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We have completed an audit of the Board of Homeopathic Medical Examiners. This audit was authorized by the Legislative Commission on February 22, 2006. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Board's response, are presented in this report.

We wish to express our appreciation to the members and staff of the Board of Homeopathic Medical Examiners for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

November 14, 2006
Carson City, Nevada

STATE OF NEVADA
BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

AUDIT REPORT

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EXECUTIVE SUMMARY

BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

Background

The Board of Homeopathic Medical Examiners (Board) was established in 1983 under NRS Chapter 630A. The Board has seven members who are appointed by the Governor to serve 4-year terms. The Board protects the public health, safety, and welfare through a self-supporting program of examination, licensing, and regulation of physicians practicing homeopathy and integrative alternative medicine.

The Board has one office located in Reno and one part-time employee, the Executive Director. In fiscal year 2005, the Board reported it collected approximately \$26,000 in licenses and fees. Expenditures reported by the Board were about \$54,000, which included approximately \$41,000 in billings from the Attorney General.

Purpose

The purpose of this audit was to evaluate the Board of Homeopathic Medical Examiners' financial management and procedural conduct. This audit focused on the Board's financial management and procedural conduct from July 2004 through February 2006, and activities through June 2006 for certain audit issues.

Results in Brief

The Board of Homeopathic Medical Examiners could improve its financial and procedural practices. The Board has not implemented adequate controls over financial management and procedural conduct to ensure compliance with applicable state laws, regulations, and sound financial practices. As a result, the Board's financial position was

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BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

negatively impacted and certain actions of the Board were not in compliance with the Open Meeting Law. Further, the legislative mandate requiring the Board to supervise the newly created Nevada Institutional Review Board resulted in dissension among Board members. This conflict ultimately reduced the Board's ability to function efficiently and effectively.

Principal Findings

- The Board does not have adequate controls over expenditures. We reviewed 35 payments and found instances when expenditures were not Board related, properly approved, accurately paid, or adequately supported. The Board does not have any written policies and procedures for expenditures. When controls over expenditures are inadequate, there is an increased risk abuse could occur and go undetected. (page 9)
- The Board did not properly process travel claims. We found required reimbursement forms were not provided and payments exceeded state per diem rates. For example, we found one payment of \$5,500 was to a Board member for travel expenses related to lobbying activities. This amount is significant because it represents about 20% of the Board's annual revenues. The Board did not pre-approve the lobbying expenses, but did approve to pay subsequent to expenses being incurred. We requested receipts to support travel expenses and nothing was provided for 13 of 18 requested receipts. For those provided, the payment amounts did not comply with state per diem rates. Further, a portion of this payment was for expenses incurred by a non-Board member. The Board does not have any written policies and procedures for travel. (page 11)
- The Board did not adequately monitor Attorney General (AG) fees. Beginning in fiscal year 2004, there was a sharp increase in fees from prior years.

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BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

As of June 30, 2006, the balance due was about \$83,500. Although a majority of the Board's fees were necessary investigation costs, the Board did not act timely to address the balance due and find ways to minimize non-investigation fees. The Board does not have any written policies and procedures for AG fees. Because controls over these fees were inadequate, the Board's financial position was negatively impacted. Also, there is an increased risk of unnecessary or excessive fees. (page 12)

- Issues noted during our audit were caused, in part, because the Board has not developed a strong control environment. For example, the Board was created in 1983 and we found no evidence of any written policies and procedures until April 2006. Strong controls over financial management are important because the Board has limited resources and is not monitored through the state's budget and accounting systems. (page 15)
- The Board does not have an effective process for writing and approving minutes. We found instances when the minutes contained errors and omissions, and did not always comply with state law. Prior to April 2006, the Board did not have any written procedures for minutes. In April 2006, procedures were developed but do not provide guidelines for accurate writing, adequate review, and timely Board approval. As a result, there were instances when people who read the minutes were not properly informed and minutes were not prepared and approved in a timely manner. (page 16)
- The Board has taken action to improve its agenda process by developing written procedures. Our review of the agenda procedures found them to be comprehensive. However, the Board had no written procedures for the agenda process prior to April 2006. As a result, there was an incident when two different agendas were posted for the same meeting. By adopting procedures for the agenda process, the Board has taken action to minimize the risk that an

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BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

incident of two agendas could happen again. (page 18)

- Since the Board was mandated with the responsibility to supervise the Nevada Institutional Review Board (NIRB), many distractions have occurred that impacted the Board's operations. For example, the President was deposed, there was a meeting with two different agendas, NIRB members appointed by the Board were replaced, and numerous allegations have been made against the Board. This additional responsibility also resulted in an increase in Board meetings and placed more demand on members' time and Board resources. In order to meet its mandates, the Board should develop strategies to supervise the NIRB in an efficient and effective manner; or, consider requesting legislation that places the NIRB elsewhere. (page 20)

Recommendations

This audit report contains nine recommendations to improve the Board of Homeopathic Medical Examiners' financial and procedural activities. These recommendations include policies, procedures and other controls to improve financial management. We also made recommendations to strengthen the process for procedural conduct and to fulfill the Board's mission. (page 30)

Agency Response

The Board, in its response to our report, accepted all nine recommendations. (page 25)

Introduction

Background

The Board of Homeopathic Medical Examiners (Board) was established in 1983 under NRS Chapter 630A. The Board has seven members consisting of three licensed homeopathic practitioners, three members of the public, and one member who represents the interests of health care for patients who are indigent or uninsured. Board members are appointed by the Governor to serve 4-year terms and the Board is required to meet at least twice annually.

