

From: [Loretta Ponton](#)
To: [Sandra Jauregui Assemblymember](#); [Legislative Commission](#)
Cc: [Steve Yeager Assemblymember](#); [Nicole Cannizzaro Senator](#); [Skip Daly Senator](#); [Ira Hansen Senator](#); [Rochelle Nguyen Senator](#); [Melanie Scheible Senator](#); [Robin Titus Senator](#); [Shea Backus Assemblymember](#); [Gregory T. Hafen II Assemblymember](#); [Alexis Hansen Assemblymember](#); [Howard Watts Assemblymember](#)
Subject: Opposition to Approval of Regulation - R074-25
Date: Monday, September 21, 2026 11:53:04 AM
Attachments: [Leg Com Letter of Opposition - R074-25 9.24.26.pdf](#)
Importance: High

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Dear Chairperson Jauregui and Members of the Legislative Commission,

The Board of Environmental Health Specialists is OPPOSED to the approval of regulation LCB File No. R074-25 of the Director of the Department of Business and Industry.

The regulation would establish a new precedent in this State, oversight of independent regulatory Boards. It is of utmost importance that the regulations contain clear and concise guidelines without undue burdens to Boards and their administrators. The Boards were established to protect the safety and well-being of all Nevadans, the focus of which should not be waylaid by burdensome and costly oversight regulations.

The attached letter of opposition addresses legal and technical grounds: open status of OML complaint and failure to properly consider and mitigate public comments as required by the Nevada Administrative Procedures Act. Also of concern are the capacity and capability to implement the regulation, if approved, by both the Department, Office of Boards, Commissions and Council Standards and the Title 54 Boards.

The regulation will significantly impact the smaller independent boards who are challenged with limited administrative resources including staff and funding necessary to comply with the additional reporting, tracking, and website disclosure provisions, among others.

The 2025 Legislative Session approved 2 positions for the Office of Boards, Commissions and Council Standards (Office), the Management Analyst position has remained unfilled for the majority of the legislative interim. The Director of the Department has notified Boards that Department assistance will be limited (quoted below) and that potential legislation will be forthcoming regarding a more formalized and sustainable support framework. The provisions of the regulation cannot be implemented by the Department nor the Office at this time, Boards will be held accountable without support or assistance.

"The Department is prohibited from entertaining requests that would require the use of Department of Business and Industry Fiscal, Information Technology, or Human Resources personnel for work performed on behalf of boards and

commissions that do not participate in or contribute to the Department's cost allocation structure."

This regulation contains burdensome and costly provisions without consideration of the diversity of regulatory structures of the 34 regulatory Boards; The Office denied the request for a waiver or variance provision for extenuating circumstances, which would have allowed consideration of alternative means of meeting the requirements for boards facing challenges with administrative resources. The regulation, as written, will ensure failure for those boards.

The regulation most likely will be used as the rationale and justification for the Department's anticipated legislation to formalize a sustainable support framework including requirements for Boards to participate and contribute to the Department's cost allocation structure. Any additional cost allocated costs will undermine the ability to maintain cost effective Board administration, those costs would require fee increases borne by regulated licensees.

The Board of Environmental Health Specialists urges the Legislative Commission to NOT APPROVE regulation R074-05, and return it to the Director of the Department of Business and Industry.

Respectfully,

Loretta L. Ponton, Executive Director

State of Nevada

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September 24, 2026

State of Nevada
Legislative Commission

Re: Opposition to Approval of LCB File No. R074-25

Dear Chair Jauregui and Members of the Legislative Commission:

The Board of Environmental Health Specialists is **OPPOSED** to the approval of regulation LCB File No. R074-25 of the Director of the Department of Business and Industry.

The intent of the regulation is to establish uniform administrative standards for 34 unique independent Title 54 Boards within the purview of the Office of Boards, Commissions and Council Standards pursuant to NRS 232.8413 and NRS 232.8415.

The Board acknowledges the work that has been put into the development of the regulation and the efforts of the Office to establish uniform administrative standards under NRS 232.8413 and NRS 232.8415. Overall, the regulation is well structured and comprehensive and, in the most part, falls within the umbrella of Boards' existing operational structures and systems of administrative policies, procedures and practices.

Rational and Reasoning for Opposition to Approval

- **Legal and Technical Grounds**

The Legislative Commission is requested to withhold final review and approval of this regulation under [NRS 233B.067](#) due to ongoing, un-remedied violations of both the Nevada Open Meeting Law (OML) and the Nevada Administrative Procedure Act (APA).

Under Nevada law, actions taken in violation of the Open Meeting Law are inherently void, and a regulation is not valid if it is not adopted in substantial compliance with the provisions of NRS Chapter 233B, the Nevada Administrative Procedures Act.

May 14, 2026: A formal Open Meeting Law complaint was filed with the Office of the Nevada Attorney General regarding the May 11, 2026, Public Hearing on R074-05. The agency's actions surrounding the May 11, 2026, public hearing failed to meet the mandatory rule-making prerequisites established under Nevada Administrative Procedures Act.

The structural handling of the regulatory progression and the denial of virtual participation in the final adoption hearing on May 11, 2026, violated the public's right to open government.

