

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

**Seventy-fifth Session
April 10, 2009**

The Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 10:26 a.m. on Friday, April 10, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maggie Carlton, Chair
Senator Michael A. Schneider, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Dean A. Rhoads
Senator Warren B. Hardy II

COMMITTEE MEMBERS ABSENT:

Senator Mark E. Amodei (Excused)

GUEST LEGISLATORS PRESENT:

Senator Terry Care, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Kelly S. Gregory, Committee Policy Analyst
Daniel Peinado, Committee Counsel
Vicki Folster, Committee Secretary

OTHERS PRESENT:

Lynn O'Mara, Health Division, Department of Health and Human Services
Rocky Finseth, Private Investigator's Licensing Board

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Keith Lee, Board of Medical Examiners; Sutton Place Limited
George E. Burns, Commissioner, Division of Financial Institutions, Department of
Business and Industry
Fred Hillerby, Association of Debt Service Companies; Nevada State Board of
Dental Examiners
Neena Laxalt, Nevada Dental Hygienists' Association
Denise Selleck Davis, Nevada Osteopathic Medical Association
Rosalind Tuana, Executive Director, Board of Examiners for Social Workers

CHAIR CARLTON:

We will open with the hearing on Senate Bill (S.B.) 268. The provisions of this bill are contained in chapter 622 of *Nevada Revised Statutes* (NRS) which are the principles and rules under which boards operate.

The public member section of the bill is taken from the federal group that oversees boards. This is model language to deal with the public member issue.

The sharing of information issue, a problem during the hepatitis C crisis in southern Nevada, is addressed in this bill.

When performing community service as a result of a disciplinary action by a board, since it is in lieu of paying the fines or penalties, it does have a dollar amount associated with it, therefore, that would not be considered Good Samaritan care.

SENATE BILL 268: Makes various changes to provisions governing occupational licensing boards. (BDR 54-161)

LYNN O'MARA (Health Division, Department of Health and Human Services):
The Health Division supports S.B. 268 and I have submitted written testimony to that effect ([Exhibit C](#)) and a proposed amendment to the bill ([Exhibit D](#)).

SENATOR HARDY:

The only part of the bill that I am concerned about is section 3, subsection 6, which indicates a board member cannot be a registered lobbyist. I have constitutional concerns with that. The right to petition your government is constitutional and if you choose to register as a lobbyist to petition your government, it ought to be permitted and allowed.

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CHAIR CARLTON:

Perhaps it should be a registered, paid lobbyist. I would not want to limit someone's opportunity to come here. Our citizens do not have to register as lobbyists and they can still speak with us. The concern is when you are paid to actually advocate for a certain group.

DANIEL PEINADO (Committee Counsel):

I understand the concern. I am going to have to review it further, but I suspect that the issue would be driven by whether or not there is a conflict there in the first place.

CHAIR CARLTON:

This was taken right from the Federation group that oversees boards. For them to send this out to every state and have it be done in every state, I would hope that we are not all breaking the same rules. It was my understanding that this was not a problem.

SENATOR HARDY:

There are a lot of rules, regulations and laws on the ethical conflict of interest. We should let those be in control here. I would be more comfortable if we remove subsection 6 in section 3.

CHAIR CARLTON:

I do not feel there is a concern. That is why I used the Federation model to make sure we address those issues. These are so hard to craft and this language has stood the test of time in other states.

SENATOR SCHNEIDER:

I am comfortable with the federal language.

CHAIR CARLTON:

I will commit to you that if we find something different, we will address that.

SENATOR HARDY:

If the rest of the Committee is comfortable with it, I will just be a no vote in Committee and see if we can work it out before we get to the Senate Floor.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 268.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RHOADS AND HARDY VOTED NO.)

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CHAIR CARLTON:

We will go back to S.B. 151 that this Committee already processed. This was the recovery fund bill for the constituents who had a problem getting their money back if they got caught between the contractors and a lien. We processed the bill with an amendment. The amendment is a much bigger issue than what we wanted to deal with in that form. There will be other vehicles to have a discussion on that issue. My recommendation to the Committee would be to rescind our previous action to amend and do pass S.B. 151 and bring it back to the Committee.

SENATE BILL 151: Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board. (BDR 54-702)

SENATOR RHOADS MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 151.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY ABSTAINED FROM THE VOTE.)

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SENATOR HARDY:

I have learned that while my association did not lobby on that bill, certain members of my association did. I would like to be shown as abstaining.

CHAIR CARLTON:

There will still be an amendment because there was another amendment proposed by Mr. Lee that was encapsulated within that motion. The motion is still "amend and do pass" on S.B. 151.

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SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 151.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY ABSTAINED FROM THE VOTE.)

CHAIR CARLTON:

We will now go to S.B. 8. Committee you have a mock-up for proposed amendment 4187 to this bill ([Exhibit E](#)). There were a lot of problems with language on how to choose people for the boards. We "mocked-up" the amendment to keep the language of the financial disclosure that was discussed earlier. This is what I would propose to the Committee to process today.

SENATE BILL 8: Makes various changes related to the process for appointment to certain medical boards. (BDR 54-216)

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED S.B. 8.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CARLTON:

We will go to S.B. 265, the Private Investigator's Licensing Board bill. There were some concerns from the Las Vegas Metropolitan Police Department on the impact this would have on them. They were already doing this and they had the building, equipment and the people. We have a proposed amendment ([Exhibit F](#)).

SENATE BILL 265: Revises provisions relating to the Private Investigator's Licensing Board. (BDR 54-1053)

SENATOR HARDY:

I have spoken with both sides on this bill. My understanding is that both sides have agreed to the amendment that has been submitted by Rocky Finseth.

SENATOR PARKS:

My concern is unrelated to the amendment in front of us. There seems to be some irregularity relative to NRS 648.157 and NRS 481.063. I would ask that we include in the bill an amendment to make the two consistent. That can be done by amending NRS 648.157, deleting the wording that seems to be in conflict, "... for any other than a purpose that is directly related to his investigation of an insurance claim." This language is restrictive when you look at the numerous issues that are applicable in NRS 481.063.

CHAIR CARLTON:

Mr. Finseth, did you need to put something on the record? This really is a conflict between the Department of Motor Vehicles language and some other language. Have you seen this, Mr. Finseth?

