Performance Audit of the Nevada State Board of Medical Examiners

For the 8 Year Period
Beginning July 1, 2003 and Ending June 30, 2011

REPORT TO THE LEGISLATIVE COMMISSION

July 13, 2012

Submitted by:

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TABLE OF CONTENTS

Attachment 7: Status Update Letter

Attachment 8: Consumer Brochure

Attachment 9: Public Relations Policy (from Policy and Procedures Manual)

Attachment 10: CME Course Agenda, "A Board Overview of Statutes, Regulations, and Ethics for Health Care Providers"

Attachment 11: FSMB Response to Request for Proposal, January 13, 2012

OBJECTIVES

The Federation of State Medical Boards of the United States, Inc., (FSMB) conducted this audit of the Nevada State Board of Medical Examiners ("the Board") pursuant to the terms of Section 41 of Chapter 508, Statutes of Nevada 2003[1] and the Request for Proposal ("RFP") of the Legislative Commission, dated December 9, 2011[2]. The Legislative Commission directed that the performance audit include, without limitation, a comprehensive review and evaluation of:

a) The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee.
b) The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee.
c) The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of twelve months.
d) The methodology and efficiency of the Board in conducting investigations of licensees who have been the subject of one or more peer review actions at a medical facility that resulted in the licensee losing his/her professional privileges at the medical facility for more than thirty (30) days within a period of twelve (12) months.
e) The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under NRS Chapter 630 that warrants disciplinary action.
f) The managerial and administrative efficiency of the board in using the fees that it collects pursuant to NRS Chapter 630.

This audit included an examination of the records described in the Response to the RFP; a site visit to the Board offices on May 8th and 9th, 2012, including interviews with three Board members, six staff members, and the Board's external financial auditor[3]; and a review of the materials listed in Attachment 1.

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[1] NRS 630.127
[2] See Attachment 2
[3] See Attachment 4

REPORT

Pursuant to NRS 630.003, the Nevada Board of Medical Examiners ("the Board") is charged to ensure that only competent persons practice medicine, perfusion and respiratory care in Nevada. The audit finds that the Nevada Board of Medical Examiners meets or exceeds all statutory obligations pursuant to NRS 630.003 and has employed proper methodologies and efficiencies with regard to the performance measures set forth at NRS 630.127. Although the Board is faithfully executing its obligations and performing quite efficiently, the individuals responsible for conducting this audit believe that there is always room for improvement, and this report contains recommendations accordingly. The report contains recommendations addressing the enumerated objectives of the Legislative Counsel Bureau's RFP as well as other recommendations presented in the spirit of the statutory stipulation directing that the review and evaluation be without limitation.[4]

The following is a summary of the Board's existing policies and procedures and the audit team's findings relating specifically to the performance measures (a) through (f) set forth at NRS 630.127. The audit team's recommendations are reiterated in the Executive Summary immediately subsequent to this report.

a) **The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee.**
b) **The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee.**

The Board does not process complaints based on the source of the complaint; rather, the Board investigates all allegations of violations within its jurisdiction and prioritizes each complaint on the basis of seriousness of violation and risk posed to the public. Upon receipt of a complaint, the Board determines whether the case should be designated low, medium or high priority. High priority cases are those cases that pose an emergency situation involving imminent risk to the public. The Board is empowered to respond to emergency situations with immediate action and in some cases, summary suspensions. High priority cases must be supervised by either the Chief or Deputy Chief of Investigations.

The last audit report produced and submitted in 2003, recommended that the Board implement a system through its database management software for assigning and tracking high, medium or low priority to investigative cases that suggest risk to the public. Board representatives report that although the Board has always had a system for prioritizing, or, "triaging," cases, following the 2003 audit report, the Board implemented an electronic system to allow it to prioritize cases in the Board's computer database.

Receipt of a complaint triggers an acknowledgement letter to the complainant from the Chief of Investigations advising the complainant that a case will be opened and assigned to an investigator.[5] Once an investigator is assigned to the case, he or she will contact the complainant again with his or her contact information.[6] At that time, the investigator may also seek additional evidence from the complainant and will provide a status update. Complainants and investigators alike are encouraged to

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[4] NRS 630.127(7)
[5] See Attachment 5
[6] See Attachment 6

communicate frequently, primarily by phone. Investigators are required to submit forty-five (45) day follow-up letters[7] to the complainant advising the complainant of the status of his or her case.[8]

The audit team believes that the Board's methodology in responding to complaints filed by the public and licensees is appropriate and efficient. The current system of prioritizing cases manually and electronically ensures that the Board responds quickly to cases warranting its immediate attention. Because the Board is authorized to respond to emergency situations with immediate action, and in some cases, summary suspensions, the audit team believes the Board enjoys the proper level of statutory discretion and authority.

The audit team also approves of the frequency with which the Board communicates with complainants, the availability of investigators and the quality of the communications exchanged. The Board's current system—sending an acknowledgement letter upon receipt of a complaint and status updates every forty-five (45) days—is comprehensive, yet efficient.

Although the 2003 audit report contained the recommendation that the Board send a letter to the complainant when the investigation is complete and the report has gone for review by the Medical Reviewer and an Investigative Committee, the Board chose not to implement this recommendation because the investigation is not complete when the report has been submitted for review by the Medical Reviewer and an Investigative Committee, but when the file has been reviewed by the assigned Investigative Committee. After the assigned Investigative Committee has reviewed the file and the investigation is complete, the case moves from the Investigative Division to the Legal Division and a status update letter to the complainant is generated. During the legal process, the complainant will receive quarterly updates from the Legal Division. Although the case's progress through the investigative process does not trigger correspondence, a complainant still receives status update letters every forty-five (45) days until the case reaches the Legal Division, at which time the complainant will begin receiving quarterly updates.

If formal charges are brought, complainants are advised that the proceeding is public and given instructions on how to access the documents available to them. Complainants are also advised of the hearing date, time and location. The Board notifies complainants of the results of the adjudication once a Board decision is rendered.

c) The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of twelve (12) months.

The Board investigates medical malpractice claims uniformly, without regard to how many claims have been filed against a licensee in any twelve (12) month period. Information of multiple malpractice claims does inform the investigative process; however, the probative value of two or more malpractice claims in a twelve month period is limited to a determination by an Investigative Committee that the claims, taken together, illustrate a physician's regular failure to observe the appropriate standard of medical care.

The Board's current practice is to open an investigation upon learning of any medical malpractice case. Information of subsequent malpractice claims become part of any existing investigation file and is

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[7] See Attachment 7

[8] See Investigations Division Operations Manual, Section II, subparagraph (d), "Jurisdictional Review."

examined accordingly; however, subsequent claims are not given any special weight in remedial or disciplinary determinations.

The Board's treatment of medical malpractice cases is guided by existing Nevada legislation. NRS 630.3069, for instance, requires the Board to conduct an investigation after receiving certain information concerning resolution of a medical malpractice claim.[9] Further, the Nevada Revised Statutes includes several provisions requiring reporting from multiple sources, including insurance companies[10], the clerk of the court[11] and physicians[12]. NRS 629.051 requires health care providers to retain the health care records of his or her patients for five years after their receipt or production. These statutory provisions, taken together, have influenced the Board to observe the process described herein. It is thought, that by opening an investigative case on every malpractice case, the Board is best poised to properly record and triage cases, obtain records within the statutorily required records retention period, and when necessary, proceed to a full investigation.

The majority of state boards do not investigate every malpractice claim filed in the state. The Nevada Board investigates all medical malpractice claims based on their interpretation of applicable statutes. The audit team recommends that the Board engage in a comprehensive review of its existing statutes to determine which cases, and to what extent, those cases must be developed in order to meet the investigative requirements set out in statute. The team further recommends that the Board determine a threshold, or triggering event, that will initiate the Board's investigation of a medical malpractice claim as is the current practice of most state medical boards.[13] This approach allows for state boards to receive reports of medical malpractice and act when protection of the public so requires, but does not require any particular action or investigation of malpractice claims that may not contain meritorious allegations.

The Board routinely uses its medical reviewers to examine case files to determine whether a full investigation is required. In many instances, the medical reviewer will counsel against engaging in a full investigation, resulting in administrative closure of the case. A case that is administratively closed may be opened later if development of further facts so warrant. State medical boards commonly employ licensed physicians to serve as medical reviewers and/or medical directors, though there is no prescribed formula for their utilization.[14] The Board currently employs one-part time reviewer for approximately twenty (20) hours per week and two alternate reviewers that work on cases in which the on staff reviewer must be recused. While the current system of three part-time medical reviewers may diminish consistency in the evaluation of cases and related recommendations, the audit team recognizes that the geographic duality that exists in Nevada may require that the Board utilize the services of more

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[9] "If the Board receives a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, the Board shall conduct an investigation to determine whether to impose disciplinary action against the physician regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report."

[10] NRS 630.3067

[11] NRS 630.307(6)

[12] NRS 630.307(2)

[13] In Maine, for instance, the medical board does not open an investigation until the third medical malpractice suit is filed within ten years.

[14] *Elements of a State Medical and Osteopathic Board*, Section I, subsection 2, "Staff Positions," http://www.fsmb.org/pdf/GRPOL_Elements_Modern_Medical_Board.pdf

than one medical reviewer. The Board reports that the staff reviewer lives and works in the 'North' and interacts with a high percentage of licensees, thus his recusal is frequently required. Though it may be necessary to have an alternate medical reviewer for these instances, the audit team recommends that the Board, over time, implement a medical reviewer arrangement that will result in greater consistency in the case review process. For example, the Board could employ one full-time or nearly full-time medical reviewer for the majority of cases and then utilize the services of one, rather than two, medical reviewer for those instances in which the staff reviewer has a conflict. The audit team strongly encourages the Board to involve physician members in the medical reviewer hiring process in all future instances, as they are uniquely qualified to evaluate candidates' aptitude.

d) The methodology and efficiency of the Board in conducting investigations of licensees who have been subject to one or more peer review actions at a medical facility for more than thirty (30) days within a period of twelve (12) months.

Subject to certain statutory limitations, all medical societies, hospitals, clinics and other medical facilities licensed in Nevada are required to report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care while the practitioner is under investigation, as well as the outcome of any disciplinary action taken by a facility or society.[15] This reporting requirement assures that the Board is aware of peer review actions taken against licensees and is able to engage in the proper investigative procedures. Like medical malpractice claims, the Board investigates instances of peer review actions uniformly, without regard to how many actions have been taken against a licensee in any twelve (12) month period.

The 2003 audit report contained the dual recommendations that the Board obtain current mailing addresses of all hospitals and other treatment facilities from the Bureau of Licensing, Nevada State Health Division, and periodically remind all hospital administrators, chiefs of medical staff and medical societies of their reporting requirements. The online publication of the addresses of all hospitals and other treatment facilities under the purview of the Nevada State Health Division rendered the first recommendation moot. However, with respect to the second recommendation, the Board reports that their efforts to remind applicable entities of their reporting requirements are ongoing. The Board's Hospital Liaison Program allows Board representatives to deliver these reminders in person as part of on-site visits. Additionally, reminders are published in quarterly newsletters and materials produced as part of the Board's outreach program.

State medical boards regularly cite difficulty obtaining information concerning actions taken by hospital and other medical facilities. Impressively, the Board reports that it has succeeded in obtaining 100% reporting from hospitals and medical facilities. The Board reports this feat after aggressively cross-checking the lists of actions generated by Nevada hospitals and other medical facilities with National Practitioner Databank information (NPDB).

To complement its optimal reporting achievement, in 2011 the Board developed a legislative initiative that was supported and ultimately introduced by a physician member of the Nevada State Legislature. The proposed legislation reduced the facility reporting period from thirty (30) to five (5) days for any privilege status change resulting when the medical, mental or psychological competence of a licensee is

[15] N.R.S. § 630.307(3)

at issue, or in cases where suspected or alleged substance abuse exist in any form.[16] The bill was ultimately passed and is codified at NRS 630.307.

e) **The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under this chapter that warrants disciplinary action.**

The most recent audit report generated in 2003 included the recommendation that the Board seek legislative revisions that would enable it to reach a broader range of undesirable behaviors. Specifically the report suggested that Nevada Revised Statutes § 630.301 be amended to include felony convictions and other offenses involving moral turpitude as a basis for discipline or denial of a license. Over the sequence of several legislative sessions, the recommended revisions were incorporated and the Nevada Revised Statutes now specify that felony convictions[17] and additional convictions, including those involving moral turpitude[18], may serve as the bases of discipline or denial of a license.

The 2003 audit report also called on the Board to seek to amend the Nevada Revised Statutes to include a definition of unprofessional conduct. During the 2009 Legislative Session, a definition of unprofessional conduct was codified. Unprofessional conduct now refers to "any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board."[19] As the Nevada Administrative Code then, as now, includes standard of practice regulations prohibiting specific acts, the Board has not engaged in rulemaking specific to the legislation.

By broadening the scope of the Board's disciplinary jurisdiction, these legislative developments empower the Board to remedy and deter behavior that relates more peripherally to the practice of medicine, but which bears quite heavily on a practitioner's ethics and professionalism, characteristics most members of the public still expect health care professionals to possess and which feature centrally in the practice of quality medicine. Additionally, most state medical boards have statutorily endorsed an "unprofessional conduct" provision in their Medical Practice Act; thus, this legislative development brought the Board into better alignment with its peers.

The Board seems to recognize the value the dissemination of licensure and disciplinary information and consumer awareness campaigns can have on remedying, preventing and deterring unprofessional conduct, as the Board has consistently published a newsletter of disciplinary actions to licensees and has recently engaged in a new compartmentalized outreach program to ensure consumers understand the role and importance of the Board. The newly launched consumer awareness campaign consists primarily of a consumer brochure and a series of presentations which the Board routinely customizes to fit the needs of the public audience. The consumer brochure is intentionally quite broad and includes information regarding the Board's mission, services, website, the Medical Practice Act, the adjudication process, conduct that may warrant discipline of a licensee, information on how to file a complaint and a listing of the state agencies responsible for the regulation of other health care professionals.[20]

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[16] 2011 SB 168
[17] N.R.S. 630.301(1)
[18] N.R.S. 630.301(11)(a-g)
[19] N.R.S. 630.306(16)
[20] See Attachment 8

Although the Board has, for some time, published brochures and other print educational materials for distribution, the Board only recently began printing its materials in Spanish. The Board initiated this practice to reach a more accurate representation of its demographic and to target the illegal practice of medicine so prevalent in the Hispanic community. To facilitate receipt of these Spanish language brochures, the Board emphasizes distribution of these materials in areas where the Hispanic community gathers.

Previous brochures were developed with the dual purposes of educating the public on the role and function of the Board as well as educating physicians on how they may more safely operate and practice medicine within the statutory confines of the Medical Practice Act. While the audit team acknowledges the importance of educating physicians on the expectations—statutory and otherwise—corresponding to medical licensure, the team favors a focus on providing quality medical care and patient safety and believes the latest reincarnation of the Board's consumer outreach program more satisfactorily achieves that end.

In interviews conducted during the on-site portion of the audit, Board members and staff regularly acknowledged that the Board's relationship with other agencies, organizations and the public has improved significantly since the 2003 audit. This improvement is the result of a carefully executed plan to create and maintain partnerships when practical, and otherwise, develop and sustain relationships, for the sake of efficiency and effectiveness. To illustrate improved relations, board staff offered anecdotal evidence. While in the recent past the media routinely printed stories critiquing the Board without ever engaging the Board in any type of fact-finding dialogue, many members of the media now contact the Board in advance to determine their accuracy. The media's impact on public perception cannot be overemphasized and media reports can be particularly misleading when a story contains bare facts or insufficient information. State medical boards around the country routinely deal with criticism from the media concerning their disciplinary processes as the media commonly lacks understanding or knowledge of the rules and laws that guide a board's disciplinary decisions. The Board's improved relationship with the Nevada media allows it to ensure that accurate information is being provided to the public, a particularly important development given the complaint-driven nature of state medical boards. The Board relies on complaints in carrying out its mandate to protect the public, thus it is imperative that the public not only understand the Board's role, but also trust the Board's commitment to quality medicine.

While the audit team applauds the Board's efforts and achievements with respect to its stakeholder and public outreach, the team recommends that the Board continue to evaluate and refine its existing public relations campaign. In interviews, Board members and staff acknowledged that the Board Executive Director generally acts as the face of the organization, interacting with members of the public when necessary. This is consistent with the Public Relations Policy set forth in the Policies and Procedures Manual which allows the President of the Board to delegate the role of board spokesman to the Executive Director.[21] It is the audit team's position that the Executive Director is uniquely poised to respond to inquiries from the media, the public and other organizations as he or she will normally have the most comprehensive knowledge of the Board's processes as well as more regular availability. Although the Executive Director should be free to delegate any or all of these responsibilities when practical or appropriate, it is crucial that the Board project a harmonized voice for the reasons mentioned in the preceding paragraphs.

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[21] See Attachment 9

By design, materials and other information developed as part of the consumer outreach program align seamlessly with the Board's additional education outreach activities. In 2011, the Board partnered with the University of Nevada Reno College of Medicine to develop Continuing Medical Education presentations on statutes, regulations and ethics.[22] The Board has also developed program materials to serve as a guide to governmental regulatory agencies and law enforcement partners of the Board seeking to better understand the Board's enforcement processes.

The aforementioned initiatives demonstrate the Board's commitment to preventing, remedying and deterring unprofessional conduct by licensees. Thus, the audit team is satisfied that the Board is acting with the statutorily prescribed methodology and efficiency.

f) The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to this chapter.

The 2003 report included the recommendation that the Board create an audit committee to whom each audit would be presented in person by the authors of the report. Rather than create an Audit Committee, the Board chose to implement an evaluation system by which the audit report is examined by the Executive Director, Finance Manager, the full Board and the public. Currently, at the conclusion of each audit report, the auditors brief the Board Secretary/Treasurer, the Executive Director and the Finance Manager prior to the next regularly scheduled Board meeting. At the Board meeting, the Secretary/Treasurer presents the full audit report, audit findings and the management letter to the full Board. The authors of the audit report attend the Board meeting to answer questions and discuss all aspects of the audit with the Board, who then decide whether to approve the report. Public comment is accepted for audit-related agenda items.

The Board, like state medical boards across the country, is used to operating within a rigid budget; however, the current economy has presented a new set of complex challenges. To properly prioritize budget items, the Executive Director engages in frequent, informal conversations with the Division Chiefs. Though no formal system exists for prioritization of budget items, the Executive Director reports that conversations are frank and frequent.

The most recent financial audit report concluded in 2011 and did not include any findings. Audit findings reported in 2009 related mostly to segregation of duties. All 2009 findings were resolved by 2010. Conversations with the external auditor during the on-site portion of the audit revealed unequivocal approval of the Executive Director's oversight of Board financials as well as approval of the Board's "extraordinary transparency." The Board hired a full-time Finance Manager in 2009 who also received high praise from the external auditor.

The overwhelming majority of the Board's fees are collected online and deposited automatically into the Board's bank account. To the extent fees are received through the mail, they are entered into a log book. Copies of all deposits are presented to the Finance Manager for reconciliation while the Executive Director opens all bank statements and signs all checks. This accounting system is consistent with other state boards across the country as well as within the State of Nevada. Board staff seem to fully understand the interrelatedness of protecting against fraud and carrying out the Board's mandate to protect the public.

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[22] See Attachment 10

Interviews with staff members suggested that the Board's operations may benefit from system-wide IT upgrades. The Executive Director indicated that the Board is in the process of determining what IT upgrades or system is most accurate and efficient and thus necessary. As the need for an IT upgrade was almost uniformly cited in conversations with Board staff, the audit team recommends that the Board develop an implementation plan, including a budget, deliverables and a timeline, to enable it to move forward with obtaining a new IT system.

With respect to NRS 630.127(a)-(b), the audit team is satisfied that the Board acts with the statutorily required diligence and efficiency. The Board promptly acknowledges receipt of complaints and corresponds regularly with complainants. The audit team applauds the Board's implementation of an electronic complaint triaging system that allows it to prioritize and respond to complaints based on seriousness of the alleged violation and risk posed to the public.

While similarly satisfied with the Board's diligence in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of twelve (12) months, the audit team believes that the Board may be conducting more investigations than required by statute. The audit team recommends that the Board revisit all applicable statutes pertaining to allegations of medical malpractice to determine which cases, and to what extent those cases, must be investigated in order for the Board to meet its statutory obligations. The audit team recommends that the Board identify and implement a threshold, which if met, will trigger investigation of a medical malpractice claim. The audit team does not recommend adoption of any particular threshold, but strongly encourages the Board to engage in a self-assessment to determine in what ways it may improve the consistency of its medical malpractice investigations process.

The audit team further recommends that the Board consider ways in which it may improve the consistency of its medical review process, including the possibility of supplementing one nearly full-time, on staff medical reviewer with one alternate medical reviewer to be utilized only when the staff reviewer's recusal is necessary. The team believes that this change has the potential to result in cost savings to the Board and will result in greater consistency. The audit team strongly encourages the Board to involve physician members in the medical reviewer hiring process as physician members are well positioned to evaluate candidates.

The Nevada Board is commended for achieving 100% reporting from Nevada hospitals and medical facilities. The audit team applauds the Board for its role in enacting 2011 SB 168, which reduced the facility reporting period from thirty (30) to five (5) days for privilege status changes resulting when the medical, mental or psychological competence of a licensee is at issue, or in cases where suspected or alleged substance abuse exist. These developments illustrate the Board's continued commitment to refining existing policies and procedures to assure it is fully and efficiently meeting its statutory obligations.