The Board protects the public health, safety, and welfare through a self-supporting program of examination, licensing, and regulation of physicians practicing homeopathy and integrative alternative medicine. In accordance with this legislative mandate to protect the public from harm, the Board interviews and examines applicants for licensure and certification, receives and hears complaints, conducts investigations, and performs disciplinary action when necessary. Specifically, the Board:

1. Regulates the practice of homeopathic medicine in this State and any activities that are within the scope of such practice.
2. Determines the qualifications of and examines applicants for licensure or certification.
3. Licenses or certifies those applicants it finds to be qualified.
4. Investigates and, if required, hears and decides all complaints made against any homeopathic physician, advanced practitioner of homeopathy, homeopathic assistant or any agent or employee of any of them, or any facility where the primary practice is homeopathic medicine.
5. Supervises the Nevada Institutional Review Board.

6. Submits an annual report to the Legislature and makes recommendations to the Legislature concerning the enactment of legislation relating to alternative and complementary integrative medicine, including, without limitation, homeopathic medicine.

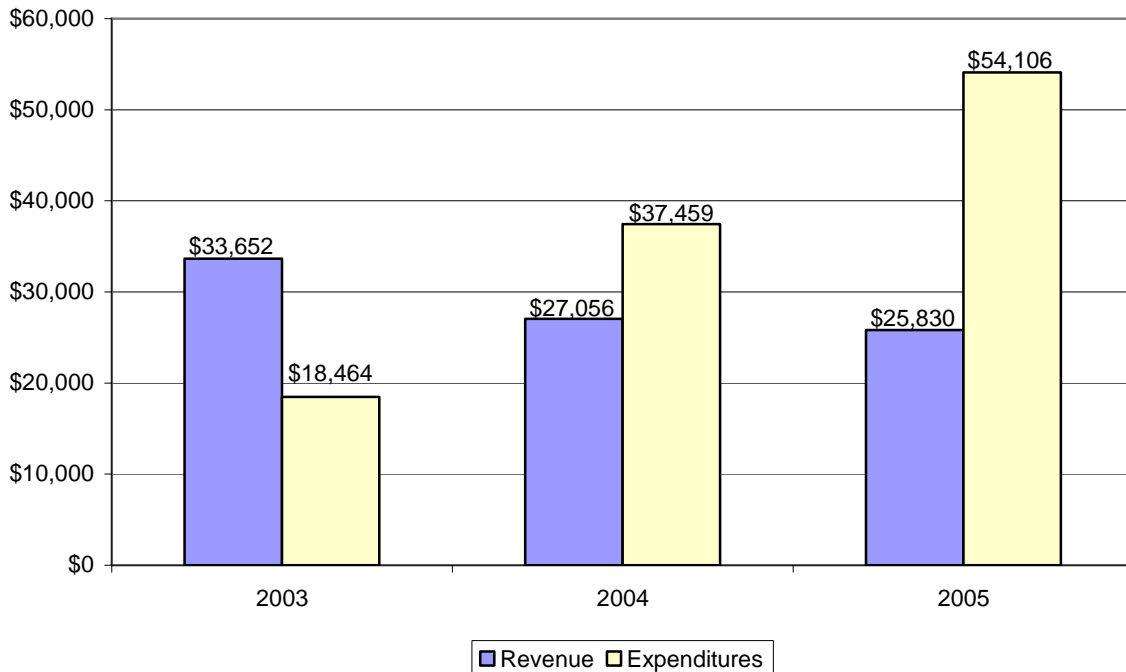
NRS 630A.040 defines homeopathic medicine or homeopathy as a system of medicine employing substances of animal, vegetable, chemical, or mineral origin. In order to be licensed as a homeopathic physician, the applicant must comply with the requirements set forth in Chapter 630A and the regulations adopted by the Board for the practice of homeopathic medicine; and receive from the Board a license to practice homeopathic medicine. In 1995, homeopathic medicine was expanded by the Legislature to allow others who qualified in the health care field to apply for a certificate to practice homeopathy as an advanced practitioner or as a homeopathic assistant. Those certified must practice under the supervision of a physician licensed under NRS Chapter 630A.

According to the Board, 30 individuals were licensed homeopathic physicians, 13 were licensed as advance practitioners, and 17 were licensed as homeopathic assistants for fiscal year 2005. The Board charges fees as follows:

Homeopathic physicians	\$550/year
Advance practitioners	\$330/year
Homeopathic assistants	\$165/year

The Board has one office located in Reno and one part-time employee, the Executive Director. In fiscal year 2005, the Board reported it collected approximately \$26,000 in licenses and fees. Expenditures reported by the Board were about \$54,000, which included approximately \$41,000 in billings from the Attorney General. Exhibit 1 shows revenues and expenditures for fiscal years 2003 through 2005.

**Revenues and Expenditures
Fiscal Years 2003 to 2005**



Source: Board records.

During the 2005 Session, Assembly Bill 208 was passed creating the Nevada Institutional Review Board (NIRB). Pursuant to NRS 630A.905, the NIRB is required to:

- Review proposals for research studies and oversee, review and control all research studies it has approved.
- Evaluate, determine and act upon the safety, efficacy, reimbursement and availability of diagnostic devices, substances, other modalities, therapies and methods of treatment used in such research studies.
- Analyze, coordinate and integrate the diagnostic techniques and treatments related to alternative and complementary integrative medicine with the diagnostic techniques and treatments of other health care practices.
- Oversee, review, and control any research studies which it has approved and which involve the use of human research subjects and any related issues.

- Evaluate the social and economic impact of the research studies it has approved; and the relationship between alternative and complementary integrative medicine and other health care practices.
- Keep a record of all transactions and provide the Board of Homeopathic Medical Examiners, the Board of Medical Examiners and the State Board of Osteopathic Medicine with quarterly reports of all transactions.
- Make any additional reports or recommendations to the Board of Homeopathic Medical Examiners as the Board of Homeopathic Medical Examiners requires.
- Be accountable to the Board of Homeopathic Medical Examiners for all the activities of the Nevada Institutional Review Board.

