

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

**Seventy-Seventh Session  
April 24, 2013**

The Committee on Commerce and Labor was called to order by Chairman David P. Bobzien at 2:40 p.m. on Wednesday, April 24, 2013, 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 [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). 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 David P. Bobzien, Chairman  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblyman Skip Daly  
Assemblywoman Olivia Diaz  
Assemblyman John Ellison  
Assemblyman Jason Frierson  
Assemblyman Tom Grady  
Assemblyman Ira Hansen  
Assemblyman Crescent Hardy  
Assemblyman James W. Healey  
Assemblyman Pete Livermore  
Assemblyman James Ohrenschall

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Marilyn K. Kirkpatrick, Vice Chairwoman (excused)  
Assemblyman William C. Horne (excused)



**GUEST LEGISLATORS PRESENT:**

Senator Donald G. Gustavson, Senatorial District No. 14

Senator Michael Roberson, Clark County Senatorial District No. 20

Senator Mark Hutchison, Clark County Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst

Matt Mundy, Committee Counsel

Leslie Danihel, Committee Manager

Earlene Miller, Committee Secretary

Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Gary Waters, Private Citizen, Las Vegas, Nevada

Louise Sutherland, representing Nevada Mental Health Counselors Association

Shannon Smith, Private Citizen, Las Vegas, Nevada

Randy Astramovich, Private Citizen, Las Vegas, Nevada

Renee Arbogast, Private Citizen, Las Vegas, Nevada

Colleen Peterson, Private Citizen, Las Vegas, Nevada

Tricia Woodliff, Private Citizen, Carson City, Nevada

Deborah Garbett, President and State Coordinator, Nevada Mental Health Counselors Association

Erin Chapel, Private Citizen, Elko, Nevada

David Marlon, President, Solutions Recovery, Inc., Las Vegas, Nevada

Helen Foley, representing Nevada Association of Marriage and Family Therapists

Oscar Sida, Private Citizen, Las Vegas, Nevada

Adrienne O'Neal, President, Nevada Association for Marriage and Family Therapy

Robert L. Compan, representing Farmers Group, Inc.

James L. Wadhams, representing American Insurance Association

Mary Pierczynski, representing Allstate Corporation and American Family Insurance Company

Joseph Guild, representing State Farm Insurance Companies

Josh Griffin, representing AAA NCNU Insurance Exchange and Med-Care Solutions

Adam Plain, Insurance Regulation Liaison, Division of Insurance,  
Department of Business and Industry  
Steven Valenti, Marketing Director, Med-Care Solutions, Las Vegas,  
Nevada

**Chairman Bobzien:**

[The roll was called and a quorum was present.]

I will open the hearing on Senate Bill 155 (1st Reprint).

**Senate Bill 155 (1st Reprint): Revises provisions relating to the practice of clinical professional counseling. (BDR 54-714)**

**Senator Donald G. Gustavson, Senatorial District No. 14:**

Senate Bill 155 (R1) expands a clinical professional counselor's (CPC) scope of practice to include the assessment and treatment of couples or families if he or she has demonstrated competency as determined by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. The purpose of this bill is to allow highly qualified CPCs to practice marriage and family therapy in this state. According to testimony that you will hear today, Nevada and California are the only two remaining states that do not allow CPCs with the appropriate training to provide therapeutic services to families and couples. Given the pressing need for more mental health professionals in this state, this commonsense measure deserves the Legislature's full support.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**Gary Waters, Private Citizen, Las Vegas, Nevada:**

I am a licensed marriage and family therapist (MFT) in Nevada and California, a licensed clinical social worker, a licensed alcohol and drug abuse counselor, and a nationally certified counselor. I am also licensed as a school psychologist in Nevada. I have been a practicing therapist for approximately 37 years. Most significantly, I served on two regulatory boards, including the State Board of Education for 12 years, where I was the president for 4 years. I also served on Nevada's Commission on Postsecondary Education, where I was the president for 3 years.

I was sought out to analyze S.B. 155 (R1) and to comment upon it. The comments and opinions I am expressing today are exclusively my own and do not reflect the opinions of anyone else or any other organization. Today you

will hear testimony regarding this bill, including the merits of a proposed amendment that would place the statutory authority for assessment of the competency of licensed counselors with its regulatory board, which is significantly composed of persons licensed as MFTs. The amendment in the bill is brought as a response to the original legislation that did not have such a provision. The goal of the amendment, as stated by its advocates, is to ensure competency in couples and family therapy to be determined by the Board.

It is my firm belief that such competency is essential, and must be ensured, if this legislation as originally written is to pass. I reviewed the bill, including the amendments, and independently investigated the training programs for CPCs over the past four weeks. As mentioned in the meeting in the Senate, which I attended, I heard some comment regarding that. I took it upon myself to speak personally to people licensed as CPCs to gain knowledge, and I spoke to some current members of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors regarding their concerns. I considered both their convergent and divergent points of view regarding quality assurance and competency.

I offer a couple of points in summary. It is my assessment that the training for CPCs fully qualifies those licensees, if they come from a qualified or duly accredited program, to see couples and families. My feeling is that if they do not have such a qualification, they should not receive a license at all. If they do, they should be allowed to counsel couples and families based upon the merits of the original legislation without the amendment, as I view it.

A colleague of mine on the State Board of Education once said, "Why do better that which does not need to be done at all?" I believe the regulatory board that you have has the authority to regulate certain elements within the CPC and MFT domains. I would not want to see legislation that further restricted a regulatory board in that authority. I think that is in the public interest. I support this bill.

**Chairman Bobzien:**

I know there has been some concern about the language and I would like to have our legal counsel address it.

**Matt Mundy, Committee Counsel:**

In general, the intent of the amendment in the Senate that is contained in section 1, subsection 2, paragraph (b), was to authorize the Board or give the Board complete discretion with regard to considering coursework, supervised training, or experience. I think the bill as written and amended is consistent with that intent, which was specified on the record. If there is some concern

that the proponents or the Committee want to propose an amendment that would mandate the Board to consider all of these criteria, instead of being able to choose any combination or all of them, we could do that.

**Chairman Bobzien:**

Are there any questions?

**Assemblywoman Carlton:**

I think what is being addressed here is scope of practice, and you cannot do that through a regulatory scheme. You have to have statutory authority to describe what your scope of practice is. When I go through *Nevada Revised Statutes* (NRS) Chapter 641A and the *Nevada Administrative Code* to back it up, I believe that if we are going to allow these counselors to actually treat couples or families, there does need to be some statutory change to allow that. I do not think the Board can just do it on its own. I think that argument needs to be addressed. When I look at the descriptions of these two professions under NRS 641A.065—the practice of CPC defined—what actually needs to be changed in order for these counselors to be able to work with couples and families? I am not sure that this amendment addresses anything if you do not actually change what the practice act is.

**Louise Sutherland, representing Nevada Mental Health Counselors Association:**

The original bill was to strike the reference that the practice of CPC does not include the assessment or treatment of families and couples. That language needs to be stricken from the law.

**Assemblywoman Carlton:**

Where was that in the original bill?

**Senator Gustavson:**

That is on page 2, line 2, of the original bill and was stricken from the original bill.

**Assemblywoman Carlton:**

Was that alone not enough authority to allow the Board to establish the regulations by which counselors could do treatment?

**Senator Gustavson:**

I believe that it was. There was an amendment that came in the Senate that both parties agreed to at the time. That is why we put that in there.

[Assemblyman Frierson assumed the Chair.]

**Assemblywoman Carlton:**

My concern is that the striking of that language and the regulatory authority that the Board actually has seem to address the issue. I need to understand why we would have to put in statute this long paragraph, in the new subsection 2, paragraph (b), when we usually use "substantially equivalent education or experience." We do not go to such details so the Board can assess the qualifications of the prospective licensee to be able to practice in this area.

**Matt Mundy:**

I agree with the witness that just the strikethrough of the statute's existing subsection 2 would be enough to authorize or expand that scope of practice, because we are saying that currently the clinical professional counseling does not include treatment of couples or families. The addition in the amendment of paragraph (b) is to provide some parameters for the Board in considering the competency of a person who is doing this activity.

**Louise Sutherland:**

If you look in your handout ([Exhibit C](#)), you will see a map that represents the United States. There are 52 licensing entities in this country, 50 of which include counseling with families and couples. In 50 of these licensing entities, it is a given that both professions do work with families, children, couples, groups, and individuals. You will not be able to find any individual in this profession who does not provide mental health and therapeutic services within the context of family and relationships. We learned long ago that individual behavior does not come out of a vacuum and that we are part of a greater system. Each and every one of these mental health providers in the 50 licensing entities goes through a very rigorous program of study.

The gold standard of education for counseling is the Council for Accreditation of Counseling and Related Educational Programs (CACREP). It is also the gold standard for mental health providers in this state. It is required by the U.S. Department of Veterans Affairs, the U.S. Department of Defense, and Tricare. In Nevada, CPCs are providing family therapy to individuals. They work for the state. What does the marriage and family therapy profession know that the state does not? We are providing marriage and family therapy, but are not called MFTs. We are CPCs. In our coursework, a systems perspective is a given. Why would the Department of the Army allow CPCs to be part of the backbone of the providers working with families of traumatized soldiers, if they did not believe in the full competence of a clinical professional counselor? I want to reiterate that CACREP is the gold standard of a mental health education for this profession. It requires a 60-credit master's degree to be in line with its standards. Thirty of the fifty states in the country require a

60-credit master's degree. Twenty do not, but they are moving toward that. Nevada is behind the eight ball here. Nevada requires that CPCs have a CACREP-like degree, but CACREP defines mental health counseling as providing therapeutic services to individuals, families, and couples.

**Acting Chairman Frierson:**  
What is CACREP?

**Louise Sutherland:**

It is in the definitions in your handout ([Exhibit C](#)). It stands for the Council for Accreditation of Counseling and Related Educational Programs. We have some people in Las Vegas to testify about education and CACREP standards.

**Acting Chairman Frierson:**

We are trying to maintain videoconferencing to Las Vegas, so if a speaker gets cut off, please submit your testimony in writing.

**Shannon Smith, Private Citizen, Las Vegas, Nevada:**

I am a professor at the University of Nevada, Las Vegas (UNLV) and hold a Nevada license as a CPC. I have a similar license that I have held in Ohio since 1997. I am speaking about the curriculum shown on page 14 of the handout ([Exhibit C](#)). It compares some of the coursework for CPCs and MFTs. A lot of the coursework is similar in terms of required courses. The major difference is individual counseling and marital family systems therapy. This does not include all of the coursework that we include at UNLV. We have 20 courses for a total of 60 semester credit hours. In all of our courses, we teach our students to apply the coursework to individuals, couples, families, and communities. We teach a variety of theories for them to do that, including systems theory. It is embedded in what we do.

For example, I teach a play therapy class and we teach filial play therapy. In that class, we teach our students to work with children, adolescents, and adults. We teach them how to bring the family in and work in the context of utilizing the filial therapy. I know the coursework of the marriage and family programs and there are some distinctions and differences in what they teach. I respect MFTs as much as I do CPCs and there are some distinctions in training. The basics that we teach in our CACREP-accredited program include a lot of the principles and theories that would be covered in a marriage and family therapy program, just in different ways. I will give you an example. This is public information that can be found on the UNLV Department of Educational and Clinical Studies website in reference to our syllabi. For our course CED 727, our CACREP standard says we will teach "a systems perspective that provides an understanding of family and other systems theories and major

models of family and related interventions." In our CED 731 course, we "apply concepts of individual, couple, family, group, and community strategies for working with and advocating for diverse populations, including multicultural competencies."

In the CACREP standards for our core, couples and family therapy are mentioned more than 35 times. Since the creation of the CACREP standards it has been part of the core of what we are taught. We teach our students to conceptualize individuals within the context of families and communities. Many of our students become community mental health counselors, and that training has been part of the core standards since the creation of the CACREP standards. Many of our students have the basic competencies there. In comparison to a marriage and family program, they do not get some advanced skills, but they do learn the basic skills. It is a fallacy in common knowledge that MFTs have a skill that CPCs do not have. The reality is that they do have many of the same skills; MFTs just have them at an advanced level. When our students graduate from our program, they are skilled at working with individuals, individuals within families, couples, and entire families. Not to the same degree as MFTs, but at a basic level of competence equal to a graduate of any type of graduate program.

**Acting Chairman Frierson:**

Are there any questions? Seeing none, I will continue with testimony from Las Vegas.

**Randy Astramovich, Private Citizen, Las Vegas, Nevada:**

I am a faculty member in the counselor education program at UNLV and am speaking as a private citizen. I am the founding president of the Association for Child and Adolescent Counseling. I have held professional counselor licensure in Texas and Idaho. I currently serve as the CACREP liaison in the counselor education program at UNLV. I would like to add to the points made by Shannon Smith. As Louise Sutherland said, CACREP is the gold standard for accrediting counselor education programs. I teach in a program that is accredited and has held accreditation for many years. Within CACREPs training, they expect counselor education programs to train mental health counselors to work with not only individuals and groups, but also with families and couples. As mental health professionals, we all recognize the need to work not only with the individual, but with the individual's family and potentially with their partners who are affected by mental illness.

I urge the Committee to pass S.B. 155 (R1) without the amendment and hope the future of the counseling profession in Nevada can be strengthened. Given the current need for mental health providers in Nevada, I strongly encourage the



idea that qualified mental health providers such as CPCs have the ability to work with individuals, groups, couples, and family members affected by mental illness.

**Acting Chairman Frierson:**

Are there any questions? [There were none.]

**Renee Arbogast, Private Citizen, Las Vegas, Nevada:**

I am in support of S.B. 155 (R1) but not the amendment. I graduated from a CACREP-accredited school and have over 4,000 hours of supervision, with 2,400 hours documented with couples and families. I have 18 years of experience, including 12 years of experience working in private practice where I am a provider for CIGNA, Medicaid, BlueCross/Blue Shield, and a variety of other insurance companies. As a provider, I was always reimbursed for family and couple therapy. For the last five years, I have been contracting with the U.S. Department of Defense (DOD) and have traveled around the world to various military bases to provide counseling to military members and their families.

Two years ago, I moved to Las Vegas. I practice at Nellis Air Force Base because I can practice on federal land and provide much needed couple and family therapy to military family members. I am recognized as competent in every other state, with about every insurance company and with the DOD to provide couple and family therapy. In this state, it is against the law for me to do so.

Since I am from out of state, I have seen the broader picture. Marriage and family therapists and CPCs work together well. I am from Missouri and when I was there, they did not have MFTs. Gradually an MFT program developed. My first supervision student was an MFT. Outside Nevada, it is very cooperative. We work together, refer clients to each other, and build businesses together. On the national level, in U.S. Senate Bill 562, which is the Medicare bill, CPCs and MFTs are working together collaboratively as equal partners on the same playing field. And, there is further evidence that we are on the same playing field. The American Association of Marriage and Family Therapists (AAMFT), which is the MFTs' national organization, has a new president-elect who is a CPC. Dr. Marvarene Oliver's license was issued in 1983 and she is an associate professor of counseling. That is an example of how we respect each other professionally.

**Acting Chairman Frierson:**

Is there anyone else in Las Vegas to testify on S.B. 155 (R1)?

**Colleen Peterson, Private Citizen, Las Vegas, Nevada:**

I am a professor of marriage and family therapy at UNLV. I am also the president of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. I am speaking on my own behalf, but I believe I have some insight that would be valuable to you.

I want to address Assemblywoman Carlton's question about why this change needed to happen. She was definitely involved in the process of bringing counseling to Nevada as a licensed profession. At that time, there was a reason why there was a specific and distinct scope of practice between MFTs and CPCs. That is why marriage and family therapy included individuals, couples, families, and groups, and the CPCs, when they were added, excluded couples and families and specified individuals and groups only. What we have experienced as a Board is that people come from other states where they do have the competency to do that. As Assemblywoman Carlton specified, the statutes did not give us the authority to give a license to CPCs who wanted to do couples and family work. That is why we needed to change that language. The reason why there was an amendment to this bill was that not all programs include this exposure to working with couples and families.

If you look closely at the CACREP core curriculum and the materials provided, you will see that it is not definitely included in terms of that work. If you look at the table on page 14 ([Exhibit C](#)) that was provided by Dr. Smith, you will see that there are no course requirements for marital and family systems and marital and family therapy. There are no course requirements in the educational requirements that are currently laid out in the regulation. We have no problem with allowing those who have the competency to work with couples and families, but as a Board, we felt our responsibility was to protect the public to make sure they were getting services for couples and families from people who had that experience. There is a difference between having an introduction to working with couples and families and being trained specifically in that area. The educational course requirements will show you that. That is why, when this bill initially went before the Senate, there was a lot of discussion and why interested parties were invited to come to an agreement about that language. That went before the Board of Examiners, and the amended language you see is that which was agreed upon, and voted upon, by all members of the Board, including Ms. Sutherland, who is here testifying against that.

**Acting Chairman Frierson:**

Are you in opposition?

**Colleen Peterson:**

I am in favor of S.B. 155 (R1) as it was amended with the specification of the education, training, and experience.

**Assemblywoman Carlton:**

Do we need to have this delineated in this way, or can we still allow the language we have used in other boards? I am afraid when you start making a list, people fall through the holes in the list. I am not sure that this sets the level where it needs to be. We want to be sure we put in the right language so you are only allowed to bring in people who are qualified to practice in the state. I do not want to see anyone who is currently practicing in the state not be able to comply because we are drafting the language too tightly.

**Colleen Peterson:**

One of the frustrating things for the Board is that we are very cognizant of the authority that has been given to us by the Legislature through the statutes. Our concern, and why we thought this language would be better, is that to expand the scope to all CPCs to work with couples and families means that we would not have the authority to say a specific person can or cannot. We spoke with our deputy attorney general when we had this discussion, so this allows us to extend the scope for CPCs to be able to work with couples and families, and that would be, through regulation, what the Board would be able to determine.

**Assemblywoman Carlton:**

I agree with you. I am concerned that section 1, subsection 2, paragraph (b) as written may still not accomplish that. Allowing the Board to evaluate the licensee on "substantially equivalent," or whatever language we come up with, means you set out the criteria, requirements, and education, and as long as it is within that equivalency, it is acceptable. I am not saying, open it up to unqualified CPCs. These criteria are just for the qualified, because when we have a laundry list of coursework or supervised training or experience, we cannot combine any of those three to get to the goal because it is all "or"s. Also, we could end up with debate on how to address it when they have a portion of each, because, again, you have a bunch of "or"s in there. And, if you put in "and," or a comma, then you have to have all three of those things one on top of the other. My concern is the language and being sure it addresses the problem.

**Colleen Peterson:**

I agree with that. I think what we are looking at is the exclusion part. We do not want to exclude people from the CPC license if they do not have that experience with couples and families. We just want those who want to practice with couples and families to be able to demonstrate what is in the amendment.

[Chairman Bobzien reassumed the Chair.]

**Chairman Bobzien:**

Are there additional questions? Seeing none, we will move to Carson City.

**Tricia Woodliff, Private Citizen, Carson City, Nevada:**

I work for the State of Nevada, but I am speaking as a private citizen. I moved here from Oklahoma, where I was a licensed counselor. I have had nine years of experience and I have a master's degree in counseling psychology. I moved here for my husband's job with the intention to work as I had before as an early childhood mental health counselor. The only way for me to do that in this state is to work for the State of Nevada. Because I work for the state, I am able to bill Medicaid and see families. I am a trainer in the evidence-based practice of parent-child interaction therapy. I am trained in the evidence-based practice of attachment regulation competency, which is also a family therapy. Both are well-respected therapies and practices for families. Why are my thousands of hours of training and experience not sufficient to see families? What does the marriage and family therapy profession know that the Department of Child and Family Services does not? I would ask that S.B. 155 (R1) be passed without the amendment. My concern as a citizen and as a CPC is that our Board is composed of mainly MFTs. If they are the people making the decision as to what is the appropriate scope of practice, they are going to look at it from a systems perspective, which is one of the many things that CPCs are trained in. I am concerned that our education will not be properly represented as the ability to see families and children in relation to their families.

**Chairman Bobzien:**

We will continue to hear testimony.

**Deborah Garbett, President and State Coordinator, Nevada Mental Health Counselors Association:**

I am a licensed professional counselor in Elko and I also have a license in Utah. I am nationally certified with a National Certified Counselor and a Certified Clinical Mental Health Counselor certification. I transplanted to Nevada because of the need for mental health professionals in the rural areas. The position I hold is with the Elko Mental Health Center for the state Department of Health and Human Services. My position was vacant for three years before I filled it. When I came to Nevada, I was told that I would not be able to practice with couples or families. This was not the case for me in Utah. In Utah they look specifically at the CACREP accreditation. If you have a CACREP-accredited degree, you are qualified to practice because those standards are taught as part of receiving that CACREP accreditation. My education is through the University of Phoenix and I was trained in family counseling, group counseling,

marriage counseling, child counseling, and individual counseling. In each of those areas there is instruction on counseling families in order to better help the individual child and/or marriage.

Currently, I work with two groups, besides my full-time job, that specifically treat children. One is Maple Star Nevada. They provide services to children and adults who are Medicaid recipients. The organization hires therapists to provide individual therapy, family therapy, and group therapy. Therapists are titled as quality mental health providers and include licensed clinical social workers (LCSWs), MFTs, and CPCs according to the Nevada Medicaid website. I am qualified to provide these services and to be reimbursed by Medicaid, but I cannot because of state licensure regulations.

The second group with whom I work is the Great Basin Child Advocacy Center. It helps children who have been physically and sexually abused. The counseling that is recommended, and for which I have received training, specifically calls for parent-child sessions to work through traumatic issues. As with most types of child therapy, for a child to receive the most benefit from therapy, it is recommended that it include parents and other family members so there is continuity of care from the therapy setting to the home setting. Currently, there are only two therapists in Elko who receive referrals from this agency. They are an LCSW and me. The LCSW has a two-month waiting list.

I would like to refer to a newspaper article from the *Elko Daily Free Press*. There is a link listed on page 12 of the handout ([Exhibit C](#)). The article says there are only about 12 counselors in the Elko area to serve a population of approximately 50,000. There are not enough counselors to provide what they need in that rural setting. I think you would find the same thing in most rural settings in Nevada. Most of the therapists in Elko have a minimum three- to four-week waiting list. By the time clients are able to see a therapist, they are in full crisis. If they had been able to get in when they needed to, the repercussions may not have been as bad. Nevada received a grade of "D" on the National Alliance on Mental Illness "Grading the States 2009 Report Card" because there are not enough therapists available and because of the long wait times to get therapy.

I have had a lot of colleagues from Utah ask about jobs in Nevada. When they learn that we are not able to provide couples or family counseling, they do not apply. It is hard to attract people with CACREP accreditation to Nevada with the regulations as they are. I would like to see S.B. 155 (R1) passed without amendment so we can get more providers in the state and particularly in the rural areas.

**Erin Chapel, Private Citizen, Elko, Nevada:**

I am a military spouse of 22 years and a current graduate student in an online CACREP-accredited mental health counseling program. I am currently completing my graduate intern hours under the supervision of an MFT. Throughout my program, our instructors consistently referred to the theoretical models and techniques that we were learning as "tools" that we could put in our therapeutic tool belt, meaning that no single tool or model of therapy would work for every client. I have taken individual, group, child and adolescent, and family systems therapy classes as required by my CACREP-accredited program. I chose to pursue this counseling degree and CPC licensure because I felt that it would provide a broader base from which to treat my clients as opposed to only a family-systems base. I did not want to be limited to only counseling couples and families. Although they are not required to have individual or group coursework, MFTs are able to treat individuals and groups.

It is ironic and inconsistent that, if I am working or interning for a State of Nevada organization as a CPC intern, I am allowed to see couples and families, but I am not allowed to do so for an entity that is not under the state umbrella. One day I am competent and the next I am not.

Colleen Peterson stated that the Board does not have a course requirement for family systems courses for CPCs, but the CACREP program does. If we are in a CACREP-accredited program, which is required in our state for licensure, then we have had family systems courses. To become licensed, we have to take the National Clinical Mental Health Counseling Examination. That national examination measures knowledge and applications of family dynamics. It is not just testing us on individual and group therapy, but also on marriage and family dynamics. Declaring somebody competent is objective, and we feel outnumbered on the Board because it is composed of five MFTs and three CPCs. How many courses make you competent is subjective. We are afraid if individual competency is left up to the Board, it will be subjective. I would like S.B. 155 (R1) to be passed without the amendment as well.

**Chairman Bobzien:**

Are there any questions?

**Assemblyman Ellison:**

We have been working with people in the rural areas because of the shortfall. There are not enough people getting certified or the wages are too low there. Do all states except California and Nevada require CACREP accreditation?

**Deborah Garbett:**

I do not know, but I know Utah does.

**Louise Sutherland:**

Thirty of the fifty states require CACREP accreditation with a 60-credit master's degree, but all states are moving toward CACREP accreditation. All states that border on Nevada, except Oregon, require CACREP accreditation and the 60-credit master's degree. If any school wants to be in line with CACREP, which is the dominant accreditation for clinical counselors, they have to adopt a 60-credit master's degree. The regulation states that CPC education needs to be in line with CACREP standards. Nevada is behind the eight ball because we have not even moved in the direction of a 60-credit master's degree.

**Assemblyman Ellison:**

What is lacking in the education? I tried to look through all the comments on the Senate side but I do not see the problem in the Senate.

**Louise Sutherland:**

Nevada only requires a 48-credit master's degree. Thirty of the fifty licensing entities require the 60-credit master's degree. Nevada has not adopted that regulation. The MFTs also require only a 48-credit master's degree. The AAMFT is leading the way toward the 60-credit master's degree. There is also a CACREP-accredited marriage and family therapy program that is quite rigorous. The Association also identifies and defines mental health counseling as including the practice of therapy with individuals, families, couples, groups, and organizations. So, that is the national standard, which is adopted by the U.S. Department of Veterans Affairs and the Department of the Army and is required by Tricare to work with any military family.

**Chairman Bobzien:**

Are there any questions? Seeing none, we will go back to Colleen Peterson.

**Colleen Peterson:**

With regard to the map that was provided, it says there are only two states that limit the scope of practice to exclude working with couples and families. There are 10 to 12 states where the scope of practice for CPCs states individuals and groups and does not include couples and families, and they handle it in statute by saying CPCs must practice within their competency.

We could have had many people here to testify against the initial bill. We could have provided more lengthy documentation about the original bill as written; however, once we had the consensus on the amended language, we did not feel we needed to. We were blindsided, and I found out about people advocating for the bill as originally written at 12:30 p.m. today.

In those states that have moved toward the 60-credit master's degree, it is for people who have graduated within a certain time period. We have not moved toward that because of the issue of not having enough mental health professionals in Nevada. If we were to go to that 60-hour requirement, then those who are seasoned professionals but do not meet the 60-hour requirement would have limitations placed on them as well.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**David Marlon, President, Solutions Recovery, Inc., Las Vegas, Nevada:**

I received my master of business administration from UNLV and I will receive a master's degree in counseling from UNLV, which is a CACREP program, in May. I work at Solutions Recovery, Inc., which is a Las Vegas alcohol and drug rehabilitation program. We employ and contract with CPCs and MFTs. For us, to treat a client and not address the enabler, blamer, or other family members within the system would be incomplete. I want to share a short example. If a plumber as part of his normal job had to make a little box but had to apply to the carpentry board to do it, that would create challenges. It seems to me that is what is going on between the CPCs and the MFTs and is the challenge in this new amended language.

**Renee Arbogast:**

I wanted to summarize.

**Chairman Bobzien:**

If you have previously testified, it is very unusual for us to take second testimony from someone. If you have additional comments, will you please submit them to us in writing?

**Renee Arbogast:**

Absolutely.

**Helen Foley, representing Nevada Association of Marriage and Family Therapists:**

When this scope of practice was originally passed by the Legislature in 2007, it excluded CPCs from assessing or treating couples and families. We have not heard any attempts to change this legislatively until this session. When the bill came before the Senate Committee on Commerce, Labor and Energy to allow everyone who is licensed as a CPC to assess and treat couples and families, we felt that it was inappropriate without the Board taking a look at it and making sure those persons had the credentials and experience to do so. During the course of the testimony, as you have heard today, there were many people who



do have that experience, have had that coursework, and should be licensed in that area.

As Colleen Peterson, the Board president, stated, with a change in the law, the Board will be allowed to grant this ability for CPCs to practice in this field. Now there is a complete ban against it. I do not like the approach that the MFTs are the nemesis. We have been working with Assemblywoman Carlton for as long as she was a Senator on many of these issues with psychologists, clinical social workers, drug and alcohol abuse counselors, and problem gambling counselors. As each profession comes on board, we make sure that people have the right credentials to do the job. We know that we are woefully behind as far as how many mental health professionals we need in Nevada. We want to get people licensed who have the right credentials and experience.

We believe that, with the amendment as printed in the first reprint, individuals will be able to do this. Assemblywoman Carlton may like to tweak this bill to be more comfortable that it is "substantially equivalent." Maybe a CPC has received a credential somewhere else and has the training and experience that is substantially equivalent to the requirements in this state. That would be acceptable to us and we would be happy to work with the Committee to get language that better suits your needs. To make a blanket statement that all counselors could automatically practice would seem to be very inappropriate. When Dr. Smith spoke, he mentioned the coursework that was needed for MFTs and CPCs. There are no courses needed for marital and family systems or marriage and family therapy for CPCs, but there are 18 credits that are needed for the MFT.

Granted, CACREP has become quite the gold standard today. There are areas of specialty within CACREP. They have areas dealing with their common core curriculum and they also have areas that focus on addictions; career counseling; clinical mental health counseling; marriage, couple, and family counseling; school counseling; and all different kinds of things. There are specialties where you take and pass their courses in order to receive the appropriate training to do this job. We and the Board want to make sure that people who practice in this field have the right credentials.

I am stunned by the testimony today because when we were before the Senate, they said go back and talk to your Board about how they can best handle this. We had an emergency meeting of the Board of Medical Examiners for Marriage and Family Therapists and Clinical Professional Counselors. It lasted a long time and in the end there was a unanimous decision to support the language that is in the first reprint of this bill. Louise Sutherland and other CPCs all voted yes. I told the Senate that we had reached an agreement. Then there was chaos.

I hope we can find a solution that is reasonable, rational, treats people fairly, and gets enough people in Nevada to treat our mental health need.

**Chairman Bobzien:**

Are there any questions?

**Assemblywoman Carlton:**

It is difficult because the Board is not technically represented here today to answer questions from the Committee on their regulatory process, because Colleen Peterson is not speaking as a Board member. You are representing the Association, which has a different view of the bill because you are representing a different group of people. I need to understand the accreditation component, how many people are certified, and to whom this actually opens up licensure. I need to overlay that with the information on this amendment that was agreed to by people who were not in support of the bill. Does it raise the bar so high that when we leave here, no one will be able to comply with it? We will have spent time, effort, and about \$60,000, because that is what it costs for a bill, and will have accomplished nothing. When I look at this language, I do not think anyone is going to be able to practice in the state. That is not the goal of the bill. We will have to get answers at another time.

**Helen Foley:**

I do believe that the entire Committee in the Senate wanted to pass something to allow more CPCs who have the appropriate training to be able to practice. I know the position of our organization was in support of the legislation. We never testified against it and we did not intend to have that come across. Dr. Peterson was not allowed to testify on behalf of the Board before, but the Board had an emergency meeting and I believe that she can answer questions for the Committee. She can answer questions about the certification and how many people are licensed currently. There are three members of the Board who are CPCs and four who are MFTs. In Nevada there are 766 MFTs and 290 interns, and 68 CPCs and 70 interns. There is a wide disparity in the number of people licensed, but there is only one more MFT represented on the Board, so it is quite balanced.

**Chairman Bobzien:**

Is there any new testimony from anyone who has not previously testified?

**Oscar Sida, Private Citizen, Las Vegas, Nevada:**

I am a CPC intern, a licensed drug and alcohol intern. I am one of the few bilingual counselors in the southern Nevada area. To treat an individual and not consider couples or families is very problematic for me as a counselor within the cultural context of Hispanics. It is almost unthinkable to provide counseling

services without considering the family dynamics and the significant other. You could imagine, when working with children, how could I treat a child and not bring his parents in to discuss issues and consider the family dynamics.

I am also an adjunct professor at Nevada State College and UNLV, where I teach counseling courses at the undergraduate level. Every textbook I use in training potential professionals has major coursework in systems, couples, and families. We are licensed to provide group counseling as CPCs. It is implied within the context of systems. It is something we get major coursework on as master's level students. Students are trained to do that at the undergraduate level as addictions counselors as well.

I support the bill without the amendment because there is so much confusion. Adding more regulations is going to make it harder for more people to be licensed. It is difficult to see an individual in therapy because you cannot use a family intervention to address his issue. Good common sense and clear language will help the Board to provide that guidance. We want licensed, qualified professionals and we need to find a good way to do that.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**Adrienne O'Neal, President, Nevada Association for Marriage and Family Therapy:**

I want to reiterate the importance of coursework in systems and couple and family focus academically. This amendment that we are in favor of and that was voted on unanimously by the Board, which is four MFTs and three CPCs, still gives the Board discretion. For those who testified that they have the coursework and experience, this would allow them to practice. It does not prevent them from practicing. We are excited about the CPCs who are coming into the field and we need more to practice.

**Chairman Bobzien:**

Are there any questions? [There were none.] Senator Gustavson, please bring parties together to find some resolution on this bill.

**Senator Gustavson:**

I would be happy to work with the parties.

**Chairman Bobzien:**

I will close the hearing on Senate Bill 155 (R1) and open the hearing on Senate Bill 114.

**Senate Bill 114: Revises provisions relating to the filing of rates for insurance.  
(BDR 57-146)**

**Robert L. Compan, representing Farmers Group, Inc.:**

Currently, Nevada statute has what is deemed as a prior approval regulatory statutory environment. [Read from submitted letter ([Exhibit D](#)).]

We had a working group in the interim with the Commissioner of Insurance and other members of the industry to modernize some of the language within the industry, and we came up with the bill that is before you today. We want to compliment the Commissioner for what he and his staff have done over the past couple of years. They are really setting the gold standard for other states to follow. Administrations change and people move on, so we wanted to codify the actions of the Commissioner of Insurance in Nevada in S.B. 114. [Continued to read from letter ([Exhibit D](#)).]

**Chairman Bobzien:**

Senator Roberson is present now. Would you like to comment?

**Senator Michael Roberson, Clark County Senatorial District No. 20:**

For many years, the insurance industry has been working to reform the current insurance statutes as they pertain to approval of rates for personal auto and homeowner's insurance in Nevada. In an effort to streamline insurance regulation, promote price competition in the insurance market, and recognize the role of well-informed consumers, statutes have been reformed in over 40 states to recognize the benefits of rate modernization. This is why Senator Kelvin Atkinson and I sponsored S.B. 114. It received unanimous support in the Senate Committee on Commerce, Labor and Energy and in the Senate. The Insurance Research Council report issued on February 23, 2012, *The Long-Term Effects of Rate Regulatory Reforms in Automobile Insurance Markets*, states that there is clear evidence of the long-term positive effects of rate regulatory reform and automobile insurance markets. By examining insurance markets in several states before and after adopting regulatory reforms, the study documents the benefits, to consumers and the industry, of insurance rate regulation modernization. The results of this study show that regulatory reforms have led to a number of positive developments without leading to increases in insurance prices or reductions in availability or service quality.

Let me walk through the bill. Section 1 of S.B. 114 will change the current deemer date from 60 to 30 days, which will ensure a speedier product to market. A deemer is the fixed period of time that can be suspended.

Section 2 of this bill spells out the requirements required by the insurer and the Commissioner of Insurance should a rate be deemed disqualified. Please note, the proposal must be deemed complete. If the filing is not complete, the deemer will be suspended until the insurer provides the information that is deemed a complete filing. This bill does not take away the regulatory authority of the Commissioner's office; rather, it adds a positive consumer component that will guarantee that both the Division of Insurance and the insurance companies act in a prudent manner when filing rates and forms within the Division.

Section 2, in subsections 2 and 3, outlines the responsibilities and options to have the filing reconsidered and may allow for an extension. Section 2, subsection 6, requires the Division to notify the insurer within 15 days of any information that may be deemed incomplete within the filing.

Currently, the statute has a 60-day deemer and is somewhat unclear on the responsibilities of the insurer and the Commissioner of Insurance. We believe Senate Bill 114 will guarantee speed to the marketplace for insureds, thus providing a competitive price for the Nevada consumer.

**Chairman Bobzien:**

Mr. Compan, do you want to make some additional remarks?

**Robert Compan:**

We are not taking away any regulatory authority from the Division of Insurance. We are putting in some time frames that will allow insurers in the marketplace to react quickly, act prudently, and be able to react to the current market conditions under what the Division currently has in place. It codifies what the Division is doing. The study by the Insurance Research Council shows there are 40 states that have done this. We are not moving to anything other than what the state is doing now.

I would like to take some information from that report. Studies show that the relative number of insurance providers is lower in stringently regulated states than in regulated states. The nature of the firms operated in regulated markets is distorted toward the less efficient firms. I believe what this does and what the Commissioner is doing now makes the insurance environment friendly and competitive, and will allow us to have speed to market. When we do pricing reforms it will create a competitive market for the consumers, and it is transparent.

There is a letter on the Nevada Electronic Legislative Information Service (NELIS) that was received by the Senate Committee on Commerce, Labor and Energy

[February 25, 2013, meeting] from the National Association of Mutual Insurance Carriers (NAMIC). The letter says:

[This bill] will move Nevada forward into the ranks of states that have successfully embraced the irrefutable fact that insurance consumers benefit from vigorous and continuous market competition among insurance carriers. There is a simple mindset shared by members of the insurance industry, "someday my competitor's policyholder could become my policyholder." Rate modernization stimulates this pro-consumer competition by allowing insurers to aggressively compete on one of the most important consumer purchasing decision variables—insurance rates.

The most important part of that is being able to be competitive with rates.

**Chairman Bobzien:**

Are there any questions?

**Assemblywoman Carlton:**

You have stated that this is codifying current practice, but you are talking about changing the days from 60 to 30. Will you clarify that?

**Robert Compan:**

I believe the current period of rate filings, or deemer, is about 18.2 days. It is moving to a quicker period, but the Division feels they can do this. The filing has to be complete. If it is not, then it suspends the deemer. I think insurance companies and the Division will look at things a little closer now, to make sure they are complete because they do not want to have a suspension. They want to look at premiums now so they can give a more competitive price to their consumers.

**Assemblywoman Carlton:**

Does this change our prior approval scheme that we currently operate under in the state?

**Robert Compan:**

No, it does not. It changes the current deemer period under statute.

**Assemblywoman Carlton:**

I still have concerns; we hear this every session and have since 1999. It has been called "file and use" and a number of different things and it has always been under the guise of competition. We have a competitive market, so I am not sure what this will accomplish and what about it is good for my consumer.

**Robert Compan:**

I have the most current Division of Insurance report on the Nevada auto insurance market. There are about 176 companies doing business in the state. There are five companies that have the market share in Nevada. The top 25 companies have over 80 percent of the market share. Competitiveness? Not quite inviting to a company that wants to do business in the state. It is going to give the insurance industry the ability to react quickly to the market to be able to get a better product to the consumers. I believe it will affect your consumers in a positive manner.

**Assemblywoman Carlton:**

It is rare that I hear an insurance company come here to ask for something that benefits my consumers. I do not see how this benefits the consumer.

**Robert Compan:**

Please read the report from the Insurance Research Council.

**Assemblywoman Carlton:**

It is very difficult to read.

**Robert Compan:**

It walks you through the steps and you need to be a mathematician. It takes into account states that have not gone through a modernization product and shows there is definitive proof that insurance rates have declined and prospered. On pages 23 and 24, the report talks about insurance service and quality. If an insurance company has done some form of rate modernization, what does the consumer complaint volume look like? In Massachusetts between 2005 and 2010, the number of complaints went from 908 to 621. In New Jersey, which is one of the most recent states to adopt insurance modernization, the complaint volume has dropped from 509 complaints in 2002 regarding rates, to 140 complaints in 2010. The report speaks to the consumer and shows the benefits. This is nothing like anything we have ever introduced to this Committee. It is not flex-rating; it is not "file and use." It is just trying to get a speedier product to the market. I would appreciate a positive vote on this bill.

**Chairman Bobzien:**

Are there any questions?

**Assemblywoman Bustamante Adams:**

I remember the bill from last session. Has anything changed?

**Robert Compan:**

It is a totally different bill. I still have strong beliefs in the flex-rating system. We were asking for this Committee to consider a flex band without regulation. This bill keeps the regulatory environment there. The Commissioner still has a final say on the rate approval. This is simplistic and has nothing to do with that language.

**Chairman Bobzien:**

Are there additional questions? [There were none.] Is there additional testimony in support of this bill?

**James L. Wadhams, representing American Insurance Association:**

The American Insurance Association is a national trade association of about 300 property and casualty insurance companies. This is still prior approval. The protections of the public by the Insurance Commissioner are still in place. That office can review the rates before they go into use and can review rates after they go into use. What this bill does, and we support it for this reason, is it accelerates the time frame in which the Insurance Division must act. The simplest reason for that is that in this day and age, all of this is done electronically. It simply allows more efficiency in the marketplace. The approval and protection of the public is not changed by this bill. We request your support.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**Mary Pierczynski, representing Allstate Corporation and American Family Insurance Company:**

Senate Bill 114 is a great step in the modernization of Nevada's insurance regulatory system. Allstate and American Family believe that we are very fortunate in Nevada to have an excellent Insurance Commissioner and a very capable staff. This bill puts into statute some of the good practices they have established. Modernizing regulatory systems not only makes it easier and more cost-effective for insurers to introduce new insurance products to address changing consumer needs, but also allows insurers the ability to promptly respond to needs for sudden adjustments. We urge your support for this bill.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**Joseph Guild, representing State Farm Insurance Companies:**

I am here in support of S.B. 114. I would point out to the Committee that none of the provisions of *Nevada Revised Statutes* (NRS) Chapter 686B are amended



other than those related to this narrow lessening of time from 60 to 30 days. All of the standards that the Commissioner of Insurance must address under NRS 686B.050 are still intact and they are very stringent standards to review a rate. All of the other provisions under NRS 686B.060 that the Commissioner of Insurance must look to before determining whether a rate is in compliance with all of the standards in the law are still intact. I would urge the Committee to review the considerations I addressed. I request your support of this legislation.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**Josh Griffin, representing AAA NCNU Insurance Exchange:**

This bill does not change any oversight that is already in place in Nevada. Insurance carriers are still required to get approval for any rate change and must adhere to this requirement even if this bill were to be passed. It is about speed, flexibility in the marketplace, and adherence to the processes through which we have to go. We encourage support of this bill.

**Chairman Bobzien:**

Are there any questions?

**Assemblyman Ellison:**

What was the outcome for this legislation in other states?

**Robert Compan:**

Different states have passed different forms of insurance modernization. What is considered to be the most difficult for insurance companies is what is in the NRS now. Nevada is a prior approval state. The next step up is more preferred and it is called "file and use" where the insurer files a rate product and you use it with some regulatory oversight. In some states there is total deregulation, which allows the free market be the free market and dictate what the consumer's prices are. That has been preferred in states where it has been done; those states have insurance rates that have stabilized or gone down. Flex-rating is the third tier of rate modernization. We are not asking for those. The study by the Insurance Research Council goes to the three most modern states that have passed legislation, which are New Jersey, Massachusetts, and South Carolina. Those states have reduced prices and equity for consumers.

**Assemblyman Ellison:**

How does the deregulation affect the competition for the insurance companies? According to this, South Carolina has experienced an increase to 30 auto insurance firms since 1999. Is that what you expect to see in Nevada?

**Robert Compan:**

The short answer is yes. We hope a competitive market and a market with ease of rates and filings encourages other companies to come into the state. More competition gives us the opportunity to showcase what we do. A competitive market allows us to bring a product to the insured that is not depressed. This is a difficult market to enter. What the Commissioner is doing is great, but companies have to see it. The Commissioner is on the National Association of Insurance Commissioners (NAIC) Speed to Market Task Force, where they are working on just that. They are setting the gold standard by having a deemer period that is set now at around 18 days where they are approving rates. I believe with that in mind, you can look at New Jersey or South Carolina, where they have more insurers coming into the state to sell insurance and the market is more competitive and healthy and is good for the consumers.

**Chairman Bobzien:**

Are there any questions? Seeing none, is there any additional testimony in favor of the measure? [There was none.] Is there anyone to testify in opposition? [There was no one.] Is there anyone to testify in the neutral position?

**Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry:**

The Division is neutral on the bill as a matter of policy. We worked with the insurance industry extensively in the interim through our advisory committees and working groups to come to an agreeable place on this topic. The Division agrees with a lot of what has been said regarding the technical aspects of the bill. In a prior approval system, once a rate filing is deemed complete, the regulatory body, which in this case is the Division, has a certain amount of time to approve or disapprove that filing. If no action is taken within that time frame, then it is deemed to have been approved. In this case, the current statute is 60 days. The bill is proposing to change that deemer statute to 30 days. The Division currently operates on approximately a 17.5-day turnaround from a complete rate filing being received. The reason we have been amenable to the bill and why we are neutral now is that it is already within our standard operating procedures to meet the proposed timelines.

Commissioner Kipper wanted me to make clear that Nevada is the gold standard in rate filing and speed to market. We are the chair for the NAIC Speed to Market Task Force. Our turnaround time is exemplary in a prior approval system. One of the Commissioner's biggest issues through this whole process has been why exactly are we making this change? Because we are making the deadlines and timelines, are we really going to accomplish anything? It has

been said that it will codify what we are doing and keep it going forward. That is true, but in terms of competition, the Division produces a market report that we submit to legislators every session and it is available on our website at [<doi.nv.gov>](http://doi.nv.gov) for everyone to view.

We measure competition of the auto insurance market on a quantitative basis using the Herfindahl-Hirschman Index. That is a sum of squares method used by the U.S. Department of Justice. Basically, if you have a mathematical result that is 0.15 or less, your market is considered to be competitive. For the period ending 2011, Nevada's Herfindahl-Hirschman Index was 0.05 for individuals and 0.08 for companies. That shows a competitive factor far below what the Department of Justice considers to be adequate. Our residual markets are where people who cannot normally purchase auto insurance go. While some states have thousands of people in their residual markets, Nevada has approximately ten. We are not in danger of being considered an uncompetitive market even with a prior approval system in place.

**Chairman Bobzien:**

Are there any questions?

**Assemblyman Ellison:**

Did you say that under the current law, the Commissioner must approve or deny a proposal for change of rate within 60 days?

**Adam Plain:**

The current law is that we must approve or disapprove a rate within 60 days after it has been deemed complete. We do that in 17.5 days. The proposal is to lower the statutory threshold from 60 to 30 days.

**Chairman Bobzien:**

Are there additional questions?

**Assemblyman Ohrenschall:**

In the new proposed language on page 3, lines 16 through 33, is there any provision currently in regulation to allow the Commissioner to reconsider after a disapproval?

**Adam Plain:**

I do not believe there is a current provision for a reconsideration. That proposed statute explicitly grants authority to the Commissioner; and, along with a provision that requires the rate filer to respond to a request for information within 15 days, are two new provisions that codify the existing practices of the rate filing process.

**Assemblyman Ohrenschall:**

Currently, if a rate increase is disapproved by the Commissioner, is it routine that the company, rather than file for reconsideration, files another request for increase?

**Adam Plain:**

If a rate is disapproved, an insurer may currently request a hearing to have that disapproval reexamined or they may walk away and refile a rate change at a later time. The refiling of a rate change is starting from scratch for both the insurer and the Division and is a more time-consuming, costly process than an informal rehearing. It may be as burdensome as a formal hearing.

**Chairman Bobzien:**

Are there further questions? Seeing none, I will close the hearing on S.B. 114 and open the hearing on Senate Bill 351.

**Senate Bill 351: Prohibits certain activities relating to liens for health care services. (BDR 54-847)**

**Senator Mark Hutchison, Clark County Senatorial District No. 6:**

The bill prohibits a medical provider from treating a patient, referring that patient out, and then buying the liens of the subsequent medical providers. This typically happens with a car accident case. The medical provider will tell the patient that he will provide the services and not charge at the time, but he will put a lien on any proceeds that the patient gets in terms of a settlement or from a verdict in a subsequent personal injury action. The medical provider or medical facility will then refer the patient to another provider. That provider will also treat the patient on a lien basis. The original medical provider can go to the subsequent medical providers and attempt to buy the medical liens. When the patient settles with the insurance company, the original medical provider has all the liens and they settle with the insurance company for a profit. There is an incentive for providers to overrefer and overtreat patients because the more the patient is treated, the higher the liens will be and the more money they can get if they buy the liens. This bill prohibits that activity. It makes it a category E felony to violate this law, including a fine that cannot exceed \$25,000 per violation.

**Chairman Bobzien:**

Are there any questions?

**Assemblyman Hansen:**

Are these practices already regulated by a medical board?

**Senator Hutchison:**

It is not currently prohibited under law and that is what we want to fix.

**Assemblyman Livermore:**

In what kind of facility do you find that behavior?

**Senator Hutchison:**

Typically, it is primary care providers. They control the patient's health care treatment and refer the patient to specialists or other medical providers. There are times when a medical facility is involved and will provide referrals to specialists and surgeons. They can then buy the liens. The primary care physicians are usually the ones engaged in this activity.

**Assemblyman Livermore:**

I know that nonprofit hospitals have a charitable mission required by the Internal Revenue Service, so there must be a violation someplace.

**Senator Hutchison:**

I am not aware of those types of facilities doing what I just described. That is not the focus of where the problem lies.

**Assemblyman Daly:**

When people have a car accident, they go to an emergency room. When a person goes to a hospital, they want to know if he has insurance and then you have a subrogation claim. Is this separate from that? Are these people without insurance? How do they get people to sell the liens if it is so lucrative? Will it interfere with the subrogation?

**Senator Hutchison:**

This is a typical situation when a person is in a car accident. They may go to an emergency room or a hospital and then they go to a primary care physician, who will monitor their medical treatment. That primary care physician is the one who determines where that patient is going to go for medical treatment. When there is a car accident involved, it is absolutely routine for people, even with insurance, to get medical treatment on a lien because they know there is going to be a third party who will eventually pay. The challenge is if there is an incentive for the primary care physician to refer to multiple specialists, surgeons, or medical care facilities because they have a deal with them to buy the liens. They sell the liens because they need the money. The physician may sell the lien because they overcharged in the first place. I do not know of any interference with subrogation rights or the legal interest that an insurance company or third-party company paying a claim would have.

**Josh Griffin, representing Med-Care Solutions:**

I would like to introduce Steven Valenti from Med-Care Solutions to outline how the company works.

**Steven Valenti, Marketing Director, Med-Care Solutions, Las Vegas, Nevada:**

I offer my testimony in support of S.B. 351, which addresses the problems that arise when medical providers financially benefit from financing the medical treatments that their patients receive as a result of their referrals. Nevada needs this proposed legislation because it will prevent financial self-dealing in the health care community and promote integrity in the course of medical treatment of injured persons.

Med-Care Solutions is an accounts receivable finance company purchasing medical liens from providers who work on patients that are in a personal injury case. We provide services when a self-paying patient who does not have private health or other insurance has been hurt or suffered injuries as a result of the negligence of others and is in need of medical treatment. These patients have no way to pay for their medical bills until they settle their legal claims against the negligent or responsible party. [Continued to read from prepared testimony ([Exhibit E](#)).]

**Chairman Bobzien:**

Are there any questions?

**Assemblyman Frierson:**

My question is about the criminal provision. Is it a felony elsewhere? Felony treatment appears to be rather harsh. You said it mirrors federal law, but where else would it be deemed a felony?

**Steven Valenti:**

I am not sure it is a felony at the federal level. Often in a court case, an attorney will try to get three times the medical bills as a settlement. If a patient has a \$200,000 spine surgery, his attorney is hoping to get a \$600,000 settlement for the client. If the defense attorney learns that this is happening, that could destroy the case. For those severe reasons, we think it should be a felony.

**Assemblyman Grady:**

Does Med-Care Solutions have business licenses?

**Steven Valenti:**

We have county and state business licenses as a medical lien purchasing company.

**Assemblyman Grady:**

Does this fall under any of the financial oversight?

**Steven Valenti:**

No, it does not because technically we are not financing anything. We are purchasing a lien from a provider who does not want to hold it because he does not want to wait to be paid or take the risk of the case completely falling apart. It is easier for him and helps with his cash flow issues. Our main clients are surgery centers because they have high overhead, low profit margins, and cannot afford to wait three years to be paid.

**Assemblyman Grady:**

How many companies like yours are in Nevada?

**Steven Valenti:**

I believe there are about a half dozen.

**Assemblyman Ohrenschall:**

Are there any penalties that the boards impose on the health care provider for this practice?

**Steven Valenti:**

I do not believe there have been any penalties because, typically, if a health care provider is doing this and his wife owns a lien purchasing company, it can be easily covered up so there would be no way for his medical board to know what he is doing. That is why I do not believe there have been any consequences for anybody doing it, which may be the reason it can be done so easily.

**Josh Griffin:**

This is a relatively recent violation in what seems instinctively to be an unethical practice. Med-Care Solutions has been in business for a little over ten years. It has only been very recently that this has been discovered. In terms of the consequences, it is not just the hundreds of thousands of dollars that are at stake in a claim; but, when there are medical procedures that are overprescribed with an unknown, if not unethical, financial interest on the back end, there could be injuries resulting from the overtreatment arising from the motive to profit by buying the debt. I am not sure why it is a current problem and I am not sure how widespread it is. It seems to be instinctively unethical and this bill would put into statute a very suitable penalty.

**Assemblyman Livermore:**

If these people form a limited liability company (LLC), how can you do anything? If you close the LLC, they will open a new one tomorrow.

**Steven Valenti:**

It would be a challenge to actually nail somebody down who is committing this, but defense attorneys will be motivated to figure this out and they are really clever. I think sometimes this will be found out in a very simple way.

**Assemblyman Livermore:**

Will it eventually cost a third party, such as an insurance company? Or would it cost a government entity or a patient?

**Steven Valenti:**

I do not see how it would cost anybody else.

**Assemblyman Daly:**

Do you act as the lawyer in these transactions?

**Steven Valenti:**

Ninety percent of the cases in which we get involved are personal injury car accidents. The victim is not at fault and has no health insurance. If a person has medical insurance, his own insurance company will cover his medical costs until the lawsuit is completed. When the settlement happens, the person who is at fault will reimburse the insurance company. We never get involved if a client has insurance or if it is in any way his fault. This is only going to happen when the third party involved is totally at fault. How else could the person get a settlement?

When there are situations where the guilt is shared, we cannot get involved and the patient is on his own to get treatment. Doctors may or may not take a lien. The clients are people who have no insurance and are not at fault. If a person is in a traumatic accident and is taken to the hospital by ambulance, that will probably never come to us. The more typical case is if a person is in a bad accident and gets a whiplash. The next day he sees a doctor and when he is represented by an attorney, we get involved. That is the only way we will get paid when we purchase the lien from the medical services. The attorney guarantees that he is going to make sure that all of the lienholders are paid.

**Assemblyman Daly:**

If you have the lien, you are a subrogated party. Do you get 100 percent of what you paid?



**Steven Valenti:**

It never happens. Invariably, the liens are reduced and the attorney offers less to the lienholders and, for the most part, all of the lien purchasing companies do. The reductions are typically 20 to 50 percent.

**Chairman Bobzien:**

Mr. Griffin, will you please answer any other questions that Committee members may have?

**Josh Griffin:**

Yes, I will.

**Chairman Bobzien:**

Is there any opposition testimony? [There was none.] Is there anyone wishing to testify from a neutral position? Seeing none, I will close the hearing on S.B. 351. Is there any public comment? [There was no response.] Is there anything to come before the Committee from the members? [There was no response.] The meeting is adjourned [at 5:02 p.m.].

RESPECTFULLY SUBMITTED:

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Earlene Miller  
Committee Secretary

APPROVED BY:

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Assemblyman David P. Bobzien, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** April 24, 2013

**Time of Meeting:** 2:40 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 155 (R1)	C	Louise Sutherland	Handout
S.B. 114	D	Robert Compan	Letter
S.B. 351	E	Steven Valenti	Prepared Testimony