainages.

Senator Hansen:

It's actually fascinating. The reason I want to talk to you about it is one concern I do have is if you're only going to issue one to five tags, how many applications do you anticipate and how much revenue will just the application process generate for the Department of Wildlife?

Mr. Espinosa:

That remains to be seen, but we think there could be anywhere between 20,000 and 30,000 applicants for those tags.

Senator Hansen:

Okay, so you give out five tags, but of the 20,000 to 30,000 applicants, what do you guys make off of that application process?

Mr. Espinosa:

It's \$3 per application.

Senator Hansen:

So you're about \$100,000?

Mr. Espinosa:

Actually, I'm sorry, I should correct that. It's \$10 per application.

Senator Hansen:

Okay, so you have 30,000 of them times \$10, that's \$300,000 to the Department. That's pretty good, considering you only have to give out maybe a maximum of five tags. I don't

know, that makes me a little nervous, but I'm actually delighted to see this whole thing happening. I'm just kind of amazed about how much in such a short window of time—I remember when elk were a new thing in 1993, which is now 30 years-plus ago. Again, there was sort of initially you planted a bunch but then there were clearly a lot of them migrating from other states into primarily White Pine and Elko County, and now you have the—what are you at, 10,000 elk in Nevada now, right around there?

Mr. Espinosa:

It is close to that, yes.

Senator Hansen:

It's been a phenomenally successful program, but some of it's just simply nature taking its course, and apparently you guys never planted any moose in Nevada. This is strictly migrating in from other states. Actually, Alexis and I and our grandkids saw one when we were in Jarbidge maybe two summers ago now. But anyway, all right, Madam Chair; well, that answers my questions, so if you're ready for a—unless NDOW wants to say anything additional, but if not, I'll make a motion to do pass R122-23.

Chair Cannizzaro:

I think we're all ready, Senator Hansen.

Senator Hansen:

Let's go ahead—wait a minute, Madam Chair, I thought you'd be quite excited about talking about moose populations in Northern Nevada. No?

Chair Cannizzaro:

Listen, my question on this was, do we even have moose in Nevada? But we've answered that, so I think we're all good.

Senator Hansen:

Good. Well, my motion stands. A second?

Chair Cannizzaro:

And we've got a history lesson on elk as well.

SENATOR HANSEN MOVED TO APPROVE REGULATION R122-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much for joining us. Okay, next on our list—Senator Hansen, it is your lucky day. It is R056-23 for the State Board of Architecture, Interior Design and Residential Design (Agenda Item III), and this was a request from Senator Hansen. I believe we are in the process of being joined virtually, and so, Senator Hansen, I will turn the microphone over to you.

Senator Hansen:

Thank you, Madam Chair. Actually, I just wanted to read real quickly their clear and concise explanation. It says this proposed regulation removes references to sections that are redundant, obsolete and no longer in use by the agency. Additionally, the following sections are being repealed, and they list 13 sections, and it says in response to Governor Lombardo's Executive Order 2023-003, the language contained in these 13 sections are being repealed as the agency found them to be antiquated and no longer applicable to the agency's operational licensing requirements and processes. So really, again I wanted to just thank you for doing that and again point out how one of the big complaints we have in Nevada is the constant growth and growth of regulatory language law. NAC (Nevada Administrative Code) is the same as NRS, but the NRS would frankly go through a much more public process than the NAC. I think that's one of the intents of Governor Lombardo was to try to get some control over that and even have it go backwards. Now this is the first example I've seen though, unless I've overlooked it, where an executive branch agency has actually come to Legislative Commission and asked us to essentially repeal a bunch of previous NACs, so I just wanted to reach out and thank the—in this case the Architectural Board, for following what Governor Lombardo wanted to have done, and I'm just kind of hoping that in the future, Madam Chair, that we'll have a lot more things like this. One thing we definitely want to see is a reduction in the amount of red tape in the State of Nevada, and so much of that red tape comes through regulatory bodies, and most people don't realize that the NAC legally carries every bit as much weight as the NRS for the most part, and so I want to—I'm just delighted to see Governor Lombardo's executive order and I'm delighted to see some of these agencies starting to remove old, obsolete or redundant laws, so just want to thank them once again for doing that and I will make a motion, Madam Chair, to approve R056-23.

Chair Cannizzaro:

We have a motion to approve R056-23 for the antiquated and obsolete provisions of those regulations.

SENATOR HANSEN MOVED TO APPROVE REGULATION R056-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much for joining us. Okay, we are going to move to the next item. It is R059-23 for the State Board of Pharmacy (Agenda Item III). I believe we have some representatives in Carson City, so we will let you get settled there, and I'm going to turn it over to Senator Stone.

Senator Stone:

Thank you, Madam Chair and colleagues. As I've said many times during hearings that pharmacists are some of the most over-educated, under-utilized health care professionals, and actually not just in Nevada but throughout the country. At a time when we're seeing opiate addiction plague our communities, I'm sure each of you have seen the letter from the Roseman School of Pharmacy. They articulate that to get a license to prescribe buprenorphine, you have to go through an eight-hour course with the Drug Enforcement Agency. In addition, it's recommended that further educational module be utilized by pharmacists seeking to get this certification that can be done through the American Pharmaceutical Association. It already has the curriculum that covers all the aspects that have been discussed in the regulation. But a few things: opioid overdose is the number one cause of death from adults 1 to 44 years of age, and buprenorphine is commonly used along with methadone to treat addicts. I'm really concerned about the rural areas that really don't have the providers necessary to take care of this population. There's been a recommendation that there be collaboration agreements with physicians or physician groups. I believe for the record that those collaboration efforts are currently legal today. Again, I believe that having collaboration is always good but I think it's going to impede access to care and we need to do what we can, I think, to reduce barriers, and I think that's what the author of this Assembly bill has entertained, but I'd like to ask representatives if—especially at the State Board of Pharmacy, it's my understanding that the State Board has reviewed this regulation, and I just want to make sure that I'm correct

for the record that they've actually approved and support the regulations. Can we get a confirmation on that?

Dave Wuest (Executive Secretary, State Board of Pharmacy):

Senator Stone, Dave Wuest, Executive Secretary of the Board of Pharmacy. Good morning, Madam Chair and Senator Stone. This is secondary to a statute that you guys passed, and so the Board—it's a policy decision by you. The Board's done what you've asked them to do, and so this has gone through the approval process.

Senator Stone:

Thank you, Mr. Wuest. It's great to see you. Thank you for being here today. In other expansions of scope, we've seen it with PEP and PrEP, oral contraceptives, immunizations. Those expansions of scope have gone pretty well, expanding access to a lot of these necessary services. I support of course the federal government's DEA regulations that a pharmacist that is going to be prescribing buprenorphine or methadone, or any other controlled substance for that matter, has to undergo eight hours of training. I also know that during the pharmacy school curriculum that they actually do specific modules on this type of treatment, but I personally think that a refresher course, if you will, maybe one that emulates the APhA's (American Pharmacists Association) regulations on the same, which is about another eight hours, so it would be a total of 16 hours, or at Roseman, I believe they have a new educational module that's about 10 and a half hours. Is it efficacious for the Board under your purview to require those pharmacists seeking this certification, if you will, to provide the service? It seems prudent to me that they would be required to undergo at least the 16 hours of continuing education in order to move forward with this new scope enhancement. I would like to hear your comments on that.

Mr. Wuest:

Senator Stone, thank you for your question. I see your point with it. Pharmacists do need to complete 30 hours of continuing education each two-year renewal cycle, and if—the goal of that is that they would be doing continuing education as it relates to their practice setting, so I think that would be good. To your point, this doesn't mandate that, but I think that would be a perfect scenario for them to do that training. I agree with it. We do have pharmacists right now that are doing it through a collaborative practice, so I wanted to identify that it's being done through a collaborative practice right now in the state.

Senator Stone:

Yeah, I think I mentioned that earlier as well and appreciate that. But again, we haven't had too many pharmacists participate in that, and we have a horrific opiate abuse problem. I just want you to kind of maybe answer a little bit more in a refined way. Certainly a pharmacist has certain options that they can take certain courses for their 30 hours

every other year, but I would like to see it that, if you're going to provide the certification for a pharmacist to endeavor to do this type of service, that it would be required that they have to participate in one of the Board-sanctioned courses that will further enforce their abilities to provide this essential service.

Michael Hillerby (State Board of Pharmacy):

Senator Stone, Michael Hillerby on behalf of the Board of Pharmacy. If I may, obviously the ultimate decision to approve the regulations belongs to this body, and ultimately only the Legislature makes scope-of-practice decisions. The regulations, the Board of Pharmacy felt like, were consistent with the law. AB (Assembly Bill) 156, which passed unanimously, did not include additional specific training requirements. It asked the Board to provide for the registration requirements, which is in the regulation. Obviously if that's not what the Committee wants to do, you can give us direction and we would take that back to the Board and the Board would do something. Again, we think these are consistent with the law that was passed last session with AB 156 in terms of the training. Again, and Executive Secretary Dave Wuest can chime in, there are the standing continuing education requirements at the state level, and then, as has already been mentioned, an additional eight hours specific to drug abuse treatment with the controlled substance registration that is required by the Drug Enforcement Administration. Thank you.