Scope and Objective

This audit was authorized by the Legislative Commission on February 22, 2006, and was made pursuant to the provisions of NRS 218.737 to 218.893. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit included a review of the Board's financial management and procedural conduct for July 2004 through February 2006, and activities through June 2006 for certain audit issues. The objective of our audit was to evaluate the Board's financial management and procedural conduct.

Findings and Recommendations

The Board of Homeopathic Medical Examiners (Board) could improve its financial and procedural practices. The Board has not implemented adequate controls over financial management and procedural conduct to ensure compliance with applicable state laws, regulations and sound financial practices. As a result, the Board's financial position was negatively impacted and certain actions of the Board were not in compliance with the Open Meeting Law. Further, the legislative mandate requiring the Board to supervise the newly created Nevada Institutional Review Board resulted in dissension among Board members. This ultimately reduced the Board's ability to function efficiently and effectively.

Better Financial Management Is Needed

Better financial management is needed to ensure expenditures are properly processed, and the cost for legal services adequately monitored. We found controls over expenditures were not adequate. In addition, the Board did not adequately monitor legal fees which allowed these costs to become disproportionate to the Board's revenues. Further, the Board's control environment needs strengthening. Weak financial management controls increase the risk the Board's financial position could be jeopardized.

Controls Over Expenditures Not Adequate

The Board does not have adequate controls over expenditures. Our review found numerous instances when expenditures did not comply with applicable state laws, regulations, and sound financial practices. In addition, the Board did not follow state travel rules and has inadequate segregation of duties over expenditure processing. The Board does not have any written policies and procedures for expenditures. When controls over expenditures are inadequate, there is an increased risk abuse could occur and go undetected.

We reviewed 35 payments and found instances when expenditures were not Board related, properly approved, accurately paid, or adequately supported.

- **Not Board Related** – For three transactions, documents provided did not confirm the expenditure was Board related. For example, the Board paid \$97 for a luncheon on the day before a Board meeting.
- **Not Properly Approved** – For 30 transactions, proper approval was not obtained. Seventeen of the exceptions were reimbursement payments to a Board member who signs and approves checks, yet is not the President. Section 2616 of the State Administrative Manual (SAM) does not allow an individual to approve his own request for reimbursement unless they are the head of the agency.
- **Payment Amount Not Accurate** – Eight of the transactions selected were subject to state per diem rates. In all eight instances, the payment amount exceeded state per diem rates.
- **Payment Amount Not Adequately Supported** – For 14 transactions, the payment amount did not agree with documents provided. There was one instance when the Board issued a check for \$359 and only \$53 in receipts was provided.
- **Required Forms and Signatures Not Provided** – For 22 transactions, the payment was for a non-travel request for reimbursement. In all 22 instances, the member did not provide a signed statement that the expense was paid on behalf of the State. Section 2620 of SAM requires individuals requesting reimbursement for out-of-pocket expenses to submit the invoice and a signed statement they have paid the expense on behalf of the State.

We also noted the Board was charged inconsistent amounts for photocopy and postage fees from a member's personal business. Copy charges ranged from \$.05 to \$.60 per copy. Although appropriate services were provided, the Board did not have a signed agreement with this entity for copy and postage fees.

The Board and Commission manual, published by the Attorney General, requires the finances of a board to be managed competently, honestly, and in compliance with state law. This manual also requires each board to adhere to financial requirements set forth in the State Administrative Manual (SAM). Internal control standards, issued by the Government Accountability Office, require transactions and other significant events be authorized and executed only by persons acting within the scope of their authority. This is the principal means of assuring that only valid transactions are entered into. These standards also require all transactions and other significant events be clearly documented, and the documentation should be readily available for examination.

Travel Claims Not Properly Processed

The Board did not properly process travel claims. We found required reimbursement forms were not provided and payments exceeded state per diem rates. The Board does not have any written policies and procedures for travel. As a result, the Board did not comply with state requirements.

For example, we found one payment of \$5,500 was to a Board member for travel expenses related to lobbying activities. This amount is significant because it represents about 20% of the Board's annual revenues. The Board did not pre-approve the lobbying expenses, but did approve to pay subsequent to expenses being incurred. We requested receipts to support expenses related to airfare, lodging, and car rental. Nothing was provided for 13 of 18 requested receipts. For those provided, the payment amounts did not comply with state per diem rates. Further, a portion of this payment was for expenses incurred by a non-Board member. This individual was not registered as a lobbyist for the Board and had no independent contract with the Board for his services. SAM requires all services provided to an agency by persons falling under the definition of an independent contractor to be performed under contract.

Board members are allowed to receive a per diem allowance and travel expenses when engaged in board business. However, the Board and Commission manual, published by the Attorney General, states,

“Under state law, the allowance for these items is specified and cannot be increased to cover actual expenses....In order to obtain reimbursement for expenses, board and commission members must fill out a standard claim form and include necessary receipts...The general rules applicable to per diem and other expenses are found in SAM.”

Section 0220 of SAM requires all claims for travel reimbursement to be filed on a “Travel Expense Reimbursement Claim” form. Further, the claimant should sign attesting to the accuracy of the claim. None of the seven travel reimbursements we tested included a signed travel expense reimbursement claim form. SAM has also established per diem rates for food and lodging and requires receipts for certain travel expenses. We found instances when reimbursements exceeded per diem rates for food and lodging, and did not have required receipts.

Inadequate Segregation of Duties

The Board has inadequate segregation of duties for disbursements. The Board only requires one signature on checks. Although no indication of abuse was noted, the one signatory was also the recipient of many payments we tested. This control weakness is compounded since the Board does not monitor its disbursements. Because certain duties may be difficult to separate with existing resources, compensating controls can be established to reduce the risk of loss. One compensating control could be to have the Board review a list of disbursements and applicable invoices on a regular basis. According to internal control standards, key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. No one individual should control all key aspects of a transaction or event.

