

**Amendment No. 536**

Assembly Amendment to Assembly Bill No. 328 (BDR 54-157)

**Proposed by:** Assembly Committee on Commerce and Labor

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MKM/WLK



Date: 4/18/2017

A.B. No. 328—Revises provisions relating to professional licensing boards.

(BDR 54-157)





ASSEMBLY BILL NO. 328—ASSEMBLYMEN PICKARD, BUSTAMANTE ADAMS; BILBRAY-AXELROD, EDWARDS, KRAMER, MARCHANT, SPRINKLE AND TITUS

MARCH 20, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to professional licensing boards. (BDR 54-157)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to professions; establishing limitations on the employment or retention of attorneys by certain regulatory bodies; requiring attorneys who contract with certain regulatory bodies to act as legal counsel for the regulatory body to carry professional liability insurance that satisfies certain criteria; requiring the Department of Administration to adopt regulations relating to the financial operation and administration of certain regulatory bodies; revising the qualifications for the executive director or executive secretary of certain regulatory bodies; revising the disciplinary process for certain regulatory bodies which administer occupational licensing; providing certain immunity for independent contractors who act as legal counsel for certain regulatory bodies; revising requirements for certain regulatory bodies of this State to prepare a balance sheet or hire a public accountant or accounting firm to conduct an audit of the body for a fiscal year; and providing other matters properly relating thereto.

#### Legislative Counsel's Digest:

Existing law generally imposes certain requirements on regulatory bodies that regulate professions in this State. (Chapter 622 of NRS) **Section 2** of this bill prohibits an attorney from being employed as legal counsel by more than one regulatory body. **Section 2** further requires an attorney who contracts with a regulatory body to act as legal counsel as an independent contractor to carry a policy of professional liability insurance that names the State as an additional insured in the insurance policy. **Section 30** of this bill extends the sovereign immunity of the State to an attorney who contracts with a regulatory body to act as legal counsel. **Section 4** of this bill prohibits a person from being employed as an executive director or executive secretary by more than one regulatory body and requires a person employed by a regulatory body as an executive director or executive secretary to be a resident of this State. **Section 3** of this bill requires the Department of Administration to adopt regulations that establish standards for the financial operation and administration of regulatory bodies. ~~[The regulations adopted pursuant to section 3 must require each regulatory body to provide for an annual audit of the accounts and records of the regulatory body.]~~

Existing law requires regulatory bodies to comply with certain administrative procedures governing the disciplinary process for licensees. (Chapter 622A of NRS) Existing law also provides an exemption for certain regulatory bodies from having to comply with the uniform disciplinary process. (NRS 622A.120) **Section 8** of this bill removes the exemption for regulatory bodies that issue professional licenses and are not under the direct supervision of a department of the Executive Branch of State Government. **Section 6** of this bill ~~requires the Attorney General or~~ **prohibits** a deputy attorney general ~~to prosecute any~~ **from acting as legal counsel for a regulatory body in a contested case if he or she prosecuted the contested case** before ~~for the~~ regulatory body ~~. Unless the Attorney General and the deputies of the Attorney General are either disqualified from serving as prosecutor or lack the necessary expertise to prosecute a specific contested case.~~ **Section 7** of this bill prohibits an attorney who is employed **or retained** as legal counsel to a regulatory body from prosecuting a contested case before the regulatory body at any time while employed or retained by the regulatory body. ~~Section 7 further provides that this prohibition is in effect until all contested cases that were before the regulatory body while the attorney was employed by the regulatory body have reached a final disposition.~~ **Section 10** of this bill provides immunity from civil liability for persons who contract with regulatory bodies as independent contractors **to act as legal counsel for a regulatory body** and who participate in the disciplinary process of a regulatory body.