Senator Stone:

Thank you for that, and I appreciate your explanation of that, but I just feel that there needs to be some type of insurance, because we talk about those 30 hours—those are elective. A pharmacist can take any subjects that he wants. He doesn't have to take opiate abuse treatment protocols, but I think it's imperative that the State Board of Pharmacy ensures that if somebody is going to be certified to do this kind of work that they in fact participate in one of these educational programs. I'm not sure if that has to go back to you for refinement in the regulation, but I assume, Mr. Wuest, that you have that authority as a secretary to, if the direction of this Committee is to give you that direction, to come up with a regulation that gives us all the assurances that a pharmacist participating in this treatment is truly qualified and prepared to deliver such services?

Mr. Wuest:

Thank you, Senator Stone. I agree with you, yeah, and Mike said it right. This Committee makes the policy decisions and the Board will do what they tell them to do, so exactly. Yep.

Senator Stone:

Then one final comment I'd like to make, Madam Chair, is that there was a statistic given by those that are concerned about pharmacists doing this that of all the opiate deaths at

2.2 percent of buprenorphine utilizations result in overdosing. I just want to qualify that many of those overdoses weren't necessarily due to buprenorphine overdoses by themselves. It was due to a drug interaction with certain drugs, like antidepressants, where there could be interactions, and who is better prepared to spot these type of drug interactions other than the pharmacist that, through their doctoral studies, studied drug interactions intimately? Thank you.

Chair Cannizzaro:

Is there additional questions or comments from members of the Commission? Okay, I don't see any other questions or comments. I know we've had some discussion about sending it back to the agency. I think the difficulty that we've been having on this one is that that really is more, in my opinion, a statutory change to require that sort of training, which was not included in the bill when it was passed. I think that's the difficulty with this particular regulation on the training piece, but I do think that your questions are well founded.

ASSEMBLYMAN YEAGER MOVED TO APPROVE REGULATION R059-23.

SENATOR HARRIS SECONDED THE MOTION.

Chair Cannizzaro:

I think there's probably some—if I can give just sort of my own discussion on the motion, then I'll turn it over to members of the Commission—some additional interim work that should be done to address this in the next legislative session to make sure that we are meeting training protocols and making sure that folks are working within their scope of practice and their duties appropriately, and that where there may need to be changes to either increase training or to, I think, make standards more certain across the Board for different types of providers that could be working in this space, that that is done, because I do think that's more of a legislative change than us through regulation imposing additional standards on folks that are not within sort of the purview of the Board or within the purview of the legislation. So, what I would ask the Board in just my own commentary is just to kind of keep an eye on this so that we can get good data coming back to the next legislative session over who may be performing this work, what that has looked like and what those outcomes are, and I know that in the regulation and in the statute as well, there's some requirements to keep track of some of that stuff, and so I think kind of keeping an eye on that and working more on that this interim would definitely be something that I would ask in addition to, but I support the regulation. Senator Stone, additional comments on the motion?

Senator Stone:

Yes. Thank you, Madam Chair, and I agree wholeheartedly with your comments, and let me reiterate that in the pharmacy school curriculum in the doctorate level, the role of a pharmacist and the assessment and treatment of these patients is taught. Certainly because of the way the legislation was written, we can't mandate that of the options of continuing education that a pharmacist would undertake that they don't either pick the eight hours of continuing education to bring the pharmacists up to date on treatment protocols. The eight hours of DEA instruction is still required, so I'm going to support the motion today because I think that we really have a shortage of providers and I think that pharmacists are well educated and can provide this service. But I agree with you; we need to do some ancillary follow up, maybe in the 2025 Session, just to kind of tie it up a little bit. By that time they'll probably be getting pharmacists ready to rock and roll and get into this and hopefully alleviate addiction here in the State of Nevada, so I appreciate you. Thank you.

Chair Cannizzaro:

Thank you. Any further discussion on the motion?

THE MOTION PASSED (SENATOR KRASNER VOTED NO).

Chair Cannizzaro:

Thank you so much for joining us. We are going to move to R086-23 for the Board of Examiners for Alcohol and Drug and Gambling Counselors (Agenda Item III), and I believe this was a request from Senator Daly. I will turn the microphone over to you once we—I believe we have someone joining us virtually. I see them up on the screen, so Senator Daly, when you are ready.

Senator Daly:

Thank you, Madam Chair, and just to follow up on some comments from my colleague earlier about taking things out of regulation, and we're all aware of the Governor's mandate on that to the agencies, and I think they're trying, but I don't know if they always hit it. Explain to me—it's my understanding on this particular regulation on a renewal for a license, you no longer have to submit or go through portions, or at least the fingerprints for the background check to get renewed. At least, that's being deleted. I don't know if that is in the interest of the public that we're trying to protect, the reason we have these rules, or is there another section of the law or the regulations that would allow you to

monitor whatever activity that would be found through the fingerprints that would potentially be disqualifying activity in between, because you're removing that background check in this regulation, so what's the safeguard without this?

Colleen Platt (Board of Examiners for Alcohol, Drug and Gambling Counselors):

Thank you, Madam Chair. I also have with me—Colleen Platt on behalf of the Board of Examiners for Alcohol, Drug and Gambling Counselors as their legal counsel. I also have with us Ms. Agata Gawronski, who is the Executive Director, and she can kind of piggyback onto my comments. What I would like to say is that yes, we are removing the requirements for fingerprinting. Just recall that many licenses do not have this as a requirement to fingerprint upon renewal. They are fingerprinted upon initial application and then there is an ongoing duty to report any sort of arrest or convictions as it relates to their activity outside of the licensing realm, and so they have an ongoing duty to report that information. This was again talking to streamlining licensing and allowing people to be licensed a little quicker. This was just an opportunity to be more in line with what other boards do and to streamline that renewal process, and Ms. Gawronski can add anything further.

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

Hi, good morning. This is Agata Gawronski, the Executive Director for the Board of Examiners for Alcohol, Drug and Gambling Counselors. This regulation was put in place years ago because we had trouble, as Colleen mentioned a minute ago, that upon every renewal, there is a question—there is a testifying statement that every licensee before being approved for renewal has to answer, and those are whether—if you were arrested or been convicted in between the renewals, and then they have to submit the supporting documents. There were very few instances that people, that licensees did not disclose it and then we had found out through other sources or it came out—or it came from the police department and we got the information, so we thought this would be a good idea to do the fingerprinting every other renewal. It did not change at all the dynamics of getting more accurate reporting. Looking at other boards, it became clear to us that it was burdensome and time consuming for both the Board staff and for the licensees, and it's also a cost, so we feel like just going back and being in line with other licensing boards and doing that upon initial application should be enough. Thank you.

Senator Daly:

Thank you, and I don't disagree with you that several other boards and various things don't have the fingerprinting requirement. At least, I haven't seen it. I don't know every single one, but that's what I was kind of looking for. So, you have a questionnaire. They're supposed to disclose; it's an honor system. I suppose if it's bad enough, you're going to hear about it somewhere. Maybe they just haven't been caught yet or whatever. Hopefully none of our counselors are also dealers, right? I suppose understanding that cost then in

various parts, but there is a questionnaire on your application, "Have you engaged in any of these activities that would cause you not to be eligible for renewal?" I'm assuming that question is at least there and you guys are going that far. You're shaking your head yes. Okay.

Ms. Platt:

Thank you. Yes, there's the questionnaire on the renewal application where they have to disclose whether or not they've been arrested since the prior licensure, and then in addition, within the regulations there is an ongoing duty to report that within so many days of the occurrence of an arrest or a conviction. There's two spots, one upon renewal and then just an ongoing within the NACs themselves.

Ms. Gawronski:

Yeah, within five days--sorry.

Senator Daly:

No, go ahead, and I've seen that in other deals that they have the ongoing duty, and I think that exists practically just about everywhere. With the fact that you can say that you have some experience doing it the other way and it really is not as productive as you thought it was going to be when it was enacted. That was my only question, Madam Chair, and I think there's another. Maybe not. If there's no other questions, I'll make a motion when you're ready.

Chair Cannizzaro:

Any other members of the Commission have any questions? Yes, please go ahead.

Assemblyman P.K. O'Neill (Assembly District No. 40):

If I may, just to clarify, when they go for renewal and say that there have not been any arrests or don't report within the required five days, what is the action of the Board once they find out? Is it an automatic suspension, removal of their license and they cannot renew? What's the penalty?

Ms. Platt:

Thank you. The Board would institute disciplinary action. We can't automatically suspend their license unless there's a threat to the public. There's specific statutory provisions regarding when you can summarily—someone, and so it really depends on the circumstances. We have gone through that process when we have found out if certain types of arrests, and then that institutes disciplinary action. Once you summarily suspend someone within the statutes, you have 45 days to institute a hearing on that summary

suspension. If however we find out that someone was just arrested for a DUI and they failed to report it, we would send them what's called a 233B letter letting them know that actions have occurred which may impact their ability to have a license. They respond, and then we internally review to determine whether we want to move forward with formal disciplinary action or we have a complaint notice of hearing, or if we want to enter into a settlement agreement whereby they go and take some continuing education. That settlement agreement would be presented to the Board at its next meeting, very similarly to a complaint notice of hearing. We would have a hearing on the matter, they would get an opportunity to respond, and then the Board would make a decision.

