

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fifth Session
April 27, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:34 p.m. on Monday, April 27, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chairman
Assemblyman Kelvin Atkinson, Vice Chairman
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman Ed A. Goedhart
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Mark A. Manendo
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblyman James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Warren Hardy, Clark County Senatorial District No. 12
Senator Maggie Carlton, Clark County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Patricia Blackburn, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Robert H. Talley, D.D.S., Executive Director, Nevada Dental Association,
Las Vegas, Nevada
Fred Hillerby, representing Nevada State Board of Accountancy,
Reno, Nevada
Karen Peterson, Carson City, Nevada representing Nevada State Board of
Accountancy, Reno, Nevada
Viki A. Windfeldt, Executive Director, Nevada State Board of
Accountancy, Reno, Nevada
Ed Finger, President, Nevada Society of Certified Public Accountants,
Las Vegas, Nevada
Kim Wallin, CMA, CFM, CPA, State Controller
Elizabeth Neighbors, Ph.D., ABPP, Board Member, Board of Psychological
Examiners, Reno, Nevada
Lorraine Pokorski, Administrator, Board of Examiners for Audiology and
Speech Pathology
Darren K. Proulx, Chief Executive Officer, Land Resource Investments,
Inc., Sparks, Nevada
Steven L. Aldinger, Deputy Administrator, Real Estate Division,
Department of Business and Industry
Kathleen Kelly, Executive Director, Board of Dental Examiners of Nevada,
Las Vegas, Nevada
Patricia Durbin, Executive Director, Great Basin Primary Care Association,
Las Vegas, Nevada
Bob Crowell, Carson City, Nevada, representing InterDent Service
Corporation, El Segundo, California, and Pacific Dental Services,
Irvine, California

Lynn Fulstone, Las Vegas, Nevada, representing InterDent Services Corporation, El Segundo, California, and Pacific Dental Services, Irvine, California
Cari Callaway-Nelson, D.D.S., Las Vegas, Nevada, representing Pacific Dental Services, Irvine, California
William G. Pappas, D.D.S., President, Board of Dental Examiners of Nevada, Las Vegas, Nevada
Lee A. Drizin, Special Counsel, Board of Dental Examiners of Nevada, Las Vegas, Nevada
Tony Guillen, D.D.S., Fallon, Nevada, Board Member, Board of Dental Examiners of Nevada, Las Vegas, Nevada
K. Neena Laxalt, Elko, Nevada, representing Nevada Dental Hygienists' Association, Las Vegas, Nevada
Lancette VanGuilder, Legislative Chair, Nevada Dental Hygienists' Association, Las Vegas, Nevada
Caryn Solie, Vice President, American Dental Hygienists' Association, Sparks, Nevada
Donna Jo Hellwinkel, D.D.S., Reno, Nevada, Board of Dental Examiners of Nevada, Las Vegas, Nevada

Chairman Conklin:
[Roll was taken.]

We will start as a subcommittee.

We will open the hearing on Senate Bill 129.

Senate Bill 129: Revises provisions governing continuing education for dentists and dental hygienists. (BDR 54-769)

[A quorum was present.]

Senator Warren Hardy, Clark County Senatorial District No. 12:

This is a bill that I introduced for a constituent of mine, Dr. Stephen Sill, who is very interested in this. Regrettably, with the pace of the Legislature this session, I neglected to inform him that the hearing was today. Otherwise he would have been here.

Senate Bill 129 is just expanding the opportunity or expanding the course offerings that a dentist can take. After September 11, we had a lot of additions to the requirements of continuing education. We required some continuing education on the medical consequences of an act of terrorism. As this has played itself out, Dr. Sill approached me and said that one useful thing for his

profession would be a course in Basic Disaster Life Support or a course in Core Disaster Life Support, if the course was provided by a provider of continuing education accredited by the National Disaster Life Support Foundation. This would be better training for dentists in terms of what they could provide with their offices and their facilities if there were to be an event caused by terrorism or by any other natural disaster or situation that might occur. He felt that this was much more germane and his profession could be much more accessible to the public and valuable to the public if they received this type of training.

That is the extent of my expertise. I know there are some people here from the Dental Board who might be willing to bail me out if there are any tough questions. This passed the Senate unanimously, and I offer it for your consideration today. I will attempt to answer questions or to find somebody who can.

Chairman Conklin:

Are there any questions from the Committee? Currently, dentists are required, within two years of licensure, to take a course on terrorism, and this just replaces that, right? So, if you did not want to take a course on terrorism you could take it on basic support in case of a natural disaster, is that correct?

Senator Hardy:

It does not replace it; it adds to the list of courses that they can take. From a dental perspective, there are not a lot of things that can occur in a dental office relative to helping out in a natural disaster or during an act of terrorism. This adds some additional training that they think is more germane to what a dentist could offer in that sort of circumstance. It does not remove or take away from the others; it just adds them as additional optional courses that they could take.

I think there are some people from the Dental Board who might be able to give you a more articulate answer.

Assemblywoman Buckley:

Who did you indicate had asked you to bring the bill? Were they someone who had a financial interest and offered courses on basic disaster, or were they just a rank-and-file practitioner trying to expand the availability of offerings?

Senator Hardy:

That is correct. The constituent who asked me to bring the bill forward is a dentist constituent of mine. He does serve on the Dental Board as well. It does not have anything to do with the classes. He is just interested in making sure

that the courses that dentists take are germane. He does not teach these classes. He would be required to take these classes.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support of S.B. 129?

Robert H. Talley, D.D.S., Executive Director, Nevada Dental Association, Las Vegas, Nevada:

[Spoke from written testimony ([Exhibit C](#)).]

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to get on the record in support of this bill? Is there any opposition to S.B. 129? I see none. We will close the hearing on S.B. 129.

We will open the hearing on Senate Bill 335 (1st Reprint).

Senate Bill 335 (1st Reprint): Revises provisions regarding regulation of accountants. (BDR 54-191)

Fred Hillerby, representing Nevada State Board of Accountancy, Reno, Nevada:

This bill passed the Senate unanimously. It has the support of the Board, and we look forward to your favorable treatment. We will be brief, but will stay as long as you need us to answer any questions.

Karen Peterson, Carson City, Nevada, representing Nevada State Board of Accountancy, Reno, Nevada:

The proposed legislation provides a comprehensive system for permitting licensee mobility while making explicit the Board's authority to regulate and discipline any Certified Public Accountant (CPA) who offers or renders professional services within the State of Nevada, regardless of how those services are being provided. We believe this legislation achieves the goals of enhancing public protection and facilitating consumer choice.

Over a century ago when states started issuing licenses to CPAs, most CPAs practiced in just one community in one state. Licensing laws generally required a CPA to have a license in any state in which he or she provided services. As the national modern economy has developed, CPAs frequently provide services across state lines. Even the smallest CPA firms have customers and clients with operations across state lines. Yet under the old licensing laws, an act as simple as participating in a conference call with persons in another state or filing

multiple tax returns for a client in several states could trigger licensing operations in multiple jurisdictions. Those licensing requirements can be cumbersome. They can cause delay in engagements, and the requirements may be old because accounting standards are uniform nationwide. Licensing standards are substantially uniform, and all CPAs take the same national examination.

It also has become apparent that the old system actually creates gaps in the ability of state regulators, such as our Nevada State Board of Accountancy, to obtain jurisdiction over and discipline out-of-state CPAs. If the jurisdiction in the state is based solely on the issuance of a license, then regulators might not have full authority over an unscrupulous CPA who enters a state, provides services, and leaves without ever obtaining a license. So under the mobility concept, a CPA who resides outside the State of Nevada may enter the state to conduct any portion of their engagement without obtaining a license or a permit. However, if the out-of-state CPA provides certain specified services, such as audit services, through a firm for a client having his home office in this state, then the firm would be required to register with the Nevada State Board of Accountancy. In addition, if the CPA firm is principally conducting business in this state or the CPA is residing in this state, then, obviously, the CPA has to have full licensure in this state.

The proposed legislation also provides the Board with better enforcement authority. Currently, individuals are entering the state and are not obtaining the appropriate permits or licenses. If one of these individuals is identified, the only authority the Board has is to issue a "cease and desist" order. Under the proposed legislation, the Board would have further-reaching disciplinary authority to revoke or discipline their practice privilege.

A CPA or firm coming into this state under the practice privilege as proposed under this bill agrees to obey and abide by our Nevada laws and our jurisdiction, and they submit themselves to the jurisdiction of the Nevada State Board of Accountancy. Our Board may also discipline the CPA as though he or she were a licensee of our state, and the charges could also be served on the regulatory board in the CPA's home state so that both Nevada and the home state would take action against the CPA for any violations. This legislation comes out of the Uniform Accountancy Act that has been passed by 38 states. It is pending in 8 other states, so by the end of the year 46 states could have passed this type of legislation.

Again, as Mr. Hillerby said, the legislation is supported by the American Institute of Certified Public Accountants, the Nevada Society of Certified Public Accountants, and the National Association of State Boards of Accountancy.

Ms. Windfeldt can take you through some other sections of the bill.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Viki A. Windfeldt, Executive Director, Nevada State Board of Accountancy, Reno, Nevada:

Karen just went through the sections of the bill regarding mobility, and I will briefly go through the clean-up sections ([Exhibit D](#)).

Currently, we do not have the authority to take action against a licensee who committed a crime outside of the definition of public accounting. An example would be a licensee who committed murder. We would have to wait until he did not renew his license because the murder did not involve the act of public accounting. The particular language in the bill would allow the Board, or give them authority, to take action against the licensee for something outside that particular definition.

The next section is education. It provides the Board with the authority to establish within our regulations the education required to sit for the CPA examination. The next section concerns the examination itself. Currently, our regulations provide for the approval of one provider of the CPA examination, and we are going to broaden that. In case that provider is no longer in business, the Board would have the ability to approve another provider of the examination.

Last would be record retention. National trends are five years for record retention of audit paperworks, and our law says seven years. We would like to clean that up and conform to the national trend of five years.

That is a brief summary of the clean-up section of our bill.

Assemblyman Horne:

To go back to the area of discipline, you are asking for the authority to discipline outside the area of accounting. What disciplinary action would you take if a member killed somebody?

Viki A. Windfeldt:

I think the Board would most likely revoke based on moral turpitude and the fact that the person was convicted of the crime and in jail. The Board would hold a formal disciplinary hearing against them, but the Board would have a lot of different options before that step as they do now based on public accounting.

Assemblyman Horne:

In instances where there is no conviction, would you proceed forward under the charges?

Karen Peterson:

Under current law, we are entitled to take disciplinary action only if there has been a conviction of a crime or a conviction of a felony. That stays the same under this proposed legislation.

Assemblywoman Kirkpatrick:

It appears that almost the entire bill reflects back to section 4. Is that correct?

Karen Peterson:

That is correct.

Assemblywoman Kirkpatrick:

What type of accounting services are we talking about, in layman's terms?

Viki A. Windfeldt:

Those services would be audit review and full disclosure compilations. In layman's terms, all of those are related to audit work, and that is what makes them different from, say, tax preparation.

Assemblywoman Kirkpatrick:

In the front of the bill in the legislative digest it says this bill revises provisions governing the registration of domestic and foreign partnerships, corporations, limited liability companies, and sole proprietorships. That is pretty much everybody, but in this bill I do not see where it spells all of them out.

Karen Peterson:

If I understand the question, sections 7 through 25 or 26 are the disciplinary sections and have to do with registration by limited liability companies, corporations, and partnerships. So, all of the changes that require registration of out-of-state firms are in those later sections of the bill.

Assemblywoman Kirkpatrick:

The legislative digest spells out the types of relationships, but when I go back to sections 27 through 31, they only define sole proprietor. Did we include everybody that the legislative digest says we did?

Karen Peterson:

I believe we did.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

**Ed Finger, President, Nevada Society of Certified Public Accountants,
Las Vegas, Nevada:**

On behalf of the Society, we support this bill. We thought it was important to come and say that. We consider this an important step toward uniform rules governing practice privilege. We believe it provides important tools for the State Board of Accountancy to continue to safeguard the public, and we would like to thank the State Board for its efforts over the past few years and for conferring with professional stakeholders, including the Society.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Kim Wallin, CMA, CFM, CPA, State Controller:

I am a CPA. I am a member of the Nevada Society of Certified Public Accountants and am a licensed CPA in Nevada. I am here to speak in support of this bill. I think it would do a lot as far as improving the protection for our citizens. With passage of this bill the state would be able to go after CPAs who come into our state and do something wrong. I think in this era of global accountability and mobility, this goes a long way towards improving our consumer protections.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in favor of S.B. 335 (R1)? I see none. We will close the hearing on S.B. 335 (R1).

We will open the hearing on Senate Bill 40 (1st Reprint).

Senate Bill 40 (1st Reprint): Revises provisions relating to the licensure of psychologists. (BDR 54-320)

**Elizabeth Neighbors, Ph.D., ABPP, Board Member, Board of Psychological
Examiners, Reno, Nevada:**

[Spoke from written testimony ([Exhibit E](#)).]

We anticipate that in addition to new licensees this will apply to any psychologist who has a disciplinary action brought against him in the future.

[Resumed speaking from written testimony.]

This review addressed specifically the oral nature of the examination which was recorded and allowed an individual to question whether the examination had been appropriately scored by the oral examiners. Since we will no longer be administering the examination in that fashion, that type of review would not be appropriate. That would be removed from the statute.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there any further testimony? I see none. We will close the hearing on S.B. 40 (R1).

We will open the hearing on Senate Bill 58 (1st Reprint).

Senate Bill 58 (1st Reprint): Revises provisions governing the licensure and regulation of audiologists and speech pathologists. (BDR 54-362)

Lorraine Pokorski, Administrator, Board of Examiners for Audiology and Speech Pathology:

[Distributed summary of testimony ([Exhibit F](#)).]

In this bill we are increasing the requirements for audiologists because on January 1, 2008, the requirement for graduation is a doctorate of audiology, an AuD degree, and no longer a master's degree. We are bringing Nevada up to the current national level of education.

We are asking to take out the clock hours of supervised experience as this number changes periodically and we dislike having to increase that number every year or so. It is also a requirement for graduation, so they have to maintain those levels of clock hours in order to graduate with either their audiology degree or their speech pathology degree.

[Spoke from written testimony.]

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Gansert:

Are the people who already have licenses grandfathered in?

Lorraine Pokorski:

Yes.

Assemblywoman Gansert:

What if somebody comes from another state?

Lorraine Pokorski:

Those who are already licensed in the State of Nevada will maintain their licenses. We will not require them to get their doctorates. However, if they move out of the state and let their licenses expire and then want to come back and practice, they will be required to get their doctorates. Nationally, all educational institutions are giving only doctoral degrees effective January 1, 2008. There are no longer master's degree-level graduates.

Assemblywoman Gansert:

What if you are a master's degree graduate, live in Colorado, and move to Nevada?

Lorraine Pokorski:

You would not be licensed. You would need your doctorate degree.

Assemblywoman Gansert:

I am concerned about the people who have been working in audiology for years. If any of those people move to our state, they would not be able to get licenses. I think that would be important.

Assemblywoman Kirkpatrick:

So once they get their doctorate there is no more continuing education?

Lorraine Pokorski:

There is continuing education; they need to take 15 hours every year.

Assemblywoman Kirkpatrick:

What is the difference between 60 semester credits, a master's degree, and a doctorate degree?

Lorraine Pokorski:

I do not know.

Assemblywoman Gansert:

How many people who are experienced and licensed in another state move to our state? How many licenses do you process for people moving to Nevada who have been in practice for a while? Do you have any idea?

Lorraine Pokorski:

In audiology there are probably five to seven people a year.

Assemblywoman Gansert:

So, five to seven people move to our state who are experienced and licensed in another state, and we have been licensing them, but you do not have a way to license them now if they do not have doctoral-level degrees when they move here.

Lorraine Pokorski:

That is correct.

Assemblywoman Gansert:

How is our supply of audiologists in the state?

Lorraine Pokorski:

We have 82 in the state.

Assemblywoman Kirkpatrick:

If all of the states are going this way, somebody must have a phasing-in process.

Lorraine Pokorski:

There are a lot of audiologists who have gone back and received their doctoral degrees.

Assemblywoman Kirkpatrick:

So, what do they do in between?

Lorraine Pokorski:

As long as they are licensed, they continue to be licensed. If they are already licensed in the state as audiologists with a master's degree, then they continue to be licensed as audiologists.

Assemblywoman Kirkpatrick:

I understand that. I was trying to follow up on Ms. Gansert's question. If all the other states, as of January 2008, are only issuing licenses based on doctorate degrees, what happens to that person who just got his master's, even in another state? Is there a phased-in process so that he could go back to school? I do not know how long it would take to get that doctoral degree.

Lorraine Pokorski:

I believe it is two years.

Assemblywoman Kirkpatrick:

So, there would not be a phase-in process as of December 31, 2009, if you received your master's degree . . .

Lorraine Pokorski:

Yes, I apologize for not understanding. If you received your master's degree before January 1, 2008, you would be licensed as an audiologist.

Assemblyman Anderson:

What is the availability of getting a Ph.D. in audiology at the University of Nevada, Reno or the University of Nevada, Las Vegas? Is this one of the programs being contemplated for reduction?

Lorraine Pokorski:

Not that I am aware of.

Assemblyman Anderson:

The reason I am concerned is obvious. With the cuts contemplated at the university level, we need to be sure there will be an adequate supply of audiologists coming out to meet demand. We who are aging may need help with our hearing problems. I want to make sure that we have people available to meet our needs.

Lorraine Pokorski:

Are you asking about hearing aids? Hearing aid specialists' licensing is through the Nevada State Board of Hearing Aid Specialists.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there any more testimony? I see none. We will close the hearing on S.B. 58 (R1).

We will open the hearing on Senate Bill 121 (1st Reprint).

Senate Bill 121 (1st Reprint): Provides an exemption from certain licensing and regulation requirements for persons engaged in the sale of certain subdivisions. (BDR 10-250)

Darren K. Proulx, Chief Executive Officer, Land Resource Investments, Inc., Sparks, Nevada:

I am in support of S.B. 121 (R1). [Distributed a summary of facts and a California report ([Exhibit G](#)).] It will allow reciprocity on the approval process that our company or others receive in adjoining states regarding the sale of certain types of subdivisions. Currently, we apply to the State of California, and after a lengthy approval process—six to eight months—we receive approval. We would like to receive reciprocity in Nevada. Currently Arizona and Colorado allow reciprocity, and we are asking for the same thing in Nevada.

Assemblywoman Buckley:

This bill just applies where there are undivided interests which do not contain lots or parcels not located in the state and are offered for investment only?

Darren K. Proulx:

That is correct.

Assemblywoman Buckley:

Give me an example.

Darren K. Proulx:

An undivided-interest land subdivision, which is the official name the State of California gave us, is where a group of individuals buy property in the path of growth and own an undivided interest in that piece of property. The property is not subdivided into lots; the ownership is subdivided. Individuals receive a grant deed to the property showing they own, for example, a 1/25th undivided interest in the property.

Assemblywoman Buckley:

So, it would be a group of investors who are looking for potential growth. They buy a piece of land, and all of them own the land, undivided. Basically they are holding on to that land to sell as a block. Concerning the provision "not located in the State of Nevada," is that the investors are not here, or the land is not here?

Darren K. Proulx:

If the property were located in the State of Nevada we would need to go through the approval process here. Our property is in California, and we already go through that approval process in California. If we were to do a project like that in Nevada, we would need to apply to the Real Estate Division in Nevada and receive a similar type of approval.

Assemblywoman Buckley:

Okay, the land is in another state. But are some of the investors here, or is just the one entity putting it all together? Who is here?

Darren K. Proulx:

Our company is here. We put the project together. Most of our customers are in California, but because we are based here in Nevada, occasionally a customer in the State of Nevada would like to participate in our project. We wanted to receive reciprocity so our approval in California would also work here.

Assemblywoman Buckley:

What exactly requires you to be licensed here? Is there something we are deleting, or are we just adding clarifying language?

Darren K. Proulx:

I am not sure of your question. The approval process that we go through in the State of California is quite lengthy. It is about four inches of paperwork and is a long, bureaucratic process. We originally came to the State of Nevada to go through the same process, but the bureaucratic time frame involved is very difficult. It would be another six to eight months to get approval. We proposed a bill. The Real Estate Division negotiated back and forth with us and came out in support of this bill.

Assemblyman Christensen:

I am trying to understand this. This is land located outside of Nevada, so how is there licensing involved? Would this not already be covered under interstate commerce where some states might require the members' names and the amount of investment to be recorded? Why are we even doing this?

Darren K. Proulx:

It is a unique product. It is not done under a limited liability company (LLC) or a limited partnership. That would fall under securities. We are, according to the California Department of Real Estate, a subdivision; and the State of California has its own subdivision laws, as does Nevada. The process we go through with the State of California allows us to offer our product to the general public—selling an undivided interest in our land. Each state requires some sort of approval process to protect the consumers in their individual states.

The State of Arizona looked at the approval we received from California and believed it was sufficient enough to protect the citizens of Arizona, and they issued us reciprocity. We are asking for the same in Nevada.

Assemblyman Christensen:

Is there a threshold? Does it have to be parcels over 25 acres? Could it be a one-acre parcel that is hot, and ten investors go in on the deal?

Darren K. Proulx:

I am very familiar with the State of California rules regarding lots containing fewer than ten acres. You are allowed to have a tenants-in-common subdivision without approval from the Department of Real Estate. But, for over ten acres, you need approval from the State of California Department of Real Estate. The parcel can be any size from one-half acre to 1,000 acres. It can contain a number of land bank owners from 20 to 200.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Kirkpatrick:

What is the reciprocity amount in the other states that you referred to? Is it a dollar amount or an application fee? I think it is important for us to know because they do things much differently in California, Arizona, and New Mexico. I would bet Utah has some sort of reciprocity too. What is the difference, and what is the benefit for Nevada consumers? Would this apply to campgrounds or time-shares?

Darren K. Proulx:

I will answer those questions in another order. It would not apply to campgrounds or to time-shares. This is specifically to undivided-interest land. The reciprocity applies to the approval process. The State of California issues a ten-page document that is called their public report. Nevada issues a similar type of report. This report discloses to the public and to the citizens items that they should know about the offering.

Assemblywoman Kirkpatrick:

I am trying to understand what you are trying to be exempt from.

Darren K. Proulx:

I want to be exempt from eight months of bureaucratic process in the State of Nevada. We go through it in the State of California; we pay a fee. If this bill passes, the state will still collect a fee, but Nevada would not go through that long, bureaucratic process.

Assemblywoman Kirkpatrick:

Just because it is okay in California, what makes it okay in Nevada? We do things differently here. Are you saying that the rules are exactly the same in the other states as they are in Nevada?

Darren K. Proulx:

I think the bill says that the reciprocity only applies to states that have a similar approval process. I believe that the Division of Real Estate process is similar and that is why they came out in approval of this bill. They reviewed the process that we go through in California and have concluded that it is similar, and the bill specifically states that it has to be a similar approval process.

Assemblywoman Kirkpatrick:

Similar can mean different things to different people. How many projects does this affect? How big of a problem has it been?

Darren K. Proulx:

We are probably the only one doing it. In the State of California we are the only company that is offering this. We just love Nevada, we have been here, and I plan on staying here. But when we have a customer referred to us who lives in Nevada, we want to be able to offer him our product without running afoul of the Nevada Division of Real Estate.

Assemblywoman Gansert:

You are talking about reciprocity, but I do not see it specifically defined in here. I just see an application for an exemption.

Darren K. Proulx:

The exemption comes into play if we have gone through the approval process in another state.

Assemblywoman Gansert:

It does not seem clear to me.

Darren K. Proulx:

It refers to the fact that we have received the public report from another state.

Assemblywoman Gansert:

It is in section 4, subsection 2, "provide a property report from the jurisdiction where the land is located." Maybe property report needs to be defined. That might help.

Darren K. Proulx:

I would not have a problem with that. Most states have a public report, and that is what it is called. Nevada's process is very similar to California's in using the definition of public report.

Assemblywoman Gansert:

I would like us to look at that to be sure everything is defined.

Assemblyman Goedhart:

Do you have a website so we could see what some of your offerings are to get a better perspective on what type of projects you are offering for sale?

Darren K. Proulx:

I can tell you a little bit about it now. The website is www.landbanknation.com. Everyone would like to own land in the path of growth. Most people cannot afford to own a piece of property in the path of growth of any size that is desirable to a builder. Their option is buying two and a half acres 12 miles outside of Winnemucca. But everybody would have liked to own 20 or 40 acres in Henderson ten years ago. Our company went to the State of California Department of Real Estate and proposed an undivided-interest land subdivision, and after a nearly two-year process we received approval. It allows individuals to landbank those 40 acres, but they own undivided interests. It is managed through a homeowners' association or what we call a property owners association, just like your community has a homeowners' association.

Assemblyman Goedhart:

It sounds like the process you have hammered out in California is amenable to your needs and concerns and goes more quickly. Allowing reciprocity, you can get approved in California, and because of that approval, this legislation would allow reciprocity here in Nevada.

Darren K. Proulx:

The property is not in Nevada. The property is still in the State of California. We have customers in Nevada who come to us, but the Division of Real Estate in Nevada is overworked. For the last week we have been trying to reach someone from the Division of Real Estate who was in support of this bill, but they are totally overworked. We understand this. The idea that we go through an eight-month process with the State of California and then have to come to Nevada and run through the same eight-month process is not business-friendly, so we have asked for this bill.

Assemblyman Settlemeyer:

I had property—a one-half undivided interest in 2,200 acres in California as a Nevada corporation. Another entity was a Nevada corporation as well, so I am very familiar with what this is. I think we need a clearer definition of what a property report is—maybe something that is substantially similar to other states'. If you could look into that and get back to us, it would be appreciated.

My other question is, what are these people doing with this property? Your website states you are buying land, in the path of possible growth, from farmers, dairymen, and so forth. If you buy the property, do you lease it back to the farmer and let him continue with agriculture, or does it go fallow and you have weeds everywhere?

Darren K. Proulx:

Sometimes there are weeds, and sometimes we lease it back to the farmer. I would ask, what do you do with your one-half interest? You are probably just sitting there landbanking it. We do the same thing.

Assemblyman Settlemeyer:

We have landbanked it since 1929. It is a little different.

Darren K. Proulx:

Nonetheless, if it is in the path of growth, do not sell it; hang on to it.

The land bank owners quite often use individual retirement accounts to landbank property. They are simply holding the property waiting for development and population increase and what not.

Assemblywoman Kirkpatrick:

What happens when you landbank it and you own it? Do you pay all the taxes? Do Arizona and California have that same thing?

Darren K. Proulx:

If someone landbanks in one of our projects, there are property taxes due twice a year, and those property taxes need to be paid. Instead of a property tax bill being sent to each individual landbank owner, the tax bill is sent to the association. People pay association dues just like if you live in a community with an association. The association collects association dues and then pays the individual property taxes. People's individual undivided interests are fully transferable, and they can will it, trade it, or give it away.

Assemblywoman Kirkpatrick:

What happens if it becomes just weeds and the State of Nevada offers an agricultural deferment? Are you notified? How does Arizona or California handle that?

Darren K. Proulx:

Again, the property is in California. If the property becomes overgrown with weeds—and it has happened—we would get a letter from the county fire department instructing us to abate the problem. People have paid their association dues, the association has funds in the account, and they hire someone to go and mow the weeds.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Darren K. Proulx:

So, if I understand, we will do some clarification and an amendment that better defines the public report that is received from another state and resubmit it to you.

Vice Chairman Atkinson:

I think that is correct. Is there any more testimony in support of S.B. 121 (R1)?

Steven L. Aldinger, Deputy Administrator, Real Estate Division, Department of Business and Industry:

[Distributed written testimony from Gail Anderson ([Exhibit H](#)).] The Real Estate Division would like to go on the record in support of S.B. 121 (R1), and to offer a note of thanks to Senator Washington for providing an opportunity for our participation. That is reflected in the amendments.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Kirkpatrick:

If you are from the Real Estate Division, why is the time delay so long? How could we expedite that as opposed to giving an exemption?

Steven L. Aldinger:

The time required, referred to by Mr. Proulx, is typical. It is also typical with most other states for comparable notices and registrations. The exemption is very limited. It is specifically for land that is being offered for sale that is not in Nevada. The current *Nevada Revised Statutes* (NRS) Chapter 119 would make that offer for sale liable or under the authority of our present registration

process. Since another state is already doing that, vetting the whole process and preparing the public report, as long as that is in play on a particular offer, this would be a very limited exemption for those types of offers.

Assemblywoman Kirkpatrick:
Why do we have it in statute?

Steven L. Aldinger:
The original statute was to protect the consumer because of past land fraud, and to make the registrations and get all the necessary information to make sure it was a valid and fair offering. The original legislation did not have an exemption for out-of-state sales. That is what this bill does.

Assemblywoman Kirkpatrick:
Is this the only one that you have seen in some time?

Steven L. Aldinger:
I cannot speak to that directly. It is the only one currently.

Vice Chairman Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else wishing to testify? I see none. We will close the hearing on S.B. 121 (R1).

We will open the hearing on Senate Bill 228.

Senate Bill 228: Revises provisions governing the ownership or operation of a dental office or clinic. (BDR 54-651)

Senator Maggie Carlton, Clark County Senatorial District No. 2:
I have before you S.B. 228 which has been known in my office as the "Kum Ba Yah" bill because everybody is holding hands and saying "Yes, we agree." It is a very good piece of legislation. Last interim there was a problem with some of the nonprofit corporations dealing with dental offices and clinics, and this piece of legislation addresses that issue. It has been pointed out to me by the Executive Director of the Board of Dental Examiners of Nevada that at the bottom of page 2, line 38, there is a mistake in the notation for the *Nevada Revised Statutes* (NRS). We will want to address that. It is supposed to be NRS 631.3465.

Assemblyman Settlemeyer:
You want it to read NRS 631.3465 on line 38; do you also want that inserted on line 33?

Senator Carlton:

I will have the Executive Director answer that.

**Kathleen Kelly, Executive Director, Board of Dental Examiners of Nevada,
Las Vegas, Nevada:**

The particular reference I made for Senator Carlton refers to our licensees. It is an unprofessional conduct statute. It is NRS 631.3465. The other provision relates to the entities that would not be licensees, and therefore having a reference to NRS 631.346 would be permissible. The Board would not have an objection to that. It was just the correction in NRS 631.3465, which is a particular unprofessional conduct statute that relates to associating with, being employed by, or lending their name to a corporation or entity engaged in owning or controlling practices.

Vice Chairman Atkinson:

Are there any questions from the Committee for the Senator? I see none.

**Patricia Durbin, Executive Director, Great Basin Primary Care Association,
Las Vegas, Nevada:**

[Spoke from written testimony ([Exhibit I](#)).]

We feel it would serve our citizens to clarify NRS Chapter 631 to ensure that nonprofit oral health service continues to thrive in our state.

[Resumed speaking from prepared testimony.]

This bill is a matter of clarifying that nonprofit ownership would be acceptable, which we have been doing across the state.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

**Robert H. Talley, D.D.S., Executive Director, Nevada Dental Association,
Las Vegas, Nevada:**

I speak in favor of S.B. 228. The Nevada Dental Association currently works with the six regional oral health coalitions in the state to help get the underserved treated. This legislation supports those efforts.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there any further testimony on S.B. 228? I see none. We will close the hearing on S.B. 228.

We will open the hearing on Senate Bill 295 (1st Reprint).

Senate Bill 295 (1st Reprint): Revises provisions relating to dentistry.
(BDR 54-913)

Senator Maggie Carlton, Clark County Senatorial District No. 2:

I would like to put on the record that I consider this legislation employment legislation, not dental practice legislation. There is nothing in this bill that will prohibit the Dental Board from overseeing the dental professionals in this state. This bill allows dental professionals to decide what practice model they would like to use when it comes to employment, that is, who they would like to work with. Do they want to set up their own shop? Do they want to have a collaborative practice? Do they want to enter into one of these agreements?

I see nothing in this legislation that keeps the Board of Dental Examiners from exercising their authority over the professionals in this state in order to make sure our citizens are protected within this particular world.

I will allow the people here with me to walk you through the bill.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblyman Anderson:

What happens when the physical property may be owned by someone other than the dentist? How is the dentist going to be helped or hurt by this legislation? If he does not own the property and works for a clinic, will he be hurt by this? Will he be regulated in some way by the property owner?

Senator Carlton:

If I understand your question correctly, I believe you are concerned about the relationship between the person who owns the equipment and the practitioner?

Assemblyman Anderson:

Right.

Senator Carlton:

If the practitioner violates the Dental Practice Act in this state, he can have his license revoked. That takes care of that portion of the question. If there is any misbehavior toward the general public, the Dental Board still has authority over the dentist.

The other part of your question concerned the relationship between the property owner—the person who owns the equipment—and the actual professional. It is up to the professionals to do their jobs as far as being a dentist. It is their

license that they are responsible for. This bill gives dentists who may not have the financial resources to set up their own practice, because equipment is so expensive, another option. They may be leaving dental school with a \$200,000 student loan and may decide that this is an employment model they would like to utilize to help pay down that loan before they go into practice themselves. It is an option for them.

I believe the other people here to testify can speak to the specifics in the contract, but I would like to point out to you that in the Senate we did eliminate the fee-splitting provision, because it made some people uncomfortable. We thought that was a valid concern so we amended it out of the bill.

Assemblywoman Buckley:

As lawyers, we do not have anyone besides other lawyers controlling our practice. With physicians it is not necessarily true because we have health maintenance organization (HMO) models for physicians. Right now, the corporate practice of dentistry is prohibited, and this bill would change that. Why is that a good thing? How will it benefit the consumer?

Senator Carlton:

I believe this will benefit the consumer because there will be greater access to dental care. There are young dentists now coming out of school who would like to get into a practice; but as I said earlier, setting up your own practice, especially in these economic times, can be very difficult. This bill will give them the option to go to work for someone else so that they can decide where they want to be. If they are graduating from our own dental school, they take the Western Regional Examining Boards. If they decide that they really do not have the resources, with the credit market the way it is right now, to go out and get another loan to open up their own practice, they can choose to enter into this contractual agreement for employment. They will practice dentistry, still be regulated by the Dental Board in this state, and have to practice good dentistry, but the bill allows more dentists to go out and treat more people.

Anything to do with getting more health care professionals into this state and making it a little easier for them to set up shop, while still giving good care, would be beneficial to the consumers in this state.

Assemblyman Settelmeyer:

As you can guess, we have received a few emails on this subject. I understand what you are saying, and I agree with the concept of allowing doctors to choose and not have to deal with the administrative burden. Will you address one concern that I have? If you are the dentist and are just out of school, you might look at an x-ray and decide a patient only needs a cap. Does that person

have the responsibility to say that is all the work he would do, or does he have to go to the corporate manager who might say he should really do a root canal? Can we amend the bill to say that the dentist who is seeing the patient is the only person who makes the final decision? I do not want to create a situation where you allow someone else, who may be concerned with the monetary aspects, to make those decisions.

Senator Carlton:

I will let Mr. Crowell answer that question. I believe it is addressed in the bill and any regulated professional in this state is held accountable for his own actions to his own boards. He could never say, "He made me do it." That would not be an excuse in this state.

Assemblyman Settlemeyer:

I understand, but it could be a situation where they could put the blame on someone else. I want the actual dentist who is looking at a patient to be the responsible one by making sure he considers the best interests of that patient.

Senator Carlton:

I believe that is addressed in this bill.

Vice Chairman Atkinson:

The Senator set up the bill; perhaps we should hear the rest of the testimony before asking any more questions. If you have any questions for the Senator, based on her presentation, we will allow you to ask questions. Other than that, we will wait for anything specific in the bill until after Mr. Crowell has testified.

Are there any questions from the Committee for the Senator before we let her go down to her committee? I see none.

Bob Crowell, Carson City, Nevada, representing InterDent Service Corporation, El Segundo, California, and Pacific Dental Services, Irvine, California:

I am here today with Lynn Fulstone and Dr. Callaway. We would like to thank Senator Carlton for bringing this bill and thank this Committee for allowing us to express our concerns. I would like to give some general policy concerns about why this bill is before you and then have Lynn Fulstone provide a walk-through of the bill. Dr. Callaway will give her analysis and experience with a dental management company, which I believe will answer some of the questions of the Committee.

We are here today asking for your support on S.B. 295 (R1) on behalf of two reputable dental service organizations, InterDent Service Corporation and Pacific Dental Services. These companies have been operating in Nevada since

1999 and 2005, respectively. They have more than 20 dental offices in Nevada with approximately 60 dentists, and they see over 50,000 patients a year. Dental service companies provide management assistance to dentists, allowing dentists to focus on what they do best—providing quality, effective dental care for Nevadans. This bill addresses a problem that, if not remedied, will adversely impact access to affordable dental care in Nevada. This bill provides policy guidance to dentists and management companies alike on what management services are or are not permissible in Nevada.

As stated by the Senate Commerce Committee staff during the discussion on the amendment that Senator Carlton mentioned, this bill provides that management companies may not exercise any control whatsoever over the clinical judgment of dentists and hygienists. There is currently no regulatory guidance as to what the Board may or may not find acceptable in terms of management service agreements. Before coming to the Legislature, both InterDent Service Corporation and Pacific Dental Services encouraged the Board to make rules and provide guidance to the dentists and service companies who wished to do business in Nevada. Despite continued efforts by our clients over a period of 18 months to try to work with the Board to make rules to address the problem, no regulations were adopted. This leaves dentists who choose to contract with reputable service companies fearful that the Dental Board could revoke their licenses for no legitimate reason. It leaves dental management companies uncertain as to where they stand in the licensing process, if at all.

Senate Bill 295 (1st Reprint) is needed to provide that certainty for dentists and dental service companies that do business in Nevada. This bill will protect patients, prohibiting dental service organizations from exercising any control or authority over the clinical judgment of a licensed dentist, and include a number of other safeguards of patient care. This bill, as referenced by Senator Carlton, was amended in the Senate Commerce and Labor Committee to include an express and explicit prohibition on fee splitting. This concern was raised by Senator Amodei and some members of the Nevada Dental Association. In addition, the amendment to S.B. 295 (R1) requires a dental service company doing business in Nevada to register with the Dental Board, something that is not now required.

We respectfully request your support of this bill as a solution to allow dentists, if they so choose, and only if they so choose, to contract with dental service companies, while protecting patients and safeguarding the clinical practice of dentistry. We would be happy to answer questions at any time, but perhaps it would be better to hear the testimony of Ms. Fulstone and Dr. Callaway.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblyman Horne:

You mentioned that currently there is no regulatory guidance. This bill outlines what you cannot do. If this measure is passed and there is a violation, what would be the penalties, and to whom would those penalties apply?

Bob Crowell:

I think the answer to that is twofold. One, I think the dentist could be accused of unethical conduct and cited for unethical conduct for assisting in the unauthorized practice of dentistry. The management company could be cited for the unlawful practice of dentistry if there are not clear guidelines as to what constitutes a practice of dentistry and what you can and cannot do.

Assemblyman Horne:

I do not see that in this bill. We all understand the licensee and the various penalties that await a dentist who violates a regulatory provision. But this seems to be an implied thing here.

Bob Crowell:

It is implied in statute what constitutes a practice of dentistry and what constitutes unethical conduct by a dentist who may be assisting someone else in the unauthorized practice of dentistry.

Assemblyman Horne:

On the unauthorized practice of dentistry, what is the current penalty? I understand the revocation of a license. What would be the penalty to, for instance, InterDent Service Corporation?

Bob Crowell:

We could be cited and brought into court for the unlawful practice of dentistry. Frankly, I am not certain what the dollar penalty would be or what the sanction would be. It is probably a misdemeanor.

Assemblyman Horne:

A dentist could lose his license, but the company running the dentist office, up to 20 dental offices, may get a fine and a misdemeanor which will not be applied to any individual but to the corporation. Do you see my concern?

Bob Crowell:

I see your concern. It is still a violation of the law.

Vice Chairman Atkinson:

I am getting information that it is a category D felony.

Lynn Fulstone, Las Vegas, Nevada, representing InterDent Services Corporation, El Segundo, California, and Pacific Dental Services, Irvine, California:

It would be my pleasure to walk you through the anatomy of the bill in the hope of answering some of the questions you might have. Section 2 of S.B. 295 (R1) sets forth three things that persons other than licensed dentists, presumably service companies, would be able to do. The first thing is that a service company could own tangible or intangible assets that are used in a dental practice. These are such things as the office, the equipment, and inventory or supplies. What a service company cannot own or lease are the patients' dental records. That is expressly forbidden in section 2. Further, section 2 does allow a service company to employ administrative personnel which would be nonclinical staff. They are forbidden to employ either dentists or dental hygienists. That is not permitted under the bill. Finally, section 2 also allows a dental service company to manage the business aspects of a dental practice. This means that they could not tell someone whether to put a cap on or pull a tooth or do anything that would pertain to the clinical judgment of the dentist. This would be the business aspects, helping the dentists with things like insurance contracts, billing services, and leasing equipment, that could be a distraction for dentists who are trying to focus on taking good care of patients.

Section 3 may answer Assemblyman Horne's question. This section clearly says that the only way the activities in section 2 would not be a violation of the Dental Practice Act would be if the service company follows the guidelines in section 5. Section 5 is really the heart of the bill.

Section 4 requires a service company, or any person who manages the business of a dental practice other than a licensed dentist, to register with the Dental Board its name, its business address, the addresses of the dental practices it contracts with, and the names of all of the affiliated dentists. This is something that currently does not exist in the law. In fact, there may be many management companies that the Dental Board is totally unaware of. This actually will help the Dental Board identify these types of practices and become more vigilant about keeping their eye on them to make sure that everything is being done properly.

Section 5, specifically paragraph (f) on the last page of the bill, is the heart of the bill. This is where the prohibition on fee splitting exists. In addition, there are a number of patient care safeguards outlined in this section of the bill, which I think will address Assemblyman Settelmeyer's concerns. In this section, a management company or service company cannot exercise any control or

authority over the clinical judgment of a dentist, any contracts for dental services, the hiring or firing of dentists or dental hygienists, referrals to other dentists, treatments or procedures, patient records, dentist schedules, or numbers of patients that the dentist can see.

These are guidelines that do not currently exist in the law. We tried unsuccessfully to get regulations in with the Dental Board for the past two years. Therefore, we are before the Legislature with these guidelines which we think will be helpful to all parties concerned. I am happy to answer any questions, and I know that Dr. Callaway, who is a licensed dentist in Nevada and part owner of Pacific Dental Services, would also like to address the Committee at your pleasure.

Assemblyman Settlemeyer:

I am still concerned where it says "a dentist." Why not use "the dentist" so "the dentist" doing "the work" on the patient will be accountable and responsible? By using the word "a" I am still afraid that a situation could occur where one individual will be in charge who may try to get more money by doing more root canals than caps. It has happened in other states, I am told.

Lynn Fulstone:

I think that is the intent, and I do not think we would have any objection to changing it to "the dentist."

Assemblyman Goedhart:

I have just a quick question to anyone on the panel. We talked about who owns the equipment and the different types of activities and the obligations of the different parties, but you also mentioned that a dentist actually owns the dental records to each and every patient. Is that correct?

Lynn Fulstone:

Yes, that is correct.

Assemblyman Goedhart:

Does that mean that the provider of dental care also has the right to take his or her patients with him or her when leaving for another practice? How does that work, or do you have a "do not compete clause?"

Lynn Fulstone:

Typically, it is the patient's choice where they would like to go in both medicine and dentistry. That patient would have the right to stay with a particular dentist who has been treating them for all those years, or not. The patient record has to be accessible to the patient in any event.

Assemblyman Horne:

I need a clarification. You said something about owning tangibles and intangibles—I think of intangibles as things that I cannot touch. What are we talking about in this context in regard to intangibles?

Lynn Fulstone:

They are things that you cannot touch. It is a term of art in the law, as you probably know, like intellectual property, websites, business names, and things like that.

Assemblyman Horne:

So your client would be able to own the name "smiley dentist," or whatever, if there were a chain of "smiley dentists" throughout Nevada. Would that be owned by the dentist or owned by InterDent Service Corporation or someone else? Once we get into that, it seems like they are controlling dentistry.

Lynn Fulstone:

They would not be permitted to control the practice of dentistry in any event. They also must comply with the Dental Board's regulations and statutes with respect to marketing and advertising. They could not use any name that would be misleading or deceiving to the public in terms of the practice of dentistry.

Assemblyman Horne:

It is one thing to speak about hardware—the dental chairs, the office building, and the like—but when you start talking about intangibles, I think you get into the goodwill that a dentist or dental group may have built over the years. Arguably, who owns or controls that goodwill? Is it the dentist, the dental group, or the service provider?

Lynn Fulstone:

I think goodwill would have to follow with the dentist. They are the ones who create the goodwill with their relationships with the patients.

Assemblywoman Kirkpatrick:

I have a couple of questions. In section 3, subsection 2, how does *Nevada Revised Statutes* (NRS) Chapter 89 fit into this?

Lynn Fulstone:

Chapter 89 is the chapter that allows dentists and other professionals to form corporations and limited liability companies that are professional entities. Those entities actually, legally can practice dentistry. The reference to Chapter 89 would mean that a management company could contract individually with a licensed dentist, a person. Or, if that licensed dentist has formed one of those

entities under Chapter 89, it would be the same with that person. They could contract with that person as well.

Assemblywoman Kirkpatrick:

If we are already doing this, why do we need the statute? I have some issues with this since I have been to one of these managed groups before. I called my daughter to look at our dental records, and we were getting bills because they said we were missing appointments when we had been at the appointments. We spent a lot of time because the management company was not communicating with the dentist. How do you rectify any of those problems? One of the other things my daughter was telling me was about insurance. My biggest pet peeve is going to the doctor and seeing a physician's assistant. How do you avoid having the management company charge for various things, and the dentist comes in and does his own thing, but they never communicate? It took us six months to rectify an insurance problem that we had, and in the meantime, we could not do anything because they could not tell if we were capped out or not. They have two very distinct reasons for being there.

Lynn Fulstone:

I am not sure whether or not your problem really arose from a management company relationship or an insurance company problem. It may be a combination of the two.

Assemblywoman Kirkpatrick:

I have had the same insurance for 18 years, so it was not them.

Lynn Fulstone:

In section 5 of the bill, one of the prohibitions has to do with management companies not being allowed to interfere with contracts for dental services with patients. If there was a problem with refunds or money or something like that, that needs to be added to this list of prohibitions in section 5. I believe we would be very happy to add any other patient care concerns to this list. I read section 5, the second prohibition, to already include that, but we could spell that out.

Assemblywoman Kirkpatrick:

Although we had a contract with the dentist, it was the front office that was dictating what the rules were. It is a little more personal to me. I am trying to find the good in this bill.

Lynn Fulstone:

To address your problem, I think that section 5 of the bill prohibits a management company from exercising any authority over contracts for the

provision of dental services with a patient. We could add to this list and be specific about the financial implications that you are addressing. I know that Dr. Callaway, who is a dentist who works for a management company, might be able to tell you how she would handle that situation in her office.

Assemblywoman Kirkpatrick:

My last question is, what happens when the dentist is no longer there? How do you find that person in order to address your issues?

Lynn Fulstone:

Perhaps Dr. Callaway could address that as well.

Cari Callaway-Nelson, D.D.S., Las Vegas, Nevada, representing Pacific Dental Services, Irvine, California:

Actually, the Dental Board has an excellent website where you can type in your dentist's name and that will give their place of practice. We are required to give our patients notice of relocating within 30 days.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Cari Callaway-Nelson:

I am a licensed dentist practicing in Las Vegas, Nevada. I am co-owner of a dental practice called Montecito Town Center Dental Group, which receives business support services from Pacific Dental Services. I appreciate the opportunity to testify in support of S.B. 295 (R1). I graduated from the University of Southern California Dental School in 1999 and have been practicing dentistry for over ten years. I have been an associate-employee dentist in the states of California, Maryland, and Nevada. My husband and I made the decision to move to Nevada four years ago because of the standard of living and, quite frankly, the more affordable costs for us. It had always been my dream to own a dental practice, but with buying a home, paying off my student loans and my husband's student loans, the prospect of hanging a shingle on my own dental practice was dim, if not daunting. Two years ago, I was hired to open and start a new office in Montecito Town Center Dental Group.

Pacific Dental Services is the administrative support service provider for the office. This is simply the most well-run and efficient dental office that I have ever worked for. The complexities of running a dental business day-to-day including insurance verification, coordination of benefits, payment from your insurance company, billing, human resources, and that sort of thing, take a lot away from the dentist. It gave me an opportunity to do what I do best, and

that is dentistry. It allows me to provide my patients with modern dentistry at an affordable cost. It allows me to serve my patients better.

Access to good technology, digital x-rays, and digital charting allows me to be a better dentist. Last week I had a patient who is a pharmacist in Las Vegas. He has been a great patient of mine for two years; you could set your calendar by how often he comes in—every six months like clockwork. He has been walking around with a broken tooth for two years. He said it was really starting to bother him. I asked why he would not let me take care of him, and he said he was too busy running his pharmacy. He did not have the time to come in. I said, how about two hours? If you put a movie in now, I will be able to fabricate and create a restoration for you, and by the time the credits role you will be done. He said, "Okay; if the credits role and I am not done I will walk out." He left that night and had dinner with a new crown. He was very happy.

Early last year I was given the opportunity to purchase a portion of this practice. It was the final realization of my goal to own a dental practice. I am honored to be affiliated with such a great group of people. Pacific Dental Services is a very ethical organization. I have never experienced anything that violates my conscience, my professional standards and ethics, or the well-being of my patients. Nor would I ever allow that to happen. I understand the concern about anybody interfering with the doctor/patient relationship, but quite frankly, I am the licensee. It boils down to me; the buck stops here. It is a matter of integrity. My ethical standards are high, and being in such a situation would be enormously stressful. I would not, and could not, do it. In essence, this business structure that I have frees me to provide direct patient care to my patients, and that is what it is all about.

To that end, I urge you to pass S.B. 295 (R1) and permit dentists to have this important option available for their business structure in Nevada and for dentists to provide their patients with excellent dental care.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in favor of this bill? I see none. Is there anyone wishing to testify in opposition?

**William G. Pappas, D.D.S., President, Board of Dental Examiners of Nevada,
Las Vegas, Nevada:**

[Spoke from written testimony ([Exhibit J](#)).]

Vice Chairman Atkinson:

Excuse me, Dr. Pappas, how much longer do you have?

Dr. William G. Pappas:

Just a few pages.

Vice Chairman Atkinson:

We have a few more people who would like to testify before we lose our Committee, so we will ask you to wrap it up. Please hit the high points so we can get on to the next people who want to testify.

Dr. William G. Pappas:

Okay. Let me respond to Mr. Crowell's comments that the Board did not attempt to review the rule making process for issues that related to Dental Management Service Organizations (DMSO). *Nevada Revised Statutes* (NRS) 631.395 and 631.3465 are specific about statutory prohibitions; the Board cannot regulate what it is not, by statute, given discretion for. We do not have the ability to regulate these practice managers.

As one of the Committee members pointed out, we can go after the dentist, but we have to go to court to go after the practice management. I think this is not equitable. That is a serious concern for us.

Assemblywoman Kirkpatrick:

If it is illegal then why are they in business? How are they able to do what they are doing? What is the Board doing about it?

Dr. William G. Pappas:

That is the problem, knowing who these entities are and how they are controlling practices. We find out by complaints.

Assemblywoman Kirkpatrick:

Is there no process currently in place? Does the dentist not have to have a license that says where he is practicing?

Dr. William G. Pappas:

The dentist does, but the dentist does not have to disclose any of these practice management arrangements.

Assemblywoman Kirkpatrick:

I adore my dentist. I could drive down the street and point out a mom-and-pop shop or a much larger facility. I do not understand. I have to believe that eventually you do get out of the office to see if they are in place.

Dr. William G. Pappas:

We are pretty sheltered. Those groups that are not mom-and-pop shops may be owned by licensed practitioners and they would be practicing within the law. It is the ones that are unduly influenced by practice managers who are not licensees that are the problem.

Assemblywoman Kirkpatrick:

I know the State Contractors Board will go through the phone book and then do a sting operation. Does the Dental Board ever do anything like that?

Dr. William G. Pappas:

Yes, we do, when we have information that leads us to believe that there is a violation.

Assemblyman Ocegüera:

My questions were similar. I thought those were fairly serious allegations that you were raising, and I wondered what the Board was doing specifically. It sounded as though you could sanction the dentist if the dentist was doing something wrong in one of these managed organizations. It seemed like you were going to provide us with what you were doing to some of these organizations over the last ten years. It seemed incumbent on you to change the law if it was not working correctly. If you felt that these organizations were not good in some way, you had an obligation to come to us and say, there is a bad element out there. What has the Board done?

Dr. William G. Pappas:

We have in place statutory authority to go after the dentist; but again, within our statutes, we do not have any recourse over the practice managers. In every case that we have been made aware of, we have gone after them. We have gone after them successfully.

Assemblyman Ocegüera:

It appears that this one organization that we are talking about has been in existence for ten years. Your handling of this practice was not very successful.

Dr. William G. Pappas:

In my statement—I was not able to talk about it—there was a dental hygienist who recently had her license revoked who worked for InterDent Service Corporation, which is one of the groups that is petitioning you. She committed, under their auspices, Medicaid fraud, and a revocation action was taken. There are other potential actions that may be taken that I cannot comment on because I am not privy to that information as of yet. It has reached the adjudication stage.

Vice Chairman Atkinson:

If there is something else that you feel the Committee needs to get that you were unable to tell us, be sure to give it to the secretaries and they will get it to us.

Assemblywoman Gansert:

You just talked about Medicaid fraud. When I hear about Medicaid fraud, I think about billing. Was it related to the contractor, or was it related to the professional services provider?

Dr. William G. Pappas:

Both. It was services that were provided erroneously, described inaccurately, and overbilled—the whole gamut.

Assemblywoman Gansert:

When they start practicing, the dentists I know associate with a senior dentist, so they work for another dentist rather than a corporation. Are those opportunities readily available?

Dr. William G. Pappas:

They are still available. There is not a problem with getting into a practice.

To go back to your previous question, in that specific case she was encouraged by the practice management company to provide those services erroneously and overbill.

Assemblywoman Gansert:

Was the practice manager controlling more of her practice, rather than the dentist who should have been overseeing her?

Dr. William G. Pappas:

Yes.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

**Lee A. Drizin, Special Counsel, Board of Dental Examiners of Nevada,
Las Vegas, Nevada:**

I have two documents that I would like to have made part of the record. The first is a document entitled "Nevada State Board of Dental Examiners Analysis of Proposed Legislation Senate Bill No. 295" ([Exhibit K](#)). This document outlines, section by section, specifically what the Board's concerns are with the proposed legislation. The second document is entitled "Nevada State Board of

Dental Examiners Types of Provisions Routinely Found in DSO Management Agreements Which Directly and Indirectly Affect 'Clinical Care' ([Exhibit L](#))."

The current state of the law under NRS 631.395 is that non-licensees, non-dentists, cannot have ownership or control of dental practices. Our concern is that if you have the non-licensee in a position where they can now assert influence over the standard or the level or quality of care, it would be a bad thing. You have heard testimony from those in favor of S.B. 295 (R1) indicating that for two years the Dental Board has not imposed regulations. The answer, pure and simple, is that is correct. The law very clearly says that non-licensees should not have control over the dental practice. That is a difficulty for the Board because the law, unfortunately, does not define what "control" is. What happened is the Board used eight factors and these factors were announced by courts and other jurisdictions with laws similar to the State of Nevada on this issue. One of the things that a board should determine is when the non-licensee's control is significant enough that it crosses that line. Some of those factors include the ownership of the location as well as the ownership of the assets.

The affect of S.B. 295 (R1) is to do a complete 180-degree turn from what has been the Board's position in terms of what now constitutes control. What is interesting is that with all due respect to Senator Carlton, this is not a bill about employment. There has been no testimony offered, or evidence of any statistical data, that shows that because the Board has not adopted regulations consistent with S.B. 295 (R1) there are dentists who are not coming to Nevada who otherwise would be here. More importantly, this is not an issue about patient access. There is no data that shows that people are being denied access to care. In fact, to the contrary, the concern of the Board is that by adopting S.B. 295 (R1) we lower the standard of care.

I am not a dentist, but as a lay person when I first heard the terms "dental management groups" or "dental service organizations," it made sense at first blush. There are some dentists who are better clinicians than business people. Why not offer them the ability to have services that could help them with their billing, marketing, et cetera? A question came up concerning the Board not addressing some of these issues because these companies have been around for the last ten years. The answer is no. The Board has been policing these as well as they can. It is an evolving animal. Only recently did these concerns become clear to the Board.

For example, in the document entitled "... Types of Provisions Routinely Found in DSO Management Agreements," one of the most egregious contracts that we have is a contract involving a company that is actually represented by

Ms. Fulstone. In this company is a joint operations committee with responsibility for all decision-making authority over the business, the affairs, and the operations of the dental practice including the scope of the services provided, patient acceptance policies and procedures, pricing of services, negotiation and execution of contracts, establishment and approval of operating budgets, capital budgets, et cetera.

The types of problems Assemblywoman Kirkpatrick encountered are directly related to the control these dental service organizations (DSOs) offer or exert in these situations. The suggestion or the appearance that they are offering typing and bookkeeping services is an illusion. That is not what is happening here. That is the concern of the Dental Board. In fact, what you have is an organization that owns the assets of the dental practice and the location of the dental practice, and they own the cash flow because they get to determine how the money is spent. In many of these relationships, the dentist cannot even access his own bank accounts. He cannot make decisions about how that money is being spent because that is now being delegated to the DSO. More importantly, the DSO has control of the patients.

Assemblyman Horne mentioned the issue of control of client files. When a dentist decides to terminate his or her relationship with the DSO, the law says that the clients belong to the dentist, but that is clearly an illusion. The reality is that every single management contract that the Board reviewed involves covenants not to compete. So the covenant not to compete says the clients do belong to the dentist, but the dentist cannot participate as a dentist or as a member of a dental practice in our county for the next two years. The clients, realistically, are not going to wait two years, four years, or more until the dentist can come back into the county and practice. The control is with the DSO. The dentists just become employees. They lose control of their own practices, and that is the concern about this arrangement.

There was a group of dentists in Minnesota who recently recognized that the DSO relationship was not the panacea that many dentists were led to believe. In 2007, a decision came back in the *Park Dental* case. They had sued and were successful in winning a judgment in the amount of \$130 million against their DSO claiming that they had crossed the line and the DSO was eating into the dentists' profit the way they were providing the services. The head of the Park Dental group stated that all they ever wanted to do was provide quality services the way the dentists believed they should be provided as opposed to the non-dentist.

What was also interesting in that case is they found—and this is similar to Assemblywoman Kirkpatrick's situation—that the DSO interfered with patient scheduling and was insisting on handling all of the patient complaints.

The problem with S.B. 295 (R1) is . . .

Vice Chairman Atkinson:

We need to speed this up. How much longer do you have?

Lee A. Drizin:

I will wrap up very quickly.

The problem with S.B. 295 (R1) is that it is attempting to draw a distinction between clinical judgment and nonclinical judgment. That is a problem because many nonclinical issues directly affect clinical issues, and to try to draw that distinction is nonsensical. Therefore, on that basis, the Dental Board respectfully objects to and does not support S.B. 295 (R1).

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. If you have something that you feel is relevant for the Committee that you need to get to us, please give it to the secretary and we will make sure we get it to the Committee members.

Tony Guillen, D.D.S., Fallon, Nevada, Board Member, Board of Dental Examiners of Nevada, Las Vegas, Nevada:

I am just going to answer some questions that I heard. The first one was about HMOs and management companies and was asked by Assemblywoman Buckley. She raises the issue that the employment or other contracts for services with physicians and HMOs are certified by the Division of Insurance. They have a bond to pay and specific requirements pursuant to NRS Chapter 695C. That is not the case in this bill.

Another question that was asked by Assemblywoman Gansert was about associateships, and that is still a viable option. I have two associates in my office, and they are paying down their loans and will buy part of the practice. There are dentists who owe money right after school, but that does not mean that a management company is the answer.

Another question concerned access to care, a catchphrase for saying we need more dentists. We do not see that as being such a problem as it was in 2001 when Senate Bill No. 133 of the 71st Session, the credentialing bill, was going to solve all of our problems. It did not solve any problems for the underserved.

The underserved are still the underserved because they are out there where no one wants to go. I do not think this bill will solve that problem either.

We also have more dentists coming in because we now accept dentists who have successfully passed the Western Regional Examining Board (WREB) and the Northeast Regional Board (NERB). I believe there are 32 states that accept the WREB test. I believe 39 states accept the NERB, so we can get dentists from just about anywhere in the United States. That is not an issue.

We also have a problem with ethical standards and see it in the dental schools. I think these management companies were compromising the ethical standards of these young people coming out who feel pressured to do the kind of work that they are not supposed to be doing.

My last comment concerns the endoscopy center we all are quite aware of. Who do we punish if something similar happens in a company, if it is a clerical error or if somebody working for the management company accidentally does not sterilize something and it gets reused? If we get an HIV or hepatitis B infection and the dentist is not in charge of them, who do we chase? We chase ghosts; that is the problem we have, and that is why I am in opposition of S.B. 295 (R1).

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

**Robert H. Talley, D.D.S., Executive Director, Nevada Dental Association,
Las Vegas, Nevada:**

[Spoke from written testimony ([Exhibit M](#)).]

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify? I see none. We will close the hearing on S.B. 295 (R1). I understand there is some work to do in a very short period of time, so we will ask the individuals to get with the Committee members before Chairman Conklin decides to bring this bill back to this Committee for a work session.

We will open the hearing on Senate Bill 320 (1st Reprint).

Senate Bill 320 (1st Reprint): Revises provisions relating to dental hygiene.
(BDR 54-367)

K. Neena Laxalt, Elko, Nevada, representing Nevada Dental Hygienists' Association, Las Vegas, Nevada:

I know that Senator Carlton wanted to introduce this bill, and I know that she is in her own committee, so I will do what I can to give you a little history.

This bill was heard in the Senate and passed the Commerce and Labor Committee 5-2 with 2 absent and then passed on the floor following party lines. There were some concerns brought forward by the Dental Board that had to do with some of the provisions that made the language seem wide open for expansion of the scope of practice. We have addressed those issues in the amendment ([Exhibit N](#)). We will discuss those further, in detail. To my left is Lancette VanGuilder, she is the Legislative Chair for the Dental Hygienists' Association, and to my right is Caryn Solie, the Vice President of the American Dental Hygienists' Association. I will let them proceed with their testimony. If you have any questions for me, I would be happy to answer them.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Lancette VanGuilder, Legislative Chair, Nevada Dental Hygienists' Association, Las Vegas, Nevada:

[Spoke from written testimony ([Exhibit O](#)).]

In Nevada there are more dental hygienists than there are physical therapists, family and general practitioners, chiropractors, speech therapists, and psychologists, just to name a few professions.

[Resumed speaking from written testimony.]

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Gansert:

I missed part of your introduction. Do the dental hygienists have representation on the Dental Board right now?

Lancette VanGuilder:

Yes, currently there are seven dentists and three dental hygienists on the state Board of Dental Examiners. There is a dental hygiene committee that is specifically there to address issues of the dental hygienist profession. Unfortunately, we do not feel like we have fair and equal representation regarding our profession.

Assemblywoman Gansert:

I received a call from a dental hygienist who said that there is an association in Nevada and that this was not brought to the association as to whether all the dental hygienists were onboard with this bill or not.

Lancette VanGuilder:

I have two comments in regard to that. Our professional association has for over 25 years made it a professional goal to be self-regulated. So, for 25 years the national association has been talking about this. More specifically, over ten years ago, in Nevada, our professional association passed a resolution that this would be a goal of ours. This bill was not brought about this session from our professional association, although we fully support it and do want it. Senator Carlton was the maker of this bill.

Assemblywoman Gansert:

Ten years ago did you have representation on the Dental Board, or did that happen after?

Lancette VanGuilder:

I am going to defer that question to Caryn Solie.

Caryn Solie, Vice President, American Dental Hygienists' Association, Sparks, Nevada:

Ten years ago I believe we did have representation on the state Board of Dental Examiners. They did not have full voting rights. They only voted on certain issues. The dental hygiene committee with the three dental hygienists and one dentist was created about five or six years ago.

[Spoke from written testimony ([Exhibit P](#)).]

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to speak in favor of this bill? I see none. Is there anyone wishing to speak in opposition?

Let me say this before you get started. If you have lengthy testimony, we will certainly take it, but we need to move fairly fast as some of our members have another committee meeting to attend.

**William G. Pappas, D.D.S., President, Board of Dental Examiners of Nevada,
Las Vegas, Nevada:**

I will dispense with reading my statement, but will submit it for the record ([Exhibit Q](#)). I would like to speak to a few points that were brought up in the testimony.

First of all, no state in the nation has an independent dental hygienist board. I found it interesting that a couple of the speakers from the hygiene association mentioned the collaborative effort of dentistry and dental hygiene, yet they want to split up the collaborative effort. I do not understand that. I do not know how that will benefit the public by creating duplication or a confusion of services for the public. I do not know what an independent dental hygiene board would do in that respect. We do have a committee on dental hygiene that is comprised of three dental hygiene members and one dentist. We do value their input even though it has been portrayed that we do not. They provide information regarding licensure, examinations, discipline, and so forth. They bring concerns from the Dental Hygienists' Association to us, and we appreciate that. That has been in place since 2003.

The Attorney General's Office recently put together a blue ribbon panel and looked at small boards and the indebtedness of small boards. This bill would create another small board that would have potential problems with debt and be of concern to the Attorney General's Office with respect to disciplinary actions. One of the most expensive cases that we have had, and which we referred to in our previous testimony, involved a dental hygienist. I think a case similar to that would have the potential of breaking the proposed Dental Hygienists' Board.

The possibility of creating different levels of providers in dentistry was also mentioned. Do you really want to create a tiered health care system where low-income or indigent people get a different level of care than the rest of us? I have problems with that as a practitioner. I do not treat anyone differently. Everybody who receives care in my office receives the same level of care whether they have funds or not. It is hard not to feel a motivation is to seek independent practice, which would not benefit the citizens of Nevada.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

**Robert H. Talley, D.D.S., Executive Director, Nevada Dental Association,
Las Vegas, Nevada:**

[Spoke from written testimony ([Exhibit R](#)).]

We ask that you vote no on S.B. 320 (R1).

Assemblywoman Gansert:

Do the hygienists on your Board vote? It was not quite clear when I asked before.

Dr. William G. Pappas:

Yes, they do have a vote and it is a full vote.

Assemblywoman Gansert:

Okay, so originally they did not, but now they do?

Dr. William G. Pappas:

Yes.

Kathleen Kelly, Executive Director, Board of Dental Examiners of Nevada, Las Vegas, Nevada:

I do not have anything specific to add other than we do have letters that two hygiene members of our Board, Mr. James McKernan and Ms. Roseanne "Missy" Matthews, wrote and submitted to the Senate Commerce and Labor Committee to be considered ([Exhibit S](#)) and ([Exhibit T](#)).

All three hygiene members of our Board have not been in support of this legislation. They do recognize that they are full, independent voting members of the Board as well as serving on the hygiene committee. It has been many years since the days when the hygiene member was not a voting member of the Board. In fact, there have been changes that allow the hygiene members to participate in examinations. Although they do not grade the dentists, they do, in fact, lead the examinations for hygiene. The state Dental Board still administers our own dental hygiene examination for licensure.

I would also like to make reference to some comments regarding funding of the Board. There is a substantial difference in the license fees paid by dentists versus those paid by hygienists. The fees the Board receives both for application for a license as well as examination, anesthesia permits, and any other permitting for a dentist are considerable versus a hygienist licensed with our Board.

The dentists financially support the Board in a much greater percentage than do the hygiene members. I wanted to make it clear with respect to our budget that we now have biennial renewal; we have on hand two years worth of license fees at any particular time from the dentists or the hygienists. Perhaps our reserves, as they were referred to, would not be an appropriate accounting term

for those dollars. Those are biennial fees for a two-year budget period, not just reserves sitting there as if they were extra dollars.

Assemblywoman Kirkpatrick:

I am concerned because this is the first time we have seen the Board here. How are your regulations adopted? It seems this session, more than any other, there are a lot more issues. Are you like siblings not getting along well, or what is the problem? What is the process for adopting the regulations? There are many sections in the bill which say "regulations adopted by the Board." I have not heard the Board bringing any bills to fix potential problems.

Kathleen Kelly:

We are a fairly busy board with regulatory rule making. We follow the rule making procedures. The various changes to different regulations we have opened up are changes to *Nevada Administrative Code* (NAC) 631.210, which is the regulation concerning "duties delegable to a hygienist," or NAC 631.220 "duties delegable to a dental assistant." We just went through the rule making process last week and completed regulatory changes. We do regularly look at our statutes under NRS Chapter 631 and under the NAC to see what laws need to be amended. Some may be obsolete and need to be "sunsetting." There are other processes we use to change regulations to keep up with different changes that we need to be conscious of. We have participated in this legislative session a few times and have been here in past sessions as well. Specific to the hygiene regulations, we do look at NAC 631.210. They were amended in 2003 or 2005 with certain changes. We did have a discussion recently with the hygiene committee to the Board regarding some regulatory changes that the Board members did not support.

Assemblywoman Kirkpatrick:

Where does the public comment part come in?

Kathleen Kelly:

Our meetings are posted on our website, we post our meetings in accordance with the open meeting law, and we post rule making sessions. We also give notice through the mail to any individual who has asked for a copy of the postings of our meetings. We have a public comment period during our meetings. Occasionally, comments will come during each section of the agenda, or they can come at the end. Rule making is the same way. We give notice to the hygienist association and the dental association, as well as anyone else on the list, when we are considering regulatory changes or any other action. By law we are to meet once a year, but we generally meet every other month. That has turned into every month and sometimes twice a month. We also meet for examinations. It is a very public and open process. Anyone is

encouraged to attend, whether they are hygienists, dentists, regular members of the public, or media. I encourage members of the Legislature if they would like to attend.

Assemblywoman Kirkpatrick:

Can I get on your list? The biggest complaint that I have heard in my district concerns the public comment process—it is something like what we just changed with the school boards. After you go through the time to sit through those meetings, the public comment comes at the end and you feel like you should have stayed home and been on the web instead, or submitted something in writing. Please put me on your list because I would like to see the process.

Kathleen Kelly:

Absolutely, we would be more than willing to do that. We have a meeting coming up May 1.

Donna Jo Hellwinkel, D.D.S., Reno, Nevada, Board of Dental Examiners of Nevada, Las Vegas, Nevada:

I have been a Nevada-licensed dentist since 1980. I was in private practice in Reno for 26 years and currently work for St. Mary's and on the mobile dental van treating Women, Infants, and Children (WIC) mothers. I am also a member of the state Board of Dental Examiners. I would like to say that having the practices of dentistry and dental hygiene under one administrative board creates certain economies of scale from which the people of the State of Nevada have benefitted. I do not believe this is the time to create a new board in an effort to protect the citizens, but which will duplicate services and create confusion.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Senator Maggie Carlton, Clark County Senatorial District No. 2:

Years ago when I first started this process, Senator Townsend gave me the responsibility of chairing the subcommittee on boards. I learned a lot. One of the issues that came before me was when the dental hygienists showed up and asked to have their own board. That was ten years ago. We evaluated it and looked at it and thought that was not the right time. We compromised by having them be housed with the state Board of Dental Examiners and their advisory committee. We suggested they grow their profession, learn, understand what it takes to have their own board, and then come back and talk to us in the future. Here we are eight or ten years later, and they have decided that they do want their own board. The profession has reached that level. I do not know about you, but most of the time when I go to see the dentist, the person I spend most of my time with is the dental hygienist.

I believe they have reached that level, have earned the recognition, and are ready to take on the responsibilities of their own board. With that, thank you very much for allowing me to put my comments on the record.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. We will close the hearing on S.B. 320 (R1).

Is there any public comment? I see none.

Chairman Conklin:

Before we adjourn, we have quite a few bills and just a few days left. We will be here on Saturday morning. Is there anyone up for a Saturday afternoon meeting? I am not confirming that we need it, but it might be a good time to do it. We will know by Wednesday for sure.

[The meeting was adjourned at 4:27 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

Cheryl Williams
Editing Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 27, 2009

Time of Meeting: 1:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B.129	C	Dr. Robert H. Talley	Written testimony
S.B. 335 (R1)	D	Viki A. Windfeldt	Written testimony
S.B. 40 (R1)	E	Elizabeth Neighbors	Written testimony
S.B. 58 (R1)	F	Lorraine Pokorski	Written testimony
S.B. 121 (R1)	G	Darren K. Proulx	Summary of facts and a California report
S.B. 121(R1)	H	Steven L. Aldinger	Written testimony of Gail Anderson
S.B. 228	I	Patricia Durbin	Written testimony
S.B. 295 (R1)	J	Dr. William G. Pappas	Written testimony
S.B. 295 (R1)	K	Lee Drizin	Analysis
S.B. 295 (R1)	L	Lee Drizin	Report on DSO Management Agreements
S.B. 295 (R1)	M	Dr. Robert H. Talley	Written testimony
S.B. 320 (R1)	N	K. Neena Laxalt	Proposed amendment
S.B. 320 (R1)	O	Lancette VanGuilder	Written testimony and legislative packet
S.B. 320 (R1)	P	Caryn Solie	Written testimony
S.B. 320 (R1)	Q	Dr. William G. Pappas	Written testimony
S.B. 320 (R1)	R	Dr. Robert H. Talley	Written testimony
S.B. 320 (R1)	S	James McKernan	Letter in opposition
S.B. 320 (R1)	T	Missy Matthews	Letter in opposition