**Existing law, with certain exceptions, requires certain regulatory bodies of this State which: (1) receive less than \$75,000 in revenue during a fiscal year to prepare a balance sheet for that fiscal year; or (2) receive \$75,000 or more in revenue during any fiscal year to hire a public accountant or accounting firm to conduct an audit of the regulatory body's fiscal records for that fiscal year. Upon completion of the balance sheet or audit, existing law requires the regulatory body to file the balance sheet or a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year. (NRS 218G.400) Section 30.5 of this bill increases from \$75,000 to \$200,000 the amount of revenue received in any fiscal year for the purpose of determining whether a regulatory body is required to prepare a balance sheet or hire a public accountant or accounting firm to conduct the audit and subsequently file a report of the audit with the Legislative Auditor and the Chief of the Budget Division.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 622 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2. 1. Each regulatory body shall contribute to the Fund for Insurance Premiums as required by NRS 331.187.**

**2. If a regulatory body employs an attorney as legal counsel, the attorney may not be employed as legal counsel of another regulatory body.**

**3. If a regulatory body retains an attorney to act as legal counsel for the regulatory body as an independent contractor, the attorney:**

**(a) May contract with more than one regulatory body to act as legal counsel as an independent contractor.**

**(b) Shall obtain or otherwise carry, before acting as legal counsel for a regulatory body, a policy of professional liability insurance which:**

**(1) Insures the attorney against any liability arising from acting as legal counsel for the regulatory body; and**

**(2) Names this State as an additional insured in the insurance policy.**

**Sec. 3. ~~++~~ The Department of Administration shall adopt regulations establishing standards for the financial operation and administration of regulatory bodies. The regulations must include, without limitation, provisions which ~~+~~**

~~(a) Require each regulatory body to provide for an annual audit of the accounts and records of the regulatory body conducted by an independent certified public accountant; and~~

~~(b) Establish~~ establish the minimum level of professional liability insurance that an attorney who contracts with a regulatory body to act as legal counsel must carry pursuant to subsection ~~2~~ 3 of section 2 of this act.

~~2. A regulatory body which is subject to the requirement to provide for an annual audit pursuant to paragraph (b) of subsection 1 and which has annual total expenditures of \$200,000 or less in a fiscal year may petition the Department of Administration to pay for the costs of such audit.~~

Sec. 4. NRS 622.220 is hereby amended to read as follows:

622.220 If a regulatory body employs a person as an executive director or executive secretary or in a position with powers and duties similar to those of an executive director or executive secretary, the person:

1. Must 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;

2. Must be a resident of this State;

3. Must not be employed by another regulatory body as an executive director or executive secretary or in a position with powers and duties similar to those of an executive director or executive secretary; and

~~4.~~ 4. Must not be the immediate relative of:

(a) A member or employee of the regulatory body; or

(b) A licensee of the regulatory body.

Sec. 5. Chapter 622A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. ~~1. Except as otherwise provided in subsection 2, the Attorney General or a deputy attorney general shall prosecute for a regulatory body a contested case that is brought pursuant to this chapter.~~

~~2. If the Attorney General and the deputies of the Attorney General are disqualified to serve as prosecutor, or the Attorney General determines that he or she and the deputies of the Attorney General do not have the necessary expertise to prosecute a contested case for the regulatory body, the regulatory body may employ or retain an attorney to prosecute the contested case pursuant to this chapter.~~

~~3. If [the Attorney General or] a deputy attorney general prosecutes a contested case for a regulatory body, [the Attorney General or the deputy attorney general who prosecuted the contested case]~~ he or she may not also act as legal counsel for the regulatory body when the regulatory body considers or makes decisions concerning the contested case.