A successful state medical board should have a robust outreach program to consumers and its licensees. The Board's current consumer outreach and continuing medical education programming, as well as amendments to the Nevada Revised Statutes, demonstrate the Board's continued and deliberate efforts to prevent, remedy and deter unprofessional conduct in the State of Nevada.

While acknowledging much progress has been made, the audit team strongly encourages the Board to continue to identify new and innovative ways to reach and educate the public and other stakeholders. The team further recommends that the Board either reemphasize or revise the Board's existing public relations policy. The Board's Policies and Procedures Manual contains the existing policy and provides that the official spokesperson for the Board is the Board President, who may delegate as a matter of policy, or on a case-by-case basis, the responsibility of spokesperson to the Executive Director.[23]

[23] See Attachment 9

However, interviews with Board members and staff indicated that the Executive Director acts as Board spokesperson, though it is unclear whether an official delegation by the Board President has been made. It is the position of the audit team that the Executive Director is best positioned to act as official Board spokesperson as he or she will normally have the most comprehensive knowledge of the Board's processes and procedures as well as more regular availability. While it appears that this is the current practice of the Board, the audit team recommends existing policy be reemphasized or revised to reflect current practice.

The audit team was pleased to find that the most recent financial audit report, conducted in 2011, did not include any audit findings. The last audit findings were reported in 2009 and were resolved by 2010. Impressively, particularly in this current economic environment, the Board has managed to find savings without diminishing board productivity while reportedly maintaining quite high employee morale. The audit team values the Board's commitment to operating within a lean budget; however, the team also recognizes that it is sometimes necessary to invest in infrastructure and other upgrades, often significantly, in order to maximize efficiency. In interviews with Board staff, a near universal request was made for system-wide IT upgrades or a new IT system altogether. Though the Executive Director indicated that the Board is exploring IT options, the audit team recommends that the Board develop a plan for a new IT system, including a budget and timeline for implementation, in the very near future. The team further recommends that the Board establish a more formal system for prioritization of budget items, as no system is currently in place.

COMPARATIVE DATA

The FSMB's *Summary of Board Actions* was first published to provide accountability for medical boards to the public and to educate the media and the public of the significant volume of work performed by medical regulatory boards. Since its inception in 1985, the *Summary of Board Actions* has allowed the FSMB to capture and produce data reported by state allopathic and osteopathic boards on a national scale. Board action data eventually led to the development of the FSMB's Composite Action Index (CAI), a weighted averaging of statistics that allows a board to compare its level of disciplinary activity to itself over time.

The CAI is the arithmetic mean of four ratios provided in the FSMB's *Summary of Board Actions*: Total Actions/Total Licensed Physicians, Total Actions/Practicing In-State Physicians, Total Prejudicial Actions/Total Licensed Physicians, and Total Prejudicial Actions/Practicing In-State Physicians. Each of the four ratios offers a useful and interesting measure of activity within a jurisdiction; however, to depend on any one as a definite measure would be to ignore significant variables represented in the others. Therefore, the FSMB has created the CAI to combine the four ratios into a single composite ratio for each board. This simple device, the CAI, permits relevant variables to contribute in a balanced way to a final figure that can be useful in measuring an individual board's disciplinary activity over time; however, it does not take into account variables such as:

- Cohort differences in licensee population, such as training, experience, rural/urban distribution, number of in-state medical schools and training opportunities, etc.
- Preventive measures, such as early intervention in treating impaired physicians, peer review, and use of early intervention assessment/remediation programs before complaints and malpractice suits arise.
- Limitations inherent in different statutory schemes that enable licensing boards to take disciplinary actions.
- Board resources, funding and staffing.
- Economies of scale, differences between large and small boards.

This index is one indicator of performance as qualified above. Although the CAI is a barometer that can signal significant changes in a medical board's disciplinary activity level, changes in a board's funding, staffing levels, changes in state law and many other factors can also impact the number of actions taken by a board.

In April 2012, the FSMB House of Delegates adopted the Report of the Workgroup to Examine Composite Action Index (CAI) and Board Metrics which determined that the following four state board processes collectively contribute to overall regulatory success: licensing, license renewal, continued competency and structure and discipline. The Report recommended that the FSMB create a set of metrics encompassing the entire spectrum of these processes rather than the admittedly one-dimensional CAI in an effort to more fully and accurately represent the important work of the state medical boards. Because the CAI data is available until 2013, and further, because the CAI data was included in the 2003 audit report, the most recent data is made available here. However, the audit team cautions the use of any single metric or measure as a standard for a state medical board's efficacy.

Nevada State Board of Medical Examiners CAI

2003-2011

2003	2004	2005	2006	2007	2008	2009	2010	2011
4.22	1.36	3.75	3.72	4.58	NR	6.09	7.07	9.55

Higher numbers correspond to an increased number of disciplinary actions; however, it is imperative to acknowledge that increases in disciplinary activity does not necessarily correlate to improved Board functions.

APPENDIX

Attachment 1:	Materials Reviewed by the Audit Team
Attachment 2:	Legislative Counsel Bureau Request for Proposal, January 13, 2012
Attachment 3:	FSMB Report to the Legislative Commission for Year ending June 30, 2003
Attachment 4:	On-site Board Visit Schedule
Attachment 5:	Initial New Case Letter
Attachment 6:	Acknowledgement Letter
Attachment 7:	Status Update Letter
Attachment 8:	Consumer Brochure
Attachment 9:	Public Relations Policy (from Policy and Procedures Manual)
Attachment 10:	CME Course Agenda, "A Board Overview of Statutes, Regulations, and Ethics for Health Care Providers"
Attachment 11:	FSMB Response to Request for Proposal, January 13, 2012

Attachment 1

Materials Reviewed by the FSMB Audit Team

1. FSMB Report to the Legislative Commission for Year Ending June 30, 2003

2. 2012 FSMB *Exchange* – policy document produced by the FSMB which aspires to compile the key elements, processes and the structure of all seventy (70) state medical boards.

3. Nevada State Medical Board of Medical Examiners' response to the FSMB 2012 Exchange Questionnaire

4. *Essentials of a State Medical and Osteopathic Practice Act* (April 2012), available electronically at http://www.fsmb.org/pdf/GRPOL_essentials.pdf – policy document that seeks to 1) serve as a guide to states that may adopt new medical practice acts or amend existing laws; and 2) encourage the development of consistent standards, language, definitions and tools by boards responsible for physician and physician assistant regulation.

5. *FSMB Elements of a State Medical and Osteopathic Board* (April 2012), available electronically at http://www.fsmb.org/pdf/GRPOL_Elements_Modern_Medical_Board.pdf —policy document that seeks to encourage medical regulators and other stakeholders to reexamine existing practice acts as they relate to the composition, structure, functions, responsibilities, powers and funding of medical boards.

6. NRS 630.127

7. NRS 630.301

8. NRS 630.003

9. NRS 630.306

10. NRS 630.3067

11. NRS 630.3069

12. NRS 630.307

13. Nevada State Board of Medical Examiners' Policy and Procedure Manual

14. Investigations Division Operations Manual, Section II, subparagraph (d), "Jurisdictional Review."

15. Senate Bill No. 168 (as enrolled)

16. Nevada State Board of Medical Examiners Annual Report (2010)

17. Nevada State Board of Medical Examiners Annual Report (2011)

18. FSMB Report of the Workgroup to Examine Composite Action Index (CAI) and Board Metrics (adopted as FSMB policy April 2012)

19. FSMB Summary of Board Actions 2003 – 2011, available electronically at http://www.fsmb.org/fpdc_basummary.html

20. A copy of the audit of the Nevada Board State Board of Medical Examiners for the fiscal year ended December 31, 2010 performed by Kohn Colodny, LLP, Certified Public Accountants

21. A list of current employees of the Nevada State Board of Medical Examiners

22. Consumer Information Brochure

23. Initial New Case Letter – letter sent to complainant to acknowledge receipt of complaint

24. Acknowledgement Letter – letter sent to complainant when an investigator has been assigned to the case

25. 45 day Contact Letter – status update letter sent to the complainant every 45 days

26. Doctor Response Letter – letter sent to licensee soliciting a response when a complaint has been received

27. HIPAA Letter – letter sent with a request from the Board for medical records needed to carry out the Board's statutory authority for licensure and discipline

28. Loss of Hospital Privileges Letter – letter sent to hospitals to acknowledge hospital's suspension of physician

29. Investigative Doctor Closure Letter – letter sent to physicians when the Investigative Committee determines that it will not file a formal complaint with the Board and will close the above case without formal action.

30. Peer reviewer – letter sent to physicians who agree to serve the Board's Investigative Committee

31. Nevada State Board of Medical Examiners Compliance Report (May 2012)

32. Nevada State Board of Medical Examiners' complaint tracking fields

33. Administrators in Medicine (AIM) Assessment of Board Practices Report of the Review Panel (November 9, 2010)

34. 2007 Complaint Statistics

35. 2011 Complaint Statistics

36. News articles from October 24, 2004 to January 3, 2012 in which the Nevada State Board of Medical Examiners was mentioned (68 total)

37. Intake form for complaints

38. 2011 case summary – document prepared by the Board at the audit team's request. Contains total number of cases opened, closed, pending, complaint source, license type; number of formal complaints filed; number of pending legal files.

39. Process of investigative file – document created by the Board to demonstrate its investigative process

40. Press release mailing list

41. Press release email list

42. Nevada State Board of Medical Examiners and the University of Nevada Reno College of Medicine CME Course Agenda, "A Board Overview of Statutes, Regulations, and Ethics for Health Care Providers"

Attachment 2

REQUEST FOR PROPOSAL
LEGISLATIVE COUNSEL BUREAU

PERFORMANCE AUDIT
OF THE STATE OF NEVADA
BOARD OF MEDICAL EXAMINERS
FOR THE EIGHT YEAR PERIOD ENDED JUNE 30, 2011

CARSON CITY, NEVADA
December 9, 2011

DUE DATE: January 13, 2012

REQUEST FOR PROPOSAL
LEGISLATIVE COUNSEL BUREAU

Table of Contents

REQUEST FOR PROPOSAL
LEGISLATIVE COUNSEL BUREAU

Table of Contents
(continued)

I. EXECUTIVE SUMMARY

Pursuant to NRS 630.127 (section 41 of Ch. 508, Stats. 2003, p. 3428), the Legislative Counsel Bureau, on behalf of the Legislative Commission, is issuing this Request for Proposal from the Federation of State Medical Boards of the United States, Inc. (Federation) to conduct a performance audit of the State of Nevada Board of Medical Examiners (Board) for the 8 year period beginning July 1, 2003 and ending June 30, 2011. The performance audit must include, without limitation, a comprehensive review and evaluation of the methodology and efficiency of the Board in responding to complaints, conducting investigations, taking actions to remedy or deter any unprofessional conduct by licensees, and the managerial and administrative efficiency of the Board.

The Federation is requested to provide a proposal to conduct the performance audit on or before 5:00 p.m. on January 13, 2012. Thereafter, the proposal will be submitted to the Legislative Commission for review at its next regularly scheduled meeting. If the Legislative Commission determines that the Federation has the ability to conduct a fair and impartial performance audit of the Board, the Legislative Commission will direct the Legislative Counsel Bureau to enter into a contract with the Federation to conduct the audit. The written report of the results of the performance audit must be submitted to the Director of the Legislative Counsel Bureau as soon as practicable after the audit is completed, but no later than June 30, 2012.

II. GENERAL INFORMATION

A. *Purpose* – The Legislative Counsel Bureau is seeking a contractor to conduct a performance audit of the State of Nevada Board of Medical Examiners. This document constitutes a Request for Proposal from the Federation of State Medical Boards of the United States, Inc. to conduct a performance audit of the State of Nevada Board of Medical Examiners for the eight year period that ended on June 30, 2011.

B. *Authority* – Nevada Revised Statute (NRS) 630.127 provides the Legislative Counsel Bureau the authority to enter into a contract with the Federation of State Medical Boards of the United States, Inc. to conduct a performance audit of the State of Nevada's Board of Medical Examiners upon approval of the Legislative Commission.

C. *Issuing Office* – This Request for Proposal (RFP) is issued by the Director of the Legislative Counsel Bureau (LCB) on behalf of the Legislative Commission. Inquiries regarding this RFP must be directed to the office noted below:

Director
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701-4747
(775) 684-6800
Fax: (775) 684-6600
admin@lcb.state.nv.us

D. *Definitions*

1. Board – State of Nevada Board of Medical Examiners.

2. Director – the Director of the Legislative Counsel Bureau oversees the daily activities of the Legislative Counsel Bureau and is also the Secretary of the Legislative Commission. The Director may designate certain activities noted in this RFP to other staff as necessary.

3. Examination Period – This RFP is for the period that has transpired since the last audit was completed in 2003 and represents an eight year period through June 30, 2011.

4. Federation – The Federation of State Medical Boards of the United States, Inc.

5. Legislative Commission – The Legislative Commission supervises the Legislative Counsel Bureau. The Commission is a body consisting of six senators and six assemblymen. The Legislative Commission also takes

actions on behalf of the legislative branch of government when the full Legislature is not in session. The Legislative Commission meets every few months between legislative sessions to provide guidance to staff of the Legislative Counsel Bureau and to deal with other interim matters.

6. Legislative Counsel Bureau (LCB) – The Legislative Counsel Bureau is an agency that provides ongoing staff to the Legislature. This agency encompasses the Fiscal, Legal, and Research Divisions, which provide support for the Legislature. It also includes the Audit Division whose duties consist of auditing the accounts of state agencies, and an Administrative Division, which provides accounting, security, and various other functions. Reference to LCB in this RFP may refer to the agency as a whole or one of its divisions.

E. *Submission of Proposal* – The proposal submitted in response to this RFP must be prepared in accordance with the instructions contained herein. The proposal must be submitted to the Director of the Legislative Counsel Bureau and may be mailed or hand-delivered to 401 South Carson Street, Carson City, Nevada 89701-4747. The deadline for submission of the proposal is January 13, 2012, at 5 p.m. Eighteen (18) copies of the proposal are required. Contact information for the Federation must be clearly identified with the name, title, address, and phone number of the person authorized to answer questions concerning the proposal. Contact information must be stated on the face of the envelope or on the cover letter included with the proposal. The original of the submitted proposal must be signed in ink by a principal or officer of the Federation who is empowered to contractually bind the Federation. The State of Nevada, the Legislature, the Legislative Counsel Bureau and the Board of Medical Examiners are not liable for any costs incurred by the Federation before the contract is awarded.

F. *Withdrawal and Disposition of Proposal* – The Federation may withdraw its proposal before the contract is awarded by submitting a written request to withdraw the proposal which is signed by the principal or officer of the Federation to the Director of the Legislative Counsel Bureau. Upon submission, the proposal becomes the property of the State of Nevada and will not be returned.

G. *RFP Revisions* – The Director of the LCB reserves the right to alter, amend, or modify any provision of the RFP, or to withdraw the RFP at any time before awarding the contract if the Director determines that it is in the best interest of the State. Any revision will be sent to the Federation by mail. The proposal submitted by the Federation must comply with any revisions made to the RFP.

H. *Schedule of Events* – The Director of the LCB anticipates the evaluation of the proposal and the execution of the contract will proceed according to the following schedule:

December 9, 2011	Issuance of RFP
January 13, 2012	Deadline for the Receipt of the Proposal
Date To Be Determined	Award of Contract by the Legislative Commission
No later than June 30, 2012	Written Audit Report

I. *Proposal Format and Content* – To be considered for selection, the Federation must submit a proposal which includes a complete response to this RFP. Each condition included in this RFP is hereby made a part of the conditions under which the proposal is submitted and will be incorporated in any contract for this audit. Further, the contents of a proposal will become part of any contract resulting from the proposal. Failure of the Federation to comply with these obligations may result in denial of the proposal. The information requested in Section III of this request must be included in the proposal and the proposal must be prepared in the prescribed format. Failure to do so may lead to disqualification. The proposal should be prepared simply and economically, providing a straightforward, concise description of the Federation's ability to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Repetition of the terms and conditions of the RFP, without additional explanation, will not be considered sufficiently responsive. Each copy of the proposal must be bound in a single volume unless impractical. The LCB recommends that the Federation contact the staff of the State of Nevada Board of Medical Examiners as shown in Appendix C between 8 a.m. and 5 p.m. Monday through Friday, for assistance in preparing its proposal.

J. *Payment* – The Federation may submit periodic bills in conjunction with its progress reports concerning the audit to the Director of the LCB who will monitor performance throughout the audit. Upon submission of the final report of the performance audit, the Federation shall submit a final bill for services which must not exceed the maximum amount authorized in the contract. The LCB will process and pay bills approved by the Director, less 10 percent, within 2 weeks. Bills submitted for the audit must not exceed the total amount authorized in the contract. The amount authorized in the contract may not be increased after award, unless approved by the Legislative Commission and an amendment to the contract is agreed to by the parties in writing. The final 10 percent of the contract amount will be paid upon completion, submission and approval of the final report.

K. *Contract Contacts* – After the contract is signed by all the parties, the Federation shall direct all questions regarding the contract to the Director of the LCB, or his designee, at the address shown in Section II(C) of this RFP. Assistance will be provided to ensure reasonable and timely resolutions to questions of policy or procedure as they may affect the Federation's efforts.

L. *Other Pertinent Information* – The LCB is the issuer of this RFP and is responsible for monitoring the performance of the contract and authorizing payments to the Federation upon execution of the contract. All payments will be

made by the Legislative Counsel Bureau. The cost associated with preparing and submitting any periodic report to the Director of the LCB will be solely the responsibility of the Federation and is not payable by the LCB.

M. *Background Information/Description of Entity* – The State of Nevada Board of Medical Examiners is authorized by Chapter 630 of the Nevada Revised Statutes to function as an independent government agency. The Board is the licensing and regulatory agency for physicians, physician assistants, respiratory therapists, and perfusionists in the State of Nevada. The duties of the Board include:

- Enforcing the provisions of NRS Chapter 630.
- Establishing by regulation standards for licensure.
- Conducting examinations for licensure and establishing a system of scoring for those examinations.
- Investigating the character of each applicant for a license and issuing licenses to those applicants who meet the qualifications.
- Instituting a proceeding in any court to enforce the Board's orders or the provisions of NRS Chapter 630.

The Board consists of nine members appointed by the Governor. NRS 630.100 requires the Board to meet at least twice annually; however, the Board generally meets quarterly. According to the Board, there are over 7000 licensees in this State and the Board has a current staff of 26 employees. For the calendar year that ended December 31, 2010, the Board had total revenues of $3.6 million and total expenditures of $3 million. The Board's office is located at 1105 Terminal Way, Suite 301, Reno, Nevada, 89502.

III. PROPOSAL FORMAT

A. *Introduction* – The proposal submitted in response to this RFP must be organized as outlined below. The proposal should be concise, clear, and complete. Proposal pages must be numbered and contain an organized, paginated table of contents corresponding to the sections and pages of the proposal.

The Federation's proposal must describe in detail the scope of the performance audit and must include a detailed work plan setting forth the methodologies to be used in the review.

The proposal submitted in response to this RFP will be the primary source of information used in the evaluation process. Therefore, the Federation is requested and advised to be as complete as possible in the proposal. However, the Director of the Legislative Counsel Bureau may:

1. Contact the Federation to clarify any response contained in the proposal.

2. Contact the users of the Federation's services.

3. Solicit information from any available source concerning any aspect of the proposal.

4. Seek and review any other information he deems pertinent to the evaluation process.

B. *Transmittal Letter* – The proposal must include a transmittal letter that identifies the Federation as the submitting entity and asserts a commitment by the Federation to provide the services required. The transmittal letter must state that the proposal is valid for 90 days from the date on which the proposal is due. If the Federation is selected to conduct the performance audit, the proposal will be incorporated into the contract. A person legally authorized to bind the Federation to the representations in the proposal must sign the transmittal letter. **Failure to include each of these items may result in disqualification of the proposal.**

C. *Table of Contents* – The proposal must include a table of contents that clearly identifies the location of information required by this RFP.

D. *Project Staffing and Organization* – Staff that will be assigned to the performance audit must have the appropriate experience. Thus, the professional qualifications and prior work experience of each member of the audit team must be presented.

Staffing – A concerted effort must be given to this project by the Federation. For the project, the Federation must clearly identify the following:

a. number of personnel by skill and qualification who will be devoted to the work;

b. total number of hours expected to be worked by each type of employee who will be involved in performing work under the contract;

c. statement as to the Federation's ability to meet the required deadlines; and

d. name of the project manager.

E. *Contractor Services Overview/Objectives* – The objectives of the performance audit are to determine:

- The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee.
- The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee.
- The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of 12 months.
- The methodology and efficiency of the Board in conducting investigations of licensees who have been subject to one or more peer review actions at a medical facility that resulted in the licensee losing professional privileges at the medical facility for more than 30 days within a period of 12 months.
- The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under this chapter that warrants disciplinary action; and
- The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to this chapter.

F. *Authority of Audit* – The performance audit of the State of Nevada Board of Medical Examiners is required by NRS 630.127.

G. *Requirements of Audit/Deliverables* – The work will include a performance audit of the Board which is sufficient to meet the objectives described in Section E above. Performance audits are required by statute to be conducted every 8 years, for the preceding 8-year period, or when ordered by the Legislative Commission, for the period since the last performance audit was conducted pursuant to NRS 630.127. All reports are addressed to the Legislative Commission.