Steps to Address Attorney General Fees Not Timely

The Board did not adequately monitor Attorney General (AG) fees. Beginning in fiscal year 2004, there was a sharp increase in fees from prior years. The Board did not take timely action to reduce monthly fees or address the balance due. As of June 30, 2006, the balance due was about \$83,500. The Board does not have any written policies and procedures for AG fees. Because controls over these fees were inadequate, the Board's financial position was negatively impacted. Also, there is an increased risk of unnecessary or excessive fees.

Sound business practices dictate that an entity cannot afford legal fees in excess of total annual revenues, unless other steps are taken to reduce or eliminate the debt. We found the Board's legal fees are disproportionate to annual revenues. Exhibit 2 shows Attorney General fees and Board revenues for the past 3 fiscal years.

Exhibit 2

**Attorney General Fees and Board Revenues
Fiscal Years 2004 to 2006**

Fiscal Year	AG Fees	Board Revenues	AG Fees as a Percentage of Revenues
2004	\$ 26,548	\$27,554	96.3%
2005	40,977	25,887	158.3%
2006	33,947	28,387	119.6%
Totals	\$101,472	\$81,828	124.0%

Source: Attorney General invoices and Board records.

Our review of Attorney General invoices for the past 3 fiscal years found the majority of the billings were related to investigations. We found five investigations that showed up repeatedly on invoices. These costs were incurred by the Board in order to fulfill its duty to protect the public. One investigation involved an instance when the Board was sued for denying an applicant a license. Although costly, the judge ruled in the Board's favor. Exhibit 3 shows the cost of these investigations.

Exhibit 3

**Investigation Costs
Fiscal Years 2004 to 2006**

Investigation Number	Cost
1 ⁽¹⁾	\$42,404
2	7,803
3	6,926
4	3,925
5	3,857
Total	\$64,915

Source: Attorney General invoices.

⁽¹⁾ Investigation when Board was sued for denying applicant.

Although a majority of the Board's fees were necessary investigation costs, the Board did not act timely to address the balance due and find ways to minimize non-investigation fees. For example, the Board does not have procedures for contacting the AG to minimize attorney costs. Our analysis of invoices identified a total of about \$4,500 in fees for 25 instances when multiple members contacted the AG on the same

day. Many of these contacts were regarding the same issue. Further, we identified approximately \$6,500 in fees related to the Nevada Institutional Review Board.

One consistent statement from members was that the Board had an agreement to pay a flat monthly amount, and any balance due above that amount was not a concern. The AG statement at the end of fiscal year 2003 showed a balance due of \$0. However, starting in fiscal year 2004, invoices from the AG clearly showed it was charging by the hour and the balance due was carrying forward. These invoices were viewed by the Executive Director and Secretary-Treasurer. Most Board members stated the high balance due did not come to their attention until late 2005 or early 2006. Our review found these fees were not discussed by the Board until February 2006.

The State Administrative Manual requires information be recorded and communicated to management and others within the entity who need it and in a form and within a time frame that enables them to carry out their internal control and other responsibilities.

Section 1708 of the State Administrative Manual allows the AG to charge all state agencies not supported by the State General Fund for services provided. This is accomplished either through the AG cost allocation plan or through direct billings to the agency. Each state agency which has a Deputy AG assigned to it shall make payments for legal services to the AG's budget as required, but at least annually.

Although AG fees have increased significantly, state law provides a process to the Board to reduce the balance due. The Board does have the following options to eliminate or reduce the balance due:

1. NRS 630A.160(6) allows the Board to present a claim to the Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or costs of an investigation, or both.
2. The Board could request the AG obtain approval from the Board of Examiners to write-off the balance due as a bad debt.

3. On April 1, 2006, the Board adopted amendments to NAC 630A.120. Pending formal approval, subsection 6 will allow the Board to impose an assessment on licensees to cover legal fees.

Control Environment Is Deficient

Issues noted during our audit were caused, in part, because the Board has not developed a strong control environment. For example, the Board was created in 1983 and we found no evidence of any written policies and procedures until April 2006. Further, our review of audiotapes and minutes of meetings found the Board did not adequately monitor its fiscal affairs. Although the Board has taken steps, the recently developed manual is incomplete. It does not include policies and procedures for expenditures, travel, Attorney General fees, collections, record retention, supervision of the NIRB, or monitoring the Board's financial status on a regular basis.

The State Administrative Manual requires management and employees establish and maintain an environment that sets a positive and supportive attitude toward internal control and conscientious management. A positive control environment is the foundation for all other internal control standards. It provides discipline and structure as well as the climate which influences the quality of internal control.

Timely review of interim financial statements would improve the Board's ability to manage its finances. Strong controls over financial management are important because the Board has limited resources and is not monitored through the state's budget and accounting systems.

Recommendations

1. Develop policies and procedures for expenditures. Procedures should include steps to ensure expenditures are appropriate, properly approved, accurately paid, adequately supported, and signed statements are obtained for reimbursements.
2. Develop policies and procedures for travel. Procedures should include steps to ensure travel expenditures are

- properly approved, accurately paid, adequately supported, and required forms and signatures are obtained.
3. Strengthen controls over expenditures to ensure adequate segregation of duties and proper monitoring.
 4. Develop policies and procedures for Attorney General fees. Procedures should include steps to help ensure fees are adequately monitored and unnecessary fees are avoided.
 5. Take steps to reduce or eliminate the balance due to the Attorney General.
 6. Develop a comprehensive policy and procedures manual. The manual should include procedures for monitoring the Board's financial status on a regular basis, collections, record retention, and supervision of the Nevada Institutional Review Board.