Sec. 7. ~~1. If a regulatory body employs or retains an attorney to serve as legal counsel for and advise the regulatory body on any and all matters, and the attorney prosecutes a contested case for the regulatory body, the attorney [shall] may not [prosecute a contested case pursuant to this chapter before] also act as legal counsel for the regulatory body [at any time while employed or retained by] when the regulatory body.~~

~~2. The prohibition set forth in subsection 1 remains in effect until the attorney is no longer employed or retained as legal counsel for the regulatory body and all] considers or makes a decision regarding the contested [cases prosecuted pursuant to this chapter while the attorney served as legal counsel to the regulatory body have reached a final disposition.] case.~~

1       **Sec. 8.** NRS 622A.120 is hereby amended to read as follows:  
2       622A.120 1. The following regulatory bodies are exempted from the  
3 provisions of this chapter:

- 4       (a) ~~State Contractors' Board.~~  
5       ~~(b) State Board of Professional Engineers and Land Surveyors.~~  
6       ~~(c) Nevada State Board of Accountancy.~~  
7       ~~(d) Board of Medical Examiners.~~  
8       ~~(e) Board of Dental Examiners of Nevada.~~  
9       ~~(f) State Board of Nursing.~~  
10       ~~(g) Chiropractic Physicians' Board of Nevada.~~  
11       ~~(h) Nevada State Board of Optometry.~~  
12       ~~(i) State Board of Pharmacy.~~  
13       ~~(j) Board of Examiners for Marriage and Family Therapists and Clinical~~  
14 ~~Professional Counselors.~~  
15       ~~(k)~~ Real Estate Commission, Real Estate Administrator and Real Estate  
16 Division of the Department of Business and Industry.  
17       ~~(l)~~ (b) Commission of Appraisers of Real Estate.  
18       ~~(m)~~ (c) Commissioner of Mortgage Lending and Division of Mortgage  
19 Lending of the Department of Business and Industry.  
20       ~~(n)~~ (d) Commissioner of Financial Institutions and Division of Financial  
21 Institutions of the Department of Business and Industry.  
22       ~~(o) Private Investigator's Licensing Board.~~  
23       ~~(p)~~ (e) State Board of Health and Division of Public and Behavioral Health of  
24 the Department of Health and Human Services.

25       2. Any regulatory body which is exempted from the provisions of this chapter  
26 pursuant to subsection 1 may elect by regulation to follow the provisions of this  
27 chapter or any portion thereof.

28       **Sec. 9.** NRS 622A.130 is hereby amended to read as follows:

29       622A.130 1. The provisions of this chapter must be interpreted so as to  
30 effectuate their general purpose to make uniform among the regulatory bodies that  
31 are subject to the provisions of this chapter the procedures used to prosecute  
32 contested cases and take administrative action against a person who violates any  
33 law or regulation governing occupational licensing.

34       2. To the extent possible, the provisions of this chapter are intended to  
35 supplement other statutory provisions governing administrative procedure,  
36 occupational licensing and regulatory bodies, and such other provisions must be  
37 given effect to the extent that those provisions do not conflict with the provisions of  
38 this chapter. If there is a conflict between such other provisions and the provisions  
39 of this chapter, the provisions of this chapter control.

40       3. *The provisions of this chapter do not prohibit a regulatory body from*  
41 *adopting procedures used to prosecute contested cases that:*

- 42       (a) *Impose stricter requirements on the regulatory body relating to such*  
43 *prosecution; or*  
44       (b) *Provide greater due process protections for licensees.* ~~for~~  
45       ~~(c) Provide greater protections for the public.~~  
46       *↪ so long as such procedures do not hinder the duty of the regulatory body to*  
47 *protect the public.*

48       **Sec. 10.** NRS 622A.150 is hereby amended to read as follows:

49       622A.150 1. A person who provides a governmental entity, officer or  
50 employee with any information relating to a contested case is immune from any  
51 civil liability for providing that information if the person acted in good faith and  
52 without malicious intent.

2. A governmental entity, officer, ~~or~~ employee *or independent contractor who contracts to act as legal counsel to a regulatory body in accordance with the provisions of subsection 3 of section 2 of this act* is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter or any law or regulation governing occupational licensing; or

(b) Communicating or cooperating with or providing any documents or other information to any other governmental entity, officer or employee conducting an investigation, disciplinary proceeding or civil or criminal prosecution.

