

Governor Steve Sisolak
Chairman

Susan Brown
Clerk of the Board



Attorney General Aaron D. Ford
Member

Secretary of State Barbara K. Cegavske
Member

STATE OF NEVADA BOARD OF EXAMINERS

209 E. Musser Street, Room 200 / Carson City, NV 89701-4298
Phone: (775) 684-0222 / Fax: (775) 684-0260
<http://budget.nv.gov/Meetings>

MEETING MINUTES

Date and Time: October 8, 2019, 10:00 AM

Location: Old Assembly Chambers of the Capitol Building
101 North Carson Street
Carson City, Nevada 89701

Video Conference Location: Grant Sawyer Building
555 East Washington Avenue, Suite 5100
Las Vegas, Nevada 89101

MEMBERS PRESENT:

Governor Steve Sisolak – Present in Las Vegas
Attorney General Aaron Ford – Present in Carson City
Secretary of State Barbara Cegavske – Present in Las Vegas

STAFF PRESENT:

Susan Brown, Clerk of the Board
Rosalie Borderlove, Board Counsel, Deputy Attorney General
Dale Ann Luzzi, Board Secretary

OTHERS PRESENT:

John Borrowman, Deputy Director – Support Services, Department of Corrections
Ray Fierro, Division Administrator – Industrial Relations,
Department of Business and Industry
Charlie Donohue, Division Administrator,
Department of Conservation and Natural Resources
Alan Jenne, Division Administrator – Habitat, Department of Wildlife

1. Call to Order / Roll Call

Governor: I would like to call today's meeting of the State of Nevada Board of Examiners for October 8, 2019 to order. Could I ask the Clerk to take the roll please?

Board Secretary: Good morning.

Governor Sisolak.

Governor: Here.

Board Secretary: Secretary of State Cegavske.

Secretary of State: Here.

Board Secretary: Attorney General Ford.

Attorney General: Here.

Board Secretary: Let the record reflect we do have a quorum.

Governor: Thank you.

2. Public Comment (The first public comment is limited to comments on items on the agenda. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes).

Governor: This is the first time set aside for public comment. Anyone wishing to address the Board on any item on today's agenda, items on the agenda, please step forward, identify yourself for the record and comments will be limited to three minutes. Do we have anybody in Carson City?

Board Secretary: Governor, we do have one written comment that was received to enter into the record regarding Contract #23 between Nevada Occupational Safety and the Health Board and Charles Zeh. [Written statements provided in Attachment A]

Governor: Thank you.

Do we have anyone in Las Vegas wishing to speak during the first public comment? Thank you, I'm going to close this portion of the public comment.

3. Approval of the September 10, 2019 Minutes (For possible action)

Governor: The first item is *Approval of the September 10, 2019 Minutes*. Do I have a motion?

Secretary of State: Move to approve.

Governor: We have a motion on the floor, any discussion? Hearing and seeing none, all in favor signify by saying aye. The motion passes.

4. State Vehicle Purchases (For possible action)

Pursuant to Nevada Revised Statute (NRS) 334.010, no automobile may be purchased by any department, office, bureau, officer or employee of the state without prior written consent of the State Board of Examiners.

AGENCY NAME	# OF VEHICLES	NOT TO EXCEED
Department of Administration – Purchasing Division	1	\$995
Department of Veterans Services – Southern Nevada Veterans Home	1	\$43,301
Department of Veterans Services – Northern Nevada Veterans Home	1	\$66,765
Division of Fleet Services	270	\$8,192,468
Total	273	\$8,303,529

Governor: Item number 4.

Clerk: Good morning Governor and Members of the Board. There are four requests for 273 vehicles in this agenda item.

The first item is from the Department of Administration, Purchasing Division to purchase one used replacement vehicle for a total of \$995. The vehicle being replaced meets the age and mileage requirements in the State Administrative Manual (SAM) and will be funded with Reserves.

The second and third requests are from the Department of Veterans Services. The first is a replacement vehicle for the Southern Nevada Veterans Home and the second is a new vehicle for the Northern Nevada Veterans Home. The total cost of the two vehicles is \$110,066. The vehicle that's being replaced has met the age and mileage requirements in SAM. Funding was included in the agency's budget for both vehicles.

The fourth request is from the Department of Administration, Division of Fleet Services. The agency has requested that this be revised to 267 vehicles, this includes 100 replacement vehicles and 167 new vehicles for a total cost not to exceed \$8,054,464. This is a reduction from the original request. Replacement vehicles meet the age and mileage requirements in SAM. Funding was included in Assembly Bill 501 and 503 of the 2019 Legislative Session.

Representatives from these agencies are available to answer any questions the Board may have.

Governor: Great. Do we have any questions in the north on item number 4, the vehicle purchases?

Attorney General: None from me.

Governor: Are there any in the south? Seeing and hearing none, do I have a motion on Item 4, *State Vehicle Purchases*?

Attorney General: Move for approval.

Governor: We have a motion on the floor, any discussion? Hearing and seeing none, all in favor signify by saying aye. The motion passes.

5. Authorization to Contract with a Current and/or Former State Employee
(For possible action)

Board action under this item only grants permission to the employing agency. Current and former employees are still subject to all ethical requirements of NRS Chapter 281A, specifically including subsection 550 which restricts certain former employees and state agencies.

A. Department of Corrections

Pursuant to NRS 333.705, subsection 1, the Department requests authority to contract with Emily Salisbury a current Associate Professor of Criminal Justice with the University of Nevada, Las Vegas, to provide data and project assessments required by the Bureau of Justice Assistance Adult Re-Entry and Employment Strategic Planning Grant.