Procedural Conduct Processes Need Strengthening

The Board needs to strengthen its administrative practices to ensure procedural conduct is in compliance with laws and regulations. For example, our review of the process for writing and approving minutes found minutes were not always accurate or complete and were not approved timely. Further, minutes and other procedural issues did not always meet certain requirements of the Open Meeting Law. Violations of the Open Meeting Law can result in a court ruling that all actions taken at the meeting where the violation occurred are void. Therefore, improvements to the administrative processes would help ensure compliance with the Open Meeting Law and provide more accurate information to interested citizens.

Process for Writing and Approving Minutes Not Adequate

The Board does not have an effective process for writing and approving minutes. We found instances when the minutes contained errors and omissions, and did not always comply with state law. Prior to April 2006, the Board did not have any written procedures for minutes. In April 2006, procedures were developed but do not provide guidelines for accurate writing, adequate review, and timely Board approval. As a

result, there were instances when people who read the minutes were not properly informed and minutes were not prepared and approved in a timely manner.

We compared the written minutes to the audiotapes for Board meetings held between June 2005 and April 2006. Although our review was limited on three occasions since the Board did not retain one audiotape and two audiotapes were incomplete, we did identify the following:

- Minutes contained errors and omissions. For example, there were instances when the minutes inaccurately list who seconded a motion; did not provide a complete list of appointments made by the Board; did not include public comments and motions to adjourn; and the voting results on a motion did not reflect the vote of all members who were present.
- Minutes did not accurately reflect the sequence of topics discussed. When an agenda item is taken out of sequence, it should be reflected in the minutes.
- Minutes did not always have the same heading as the corresponding item on the agenda.
- Minutes did not always include the time when the meeting was called to order, and did not always list all members as either present or absent.

NRS 241.035 and the Open Meeting Law (OML) manual, published by the Attorney General, require the written minutes to include the substance of all matters proposed, discussed or decided. In addition, NRS 241.035 and the OML manual require written minutes to include the date, time, and place of the meeting; and the names of the members of the public body who were present and those who were absent. NRS 241.035 also requires the audio recording of a meeting to be retained for at least 1 year after the adjournment of the meeting at which it was recorded.

Another issue noted was one instance when minutes posted on the Board's website were different than those approved. This occurred because the Executive Director mistakenly sent the webmaster a draft copy of the minutes. Our review of the two sets of minutes found no significant differences or evidence the error was done intentionally.

Minutes were not prepared and approved timely for five meetings. For example, the minutes for September 30, 2005, were not approved until April 1, 2006. The Board had five meetings between these dates, yet did not approve any minutes from prior meetings. It should be standard procedure at each meeting to approve minutes from the previous meeting. Prior to September 2005, it was standard procedure for the Board to prepare and approve minutes from the previous meeting.

During our audit, the Board changed its process for writing minutes. Currently, the minutes are prepared by a member who volunteers his time. This individual has his own business and, therefore, has limited time to prepare and review written minutes. This member acknowledged he did not prepare minutes timely because of a busy personal schedule. The Board should consider giving the time intensive responsibility of preparing minutes to its paid employee, the Executive Director. This would facilitate an efficient and effective process by allowing at least one member to review the minutes prior to a meeting. An independent review would help minimize the risk of errors and provide a control for timely preparation.

Although nothing came to our attention to indicate the errors discussed were intentional, it is important the Board take steps to ensure it complies with the OML. We noted one instance when the public was temporarily unable to access a meeting. This occurred because the meeting was held at a Board member's office after the normal work day, and the office entrance had been locked. Once the situation came to the member's attention, the individuals were allowed to attend the meeting. Noncompliance with the OML can result in a court ruling that all actions taken at the meeting are void.

Agenda Process Has Improved

Concerns over the Board's agenda process have been expressed by some Board members. These concerns revolve around the control of the agenda and the information placed on it. To address this concern, the Board has taken action to improve its agenda process by developing written procedures. However, the Board had no written procedures for the agenda process prior to April 2006. As a result, there was an incident when two different agendas were posted for the same meeting.

Because the two agendas had some differences, the Board did not follow OML guidelines, published by the Attorney General. These guidelines state the purpose of

the agenda is to give the public notice of what its government is doing, has done, or may do. Further, the Board did not stick to either of the two agendas. Instead, the Board discussed an issue at great length which was not listed as an agenda item. Section 7.03 of the OML manual requires public bodies to stick to the agenda.

Our review of the audiotape for the two agenda meeting found the only business conducted was related to examinations and licensure. Therefore, numerous agenda items were not addressed. This included items such as approving minutes, various legal topics, multiple NIRB topics, and review of proposed regulations. We identified about \$4,700 in AG costs that were wasted or avoidable because very little Board business was transacted. Another meeting was held a week later just to address certain items not discussed at the two agenda meeting. As a result, the fees charged by the AG to prepare for and attend this additional meeting could have been avoided.

By adopting procedures for the agenda process, the Board has taken action to minimize the risk that an incident of two agendas could happen again. Our review of the agenda procedures found them to be comprehensive. For example, they have established who prepares and reviews agendas prior to posting, timeframes for submitting agenda items, the process for requesting items to be considered for inclusion, who approves items for inclusion, and limits on the number of agenda items if there are time constraints.

Recommendations

7. Develop procedures to ensure the minutes are prepared accurately and timely. Procedures should address a review process to ensure the minutes do not have significant errors or omissions, properly reflect the sequence of topics discussed, and agree with items listed on the agenda.
8. Revise procedures for minutes and other procedural issues. The procedures should include steps to help ensure the Board complies with requirements set forth in the Open Meeting Law.

New Responsibility Resulted in Conflict

The 2005 Legislature created the Nevada Institutional Review Board (NIRB) and placed it under the supervision of the Board. However, this mandate resulted in dissension among Board members. Further, there was an increase in the number of Board meetings and the Board started spending a significant portion of its time trying to understand its role with the NIRB. This conflict ultimately reduced the Board's ability to function efficiently and effectively.

