



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the First-Party Request for
Advisory Opinion Concerning
the Conduct of **Billie Shea**, Chair,
Nevada State Board of Massage Therapists,
State of Nevada,

Request for Opinion No. 11-28A

Public Officer. /

OPINION

Public officer Billie Shea (“Shea”) requested a confidential advisory opinion¹ from the Nevada Commission on Ethics (“Commission”) pursuant to NRS 281A.440(1) regarding the propriety of her past and anticipated future conduct as it relates to the Ethics in Government Law (“Ethics Law”) set forth in Chapter 281A of the Nevada Revised Statutes (“NRS”). Shea appeared before a quorum² of the Commission on April 14, 2011, and provided sworn testimony.

At the conclusion of the hearing, and after full consideration of the facts, circumstances and testimony presented, the Commission orally advised Shea of its decision that the Ethics Law does not preclude her from accepting either compensation from the Nevada Board while performing duties as a member of related Boards or payment of expenses from those other Boards to attend events related to Nevada Board functions.

The Commission subsequently issued a letter to Shea setting forth its decision. Shea elected to waive confidentiality with respect to this proceeding. Therefore, the Commission now publishes its Opinion Letter.³

¹ Shea waived confidentiality with respect to this request for opinion.

² The following Commissioners participated in this opinion: Chairman Erik Beyer, and Commissioners Gregory J. Gale, CPA, Magdalena M. Groover, George M. Keele, Esq., Paul H. Lamboley, Esq., John W. Marvel, and James M. Shaw.

³ Section II. Discussion, in relevant form and substance, reproduces the Commission’s letter to the requester.

I. QUESTION PRESENTED

A. Whether the Ethics Law prohibits you from accepting compensation from the Nevada State Board of Massage Therapists while attending the meetings and events of other similarly situated organizations such as the Federation of State Massage Therapy Boards.

B. Whether you may accept the payment of certain expenses from a private source to attend meetings and training related to the functions of the Nevada State Board of Massage Therapists.

II. DISCUSSION

According to the information you provided to the Commission, the **Nevada State Board of Massage Therapists** ("Nevada Board") regulates the massage therapy industry, which includes increasing problems involving the sexual misconduct related to the field. Consequently, the Nevada Board engages in extensive training and education regarding such problems provided by various similarly situated organizations, including the **Federation of State Massage Therapy Boards** ("Federation Board"). In accordance with specific statutory authority, the Nevada Board has established a policy to pay the travel expenses and per diem of its members who wish to attend such training and education events sponsored by these other entities. Additionally, the Nevada Board pays its members compensation while attending such events. The Nevada Board reviews

requests for such expenses and compensation at an open public meeting of the Board prior to granting approval.

The Federation Board consists of approximately forty (40) state boards, each of which appoints a member delegate to attend the various meetings and training events sponsored by the Federation Board. The Federation Board pays the travel expenses and per diem of the member delegates to attend such meetings and events. However, the Federation Board does not pay compensation to members while attending its events.

The Nevada Board designated you to serve as its member delegate of the Federation Board and the members of the Federation Board later elected you to serve as a member of its Board of Directors. However, the Nevada Board questioned your ability under NRS 281A to accept compensation from the Nevada Board while you are attending trainings or meetings as a member of the Federation Board or its Board of Directors. Notably, you would not be a member of the Federation Board or its Board of Directors but for your position on the Nevada Board.

By way of example, you stated that several members of the Nevada Board, including yourself, attended an event sponsored by the Federation of Associations of Regulatory Boards ("FARB") in New Orleans, Louisiana, another entity which provides training and meetings related to your field. You attended the meeting as a

Federation Board member and spent two (2) additional days in New Orleans to attend a Federation Board meeting. The Federation Board paid your travel expenses and per diem for the entirety of the trip. The Nevada Board paid travel expenses, per diem and compensation to other Nevada Board members who attended this event. However, the Nevada Board questioned whether it was appropriate for you to receive compensation from the Nevada Board for your attendance as a Federation Board member.

The Commission reviewed NRS Chapter 640C relating to compensation, per diem allowance and travel expenses for Nevada Board members when they are involved in the business of the Nevada Board. NRS 640C.170 specifically empowers the Nevada Board to pay compensation, travel expenses and a per diem to the members of the Nevada Board while involved in the business of the Board. The Commission determined that any decision whether to pay compensation, travel expenses and per diem to Nevada Board members is one that is wholly within the purview of the Nevada Board as authorized by statute. Therefore, the Commission declined to substitute its judgment for that of the Nevada Board regarding this matter. Accordingly, if the Nevada Board determines that your participation in such events involves the business of the Nevada Board and pays you compensation, it would not be a violation of the provisions of NRS 281A.

However, the Commission did consider whether it was appropriate for you to accept the travel expenses and per diem from the Federation Board, or any other private source, to attend training or other events. The Commission reviewed NRS 281A.400(4) and determined that your acceptance of travel expenses and per diem from the Federation Board did not violate the law. This provision prohibits a public officer from accepting any salary, retainer, expense allowance or other compensation from a private source for the performance of the public officer's duties as a public officer. The provision is intended to prohibit a public officer from receiving private compensation for the performance of public duties. By accepting the payment of expenses from the Federation Board; it offset that which would otherwise be paid by the Nevada Board. Accordingly, it was not additional expense or compensation for performing public duties.

The Commission's decision in this matter became effective on April 14, 2011.

Dated this 7th day of June, 2012.

NEVADA COMMISSION ON
ETHICS

By: 
Erik Beyer
Chairman

NRS 281A.420 Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions.

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4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of the public officer's or employee's duties as a public officer or employee.

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