**Sec. 11.** NRS 623.133 is hereby amended to read as follows:

623.133 1. The Attorney General is hereby designated as the legal adviser of the Board.

2. ~~Nothing~~ *Subject to the provisions of sections 6 and 7 of this act, nothing* in this section shall be construed so as to prevent the Board from employing legal counsel as provided elsewhere in this chapter.

**Sec. 12.** NRS 623A.160 is hereby amended to read as follows:

623A.160 The Attorney General is the legal adviser of the Board, but the Board may employ legal counsel ~~or~~ *subject to the provisions of sections 6 and 7 of this act.*

**Sec. 13.** NRS 628.410 is hereby amended to read as follows:

628.410 1. The Board may initiate proceedings under this chapter:

(a) On its own motion;

(b) On the complaint of any person; or

(c) On a complaint made by a board of accountancy of another state.

2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.

3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against the respondent and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his or her behalf.

4. At any hearing, a respondent may be represented before the Board by counsel or by a certified public accountant or registered public accountant of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his or her behalf.

5. The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena, the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.

6. A hearing may be conducted by:

(a) The Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members; or

(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order,

1     ↳ unless the Board, after disqualifications, consists of less than three members to  
2     hear or review the case, in which circumstance the Governor must appoint one or  
3     more qualified persons so that the panel which hears or reviews the case consists of  
4     at least three persons.

5     7. A stenographic record of the hearing must be kept and a transcript thereof  
6     filed with the Board.

7     8. At all hearings, the Attorney General or a deputy designated by the  
8     Attorney General or such other legal counsel as may be employed shall appear and  
9     represent the Board **† subject to the provisions of sections 6 and 7 of this act.**

10    9. The decision of the Board must be by majority vote thereof.

11    **Sec. 14.** NRS 630.346 is hereby amended to read as follows:

12    630.346 In any disciplinary hearing:

13    1. The Board, a panel of the members of the Board and a hearing officer are  
14    not bound by formal rules of evidence , **except that evidence must be taken and**  
15    **considered in the hearing pursuant to NRS 233B.123,** and a witness must not be  
16    barred from testifying solely because the witness was or is incompetent.

17    2. A finding of the Board must be supported by a preponderance of the  
18    evidence.

19    3. Proof of actual injury need not be established.

20    4. A certified copy of the record of a court or a licensing agency showing a  
21    conviction or plea of nolo contendere or the suspension, revocation, limitation,  
22    modification, denial or surrender of a license to practice medicine, perfusion or  
23    respiratory care is conclusive evidence of its occurrence.

24    **Sec. 15.** NRS 630.352 is hereby amended to read as follows:

25    630.352 1. Any member of the Board, other than a member of an  
26    investigative committee of the Board who participated in any determination  
27    regarding a formal complaint in the matter or any member serving on a panel of the  
28    Board at the hearing of the matter, may participate in an adjudication to obtain the  
29    final order of the Board. At the adjudication, the Board shall consider any findings  
30    of fact and conclusions of law submitted after the hearing and shall allow:

31    (a) Counsel for the Board to present a disciplinary recommendation and  
32    argument in support of the disciplinary recommendation **† subject to the**  
33    **provisions of sections 6 and 7 of this act;**

34    (b) The respondent or counsel of the respondent to present a disciplinary  
35    recommendation and argument in support of the disciplinary recommendation; and

36    (c) The complainant in the matter to make a statement to the Board regarding  
37    the disciplinary recommendations by the parties and to address the effect of the  
38    respondent's conduct upon the complainant or the patient involved, if other than the  
39    complainant.

40    ↳ The Board may limit the time within which the parties and the complainant may  
41    make their arguments and statements.

42    2. At the conclusion of the presentations of the parties and the complainant,  
43    the Board shall deliberate and may by a majority vote impose discipline based upon  
44    the findings of fact and conclusions of law and the presentations of the parties and  
45    the complainant.

46    3. If, in the findings of fact and conclusions of law, the Board, hearing officer  
47    or panel of the Board determines that no violation has occurred, the Board shall  
48    dismiss the charges, in writing, and notify the respondent that the charges have  
49    been dismissed.

50    4. Except as otherwise provided in subsection 5, if the Board finds that a  
51    violation has occurred, it shall by order take one or more of the following actions:

52    (a) Place the person on probation for a specified period on any of the  
53    conditions specified in the order;



- (b) Administer a written public reprimand to the person;
- (c) Limit the person's practice or exclude one or more specified branches of medicine from his or her practice;
- (d) Suspend the person's license for a specified period or until further order of the Board;
- (e) Revoke the person's license;
- (f) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment;
- (g) Require supervision of the person's practice;
- (h) Impose a fine not to exceed \$5,000 for each violation;
- (i) Require the person to perform community service without compensation;
- (j) Require the person to take a physical or mental examination or an examination testing his or her competence; and
- (k) Require the person to fulfill certain training or educational requirements.

5. If the Board finds that the respondent has violated the provisions of NRS 439B.425, the Board shall suspend the respondent's license for a specified period or until further order of the Board.

6. The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**Sec. 16.** NRS 631.190 is hereby amended to read as follows:

631.190 In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.

~~Notwithstanding the provisions of this subsection, the Attorney General in his or her sole discretion may, but is not required to, serve as legal counsel for the Board at any time and in any and all matters.~~

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry and dental hygiene.

4. Examine applicants for licenses to practice dentistry and dental hygiene.

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dentists and dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

**Sec. 17.** NRS 636.090 is hereby amended to read as follows:

636.090 1. The Board may employ:

(a) Agents and inspectors to secure evidence of, and report on, violations of this chapter.

(b) Attorneys, investigators and other professional consultants and clerical personnel necessary to administer this chapter.

2. The Attorney General may act as counsel for the Board ~~+~~ *subject to the provisions of section 6 of this act.*

**Sec. 18.** NRS 636.330 is hereby amended to read as follows:

636.330 If the Board makes a decision which is adverse to the licensee, the licensee may apply for a rehearing within ~~10~~ *15* days after the Board announces its decision. The Board shall grant or deny the application within a reasonable time thereafter.

**Sec. 19.** NRS 636.340 is hereby amended to read as follows:

636.340 Unless a license is suspended pursuant to NRS 425.540, on or after the expiration of ~~16 months~~ *1 year* following the revocation or suspension of a license, an application may be made for the restoration of the license and the Board may, in the exercise of reasonable discretion, restore the license absolutely or upon specified conditions.

**Sec. 19.5.** NRS 639.070 is hereby amended to read as follows:

639.070 1. The Board may:

(a) Adopt such regulations, not inconsistent with the laws of this State, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this State, authorizing the Executive Secretary of the Board to issue certificates, licenses and permits required by this chapter and chapters 453 and 454 of NRS.

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides, other than those specifically set forth in this chapter.

(j) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(k) Employ ~~an attorney~~ *attorneys*, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, and enforce the provisions of this chapter and chapter 454 of NRS.

(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

2. The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

3. This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

**Sec. 20.** NRS 639.252 is hereby amended to read as follows:

639.252 1. If the respondent wishes to contest or appeal the decision of the Board, the order or any part thereof, the respondent may, not later than ~~10~~ 15 days after the time the order becomes effective, apply in writing to the Board for a rehearing. The application must set forth with particularity the part or parts of the decision or order to which the respondent objects and the basis of the objection.

2. The Executive Secretary of the Board shall, within 10 days after receipt of a written application for rehearing, notify the respondent and the respondent's attorney of record in writing, by registered or certified mail, of his or her action, either granting or denying the application. If the application is granted, the notice must contain the date, time and place of the rehearing. The rehearing must be held at the next regularly scheduled meeting of the Board. Granting of the application by the Executive Secretary does not serve as an automatic stay of execution of the order pending conclusion of the rehearing.

**Sec. 21.** NRS 640C.190 is hereby amended to read as follows:

640C.190 *Subject to the provisions of sections 6 and 7 of this act:*

1. The Attorney General and his or her deputies are hereby designated as the attorneys for the Board.

2. The provisions of this section do not prevent the Board from employing or retaining other attorneys as it may deem necessary to carry out the provisions of this chapter.

**Sec. 22.** NRS 641A.370 is hereby amended to read as follows:

641A.370 If the Board revokes or suspends a license for a fixed time, the licensee may apply for a rehearing within ~~10~~ 15 days after the date of the suspension or revocation and the Board may grant the application upon the terms and conditions it deems appropriate within 30 days after the application.

**Sec. 23.** NRS 645A.193 is hereby amended to read as follows:

645A.193 1. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

2. *Notwithstanding the provision of paragraph (c) of subsection 1 of NRS 622A.120, representation of the Division pursuant to subsection 1 shall be conducted in a manner consistent with the provisions of sections 6 and 7 of this act.*

1       **Sec. 24.** NRS 645A.235 is hereby amended to read as follows:

2       645A.235 1. A person who engages in an activity for which a license as an  
3       escrow agent or escrow agency is required pursuant to this chapter, without regard  
4       to whether such a person is licensed pursuant to this chapter, may be required by  
5       the Commissioner to pay restitution to any person who has suffered an economic  
6       loss as a result of a violation of the provisions of this chapter or any regulation  
7       adopted pursuant thereto.

8       2. Notwithstanding the provision of paragraph ~~(b)~~ (c) of subsection 1 of  
9       NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a  
10      manner consistent with the provisions of chapter 622A of NRS.

11      **Sec. 25.** NRS 645B.955 is hereby amended to read as follows:

12      645B.955 1. A person who engages in an activity for which a license as a  
13      mortgage broker or mortgage agent is required pursuant to this chapter, without  
14      regard to whether such a person is licensed pursuant to this chapter, may be  
15      required by the Commissioner to pay restitution to any person who has suffered an  
16      economic loss as a result of a violation of the provisions of this chapter or any  
17      regulation adopted pursuant thereto.

18      2. Notwithstanding the provision of paragraph ~~(b)~~ (c) of subsection 1 of  
19      NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a  
20      manner consistent with the provisions of chapter 622A of NRS.

21      **Sec. 26.** NRS 645C.250 is hereby amended to read as follows:

22      645C.250 1. The Attorney General shall render to the Division opinions  
23      upon questions of law relating to the construction or interpretation of this chapter,  
24      or arising in the administration thereof, submitted to the Attorney General by the  
25      Division or the Commission.

26      2. The Attorney General shall act as the attorney for the Division in all  
27      actions and proceedings brought against or by the Division pursuant to any of the  
28      provisions of this chapter ~~+~~ *subject to the provisions of sections 6 and 7 of this*  
29      *act.*

30      **Sec. 27.** NRS 645D.150 is hereby amended to read as follows:

31      645D.150 1. The Attorney General shall render to the Division opinions  
32      upon questions of law relating to the construction or interpretation of this chapter,  
33      or arising in the administration thereof, submitted to the Attorney General by the  
34      Division.

35      2. The Attorney General shall act as the attorney for the Division in all  
36      actions and proceedings brought against or by the Division pursuant to any of the  
37      provisions of this chapter ~~+~~ *subject to the provisions of sections 6 and 7 of this*  
38      *act.*

39      **Sec. 28.** NRS 645E.955 is hereby amended to read as follows:

40      645E.955 1. A person who engages in an activity for which a license as a  
41      mortgage banker is required pursuant to this chapter, without regard to whether  
42      such a person is licensed pursuant to this chapter, may be required by the  
43      Commissioner to pay restitution to any person who has suffered an economic loss  
44      as a result of a violation of the provisions of this chapter or any regulation adopted  
45      pursuant thereto.

