LA22-13

STATE OF NEVADA

Performance Audit

Nevada State Board of Medical Examiners

2022

Legislative Auditor
Carson City, Nevada

Audit Highlights

Highlights of performance audit report on the Nevada State Board of Medical Examiners issued on May 4, 2022.

Legislative Auditor report # LA22-13.

Background

The Nevada State Board of Medical Examiners (Board) is an independent regulating body that was established in 1899. The Board determines the competence of medical providers including physicians, perfusionists, physician assistants, and practitioners of respiratory care. Its mission is to ensure only well-qualified and competent providers receive licenses to practice in Nevada and to respond to complaints against licensees by conducting fair and complete investigations.

As of the end of calendar year 2020, the Board had 13,317 active licensees and usually adds over 1,000 new licensees each year.

The Board consists of nine members appointed by the Governor to serve 4-year terms. Operations are comprised of five divisions: Licensing, Investigations, Legal, Finance, and Administration.

The Board has offices in Reno and Las Vegas with 38 total staff as of February 2021. It is self-funded primarily from license and registration fees. During calendar year 2020, the Board had total revenues of $5.3 and expenditures of $4.9 million.

Purpose of Audit

The purpose of the audit was to evaluate the Board's processes for licensing physicians and investigating complaints, and the Board's purchase of an office building. The scope of the audit focused on a review of the Board's activities for calendar years 2019 and 2020, and from 2016 for certain investigative cases, from 2017 for workload trends, and from 2008 for reserve balance analyses.

Audit Recommendations

This audit report contains 10 recommendations to improve controls over investigative and disciplinary processes, including complaint intake, fines, and cost recoveries.

The Board accepted the 10 recommendations.

Recommendation Status

The Board's 60-day plan for corrective action is due on August 1, 2022. In addition, the 6-month report on the status of audit recommendations is due on February 1, 2023.

Nevada State Board of Medical Examiners

Summary

Better monitoring and oversight of the investigative and disciplinary processes can help the Board provide more timely resolution of complaints and other issues. Additionally, enhancing controls over the administration of fines will ensure they are assessed consistently and fair. Further, maintaining support for investigative costs will help support its cost recovery efforts and provide equitable treatment of licensees.

Board procedures over licensing and publishing of disciplinary data adequately ensured timely and accurate processing. Delays in licensing physicians were largely attributable to applicants and other third parties gathering and providing necessary information. Additionally, disciplinary information on the Board's website and provided to the National Practitioner Data Bank was accurate. Finally, the Board's decision to purchase an office building was based on reliable and accurate analysis and information.

Key Findings

The Board could improve the monitoring of its complaint resolution process which can take as long as several years to finalize. Large gaps of time existed between activities in certain cases where the Board could not provide explanations for delays. Timely resolution of cases is important for ensuring practicing physicians are competent and patients are safe from harm. (page 8)

There are opportunities for the Board to eliminate delays. We found:

- It took an average of 23 days for a complaint to be reviewed and assigned to an investigator. Five cases took significantly longer, up to 68 days. Management stated the intake turnaround goal is 7 days.
- Investigators took 31 days to review complaints, notify licensees they were under investigation, and request medical records, if needed. Seven cases took significantly longer, up to 134 days.
- The disciplinary process, when applicable, took over a year to resolve. Our review of cases showed little documentation existed detailing Board activities, if any, during this time period. (page 9)

Enhancing the process of assessing fines in disciplinary matters could help ensure equity. The Board has discretion in making the final disciplinary determinations and utilizes judgment and licensee history in this process. However, the Division has not established disciplinary guidelines or schedules that recommend penalties based on specific violations. We found such guidelines to be a best practice in our conversations with other states. (page 12)

The Board assessed licensees for the cost of investigations; however, these costs were not adequately supported to determine whether the amount assessed was accurate. For instance, the Board does not maintain a detailed record of the hours worked on each case by Board staff. In addition, invoices paid to external peer reviewers do not always include detail for the hours worked to determine the reasonableness of the charge. Assessing and recovering accurate investigative and disciplinary costs is important for ensuring fair and equitable treatment of licensees. (page 13)

The Board processed applications efficiently with nearly 75% of the time to issue a license related to applicants obtaining the proper documentation. We reviewed the licensing process for 50 applications and found it took the Board an average of 98 days to complete the licensing process, but the majority of those days were related to applicants and third parties gathering required information. (page 17)

Disciplinary information on the Board's website and the National Practitioner Data Bank was accurate for all cases reviewed. State law requires the Board's website to include a list of each licensee and a brief description of any disciplinary actions. This information allows individuals to make informed decisions when choosing health care providers. (page 19)

Board management performed sufficient analysis prior to purchasing a Reno office building in 2018 for $3.4 million. We reviewed documentation provided by management to determine whether quality information was used to make an informed decision regarding this purchase. (page 19)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Nevada State Board of Medical Examiners. This audit was conducted pursuant to a special request of the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 10 recommendations to improve controls over investigative and disciplinary processes, including complaint intake, fines, and cost recoveries. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

Daniel L. Crossman, CPA
Legislative Auditor

April 19, 2022
Carson City, Nevada

Nevada State Board of Medical Examiners

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Introduction

Background

The Nevada State Board of Medical Examiners (Board) is an independent regulating body that was established in 1899. The Board determines the competence of medical providers including physicians, perfusionists, physician assistants, and practitioners of respiratory care. The Board's mission is to ensure only well-qualified and competent providers receive licenses to practice in Nevada and to respond to complaints against licensees by conducting fair and complete investigations.

The Board consists of nine members appointed by the Governor to serve 4-year terms. Members must be residents of Nevada for at least 5 years and include:

- Six members licensed and practicing medicine in Nevada;
- One member who represents persons or agencies who provide health care to patients who are indigent, uninsured, or unable to afford health care; and
- Two members of the general public.

Staffing and Budget

The Board has offices in Reno and Las Vegas with 38 total staff as of February 2021. The Executive Director, Deputy Executive Director, and Division management are located in the Reno office.

The Board is self-funded primarily from license and registration fees. During calendar year 2020, the Board had total revenues of $5.3 and expenditures of $4.9 million. Exhibit 1 details summarized financial information for calendar year 2020.

Board Financial Information **Exhibit 1**
Calendar Year 2020

Revenues	Amount
License and Registration Fees	$ 4,306,525
Application Fees	674,570
Miscellaneous Revenue[1]	201,380
Investigation Cost Recoveries	128,607
Investment Income	29,744
Total Revenues	**$ 5,340,826**

Expenditures	Amount
Personnel Services	$ 3,701,774
Operations	1,049,356
Depreciation	154,670
Travel	37,573
Total Expenditures	**$ 4,943,373**
Change in Net Position	397,453
Beginning Net Position	(2,169,122)
Ending Net Position	**$(1,771,669)**

Source: The Board's December 31, 2020, financial statements.

[1] Includes various administrative fees such as background check and credit card convenience fees.

Note: The negative net position is the result of required accounting entries associated with the retirement and other post-employment benefits that are required to be recognized in the financial statements. The Board does maintain a cash reserve balance which is discussed on page 20 of the report.