Assemblyman O'Neill:

If I may, Chair, to follow up? In short, they can falsify their renewal application and still practice while you investigate and then decide on what you want to do. Is that correct?

Ms. Platt:

Theoretically yes. For example, if someone fails to disclose that they were arrested and convicted of a felony murder, let's just say, for whatever reason, we could summarily suspend them under the statutes. We would determine that that was a risk to the public safety and then we could summarily suspend it. So, that summary suspension, they would not be able to practice until we had a hearing on the matter, which statutorily is required to be 45 days. If however someone was arrested for a DUI and failed to disclose that, yes, we would send them a letter. We likely would not summarily suspend them unless there are other factors indicating that the public is at risk. We wouldn't summarily suspend them, and then we would move forward with standard disciplinary action, pretty similarly to whenever we determine that someone—we feel that someone has violated the regular statutes and regulations regarding the standards of practice.

Assemblyman O'Neill:

Thank you. I appreciate that explanation.

Chair Cannizzaro:

Any additional questions from members of the Commission? I am seeing none. I believe Senator Daly was prepared to make a motion to approve?

SENATOR DALY MOVED TO APPROVE REGULATION R086-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much for joining us.

Ms. Gawronski:

Thank you very much.

Chair Cannizzaro:

You're welcome. We are going to move on to the next regulation for consideration. It is R114-23 (Agenda Item III). I believe I have two folks who have questions on this regulation. We will turn it first over to Senator Daly, and I believe we have someone joining us virtually—just popped on the screen, so we'll turn it first to Senator Daly and then I believe Assemblywoman Hansen has a question after that. Senator Daly, when you're ready.

Senator Daly:

Thank you, Madam Chair, and I'll leave the question on the open-book test score to the Assemblywoman. For me, in section 7, and then I have questions on section 8 and 9 as well, but in section 7 there's reference to the practices before the Board, if I'm reading it correctly. NAC 634.610 to 634.765, government procedures before the Board, but with that, in section 10 you delete 12 sections within that range. Some of the issues are the things that are being deleted in there, including sections on pleadings, continuances, the location, preliminary procedures, testimony under oath, order of the presentation, stipulations, rules of evidence, continuances, transcripts. With all of that deleted on those particular issues and various things, what will the practice before the Board be if you're deleting that regulation? I know the Governor's told you to clean it up, but it seems to me that if I'm going to have to go before the Board and I have no clear idea of what the rules are going to be and what procedures I have to follow and what I would have to do to get a continuance. Are you guys just going to defer to contested cases under 233B? Is there another section of the law that you're going to put in place so that people clearly understand what it is they're supposed to do when they come in front of the Board?

Benjamin Lurie (Member, Chiropractic Physicians' Board of Nevada):

Thank you for the question. Dr. Benjamin Lurie for the Chiropractic Physicians' Board of Nevada. I'm a professional member. Thank you for your question. I believe—and I'm

newer to the Board—on these regulations, I believe this was based on the Governor's 2023-003 to clean up some of the Board regulations. These regulations are already stated in statute under NRS 634, so I believe the removal from the NAC is just a duplication from the procedures that are already listed out in statute.

Senator Daly:

Maybe someone on our staff can confirm that. I didn't look because I wouldn't have thought they'd been in statute or been repeated in regulation if they're already in statute. But we have another gentleman here; maybe he's going to answer the question.

Louis Ling:

Yes, good morning. I am Counsel for the Chiropractic Physicians' Board. To answer Mr. Daly's question, 622A provides a uniform set of rules and regulations for the conduct of hearings before all of the occupational licensing boards, so a lot of the boards had, like the Chiropractic Board, had a set of rules that were unique to them because that all preceded 622A. Once 622A came into effect and all of us have to conform our procedures to 622A, we don't need these anymore. 622A provides these very same rules on a uniform basis for all of the boards.

Senator Daly:

I appreciate that. Thank you for that, and I knew 622A was out there. I know there's 233B and there's a variety of different statutes. I know for the Labor Commissioner there's procedures under 607, if you're going in front of that for a case or whatever. I was confirming that, wanting to make sure if there's a process in place and people are aware of it, that they have it. In section 8, a follow-up question or second question. We're deleting the reference to an interested party who may be directly or substantially affected. So, if that provision there is—I don't know, that may be covered in your 622A as well, but who determines who else might be directly affected and how will they be able to participate if they're going to be? Do they have to petition the Board? Is it covered under that other statute? Just want to make sure that if there was a process for a person who is going to be directly affected or substantially affected to be able to participate. Is that completely gone or is there another reference somewhere?

Mr. Ling:

This set of rules is only for disciplinary proceedings, so 622A already has a section that defines who the parties are, which are going to be—in every case, it's going to be the Board and it's going to be the licensee who is being charged. There is a separate procedure if there is concerns about—every board has to have this to allow public input. If you want to change regulations or you have other concerns before the Board, you can come before the Board. But the removal of this language simply conforms with 622A, so your parties are going to be the Board and the charged doctor.

Senator Daly:

Thank you. I'm not talking about the part where people can solicit or ask or request for regulation changes. So is there in 622A intervenor language, because that's where we're trying to get to. A person who is interested or going to be substantially impacted, do they have the ability to intervene and say, "Hey, I have a stake in this and I want to participate"?

Mr. Ling:

No, there is no power for intervenor in 622A.

Senator Daly:

So deleting that language potentially takes people that are at least subject to your Board out of the loop and being able—if they're going to be substantially or directly impacted.

Mr. Ling:

Well, it removes this language. I can't imagine who that would be when you're talking about the Board charging a doctor with failing to meet some duty that the doctor was supposed to meet.

Senator Daly:

Unless it's another doctor that was engaging in the same practice and didn't know it was wrong and say, "Hey, I'd like to come in and add my two cents' worth to say, 'Hey, he didn't do anything wrong.'" Anyway, section 9, subsection 1. Again, it's about the procedures and evidence, and this may be covered by 622A. If somebody doesn't show up, if witnesses who have appeared and proceed to consider the matter disposed on the basis of the evidence before it in the manner required by, and then you list 634.725, 740, 765, which are referred to standards of conduct of the parties, consolidation of the proceedings, matters of the official notice. I'm not sure how that relates to how you have to make your determination. I understand the part about evidence presented. I think that's what you're supposed to base it on, and maybe I'm just not following. It could be, but I don't see how those actually relate in that section the way they're written up.

Mr. Ling:

That's a good question, and I'm not sure I can answer it. I don't have that in the regs in front of me right now to know which ones those are or how those got included there, so I don't have an answer for you. The procedure I can say, because we've had to do these, is a default procedure. When somebody doesn't show up, we proceed, we put on a prima facie case and the Board makes its decision based on that.

Senator Daly:

Thank you. Those are all my questions.

Chair Cannizzaro:

Okay, great. I think we have—Assemblywoman Hansen had some questions as well, so we will turn it over to you whenever you're ready.

Assemblywoman Alexis Hansen (Assembly District No. 32):

Thank you, Chair. Yes, my question pertains to section 3, and in it—I don't have a problem with the repealed sections, per se; it's the amending in section 3. My question is in sub 3, an applicant who receives a score of at least 75 percent for closed book or open book. The amendment is going from the 90 percent on an open-book test to a 75 for an open book as a passing grade. I'm certainly all for repealing and cleaning up and streamlining regulations. I'm concerned about us maintaining standards though, so wanted to see what the reasoning is behind on an open-book test going from a 90 percent down to a 75.

Mr. Lurie:

Appreciate the question. I'll say that one of the difficult things we do as Board members is we have a tendency to work in arrears. We're actually going through other regulations at this time with our chiropractic assistant program to revamp the entire program to a registration program, and some of that based on new information and new regulations and statutory that came from the Board of Radiology as well, allowing our chiropractic assistants to continue to take X-rays in the clinics as prescribed by their doctor or chiropractic physician. To clean up some of the regulations and to get our test in line and compliance with legal standardization and psychometric analysis, we're doing a cleanup right now. We've been working with the National Board of Chiropractic Physicians as well as our state Board to make the access to testing from the standpoint easier to access and allow these applicants to begin helping doctors of chiropractic with our shortage. We understand going from a 90 percent open-book test to a 75 seems like a very drastic change, especially because it is open book, but what we found by doing this, and we have been doing this for some time now, is we're still seeing the same amount of fail rates with open books as we do with non-open books. We've also had more people push towards pencil and paper examinations versus online examinations, and in the pencil and paper examinations we don't require any book materials to come in. We have a tendency to find that most of our applicants that take online examinations that fail it the first time will go ahead and sit for the written examination because of the lowered standardization. As we continue to work forward in revamping the chiropractic assistant program to make it easier, accessible to attract more individuals into the profession secondary to our shortage in alternative health care, we felt it was necessary to go ahead and lower the testing score at this point to allow those individuals the ability to pass and begin working with their doctors of chiropractic. We understand the concern. Every doctor teaches and

trains their chiropractors out of a reference book called the Tennessee Chiropractic Association training manual for chiropractic assistants. That is the reference that we use here in the State of Nevada. We are also one of very few states that actually test our chiropractic assistants in lieu of public safety. Nevada has always been the leader in testing chiropractic assistants. We're very proud of that. We appreciate your question. I do understand the concern going from a 90 to a 75. These are what I'm going to say—regulations in arrears because we will also be bringing new sets of regulations to catch up with the times as well.