Thirty copies of the written report must be submitted to the Director of the Legislative Counsel Bureau as soon as practicable after the date that the performance audit is completed but no later than June 30, 2012.

H. *Executive Summary* – The proposal must include an executive summary that asserts that the proposal submitted in response to this RFP meets all of the requirements of the RFP. The executive summary must not exceed five pages, must represent a full and concise summary of the contents of the proposal, and must be cross-referenced to the page numbers of the proposal's contents. Failure to include this information may result in disqualification of the proposal.

I. *Identifying Information of the Federation*

1. Name and address.
2. Type of entity.
3. Length of time in existence.
4. Name and location of all offices and other facilities of the Federation.
5. Name, address, business and telephone number, and fax number of the Federation's principal contact.
6. Federation's Federal Employer Identification Number.
7. Statement regarding the financial stability of the Federation, including the ability of the Federation to perform the requisite services.

J. *Conflict of Interest* – The Federation must not have conducted an audit or have been affiliated in any way with a person who conducted an audit of the Board pursuant to NRS 218G.400. The Federation must disclose in the proposal any contractual relationship that exists or has existed between the Federation (or a predecessor organization of the Federation, or a subcontractor included in the Federation's response to this RFP) and any entity of the State of Nevada. Not every prior or existing contractual relationship will constitute a conflict of interest. However, each such relationship must be disclosed. The Federation must represent that if awarded the contract, the audit would not put the Federation in a position of having to review and/or evaluate its own work from a past consulting or business engagement with the State of Nevada. Failure to disclose any such prior or existing contractual or personal relationship as described in this section may result in disqualification of the proposal. The Director of the Legislative Counsel Bureau will make the final determination regarding the existence of a conflict of interest.

K. *Technical Information* – The objective of the technical portion of the Federation's proposal is to demonstrate the Federation's expertise, the expertise of personnel who will render the requested services, the Federation's ability to logically plan and complete the audit, and Federation's ability to successfully deliver the final report.

L. *Federation's Capabilities* – This portion of the proposal should describe the Federation's experience performing similar audits, and its understanding of the requirements for such an audit, by providing the information detailed below:

1. Business Organization – State the full name and address of your organization. Include the name, title, address, and the telephone number of the person in your organization who has primary responsibility for this proposal and to whom questions may be addressed.

2. Independence – Include a statement as to whether the Federation is independent with regard to the Board.

3. Experience – Include a brief statement concerning the performance audit experience of the Federation and the management staff who will be actively engaged in the proposed effort.

4. The Federation must demonstrate a complete understanding of the required services. The Federation must provide information specifically addressing and describing the Federation's approach to providing each requirement and deliverable listed, the staffing and resources that will be devoted and required to fulfill each task, and the proposed time schedule required to complete each task.

   The Federation must describe the method to be used in conducting the examination, including the approach to the audit, a discussion of the rationale for the stated approach, and a timetable for completion. Include any other information that is believed to be pertinent, but not specifically asked for elsewhere.

M. *Cost Proposal* – The cost proposal must include all travel and accommodation expenses associated with travel, and all other out-of-pocket expenses required to perform this audit. Further, the proposal must include all costs and expenses associated with the contractor's attendance at and participation in any public meetings held following the submission of the contractor's final reports to present and must explain and/or discuss the reports.

IV. STATEMENT OF WORK

A. *Introduction* – The proposal must be divided into numbered sections and contain the information as described in this section of the RFP. After the Federation has been selected, but prior to contract execution, the Director of the LCB may require modifications to the proposal to ensure the objectives of this performance audit will be met.

B. *Scope of Work*

1. Overview – The purpose of the contract is for the Federation to conduct a performance audit of the State of Nevada Board of Medical Examiners for the eight year period beginning July 1, 2003, and ending June 30, 2011.

2. If selected, the Federation will complete a performance audit of the State of Nevada Board of Medical Examiners which must include the requirements and deliverables described in Section III(G).

3. Confidentiality – The Federation must maintain confidentiality of all information, records and data obtained for the purpose of the audit. All information obtained during the audit may only be used for the purpose of conducting the audit and may not be used for any other purpose. Additionally, the Federation shall require its employees and any other person enlisted by the Federation to assist with the audit to be bound by all confidentiality requirements.

C. *Work Plan and Methodology*

1. Work Plan – The objective of the work plan is to describe the work the Federation will conduct in carrying out the performance audit of the State of Nevada Board of Medical Examiners. The proposal must include a detailed work plan.

   The work plans must also include the projected dates for the deliverables required by this RFP.

2. Methodology – The work plan must clearly present the Federation's detailed methodology for conducting the performance audit.

   Conclusions and recommendations based on unreliable or inaccurate data are not useful and are unacceptable for inclusion in the report. Therefore, the Federation's methodology must describe the process it will use to verify that report data is accurate and reliable.

D. *Deliverables*

1. Progress Reports – The Director of the LCB is responsible for monitoring the performance of the Federation if selected to conduct the performance audit. The Federation must provide periodic reports on the progress of the audit to the Director.

2. Written Audit Report – (See Section (III(G)).

3. Presentation – The Federation may be required to attend public meetings of the Legislative Commission to discuss the final report. The contractor or a designee must be present at these public meetings and available for discussion of the reports and questions. Any additional cost associated with attending and participating in such public meetings are solely the responsibility of the contractor and are not payable by the LCB or the State of Nevada, except as otherwise agreed upon in writing by the parties.

E. *Working Papers*

1. The final report is not a public document until it is presented to the Legislative Commission. Until such time as the final report is released, the Federation must not disclose the report or the contents of the report to any person other than the Director or his designee, unless otherwise directed by the Director or as agreed to in writing by the parties.

2. The Federation must not destroy any working papers in connection with the audit for at least 3 years after the final written report is submitted and approved, payment has been made, and any other pending matter is closed.

F. *Federation's Responsibilities*

1. The Federation must designate a project manager in the proposal who will be responsible for maintaining contact with the Director throughout the contract term, overseeing all activities for the Federation with respect to the audit and processing all communications. The project manager must have experience in performing audits. The Federation shall notify and obtain approval of the Director prior to any substitution of the project manager.

2. The Federation must be responsible for personnel, supplies, and equipment.

3. The Federation must assume responsibility for all services outlined in the proposal regardless of who provides the services.

4. The Federation will be responsible for any material error or omission in the performance of its responsibilities as set forth in the contract.

5. The work of the Federation is to be completed in strict confidence as set forth in section IV(B)(3), and section IV(E)(1).

6. The Federation, at its own expense, will obtain any private legal services considered necessary.

7. The Federation must report immediately, in writing, to the Director whenever it appears in the opinion of the project manager that any violation of penal statutes may have occurred; any act of misfeasance, malfeasance or nonfeasance by a state officer or employee may have occurred; or any shortage appears in the accounts of any official or employee of a state agency.

8. The Federation shall deliver the written report on the performance audit in accordance with Section III(G).

9. The project manager of the Federation must be available to answer questions on the preparation of the work papers and issues raised in the work papers without any additional charge for at least three years after the final report is submitted.

10. The Federation must submit a progress report at least monthly or with each bill submitted for payment. The progress report must include a statement of the work completed to date, the work that remains to be completed, the hours incurred during the current reporting period and to date, any concerns or problems encountered, and whether the audit is proceeding on schedule for a timely completion.

11. The contractor is directly responsible to the Legislative Commission.

G. *State of Nevada Board of Medical Examiner's Responsibilities*

1. The Director will inform the Board of its responsibilities.

   a. The Board will provide the Federation with access to books, accounts, records, files, correspondence, or other documents as are necessary to complete the performance audit.

   b. The Board will pay to the Legislative Counsel Bureau the cost of each performance audit when invoiced by the Legislative Counsel Bureau as required by NRS 630.127.

2. The Federation shall notify the Director of the LCB of any delay in the receipt of information from the Board.

H. *Director's Responsibilities* – The Director of the Legislative Counsel Bureau or his designee will distribute the written report for the completed performance audit to members of the Legislative Commission and to any other Legislator who requests a copy of the report. The Director will provide written acceptance of the report and provide payment to the Federation. Not later than 30 days after the report has been approved, the Director will make the report available to the public. The Director reserves the right to perform a field review of the Federation's working papers for each period under audit.

I. *Legislative Commission's Responsibilities* – The Legislative Commission will evaluate the response to this RFP and determine whether to award the contract to the Federation of State Medical Boards of the United States, Inc. If the Legislative Commission finds that the Federation does not have the ability to conduct a fair and impartial audit of the Board or is otherwise unable to conduct such a performance audit, the Legislative Commission will direct the Audit Division of the Legislative Counsel Bureau to conduct the performance audit of the Board. The audit conducted pursuant to this agreement is in addition to any other audit required of the Board by law.

J. *Legislative Counsel Bureau's Responsibilities* – If the Legislative Commission so directs, the Legislative Counsel Bureau will prepare a written agreement for the Federation to conduct the performance audit. The Legislative Counsel Bureau will further be responsible for making payments to the Federation upon approval of the bills by the Director.

V. PROPOSAL EVALUATION AND AWARD PROCESS

A. *Introduction and Overview* – NRS 630.127 requires the Legislative Commission to consider the proposal submitted in response to this RFP and to engage the Federation's services if the Legislative Commission finds that the Federation has the ability to conduct a fair and impartial performance audit of the Board. If the Legislative Commission finds that the Federation does not have the ability to conduct such a performance audit, it is required to direct the Audit Division of the Legislative Counsel Bureau to conduct the audit. The proposal submitted by the Federation in response to this RFP will be evaluated by the Legislative Commission. The evaluation will focus on, without limitation:

- Adequacy and completeness of the proposal with regard to information specified in the RFP.
- The Federation's understanding of and approach to the project, with particular attention focused on the Federation's understanding of the examination approach, and the method of accomplishing the examination.
- The ability of the Federation to conduct fair and impartial performance audits of the Board.
- Personnel qualifications.
- Cost of examination.

B. *Rejection of Proposal* – The Legislative Commission reserves the right to reject the proposal if it is determined to be in the best interest of the State.

VI. CONTRACT PROVISIONS

A. *Subcontractors* – The Federation is encouraged to subcontract with firms owned and controlled by socially and economically disadvantaged individuals to perform a part of the examination. All approved assignments, sublettings, or other transfers referred to herein must abide by the provisions of the contract. The Federation shall not subcontract, sell, transfer, assign, delegate or otherwise dispose of its rights, obligations or duties under the contract or any portion thereof without the prior written consent of the LCB. If the LCB provides any such consent, the Federation agrees to remain primarily responsible for the work. No person or entity may in any case relieve the Federation of its liability under the contract and any person engaged in the performance of work covered by the contract shall be considered an employee of the Federation.

B. *Amendments to Contract*

1. Either party to this Agreement may request a change in the Agreement by submitting a request for a change order. Such a request must include a description of the provision(s) to be modified, the rationale for requesting the change and an assurance that the final product will be equal to or better than the specifications set forth in the agreement.

2. If the Federation submits a request for a change order, the LCB will approve or deny the request within 5 business days after receipt of the request. The LCB agrees that it will not unreasonably withhold such approval.

3. If the LCB requests additional work or a modification to the work covered under the agreement, the Federation will be required, within 5 business days, to provide the LCB with a written estimate of the cost, which must be approved by the LCB before the Federation begins any such work.

4. Any change in the work processes or services provided by the Federation without a signed change order from the LCB shall be at the Federation's own risk. The cost and expense will be the responsibility of the Federation, and the Federation may not submit a claim for compensation for work, materials or equipment in connection with such changes.

C. *Termination by LCB*

1. The LCB may at any time, for its convenience and without cause, terminate all or part of the agreement. To terminate the agreement, the LCB must deliver to the Federation a notice of termination without cause. Termination of the agreement shall be within the sole discretion of the LCB and shall become effective upon receipt by the Federation of the notice of termination without cause. The LCB's liability to the Federation with respect to termination without cause is limited to the reasonable costs incurred by the

Federation for each activity performed before the effective date of the termination. If requested, the Federation shall substantiate any cost submitted for payment with proof satisfactory to the LCB. The termination described in this paragraph does not apply to termination for cause.

2. The Federation is in default of this agreement and the LCB may terminate the agreement for cause if the LCB determines that:

   a. The quality of the work performed by the Federation is unacceptable;

   b. The Federation fails to comply with the terms of the agreement to the satisfaction of the LCB;

   c. The Federation has breached this agreement in any other respect; or

   d. The Federation has sought, or been forced to seek, protection under the Federal Bankruptcy Act.

3. The LCB is in default of the agreement if, at any time, the LCB materially breaches any term of the agreement.

4. To terminate the agreement for cause, the nondefaulting party will be required to send to the defaulting party a notice of default. Termination becomes effective 5 days after the defaulting party receives the notice of default unless during those 5 days the defaulting party cures the default.

5. If the LCB terminates the agreement for cause, the LCB is not liable for any cost incurred by the Federation and the LCB may procure the services from other sources and hold the Federation liable for any excess cost occasioned thereby.

6. If the agreement is terminated, all finished documents, data, studies, and reports prepared for the LCB under the contract shall, at the option of the Director of the LCB, become its property upon payment for services rendered through the termination of the contract.

D. *Additional Contract Terms*

1. Payment will be made upon completion and verification of all duties.

2. The Federation will be required to hold harmless, indemnify and defend the State of Nevada, the Nevada Legislature, the Legislative Counsel Bureau and its officers, employees and authorized agents against any claim, action, loss, damage, injury, liability, cost and expense of any kind or nature arising from the performance of the contract which is not due or caused by the negligence of the State of Nevada, the Nevada Legislature, the Legislative Counsel Bureau or one of its officers, employees or authorized agents.

In any claim against the State of Nevada, the Nevada Legislature, the Legislative Counsel Bureau or one of its officers, employees or authorized agents by any employee, any subcontractor of the Federation or any person directly or indirectly employed by any of them, or any person for whose acts any of them may be liable, this indemnification shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the contractor or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

The indemnification conferred is not intended to waive the limitation on the award of tort damages otherwise applicable to the acts of omissions to which the indemnification applies.

The remedy provided by the indemnification is in addition to, and not in lieu of, any other remedy. The indemnification must not be diminished in any way to the total limits of insurance that may be available to the contractor.

3. The laws and regulations of the State of Nevada shall govern the agreement entered into with the Federation. Each and every provision of law and clause required by law to be inserted in the agreement shall be deemed to be inserted in the agreement and the agreement shall be read and enforced as though it were included herein. If any of the provisions of the agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

4. The parties agree that the Federation is an independent contractor as the term is defined in NRS 333.700 and is not an employee of the LCB or the State of Nevada. There will be no:

   a. Withholding of income taxes by the State of Nevada;

   b. Industrial insurance coverage provided by the State;

   c. Participation in group insurance plans which may be available to employees of the State;

   d. Participation or contribution by either the Federation or the State to the Public Employees' Retirement System;

   e. Accumulation of vacation leave or sick leave; or

   f. Unemployment compensation coverage provided by the State.

5. During the term of the contract, the Federation shall maintain comprehensive public liability insurance of not less than $1,000,000 in a form and with an insurer or insurers acceptable to the LCB. The Federation shall agree to name

the State of Nevada, the Legislature of the State of Nevada, the Legislative Counsel Bureau, their officers, employees and agents as additional insureds on the policy. Evidence of the policy or policies required must be furnished to the LCB at the time of the signing of the contract and thereafter from time to time as the LCB deems necessary. Such evidence must show that the policy or policies shall not be modified or terminated without at least 30 days prior notice, in writing, to the LCB.

6. The Federation shall not use any data, pictures or other representations of the State of Nevada, the Nevada Legislature or the Legislative Counsel Bureau, in its external advertising, marketing programs or other promotional efforts, unless it obtains the specific advance written authorization of the LCB, except that the Federation may use any product that is developed and made public pursuant to the contract as a sample for the purpose of obtaining future employment without the consent of the LCB. The LCB agrees not to unreasonably deny authorization to use the LCB as a reference.

E. *Partial Performance* – Should the Federation fail to comply with the contract provisions to the satisfaction of the Director, payment for portions of the contract will be withheld until such time as the Federation is in full compliance with the contract provisions. This condition does not waive and is in addition to any administrative, contractual, or legal remedies as determined appropriate by the Legislative Counsel where it appears that the Federation has violated, breached, or defaulted on the contract terms.

F. *Compliance with Laws* – The Federation shall comply with all applicable federal, state, county and local laws, ordinances, regulations and codes in the performance of its duties under the contract.

G. *Review of Deliverables*

1. The Federation must agree to notify the Director upon completion of each deliverable. Upon receipt of such notification, the Director agrees to inspect the deliverable and notify the Federation whether the deliverable is approved or rejected. The Federation acknowledges that acceptance is within the sole discretion of the Director. The Director agrees that he will not exercise his discretion in an arbitrary or capricious manner. The Director further agrees that if he rejects a deliverable, the Director will provide the Federation with the notice of rejection a list of the specifications, terms, conditions or other items that the Federation must rework, revise, change or complete for the Director to accept the deliverable.

2. If the Director notifies the Federation that a deliverable has been rejected, the Federation shall rework, revise, change or complete the deliverable, as appropriate. Any corrections considered necessary by the Director shall be corrected by the Federation, unless otherwise agreed by the parties. Any such

correction of a deliverable shall be at the expense of the Federation. After the Federation has reworked, revised, changed or completed the deliverable, the Federation agrees to notify the Director and the process set forth in paragraph (1) for review of deliverables will apply.

3. Final payment shall be withheld until all deliverables have been accepted by the LCB.

Appendices

Appendix A: Cost Proposal

Appendix B: NRS 630.127

Appendix C: Auditee Contacts

Appendix A

COST PROPOSAL

The Federation must state its proposed costs using the format described in the following table. The Federation's charges must include the entire cost of providing the services identified in this RFP.

The cost proposal submitted must itemize the following for each category of personnel with a different billing rate. The cost proposal must include out-of-pocket costs, such as printing, travel, clerical, or other costs.

Additional Cost Information

Billable hours: For each employee's title listed, please provide the anticipated hours and billing rate.

Out-of-pockets Costs: Include anticipated costs for printing, travel, and clerical.

Other (Specify): Itemize any other costs that may not fall into categories previously listed.

Total Costs: The sum of billable hours and out-of-pocket costs.

Appendix A

COST PROPOSAL
(continued)

Name of Contractor: _____

Name of Subcontractor(s): _____

Signature and Title of Contractor or Subcontractor(s): _____

	TOTAL REVIEW COST		
	Hours	Billable Rate	Total
Billable Hours			
Project Manager			
Project Coordinator			
Auditors			
Clerical Support			
Total Billable Hours			
Out-of-Pocket Costs			
Printing, Travel, Clerical			
Other (specify)			
Total Out-of-Pocket Costs			
TOTAL COSTS			

Appendix B

NRS 630.127

NRS 630.127 Performance audits of Board.

1. In addition to any other audits required of the Board by law, the Legislative Commission shall issue to the Federation of State Medical Boards of the United States, Inc., a request for proposal to conduct regular performance audits of the Board. After considering the response to the request for proposal, if the Legislative Commission finds that the Federation of State Medical Boards of the United States, Inc., has the ability to conduct fair and impartial performance audits of the Board, the Legislative Commission shall engage the services of the Federation of State Medical Boards of the United States, Inc., to conduct regular performance audits of the Board. If the Legislative Commission finds that the Federation of State Medical Boards of the United States, Inc., does not have the ability to conduct fair and impartial performance audits of the Board or is otherwise unable to conduct such performance audits, the Legislative Commission shall direct the Audit Division of the Legislative Counsel Bureau to conduct regular performance audits of the Board.

2. The initial performance audit of the Board must be commenced before October 1, 2003. After the initial performance audit is completed, additional performance audits must be conducted:

(a) Once every 8 years, for the preceding 8-year period; or

(b) Whenever ordered by the Legislative Commission, for the period since the last performance audit was conducted pursuant to this section.

3. A written report of the results of the initial performance audit must be submitted to the Secretary of the Legislative Commission not later than 60 days after the date that the initial performance audit is commenced. A written report of the results of each subsequent performance audit must be submitted to the Secretary of the Legislative Commission as soon as practicable after the date that the performance audit is commenced.

4. Upon receipt of the written report of the results of each performance audit, the Secretary of the Legislative Commission shall:

(a) Distribute the report to the members of the Legislative Commission and to any other Legislator who requests a copy of the report; and

(b) Not later than 30 days after receipt of the report, make the report available to the public.

5. The Board shall pay all costs related to each performance audit conducted pursuant to this section.

6. Any person who conducts a performance audit pursuant to this section:

(a) Is directly responsible to the Legislative Commission;

(b) Must be sufficiently qualified to conduct the performance audit; and

(c) Must never have conducted an audit of the Board pursuant to NRS 218G.400 or have been affiliated, in any way, with a person who has conducted an audit of the Board pursuant to NRS 218G.400.

7. Each performance audit conducted pursuant to this section must include, without limitation, a comprehensive review and evaluation of:

(a) The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee;

(b) The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee;

(c) The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of 12 months;

(d) The methodology and efficiency of the Board in conducting investigations of licensees who have been subject to one or more peer review actions at a medical facility that resulted in the licensee losing professional privileges at the medical facility for more than 30 days within a period of 12 months;

(e) The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under this chapter that warrants disciplinary action; and

(f) The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to this chapter.

