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May 30, 2003

Chairman David Goldwater
Assembly Committee on Commerce and Labor
Capitol Complex
Carson City, Nevada 89710

SUBJECT: SENATE BILL 132

Dear Chairman Goldwater and Members of the Committee;

The Nevada State Contractors Board ("NSCB") would like to take this opportunity to urge you to oppose passage of Senate Bill No. 132, as amended. The bill passed out of the Senate today and is pending in Assembly Commerce Committee. A fiscal note was submitted by the NSCB which was not considered by the Senate.

The amendment places Licensure and regulation of mold remediators and mold definitions under the State Contractors Board. As you know, mold remediation issues are a "hot button" topic and, in our opinion, would be more efficiently handled under the jurisdiction of the Environmental Commission. The health concerns raised by mold issues require Industrial Hygienists and scientists who are trained in the environmental arena. In addition, special remediation techniques and equipment are required.

It is our belief that in order to protect the health, safety, and welfare of the public, it is critical that any law enacted regarding mold is based upon **sound and reliable** scientific data and current research. The Board recognizes the need for **reasonable** legislation; however, we oppose this bill in its current form. SB 132 if enacted, would impose a huge burden on the State Contractors Board and would require astronomical costs to regulate an unfamiliar subject that includes environmental and health issues, not contractor licensing issues. These costs would be borne directly by all contractors and would be an "unfunded mandate" for the NSCB. The fees imposed would not be enough to offset the costs to properly administer this proposed legislation.

The Contractors Board is simply not equipped to undertake the procedures to conduct risk assessments or create technical standards that would be required to implement the provisions of this legislation. The personnel of the Nevada State Contractors Board is trained to license and regulate contractors who are required to comply with building codes and proper workmanship standards. There are no federal or state laws or local codes that address mold.

Since the issues of mold remediation and regulation are so complex, it is our position that passage of this important legislation at this time is premature. We recommend that the matter be referred to multi-agency Task Force to recommend an appropriate course of action. The State Contractors Board submitted an amendment to that effect on May 23, 2003, along with a position paper. This information will be provided at the hearing.

Thank you for considering the views of the State Contractors Board on this important matter. We urge you not to approve Senate Bill 132.

Sincerely,

Margi A. Grein
Margi Grein
Executive Officer

ASSEMBLY COMMERCE & LABOR 1086
DATE: 5/31/03 ROOM: 4100 EXHIBIT I
SUBMITTED BY: Margi Grein

Legislatures join the anti-mold fray

Eleven states have taken up the health and legal threats associated with mold. So, too, has the U.S. Congress — without success. Here's a quick rundown:

Federal

Last June, Rep. John Conyers (D-Mich.) introduced the first significant federal legislation addressing mold. H.R. 5040 called for creating standards to prevent, detect, and remediate indoor mold; establishing a national toxic mold insurance program; imposing mold-related requirements on those who sell, lease, or inspect property; and offering tax credits for mold inspection and remediation. It did not pass.

Arizona

Senate Bill 1432.7, which is still pending, would establish a 17-member committee to study the financial, environmental, and health effects of indoor mold contamination.

California

Senate Bill 732 and Assembly Bill 284 took effect Jan. 1, 2002. S.B. 732 encourages the California Department of Health Services to create a task force to consider the feasibility of adopting permissible exposure limits to mold in indoor environments. (To date, supposedly for lack of funding, the task force has not yet convened.) The bill also requires written disclosure of the presence and location of any existing mold infestation to prospective tenants or purchasers of property. A.B. 284 directs the state Department of Health Services to establish a mold education program.

Two additional bills are pending. Assembly Bill 2684 would limit the liability of school districts for personal injury or wrongful death claims arising out of exposure to toxic mold. Senate Bill 1763 proposes amending the state insurance code to require all property or liability

insurance policies to cover mold as an ensuing loss, unless a policy "clearly" excludes mold.

Illinois

Senate Bill 2138 would require the state health department to develop standards for exposure to indoor mold and guidelines for remediating mold. Senate Resolution 317 would create a task force to study the effects of mold in K-12 schools. Both are pending.

Indiana

The proposed House Bill 1253 would direct the state Department of Health to create a committee to study the risks associated with exposure to mold and possibly set exposure limits for mold in hospitals, nursing homes, child care facilities, and K-12 schools.

Maryland

Enacted Senate Bill 283 in April 2001, which established a task force to study the nature, location, and extent of health and environmental risks posed to workers as a result of mold and other organisms located in HVAC systems in office buildings. Last July, the task force recommended in its final report to the General Assembly and governor that owners of office buildings be required to develop operation and maintenance plans that are consistent with current ASHRAE guidelines.

Massachusetts

Senate Bill 2353 would establish a task force to study the health risks associated with mold, direct the state health department to adopt permissible exposure limits for molds indoors, and require the creation of mold identification guidelines. Pending.

New Jersey

The state's only mold-related bill would have required written disclosure of the presence of any existing mold prior to a

property transaction. It would also have given buyers a 10-day period to conduct a mold inspection before becoming obligated under the contract to purchase the property. Failed passage.

New York

The Toxic Mold Protection Act (consisting of Senate Bill 5799 and Assembly Bill 10610) would establish a task force to study the health risks associated with mold and would authorize the state department of health to adopt mold remediation standards and mold exposure limits. Pending.

