

Nevada State Medical Association

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July 25, 2008

The Honorable Sheila Leslie, Chair
Legislative Committee on Health Care
Legislative Building
401 South Carson Street
Carson City, Nevada 89701-4747

Dear Chairwoman Leslie:

At two earlier meetings of the Legislative Committee on Health Care, I mentioned a proposal to consider creating a Department of Professions in response to the Committee's request for suggestions to address a number of concerns regarding the State's Professional and Occupational Licensing Boards. This letter follows up those earlier discussions with some ideas for consideration by the Committee.

For a number of years, there has been growing concern in Nevada about the effectiveness and efficiency of professional and occupational licensing. While many of these concerns have been about the physician (M.D., D.O. and H.M.D.) licensing and discipline process, most of the boards have come under scrutiny at some point. During this Legislative interim, the Legislative Committee on Health Care has attempted to take a fundamental review of these boards. A number of unresolved issues from the 2007 Legislative Sessions were referred to the Committee, which appointed a Subcommittee to Review Laws Concerning Providers of Health Care, the Use of Lasers, Intense Pulsed Light Therapy, and Injections of Cosmetic Substances (<http://www.leg.state.nv.us/74th/Interim/StatCom/Lasers/index.cfm?CommitteeName=Legislative%20Committee%20on%20Health%20Care%20Subcommittee%20to%20Review%20the%20Laws%20and%20Regulations%20Governing%20Providers%20of%20Health%20Care,%20the%20Use%20of%20Lasers%20and%20Intense%20Pulsed%20Light%20Therapy,%20and%20the%20Use%20of%20Injections%20of%20Cosmetic%20Substances>). This focused on inconsistencies among the boards regarding temporary licensing while administrative reviews are being conducted and on licensing procedures that delay or deter applications. Earlier in this Interim a series of newspaper stories revealed significant problems with the oversight of the granting of licenses for J-1/H1B visa waivers for physicians. These discussions also led to concerns about the process for initial licensing of physicians, mental health professionals, nurses and other professionals.

The Las Vegas hepatitis C outbreak opened considerable additional discussion by both the Committee and the Subcommittee of various State agencies including the professional Boards whose licensees were involved in the crisis. The process of investigation and disciplining of licensees by several boards has been the subject of a number of critical concerns.

While much of public and legislative comment has focused on the issues related to the appointment and qualifications of Board members, the following proposal seeks to look at the functions of the State's professional and occupational licensing boards and makes recommendations for fundamental reform that seeks to maintain the important specific professional knowledge and decision making of the boards while consolidating the common administrative activities of all professional and occupational licensing boards.

Generally, professional and occupational licensing and oversight have been performed by freestanding boards appointed by the Governor. (There are some exceptions like emergency responders who are licensed through Boards of Health or other institutions. Lawyers and teachers are licensed and monitored by completely separate institutions and are not discussed in this proposal.) For the most part, the Boards are composed of professionals licensed in the categories they oversee, but this varies and all boards have some public members who are not licensees of the boards. There are at least 42 Nevada professional or occupational licensing boards (22 health professional licensing boards that currently grant nearly 60 health license or registration categories) listed below with the authorizing statute:

PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS

1. Nevada State Board of Accountancy (NRS 628.035)
2. Committee on Continuing Education (NRS 628.388)
3. Board of Athletic Trainers (NRS 640B.170)
4. Board of Examiners for Alcohol, Drug and Gambling Counselors (NRS 641C.150)
5. Commission of Appraisers of Real Estate (NRS 645C.180)
6. State Board of Architecture, Interior Design and Residential Design (NRS 623.050)
7. Board of Examiners for Audiology and Speech Pathology (NRS 637B.100)
8. State Barbers' Health and Sanitation Board (NRS 643.020)
9. Chiropractic Physicians' Board of Nevada (NRS 634.020)
10. State Contractors' Board (NRS 624.040)
11. Commission on Construction Education (NRS 624.570)
12. State Board of Cosmetology (NRS 644.030)
13. Certified Court Reporters' Board of Nevada (NRS 656.040)
14. Board of Dental Examiners of Nevada (NRS 631.120)
15. Committee on Dental Hygiene (NRS 631.205)
16. Board of Dispensing Opticians (NRS 637.030)
17. Commission on Professional Standards in Education (NRS 391.011)
18. State Board of Professional Engineers and Land Surveyors (NRS 625.100)
19. Board of Registered Environmental Health Specialists (NRS 625A.030)
20. Nevada State Funeral Board (NRS 642.020)
21. Board of Hearing Aid Specialists (NRS 637A.030)
22. Board of Homeopathic Medical Examiners (NRS 630A.100)
23. State Board of Landscape Architecture (NRS 623A.080)
24. Board for the Regulation of Liquefied Petroleum Gas (NRS 590.485)
25. Board of Examiners for Marriage and Family Therapists (NRS 641A.090)
26. Board of Massage Therapists (NRS 640C.150)
27. Board of Medical Examiners (NRS 630.050)