(Added to NRS by 2003, 3428)

Appendix C

CONTACTS FOR THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

Douglas C. Cooper, CMBI
Executive Director

or

Edward O. Cousineau, J.D.
Deputy Executive Director

Nevada State Board of Medical Examiners
1105 Terminal Way, Suite 301
Reno, Nevada 89502

(775) 688-2559

Attachment 3

Performance Audit

of the

Nevada State Board of Medical Examiners

Report to the Legislative Commission

Federation of State Medical Boards

Year Ending June 30, 2003

December 1, 2003

I

Table of Contents

The Federation of State Medical Boards of the United States, Inc.
P. O. Box 619850
Dallas, Texas 75261-9850
(817) 868-4000

II

Objectives

The Federation of State Medical Boards of the United States, Inc., ("the FSMB") conducted this audit of the Nevada State Board of Medical Examiners ("the Board") pursuant to the terms of Section 41 of Chapter 508, Statutes of Nevada 2003; the Request for Proposal ("RFP") of the Legislative Commission, dated August 15, 2003 (Attachment 1); and the FSMB Response to the RFP, dated September 12, 2003 (Attachment 2). The Legislative Commission directed that the performance audit include, without limitation, a comprehensive review and evaluation of:

a) The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee.
b) The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee.
c) The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of 12 months.
d) The methodology and efficiency of the Board in conducting investigations of licensees who have been the subject of one or more peer review actions at a medical facility that resulted in the licensee losing his/her professional privileges at the medical facility for more than 30 days within a period of 12 months.
e) The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under NRS Chapter 630 that warrants disciplinary action.
f) The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to NRS Chapter 630.[1]

This audit included an examination of the records described in the Response to the RFP; a site visit on November 3 and 4, 2003, including interviews with four Board members, six staff, and two external financial auditors; and a review of materials listed in Attachment 3.

[1] RFP, Attachment 1

III

Summary

The audit indicates that the Board meets or exceeds its statutory responsibility described in NRS 630.003, entitled "Legislative declaration." As is the case with any medical board, this Board could improve its effectiveness in protecting the public in certain ways, but some changes will require legislation. The report contains recommendations within the precise enumerated objectives of the RFP as well as other recommendations that are presented in the spirit of the stipulation in the RFP that the review and evaluation be without limitation.[2]

The following is a summary of findings and basic recommendations relating specifically to the objectives. Specific methodologies and efficiencies of the Board and principal recommendations for improvement are covered later in the report.

a) *The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee.*
b) *The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee.*

The Board does not distinguish between how it responds to complaints filed by the public and complaints filed by licensees. All allegations of violations within the Board's jurisdiction are investigated, regardless of source. Furthermore, the Board has a process for taking immediate action in emergency situations involving imminent risk to the public. An informal system exists for investigators and legal staff to discuss cases and priorities. With the volume of investigations increasing dramatically, for reasons discussed later, a more systematic approach is needed to assign resources more efficiently and to prioritize those matters with higher potential impact on citizens.

The Board should implement a system through its database management software for assigning and tracking high, medium or low priority to investigative cases that suggest risk to the public. The Chief Investigator, Medical Reviewer, and General Counsel now meet on an ad hoc basis to discuss cases and ensure that those involving higher public risk get proportionally higher priority. These staff members or their representatives, along with the Executive Secretary when appropriate, should meet on a regular basis to discuss open cases and to allocate investigative and legal resources.

While a citizen who files a complaint ("the source") receives immediate acknowledgment of the complaint being reviewed and, if a case is closed, a closure letter, the lines of communication should be improved between the Board and the source, especially when the source is a member of the public. Sources should be sent regular communications regarding where the complaint is in the process and periodic updates on status if the Board enters a lengthy disciplinary process. Sources should testify in hearings unless the

[2] RFP, Section V, Paragraph B, Objectives

Board's General Counsel determines such testimony would hinder the Board's ability to prosecute.

c) *The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of 12 months.*

The Board reviews all reported claims, adjudications and settlements regardless of time period; therefore, all malpractice claims filed against a licensee within a period of 12 months are examined. Furthermore, the Board considers all prior claims each time a new case is reviewed. Malpractice insurers and licensees must report to the Board any claim for malpractice or negligence and the settlement, award, judgment or other disposition thereof.[3] The Board has a thorough screening process for sifting through malpractice information reported to it from numerous sources, obtaining outside expertise when indicated, and deciding whether underlying events constitute a basis for prosecutable disciplinary action under the Nevada Revised Statutes.

The Board recently, on its own initiative, began reviewing county records online and in courthouses to identify malpractice lawsuits that have been filed. Since medical malpractice insurance companies and licensees are required by law to report these same claims to the Board, reviewing courthouse records appears to be redundant and an inefficient use of the Board's investigative resources. The Board's review of such records, however, indicates that many individuals and entities are not fulfilling their statutory obligation to report. To address these problems, the Board should seek legislative authority to review courthouse records and develop a consolidated reporting system or fall back on existing reporting with an emphasis on punitive action for failure to report.

d) *The methodology and efficiency of the Board in conducting investigations of licensees who have been the subject of one or more peer review actions at a medical facility that resulted in the licensee losing his/her professional privileges at the medical facility for more than 30 days within a period of 12 months.*

The Board reviews all reports required by statute[4] of changes in privileges and outcome of disciplinary action by a licensed hospital, clinic or medical facility or medical society. Thus, where there is statutory compliance with reporting requirements, actions resulting in loss of privileges for more than 30 days within a period of 12 months are always investigated by the Board. As with all matters under investigation, an accounting of all prior Board investigations pertinent to a licensee are is provided to the appropriate Investigative Committee of the Board when a current report is considered.

The Board should take steps to ensure accurate, timely reporting by those entities outside of its jurisdiction and periodically remind medical societies of their reporting requirements.

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[3] NRS 630.3067, NRS 690B.045
[4] NRS 630.307

e) *The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under NRS Chapter 630 that warrants disciplinary action.*

While the board takes steps to deter unprofessional conduct, such as checking malpractice claims filed in county courthouses and posting recent disciplinary actions, "unprofessional conduct" per se is not grounds for initiating discipline or denying licensure as delineated in Chapter 630 of Nevada Revised Statutes. Additionally, the statute was recently revised to require that, in order for the Board to take an action on a felony conviction, it must relate to the practice of medicine, effectively removing Board discretion in such matters.

Unprofessional conduct should be added to the statute as grounds for discipline or license denial, and the Board should be authorized to define unprofessional conduct by regulation. Furthermore, NRS 630.301 should be revised to restore the statute to its earlier status by including conviction of a felony and any offense involving moral turpitude as basis for discipline or denial of a license.

f) *The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to NRS Chapter 630.*

The Board uses its fees efficiently; however, safeguards could be improved. The auditors conducting the annual financial audit do not present the annual audit directly to the entire Board. The Board should create an audit committee to whom each audit would be presented in person by the auditors. Additionally, the auditors should be required to indicate in writing to the Board whether or not a management letter has been prepared. The auditors should be required to submit the management letter at the same time they submit the audit, and each recommendation contained in the management letter should be discussed and accepted or rejected in a public session of the Board.

Principal Recommendations

The following section details the Board's methodologies and the audit findings for each of the points specified for review by the Legislative Commission. Comments on the Board's efficiencies and principal recommendations for improvement are also provided. A review of other processes and recommendations for improvement are presented later in the report in the spirit of the stipulation in the RFP that the review and evaluation be without limitation.

a) ***The methodology and efficiency of the Board in responding to complaints filed by the public against a licensee.***
b) ***The methodology and efficiency of the Board in responding to complaints filed by a licensee against another licensee.***

The process for resolving complaints is the same for reports filed by the public or a licensee. All are identified and categorized by source for later analysis. Except in emergency cases, all input sources (citizen complaints, malpractice claims reported, questionable drug prescribing identified in the prescription monitoring system, hospital actions, complaints filed by a peer, etc.) are treated as complaints, and investigations are initiated to explore and monitor these matters through to disposition. (A flowchart and detailed written overview of the Board's complaint and investigative process are provided as Attachment 4.) The method of investigation was described consistently by all those interviewed and especially thoroughly by those integrally involved in the process. The methodology followed due process and good practices and provided for a fair hearing and for appropriate sanction when indicated.

If the Chief Investigator determines an emergency exists involving public risk, he immediately meets with the General Counsel and the Medical Reviewer to discuss the case. If these staff members concur that an emergency exists and the evidentiary standard has been met, the Board is summoned for an emergency teleconference to consider a summary suspension. Otherwise, the case is routinely assigned to an investigator for review and case preparation.

An informal system exists for investigators and legal staff to discuss cases and priorities. The volume of investigations is increasing dramatically, for reasons described later; therefore, a more systematic approach is needed to assign resources efficiently and to prioritize those matters with higher potential impact on citizens.

Complaints need to be triaged systematically for prioritization when cases are opened. The Board should implement a system for assigning priority to investigative cases that suggest risk to the public. A simple system of priority can be implemented with high, medium or low priority assigned and tracked through the Board's database management software. While this is not a scientific nor wholly objective system, it will improve patient protection and in broad terms allocate resources intelligently. This is also important for accountability purposes.

The Chief Investigator, Medical Reviewer, and General Counsel now meet on an ad hoc basis to discuss cases. Open cases should be reviewed at regular intervals in a structured process including the Executive Secretary and/or the Deputy Executive Secretary, the Chief Investigator, the Medical Reviewer, and the General Counsel. The purpose of this meeting is to discuss priorities of new cases opened since the last meeting, cases where risk of further public harm is identified in the investigative process and investigative priorities. The General Counsel can also advise investigators in order to manage investigative resources. Investigators should not, for example, spend time on cases the General Counsel feels lack prosecution potential, and they should maximize resources on cases that require more intensive effort.

Currently, there is one Investigative Committee (IC)[5] for the Board; a second is being formed due to the increasing workload of the investigative process. A third committee has been formed to handle license application cases involving malpractice. The IC meets eight times a year: the day before each quarterly Board meeting and a few weeks prior to each Board meeting. Since Board members who have served on the IC of a particular case are precluded from voting on the outcome of that case, having two ICs still allows a quorum of eligible board members to vote on the discipline in each case that is investigated. Barring board members who have investigative knowledge of a case from voting on that discipline is consistent with standard practices in administrative law.

The Board also has recently increased its investigative staff. A reasonable portion of this resource should go to timely communication with those who file complaints with the Board. While citizens who file complaints receive immediate acknowledgment of the complaint and, if a case is closed, a closure letter, they receive no other correspondence in the form of periodic updates or progress of the case if charges are filed. The lines of communication should be improved between the Board and the source through use of regular communications about where the complaint is in the process. (See Attachment 5 for sample form letters currently used in the complaint process.) Such communication is especially important when the source is a member of the public. It is less important if the source is an organization or reporting entity such as an insurance company.

The Board should interview, call or write every complaint source to give them an opportunity to supplement the complaint letter, even though the current standard letter to the source acknowledging the complaint invites the source to send additional information. Thereafter, investigators should be encouraged to periodically update sources on progress and disposition. A letter should go to the source when the investigation is complete and the report has gone for review by the Medical Reviewer and the IC. Additionally, sources should be sent periodic updates on status if the Board enters a lengthy disciplinary process.

Sources should testify in hearings unless the Board's General Counsel determines such testimony would hinder the Board's ability to prosecute. A letter should be sent to the source when formal charges are brought, with a copy of the charges and notice of the date, time and place of the hearing and communicate the right to be present at the public

[5] NRS 630.311

proceeding. The letter should also list a contact name at the Board office for questions. Finally, the Board should provide a copy of its decision to the source after the hearing.

c) ***The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a period of 12 months.***

The Board reviews all reported claims, adjudications and settlements regardless of time period and reviews a chronicle of all prior claims each time a new case is reviewed. Consequently, all malpractice claims filed against a licensee within a period of 12 months are examined. The Board thus has a perspective on all prior claims reported each time it examines a new claim. Malpractice insurers and licensees must report to the Board any claim for malpractice or negligence and the settlement, award, judgment or other disposition thereof.[6]

The Board has a thorough screening process for sifting through malpractice information reported to it from numerous sources, obtaining outside expertise when indicated, and deciding whether underlying events constitute prosecutable disciplinary actions under the Nevada Revised Statutes. A review and discussion of the Board's time lines for investigations is provided as Attachment 6.

In reviewing a sample of malpractice cases in Board files, input sources for malpractice almost never include the plaintiff who filed the claim, or someone on their behalf. These cases are reported pursuant to statute as follows:

- Insurance companies: Any breach of professional duty toward a patient involving a settlement, judgment, or award to a patient for more than $5,000 must be reported to the Board within 30 days of the settlement.[7]
- Insurance companies: Any action filed or claim submitted to arbitration or mediation for malpractice or negligence must be reported to the Board within 30 days after the action is filed. The Board must also be advised of any disposition within 30 days. There is no minimum threshold.[8]
- Clerk of the Court: Must notify the Board and report any physician, PA or practitioner of respiratory care who has a finding, judgment, or other determination of liability for malpractice or negligence.[9]
- Physician: Must self-report any claim and subsequent disposition within 90 days after the claim is filed or disposed of.[10]
- Medical Dental Screening Panel (MDSP): Reviewed malpractice claims before they were filed in state court and reported their findings to the Board. [11]

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[6] NRS 630.3067, NRS 690B.045

[7] NRS 690B.045

[8] Section 54 and 63 of Assembly Bill 1 of the 18th Special Session of the Nevada State Legislature.

[9] NRS 630.307 (1) (e)

[10] NRS630.3062

[11] Note: the MDSP was abolished in October 2002 by legislation but was allowed to complete cases already filed. Per AB 1, 18th Special Session of the Nevada Legislature, claimants may either proceed with the panel review or remove the case and file an action in state court for complaints filed before October 1, 2002. Therefore, the Board may still receive some reports from the MDSP until all of its cases are cleared.

- Since August 2003, the Board has commenced, on its own initiative, a review of courthouse records in principal population centers looking for malpractice filings. In an effort to determine if physicians are failing to self-report, the Board has determined that there is a lag between filings and service of notice upon the physician that accounts for many of the cases where there is a court filing but no physician self-report.

The FSMB reviewers identified 200 cases involving malpractice reported by insurance companies, the MDSP, county clerks of the court, and licensees for the year ending June 30, 2003. Some of these cases are duplicates of the same event reported by different sources. Of these cases, 12 individual physicians had two or more separate malpractice reports within a 12-month period. Of these, four had all cases closed when the MDSP found no malpractice. Outside peer review was ordered five times, with no finding of malpractice returned two times. Outside peer reviews remain pending in two cases. The Board's Investigative Committee forwarded two cases to legal counsel for potential charges. In one case an outside peer reviewer found malpractice; the IC interviewed the physician and subsequently closed the case.

For the period January 1, 2002, until November 3, 2003, the Board opened 1,154 investigations. Of these, 605 are reported malpractice cases from all the sources noted above. Many investigations are duplicates of the same event. A physician report, insurance company report and county court record report could result in as many as six cases involving the same claim and settlement being reviewed by the Board.

Further review of the 1,154 investigations opened by the Board for the period January 1, 2002, until November 3, 2003, revealed that 22 cases, or fewer than 2% of investigations, came from hospital sources. Hospitals, clinics, and other medical facilities licensed in Nevada are required to report changes in privileges.[12] For most of the cases of malpractice that were sampled, the alleged malpractice occurred in hospitals. This presents three possible scenarios: hospitals are not reacting to these malpractice cases with limitations on privileges, there is underreporting of hospital actions, or both. The Board should obtain a list of hospitals, clinics, and other medical facilities licensed in the state from the Bureau of Licensing, Nevada State Health Division. The Board should periodically remind hospital administrators and the chiefs of medical staffs of the facility reporting requirements, and the Board should publicly demand that the State Health Division enforce its sanction for non-reporting.

Three cases of malpractice were sampled and reviewed. One of these cases was widely reported in the media as an example of a physician who had a serious problem with malpractice and who appeared to flee to another state. The following was observed:

- He applied for a license in February 1993. There was nothing in his application to forewarn the Board that he was a malpractice risk. He was appropriately trained, passed minimum competency exams, had no derogatory information reported by himself or other licensing boards, and had five years of approved postgraduate training in a United States hospital. He had been certified as a specialist by a

[12] NRS 630.307

specialty board approved by the American Board of Medical Specialties, thereby demonstrating sufficient training after he received his M.D. to practice a specialty.

- The Board's biennial registration forms ask for malpractice information. In many, if not most cases, years pass between alleged malpractice and lawsuit pleadings that reach a licensee. This licensee first reported malpractice claims on his 1999 registration form. At that time, through dual reporting systems noted above, the MDSP also reported these events to the Board. However, at that time, there was a four-year lag in cases reported by the MDSP. The MDSP would reach one of three conclusions: reasonable probability of medical malpractice, no reasonable probability of medical malpractice, or unable to reach a decision on the issue of medical malpractice. Initial reports on this licensee were in the latter category. As cases progressed involving this licensee, the MDSP changed its determination on some of the earlier cases. The following was reported by the licensee in 1999: a $17,500 settlement in May 1998; a non-monetary settlement in February 1999 of a case involving allegations from 1995; and pending cases involving allegations from 1994 and 1996, including a lawsuit filed in December 1998. The Board conducted an investigation and obtained peer expert testimony, which determined that the records it had thus far did not demonstrate practice below minimum standards.
- More cases were reported through the MDSP in 2001. Some of these had malpractice allegations going back to 1995. In 2001 the Board had 15 cases open, and peer reviews were coming back negative. The Board issued charges alleging ten counts of malpractice and then indicated its intent to hold a hearing, which would start the disciplinary process. Rather than face these charges, the doctor surrendered his Nevada medical license.
- The Board's public record included a document describing all the charges, and this record was immediately sent to the state to which this licensee fled, as well as all other states and all other entities that are notified through the FSMB Board Action Database. In all of these malpractice allegations, dating back to 1995 in some cases, not once did the patient complain to the Board. Had that occurred, the Board could have intervened much sooner.

Two other cases involving malpractice were sampled and examined as to time line. In one case, the initial report came to the Board in August 2001. Medical records were twice subpoenaed from two hospitals and reviewed by an expert. The case was presented to the Board's Investigative Committee in May 2002. The case then went to legal counsel with records received from the MDSP and went back to the IC in September. The IC authorized issuance of a formal complaint, and a hearing was scheduled in December 2002. The Board issued a public disciplinary order in April 2003, imposing a continuing education requirement, a fine, and a public reprimand. The case was reported to all appropriate entities in a timely manner and appeared in the Board's Summer 2003 *Newsletter*.

Board investigators recently began reviewing county records online and in courthouses to identify malpractice lawsuits that have been filed. A case is opened each time a lawsuit is found, creating another layer of redundancy, because both medical malpractice

insurance companies and licensees by law must report these same claims to the Board. While results are preliminary, there appears to be a lack of reporting by both licensees and insurance companies. It is interesting to note that physician self-reports rarely appear in the file until August 2003, when the Board started reviewing county records. Concurrently, physician self-reports started cascading into the investigative system, presenting several problems for the Board.

First, a significant burden was added to investigative resources to follow up on the claims in county courthouse records. No centralized system for consolidating these cases is in place; therefore, any resource dedicated to this effort is pulled away from investigating complaints from the public and other sources. Second, reviewing courthouse records is redundant. Assuming statutory compliance with reporting requirements, this check should be unnecessary.

The Board should abandon the review of county court records. While periodic sampling of county records would help ensure self-reporting, as noted above, the Board should periodically remind licensees of their responsibilities to report via the Board's *Newsletter*, the Board's website, and registration notices. Concurrently, the Board should pursue failure to report by its own licensees and mount an aggressive enforcement effort to impose discipline on those licensees who fail to report claims.

The Board also should identify and refer to the Division of Insurance, Department of Business and Industry, all cases in which an insurance company fails to report to the Board. The Board should obtain from the Commissioner of Insurance a list of insurance companies writing malpractice insurance in Nevada and periodically remind these companies of reporting requirements and penalties for failure to report. The existing penalties for insurance companies and physicians who fail to report malpractice claims, settlements, and judgments are adequate and significant and should be pursued.

Once the Board has identified a good sample of failed reporting in its review of courthouse records, it should either seek legislative authority to review courthouse records, seek a consolidated reporting system for that purpose, or fall back on existing reporting with an emphasis on punitive action for failure to report. One approach to simplify the process would be to modify NRS 630.307 by adding to those items that are reported by clerks of court a provision to report malpractice claims as well as liability judgments to the Board. Another more cost effective approach would be to rely on the Commissioner of Insurance to enforce newly enacted penalties on insurance companies for failure to report.[13]

The Board receives malpractice information, both claims and settlements, from so many sources that there are often duplicates of the same case migrating through the system. These cases need to be consolidated through the computer system when initially entered to eliminate opening multiple investigations. The reporting requirements detailed earlier demonstrate the potential for several reports of the same event to come to the Board. All

[13] Nevada Medical Professional Liability , Department of Business and Industry, Division of Insurance, Bulletin 02-011, (October 1, 2002).

of these cases present a distorted picture of backlog and complaints in the state and distract resources from other priorities.

For malpractice cases particularly, one case should be opened for the initial event reported (claim, settlement, etc.). All subsequent reports should then be included as update material in the chronological record, rather than as new cases. Furthermore, each case reported by the clerk of the court or an insurance company should be checked to see if the licensee self-reported. The Investigative Committee should be informed of a failure to self-report and discipline should be levied as a matter of routine. By focusing on penalties for those who fail to report, some of the redundancy and its associated overhead can be eliminated.