The **active OML** complaint filed on May 14, 2026, details systemic transparency failures that occurred in the regulation hearing, agendas and formal notice of intent to adopt regulation.

Proceeding to a final hearing before the Legislative Commission before the Attorney General issues a determination on the validity of the OML Complaint undermines the intent of NRS Chapter 241.

Nevada Administrative Procedures Act: Failure to Properly Consider and Mitigate Public Comment

Under NRS 233B.061, agencies must fully consider all written and oral submissions. The agency failed to meaningfully address robust pushbacks from state professional boards and stakeholders.

The Statement issued June 9, 2026, by the agency pursuant to NRS 233B.066(1)(f) provided the Boards and stakeholders with ***their first and only*** opportunity to review the rationale for accepting, not accepting, or partially accepting the requests for changes submitted and expressed by the Boards. The agency did not provide feedback nor rationale to stakeholders before, during or after public workshops or the formal hearing.

Consideration of Public Comment, Response to Changes, Dated June 9, 2026; Legislative Commission Informational Statement

The agency's informational statement and response to changes documents are misleading and incorrect in stating all comments were considered prior to finalizing the regulation. The regulation was adopted without change, without consideration of public input provided at the hearing and prior to the adjournment of the public hearing. For reference:

“All comments received through the public hearing process were reviewed and considered in accordance with NRS 233B.”

“All comments received through the close of the public hearing were reviewed and considered prior to finalizing the regulation.”

“The Office provided opportunities for public participation in accordance with NRS Chapter 233B and reviewed and considered all comments received through the close of the public hearing prior to finalizing the regulation.”

The Statement in fact documents the agency's failure to meet the legislative intent of stakeholder collaboration in the administrative rule making process:

“While workshops and hearings provide opportunities for public input, *NRS Chapter 233B does not require the Office to engage in negotiated rulemaking, iterative dialogue, or consensus-based drafting during the workshop process.* “

The documents contain several references to the “intent”, “intention” and “intended to” and specifically “intends to work collaboratively”. The “intent” may be sincere but intentions are not

binding and are subject to interpretation. More work is required to ensure the regulations provide clear and concise guidance without undue burdens to Boards and their administrators.

- **Capacity and Capability to Implement Regulation**

The Department, specifically the Office of Boards, Commissions and Council Standards, does not have the capacity or capability to implement the regulation.

If the regulation is approved at this time, assistance by the Office or the Department, as stated by the Director in his letter to Boards, will be limited.

The timing of the regulation puts the “cart before the horse”; it is not reasonable to expect the Boards to be held accountable for compliance before the Department has the capacity and capability to implement and provide the oversight or assistance required by the regulation.

- **Limitations on Department and Board Resources and Funding**

Director Sanchez issued a letter to all Boards which reads in part:

“The Department is prohibited from entertaining requests that would require the use of Department of Business and Industry Fiscal, Information Technology, or Human Resources personnel for work performed on behalf of boards and commissions that do not participate in or contribute to the Department’s cost allocation structure.”

“The Department recognizes that many boards have historically relied on informal assistance and collaborative support from Department staff in areas such as technology, fiscal coordination, contracting, and human resources guidance. The Department also recognizes that the absence of a centralized support structure creates operational challenges for some boards. For that reason, the Department believes this issue warrants further discussion and consideration during the upcoming legislative session to determine whether a more formalized and sustainable support framework should be established moving forward.”

This Board is extremely concerned about the potential formalized and sustainable support framework for oversight of Nevada’s independent professional boards referenced in the Director’s letter; such framework may include future “cost allocation” of Department expenses for services and support by the Department of Business and Industry, which could jeopardize the funding and resources necessary and required to comply with the provisions of this regulation.

Any substantial increased costs associated with both regulation R074-05 and any proposed legislation of the Department will certainly result in operational impacts and increased licensing fees to meet operational costs.

- **Process and Stakeholder Engagement**

The regulations establish a new precedent in this State, oversight of independent regulatory Boards. It is of utmost importance that the regulations contain clear and concise guidelines without undue burdens to Boards and their administrators. The Boards were established to protect the safety and well-being of all Nevadans, the focus of which should not be waylaid by burdensome and costly oversight regulations.

Stakeholder engagement and collaboration are of paramount importance throughout the process of rulemaking. Collaboration requires two-way communication. Boards' concerns were voiced both in writing and orally throughout the process, with no feedback from, or discussions with the Office of Boards, Commissions and Council Standards prior to and including the public hearing at which the final regulations were adopted without change.

Requested Action

The Board respectfully requests the Legislative Commission return regulation LCB File No. R074-25 to the Department of Business and Industry, Office of Boards, Commissions and Council Standards without approval.

There are too many unknowns on the impact of R074-05, if approved. There is an active OML complaint pending, questions on compliance with the Administrative Procedures Act, potential for legislation addressing the long-term administrative structure and resource needs of Nevada's boards including how that is to be funded, and the current status of Boards' and the Department's capacity, capability and available resources necessary for successful implementation of R074-05, if approved.

Thank you for your consideration and for your continued commitment to the State of Nevada.

Respectfully submitted,

Loretta Ponton

Loretta L. Ponton
Executive Director

Cc: Brian Northam, Board Chair