ROCKY FINSETH (Private Investigator's Licensing Board):

Yes, we have seen Senator Parks' amendment. The Private Investigator's Licensing Board is comfortable with what is being proposed.

CHAIR CARLTON:

It addresses the conflict and makes things a little more clear.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 265.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CARLTON:

We will go on to S.B. 269. When this bill was heard, there were some concerns about the issue of allowing a physician to come into the State to give expert testimony and not being able to go back and reach out to that physician to bring

them back for the other side to question. This mock-up contains only the section that is impacted by the amendment ([Exhibit G](#)).

Mr. Galloway had brought the amendment, which we thought was the full amendment, but this is what we were able to do here. Another proposal was just to eliminate this licensure altogether because they should not be getting a license to practice medicine because they are not practicing medicine. They are just coming into the State to give expert opinion.

SENATE BILL 269: Makes various changes to provisions governing physicians and certain related professions. (BDR 54-757)

KEITH LEE (Board of Medical Examiners; Sutton Place Limited):

I have discussed this matter with Louis Ling, the executive director of the Board of Medical Examiners and we have no problem if you just delete that section entirely where we proposed to license independent medical exam (IME) physicians.

SENATOR COPENING:

What section are you referring to?

CHAIR CARLTON:

That would be section 37, subsection 3 which is the language for the IME license.

MR. LEE:

Looking at the mock-up we would want to delete section 37, subsection 1, paragraph (f). This is the provision that provides for the licensing for the IME. If that is deleted, then the language in subsection 3 would be deleted also.

SENATOR COPENING:

We are deleting paragraph (f), keeping section 2, paragraphs (a), (b) and (c), and deleting subsection 3. Is that correct?

CHAIR CARLTON:

Subsection 3 was proposed language to deal with the issue, but we found that this would not be the correct way to do it. Subsection 3 was going to be the proposed amendment. We are going to eliminate the whole section.

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MR. PEINADO:

As I understand it, if we are going to eliminate the single purpose license for a physician for the purposes of an IME, we would need to delete the new language at paragraph (f). We would also delete the amended subsection 3 which provided for a subpoena of such physician. In subsection 2, there is a reference to paragraph (f) which would also have to be deleted.

CHAIR CARLTON:

Do we have a motion?

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 269.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:

We will go to S.B. 295. We have a proposed amendment that deals with Senator Amodei's issues ([Exhibit H](#)). It was indicated to me that this deals with the issue of fee-splitting that he brought up in conjunction with this bill.

[SENATE BILL 295](#): Revises provisions relating to dentistry. (BDR 54-913)

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 295.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:

We will move on to S.B. 310 involving trusts. There were a number of issues presented on this bill when we had it in hearing. We asked those involved to work on the bill. They put all of their issues in the form of an amendment

([Exhibit I](#), original on file in the Research Library). There are still some concerns. The level of discomfort is shared by everyone involved in this bill, which means we are probably on the right path.

SENATE BILL 310: Revises provisions governing the regulation of trust companies. (BDR 55-788)

GEORGE E. BURNS (Commissioner, Division of Financial Institutions, Department of Business and Industry):

I support this amendment in concession to preserve the greater good that the majority of S.B. 310 is intended to accomplish. This amendment is a compromise to accommodate the business interests of a relatively small group that Mr. Ferrari represents. I support this in order to achieve the majority of the regulatory enhancements that were contained in the original bill. It is said that compromise is the art of politics. As a regulator, my art is holding the line that politics established to protect public interest.

I would like to discuss the types of trust company risks that this bill was intended to address. I am limited in the specific information I am at liberty to discuss here today in regard to examples of the risks to public interest that S.B. 310 is intended to mitigate. I can tell you that not all trust companies are trustworthy. The risks to the public that S.B. 310 is intended to address are licensing risk, examination regulatory control risk and enforcement risk.

An example of licensing risk includes a trust license application denial that has been going through legal challenges for over 18 months, in an administrative hearing, two district court rulings and is now pending review before the Nevada Supreme Court, due to inadequate and ambiguous statutory provisions for licensing of trust companies. In this example, the Division of Financial Institutions (FID), Department of Business and Industry, denied a trust license to a party that was the president/CEO of a trust company that was the largest trust failure in Illinois history. The denied party contends that the FID's decision to deny the trust license is guilt by association. The FID contends that it is guilty by lack of competence. The Nevada Supreme Court will make the final determination on this denial. This is the reason S.B. 310 enhances licensing criteria to remove these types of ambiguities.

The next example is the examination regulatory control risk. In this example a trust company license was suspended due to examination findings. Accounts

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were sold pending a revocation hearing to evade potential receivership ending in a stipulated revocation of license. Losses to the sold trust accounts due to malfeasance are still undeterminable pending a report from a court-appointed special master. A trust company executive has reportedly been indicted for securities fraud by State securities regulators. This is the reason S.B. 310 enhances disciplinary procedures so these types of loopholes do not exist in the future.

In the final example, enforcement risk, a Nevada licensed trust company, operating in Illinois with no determinable physical presence in Nevada, had its license revoked in conjunction with the Securities and Exchange Commission (SEC) for misappropriation of trust account funds. Loss to trust customers is estimated in excess of \$48 million. The SEC was appointed receiver due to weak Nevada enforcement statutes under chapter 669 of NRS. This is the reason S.B. 310 enhances the levels of capital to be maintained by trust companies.

I support this amendment because it appears to be the compromise necessary to enact the majority of regulatory enhancements intended by S.B. 310. I leave it to your wisdom to determine the final outcome for S.B. 310 and its intentions to protect the public interest while providing conducive framework for the trust industry to operate safely and soundly in the Nevada.

CHAIR CARLTON:

Do you have another amendment that was to be proposed as far as dealing with the regulation that we needed to add in?

MR. BURNS:

Are you referring to the bank closure amendment that we were going to attach to this bill?

CHAIR CARLTON:

Yes, were you going to do that today or was that going to be a priority in the Assembly?

MR. BURNS:

I have not been informed as to where that will take place.

CHAIR CARLTON:

If I understand correctly, the FID asked for an emergency regulation that is only good for 120 days, it is about 3 to 4 weeks into its 120 days, and it deals with the public safety aspects of a bank closure. If the Committee will permit, we do not have that language in front of us, but being thoroughly vetted through the regulatory process, we want to make sure that the commissioner does not lose the opportunity to address those significant issues.