A review of all the malpractice cases in the Board files noted above reflects a paucity of patient complaints. In samples of malpractice claims involving one licensee with numerous claims, there was no example of a patient plaintiff who concurrently filed a complaint with the Board when alleged malpractice occurred. The Board should find ways to motivate victims of alleged malpractice to notify the Board of these matters. Additionally, the legislature should consider incentives to motivate plaintiff's attorneys and victims of malpractice to file complaints with the Board earlier in the process, such as isolating Board action or lack of Board action from having any impact on outcome in a civil tort case.

The premise of the malpractice system is tort, to compensate a patient for damages caused by the negligent or intentional conduct of a physician. The premise of the regulatory system, however, is to enforce compliance with the standards of conduct set forth by the legislature to protect the public health and welfare through appropriate action against the license to practice. The Board may act against a physician for violation of the medical practice act even though no harm to the patient occurred. The Board may likewise find that, even though a patient was harmed, the medical practice act was not violated. Happy outcomes in medicine are not guaranteed, and an unhappy outcome does not mean the medicine was faulty or the medical practice act was violated.

There may be concern about jeopardizing a legal case if the Board intervenes, as well as reticence to alert the Board to a claim because if the Board closes a case it may be perceived to negatively affect the civil case. One remedy may be statutory language that lowers perceived barriers to Board involvement, such as language providing that the presence or absence of Board action or involvement has no bearing on a civil case and may not be used as evidence.

With all of the reporting mechanisms in place, some of them overlapping, in sample cases the greatest amount of time passes between the alleged malpractice and the notice from the MDSP to the Board of the existence of a complaint that triggered reporting. In the sample noted previously, one malpractice case reported by the licensee on registration in 1999 showed the date of suit as "12/16/98" and the date of act "12/21/96."

The legislature should consider reestablishing a properly funded organization to perform the functions of the Medical Dental Screening Panel. There were often significant delays between the date of the malpractice claim and the report to the Board by the MDSP, which medical Board staff attributes to a lack of funding for the MDSP. Although there is a distinct difference between what constitutes a basis for a malpractice judgment and grounds for a prosecutable disciplinary action, the MDSP findings were useful to the Board as a prescreening tool. Malpractice claims have increased dramatically since the MDSP was disbanded by legislation in October 2002. Unless there is a direct correlation between the occurrence of malpractice and the existence of the MDSP, this recent increase in claims can be at least partially attributable to frivolous claims. This benefit is now lost to the Board, and it must now scour many more claims to identify those that should be prosecuted. The legislature should restore a properly funded successor to the MDSP, while insisting that its procedures facilitate the process of dealing with complaints, rather than hindering that process unnecessarily.

Finally, the Board should periodically ask the entire in-state licensee population, via its newsletter, for physician volunteers for peer review. Peer review by a qualified expert is usually necessary to meet the Board's evidence standard in a hearing. A peer review establishes prevailing medical practices and is necessary to identify practices falling below those standards. Peer review is therefore a necessary part of Board operations.

Due to the geographic distribution of the population, it has become increasingly difficult to find medical experts to conduct these reviews who come from a part of Nevada different from the practice area of the physician under investigation. Doing so is important to avoid conflicts of interest. Physician licensees should be encouraged to participate in the process as part of their professional responsibility. While the Board offers an incentive to licensees for doing peer reviews by offering Continuing Medical Education credit, wider solicitation could yield more volunteers. Based on experience of similar recruitment efforts in other states, the volunteer list needs to be screened to remove volunteers who would be easily impeachable as prosecution experts, such as physicians with a significant malpractice or disciplinary history.

d) The methodology and efficiency of the Board in conducting investigations of licensees who have been the subject of one or more peer review actions at a medical facility that resulted in the licensee losing his/her professional privileges at the medical facility for more than 30 days within a period of 12 months.

The Board reviews all reports required by statute[14] of changes in privileges and outcome of disciplinary action by a licensed hospital, clinic or medical facility or medical society. As with all matters under investigation, all prior investigations are reported to the IC when a report is made on a current matter. Thus, always complying with statutory reporting requirements would result in a report to the Board of actions resulting in loss of privileges for more than 30 days within a period of 12 months.

[14] NRS 630.307

The reviewers identified eleven (11) cases meeting these criteria in a review of all cases for the year ending June 30, 2003. Two cases were closed; one in which the physician was reinstated. These two cases took an average of 233 days from the date opened until closed. A sampling of case files demonstrates thorough presentation of information to the IC, including internal medical review. In all cases the Board's Medical Reviewer requested medical records from the respective medical facility. The process thus provides for thorough information to be presented to the IC when it considers the case. These cases naturally take longer to complete and present to the Board due to this step in the process.

The Board has made no enforcement effort to ensure accurate reporting by those entities outside of its jurisdiction. The Board should obtain current mailing addresses of all hospitals and other treatment facilities from the Bureau of Licensing, Nevada State Health Division, and periodically remind all hospital administrators and chiefs of medical staffs of reporting requirements of NRS 630.307. The Board should also periodically remind medical societies of their reporting requirements.

e) ***The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation under NRS Chapter 630 that warrants disciplinary action.***

The Board takes periodic steps to deter "unprofessional conduct."[15] Examples include:

- checking malpractice claims filed in county courthouses;
- publishing and mailing a newsletter of disciplinary actions to all licensees;
- posting recent discipline cases to media, hospitals, and medical societies after such actions become public;
- asking the legislature for improvements to its statutory authority; and
- tightening licensing standards to mirror prevailing minimum standards in other jurisdictions.

"Unprofessional conduct" per se, however, is not grounds for initiating discipline or denying licensure under current Nevada law. Instead, Chapter 630 of Nevada Revised Statutes define such grounds in particular detail. If the Board finds a need to define public protection in an area not covered by the statute, it must wait for the legislative cycle to do so. Defining disciplinary grounds too narrowly in law has drawbacks. For example, the statute was recently revised to require that, in order for the Board to take an action on a felony conviction, it must relate to the practice of medicine. It is logical to assume that most citizens in Nevada would want the Board to take action on the license of a physician convicted of murder or a serious sexual offense, whether or not the crime directly related to the practice of medicine. However, the effect of the recent statutory change is to remove the Board's ability to act on a license in such matters. NRS 630.301 should be revised to restore the statute to its earlier status by including conviction of a

[15] RFP, Section V, Objectives, B 5, page 10.

felony and any offense involving moral turpitude as basis for discipline or denial of a license.

Unprofessional conduct should be added to Chapter 630 of Nevada Revised Statutes as grounds for discipline or license denial. The Board should be authorized to define unprofessional conduct by regulation so that it may act to protect the public when the legislature is not in session. The administrative process for adopting regulations provides the public, interest groups, and the legislature with a process of oversight to ensure appropriate use of this delegated authority. If the Board, for example, determines from surveillance of investigations that anorectic drugs are being prescribed injudiciously for treatment of obesity, it could create boundaries by regulation under the definition of unprofessional conduct, imposing a timely public protection solution. This arrangement enables and encourages the Board to deter unprofessional conduct more preemptively.

f) The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to NRS Chapter 630.

The Board uses its fees efficiently; however, safeguards could be improved. The auditors conducting the annual financial audit do not currently present the annual audit directly to the entire Board. The report is instead presented to the Board's Secretary/Treasurer. In accordance with law, a copy of the audit is sent to the Legislature.

Some findings in prior audits have not been resolved; therefore, they recur in subsequent audit cycles. These findings were listed in the management letter, which has not been presented to the Board in person and concurrent with the audit.

The Board should create an audit committee to whom each audit would be presented in person by the auditors. Additionally, the auditors should be required to indicate in writing to the Board whether or not a management letter has been prepared. The auditors should be required to submit the management letter at the same time they submit the audit, and each recommendation contained in the management letter should be explained, discussed, and accepted or rejected in a public session of the Board.

Other Findings and Recommendations

Public Records of Disciplinary Cases

Public records of disciplinary cases are made available through a manual system consisting of request and prepayment from the customer, processing the request by staff at the Board's office, depositing the funds, retrieving and photocopying the public document, and mailing the photocopy to the customer. The Board thus has the overhead of an order/billing/shipping system. Even though this system provides a revenue source, the net profit to the Board is marginal. The costs include tying up staff and photocopy equipment, the attendant error whenever staff must summarize a complex legal document, and delay to the customer.

Recommendation: Make public Board orders and statements of charges available to the public at no cost, electronically. The customer looks up the licensee on the web page, and once identified, is presented with options to select any public records. The customer clicks on the record, and it is displayed on the customer's computer screen via Adobe Acrobat software, an industry standard in use for such common applications as income tax forms in all states and the federal government. The Adobe Acrobat reader software is free. This process makes public records immediately available to the customer where they can be downloaded and printed with user resources. The overhead of manual photocopying and processing remittances is all but eliminated for the Board. Furthermore, since Board summaries of these documents can be subjective, allowing the public to access these files directly eliminates the need to summarize them. The document thus "speaks for itself" and interpretation is left to the reader.

Only those customers who have no access to a computer need request a copy of the Board's order. Experience at other Boards suggests that the charge for providing paper copies of records may be dropped, as the number of requests will be minimal. The process of posting these documents electronically on the web is simple for the Board. Purchased Adobe software provides a utility to create Adobe files using the word processing software used to create the document in the first place. The Board simply mounts the file in secure file space on the Internet server it uses and provides a link to the public record from the physician lookup software.

Educating Licensees About the Board

The FSMB reviewers noted the Board's efforts at physician education and noted the publication of a quarterly newsletter, which includes summaries of disciplinary actions taken by the board, including letters of public reprimand. The board members and staff interviewed recognized that the board's role is primarily driven by the complaint process. As laid out in the statute, "For the benefit and protection of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continued competence of physicians... who are subject to the provisions of this chapter."[16] The Board carries out this responsibility by having rigorous initial licensure

[16] NRS 630.003, as amended by Section 42 of Senate Bill 250 of the 72nd Session of the Nevada Legislature.

requirements that ensure all licensed physicians have three years of continuous successful training and have taken a recent examination to show competence. Plans are underway to strengthen the continued competence requirements of physicians, which will distinguish Nevada as having the highest and most rigorous initial licensure and continued competence requirements for licensure of any of the 69 medical licensing jurisdictions in the United States and its territories.

Recommendation: Even though the newsletter is an excellent publication, minor changes could be made to enhance its value as an education tool to inform physicians of the duties of the Board and its role in protecting the public. The newsletter also serves the important role of reminding physicians of their professional responsibilities. The newsletter would be more effective if professionally redesigned to enhance readability.

Members of the Board or staff should arrange speaking engagements before physician and specialty groups and hospital medical staffs to inform the physician population of issues facing the medical disciplinary and licensing community and to explain how the Board works. Board members and staff should also regularly address community groups (e.g., Rotary, seniors, citizen advocacy groups) throughout the state.

Public Information

Public information is disseminated through many sources such as a website, a newsletter, a process for copying public files, public service announcements, media contacts with the Executive Secretary and Board President, and correspondence with sources. When the media reports referred to in the appendix were reviewed, a distorted picture of the Board emerged. With all the attention on a few sensational malpractice cases, the physician workforce shortage, and the malpractice climate that precipitated a special legislative session, the Board was painted as an almost reluctant participant by the media and by legislative sources. Our view is not that the Board is falling short in its responsibilities or its sense of mission, but rather that the message is simply not getting out. Steps have been described above to make the Board more consumer-friendly, e.g., more correspondence with sources and dissemination of public records at no charge. More can be done through a dedicated Public Information Office (PIO) for 1) disseminating information to the public and 2) transmitting public needs, expectations and feedback to the Board on a regular basis.

Recommendation: Hire a full-time public information/media/communications specialist and implement a proactive communications program that explains the Board, its mission, and what it does to all of the Board's publics on an ongoing and regular basis. Additionally, there is opportunity to provide this function with little or no budgetary impact. The Board currently funds Public Service Announcements (PSAs) at $60,000 annually. The benefits of these PSAs are at best anecdotal. They did nothing to address or deflect criticism of the Board throughout the malpractice reform deliberations in the Special Session. The funds for these PSAs could be redirected to fund the PIO.

A Public Information Office could assemble key information needed on short notice by representatives of the media, legislature, and interest groups. Among the ingredients in

these messages should be explaining and emphasizing the due process and statutory constraints on the board, as well as what by law must be kept confidential and what everyone is entitled to know and ask. The newsletter and the basic consumer brochure are good pieces but should be redesigned so that they cry out to be read. By statute or regulation, the board should make it a condition of licensure that every physician have a supply of the consumer brochures prominently available in his/her waiting room.

Physician Workforce Statistics

The PIO could develop useful statistics that serve a public purpose. There was a special session of the state legislature to address tort reform.[17] "The session was sparked by rising medical malpractice insurance costs that led to the temporary closure of the Trauma Center at the University Medical Center and decisions by an estimated 150 Southern Nevada doctors to close their practices, retire early, or apply for licenses in other states.[18] A charged media environment resulted, and in the process there was a need for useful, reliable information about the availability of physicians in the state.

One media report described legislation to use two million dollars of Board reserve funds to set up a fund to help physicians who have difficulty in paying their malpractice insurance.[19] This would have had the effect of removing funds from the regulatory process to augment the malpractice premiums of those with highest risk. Another report said "Some reports of physicians relocating to other states, retiring or closing practices were not accurate or involved relatively few physicians."[20] The Government Accounting Office (GAO), a federal agency, conducted a survey of OB/GYN specialists and found that, of 30 OB/GYN practices in Clark County, 28 were accepting new patients with waiting times for an appointment of three weeks or less.[21] The GAO report has been seized by consumer groups and trial lawyers, who say the report backs their contention that medical groups have doctored tales of physicians quitting in order to persuade policy-makers to curb jury awards and place fee limits on attorneys.[22]

Recommendation: More reliable information about the physician workforce in Nevada is needed. The Board can provide useful data from within the state that is needed by the legislature and others to make workforce decisions. The physician registration form is the ideal survey instrument. It generates 100% response from active licensees, and accuracy is encouraged by virtue of penalties for false reporting.

The Board can ask simple workforce questions, such as are you accepting new patients, do you accept Medicare and/or Medicaid, how many hours a week do you see patients, do you accept new patients, and do you deliver babies. Once the Board collects the data,

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[17] Joelle Babula, "System sought for reporting medical errors," Las Vegas Review Journal , July 23, 2002, Section B, page 1B.
[18] Ibid.
[19] "Dividends or subsidies for Nevada Doctors?" The Associated Press State & Local Wire, Reno, December 9, 2002.
[20] Steve Tetreault, "Medical Malpractice Insurance: GAO: Crisis exaggerated," Las Vegas Review-Journal, September 6, 2003, Section B Page 1B.
[21] Ibid.
[22] Ibid.

medical school statisticians and researchers could analyze and present the data in a cogent format. Other medical boards engage in such activity with little additional overhead for the board. An example of a cooperative relationship involving a health services research center and health care regulatory boards may be found at the Cecil B. Sheps Center of the University of North Carolina at Chapel Hill.[23]

Relations Between the Board and the Medical Association

There are strained relations between the Board and the Nevada State Medical Association. A review of media reports indicates that the medical association is often a critic of the Board. It even proposed legislation to direct part of the Board's surplus in funds to pay malpractice premiums of a narrow specialty. A competitive, non-cozy relationship with the state or any county medical society is acceptable, perhaps even preferable, given the contrasting missions of the board and the professional societies, but neither should be antagonistic to the other, appreciating the distinctive role and responsibilities of each. A medical society is an interest group. The Board is a regulatory agency with specific statutory authority and limitations. There are plenty of opportunities for these interests to clash.

Recommendation: The board should undertake a continuous and ambitious program to make presentations describing what the board does and why and how it operates to every local and county medical association and large hospital medical staff. Similar presentations should be scheduled with Rotary clubs, Lions, Kiwanis, chambers of commerce, citizen groups, etc. The presentation needs to be repeated every two or three years to each group. The members change, people forget and repetition will help ensure most people really know what the Board does. A Public Information Office can approach this task as a mission.

Recent Statutory Changes (Grounds for Disciplinary Action)

Some recent statutory changes diluted consumer protections provided by the Board. In the 72nd Session of the Nevada Legislature, Senate Bill 250 altered the law[24] regarding the Board's ability to take discipline for conviction of a felony as follows (language stricken by this Senate Bill is marked through): "...grounds for initiating disciplinary action or denying licensure: 1. Conviction of a felony~~, any offense involving moral turpitude or any offense~~ relating to the practice of medicine or the ability to practice medicine."[25]

Under this new language, the Board is greatly disadvantaged in its ability to protect the public. The Board now has the difficult burden of establishing a nexus between the felony that served as the basis for the conviction and the practice of medicine, and the potential for losing a case is greatly increased. A June 24, 2002, newspaper report states that a Carson City doctor was accused of drugging his ex-wife and kidnapping her from Utah, and his medical license in Nevada "...is active and in good standing, according to

[23] http://www.shepscenter.unc.edu/
[24] NRS 630.301 (1)
[25] Ibid.

the Nevada Board of Medical Examiners."[26] If this crime were one of pure kidnapping, upon conviction this physician's license likely would remain unencumbered, as the Board would be precluded from acting under the new legislation. An average citizen in Nevada would reasonably expect that the Board would and could take action swiftly, based solely on the conviction of a felony in the appropriate circumstance.

Recommendation: Restore NRS 630.301 (1) to its earlier status to reverse the recent statutory limitation on felonies and moral turpitude offenses as grounds for discipline or denial of licensure. Most felonies are inconsistent with the character required of a healer, and one should not condone or appear to condone improper sexual activities, which is what the elimination of "moral turpitude" implies. The state-granted privilege of licensure as a physician demands a higher level of character. Additionally, the Board should drop "good standing" from its description of license status. This is a subjective statement and is not necessary when describing license status.

Recent Statutory Changes (Exception to Core Licensing Requirements)

A recent legislative change creates a substantial exception to the core licensing requirements contained in NRS 630.131 for physicians who have been issued a license by another state, territory, or the District of Columbia.[27] This process is referred to as "endorsement."[28] This concept, however, departs from the concept of endorsement used by other states.[29] Most states, when referring to endorsement, still require core competencies and credentials, such as graduation from medical school and completion of post-graduate training or residency training. Endorsement is generally a process for recognizing different examinations, reflecting that the state of the art for licensing examinations is a dynamic process changing over time. Few, if any, states issue a medical license solely on the basis of a license from another jurisdiction. This is generally known as the concept of reciprocity. Of the more than 600,000 physicians licensed in this country, some were licensed without what other states or territories regard as appropriate core credentials.

A Board that opens the door to automatically licensing a physician based on a licensing credential from another state exposes itself to the lowest common denominator, or licensing standard, of any other state used at any other time. The provisions that exempt an applicant from meeting the requirements of NRS 630.160 can have that effect if the Board elects to create an exemption for any of those requirements. Under the provisions of this Nevada statute, the following core credentials can be excepted:

- Citizen of the U.S. or is lawfully entitled to work in the U.S.;
- Has received the degree of Doctor of Medicine from an approved medical school;
- Has passed an approved licensing examination (which tests for minimum competence);

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[26] Sandra Chereb, "Probe widens in arrest of Carson City doctor," The Associated Press State and Local Wire, June 24, 2002, State and Regional.
[27] Section 6 of Senate Bill 332 of the 72nd Session of the Nevada Legislature
[28] Ibid.
[29] The Federation of State Medical Boards of the United States, Inc., A Guide to the Essentials of a Modern Medical Practice Act, (Dallas, 2003), p. 12

- Has completed approved postgraduate (residency) training.

The Board is in a difficult position by having an expression of legislative intent to lower these requirements on a subjective, case-by-case basis. The Board functions in a legal environment. If it creates exemptions for a postgraduate training requirement in one case, it creates a precedent, thus rendering that minimum standard moot. All subsequent applicants have a basis for demanding similar consideration. Subjectivity is induced into a system that should be objective. Perhaps worst of all, the physicians who minimum standards are designed to screen out have leverage to get licensed in Nevada. Less costly and less potentially dangerous ways to attract physicians to the state are available.

Recommendation: The exception provision for core credentials should be repealed. While we would not expect the current board membership to exercise this waiver authority, a future board may not be as tough, and this toughness is to the advantage of Nevada's citizens, who currently enjoy a medical licensing climate that is among the most consumer/patient-protective in the entire nation.

License Registration

Currently license registration is on a biennial cycle. All 4,400+ active status physician licensees register at the same time – prior to July 1 of odd-numbered years. As a consequence, answers to important registration questions become dated, and addresses often become stale because of failure to notify the Board of changes. Licensee statistics become unreliable, licensees are purged, and it appears that more physicians are leaving the state than are coming in.

Recommendation: Move to an annual process of registration based on birth month. This would purge inactive licensees and outdated addresses sooner, provide critical self-reported information on the registration form in a more timely fashion, and make for more efficient processing of transactions. In addition, if earlier recommendations are implemented regarding collection of physician workforce data, these data will be more accurate and timely when collected and updated on a monthly basis. A change in the registration interval requires a statutory change.[30]

The Board should also implement a system of electronic registration for licensees via the Internet. Accepting credit card payments would provide significant convenience to physician licensees, lower manual overhead for the Board, and provide prompt, accurate registration information to the Board electronically.