B. Department of Health and Human Services – Division of Public and Behavioral Health

Pursuant to NRS 333.705, subsection 1, the Division requests authority to contract with Richard Bissett a former Licensed Psychologist 1 at the Lake's Crossing Center in Reno, Nevada, to provide Licensed Psychologist I services for the Lake's Crossing Center. Mr. Bissett will be hired through Master Service Agreement #14723, with MHM Services, Inc.

Governor: Item number 5, *Authorization to Contract with Current and/or Former State Employees.*

Clerk: Item 5 includes 2 requests to contract with two current and/or former employees pursuant to NRS 333.705(1).

The first request is from the Department of Corrections to contract with a current employee to provide an independent review of the Adult Re-Entry and Employment Strategic Planning Grant. This work will be performed off-hours.

The second request is from the Department of Health and Human Services, Division of Public and Behavioral Health to contract with a former employee to provide licensed psychologist services at Lake's Crossing.

Representatives from the departments are available to answer any questions the Board may have.

Governor: I appreciate your briefing and as such, I do not have any questions. Do we have any questions in the north?

Attorney General: I have none.

Governor: Secretary Cegavske?

Secretary of State: None.

Governor: We have none. Do I have a motion on items 5-A and 5-B?

Secretary of State: Move for approval.

Governor: We have a motion for approval, is there any discussion on that motion? Hearing and seeing none, all in favor signify by saying aye. Any opposed? The motion passes.

6. Approval of an Equipment Lease – Department of Health and Human Services – Division of Welfare and Supportive Services – \$4,022,740 (For possible action)

The Division of Welfare and Supportive Services seeks approval for a new lease purchase agreement to provide financing for telephone equipment to continue ongoing maintenance, support and upgrade for equipment that has reached its useful life not to exceed \$4,022,740.

Governor: Item number 6, *Approval of an Equipment Lease - Department of Health and Human Services - Division of Welfare and Supportive Services.*

Clerk: Item 6 is a request to enter into a new equipment lease agreement to provide financing for the Division of Welfare's telecom system, this includes ongoing maintenance, support and upgrades for equipment as it reaches the end of its useful life. Representatives from the agencies are available to answer any questions the Board may have.

Governor: Thank you. Do we have any questions on item number 6?

Attorney General: I do not.

Governor: Secretary Cegavske?

Secretary of State: Nothing on 6.

Governor: Do I have a motion on Item 6?

Secretary of State: Move for approval.

Governor: We have a motion on the floor, is there any discussion? All in favor signify by saying aye. Any opposed? The motion passes.

7. Request for Approval to Join or Use Other Government's Contract (For possible action)

Pursuant to Nevada Administrative Code (NAC) 333.175, the Division requests approval to utilize the State of Utah – Division of Purchasing Cooperative Contract with Motorola Solutions, Inc. to provide radio repair services for all department radios that are more than three-years-old and are no longer covered under the manufacturer's warranty.

Governor: Item number 7, *Request for Approval to Join or Use Other Government's Contract.*

Clerk: Item 7 is a request to join or use other government contracts. NAC 333.175 allows the State to participate in a multi-state contract, as long as the contract is awarded by competitive selection in a manner that substantially complies with NRS Chapter 332 or 333. This request is from the Department of Corrections who seeks approval to join a State of Utah Cooperative Contract with Motorola Solutions to provide radio repair services for all department radios that are in excess of three years old and are no longer covered under the manufacturer's warranty. Representatives from the agency are available to answer any questions the Board may have.

Governor: Thank you. General Ford, do you have any questions?

Attorney General: No, sir.

Governor: Secretary Cegavske.

Secretary of State: Thank you, Governor, I appreciate it. I'd like to ask if somebody can tell me what we're doing with the connectivity if there have been any improvements since we were in the legislative session and this was talked about and if we have a different carrier that does the transmittal. Is there a different carrier than we've had before or do we have the same?

Governor: Do we have a representative from Motorola here?

Clerk: Representatives from the Agency are here to answer questions.

John Borrowman: Good morning. I appreciate the opportunity to be here. I'm the Deputy Director of Support Services for the Nevada Department of Corrections (NDOC). In response to the question, I think I'd like to underline how the radio system works. We do have the 800-range transmission system through the Department of Transportation. That does allow long-range transmission of those types of communications. What NDOC uses is primarily the 150 and that is very small distances, generally within the institution itself. So, the 150 signals would not be transmitted over carriers. The request today is to provide repair services for the 150 radios that we use within the institution.

Secretary of State: Right and I really appreciate a response but I'm still looking for whether you are using the same carrier or are you using a different carrier?

John Borrowman: Thank you, whereas this is used within the institution and not between institutions or outside the institutions, there are no carriers involved with this particular radio signal.

Secretary of State: Okay, it's like a walkie-talkie.

John Borrowman: That is correct.

Secretary of State: Alright, thank you.

Thank you, Governor.

Governor: Do we have any further questions on item number 7? Seeing and hearing none, do I have a motion?

Attorney General: Move for approval.

Governor: Motion for approval, is there any discussion? Hearing and seeing none, all in favor signify by saying aye. Are any opposed? The motion passes.

8. Approval of Proposed Leases (For possible action)

Governor: Item number 8, *Approval of Proposed Leases*.

Clerk: There are 2 leases in agenda item 8 for approval by the Board this morning. I would just note that on agenda item 2, it notes that it's located in Elko. It is actually located in Sparks. Agency representatives are available to answer any questions you may have.

Governor: Thank you. Just for clarification, is the back-up material all reflective of the change that it's in Sparks as opposed to Elko?

Clerk: The back-up material is correct indicating it is in Sparks.

Governor: General Ford, do you have any questions?

Attorney General: I don't.

Governor: Secretary Cegavske?

Secretary of State: No questions move for approval.

Governor: Okay. Do we have a motion on the floor, any discussion? Hearing and seeing none, all in favor signify by saying aye. Are any opposed? The motion passes.

