

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
March 17, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:02 a.m. on Thursday, March 17, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Senator Mark E. Amodei, Capital Senatorial District

STAFF MEMBERS PRESENT:

Shirley Parks, Committee Secretary
Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Donna Winter, Committee Secretary

OTHERS PRESENT:

Susan Fisher, Chiropractic Physicians' Board of Nevada
Berlyn D. Miller, Nevada Chiropractic Association
Cindy Wade, Executive Director, Chiropractic Physicians' Board of Nevada
Donald Miner, D.C., Secretary, Chiropractic Physicians' Board of Nevada
Rocky Finseth, Nevada Physical Therapy Association

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Boyd Etter, P.T., Nevada Physical Therapy Association
Pamela Hogan, P.T., O.C.S., F.S.O.M., State Board of Physical Therapy
Examiners
Beth Altenburger, M.S.P.T., Assistant Professor, Academic Coordinator of
Clinical Education, University of Nevada, Las Vegas
Gary Marrone, M.D.
Jane Keehan, M.Ed., P.T., O.C.S., Certified M.D.T., President, Nevada Physical
Therapy Association
Dana Seaman, P.T., Program Manager, Peak Performance Therapy

CHAIR TOWNSEND:
I will open the hearing on Senate Bill (S.B.) 174.

SENATE BILL 174: Makes various changes relating to
chiropractic. (BDR 54-699)

SUSAN FISHER (Chiropractic Physicians' Board of Nevada):
The major change we are seeking is in section 1 of S.B. 174. The Chiropractic
Physicians' Board of Nevada would like to require as a consumer-protection
piece, liability insurance for chiropractors. At this time we have in statute
enabling legislation that medical facilities can require physicians, medical
doctors, chiropractors or whoever is doing business there to have liability
insurance. However, there is nothing in statute that requires doctors to have
liability insurance. It makes sense to have that in there as a consumer-protection
piece.

CHAIR TOWNSEND:
Is that common for those who are licensed by the Board of Medical Examiners?

MS. FISHER:
No, they do not have liability insurance at this time. Hospitals and medical
facilities can require them to have it. Registered nurses are the only ones
required at this time under statute to have liability insurance. Colorado and a
number of other states require the insurance and that is where we took this
language from for section 1 of the bill.

CHAIR TOWNSEND:
Do you have an average policy cost? Did you speak to the Nevada Chiropractic
Association about this and are they aware of this insurance?

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MS. FISHER:

The average policy cost is between \$800 to \$1,600 per year for a \$100,000 to \$300,000 policy. I have spoken to Berlyn Miller of the Association and he is aware of this change in the bill.

BERLYN D. MILLER (Nevada Chiropractic Association):

The Association is aware of the change and supportive of the requirement for the liability insurance.

SENATOR CARLTON:

My name is on the bill. I had the Board and the Association go over language numerous times before I even turned it into a bill draft. They have done their homework on this bill and have been working together on this bill for a while.

SENATOR LEE:

Is liability insurance and malpractice insurance the same?

MS. FISHER:

Yes, they are the same.

SENATOR TIFFANY:

The bill authorizes the Board to disclose confidential information as necessary for administering their duties. If a chiropractor is under investigation from the Board and has not yet been found guilty, can you release the information for the speculation?

CINDY WADE (Executive Director, Chiropractic Physicians' Board of Nevada):

The confidential information is shared only with other investigative agencies before the hearing. It saves everybody time and money to share the information and any evidence found. This is already in the statutes for other boards. It does have to go through the entire process before someone is found guilty. The process begins with the complaint, followed by the investigative information, the report and the evidence gathered. It will then go to a hearing or enter a settlement agreement.

MR. MILLER:

The Association supports this part of the bill that allows the Board to release information only to another agency that may have an ongoing investigation against an individual, not to the public.