Background Checks of Licensure Applicants

The Board relies on applicant information on license applications to determine whether the applicant has a criminal history. There is no primary source verification of these responses. Instead, the Board validates these answers with the applicant through a registration form that is mailed to the applicant shortly after licensure. The form asks the same yes/no questions appearing on the application form. The Board checks responses for inconsistencies and occasionally detects them.

[30] NRS 630.267

Recommendation: The Board should do primary source verification of criminal history. It may contract with a private vendor for such criminal record checks, but there are disadvantages to this approach. Private vendors generally check records state by state and this can lead to omissions. These private companies do not have access to the consolidated records used by law enforcement agencies.

The best system currently available to a qualified agency such as a medical licensing board is the federal law enforcement system (National Crime Information Center) maintained by the US Department of Justice (USDOJ) through the Federal Bureau of Investigation (FBI). To gain access to this system, the Board needs specific statutory authorization from the legislature. The USDOJ can furnish template language for this purpose. With fingerprint cards that meet FBI standards, the Board can check the criminal records of all applicants. States that adopt this process usually get two sets of prints, one for the state law enforcement check, in this case Nevada, and one for the FBI. Usually a state law enforcement agency approved by the FBI acts as a broker for these record checks.

Comparative Data

1) FSMB Composite Action Index[31], attached. This index is a weighted averaging of statistics that allows a board to compare its level of disciplinary activity to itself over time. However, it does not take into account variables such as:
    - Cohort differences in licensee population, such as training, experience, rural/urban distribution, number of in-state medical schools and training opportunities, etc.
    - Preventive measures, such as early intervention in treating impaired physicians, peer review, and use of early intervention assessment/remediation programs before complaints and malpractice suits arise.
    - Limitations inherent in different statutory schemes that enable licensing boards to take disciplinary actions.
    - Board resources, funding and staffing.
    - Economies of scale, differences between large and small boards.

This index is, however, one indicator of performance as qualified above.

2) The Nevada State Board of Medical Examiners is in the forefront nationally among medical boards that have sought improvement to their licensing statutes. The FSMB publishes model guidelines for such efforts,[32] and this Board has embraced most of them. Minimum licensing requirements have been adopted, including training and examination requirements. Grounds for disciplinary action incorporate the latest thinking of medical boards. Finally, there is a national dialogue in the area of medical licensure to implement continuing competence requirements for physicians, and this Board is proposing such standards. A recommendation was made above regarding checking for criminal history, one of the few areas in which Nevada falls below the national model act, in addition to the recently enacted statutory deficiencies noted above.

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[31] See http://www.fsmb.org, Media room, For immediate release April 9, 2002.

[32] The Federation of State Medical Boards of the United States, Inc., A Guide to the Essentials of a Modern Medical Practice Act, (Dallas, 2003).

Composite Action Indices*

Nevada State Board of Medical Examiners
1993 – 2002

1993 Composite Action Index	1994 Composite Action Index	1995 Composite Action Index	1996 Composite Action Index	1997 Composite Action Index	1998 Composite Action Index	1999 Composite Action Index	2000 Composite Action Index	2001 Composite Action Index	2002 Composite Action Index
4.64	4.00	7.78	5.10	4.32	4.99	3.94	4.16	4.89	4.33

*The Composite Action Index (CAI) is the arithmetic mean of four ratios provided in the Federation's *Summary of Board Actions*: Total Actions/Total Licensed Physicians, Total Actions/Practicing In-State Physicians, Total Prejudicial Actions/Total Licensed Physicians, and Total Prejudicial Actions/Practicing In-State Physicians. Each of the four ratios offers a useful and interesting measure of activity within a jurisdiction. However, to depend on any one as a definite measure would be to ignore significant variables represented in the others. Therefore, the Federation has created the CAI to combine the four ratios into a single composite ratio for each board. This simple device, the CAI, permits relevant variables to contribute in a balanced way to a final figure that can be useful in measuring an individual board's disciplinary activity over time.

Attachment 4

NEVADA BOARD AUDIT - SCHEDULE FOR ON-SITE VISIT: May 8th - 9th 2012

Tuesday, May 8th	Janelle Rhyne, MD	Tammy McGee, MBA	Kathleen Haley, JD	Brian Blankenship, JD
9:00 - 9:30 am	Arrive on-site	Arrive on-site	Arrive on-site	Arrive on-site
9:30 - 10:00 am	Theodore Berndt, MD, Board Vice President	Theodore Berndt, MD, Board Vice President	Theodore Berndt, MD, Board Vice President	Theodore Berndt, MD, Board Vice President
10:00 - 10:30 am	Edward Cousineau, JD, Deputy Executive Director	Financial Auditor	Edward Cousineau, JD, Deputy Executive Director	Financial Auditor
10:30 - 11:15 am	BREAK	BREAK	BREAK	BREAK
11:15 am - 12:00 pm	Doug Cooper, Executive Director	Doug Cooper, Executive Director	Doug Cooper, Executive Director	Doug Cooper, Executive Director
12:00 - 1:30 pm	LUNCH	LUNCH	LUNCH	LUNCH
1:30 - 2:00 pm	Valerie Clark, BSN, Public Member/Board Treasurer	Valerie Clark, BSN, Public Member/Board Treasurer	Valerie Clark, BSN, Public Member/Board Treasurer	Valerie Clark, BSN, Public Member/Board Treasurer
2:00 - 2:45 pm	Pamela Castagnola, Chief of Investigations (probaby by phone)	Pamela Castagnola, Chief of Investigations (probably by phone)	Pamela Castagnola, Chief of Investigations (probably by phone)	Pamela Castagnola, Chief of Investigations (probably by phone)
2:45 - 3:15 pm	Johnna LaRue, Compliance Officer	Donya Jenkins, Finance Manager	Johnna LaRue, Compliance Officer	Donya Jenkins, Finance Manager
3:15 - 3:45 pm	Lyn E. Beggs, JD, General Counsel	Lyn E. Beggs, JD, General Counsel	Lyn E. Beggs, JD, General Counsel	Lyn E. Beggs, JD, General Counsel
3:45 - 5:00 pm	Debriefing	Debriefing	Debriefing	Debriefing

Wednesday, May 9th	Janelle Rhyne, MD	Tammy McGee, MBA	Kathleen Haley, JD	Brian Blankenship, JD
8:00 - 9:00 am	Benjamin Rodriguez, MD, Board President (by phone) and Doug Cooper, Executive Director	Benjamin Rodriguez, MD, Board President (by phone) and Doug Cooper, Executive Director	Benjamin Rodriguez, MD, Board President (by phone) and Doug Cooper, Executive Director	Benjamin Rodriguez, MD, Board President (by phone) and Doug Cooper, Executive Director

Attachment 5

March 29, 2012

xxxxxxxxxxx
XXXX xxxxxxxxxxxxx
Las Vegas, Nevada 89147

RE: Complaint on xxxxxxxxxxxxx M.D.

Dear Ms. xxxxxxxxx:

The Nevada State Board of Medical Examiners is in receipt of your complaint regarding the above named health care provider, and has opened a case on this matter in order to investigate your allegations. You will be contacted soon by mail or telephone by the investigator assigned to your case. At that time, please provide any new or additional information you may have on your case.

Subsequently, the investigator will keep you informed of the progress of the investigation by letter and/or by telephone. The toll free number (in Nevada only) is **(888)- 890- 8210.** The direct dial number is (775-688-2559). The mailing address is listed at the bottom of this letter.

Thank you for bringing this matter to the Board's attention.

Sincerely,

Pamela Castagnola
Chief of Investigations
Nevada State Board of Medical Examiners

Attachment 6

Date

Name
Address
Address

RE: BME Case #: XX-XXXXX; Doctor Name

Dear Ms. X:

The Nevada State Board of Medical Examiners is in receipt of your complaint regarding the above named health care provider, and has assigned me to investigate your allegations. Among other things, I will collect the appropriate records, interview knowledgeable persons when warranted, and present and discuss the case with the Board's Medical Reviewer. Please be advised that in addition to any medical records you may provide the Board, I will obtain pertinent medical records directly from the source. You are encouraged to immediately contact me if you discover any additional information/evidence you have not already submitted with your complaint.

When the initial phase of the investigation, described above, is completed, the case will be presented to the Investigative Committee of the Board. The Investigative Committee is the deciding body regarding disposition of the investigation. The Committee has many options based on the objective findings of the investigation, among which are to expand the investigation, call for a Peer Review of the action of the health care provider, have the health care provider appear before the Committee, close the investigation without formal charges, or formally charge the health care provider with a violation of the Medical Practice Act (NRS 630). The duration of the investigation will vary depending on the extent and details of each individual case.

I will keep you informed of the progress of the investigation by letter and/or by telephone, and as stated I request that you call me or write me if you have any additional information or evidence you want to present regarding your complaint. My toll free number (in Nevada only) is **(888)- 890- 8210, ext. XXX.** The direct dial number is (775-688-2559, ext. XXX). The mailing address is listed at the bottom of this letter.

Thank you for bringing this matter to the Board's attention.

Sincerely,

Investigator Name
Title

Attachment 7

Date

Name
Address
Address

RE: **BME CASE # XX-XXXX; Doctor Name**

Dear Mr/Ms **:

I wrote you on -- -- -- and informed you that I was the investigator assigned to investigate your allegation against the above named health care provider. I just wanted to take this opportunity to contact you again and update you on the progress of the investigation. The case is currently ---------- Chose one:

still in the initial phase of the investigation due to a delay in obtaining all the pertinent records.

still in the initial phase of the investigation due to a delay in obtaining all the required responses from persons involved in or aware of the circumstances of this case.

still in the initial phase of the investigation due to a delay in obtaining the completed Peer Review due to the complexity, legal or medical, of this case.

Or:

Your case is completed and will be reviewed as soon as possible by the Investigative Committee. I can not give you an exact date, but I will inform you as soon as a determination is made. The decision of the Investigative Committee is based on an objective review of the evidence presented in the investigation. I will notify you immediately, in writing, of the decision of the Investigative Committee.

Closing:

I encourage you to write or call me if you have any questions regarding this case. Again, the toll free number in Nevada only is **888- 890- 8210 ext XXX**. The direct dial number is (775) – 688 – 2559 ext XXX.

Sincerely,

Investigator Name
Title

Attachment 8

UNLICENSED PRACTICE

Before you select a physician for your medical needs, check with us or the Nevada State Board of Osteopathic Medicine (contact information on previous page) to verify the physician is licensed to practice medicine in Nevada. Do not seek treatment from someone who is not licensed in Nevada. If the person is not licensed, he or she may be attempting to commit a felony, including fraud and assault and battery.

Report!

If you or someone you know has received treatment from an unlicensed person, report it to local law enforcement immediately or dial 211! If you have discovered someone who is not licensed and who is attempting to practice medicine on others, inform the potential patient not to be treated and call local law enforcement immediately or dial 211! You can remain anonymous.

Medicine is NOT practiced in non-medical settings.

Consumer Information

About

Medical Doctors
Physician Assistants
Respiratory Therapists
Perfusionists
and
Unlicensed Practice

Nevada State Board of Medical Examiners

Reno Office
1105 Terminal Way, Suite 301
Reno, NV 89502
Telephone: (775) 688-2559
Toll-Free: (888) 890-8210 (within Nevada)

Mailing Address:
P.O. Box 7238
Reno, NV 89510-7238

Las Vegas Office
6010 S. Rainbow Blvd., Bldg. A, Suite 2
Las Vegas, NV 89118
Telephone: (702) 486-3300

Website: www.medboard.nv.gov
E-mail: nsbme@medboard.nv.gov

THE BOARD

The Nevada State Board of Medical Examiners (Board) is the state agency that licenses and regulates Nevada medical doctors (physicians), physician assistants, practitioners of respiratory care and perfusionists. Collectively, they are referred to as "licensees." The Board is comprised of nine members appointed by the Governor--six physicians actively practicing in Nevada and three members from the public.

At its quarterly meetings, the Board considers and acts on individual license applications, committee reports and policy issues affecting the practice of medicine. Meetings also include adjudications of disciplinary actions filed by the Board's investigative committees. Although some Board business is confidential under the law, Board meetings are otherwise open to the public. The Board's meeting schedule may be obtained from its website: www.medboard.nv.gov.

No tax dollars are used to support the Board. Licensing and registration fees charged to practitioners regulated by the Board provide the bulk of its revenue. Audits of the Board are conducted annually and reported to the Legislative Counsel Bureau of the Nevada State Legislature and to its licensees.

THE BOARD'S MISSION

The practice of medicine is a ***privilege*** granted by the state. The Nevada State Board of Medical Examiners licenses, monitors, disciplines, educates and, when appropriate, rehabilitates its licensees to assure their fitness and competence to serve the people of Nevada.

SERVICES THE BOARD PROVIDES

The Board can give you information on the background and status of medical doctors, physician assistants, practitioners of respiratory care and perfusionists licensed in Nevada. The Board can tell you how many years a licensee has practiced in Nevada; provide you with a licensee's education, training and malpractice history; and tell you whether the Board has taken disciplinary action against his or her license.

You can obtain this information by calling the office at (775) 688-2559 in the Reno/Sparks/Carson City area or (888) 890-8210 toll-free within the state, and a customer-service representative will provide you with the information over the phone. You can also visit the Board's website (www.medboard.nv.gov), where you can view the profiles of the Board's licensees.

All disciplinary actions are reported in the Board's newsletters and on its website.

A full roster of the Board's licensees is available in hard copy, on computer disk or via e-mail, for a fee.

Board representatives are happy to present public outreach programs before medical organizations, students and public groups, such as service clubs, upon request.

WEBSITE

The Board's website (www.medboard.nv.gov) contains information on the Board and the Board's licensees: meeting agendas and minutes, newsletters, the Board's most recent annual report and financial statements, forms and other helpful information.

DOES A DOCTOR HAVE TO RELEASE MEDICAL RECORDS TO A PATIENT?

Yes. A doctor does have to make a patient's records available to the patient or the patient's representative with the patient's written authorization. The doctor may charge up to 60 cents per page for photocopies of the records, and a reasonable fee for copies of x-rays and other health care records produced by similar processes.

THE MEDICAL PRACTICE ACT (MPA)

The Medical Practice Act, Chapter 630 of the Nevada Revised Statutes (and Chapter 630 of the Nevada Administrative Code) is a law created by the Nevada State Legislature to license and regulate Nevada physicians, physician assistants, practitioners of respiratory care and perfusionists.

THE INVESTIGATIVE PROCESS

Complaints against licensees of the Board are received from several sources, including patients, other members of the public, hospitals, other health care providers and institutions and medical malpractice insurers. The Board may also initiate a complaint on its own if it becomes aware of potential violations of the MPA.

CONDUCT THAT MAY WARRANT DISCIPLINE OF A LICENSEE

The following list includes, *but is not limited to*, acts that constitute grounds for initiating disciplinary action or denying licensure:

1. Conviction of a felony relating to the practice of medicine or the ability to practice medicine, or certain other felonies as listed in NRS 630.301(11);
2. Disciplinary action taken against a licensee in another state;
3. Malpractice: failing to use reasonable care, skill, or knowledge ordinarily used under similar circumstances;
4. Sexual misconduct with a patient;
5. Disruptive behavior that interferes with patient care or has an adverse impact on the quality of care rendered to a patient;
6. Billing for services not rendered (fraud);
7. Engaging in conduct that brings the medical profession into disrepute;
8. Advertising the practice of medicine in a false, deceptive or misleading manner;
9. Abandonment of a patient;
10. Inability to practice medicine with reasonable skill and safety because of illness; a mental or physical condition; or the use of alcohol, drugs, narcotics or any other such substance.

While some types of behavior, such as poor bedside manner, are not conducive to a good doctor-patient relationship, they are not violations of the MPA.

DISCIPLINARY PROCEDURE

When the Board receives a complaint, it is reviewed to determine whether the Board has jurisdiction over the matter. If it is determined that the Board has jurisdiction, the facts of the complaint are thoroughly analyzed by a committee of Board members, staff and medical reviewers to determine if there has been a violation of the MPA.

If a violation is confirmed, the Board may file formal charges against the licensee, and the licensee will be afforded a public hearing. The charges filed by the Board and the formal decision of the Board after the hearing are public record. Copies of these documents are available to the public upon request, for a fee, or are available for free on the website.

If the charges are proved, the Board may suspend or revoke the license or place the licensee on probation. The Board can also order psychiatric treatment, additional education, passage of a competency examination or other discipline provided by the MPA. If the licensee has a problem with drugs or alcohol, the Board can require the licensee to participate in treatment and keep him or her from practicing until the problem is resolved.

HOW TO FILE A COMPLAINT

To file a complaint, you can download or print the complaint form from the Board's website (www.medboard.nv.gov) under the "Consumer Forms" section. Or call the Board office at (775) 688-2559 in the Reno/Sparks/Carson City area or (888) 890-8210 toll-free within the state and press 1 to reach the Investigations Division of the Board, which will mail you a complaint form.

By law, the Board cannot reveal whether an investigation has been initiated against a licensee unless the investigation has resulted in formal charges against the licensee.

WHAT THE BOARD DOES NOT DO

The Board cannot tell you what insurance plans a specific physician accepts, whether the physician is accepting new patients, or recommend or refer you to a specific physician. Local and national organizations are a good source for finding physicians who practice certain specialties in your area. See the "Referral Organizations" below.

The Board also has no legal authority over the fees charged by a physician (unless it involves fraud) and cannot assist with getting fees reduced or refunded. The Office of the Governor, Consumer Health Assistance Program ((702) 486-3587 in the Las Vegas area or (888) 333-1597 toll-free within the state of Nevada) may be able to assist with fee disputes.

REFERRAL ORGANIZATIONS

Nevada State Medical Association (NSMA)
(775) 825-6788 (Reno)
Clark County Medical Society (CCMS)
(702) 739-9989 (Las Vegas)
Washoe County Medical Society (WCMS)
(775) 825-0278 (Reno)
American Medical Association (AMA)
(800) 621-8335 (toll-free)
Bureau of Health Care Quality and Compliance
Nevada State Division of Health (for hospitals)
(775) 684-1030
(800) 225-3414 (toll-free)
Nevada Hospital Association
(775) 827-0184

THE BOARD DOES NOT REGULATE:

Chiropractors
Clinics
Dentists
Family counselors
Homeopaths
Hospitals
Laboratories
Laboratory technicians
Marriage counselors
Nurses
Nursing homes
or
Doctor's front office (clerical) staff
Emergency medical technicians
Medical insurance companies
Oriental medicine occupations
Optometrists
Osteopaths
Pharmacists
Physical therapists
Podiatrists
Psychologists
Social workers
Speech pathologists
Veterinarians
X-ray technicians

NEVADA STATE AGENCIES THAT REGULATE OTHER HEALTH PROFESSIONALS

Board of Dental Examiners, (702) 486-7044
Board of Examiners for Audiology and Speech Pathology, (775) 787-3421
Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, (702) 486-7388
Board of Examiners for Social Workers, (775) 688-2555
Board of Homeopathic Medical Examiners, (775) 324-3353
Board of Nursing, (775) 687-7700
Board of Optometry, (775) 883-8367
Board of Oriental Medicine, (702) 837-8921
Board of Osteopathic Medicine, (702) 732-2147
Board of Pharmacy, (775) 850-1440
Board of Podiatry, (775) 789-2605
Board of Psychological Examiners, (775) 688-1268
Board of Veterinary Medical Examiners, (775) 688-1788
Chiropractic Physicians' Board, (775) 688-1921
Physical Therapy Examiners' Board, (702) 876-5535

For agencies not listed above, call Nevada State Library Research Assistance at (775) 684-3360 or (800) 922-2880 toll-free within the state of Nevada.

Your insurance plan may also list which doctors in your area are covered by your insurance.

Attachment 9

RELATIONS WITH THE PRESS

Board members may, on occasion, be contacted by a reporter; however, the official spokesperson for the Board is the President of the Board. The President of the Board may delegate, either as a matter of policy or on a case-by-case basis, the responsibility of spokesman to the Executive Director, or the Deputy Executive Director in the Executive Director's absence.

Board members are not proscribed from speaking with the press; however, any comments made or questions answered that are not directly related to an assigned committee project, issue or other duty assigned to the Board member ***must*** be with the caveat and disclaimer that the Board member, in offering a comment or answering a question, is doing so as a matter of individual and private opinion and that the comment or answer given does not reflect the opinion, policy, procedure or intent of the Board of Medical Examiners.

If the Board member is asked by the press to comment on or provide an answer to a question regarding an issue or project in which the Board member has participated as a Committee member or in any other capacity, the Board member is strongly encouraged to pass the inquiry on to the President of the Board or the Executive Director, and prior to providing any information, ***must*** first consider whether providing any information regarding the issue or project to the press would violate the provisions of NRS 630.336 or the attorney-client privilege and whether the information requires confidentiality under any state or federal law.

If the Board member is in doubt, he or she should pass the inquiry to the President of the Board or the Executive Director.

Attachment 10

Nevada State Board of Medical Examiners

October 24, 2011

Melissa O'Brien, M.S., Director: Office of Continuing Education and Professional Development
University of Nevada Reno
411 W. 2nd Street; Mail Stop 150
Reno, NV 89503

Dear Ms. O'Brien:

The Nevada State Board of Medical Examiners is honored to partner with the University of Nevada Reno College of Medicine in a Continuing Medical Education presentation on Statutes, Regulations, and Ethics. Thank you for your kind assistance and guidance in our seeking AMA Category 1 approval. Enclosed are completed documents to further our application process.

