



State of Nevada
Governor's Finance Office
Division of Internal Audits

Audit Report

**Boards and Commissions
Occupational and Professional
Licensing Boards**

Report No. 18-05
June 14, 2018

EXECUTIVE SUMMARY

Nevada's Boards and Commissions

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**Objective: Improve Oversight of Nevada's
Independent Licensing Boards**

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Complying with state statute and Executive Branch guidelines governing the salaries of executive directors and staff will ensure Nevada's independent licensing boards' (Boards) salaries are allowable by law and the level of compensation is consistent with similar positions within the state system.¹ State statute limits most state salaries to 95 percent of the Governor's (\$141,867). About 12 percent of executive director salaries reported did not comply with statute for fiscal year 2017.

One executive director employed part-time for one board and working as an independent contractor for two other boards was compensated \$194,000 in fiscal year 2017 and stands to make \$208,000 in fiscal year 2019. The three boards operate under a co-location and cost-sharing arrangement for facility and operating costs. The independent contractor status for two of the boards may not be valid as the executive director is doing the same work for all three boards. The executive director as an employee and independent contractor for multiple boards may not comply with NRS 622.220 as amended by AB328. The executive director represented that the combined duties for all three boards requires an average of about 45 hours per week. The three boards may have overpaid for executive director services in fiscal year 2017 by about \$85,000 or \$34 per license when compared to like services provided by full-time executive directors of other boards with similar key metrics.

In 2010 the Governor issued a memorandum that directed Board salaries to be equivalent to similar positions within the state system. About 65 percent of Boards reported they did not follow the Governor's directive. The Boards with the five highest reported executive director salaries in fiscal year 2017 were compared to a suggested top salary range of between about \$101,000 and \$132,000 for similar positions within the state system. The comparison indicates the five boards may have overpaid on average between \$28,000 and \$59,000 compared to similar positions within the state system. The Division of Human Resource Management has the expertise to provide guidance to the Boards in selecting similar state positions and its involvement would provide state oversight to the selection process.

Improve the Legal Support Framework.....page 11

Improving the legal support framework by:

- Using the Office of Attorney General (OAG) for a baseline level of legal support will ensure the OAG maintains awareness of the activities of Boards and that there is consistency among Boards' actions; and
- Evaluating the cost/benefit of using in-house salaried attorneys, OAG attorneys, or a combination of both may provide greater efficiency in legal costs. This will ensure Boards are incurring the least overall rate per hour for legal support and may realize cost savings in

¹ The titles of the Boards' senior operating/administrative executives vary and include, executive director, executive officer, executive secretary, secretary/treasurer and chief inspector. The title of executive director is used throughout to refer to these positions.

combined salaries and legal costs through better use of staff. Moreover, this may allow Boards to lower fees for some licensees.

Boards decide when to use OAG services; not all Boards use the OAG for legal support. Not using OAG services increases Board vulnerabilities in due process protections, including public meeting and administrative procedures law. The OAG is the state's expert in due process protections and favors providing a baseline level of legal support for all Boards. Outside attorneys may not have OAG's familiarity with due process protections. Based on a selection of nine boards with the least use of OAG services during fiscal years 2014 through 2017, the cost impact of a recommended baseline level of OAG legal support would be \$2,500 per year and between 0.4 and 10.7 percent of the basic renewal fee for those nine boards.

Outside counsel rates exceed in-house staff attorney rates indicating in-house staff attorneys are the most cost beneficial on a per hour basis if there is sufficient demand for in-house staff services. Boards may realize cost savings in combined salaries and legal costs through better use of an in-house attorney. The Nursing Board was able to eliminate the use of outside counsel and realize a savings of about \$47,000 in combined salary and legal costs for fiscal year 2017 by hiring an additional in-house attorney assigned with other administrative functions.

Establish Standards for Financial and Administrative Operation.....page 17

Department of Administration (D of A) establishing standards for financial and administrative operation of Boards will ensure there is a standard set of guidelines in place for Boards to follow.

Assembly Bill 328 amended NRS 622 and required the D of A to “adopt regulations establishing standards for the financial operation and administration of regulatory bodies.” Several deficiencies and/or inconsistencies in Boards’ financial and administrative practices were noted where setting standards could provide improved oversight by the state as follows:

- Compensation – Twenty-two of the thirty-four Boards reviewed did not follow the Executive Branch guidelines to consider similar state positions when establishing salaries for their staff; four Boards did not comply with statute to limit salaries to 95 percent of the Governor;
- Operating Reserves – Twenty-eight of the thirty-four Boards reviewed reported they had no formal policies in place for determining the adequacy of their operating reserves;
- Contract Approval – Twenty-five of thirty-three boards that reported executing contracts to provide professional services during fiscal years 2014 through 2017 executed at least one contract without the appropriate Board of Examiners approval; and
- Financial Reporting – Nine of thirty boards that filed audited financial reports under the provisions of NRS 218G.400 for at least one fiscal year between 2014 and 2017 did not comply with statute with respect to the basis of accounting and financial statement presentation.

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INTRODUCTION

At the direction of the Executive Branch Audit Committee, the Division of Internal Audits conducted an audit of Nevada's Boards and Commissions.

We limited the scope of our audit to Nevada's 34 independent licensing boards (Boards) subject to Title 54 and exempt from the provisions of both the state's budget and personnel acts.¹ Our audit focused on the Boards' compensation policies and practices, the type and amount of costs incurred for legal support, and standards for financial and administrative practices. The audit's scope and methodology, background information, and acknowledgements are included in Appendix A.

Our audit objective was to develop recommendations to:

- ✓ Improve oversight of Nevada's independent licensing boards.

Independent Licensing Boards Response and Implementation Plans

We provided draft copies of this report to officials of the Boards and the Department of Administration (D of A) for their review and comments. Their comments have been considered in the preparation of this report and are included in Appendix B. Fourteen Boards provided written responses. Several Boards did not accept at least one of our recommendations. In general, Boards that did not accept recommendations asserted they were compliant or statutes noted in the report did not apply to them. In its response, the D of A accepted our recommendation. Appendix C includes a timetable for the D of A to implement the recommendation.

NRS 353A.090 specifies within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps Boards and D of A have taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The administrator shall report the six month follow-up results to the committee, Boards, and D of A.

The following report contains our findings, conclusions, and recommendations.

¹ Nevada Revised Statutes (NRS), Title 54, Professions, Occupations and Businesses, contains the NRS Chapters that provide the enabling legislation for the Boards, otherwise known as their individual practice acts.

Improve Oversight of Nevada's Independent Licensing Boards

Nevada's independent licensing boards (Boards) and the Department of Administration (D of A) can improve oversight by:

- Complying with statute and guidelines for salaries;
- Improving the legal support framework; and
- Establishing standards for financial and administrative operations.

Improving oversight will help ensure that financial and administrative practices are consistent across Boards. This will enhance efficiency and effectiveness of licensing and regulatory activities and ensure licensee fees are appropriate to fund Board operations.

Comply with Statute and Guidelines for Salaries

The Boards should comply with state statute and Executive Branch guidelines governing the salaries of their executive directors and staff.² Board compliance will ensure that salaries are allowable by law and the level of compensation for executive directors and staff is consistent with similar positions within the state system.

Some Board Executive Director Salaries Exceed Nevada Statutory Limits

Some Boards compensate their executive directors more than statute allows. Moreover, one essentially full-time executive director leading three part-time boards receives total compensation in excess of statutory limits.

Statute Limits Most State Salaries to 95 Percent of the Governor's

Section 1 of NRS 281.123, "Limitation on maximum salary payable to persons employed by State," limits the salary of a person employed by the state to 95 percent of the salary for the office of the Governor during the same period, with certain exceptions. Section 1 does not apply to dentists and physicians employed full-time by the state, officers and employees of the Nevada System of Higher Education, and salaries authorized by statute where the statute refers specifically to a position.

² The titles of the Boards' senior operating/administrative executives vary and include, executive director, executive officer, executive secretary, secretary/treasurer and chief inspector. The title of executive director is used throughout to refer to these positions.

**About 12 Percent of Executive Director Salaries
Did Not Comply with Statute**

Four of the Boards, or about 12 percent, did not comply with statute for fiscal year 2017 for their executive director positions. Exhibit I shows the salaries in excess of statute for fiscal year 2017.

Exhibit I

Salaries in Excess of Statute

Board	Salary ¹	Excess over \$141,867 (95 Percent of Governor's) ²	
		Amount	Percent
Pharmacy	\$181,677	\$39,810	28.1%
Medical	\$161,491	\$19,624	13.8%
Contractors ³	\$159,967	\$18,100	12.8%
Accountancy	\$152,770	\$10,903	7.7%

Table Notes:

¹Board reported salaries converted to a PERS Employee/Employer equivalent salary for comparability.

²Governor's salary from Pay Policy 30 "Elected Officials" effective January 1, 2016.

³Contractors Board salary reduced by 8.1 percent to reflect a lesser benefit package for comparability.

Compliance with statute would ensure the Boards' executive directors are not paid over statutory limits. Compliance with salary limitations may allow some boards to evaluate lowering fees for licensees.

**One Executive Director Working Part-Time for Three Boards
Compensated \$194,000 – Stands to Make \$208,000**

One executive director works part-time for three boards. The executive director is employed by one board and is contracted by two additional boards. Compensation from the three boards for their executive director was \$194,000 in fiscal year 2017. Exhibit II details the compensation for the executive director for fiscal year 2017.

Exhibit II

Compensation for Executive Director

Board	Compensation	Percent of Time Worked ¹	Number of Licenses	Number of Staff ²	Expenditures	Compensation as a Percent of Expenditures
Occupational Therapy ³	\$101,953	56%	1,201	1	\$216,065	47.2%
Environmental Health	\$19,800	11%	233	0	\$27,875	71.0%
Speech Pathology	\$72,000	33%	1,074	1	\$149,933	48.0%
Total	\$193,753	100%	2,508	2	\$393,873	49.2%

Table Notes:

¹Percent of time worked based on allocation reported by the boards' executive director.

²Part-time staff excluding the executive director.

³Compensation includes salary and leave and social security benefits.

Boards Approve Agreements for Compensation of \$208,000 in 2019

The current agreements approved by the three independent boards provide salary and other compensation totaling \$208,000 in 2019 for their executive director. Compensation includes salary and/or leave and social security benefits:

- Occupational Therapy – \$112,000;
- Environmental Health – \$ 24,000; and
- Speech Pathology – \$ 72,000.

This represents an additional 7.2 percent increase in compensation over fiscal year 2017.

Boards Operate Under a Co-Location and Cost-Sharing Arrangement

The Occupational Therapy Board leases office space that it shares with the Environmental Health and Speech Pathology boards under a co-location and cost-sharing arrangement. The arrangement allows these three small boards to share operating costs, thereby reducing overall costs for the three boards combined. Personnel costs are not subject to the agreement and are born by the individual boards.

One Executive Director as Independent Contractor for Multiple Boards May Not Comply with NRS 622.220 as Amended by AB328

One executive director is employed by one board and is an independent contractor for two other boards. This arrangement may not comply with NRS 622.220 as amended by Assembly Bill 328 (AB328) from the 2017 session because the executive director's independent contractor status may not be valid.

Section 4 of AB328 amends NRS 622.220 and prohibits a person from being employed by more than one board as an executive director or in a position with powers and duties similar to an executive director. However, AB328 is silent as to whether an individual may be employed by one board and independently contracted with other boards to serve in an executive director capacity.

Independent Contractor Status May Not Be Valid

The executive director's arrangement may be deemed an employer-employee relationship for all three boards and therefore may invalidate the independent contractor status for two of the boards. State Administrative Manual (SAM) 0320(3)(b) states that, "A person is not an independent contractor simply because there is an agreement designating him/her as such or because the employer permits him/her considerable discretion and freedom of action."

Also, the state contract form, "Contract for Services of Independent Contractor," provides that, "The State and Contractor shall evaluate the nature of services and the term of the Contract negotiated in order to determine 'independent contractor' status, and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor status remains as such."

Executive Director is Doing the Same Work for the Three Boards in a Full-Time Capacity

The executive director represented there is no difference between the three boards with regard to the duties performed for each board or the level of control exercised by the respective board members over the executive director positions. Additionally, the written duties and responsibilities in the job descriptions are the same for the three boards.

Moreover, the executive director represented that the combined duties for all three boards requires an average of about 45 hours per week (see Exhibit II for the time allocation between the three boards). This approximates one full-time position.

The current independent contractor relationship with two of the boards may be in form only, while the substance of the relationship with all three boards may be that of employer-employee. If so, the relationship with the two boards would not comply with the provisions of NRS 622.220 (as amended by AB328).

The Three Boards Combined May Be Overpaying For Executive Director Services

The three boards may be overpaying for executive director services. In fiscal year 2017, the combined compensation of the three part-time positions may have resulted in overpaying for executive director services when compared to like services provided by full-time executive directors of other boards with similar key metrics.

For fiscal year 2017, there were four comparable boards (Architecture, Chiropractic, Physical Therapy, and Veterinary), each having a full-time executive director and similar key metrics of between 2,000 and 4,000 licenses or expenditures between \$300,000 and \$500,000.

Exhibit III details the comparison of the compensation for like services between the three part-time boards with one executive director and the average of the four individual boards each with full-time executive directors.

Exhibit III

Cost of Like Services Comparison

Board	Compensation	Number of Licenses	Number of Staff ¹	Expenditures	Compensation as a Percent of Expenditures
Combined Part-Time Boards ²	\$193,800	2,508	2	\$393,900	49.2%
Average Full-Time Boards ^{3,4}	\$109,100	2,444	4	\$495,000	22.0%
Difference	\$84,700				

Table Notes:

¹Full-time and par-time staff excluding the executive director position.

²Reported compensation adjusted for leave and social security benefits provided by Occupational Board.

³Average full-time salaries increased by 35 percent for comparability, to reflect total compensation including the cost of state provided benefits package.

⁴Individual full-time compensation of the four comparative boards ranged from about \$101,400 to \$118,800, inclusive of 35 percent benefits package.

For fiscal year 2017, the three part-time boards with one executive director may have overpaid about \$84,700 for like services when compared to the average of boards with a full-time executive director and similar key metrics. The potential overpayment amounts to about \$33.77 per license ($\$84,700 / 2,508$).

Three-Board Arrangement Compared to Full-Time Boards

Comparing the three-board arrangement to the average of all boards with a full-time executive director shows inconsistencies between licenses, expenditures, and compensation. The three-board arrangement:

- Serves 26 percent of the average number of licenses for full-time boards;³
- Incurs 31 percent of the average expenditures for full-time boards;⁴ and
- Pays 137 percent of the average executive director compensation for full-time boards.⁵

Source: Exhibit XII, page 26;

³ Licenses: $2,508 / 9,723 = 25.8$ percent.

⁴ Expenditures: $\$394,000 / \$1,267,000 = 31.1$ percent.

⁵ Compensation: $\$193,800 / \$141,100 = 137.3$ percent. $\$141,100 =$ average salary $\$104,500$ plus estimated benefits of 35 percent added for comparability.

Governor Issued Memorandum for Board Staff Compensation

On October 7, 2010, the Governor issued a memorandum directing Boards to comply with NRS 281.123 (salary limitation) and ensure salaries are equivalent to similar positions within the state system.

Boards Directed to Ensure Salaries Equivalent to Similar Positions within the State System

The Governor's memorandum directed Boards to comply with the following guideline, "To the extent that positions are comparable to those in the classified or unclassified service of the state, salaries for Board...staff should be equivalent to that of a similar position within the state system."

About 65 Percent of Boards Did Not Follow the Governor's Direction for Staff Salaries

For fiscal year 2017, 22 of the Boards or about 65 percent did not follow the Governor's memorandum that Board salaries be equivalent to similar positions within the state system, especially for executive director positions. During fiscal years 2014 through 2017, eight or about 24 percent of the Boards reported they performed some sort of compensation study to set the salary of their executive director.

However, not all the compensation studies compared the executive director positions with similar positions within the state system. Boards chose instead to compare their executive director position to other Nevada boards, Nevada municipalities, and out-of-state boards and governmental entities. These entities, in general, pay higher salaries than the state system.

Board Positions Paid More Than Similar State Positions

Some Board positions are paid more than similar positions in the state system. These positions include the executive director-level as well as other, subordinate positions.