Board Did Not Meet to Discuss NIRB

Assembly Bill 208 was amended during the 2005 Legislative Session to create the NIRB. The amended bill also included oversight responsibilities for the Board regarding this newly created entity. The bill was passed on June 6, 2005. We found no evidence that the Board collectively discussed the topic of supervising the NIRB prior to June 2005. The first time the Board discussed this issue was at its meeting on June 3, 2005. Some members stated they did not know about the NIRB until it was presented to them at this meeting.

Because the Board had little time to discuss the NIRB and its impact on the Board, confusion over its responsibilities began to occur. As a result, there was an increase in Board meetings and more demand was placed on members' time and Board resources. For example, prior to 2005, the Board had an average of five meetings a year. Between June 2005 and June 2006, the number of meetings increased to 13. Also, the length of these meetings and number of agenda items were significant. There was one meeting that lasted 6 hours and had 30 agenda items.

Further, our discussions with members found there were problems related to understanding and agreeing upon the limits of "supervision." Members had different and conflicting interpretations of what the Board's role should be in supervising the NIRB. There was also discord over the Board's initial appointees to the NIRB. NRS 630A.155 states the Board shall supervise the Nevada Institutional Review Board created by NRS 630A.865, including, without limitation, approving or denying the regulations adopted by the Nevada Institutional Review Board. In addition, NRS 630A.865 gives the Board authority to appoint four of the seven members to the NIRB.

Disputes Occurred After New Responsibility

Conflict among Board members began to occur after the responsibility of supervising the NIRB was placed with it. We found no indication of conflict among Board members prior to the creation of the NIRB. Our review of Board meetings between January 2005 and April 2006 found the first indication of conflict was at a Board meeting in December 2005. According to the Board's minutes and audiotapes, the following is a chronology of events:

1. We found no evidence of personality conflicts or confrontational moments prior to June 2005.
2. There was no indication in the audiotapes of any problems or disagreements among members for meetings held in June, July, and September 2005. The overall tone of meetings was positive and members were trying to work together.
3. The first indication of problems occurred at a meeting on December 20, 2005. There was concern and confusion regarding the formation of the NIRB nonprofit foundation.
4. The formation of the nonprofit was to be discussed further at a meeting in January 2006. However, there were two different agendas for this meeting. The meeting was confrontational, non-productive, and excessive in its cost to the Board. The formation of the nonprofit was not resolved.
5. Then, at a meeting in February 2006, the President was deposed and replaced.
6. On April 1, 2006, the Board passed a motion to remove its appointees currently serving on the NIRB and replace them with new appointments.
7. The new President has taken steps to resolve problems in an attempt to move forward. For example, various committees were formed as a means to facilitate decision making. However, allegations and infighting have continued.

As noted above, the first indication of a dispute occurred over the formation of the NIRB nonprofit foundation. NRS 630A.875 establishes the means by which the NIRB may be funded. One of the funding sources allowed is a tax exempt nonprofit organization, which is to be created by the Board. The Board took steps to form this organization by giving approval to an individual to initiate the formation. However, the nonprofit was established outside the control of the Board. This individual stated he set it up that way on the instructions of the NIRB President and the Board's prior President. Concern over the way this nonprofit was formed ultimately led to more disagreements and the prior President being deposed on February 9, 2006.

Numerous conflicts arose between Board members over both financial and procedural issues. As a result, this audit was requested and approved by the Legislative Commission in late February.

The Board Must Fulfill Its Mission

The Board was created to protect the public. Pursuant to NRS 630A.155, one of the duties of the Board is to regulate the practice of homeopathic medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and the general welfare of the people of this State. However, since the passage of Assembly Bill 208, many distractions have occurred that impacted the Board's operations. For example, the President was deposed, there was a meeting with two different agendas, NIRB members were replaced, and numerous allegations have been made against the Board. We conducted audit steps to examine these issues and have reported those found to be applicable.

The Board has attempted to fulfill its mandate while performing duties such as applicant examinations, licensure, and reviewing complaints. However, to ensure the Board fulfills its mission and functions in accordance with the legislative mandate, it needs to consider some future options. The Board should develop strategies to supervise the NIRB in an efficient and effective manner; or, consider requesting legislation that places the NIRB elsewhere.

Recommendation

9. Review all available options to resolve the conflict and take appropriate steps to fulfill the Board's mission.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Board of Homeopathic Medical Examiners, we interviewed the Executive Director and Board members, reviewed applicable state laws and regulations, and analyzed financial information submitted pursuant to NRS 218.825. We also reviewed legislative committee minutes and the Legislative Commission's minutes authorizing this audit. In addition, we reviewed internal controls over areas significant to our audit objective. Our review included controls over the agenda and minutes processes, expenditures and financial management.

To evaluate the Board's financial management, we judgmentally selected 35 transactions and reviewed them for accuracy and propriety of the payment. We also analyzed billings from the Attorney General for fiscal years 2004 to 2006. We identified the billings for investigations, Nevada Institution Review Board, and multiple contacts by Board members on the same day. Then, we recreated the balance sheet and income statements for fiscal years 2004 and 2005, and compared these statements to the ones submitted to the LCB pursuant to NRS 218.825. In addition, we projected revenues based on member listings and compared it to reported revenues.

To evaluate procedural conduct, we reviewed the agendas and minutes for meetings held from January 2005 through April 2006, and documented any issues regarding them. We also compared the two agendas for the January 21, 2006, meeting and noted the length of the meeting, Board business conducted, and related Attorney General costs. In addition, we interviewed Board members on the agenda and minute preparation process. Then, we compared the audiotapes of the meetings held from January 2005 through April 2006 to the written minutes and noted any discrepancies.

Finally, we conducted audit steps to examine allegations of financial management improprieties and procedural misconduct. This primarily included review of audiotapes, minutes, various documents, and testimonial evidence.