CME Activity Planning Form and Application has been forwarded electronically.

List of planning committee members:
Douglas C. Cooper, CMBI, Executive Director, Nevada State Board of Medical Examiners Edward O. Cousineau, J.D, Deputy Executive Director
Laurie L. Munson, Chief, Division of Administration
Lyn E. Beggs, J.D., General Counsel
Lynnette Daniels, Chief, Division of Licensure
Pamela J. Castagnola, CMBI, Chief, Division of Investigations
Thomas K. Hannah, CMBI, Consultant

Signed disclosure statements from all members: attached

Completed Educational Content Form: attached

Detailed Activity Agenda: attached

Please let us know after your review if we need to make any edits. You can contact me at (775) 688-2559.

Sincerely,

Douglas C. Cooper, CMBI
Executive Director

Mailing Address: P.O. Box 7238 • Reno, Nevada 89510-7238
Physical Address: 1105 Terminal Way, Suite 301 • Reno, Nevada 89502-2144
(775) 688-2559 • Fax (775) 688-2321
E-mail: nsbme@medboard.nv.gov • Website: www.medboard.nv.gov

COURSE AGENDA

NEVADA STATE BOARD OF MEDICAL EXAMINERS

A Board Overview of

Statutes, Regulations, and Ethics for Health Care Providers

I. Course Introduction and review of the Mission, History and Duties of the Nevada State Board of Medical Examiners. Identify duties of the Board Members and Board staff.
Presenters: Douglas C. Cooper, CMBI, NSBME, Executive Director/Edward O. Cousineau, J.D., Deputy Executive Director

II. Administrative Division: Recognize the funding source and audit overviews of the Agency. Identify methods of information sharing and outreach by the Board to keep licensees current on updates to statutes, regulations and ethics. Locate Board disciplinary actions and current events of the Board which may affect practice.
Presenter: Laurie L. Munson, Chief, Administrative Division / Executive or Deputy Executive Director.

III. Licensure Division: Understand the requirements of the Licensure Process and identify methods to decrease time frames for licensure. Comprehend statutes and regulations for required Continuing Education and license renewal.
Presenter: Lynnette Daniels, Chief, Licensure Division

IV. Investigations Division: Identify sources of complaints, understand the finding of legal sufficiency and follow the investigative process through the investigative committee findings.
Presenter Pamela J. Castagnola, CMBI, Chief, Investigations Division

V. Legal Division: Identify duties of the Legal Division. Examine statutes and rules involving common violations that may result in disciplinary action by the Board including standard of care, boundary violations, ethics, and impairment. Review the legal process involved after a finding by the Investigative Committee through final Board action and the appeal process.
Presenters: Lyn E. Beggs, J.D., Chief, Legal Division/ Edward O. Cousineau, J.D., Deputy Executive Director

Required Educational Content Form
Application of Identified Gaps to Planning Content *(C3)*

PRESENTATION TITLE:	Nevada State Board of Medical Examiners Overview Ethics
PRESENTER NAME AND CREDENTIALS:	NSBME Management and Senior Staff. (Division Chiefs & Attorneys)
ORGANIZATIONAL AFFILIATION AND POSITION:	Nevada State Board of Medical Examiners
PRESENTATION DATE AND TIME:	TBD

Instructions to teachers: CME activities must address at least one of the following three areas: *(1) performance, (2) physician competencies or (3) patient outcomes.* Based on this please summarize the identified professional practice gaps and the results you intend for learners. Attach additional pages as necessary. Professional practice is not limited to clinical, patient care practice but can also include, for example, research practice and administrative practice (ACCME, 2009).

The ACCME defines competence as "knowing how" to do something.

Knowledge, in the presence of experience and judgment, is translated into ability (competence) – which has not yet been put into practice. It is what a professional would do in practice, if given the opportunity. The skills, abilities and strategies one implements in practice is performance.

Learning objectives are a tool to assist you in identifying the specific steps that will be taken to address the gap between an identified need and the desired result. Learning objectives also assist learners in understanding the specific result they can expect to achieve as a result of participating in this educational activity. Learning objectives should be written from the perspective of what the learner will apply in the practice setting with the information gained through this educational activity. Learning objectives should be measurable so that we will be able to prepare outcomes questions that will measure the intended results. See the following document for a list of action verbs that will assist you in formulating learning objectives. ***Learning objectives must be designed to measure outcomes in terms of changes in the learner's competence, performance, and/or patient outcomes.***

PROFESSIONAL PRACTICE GAPS WHAT IS NOT CURRENTLY HAPPENING IN PRACTICE THAT SHOULD BE IN ORDER TO IMPROVE PATIENT CARE?	LEARNING OBJECTIVES WHAT SHOULD THE LEARNER BE ABLE TO DO AS A RESULT OF PARTICIPATING IN THE EDUCATIONAL ACTIVITY?	CONTENT FOCUS COMPETENCE, KNOWLEDGE OR PATIENT OUTCOME?	
Example: Depression in geriatric patients is often undetected and therefore left untreated by primary care physicians	Accurately identify depression symptoms in geriatric patients and utilize appropriate treatment strategies.		Competence
		✓	Performance
			Patient Outcome
Omissions in the application process cause delays and rejections of applicants for licensure.	Recognize the requirements in the application process to reduce rejections and obtain a license to begin practice in a shorter time frame increasing access.		Competence
		X	Performance
			Patient Outcome
Disciplinary actions and ethical violations reflect negatively on the health care profession, reduce access and positive outcomes.	Examine causes of disciplinary actions which result in a reduced level of access to services, increase levels of competence and improve outcomes.	X	Competence
			Performance
		X	Patient Outcome
The Nevada State Board of Medical Examiners operates within mandated state statutes and regulations.	Understand the Board's core processes. Identify steps in the complaint and investigative process. Understand the array of possible outcomes of the disciplinary process and Boards mission to protect the public.	X	Competence
		X	Performance
			Patient Outcome

1. List of planning committee members AND a signed disclosure statement from each member. *Everyone who is in a position to control content must disclose all relevant financial relationships to the provider. (C7, C10)*

Douglas C. Cooper, CMBI, Executive Director, Nevada State Board of Medical Examiners CME Planning Committee
Edward O. Cousineau, J.D, Deputy Executive Director
Laurie L. Munson, Chief, Division of Administration
Lyn E. Beggs, J.D., General Counsel
Lynnette Daniels, Chief, Division of Licensure
Pamela J. Castagnola, CMBI, Chief, Division of Investigations

All presenters are employees of the Nevada State Board of Medical Examiners.

2. Completed Educational Content Form for *each* presentation.
   Form Attached

3. Detailed activity agenda.

UNIVERSITY OF NEVADA SCHOOL OF MEDICINE

CME ACTIVITY PLANNING FORM AND APPLICATION

OFFICE OF CONTINUING MEDICAL EDUCATION
AND PROFESSIONAL DEVELOPMENT
411 West Second Street, MS 150
Reno, Nevada 80503

(775) 784-4782
(775) 784-4544 FAX

This form must be submitted via email a minimum of 12 weeks prior to the start date of your activity. Marketing materials may not be distributed until application has been approved.

APPLICANT INFORMATION	
Organization	Nevada State Board of Medical Examiners
Address	1105 Terminal Way, Suite 301
City, State, Zip Code	Reno, Nevada 89502-2144
Telephone Number	(775) 688-2559
Fax Number	(775) 688-2321
Name of Contact Person	Douglas C. Cooper, CMBI, Executive Director
E-mail Address	dccnsbme@medboard.nv.gov
Planning Committee Chairman	
UNSOM Faculty Representative	Melissa O'Brien

ACTIVITY INFORMATION						
Sponsorship Type		Directly (UNSOM)			X	Jointly
Activity Type	X	Course		Regularly Scheduled Series *		Enduring Material
Activity Title	Nevada State Board of Medical Examiners Overview Ethics					
Date(s)	TBA and PRN					
Activity Length	1 and 2 Hour Courses					
Location(s)	Reno, Las Vegas and requested locations within Nevada					
# Category I Credits Requested	1 and 2 Hour AMA Cat I					

*i.e. Grand Rounds, Case Conference

For office use only

Date submitted to committee: ☐ Approved ☐ Denied

Activity Number:

Committee replies:

☐ PC ☐ CF ☐ TH ☐ MN ☐ MP ☐ JP ☐ SH ☐ SS

1) Why is there a need for a CME activity on this topic? (*Note: If you cannot check at least one of these boxes, reconsider the need for this activity.) (C2)*

✓	
X	Content is based on evidence that constitutes "best practices"
	Gap exists between current and best practices
	Closing the gap will result in improvement in the health and/or outcomes of patients
X	The proposed educational intervention will result in changes in current practices

2) How were the gaps in knowledge or performance identified? *(C2)*

✓	
	Focus panel
	Survey of target learners
	Peer reviewed literature
	Previous Evaluation/Outcomes Measurement Summaries (Attach copies of documents)
	Key opinion interviews
	National guidelines or specialty society guidelines
	Expert opinion from course chair or faculty
X	Other, please explain: Board of Medicine Minutes/Disciplinary Action/Board Reports

3) Physician Competencies and Attributes -Please indicate the ACGME/ABMS or IOM competencies that will be addressed in the curriculum for this activity (check all that apply): *(C6)*

✓	
	Medical knowledge (ACGME/ABMS)
	Clinical care (ACGME/ABMS)
	Communication and interpersonal skills (ACGME/ABMS)
X	Professionalism (ACGME/ABMS)
	Systems-based practice (ACGME/ABMS)
	Practice-based learning and improvement (ACGME/ABMS)
	Provide Patient-centered care (IOM)
	Work in Interdisciplinary teams (IOM)
	Employ Evidence-based practice (IOM)
	Apply Quality Improvement (IOM)
	Utilize informatics (IOM)

4) Please describe 1) the identified professional practice gap(s) of the physician target audience; 2) the content that will be covered to address the gap; and 3) how the content relates to the scope of practice of the physician target audience. *(C3, C4)*

Number of complaints received, disciplinary actions, failure to follow procedures for renewal, licenses not renewed timely.
Review of common offenses, disciplinary action results and procedures for renewal.
The content information provides examples to understand causes of common complaints, ethics violations, to reduce the instances of disciplinary actions resulting from failure to follow statutes, regulations and practice guidelines.

5) Activity Goal(s) Statement - Provide a brief goal statement for your planned activity which includes the intended target audience. *Sample goal statement: The purpose of this activity is to update physicians and other healthcare practitioners on the facts and fallacies of emerging infectious diseases. Special emphasis will be on disease recognition, treatment, and reporting.*

The purpose of the NSBME Board Overview Ethics Program is to educate health care professionals in an effort to reduce delays in the licensure and renewal process and to better protect the public and deliver improved patient outcomes and access through informed compliance with statutes, regulations, and mandated reporting requirements pertaining to the practice of medicine in the State of Nevada.

6) Educational Design - Check all teaching methods that apply *(C3, C5)*

✓	FORMAT	✓	FORMAT
X	Case presentation	X	Question and answer period
	Clinical skills training		Tape or video presentation
X	Demonstration of skills/procedures		Distance Education
	Discussion	X	Internet
X	Lecture		Other (please describe below)
X	Panel presentation		

7) Educational Outcomes Assessment *(C11)*

Please describe your plan for evaluating the intended results of this activity.

✓	METHOD SELECTED	✓	ACTION PLAN
X	Post-activity Evaluation	X	Will use OCME template
			Will use own form (attach a copy for approval)
	Pre-Post Test		Attach a copy of proposed questions
	Audience Response System		Attach a copy of proposed questions
	Post-activity follow-up survey		Attach a copy of proposed questions and plan for survey.
Other, please describe:			

8) System/Educational Barriers and Opportunities *(C18, 19)*

Planners are encouraged to give consideration to the system of care in which the learner will incorporate new or validate existing learned behaviors. Planners must be sure to address anticipated barriers that could block implementation (e.g. formulary restrictions, time not allotted for implementation of new skills, behaviors, insurance reimbursement issues, organization issues, lack of resources, policy issues, etc.)

✓	BARRIER	✓	BARRIER
X	Cost		Lack of time to assess/counsel patients
X	Lack of administrative resources		Patient compliance issues
	Insurance/Reimbursement issues		Lack of consensus on professional guidelines
	Policy/ organizational issues		No relevant system barriers
Other, please describe:			

How will the faculty address the identified barriers during the CME activity?

PLANNED DISCUSSION
The presentation costs including travel for presenters and administrative support staff will be provided by the Nevada State Board of Medical Examiners.

9) Tools that support learners in achieving results *(C17)*

Thoughtful tools that support the achievement of your intended results for this activity should be developed and are encouraged. These tools are called "non-educational interventions" (e.g. reminders, patient feedback). List any educational interventions/strategies that will be used in this activity to enhance potential for physician change or reinforce desired educational results.

TOOL	PURPOSE OF TOOL
Renewal notification via postcard or form.	Prepare licensees for timely renewal
Newsletter	Advise of disciplinary actions including public reprimands and new statues, regulations and current practice issues.

Activity Funding *(C7, C8, C9)*

Briefly describe the sources of funding for the program (All funding must be managed in accordance with *ACCME Standards for Commercial Support*)

Nevada State Board of Medical Examiners

The following items must accompany this form:

1. List of planning committee members AND a signed disclosure statement from each member. *Everyone who is in a position to control content must disclose all relevant financial relationships to the provider. (C7, C10)*
2. Completed Educational Content Form for *each* presentation (see attached).
3. Detailed activity agenda. For grand rounds attach a list of scheduled topics and presenters for at least 3 months.

Attachment 11

RESPONSE TO REQUEST FOR PROPOSAL

Performance Audit of the State of Nevada
Board of Medical Examiners for the 8 Year Period
Beginning July 1, 2003 and Ending June 30, 2011.

January 13, 2012

Submitted by:

The Federation of State Medical Boards of the United States, Inc.
Humayun J. Chaudhry, D.O., M.S., FACP, FACOI
President and Chief Executive Officer
400 Fuller Wiser Road, Ste. 400
Euless, TX 76039
817-868-4000

Submitted to:

Director
Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701-4747

TABLE OF CONTENTS

A. Contractor Services Overview/Objectives

i. Overview:

Nevada Revised Statute (NRS) 630.127 (section 41 of Ch. 508, Stats. 2003) calls for the Legislative Commission to issue to the Federation of State Medical Boards of the United States, Inc., ("FSMB") a request for proposal to conduct regular performance audits of the Nevada Board of Medical Examiners ("Board"). Accordingly the FSMB has the ability and is willing to perform regular performance audits in accordance with the request for proposal. This document represents the response to request for proposal ("Proposal") submitted by the FSMB to the Legislative Commission and pertains to the performance audit of the Board for the year ended June 30, 2011. Commencement of the performance audit will occur on or before May 18, 2012 and a written audit report summarizing the FSMB's findings and conclusions will be submitted to the Director of the Legislative Counsel Bureau on or before June 30, 2012.

ii. Objectives:

The objectives of the performance audits are to conduct regular reviews and evaluations of the performance of the Board. The period covered by this Proposal is the year ended June 30, 2011. Additional performance audits will be conducted once every eight (8) years, for the preceding 8-year period, or whenever ordered by the Legislative Commission, for the period since the last performance audit was conducted.

Pursuant to NRS 630.127, the FSMB's performance reviews of the Board must and will include, without limitation, evaluation of:

1. The methodology and efficiency of the Board in responding to complaints filed by the public against licensees;

2. The methodology and efficiency of the Board in responding to certain complaints filed by a licensee against another licensee;

3. The methodology and efficiency of the Board in conducting investigations of licensees who have had two or more malpractice claims filed against them within a twelve (12) month period;

4. The methodology and efficiency of the Board in conducting investigations of licensees who have been subject to one or more peer review actions at a medical facility resulting in the loss of professional privileges at the medical facility for more than thirty (30) days within a period of twelve (12) months;

5. The methodology and efficiency of the Board in taking preventative steps or progressive actions to remedy or deter unprofessional conduct by licensees before such conduct results in a violation under NRS Chapter 630 that warrants disciplinary action; and

6. The managerial and administrative efficiency of the Board in using the fees that it collects pursuant to NRS Chapter 630.

B. AUTHORITY OF AUDIT

Legislative declaration as contained in Chapter 630, Statutes of Nevada 2003, states that:

a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine and respiratory care within the state;

b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

d) The Board must ensure that unfit physicians, physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this state.

NRS 630.127 requires the Legislative Commission to issue a request for proposal to the FSMB to conduct regular performance audits of the Board. The Legislative Commission is authorized to engage the services of the FSMB to conduct such audits and may amend the request for proposal at any time prior to the contract date.

C. Requirements of Audit/Deliverables

i. Audit Requirements/FSMB's Responsibilities:

The work will include a performance audit of the Board which is sufficient to satisfy the legislative mandates set forth at NRS 630.127 and the objectives described in section A. Thirty (30) copies of the written audit report summarizing the findings and conclusions of the FSMB will be produced and submitted to the Legislative Commission as soon as practicable after the date that the performance audit is completed, but no later than June 30, 2012.

ii. Deliverables:

The FSMB will produce the following deliverables in order to meet the requirements of the performance audit:

1. **Progress Reports:**
   The Federation will provide periodic reports on the progress of the audit to the Director.

2. **Written Audit Report:**
   The FSMB will conduct a performance audit of the Board sufficient to meet the objectives set forth in section A. Thirty (30) copies of the written audit report summarizing the FSMB's findings and conclusions will be produced and submitted to the Director of the Legislative Counsel Bureau as soon as practicable after the date that the performance audit is completed but no later than June 30, 2012.

3. **Presentation:**
   The FSMB may be required to attend public meetings of the Legislative Commission to discuss the final report. The FSMB or a designee must be present at these public meetings and available for discussion of the reports and questions. The FSMB agrees that any additional cost associated with attending and participating in such public meetings is solely the responsibility of the FSMB and is not payable by the Legislative Commission.

D. Executive Summary

This Proposal meets all of the requirements of the request for proposal dated December 9, 2011. A detailed and concise summary of the contents of this Proposal follows.

The FSMB has taken special care in selecting FSMB staff and representatives with the appropriate professional experiences and qualifications. Section K, located on pages 16-19 and titled, "Project Staffing and Organization" contains a comprehensive overview of personnel information including relevant skills, qualifications, and experiences held by audit team members; total number of hours expected to be worked by each team member involved in the audit; and designation of a project manager and a project coordinator.

Section A of this Proposal, located on page 4 and titled, "Contractor Services Overview/Objectives" identifies the legislative mandate giving rise to this performance audit. Also contained in section A, are the specifically enumerated performance objectives the FSMB is charged with pursuant to the request for proposal and the relevant statute, NRS 630.127.

On page 5, under the heading, "Authority of Audit," the statutory authority giving rise to the performance audit is again cited. Additionally, this section contains the legislative language which empowers the Board to protect the public by licensing and regulating the physicians who practice within their jurisdiction.

The FSMB's responsibilities and audit deliverables are set out in the section titled, "Requirements of Audit/Deliverables" on page 6. Please also see Table J-1 on page 15 for the Work Plan which includes projected dates for deliverables.

The FSMB's identifying information including the name, address, type of entity, length of time in existence, name and location of all offices and facilities, federal employer identification number, as well as a statement regarding the financial stability of the FSMB are contained on page 9, section E.

The section titled, "Conflict of Interest," contained on page 10, expresses the FSMB's belief that no conflict of interest exists which could result in disqualification of this Proposal. The FSMB again represents their independence and ability to perform a fair and impartial performance audit in the subsection titled, "Independence," located on page 12.

The FSMB's expertise, the expertise of personnel who will render requested services, and the FSMB's ability to logically plan and complete the audit and deliver the final report are demonstrated on page 11 in the section titled, "Technical Information." The audit team's unique skills and qualifications are provided in expanded form in section K. Section K, which begins on page 16, includes a brief biographical sketch of each audit team member and projections concerning the amount of time each team member will commit to the audit.

The FSMB was directed in the request for proposal to describe the FSMB's experience performing similar audits, its understanding of the requirements and methodology for completing such an audit, as well as additional business organization information. This information can be found in section H, "FSMB's Capabilities." A more comprehensive demonstration of the FSMB's methodology is located on pages 14-15 under the heading, "Work Plan and Methodology."

All projected travel expenses, accommodation expenses associated with travel, and all other out-of-pocket expenses are captured in Table I-2, "Travel and accommodation expenses." Compensation costs for audit participants are contained in Table I-1. A projection of all costs and expenses associated with the audit are included in Table I-3.

Section J, "Work Plan and Methodology," describes the work the FSMB will conduct in carrying out the performance audit of the Board and includes projected dates for all deliverables required by the request for proposal.

Consistent with requirements of section IV of the Legislation Commission's request for proposal, the FSMB makes a number of additional representations in section L, which begins on page 20.

E. Identifying Information of the Federation of State Medical Boards

i. Name, Address, Type of Entity, and Length of Time in Existence:

Established in 1912, the Federation of State Medical Boards of the United States, Inc., is a national 501(c)(6) not-for-profit organization located in Euless, Texas. The FSMB maintains two offices:

ii. Name and Location of all FSMB Offices:

National Office
400 Fuller Wiser Road
Suite 300
Euless, TX 76039
(817) 868-4000

Washington, DC Office
1110 Vermont Avenue NW
Suite 1000
Washington, DC 20005
(202) 530-4872

iii. Federal Employer Identification Number:

75-1092490

iv. Principal Contact:

Lisa Robin, Chief Advocacy Officer
202-530-4872
202-530-4800

v. Financial Statement Regarding the FSMB:

Now entering its 100th year in operation, the FSMB is a financially stable organization. The FSMB possesses the financial resources to conduct the performance audit and all relevant and necessary services.