46      2. Notwithstanding the provision of paragraph ~~(b)~~ (c) of subsection 1 of  
47      NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a  
48      manner consistent with the provisions of chapter 622A of NRS.

49      **Sec. 29.** NRS 645H.370 is hereby amended to read as follows:

50      645H.370 1. The Attorney General shall render to the Division opinions  
51      upon questions of law relating to the construction or interpretation of this chapter,  
52      or arising in the administration thereof, submitted to the Attorney General by the  
53      Division.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter ~~+~~ *subject to the provisions of sections 6 and 7 of this act.*

**Sec. 30.** NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 388C of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to NRS 333.700; and

(b) Contracts to provide medical services for the Department of Corrections ~~+~~ *or contracts to act as legal counsel to a regulatory body in accordance with the provisions of subsection ~~+~~ 3 of section 2 of this act.*

As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

**Sec. 30.5. NRS 218G.400 is hereby amended to read as follows:**

218G.400 1. Except as otherwise provided in subsection 2, each board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS shall:

(a) If the revenue of the board from all sources is less than ~~(\$75,000)~~ *\$200,000* for any fiscal year and, if the board is a regulatory body pursuant to NRS 622.060, the board has submitted to the Director of the Legislative Counsel Bureau for each quarter of that fiscal year the information required by NRS 622.100, prepare a balance sheet for that fiscal year on the form provided by the Legislative Auditor and file the balance sheet with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year. The Legislative Auditor shall prepare and make available a form that must be used by a board to prepare such a balance sheet.

(b) If the revenue of the board from all sources is ~~(\$75,000)~~ *\$200,000* or more for any fiscal year, or if the board is a regulatory body pursuant to NRS 622.060 and has failed to submit to the Director of the Legislative Counsel Bureau for each quarter of that fiscal year the information required by NRS 622.100, engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for that fiscal year and file a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year.

2. In lieu of preparing a balance sheet or having an audit conducted for a single fiscal year, a board may engage the services of a certified public accountant

1 or public accountant, or firm of either of such accountants, to audit all its fiscal  
2 records for a period covering two successive fiscal years. If such an audit is  
3 conducted, the board shall file the report of the audit with the Legislative Auditor  
4 and the Chief of the Budget Division of the Office of Finance on or before  
5 December 1 following the end of the second fiscal year.

6 3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid  
7 by the board that is audited. Each such audit must be conducted in accordance with  
8 generally accepted auditing standards, and all financial statements must be prepared  
9 in accordance with generally accepted principles of accounting for special revenue  
10 funds.

11 4. Whether or not a board is required to have its fiscal records audited  
12 pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal records  
13 of any such board whenever directed to do so by the Legislative Commission.  
14 When the Legislative Commission directs such an audit, the Legislative  
15 Commission shall also determine who is to pay the cost of the audit.

16 5. A person who is a state officer or employee of a board is guilty of  
17 nonfeasance if the person:

18 (a) Is responsible for preparing a balance sheet or having an audit conducted  
19 pursuant to this section or is responsible for preparing or maintaining the fiscal  
20 records that are necessary to prepare a balance sheet or have an audit conducted  
21 pursuant to this section; and

22 (b) Knowingly fails to prepare the balance sheet or have the audit conducted  
23 pursuant to this section or knowingly fails to prepare or maintain the fiscal records  
24 that are necessary to prepare a balance sheet or have an audit conducted pursuant to  
25 this section.

26 6. In addition to any other remedy or penalty, a person who is guilty of  
27 nonfeasance pursuant to this section forfeits the person's state office or  
28 employment and may not be appointed to a state office or position of state  
29 employment for a period of 2 years following the forfeiture. The provisions of this  
30 subsection do not apply to a state officer who may be removed from office only by  
31 impeachment pursuant to Article 7 of the Nevada Constitution.

32 **Sec. 31.** This act becomes effective on July 1, 2017.