

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

**Seventy-third Session
April 6, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:03 a.m. on Wednesday, April 6, 2005, in Room 2135 of the Legislative Building, Carson City, 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 J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Jeanine Wittenberg, Committee Secretary
Scott Young, Committee Policy Analyst
Jane Tetherton, Committee Secretary

OTHERS PRESENT:

William R. Uffelman, President, Chief Executive Officer, Nevada Bankers Association
Fred L. Hillerby, Nevada State Board of Dental Examiners
John A. Hunt, Board Legal Counsel, Board of Dental Examiners of Nevada
Dean Hardy
Kathleen Kelly, Executive Director, Board of Dental Examiners of Nevada
K. Neena Laxalt, Nevada Dental Hygienists Association
Maury Astley, Executive Director, Nevada Dental Association
Caroline Ford, M.P.H., Assistant Dean/Director, Office of Rural Health, University of Nevada School of Medicine.
John M. Vergiels, Euphoria Salons and Day Spas

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Mike Sullivan
Chris Cooke, Field Inspector, State Board of Cosmetology
Ernie Adler, American Massage Therapy Association
Billie J. Shea, Licensed Massage Therapist, President, American Massage
Therapy Association
Vicky Sakach, Vice President, State Barbers' Health and Sanitation Board
Nathaniel K. LaShore, President, State Barbers' Health and Sanitation Board
William Buzz Harris, Nevada State Board of Cosmetology
Keith Minty
Jon N. Potter
Debra A. Douglass

CHAIR TOWNSEND:

We will discuss the work session we had on S.B. 116. Committee, you should have the mock-up proposed amendment on S.B. 116 ([Exhibit C](#)) which was prepared by the Labor Commissioner, Michael Tanchek. Mr. Uffelman, because Mr. Tanchek is not here and you were also part of the work session, would you speak to the issues regarding this amendment?

SENATE BILL 116: Makes various changes to labor laws and powers and duties of Labor Commissioner. (BDR 28-231)

WILLIAM R. UFFELMAN (President, Chief Executive Officer, Nevada Bankers Association):

Our concern with S.B. 116 is on page 3, lines 1 thru 6 of [Exhibit C](#) where the language has been restored. This permits a personnel agency or licensee to post a bond in an interest-bearing account. The money cannot be withdrawn from that account without the specific permission of the Commissioner. The language has been restored so the licensee can earn interest on that bonded money.

CHAIR TOWNSEND:

Committee, this is an important change to the language. Bond requirements for the protection of the public or the consumer can be put into the law, but the bond market can change rapidly and because of this we need to be mindful to give agencies the opportunity to meet their obligations. Mr. Young, will you please brief us on the changes.

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SCOTT YOUNG (Committee Policy Analyst):

I am referencing the mock-up proposed amendment, [Exhibit C](#), to S.B. 116. One of the changes occurs on page 1, section 1, subsection 2, line 5, where "a public body" has been included. The Committee may remember from the discussion of S.B. 116 there was a concern that a public body could not be sanctioned. Also, a change was made on page 1, section 1, subsection 4, lines 16 thru 18, which now reads as follows: "The Labor Commissioner shall report the violation to the Attorney General, and the Attorney General may prosecute the person" There were previous concerns that the Labor Commissioner had the discretion not to report the violations, and the Attorney General had to prosecute for violations. Therefore the language was changed to make it more appropriate for the Attorney General to have the discretion as to whether to prosecute. The other major change is on page 2, section 2, subsection 2, paragraph (b), and subsection 3. The original bill provided that if an employer did not give the proper notice regarding cancellation of premium payments, the employer would be responsible for all medical bills incurred by the employee up to a certain point. That provision has been withdrawn and instead reads as follows: "An amount up to the amount of the monthly premium the employer would have paid under a previously established policy Any money collected by the Labor Commissioner pursuant to subsection 2 shall be paid first to the claimant in an amount not to exceed the amount of any medical bills incurred"

SENATOR TIFFANY:

Are there any safeguards for the employer?

CHAIR TOWNSEND:

The cap is the monthly premium for which the employer is responsible, plus any penalty fees. But if the insurance commissioner finds a violation, then the employer is liable for all the previous premiums.

SENATOR TIFFANY:

So there is nothing that states the employer has to pay all the employee's medical bills?

CHAIR TOWNSEND:

That is correct. The claimant can go back, for example, 5 months during which the employer did not pay insurance premiums, and the claimant incurred \$20,000 in medical expenses. The \$20,000 would be taken out of those

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5 months worth of premiums up to, but not exceeding, the total of expenses incurred. If there was money left over, it would go back into the General Fund.

SENATOR TIFFANY:

If the Office of the Attorney General finds the employer in violation, can they sanction the employer for any unpaid medical bills?

CHAIR TOWNSEND:

I believe there is a \$5,000 cap.

SCOTT YOUNG:

Yes, Mr. Chairman, that is in the mock-up proposed amendment to S.B. 116, section 1, subsection 2.

CHAIR TOWNSEND:

Are there any further questions regarding the mock-up proposed amendment to S.B. 116?

SENATOR HARDY MOVED TO AMEND AND DO PASS S.B. 116.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR TOWNSEND:

We have before the Committee a unique situation relating to S.B. 176. In order for a bill to become exempt, a waiver is required from the leadership of both Houses, or the bill can be sent back to the floor so the body can give it an exempt status. The bill is reassigned to a committee, usually the Senate Committee on Finance or the Senate Committee on Taxation. Senator Beers brought S.B. 176 before our Committee. Due to the fact that the bill has a large fiscal impact, it is my recommendation to rerefer the bill to the floor to create an exempt status, and then send the bill to either the Finance Committee or the Taxation Committee, whichever is appropriate.

SENATE BILL 176: Eliminates premium tax on annuities. (BDR 57-1010)

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SENATOR HARDY:

Can we speak to the public policy issue on S.B. 176?

SENATOR CARLTON:

I do not support the public policy on S.B. 176, but if it is sent to another committee for review, then I would agree to a recommendation.

CHAIR TOWNSEND:

I would ask the chairman on the Senate Committee on Taxation to take this bill because it is related to tax issues. I would also suggest that the members of this Committee share with the Taxation Committee any issues or concerns they may have relating to this bill.

SENATOR HARDY:

I just want to make sure S.B. 176 is viewed not only from a financial standpoint, but also from a policy perspective.

CHAIR TOWNSEND:

I agree.

SENATOR HARDY:

I support the bill in relation to public policy and I support the Chair's suggestion that S.B. 176 go to the Senate Taxation Committee for that purpose.

CHAIR TOWNSEND:

Is there a motion on S.B. 176?

SENATOR CARLTON MOVED TO REREFER WITHOUT
RECOMMENDATION TO THE SENATE COMMITTEE ON TAXATION
S.B. 176.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

The hearing is now open on S.B. 250.

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SENATE BILL 250: Revises provisions governing practice of dentistry and dental hygiene. (BDR 54-1257)

SENATOR CARLTON:

I would like to make a brief opening statement regarding S.B. 250. I worked with the Board of Dental Examiners of Nevada (Board) to create some changes in this bill; however, it does not mean that I support all the changes. The changes were brought forward by their Board.

FRED L. HILLERBY (Board of Dental Examiners of Nevada):

I will briefly go over the mock-up amendment proposed by the Board of Dental Examiners of Nevada (Exhibit D, original is on file at the Research Library). The green language in this bill is the amendment.

SENATOR CARLTON:

There is one issue in your amendment on page 23, under section 21, subsections 1, 2, and 3, to clarify. The Committee needs to understand a mistake was made, and all three of the subsections I just mentioned currently exist in S.B. 250. There was a problem with the layout on the green type for this exhibit. Under subsection 4 of that same section, that specific language is new. I do have concerns about that section.

MR. HILLERBY:

That is correct; it is only subsection 4 that has been changed. A stipulation is a part of the disciplinary process, and it is not admissible in court. When a complaint has been received by the Board, initially the Board will discuss the complaint with the dentist against whom the complaint was lodged before going to a full Board hearing. A complaint can usually be taken care of by this process. The Board is willing to work with legal counsel on this issue.

CHAIR TOWNSEND:

My question relates to both issues not being admissible in court. Are there other boards where a final order is precluded from being admitted in a civil case?

JOHN HUNT (Board Legal Counsel, Board of Dental Examiners of Nevada):

One of the functions of a board is the remediation process. This bill promotes the public's best interest.

CHAIR TOWNSEND:

I will go back to my original question. On page 23, section 21, subsection 4, [Exhibit D](#), it states, "Any final order or stipulation ...," one or the other. A stipulation can encourage people to change their behavior, sharpen their skills, or do whatever needs to be done to correct a disciplinary action. My understanding of a final order is that when the Board decides to penalize someone, it is done on behalf of the public to protect the public. Why is a final order not allowed to be brought forward in a civil action?

MR. HUNT:

There are penalties with regard to stipulations. The difference between a stipulation and a final order is that a final order goes before a full board hearing.

CHAIR TOWNSEND:

I understand, but why is a final order not part of a civil action?

MR. HUNT:

That is a good question. Even stipulations, when adopted, are a final order.

CHAIR TOWNSEND:

So the language in this proposal may not be completely clear; would you agree?

MR. HUNT:

I agree with you. If there was a situation in which a full board hearing took place and the Board issued a final order, that could be admissible in a civil court. However, if it was a stipulation and the Board adopts the stipulation as a final order, that would not be admissible in court.

CHAIR TOWNSEND:

My point was not that a stipulation becomes a final order. It was, if there was no stipulation and if the issue went before the Board and the Board determined that there would be penalties imposed, then that would be a final order. The issue is about protecting the public.

MR. HUNT:

The Board could review the amendment regarding that particular issue.

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CHAIR TOWNSEND:

A stipulation is independent from a final order. But legally, a stipulation has to be brought before the Board and then the Board would issue a final order on the stipulation. We would have to use a different term other than final order.

DEAN HARDY:

I am not sure it is the purview of this legislative committee to make evidentiary rulings for a trial judge. The current process is that an order or stipulation is discoverable. Then prior to the trial going forward motions are filed with the judge, and the judge makes evidentiary rulings on whether that particular stipulation or this particular order is admissible during the pendency of a trial. I have a concern about advising a trial judge, prior to a trial, that they cannot admit this type of evidence.

CHAIR TOWNSEND:

Is your issue based on the fundamental judicial process? Are you talking about representing a plaintiff as opposed to a particular board?

MR. HARDY:

Yes, this is correct.

MR. HUNT:

Based on the discussions, I would agree to just the word "stipulation" in the amendment.

CHAIR TOWNSEND:

I believe Mr. Hillerby has said he will work with you on the issues. Committee, please reference [Exhibit D](#), pages 20 and 21, regarding the fee issues. Is this fee schedule relative to a maximum limit, and will it be regulated?

MR. HILLERBY:

Yes, this is correct Mr. Chair. We are working with a cap under the regulations. You will be hearing testimony from both the Board of Dental Examiners of Nevada and the Nevada Dental Hygienists' Association, and they are not in opposition to the fee increases.

SENATOR HECK:

Mr. Hillerby, [Exhibit D](#) has the language changed from an examination fee to an application fee? Does the \$1,500 fee apply to both a new applicant who has to

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undergo an exam as well as to someone who just brings a certificate to the Board for an application?

MR. HILLERBY:

Because we have so many different licenses, we combine fees according to regulatory standards.

SENATOR HECK:

If an applicant is examined by the Board of Dental Examiners of Nevada, is there an additional fee for the examination?

MR. HILLERBY:

It is an additional fee, but the applicant pays that directly to the Board.

KATHLEEN KELLY (Executive Director, Board of Dental Examiners of Nevada):

We basically act as a pass-through for some of the school-use fees. Yes, the applicant does have additional costs that we collect on behalf of another entity and then forward them. I received a statement from the Nevada Dental Association ([Exhibit E](#)) which is supportive of the Board of Dental Examiners of Nevada.

SENATOR CARLTON:

I would like to clarify that the fee for the background check is separate.

MR. HILLERBY:

Yes, that is correct.

SENATOR CARLTON:

Is the application fee charged biennially, and what are the current fees?

MR. HILLERBY:

The application fee is not charged biennially; it is a onetime fee.

MS. KELLY:

Our current fee for an examination is \$600 and the current fee for licensure by credential is \$1,200. Of that \$1,200, \$600 is for the exam and \$600 goes toward the licensing process. The background check is \$500 for dentists and \$400 for hygienists. Hygienists pay an application fee of \$150 for the exam and \$600 for licensure by credential.

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SENATOR CARLTON:

Senate Bill 85 is currently on the Assembly's General File, which will be changing licensing by credential to a different formula. How will that be incorporated under the fee schedule in S.B. 250?

[SENATE BILL 85 \(1st Reprint\)](#): Revises provisions governing practice of dentistry. (BDR 54-179)

MS. KELLY:

I am not sure, as the Board has not met to discuss those fees. The Board will discuss those issues in anticipation of S.B. 85 going into effect.

SENATOR CARLTON:

Because S.B. 85 will also be dealing with the licensing-fee issue, I would like to suggest to the Board members supporting S.B. 250 that if there is an amendment to this bill, to include clarification of the licensing-fee schedule.

MS. KELLY:

We will address what the fees will be for an applicant who comes to the Board with a certificate through the regulation process.

SENATOR LEE:

Why are the fees so costly? For example, why is the reinstatement of a license so costly?

MS. KELLY:

The fees in this bill reflect the maximum limits. Currently, in the regulations, disabled and retired dentists and disabled and retired dental hygienists do not pay an annual fee. The Board does, however, still maintain them on their registry.

SENATOR LEE:

Are you stating that the disabled and retired are not being charged but are just in the bill statutorily?

MS. KELLY:

That is correct.

CHAIR TOWNSEND:

If there are no further questions, Senator Heck will present his amendment on S.B. 250.

SENATOR JOE HECK (Clark County Senatorial District No. 5):

My proposed amendment to S.B. 250 ([Exhibit F](#)) relates to section 7 of the current bill regarding the limited license to practice dentistry or dental hygiene for a person who is on the faculty of a dental board. My concern is that this is the only group of dentists who could be licensed in the State of Nevada without ever having taken a clinical exam. This could create a loophole by which someone could be hired to not only teach in a dental school, but also provide care to the public who uses their services without ever having their clinical proficiency verified. In section 7, beginning on line 15, I have added language that addresses any licensees or potential licensees who would show that they have demonstrated their clinical proficiency through an examination process. A dental school that I discussed this issue with had a concern that it would hinder the ability of the residents to provide care, so I added language in my proposed amendment, section 7, subparagraph 3 that allows a dental intern or a dental resident to work at the dental school.

MR. HILLERBY:

The *Nevada Revised Statute* (NRS) 631.271 referenced in section 7 of this bill was added by a former member of our Board and the Board did not oppose that amendment. I will let other members of our Board speak for themselves, but I feel that our Board will not have any opposition to Senator Heck's amendment.

MS. KELLY:

Senator Heck, is the intent in subsection 3 of your amendment such that the individuals providing services as a dental resident or dental intern are to be licensed?

SENATOR HECK:

Yes, that is correct.

KEVIN POWERS:

"I would like a clarification for the record. Are the dental interns and dental residents already graduates of dental schools?"

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MS. KELLY:
Yes, they are.

CHAIR TOWNSEND:
Apparently Senator Carlton is in another Committee at this time, but she is aware of our discussions regarding Senator Heck's amendment.

In reference to [Exhibit D](#), on page 8, section 7, subsection 4, where it reads, "A limited license expires 2 years" Is that the only place you are changing two years to one year?

MR. HILLERBY:
Yes, because someone teaching at a dental school is only contracted to teach for one year; therefore, the Board only issues an annual license.

CHAIR TOWNSEND:
I have a question with regard to section 6, subsection 5, [Exhibit D](#), which reads as follows: "The Board shall revoke a specialist's license at any time upon submission of substantial evidence to the Board that the holder ... ". That language change is related to judiciary responsibilities. Where does this standard of proof fit in? Also, is this a situation where a court would decide what is substantial and what is not?

MR. HUNT:
As was drafted in the bill mock-up, substantial evidence is the administrative standard of proof that was established in chapter 233B of the NRS.

CHAIR TOWNSEND:
Anytime you see similar language, the "substantial evidence" questions arise, especially with the Senate Committee on Judiciary. So, the language needs to be clear.

MR. HILLERBY:
The Legislative Counsel's Digest on S.B. 250 has cited a case in chapter 233B of the NRS that Mr. Hunt was addressing, and it has been helpful in making these changes to this bill.

CHAIR TOWNSEND:
Are there any other questions on S.B. 250?

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K. NEENA LAXALT (Nevada Dental Hygienists Association):

The Nevada Dental Hygienists Association has no opposition to Mr. Hillerby's mock-up amendment. I have no comment on Senator Heck's amendment at this time as I have not seen it.

MAURY ASTLEY (Executive Director, Nevada Dental Association):

Our president did write a letter to Kathleen Kelly of the Board of Dental Examiners of Nevada ([Exhibit E](#)) stating that our association is not in disagreement with S.B. 250. We will be supportive of the Board in what they are doing with regard to credentials in the dental field.

CHAIR TOWNSEND:

Are the fees now annual instead of biennial?

MR. ASTLEY:

No, there are only a few fees that are imposed biennially. The renewal of the annual license fee maximum has been changed to \$500. The Nevada Dental Association would like to see a license in place for two years before increasing fees.

CHAIR TOWNSEND:

The record already reflects that the fees are not to exceed a certain amount. When the Board does have a regulatory hearing on fees and the fees are decided, the Committee would like a copy of those fees so that we are aware of the changes.

MR. ASTLEY:

We will deal with this issue when they have the regulatory hearing.

CHAIR TOWNSEND:

When your Board holds the hearing on the fees, could you try to schedule the hearing to include Senator Carlton? That would be helpful.

CAROLINE FORD (M.P.H., Assistant Dean/Director, Office of Rural Health, University of Nevada School of Medicine):

The Board of Dental Examiners of Nevada has addressed the concerns that were brought up during the hearing on S.B. 85, and the provisions were taken care of in the language in S.B. 250. We are satisfied, and we support the changes.

CHAIR TOWNSEND:

Committee, the change in section 21, subsection 4 in [Exhibit D](#) is still under debate. A trial judge may be the one to determine what is admissible and what is not admissible. There is still a debate between Senator Hardy and Mr. Hunt on whether or not the language may be related to a court issue. Unless there are any other issues regarding this bill, my recommendation to the Committee is to accept Senator Heck's amendment.

With regard to boards such as the Board of Medical Examiners and the State Board of Nursing, do we preclude any stipulations or final determinations from being used in civil actions?

MR. YOUNG:

I do not recall ever having seen a similar provision in any of our *Nevada Revised Statutes*. It is my understanding that on the criminal side, when a plea of no contest is entered, in general that plea is not admissible in subsequent actions. The proposal that Mr. Hunt made is somewhat in the same vein. If there is a final order based upon a full hearing, it would be admissible, but if there is a stipulation it may be similar to a *nolo contendere* plea.

MR. HUNT:

Possibly, the language should state any stipulation entered by the Board should not be admissible as evidence in a civil action, and in the event a final order is issued by the board as a result of a full board hearing, such order shall be admissible in any civil action. This may assist the Board in taking disciplinary actions.

CHAIR TOWNSEND:

Senate Bill 276, which is in subcommittee, is related to S.B. 250, in trying to find consistency in procedures for all boards involved. This debate may belong with that bill.

SENATE BILL 276: Establishes uniform disciplinary process for certain regulatory bodies which administer occupational licensing. (BDR 54-98)

My recommendation to the Committee is to accept Senator Heck's amendment, ([Exhibit F](#)), and to also accept the amendment from Mr. Hillerby, [Exhibit D](#), excluding section 21, subsection 4 of S.B. 250. The subcommittee could then take the issue up as a public-policy question.

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SENATOR HARDY:

I agree; we need to discuss the public policy. I will endorse that proposal.

SENATOR CARLTON:

I will be Chair of that Committee and will take the discussions on S.B. 250 into consideration today in the subcommittee. I move that we amend and do pass S.B. 250 with the amendment proposed by Senator Heck and with the deletion of section 21, subsection 4 language from Mr. Hillerby's amendment.

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 250.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

The hearing is now closed on S.B. 250. We will now hear discussions on S.B. 333.

SENATE BILL 333: Revises provisions governing practice of cosmetology and related professions. (BDR 54-764)

JOHN M. VERGIELS (Euphoria Salons and Day Spas):

There are two major issues concerning S.B. 333. The first issue is on page 4, section 7, subsection 1, paragraphs (a) and (b), which deal with bonds in the amount of \$10,000 and then increasing them to \$750,000. The rationale behind the increase is that students taking these courses receive loans in amounts up to \$16,000 or \$17,000. If a school were to go out of business, the students would have the obligation of paying back the note without having obtained a degree or certificate. I assume the bond would relate to a school that closes at one location and moves to another location is grandfathered in, so the school would not have to pay the \$750,000 bond twice. It appears it would be better to be regulated by the State Board of Cosmetology than by postsecondary education regulations.

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CHAIR TOWNSEND:

If a school was operating before June 30, 2005, they would still be under the \$10,000-bond provision, even though they moved to another location; is that correct?

MR. VERGIELS:

Yes. If a school moves or has a different address, the Board treats it like a new application.

CHAIR TOWNSEND:

Mr. Young, we may have to get clarification on that issue.

MR. VERGIELS

The next issue I have is on page 6, section 9, subsection 5, where it states a school of cosmetology can offer courses in massage therapy.

CHAIR TOWNSEND:

Will a person still need to go to a county or city agency for a separate license?

SENATOR CARLTON:

Yes, they actually apply for a business license. There is no state regulatory body that regulates massage therapy to date.

CHAIR TOWNSEND:

When they apply for the business license, do they also have to provide documentation that they completed a particular educational course?

MR. VERGIELS:

There are other opportunities in the field of massage therapy for training.

CHAIR TOWNSEND:

You made reference earlier to regulation by postsecondary education. Could you clarify that reference?

MIKE SULLIVAN:

The Commission on Postsecondary Education oversees massage therapy schools. We would like the cosmetology boards to recognize that massage therapy programs could be given at a school for cosmetology.

CHAIR TOWNSEND:

What you are saying is that a school of cosmetology could offer massage therapy classes and provide the student with some type of certificate of completion and then the student would need to obtain a business license from a local county or city agency; is that correct? This has nothing to do with the State Board of Cosmetology taking over all the licensing of massage therapists; is that correct?

MR. VERGIELS:

That was not the intent.

SENATOR CARLTON:

There is still the problem of one regulatory board getting involved in another board's profession. The Commission on Postsecondary Education currently has the responsibility and authority for licensure of massage therapy training programs. They have adopted several regulations which mandate curriculum and specific school requirements. When different professions have been collocated, they have always stayed under the authority of their regulatory body, even though they are within the same building. I do not believe the language regarding this issue is completely clear, and it should be reviewed further.

CHAIR TOWNSEND:

Unfortunately, the marketplace has changed dramatically. Maybe, that is why this issue was brought forward; I am not sure.

MR. SULLIVAN:

I believe you are correct.

CHAIR TOWNSEND:

Could someone explain the need for the deletion of certain sections in this bill?

MR. SULLIVAN:

I will explain the deletion of section 4, subsection 1, paragraph (c), which states, "Have 1 year of experience as a cosmetologist." What we have found in teaching is that if someone wants to go to school to be a cosmetologist, often they are good students, but they do not necessarily want to practice for one year in the field. They want to come back and teach other people. Under the current rules they are not allowed to do that; they have to go into the field

and practice. We would like to put the good students in the classroom teaching other students.

CHAIR TOWNSEND:

Could you explain why the language, "Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving ... " was deleted from section 2, subsection 3?

MR. SULLIVAN:

We are asking why there is only one person from a cosmetology school serving on a cosmetology board. Maybe the experts in this field can shed some light on the issue.

CHRIS COOKE (Field Inspector, State Board of Cosmetology):

The State Board of Cosmetology is opposed to the language in S.B. 333 as it is written in section 2, subsection 3. The Board feels they already have a broad cross-section of licensees that represent the Board. We are providing our amendment to the bill ([Exhibit G](#)).

SENATOR CARLTON:

Could you address the issue about practicing one year before someone is allowed to teach?

MR. COOKE:

Instructors in the field of cosmetology need to learn the profession by practical hands-on experience before they are allowed to become an instructor.

CHAIR TOWNSEND:

Is the Commission on Postsecondary Education the agency that provides the license for schools of cosmetology, or is it the State Board of Cosmetology?

MR. COOKE:

It is the State Board of Cosmetology.

MR. SULLIVAN:

We do not feel it is necessary for a person to have to practice for one year in the cosmetology field to be qualified to obtain a license as an instructor.

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SENATOR CARLTON:

Is there anything in this bill that the Board can support?

MR. COOKE:

We support section 10 of this bill with regard to increasing the classroom instruction hours.

SENATOR CARLTON:

What is the reasoning for that?

MR. COOKE:

To provide more competent professionals in the work place.

SENATOR CARLTON:

Would there be an increase in the students' tuition if the instructional hours were increased?

MR. COOKE:

No.

CHAIR TOWNSEND:

Why was the NRS 644.473 repealed in this bill?

MR. COOKE:

I believe it was due to a gender-specific issue.

SENATOR LEE:

Does the State Board of Cosmetology have any concerns with section 7 with regard to the bond issue and a grandfather clause?

MR. COOKE:

If an existing school has proved itself over time and the language was changed to that effect, then it would be acceptable to the Board.

SENATOR HECK:

Is the intent to send S.B. 333 to subcommittee?

CHAIR TOWNSEND:

Yes, the intent is to send S.B. 333 to subcommittee.

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ERNIE ADLER (American Massage Therapy Association):

The American Massage Therapy Association is strongly opposed to section 9 of S.B. 333 which allows the State Board of Cosmetology to license schools of massage therapy. All the regulations in Clark County require a postsecondary certification from the school from which they graduate. None of the students who graduate from those schools could be licensed in Clark County. That is a big issue. We feel it is not good policy to have one profession which is unrelated to another profession provide licensing to the other. If this bill were to pass, it would take the current standards which are fairly high and reduce them to probably the lowest standard for massage therapy schools in the United States.

BILLIE J. SHEA (Licensed Massage Therapist, President, American Massage Therapy Association):

This bill does not respect our profession. We ask that section 9 of this bill does not pass.

SENATOR SCHNEIDER:

I understand the language in the bill to be just a simple authorization for different professionals to practice in the same place of business.

MR. ADLER:

If a person wants to abide by the rules of a postsecondary educational school in the county in which they will be practicing, they can currently do so. However, the language in S.B. 333 is trying to preempt that choice and require a person to attend a school with possibly fewer standards.

CHAIR TOWNSEND:

I do not disagree with you, but I think it may be the State Board of Cosmetology's intent to set certain standards. Whether you agree with the bill or not, it has to be fair to everyone involved.

MR. SULLIVAN:

I agree, and the Board has every intention of working with acceptable standards.

CHAIR TOWNSEND:

The real issue is the licensing of massage therapists.

MS. SHEA:

There is an amendment which was drafted by the Las Vegas Metropolitan Police Department that will be addressed in a work session this afternoon. The Massage Therapy Association does not have any objections to their amendment.

VICKY SAKACH (President, State Barbers' Health and Sanitation Board):

The State Barbers' Health and Sanitation Board opposes the removal of language in S.B. 333, section 6, subsection 2, which reads as follows: "Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board." It is essential that the barbers remain under the jurisdiction of the Barbers' Board for the safety and protection of the public. The Board is also against the repeal of NRS 644.473 in this bill, because this will only lead to more problems. I have also presented the Committee with a handout ([Exhibit H](#)) on what we consider a valid barber shop.

NATHANIEL K. LASHORE (President, State Barbers' Health and Sanitation Board):

In reference to the text repealing NRS 644.473 in this bill, approximately 5 percent of our clientele are women.

CHAIR TOWNSEND:

How many licensees do you have?

MR. LASHORE:

Approximately 844 are licensed barbers.

SENATOR CARLTON:

I would like to make this disclosure that my husband has his hair cut at your establishment.

SENATOR HARDY:

My disclosure is that my wife owns a salon in Las Vegas.

CHAIR TOWNSEND:

The meeting is now closed on S.B. 333. We will now hear discussions on S.B. 335.

SENATE BILL 335: Revises provisions governing practice of barbering, cosmetology and related professions. (BDR 54-1356)

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WILLIAM BUZZ HARRIS (State Board of Cosmetology):

This bill deals with both our Board, the State Board of Cosmetology, and the State Barbers' Health and Sanitation Board. We have been working with them to find solutions.

CHAIR TOWNSEND:

Would it benefit both of the boards to get together right now for discussions, and then we can schedule a subcommittee to deal with both S.B. 333 and S.B. 335 at the same time?

KEITH MINTY:

Some of us have traveled from Las Vegas to be here for this meeting and there is no teleconferencing available in the Grant Sawyer State Office Building.

CHAIR TOWNSEND:

The Committee will accommodate you with teleconferencing. Would that work?

MR. MINTY:

Yes.

CHAIR TOWNSEND:

If you want to be on the record now, please do so, but we will also have a subcommittee on both bills.

MR. MINTY:

We speak for the 844 licensed barbers in Nevada and the 214 licensed barber shops. We are concerned with the advertising that confuses barbering with cosmetology. We feel that barbers have the right to practice barbering in the State without this kind of crossover work that is being done by other professions.

CHAIR TOWNSEND:

Committee, please reference [Exhibit H](#), an example of a barber shop that holds out the likeness of a barber pole. Mr. Minty, are you trying to solve this problem but no one knows who has jurisdiction to handle it? Also, the person who owns that particular shop says there is no law to prevent them from conducting their business. Is your position on this issue that if someone holds themselves out to be a barber or cosmetologist, they should be licensed in that field?

MR. MINTY:

Yes, that is correct.

CHAIR TOWNSEND:

Anything other than that would violate the deceptive trade practices under the NRS 598. The Committee needs to be aware of that statute, because it speaks to this issue.