F. Conflict of Interest

The FSMB has determined that no conflict of interest exists which may result in disqualification of this Proposal. The FSMB has not conducted an audit nor has it been affiliated in any way with a person who conducted an audit of the Board pursuant to NRS 218G.400.

The FSMB has, on two prior occasions, contracted with the state of Nevada. As a condition requisite to the awarding of the initial performance audit conducted in 2003, the FSMB and the Board entered into a contract which bound the FSMB to conduct the performance audit consistent with the terms of the Legislation Commission's request for proposal and the FSMB's response to the 2003 request for proposal.

The Nevada State Health Division has a contract with FSMB in relation to the FSMB's Board Action Database. The Board Action Database collects, organizes and maintains information from each of the seventy (70) state medical boards' concerning each board's basis and action codes. The contract memorializes the Nevada State Health Division's intent to provide this information to the FSMB.

If awarded the audit contract, the audit would not put the FSMB in a position of having to review and/or evaluate its own work from a past consulting or business engagement with Nevada.

G. TECHNICAL INFORMATION

Established in 1912, the FSMB represents the seventy (70) medical boards within the United States and its territories that license and discipline allopathic and osteopathic physicians and, in some jurisdictions, other health care professionals. It assists these state and territorial medical boards as they go about their mandate of protecting the public's health, safety and welfare. Members of the FSMB include members, former members, and senior staff of state boards. The FSMB employs a full-time staff of 177.

The FSMB's mission is to lead by promoting excellence in medical practice, licensure and regulation as the national resource and voice on behalf of state medical boards in their protection of the public. The FSMB serves as a resource to state medical boards for policy analysis and development, research, education and information. FSMB products and services provided on behalf of state medical boards include, but are not limited to the Federation Credentials Verification Service (FCVS); the Uniform Application for Physician State Licensure (UA); administration of the United States Medical Licensing Examination and other assessment tools; maintenance of a comprehensive database of physician licensing and disciplinary information; filing of amicus briefs; offering testimony before Congress, federal agencies, and state legislatures; and conducting research and producing documents in support or opposition to proposed legislation.

The FSMB has the resources and expertise to conduct a fair and impartial performance audit of the Board within the specified timeframe. Through committees comprised of members and staff of state medical boards, and FSMB senior staff and consultants, the FSMB has developed significant resources to support medical boards in achieving their legislative mandate to protect the public. Particularly relevant to the performance audit is the FSMB's Workgroup to Examine Composite Action Index (CAI) and Board Metrics. Since June 2011, the workgroup has been identifying, evaluating and prioritizing metrics which collectively contribute to overall regulatory success.

Frequently, the FSMB is called upon to develop policy, research and identify "best practices" in medical regulation and inform member boards of legislative and regulatory developments and trends. Accordingly, the FSMB has compiled an expansive research database and developed a robust portfolio of reports, guidelines, and policies which will empower the audit team to conduct the performance audit accurately and efficiently. Resources to be used in the performance audit include *Essentials of a Modern Medical Practice Act, Elements of a Modern State Medical Board*, Report of the Workgroup to Examine Composite Action (CAI) and Board Metrics, Performance Audit of the Nevada State Board of Medical Examiners Report to the Legislative Commission (dated December 1, 2003), Administrators in Medicine Assessment of Board Practices Report of the Review Panel (dated November 9, 2010) as well as collective information obtained from FSMB member boards regarding staffing, investigation, and adjudication of complaints, operating budgets, etc.

H. FSMB's Capabilities

i. Business Organization:

Federation of State Medical Boards of the United States, Inc.
400 Fuller Wiser Road, Suite 300
Euless, TX 76039

Lisa A. Robin
FSMB Chief Advocacy Officer
1110 Vermont Avenue, Suite 1000
Washington, DC 20005
(202) 530-4872

ii. Independence:

Although the FSMB has conducted one previous performance audit of the Board in 2003 in accordance with NRS 630.127, the FSMB maintains independence from the Board and is able to conduct a fair and impartial audit.

iii. Audit Experience:

The 2003 audit conducted and subsequent report produced by the FSMB satisfied the statutory requirements set forth at NRS 630.127. The FSMB, prior to the last Board audit and in the time since lapsed, has conducted numerous performance assessments of state boards to evaluate performance related to operational changes, state board effectiveness and complaint handling and disposition procedures. The FSMB has also conducted less formal comparative analyses to examine the relationship between medical board autonomy and effectiveness.

Senior FSMB staff members, and, as relevant to this performance audit, members of the proposed audit team, have participated in a number of performance audits and assessments, including the Administrators in Medicine Assessment of Board Practices conducted of the Board in August 2010. These audits, assessments and analyses, complemented by significant policy resources, enable the FSMB to conduct a fair and impartial performance audit of the Board within the specified time frame.

iv. FSMB's Approach for Providing Requirements and Deliverables:

Please see section K, "Work Plan and Methodology" for information demonstrating the FSMB's complete understanding of the required services, including information specifically addressing and describing the FSMB's approach to providing to providing each requirement and deliverable listed and the staffing and resources that will be devoted and required to complete each task. The "Work Plan and Methodology" section also provides information concerning the methodology to be used in conducting the examination, including the FSMB's approach to the audit, a discussion of the rationale for the stated approach and a timetable for completion.

I. COST PROPOSAL

Name of Contractor: Federation of State Medical Boards of the United States, Inc.

Signature of Contractor: Lisa Robin

Lisa A. Robin, FSMB Chief Advocacy Officer

Table J-1: Compensation costs for audit participants

Audit Participant	Position	Rate Per Hour	Number of Hours	Total Cost for Category
Lisa Robin, MLA	Project Manager, FSMB	$86.54	20	$1,730.80
Maegan C. Martin, JD	Project Coordinator, FSMB	$37.21	80	$2,976.80
Randal Manning, MBA	Auditor	Per diem $500.00*	5 days	$2,500.00
Kathleen Haley, JD	Auditor	Per diem $500.00	5 days	$2,500.00
Tammy McGee, MBA	Auditor	Per diem $500.00	5 days	$2,500.00
Ram Krishna, MD	Auditor	Per diem $500.00	5 days	$2,500.00
Total				$14,707.60

** It is the usual and customary practice of the FSMB to provide per diem stipend of $500 for FSMB non-staff representatives to provide professional services on behalf of the FSMB. Accordingly, the FSMB proposes a stipend for each of the noted individuals for five (5) days dedicated to conducting and completing the initial performance audit in accordance with the request for proposal.*

Table J-2: Travel and accommodation expenses

Out-of-Pocket Costs	Cost Per Person/Event	Number of People/Events	Other	Total Cost for Category
Airfare	$600.00	6		$3,600.00
Hotel	$175.00	1 night per person	6 total nights*	$1,050.00
Meals/Incidentals	$50	6	$50 per person per day	$300.00
Ground Transportation/Parking	$40.00	6	$40 per person per day	$240.00
Web Conferencing	$125.00	4 conferences	2 hours per conference	$500.00
Printing	$.12 per page	30 Audit Reports	FedEx Kinkos	$500.00
Postage	$100.00	1		$100.00
Total				**$6,290.00**

**In the event that an audit team member's attendance and participation are requested following submission of the final report, the FSMB understands related costs will be the sole responsibility of the FSMB.*

Table J-3: Total projected cost

Billable Hours	$14,707.60
Out-of-Pocket Costs	$6,290.00
Total Projected Cost	$20,967.60

J. Work Plan and Methodology

1. Work Plan Methodology:

In conducting the performance audit, the FSMB is charged with review and evaluation of the methodology and efficiency of the Board in responding to complaints, conducting investigations, and taking actions to remedy or deter any unprofessional conduct by licensees. The FSMB must also evaluate the Board's managerial and administrative efficiency.

The FSMB will engage in a four pronged approach: 1) identification and review of relevant information and materials in preparation of the audit; 2) interviews with the Board President, Executive Director, Board Counsel, representative Board members, investigators, and other individuals who have knowledge and experience with the Board, both on-site and via telecommunications; 3) comparative analysis of Board functions and processes to determine the efficiencies and shortcomings of the Board in addressing the numerated objectives and compliance with legislative mandates; and 4) production of a written audit report summarizing the FSMB's findings and conclusions.

A thorough understanding of the Board's statutory authority, structure, funding, and operations is necessary to evaluate its effectiveness. Therefore the FSMB will perform an intensive screening of pertinent statutes, rules, policies and procedures, annual operating budget, and organizational structure within state government and staffing. This initial evaluation will be supplemented with an on-site evaluation wherein the examining team will conduct interviews with senior Board staff, Board members, and other individuals who have experience with the Board. Interviewees will be encouraged to offer candid recommendations for Board improvements. The FSMB will evaluate statutes, policies and procedures of the Board against model statutes and policies adopted by the FSMB as well as performance metrics of other state medical boards with similar licensee populations. The FSMB will also review prior performance audits, assessments and evaluations to determine if recommendations have been implemented.

II. Work Plan:

The projected dates noted may be modified to meet the requests of the Legislative Commission.

Table J-1: Work Plan including projected dates for deliverables

TASK/ACTIVITY	PROJECTED COMPLETION DATE
1) Teleconference with Paul Townsend to discuss Proposal.	January 19, 2012
2) Identification and review of relevant information and materials.	February – March 2012
• Comprehensive screening of pertinent statutes, rules, policies, procedures, annual operating budget, organizational structure within state government and staffing, and previously completed performance audits.	
3) Submit progress report to Director of the Legislative Counsel Bureau.	February 2012
4) Audit team teleconference to examine relevant materials gathered to date and identify additional materials and information required.	March 2012
5) Submit progress report to Director of the Legislative Counsel Bureau.	March 2012
6) Audit team teleconference to continue refining portfolio of information gathered to date and finalize details of on-site audit.	April 2012
7) Submit progress report to Director of the Legislative Counsel Bureau.	April 2012
8) On-site interviews with Board staff, members, and other individuals who have experience with the Board.	May 18, 2012
• Gather information regarding the Board's methodology in: o Responding to complaints filed by the public against a licensee; o Responding to complaint filed by a licensee against another licensee; o Conducting investigations of licensees who have had two or more malpractice actions against them within a period of twelve months; o Conducting investigations of licensees who have been subject to one or more peer review actions at a medical facility that resulted in the licensee losing professional privileges at the medical facility for more than 30 days within a period of 12 months; o Taking preventative steps or progressive actions to remedy or deter any unprofessional conduct by a licensee before such conduct results in a violation that warrants disciplinary action pursuant to Chapter 630 of the Nevada Revised Statutes; o Using the fees that it collects pursuant to Chapter 630 of the Nevada Revised Statutes efficiently. • Gather interviewee's recommendations for Board improvement	
9) Submit progress report to Director of the Legislative Counsel Bureau.	May 2012
10) Comparative analysis of Board functions and processes to determine efficiencies and shortcomings of the Board in addressing compliance with legislative mandates and numerated objectives.	May 19 - June 15, 2012
• Evaluate policies and procedures of the Board against relevant statutory requirements to determine whether satisfaction of legislative mandates have been met; • Compare the policies and procedures of the Board to model statutes and policies adopted by the FSMB as well as performance metrics of other state boards with similar licensee populations to make recommendations and evaluate efficiencies; and • Review performance audits previously completed in order to determine whether the Board has implemented previous recommendations.	
11) Audit Team teleconference to synthesize all information collected on-site and conclusions drawn from analyses to develop recommendations and produce written audit report.	May 2012

12) Audit team teleconference to continue work on written audit report.	June 2012
13) Submit written audit report summarizing the FSMB's conclusions and findings to Director of Legislative Counsel Bureau.	June 30, 2012
14) In the event it is deemed necessary, the FSMB will conduct a performance audit presentation before the Legislative Commission.	*TBD*

K. Staffing and Organization

I. Designation of Project Manager and Project Coordinator:

The FSMB has designated Lisa Robin to serve as the project manager. Ms. Robin will be responsible for maintaining contact with the Director throughout the contract term, overseeing all activities for the FSMB with respect to the audit and processing all communications. The FSMB will utilize a team of six (6) to conduct and complete the performance audit as follows:

Project Manager: Lisa Robin
Chief Advocacy Officer
Federation of State Medical Boards

Ms. Robin oversees all of the FSMB's advocacy activities and initiatives and leads the federal and state legislative and policy departments, which are both housed in the FSMB's Washington, DC office. From Washington, Ms. Robin and her team develop and implement the FSMB's federal legislative strategy and agenda, monitor and report on federal and state legislative and regulatory activities relating to medical licensure and regulation, assist and support member boards' legislative positions, and participate in the development and promulgation of policy.

In her nearly eighteen year tenure with the FSMB, Ms. Robin has served on various committees, playing an active role in the development of the some of the FSMB's most important policy documents, including the *Essentials of a Modern Medial and Osteopathic Practice Act* and the *Elements of a Modern State Medical and Osteopathic Board*. Her intimate and extended exposure to the medical licensing and regulatory industry has given her unrivalled expertise.

Ms. Robin has participated in multiple performance assessment and audits. A total of twenty (20) hours will be dedicated for oversight activities related to the performance of the audit.

Project Coordinator: Maegan Carr Martin, JD
State Policy and Government Relations Associate
Federation of State Medical Boards

In her role as state policy and government relations associate, Ms. Martin is a principal contact between the FSMB and the state medical boards. She is responsible for tracking, monitoring, and evaluating state legislative activity; researching state health policy; responding to inquiries from and advocating on behalf of state medical boards; and drafting reports and making policy recommendations.

Her current position with the FSMB builds on previous health law and policy experiences with the Family Support and Health Care Program of Legal Services of Southern Piedmont in Charlotte, North Carolina and the Harris County Attorney's Office Hospital District Division in Houston, Texas. All of her professional experiences have involved analysis of health legislation and legal and policy research.

A total of eighty (80) hours will be dedicated for coordinating and supporting the project including research, external and on-site review, compilation and analysis of data, and report writing.

ii. Introduction to Audit Team Members:

The FSMB will utilize the expertise and experience of the FSMB membership in conducting the performance audit. The following individuals are former and current healthcare and government administrators, state medical board executive directors and chairmen, clinicians and financial and management executives. Every member of the Audit Team has the requisite qualifications, skills, experience and expertise to successfully meet the needs of the Legislative Commission. The team is willing to participate and able to meet the required deadlines.

Randal C. Manning, MBA
Executive Director, Maine Board of Licensure in Medicine

Mr. Manning's role as the Executive Director of the Maine Board of Medical Licensure punctuates a long career of health administration and government management positions. Immediately before joining the Maine Board, Mr. Manning served as Chief Operations Officer of Utah/Nevada Peer Review Organization, and before that as the Administrative Officer for the Wyoming State Hospital.

Mr. Manning is past President of Administrators in Medicine (AIM), a national professional organization of medical board executives. He has served in various positions with AIM for 14 years, including his present roles as Treasurer of AIM and project leader of the Executive Development Fellowship—a joint project with the Federation of State Medical Boards.

The FSMB has conferred the Certified Medical Board Executive designation upon Mr. Manning, for his consistently exceptional work in health management and leadership. As an associate member of the FSMB, he has served on the program committee, finance committee, executive director liason committee, medical board annual survey enhancement workgroup, the special committee on the evaluation of undergraduate medical education, and the license portability workgroup. Mr. Manning now serves on the FSMB Strategic Position Committee and the Audit Committee.

A total of five (5) days will be dedicated for preparation, on-site review, participation in web-conferences, and development of the audit report.

Kathleen Haley, JD
Executive Director, Oregon Medical Board
Adjunct Professor, Oregon Health and Science University

As Executive Director of the Oregon Medical Board, Ms. Haley oversees the day-to-day implementation of programs for the licensing, education and discipline of 17,000 healthcare professionals. She is responsible for 40 staff members and a ten million dollar budget. Ms. Haley appears before legislation committees, meets with the state legislature and the Governor, drafts legislation and sees its implementation, among many other important tasks related to the medical licensing and regulatory scheme in the state of Oregon.

Ms. Haley's medical licensure and regulatory expertise is evident in her position as an adjunct professor at the Oregon Health and Science University, where she instructs students and residents of the School of Medicine regarding the legal requirements for obtaining and maintaining medical licensure in the state of Oregon.

Ms. Haley's service extends to the FSMB where she has served on the Advisory Council of Board Executives, the FSMB Board of Directors and various other FSMB committees. She has also served as the Western Region Representative of Administrators in Medicine (AIM).

A total of five (5) days will be dedicated for preparation, on-site review, participation in web-conferences, and development of the audit report.

Tammy L.H. McGee, MBA
Board Member, Minnesota Board of Medical Practice
CFO, Vice-President of Finance and Administration at Augsburg College

Ms. McGee is a finance and management executive with more than 15 years of experience in financial analysis, strategic planning, project management, mergers and acquisitions, cost accounting, process improvement, team development, and regulatory compliance. In her current role as the CFO and Vice President of Finance and Administration at Augsburg College, Ms. McGee directs the college's finance and administrative division; manages seven senior management staff and 110 indirect reports; leads all aspects of finance management, including treasury/investments, purchasing/procurement, insurance, and risk management and performs other key functions.

Since May of 2007 when she was appointed by then-Governor Tim Pawlenty, Ms. McGee has served on the State of Minnesota Board of Medical Practice. She has served on several Board committees, including the complaint review committee and the policy and planning committee.

Ms. McGee's dual proficiency in financial efficiency and health policy will be valuable to the Audit Team generally, but will be particularly useful in the Audit Team's assessment of the Nevada Board's managerial and administrative efficiency in using the fees that it collects pursuant to Chapter 630 of the Nevada Revised Statutes.

A total of five (5) days will be dedicated for preparation, on-site review, participation in web-conferences, and development of the audit report.

Ram Krishna, MD
Orthopedic Surgeon
Board Member, Arizona State Board of Medical Examiners

As a practicing orthopedic surgeon, Dr. Krishna possesses valuable clinical perspective, which will allow the Audit Team to approach the audit research data and related information with a degree of practicality which might otherwise be absent. Dr. Krishna's clinical expertise is complemented well by his extensive experience with the Arizona State Board of Medical Examiners and active participation in the FSMB. Dr. Krishna has been a member of the Arizona Board since 1994, serving as the secretary in 1996 and as the chairman from 1997-2000. He has also served on various FSMB committees including the Special Committee on Evaluation of Undergraduate Medical Education and the Special Committee on Portability of Licenses.

Dr. Krishna has received numerous awards for outstanding medical skill and outstanding citizenship, including the 2000 Physician of the Year Award from the Arizona Medical Association, the Diamond Award from the Medical Staff of Yuma Regional Medical Center, the Outstanding Citizenship Award from the Association of Asians of Arizona, and Kannada Sangha of Arizona's Outstanding Service Award.

A total of five (5) days will be dedicated for preparation, on-site review, participation in web-conferences, and development of the audit report.

L. Additional Representations

i. Confidentiality:

The FSMB will maintain confidentiality of all information, records and data obtained for the purpose of the audit. All information obtained during the audit may be used for the purpose of conducting the audit and may not be used for any other purpose. Additionally, the FSMB shall require its employees and any other person enlisted by the FSMB to assist with the audit to be bound by all confidentiality requirements.

ii. Working Papers:

The FSMB recognizes that the final report is not a public document until it is presented to the Legislative Commission. Until such time as the final report is released, the Federation must not disclose the report or the contents of the report to any person other than the Director or his designee, unless otherwise directed by the Director or as agreed to in writing by the parties.

The FSMB will not destroy any working papers in connection with the audit for at least three (3) years after the final report is submitted and approved, payment has been made, and any other pending matter is closed.

iii. The FSMB's Responsibilities:

1. The FSMB has designated Lisa Robin to serve as project manager. The FSMB shall notify and obtain approval of the Director prior to any substitution of the project manager.

2. The FSMB will be responsible for personnel, supplies, and equipment.

3. The FSMB assumes responsibility for all services outlined in the Proposal regardless of who provides the services.

4. The FSMB assumes responsibility for any material error or omission in the performance of its responsibilities as set forth in the contract.

5. The work of the FSMB is to be completed in strict confidence as set forth in the request for proposal dated December 9, 2011.

6. The FSMB, will, at its own expense, obtain any private legal services considered necessary.

7. The FSMB agrees to report immediately to the Director, in writing, whenever it appears in the opinion of the project manager that any violation of penal statutes may have occurred; any act of misfeasance, malfeasance or nonfeasance by a state officer or employee may have occurred; or any shortage appears in the accounts of any official or employee of a state agency.

8. The FSMB will deliver the written audit report in accordance with Section III(G) of the request for proposal.

9. The project manager of the FSMB must be available to answer questions on the preparation of work papers and issues raised in the work papers without any additional charge for at least three years after the final report is submitted.

10. The FSMB will submit a progress report as requested by the Legislative Commission. Any progress reports produced will include a statement of work completed to date, the work that remains to be completed, the hours incurred during the current reporting period and to date, any concerns or problems encountered, and whether the audit is proceeding on schedule for a timely completion.

11. The FSMB is directly responsible to the Legislative Commission.

Respectfully submitted,

Lisa Robin

Lisa Robin, Chief Advocacy Officer
On behalf of the Federation of State Medical Boards

1/13/12
Date