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MS. FISHER:

The second change we are proposing is in section 3, subsection 1. We would like to increase the number of members from six to seven on the Chiropractic Physicians' Board. We request the additional member to be from the general public rather than another licensee. In the public's interest, this would bring something different to the table to have five licensees and two from the general public as members. The Association did not oppose this change.

The third change the Board would like to address is raising the cap on our fees. Overhead costs, investigation fees, processing fees, rent and utilities have gone up in the past ten years but our fees have stayed the same.

CHAIR TOWNSEND:

The biggest problem identified by this Committee is when there is litigation between a licensee and a board. The Office of the Attorney General gives their time and then the small boards are unable to pay. Have you budgeted for litigation? Over the last five years have you been in the position to meet your financial obligations to the Attorney General's Office if there was litigation?

MS. FISHER:

We have been able to meet our financial obligations. We have been able to pay the Attorney General's Office for their deputy attorney general who comes to our meetings, does the work for us and conducts our investigatory process. The cost to us for these services has gone up consistently. In the year 2004, it was almost double that of 2001.

CHAIR TOWNSEND:

You need to investigate problems when you have complaints. We want to make sure boards that lack the resources are doing proper investigations when there are litigations. The confidence of the public depends upon your regulatory abilities. It is important that you have the resources. What was your ending fund balance over the last year? What is your total budget?

MS. WADE:

Our reserves last year were about \$50,000. Our gross income is about \$325,000.

CHAIR TOWNSEND:

Do you feel the cap requested by the board is sufficient for the next couple of years?

MS. FISHER:

Yes, the cap we requested is sufficient to carry us over the next couple of years. One of the highest fees the Board has is for the application for new licenses because of the investigatory process and background checks. We are also proposing to raise the fee for review by the Board of a course offered at a chiropractor school or a continuing education course that would be authorized by the Board.

Another issue is a one-word change in section 2, subsection 16, paragraph (a). This relates to the unprofessional conduct and independent medical review of records. If I could, I would like to bring Dr. Miner back up to explain this change.

DONALD MINER, D.C. (Secretary, Chiropractic Physicians' Board of Nevada):

The purpose in changing this one word "and" to "or" is to allow the review of medical records by a chiropractor and provide a professional opinion as to the status of those records. Presently, if the opinion references remuneration, it can be determined as unprofessional conduct by the reviewing chiropractor. In the last couple of years, many of the reviews have gone out of state. This will tighten up the responsibilities of the doctors, improve record keeping, and improve the quality of care and the utilization of care. The biggest problem with the way it is written is that many times there are questions regarding the quality of care three years after the injury. The patient has left the state and an attorney, law firm or insurance company wants to know the details of the case. A qualified chiropractor can provide an opinion. The way it is written, a physical examination of the patient is required three years after the accident. This does not bring any benefit.

SENATOR LEE:

There is an increase of the fee for a chiropractor's assistant. Does the chiropractor's assistant require a certain amount of education, need credentials or be taught as they are brought up through the system?

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DR. MINER:

There is on-the-job training for chiropractor's assistants or anyone working in a chiropractic office that will be in contact with a patient. It is a 6- or 12-month program based on part- or full-time employment. You then have to take the exam provided by the State to become licensed.

SENATOR TIFFANY:

I am in support of giving information out even if it is two or five years later. Can we make sure the language in section 2, subsection 16, paragraph (b) of the bill allows for the physical exam and not eliminate it?

DR. MINER:

It does allow for the examination or review of medical records. You can do both or one or the other.

SENATOR CARLTON:

Someone pointed out to me that the numbers you have chosen for your medical liability may not fit what our medical malpractice legislation was all about. We may have to refer back to that to make sure you are in compliance.

KEVIN POWERS (Committee Counsel):

Thank you Senator Carlton. I know of your concern with regard to the legislation passed with the regard to the medical malpractice. This bill, however, just sets a minimum for the chiropractors. They still have the option of getting the levels of liability coverage that are set forth in the medical malpractice statute and the medical malpractice statute gives the provider the option of getting that type of liability insurance. So this does not change it; it just sets a minimum for this board, and they can continue to go get the higher levels to obtain the protections in the medical malpractice statute.

SENATOR CARLTON:

So this would comply; do these numbers not need to be higher?

MR. POWERS:

It would not interfere. Under the medical malpractice statute, the providers are not required to have the liability coverage. If they do get the minimum liability coverage under the medical malpractice statute, then they enjoy the benefits of that statute but they still

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have the option of not having the levels of coverage under the medical malpractice statute.

SENATOR CARLTON:

Thank you very much, that is what we need to hear on the record.

CHAIR TOWNSEND:

Dr. Miner and Mr. Miller, you are both aware that the small change on page 4 is a substantial change in terms of raising the bar. I want all the licensees to understand that you have probably just created the highest standard of unprofessional-conduct definition that there is in the country for chiropractors. Mr. Miller, are you going from a laundry list that is inclusive to picking one of these because it says "or"? Are you defining the "or" in section 2, subsection 16 only?

Ms. FISHER:

Yes, it is only the "or" in section 2, subsection 16.

CHAIR TOWNSEND:

I will close the hearing on S.B. 174.

SENATOR CARLTON MOVED TO DO PASS S.B. 174.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

I will open the hearing on S.B. 168.

SENATE BILL 168: Revises provisions governing practice of physical therapy.
(BDR 54-720)

SENATOR MARK E. AMODEI (Capital Senatorial District):

This bill represents a request I had from the physical therapy community and deals with rules regarding ownership or self-referral in a physical therapy context. In section 1, the bill creates the prohibition regarding ownership and

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referral and customary sanctions for persons who violate this policy. The Nevada Physical Therapy Association is here to go through the technical aspects and answer any questions on the bill. That is the genesis of the bill in terms of my involvement along with providing a draft for the physical therapy community.

ROCKY FINSETH (Nevada Physical Therapy Association):

We have reviewed the bill as presented and we present our proposed amendment ([Exhibit C](#)).

CHAIR TOWNSEND:

Why do you not define the problem before you start amending the bill?

MR. FINSETH:

I would be more than happy to do that but since I am losing my voice I would like to introduce Boyd Etter who will walk you through the amendment.

BOYD ETTER, P.T. (Nevada Physical Therapy Association):

The nature of the bill is to help define the ethical lines of control within the physical therapy profession. The proposed amendment in [Exhibit C](#) deletes section 1 in its entirety and amends section 2, subsection 2, paragraph (j) of the bill.

CHAIR TOWNSEND:

In essence, the only thing we are going to deal with is adding to the Board's ability to take an action if an applicant or a person who is licensed pursues this chapter. Now we will add "has participated" or "engaged directly" or "indirectly" with a person who referred a patient. How did you get from what you drafted to this language?

MR. ETTER:

The initial intent of the Nevada Physical Therapy Association was to try to rein in control or ownership. This is the language we came up with when we first talked with Senator Amodei in August or September 2004, when he agreed to present the bill for us. However, the National Physical Therapy Association had major problems with the language and it got stripped down. Senator Amodei thought it better to amend at this point while going through the Legislative Counsel Bureau (LCB).

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CHAIR TOWNSEND:
What do you think this new language means?

MR. ETTER:
What it has done in Delaware and South Carolina, where almost this exact language exists, is to lead to a gradual phaseout of physician ownership and lawyers owning physical therapy practices to which they could make referrals and cause a potential conflict of interest.

SENATOR LEE:
How would you define a business associate as stated in section 2, subsection 2, paragraph (j) of the bill?

MR. ETTER:
A physician or lawyer who owns or wants to own a physical therapy business is prohibited from doing so via this language. They could then, with a business associate, set up a separate organization and funnel money through the organization, so in effect, they are still reaping the benefits without specifically being named as a principal player.

SENATOR LEE:
If Senator Heck and I decided to time-share a boat or something, would you consider that a business associate through a time-share?

MR. ETTER:
You would be business associates, but it would not pertain to this language in the bill. The money you may garner from a physical therapy practice would not necessarily be funneled back to Senator Heck.

SENATOR LEE:
You are trying to put a firewall between his income and my business.

SENATOR HECK:
This is like the antikickback laws that are in effect for a lot of other medical situations. For example, a physician cannot own a laboratory service or x-ray outpatient diagnostic center. I agree with this concept. Do you see this language preventing a physician from employing a physical therapist in his or her own office to provide physical therapy services? If so, I have concern for the physical therapist who enjoys working in a doctor's office and does not

have to worry about running their own practice. If this bill becomes law, will the physical therapists working in these doctors' offices have to find new employment?

MR. ETTER:

Yes, I do see this language preventing a physician from employing a physical therapist in their own office. However, there is enough work in the physical therapy realm within the state that they have a broad array of choices to make about their employment. It could be with another physical therapist or with a corporation that owns a physical therapy practice within a hospital but not with a physician. The physical therapists working in doctors' offices will have to find other employment if this bill becomes law.

SENATOR HARDY:

I would have a difficult time in supporting that state government has the authority to prevent a physical therapist from working in a doctor's office.

MR. ETTER:

We need to keep in mind the intent of the language. There is very similar language in effect in other professions and they do not seem to have a problem. If this bill is enacted, the intent of the language is to clear up some of the conflicts of interest that may pertain to referral for profit from a physician. That has to be the primary focus, and as professionals it is our responsibility to try to make sure we stay within these ethical lines. If this means limiting one employment option, that is a small sacrifice that we as professionals with six to seven years of training are willing to make.

SENATOR HARDY:

Maybe, we need to revisit this language across the statutory board.

CHAIR TOWNSEND:

Where is the largest problem, hospital- or physician-owned independents?

MR. ETTER:

I would say the physician-owned independent. There is also a growing problem in southern Nevada with an increase of lawyer-owned physical therapy offices. This is causing lines of control of ethical issues to become more preeminent.

SENATOR HECK:

I agree with the intent of curtailing the kickback or illegitimate referral. I have a hard time telling a physical therapist that enjoys punching the clock and working for a doctor in their office that they can no longer do that. It is better for the patient that they come to one office to get their medical care and physical therapy without having to go to another facility. I would suppose that a physical therapist who was employed by a physician in that office would not have as many overutilizations as compared to sending a patient to a freestanding facility owned by another entity or owned by themselves. We need to clean that up. If you have the idea of grandfathering it, we need to see that as well before we move forward.

MR. ETTER:

We decided not to include the grandfathering clause at this time. There are many different ways of doing this.

CHAIR TOWNSEND:

If there is a hospital- or physician-owned clinic and they are hip specialists and someone who has a shoulder problem is sent to that facility, how would you deal with that?

MR. ETTER:

There is a possibility for that happening and that is what we are trying to address with this legislation. One of the things that is lost in this discussion is the fact that if a physician is truly interested in what is best for a patient, the financial incentive to own a physical therapy office would pretty much automatically go away. We would not be having this discussion.

CHAIR TOWNSEND:

Suppose a person needed physical therapy right away and that is the best course of treatment, but they are unable to get an appointment for treatment. Is that a problem?

MR. ETTER:

It can be a problem but once again whether the physician owns or does not own the clinic, it should have no bearing on that. This would not preclude a physical therapy business from being set up right next door to a physician's office. There are many examples of this working successfully across the United States, even within the city of Reno.

MR. FINSETH:

Former Assemblyman Jack D. Close was unable to attend today's hearing but I have written testimony ([Exhibit D](#)) that he asked me to give to the Committee. I ask you to pay close attention to paragraphs 2 and 3. Mr. Etter has some written remarks that he would like to read to the Committee.

SENATOR LEE:

Are you saying that you will be run out of business or potentially be run out of business, because doctors are going to take over your practices or force you to join their practices?

MR. ETTER:

The concern is with the ever-expanding reign of control that physicians have over physical therapy. Physical therapy is an independent profession that requires rigorous schooling. Most new graduates over the next ten years will earn a doctorate-level degree. We feel it is important to keep those lines of control separate as that has an impact on contracting and what is best for the patient. The State of Nevada and the national association are wrestling with these issues, and we want to exert control as we can. This was addressed in the 61st Legislative Session and former Assemblyman Close's written testimony deals with this issue. We are suggesting this language to codify the original intent of the language that was in the legislation passed in the 61st Legislative Session.

SENATOR LEE:

Do you have a choice as a physical therapist to have your practice acquired by and somehow blended into a physician's practice, or be out of work? Is that the way you believe things are going in the next couple of years?

MR. ETTER:

The physical therapist's ability to open and operate a practice is being impacted by many physicians looking for another source of income, in this case physical therapy. Therapy offices are opened next door to the physician's office and this relationship has the power to affect contracts and the flow of patients. This creates an unfair playing field for the rest of the physical therapists.

Subsection 2, paragraph (i) of the *Nevada Revised Statute* (NRS) 640.160 has the necessary sentence. If you read it on its face, it sounds exactly like what

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we are talking about now, but unfortunately from an enforcement standpoint, that has not been the case.

CHAIR TOWNSEND:

Are you before this Committee today instead of asking the Board why they are not enforcing subsection 2, paragraph (i) of NRS 640.160?

MR. ETTER:

We did that and the Attorney General's ruling was that the statute did not do what we thought it did.

PAMELA HOGAN, P.T., O.C.S., F.S.O.M. (State Board of Physical Therapy Examiners):

In response to your question about the deputy attorney general's interpretation of subsection 2, paragraph (i) of NRS 640.160, the Physical Therapy Association did request an opinion from the Board of Physical Therapy Examiners. We had our deputy attorney general look into this and it was determined that we could not enforce an unearned fee. I will provide the response letter ([Exhibit E](#)) from the Board within an hour.

CHAIR TOWNSEND:

If something is in the law that is intended to address this problem, then it needs to be enforced.

MR. ETTER:

I have read [Exhibit E](#), and the general outline was that the deputy attorney general indicated the intent of that section was not what the Association believed. Former Assemblyman Close's written testimony states he was present when the bill passed and firmly believes it was exactly what it was intended for, whether the deputy attorney general agrees or not.

I would like to read from my written testimony ([Exhibit F](#)).

SENATOR LEE:

I do not see how the grandfathering clause can be viable to this bill. Can you explain?

MR. ETTER:

One of the problems brought up by many members of this Committee is the fact that they were not concerned with the physical therapist working in those scenarios we discussed, but concerned with the investment made by the physician or others to establish these practices. The Association is also sensitive to this, and it is not trying to cost people money or throw people out on the streets. Even though we feel this practice should be stopped, given that it has gone on for many years unchecked, we do not want to eliminate physician-owned businesses overnight because of the investment they have made. It is necessary to give them time to divest that practice over a period of time.

SENATOR LEE:

If a physician is working with a physical therapist now and wants to sell the practice to his partner, will the license at that time be changed? Will the grandfathering clause be eliminated, or will the practice have the opportunity to keep the grandfathering clause in through repeated sales of the practice?

MR. ETTER:

That could be the case, but there are a variety of ways in which grandfather clauses could be gradually phased out over time. The clauses could also pertain only to physical therapists involved in those practices and not the partners who own the practices and are transferring practices to other partners.

CHAIR TOWNSEND:

In [Exhibit F](#), you make reference to chapter 89. Mr. Powers, what is chapter 89?

MR. POWERS:

Mr. Chairman, chapter 89 is part of the corporation and business entity code of NRS. It covers professional associations and professional corporations and puts limits on the type of professionals who can join in associations and professional corporations.

CHAIR TOWNSEND:

Mr. Etter said lawyers who are licensed by the state bar should not be allowed to own other licensed professions. Is that a violation of chapter 89 of NRS?

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MR. POWERS:

"I would have to do more research into the issue, Mr. Chairman."

CHAIR TOWNSEND:

Could you do that?

MR. POWERS:

"Yes."

CHAIR TOWNSEND:

If you have specifics that you can point to, that would be helpful. Many times we get a bill, develop the dialogue then find the bill does not address the dialogue. We also found statutes that are not being enforced. We found that with a number of issues. The Committee has to talk to the regulators and find out why they are not doing the enforcement. This may clear up part of the problem.

SENATOR HECK:

Have you looked at NRS 439B.425 that has language dealing with prohibitive referral of patients and has several exceptions?

MR. ETTER:

We have looked at NRS 439B.425, and we feel those who abuse the system are not covered under this chapter with just a simple disclaimer.

SENATOR HECK:

Nevada Revised Statute 439B.425 is very explicit and states a practitioner shall not refer a patient for service or for goods related to health care in which they have a financial interest. If there is an existing statute that needs to be enforced, then we need to look at enforcing it. If you want to make an exception for the physician who wants the physical therapist in their office, then you can make another exception. The disclosure can state that a person has the right to seek physical therapy services elsewhere. I offer this as a potential compromise as we get this into subcommittee.

MR. ETTER:

If we could address it and if we truly lived by the words in NRS 439B.425, that would be great. Whether the exception that would allow these practices to continue would be acceptable to the Association is a whole different matter.

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CHAIR TOWNSEND:

What percentage of the patients that you see are covered by some kind of third-party payers?

MR. ETTER:

Ninety percent of the patients I see are covered.

CHAIR TOWNSEND:

What is the ballpark? How many people are covered by third-party payers?

BETH ALTENBURGER, M.S.P.T. (Assistant Professor, Academic Coordinator of Clinical Education, University of Nevada, Las Vegas):

Based on my former work in the clinical setting, I think Mr. Etter's estimate of 90 percent is accurate.

CHAIR TOWNSEND:

There are two kinds of patient choice. The first one is when a doctor refers to another doctor but the patient wants to go to a different doctor because of convenience. The second patient choice would be when dictated by insurance. The patient has a choice then to pay out-of-pocket or go to the referral that will be covered by their insurance.

MR. ETTER:

That is a valid point. Patients are already directed to where they can go by their insurance. Under current practice within the state, their choice is even further refined. Patients are left with little choice of where they can go because 50 percent of clinics are eliminated because of third-party pay decisions and another 30 percent because of physician choices.

MS. ALTENBURGER:

I have written testimony ([Exhibit G](#)).

DR. GARY S. MARRONE, M.D.:

I have written testimony ([Exhibit H](#)). I would also like to clarify some issues that Chair Townsend and Senator Heck raised about the intent of the bill. The first is the employment issue. I do not believe there is an employment issue. There are no questions about a doctor having to fire a physical therapist if the bill goes through. It would first be a phase-in. Secondly, I had a physical therapist who leased a space down the hall from me for 20 years. There were no financial ties

between the two of us. You are talking about a change in ownership. It is not the fact that the physician has to fire the physical therapist that is working in their office. What is being said is someone else has to take ownership of that subsection of their practice and they can sell it and the market is there. There are therapy units that have been sold to major conglomerates and therapy units have also sold their practice along with their referral base. There is a market out there. We are not talking about putting people out of work or wholesaling physical therapy entities and the doctors losing whatever financial investment they made.

My second point is the freedom-of-choice issue that was brought up. Yes, insurance companies do dictate where patients go; there is no question about that. Bigger insurance companies will open up the doors to multiple physical therapy units. Those insurance companies that are health maintenance organizations (HMO) will close the doors to everyone except their own. However, physicians who own therapy units have an undue influence on the providers. If the physician is already contracted with the provider to act as a physician, they can ask that provider to add their physical therapist to the referral list. This is an influence the physical therapist does not have, but the doctor does. New physical therapists that open up offices struggle to get insurance companies to approve them and allow them to do therapy. They do not care if it is more convenient for the patient.

The last issue I would like to address is that this is really about the patient. The issue is that we need to protect the patient from being referred when it is unnecessary. The patient should be able to go wherever he wants, and physician-owned therapy does take away that choice.

The last and most important issue is the overall cost of health care. The State of California has done studies as indicated in [Exhibit H](#).

JANE KEEHAN, M.ED., P.T., O.C.S., CERTIFIED M.D.T. (President, Nevada Physical Therapy Association):

I have written testimony ([Exhibit I](#)). I strongly urge you to support S.B. 168.

SENATOR TIFFANY:

It is clear the subcommittee must work to strike a balance. The bill does not address what I think is the real issue, the insurance churning. When someone gets into an accident and goes to a personal-injury attorney, the attorney will

send them immediately to a chiropractor or physician for evaluation. The attorney will work on a contingency. If the attorney prevails in the case, then he will get one-third of the recovery, the doctor and/or insurance company will get one-third and the patient/client will get one-third. This in my opinion is a huge problem.

MS. KEEHAN:

Senator Tiffany, that is something the Association can be thinking about and we can work on for the future. I appreciate your comments.

CHAIR TOWNSEND:

When Mr. Etter made reference to attorneys owning physical therapy clinics, it really struck a chord. This practice is very narrowly walking a line of practicing something without a license. As you move into subcommittee, it would be helpful for us to better understand the scope of practice issues compared to other licensees. I am talking about attorneys owning physical therapy clinics and somehow making a referral. This Committee calls that practicing without a license, and that is a severe violation in the State of Nevada since they are not trained to do that. People want to trust their professional and get back to work and family. When something interferes with that line of trust we have a problem.

MR. ETTER:

We will cover that in our debate, Chair Townsend. The trouble we run into is the lawyers do not write out the prescriptions. They call their chiropractor or physician friends and route it their way so it is a very difficult problem to get your hands on, but we will make the attempt.

CHAIR TOWNSEND:

I agree with you that it is very difficult. It is the obligation of all licensing boards, if they get a complaint, to fully investigate the problem.

DANA SEAMAN, P.T. (Program Manager, Peak Performance Therapy):
I am against S.B. 168. I have written testimony ([Exhibit J](#)).

SENATOR LEE:

You put much thought into your testimony and brought some interesting concepts to the table. What are your thoughts on lawyers getting into the therapy business?

Ms. SEAMAN:

The lawyers do not send patients directly to the physical therapist. In this state, we do have direct access to see a patient without a physician's referral, but there are hardly any insurance companies that will reimburse without the physician's referral.

SENATOR LEE:

Do you think it is a miscarriage of justice for a lawyer's firm to own a physical therapy organization? Do you believe there is a firewall?

Ms. SEAMAN:

I believe only licensed medical professionals should be able to own a physical therapy setting. These professionals would know about patients' needs. I do not think corporations should own physical therapy organizations. The corporations are in it only for financial gain. Would they send more patients to their own facilities than doctors would to theirs?

SENATOR LEE:

The doctors are in it for financial gain too, but I understand your points.

CHAIR TOWNSEND:

We have a number of issues that need to be researched that have to do with NRS 439B.425 and NRS 89. It will take 10 to 14 days to get that research done because of the bill-draft-request crunch that is coming in the next week or so. The subcommittee which is chaired by Senator Carlton, with Senators Tiffany and Heck as members, will reschedule their meeting to accommodate that timeframe.

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The meeting of the Senate Committee on Commerce and Labor is officially adjourned at 9:48 a.m.

RESPECTFULLY SUBMITTED:

Donna Winter,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____