MR. MINTY:

Another problem in advertising is when a non-barber is permitted to list their name as a barber in the yellow pages of the telephone directory. We believe that the changes in S.B. 335, section 3, subsection 1, paragraph (b), will help address the issue of deceptive trade practices. I would like to know why part of the language in S.B. 333, section 6, subsection 2, namely, "Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board" was stricken, but the identical language is in S.B. 335, section 21, subsection 2 and is not stricken?

CHAIR TOWNSEND:

For the record, I am making reference to S.B. 333, regarding the stricken language about jurisdiction.

MR. COOKE:

The State Board of Cosmetology feels the language should be included. The Board is not sure why it was stricken. I have provided the Committee with an amendment by the Board of Cosmetology ([Exhibit I](#)) relating to changes in S.B. 335 to match sections in S.B. 333.

SENATOR CARLTON:

I believe that language came from a situation in which a barber wanted to put his establishment within a cosmetology establishment. A barber can be collocated with another profession, but they are still under the jurisdiction of the State Barbers' Health and Sanitation Board. By eliminating that language, it would no longer be a true statement. I believe the language should stay in the bill because the professions should be regulated.

MR. MINTY:

We agree that no matter where a barber's establishment is located, the barber should be under the regulatory discretion of the appropriate board.

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SENATOR CARLTON:

This language may eliminate that, and I do not support that position.

SENATOR HECK:

As I understand the language, it was not meant to take the barbers away from the state board's jurisdiction. There are other professional entities that may be collocating in a salon. In S.B. 333, section 6, subsection 3, lines 20 thru 23, states, " ... A provider of health care who leases space at a cosmetological" The language was not intended to take the barbers out of the jurisdiction of the Barbers' Board.

SENATOR CARLTON:

Maybe I misunderstood the language.

CHAIR TOWNSEND:

I think what Senator Carlton is trying to say is if the public policy were to allow multiple professions to conduct business in the same location, they would still be licensed by the appropriate board, and they still have to follow the rules and regulations of the board under which they are licensed. I believe that is why the language in S.B. 333, section 6, subsection 2, "other professionals," where part of the language was struck, has created the problem we are discussing.

MR. MINTY:

We understand that the language was intended to be inclusive, beyond barbering, but the language specific to barbering should be in the bill. We request that the language remain in the bill.

CHAIR TOWNSEND:

I understand your perception, but sometimes changes need to go through a legal process. Is there currently a board for cosmetology in the state of California?

MR. LASHORE:

At this time, California does not have a board for cosmetology.

MR. COOKE:

Every board in California falls under the California Department of Consumer Affairs, and they still have an active cosmetology board under that department.

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MR. MINTY:

We take exception to S.B. 335 and the deletion of the language in the NRS 644.473. I understand because I represent barbers, but these issues deal with cosmetologists in a comparative way. Lastly, S.B. 335, section 3, subsection 1, paragraph (b) deals with legal fees and fines relating to violations. We strongly object to the increase in violation fees for barbers.

SENATOR CARLTON:
I understand.

MR. COOKE:

Fines by the State Barbers' Health and Sanitation Board were raised because of public policy.

MR. LASHORE:

I have no problem with the increase.

KEVIN POWERS:

Section 3, in S.B. 335, refers directly to violations of NRS 643.190 which is unlicensed activity. The increases in the fines in section 3 would only be directed towards unlicensed activity. As far as disciplinary action of licensed barbers, those would not change. That is in a different section of the chapter and are also adopted by regulation of the Board. This increase in fines only applies to NRS 643.190, which is unlicensed activity. This is also the same for the Cosmetology Board; their provision dealing with these fines also deals with unlicensed activity under chapter 644.

SENATOR HARDY:

Are there any other questions before we submit the bill to subcommittee?

JOHN N. POTTER:

I do not support S.B. 335. I will briefly read from my written statement that was provided to the Committee ([Exhibit J](#)). This bill is a personal vendetta against me and an attempt to disrupt my business By definition; a barber and a hair designer are virtually the same.

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SENATOR CARLTON:

There are differences between barbers and cosmetologists. If you are stating that they are the same, they are not.

MR. POTTER:

What I explained is that they are virtually the same.

DEBRA A. DOUGLASS:

I believe there is a great difference between the professions of a barber and a cosmetologist. The reason I am here today is because of misrepresentation and defrauding of the public.

MR. HARRIS:

We will try to work together to solve the issues.

VICE CHAIR HARDY:

Are there any other questions? The meeting of the Senate Committee on Commerce and Labor is now adjourned at 10:50 a.m.

RESPECTFULLY SUBMITTED:

Jane Tetherton,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____