Assemblywoman Hansen:

Thank you, Chair. Thank you for your answers. Just a quick statement. While I can appreciate that probably the problem is a pipeline that you're getting candidates that might not—this has been my axe to grind in education committee. I think we're seeing unfortunately some of the results of some of our students not being prepared adequately as they enter the workforce, so I know that's not your issue. That's an issue that all of us have to deal with, but I'm certainly still not comfortable with the standard being lowered to 75. Maybe there's room somewhere else. But anyway, thank you, Chair, for your time and thank you for coming to the table and helping us understand.

Mr. Lurie:

Thank you for your question.

Chair Cannizzaro:

Yes, Assemblyman O'Neill, please, when you're ready.

Assemblyman O'Neill:

Thank you, Chair. Out of curiosity, a question is how many people would you have added to—or how many more people would have passed if this 75 had been allowed several years ago instead of the standard of 90 in the open-book test? Do we have any numbers on that?

Mr. Lurie:

I'm sure our Executive Director does. Unfortunately, she is on vacation this week. I don't have those statistics in front of me. I would say that based on our pass/fail rate, most of the individuals after they take the test on the first examination have a tendency—a higher pass rate on the second examination, one secondary to their understanding the questions that are being asked, or at least being more comfortable with the process of the examination, but through education we still have a number of individuals that have failed both portions of the examination that could no longer become a chiropractic assistant because of the tight regulations that we have in testing, and that's one of the things that

we're looking at cleaning up. As we said, we're kind of in arrears with this piece of legislation, because all I can tell you is currently the Board is working on adopting a whole new chiropractic assistant program that only has testing in continued radiology at this point, secondary to that Board, and then looking to go to more of a registration process. The testing of the chiropractic assistant program has been a program that has gone back and forth over the last 20 years. I was on the Board in 2010. I was reappointed back to the Board a couple of years ago in 2022, and the Board continues to go through this difficult process of examining and testing chiropractic assistants. There are some other boards across the state that have different entry-level positions for chiropractic assistants to enter into based on their educational status. Again, it's very difficult as we sit here because we're talking backwards when the Board is currently working into the future on some of the newer changes, and mainly just because of the ask of Governor Lombardo to make that accessibility for health care workers, because as chiropractors, there is a huge shortage of alternative health care and even a greater shortage that we see today for assistants that can actually assist us in the clinics with patients.

Assemblyman O'Neill:

Chair, if I may add? I am constantly preaching to anybody that will listen to me, I understand we have a shortage of all kinds of medical providers at every level, but I'm also concerned about public safety, health, that we're providing appropriate services, the quality services that our citizens deserve, and I tend to agree with Assemblywoman Hansen that lowering an open-book test from 90 to 75 and not providing me with the numbers of how many additional people would have passed—I have questions on that and real concerns about it, so thank you. Maybe we should wait until you've done your other regulations so they're all together and presented and support one another. Thank you, though. I appreciate the time, Chair.

Chair Cannizzaro:

I think we have an additional question in Carson City. Senator Hansen.

Senator Hansen:

Thank you, Madam Chair. Yeah, his testimony brought up an issue. Do chiropractic assistants do X-rays, basically?

Mr. Lurie:

Yes, chiropractic assistants do do X-rays. They are trained in the clinic by the doctors. We do have a Board reference manual that all chiropractic assistants are to be currently trained out of, and we do test radiology on the current examination. Therefore, they do fit into the new regulation of the Board of Radiology.

Senator Hansen:

Okay, well, bottom line is—okay, what you just said then is they should be really skilled in this book that they're trained in, and it's an open-book test. Currently you're allowed to miss 1 out of 10 questions, but you guys are going to shift it to where you can miss 1 out of 4 questions, which is 75 percent, for people that are actually doing X-rays, which is a fairly controversial, possibly very dangerous procedure, so I'm just real uncomfortable with it. I realize what Assemblyman—no, not Hansen. No, you, P.K.—anyway, what he asked though is kind of a critical component of this. Are we talking 20 people a year, are we talking 200 people a year, because the public safety aspect of it—if you want them to be skilled in a book and you have an open-book test and they can still even with an open-book test miss 1 out of 10 questions, which is in itself kind of strange honestly, but to then reduce it to where they can miss 1 out of 4 questions on an issue that could potentially affect the health and wellbeing of the customers of these chiropractors that are using chiropractic assistants to do X-rays, essentially that to me raises a real red flag. Again, without seeing the hard numbers, I'm not sure, but to me I'm very uncomfortable with lowering our standards on a procedure. This isn't like a real minor thing. If you goof up on an X-ray, you could really harm someone. So yeah, I'm also—that lowering of the standard, just a red flag for me on this regulation. I'm sorry. Thank you, Madam Chair.

Chair Cannizzaro:

Thank you. Additional questions from members of the Commission? Okay, seeing none, Senator Daly, I believe you have a motion.

Senator Daly:

Thank you, Madam Chair, and although I'm not happy with the “I don't know answer,” I don't think it's substantial enough to try to hold this up. Evidence on the record is going to be that, and if they didn't use that, it would be overturned in judicial review. So, with that, I would make a motion to approve R114-23, notwithstanding the score issue, but I think it's okay.

SENATOR DALY MOVED TO APPROVE REGULATION R114-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED (SENATORS HANSEN AND STONE, ASSEMBLYWOMAN HANSEN AND ASSEMBLYMAN O'NEILL VOTED NO).

Chair Cannizzaro:

That brings us to the next item. Thank you so much for being here and answering our questions. I appreciate it. We are going to move to R117-23 for the Nevada State Board of Veterinary Medical Examiners, and I am going to turn it over to Senator Daly. I think we're getting some folks connected.

Senator Daly:

Are we ready? Okay, so along the same lines as the—

Chair Cannizzaro:

Hang on just one second, Senator.

Senator Daly:

No worries.

Chair Cannizzaro:

Okay, while we are checking for the Board of Veterinary Medical Examiners, we are actually going to hold off on that regulation. We're going to move to the next one. It is R129-23 for the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation (Agenda Item III). I am going to move to Senator Daly, and then we'll come back to that last regulation we were just talking about for Veterinary Medical Examiners, but we've got folks from DETR (Department of Employment, Training and Rehabilitation) there in Carson City. So, Senator Daly, when you're ready.

Senator Daly:

Thank you, Madam Chair, and I'm thinking this will be a relatively easy question, but I do want to make sure that it's on the record regarding that. I see that we're adding language on what people have to do in order to be deemed to be ready, willing, able, available and actually seeking work if they're on unemployment. What I needed on the record and wanted to make sure is that these are in complements to some other qualifications and various things. For instance, a person who is eligible to be on and out of work hiring all this through the local union, that's not changing. They can still meet that if they—my understanding, if they go over the 6 months, the 26 weeks, then they'd fall under the rest of this the same as everybody else because that's longer than you would accept, but just wanted to make sure there was no change on that, and that's what I needed on the record.

Troy Jordan (Deputy Director of Programs, Department of Employment, Training and Rehabilitation):

Troy Jordan, Deputy Director of DETR for Programs. Yes, that's correct. That's also why, if you look at the regulation, there's basically, for lack of a better term, a catchall provision at the bottom. The union workers—in all candor, this wasn't really designed to catch the union workers because, as you said, they go to the union hall, they put in for a job, they're usually employed within a quick amount of time when the next job comes in, but that will not change. It's in complement with those internal policies and other statutes saying it won't affect anything of the hypothetical that you just gave me.

Senator Daly:

Then just a quick follow up just to confirm my understanding is there's still the provision in there if someone applies—for instance, a couple weeks ago when we had the snow and the storm or whatever, or if they're—it's winter time, things slow down on paving crews and various things, but they have a time that said, “Hey, my employer says I'm going back to work in three weeks.” They can put that in there and that would meet the requirement as long as they have a reasonable period of time between when they expect to go back to work?

Mr. Jordan:

The short answer's yes. To elaborate a little bit for the Senator's confidence in this regulation is that everything, even the ones that are laid out, are going to be in context of everything else, and what I mean by that is if one of the things that says—one of the enumerated parts is you have to apply for three jobs. Well, if you're a nuclear engineer and there're no nuclear engineer jobs, obviously we're not going to hold you to applying for three fast food jobs, so everything is in context of what the claimant's situation is and their needs and the economic system, the economic picture at the time, because of course if there are no jobs available, it's very hard to get them searching for work as it would have been in a recession or something of that nature, but it's all relative to the person themselves. But we wanted to put this work search in for two reasons, the first being clarity to the claimant that this will count, and the second, we have had a number of employers saying, “Hey, we've had people signing up for interviews and not taking them,” so it required an extra level of effort, so to speak, on record to have them search for work, but anyone making a good faith effort, it shouldn't change the way it is now.

Senator Daly:

Understood. I just wanted to be clear. The provisions that allow you to get on your out of work list with your—or the union is still going to meet the requirements of searching for work. That was my main question. Ready to make a motion if there are no other questions, Madam Chair.

Chair Cannizzaro:

Any other members of the Commission have any questions?

SENATOR DALY MOVED TO APPROVE REGULATION R129-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Cannizzaro:

Thank you so much for being here, and we're going to move back to R117-23 for the Nevada State Board of Veterinary Medical Examiners (Agenda Item III). I believe we have someone to join us in Carson City and, Senator Daly, when you and they are ready, proceed.

Senator Daly:

Thank you, Madam Chair, and this one is similar to the last one, and I'm assuming the answer is going to be relatively close to the same, that it's covered under 222A, I believe. The definitions that were deleted were practices before the Board, parties, pleadings, motions, complaints, and that is now going to fall to the larger generic statute. So, those provisions being deleted are still going to be covered in a different area.

Mr. Ling:

Louis Ling, Board Counsel to the Nevada State Board of Veterinary Medical Examiners. I apologize for any confusion to the Committee about Ms. Pedigo. Jennifer Pedigo is our Executive Director. She would normally be here, but she was summoned for jury duty Friday afternoon and she called me and said, "I need you to cover the hearing." I said okay, so she's presently sitting in the courthouse in Washoe County. To answer your question, Mr. Daly, yes, 622A will cover all of this. As you might imagine, I was involved in trying to help the Board decide whether they needed these provisions. The provisions that are being taken out are covered by other provisions in 622A.

Senator Daly:

Thank you, and I understand that. You may or may not know—the second question is more of a policy type of a thing, but in section 16 where they had quite a bit of language

on what an exam was going to cover, each training course, the Board or its representative will examine each trainee, and then there's half a page of areas that they were going to be examined under, and it changes that to just "will administer" an examination to each trainee. I don't want to assume—would like to have on the record, is there some type of approved test, examination that's going to be provided? Is there a national examination that's recognized by the veterinary medical boards for these types of things? There's an approved examination that still covers all of this stuff? It's just "will administer" examination that apparently has been approved by the Board. I'm hoping you're going to say that's the case.

Mr. Ling:

Yes, there's no national examination, but the Board's examination is not going to change as a result of this. This is part of—as you can see, there's a number of provisions dealing with the euthanasia technicians, and this is one of those provisions just to allow the Board the flexibility to keep up with the industry. The euthanasia agents that are being used now are changing, okay, and we wanted to be able to change with them. So yes, there is an exam. It's going to be the same exam we've been giving all along.

Senator Daly:

Well, and I just wanted to—because you don't put the words in there "approved by the Board" or whatever. Those words are not there. So you can give them an exam, and yes, it's flexible and can change, but it may not have enough structure. If it's going to be the same like I say, I—

Mr. Ling:

I can assure you we just got done—I'm sorry, excuse me.

Senator Daly:

I have faith that that will be the case, but part of what these Boards are for is not only to protect the licensees but to protect the public and to make sure that there are reasonable standards and expectations of what they're going to be examined on and the knowledge they have to have in order to have this license and practice. Now I understand that's the Board's goal. I wouldn't think that you would have some flimsy examination, but the words don't back it up 100 percent, but that doesn't mean I won't go along with the regulation today, but you should take a look at that. That's all I have, Madam Chair. Thank you.

Chair Cannizzaro:

Okay, thank you. Any other questions from members of the Commission?

SENATOR DALY MOVED TO APPROVE REGULATION R117-23.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN WATTS WAS NOT PRESENT FOR THE VOTE).

Chair Cannizzaro:

Thank you so much for joining us and for filling in. Okay, members of the Commission, that does conclude our review of the administrative regulations on item III on our agenda, and so with that, we are going to move to item IV, which is appointment of members to committees and similar entities. Commission members, you will note that you have some documentation for this item on the dais in front of you with a list of folks to be appointed (Agenda Item IV). We have with us today the Director of the Research Division, Nick Anthony. He is here to help us with this particular item, and so I am going to turn it over to him. Mr. Anthony, when you are ready.

Nicolas Anthony (Research Director, Research Division, Legislative Counsel Bureau):

Thank you, Chair Cannizzaro. As the Chair indicated, there is a document included in the materials and uploaded online listing 11 various boards, commissions, councils and forums for this body's consideration. The members are either listed for appointment or reappointment, and Chair Cannizzaro, I'd be pleased to answer any questions.

Chair Cannizzaro:

Okay, members of the Commission, you've had an opportunity to review the list in front of you. We are entertaining any questions that you might have for our appointments of members to committees and similar entities. Any members have any questions? I'm not seeing or hearing any. Okay, seeing none, do I have a motion to approve these appointments as recommended?

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE APPOINTMENT OF MEMBERS TO COMMITTEES AND SIMILAR ENTITIES.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN WATTS WAS NOT PRESENT FOR THE VOTE).

Chair Cannizzaro:

Okay, that moves us to item V on our agenda, which is the approval of revised interim budgets and work programs for our joint interim standing committees. This item is also going to be presented by Mr. Anthony, so I will turn it over to you to proceed.

Mr. Anthony:

Thank you, Chair Cannizzaro, for the opportunity. As the Legislative Commission may recall, at its November 8, 2023 meeting this body approved the work programs and budgets for the joint interim standing committees. As noted during that meeting, the Joint Interim Standing Committee on Health and Human Services was approved for six meetings. However, it was noted that the chair may be interested in requesting two additional meetings. At this time, staff is aware that the Joint Interim Standing Committee on Health and Human Services, together with the Joint Interim Standing Committee on Growth and Infrastructure, would like to hold an additional joint meeting to be held in July to consider topics of mutual interest related to both public health and infrastructure projects, including the SCR (Senate Concurrent Resolution) 5 interim study. With that Madam Chair, I'd be pleased to answer any questions.

Chair Cannizzaro:

Okay, thank you. Members of the Commission, any questions on this agenda item or the request from our joint intern standing committee? Okay, seeing none, then do I have a motion to approve the revised interim budget and work program for the Joint Interim Standing Committee on Health and Human Services?

SENATOR HARRIS MOVED TO APPROVE THE REVISED INTERIM BUDGETS AND WORK PROGRAMS FOR JOINT INTERIM STANDING COMMITTEES.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN WATTS WAS NOT PRESENT FOR THE VOTE).

Chair Cannizzaro:

Okay, members of the Commission, the next item on our agenda is item VI, which is the various amendments to the rules and policies of the Legislative Counsel Bureau. We do have with us our Chief Human Resources and Contract Counsel, Heidi Remick, who is here with us in Las Vegas to explain all of the proposed changes. Members of the Commission, I will note that you also have a document on the dais in front of you that has noted these changes as well (Agenda Item VI), but we will turn it over to Ms. Remick when you are ready.

Heidi Remick (Chief Human Resources and Contracts Counsel, Legislative Counsel Bureau):

Thank you, Chair Cannizzaro. I will review these proposed amendments and provide a brief explanation of each change as I go. To begin with, section 1 would amend Rule 8 to require that LCB employees get out-of-state travel pre-approved by the Director in order to be reimbursed for their expenses, and the LCB believes this amendment is necessary to ensure the business necessity of out-of-state travel and to help keep travel costs in check.

Section 2 would amend Rule 13, which is our anti-nepotism policy, to better clarify the types of business and employment decisions and potential conflicts that may arise in circumstances of nepotism and also expands the policy to include not just relatives within a third degree of consanguinity, which is what the previous policy was limited to, but also to include romantic partners and persons who reside in the same household. Finally, this new policy amendment outlines a procedure for employees to follow if they were not relatives at the time they took on that position but become related during the course of their employment.

Section 3 amends Rule 16.3 to remove the exception for division chiefs, the Director and this Commission to allow employees to be appointed to executive branch committees because there is really no circumstance where such an appointment would not raise potential ethical conflicts.

Section 4 amends Rule 19 to provide more clarity to employees and supervisors at the time of hire about how long an employee's probationary employment will last. It further provides that employees cannot be given a raise during the course of their probationary period without the Director approval because a salary increase suggests that the employee's work is satisfactory and makes it more difficult to discharge employees during their probationary period if their work is in fact not satisfactory.

Section 5 would amend Rule 25 regarding overtime and compensatory time to make some changes to clarify the language, and more substantively to amend subsection 9 of this rule so that all comp time balances over 120 hours will be paid out annually during the pay period that includes June 30 at the end of the fiscal year at the June 30 pay rate,

and this is intended to protect the LCB from carrying unfunded liability in the form of very large balances of employee comp time and will also prevent employees from amassing large balances of comp time and then cashing it out at a higher rate after July 1 when cost of living and merit increases take effect.

Next is Section 6, which amends Rule 25.1 to provide use of compensatory leave for sexual assault victims in addition to domestic assault victims, and this change is necessitated to comply with the protections passed in the last legislative session in AB 163. There are a number of changes in this document that are necessitated by AB 163.

Section 7 amends Rule 25.4 to clarify that callback pay requires employees to actually be called back to a legislative building or out to the scene of an emergency and not just called after hours to handle some question or issue that may be resolved remotely.

Section 8 amends Rule 29, again to add protections for sex assault victims to our annual leave policies to comply with AB 163.

Section 9 amends Rule 32 to remove references to standard and non-standard work schedules because those distinctions don't actually impact the holiday pay rules and are confusing and potentially misleading.

Section 10 amends our sick leave rule to provide that employees may use sick leave to care for their own illnesses or to care for any other sick person, and let me be clear that this policy does not increase the amount of sick leave that LCB employees are entitled to, so staff will still need to be judicious in how they use that leave. However, it does provide employees with more flexibility in who they're allowed to care for, and it also protects our managers from having to ask intrusive and potentially discriminatory questions about people's relationships in order to determine whether sick leave is appropriate. Additionally, as necessitated by AB 163, this includes sex assault victims in our policy for sick leave requests.

Section 11 goes along with the changes to the sick leave rule and would allow employees to take sick leave to care for any other person, and it would eliminate the 120-hour cap on using sick leave to care for others. This again does not give employees any more sick leave than they already have, but gives employees more flexibility in determining how to use their leave. It also would relieve our Accounting Unit of the need to keep track of family sick leave separate from an employee's personal use of sick leave.

Section 12 similarly amends the bereavement leave policy to remove the requirement that the death be in the employee's immediate family so that employees would have more flexibility in honoring the deaths of loved ones, but again, it doesn't increase the amount of leave that employees may use.

Section 13 would amend Rule 37.7, again to include sexual assault victims in our Family and Medical Leave Act policies, and this is another edit necessitated by AB 163.

Section 14 adds a new policy for paid family leave for employees, and this mirrors the criteria outlined for other state employees in AB 376 passed during the last session. One crucial difference with this proposed policy is that AB 376 did not include any appropriation to fund paid family leave for legislative branch employees, so this rule provides a caveat in subsection 5 that paid family leave can be denied if it would pose an undue burden to the LCB.

Section 15 amends Rule 39 to provide for the ability to apply for catastrophic leave to attend to any person, not just an immediate family member, and this proposed change goes along with the proposed changes to the sick leave and bereavement leave rules. I would also note that catastrophic leave is discretionary and is only awarded if approved by the Director, so employees would still need to make a compelling case when requesting catastrophic leave that the leave is needed and that the person is more than just an acquaintance.

Section 16 goes along with the prior rule change proposed to Rule 39 and would amend Rule 39.3. Just for consistency, if Rule 39 passes, 39.3 would also need to be changed to provide that people can use catastrophic leave to care for any person.

Sections 17 and 18 are also amendments needed to comply with AB 163 and provide protections for sex assault victims.

Section 19 adds a new rule which provides that legislative hearing rooms in both Carson City and Las Vegas may be reserved in advance by any state agency or office and each hearing will be staffed by the LCB and upon request recorded and broadcasted by the LCB. We feel that that is necessary so that we can maintain those rooms and our equipment in good order. However, this new rule provides that during legislative sessions and in the three months preceding regular sessions, legislative business will take priority over any other use of these rooms, and this rule would not take effect until the hearing rooms in Las Vegas are approved and ready for occupancy, and the Director will provide notice when that date occurs. I am happy to entertain any questions.

Chair Cannizzaro:

Okay, thank you. Any questions from members of the Commission? Senator Harris, please.

Senator Dallas Harris (Senatorial District No. 11; Vice Chair):

Thank you, Madam Chair. My question is about the first section related to the approval of business travel in order to get reimbursed. Is my interpretation correct in that, absent that approval, there's no way for an employee to be reimbursed, even if, let's say, they ran out of time and everyone agrees this was a business expense? It seems, the way it's written, that doesn't matter. They would not be able to be able to get reimbursed.

Brenda Erdoes (Director, Legislative Counsel Bureau):

Thank you for the question. It does mean that if you have discretion and—and just for the record, it only takes a minute to call the Director and get that approval, and the reason is that if we're not budgeted for it—right now we're okay, but there have been slim years where we don't even have that money and somebody gets asked to go. The other exception to what you asked, I just want to point out, is that many times the organizations that the LCB pays dues to, the national organizations, oftentimes if the travel is not reimbursed by the LCB, it'll be reimbursed by the those organizations, NCSL (National Conference of State Legislatures), organizations like that. It hasn't generally been a problem in the past. We just needed to have a closer way to really put that money aside when we know that someone's going to travel instead of, at the end of the fiscal year, finding out that a bunch of people traveled and we didn't know it.

Vice Chair Harris:

I understand the need for the change, and I'm not opposed to it. I just wanted to make sure, and I think I got an answer and the answer is that there is no way to be reimbursed if it's not pre-approved. Okay, and if I could just have a quick follow up, Madam Chair? Thank you. You mentioned this a little bit, Ms. Erdoes, but could you tell me about what the approval process looks like currently for LCB staff or what it would look like moving forward under this regulation? Do we have like a Concur app where you submit your requests or travel expenses, or is it just an informal process where you maybe send an email or pick up the phone and ask for that approval?

Ms. Erdoes:

I think at least while I'm the Director, my policy has just been you can call me, text me, whatever. I'm not looking for anything formal. It really is just then I'll make a note so that we can take that—I can't tell you that that might not change later, but I really think that the point of this is just to know—and sort of like your own budget, just to know what you already spent, and to a certain extent I think that it may also be to look at maybe the next year so we have to keep track of that better, so if maybe the next year you look at making sure that people get equal chances to do things like that.

Chair Cannizzaro:

Any additional questions from members of the Commission? Okay, do I have—oh yes, please, go ahead.

Assemblyman O'Neill:

I saw these rules this morning when they were delivered to us. So on section 5, Rule 25, I just need some clarification, because I know during our legislative year when we're in, several of the divisions earns copious amounts of overtime. They work almost 24/7 it

seems, and at the conclusion of the Legislature, they still have to work, particularly in Fiscal to clean up and prepare for the upcoming year. I was looking at Rule 25, section 2, that they may earn compensatory time that may be taken at a later date or paid for, so it's their choice it sounds like, but then later it says that anything in excess of 120 they can't carry forward and will be paid off at the end of the year, June 30. Is there a conflict there, because I know several of them, they'll take July off and it—or part of the summer to burn up that time that they earned during the legislative calendar. I'm just confused—to make sure that we're not penalizing our staff members who work such long hours. The pay is nice, but they may want the time off too after the first of the calendar year or fiscal year. Are they going to be allowed to still do that or are they just going to be paid only?

Ms. Remick:

Thank you for the question, Assemblyman. This provides that people may continue to carry after June 30 a balance of 120 hours of comp time. This is time in addition to whatever annual leave they may have stored, in addition to whatever Smith-Price time that the Legislature may choose to award legislative staffers with, and 120 hours comes out to 3 weeks of 40 hours, a 40-hour workweek. Many employees do work very hard during session, and then when session is over they will often take off much of the month of June to rest and reset before coming back later in the summer, but even for those who choose to take their leave later in the summer, it will leave employees with at least three weeks to be able to take after that resetting of the compensatory time at June 30. We felt that that was an important balance because, as the Director indicated, some budget years are very lean, and when as happens—this year there were a number of employees who received the very generous cost of living increase and merit increases on July 1 and cashed out their compensatory time at a rate that is much higher than the rate at which it was earned, which takes a lot out of the legislative budget.

Assemblyman O'Neill:

I still have some questions that we're penalizing the employees for working all that time that they want to take off if they agree in June not to get paid, but to take time off into the future year or the new year, because taking a large payout could affect them also on tax purposes. They're taking the time at the same rate they earned it, or that it's on the books, instead of just paying them off and letting them be come July at 120. I truly appreciate—maybe I don't understand our personnel system here at LCB enough, but I want to make sure that they are allowed to have that time off and that it's at their choice before, and if they do take a pay, that the pay has got to be in the current year so there aren't those increases. Thank you. I appreciate it.

Ms. Remick:

Thank you for the question, Assemblyman. Compensatory time is paid out at the rate an employee makes at the time that they take the compensatory leave, so if the employee waits until after July 1 to take compensatory time in excess of 120 hours, they will be paid

for that leave at the post cost of living, post merit increase rate that they receive on July 1, so it's not accurate to say that they take the leave and are paid at the same rate that they earned the time at.

Assemblyman O'Neill:

Thank you. I appreciate the explanation.

Chair Cannizzaro:

Additional questions from members of the Commission. Okay, I'm not seeing any. Do I have a motion to approve the request for the rule changes?

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE AMENDMENTS TO THE RULES AND POLICIES OF THE LEGISLATIVE COUNSEL BUREAU.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN WATTS WAS NOT PRESENT FOR THE VOTE).

Chair Cannizzaro:

Thank you again, Ms. Remick, for walking us through all of those. Okay, then we are going to move on to the next item on our agenda. It is item VII and it is the consideration of replacement of the Director of the Legislative Counsel Bureau upon retirement of the current Director. NRS 218F.100 requires the Legislative Commission to approve and appoint the Director. The Speaker and I believe that with the help of our current Director, Ms. Erdoes, we have found an extremely well qualified candidate for this position. He has a law degree and an MBA (Master of Business Administration) and is uniquely positioned among our LCB staff. He has long served in both the Research and Legal Divisions and also represented local government before the Legislature and of course, best of all, he is immediately available to begin what we believe will be a smooth transition for the LCB. Members, you will also note that you do have some documentation that sort of lists in much greater detail these wonderful qualifications (Agenda Item VII). So with that, Mr. Speaker, I would ask if you would like to make a motion.

Assemblyman Yeager:

Thank you so much, Madam Chair, and I concur that we are blessed to have a wonderful internal candidate who I think has the experience we need in the next LCB Director, so it would be my pleasure to make a motion to appoint Nick Anthony as the next Director of the Legislative Counsel Bureau upon retirement of our current Director.

ASSEMBLYMAN YEAGER MOVED TO APPROVE THE APPOINTMENT OF NICOLAS ANTHONY AS DIRECTOR OF THE LEGISLATIVE COUNSEL BUREAU UPON THE RETIREMENT OF THE CURRENT DIRECTOR.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN WATTS WAS NOT PRESENT FOR THE VOTE).

Chair Cannizzaro:

Congratulations, Nick. We're very excited for you to join us and the position of Director after and upon Brenda's retirement, and I just want to sort of take a moment to both congratulate you and tell you how excited I think we are to have you come on board. I know you're going to do a fantastic job and I definitely think that we're really lucky to have someone like you willing to step into this role, and that leaves me I think in a position where I have to take a moment also to acknowledge that Brenda has been just a phenomenal person to work with over the last few years and a wonderful director, and I cannot I think probably adequately express my appreciation for all that you do and all that you make sure that we are able to do on a daily basis and your reach into not just the Legislative Counsel Bureau but the Legislature and to those of us individual legislators is not only remarkable but substantial, and I've just enjoyed every minute of being able to work with you. We'll definitely cherish the moments that we have together as you go on to do hopefully a lot of fun and wonderful life things, but I think there is just a part that we will always miss having you here, and it definitely will be different. An exciting different, but we will miss you immensely and just wanted to extend a heartfelt thank you to you for everything that you do both out in front of the Legislature and also behind the scenes, and anyway, I appreciate you very much. Mr. Speaker.

Assemblyman Yeager:

Thank you so much, Madam Chair, and certainly want to congratulate Mr. Anthony and well deserved, and also want to take a moment on behalf of the Assembly to recognize

Brenda Erdoes who, for as long as I can really remember, has been sort of the legislative institution. A lot of conversations that I have in this role are with former Speakers of the House, and we all have one thing in common, and that's that Ms. Erdoes has been there through thick and thin for a very long time, and so want to thank you for making sure that the Legislature takes its rightful place in the three branches of government and also for all the lives that you've touched throughout your career. Obviously you're the Director of the LCB now, but had a long, distinguished career as the Director of Legal and before that involved in Legal, and one of the few people that was around the last time the Legislative Building up in Carson City underwent renovation, so that kind of institutional knowledge is going to be really, really hard to replace. But we are certainly grateful for you—I'm not going to say how long, but for your years and years and years, decades of service to the Legislature and to the state. You've certainly made it a better place and you've made us more effective as legislators, so want to thank you on behalf of the Assembly and wish you all the best in whatever comes next.

Chair Cannizzaro:

Thank you, and thank you, Mr. Speaker. Congratulations again, Nick, and congratulations, Brenda, and we will certainly miss you. Oh, yes, Senator Krasner.

Senator Krasner

Thank you. Can you hear me?

Chair Cannizzaro:

Yes.

Senator Krasner:

You can hear me?

Chair Cannizzaro:

Yes.

Senator Krasner:

I apologize; I wasn't sure if I was unmuted or not. I just want to say congratulations to Mr. Anthony. He's been wonderful to work with, but Ms. Brenda Erdoes, just what a huge loss for the Legislature that she's leaving us. You have been so wonderful to work with when I was a freshman Assemblywoman, all my years as an Assemblywoman, as a Senator. You have a wealth of knowledge of the law and the Constitution that is really unmatched. You are always there to help. Any question I've ever had, you've always been there to help me. I know that you've always helped everyone, so all of the legislators will be

missing out without you there. The entire Legislature will be missing out without you there and the State of Nevada really is going to have a tremendous loss without you there, so thank you. Just thank you so much for your tireless work. I know you're always there late after everybody and you're there early before everybody and just have been so wonderful to work with. Thank you, Ms. Erdoes. Thank you very much.

Chair Cannizzaro:

Thank you. That will conclude item VII, but obviously we'll keep working for a very smooth transition and excited for that piece of it. We have the next item on our agenda is item VIII, which is our update on litigation and so we are going to turn this over to our General Counsel, Kevin Powers. He has a report. I believe he—there he is on the screen, so he will be providing that to us, and we'll turn it over to you, Mr. Powers.

Kevin Powers (General Counsel, Legal Division, Legislative Counsel Bureau):

Thank you, Madam Chair. Before I begin my presentation on the litigation update, on behalf of all the employees of LCB Legal, we'd also like to express our appreciation for Ms. Erdoes and all the years that she has served the Legislature and made us all better employees and attorneys in the Legal Division, and we certainly will find need to search for those answers from other individuals because, when an answer was needed in the past, generally Ms. Erdoes had that answer, and when necessary, Ms. Erdoes certainly would turn to the rest of us. She has provided that guidance to all of us as both persons and employees and attorneys to make us the best staff possible for the Nevada Legislature, so thank you, Ms. Erdoes, on behalf of the LCB Legal Division.

Turning then to the litigation report, this is going to be a pretty lengthy litigation report. We have five cases to report on, three new cases. First case is *Nevada Policy Research Institute v. Miller*. That's Nevada Supreme Court Case No. 85935. In this case, NPRI (Nevada Policy Research Institute) claims that state legislators are prohibited by the separation of powers provision in the Nevada Constitution from holding any positions of public employment with the state executive branch or with local governments. As a reminder, LCB Legal is representing the Legislature as an intervenor defendant to protect the official interests of the Legislature as an organizational client. This case is before the Supreme Court on appeal for a second time. After the first appeal, the Nevada Supreme Court returned the case to the District Court in a published opinion reported at 138 Nevada Advance Opinion No. 28. In that first appeal, the Supreme Court determined that NPRI has standing to litigate these separation of powers claims. After remand, the District Court ultimately entered an order dismissing NPRI's first amended complaint. The District Court determined that the separation of powers provision does not prohibit state legislators from holding positions of public employment with the state executive branch or with local governments. NPRI filed its second appeal to the Nevada Supreme Court on February 6, 2024. The Nevada Supreme Court heard oral arguments in the appeal and the parties are now awaiting a decision.

The next case to report on is *Lombardo v. Nevada Commission on Ethics*. In this case, the Ethics Commission entered an opinion concluding that petitioner Lombardo, while he was serving as a local public officer, not as the Governor, violated certain provisions of the Nevada Ethics in Government Law in NRS Chapter 281A. The petitioner filed a petition for judicial review of the District Court under the Administrative Procedure Act, or APA. In the petition for judicial review, the petitioner raised several constitutional challenges to the ethics law, including the statutory authority of the Legislative Commission to appoint half the members of the Ethics Commission. The Legislature therefore intervened in the case to protect its official interests and defend the constitutionality of its legislative enactments and appointments. On December 7, 2023, the Ethics Commission filed a motion to dismiss the petition for judicial review for lack of subject matter jurisdiction, arguing that the petitioner failed to comply with the APA's requirements for seeking judicial review from an administrative decision. On January 2, 2024, the District Court entered an order granting the Ethics Commission's motion to dismiss the petition for judicial review for lack of subject matter jurisdiction. On February 2, 2024, the petitioner filed a notice of appeal to the Nevada Supreme Court in order to challenge the District Court's order.

As a reminder, because the Legislature limited its intervention in this case to only defending the constitutionality of its legislative enactments and appointments, the Legislature is not taking any position on the subject matter jurisdiction issue being litigated between the petitioner and the Ethics Commission, and we will proceed in that same posture on appeal. We will not be taking any position on the issue of subject matter jurisdiction. If the Nevada Supreme Court agrees that there is no subject matter jurisdiction, that will end the case. If the Nevada Supreme Court determines that there is subject matter jurisdiction and remands it to the District Court, then LCB Legal will represent the Legislature to defend its legislative enactments and appointments.

The next case is a new case, *National Taxpayers Union v. Lombardo*, and that's in the First Judicial District Court in Carson City. On January 2, 2024, the plaintiffs filed a complaint for declaratory and injunctive relief that raises several state constitutional claims challenging specific provisions of Senate Bill 420 of the 2021 Regular Session. That bill relates to the health benefit plan known as the Public Option codified in NRS Chapter 695K. Even though the Public Option provisions were enacted during the 2021 Regular Session, those provisions do not become operative and effective until January 1, 2026. The Legislature intervened in the case in order to protect its official interests and defend the constitutionality of its legislative enactments. On February 23, 2024, LCB Legal filed a motion to dismiss on behalf of intervenor defendant Legislature and the AG's (Attorney General) Office filed a motion to dismiss on behalf of the state executive defendants. In the respective motions, the defendants seek dismissal on issues concerning lack of subject matter jurisdiction, including lack of jurisdictional standing and ripeness. After the parties complete briefing on the motions to dismiss, the District Court will determine whether it will hear oral arguments on the motions or whether it will decide the motions on the briefs without oral arguments.

The next new case to report on is *Strong Public Schools Nevada v. State of Nevada*. This is also in the First Judicial District Court in Carson City. On February 5, 2024, the plaintiffs filed a complaint for declaratory and injunctive relief that raises several state constitutional claims challenging certain provisions of Senate Bill 1 of the 35th Special Session. That bill is the Southern Nevada Tourism Innovation Act, and it relates to the financing of a Major League Baseball stadium project in Clark County, Nevada. The Legislature intervened in the case in order to protect its official interests and defend the constitutionality of its legislative enactments. In response to the complaint, LCB Legal will file a responsive pleading or motion on behalf of the intervenor defendant Legislature and the AG's Office will file a responsive pleading or motion on behalf of the state executive defendants.

At this juncture, Madam Chair, I think I'll take any questions on those cases, because the next case to report on is particularly lengthy and complicated.

Chair Cannizzaro:

Any questions from members of the Commission? Okay, seeing none, Mr. Powers, please proceed.

Mr. Powers:

Thank you, Madam Chair. This is the last case to report on. The case is *Silver State Hope Fund v. State of Nevada*. That's in the Eighth Judicial District Court in Clark County. This is a case that's had an unusual procedural posture, so it's going to require some background information. The Legislature's appearance in this case does not involve the merits of the legal issues being disputed by the existing parties. Instead, the Legislature's appearance concerns a motion to intervene filed by a private attorney on behalf of several individual legislators seeking to intervene in the case. In the motion and related documents, the private attorney identified himself as the attorney for the Nevada Legislature, and the private attorney argued that the proposed intervenors were entitled to intervention as of right on behalf of the Nevada Legislature and to represent the interests of the Nevada Legislature. To support the motion to intervene, the private attorney relied on NRS 218F.720. However, that statute grants LCB Legal the authority to provide legal representation in actions and proceedings on behalf of the Legislature, and that statute sets forth the standards and procedures for LCB Legal to exercise the Legislature's right and standing to intervene.

So, to better understand this case, it is necessary to provide some background information regarding intervention. Intervention in the district court is governed by applicable statutory provisions and the Nevada Rules of Civil Procedure, specifically Rule 24. When interpreting Rule 24, the Nevada Supreme Court generally follows federal cases because Nevada's Rule 24 is modeled on analogous provisions of federal Rule 24. Under the federal cases and Nevada's Rule, there are two types of intervention. The first type of intervention is permissive intervention, where the district court has the discretion

to determine whether to allow the proposed intervenors to participate in the case. The second type of intervention is intervention as of right, where the proposed intervenors have a legal right to participate in the case in order to protect their interests. Based on federal cases, individual legislators, like other individuals, are entitled to seek permissive intervention on their own behalf under Rule 24(b), and depending on the circumstances, federal courts have granted permissive intervention to individual legislators in constitutional challenges. However, federal courts have held that, as a general rule, individual legislators are not entitled to intervention as of right under Rule 24(a) because individual legislators lack standing to assert the institutional interests of the Legislature as an organizational body. By contrast, the Legislature as an organizational body is entitled to intervention as of right when the appropriate body or officer designated under state law directs intervention on behalf of the Legislature. In Nevada, under NRS 218F.720, before LCB Legal may exercise the statutory authority to seek intervention on behalf of the Legislature, LCB Legal must be authorized to do so and directed to do so by either the Legislative Commission or the Chair of the Legislative Commission in cases where action is required before a meeting of the Legislative Commission is held. Under these circumstances, LCB Legal is authorized to appear on behalf of the Legislature and take any litigation actions and represent the Legislature in the litigation as an organizational client in accordance with the Nevada Rules of Professional Conduct Governing Attorneys, specifically Rule 1.13 which governs legal representation of organizational clients.

With that background in mind, we'll turn to this particular case. After the private attorney filed the motion to intervene in related documents, the existing parties filed oppositions to the motion to intervene. In addition, the Chair of the Legislative Commission directed LCB Legal under NRS 218F.720 to appear on behalf of the Legislature in this matter and take any and all necessary actions in order to represent and protect the official interests of the Legislature as an organizational client. To that end, LCB Legal filed the Legislature's counter motion to strike all inaccurate and unprofessional statements relating to the Legislature made by the private attorney in support of the motion to intervene. Ultimately, the District Court, after considering the motion to intervene in related documents and the oppositions thereto, denied the motion to intervene filed by the individual legislators. The private attorney could seek appellate relief by filing a petition for writ of mandamus with the Nevada Supreme Court. Therefore, LCB Legal will maintain and participate in this case on behalf of the Legislature to ensure that further representations are accurate and legally correct when it comes to who are the attorneys for the Nevada Legislature and who represents the Nevada Legislature as an organizational client, because under NRS 218F.720, the statutory authority and duty to represent the Legislature as an organizational client falls on LCB Legal. So at this stage, having had the motion to intervene denied, it will be up to the private attorney in consultation with his clients to determine whether to seek appellate relief. If they do not seek appellate relief, then this matter would be closed.

Thank you, Madam Chair. That is the litigation in progress report. I am certainly open to any questions. Thank you.

Chair Cannizzaro:

Okay, thank you, Mr. Powers. Speaker Yeager.

Assemblyman Yeager:

Thank you, Madam Chair. Thank you for the update, Mr. Powers. I don't have a question, but I just feel compelled to say for the record that, with respect to that last matter you discussed, I find it unfathomable that the attorney involved or the individual litigants who are members of the minority party of the Legislature didn't understand or comprehend that they can't hire their own attorney to file something and purport to represent the entire Legislature. I want to give folks the benefit of the doubt, but the attorney's experienced, I think understands the law, and so I guess I would just caution both that attorney and members of the Legislature who are in the minority party to make sure that they're being accurate and truthful in representations that are made to the court about whether they speak for the entire Legislature or not. As you mentioned, that's the purview of the Chair of the Legislative Commission during the interim, and certainly that brief that was filed was not authorized by the Chair or by this Commission. So, I want to just encourage you to keep on top of that and make sure that there aren't misrepresentations out there about what the will of the legislative body is.

Chair Cannizzaro:

Thank you, Mr. Speaker, and I am just going to say in response to that that I echo his comments and concerns. Any additional questions, members of the Commission? Okay, seeing none, thank you, Mr. Powers, for as always a very thorough walk through of these litigation matters. We appreciate everything that you do and appreciate you being here with us to share all of those details with us today.

Members of the Commission, that brings us to our final item on the agenda, which is our second period of public comment. Again, for those of you who are wishing to join us for public comment, we will be taking public comment in a limit of two minutes per person. If you are here in person in Las Vegas, or if there's anyone in Carson City in person who wishes to give public comment, you can go ahead and approach the chairs in the hearing rooms. Once we've done in-person public comment, we will move to our phones. For anyone giving public comment, please make sure that you state and spell your name for the record, and as always, if you have additional comments over the two minutes, we would love to have those submitted to us in writing. You can follow the links on the Legislature's website in order to submit those comments to us if you have additional ones past that two-minute point. I have no one here in Las Vegas who wishes to give public comment. I am not seeing anyone move or take the seats in Carson City, so we will move to our phone lines. BPS, if you could, if we have anyone waiting on the phone lines to join us for public comment, we'll turn it over to you.

Broadcast and Production Services Staff:

Thank you, Chair. Chair, you have no callers wishing to participate at this time.

Chair Cannizzaro:

Okay, great. Thank you so much. That will conclude then our second period of public comment on this agenda. I want to thank everyone for being with us today as we worked through a lengthy list of regulations and appreciate the Commission's attention to questions and details on all of those. Again, seeing no further business before this Commission, we will go ahead and move to the last item on our agenda, which is adjournment. Thank you all. It is lunchtime. Go get some lunch, and we will see you at the next meeting.

RESPECTFULLY SUBMITTED:

Jordan Haas, Secretary

APPROVED BY:

Senator Nicole Cannizzaro, Chair

Date: _____

Agenda Item	Witness/Agency	Description
Agenda Item II A	Lea Case, Nevada Psychiatric Association	Public Comment
Agenda Item II B	Ken Kunke, Nevada Pharmacy Alliance	Public Comment
Agenda Item III	Asher Killian, Legislative Counsel	Administrative Regulations for Review
Agenda Item IV	Nicolas Anthony, Research Director	Appointment of Members to Committees and Similar Entities
Agenda Item VI	Heidi Remick, Chief Human Resources and Contracts Counsel	Amendment to the Rules and Policies of the LCB
Agenda Item VII		Consideration of Replacement of Director of LCB Upon Retirement of Current Director

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