

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

**Seventy-Sixth Session  
April 25, 2011**

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 2:35 p.m. on Monday, April 25, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Kelvin Atkinson, Chair  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblyman Richard (Skip) Daly  
Assemblyman John Ellison  
Assemblyman Ed A. Goedhart  
Assemblyman Tom Grady  
Assemblyman Cresent Hardy  
Assemblyman Pat Hickey  
Assemblyman William C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Kelly Kite  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Marcus Conklin, Vice Chair (excused)  
Assemblyman John Ocegüera (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Valerie Wiener, Clark County Senatorial District No. 3

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Committee Policy Analyst  
Sara Partida, Committee Counsel  
Andrew Diss, Committee Manager  
Sharon McCallen, Committee Secretary  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General  
Amber Joiner, representing the Nevada State Medical Association  
Marla McDade Williams, Deputy Administrator, Health Division, Department of Health and Human Services  
David A. Johnson, M.D., Family Practitioner, Minden, Nevada  
Denise Selleck Davis, Executive Director, Nevada Osteopathic Medical Association  
Dianna Hegeduis, Executive Director/Board Counsel, State Board of Osteopathic Medicine

**Chair Atkinson:**

[Meeting called to order. Roll called. Committee protocol given.] We have three Senate bills to consider this afternoon. The first bill is Senate Bill 37.

**Senate Bill 37:** Makes various changes concerning complaints received by a health care licensing board. (BDR 54-106)

**Senator Valerie Wiener, Clark County Senatorial District No. 3:**

This is a measure that I learned about during the interim in my capacity as Chair of the Legislative Committee on Health Care. Health measures are very important to me, and I have worked on them during the 15 years of my tenure as a state senator.

Senate Bill 37 expands work done by Attorney General Catherine Cortez Masto, who formed a task force to establish a communication network for the licensing boards in the health care arena. It was important that they talk to each other because, due to a lack of communication, many things would fall through the cracks and the people of Nevada were not as well served as they should be.

Realizing that these kinds of good works can come and go, I believe in the merits of this task force when it comes to complaints. That is primarily what S.B. 37 deals with. A Nevadan contacting a board may have the wrong board for his or her particular issue. The issue may at that point get lost instead of being referred to another board—or several boards under which health care professionals may be licensed. Senate Bill 37 requires that conversation take place between the boards and that referrals be made in a timely manner. However, the appropriate state health authority would be contacted if a complaint needs immediate attention because it concerns a health and safety risk in the community.

This is an important next step based on what the Attorney General has done successfully. To give it a statutory life would give it the longevity and the continuity that would serve the people of Nevada very well. I urge your support for S.B. 37.

**Chair Atkinson:**

Are there any questions from the Committee?

**Senator Wiener:**

I have Mr. Kandt here from the Office of the Attorney General if there are any specific questions about how the program works.

**Assemblywoman Carlton:**

My concern is that we are taking a policy that has been developed and is currently working well, from what I understand. There are no difficulties in being able to relay information right now, correct?

**Senator Wiener:**

They do connect on the Internet. This expands the procedures.

**Assemblywoman Carlton:**

My concern is, if you take a policy such as this and put it into statute, three or four sessions from now someone could change the statute, thereby eliminating the policy, and you could end up going backwards. Whenever we put something in statute that is already being done, I am concerned. Another group of legislators could come in after we are out of office and say we do not need to do this any longer, and then we may be in more trouble than we deemed.

**Senator Wiener:**

That reasoning is exactly why I have brought this to be statutory. This is something the current Attorney General found meaningful in the way she runs her office and felt was important. Task forces come and go much more

regularly than something that would be established in statute. With statutory continuity I believe it would have an even longer life and an opportunity to work at the pleasure of someone who holds office, because they do come and go.

**Assemblywoman Carlton:**

Why would we make it permissive? Under section 1, on line 21, it says, "A health care licensing board may refer a complaint pursuant to subsection 1 which is the section on referrals."

**Senator Wiener:**

It would be the intention that the culture would encourage this. It does address emergencies, that if the boards learn about something, they need to work with the health authority, and that is not in place now either. This was language that worked for the boards. The feedback that I have gotten from several of the health care boards would be that this would make it work. The culture is already established for this to go forward. Again, if it were in statute, it would have the continuity to move beyond our time at the Legislature.