We selected the five boards with the highest reported salaries for their executive directors in fiscal year 2017 to compare to similar positions within the state system. Exhibit IV lists the five boards' executive director's salaries and key metrics.

Exhibit IV

Five Highest Salaries for Fiscal Year 2017

Board	Salary ¹	Number of Licenses	Number of Staff	Expenditures	Compensation as a Percent of Expenditures
Pharmacy	\$181,677	48,578	4	\$2,957,406	6.1%
Medical	\$161,491	15,315	35	\$4,372,444	3.7%
Contractors ²	\$159,967	16,611	61	\$7,101,911	2.3%
Accountancy	\$152,770	4,001	8	\$631,210	24.2%
Dental	\$141,798	5,520	6	\$1,155,678	12.3%
Average	\$159,540	18,005	23	\$3,243,730	5.0%

Table Notes:

¹Board reported salaries converted to a PERS Employee/Employer equivalent salary for comparability.

²Contractors Board salary reduced by 8.1 percent to reflect a lesser benefit package for comparability.

Similar Positions within the State System Selected to Provide a Range for Comparison

Nevada's personnel system includes a wide range of classified and unclassified positions and related pay schedules that may be used to determine similar positions within the state system for all Board staff. The unclassified positions serve at the pleasure of the hiring authority, similar to the Boards' executive directors who serve at the pleasure of their respective boards.

Five unclassified positions were selected to provide a range of similar positions for comparison to the executive directors of the five boards with the highest executive director salaries. Four positions were selected based on similar qualifications and level of responsibility in agencies with a commission or board having regulatory authority of an industry, profession or occupation that is funded primarily by fees. The Pharmacist 3 position was selected based on qualifications and level of responsibility in an agency that provides medical services statewide. Exhibit V summarizes the key metrics for the selected similar state positions.

Exhibit V

Selected Similar State Positions

Position/ Agency	Maximum Salary ¹	Responsibility Level	Regulatory Authority	Funding Source	Fiscal Year 2017	
					Expenditures	# Staff
Director, Business & Industry (B&I)	\$131,578	Overall operations for one of the largest, most complex departments in the state	19 boards and commissions that regulate various industries, occupations and professions	Fees, appropriations and grants	\$93.5 million	679
Executive Director, Public Utilities Commission of Nevada (PUCN)	\$120,564	Overall financial and administrative operations for one of the largest regulatory commissions in the state	400 public utility companies and 100 mobile radio service providers	Fees	\$11.2 million	96
Administrator, B&I Real Estate Division (RED)	\$100,858	Overall administrative operations for one of B&I's larger commissions	50,000 real estate brokers, agents, appraisers, timeshares, property managers and home owners associations	Primarily fees and limited appropriations	\$6.3 million	54
Administrator, B&I Taxi Cab Authority (TCA)	\$117,699	Overall administrative operations for one of B&I's larger boards	3,500 taxicabs and 8,000 permits in Clark County	Fees	\$6.3 million	69
Pharmacist 3	\$124,109	Overall operations of pharmacy for a department that provides medical services statewide	-	-	-	-

Table Note:

¹Reflects unclassified PERS Employee/Employer equivalent salary for comparability.

Some Boards May be Overpaying for Executive Director Services When Compared to Similar Positions within the State System

Comparison of the average of the five boards with the highest executive director salaries to the high and low range for similar positions indicates the boards may have overpaid, on average, between \$28,000 and \$59,000 when compared to similar positions within the state system.⁶ The potential overpayment amounts to between 18 and 37 percent of the salary paid, which is between 0.9 and 1.8 percent of expenditures, or between \$1.56 and \$3.28 per license for those five boards.

⁶ \$27,962 ≈ Average salary of \$159,540 – (highest similar salary of \$131,578).
\$58,682 ≈ Average salary of \$159,540 – (lowest similar salary of \$100,858).

Suggested Ranges for Executive Director Compensation

Based on our comparison of salary, qualifications, responsibilities, authority, and budget, the top salary of full-time executive directors of Nevada's independent regulatory boards should range between approximately \$101,000 and \$132,000 depending on the complexity of the board. Part-time executive directors should be compensated accordingly based on an hourly equivalency and the number of hours worked.

Pharmacy Board May Require Additional Evaluation

The Pharmacy Board requires that its executive director be a licensed pharmacist and may require more pharmacy specific and medicine related managerial experience than is required from a state agency director. Accordingly, the Pharmacy Board's executive director position may require further evaluation to determine if it should fall within the suggested range.

Division of Human Resource Management Has Expertise to Provide Direction

Boards are exempted from the state personnel act under the provisions of NRS 284.013 and consequently may not have sufficient expertise or familiarity with the state's personnel system classifications to select similar positions within the state system for salary comparability. Additionally, without state involvement in the selection process, no oversight by the state would exist. The Division of Human Resource Management (DHRM) has the expertise to provide direction which would bring state involvement to the selection process.

DHRM represents that it could bring state involvement to the selection process by providing formal oversight if given the executive or legislative authority. This would not require the Boards to be subject to the provisions of Chapter 284.

Conclusion

Complying with state statute and Executive Branch guidelines governing the salaries of their executive directors and staff will ensure that salaries are allowable by law and the level of compensation for executive directors and staff is consistent with similar positions within the state system.

Recommendation

1. Comply with statute and guidelines for salaries.

Improve the Legal Support Framework

Boards should improve their legal support framework by:

- Using the Office of the Attorney General (OAG) for a baseline level of legal support; and
- Evaluating the cost/benefit of using in-house salaried attorneys, OAG attorneys, or a combination of both.

Using the OAG for a baseline level of legal support will ensure the OAG maintains awareness of Board activities and there is consistency among Board actions.

Evaluating the cost/benefit of using in-house salaried attorneys, OAG attorneys, or a combination of both may provide greater efficiency in legal costs. This will ensure Boards are incurring the least overall rate per hour for legal support and may realize cost savings in combined salaries and legal costs through better use of staff. This may allow lower fees for some licensees.

Overview of Legal Activity

For the four fiscal years 2014 through 2017, Boards reported they received legal support from four sources:

- In-house Staff – Attorneys employed full-time by the Boards and paid an annual salary;
- In-house Contract – Attorneys employed part-time by the Boards and paid an hourly rate for time worked on board business;
- OAG – Deputy Attorneys General (DAGs) assigned to the Boards from the Boards and Open Government Division of the OAG; and
- Outside Counsel – Attorneys retained by the Boards as independent contractors and paid an hourly rate for hours billed. The contracts must be submitted to the Clerk of the Board of Examiners (BOE) for approval if \$2,000 or more.

Exhibit VI lists the breakdown of legal costs by source for fiscal years 2014 and 2017.

Exhibit VI

Breakdown of Legal Costs

Legal Costs by Source										
Description	In-House Staff ³		In-House Contract		OAG		Outside Counsel		Total Costs	
	2014	2017	2014	2017	2014	2017	2014	2017	2014	2017
Amount (in \$Thousands)	\$554.4	\$794.0	\$141.7	\$147.3	\$236.4	\$398.1	\$807.0	\$780.9	\$1,739.5	\$2,120.3
Percent of Total Board Legal Costs	32%	37%	8%	7%	14%	19%	46%	37%	100%	100%
Boards Using Source	3	4	7	9	31	31	7	11		
Board Positions for Source	4	7	9	10						
Boards Using 100% OAG					20	16				
Boards Using Partial OAG					11	15				
Percent of Total Board Expenditures ¹	2.2%	2.6%	0.6%	0.5%	0.9%	1.3%	3.2%	2.6%	6.8%	7.0%

Legal Costs by Hourly Rate												
Year	In-House Staff ³			In-House Contract			OAG ²			Outside Counsel		
	Hi	Lo	Avg	Hi	Lo	Avg	Hi	Lo	Avg	Hi	Lo	Avg
2014	\$79	\$64	\$71	\$175	\$120	\$130	All	\$152		\$259	\$160	\$214
2017	\$87	\$66	\$76	\$175	\$100	\$138	All	\$154		\$288	\$100	\$223

Table Notes:

¹Total expenditures were \$25.5 million in 2014 and \$30.4 million in 2017.

²OAG bills boards at an hourly rate for time worked on board business. OAG billing rates are set each fiscal year and are the same for all boards.

³Amounts and rates for In-house staff includes reported salary plus 35 percent for estimated benefit costs.

Use OAG for Baseline Level of Legal Support

Boards should use the OAG for a baseline level of legal support. This will help ensure that the OAG maintains awareness of Board activities and legal vulnerabilities and there is consistency among Board actions.

Not All Boards Used the OAG for Legal Support

Not all Boards used the OAG for legal support in recent years. Six Boards reported that they did not use the OAG for legal support for at least one full fiscal year during the four fiscal years 2014 through 2017. State oversight could be improved if the Boards used the OAG for a baseline level of legal support. This will help ensure the OAG maintains awareness of Board activities and Board actions are consistent and in compliance with statute.

Boards Decide When to Use OAG Services

The OAG represents a DAG is assigned to every Board. It is the Board's decision whether or not to request OAG services. The OAG does not have authority to provide services or be involved in Board activities unless requested. Further, the OAG represents the only instances when Boards are required to request OAG services are the Board seeks a formal OAG opinion or the Board seeks an OAG review of an independent contract. Beyond these requirements, the use of OAG services to act as legal counsel is entirely at the discretion of the Boards.

Not Using OAG Services Increases Board Vulnerabilities

Boards may be vulnerable if they do not request the services of the OAG to act as legal counsel, especially with regard to compliance with public meeting and administrative procedures laws. These laws exist to provide transparency and due process protections to both the public and the Boards' licensees. If the OAG does not regularly act as legal counsel for Boards, especially when Boards hold open meetings, the OAG will not have a continuing awareness of the Boards' adherence to transparency and due process protections. Boards that do not adhere to open meeting and administrative practices law may expose the Board, and by extension the state, to significant legal liability.

The OAG represents that there have been instances when Boards have been sued for failure to follow public due process protections. In these instances, it was necessary for Boards to provide costly legal defense for actions that could have been prevented.

Outside Attorneys May Not be Familiar with Due Process Protections

Both the OAG and in-house staff counsel expressed concerns about outside attorneys retained by the Boards to act as legal counsel for the Boards during open meetings. One concern is outside attorneys may not be familiar with public due process protections, even though they may be experts on the requirements of the Boards' individual practice acts. Another concern is that interpretations of open meeting and administrative practice laws may not be consistent when made by outside attorneys that do not have the benefit of common training. A third concern is outside attorneys are retained and paid directly by Boards, which creates attorney-client relationships that may encourage legal advice to be more aligned with Boards' interests, without consideration of the state's interests.

OAG is the State Expert in Due Process Protections

The OAG is the state expert in due process protection. The OAG exists for the protection of the state and its citizens and is the default legal counsel for all state agencies who are funded through appropriations from the state's general fund. Many of these agencies are regulatory boards and commissions subject to the same open meeting and administrative practices laws as Boards. In this role, the OAG serves to protect the due process rights of the public as well as the interests of the state. The DAGs assigned to Boards receive the same training on requirements of open meeting and administrative practices laws in order to ensure their individual interpretations are consistent and in conformance with guidelines established by the OAG. Additionally, DAGs have dual responsibilities as

advocates for Boards and as protectors of the state’s interests when the Boards’ interests may be in conflict with the state’s interests.

OAG Favors Baseline Level of Legal Support for all Boards

The OAG favors a baseline level of support that includes providing legal counsel for Boards during open meetings. This would ensure transparency and the public’s due process protections are adhered to and applied consistently among Boards. In addition, it ensures the OAG maintains a continuing involvement with Boards to improve the level of legal support and oversight of regulatory activities.

Cost Impact of OAG Baseline Level of Legal Support

By receiving OAG counsel, Boards may be subject to increased costs to pay for the baseline level of support. Boards are funded by license fees and do not receive general fund appropriations. The OAG bills for services at its established billing rate, which Boards pay from their operating revenues.

The minimum cost of receiving the recommended baseline level of legal support for a Board that meets quarterly is estimated at about \$2,500 each fiscal year.⁷ For the four fiscal years 2014 through 2017, nine boards reported less than \$2,500 per year in average OAG billings.⁸ Exhibit VII shows the impact on Boards that spent less than \$2,500 for OAG support.

Exhibit VII

Cost Impact of Baseline Legal Support

Description	Range ¹	
	High Impact	Low Impact
Average Active Licenses (Fiscal Years 2014 – 2017)	234	2,301
Basic License Renewal Fee (Fiscal Year 2017)	\$100	\$250
Impact of Additional Legal Costs of \$2,500:		
Increased Cost Per Active License	\$10.68	\$1.09
As a Percent of Basic Renewal Fee	10.7%	0.4%

Table Notes:

¹Highest = Environmental Board; Lowest = Veterinary Board.

The estimated impact on the nine Boards of an additional \$2,500 in legal costs would range from 0.4 percent to 10.7 percent of the basic annual renewal fee.

⁷ Minimum cost is estimated as four meetings at four hours per meeting for preparation, attendance, and post meeting work. This amounts to 16 billable hours per year at \$154 per hour, or about \$2,500 per year.

⁸Accounting, Athletic Trainers, Barbers, Chiropractic, Optometry, Podiatry, Engineers, Environmental, and Veterinary Boards.

Evaluate Cost/Benefit of Attorney Choices

Boards should evaluate the cost/benefit of their choices for attorneys and legal support. More efficient choices could reduce legal costs and may allow some Boards to reduce fees for licenses.

In-House Staff Attorneys Most Cost Beneficial

The use of in-house staff attorneys is the most cost beneficial choice on a per hour basis when compared to outside counsel if there is sufficient demand for in-house staff services. Boards should evaluate the cost/benefit of using in-house staff attorneys in conjunction with the OAG for legal support. This will ensure Boards are incurring the least overall rate per hour for legal support services. In addition, Boards may realize cost savings in combined salaries and legal costs through better use of an in-house attorney assigned other administrative functions. However, based on demand for legal services, it may be more cost beneficial to use outside counsel for a limited number of hours.

Outside Counsel Rates Exceed In-House Staff Rates

On average, the hourly rate for outside counsel exceeds the hourly rate for in-house staff attorneys. Exhibit VIII shows the hourly rate comparison for legal support.

Exhibit VIII

Hourly Rate Comparison for Legal Support

Year	In-House Staff	In-House Contract			OAG			Outside Counsel		
	Rate	Rate	Dollar Diff	Percent Diff	Rate	Dollar Diff	Percent Diff	Rate	Dollar Diff	Percent Diff
2017	\$76 ¹	\$138	\$62	82%	\$154	\$78	103%	\$223	\$147	193%

Table Note:

¹Rate includes reported salary plus 35 percent for estimated benefit costs.

On average, the hourly rate for outside counsel exceeded that of in-house staff by \$147 per hour or about twice the cost during fiscal year 2017.

Nursing Board Provides a Cost/Benefit Example

The Nursing Board provides a cost/benefit example of employing in-house attorneys. In fiscal year 2015, the Nursing Board's legal support was provided by a combination of one in-house staff attorney, OAG attorneys, and outside counsel. In fiscal year 2016, the Nursing Board reorganized its operations by hiring an additional full-time in-house attorney and assigning some administrative functions

to their legal staff in addition to direct legal support. This allowed the Nursing Board to eliminate the use of outside counsel for fiscal year 2017, thereby reducing the hourly cost by about five percent and total legal costs by \$47,000.

Conclusion

Improving the legal support framework by:

Using the OAG for a baseline level of legal support will ensure the OAG maintains awareness of the activities of Boards and that there is consistency among Boards' actions.

Evaluating the cost/benefit of using in-house salaried attorneys, OAG attorneys, or a combination of both may provide greater efficiency in legal costs. This will ensure Boards are incurring the least overall rate per hour for legal support and may realize cost savings in combined salaries and legal costs through better use of staff. Moreover, this may allow Boards to lower fees for some licensees.

Recommendations

2. Use the OAG for a baseline level of legal support.
3. Evaluate the cost/benefit of using in-house salaried attorneys in combination with the OAG for legal support.

Establish Standards for Financial and Administrative Operation

The Department of Administration (D of A) should establish standards for financial and administrative operation of Boards. This will ensure that there is a standard set of guidelines in place for Boards to follow.