9. Approval of Proposed Contracts (For possible action)

Governor: Item number 9, *Approval of Proposed Contracts*.

Clerk: There are 25 contracts in agenda item 9 for approval by the Board this morning. Do any of the Board Members have any additional questions on these items?

Governor: I do, I have a question on #23.

Attorney General: I have a question, Mr. Governor on item Contract #8.

Governor: Alright, let's start with #8.

Attorney General: I'm just noticing an interesting timeline here and let me preface my statement by indicating that we've reviewed the applicable statutes and determined that we're still in the position to be able to affirm this contract, notwithstanding the timeline here that's interesting and that Todd Cargrove previously served at the Nevada State Library, Archives and Public Records. He was offered a position with the Carson City Library on August 9, 2019, at least according to the timeline I have here and then on August 15, he signed a supporting memo for the contract that's before us today that directly benefits the Carson City Library, which he'll manage. Again, we've looked at this from the statutes and applicable laws and don't believe there's an issue here, especially because the purchase was through the Nevada Library Cooperative but I did want to highlight that for the purposes of our discussion here.

Governor: Thank you. So, your questions have been answered satisfactorily?

Attorney General: They have but I just wanted to put on the record that we did see the interesting timeline here.

Governor: I appreciate it.

Item #23 then, is Mr. Charles Zeh here? No? So, this is a \$450,000 contract and he's not here.

Attorney General: Is someone here from the Department of Business and Industry (B&I)? Yes, they're here.

Governor: Thank you. My question is, \$230 per hour is more than what we normally pay and including travel. So, am I to assume that if they drive from Las Vegas to Carson City, we're paying \$230 an hour for this 7-hour trip?

Ray Fierro: Governor, great question. So, a little bit background on this. The first attorney that was serving the Occupational Safety and Health Administration (OSHA) Review Board has retired. The review board may hire counsel and what had transpired was, the gentleman that they chose for their attorney wanted \$350 an hour. The previous Director of B&I and the former Governor said that the amount was far too much. That Director of B&I, what she did was, she saw that Mr. Zeh's contract would allow for him to also serve on the OSHA Review Board. He was the attorney for the subsequent injury boards for the Workers Compensation Section.

That contract is due to expire and the OSHA Review Board has decided that they would like to retain Mr. Zeh for their attorney. This is the contract that we've negotiated with him and that's what is before you today.

Governor: So, in answer to my question, does he get paid for transportation, driving, is the answer yes or no?

Ray Fierro: The answer is no. The meetings are held in Reno and Las Vegas. If Mr. Zeh has to go to Las Vegas, he takes a plane and we've included that all in the contract.

Governor: What do you mean we've included that in the contract? It says \$230 per hour, including travel. Does he get paid for the travel or not? I'm going to hold this item, #23, I can't approve it. Susan, please pull #23 from the agenda. For someone with a \$450,000 contract and he didn't take the time to come is disturbing to me.

Clerk: Yes, Governor.

Governor: Thank you. Any other questions on the proposed contracts? Do I have a motion to approve all the contracts with the exception of Contract Item #23, which is being held indefinitely?

Secretary of State: Move for approval.

Governor: We have a motion on the floor, is there any discussion? All in favor signify by saying, aye. Are any opposed? The motion passes.

10. Approval of Proposed Master Service Agreements (For possible action)

Governor: Item number 10.

Clerk: There are 10 Master Service Agreements in this agenda item today for approval by the Board. Do any of the Members have any additional questions on any of these items?

Governor: I do not. General Ford?

Attorney General: I do not.

Governor: Secretary Cegavske?

Secretary of State: No, but I would like to say, Governor, I really thank your staff at this point because I had so many questions and they answered all of them. So, I don't have anything to bring forward. So, thank you.

Governor: I appreciate that and I want to echo that and I know that General Ford does too. The briefings are extremely helpful and I get to the answer to most of my questions. This last question being an unusual one in that the applicant didn't even bother to show up and I don't have an answer to my questions. So, I do appreciate all the briefings and the information. Do I have a motion on item number 10?

Secretary of State: Move for approval.

Governor: We have a motion on the floor, any discussion on that motion? Hearing and seeing none, all in favor signify by saying, aye. Are any opposed? The motion passes.

11. Clerk of the Board Contracts (Informational only)

Pursuant to NRS 333.700, the Clerk of the Board may approve all contract transactions for amounts less than \$50,000. Per direction from the August 13, 2013 meeting of the Board of Examiners, the Board wished to receive an informational item listing all approvals applicable to the new threshold (\$10,000 - \$49,999). Attached is a list of all applicable approvals for contracts and amendments approved from August 20, 2019 through September 16, 2019.

Governor: Item number 11, *Clerk of the Board Contracts*.

Clerk: There were 50 contracts under the \$50,000 threshold approved by the Clerk between August 20, 2019 and September 16, 2019. This item is informational only. Do any of the Members have any additional questions on these items?

Governor: No, I don't. The only comment I have, and I appreciate you briefed me on this one too, as well as, is ones for Athletic Commission, that every meeting, we seem to have a half-a-dozen, or a dozen of these people coming through for, I don't know, weigh-ins and surcharge and all kinds of stuff, is that every meeting that it keeps getting updated or why don't they do them all at one time, or?

Clerk: I believe the agency does try to get these done all at the same time but the timing with some of these vendors takes a little bit longer so we see them spread out over several meetings. We generally see them during a certain time period each year or every other year, depending on the length of the term of the contract or if they have additional vendors that become available to provide these services.

Governor: Alright, thank you. I appreciate it, any questions? General Ford?

Attorney General: No, sir.

Governor: Secretary Cegavske?

Secretary of State: No.

Attorney General: Alright.