**Chair Atkinson:**

Are there additional question from the Committee? [There were none.] Is there anyone else in the audience wishing to testify in favor of S.B. 37?

**Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:**

On behalf of Attorney General Catherine Cortez Masto, I would note that this bill expands the work that was accomplished by the Attorney General's task force to establish a viable and valuable communications network between the health care licensing boards. It would create a statutory requirement for those boards to exchange information so their top priority, the health care consumer, receives timely attention by the proper authorities when something regarding licensing needs to be addressed. The Attorney General felt this bill was worthy of your consideration.

**Amber Joiner, representing the Nevada State Medical Association:**

We fully support this measure and have always supported improved communication among the boards. This goes back to its origin in the hepatitis C crisis. The communication among the boards has consistently improved. We had a bill last session that improved, during emergencies, how the boards communicate. We think this is a very positive step—improving communication in everyday situations. Anytime a board hears of a possible complaint or investigation that needs to happen in the jurisdiction of another board, they would be required to report that to the other board. We fully support that.

**Marla McDade Williams, Deputy Administrator, Health Division, Department of Health and Human Services:**

The Health Division is in support of this bill as well. We participate in the current efforts regarding notification. These issues come to our attention through our licensing efforts with medical facilities and our interactions with other licensing boards.

**Chair Atkinson:**

Is there anyone else here or in Las Vegas wishing to testify in favor of S.B. 37? [There was no one.] Opposition? [None.] Neutral? [None.] We will close the hearing on S.B. 37 and open the hearing for Senate Bill 117 (1st Reprint).

**Senate Bill 117 (1st Reprint):** Revises provisions governing the licensure of certain physicians. (BDR 54-194)

**Senator Valerie Wiener, Clark County Senatorial District No. 3:**

I am here today in my capacity as the former Chair of the interim Legislative Committee on Health Care. This measure is a byproduct of a full-day health care conference that was sponsored by Attorney General Mastro. The primary focus of that conference—attended by a large number of health care professionals in Las Vegas—was to determine how we can attract and retain primary health care providers in our state.

There were various panels and experts, and I was asked to participate, as was Assemblywoman Carlton. As a result of the conference I invited representatives of the organizations who put it together with the Attorney General to participate in one of the hearings of the Legislative Committee on Health Care. They made a presentation, and we brought the bill draft forward. That was the bill introduced as S.B. 117 (R1). There were some changes made in the Committee which improved the measure. This would allow us to close a little gap we had regarding those who attend medical school, to get them to make a commitment to Nevada. We have a graduate here from University of Nevada School of Medicine who will testify about the glitch we are fixing with this measure. We hope to attract not just Nevada medical students with this measure, but also those from out of state and, as was amended, those who might want to come to Nevada from Canada. This would make Nevada a very appealing state because of the timing this offers when medical students are making decisions. This addresses the challenge we had of retaining medical students at the next level to make a commitment and maybe inviting those from other states and Canada to want to call Nevada home for their practice. That is the intention of S.B. 117 (R1).

**Chair Atkinson:**

Are there questions from the Committee?

**Assemblyman Hardy:**

Does Canada have the same number of hours and requirements for medical licensing as our education system does?

**Senator Wiener:**

I was not in the hearing when that part was amended into the bill. I do know that we have another measure through that same committee opened up to Canada as well. They would have to pass the board tests and satisfy Nevada requirements in order to practice here. Dr. Johnson could explain what that little gap was, because we had doctors who, because of the time line, were not in the right position to apply for licensure, so they went to other states.

**David A. Johnson, M.D., Family Practitioner, Minden, Nevada:**

I am a graduate of the University of Nevada School of Medicine, as is my father and, soon, my brother. I graduated from the University of Nevada School of Medicine, Family Medicine Residency Program.

This is an important issue to we who live in Nevada. Nationally, Nevada ranks 47th in the number of primary care physicians per capita. We rank 50th in the number of pediatric subspecialists per capita. If we double the number of pediatric subspecialists we have, we would still be 50th in the nation. We lose physicians frequently. In the 2 1/2 years since I began practicing we have lost eight primary physicians from our valley, and they have not been replaced.