Our audit work was conducted from February through August 2006, in accordance with generally accepted government auditing standards.

In accordance with NRS 218.821, we furnished a copy of our preliminary report to the Secretary-Treasurer of the Board of Homeopathic Medical Examiners. On October 31, 2006, we met with the Board's Secretary-Treasurer to discuss the results of our audit and requested a written response to the preliminary report. That response is contained in Appendix B which begins on page 25.

Contributors to this report included:

Dennis Klenczar, CPA
Deputy Legislative Auditor

Timothy Brown, CPA
Audit Supervisor

Stephen M. Wood, CPA
Chief Deputy Legislative Auditor

Appendix B

Response From the Board of Homeopathic Medical Examiners

Kenny C. Guinn, Governor
Valerie Kilgore, *Vice President*
F. Fuller Royal, *Secretary-Treasurer*
Diane Kennedy, *Member*



Daniel Royal, *Member*
John H.O. La Gatta, *Member*
Bruce K. Fong, *Member*

STATE OF NEVADA BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

November 3, 2006

Paul V. Townsend, Legislative Auditor
Sedway Office Building
401 S. Carson Street
Carson City, Nevada 89701

Dear Mr. Townsend:

I have reviewed the Legislative Counsel Bureau (LCB) draft Audit Report completed for the Nevada State Board of Homeopathic Medical Examiners. Attached is the Homeopathic Medical Board's response to the nine (9) recommendations provided in the draft Audit Report.

The Nevada State Board of Homeopathic Medical Examiners appreciates the work that was invested in formulating the audit recommendations and would like to compliment your audit staff for the professional and courteous manner in which they conducted the audit. Please contact me if you have any questions or need clarification to the response.

Sincerely,

A handwritten signature in cursive script, appearing to read "F. Fuller Royal".

F. Fuller Royal, Secretary-Treasurer
Board of Homeopathic Medical Examiners

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Response to LCB Audit
Board of Homeopathic Medical Examiners

**Nevada Board of Homeopathic Medical Examiners
Responses to Legislative Counsel Bureau
Audit Recommendations**

The Legislative Counsel Bureau was authorized by the Legislative Commission on February 16, 2006 to perform an audit of the Homeopathic Medical Board's financial management and procedural conduct for July 2004 through February 2006, and activities through June 2006 for certain audit issues. The objective of the audit was to evaluate the Board's financial management and procedural conduct.

The audit findings and recommendations provided the Board with a valuable perspective of financial management and Board policies and procedures. The nine (9) recommendations are seen as useful for Board discussion, action and implementation.

Because of the LCB requirements for strict confidentiality in treatment of the draft audit report prior to its release to the legislative subcommittee and the Homeopathic Medical Board's adherence to Nevada Open Meeting Law requirements, this response has been prepared solely by the Board's Secretary-Treasurer. It does not purport to represent the views of the Homeopathic Medical Board members who have had no opportunity to review the draft audit report. Solutions in advance of Board decisions are offered because the Secretary-Treasurer is confident that his remarks are an accurate reflection as to the direction the Board members will take in adhering to the recommendations of the auditors.

Recommendation 1. Develop policies and procedures for expenditures.

The Board reviewed all policies adopted from 1983 until January, 2006. Some of those policies have been included in the Policy and Bylaws Manual adopted by the Board during its April 1, 2006 meeting. The Audit Report recommendations have been valuable in guiding the Board in implementing additional procedures to ensure expenditures are appropriate, properly approved, accurately paid, adequately supported, and signed statements are obtained for reimbursements.

Recommendation 2. Develop policies and procedures for travel to ensure travel expenditures are properly approved, accurately paid, adequately supported, and required forms and signatures are obtained.

The Board concurs with the audit recommendation that policies and procedures addressing the expenditures must be properly approved, accurately paid, adequately supported, including obtaining signatures on proper forms. Provisions have been made for expense reimbursement and for acquiring original receipts. All reimbursements from the Board to a Board member or officer require the submission of original receipts and completion of the State of Nevada Travel Expense Reimbursement Claim. Each member of the board will be provided the Uniform Resource Locator (URL) for obtaining the reimbursement form. The required forms are available in the Board office for staff and Board member use.

Response to LCB Audit
Board of Homeopathic Medical Examiners

Recommendation 3. Strengthen controls over expenditures.

The Board has strengthened controls over expenditures to ensure adequate segregation of duties and proper monitoring. The official fiduciary of the Board is the Secretary-Treasurer. He is authorized to sign financial documents for the board, with the exception of any and all checks wherein the Secretary-Treasurer is the payee on the check. The Secretary-Treasurer may not sign any Board check to himself. In the event a check is made out to the Secretary-Treasurer, the check must be signed by another Board officer. Signature cards must be signed by the Secretary, President and the Vice President and kept in the Board office. In order for the Secretary-Treasurer to receive any payments, the check must first be signed by the President or Vice President prior to being signed by the Secretary-Treasurer.

Recommendation 4. Develop policies and procedures for Attorney General Fees.

The Board has taken steps to ensure fees are adequately monitored and unnecessary fees are avoided. A means has been established for the Board to ensure that fees are adequately monitored and unnecessary fees are avoided. An independent book keeper will prepare the books and accounts for the Board on a quarterly basis. The Secretary-Treasurer at each board meeting will present an accounting of the Board's debts, expenses and Attorney General's bill. The Board will reduce legal expenses incurred when Board members other than the Secretary-Treasurer and Executive Director contact the Deputy Attorney General assigned as the Board's legal counsel.

Recommendation 5. Take steps to eliminate the balance due to the Attorney General.