Establishment of Standards Required by Statute

Assembly Bill 328 (AB328) amended NRS 622 and required the D of A to “adopt regulations establishing standards for the financial operation and administration of regulatory bodies.” Prior to this legislation, Boards typically adopted their own regulations. AB328 was intended to enable the D of A to address and adopt regulations for a basic set of standards for Boards. Boards that already meet the standards in their regulations would continue to operate as normal.⁹

Financial and Administrative Practices Need Standards

Several deficiencies and/or inconsistencies in Boards’ financial and administrative practices were noted where setting standards could provide improved oversight by the state. These practices include: compensation, operating reserves, contract approval, and financial reporting. Each section below outlines the deficiencies and/or inconsistencies noted and potential standards for each area where the state could improve oversight.

Compensation

Twenty-two of the Boards did not follow the Executive Branch guidelines to consider similar state positions when establishing salaries for their staff and four Boards did not comply with statute to limit salaries to 95 percent of the Office of the Governor.

The D of A could consider codifying as a standard, the Executive Branch guideline that Board positions should be equivalent to similar positions within the state system. The standard could establish the state equivalent salary range for each Board position that Boards should not exceed, thereby allowing Boards to manage their personnel costs within the ranges established.

The standard could include the authority for the Division of Human Resource Management (DHRM) to provide the necessary expertise and guidance to Boards in evaluating their staff positions and determining the appropriate similar position within the state system.

⁹ March 24, 2017 Assembly Committee on Commerce and Labor minutes, pages 9-11.

By establishing compensation standards, the state's oversight of Boards will be improved by ensuring compensation levels are comparable to similar state positions and comply with statute.

Operating Reserves

Twenty-Eight of the Boards reported they had no formal policies in place for determining the adequacy of their operating reserves. In general, Boards reported they considered their cash position, expected revenues, and operating expenses as part of their current period financial planning and review process. The Boards did not consider whether the on-hand reserve balances were deficient or excessive. Not having an established reserve standard to determine whether the reserve is deficient or excessive may impact the financial stability of the Boards. If the reserves are too low, Boards may not be able to cover operating expenses, or if too high, Boards may be overcharging for license fees.

Exhibit IX lists the Boards' operating reserve calculations for fiscal year 2017.

Exhibit IX

Board Reserve Calculations

Board	Fund Balance¹	Deferred Fees¹	Calculated Reserve^{2,4}	Monthly Expenditures¹	Reserve Ratio (in months)³
Homeopathic	(\$132,525)	\$0	\$12,561	\$4,620	2.7
Investigators	\$404,182	\$238,780	\$642,962	\$125,267	5.1
Social Workers	\$160,787	\$25,300	\$186,087	\$33,312	5.6
Marriage	\$37,822	\$60,900	\$98,722	\$13,931	7.1
Cosmetology	(\$332,372)	\$1,802,599	\$1,470,227	\$198,649	7.4
Petroleum	\$276,607	\$0	\$276,607	\$31,560	8.8
Alcohol, Drug	\$207,795	\$0	\$207,795	\$19,758	10.5
Massage	\$411,027	\$349,947	\$760,974	\$64,940	11.7
Architecture	\$617,913	\$233,250	\$851,163	\$66,534	12.8
Opticians	\$84,582	\$54,310	\$138,892	\$10,723	13.0
Physical Therapy	\$359,188	\$108,340	\$467,528	\$35,410	13.2
Funeral	\$291,713	\$39,523	\$331,236	\$23,496	14.1
Pharmacy	\$1,312,578	\$2,278,375	\$3,590,953	\$246,451	14.6
Speech	\$134,840	\$60,992	\$195,832	\$12,494	15.7
Psychological	\$83,446	\$208,085	\$291,531	\$18,460	15.8
Contractors	\$7,074,057	\$2,451,685	\$9,525,742	\$591,826	16.1
Veterinary	\$429,057	\$161,700	\$590,757	\$34,729	17.0
Medical ⁵	\$4,465,176	\$1,780,527	\$6,245,703	\$364,370	17.1
Environmental	\$40,172	\$0	\$40,172	\$2,323	17.3
Osteopathic	\$1,035,552	\$0	\$1,035,552	\$54,697	18.9
Oriental	\$135,101	\$0	\$135,101	\$6,691	20.2
Chiropractic	\$233,238	\$370,853	\$604,091	\$28,330	21.3
Landscape	\$74,224	\$59,485	\$133,709	\$6,150	21.7
Court Reporters	\$83,451	\$66,375	\$149,826	\$6,531	22.9
Accountancy	\$1,094,560	\$240,450	\$1,335,010	\$52,601	25.4
Barbers	\$124,156	\$46,554	\$170,710	\$6,597	25.9
Long-Term Care	\$268,135	\$72,377	\$340,512	\$12,952	26.3
Nursing	\$5,075,459	\$1,903,443	\$6,978,902	\$248,657	28.1
Dental	\$1,406,722	\$1,371,390	\$2,778,112	\$96,307	28.8
Optometry	\$428,298	\$139,283	\$567,581	\$19,703	28.8
Engineers	\$2,224,428	\$0	\$2,224,428	\$69,159	32.2
Athletic Trainers	\$89,402	\$0	\$89,402	\$2,634	33.9
Podiatry	\$164,608	\$20,803	\$185,411	\$5,340	34.7
Occupational	\$668,907	\$183,347	\$852,254	\$18,005	47.3 ⁶
Average	\$853,891	\$421,432	\$1,279,590	\$74,506	17.2

Table Notes:

¹Source: Audited Financial or Balance Sheet Reports submitted per NRS 218G.400, or internal financial statements for the 2017 fiscal year. The Fund Balance is essentially a board's cash position plus or minus any assets or liabilities that are considered within the immediate revenue cycle of the board. The Fund Balance does not include cash received for Deferred Fees, which are generally license fees collected in advance of the license period. The Deferred Fees amount is added back to the Fund Balance as it represents cash on hand not included in the Fund Balance.

²Calculated Reserve = Fund balance plus deferred fees.

³Reserve Ratio = Reserve in Months = Calculated Reserve / Average Monthly Expenditures

⁴Calculated reserve for Homeopathic Board adjusted for \$145,086 in legal fees owed to the Office of the Attorney General that was included in the deficit fund balance of \$132,525 at June 30, 2017.

⁵Medical Board reports are calendar year instead of fiscal year. Amounts are from the December 31, 2016 audited financial reports.

⁶On March 24, 2018, Occupational Board changed the license term from one to two years without an increase in fee.

Reserve ratios for fiscal year 2017 varied greatly among the Boards: 8 boards or 24 percent have reserves less than 12 months; 16 boards or 47 percent have reserves between 12 and 24 months; and 10 boards or 29 percent have reserves over 24 months. The average reserve ratio for all Boards was 17.2 months.

Board Reserve Calculations Will Vary

In establishing an appropriate reserve, no one standard or benchmark may be applied to all Boards. Different factors affect each Board's operations.¹⁰ A reserve of 3 - 6 months as the low end and 24 months as the high end may be considered an appropriate range for establishing a reserve.

Boards should make it a top priority to develop a reserve policy that defines reserve requirements, reserve calculation, and factors used in the reserve calculation. Factors that may be considered in establishing a reserve include: revenue cycle, normal operating expenses, and contingency costs.

The D of A could consider codifying the standard that Boards develop an adequate reserve requirement and provide general guidelines as to the method of calculation, factors to consider, and the timing of preparing and monitoring of the reserve status.

By establishing reserve requirement standards, the state's oversight of Boards will be improved by ensuring Boards maintain the financial stability of their operations while at the same time limiting the fees charged for licenses.

Contract Approval

Thirty-three boards reported executing contracts to provide professional services during fiscal years 2014 through 2017. Twenty-five or 76 percent of these executed at least one contract without approval from the Board of Examiners (BOE) for contracts exceeding \$50,000 or Clerk of the Board for contracts for \$2,000 and above.

Exhibit X lists contracts executed without BOE approval.

¹⁰ Whitepaper, Nonprofit Operating Reserves Initiative Workgroup, September 2008.

Exhibit X

Contracts Executed without BOE Approval

Type of Service	Number Reported		Number Not Approved		Non-Compliance Rate ¹	
	Boards	Contracts	Boards	Contracts	Boards	Contracts
Outside Counsel	19	24	4	6	33%	35%
Audit	28	32	19	20	68%	63%
Lobbyist	25	30	8	8	32%	27%
Accounting	12	12	8	8	68%	68%
Executive Director	7	7	3	3	43%	43%
Hearing Officer	2	2	1	1	50%	50%
Investigator	1	1	0	0	-	-
Examination	1	2	1	1	100%	100%
Total	33	110	25	48	76%	44%

Table Note:

¹Non-Compliance Rate equals Number Not Approved / Number Reported.

The high non-compliance rates may be because Boards do not understand they are subject to the provisions of NRS 333, "State Purchasing" and the State Administrative Manual (SAM). By not receiving proper approval executing contracts for professional services, Boards, and by extension the state, may not be adequately protected from liability.

The D of A could consider codifying the standard that Boards are subject to the provisions of NRS Chapter 333 and SAM for the execution of contracts. This would provide clear guidance to Boards and help eliminate misunderstandings or misinterpretations.

Following the BOE approval process will ensure appropriate reviews by Boards, DAGs, and the Budget Division. Establishing contract approval standards will improve the state's oversight of Boards and ensure they comply with state guidelines and protect Boards and the state from liability exposure.

Financial Reporting

Board financial reporting is inconsistent and not comparable. Thirty boards filed audited financial reports under the provisions of NRS 218G.400 for at least one fiscal year between 2014 and 2017. Nine or 30 percent of these boards filed audited financial reports that did not comply with statute with respect to the basis of accounting and financial statement presentation.

Section three of NRS 218G.400 states in part that, "... all financial statements must be prepared in accordance with generally accepted principles of accounting for special revenue funds." Accounting principles and standards for special revenue funds require that they be accounted for and presented as "Governmental Funds."¹¹ For the nine non-compliant boards, their audited financial reports were accounted for and presented as "Proprietary Funds."

¹¹ Governmental Accounting Standards Board (GASB) Statement No. 34, paragraph 405.

The Governmental Funds basis of accounting and presentation is the same as for state's General Fund so the financial reports for the boards that follow this basis of accounting are comparable to other state agencies that are funded by governmental funds.

The Proprietary Funds basis of accounting and presentation is generally the same as that used by a commercial enterprise that provides goods or services in exchange for a fee.

Generally, Board management and their auditors represented that they were not aware of the statutory requirement of NRS 218G.400 that the financial reports be prepared as if Boards were special revenue funds. Without that statutory requirement, the governmental accounting standards might be interpreted that either method of accounting and presentation is acceptable.

The D of A could consider codifying a standard that Boards are required to prepare and file audited financial statement reports in compliance with NRS 218G.400 using the Governmental Funds basis of accounting and presentation. This would provide clear guidance to the Boards and help eliminate misunderstandings or misinterpretations.

By establishing a financial reporting standard, the state's oversight will be improved by ensuring Boards comply with statute and financial information presented by Boards is consistent and comparable.

Conclusion

Department of Administration establishing standards for financial and administrative operation of Boards will ensure there is a standard set of guidelines in place for Boards to follow.

Recommendation

4. Establish standards for financial and administrative operation of Boards.

Appendix A

Scope and Methodology, Background, Acknowledgements

Scope and Methodology

We began the audit in September 2017. During the course of fieldwork, we interviewed management and staff of Nevada's independent licensing boards (Boards); Office of the Governor, Budget Division (Budget); Office of the Attorney General (OAG); Department of Administration (D of A), Division of Human Resource Management (DHRM), Purchasing Division (Purchasing); Department of Business and Industry (B&I); Public Utilities Commission of Nevada (PUCN); Legislative Council Bureau (LCB); Government Accounting Standards Board (GASB); and several of the Boards' external audit firms (Auditors).

We requested and obtained information from Boards for fiscal years 2014 through 2017 (previous two biennia). We reviewed policies and documents related to Board financial, personnel, professional services, and legal costs. We reviewed applicable NRS, NAC, SAM sections, Executive Branch directives, and state personnel policies and practices.

We concluded fieldwork in May 2018.

We conducted our audit in conformance with the *International Standards for the Professional Practice of Internal Auditing*.

Background

Nevada's Boards and Commissions Overview

Nevada's Boards and Commissions help Nevada citizens to have direct access to their government and to participate in shaping public policy. Board or Commission members are generally appointed or confirmed by the Governor. Membership requirements are outlined in their enabling legislation and are usually narrowly defined and often include requirements to ensure political or geographic diversity. Most of the Boards and Commissions are created pursuant to federal law, state legislation, or executive order and each plays a different role in state government. Boards and Commissions may provide oversight of an Executive Branch agency, act in an advisory capacity to a policy making body, or regulate an industry, profession or occupation, either under the umbrella of an Executive Branch agency or as an independent regulatory body. As of September 2017, the Office of the Governor listed over 200 active Boards and Commissions.

Occupational and Professional Licensing

Nevada regulates many types of businesses, occupations, and professions. Most laws pertaining to regulating Boards are found in Title 54, "Professional, Occupations and Businesses" of NRS, which contains provisions governing more than 50 professions, occupations, and businesses. Most occupations or professions are regulated by independent licensing boards. Other occupations regulated through state agencies. As regulatory bodies, independent licensing boards are mandated to enforce provisions of state law for the protection and benefit of the public.

Creation and Operation of Independent Boards

The Legislature creates independent licensing boards and sets public policy governing them through their individual practice acts. These independent boards are given the authority to adopt regulations regarding licensing and practice of the occupation or profession they were created to oversee, subject to review by the Legislature.

Independent boards are funded by fees charged to their licensees and do not receive state general fund support. Boards receive no general fund appropriations; therefore, their fiscal activity is not included in and does not affect the state's Executive Budget. Accordingly, independent boards are exempt from the provisions of the state's budget act, NRS Chapter 353 "State Financial Administration". Further, independent boards maintain their own accounting and payroll systems, hire their own staff, and are also exempt from the state's personnel act, NRS Chapter 284, "State Personnel System".

Boards Selected for Audit

There are 34 independent licensing boards that are exempt from the state's budget act under the provisions of NRS 353.005. However, under the provisions of NRS 218G.400, these same boards are required to submit financial accounting documents to the LCB and Budget Division in the form of audited financial reports or balance sheets each fiscal year.¹² In addition, NRS 218G.400 allows the LCB to audit any of the exempt boards when directed to do so by the Legislative Commission.

¹² Audited financial reports are required for boards with revenues of less than \$75,000 (\$200,000 after fiscal year 2017), otherwise self-prepared balance sheet reports in the format designated by the LCB must be submitted.

Exhibit XI lists the Boards selected for this audit.

Exhibit XI

Selected Board Titles, Authority and Number of Members

Statutory Title	Short Title	Creating Authority	Board Members
Nevada State Board of Accountancy	Accountancy	NRS628.035	7
Board of Examiners for Alcohol, Drug and Gambling Counselors	Alcohol, Drug	NRS641C.150	7
State Board of Architecture, Interior Design and Residential Design	Architecture	NRS623.050	9
Board of Athletic Trainers	Athletic Trainers	NRS640B.170	5
State Barbers' Health and Sanitation Board	Barbers	NRS643.020	4
Certified Court Reporters' Board of Nevada	Court Reporters	NRS656.040	5
Chiropractic Physicians' Board of Nevada	Chiropractic	NRS634.020	7
State Contractors' Board	Contractors	NRS624.040	7
State Board of Cosmetology	Cosmetology	NRS644.030	7
Board of Dental Examiners of Nevada	Dental	NRS631.120	11
Board of Dispensing Opticians	Opticians	NRS637.030	5
Nevada Funeral and Cemetery Services Board	Funeral	NRS642.020	7
Board of Homeopathic Medical Examiners	Homeopathic	NRS630A.100	7
State Board of Landscape Architecture	Landscape	NRS623A.080	5
Board for the Regulation of Liquefied Petroleum Gas	Petroleum	NRS590.485	6
Board of Examiners for Long-Term Care Administrators	Long-Term Care	NRS654.050	7
Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors	Marriage	NRS641A.090	9
Board of Massage Therapists	Massage	NRS640C.150	7
Board of Medical Examiners	Medical	NRS630.050	9
State Board of Nursing	Nursing	NRS632.020	7
Board of Occupational Therapy	Occupational	NRS640A.080	5
Nevada State Board of Optometry	Optometry	NRS636.030	4
State Board of Oriental Medicine	Oriental	NRS634A.030	5
State Board of Osteopathic Medicine	Osteopathic	NRS633.181	7
State Board of Pharmacy	Pharmacy	NRS639.020	7
State Board of Physical Therapy Examiners	Physical Therapy	NRS640.030	5
State Board of Podiatry	Podiatry	NRS635.020	5
Private Investigator's Licensing Board	Investigators	NRS648.020	5
State Board of Professional Engineers and Land Surveyors	Engineers	NRS625.100	9
Board of Psychological Examiners	Psychological	NRS641.030	7
Board of Registered Environmental Health Specialists	Environmental	NRS625A.030	5
Board of Examiners for Social Workers	Social Workers	NRS641B.100	5
Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board	Speech	NRS637B.100	8
Nevada State Board of Veterinary Medical Examiners	Veterinary	NRS638.020	8

Overview of Executive Director Salaries

Boards employ both full-time and part-time executive directors.¹³ Exhibit XII shows the executive director salaries by full-time and part-time positions for fiscal year 2017.

¹³ The titles of the Boards' senior operating/administrative executives vary and include, executive director, executive officer, executive secretary, secretary/treasurer and chief inspector. The title of executive director is used throughout to refer to those positions.

Exhibit XII

Overview of Executive Director Salaries and Key Metrics

Board ¹	Executive Director Salary/Rate ²	Number of Staff	Number of Licenses ³	Total Revenue ³	Revenue Per License	Total Expenditures ⁴	Executive Director Salary		
							Amount Per License	Percent of Revenue	Percent of Expenditures
Full-Time Boards (in Total Dollars of Salary):									
Pharmacy	\$181,677	4	48,578	\$2,620	\$54	\$2,957	\$3.74	6.9%	6.1%
Medical	\$161,491	35	15,315	\$4,187	\$273	\$4,372	\$10.54	3.9%	3.7%
Contractors	\$159,967 ⁵	61	16,661	\$6,504	\$392	\$7,102	\$9.63	2.5%	2.3%
Accountancy	\$152,770	8	4,001	\$661	\$165	\$631	\$38.18	23.1%	24.2%
Governor's	\$141,867	(95 percent of Governor's Salary)							
Dental	\$141,798	6	5,520	\$1,326	\$240	\$1,156	\$25.69	10.7%	12.3%
Nursing	\$138,124	26	53,270	\$3,158	\$59	\$2,984	\$2.59	4.4%	4.6%
Cosmetology	\$130,135	24	44,859	\$2,213	\$49	\$2,384	\$2.90	5.9%	5.5%
Engineers	\$120,742	5	11,736	\$1,019	\$87	\$830	\$10.29	11.9%	14.5%
Petroleum	\$111,534	3	1,665	\$387	\$233	\$379	\$66.99	28.8%	29.5%
Osteopathic	\$101,158	5	1,553	\$698	\$450	\$656	\$65.78	14.6%	15.6%
Optometry	\$99,997	3	504	\$203	\$402	\$236	\$198.41	49.4%	42.3%
Massage	\$94,630	8	4,439	\$962	\$217	\$779	\$21.32	9.8%	12.1%
Investigators	\$91,193	16	898 ⁶	\$1,540	\$1,715	\$1,503	\$101.55	5.9%	6.1%
Funeral	\$90,170	3	441	\$310	\$703	\$282	\$204.47	29.1%	32.0%
Alcohol, Drug	\$90,020	3	1,392	\$227	\$163	\$237	\$64.67	39.6%	38.0%
Veterinary	\$87,970	5	2,423	\$373	\$154	\$417	\$36.31	23.6%	21.1%
Physical Therapy	\$82,000	5	2,302	\$419	\$182	\$425	\$35.62	19.6%	19.3%
Chiropractic	\$78,000	3	1,079	\$397	\$368	\$340	\$72.29	19.6%	22.9%
Architecture	\$75,148	7	3,971	\$768	\$193	\$798	\$18.92	9.8%	9.4%
Long-Term Care	\$62,790	1	431	\$269	\$624	\$155	\$145.68	23.3%	40.4%
Psychological	\$56,269	4	567	\$186	\$328	\$222	\$99.24	30.3%	25.4%
Opticians	\$53,848	3	544	\$123	\$227	\$129	\$98.99	43.7%	41.8%
Marriage	\$41,345	3	1,541	\$170	\$110	\$167	\$26.83	24.3%	24.7%
Part-Time Boards (in Hourly Rate of Salary):									
Speech	\$91.95	2	1,074	\$139	\$129	\$150	\$67.04	51.8%	48.0%
Environmental	\$75.86	1	233	\$32	\$138	\$28	\$84.98	61.5%	71.0%
Governor's	\$67.94	(95 percent of Governor's Hourly Rate)							
Occupational	\$66.38	2	1,201	\$228	\$190	\$216	\$72.13	38.0%	40.1%
Social Workers	\$40.00	7	2,813	\$366	\$130	\$400	\$21.49	16.5%	15.1%
Podiatry	\$30.00	1	155	\$65	\$421	\$64	\$97.45	23.1%	23.6%
Court Reporters	\$26.00	1	369	\$83	\$224	\$78	\$140.44	62.7%	66.1%
Landscape	\$23.95	3	541	\$78	\$144	\$74	\$55.45	38.4%	40.6%
Homeopathic	\$22.99	1	74	\$40	\$538	\$55	\$324.32	60.3%	43.3%
Oriental	\$22.99	1	59	\$62	\$1,046	\$80	\$345.76	33.0%	25.4%
Athletic Trainers	\$19.16	1	227	\$41	\$180	\$32	\$88.11	48.9%	63.3%
Barbers	\$9.10	4	1,578	\$92	\$58	\$79	\$9.03	15.6%	18.0%
Average All	\$82,889	7.8	6,822	\$881	\$129	\$894	\$12.15	9.4%	9.3%
Average F/T	\$104,512	10.5	9,723	\$1,249	\$128	\$1,267	\$10.75	8.4%	8.2%
Average P/T	\$37.7/\$34.11 ⁷	2.2	757	\$111	\$147	\$114	\$49.78	33.8%	33.0%

Table Notes:

¹Full-Time (F/T) – sorted by salary; Part-Time (P/T) – sorted by hourly rate.

²Board reported salaries and rates converted to PERS Employee/Employer equivalent as applicable for comparability to Governor's.

³Source: Legislative Counsel Bureau, Reports of Occupational Licensing Boards.

⁴Source: Audited financial or balance sheet reports submitted per NRS 218G.400, or internal financial statements for fiscal year 2017. Amounts in thousands.

⁵Contractors Board salary reduced by 8.1 percent for comparability in Exhibits I & II.

⁶Private Investigators Board also administers about 60,000 work permits statewide not included in the number of licenses reported.

⁷Average P/T salary (in thousands) and hourly rate.

Acknowledgments

We express appreciation to the management and staff of the Boards, Office of the Governor, Budget, OAG, D of A, DHRM, Purchasing, B&I, PUCN, LCB, GASB, and Auditors for their cooperation and assistance throughout the audit.

Contributors to this report included:

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Appendix B

Department of Administration and Nevada's Independent Licensing Boards Responses and Implementation Plans

Exhibit XIII

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Brian Sandoval
Governor



Patrick Cates
Director

Michael Dietrich
State CIO

David Haws
Administrator

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
ENTERPRISE IT SERVICES

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MEMORANDUM

DATE: May 23, 2016
TO: Steve Weinberger, Administrator,
Governor's Finance Office, Division of Internal Audits
FROM: Patrick Cates, Director
RE: Response to Executive Audit Report

Thank you for the opportunity for the Department of Administration (D of A) to be a part of the audit of Nevada's Boards and Commissions. As always, you and your staff were thoughtful, thorough, and professional. I appreciate the opportunity to provide a response to your recommendations.

Recommendation #4: Establish standards for financial and administrative operation of Boards.

Response: D of A accepts the audit recommendations. Since the passage of AB328, staff turnover has kept us from addressing the requirement to establish regulations. I have reviewed the requirements of the bill and your findings with our current administrators and we will develop draft regulations within the next six months.



NEVADA STATE BOARD OF ACCOUNTANCY
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May 24, 2018

Steve Weinberger, CPA
Administrator
Division of Internal Audits
Governor's Finance Office/State of Nevada
209 East Musser Street, Room 302
Carson City, NV 89701

Via Hand Delivery

Re: GFO/DIA Draft Audit Report on Nevada's Independent Regulatory Boards

Dear Mr. Weinberger:

Thank you on behalf of the Nevada State Board of Accountancy ("Board") for the opportunity to comment on the Governor's Finance Office/Division of Internal Audit ("GFO/DIA") Draft Audit Report on Nevada's Independent Regulatory Boards ("Draft Report").

In the email providing the Draft Report, it was indicated the content of the audit should not be disclosed before the final report is submitted to the Executive Branch Audit Committee ("EBAC"). It was also indicated Boards could provide an official, written response to the audit that will be included in the Report, and to indicate if recommendations were accepted and the estimated date for fully implementing each recommendation.

Our Board had a meeting on May 16, 2018, but a copy of the Draft Report was not provided to our Board members because of your direction that the content of the audit not be disclosed before the Final Report is submitted to the EBAC. The Board's legal counsel advised there was no exception to the Open Meeting Law that would allow sharing the Draft Report with the full Board without it becoming a public document. Therefore, I am providing a preliminary written response by May 24, 2018 to be included in your Report to the EBAC but want you to be aware our Board has not had an opportunity at an open meeting to discuss and approve an official response, the recommendations in the Draft Report or to provide a response regarding implementation of each recommendation per your request. After the Draft Report is submitted to the EBAC, we will provide a copy of your public Report to the Board at our next Board meeting and provide the official response from our Board as you requested. That response may include a more detailed explanation of the Board's position and review of pertinent statutes.

Steve Weinberger, CPA
Administrator
Division of Internal Audits
Governor's Finance Office/State of Nevada
May 24, 2018
Page 2 of 6

I will respond to your recommendations as they are presented in the Draft Report.

1. Comply with statute and guidelines for salaries

A. Correction to Number of Employees

The Draft Report indicates the Board has 8 employees. We do not know the source of that information. The Board has 2 full-time employees and 1 part-time office employee who works a maximum of 20 hours per week. The Board has employment contracts with 3 CPAs who work as investigators for disciplinary matters as needed. The part-time employee and 3 investigators do not have any additional benefits or compensation other than the hourly rate they are paid, State Industrial Insurance coverage and travel cost reimbursement for the investigators.

Prior to July 1, 1983, the Board determined that its full-time employees would obtain retirement benefits through the Public Employees Retirement System ("PERS") and its employees' contributions would be "Employer paid".

B. Executive Director Salary

The Board believes we have been complying with State law regarding salaries. The Draft Report cites to NRS 281.123(1) which provides a limit on state salaries to 95% of the salary for the office of Governor during the same period. The Executive Director's current salary is \$134,000. The Draft Report indicates in Exhibit 1 that 95% of the Governor's salary effective January 1, 2016 is \$141,867. Since her current salary, as defined by NRS 281.123, is \$134,000, the Board's Executive Director does not make more than 95% of the salary of the Governor and the Board's Executive Director is not paid over the statutory limit.

C. Similar State Positions

The Draft Report states that some Boards may be paying executive director salaries in excess of similar positions within the state system. This statement is based upon an October 7, 2010 Memorandum from then Governor Gibbons stating "[t]o the extent positions are comparable to those in the classified or unclassified service of the state, salaries for Boards and Commissions staff should be equivalent to that of a similar position within the state system." There is no legal authority cited in the Memorandum for the Governor's statement. As the Draft Report notes, Boards are exempt from the state personnel act under the provisions of NRS 284.013.¹

¹ In addition to the exemption provided in NRS 284.013(1), pursuant to NRS 284.013(2), the terms and conditions of employment of the Board's employees are to be fixed by the Board.

Steve Weinberger, CPA
Administrator
Division of Internal Audits
Governor's Finance Office/State of Nevada
May 24, 2018
Page 3 of 6

NRS 628.090(2) provides "[t]he Board may employ such personnel, including attorneys, investigators and other professional consultants, and arrange for such assistance as the Board may require for the performance of its duties." NRS 622.220(1) provides that if the Board employs a person as an executive director, the person "[m]ust possess a level of education or experience, or a combination of both, to qualify the person to perform the administrative and managerial tasks required of the position".

The Board's Executive Director has worked for the Board for 22 years, the last 14 years as Executive Director. The Executive Director's historical knowledge is invaluable in providing guidance to Board members on past licensing, disciplinary and policy issues along with answering questions from Board members, licensees and members of the public. A direct comparison to another State position is difficult, and would also require calculating longevity pay, whether any comparable position was in the classified or unclassified service, and other factors.

The Board's current Executive Director was Chair of the Executive Directors Committee of National Association of State Boards of Accountancy ("NASBA"), which includes 1 year serving on the NASBA Board of Directors and she has served on NASBA's Accountancy Licensee Database ("ALD"), Enforcement, and Communications committees. Our current Executive Director also served on the American Institute of Certified Public Accountants ("AICPA") Board of Examiners for 3 years. A few years ago, our current Executive Director received the Lorainne Sachs Standards of Excellence Award from NASBA.

The Board reviews its full-time employees every year. Historically in its review of its employees, the Board has reviewed the salary levels of similar positions in the State, i.e., other Board Executive Directors and Assistant Executive Directors, in its consideration of setting the salaries of those employees. The Board believes it has been fiscally prudent and responsible in setting salaries based upon experience and education and to retain highly competent employees for the proper administration and orderly conduct of the Board's affairs and duties and to protect the interest of the public.

Based upon the statutory authority given to the Board to employ personnel as it requires, its compliance with the requirements of NRS 622.220(1) in its employment of its Executive Director, the statutory authority provided to the Board to retain all fees, set its budget and pay all expenses incurred under NRS Chapter 628 from the money its receives, and the exemptions provided in NRS 284.013 from the State personnel act and from State financial administration (NRS 353.005), the Board believes it has complied with State law and acted prudently to safeguard both the public and the licensees who fund the Board's operating budget.

2. Improve the Legal Support Framework

The Board has 2 attorneys with independent contracts approved by the Board of Examiners providing services as needed by the Board. The second attorney represents the Board when one attorney acts as a prosecutor in disciplinary matters or has a conflict. See NRS 628.090(2) which provides "[t]he Board may employ such personnel, including attorneys, investigators and other professional consultants, and arrange for such assistance as the Board may require for the performance of its duties" and NRS 628.410(8) which provides "such other legal counsel as may be employed shall appear and represent the Board" at all hearings.

The Board has contracted with the same firm for legal counsel services for over 40 years. The firm provides continuity through its representation and extensive historical and current knowledge of the practice of public accountancy. The Board's statutes and code of professional conduct are technical in nature and consistency in the application of its laws is important to the Board in handling these matters. The Board's matters that involve legal counsel have not risen to the level that would require full-time in-house legal counsel. The Board also believes that using the same firm as outside contracted counsel keeps its legal costs lower by not providing health care and retirement benefits. The Board believes it needs the consistency, expertise and responsiveness provided by its outside counsel to adequately represent and advise it. The Board continually evaluates whether its use of outside counsel is prudent versus retaining in-house counsel at the time it seeks Board of Examiner approval of its outside counsel contracts.

The Board believes it uses the Attorney General's Office appropriately for baseline support. For example, the Board uses the Attorney General's Office for periodic presentations to the Board regarding administrative hearings and procedures in disciplinary proceedings, the Open Meeting Law and compliance with the ethics in government and conflicts laws. The Board's Executive Director and outside counsel have attended training for Board members, Executive Directors and Administrators put on by the Attorney General's Office in the above areas. The Board uses the Attorney General's Office for the review of certain contracts. Thus, the Board believes its uses the Attorney General's Office for baseline support and is in compliance with this recommendation of the Draft Report.

3. Financial and Administrative Operation

A. Compensation

Based upon the statutory authority given to the Board to employ personnel as it requires, its compliance with the requirements of NRS 622.220(1) in its employment of its Executive Director, the statutory authority provided to the Board to retain all fees, set its budget and pay all expenses incurred under NRS Chapter 628 from the money its receives, and the exemptions

provided in NRS 284.013 from the State personnel act and the exemption provided from the State budget act (NRS 353.005), the Board believes it has complied with State law and is operating with the best interests of the public in mind.

B. Operating Reserves

The Board is in the process of adopting an operating reserve policy. A draft policy was reviewed and discussed by the Board at its meeting on May 16, 2018. The draft policy will be brought back to the Board at its next Board meeting on July 18, 2018.

The Board Reserve Calculations in Exhibit IX in the Draft Report are a bit different than the Board's operating reserve information presented to the Legislative Commission's Sunset Subcommittee on January 22, 2018. It was reported to the Legislative Commission's Sunset Subcommittee that the Board's monthly average expenditures were \$53,661, the adjusted reserve balance was \$1,192,929 and the equivalent number of months of operating costs was 22.2 months.

If the Division of Internal Audits considers codifying the standards for Board reserve requirements, it may be helpful to review any reserve requirement recommendations from the Legislative Commission's Sunset Subcommittee prior to codifying such requirements.

C. Contract Approval

The Board's contracts for professional services are reviewed by the Attorney General's Office and are approved by the Board of Examiners. The Board is meeting all statutory requirements.

D. Financial Reporting

The Board complies with all financial reporting requirements of NRS 218G.400 and its financial statements are prepared and presented as "Governmental Funds".

4. Conclusion

The Board appreciates the opportunity to present these preliminary comments to the GFO/DIA's Draft Report.

Steve Weinberger, CPA
Administrator
Division of Internal Audits
Governor's Finance Office/State of Nevada
May 24, 2018
Page 6 of 6

The Board will provide official written comments after the Board has had an opportunity in a public meeting to review, discuss and approve comments in response to the GFO/DIA's Report.

The Board does intend to attend the June 14, 2018 meeting of the Executive Branch Audit Committee and make comments.

Thank you and please let me know if you have questions.

NEVADA STATE BOARD OF ACCOUNTANCY

By: 

NICOLA NEILON, CPA, President

NN/nf

cc: Warren Lowman, Executive Branch Audit Manager (via Hand Delivery)
Mark Richards, CPA, Financial Manager (via Hand Delivery)
Viki Windfeldt, Executive Director (via email)

6914-3340-1958, v. 1



NEVADA STATE BOARD OF ARCHITECTURE, INTERIOR DESIGN & RESIDENTIAL DESIGN

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May 21, 2018

Warren Lowman
Executive Branch Audit Manager
Division of Internal Audits
Governor's Finance Office/State of Nevada

RE: GFO/DIA Draft Audit Report on NV's Independent Regulatory Boards

PLEASE NOTE THAT THIS RESPONSE IS BEING SUBMITTED AT THE DIRECTION OF WARREN LOWMAN, EXECUTIVE BRANCH AUDIT MANAGER FROM THE DIVISION OF INTERNAL AUDITS BY THIS BOARD'S EXECUTIVE DIRECTOR AND WITHOUT CONSULTATION WITH THE BOARD. BECAUSE MR. LOWMAN HAS DIRECTED THAT THE EXECUTIVE DIRECTORS NOT MAKE THE DRAFT REPORT PUBLIC IN ADVANCE OF THE JUNE 14 MEETING OF THE EXECUTIVE BRANCH AUDIT COMMITTEE, AND BECAUSE THE BOARD MAY NOT CONSIDER OR TAKE ACTION RELATING TO THE DRAFT REPORT EXCEPT AT AN OPEN AND PUBLIC MEETING CONDUCTED PURSUANT TO THE NEVADA OPEN MEETING LAW (NRS CHAPTER 241), THE BOARD WILL NOT BE ABLE TO REVIEW AND COMMENT ON THE DRAFT AS IT IS ENTITLED TO DO PURSUANT TO NRS 353A.085(1) UNTIL THE BOARD'S NEXT REGULARLY SCHEDULED MEETING AFTER JUNE 14, 2018, WHICH WILL BE ON AUGUST 22ND, 2018. THE COMMENTS CONTAINED HEREIN, THEREFORE, ARE MERELY INTENDED TO PROVIDE SUCH INFORMATION AND RESPONSES AS CAN BE PROVIDED BY THE BOARD'S EXECUTIVE DIRECTOR WITHOUT CONSULTATION, INPUT, OR ACTION BY THE BOARD AND SHOULD BE CONSIDERED AS UNOFFICIAL AND NON-BINDING UPON THE BOARD. AS SUCH, THE BOARD ASKS THAT ANY FINAL ACTION BY THE EXECUTIVE BRANCH AUDIT COMMITTEE RELATING TO THE AUDIT REPORT BE POSTPONED AND THAT THE REPORT NOT BE FINALIZED UNTIL AFTER THE BOARD CAN TAKE PROPER ACTION RELATING THERETO PURSUANT TO NRS 353A.085(1) AND NRS CHAPTER 241 AND THEREAFTER GET THE COMMENTS AND ACTION TAKEN BY THE BOARD BACK TO MR. LOWMAN FOR HIS INCORPORATION INTO THE FINAL AUDIT REPORT.

Dear Mr. Lowman,

This correspondence is sent to follow-up on your request to all Nevada's independent regulatory boards to provide an UNOFFICIAL written response to accept the report recommendations of the Executive Branch Audit Committee (EBAC).

Subject to the above disclaimer, after carefully reviewing each recommendation of the draft audit report, our agency would like to report to the EBAC that the Board does not foresee any issues complying with the recommendations and implementation period suggested by the EBAC as we believe the Board is already in compliance with state statute and executive branch guidelines.

1. Comply with statute and guidelines for salaries

The Board has been in compliance with statute and guidelines for salaries for many years. Furthermore, as recommended by EBAC, I've contacted the Division of Human Resources Management and asked them to evaluate and classify each board staff position with a comparable position within the state. After reviewing job descriptions and compensation for each classification, the Board would like to restate that current board staff positions are compensated equivalently with similar position within the state system.

2. **Use of Office of the Attorney General for a baseline level of legal support and Evaluate the cost/benefit of using in-house salaried attorneys in conjunction with the OAG for legal support**

NRS 623.133 (2) specifically authorizes the Board to employ or have a contract agreement with an in-house legal counsel in conjunction with the use of OAG for legal support. As part of its practice, the Board uses a contracted attorney for most legal tasks, which includes representation in administrative hearings, disciplinary actions, legislative assistance, and specific legal advice. The contracted attorney provides stability of representation as he has represented the Board for over six years and is well versed with the unique legal and factual issues related to the Board's three regulated professions. Additionally, the Board has always used the assigned Deputy Attorney General for legal support during formal hearings or contested cases. After evaluating the cost and benefits of using both contracted attorneys and OAG attorneys, the Board believes it provides a more effective and efficient legal cost by using both types of legal services. Therefore, the Board is in compliance with public meeting and administrative procedure laws.

3. **Establish Standards for Financial and Administrative Operation**

The Board presently has established financial and administrative practices. Based on the Board Reserve Calculations provided by the EBAC, the Board has the appropriate amount in reserves. As far as having contracts being executed without BOE approval, the Board understands the all executed contracts MUST HAVE approval from the Board of Examiners for contracts exceeding \$50,000 or Clerk of the board for contracts \$2,000 and above. The Board's financial reporting is performed in accordance with Government Auditing Standards and it's reported annually as mandated by the state.

The Board, as one of Nevada's excellent occupational licensing board, enforces its unique provisions of state law for the protection and benefit of the public. Therefore, the implementation of the draft audit report recommendations should have minimal effect on the daily operations of the agency.

Once the Board has had an opportunity to review the draft audit report at its August 2018 meeting, we will notify you further of the Board's determinations regarding each of the recommendations. Please do not hesitate to contact me with any questions.

Sincerely,

NEVADA STATE BOARD OF ARCHITECTURE,
INTERIOR DESIGN AND RESIDENTIAL DESIGN


Monica Harrison
Executive Director

BRIAN SANDOVAL
Governor
JASON O. JAEGER, DC
President
MORGAN ROVETTI, DC
Vice President
XAVIER MARTINEZ, DC
Secretary-Treasurer

STATE OF NEVADA



BENJAMIN LURIE, DC
Member
MAGGIE COLUCCI, DC
Member
TRACY DIFILLIPPO, ESQ
Consumer Member
JOHN BERTOLDO, ESQ
Consumer Member
JULIE STRANDBERG
Executive Director

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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May 21, 2018

Division of Internal Audits
Warren Lowman
209 E. Musser St. Ste. 302
Carson City, NV 89701

Dear Mr. Lowman,

PLEASE NOTE THAT THIS RESPONSE IS BEING SUBMITTED AT THE DIRECTION OF WARREN LOWMAN, EXECUTIVE BRANCH AUDIT MANAGER FROM THE DIVISION OF INTERNAL AUDITS BY THIS BOARD'S EXECUTIVE DIRECTOR AND WITHOUT CONSULTATION WITH THE BOARD. BECAUSE MR. LOWMAN HAS DIRECTED THAT THE EXECUTIVE DIRECTORS NOT MAKE THE DRAFT REPORT PUBLIC IN ADVANCE OF THE JUNE 14 MEETING OF THE EXECUTIVE BRANCH AUDIT COMMITTEE, AND BECAUSE THE BOARD MAY NOT CONSIDER OR TAKE ACTION RELATING TO THE DRAFT REPORT EXCEPT AT AN OPEN AND PUBLIC MEETING CONDUCTED PURSUANT TO THE NEVADA OPEN MEETING LAW (NRS CHAPTER 241), THE BOARD WILL NOT BE ABLE TO REVIEW AND COMMENT ON THE DRAFT AS IT IS ENTITLED TO DO PURSUANT TO NRS 353A.085(1) UNTIL THE BOARD'S NEXT REGULARLY SCHEDULED MEETING AFTER JUNE 14, 2018, WHICH WILL BE ON JULY 19, 2018. THE COMMENTS CONTAINED HEREIN, THEREFORE, ARE MERELY INTENDED TO PROVIDE SUCH INFORMATION AND RESPONSES AS CAN BE PROVIDED BY THE BOARD'S EXECUTIVE DIRECTOR WITHOUT CONSULTATION, INPUT, OR ACTION BY THE BOARD AND SHOULD BE CONSIDERED AS UNOFFICIAL AND NON-BINDING UPON THE BOARD. AS SUCH, THE BOARD ASKS THAT ANY FINAL ACTION BY THE EXECUTIVE BRANCH AUDIT COMMITTEE RELATING TO THE AUDIT REPORT BE POSTPONED AND THAT THE REPORT NOT BE FINALIZED UNTIL AFTER THE BOARD CAN TAKE PROPER ACTION RELATING THERETO PURSUANT TO NRS 353A.085(1) AND NRS CHAPTER 241 AND THEREAFTER GET THE COMMENTS AND ACTION TAKEN BY THE BOARD BACK TO MR. LOWMAN FOR HIS INCORPORATION INTO THE FINAL AUDIT REPORT.

Within the confines of the above disclaimer, I have reviewed the report from the Division of Internal Audits and ask that you please consider the comments mentioned below. I appreciate the comments that have been addressed, however I do believe the Board is in compliance with the findings of the report. The Board submits contracts for services pursuant to NRS 333. The Board contracts with an auditor on an annual basis pursuant to NRS 218G.400 and submits the audit reporting to the Legislative Counsel Bureau by December 1st of each year. Pursuant to the passing of Assembly Bill 328 the Board entered into a contract with its outside attorney, who has extensive

history with the Board. Over the years, the Board has utilized the Attorney General's Office, however there were inconsistencies due to turnover of staff. The Board has recognized effectiveness and efficiency by being able to keep legal support the same. The Board is ensured consistency with regard to action taken on complaints and discipline, as well as various other issues brought before the Board.

I recognized a couple items that do not appear to be in accordance with the information provided by the Chiropractic Physicians' Board. Exhibit III illustrates the comparison of the compensation for like services between the three part-time boards with a shared executive director and the average of the four individual boards with full-time executive directors. While the CPBN reports expenditures between \$300,000 and \$500,000, I don't believe we fall into the comparison shown in Exhibit III. The Chiropractic Physicians' Board has a full-time executive director whose compensation is less than both values noted. The Board employs one licensing specialist and the total licensees is approximately 1,000.

Exhibit XII reports that the number of staff employed by the Chiropractic Physicians' Board is three, however the Board employs two full-time employees. In addition, how does the Executive Director's salary compare to the number of licensees? Board duties consist of much more than issuing licenses.

Based on our discussion before the Sunset Subcommittee I will establish a reserve policy to be heard at the Board's July 19, 2018 Board meeting.

We look forward to providing you the Board's comments after our July 19, 2018 meeting.

Respectfully,

A handwritten signature in black ink, appearing to read "Julie Strandberg". The signature is fluid and cursive, with the first name "Julie" being particularly prominent.

Julie Strandberg, Executive Director
Chiropractic Physicians' Board of Nevada

BRIAN SANDOVAL
Governor

State of Nevada



MEMBERS
Margaret Cavin, Chair
Melissa Caron
Mason Gorda
Jose Hernandez
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STATE CONTRACTORS BOARD

May 24, 2018

Steve Weinberger, Administrator
State of Nevada, Governor's Finance Office
Division of Internal Audits
209 E. Musser Street, Ste. 302
Carson City, NV 89701

RE: Audit of Nevada's Boards and Commissions

Dear Mr. Weinberger:

On behalf of the Nevada State Contractors Board (NSCB), I appreciate the audit conducted by the Department of Administration, Division of Internal Audits and the opportunity to respond. Although this has been a time consuming process, I appreciate the professionalism, dedication and integrity your staff has demonstrated throughout. Mark Richards has performed a tremendous service to the Division of Internal Audits and was thorough, professional and courteous in his requests and responsive and communicative throughout the process.

I have reviewed the findings and recommendations from the draft audit report. I would like to clarify that this response is being submitted by the Nevada State Contractors Board's Executive Officer in an unofficial, preliminary manner without consultation with the Board as directed by the Executive Branch Audit Division. As advised, the contents of the draft audit report cannot be disclosed publically prior to the report being presented to the Executive Branch Audit Committee at the June 14, 2018 meeting. The Board will not be able to review and comment on the draft until its next meeting on June 21, 2018, in compliance with the Open Meeting Law. The comments contained herein, should be considered as unofficial and non-binding upon the Board.

As the Executive Officer, I respectfully request on the Board's behalf, that any final action by the Executive Branch Audit Committee relating to the audit report be postponed and that the report not be finalized until after the Board can take proper action relating thereto pursuant to NRS 353A.085(1) and NRS Chapter 241.

The Executive Branch Audit Division made the following recommendations in response to its findings and conclusions with regard to the audits conducted of all Nevada's Boards and Commissions:

Recommendation 1: Comply with statute and guidelines for salaries.

While I appreciate the analysis of the Audit Division, I believe, based on internal legal review, that ambiguity still exists surrounding the issue of salary caps of state employees. Statutory construction and context, past Attorney General Opinions, a past Executive Order, a past Legislative Counsel Bureau opinion, and prior legal opinions bring into question whether employees of licensing boards are to be treated the same under NRS 281.123 as other classified and unclassified state employees. Our legal analysis suggests employees of the NSCB would not fall under the understood definition of "state employee" references in NRS 281.123. Acknowledging that the Audit Division interprets the statute differently from our internal legal analysis, we would request the EBAC take this question under further advisement. The NSCB has always believed and continues to believe that it is in compliance with all applicable laws governing the salaries of the Executive Officer and staff.

We would be happy to make the legal opinions, legal analysis, and supporting documents available to the EBAC upon request.

Recommendation 2: Use the Office of the Attorney General for a baseline level of legal support.

The Nevada State Contractors Board engages the Attorney General's office for official opinions upon request under NRS 228. The Attorney General provides mandatory training to Board members upon initial appointment pursuant to NRS 622.200. The NSCB is authorized to employ or retain attorneys under NRS 624.115 necessary to the discharge of its duties. The State Contractors Board regularly conducts a robust workload of disciplinary hearings, application denial hearings, Recovery Fund hearings, Board meetings, Commission on Construction Education meetings, subcommittee meetings and annual Strategic Planning sessions. The nature of the disciplinary cases undertaken by the NSCB are numerous and complex relating to every aspect of the construction trades ensuring they are conducted in a manner that best protects the safety of the public and the integrity of the industry. For this reason, the Board has determined it is in the best interest of licensees and the public to have counsel experienced with the construction industry.

Recommendation 3. Evaluate the cost/benefit of using in-house salaried attorneys in conjunction with the OAG for legal support.

The Nevada State Contractors Board has identified the need to hire an in-house attorney. Part of the specific objectives identified in the State Contractors Board 2018-19 Strategic Plan, is a proposal to establish an in-house Legal Department. Due to the sufficient demand for legal support, and as evidenced by the frequency of Board hearings and meetings, this is an avenue that the Board has been pursuing since adoption of our strategic plan in March, 2018.

Recommendation 4. Establish standards for the financial and administrative operation of Boards.

The Nevada State Contractors Board is proud to be highlighted as a model agency in this regard. Our reserve policy is exemplary, our contracts are approved by the Board of Examiners (BOE), and our procedures for financial reporting are already established by statute and followed dutifully. The Board has well established internal control procedures. The NSCB will comply with the requirements of NRS 218G.400.

The Legislative Sunset Commission has just completed its review of the Nevada State Contractors Board, examining the same and additional issues as have been addressed by this audit, and had no recommendations for improvement of its operations.

As mentioned above, the findings, recommendations and response cannot be addressed by the Board until after the audit is reviewed by the Executive Branch Audit Committee. We look forward to the EBAC hearing on June 14, 2018 and the opportunity to provide additional details. If you have any questions, please contact me at 702-486-1111 or mgrein@nscb.state.nv.us.

Sincerely,



Margi A. Grein
Executive Officer

cc: Margaret Cavin
Warren K. Lowman
Mark J. Richards



NEVADA STATE BOARD OF COSMETOLOGY

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May 16, 2018

Mr. Warren K. Lowman
209 East Musser Street – Room 302
Carson City, NV 89701

Re: Audit of Nevada State Board of Cosmetology

Dear Mr. Lowman,

This letter is a response to the recent audit you performed on all of the licensing boards in the State of Nevada. I am the President of the Nevada State Board of Cosmetology and I am writing to provide detail regarding three discussion areas of your audit: a) complying with statute and guidelines for salaries, b) improving the legal support framework, and c) establishing standards for financial and administrative operations. During the course of this letter, I will address all three areas and provide specifics on how the Board is in compliance with all of the state regulations that we are required to follow.

A) Complying with statute and guidelines for salaries

The Nevada State Board of Cosmetology complies with NRS 281.123(1) that states "Except as otherwise provided in subsection 3 or NRS 281.1233, or as authorized by statute referring specifically to that position, *the salary of a person employed by the State or any agency of the State must not exceed 95 percent of the salary for the office of Governor during the same period.*" We do not agree with your analysis of our executive director's maximum pay since he/she is required to have skills that are particularly congruent with the needs of the agency and are not similar to any other state position. It is for this reason that the Nevada State Board of Cosmetology will proceed with payment of a maximum salary of \$141,867 until January 1, 2019 and then \$155,300 to comply with the law. Any future increases in the Governor's pay will be reflected in the maximum pay that we will be able to compensate our executive director.

In regard to the other employees of the Nevada State Board of Cosmetology, their pay rates and grade-steps are in compliance with the requirements established by the Executive Director, Deputy Executive Director, and the Chief Financial Officer of the Board. The positions within the agency are unique, multi-faceted, and comprehensive in their own regard. The workers and



executive management have to be highly trained and skillful as they are processing a large number of reciprocity candidates (2,771 from 2016 to date) relative to the number of students coming from Nevada cosmetology schools (2,365 from 2016 to date). As such, the positions are not able to be compared to other positions held by other state employees so the pay grade-steps are going to be held as they are currently, with no person being paid more than 95 percent of the Governor's pay rate. Since we are exempt from the personnel act under the provisions of NRS 284.013, we place our trust that you will see this as complying with the labor laws of the State of Nevada.

B) Improving the legal support framework

The Nevada State Board of Cosmetology uses the Office of the Attorney General for all legal work on all cases and for all Board meetings. If we choose to use outside counsel at any time in the future, we will consult with the Office of the Attorney General as to the proper sequence of placing that person on board with our employees.

C) Establishing standards for financial and administrative operations

COMPENSATION

As previously noted, our employees are completely unique to our Board's operations and we do not need any further guidance or instruction from the Department of Administration.

OPERATING RESERVES

The Board currently has a reserve equal to 7.4 months. We consider this adequate and are not in need of increasing the reserve at this time. If you wish to come up with other reserve standards, we will consider it and act on it as a Board.

CONTRACT APPROVAL

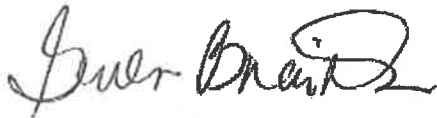
The Board currently follows the law requiring approval of all contracts exceeding \$50,000. We also follow the guidelines for getting Clerk approval for any contract that is greater than \$1,999.99. If you come up with new standards, we will review and approve them as a Board.

FINANCIAL REPORTING

The Board currently has its financial books audited every year with a review and approval by the Board. We currently have the financial reports audited as Governmental Funds and are in compliance with all of the provisions you stated in your report. If you develop additional items to be reported, we will review and approve them as a Board.

In conclusion, we have reported all items that need to be reported and have answered how we will provide for the three different areas of compliance. If you should have any questions or need more information on the operation of the Nevada State Board of Cosmetology, please direct your questions to our Executive Director, Mr. Gary K. Landry who will contact me for review and response.

Sincerely,

A handwritten signature in black ink, appearing to read "Gwen Braimah". The signature is fluid and cursive, with a large loop at the end.

Gwen Braimah
President
Nevada State Board of Cosmetology

c: file
Gary K. Landry

STATE OF NEVADA
FUNERAL AND CEMETERY SERVICES BOARD



3740 Lakeside Drive, Suite 201, Reno, Nevada 89309
Phone (775) 825-5535 • Fax (775) 507-4102
Email: rfuneralboard@fb.nv.gov
Website: funeral.nv.gov

DR. RANDY SHARP
Board Chair

JENNIFER KANDT
Executive Director

May 23, 2018

Warren Lowman, Executive Branch Audit Manager
Division of Internal Audits
Governor's Finance Office
209 E. Musser Street, Suite 302
Carson City, NV 89701-4298
Sent via email to wlowman@finance.nv.gov

Re: Audit of Nevada's Independent Regulatory Boards

Dear Mr. Lowman:

I have reviewed the draft audit report of Nevada's independent regulatory boards. Because I am unable to share the report with the members of the Nevada Funeral and Cemetery Services Board, and a review of the report by my Board would have to be done in a public meeting, I am unable to give a response which has been vetted by the Board as a whole. That being said, I would like to make the following general comments in regards to the report:

- 1) The report does not define the difference between "In-House Counsel" and "Outside Counsel" in regards to legal support. I believe any retained counsel that is not given "employee" status would require a BOE approved contract, so any difference is unclear to me and I would request that the report clearly differentiate for any Board which may need to evaluate the cost effectiveness of the various options.
- 2) The report overviews the executive director salaries and gives "key metrics" which include total revenue and revenue per license, but does not reference any difference between boards that may issue licenses or permits to facilities which require inspections versus licenses simply issued to individuals. This may be a key metric to consider when evaluating the complexity of each licensing board.

The email sent on May 4, 2018, in which the draft report was sent, stated that any official response should indicate if the recommendations are accepted and the estimated date to fully implement each recommendation. I do not anticipate that my Board will have any issues with accepting the recommendations as I believe the Funeral and Cemetery Services Board is already compliant with the established recommendations, but acceptance would require review of the report by the Board members. In terms of the recommendations contained in Appendix C, the following information is added regarding timeframes for compliance:

<u>Recommendations</u>	<u>Time Frame</u>
1. Comply with statute and guidelines for salaries. (page 9)	Compliant
2. Use the OAG for a baseline level of legal support. (page 15)	Compliant

3. Evaluate the cost/benefit of using in-house salaried attorneys in conjunction with the OAG for legal support. (page 15)

Currently only use OAG for legal support.

4. Establish standards for the financial and administrative operation of Boards. (page 21)

This appears to be a recommendation for DOA and Board would comply with any standards set.

If you should have any questions regarding this response, please do not hesitate to contact me at (775) 825-5535.

Best regards,

Jennifer Kandt
Executive Director

Enclosures
JK/np

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director



May 23, 2018

Steve Weinberger, CPA
Administrator
Division of Internal Audits
Governor's Finance Office
209 East Musser Street, Room 302
Carson City, Nevada 89701

Re: Draft audit report regarding Nevada State Boards and Commissions

Dear Mr. Weinberger,

This correspondence is provided pursuant to your invitation for comments to the audit of Nevada's Boards and Commissions conducted by the Executive Branch Audit Committee, Division of Internal Audits. Please note that, pursuant to the request of Warren Lowman, Executive Branch Audit Manager, the report has not been shared with the members of the Nevada State Board of Medical Examiners (NSBME), which has the effect of preventing the Board members from taking action to respond to the draft audit report pursuant to the Nevada Open Meeting Law. The comments contained herein, therefore, are merely intended to provide such information and responses as can be provided by the Board's Executive Director without consultation or action by the Board, and should be considered as unofficial and non-binding upon the Board.

1. Recommendation No. 1: Comply with statute and guidelines for salaries.

Response:

The recommendation is twofold. First, it contends that executive director salaries of state agencies may not be in compliance with NRS 281.123(1). Second, it contends that salaries of state board and commission employees should be comparative to other state agencies. The NSBME believes it has comported – and continues to comport – with applicable law and guidelines regarding both recommendations.

NRS 281.123(1) provides that "Except as otherwise provided in subsection 3 or NRS 281.1233, or as authorized by statute referring specifically to that position, the salary of a person employed by the State or any agency of the State must not exceed 95 percent of the salary for the office of Governor during the same period." Subsection 3 exempts dentists and physicians employed full-time by the state as well as officers and employees of the Nevada System of Higher Education. NRS 281.123(1) specifically carves out another exception from the 95% limit: "as authorized by statute referring specifically to that position...." NRS 630.103 provides that the Board shall employ an Executive

Telephone 775-688-2559 • Fax 775-688-2321 • www.medboard.nv.gov • nsbme@medboard.nv.gov

Director "at a level of compensation set by the Board," which is done by the Board at a public meeting. Thus, the NSBME interprets NRS 630.103 to fall within the exception set forth in NRS 281.123(1).¹

In setting the salary of the Executive Director and the salaries of other NSBME employees, the NSBME undertakes a comparison of the salaries of the heads of other state agencies, as well as other state employees.

2. Recommendation No. 2: Use of the Office of the Attorney General (OAG) for a baseline level of support.

Response:

The NSBME has consistently used counsel from the OAG for a baseline level of support as board counsel during board meetings and when the NSBME adjudicates the rights of a licensee and will continue to do so.

3. Recommendation No. 3: Evaluate the cost/benefit of using in-house salaried attorneys in conjunction with the OAG for legal support.

Response:

The NSBME employs salaried in-house counsel in conjunction with counsel from OAG. As set forth in Exhibit VIII of the draft audit comparing the cost of legal support, the in-house staff rate is the most cost-effective rate for legal counsel.

4. Recommendation No. 4: Establish standards for the financial and administrative operation of Boards.

Response:

The draft audit report sets forth four recommendations under this general recommendation. First, the report contends that state boards are not following Executive Branch guidelines to consider similar state positions when establishing staff salaries and executive director salaries. The NSBME has already responded to this above.

Second, the report recommends that the state boards establish formal policies for determining the adequacy of operating reserves. The NSBME is of the understanding that the suggested reserves for government and non-profit organizations are between six months and one year. It has been the NSBME's intent, and the NSBME has endeavored for several years, to increase its fiscal reserves to an amount equal to one year of the Board's operating expenses to ensure the long-term viability of the organization and the sustainability of the NSBME's statutory mission. The NSBME recognizes the need for a more formalized written reserve policy and plans to propose such for the Board members' approval at a public meeting in the next six months.

¹ It is unclear how the auditors arrived at a figure of \$141,867 as 95% of the Governor's salary. The Governor's salary from Pay Policy 30 "Elected Officials on Employee/Employer Paid Retirement" effective January 1, 2016 is \$149,573. $\$149,573 \times 0.95 = \$142,094.35$.

Steve Weinberger, CPA
May 23, 2018
Page 3

Third, the audit report contends that state boards and commissions are not in complete compliance with statutory requirements and the State Administrative Manual for contracting for professional services. The audit report further recognizes that lack of statutory standards have led to confusion among the state boards. The NSBME believes that it is in compliance with the statutory requirements regarding professional contracts, which would provide adequate protection from liability exposure. The NSBME has been subject to annual audits by the Legislative Counsel Bureau for numerous years pursuant to NRS 218G.400, and has been found to be in compliance with all significant statutory constraints on its financial administration. Nonetheless, the NSBME is always striving to improve its processes and will advance the recommendations set forth in the audit report to Board members for their consideration and approval.

Fourth, the audit report recognizes there is confusion about using the Governmental Funds basis of accounting because such requirement is not set forth in statute. The NSBME complies with the statutory requirements of NRS 218G.400. The Legislative Counsel Bureau has never questioned the basis by which the NSBME accounts for its financial position and results of operations. The NSBME uses a proprietary fund to account for its financial position and results of operations. Proprietary fund types are used to account for activities conducted on a fee-for-service basis in a manner similar to commercial enterprises. The measurement focus is upon determination of net income, financial position and changes in cash flows. Financial statements of the Board are prepared in accordance with general accepted accounting principles as applied to governmental units. Our independent auditors have stated that the Board conformed to all significant statutory constraints on its financial administration. If the Department of Administration recommends that the Board prepare financial statements as if they were special revenue funds, the Board will advance this recommendation to the Board members for their consideration and approval.

If you have any questions, please do not hesitate to contact me at 775.688.2559.

Best regards,



Edward O. Cousineau, J.D.
Executive Director



Brian Sandoval
Governor

STATE OF NEVADA
BOARD OF OCCUPATIONAL THERAPY

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Email: board@nvot.org / Website: www.nvot.org

Loretta L. Ponton
Executive Director

May 24, 2018

Mr. Steve Weinberger, Administrator
State of Nevada, Governor's Finance Office
Division of Internal Audits
302 E. Musser St., Suite 302
Carson City, Nevada 89701

Dear Mr. Weinberger,

Since these audit findings are confidential until released, the members of the Board of Occupational Therapy will not see the actual audit findings until after the audit is issued and has been reviewed by the Executive Branch Audit Committee. The following response has been prepared in consultation with the Board's Chair, Elizabeth Straughan.

We do not accept the findings and recommendations from the Governor's Finance Office, Division of Internal Audits as a whole. Some findings and recommendations in part are acceptable and are identified in the response below.

The findings and recommendations focus on Board internal operations and staffing. The Board has statutory authority, NRS 640A.100, to independently determine their staffing needs, including salaries and expenses, the costs of which must be paid from fees received by the Board, and may not be paid out of the state general fund.

Comply with Statute and Guidelines for Salaries

Independent boards are exempt from the state's budget act, NRS 353, and are also exempt from the state's personnel act, NRS 284 (audit report pg 24).

Response: The Board does not accept or agree with the auditors' findings and recommendations pertaining to compliance with NRS 281.123; NRS 622.220 as amended by AB328 and related sections beginning on page 3 through page 6 pertaining to the Board's Executive Director.

The Board of Occupational Therapy is fully compliant with NRS 640A.100 and Executive Branch guidelines governing salaries; Board positions are established consistent with similar positions within the state system, and the Executive Director position salary is well below the auditors' suggested salary range. It should be noted the Board does not offer comparable benefits to state employees nor does it offer retirement or medical insurance.

The auditors contend that Boards are subject to the provisions of Section 1 of NRS 281.123 which limits the salaries of state employees to 95% of the salary of the Governor. NRS 281.1233 provides for certain exemptions from the salary cap, upon approval of the Interim Finance Committee and requires an allocation from the Contingency Account in the State General Fund.

A legal opinion has not been provided that would support the contention of the auditors that Boards are subject to NRS 281.123; in fact it would appear that NRS 281.1233 would support the Boards standing that NRS 281.123 does not apply as the section refers to IFC approvals, allocations from the state contingency fund and agency budgets.

The auditors also contend that compensation received by the Executive Director, who is an employee of the Board of Occupational Therapy and also holds "independent contracts" with two other small Boards, constitute a single position and implied agreement for shared Executive Director services.

The Board of Occupational Therapy is aware of and supports the independent contract services provided by its Executive Director to the other small Boards. In fact, the Boards are co-located and have cost sharing agreements with the Board of Occupational Therapy for administrative office space (audit report pg 4).

The Board of Occupational Therapy originally hired their Executive Director as an independent contractor in 2006. At that time, the Board administration was conducted from a home-based office and was non-compliant with statutory requirements for Board administration. The Executive Director position was evaluated in 2010 to determine whether the position should remain an independent contract position. The Board retained the position as a contract position until 2014.

The Board of Occupational Therapy has first-hand experience and knowledge of the challenges faced by small Boards in transitioning to a fully functional Board. Obtaining the guidance of an experienced and competent Executive Director is paramount to their success. The unique "co-located administrative office" is a creative methodology and opportunity to assist small boards with ensuring compliance with state administrative requirements for physical administrative office locations open to the public and increases the quality of services and public access to Boards' services, in a cost effective and efficient manner.

The three Boards each have statutory authority to obtain their own staff, whether it be an employee or independent contractor. There are three distinct and separate Executive Director positions. Each Board independently makes the determination of how to staff their Executive Director position and establish compensation, directly related to the Boards specific needs and fiscal constraints.

There is no agreement between the co-locating Boards to "share" a single Executive Director.

The auditors contend that the Board's Executive Director may not be in compliance with NRS 622.220 as amended by AB328 (audit report pg 4).

AB328 is silent as to whether an individual may be employed by one board and independently contracted with other boards to serve in an executive director capacity.

The auditors' findings have no legal basis; and in fact improperly question the validity of the independent contract agreements. These contracts were properly procured, with the assistance of the Office of the Attorney General, approved by the Board of Examiners and executed in accordance with all state procurement and contractual requirements. (Exhibit X, four (4) Executive Director contracts in compliance).

The auditors' inappropriately present information and data in the audit report based upon combining three (3) separate and distinct positions and three (3) separate and distinct Boards' statistics and representing them as a single entity; which they are not.

The auditors' suggested salary range for executive director compensation may not be feasible for small Boards with limited fiscal resources; does not delineate with or without benefits nor whether the salary ranges would be applicable to contract services.

Pursuant to statutory authority in NRS 640A.100, the Board of Occupational Therapy is charged with determining the appropriate level of compensation for the Board's Executive Director and staff.

Improve the Legal Support Framework

Response: The Board accepts the audit recommendation for use of the OAG for a baseline level of legal support.

The Board of Occupational Therapy does utilize the OAG for legal services. The Board does not have in-house salaried counsel; the Board has discussed hiring out-side legal services on an as needed basis for prosecution of disciplinary matters, and would assert their authority to do so under the provisions of NRS 640A.100.

Establish Standards for Financial and Administrative Operation

Response: Compensation - The Board does not accept the auditors' findings and recommendations on compensation.

As previously stated, compensation levels should remain under the authority of the Boards who have the statutory authority and fiduciary responsibility to establish appropriate staffing levels in accordance with the specific needs of the Board. Comparison to similar positions and compensation in state service is an evaluation tool available to Boards but should not be the exclusive factor in making staffing and compensation decisions. Establishing a standard that includes authority for DHRM assistance, but retains the Boards authority to request assistance at the discretion of the Board might be beneficial. Requiring DHRM assistance would be detrimental as those services would come at a cost, through an assessment or direct charge by DHRM, which impacts the finances of the Board.

Operating Reserves - The Board of Occupational Therapy accepts the auditors' findings and recommendation on establishing a reserve policy.

The Board of Occupational Therapy continually evaluates their financial status and makes adjustments in operations and fees as necessary. On March 24, 2018 the Board adopted a regulation to move from a one-year license to a two-year license with no increase in fees. The Legislative Commission approved the regulation on May 16, 2018.

The Board agrees that a reserve balance policy would be beneficial and will be considering a Reserve Balance policy at their Board meeting retreat in August 2018.

Contract Approval - The Board of Occupational Therapy accepts the auditors' findings and recommendation to provide clarity in the applicability of NRS 333 and SAM.

The Board of Occupational Therapy is in compliance with NRS 333 and SAM relating to all contracts.

The state contracting process can be onerous for small Boards and requires specialized training in state processes. Small Boards may not have direct access to state resources and/or state internal systems; such as NEBS, and specialized training is required to access the state's Contract Entry and Tracking System (CETS). It may be beneficial to small Boards for the Department of Administration to include a designated single-point-of-contact or portal for Boards to access information and obtain assistance in the contracting process.

Financial Reporting - The Board of Occupational Therapy accepts the auditors' recommendation to clarify the financial reporting requirements of NRS 218G.400.

The Board of Occupational Therapy complies with NRS 218G.400 and financial audits are prepared using the Governmental Funds basis of accounting.

Suggestion or Recommendation for Additional Standards for Administration

The audit report does not address or include recommendations for standards of administration for internal operations for Boards.

It would be helpful for small regulatory Boards to have a Board Administration Guide that could include the applicable sections of NRS and SAM that apply specifically to Boards, similar to the SAM manual for state agencies. This Guide would not be intended to replace existing internal personnel and operating manuals but would supplement current administrative systems, and would be extremely beneficial for small boards with limited or no experienced staff and part-time Executive Directors or Administrators.

We appreciate the opportunity to respond to the audit report findings and recommendations.

Respectfully,



Loretta L. Ponton, Executive Director
On behalf of Elizabeth Straughan, Board Chair



MEMBERS:

Ronald Hedger, D.O.
President
Paul Mausling, D.O.
Vice President
Nicole Cavenagh, Ph.D.
Secretary/Treasurer, Public Member
Ricardo Almaguer, D.O.
Member
C. Dean Millne, D.O.
Member
Samir Panchohi, D.O.
Member
Swadeep Nigam
Public Member

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BOARD OF OSTEOPATHIC MEDICINE
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Sandra Raed, MPA
Executive Director

May 18, 2018

Mr. Warren Lowman
Executive Branch Audit Manager/Division of Internal Audits
State of Nevada Governor's Finance Office
209 East Musser Street #302
Carson City, NV 89701

Dear Mr. Lowman:

The Executive Director of the Nevada State Board of Osteopathic Medicine (Board) has received and reviewed the GFO/DIA Draft Audit Report on Nevada's Independent Regulatory Boards.

PLEASE NOTE THAT THIS RESPONSE IS BEING SUBMITTED AT THE SUGGESTION OF WARREN LOWMAN, EXECUTIVE BRANCH AUDIT MANAGER FROM THE DIVISION OF INTERNAL AUDITS BY THIS BOARD'S EXECUTIVE DIRECTOR AND WITHOUT CONSULTATION WITH THE BOARD. BECAUSE MR. LOWMAN HAS DIRECTED THAT THE EXECUTIVE DIRECTORS NOT MAKE THE DRAFT REPORT PUBLIC IN ADVANCE OF THE JUNE 14 MEETING OF THE EXECUTIVE BRANCH AUDIT COMMITTEE, AND BECAUSE THE BOARD MAY NOT CONSIDER OR TAKE ACTION RELATING TO THE DRAFT REPORT EXCEPT AT AN OPEN AND PUBLIC MEETING CONDUCTED PURSUANT TO THE NEVADA OPEN MEETING LAW (NRS CHAPTER 241), THE BOARD WILL NOT BE ABLE TO REVIEW AND COMMENT ON THE DRAFT AS IT IS ENTITLED TO DO PURSUANT TO NRS 353A.085(1) UNTIL THE BOARD'S NEXT REGULARLY SCHEDULED MEETING AFTER JUNE 14, 2018, WHICH WILL BE ON AUGUST 14, 2018.

THE COMMENTS CONTAINED HEREIN, THEREFORE, ARE MERELY INTENDED TO PROVIDE SUCH INFORMATION AND RESPONSES AS CAN BE PROVIDED BY THE BOARD'S EXECUTIVE DIRECTOR WITHOUT CONSULTATION, INPUT, OR ACTION BY THE BOARD AND SHOULD BE CONSIDERED AS UNOFFICIAL AND NON-BINDING

Page #1

UPON THE BOARD. AS SUCH, THE BOARD ASKS THAT ANY FINAL ACTION BY THE EXECUTIVE BRANCH AUDIT COMMITTEE RELATING TO THE AUDIT REPORT BE POSTPONED AND THAT THE REPORT NOT BE FINALIZED UNTIL AFTER THE BOARD CAN TAKE PROPER ACTION RELATING THERETO PURSUANT TO NRS 353A.085(1) AND NRS CHAPTER 241 AND, THEREAFTER, RETURN THE COMMENTS AND ACTION TAKEN BY THE BOARD TO MR. LOWMAN FOR HIS INCORPORATION INTO THE FINAL AUDIT REPORT.

Based upon the above disclaimer, the Executive Director renders her opinion and comments in response to the GFO/DIA Draft Audit Report (Report) as follows:

- This Board is currently in compliance with the recommendations listed in the Report including, but not limited to the following:
 - *Statute and Guideline for Salaries* - Currently and historically the Board's employees' salaries and benefits are and have been within the range of salary guidelines.
 - *Legal Support Framework* - The Board routinely uses the services of both the OAG and outside counsel; however, the Board primarily uses outside counsel who has long-term Board-related experience and whose hourly rate is less than the OAG, so the Board saves money through its use of the outside counsel.
 - *Standards for Financial/Administrative Board Operations* - Currently, the Board is establishing a Reserve Policy to be approved for FY 2018-2019. The new policy will establish, among other things, that the amount in reserve will be reviewed annually. The Board has maintained a steady reserve of funds over the past several years, and the Board's current reserve funds are within the range suggested in the Report. The Board complies with the contracting requirements discussed in the Report.

After the draft Report is presented to the EBAC, it will be presented to the Board for review and action that will result in final, approved comments by the Board and that will be submitted thereafter to Mr. Lowman pursuant to NRS 353A.085(1).

Please contact me with any questions.

Sincerely,



Sandra Reed, MPA
Executive Director



NEVADA STATE BOARD OF PHARMACY
OFFICE OF THE GENERAL COUNSEL

WRITER'S DIRECT DIAL: (775) 850-1440 • EMAIL: lsund@pharmacy.nv.gov • FAX: (775) 850-1444

May 21, 2018

Steve Weinberger, CPA
Administrator
Division of Internal Audits
Governor's Finance Office
209 East Musser Street, Room 302
Carson City, NV 89701

Re: Audit of Nevada's Boards and Commissions

Dear Mr. Weinberger:

This correspondence constitutes the Nevada State Board of Pharmacy (BOP) response and implementation plan to the audit of Nevada's Boards and Commissions (Audit).

RECOMMENDATION NO. 1 – Comply with statute and guidelines for salaries.

RESPONSE:

The BOP believes it is complying with applicable law. NRS 281.123(1) provides that that no state employee, other than a dentist, physician, or University of Nevada employee, may be paid a salary which exceeds 95 percent of the governor's salary; the 95% rule applies except "as authorized by statute referring specifically to that position." NRS 639.040(2) provides that the BOP shall employ as Executive Secretary a licensed pharmacist with appropriate experience who shall be "entitled to receive a salary determined by the Board."¹ The BOP believes NRS 639.040(2) to fall within the exception provided in NRS 281.123(1). Furthermore, in determining the Executive Secretary's salary, the BOP took into consideration the hundreds of licensed health professionals employed in the State executive branch with salaries in excess of the 95% rule.

With regard to BOP staff, the BOP approved those salaries in the belief that they complied with the 95% rule. The Audit added PERS contributions to the staff salaries to conclude that boards are paying in excess of the 95% rule. However, nothing in the plain language of the statute provides a basis for the inclusion of PERS contributions in calculating a salary. NRS 281.123(2) defines "salary" for purposes of the 95% rule, contains no reference to PERS contributions, and makes no distinction between an employee/employer paid and an employer paid retirement. *See also* NRS 286.025 ("compensation" defined) and NAC 616C.423 (items included in calculation of average monthly wage for workers compensation).

¹ The BOP notes that Audit Exhibit IV incorrectly represents that the BOP has 4 staff; for the current fiscal year the BOP has 17 FTE positions and 3 part time staff.

Steve Weinberger, CPA
May 21, 2018
Page 2

RECOMMENDATION NO. 2 – Use the Office of the Attorney General (OAG) for a baseline level of legal support.

RESPONSE:

The BOP has always utilized the OAG for a baseline level of legal support, primarily as board counsel whenever the BOP adjudicates the rights of a licensee.

RECOMMENDATION NO. 3 – Evaluate the cost/benefit of using in-house salaried attorneys in conjunction with the OAG for legal support.

RESPONSE:

The BOP employs in-house counsel in conjunction with the OAG. The BOP notes that, as demonstrated in Audit Exhibit VIII, in-house counsel is the most cost-effective model of legal support by a wide margin.

RECOMMENDATION NO. 4 – Establish standards for the financial and administrative operation of Boards.

RESPONSE:

Compensation

The BOP believes that staff salaries comply with NRS 281.123 and are appropriate.² Should the Department of Administration establish formal guidelines for positions, the Board will take those guidelines into consideration.

Operating Reserves

The BOP shall develop a reserve policy consistent with the Audit recommendation within the next six months.

Contract Approval

The BOP strictly complies with the requirements of NRS Chapter 333, NAC Chapter 333, and chapter 0300 of the State Administrative Manual for all contracts.

Financial Reporting

The BOP strictly complies with the financial reporting requirements of NRS 218G.400.

If you have any questions, please do not hesitate to contact me at 775-850-1440 or bkandt@pharmacy.nv.gov.

Best regards,



Brett Kandi
General Counsel
Nevada State Board of Pharmacy

² For instance, the salary of the BOP General Counsel is comparable to the salaries of the General Counsel for the Nevada Commission on Judicial Discipline Commission and the General Counsel for the OAG. The salary of the BOP Director Finance and Technology is comparable to the salary of an Administrative Services Officer.



Nevada State Board of Podiatry

1325 Airmotive Way, Suite 175-J • Reno, Nevada 89502 • podiatry.nv.gov • Phone 775-789-2605

May 15, 2018

Mr. Mark Richards, CPA Executive Branch Auditor
Governor's Finance Office
209 E. Musser St., Ste. 302
Carson City, Nevada 89701

RECEIVED

MAY 22 2018

Re: Draft of the Executive Branch Audit Committee

GOVERNOR'S FINANCE OFFICE
BUDGET DIVISION

Dear Mr. Richards:

Per the request of Mr. Lowman I have completed my review of the draft of the Executive Audit Committee audit of Nevada's Boards and Commissions. Unfortunately, I do not believe that I have the authority to comment regarding any findings or recommendations which are made by committee staff in the draft document. Only the Nevada Board of Podiatry pursuant to a properly noticed meeting under the Open Meeting Law can accept or reject any of the recommendations contained in the draft document. My understanding is that this document is not subject to disclosure until it is reviewed by the Executive Audit Committee on June 14, 2018. If it is helpful to the process I could put the draft document on a future Board meeting after June 14, 2018. Please contact me at (775) 789-2605 or nvpodiatry@bop.nv.gov if you require any additional information.

Sincerely,


Carolyn J. Cramer
Executive Director



State of Nevada
Board of Registered Environmental Health Specialists

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www.nvrehhs.org Email board@nvrehhs.org

May 24, 2018

Mr. Steve Weinberger, Administrator
State of Nevada, Governor's Finance Office
Division of Internal Audits
302 E. Musser St., Suite 302
Carson City, Nevada 89701

Dear Mr. Weinberger,

Since these audit findings are confidential until released, the members of the Board of Registered Environmental Health Specialists will not see the actual audit findings until after the audit is issued and has been reviewed by the Executive Branch Audit Committee. The following response has been prepared in consultation with the Board's Chair, Anthony Macaluso.

We do not accept the findings and recommendations from the Governor's Finance Office, Division of Internal Audits as a whole. Some findings and recommendations in part are acceptable and are identified in the response below.

The findings and recommendations focus on Board internal operations and staffing. The Board has statutory authority, NRS 625A.055 and 625A.060, to independently employ and fix the compensation paid to attorneys, investigators and other professional consultants and clerical personnel; all expenses must be paid from fees received by the Board, and may not be paid out of the state general fund.

Comply with Statute and Guidelines for Salaries

Independent boards are exempt from the state's budget act, NRS 353, and are also exempt from the state's personnel act, NRS 284 (audit report pg 24).

Response: The Board does not accept or agree with the auditors' findings and recommendations pertaining to compliance with NRS 281.123; NRS 622.220 as amended by AB328 and related sections beginning on page 3 through page 6 pertaining to "one executive director working part-time for three boards".

The Board of Registered Environmental Health Specialists has no employees.

The Board entered into a contractual agreement for Executive Director Services beginning September 1, 2015. Previous to 2015, the Board had no dedicated staff or physical administrative office location. In awarding the independent contract, the Board considered the exceptional qualifications, abilities, knowledge and skills of the candidate; the fact that the individual brought unique and efficient co-location opportunities for administrative office cost

sharing and was versed in transitioning non-compliant regulatory boards into compliance with state administrative requirements, having done so successfully for two other small regulatory boards.

The auditors contend that the Board's contract Executive Director may not be in compliance with NRS 622.220 as amended by AB328 (audit report pg 4).

AB328 is silent as to whether an individual may be employed by one board and independently contracted with other boards to serve in an executive director capacity.

The auditors' findings have no legal basis; and in fact improperly question the validity of the independent contract agreements. The contract was properly procured, with the assistance of the Office of the Attorney General, approved by the Board of Examiners and executed in accordance with all state procurement and contractual requirements. (Exhibit X, four (4) Executive Director contracts in compliance).

The auditors also contend that compensation received by the Executive Director as an "independent contractor" should be included in their "single position" salary analysis as there is an implied agreement for shared Executive Director services.

There is no agreement between the Boards to "share" a single Executive Director.

The Board of Occupational Therapy is aware of and supports the contract services being provided to the REHS Board. In fact, the Boards are co-located and have a cost sharing agreement for administrative office space (audit report pg 4).

The co-located Boards each have statutory authority to obtain their own staff, whether it be an employee or independent contractor. The REHS Board independently made the determination of how to staff its Executive Director position and approved the fixed fee compensation, based solely upon the specific needs of the Board.

The auditors' inappropriately present information and data in the audit report based upon combining separate and distinct positions and separate and distinct Boards' statistics and representing them as a single entity; which they are not.

The REHS Board has the lowest annual revenue of all Boards; the auditors' suggested salary range for Executive Director compensation is not feasible; and is questionable whether it would apply to "contract services".

Pursuant to statutory authority in NRS 625A, the Board of Registered Environmental Health Specialists is charged with determining the staff level and method of compensation.

Improve the Legal Support Framework

Response: The Board accepts the audit recommendation for use of the OAG for a baseline level of legal support.

The REHS Board utilizes the Office of the Attorney General for all legal services.

Establish Standards for Financial and Administrative Operation

Response: Compensation - The Board does not accept the auditors' findings and recommendations on compensation.

As previously stated, compensation levels should remain under the authority of the Boards who have the statutory authority and responsibility to establish appropriate staffing levels in accordance with the specific needs of the Board.

Requiring DHRM assistance would be detrimental as those services would come at a cost, through an assessment or direct charge by DHRM, which impacts the finances of the Board.

Operating Reserves - The Board of Registered Environmental Health Specialists accepts the auditors' findings and recommendation on establishing a reserve policy.

A reserve balance policy would be beneficial; however, as the smallest revenue Board at approximately \$32,000 per year; reserve funds are limited. The Board will consider establishing a policy at a future meeting date.

Contract Approval - The Board of Registered Environmental Health Specialists accepts the auditors' findings and recommendation to provide clarity in the applicability of NRS 333 and SAM.

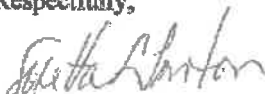
The Board of Registered Environmental Health Specialists is in compliance with NRS 333 and SAM relating to contracts. The Board has one (1) contract for Executive Director Services in place.

Financial Reporting - The Board of Registered Environmental Health Specialist accepts the auditors' recommendation to clarify the financial reporting requirements of NRS 218G.400.

The Board complies with NRS 218G.400; and submits an annual Balance Sheet in lieu of audits.

We appreciate the opportunity to respond to the audit report findings and recommendations.

Respectfully,



Loretta L. Ponton, Executive Director
On behalf of Anthony Macaluso, Board Chair



State of Nevada
Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

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May 24, 2018

Mr. Steve Weinberger, Administrator
State of Nevada, Governor's Finance Office
Division of Internal Audits
302 E. Musser St., Suite 302
Carson City, Nevada 89701

Dear Mr. Weinberger,

Since these audit findings are confidential until released, the members of the Speech-Language Pathology Audiology and Hearing Aid Dispensing Board will not see the actual audit findings until after the audit is issued and has been reviewed by the Executive Branch Audit Committee. The following response has been prepared in consultation with the Board's Chair, Rebecca Bailey-Torres.

We do not accept the findings and recommendations from the Governor's Finance Office, Division of Internal Audits as a whole. Some findings and recommendations in part are acceptable and are identified in the response below.

The findings and recommendations focus on Board internal operations and staffing. The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board has statutory authority, NRS 637B.130, to employ and fix the compensation of an Executive Director; all expenses must be paid from fees received by the Board, and no part of those expenses and salaries may be paid out of the State General Fund.

Comply with Statute and Guidelines for Salaries

Independent boards are exempt from the state's budget act, NRS 353, and are also exempt from the state's personnel act, NRS 284 (audit report pg 24).

Response: The Board does not accept or agree with the auditors' findings and recommendations pertaining to compliance with NRS 281.123; NRS 622.220 as amended by AB328 and related sections beginning on page 3 through page 6 pertaining to "one executive director working part-time for three boards".

The Board entered into an independent contract for Executive Director Services beginning in 2012. Previous to 2012, the Board had an Administrator and operated from the home-based office of the Administrator. There was no formal "independent contract" for services. With the assistance of the Office of the Attorney General, a Request for Proposal was issued for an Executive Director.

In awarding the independent contract, the Board considered the exceptional qualifications, abilities, knowledge and skills of the candidate; the fact that the individual brought unique and efficient co-location opportunities for administrative office cost sharing and was versed in transitioning non-compliant regulatory boards into compliance with state administrative requirements, having previously done so successfully. The Executive Director was also under an independent contract agreement with the Board of Occupational Therapy for Executive Director Services at the time. The proposal included a letter of support from the Board of Occupational Therapy and extended an offer of co-location and cost-sharing of administrative office space if the proposal was accepted.

During the initial contract period, on-going analysis identified duplication of licensing of audiologists with the Board of Hearing Aid Specialists. After extensive research, public workshops and meetings with stakeholders, a proposal to merge the two Boards was heard before the Sunset Subcommittee of the Legislative Commission with a resulting recommendation to merge the two Boards.

During the second contract period, a bill was presented and successfully passed at the 2015 Legislative Session resulting in the creation of the new Speech-Language Pathology Audiology and Hearing Aid Dispensing Board and elimination of the Board of Hearing Aid Specialists. New administrative regulations were completed, and have been adopted to implement the new Board structure and statutory requirements.

The auditors contend that the Board's contract Executive Director may not be in compliance with NRS 622.220 as amended by AB328 (audit report pg 4).

AB328 is silent as to whether an individual may be employed by one board and independently contracted with other boards to serve in an executive director capacity.

The auditors' findings have no legal basis; and in fact improperly question the validity of the independent contract agreements. The Executive Director contracts were properly procured, with the assistance of the Office of the Attorney General, approved by the Board of Examiners and executed in accordance with all state procurement and contractual requirements. (Exhibit X, four (4) Executive Director contracts in compliance).

The auditors also contend that compensation received by the Executive Director as an "independent contractor" should be included in their "single position" salary analysis as there is an implied agreement for shared Executive Director services.

There is no agreement between the Boards to "share" a single Executive Director.

Each Board has its unique professions, licensing qualifications, skill sets, scope of practice, continuing education requirements, professional challenges and obstacles, financial restraints, disciplinary processes, regulations, statutes, and board members.

The Board of Occupational Therapy is aware of and supports the contract services being provided to the Speech-Language Pathology Audiology and Hearing Aid Dispensing Board. The Boards are co-located and have a cost sharing agreement for administrative office space (audit report pg 4).

The co-located Boards each have statutory authority to obtain their own staff, whether it be an employee or independent contractor. The Speech-Language Pathology Audiology and Hearing Aid Dispensing Board independently made the determination of how to staff its Executive Director position and approved the fixed fee compensation, based solely upon the specific needs of the Board as stated above.

The auditors' inappropriately present information and data in the audit report based upon combining separate and distinct positions and separate and distinct Boards' statistics and representing them as a single entity; which they are not.

The auditors' suggested salary range for Executive Director compensation may not be feasible. It is unclear as to whether the range includes benefits; and it is questionable whether it would apply to "contract services".

Pursuant to statutory authority in NRS 637B, the Speech-Language Pathology Audiology and Hearing Aid Dispensing Board is charged with determining the appropriate staffing and method of compensation.

Improve the Legal Support Framework

Response: The Board accepts the audit recommendation for use of the OAG for a baseline level of legal support.

The Speech-Language Pathology Audiology and Hearing Aid Dispensing Board utilizes the Office of the Attorney General for all legal services.

Establish Standards for Financial and Administrative Operation

Response: *Compensation* - The Board does not accept the auditors' findings and recommendations on compensation.

As previously stated, compensation levels should remain under the authority of the Boards who have the statutory authority and responsibility to establish appropriate staffing levels in accordance with the specific needs of the Board.

Requiring DHRM assistance would be detrimental as those services would come at a cost, through an assessment or direct charge by DHRM, which impacts the finances of the Board.

Operating Reserves - The Speech-Language Pathology Audiology and Hearing Aid Dispensing Board accepts the auditors' findings and recommendation on establishing a reserve policy.

A reserve balance policy would be beneficial. The Board will consider a reserve fund policy at a future Board meeting.

Contract Approval - The Speech-Language Pathology Audiology and Hearing Aid Dispensing Board accepts the auditors' findings and recommendation to provide clarity in the applicability of NRS 333 and SAM.

The Speech-Language Pathology Audiology and Hearing Aid Dispensing Board is in compliance with NRS 333 and SAM relating to all contracts.

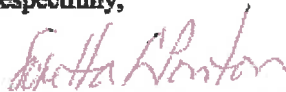
Financial Reporting - The Speech-Language Pathology Audiology and Hearing Aid Dispensing Board accepts the auditors' recommendation to clarify the financial reporting requirements of NRS 218G.400.

The Board complies with NRS 218G.400. Audited financial statement for fiscal years prior to 2018 were prepared in accordance with governmental accounting standards for special revenue funds.

Pursuant to AB328, the Board's revenue will fall below the threshold for audit in Fiscal Year 2018, therefore the Board will be submitting Balance Sheets until such time as the revenue of the Board reaches the threshold of \$200,000.

We appreciate the opportunity to respond to the audit report findings and recommendations.

Respectfully,



Loretta L. Ponton, Executive Director
On behalf of Rebecca Bailey-Torres, Board Chair

STATE OF NEVADA



BOARD OF VETERINARY MEDICAL EXAMINERS

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May 24, 2018

To whom it may concern,

PLEASE NOTE THAT THIS RESPONSE IS BEING SUBMITTED AT THE DIRECTION OF WARREN LOWMAN, EXECUTIVE BRANCH AUDIT MANAGER FROM THE DIVISION OF INTERNAL AUDITS BY THIS BOARD'S EXECUTIVE DIRECTOR AND WITHOUT CONSULTATION WITH THE BOARD. BECAUSE MR. LOWMAN HAS DIRECTED THAT THE EXECUTIVE DIRECTORS NOT MAKE THE DRAFT REPORT PUBLIC IN ADVANCE OF THE JUNE 14 MEETING OF THE EXECUTIVE BRANCH AUDIT COMMITTEE, AND BECAUSE THE BOARD MAY NOT CONSIDER OR TAKE ACTION RELATING TO THE DRAFT REPORT EXCEPT AT AN OPEN AND PUBLIC MEETING CONDUCTED PURSUANT TO THE NEVADA OPEN MEETING LAW (NRS CHAPTER 241), THE BOARD WILL NOT BE ABLE TO REVIEW AND COMMENT ON THE DRAFT AS IT IS ENTITLED TO DO PURSUANT TO NRS 353A.085(1) UNTIL THE BOARD'S NEXT REGULARLY SCHEDULED MEETING AFTER JUNE 14, 2018, WHICH WILL BE ON [DATE]. THE COMMENTS CONTAINED HEREIN, THEREFORE, ARE MERELY INTENDED TO PROVIDE SUCH INFORMATION AND RESPONSES AS CAN BE PROVIDED BY THE BOARD'S EXECUTIVE DIRECTOR WITHOUT CONSULTATION, INPUT, OR ACTION BY THE BOARD AND SHOULD BE CONSIDERED AS UNOFFICIAL AND NON-BINDING UPON THE BOARD. AS SUCH, THE BOARD ASKS THAT ANY FINAL ACTION BY THE EXECUTIVE BRANCH AUDIT COMMITTEE RELATING TO THE AUDIT REPORT BE POSTPONED AND THAT THE REPORT NOT BE FINALIZED UNTIL AFTER THE BOARD CAN TAKE PROPER ACTION RELATING THERETO PURSUANT TO NRS 353A.085(1) AND NRS CHAPTER 241 AND THEREAFTER GET THE COMMENTS AND ACTION TAKEN BY THE BOARD BACK TO MR. LOWMAN FOR HIS INCORPORATION INTO THE FINAL AUDIT REPORT.

Taking into account the above statement, I would like to state that to the best of my knowledge the Nevada Board of Veterinary Medical Examiners (NBVME) is in compliance with the recommendations made by the Division of Internal Audits.

In making staffing decisions pertaining to salary, the NBVME considers state salary guidelines for similar positions within the state system. Additionally, I would like to correct an error in Exhibit XII in which the salary for the Executive Director is reported as \$88,000 annually. However, the correct salary is \$77,174.88 annually.

Regarding recommendations pertaining to legal counsel the Board does retain legal support from the Office of the Attorney General for all disciplinary hearings and in the case when an Attorney General's

Opinion is requested or required. The cost-benefit of using in-house attorneys, the office of the Attorney General, or both is consistently evaluated. At present time in-house counsel's rate of compensation is less than that of the Office of the Attorney General. However, the Board would continue to retain the Office of the Attorney General in the aforementioned roles.

The Board complies with current financial and administrative operations required of Boards within the State of Nevada.

Please reach out to my office with any questions or further concerns.

Sincerely,



Jennifer Pedigo

Executive Director

Appendix C

Timetable for Implementing Audit Recommendations

In consultation with the Department of Administration (D of A) and Nevada's independent licensing boards (Boards), the Division of Internal Audits categorized the recommendations contained within this report into two separate implementation time frames (i.e., *Category 1* – less than six months; *Category 2* – more than six months). The D of A and Boards should begin taking steps to implement all recommendations as soon as possible. The D of A and Boards target completion dates are incorporated from Appendix B.

Category 1: Recommendation with an anticipated implementation period of less than six months.

<u>Recommendation</u>	<u>Time Frame</u>
4. Establish standards for the financial and administrative operation of Boards. (page 22)	Dec 2018

Category 2: Recommendations with an anticipated implementation period exceeding six months.

<u>Recommendations</u>	<u>Time Frame</u>
1. Comply with statute and guidelines for salaries. (page 10)	TBD
2. Use the OAG for a baseline level of legal support. (page 16)	TBD
3. Evaluate the cost/benefit of using in-house salaried attorneys in conjunction with the OAG for legal support. (page 16)	TBD

The Division of Internal Audits shall evaluate the action taken by D of A and Boards concerning the report recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the committee, D of A, and Boards.