What is so important about S.B. 117 (R1) is that our current licensing laws discourage new physicians coming out of residency from coming to the State of Nevada. In order to start working, you have to be credentialed with insurance companies before you can begin getting reimbursed for the services that you provide. Most primary care physicians now are employed by the hospital system or a group that does that for you. In order to begin the credentialing process you have to have an unrestricted license, and in many circumstances, as with the family physicians, you have to also be certified in your board specialty. In family medicine you cannot even register to take your boards until you have an unrestricted license to practice medicine in a state. Many of our residents are coming out of residency in Nevada and are unable to get jobs, to start paying their loans and supporting their families, for three to six months after they have finished residency.

An example is Dr. Amber Hayes, a colleague of mine, who waited three months to get a license. I can name three residents off the top of my head who

finished their residency training in Nevada and then left the state because they had offers that were more timely and allowed them to pay their bills. Most residents will seek a license in another state. I had a license in California and practiced there for a short time before I came back here to practice with my father.

This would bring us up to speed with almost every other state which gives physicians an unrestricted license to practice in his state a year before he graduates. That gives him enough time to find a job, get his credentialing process started, and register for his boards. When he leaves residency, his paycheck from the residency program stops, and he can start his new job.

That would help us to retain physicians in Nevada because it gives them options not only in primary care, but also in specialties where residents are looking for a job and would love to come back to Nevada. Where they land is probably where they are going to stay and work.

For our purposes, this allows those residents the opportunity to stay here. The way the bill is written does not decrease the standard we require. This license is contingent on their finishing that residency program. It is not the same in other states where they do not have to finish residency to practice, but we, in Nevada, require a pretty high standard. This allows us to maintain that standard, yet encourage residents who practice here to stay in Nevada and encourage other residents of other states to move to Nevada to practice.

**Assemblywoman Kirkpatrick:**

How are the consumers protected with the Canadian licensees coming here? We see within different industries, that Canadians come here, get their license or their distribution, and end up leaving Nevada consumers holding the bag. How are consumers protected as far as someone from Canada opening a business?

**David A. Johnson:**

As far as licensure is concerned, foreign medical grads are required to, in most cases, complete a residency in the United States and pass the boards before they are allowed to practice here. I know that Canada's training is considered comparable to that in the United States. In fact, we have a Canada graduate, Dr. Carl Juneau, a very well respected cardiologist who practices in Carson City. The residencies that come out of Canada are subject to review from national licensure and accreditation bodies that require the training to be comparable.

**Assemblywoman Kirkpatrick:**

Are you saying that those who come from outside the United States are going to comply with Nevada residency requirements? I heard you say they were comparable, but I did not hear you say they were the same.

**David A. Johnson:**

The way it is written, it requires that they complete a residency that is approved by the American Board of Medical Specialties. As it is written, they cannot come into Nevada unless they have completed a three-year residency program, depending on the specialty—for instance, family medicine.

**Assemblywoman Kirkpatrick:**

You say they have to get approved by the American Board of Medical Specialties. Are those the same standards that we currently use in Nevada?

**David A. Johnson:**

Yes. It is already required to get a license in the State of Nevada. No matter where you come from, you have to abide by those standards. Your residency program and your medical training have to be covered by the American Board of Medical Specialties. This measure does not change that at all. It would be the same standards that already exist in the State of Nevada, as far as allowing people who are either foreign medical graduates or out-of-state graduates to come to this state. It does not change the licensure requirements at all, just the timing at which you can get that license. There also is a provision that requires you to complete that training from wherever you are coming in order to get the state license.

**Assemblywoman Bustamante Adams:**

Were other countries considered besides the ones listed here?

**David A. Johnson:**

Again, the licensure requirements for Nevada are not being addressed by this bill at all. The licensure requirements remain the same as they have been for years. The change is just the timing at which you can get that license. We accept people from all over the world who come to the State of Nevada. We have had people in the residency program from India, from off-shore schools in the Caribbean, and from Canada who are given a license based on the existing requirements that their medical training be approved by the American Board of Medical Specialties. I am pretty sure that Canadian residents do not have to repeat residency here; most out-of-the-country medical graduates have to repeat residency in the United States.



**Assemblywoman Kirkpatrick:**

Mrs. Bustamante Adams seems to be asking why we are specific to the language on page 3 regarding the Coordinating Council of Medical Education of the Canadian Medical Association. When we put in specific terms, I thought there was another program that the others could fit under.

[Chair Atkinson turned the gavel over to Assemblywoman Kirkpatrick.]