SENATOR HARDY:

We can conceptually amend and do pass the bill and bring it back to the Committee to review before it goes to the Senate Floor. Is that a problem for the deadline?

CHAIR CARLTON:

Since it is a public document, it is a regulation right now.

SENATOR HARDY:

Is that a problem for the deadline?

CHAIR CARLTON:

I do not believe so. We can always pull the amendment later if we think it is not necessary. Currently, the emergency regulation is in place. Everyone is aware that it is a public document.

MR. PEINADO:

My concern about trying to take action on it at a later date is that there are no later dates for this Committee.

SENATOR HARDY:

That was not what I was suggesting. I was suggesting that we amend and do pass and if we do have to take any further action, we would take the action on the Senate Floor, just to bring it back to the Committee to review before it goes to the Floor. We are going to adopt it in the conceptual form today based on the regulation. We would need to review it before it goes to the Senate Floor.

CHAIR CARLTON:

I am fine with that. This is an important measure for the FID to be able to utilize at this time.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 310.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:
We will now go to S.B. 273.

SENATE BILL 273: Provides for various activities related to nonembryonic cells.
(BDR 54-874)

SENATOR SCHNEIDER:
I had a series of bills on health care. This one relates to stem-cell therapy. My goal is to develop a whole new industry for Nevada in health-care tourism. Stem cells are a very important part of that.

Senator Hardy had some concerns about people being unregulated by a board somewhere and mentioned that we had never done that before.

BRENDA J. ERDOES (Legislative Counsel):
Section 6 says, "Notwithstanding any other provision of law, any department, commission, board or agency of a state or local government, including, without limitation, a state professional board, shall not:" This would encompass the Title 54 of NRS licensing boards. This is probably what you are concerned about.

Section 6, subsection 1 says, "Except as otherwise provided in subsection 2 of section 9 of this act and subsection 2 of section 11" Those two sections are drafted in a parallel fashion and they both work in the same way. Section 9 deals with nonembryonic cells and section 11 deals with compounding drugs with the nonembryonic cells in them. They both say that the licensing board would still regulate the activity of dispensing whatever the compound is or nonembryonic cells are. That is where the exception is. The exception is saying that only someone who is licensed to do whatever method they are using to put these into an individual, whether intravenous or injection, the person doing this

has to be licensed by a board in this State. Those boards would regulate the licensed person as to what goes into that injection.

SENATOR SCHNEIDER:

Whatever the licensed person does is regulated by the board it falls under.

SENATOR HARDY:

I did not want to set a precedent by saying these things are permitted by statute and you cannot regulate contrary to what has been said statutorily. We would have to go in every bill and say you cannot regulate contrary to what the Legislature has ruled.

MRS. ERDOES:

That does make sense. To a certain extent, that is true and that is why you see the "notwithstanding" language in the bill. It is true to the extent of only the part of what can be in the syringe, the compound or the stem cells. In the licensing boards and where we regulate what can be put inside a person, these may be an exception to that. That is why the "notwithstanding" is there.

SENATOR HARDY:

I just wanted to be sure we were not doing something here that we have not done in other statutes relative to directing regulatory boards about not acting when the Legislature is acting. It appears that we have not. We have established a very sufficient legislative record.

SENATOR SCHNEIDER:

I know that S.B. 271 and S.B. 272 are tough bills. I would like to have Mrs. Erdoes review them and see if they fit in with creating this new medical tourism business. That would be valuable. If they do not fit in, that is okay.

SENATE BILL 271: Provides for the practice of alternative medicine in this State. (BDR 54-876)

SENATE BILL 272: Creates the Institutional Review Board of Nevada. (BDR 54-873)

CHAIR CARLTON:

I wanted to focus on S.B. 273 and I have not been able to delve into the other two. I was hoping we could get S.B. 273 processed. It could be a very valuable

asset, not just to Nevadans but to everyone in the Country and possibly worldwide. I saw it as the most important component to keep moving forward. As we become more comfortable and get more answers on the other bills, we can incorporate them into a whole package.

SENATOR SCHNEIDER:

So you wish not to hear about S.B. 271 and S.B. 272?

CHAIR CARLTON:

We can discuss them but I am not sure how much we can put in there right now. I still have a lot of unanswered questions on these two bills. I feel very comfortable with S.B. 273. I am not sure where the Committee is on these, if they are more comfortable with them that I am.

SENATOR SCHNEIDER:

If I could indulge you and the Committee, I would like to have Mrs. Erdoes answer my questions whether these tie into the medical tourism and if these are important to S.B. 273.

MRS. ERDOES:

I will tell you that as the people who we were asked to work with on this explained it to me, this is one package. The alternative medicine piece in S.B. 271 was explained to be a part of the medical tourism concept coming here. Basically, what it provides is that it splits out from the Board of Homeopathic Medical Examiners the part that was considered alternative medicine and put into this bill which would say that alternative medicine, if practiced within the constraints of S.B. 271, would not be regulated as any other type of health care. That is why the "notwithstanding" provisions are in these sections.

The other part that is in S.B. 271 is the requirement in section 8 concerning the "ABC" coding. That would be required as well as in section 9, saying that insurers have to pay for these types of alternative-medicine services in the same manner that they pay for conventional medical services. The concept is to treat the same thing. Section 10 is the managed-care portion.

Senate Bill 272 contains the Institutional Review Board (IRB) which essentially brings back the Nevada IRB which will expire on June 30, 2009, under existing legislation. If S.B. 272 is enacted, the IRB would come back. This is the board

that allows there to be studies done on different types of alternative-medicine practices. This IRB is taken out from under the Board of Homeopathic Medical Examiners supervision and will function as an independent board. That is part of the draw to this medical tourism concept.

SENATOR SCHNEIDER:

I think this all would be a help for S.B. 273. I know that some of the Committee members still have concerns about these bills. I would be willing to work with you over the next few weeks to address these concerns and other bills that come from the Assembly.

As we look at S.B. 273, we can talk with some of the Assembly people and explain to them what we are trying to do. We are not trying to do anything underhanded. We have to point out that all of this is to be taken out of the Board of Homeopathic Medical Examiners that we have worked on before and where we have had some problems. We are creating a whole new entity that will be freestanding.

Senate Bill 273 is a really clean bill and is ready to go. We do have private companies that are looking to come to Nevada with the passage of this bill.

SENATOR PARKS MOVED TO DO PASS S.B. 273.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

SENATOR CARLTON:

We will move on to S.B. 355.