Organizational Structure

Board operations are comprised of the following five divisions:

- Licensing Division – Processes initial licensure applications and biennial license renewals. Application requirements are set by statute, so the primary focus of the Licensing Division is ensuring requirements are met and following up on missing or incorrect application information. As of the end of calendar year 2020, the Board had 13,317 active licensees. Exhibit 2 details licenses by type.

Licenses by Type **Exhibit 2**
Calendar Year 2020

License Type	Number of Licenses	Percent of Total
Physicians	10,652	80%
Practitioners of Respiratory Care	1,587	12%
Physician Assistants	1,046	7%
Perfusionists	32	1%
Totals	**13,317**	**100%**

Source: The Board's December 31, 2020, financial statements.

Note: The Board also had 491 residency training licenses in calendar year 2020. These are limited licenses to practice medicine as a resident physician in a graduate program.

Exhibit 3 highlights the number of licenses issued from calendar years 2016 to 2020.

Licenses Issued by Type **Exhibit 3**
Calendar Years 2016 to 2020

License Type	2016	2017	2018	2019	2020
Physicians	665	789	939	977	1,173
Practitioners of Respiratory Care	150	149	156	147	133
Physician Assistants	112	115	158	142	162
Perfusionists	15	21	12	9	7
Total Licenses Issued	**942**	**1,074**	**1,265**	**1,275**	**1,475**

Source: The Board's December 31, 2020, financial statements and records.

- Investigations Division – Investigates complaints received that are against Board licensed providers and contain possible violations of Nevada's Medical Practice Act. Complaints are received from patients, medical facilities, health care personnel, law enforcement, civil court filings, and other regulatory boards or government agencies. In calendar year 2020, 1,093 complaints were received, of which about half the Investigations Division determined were within the Board's jurisdiction for investigating. The majority of complaints that were investigated from calendar years 2016 to 2020 were related to patient care, medical records, and demeanor. The remaining complaints were referred to other state licensing boards or governmental agencies, resolved internally without requiring an

investigation, duplicates, or not actionable because they were not within the Board's jurisdiction.

- Legal Division – Prosecutes and formally disciplines licensees. They also provide legal counsel to the other Board divisions, committees, and Board members. Cases are prioritized by death, serious patient harm, sexual misconduct, and age of the case. From calendar years 2016 to 2020, approximately 7% of investigated cases were referred to the Legal Division for formal discipline. Discipline can take the form of either an informal or formal action. An informal action occurs when the case is recommended for closure with a letter of warning sent to the licensee, known as a letter of concern. A formal action occurs when the case is sent to the Legal Division for further review and the licensee is thereby charged with a formal disciplinary action. Exhibit 4 shows disciplinary actions the Board is statutorily authorized to take in adjudications.

Types of Disciplinary Actions **Exhibit 4**

Informal Action	• Letter of Concern
Formal Action	• Probation • Public Reprimand • Limit Practice • License Suspension • License Revocation • Substance Abuse Program Participation • Supervision of Practice • Fine • Community Service • Physical, Mental, or Competence Examination • Continuing Medical Education

Source: Auditor prepared from law, records, and discussions with management.

- Finance Division – Oversees fiscal activities including receipting income, processing expenses, records management, and human resources. The Finance Division also prepares the annual budget and calculates reserve balances used in financial decision making by

management and Board members. The Finance Division provides a quarterly report at each Board meeting, updating Board members regarding the Board's finances.

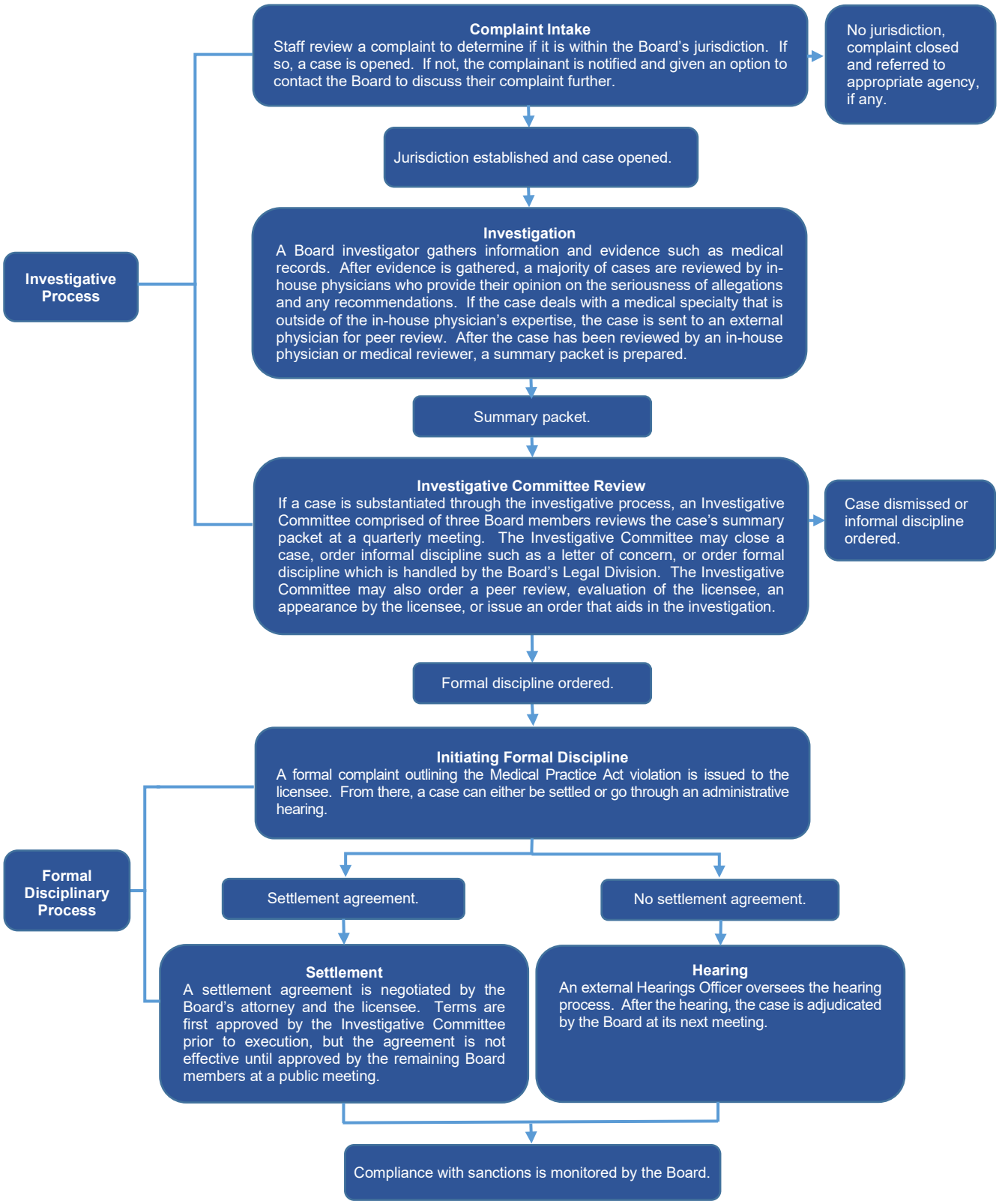
- Administration Division – Supports other divisions and performs general administrative functions including building security and information technology.

Investigative and Formal Disciplinary Processes

The investigative process begins when a complaint is filed against a medical provider licensed by the Board. A complaint can range from unfounded allegations to possible criminal violations. Jurisdiction must be established when a complaint is received. To establish jurisdiction, the complaint must be against a Board licensee and alleged conduct constitutes a violation of the Medical Practice Act. Complaints for which the Board has no jurisdiction are closed or referred to the appropriate agency for further review. In order to discipline a licensee, a complaint must be substantiated through an investigation. The Board can pursue disciplinary action against a medical provider when complaints are substantiated. Exhibit 5 outlines the investigative and formal disciplinary processes.

Board Investigative and Formal Disciplinary Processes

Exhibit 5



Source: Auditor prepared from Board records.

Scope and Objectives

The scope of our audit included a review of the Board's activities for calendar years 2019 and 2020, and from 2016 for certain investigative cases, from 2017 for workload trends, and from 2008 for reserve balance analyses. Our audit objectives were to:

- Evaluate the Board's processes for licensing physicians and investigating complaints.
- Evaluate the Board's process for purchasing an office building.

This audit was requested by the Legislative Commission after concerns were raised regarding the timeliness of licensing, investigations, and the purchase of an office building. The audit was authorized by the Legislative Commission on December 30, 2019, pending the completion of a Federation of State Medical Board audit which was presented to the Legislative Commission on December 28, 2020. We conducted our audit pursuant to the provisions of Nevada Revised Statutes (NRS) 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Improvements Needed Over Investigative and Disciplinary Processes

Better monitoring and oversight of the investigative and disciplinary processes can help the Board provide more timely resolution of complaints and other issues. Additionally, enhancing controls over the administration of fines will ensure they are assessed consistently and fair. Further, maintaining support for investigative costs will help support its cost recovery efforts and provide equitable treatment of licensees.

Untimely Investigative and Disciplinary Processes

The Board could improve the monitoring of its complaint resolution process which can take as long as several years to finalize. Large gaps of time existed between activities in certain cases where the Board could not provide explanations for delays. Timely resolution of cases is important for ensuring practicing physicians are competent and patients are safe from harm.

We tested 40 investigative and 20 legal cases from 2019 and 2020 and found the investigative process took an average of 326 days. Only a small portion of this time period related to activities outside of the control of the Board. Additionally, after investigations were complete, it took another 170 days, on average, to serve formal complaints initiating the legal process. Finally, legal case activities took an average of another 179 additional days to resolve matters. Review of Board records and staff inquiry could not explain why some cases took over 800 days or why so much time lapsed between Board activities.

Excessive amounts of time to finalize complaints and notify medical providers of allegations allows potentially dangerous providers to continue serving patients. There are opportunities for the Board to eliminate delays. We found:

- It took an average of 23 days for a complaint to be reviewed and assigned to an investigator. Five cases took significantly longer, up to 68 days. Management stated the intake turnaround goal is 7 days.

- Investigators took 31 days to review complaints, notify licensees they were under investigation, and request medical records, if needed. Seven cases took significantly longer, up to 134 days.

- The disciplinary process, when applicable, took over a year to resolve. Our review of cases showed little documentation existed detailing Board activities, if any, during this time period.

Cases reaching the disciplinary process indicate significant matters exist that have been substantiated through the investigative process. It is important these matters are resolved timely to protect the public; however, cases lingered before final resolution. A backlog of 70 cases existed as of August 2021. Based on historic case closure trends and the number of attorney's employed at the Board, we estimate the backlog will continue to grow.

Management indicated cases are complex and can require significant time to resolve. However, our review of case hours charged for cost recovery on completed cases did not necessarily correlate to the time period taken to close cases. For example, a case that took 114 days to close had 8 attorney hours associated with it, while a case that took 1,039 days to close also had 8 attorney hours. The number of days to close a case ranged from 93 to 1,211 days, while the average number of hours was 13 with a maximum of 60. In some cases, the delays were attributed to staff working on other cases or another case regarding the same

licensee; but in other cases, records did not explain the reason for the delay.

Investigative Committee Practices Contribute to Delays

Complaint resolution can be impacted if the case summary packet is not reviewed promptly by the Investigative Committee. We found 12 of the 40 cases were not reviewed at the nearest Investigative Committee meeting causing 91 days of additional delays. While committee members requested case summary packets be provided at least 3 weeks in advance of a meeting, all cases ready for a meeting were not always submitted. Eight of the 12 cases delayed could have been submitted to an earlier meeting.

Management stated that prior to 2021, the number of cases reviewed during a committee meeting was limited to 50. Starting February 2021, the Investigative Committee reviews 70 to 80 at each meeting, which may help eliminate some delays. Other states we talked to do not place limits on the number of cases reviewed at similar meetings.

Medical Reviews Can Take Additional Time

Untimely medical reviews also hinder the process as a medical professional's opinion is crucial in determining if violations exist. Of the 40 cases tested, 85% were referred to an in-house physician for medical review. It took an average of 91 days to receive an in-house physician's report for 2 hours of work. We found two reviews took longer at 182 and 360 days.

Outside medical reviews may also be necessary if a particular expertise is needed to determine whether practice standards have been violated. Peer reviews can impact case progress, but the Board has limited control over report timeliness as external physicians do not have an obligation to be timely. Records showed that of 191 peer reviews completed from 2019 to 2020, 72% were received after the Division's 60-day targeted completion date. Specifically, it took 114 days on average to receive peer review reports.

A best practice according to the National State Auditors Association is to set requirements for how quickly complaints should be handled and track them. Other state medical boards or regulatory bodies use guidelines that establish deadlines based on case priority. The Board does not have policies or guidelines detailing case deadlines or milestones, nor a formal case prioritization process.

Receipts of Fingerprints Not Properly Maintained

Fifteen of 20 files did not have proof that fingerprints were received from licensees as required in all disciplinary matters. State law requires licensees to submit fingerprints within 30 days of the Board initiating disciplinary action. Knowing or willful failure of a licensee to comply with this requirement constitutes additional grounds for disciplinary action and the revocation of the license. Without documentation to show the fingerprints were received, there is no evidence that licensees complied with the statutory requirement that the Board run background checks and potentially identify other concerning matters regarding a licensee. Procedures did not exist during our audit to ensure fingerprints were received and documentation maintained, although one was developed in November 2021 after our inquiries.

Complainants Not Always Notified

The Board did not always notify complainants of the filing of a formal complaint during the disciplinary process. Four of ten cases tested had no evidence the complainants were notified that a formal complaint had been filed and how to access it. The Legal Division's operations manual states that complainants will be notified after the filing of a formal complaint; however, a tracking method does not exist to ensure notifications are sent. It is important to keep complainants informed as to the case's progress to provide assurance that the Board is taking the complainants concerns seriously and taking action regarding the complaint.

Enhanced Disciplinary Determination Process Needed to Help Ensure Equitability

Enhancing the process of assessing fines in disciplinary matters could help ensure equity. The Legal Division recommends discipline for violators which include penalties such as monetary fines, continuing medical education, public reprimands, and license suspension or revocation. The Board has discretion by statute in making the final disciplinary determinations and utilizes judgment and licensee history in this process. However, the Division has not established disciplinary guidelines or schedules that recommend penalties based on specific violations. We found such guidelines to be a best practice in our conversations with other states.

For 18 legal cases we reviewed, only 7 cases were assessed fines even though all of the violations in the remaining 11 cases were eligible. The Board is required to remit all fines collected to the state General Fund. Fine amounts assessed varied from $250 to $2,500 for either one or multiple violations. State law allows a maximum fine amount of $5,000 per violation. In almost all cases reviewed, other discipline was assessed including public reprimands, recovery of investigation costs, or revocation of a license. Exhibit 6 shows the variations in assessed fines and the related violation(s) cited.

Case Fine Inconsistencies **Exhibit 6**

	Number of Violations	Violation Description	Fine Amount	Other Sanctions
Case 1	1	Conviction of Sexually Related Crime	$ -	Yes
Case 2	2(1)	Disciplinary Action by Another State	1,500	Yes
Case 3	1	Disciplinary Action by Another State	-	Yes
Case 4	1	Disciplinary Action by Another State	-	Yes
Case 5	1	Disreputable Conduct	-	Yes
Case 6	7(1)	Failure to Comply with Investigative Committee Order	-	Yes
Case 7	1	Failure to Comply with Board Regulation	-	Yes
Case 8	1	Failure to Maintain Medical Records	1,000	Yes
Case 9	1	Failure to Maintain Medical Records	-	Yes
Case 10	6(1)	Failure to Supervise Physician Assistant	2,500	Yes
Case 11	1	Illegal Dispensing of Controlled Substances	-	Yes
Case 12	1	Illegal Distribution of Controlled Substances	-	Yes
Case 13	2(1)	Malpractice	2,000	Yes
Case 14	1	Malpractice	-	Yes
Case 15	1	Out of State Discipline	-	Yes
Case 16	2	Out of State Discipline Failure to Report Out of State Discipline	250	Yes
Case 17	2	Violation of Pharmacy Board Regulations Failure to Maintain Medical Records	500	Yes
Case 18	1	Violation of Pharmacy Board Regulations	$ 500	Yes

Source: Auditor prepared from a review of Board records.

(1) Number of violations relate to the same statutory violation.

Note: Other sanctions included public reprimands in 52% of the reviewed cases, continuing medical education for 14%, license revocation for 11%, and practice restrictions for 3%.

Management indicated the total financial impact on a licensee, including the recovery of investigative costs, is considered and may result in lower fines for one licensee over another. The decision to fine a licensee and the fine amount is ultimately up to Board members. Best practices suggest regulatory bodies should establish a graduated and equitable system of sanctions to help enhance equity in these decisions. While case circumstances differ and there is an element of judgment involved, basic guidelines can ensure fines are equitably administered and consistent.

Investigation Fees Not Adequately Supported

The Board assessed licensees for the cost of investigations; however, these costs were not adequately supported to determine whether the amount assessed was accurate. For instance, the Board does not maintain a detailed record of the hours worked on each case by Board staff. In addition, invoices paid to external peer reviewers do not always include detail for the hours worked

to determine the reasonableness of the charge. Assessing and recovering accurate investigative and disciplinary costs is important for ensuring fair and equitable treatment of licensees.

State law allows the Board to recover investigation and disciplinary costs from the licensee as long as an itemized statement of fees is provided to support fees assessed. The Board recovered about $70,000 in investigation fees in 18 cases closed during calendar years 2019 and 2020. Fees recovered include the time Board investigative, legal, and support staff dedicate to resolving complaints received, as well as external costs such as medical peer reviews and transcription services. However, documentation did not always support fees assessed and some documentation was not available. Itemized statements did not support cost recovery amounts in 2 of the 18 cases with cost recoveries. This occurred because the Board does not have an adequate system or policies for tracking costs including the time Board staff devote to a particular case.

Even though the Board's operational manual states staff should be able to provide an accounting for their hours, documentation to support hours charged did not exist. As a result, hours charged did not always appear to be appropriate. For instance, complex and lengthy cases had similar hours charged compared to easier cases which were resolved quicker. As shown in Exhibit 7, the hours assessed to licensees did not necessarily correlate to the length of time necessary to close a case.

Case Length and Amounts Recovered **Exhibit 7**

	Case Length (Days)[1]	Staff Hours Charged	Amount Recovered
Case 1	1,324	Not Documented	$ 0
Case 2	1,211	66.0	4,617
Case 3	1,039	9.0	558
Case 4	1,015	3.5	201
Case 5	856	4.0	213
Case 6	749	23.5	1,345
Case 7	672	6.0	346
Case 8	483	5.0	374
Case 9	476	8.0	418
Case 10	411	42.1	2,669
Case 11	385	21.0	1,410
Case 12	270	9.0	472
Case 13	203	8.0	467
Case 14	196	Not Documented	0
Case 15	192	5.0	286
Case 16	114	10.1	610
Case 17	105	6.0	383
Case 18	93	8.5	$ 567

Source: Auditor prepared from review of Board records.

[1] Represents the number of days the case was in the disciplinary process (Legal Division).

For 17 of 18 cases reviewed, documentation supporting fees charged was inadequate to verify amounts charged to licensees. For instance, documentation showed the total number of hours charged for Legal Division staff but did not include specific details such as the days and hours worked on a case. Internal control standards require transaction documentation be properly managed and maintained; however, the Board does not have policies to ensure cost recovery documentation is generated and maintained to support amounts assessed to licensees. As a result, we could not determine the accuracy of costs assessed and recovered by the Board.

Finally, peer review invoices lacked detail to determine the reasonableness of amounts charged. For example, an invoice billed 40 hours but had no detail substantiating the activities performed. Board staff stated a peer review of more than 14

hours is unusual. Inadequate invoice detail limits the Board's ability to determine the reasonableness of amount charged. Invoices lacked detail because the Board did not request it; however, invoice instructions were modified to request this information in May 2021.

Recommendations

1. Formalize the complaint intake assignment timeline in policy and monitor intake timeliness.
2. Develop policies and procedures to utilize the time tracking function in the Board's database and actively monitor case activity to ensure timely resolution.
3. Continually evaluate the number of cases reviewed at Investigative Committee meetings or increase the frequency of meetings to enhance timely case review and reduce case backlog.
4. Establish and monitor timeframes for in-house medical reviews.
5. Follow newly developed procedures for tracking the receipt and review of fingerprints for disciplinary matters in the Board's internal fingerprint log.
6. Provide increased oversight of complaints not investigated by establishing an approval or secondary review control.
7. Develop procedures to track and notify complainants of the filing of a formal complaint.
8. Establish guidelines to follow when assessing disciplinary fines.
9. Enhance policies and procedures to ensure internal and external costs are tracked and documentation maintained, including hours Board staff dedicate to each case.
10. Require peer review invoices have sufficient detail regarding time billed to substantiate costs and develop procedures to review invoices for reasonableness and accuracy.

Certain Board Activities Sufficiently Performed

Board procedures over licensing and publishing of disciplinary data adequately ensured timely and accurate processing. Delays in licensing physicians were largely attributable to applicants and other third parties gathering and providing necessary information. Additionally, disciplinary information on the Board's website and provided to the National Practitioner Data Bank was accurate. Finally, the Board's decision to purchase an office building was based on reliable and accurate analysis and information.

Board Processed License Applications Timely

The Board processed applications efficiently with nearly 75% of the time to issue a license related to applicants obtaining the proper documentation. We reviewed the licensing process for 50 applications and found it took the Board an average of 98 days to complete the licensing process, but the majority of those days were related to applicants and third parties gathering required information. Exhibit 8 shows the average time for the Board to issue a license.

License Processing Timeframes **Exhibit 8**

Source: Auditor prepared from a review of Board records.

Board policies and procedures allowed staff to process applications efficiently. Applications were rarely complete upon initial submission even though required documentation is outlined in application instructions. Additional time was necessary to

gather proper documentation which delayed applicants' ability to start practicing in Nevada. Documentation commonly not provided included:

- Fingerprint Cards – Nevada law requires applicants submit fingerprints to the Board. Fingerprint cards are provided to applicants after all application fees are received.

- Postgraduate Verifications – Nevada law requires proof of completion of a postgraduate training program. This documentation is provided directly to the Board by the training institution.

- State Licensure Verifications – Complaints or disciplinary actions filed against applicants by other states are required to be submitted by Nevada law. The Board requires this information be provided directly by the other state.

- Continuing Medical Education – Nevada law requires proof of completion of continuing education.

The Board often requested applicants provide clarification or required documentation during the licensing process. For instance, the Board requests clarification when application information does not match information submitted directly to the Board from other institutions or states. Seeking additional documentation and clarification is necessary to ensure physicians are qualified to practice.

In order for the Board to process license applications in a timely manner, it is dependent on the applicant and third parties to promptly provide them accurate and complete information. The Board's thorough review of this documentation shows its commitment in ensuring only qualified individuals receive a Nevada medical license.

Accurate Disciplinary Information Available and Reported Properly

Disciplinary information on the Board's website and the National Practitioner Data Bank was accurate for all cases reviewed. State law requires the Board's website to include a list of each licensee and a brief description of any disciplinary actions. This information allows individuals to make informed decisions when choosing health care providers.

Federal law also requires reportable disciplinary information be submitted to the National Practitioner Data Bank within 30 days. We found disciplinary actions reported by the deadline as required. National reporting helps potentially dangerous providers from obtaining licensure in other states as medical facilities and other state licensing entities are able to access this information.

Building Purchase Analysis Was Sufficient

Board management performed sufficient analysis prior to purchasing a Reno office building in 2018 for $3.4 million. We reviewed documentation provided by management to determine whether quality information was used to make an informed decision regarding this purchase.

We found the rationale and calculations used to estimate the need for increased office space was reasonable. In addition, relevant cost and benefit information was obtained. Specifically, an estimate from an external real estate professional was obtained showing how much it would cost to lease a building with the desired office space over a period of 10 years. A non-binding lease agreement was also obtained for the building that ended up being purchased which showed the expected lease rates over a period of 7 years. In each case, the analysis showed the purchase of the building to be a good economic decision.

Financial information was provided to Board members at public meetings when the building purchase was discussed and the related effect the purchase would have on the Board's cash reserves. The Board's policy, adopted in September 2018, is to endeavor to maintain a reserve balance of no less than 6 months, and no greater than 12 months' worth of operating expenses. The Board's reserve balance from 2010 to 2020 is shown in Exhibit 9.

Reserve Balances **Exhibit 9**
Calendar Years 2010 to 2020

Year	Calculated Reserve Balance	Number of Months' Worth of Expenses
2020	$ 924,226	2.1
2019	409,200	0.9
2018	78,452	0.2
2017	3,992,929	10.3
2016	4,206,927	12.8
2015	4,388,390	14.7
2014	3,799,912	13.3
2013	3,239,065	11.6
2012	2,584,281	9.4
2011	1,981,510	7.5
2010	$1,146,395	4.4

Source: Auditor calculated based on the Board's audited financial statements.

Note: The calculation of the reserve balance was completed using the Board's reserve policy adopted in September 2018. As a reserve policy had not been adopted prior to that, the information presented to the Board at the time of the building purchase would differ depending on the methodology used by management to calculate the reserve.

Additionally, the Board informed the Legislature and the Office of the Attorney General regarding these plans to purchase the building as early as August 2017. Staff at the Office of the Attorney General advised the Board that state purchasing laws, specifically NRS 353, did not apply to the Board. The Board was advised to have the Nevada Division of State Lands negotiate the purchase on its behalf, which they did.

Appendix A
Audit Methodology

To gain an understanding of the Nevada State Board of Medical Examiners (Board), we interviewed staff, reviewed statutes, regulations, and policies and procedures significant to the Board's operations. We also reviewed financial information, legislative committee minutes, and other information describing the Board's activities. Furthermore, we documented and assessed the Board's controls and administrative procedures related to licensing, complaint investigations, the building purchase, and calculating reserve balances.

Our audit included a review of the Board's internal controls significant to our audit objectives. Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. The scope of our work on controls related to licensing, complaint investigations, the building purchase, and calculating reserve balances included the following:

- Establish structure, responsibility, and authority; evaluate performance; and enforce accountability (Control Environment);

- Define objectives and risk tolerances; and identify, analyze, and respond to risks (Risk Assessment);

- Design and implement control activities through policy (Control Activities);

- Use quality information and communicate internally (Information and Communication); and

- Perform monitoring activities (Monitoring).

Deficiencies and related recommendations to strengthen the Board's internal control systems are discussed in the body of this report. The design, implementation, and ongoing compliance with internal controls is the responsibility of agency management.

Our testing of licensing and investigative processes included data obtained from the Board's internal licensing logs and case database. To assess the reliability of the Board's logs, we randomly selected 20 applications, 10 processed in 2019 and 10 in 2020, and compared information to physical files for accuracy. We then selected 20 physical application files, 10 from 2019 and 10 from 2020, randomly pulled from stored file boxes, and traced information back to the logs for completeness. The population consisted of 1,419 unrestricted physician license applications processed between 2019 and 2020. We found the internal licensing logs to be sufficiently reliable. The Board's case database was used to select the sample population for testing. To assess the reliability of the database, we haphazardly selected 20 investigative cases and 20 legal cases and compared information to the database. We found the case database to be sufficiently reliable.

To evaluate the Board's licensing processes, we selected a random sample of 50 licensing applications, 25 processed in 2019 and 25 in 2020, from a population of 1,419. We reviewed the timeliness of the process, identified initial information that was missing from applications, identified subsequent requests for documentation or information, and whether all required documentation was present prior to license issuance. We also reviewed 148 applicants that overpaid application fees and determined whether they were properly refunded. Finally, we surveyed 10 other states' medical boards or regulatory bodies to compare timeliness statistics and best practices.

To determine whether the Board was investigating all relative complaints, we randomly selected 20 complaints, 8 that were not investigated in 2019 and 12 from 2020, out of a population of 924. We confirmed whether the complaints were against licensees of

the Board and if so, reviewed the complaint to determine whether it involved a violation of Nevada's Medical Practice Act. We discussed why complaints were not investigated with Board staff.

We evaluated the Board's complaint investigations processes by selecting a random sample of 45 cases, 22 closed in 2019 and 23 closed in 2020, out of a population of 2,855. We then reviewed the timeliness of processes and reasons for delays. We also haphazardly selected 5 out of 59 investigative cases that remained open after 3 years and identified why cases had not been closed. We analyzed investigator workload trends from 2017 to 2020 and surveyed 10 other states' medical boards or regulatory bodies to compare timeliness statistics and best practices.

We also randomly sampled 20 cases that went through the formal disciplinary process after being investigated, 10 from 2019 and 10 from 2020, from a population of 119. Eighteen of the 20 cases contained cost recoveries. We reviewed the timeliness of processes and whether documentation supported investigative costs, the reasonableness of imposed fines, and whether disciplinary action on the Board's website was accurate and reported timely to the National Practitioner Data Bank. We analyzed Board records to determine if a backlog of cases existed. Finally, we surveyed 10 other states' medical boards or regulatory bodies to compare timeliness statistics and best practices. We discussed our results with Board management.

Next, we analyzed the Board's reserve balances from 2009 to 2020 and how they were affected by the purchase of an office building in 2018. We then reviewed documentation provided by Board management to determine the extent of analysis performed by management and Board members prior to the purchase.

We used nonstatistical audit sampling for our audit work, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provided sufficient, appropriate audit

evidence to support the conclusions in our report. We did not project results to the population, because the nature of the testing was application or case specific.

Our audit work was conducted from January to September 2021. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Executive Director of the Nevada State Board of Medical Examiners. On February 23, 2022, we met with Board management to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix B, which begins on page 25.

Contributors to this report included:

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Appendix B

Response From the Nevada State Board of Medical Examiners

NEVADA STATE BOARD OF MEDICAL EXAMINERS
9600 Gateway Drive
Reno, NV 89521

Victor M. Muro, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

April 18, 2022

Via Hand-Delivery

Daniel L. Crossman, CPA, Legislative Auditor
Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV 89701

Re: Written Statement of Explanation in Response to Draft Audit Report Dated April 7, 2022

Dear Mr. Crossman:

This letter provides the Nevada State Board of Medical Examiners' (Board) written statement of explanation to the draft audit report. We offer the following regarding the ten (10) recommendations contained your draft audit report.

1. Formalize the complaint intake assignment timeline in policy and monitor intake timeliness.

When consumer complaints are received, they are reviewed by the Chief or Deputy Chief of Investigations to determine if the Board has jurisdiction to investigate the consumer complaint pursuant to NRS Chapters 629 and 630, as well as NAC Chapters 629 and 630. The Investigation Division's operations manual has been updated to reflect that all consumer complaints must be reviewed within seven (7) business days after receipt. If the complaint is within the Board's jurisdiction, an investigation must also be opened and assigned to an investigator within seven (7) business days. This has long been the Investigation Division's goal, and this has now been reduced to written policy. The Investigation Division's operations manual also now states that consumer complaints that allege imminent danger to public safety or other exigent circumstances will be flagged as "priority" in the Complaint Intake Log upon receipt and opened and assigned to an investigator within two (2) business days. These complaints will be monitored by the Chief of Investigations as priority cases and the Executive Director or Deputy Executive Director will be notified. This allows the Board to act quickly on priority cases and to request, if necessary, that the assigned Investigative Committee order a summary suspension on a license, when required to protect the public.

To ensure that the Investigation Division's policy regarding intake timelines is followed, the Chief of Investigations or a designated Deputy Chief of Investigations reviews complaints that are

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received on a daily basis. The Chief of Investigations also will regularly review the Complaint Intake Log to ensure that the timelines are being met. Quarterly, the Deputy Executive Director will review the Complaint Intake Log to verify timeliness of the review of complaints and opening and assignment of investigations.

2. Develop policies and procedures to utilize the time tracking function in the Board's database and actively monitor case activity to ensure timely resolution.

The Investigation Division's operations manual has been updated to ensure that the following timelines and requirements are clearly specified. After an investigation is assigned to an investigator, he or she has thirty (30) calendar days to send an allegation letter to the Respondent, an order to produce health care records to all appropriate entities, or other necessary correspondence requesting information or records related to the investigation. In February 2021, the Board began using a new licensing software program, called Open Regulate. All investigators have been directed to ensure that all activities regarding an investigation are documented in Open Regulate along with the amount of time the investigator spent performing that activity. Respondents have thirty (30) calendar days to respond to the allegation letter and investigators are authorized to approve a one-time extension of up to fourteen (14) calendar days. Any additional extensions must be approved by the Chief or Deputy Chief of Investigations. Any extensions requested and granted must be documented in Open Regulate. If a Respondent does not respond to the allegation letter, a second allegation letter will be sent via certified mail requesting a response within fourteen calendar (14) days of receipt.

For priority cases, the assigned investigator has seven (7) calendar days to send an allegation letter to the Respondent, an order to produce health care records to all appropriate entities, or other necessary correspondence requesting information or records related to the investigation. Investigators must discuss extension requests for priority cases with the Chief or Deputy Chief of Investigations prior to approving them. This activity must be documented in Open Regulate. Unless there are extenuating circumstances approved by the Legal Division, Respondents still have thirty (30) calendar days to respond to the allegation letter in a priority case.

The Investigation Division's operations manual has been updated to require that all open investigations are reviewed twice a year by the Chief of Investigations or designated Deputy Chief of Investigations to ensure that all activities are appropriately logged in Open Regulate and that the Division's policies regarding case timelines are followed and any delays have been approved by the Chief or Deputy Chief, if necessary, and documented in Open Regulate.

The Investigation Division's operations manual has also been updated to ensure that the timeliness of medical reviews by in-house physicians are carefully monitored. Those changes will be addressed in item 4, below. In addition, the Investigation Division's operations manual been updated to ensure better tracking of the timeliness of peer reviews by outside physicians, when requested by the Investigative Committee. Peer reviews are tracked in the Board's Peer Review Log. Once a month, the Peer Review Coordinator will query the Peer Review Log and identify any Peer Reviews that have been assigned and not completed within sixty (60) days. The Peer

Review Coordinator will then send an email to the Chief of Investigations and both Deputy Chiefs of Investigations containing the case number, assigned investigator, Respondent's name(s), date the case was assigned to the Peer Reviewer, and the name of the Peer Reviewer. The Chief or Deputy Chiefs will review the investigation in Open Regulate to see if any notes have been entered regarding the delay. Investigators should notify the Chief or Deputy Chiefs if a Peer Reviewer requests an extension of time to complete his or her Peer Review and that request should be noted in Open Regulate. If there is no information noted in Open Regulate, the Chief or Deputy Chiefs will discuss with the assigned investigator and the assigned investigator will contact the Peer Reviewer regarding the Peer Review. Unless there are extenuating circumstances, the Peer Reviewer will be granted a one-time extension of thirty (30) days to complete the Peer Review. If the delay is caused by the need to request additional information or records, the Peer Reviewer will have sixty (60) days from the date that additional information or records are received to complete the Peer Review. If the Peer Reviewer is unable to complete the Peer Review within the time allowed, the investigation materials will be retrieved, and the Peer Review will be re-assigned to a new Peer Reviewer to complete.

For priority cases, the Peer Review Coordinator will discuss the need for a faster turnaround on the Peer Review and request that the Peer Reviewer accommodate the shorter time frame. The Peer Review Coordinator will document this conversation in Open Regulate and note the quicker deadline on the Peer Review Log. The assigned investigator will be notified and will coordinate with the Peer Reviewer to ensure that the quicker deadline is achieved. The Peer Review Coordinator will review these cases monthly and let the Chief of Investigations and Deputy Chiefs of Investigations know when a Peer Review is outside that quicker deadline.

3. Continually evaluate the number of cases reviewed at the Investigative Committee meetings or increase the frequency of meetings to enhance timely case review and reduce case backlog.

The Board does not believe that increasing the number of Investigative Committee meetings is logistically possible. However, the Chief of Investigations continually evaluates the number of cases reviewed at the Investigative Committee meetings. While the Chief of Investigations needs to ensure that the number of cases on an Investigative Committee agenda may be reasonably completed at the meeting, the number of cases added to an Investigative Committee meeting is not set at an absolute number. For example, meetings with fewer appearances will have more cases added to the agenda for discussion. The Chief of Investigations is always seeking opportunities to increase the efficiency of the Investigative Committee at its meetings. On March 9, 2021, the Chief of Investigations updated the format for the case packets, and, in May 2021, the Investigative Committee began reviewing cases in that new format. In 2021, the Investigations Division and Legal Division conferred about pre-Investigative Committee meetings to coordinate, enhance, and streamline the staff recommendations provided to the Investigative Committee regarding each case. This allowed the Investigative Committees to each increase their average case review by twenty (20) cases per meeting starting in 2021.

4. Establish and monitor timeframes for in-house medical reviews.

On December 3, 2020, an updated and uniform Medical Review Report was created and implemented. The updated format allowed Medical Reviewers to produce timelier reports, which, in turn, resulted in the reduction of cases pending Medical Review.

The Investigation Division's operations manual has been updated to require, going forward, that the Chief of Investigations or designated Deputy Chief review the Medical Review log once a month and identify any cases that have been assigned to a Medical Reviewer that have not been completed within thirty (30) calendar days. Cases that have not been completed within thirty (30) calendar days will be reviewed in Open Regulate for activity notes documenting any delays or reasons why the report was not completed. Acceptable reasons for delay include Medical Reviewer requests missing or additional records regarding the patient, Medical Reviewer has additional questions for the Respondent, a follow-up allegation letter was sent, or awaiting response to follow-up allegation letter. Medical Reviewer requests for new patient records or other follow-up information that is not pertinent to the original complaint or patient will be discussed with a supervisor to ensure there is no unnecessary delay. If there is no justifiable reason for the delay, the Medical Reviewer will be instructed to complete his or her report within fourteen (14) calendar days.

5. Follow newly developed procedures for tracking the receipt and review of fingerprints for disciplinary matters in the Board's internal fingerprint log.

The Legal Division's operations manual has been updated to include the following procedures, to ensure better tracking of the receipt and review of fingerprints requested and received pursuant to NRS 630.342. Please note that, while a record documenting the receipt and review of fingerprints was not always consistently available in the past, there is no information suggesting that fingerprints have not been requested and received pursuant to NRS 630.342 when disciplinary action was initiated. The assigned attorney would have checked compliance with NRS 630.342 when working on the case and ensured that the fingerprints were requested and received. The deficiency noted by this audit was simply that the Board did not have an adequate policy and documentation tracking this information and the request and receipt of these fingerprints could not always be substantiated after the fact.

The fingerprint process has been updated and is tracked in the Fingerprint Log. The Fingerprint Log includes the date the fingerprint card and instructions were sent to the Respondent or Respondent's attorney, the date the fingerprint card is due back (30 days from the service date), the date the fingerprint card was received by the Board, and if the Respondent was positive or negative for fingerprint identification, criminal history and arrest record, for both State and Federal databases. The Fingerprint Log is maintained and periodically reviewed by the Legal Assistants.

The Legal Assistants create a calendar reminder to ensure follow up after thirty (30) days on each case. If, after thirty (30) days, the fingerprints have not been received from the Respondent or the Respondent's attorney, the Respondent and/or his or her attorney is notified via email and/or mail, and a second request for the Respondent's fingerprints is drafted and sent by the assigned attorney.

This second request explains that the Respondent is required to submit the fingerprints requested pursuant to NRS 630.342 and failure to comply may result in additional disciplinary action. This second request is noted in the Fingerprint Log, and the Legal Assistants create a second calendar entry to ensure follow up after thirty (30) days. If the Board does not receive the Respondent's fingerprints after this second request, the assigned attorney will discuss this issue with the Deputy Executive Director, the Investigative Committee will be notified, and additional disciplinary action may occur against the Respondent.

Part of the instructions sent to the Respondent requesting his or her fingerprints pursuant to NRS 630.342 includes the Department of Public Safety (DPS) Fingerprint Background Waiver. This must be completed by the Respondent and returned to the Board with the fingerprint card. After the fingerprint card and the DPS Fingerprint Background Waiver are received, the DPS Fingerprint Background Waiver is given to the Compliance Officer who files the waiver in the Respondent's official disciplinary file. The fingerprint card is given to the Licensing Division, who maintains the fingerprint card in a secured area, until it is sent, along with all other fingerprint cards gathered by the Licensing Division, to the DPS Records, Communications and Compliance Division. Please note that the fingerprint card may only be submitted to DPS upon receipt of the DPS Fingerprint Background Waiver. If both documents are not returned to the Board as requested, the assigned attorney will contact the Respondent and/or his or her attorney until these items are both received.

Upon receipt of the results of the State and Federal background checks from DPS, the results are disseminated by the Compliance Officer directly to the Legal Division, usually by direct telephone communication with the Legal Assistants. The dates of receipt of State and Federal results are entered into the Fingerprint Log and the entry row in the spreadsheet is then cut and pasted into a separate sheet of completed fingerprinting for the year. If there are any positive results from the fingerprints, the assigned attorney and the Chief of Investigations are notified. It is possible a new investigation may be opened based on positive results that were not otherwise known or previously reported by the Respondent. The decision to open a new investigation or not is made by the Chief of the Investigations Division and the Deputy Executive Director.

6. Provide increased oversight of complaints not investigated by establishing an approval or secondary review control.

As stated above, complaints are reviewed daily by the Chief of Investigations or designated Deputy Chief of Investigations. The Investigation Division's operations manual has been updated to provide a second review by appropriate Board staff if the reviewer determines that a complaint received is not within the Board's jurisdiction pursuant to NRS Chapters 629 and 630 or NAC Chapters 629 and 630. If a Deputy Chief of Investigations reviewed the complaint, all determinations of "no jurisdiction" will be reviewed by the Chief of Investigations prior to notifying the complainant that the Board is not able to investigate the matter and/or referring the matter to another entity, such as another licensing board, as applicable. If the Chief of Investigations reviewed the complaint, all determinations of "no jurisdiction" will be reviewed by the Executive Director or Deputy Executive Director prior to notifying the complainant that the Board is not able to investigate the matter and/or is referring the matter to another entity, such as

another licensing board, as applicable. The reason for the "no jurisdiction" determination will be noted in Open Regulate, along with the date and the name of the two reviewers for that complaint.

At any time, the Chief of Investigations may, at his or her discretion, discuss "no jurisdiction" determinations with the Executive Director or Deputy Executive Director. This discussion will be noted in Open Regulate.

Whenever a complaint received is not opened as an investigation, the specific reason for that decision will be noted in Open Regulate. Examples of complaints received that may be in the Board's jurisdiction, but that are not opened as an investigation include the identity of the Respondent is not known, Respondent is deceased, complaint is a duplicate complaint, or the complaint is unintelligible, and the complainant was not able to provide intelligible information, or the reviewer was unable to contact the complainant. Some complaints are resolved by the Investigations Division prior to opening an investigation, such as patient requests for records and unsigned death certificates. These complaints are noted "resolved" in Open Regulate and detailed notes are included regarding the resolution of that complaint.

7. Develop procedures to track and notify complainants of the filing of a formal complaint.

The Legal Division's operations manual has been updated to require that, if the complainant is a person, the complainant will be notified that the Legal Division has filed a formal complaint regarding the complaint submitted. This letter will be sent by regular U.S. mail to the complainant once the Respondent has been served with the formal complaint. The Legal Assistants will enter a note in Open Regulate that includes the date that the letter was sent to the complainant, and, if possible, the letter or email notifying the complainant that the formal complaint has been filed will be uploaded into Open Regulate.

Many legal cases are the result of investigation of self-reports from the Respondent or referrals from other agencies. When appropriate, the Investigations Division will provide information to the referring agency regarding the referral.

8. Establish guidelines to follow when assessing disciplinary fines.

In March 2021, Deputy Executive Director Sarah Bradley assumed responsibility for the Legal Division. Since that time, Ms. Bradley has been reviewing and approving the settlement terms in legal cases, including fine amounts, before the settlement terms are finalized between the Investigative Committee and the Respondent. The goal of Ms. Bradley's review is to ensure that the settlement terms brought to the Board for approval at a public meeting, including the fine amount, is appropriate and consistent. Ms. Bradley also reviews and discusses Legal Division recommendations in adjudications with the assigned attorney prior to bringing these recommendations to the Investigative Committee for approval and presentation at the public Board meeting.

Board staff will take this audit recommendation and formalize this review process into a written, internal guideline regarding fines and other discipline recommended in legal cases, whether by settlement agreement or adjudication. Notwithstanding the written, internal guideline that is created pursuant to this audit recommendation, ultimately, all discipline imposed by the Board, including fines assessed, is the decision of the full Board as decided at a public meeting.

9. Enhance policies and procedures to ensure internal and external costs are tracked and documentation maintained, including hours Board staff dedicate to each case.

As stated above, in February 2021, the Board began using a new licensing software program, called Open Regulate. All Investigations Division staff have been instructed to enter activity notes for each investigation in Open Regulate, including the time it took to complete this activity. This can then be used to determine the costs attributed to Investigations Division staff on each investigation. As noted above in item 2, the Chief of Investigations and Deputy Chiefs of Investigations will review all open investigations twice a year. In the at review, the time entries for Investigations Division staff will be reviewed to ensure that all staff is entering time for each activity.

The Legal Division has historically been utilizing an administrative cost sheet for each legal case. This cost sheet breaks down fees and costs expended on each case by category: Investigations Division costs, Peer Review costs, Hearing Officer costs, and Legal Division costs. To implement this audit recommendation, a new form was created requiring a detailed breakdown for all hours spent by a staff member on each case, including the staff member's initials, date, number of hours, and activity completed. The Deputy Executive Director has instructed the Legal Assistants to review this form and ensure that is it complete prior to calculating the costs in each legal case. If this form is not complete or is not accurate, the Deputy Executive Director will address that with the appropriate attorney or staff member.

The Finance Division has always maintained a copy of all invoices and payment records for costs spent on a case. Historically, the Finance Division also has calculated the hourly rate for each employee (past and present), including benefits, to ensure that the costs calculated in a case accurately reflect the cost to the Board for that matter. The Legal Assistants use this hourly rate to calculate costs incurred in a case for Board staff time.

Going forward, the Legal Assistants will ensure that a copy of all invoices and payment records are included in the legal case file and provided as back up to the Memorandum of Costs that is provided in each case.

This audit recommendation was not that Board expenses were not properly documented; instead, the concerns are that documentation for Board expenses was not always transmitted to the Legal Division to substantiate costs assessed in legal cases.

The Legal Division's operations manual has been updated to ensure that these policies are clear and accurately addressed.

10. Require Peer Review invoices have sufficient detail regarding time billed to substantiate costs and develop procedures to review invoices for reasonableness and accuracy.

Historically, invoices including the number of hours spent on the case were received from Peer Reviewers accompanied with a detailed report containing the Reviewer's opinions and conclusions regarding the case, as well as a completed W-9 form. This documentation was reviewed and approved by the Peer Review Coordinator and the Chief of Investigations before being submitted to the Finance Division for payment. This documentation was then reviewed and approved by the Finance Division prior to preparing a check, and finally by the Executive Director or Deputy Executive Director when payment was provided. Part of the review by Board staff included verifying the completeness and accuracy of the invoice, and some Peer Reviewers were asked to provide more detail prior to issuance of payment from the Board.

As of May 2021, the Chief of Investigations updated the memorandum that is sent to Peer Reviewers and the Peer Review invoice form to ensure that Peer Reviewers are providing more detail regarding the hours spent reviewing a case. Specifically, Peer Reviewers are now instructed to provide a description of the work performed in their invoice when generating their report and to provide an hourly tally, in a minimum of thirty (30) minute increments, in the following categories: reviewing documents, researching literature, generating report, or editing/finalizing report. When invoices are submitted to the Board along with the Peer Review report, these invoices are reviewed and approved by the Peer Review Coordinator, Chief of Investigations, Finance Division, and Executive Director or Deputy Executive Director prior to providing payment to the Peer Reviewer. Like before, if an invoice is not complete, accurate, or lacking sufficient detail regarding hours spent, the Peer Reviewer is contacted and asked to provide additional information.

Therefore, the Board believes that this recommendation has already been fully implemented.

I hope this letter has been informational and responsive to your request. As always, please do not hesitate to contact our office if you have any further questions or concerns.

Sincerely,

Edward O. Cousineau, J.D.
Executive Director
Nevada State Board of Medical Examiners

ED/DJ/SAB/mf/mb

Nevada State Board of Medical Examiners' Response to Audit Recommendations

	Recommendations	Accepted	Rejected
1.	Formalize the complaint intake assignment timeline in policy and monitor intake timeliness	X	
2.	Develop policies and procedures to utilize the time tracking function in the Board's database and actively monitor case activity to ensure timely resolution	X	
3.	Continually evaluate the number of cases reviewed at Investigative Committee meetings or increase the frequency of meetings to enhance timely case review and reduce case backlog	X	
4.	Establish and monitor timeframes for in-house medical reviews	X	
5.	Follow newly developed procedures for tracking the receipt and review of fingerprints for disciplinary matters in the Board's internal fingerprint log	X	
6.	Provide increased oversight of complaints not investigated by establishing an approval or secondary review control	X	
7.	Develop procedures to track and notify complainants of the filing of a formal complaint	X	
8.	Establish guidelines to follow when assessing disciplinary fines	X	
9.	Enhance policies and procedures to ensure internal and external costs are tracked and documentation maintained, including hours Board staff dedicate to each case	X	
10.	Require peer review invoices have sufficient detail regarding time billed to substantiate costs and develop procedures to review invoices for reasonableness and accuracy	X	
	TOTALS	10	