A Bill Draft Request (BDR) has been approved by the Office of Administration for introduction during the 2007 Legislative Session that will assist the Board in resolving this debt. The Board believes this bill will make it possible to resolve its debt to the Attorney General within one year. Based on the initial license or annual registration fee, the BDR makes it possible for the Board assess its licensees and certificate holders on a pro rata basis semi-annually for all essential operational costs, investigative and legal fees of the Board that exceed the amount collected in licensing fees, annual registration fees and donations. All assessments by the Board will be mandatory. Presently, it is not statutorily possible for the Board to amend chapter 630A of the Nevada Administrative Code (NAC) making it possible for the Board to obtain additional funds for reducing the debt to the Attorney General. The Board's Fiscal-Finance Committee is holding discussions with the Office of Attorney General, asking for debt reductions in some fees that the Board believes resulted from failure of the Board's legal counsel to file documents to recover the cost of legal fees. The Board may also request the Office of Attorney General to write off part of the debt. The Board will request the Board of Examiners to recommend to the Interim Finance Committee payment of attorney fees and costs of investigations as allowed under NRS 630A.160(6).

Response to LCB Audit
Board of Homeopathic Medical Examiners

Recommendation 6. Develop a comprehensive policy and procedures manual.

The Board began reviewing all of its policies prior to 2006, and adopted a Policies and Bylaws Manual on April 1, 2006. The Manual includes procedures for monitoring the Board's financial status on a regular basis, collections, record retention, and supervision of the Nevada Institutional Review Board.

Recommendation 7. Develop procedures to ensure the minutes are prepared accurately and timely.

The Board concurs with the audit recommendation that procedures must be in place to ensure that the minutes do not have significant errors or omissions, are properly reflecting the sequence of topics discussed, and are agreeing with items listed on the agenda. The written minutes of Board meetings shall be prepared by the Executive Director, his/her assistant, or any board member designated by a majority of Board members. The Secretary of the board shall approve the finished version of the minutes before being presented to the board for official adoption. In the event of a disagreement about the form or content of the written minutes the President will have final editing authority before the final minutes are presented to the board. A majority of the board must vote to accept the finalized minutes as the official minutes, the final version of minutes to be presented to the Board for formal adoption. The written minutes of Committee meetings will be prepared by the Committee chair or whoever has assisted them. The Executive Director shall assist the Committee chair with editing and preparation of the final version of Committee minutes to be presented for formal adoption. The minutes shall contain the date, time and place of the meeting, the names of members of the public body present and those absent, the substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote. The substance of remarks made by any member of the general public who addresses the public body must be included if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion. Any other information which any member of the public body requests to be included or reflected in the minutes must be included. Minutes of public meetings are public records. Minutes or audiotape recordings of the meetings will be made available for inspection by the public within 30 working days after the adjournment of the meeting at which the minutes were taken. The audiotape recordings of the meetings shall be retained for 1 year from the date of the meeting. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Each vote at all board or committee meetings shall be recorded in the official minutes for each member of the board present indicating one of the following responses: Yes, No, Abstain, Recuse, Absent.

Recommendation 8. Revise procedures for minutes and other procedural issues.

Procedures for meetings, minutes and other issues to help ensure the Board complies with the requirements set forth in the Open Meeting Law are in place in the Policy and Bylaws Manual. Each Board member has been provided a copy of the Manual and a copy is available for review during all Board meetings.

Response to LCB Audit
Board of Homeopathic Medical Examiners

Recommendation 9. Review all available options to resolve the conflict and take appropriate steps to fulfill the Board's mission.

Regulations have been adopted and policies put into place to prevent the unfortunate events that occurred following the mandate from the 2005 Legislature for the Board to supervise the Nevada Institutional Review Board. The passage of AB 208 and the Legislative mandate for the Board to supervise the Nevada Institutional Review Board (NIRB) came as a surprise. Although the Board President supported and lobbied for passage of this legislation, the Board was not adequately informed, never voted to support AB 208, and did not understand the responsibility being placed upon it. These factors played a major role in creating conflict within and without the Board. The Board has been distracted from its primary function, which is to protect the public. Progress has been made in resolving these conflicts. The Board anticipates the proper function, regulation and mission of the NIRB will be place by January, 2007.

Board of Homeopathic Medical Examiners Response to Audit Recommendations

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Develop policies and procedures for expenditures. Procedures should include steps to ensure expenditures are appropriate, properly approved, accurately paid, adequately supported, and signed statements are obtained for reimbursements	<u> X </u>	<u> </u>
2	Develop policies and procedures for travel. Procedures should include steps to ensure travel expenditures are properly approved, accurately paid, adequately supported, and required forms and signatures are obtained.....	<u> X </u>	<u> </u>
3	Strengthen controls over expenditures to ensure adequate segregation of duties and proper monitoring.....	<u> X </u>	<u> </u>
4	Develop policies and procedures for Attorney General fees. Procedures should include steps to help ensure fees are adequately monitored and unnecessary fees are avoided.....	<u> X </u>	<u> </u>
5	Take steps to reduce or eliminate the balance due to the Attorney General	<u> X </u>	<u> </u>
6	Develop a comprehensive policy and procedures manual. The manual should include procedures for monitoring the Board's financial status on a regular basis, collections, record retention, and supervision of the Nevada Institutional Review Board	<u> X </u>	<u> </u>
7	Develop procedures to ensure the minutes are prepared accurately and timely. Procedures should address a review process to ensure the minutes do not have significant errors or omissions, properly reflect the sequence of topics discussed, and agree with items listed on the agenda.....	<u> X </u>	<u> </u>
8	Revise procedures for minutes and other procedural issues. The procedures should include steps to help ensure the Board complies with requirements set forth in the Open Meeting Law.....	<u> X </u>	<u> </u>
9	Review all available options to resolve the conflict and take appropriate steps to fulfill the Board's mission.....	<u> X </u>	<u> </u>
	TOTALS	<u> 9 </u>	<u> 0 </u>