SENATE BILL 355: Enacts the Uniform Debt-Management Services Act.
(BDR 52-1279)

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

We have two proposed amendments to S.B. 355 ([Exhibit J](#), original is on file in the Research Library) and ([Exhibit K](#)) which were drafted between Michael Kerr, U.S. Uniform Law Commission and Fred Hillerby, Association of Debt Service

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Companies. Also, Michelle Johnson of the Consumer Credit Counseling Service testified on this bill. She and I have been communicating on this bill, and she understands that today is the deadline. I promised to continue to work with her on the Assembly side or wherever necessary to alleviate the concerns that are particular to her nonprofit. I do not have any amendments pertaining to that organization.

CHAIR CARLTON:

We were not able to deal with the nonprofit issue. We have agreement from people that it needs to be dealt with, but we were not able to accomplish it today.

SENATOR CARE:

Yes, that is the case.

FRED HILLERBY (Association of Debt Service Companies; Nevada State Board of Dental Examiners):

The changes found on pages 20, 21 and 27 of the proposed amendment, [Exhibit J](#), particularly on page 27, are fine with us if the nonprofits were allowed to pay a lesser fee than us. This amendment begins to address the concerns of the nonprofits and is a step in the right direction.

CHAIR CARLTON:

Knowing full well that the bill has to be out of Committee today, the issue has been addressed, everyone is aware of it, things can be discussed and worked on before April 21, the first-House passage. I am comfortable with this language.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 355.

SENATOR RHOADS SECONDED THE MOTION.

CHAIR CARLTON:

The motion includes the amendment prepared for Senator Care, April 10, 2009, the mock-up, [Exhibit J](#), and the proposed amendment 3886 prepared for Senator Care by the Legal Division, April 2, 2009, [Exhibit K](#). Those would be the two amendments included in the motion.

SENATOR PARKS:

Did the second amendment include the community counseling?

CHAIR CARLTON:

This is to address that community-counseling issue. This is the language that Mr. Hillerby referenced that allows the commissioner, at his discretion, to provide for a reduced-fee schedule for qualified nonprofit providers. That is the language we have inserted to make sure that the intent is there. We do plan on treating the nonprofits at a greatly reduced level.

SENATOR PARKS:

Thank you, Madam Chair. There was one, only one thought I had was to get around some of the concerns and that was, you know, if the nonprofit had been established and in operation for a considerable period of time so that we knew that they were fully credible.

CHAIR CARLTON:

I had thought about that too, Senator Parks. The one thing I did not want to prohibit was another nonprofit with all the problems that may be arising in the future from prohibiting someone else from trying to help through this. Just because we have a couple doing it now, and they are very reputable, we may have others who also want to provide that type of service to our constituents. I would not want to put any barriers in their way.

SENATOR PARKS:

I just want to make sure that they at least have a track record.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:

We will go ahead now and take S.B. 365. I do not have a comfort level for it, but I do understand what it is trying to do.

[SENATE BILL 365](#): Establishes provisions relating to family trust companies.
(BDR 55-395)

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SENATOR SCHNEIDER:

I know these trusts get very complicated and they require a lot of expertise. The amendment just passed out by Mr. Lee appears to be different than the one in our book.

MR. LEE:

John Duncan who appeared Monday, April 6, 2009, and testified on this matter, is certainly the national expert in family trust companies. The amendment that you see before you is presented by Mr. Duncan and me on behalf of my client ([Exhibit L](#)). What Mr. Duncan is attempting to do here is to take what we view as better and stricter language that was adopted in S.B. 310, and place it in lieu of the language that speaks to these issues.

CHAIR CARLTON:

Do we want consistency between the two bills with regard to the language?

MR. LEE:

It is to be consistent with respect to capital requirements and other matters reflected in retail trust companies and family trust companies.

SENATOR SCHNEIDER:

I will disclose that I have a trust and Senator Rhoads indicated he has a trust also. We do not have a conflict with this.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 365.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:

We will now turn to S.B. 324.

SENATE BILL 324: Revises provisions relating to industrial insurance.
(BDR 53-1064)

SENATOR SCHNEIDER:

This is my bill on workers' compensation and the issue was to pull out the workers who had catastrophic injuries. Bob Ostrovsky has given me a list of ideas for this that may be done in regulation instead of a bill. He also indicated he would work with me going forward on another workers' compensation bill if the list of items he gave me does not work in regulation. Madam Chair, I would suggest we let this bill go at this time, continue working it and indicate to the workers' compensation community I feel strongly that catastrophic injuries have to be treated in a different way. Individuals with these types of injuries have a person assigned to them and will work their case along. With that, I will be working with everyone in the workers' compensation community on this as we move forward.

CHAIR CARLTON:

The other bill for workers' compensation is S.B. 366, is that correct? This is a bill I presented with an amendment on April 8, 2009. Mr. Peinado, do we have additional language?

SENATE BILL 366: Revises provisions relating to workers' compensation.
(BDR 53-590)

MR. PEINADO:

Madam Chair, I provided you with a mock-up which was not distributed to the entire Committee. It was primarily incorporating the same concepts using existing statutory language, more of a drafting technicality.

CHAIR CARLTON:

Committee, if you will remember, the original bill was to change the burden of proof. A number of folks came to me and expressed their concerns with this, and I realized that the path I was on was not the correct path. I chose another path with alternate language. One of the things I know I did not make clear that day, and I apologize for this, is there were a number of concerns about changing the criteria, changing the ground rules and creating a whole new world in workers' compensation. That is not what I believe this does under this declaration by the Legislature on workers' compensation. The same rules are in place, the same criteria, the employers have their set of rules and the employees have their set of rules. This basically states to those involved what workers' compensation was truly to be about and that we want the workers fixed. I liked the language of this being a humanitarian measure, the way it was

worded, ensuring that when it comes to a close call, when we have those coin-flips, those individual extraordinary circumstances, our ultimate goal is to make sure the worker gets the care. That was the only goal. It is not to gut workers' compensation, as some people have said. That was never my intent. It was to address all the issues described by people who felt they have been put through the mill.

It is now a new system since this language was enabled; a private system, a private insurance product. I believe the Legislature has a responsibility to send a very strong message that we do not want people in a "no-win" situation. We want everybody to play by the rules that we establish here. We take care of the benefits and lay it all out. Ultimately, we want the employee to recover and go back to work. The one plea we heard from every one of the individuals who testified before us is, "I just want to go back to work."

SENATOR SCHNEIDER:

Basically, has everything been taken out of page 2, line 3?

CHAIR CARLTON:

Actually, that proposed language has been reworked by Mr. Peinado.

MR. PEINADO:

Again, this will more fully use the existing language. Note the preexisting language of NRS 616A.010 as it is on the current mock-up proposed amendment ([Exhibit M](#)), ignoring all the strikeouts. In section 0.5, subsection 2, line 9, the five-word phrase, "on its merit and not" would be stricken. In subsection 3, line 12, after the "provisions of chapters 616A to 617, inclusive of NRS," we would probably include a phrase along the lines of "were enacted as a humanitarian measure and are based on a renunciation of the rights and defenses" In subsection 4, on line 16, again the entire subsection would not be stricken; the word "not" would be stricken. On the same line, the "or" would be stricken and replaced with "and." On line 17, the first word "or" would be stricken and replaced with the word "and." On page 2, line 1, the first word "or" would be stricken and replaced with "and." We will provide you with a copy of this. The intent is not primarily to change the concept as it currently exists, but to use more of the existing language already present.

SENATOR HARDY:

I am concerned that this does have the consequence of undoing some of the evolution of this statute. I will have to oppose this bill.

SENATOR SCHNEIDER:

I am still kind of uncomfortable with it, too. It is all gutted. There is this part on the second page: "The provisions of this title shall be construed broadly and liberally" Is that still in?

CHAIR CARLTON:

Yes.

SENATOR SCHNEIDER:

Was that language Scott Young composed when he was with the Nevada Industrial Commission?

CHAIR CARLTON:

I believe so. This is the previous language from way back when, according to Mr. Badger, and I know Mr. Young was there at the time. This is the language that, in all the different things we heard, including your constituent that came forward with his issue, that would help folks be able, when they hit—all the other criteria stay in place. But when you hit that last hurdle, this is basically what a judge will look at to make sure that the employee has their voice heard when we hit those extraordinary cases like you are trying to deal with. That was the goal.

SENATOR SCHNEIDER:

Well, mine would be taken clear out of the system. If you have somebody with a catastrophic injury and they are sitting before a judge, the system is screwed. That is my opinion.

CHAIR CARLTON:

But that is what is happening now.

SENATOR SCHNEIDER:

I do not know; I am just not comfortable with this today. I am having a tough time with this one.

CHAIR CARLTON:

Well, it appears that it will probably be at least a deadlock without Senator Amodei here. Since there are a number of other workers' compensation bills out there, we could probably just let this one go at the moment if the Committee is uncomfortable with doing it.

SENATOR SCHNEIDER:
Right.

CHAIR CARLTON:

I do not believe there is anything insidious about this, nor will it change things dramatically. As I have said, the same procedures, from the beginning to end, will apply. This is legislative intent on how we want the injured worker to be treated.

SENATOR SCHNEIDER:

For the record, I am a little uncomfortable with the costs. I know that even Danny Thompson is concerned about costs that may come through this Session because of high unemployment of the people he represents. I want to work with you, Madam Chair, because obviously you have done a lot more workers' compensation, but I would like to sit down maybe with Mr. Thompson and Mr. Ostrovsky and see what the costs are.

CHAIR CARLTON:

Mr. Ostrovsky has made it very clear his clients are absolutely opposed to this. I have not had any indication from anyone; I have had lots of indications of people who are opposed because, in my honest opinion, they feel the language that is in existence now benefits them more than it does the worker. I believe this gives the worker more protection as long as they follow the same guidelines that we ask them to follow now. I do not believe that anyone has any problems or they have not told me they have, so usually when they are silent, I am on the right track.

SENATOR SCHNEIDER:

Well, you know, Mr. Thompson and Mr. Jeffrey have not talked to me about this. I know I talked with Mr. Thompson a few weeks back, and he is just really nervous about any additional costs to business right now because his guys are so tenuous. Their unemployment rate is so high and he is just worried about keeping people working. So with that, I say I would like to work with you.

CHAIR CARLTON:

Okay. It is nice to see that you and Mr. Thompson have such a close relationship. That is good.

SENATOR SCHNEIDER:

We do. Yes. So, I would like to work with you on this some more, and we can bring this back and look at it.

CHAIR CARLTON:

We will not process this bill at this time because it appears that it would not pass. We will go to S.B. 397, the plastic bag bill.

[SENATE BILL 397](#): Establishes provisions relating to the use of certain plastic bags. (BDR 52-1143)

As you may recall, this bill was first introduced by my intern, Titus Roberson. After hearing testimony from the gentleman in southern Nevada, I did additional research and gave it more thought. The idea of getting rid of the bags within two years would not work because it was not fair to the business to come up with a new business model and possibly have to retool and start making those compostable products we were talking about. If the Committee would allow me, I would propose to move that to four years, so that we may give these folks plenty of time ([Exhibit N](#)). The 10-cents-per-bag provision would stay and would allow us to accomplish the mission of cleaning up the mess that has been building up over the years in regard to plastic bags.

SENATOR HARDY:

I will be unable to support it. I think we need to do all we can to encourage businesses to be environmentally sensitive and to consider these matters. As you may recall during the hearing, I asked questions about where the industry was headed. I certainly hope, whether this bill passes or not, that it pushes the industry in that direction. I think that is an appropriate activity for this Legislature. We should bring these types of things to the forefront in an effort to generate change. We did this a couple of sessions ago for florescent lights, and that kind of activity is appropriate for a Legislature to encourage private industry to adjust. I think the 10 cents per bag and so forth is a little bit overreaching. I appreciate the Chair bringing this forward and your intern did a great job, but I will be unable to support it today.

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SENATOR SCHNEIDER:

With your four-year amendment, even though those bags are being made into corks for wine bottles, that means four more years of corks. I will support voting for it to take it to the Senate Floor and provide you the opportunity to get the word out; you will generate more press and more votes on the Senate Floor. I will support the bill to get it out of Committee.

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 397.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RHOADS AND HARDY VOTED NO.)

CHAIR CARLTON:

We will now discuss S.B. 320, the dental hygienist bill.

[SENATE BILL 320](#): Revises provisions relating to dental hygiene. (BDR 54-367)

This bill deals with separating the hygienists from the Board of Dental Examiners of Nevada (Dental Board). Clarifying statement needs to be made. Mr. Hillerby and I had a conversation in the hall and there was discussion about whether this had been done anywhere else. We thought that it had not, but apparently one other state is doing this, is that correct Mr. Hillerby?

MR. HILLERBY:

It was our understanding that, prior to that hearing, no state had done it. It was advised that California has a separate board for hygienists; however, there is a modifier to that. Evidently, California Governor Schwarzenegger has pulled all of those professional licensing boards into an administrative agency. I think most professionals in California think that once Governor Schwarzenegger is out of office, they will probably get back to where they used be.

CHAIR CARLTON:

Committee, are there any additional questions about this? I believe financial questions were answered in the financial feasibility outline and balance sheet provided by the Nevada Dental Hygienists' Association (NDHA) ([Exhibit O](#)).

There are also some proposed amendments from Neena Laxalt representing the NDHA on some of the cleanup language that needed to be completed ([Exhibit P](#)).

SENATOR RHOADS:

I had a hard time making up my mind on this bill, but I also had a hard time denying any industry an organization that takes care of their business. I will be supporting the bill.

SENATOR PARKS:

To clarify, does it still retain all the controls that deal with a hygienist's work under the direction of the dentist? None of that changed, as I read it.

CHAIR CARLTON:

Yes, as far as scope of practice, they are a collaborative and this allows them to have their own regulatory structure.

SENATOR COPENING:

For clarification, there is an amendment in the binder from the NDHA, [Exhibit P](#), and I want to be sure that it is what we are also considering for this bill.

CHAIR CARLTON:

That is the cleanup language that adjusts some of the wording because when we picked up the language right out of the Dental Practice Act and moved it to this bill, there needed to be some adjustments and I believe those were the adjustments that were proposed, [Exhibit P](#). Am I correct Ms. Laxalt?

NEENA LAXALT (Nevada Dental Hygienists' Association)

The amendment that you have in your packet indeed would adjust the number of board members from nine to seven, [Exhibit P](#). It also did some cleanup of some language that was transferred completely over from the Dental Board language that included a committee of dental hygienists, and obviously if they have a board of dental hygienists, a committee would no longer be necessary.

SENATOR HARDY:

I regret that I have not had the chance to focus on this Session as I would have liked. I am always a bit hesitant to create new boards where there is no need. I am going to take a page from Senator Schneider and vote to advance this to the Senate Floor. I do have some outstanding questions.

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CHAIR CARLTON:

I have reservations as well about creating new boards.

SENATOR PARKS:

Section 10 of the bill is where I have some concerns. However, like Senator Hardy, I have other concerns that I would like to get resolved.

SENATOR COPENING MOVED TO AMEND AND DO PASS S.B. 320.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR CARLTON:

We will go to S.B. 362.

SENATE BILL 362: Clarifies and revises provisions related to the suspension or revocation of professional licenses by health care professional licensing boards. (BDR 54-217)

This bill was the suspension bill that brought an issue to our attention. If they suspend the license of a health-care facility, was one of our psychologists working there in harm's way?

MR. PEINADO:

From the time of the last hearing, I have had an opportunity to look into this issue more. Again, as with many of the boards, what was provided as grounds for discipline was discretionary in terms of the ability of the Board to enforce discipline based on the various violations described in those provisions. At least initially, the board may take a look at a violation, have an investigation and determine that in a particular case disciplinary action may not be warranted. Further, very often there are other opportunities, for example, under NRS 622.330, for the various boards to enter into agreements with various licensees to enact remedial measures or to address some of the things such as the situation we heard about at our hearing. It could very well be the board could determine in this case, disciplinary action is not warranted after an investigation. They may enter into an agreement with such a facility operator

recognizing the situation that they have inherited. The operator would continue to operate the facility without facing suspension. That, again, would be based on the terms of whatever agreement they may come to, providing the facility does not further deteriorate or that remedial action is taken within a given time line. That is how that might be addressed.

CHAIR CARLTON:

We do not need anything else in statute to address those concerns; am I correct?

MR. PEINADO:

That is correct, Madam Chair.

CHAIR CARLTON:

Can we process this bill just as it is? I do not believe there were any proposed amendments or any opposition.

SENATOR HARDY MOVED TO DO PASS S.B. 362.

SENATOR COPENING SECONDED THE MOTION.

THE MOTIONED CARRIED UNANIMOUSLY.

* * * * *

CHAIR CARLTON:

We will now go to S.B. 364.

SENATE BILL 364: Revises provisions relating to professional licensing boards and professional licenses. (BDR 54-220)

SENATOR HARDY:

I looked at the amendment offered by the State Board of Medical Examiners, revised April 8, with regard to the issue of not having adjudicated a case on a complaint ([Exhibit Q](#)). I think the language they have submitted in this proposed amendment works pretty well for my concern.

CHAIR CARLTON:

Would you point that out for us?

SENATOR HARDY:

Yes, it is under section 8, subsection 1, paragraph (e) "... or has had a reportable event to the National Practitioners'" Events, as I understand it, do not become reportable until they are fully adjudicated and there is a finding. It is the same with a malpractice judgment which exceeds \$100,000. I think it is pretty safe to say that a malpractice judgment in excess of \$100,000 is probably going to be something that ought to be reportable.

Is this also the bill regarding attorneys?

CHAIR CARLTON:

Yes. Mr. Munro had proposed an amendment to S.B. 364 which is in the back of the packet ([Exhibit R](#)).

SENATOR HARDY:

There is also a proposal that was submitted. What I do not want to do is disrupt what is currently going on. For the record and clarification of my comments from the hearing, there is a real problem in this State going back since I have been in the Legislature with inconsistent advice on administrative matters from boards. We have boards giving inconsistent advice on open-meeting rules and other administrative-related matters. That is where I think the Office of the Attorney General can be helpful. I understand completely the necessity for some of these boards to hire counsel with very specific sets of skills, training and expertise in their areas of practice.

In a perfect world, what I would like to see, and I think this amendment gets us there, is if a board can make a case that they need an attorney with a particular set of skills or practices in a particular area, that they are able to accomplish that. I do not want to give the opportunity for blanket permission to go away from the Attorney General's Office and be able to replace the Attorney General, because then we go back to that inconsistency.

I believe Mr. Lee has made an amendment to the amendment that was offered by the Attorney General ([Exhibit S](#)).

CHAIR CARLTON:

The amendment submitted by Brett Kandt, Special Deputy Attorney General, [Exhibit R](#), is the one I am looking at.

SENATOR HARDY:

Yes, I accept the language in that one and will also indicate, in conjunction with it, I am okay with Mr. Lee's amendment, [Exhibit S](#), basically "grandfathering" in current boards. I do not want to complicate this issue, but I would hope going forward we can deal with legislation that would require boards' outside counsel go through some training so that they may be consistent in administrative matters with the Attorney General's Office. I want the public to have one source to go to when there is a problem with the Open Meeting Law, when there is a problem with another administrative or procedural matter and when there is a problem with regulatory statutory construction. That is what I want to accomplish. This bill really does not address any of this. I am happy with the amendment as proposed by the Attorney General and with the one proposed by Mr. Lee.

I also want to make sure the language regarding the "reportable event" is in each of the statutes. I know it touches several different statutes, and I want to see that be made uniform throughout the bill.

CHAIR CARLTON:

The language I feel more comfortable with is the language that was proposed by Mr. Munro through the Attorney General's Office which I do not think removes anyone, but I think it sets the performance standards and training to ensure everyone is doing what is appropriate. I do not see this as taking away the privilege of anyone, unless they have lost the trust of having that privilege through some faction, but it allows other boards, if they feel they can make the case, to do what the other boards are doing. I see it as a total issue of fairness, as far as Mr. Munro's language goes.

SENATOR HARDY:

Madam Chair, you would prefer Mr. Munro's language and not the amendment?

CHAIR CARLTON:

At this time I would. I have not gotten far enough to review Mr. Lee's amendment.

SENATOR HARDY:

We can do some additional work on that, but as long as I establish a very clear legislative intent today, the intent of this amendment is not to prohibit boards that are currently using outside counsel or who may someday want to or need

to use outside counsel, as their main counsel. However, they need to make a case for that. They need to show why. What I do not want to do is give a blanket authority to boards to remove their deputy attorney generals and hire outside counsel instead of the Attorney General. In accepting this amendment, it is not my intent to disrupt what is currently going on. I think your proposal might be better because it does leave in statute the standards of training which ought to be applied retroactively to those attorneys currently employed by the boards on administrative matters.

MR. PEINADO:

I would like to make one clarification in the Attorney General's language, [Exhibit R](#). They refer to being subject to performance standards and training established by the Attorney General. The question becomes, whether, in fact, the Attorney General will be establishing or conducting training for these attorneys.

CHAIR CARLTON:

They do now. They train board members' attorneys who work within their board unit, if I understand correctly. This would allow consistent training across the board for anyone representing the boards.

SENATOR HARDY:

That brings up another issue I had not thought about. The performance standards are not really necessary to what I want to accomplish. Hopefully, the board will take care of the performance standards. What I had in mind was more along the lines of attorneys employed or retained pursuant to this chapter shall be subject to administrative training or training related to administrative and statutorial matters. I do not think it needs to be as broad or bring them under the purview of performance standards.

CHAIR CARLTON:

They do put the State at risk, as Mr. Munro had said, with the State Torts Claims Fund with some of the issues he had with some of the attorneys representing some of the boards. If we are going to expect a level of service from deputy attorney generals (DAGs), with these boards, then if the board is going to have their private counsel, that counsel should operate at least at the level that we would expect DAGs, to operate. They should all be within that same area. That was my understanding of Mr. Munro's testimony.

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SENATOR HARDY:

The only concern I would have, inherent in the concept of performance standards, is the right to hire and fire if they do not meet those standards.

CHAIR CARLTON:

That was never broached. It was never hiring or firing; it was making sure they operate at an appropriate level.

SENATOR HARDY:

I just want to make sure we are not necessarily touching on that.

CHAIR CARLTON:

I cannot answer that question, can you, Mr. Peinado?

MR. PEINADO:

As worded here, the proposed amendment, [Exhibit S](#), says attorneys employed shall be subject to performance standards. In that sense, it would appear to say that.

CHAIR CARLTON:

"Attorneys employed or retained pursuant to this section ..." But they are employed by the board. They are not employed by the Attorney General, so how can you be fired by someone who is not your employer?

SENATOR HARDY:

Because if you do not meet the performance standards, they can ...

MR. PEINADO:

This may require the respective boards to use the performance standards of the Attorney General in the employment.

SENATOR HARDY:

May I take a shot at something?

CHAIR CARLTON:

I know where you are coming from. I think we have a disconnect. I am uncomfortable with grandfathering people in. If something is going on now and there is bad behavior, I do not want to protect someone who is not performing

to the standard they are supposed to, but I do not mind bringing in people who are. I am not sure how we craft the language.

SENATOR HARDY:

Leave it at this, because there has not been any objection to the language as it is drafted. We should go forward with this.

CHAIR CARLTON:

I had not thought about that part.

SENATOR HARDY:

I will work more on that if necessary and bring a floor amendment.

CHAIR CARLTON:

I do not want someone with whom we may need to have a discussion about their performance to use it.

SENATOR HARDY:

Hopefully, there are performance standards at the board level. I just do not want duplication. You have to have the attorney working for one person or the other. I must say that one of the motivations for me in trying to get everybody moved towards DAGs for these boards is so they do not work for the boards. That is part of the problem. The people who are on the board are the attorneys' employer and sometimes they may be inclined to draft a legal opinion that meets the objective of what the board wants to do. Since there has been no objection to this language, I would be comfortable going ahead with it.

CHAIR CARLTON:

I think we need to get some answers from the Attorney General's Office on this so we should formulate our questions and submit them to Mr. Munro for answers before this bill gets processed on the Senate Floor.

Continuing with other proposed amendments, Denise Selleck Davis's amendment was one that was rather difficult to understand ([Exhibit T](#)). Mr. Peinado, we had questions on, "or communities with a population of 10,000 people or less." Senator Rhoads, were you okay with 10,000 or did you want to go with the definition of rural as 100,000?

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SENATOR RHOADS:

No, 10,000 is good. The only rural city that is over 10,000 is Elko and they have their own hospital and medical facilities.

CHAIR CARLTON:

Is there another issue we need to deal with?

MR. PEINADO:

The only clarification is, as drafted and proposed by Ms. Davis, these provisions would not apply to counties with a population of 10,000 or less. She states communities and I am not sure we want that word. Ordinarily, we work with counties. The second issue is that according to the way it is drafted and proposed, these communities, or counties, of 10,000 or less would appear to allow these physicians to regularly maintain a physician assistant at a different site. There would only be the prohibition on communities or counties as adopted by this body of 10,000 or more.

CHAIR CARLTON:

Currently under existing statute, osteopaths, and this only applies to osteopaths, may have physician assistants in as many places as they want right now. The only restriction we would be putting in is on a rural setting.

MR. PEINADO:

The restriction would be on larger communities.

CHAIR CARLTON:

Do the restrictions apply to the larger communities?

MR. PEINADO:

This restriction would not apply to communities with populations of 10,000 or less.

CHAIR CARLTON:

This is where we wanted to be; [Exhibit T](#) gets us there.

SENATOR HARDY:

I think we should leave the statutory construction to the Legal Division if they need to change the language to match the rest of NRS.

MR. PEINADO:

The only part I want to make sure is clear is the opening sentence in section 14, subsection 3, [Exhibit T](#), stating, "A supervising osteopathic physician shall provide supervision ... during the first 30 days" I want to make sure the body understands the 30 days still apply to all physician's assistants in both rural communities and in the larger communities. Exemption here exempts this entire subsection and there are two separate sentences here. Do we want to exempt the smaller communities from both?

CHAIR CARLTON:

For the first 30 days?

MR. PEINADO:

Yes, for the first 30 days.

CHAIR CARLTON:

I do not know. Committee, do you have any ideas? I do not remember that issue coming up before.

SENATOR RHOADS:

What would be the option to the 30 days or more, or 30 days or less?

MR. PEINADO:

What we could do, in terms of options, is break down this subsection and provide a blanket requirement that the supervision be provided in the first 30 days. Then we could make the second part of that after the 30 days in larger communities, they shall not maintain the physician assistant in different sites; however, the smaller communities could maintain physician assistants in different sites. After the 30 days, there would be the difference in the treatment.

SENATOR RHOADS:

Yes, I think we should go that way.

DENISE SELLECK DAVIS (Nevada Osteopathic Medical Association):

Mr. Peinado is correct on this one. The idea is that for the first 30 days of training, making sure the physician assistant is in line with the practicing parameters of that physician to whose license they are attached. The 30-day period is to make sure they can work together and do things appropriately.

Afterwards, for those smaller communities, allow them to provide ongoing treatment. We did set it up as communities rather than counties. I was not sure how that would be worded normally, so I did leave that for the Legislative Counsel Bureau for that wording. Mr. Peinado is correct to break that out into separate subsections.

CHAIR CARLTON:

Next, we have two proposed amendments; one from the Board of Examiners for Social Workers ([Exhibit U](#) was Exhibit H in the meeting held on April 8, 2009 of the Senate Committee on Commerce and Labor), and one from the Association of Social Work Boards ([Exhibit V](#)).

ROSALIND TUANA (Executive Director, Board of Examiners for Social Workers):
The sections we have concerns with are described in the statement provided to the Committee in [Exhibit U](#).

Under section 5 of S.B. 364, [Exhibit U](#), in regard to unlicensed activity, we suggested the Committee may want to consider the titles that are being used, such as psychotherapist, mental health therapist and other titles, to avoid licensure. There are avenues for people to get licenses as a mental health person. We are concerned, due mainly from calls from consumers, that there are a group of people out there who could be causing harm. We would recommend those titles be protected by one of the boards that regulate mental health.

With regard to the section on licensing, we ask that the education component be accredited by the Council of Social Work Education. We were concerned about the tiered level of grandfathering, because social work licensure has always had a licensure requirement for the past 20 years. There are a number of groups that were grandfathered in with as low as high school degrees. We asked to have the standard of the Council of Social Work Education to be in line with what is standard across the United States. We asked to have a prescribed exam, because of the grandfathering provisions as well as short rates of time for licensure.

CHAIR CARLTON:

We had the discussion of actively practicing and that could have been addressed with the regulatory boards. It appears Mr. Nichols's amendment from the Association of Social Work Boards covers the same points, [Exhibit V](#).

MS. TUANA:

That amendment was an attempt to address some of the lack of mental health services and he was requesting an additional license to be issued by the Board of Examiners for Social Workers that would grant a license to the masters-level social worker, which is currently licensed under the Licensed Social Worker. The purpose of the additional level of licensing request was to try to address some of the concerns in the mental health area. That was the one the Board brought in and we supported it.

CHAIR CARLTON:

We also have a handout from the Board of Psychological Examiners ([Exhibit W](#)).

MS. TUANA:

I did have a conversation with the psychology people after the last meeting and their concern was primarily about assuring the people that were American Psychological Association educated, which again was the standard for them, had also taken an exam in the State in which they were licensed.

SENATOR HARDY:

Perhaps if the Committee is comfortable, we could process this bill with the amendments that we are comfortable with. Then we can work on a floor amendment with the others.

CHAIR CARLTON:

I think we are good with that.

SENATOR HARDY:

I will make a motion to amend and do pass with the following amendments: [Exhibit Q](#) from Mr. Lee dated April 8, with the clarification that the language related to "reportable event" applies to all of the boards and disciplines; [Exhibit T](#) from Denise Selleck Davis of the Nevada Osteopathic Medical Associations described by Senator Rhoads; and that we stand down on the additional amendment, [Exhibit S](#), from Keith Lee; and adopt the amendment as it is described in [Exhibit R](#) from Brett Kandt from the Attorney General's Office and I will indicate that what I put on the record here today, I will also put on the record on the Senate Floor relative to what we intended in the hiring of outside counsel.

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SENATOR HARDY MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 364.

SENATOR SCHNEIDER SECONDED THE MOTION.

SENATOR PARKS:

Are we taking any action on the submission of [Exhibit W](#) from
Elizabeth Neighbors of the Nevada State Board of Psychology Examiners?

CHAIR CARLTON:

Which is?

SENATOR PARKS:

She had a concern over the psychologists.

CHAIR CARLTON:

I will need to review that one. It will have to be part of the other documents
that we need to put together.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:

Committee I believe our work is done. There being no further business of the Committee on Commerce and Labor, the meeting is adjourned at 12:51 p.m.

RESPECTFULLY SUBMITTED:

Vicki Folster,
Committee Secretary

APPROVED BY:

Senator Maggie Carlton, Chair

DATE: _____