28. State Board of Nursing (NRS 632.020)
29. Advisory Committee on Nursing Assistants (NRS 632.072)
30. Board of Occupational Therapy (NRS 640A.080)
31. Nevada State Board of Optometry (NRS 636.030)
32. State Board of Oriental Medicine (NRS 634A.030)
33. State Board of Osteopathic Medicine (NRS 633.181)
34. Peace Officers' Standards and Training Commission (NRS 289.500)
35. State Board of Pharmacy (NRS 639.020)
36. State Board of Physical Therapy Examiners (NRS 640.030)
37. State Board of Podiatry (NRS 635.020)
38. Private Investigator's Licensing Board (NRS 648.020)
39. Board of Psychological Examiners (NRS 641.030)
40. Real Estate Commission (NRS 645.050)
41. Board of Examiners for Social Workers (NRS 641B.100)
42. Nevada State Board of Veterinary Medical Examiners (NRS 638.020)

These Boards are responsible to: (1) assure that applicants for licenses have the proper training, credentials and background; (2) Evaluate complaints against licensees who may not meet the standards of the various license acts and determine appropriate discipline; and, (3) Assure that the practice act meets current standards of education and practice.

Some of these Boards hire staff to perform administrative functions including: (1) initial licensing of applicants, including development and updating of application forms and the review and investigation of applications; (2) review of license renewal applications; (3) collection of license fees and fines; (4) maintain current names and addresses of all licensees; (5) investigation of complaints; (6) drafting of regulations and revisions of practice acts; and, (6) providing information about licensees to the public. Not all Boards have sufficient funds from licensing fees to retain staff. All Professional and Occupational Licensing Boards have legal support by the Office of the Attorney General, but some Boards are able to afford the retention of staff counsel. Some Boards are able to afford to retain contract lobbyists.

There are reasons to question this model that requires each board to become an independent agency with unclear lines of accountability and uncertain administrative support for required functions. An approach for consideration is to separate the board and administrative functions as 26 States do currently. As a working concept, a "Department of Professions" could consolidate the current staffs and current boards into a single administrative and accountable unit. This is not dissimilar to the current structure of the State Board of Health, which is appointed by the Governor, and is staffed by the State Health Division. There could be concerns about conflicts of interest as well as public accountability if the State Health Division staff were employed by the State Board of Health.

Alaska is typical in dividing the administrative and professional board functions. ("The State Medical Board is staffed by the Division of Corporations, Business and Professional Licensing." and *e.g. regarding the board of medicine*-"The board adopts regulations to carry out the laws governing the practice of Medicine in Alaska. It makes final licensing decisions and takes disciplinary action against people who violate the licensing laws.") Utah explains the administrative and professional board functions in similar functional language. ("The Division of Occupational and Professional Licensing, also known as DOPL, is one of seven agencies within

the Utah Department of Commerce. DOPL is legislatively charged to administer and enforce specific laws related to the licensing and regulation of certain occupations and professions. Currently, DOPL issues licenses in approximately 60 categories of licensure. Additionally, the majority of these license categories include several individual license classifications...To fulfill its responsibilities, DOPL's efforts are organized into two primary functions: licensing and investigations. DOPL also houses several independent programs related to its licensing and investigative functions.” and for the boards-“DOPL is assisted in fulfilling its responsibilities by approximately 60 professional boards and commissions. Each board or commission is comprised of licensees from the respective profession(s) and usually includes at least one member of the general public appointed to represent the viewpoint and concerns of Utah's consumers.”) roles The States, all of which have maintained professional boards, but which have separated the administrative and policy functions are listed below:

STATES WITH DEPARTMENTS OR SIMILAR STRUCTURES

1. Alaska (Division of Corporations, Business, and Professional Licensing
<http://www.dced.state.ak.us/occ/home.htm>)
2. California (Department of Consumer Affairs-
[http://www2.dca.ca.gov/pls/wllpub/wllquery\\$.startup](http://www2.dca.ca.gov/pls/wllpub/wllquery$.startup))
3. Colorado (Department of Regulatory Agencies (<http://www.dora.state.co.us/index.htm>))
4. Connecticut (Department of Public Health- <http://www.ct.gov/dph/site/default.asp>)
5. Delaware (Division of Professional Regulation- <http://www.dpr.delaware.gov/>)
6. District of Columbia (Department of Health-
<http://dchealth.dc.gov/doh/site/default.asp?dohNav=1>)
7. Florida (Department of Health- <http://www.doh.state.fl.us/>)
8. Hawai'i (Department of Commerce and Consumer Affairs-
<http://hawaii.gov/dcca/areas/pvl>)
9. Illinois (Department of Financial and Professional Regulation- <http://www.ildfpr.com/>)
10. Indiana (Professional Licensing Agency- <http://www.in.gov/pla/>)
11. Maryland (Department of Health and Mental Hygiene- <http://www.dhmh.state.md.us/>)
12. Michigan (Department of Community Health- <http://www.michigan.gov/mdch>)
13. Missouri (Division of Professional Registration- <http://www.pr.mo.gov/healingarts.asp>)
14. Montana (Department of Labor and Industry-
http://mt.gov/dli/bsd/license/bsd_boards/med_board/board_page.asp)
15. Nebraska (Department of Health and Human Services- <http://www.hhs.state.ne.us/>)
16. New Jersey (Division of Consumer Affairs- <http://www.state.nj.us/lps/ca/boards.htm>)
17. New York (for licensure-Office of The Professions- <http://www.op.nysed.gov/> and for discipline-Department of Health- <http://www.health.state.ny.us/nysdoh/opmc/main.htm>)
18. Pennsylvania (Bureau of Professional and Occupational Affairs-
<http://www.dos.state.pa.us/bpoa/site/default.asp>)
19. Rhode Island (Department of Health- <http://www.health.ri.gov/hsr/bmld/>)
20. South Carolina (Department of Labor, Licensing and Regulation-
<http://www.llr.state.sc.us/pol/medical/>)
21. Tennessee (Department of Health- <http://health.state.tn.us/>)
22. Utah (Division of Occupational and Professional Licensing- <http://www.dopl.utah.gov/>)

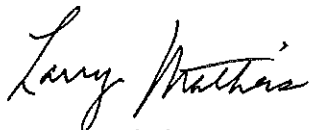
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23. Vermont (Department of Health- <http://www.healthvermont.gov/>)
24. Virginia (Department of Health Professions- <http://www.dhp.virginia.gov/>)
25. Washington (Department of Health- <http://www.doh.wa.gov/>)
26. Wisconsin (Department of Regulation and Licensing- <http://drl.wi.gov/index.htm>)

Significant cost saving, efficiency and effectiveness can be gained by consolidating the staff administrative functions of: form development; application reviews; background checks; complaint processing; investigations; fee and fine collection; legal counsel; regulatory and legislative drafting and processing; public information, including web access through a single portal to all information about all State licensed professionals. The boards could then focus on the basic and important functions of reviewing licenses and conducting hearings as needed on complaints. For these reasons, a State Department of Professions (or, at least, health professions) should be considered.

Sincerely,



Larry Matheis
Executive Director

cc: Members, Legislative Committee on Health Care
Nevada State Medical Association Council