Pennsylvania

On June 18, the state senate approved State Resolution No. 171, which urges the Department of Health to develop a task force to investigate the health effects of toxic mold. The proposed mold task force would include health officials, medical professionals, consumers, mold abatement experts, and representatives of industries involved in the issue, including insurance, construction, and real estate professionals.

Texas

House Bill 2008 took into effect Sept. 1, 2001, and requires the state Board of Health to establish guidelines for indoor air quality in government-owned buildings. In addition, H.B. 2006 and H.B. 2007 would establish IAQ guidelines for public schools. Both are pending.

Washington

Senate Concurrent Resolution 8426 would create a committee to examine the health effects of exposure to mold and make recommendations to the legislature and the governor as to how to reduce the risks of exposure to mold. Pending. **BDC**

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Senate Bill No. 491

Sec. 4. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying ~~[his application,]~~ *an application pursuant to NRS 338.1379 or disqualifying a subcontractor pursuant to section 1 of this act*, the applicant *or subcontractor, as applicable*, files a written request for a hearing with the State Public Works Board or the governing body of the local government, the Board or governing body shall set the matter for a hearing within ~~[10]~~ 20 days after receipt of the request. The hearing must be held not later than ~~[20]~~ 45 days after the receipt of the request for a hearing ~~[.]~~ *unless the parties, by written stipulation, agree to extend the time.*

2. The hearing must be held at a time and place prescribed by the Board or governing body. At least 10 days before the date set for the hearing, the Board or governing body shall serve the applicant *or subcontractor* with written notice of the hearing. The notice may be served by personal delivery to the applicant *or subcontractor* or by certified mail to the last known business or residential address of the applicant ~~[.]~~ *or subcontractor.*

3. *The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a contract for a public work.*

4. *In conducting a hearing pursuant to this subsection, the Board or the governing body of a local government may:*

- (a) Administer oaths;*
- (b) Take testimony;*
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;*
- (d) Require the production of related books, papers and documents; and*
- (e) Issue commissions to take testimony.*

5. *If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.*

6. The Board or governing body shall issue a decision on the matter within 5 days after the hearing and notify the applicant, in writing, of its decision within ~~[5]~~ 15 days after it is issued. The decision of the Board or governing body is a final decision for purposes of judicial review.

Assembly Bill No. 425

Sec. 17. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying his application ~~{}~~ *pursuant to NRS 338.1379*, the applicant files a written request for a hearing with the State Public Works Board or the governing body, ~~{of the local government,}~~ the Board or governing body shall set the matter for a hearing within ~~{10}~~ 20 days after receipt of the request. The hearing must be held not later than ~~{20}~~ 45 days after the receipt of the request for a hearing.

2. The hearing must be held at a time and place prescribed by the Board or governing body. At least 10 days before the date set for the hearing, the Board or governing body shall serve the applicant with written notice of the hearing. The notice may be served by personal delivery to the applicant or by certified mail to the last known business or residential address of the applicant.

3. The Board or governing body shall issue a decision ~~on the matter within 5 days after~~ at the hearing. ~~and notify the applicant, in writing, of its decision within 5 days after it is issued.~~ The decision of the Board or governing body is a final decision for purposes of judicial review.

Senate Bill No. 310

Sec. 30. NRS 634A.030 is hereby amended to read as follows:

634A.030 1. The State Board of Oriental Medicine, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) ~~{Three}~~ Two members who are licensed pursuant to this chapter.

(b) *One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.*

(c) Two members who are representatives of the general public. *These members must not be:*

(1) *A doctor of Oriental medicine; or*

(2) *The spouse or the parent or child, by blood, marriage or adoption, of a doctor of Oriental medicine.*

3. Each member of the Board shall, before entering upon the duties of his office, take the oath of office prescribed by the Constitution before someone qualified to administer oaths.

Assembly Bill No. 21

Section 1. NRS 634A.030 is hereby amended to read as follows:

634A.030 1. The State Board of Oriental Medicine, consisting of five members appointed by the Governor, is hereby created.

2. ~~{The Governor shall appoint to the Board:~~

~~—(a) Three members who are licensed pursuant to this chapter.~~

~~—(b) Two members who are representatives of the general public.~~

~~—3.} Each member of the Board shall, before entering upon the duties of his office, take the oath of office prescribed by the Constitution before someone qualified to administer oaths.~~

Sec. 2. NRS 634A.040 is hereby amended to read as follows:

634A.040 ~~{All members of the Board shall be}~~

1. The Governor shall appoint three members to the Board who:

(a) Have a license issued pursuant to this chapter;

(b) Currently engage in the practice of Oriental medicine in this state, and have engaged in the practice of Oriental medicine in this state for at least 3 years preceding appointment to the Board;

(c) Are citizens of the United States ; and

(d) Are residents of the State of Nevada { } and have been for at least 1 year preceding appointment to the Board.

2. The Governor shall appoint one member to the Board who:

(a) Is licensed pursuant to chapter 630 of NRS by the Board of Medical Examiners as a physician;

(b) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;

(c) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;

(d) Is a citizen of the United States; and

(e) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.

3. The Governor shall appoint one member to the Board who:

(a) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;

(b) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;

(c) Is a citizen of the United States; and

(d) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.