12. Information Item and Reports *(Informational only)*

Information Item – Department of Conservation and Natural Resources Division of State Lands – Real Property Acquisition

Pursuant to NRS 353.335(2)(c), grant of property may be received with the approval of the Interim Finance Committee. State Lands is prepared to receive a real estate property acquisition for no monetary compensation. A 160-acre portion of the Ritter Ranch located in Mason Valley outside Yerington is being acquired by the State as an addition to the Mason Valley Wildlife Management Area under operation and management by Nevada Department of Wildlife.

Governor: Item number 12, *Information Item and Reports*.

Clerk: There is 1 informational report under this agenda item for the acquisition of 160 acres of real property located in Mason Valley outside of Yerington as an addition to the Mason Valley Wildlife Management Area which is managed and operated by the Department of Wildlife. There are representatives from the agency here to provide a quick presentation on this item for you.

Governor: Thank you.

Charlie Donohue: Good morning Governor, Members of the Board. As Director Brown just indicated, the State is in the position to accept a donation of 160 acres down in Yerington and it will be assigned to the Department of Wildlife. It's immediately adjacent to the Mason Valley Wildlife Management Area. With me here today is Alan Jenne from the Department of Wildlife. He'd be happy to answer any kind of management question.

I'd like to emphasize, Governor, that this donation is critical in terms of our partnership with Walker Basin Conservancy and the delivery of water to Walker Lake, which is a sovereign land of the State.

Alan Jenne: Yes, good morning Governor. This will be, as Charlie stated, contiguous to the management area that is currently approximately 17,500 acres. We abut this property on the north and to the east. So, what we expect is that this will go into an upland habitat for species such as mule deer, quail, turkeys and will help buffer the management area in the Wetlands to the north.

Governor: Very good. I appreciate it. Is there any discussion or questions on item number 12?

Attorney General: None here.

Secretary of State: No.

Governor: Hearing and seeing none, thank you very much. That was an information item.

13. Public Comment (This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes.)

Governor: We're moving on to item number 13, *Public Comment*. Anyone wishing to address the Board on any item, please step forward and identify yourself for the record, comments will be limited to three minutes.

[Public comments provided in Attachment B]

14. Adjournment (For possible action)

Governor: Moving to agenda item 14, *Adjournment*.

Do I have a motion to adjourn?

Secretary of State: So, moved.

Governor: We have a motion. Any discussion on that motion? Hearing and seeing none, all in favor signify by saying aye. Any opposed? Motion passes, we are adjourned. Thank you.

Attachment A
October 8, 2019
Board of Examiners Meeting

September 16, 2019

RECEIVED
SEP 19 2019
GOVERNOR'S FINANCE OFFICE
BUDGET DIVISION

State of Nevada
Board of Examiners
209 E. Musser Street, Room 200
Carson City, NV 89701-4298

Re: *NOSHA Board of Review Legal Counsel, Charles R. Zeh, Esq.*

Dear Honorable Members of the Board of Examiners:

As Chairman of the State of Nevada Occupational Safety and Health Board of Review (the Board of Review), I am writing to urge the Board of Examiners' approval of the two year contract of Charles R. Zeh, Esq., as our outside, independent legal counsel to the Board of Review. Mr. Zeh has been serving in that capacity since July 2018. He was actually recruited by the Department of Business and Industry to fill this position, when the Board of Review found itself without legal counsel upon the retirement of Fred Scarpello, Esq., previous Board of Review legal counsel, and the State's negotiations with replacement counsel had foundered. As a result, the Board of Review was without legal counsel and, therefore, unable to meet for nearly five months, creating a huge back load of cases and Board of Review business.

Mr. Zeh was already legal counsel to the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers and the Board for the Administration of the Subsequent Injury Account for the Associations of Public or Private Employers. It was recalled that his existing contract also included in its scope, legal counsel and advice to the State in State OSHA matters, if and when called upon. The Department of Business and Industry, thus, approached him and asked if he would be willing to step to the plate, bail us out, add legal counsel to the Board of Review to his existing contract, and then, to tackle the large backlog of cases and matters which had built up because the Board of Review had been without legal counsel for so long. Mr. Zeh agreed. He stepped into the breach and the Board of Review has not missed a beat since then, as the Board of Review has resumed hearing and deciding the cases before it.

Because of his performance as legal counsel to the Board of Review, the full Board of Review has accordingly twice voted unanimously to retain Mr. Zeh's services as our legal counsel. The Board of Review understands that his contract was scheduled to go before the Board of Examiners, once, already, but was inexplicably pulled the day before it was to be heard. The Board of Review hopes that this will not happen again, and that the Board of Examiners will approve his contract for a two year term, so that Board of Review business may continue without interruption, thereby insuring that the workers and employers of Nevada will have a timely and fair hearing concerning the disposition of their cases before the Board of Review.

September 16, 2019
Page 2

Thank you for your time and consideration.

Sincerely,



Steve Ingersoll, Chairman
Nevada Occupational Safety and Health
Review Board

cc: Ray Fierro
Donald C. Smith, Esq.
Victoria Carreon
Members, Board of Review

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Attachment B
October 8, 2019
Board of Examiners Meeting

Good Morning Respected Committee members

NDA members generally own small private dental offices and are the last ones left fighting corporate dentistry. The NDA Board members have recently proposed new regulations that are anti-trust, limit competition, free trade and flexibility in pricing.

Three weeks ago, the NDA Board members posted on the Boards website some of these proposed regulations which will require all Nevada dentists to:

- 1- charge the same fees to all patients for the same procedures,
- 2- only be allowed to use the NDA codes for billing
- 3- only be allowed to bill procedures pursuant to the description by the NDA codes
- 4- submit a copy of their fee schedules to the Board
- 5- no longer allow patients to find out how much third party financing they could pre-qualify for
- 6- face disciplinary action by holding the owner dentist responsible for employee dentists' substandard care even though every dentist is individually licensed
- 7- face discipline if a licensee speaks badly of a board member or its staff

The Board's jurisdiction is to only regulate the standard of care and not the business of dentistry. The NDA thinks that they are bigger than the state dental board.

I would like to bring your attention to a recent federal anti-trust law suit where the Federal Trade Commission and the DOJ jointly went against the Georgia dental board for similar violations.

This case shows that NDA board members can be individually sued because they are active market participants without adequate state supervision.

NDA board members have shown their true colors by posting their proposed regulations to control the business of dentistry. These NDA board members are a liability to the state and are just tempting fate before one of the billion dollar dental corporations files a class action federal lawsuit against the state. We implore the Governor and the Attorney General to wipe out the infected culture of this dental board.

Governor Sisolak, Attorney General Ford and Secretary Cegavske

Nevada Independent's article questioned: **"Why was Dental Board lobbyist Michael McDonald a No Show on the Dental Therapist bill?"**

Answer: The Nevada Dental Association dentists who sit on the Dental Board neutralized Michael McDonald

I would like to voice a concern that the Nevada Dental Association has been actively working against the interests of "we the people" and for the past 25 years has total control over the Nevada State Dental Board for protecting their own members and special interests in the business of dentistry. The Nevada Dental Board is an arm of the NDA.

The NDA is a private interest group of dentists and they have traditionally filled 100% of all dentist seats on the dental board for at least the last 25 years. In fact, the Nevada Dental Association president Sanders actually sits on the Dental Board with three of his NDA dentists. NDA dentists Pisani, Pinther and Champagne pay Dr. Sanders yearly membership fees to further their special interests in the business of dentistry.

The recent bill on dental therapists was introduced at the last legislative session that would take away business from NDA dentists and allow dental hygienists to do fillings and extractions. The membership monies that NDA Board members gave to Dr. Sanders was spent on a lobbyist, Mr. Ferrari to specifically kill that bill. There are four NDA members on this Board and they all gave membership monies to the President of the NDA, Board member Sanders to kill marketplace competition from dental therapists. NDA Board members paid the NDA lobbyist to kill the dental therapy bill however they had a conflict of interest sitting on the Dental Board because they neglected to do their duty to act in the best interest of the public and enhance access to dental care for the needy in Nevada.

These NDA dental board members had a conflict of interest when they simultaneously hired board lobbyist, Michael McDonald. There was not a public open meeting vote by these board members on what the Board's position was going to be on this bill and instead these NDA board members violated open meeting laws by making a backdoor decision to have their Executive Director, Debra Shaffer announce at the legislature that the Board was neutral on this bill. These NDA board members hid their true agenda to kill this bill and they failed to disclose to the legislature that four of the NDA board members have paid monies to the NDA through membership fees to kill the dental therapist bill. The NDA board members also failed to disclose that even though the NDA has made definitive statements to kill the dental therapist bill Dr. Sanders and the other three NDA members are on the dental board and they secretly neutralized the Board's position which eliminated any opposition to their NDA lobbyist.

NDA dentists have agendas to protect their own profession which are often contrary to the Boards mandate to protect the public. Whenever you have dentists giving other dentists membership fees to further their special interest in the dental marketplace then the Governor should remove those dentists and not allow them to sit on the state dental board.

STATE REPUBLICAN PARTY CHAIR DID LITTLE WORK FOR SECOND JOB AS DENTAL BOARD LOBBYIST, RECORDS SHOW



RILEY SNYDER

OCTOBER 6TH, 2019 - 2:00AM

September was a good month for Michael McDonald.

Buoyed by endorsements from President Donald Trump's inner circle and elected officials statewide, McDonald beat back two challengers to win re-election to a fifth term leading the state's Republican Party, promising that the "Nevada Republican Party is united and ready to deliver our state to President Trump and electing Republicans down the ballot in 2020."

But leading the state party isn't the only job on McDonald's plate. For the past year, he's worked as the lobbyist for the Nevada State Board of Dental Examiners, the seventh-largest occupational licensing board in the state — although public records raise questions about his work for the board.

Over the last two decades, McDonald has a history of representing unusual clients as a lobbyist, including a rural constable's office and the Culinary Workers Union Local 226. But his working relationship with the state dental board, which oversees licenses and regulates dental health professionals, has been more than just unusual from the get-go.

Since he was hired in May 2018 (beating out two established lobbying firms led by former lawmakers), records indicate McDonald has spoken at just one board meeting in that 16 months. Public records requests reveal that his only written correspondence with the board since he was hired has been monthly invoices — a request for \$3,428.57 every month.

Lobbyists and lawmakers reported not interacting or seeing him during the legislative session, and say he was invisible on often-technical bills that substantially affect operations of the dental board. McDonald did not return a text message seeking comment.

In short, it's difficult to find any public evidence of work completed by McDonald since he accepted the two-year, \$72,000 contract to provide government relations services for the board.

It has elicited questions from lobbyists who represent other state boards, who say that McDonald's scope of work and practices are at best highly unusual for a state board lobbyist and could invite additional scrutiny of state licensing boards, which have a recent history of butting heads with other state government agencies.

"If I were heading up a regulatory board, and I found out my lobbyist wasn't there on a regular basis, I would not renew that contract," said Susan Fisher, a longtime lobbyist who represents three other state boards. "Why hire a lobbyist if they're not going to be there?"

In spite of the unusual arrangement, staff of the dental board say they have no issue with McDonald, though the board's executive director, Debra Shaffer-Kugel, declined to answer multiple emailed questions about McDonald's attendance at board meetings and work for the board during and outside of the legislative session. She instead referred all questions to the board's general counsel, Melanie Bernstein Chapman, who did not answer specific questions but said the board had no issues with McDonald or his activities as the board's lobbyist.

"I have not been advised of, nor am I aware of, any concerns of the Board with respect to Mr. McDonald's representation," she wrote in an email.

Board meetings

A review of the minutes and audio records of the nine meetings held by the dental board since it agreed to hire McDonald as its lobbyist in May 2018 shows that he only spoke at one meeting, on March 22.

There, McDonald gave a roughly 10-minute review of a handful of bills related to dentistry, largely sticking almost word-for-word to the descriptions written by Legislative Counsel Bureau staff. He skimmed over a bill, SB366, which aimed to open up the practice of dental hygienists to operate in the state, and stayed out of a roughly 10-minute discussion on the bill and how it would affect dental practices statewide.

At one point during the March meeting, McDonald advised the board on SB156, a bill related to the practice of equine dentistry — a topic area overseen by the state’s veterinary board, not the board of dental examiners.



Outside of that meeting, traces of McDonald’s presence on behalf of the dental board are difficult to pin down. Outside of a pre-session meeting between several health-related occupational boards and an appearance at a court hearing involving the dental board (referenced in meeting minutes), McDonald is not listed as speaking or appearing at any additional board meetings or during any 2019 legislative hearings. According to a records request, McDonald sent just 12 emails over the course of his employment to staff and members of the Board of Dental Examiners; one including a signed copy of the lobbying contract, and 11 invoices sent on a monthly basis.

The Nevada Independent contacted several other lobbyists employed by state boards to ascertain whether or not McDonald’s apparent lack of public-facing activity was out of the ordinary.

Fisher, who represents the Oriental Medicine, Osteopathic Medicine and Professional Engineers and Land Surveyors, said that it would be “highly unusual” for her not to check in at least weekly with each of the boards during the legislative session, on the status of bills that directly and indirectly affect her boards.

Fisher said she alternated between emails and phone calls depending on the issue, but found it strange for a board to employ a lobbyist who wasn’t physically present at the Legislature during the 120-day session.

“What’s the point of having a lobbyist if they’re not going to be in Carson City during session?” she said. “That’s a silo, and you’ve got to be in the silo.”

Michael Hillerby, a lobbyist for Kaempfer Crowell who represents several boards (Accountancy, Nursing and Pharmacy) said that it was “unusual” in his nearly three-decade career to see an occupational board lobbyist not be physically present during the legislative session. Hillerby, who lobbied on behalf of the dental board several years ago, said that the lobbying role for an occupational board was a little different from other clients, in that they were expected to largely stay out of policy fights and contribute as the “subject matter experts” as to how various proposals would affect the licensure and operation of certain professions.

“It would be odd not to be there to at least be ready to answer questions as to how it impacts you and why it impacts you,” he said.

SB366, the bill creating a new mid-level dental provider type (dental therapists), is a prime example. Although it was initially opposed by the state dental association, the task of implementing the regulations required under the bill falls to the dental board, which also submitted a fiscal note estimating that the first version of the bill would result in close to \$300,000 in lost annual fee revenue (The Governor’s Office of Finance wrote that the board did not provide a spreadsheet with their calculations and ultimately concluded that the board’s estimated financial impact was not “reasonable.”)

The initial version of the bill would have created a separate dental hygienists board, removing that profession from the purview (and fees) of the state dental board — a change that would have major implications for the board.

McDonald was not present — at least, he did not sign his name on sign-in sheets reflected in board meetings — at any committee meeting where SB366 was discussed. Dental board Executive Director Debra Shaffer-Kugel attended and testified in the neutral position during the first hearing of the bill on March 29, but no representative from the dental board or McDonald attending any of the subsequent six committee meetings where the bill was heard or voted on — even after three substantial amendments overhauled major portions of the bill.

Democratic Sen. [Julia Ratti](#), the bill's sponsor, told a reporter during the legislative session that she had no interaction with McDonald on the bill or on any subject. Nevada Dental Association lobbyist Chris Ferrari said he spoke with Chapman, the board's general counsel, at the state of the session but otherwise did not interact with McDonald or anyone else from the dental board on the bill.

"It's unusual to have such a big bill and not have a lobbyist there," said Neena Laxalt, a lobbyist for the Nevada Dental Hygienist Association and several other boards.

Members of the dental board discussed the bill in depth during meetings in May and July of 2019, neither of which McDonald attended. Minutes from the board's July 19 meeting show McDonald was absent; the board's executive director said he was "ill." A week later he was in Charlotte, North Carolina for a Republican National Committee event.

In an email, dental board general counsel Chapman said that the board was not directly asked for its position on the bill, did not introduce any legislation during the session and was committed to implementing regulations for any bills in its purview that were approved by state lawmakers.

"SB 366 was not the Board's bill and, to my knowledge, the Board was never asked for, nor did it take a position for or against the bill but Mr. McDonald or a member of his staff did appear at the various hearings regarding the bill," Chapman wrote in an email.

Boards and Commissions

As with contractors, nurses, private investigators and social workers, dentists in Nevada are overseen by one of Nevada's occupational licensing boards. Dentistry is one of 50 occupations, professions or businesses overseen by 31 state boards.

Boards operate as a kind of quasi-governmental agency — board members come from the profession itself, but are appointed by the governor to serve three or four year terms. The boards don't receive funds directly from the state, but are instead fully funded through licensure fees (registration, license renewal, etc.).

Boards serve a variety of roles, including investigating complaints, disciplining licensees and helping write regulations that affect their industry. Although the governor appoints — and can, in limited circumstances, remove — board members, most oversight of boards comes from the legislative branch, which both creates the scope and abilities of the boards through legislation and oversees them through an interim subcommittee.

Boards also vary in size and activity; the state Contractors Board reported more than \$7 million in expenditures in 2018, while many smaller boards such as Athletic Trainers, Oriental Medicine and Landscape Architecture made it through the 2018 fiscal year with a budget under \$100,000.

But unlike other state agencies, occupational boards (such as school districts and municipalities) have the budgetary freedom to hire lobbyists to represent them in front of the state Legislature and during the interim period between legislative sessions.

A previous *Nevada Independent* analysis of lobbying efforts by state boards and commissions found that at least 21 boards had hired a lobbyist in 2018, spending in total more than \$577,000 for outside lobbying and public relations. Contracts varied widely in length and scope; the median amount spent by the boards was \$21,000, though some were for less than \$2,000, while on the other end of the spectrum, other more prominent boards inked six-figure lobbying and public relations contracts.

Lobbyists for state boards say they perform a necessary function for the agencies without requiring full-time staff or appointed board members spending time and resources at the Legislature. Some conservative leaning groups have criticized the

arrangement, stating that hiring lobbyists allows boards to consolidate power and limit competition. At least 10 states have placed some limits on the ability of state agencies to hire lobbyists.

McDonald

Though he has no apparent experience in health care or dental work, McDonald beat out two other lobbying firms (one run by former Democratic Assembly Speaker Richard Perkins and the other by former Democratic Assemblyman William Horne) to win the lobbying contract for the dental board in May 2018. In a previous email, Chapman said his position as head of the state Republican Party "was not discussed or considered as part of this process and was not a factor in the discussion or deliberation resulting in the decision to contract with him."

According to registration records, his past lobbying experience includes representing the Nevada Republican Party in 2017, and several clients in 2015 including trial lawyer Glen Lerner, the Laughlin Constable's office, the Armenian American Cultural Society of Las Vegas and the Southern Nevada Rural Constable's Alliance. He also appeared as a lobbyist for the Culinary Workers Union Local 226 in 2012.

In 2015, McDonald was also briefly employed in another state government-related job; working for the Nevada State Treasurer's Office as a senior deputy treasurer, but resigned within three months of taking the position amid criticism that he was hired given his close relationship with then-state Treasurer Dan Schwartz, previously a finance director for the state Republican Party.

A former Las Vegas Metropolitan police officer, McDonald got his start in Nevada's political world by winning election to the Las Vegas City Council in 1995. His momentum stalled amid ethics and tax investigations (McDonald was never charged with a crime and later said he had been "wrongfully accused") and contributed to his defeat in a 2003 municipal election.

His path back to relevancy began in 2012 when he was elected chair of the state Republican Party, and he later won contentious re-election campaigns in 2013 and 2015 against party establishment-backed candidates. He's cultivated a close relationship with President Donald Trump, including getting the then-candidate to appear at a 2016 fundraiser for the party in Lake Tahoe.

His company that received the lobbying contract, Alpha-Omega Strategies, has played a role in several non-lobbying related business interests. The company was incorporated in 1998, initially operating as a "consulting" firm for private investigations, and later received approval from the Las Vegas City Council to operate a senior housing and retail center in Northwest Las Vegas.

Reaction and opposition

The hiring of McDonald has done little to quell the often tempestuous relationship between the board, vocal critics in the dental community and state government.

McDonald was notably not present at a June meeting of the Executive Branch Audit Committee — composed of Gov. Steve Sisolak and other statewide elected "constitutional" officers (lieutenant governor, secretary of state, attorney general, treasurer and controller) — where an at-times scathing audit into the dental board was publicly presented for the first time.

The audit found that at least three board members, including board President Yvonne Bethea, may have violated state ethics law between 2015 and 2018 by failing to disclose familial or professional relationship prior to casting votes, and raised questions about the board's use of Disciplinary Screening Officers to broadly screen complaints made to the board.

Sisolak, who found the audit to be "very concerning," at one point in the meeting asked if the board's lobbyist — McDonald — was present.

He wasn't.

Only Chapman, the board's general counsel, appeared that day and took questions from the audit committee.

The 2019 audit was itself preceded by a 2016 audit, this one from legislative branch auditors who found the board had overcharged almost half of licensees under investigation, and allowed some offenders to make charitable donations in lieu of fine in contrast to state law.

Not unlike McDonald himself, the board has been a lightning rod for controversy. Former Gov. [Brian Sandoval](#) even asked the board to tackle the patient complaint process, saying "I've never seen that happen before with people as upset as they are with ... the board of dental examiners."

Correction: Updated at 1:55 p.m. on Oct. 7, 2019 to reflect that the Nevada Dental Association initially opposed, and did not support, SB366.

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- *Brian Sandoval - \$225*
- *Culinary Workers Union - \$7,325*
- *Julia Ratti - \$60*
- *Kaempfer Crowell - \$2,560*
- *Michael Hillerby - \$170*
- *Richard Perkins - \$1,300*
- *Steve Sisolak - \$2,200*
- *Susan Fisher - \$1,910*

Related Articles

McDonald wins another term as chairman of state GOP, beats back two challengers

Nevada Republican Party Chairman Michael McDonald will serve a fifth term as head of the state party, winning re-election after beating back two challengers who had openly criticized him.

Nevada GOP chair McDonald hired as dental board lobbyist despite lack of experience in field

Although most boards and commissions contract with full-time, professional lobbyists, the dental examiners board elected to hire McDonald in late 2018 to be their sole lobbyist during the state's 120-day legislative session and during the interim period between legislative sessions. But it remains unclear how McDonald, a rare presence in the legislative building and close ally of President Donald Trump, has represented the board in a session controlled by Democrats where key lawmakers and lobbyists for related entities say they haven't interacted with him on any issues, even those affecting the dental board.

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NDA Update from Dr Richard Dragon - Nevada Dental Association

Apr 2 at 9:49 AM

Nevada Dental Association <Suzzi.fobbs@nvda.org>

Dear Nevada Dentists,

The Senate Commerce and Labor committee meeting on SB366 (midlevel provider/Dental Therapist) was held Friday, March 29, 2019. The meeting and our testimonies went as well as we could hope for. The sponsor of the bill was Senator Julia Ratti who is also the Assistant Majority Leader.