**Senator Wiener:**

I was not in the work session when this amendment was added to the bill. I am unable to speculate what conversation took place regarding this particular edition of the bill. That was not a provision in the original bill. It was about the timing, and this was added.

**Assemblywoman Carlton:**

It is my understanding that this allows licensing to be more on the front end than on the back end. I see it as a provisional component that they have to complete and have to promise to complete; otherwise that full licensure does not go into effect. Is that correct?

**David A. Johnson:**

That is correct.

**Assemblywoman Carlton:**

You also have, within the licensing scheme, a citizenship component, or the ability to be allowed to stay in the country with legal status. That addresses some of the out-of-country concerns as far as legal status goes, correct?

**David A. Johnson:**

That is also correct. Accepting people from out of the country is common practice for the rural areas in Nevada; it is called the Nevada J-1 Physician Visa Waiver Program.

**Assemblywoman Carlton:**

I serve on the J-1 Visa Committee through my advisory council work with the Great Basin Primary Care Association. I am happy this was brought to the Committee. I know we lose people because of the timing. This allows someone who is on the path to completion to submit his or her application early, because sometimes it does take six months to become credentialed by a hospital. You are not going to have a doctor on your payroll who cannot have hospital privileges. With that provisional component in there, it makes me much more comfortable.

**Acting Chair Kirkpatrick:**

Are there any other questions? [There were none.]

**Amber Joiner, representing the Nevada State Medical Association:**

We fully support this measure. As was clarified, it does not allow people to practice medicine early or in any way change the requirements for a physician. It merely allows them to apply for their license early, which gives them the ability to stay in the state and be paid immediately upon graduation and completion of their program.

I was present during the hearing that discussed the addition of the Canadian language, and I do not recall hearing other countries discussed. My understanding is that in *Nevada Revised Statutes* (NRS) 630.160, it refers to Canada in several locations. I believe that language was just carried over. You can see it in the bill on page 3; it is the language that is not being changed, but they wanted it to be consistent. Any program that is recognized in Canada would be a program where people who belonged to it could start applying. That was the only concern—to be consistent.

**Acting Chair Kirkpatrick:**

Thank you, Ms. Joiner, that helps. Are there any other questions? [There were none.] Is there anyone else who would like to testify in support of S.B. 117 (R1)? [There was no one.] Is there anyone who is in opposition? [There was no one.] Neutral? [No one.]

Senator Wiener, do you have any final comments?

**Senator Wiener:**

No.

**Acting Chair Kirkpatrick:**

We will close the hearing on S.B. 117 (R1) and open the hearing on Senate Bill 132.

**Senate Bill 132:** Revises provisions governing licensure of osteopathic physicians. (BDR 54-195)

**Senator Valerie Wiener, Clark County Senatorial District No. 3:**

I brought this particular measure last session as the Chair of the Senate Committee on Health and Education. I have brought each measure to you today in a different capacity.

Senate Bill 132 removes a prospective expiration date involving licensing by endorsement. The Board of Medical Examiners, in its licensing, does not have an expiration date for this same provision, but the State Board of Osteopathic Medicine did, for licensing by endorsement. I accepted the request to bring a bill that would remove this sunset, to allow parity between the two boards that serve the health care needs of Nevada. This, too, will address some of our health care provider needs in the state and could help us bring more qualified doctors into Nevada. Two people who work with this daily will come to the table and speak to the bill. Again, it is about parity.

**Acting Chair Kirkpatrick:**

Are there any questions? [There were none.] Is there anybody who would like to come to the table in support of S.B. 132?

**Denise Selleck Davis, Executive Director, Nevada Osteopathic Medical Association:**

We are in support of this bill and are grateful to have licensure by endorsement. It allows us to bring more physicians to the state in a more streamlined process. They do have to be fully licensed, and they have to comply with all of the licensure requirements. It has allowed us to license physicians in a much more timely fashion, when you are talking about someone's livelihood and being out of work for an extended period of time. We do like to move them through the process as quickly as the law allows.

**Assemblywoman Carlton:**

I am trying to remember when we did this. I am pretty sure I was there on the endorsements.