Since Senator Ratti was the sponsor, both she and the Nevada Dental Hygiene Association (NDHA) leadership as well as their lobbyist were afforded unlimited time to speak at the beginning of the meeting. There were many factual errors in their presentation. We were able to dispute some of these errors with the time that was available, and will be meeting with each committee member and leadership to address the inaccuracies.

After the NDHA was given time to introduce the bill and answer questions from the committee members, the chairperson (Senator Spearman) informed all who were present that total time given to any one side would be limited to 10 minutes whereby each testimony would not be allowed to exceed two minutes. This gave those in favor of the bill an advantage since their leadership had already been given unlimited time to speak to the issue.

That said, we took full advantage of every minute we were given. All those present to give testimonies in opposition prepared themselves fully and it showed. Due to the imposed time restraints, not everyone was allowed to speak which was unfortunate. However written testimonies were received as a matter of record and were also submitted directly to the Chairwoman.

This issue is by no means done, and in fact, this is just the beginning. Friday was an excellent start and we were able to lay a solid foundation of opposition.

You have done an excellent job of leaving opinions on the Nevada legislative web site, THIS IS INCREDIBLY HELPFUL. You have propelled this issue to #7 of the entire Session – amongst nearly 1300 bills, overwhelmingly in opposition. If you have not left an opinion, please take the time to do so, the link is: <https://www.leg.state.nv.us/App/Opinions/80th2019/>.

In addition, communications campaigns are being coordinated with the American Dental Association. Email, social media and print efforts are all under way to ensure elected officials in Carson City are aware of the dangers this bill presents. Many of you have already received a letter from Robert Talley DDS, our NDA Executive Director, asking you to post a prewritten statement on your websites and Facebook pages with a hyperlink to the legislative opinion page for your patients to use. Please look out for regular communication in the future on ways you can assist us with this effort.

You received an update on all the bills we are most concerned with a couple of weeks ago. Although SB366 is what I am addressing here, please be assured we have not dropped any of our focus or intent on any of the other bills we are presently watching.

We are also planning an email campaign from ALLNevada dentists should the Senate committee choose to continue pursuing SB366. Our voice is stronger together and we hope you will join us in whatever ways you are called upon to help us fight SB366. We will keep you informed of any next steps/actions by the Legislature. The timing of this will be critical – so please stay tuned.

Finally, our members have left me in awe, several of you showed up on your own taking time away from your practices which was incredible! I especially want to recognize the following people who either gave oral or written testimonies. This was extremely powerful! Their research, knowledge, ability to speak and professionalism was presented with confidence and understanding. They are (my apologies if I miss anyone):

Erin Anderson, Kellie Butterworth, Jade Miller, Chris Ferrari, Kellie McGinley, Emily Ishkanian, Paul Brosey, Ed DeAndre, Tina Abbatangelo, Jackie Alford, Ingrid Lubbers, Robert Talley, Jeffrey Suffoletta, Alana Saxe, Ashley Hoban, DeAudre Lyndell LeCato, Beatrice Stark, Ted Twesme, UNR students, Dallas Diel, Pria Ralh, Spencer Carlie, Serena Phen, Kent Simister and Antonina Cupurro.

Much more to come. Thank you.

Sincerely,

Richard J. Dragon, DMD

NDA President

Thank you Governor Sisolak, General Ford and Madam Secretary

I am submitting solid proof from public records over the past 30 years showing that when Nevada citizens made complaints against NDA dentists the board only took action against 20% of those dentists. However, when Nevada citizens made complaints against non-NDA dentists the board took action against 80% of those dentists. Nevada dentists are split up evenly between NDA and non-NDA. If numbers don't lie, then who is doing the lying and how many thousands of citizens have had their legitimate board complaints dismissed? The NDA board members have out voted the non-NDA Board members and have arrogantly defied the Audit by replacing their five NDA dentists with just one of their NDA dentists. The audit said to hire more investigators to avoid the appearance of favoritism but instead the NDA board members out voted the non-NDA board members to make sure they hired their own NDA dentist as the only Board investigator. The NDA board members also voted to appoint NDA president and Board member Sanders to the review panel where he will be able to dismiss citizen complaints against NDA dentists. Every NDA dentist is giving Dr. Sanders hundreds of dollars per year so how does a Nevada citizen have a chance to have a complaint not dismissed if the complaint is concerning an NDA dentist? It is a total financial conflict of interest for the President of the NDA to be a Dental Board member. The audit called for more board oversight and compliance with the APA. The NDA board members created this new NDA dentist position without passing any regulations which is mandated by statute and by the Audit. A good example when the NDA board members neglected to perform their duty to protect the public was when they covered up the largest investigation into one of their own NDA dentists even though the Review Journal confirmed that this dentist reused single-use implant parts on 184 patients at UNLV School of Dentistry. Board member Sanders worked at UNLV with this NDA dentist. The NDA Board members can't be trusted to do the right thing.

After the Audit specifically stated that the board must check with the ethics commission and wait one year as the cooling off period before hiring an ex-board member for a paid position these NDA board members defied the Audit by immediately hiring NDA dentist ex-board member Sherastani and refusing to check with the ethics commission. Dr Sharestani used his position as a previous Board member to get a paid position on the Review Panel. Sherastani is two out of the three review panel members who will be able to dismiss citizen complaints against NDA dentists.

Ever since the audit eliminated the NDA dentist coordinator from preventing patients to file their complaints the NDA board members have quickly developed a system so they can still dismiss complaints against NDA members.

This Board has failed two state Audits. There needs to be change.

Until every NDA dentist is removed from this Board, Nevada citizen complaints will never be treated fairly through the Executive Director Shaffer and Attorney Chapman.