**Denise Selleck Davis:**

I am going to guess that it was about eight or nine years ago that we began doing this by endorsement. Prior to that, the physicians were required to come to the state and be interviewed in a live interview process that was done on a quarterly basis. As you can imagine, this started to back up the pool of license applicants. We went to this endorsement based on fairly narrow criteria they have to meet—they can have no outstanding complaints or lawsuits, they have to be licensed in another state, and they have to be board certified. It does bring in some of the better physicians and allows us to move them from other states in a timely fashion.

**Assemblywoman Carlton:**

Regarding the basic credentialing language—five years clean, with no complaints—was that what we used?

**Denise Selleck Davis:**

Yes, that was part of the criteria.

**Assemblywoman Carlton:**

And that will be expiring, so we will be going to a full endorsement, or will we be keeping those criteria in place?

**Denise Selleck Davis:**

The criteria remain in place.

**Assemblywoman Carlton:**

One of the reasons for putting a sunset on it was so that we would make sure it worked well for the state and that we did not have any problems. I have been reviewing some of the disciplinary reports that are forwarded to us, and it did not seem that we had any more glaring or outstanding problems than is normal with other boards. Would you say that is correct?

**Denise Selleck Davis:**

As a representative of the Association and not the Board . . .

**Assemblywoman Carlton:**

I should ask the Board. I apologize and I withdraw the question.

**Acting Chair Kirkpatrick:**

Are there any other questions? [There were none.] We will go to Las Vegas.

**Dianna Hegeduis, Executive Director/Board Counsel, State Board of Osteopathic Medicine:**

We have asked Senator Wiener to support this bill, and we appreciate her continuous support and assistance to our health care boards of the state.

This process of licensing osteopathic physicians involves those who are licensed in another state and who we are encouraging to move here. Ms. Selleck Davis is correct that there are certain criteria that we will require them to have, such as: currently is certified by a specialty board, has no adverse reports to the National Practitioner Data Bank, is not currently involved in any disciplinary action with a licensing board, has been continuously engaged in the practice of osteopathic medicine for over five years, has provided information to the Board on all malpractice cases, and meets all other statutory requirements. We believe this assures qualified physicians coming to this great state, as well as making it a more simple process from the licensing aspect.

Currently, our Board meets on a monthly basis. We average from two to three months on the licensing process. This allows us to license at any time between the Board meetings by the President and by me. I believe this will make Nevada a more business-friendly state if you are an osteopathic physician who is qualified. I believe it encourages physicians to move here.

To date, we have had approximately 30 osteopathic physicians licensed by endorsement, and we have not had any problems with them, to my recollection. It is a very expeditious and efficient method of licensing osteopathic physicians and encouraging them to come to this state.

**Acting Chair Kirkpatrick:**  
Are there any questions?

**Assemblywoman Carlton:**  
If you are meeting every month, I wonder why we need to do the licensure with just the Board President and the Executive Director.

**Dianna Hegeduis:**  
Typically, we were meeting quarterly, but because of the amount of licensing that we are currently receiving, we are meeting monthly. We have had several settlement agreements and orders on disciplinary actions as well, which have required us to meet more frequently than we did previously.

**Assemblywoman Carlton:**  
Can you tell me how long it is taking for fingerprints to return from the FBI and how long it is taking for the background checks to be completed?

**Dianna Hegeduis:**  
At the current time, it takes two to three months to make sure that we have our application package. Unfortunately, the fingerprints take a little longer than that. Sometimes it can be in the two- to three-month range. I think they are getting better at it, but in the past it took up to six months to get our fingerprints back.

**Assemblywoman Carlton:**  
And we are not approving them until all of the documentation has been returned to the Board for review? Correct?

**Dianna Hegeduis:**  
That is correct.

**Acting Chair Kirkpatrick:**

Are there any other questions? [There were none.] Is there anyone else to testify in support of S.B. 132? [There was no one.] Opposition? [None.] Neutral? [No one.] We will close the hearing on S.B. 132.

[Chair Atkinson reassumed the chair.]

**Chair Atkinson:**

Is there any other business to come before the Committee? Questions, comments, or concerns? Is there any public comment? [There was none.]

The meeting is adjourned [at 3:15 p.m.].

RESPECTFULLY SUBMITTED:

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Sharon McCallen  
Committee Secretary

APPROVED BY:

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Assemblyman Kelvin Atkinson, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

Committee Name: Committee on Commerce and Labor

Date: April 25, 2011

Time of Meeting: 2:35 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster