

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

**Seventy-Seventh Session
March 11, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 1:34 p.m. on Monday, March 11, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Kelvin Atkinson, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Justin C. Jones
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator James A. Settlemeyer
Senator Mark Hutchison

GUEST LEGISLATORS PRESENT:

Senator Ruben J. Kihuen, Senatorial District No. 10

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Marsheilah D. Lyons, Supervising Principal Research Analyst
Wayne Archer, Committee Secretary

OTHERS PRESENT:

Anthony Vogel, Clark County Deputy Marshals Association
Ronald P. Dreher, Peace Officers' Research Association of Nevada
Danny Thompson, Nevada State AFL-CIO
Ronald Cuzze, Nevada State Law Enforcement Officers' Association; Nevada
Association of Public Safety Officers

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Thomas Lemke, Marshal, Eighth Judicial District
Andres Moses, Staff Attorney, Eighth Judicial District; Justices of the Peace,
Clark County; Second Judicial District
Rory Planeta, Chief, Department of Alternative Sentencing, Carson City
Michael Beam, Chief Probation Officer, Department of Alternative Sentencing,
Douglas County
Joe Ingraham, Chief, Department of Alternative Sentencing, Washoe County
Yolanda King, Director, Budget and Financial Planning, Department of Finance,
Clark County
Sandra Swickard, Workers' Compensation Coordinator, Clark County
Mary Walker, Lyon County
Chuck Callaway, Police Director of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Rusty McAllister, Professional Firefighters of Nevada
Keith Lee, Board of Medical Examiners
K. Neena Laxalt, Board of Dispensing Opticians
Fred Olmstead, General Counsel, State Board of Nursing
S. Paul Edwards, General Counsel, State Board of Pharmacy
J. David Wuest, Deputy Secretary/Inspector, State Board of Pharmacy
Lawrence Matheis, Nevada State Medical Association
Erin McMullen, Luxottica Retail North America, Inc.
Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys;
Special Deputy Attorney General, Office of the Attorney General
Jeanette K. Belz, Nevada Academy of Ophthalmology
Pat Conmay, Division Chief, Records and Technology Division, Department of
Public Safety

Chair Atkinson:

I will open the hearing on Senate Bill (S.B.) 208.

SENATE BILL 208: Revises the definition of "police officer" primarily for purposes of certain provisions relating to occupational diseases. (BDR 53-875)

Senator Ruben J. Kihuen (Senatorial District No. 10):

Senate Bill 208 would extend the definition of a police officer to include bailiffs and deputy marshals for the purposes of the Nevada Occupational Diseases Act (NODA) under *Nevada Revised Statute* (NRS) 617.135.

Anthony Vogel (Clark County Deputy Marshals Association):

Marshals and courtroom bailiffs are category I peace officers. We receive the same training and attend the same POST academies as other category I peace officers. Due to the nature of our work, marshals are the first responders to every emergency medical call on courthouse property until paramedics arrive.

We deal with the same people and the same issues as other police officers. Recently, a marshal came to the aid of a Department of Corrections officer held hostage by an inmate who had attempted to remove the officer's weapon. In the process, the marshal sustained a career-ending injury. Another officer was bitten by an inmate who tested positive for hepatitis C.

Senator Hardy:

Since police officers are often the first responders to burning homes, they are exposed to the same harmful elements to which firefighters are exposed. Will S.B. 208 extend the conclusive presumption of causality for diseases of the heart and lungs to bailiffs and court marshals?

Mr. Vogel:

After speaking with representatives from Clark County, my interpretation is S.B. 208 would extend the conclusive presumption to bailiffs and court marshals. In the case of fire emergencies, marshals remain in the courthouse and escort the fire department through the building when they arrive on scene. The same process would occur in the event of a bomb threat.

Senator Hutchison:

What happens when a marshal files a workers' compensation claim under the current system?

Mr. Vogel:

Marshals are covered by Clark County workers' compensation and receive the same benefits as civilian employees. For example, the marshal who came to the aid of the corrections officer was denied coverage because he is not a police officer. The marshal is receiving treatments in the same manner any other county employee would, and he has filed a lawsuit challenging the denial of coverage.

Senator Hutchison:

Are you saying there would be no question whether the marshal was a police officer if S.B. 208 became law.

Mr. Vogel:

Yes.

Senator Settlemeyer:

The definition of a police officer has been expanded several times. Is it possible to amend NRS 617.135 to cover all category I peace officers?

Ronald P. Dreher (Peace Officers' Research Association of Nevada):

The Peace Officers' Research Association of Nevada would support an amendment to NRS 617.135 to cover all category I peace officers. A better solution would be to cover all public safety officers. Less than 800 officers are excluded from the current definition.

Senator Hardy:

Senate Bill 208 would expose the State to additional costs, yet I do not see a fiscal note. Do you know why a fiscal note is not included?

Mr. Dreher:

I do not know why a fiscal note was not included in S.B. 208. The fiscal note would not be large, as the proposed changes would only affect approximately 125 individuals.

Pursuant to NRS 617.455 and 617.457, diseases of the lungs and heart are conclusively presumed to arise out of and in the course of employment as a police officer. Since bailiffs and court marshals do not fall under the definition of a police officer under NRS 617.135, compensation for heart and lung diseases is governed by a rebuttable presumption of causality. Senate Bill 208 would extend the conclusive presumption to bailiffs and court marshals.

Most outside law enforcement officers do not carry weapons while in courthouse unless they are in uniform. In this environment, bailiffs and marshals are the only individuals armed and in uniform. Marshals are responsible for the safety and security of everyone in the courthouse. At any given moment, they are at risk of having a heart attack and should be covered in the same manner as other category I peace officers.

Danny Thompson (Nevada State AFL-CIO):

The AFL-CIO supports S.B. 208. There is no question bailiffs and court marshals are category I peace officers. Prior to 2007, these officers were actually deputy sheriffs and wore the same uniforms as deputy sheriffs. The Clark County Sheriff approached the AFL-CIO about changing their titles to bailiffs and court marshals. The AFL-CIO agreed to do so with the understanding it would have no other effect on their duties or job functions. I never envisioned the denial of workers' compensation benefits would be a question.

Bailiffs and court marshals are the first line of defense for the Clark County Regional Justice Center in Las Vegas. This is the busiest court in the State, and the officers at that site protect the public from inmates and known criminals.

Senator Hardy:

Are you saying bailiffs and court marshals were covered by the conclusive presumption when they were called deputy sheriffs and, subsequent to the change, are now covered under the rebuttable presumption?

Mr. Thompson:

Coverage of heart and lung diseases is not the issue. The question is whether marshals and bailiffs are covered at all. In the case of the marshal in Mr. Vogel's testimony, the marshal had filed a simple workers' compensation claim and was denied because he was not a police officer.

Mr. Vogel:

Much of the testimony has concerned the duties inside the court, which is only one component of their responsibility. Marshals and bailiffs often operate outside of the courthouse. For instance, marshals regularly escort judges outside of the courthouse. As category I peace officers, court marshals are required by law to take immediate action under certain circumstances, such as armed robberies or traffic accidents.

Ronald Cuzze (Nevada State Law Enforcement Officers' Association; Nevada Association of Public Safety Officers):

Senator Settlemeyer asked if it would make sense to amend NRS 617.135 to include all category I peace officers. Doing so would not solve the larger problem. We would support an amendment to NRS 617.135 to cover all law enforcement officers.

I represent 22 State law enforcement agencies. Many of the officers I represent are category II and category III peace officers. They would not qualify under such a narrow definition. Few states have a third category of peace officers. The tiered structure was initially developed in response to budgetary constraints. The tiered structure allowed POST to shorten the academy for category II peace officers. However, no officer attending POST trains at the category II level. Every POST attendee receives category I training.

Another problem with NRS 617 is the reference to Capitol Police officers in the Capitol Police Division under the Department of Public Safety (DPS). Capitol Police officers are covered under the conclusive presumption for their physical examinations, which cost \$500 for the initial examination and \$300 annually thereafter. The DPS only receives \$6,200 per year for this coverage. This results in a \$7,300 deficit to the DPS for the initial physicals. The DPS deficit for subsequent physicals is \$1,900 annually. Capitol Police officers do not receive the same level of coverage for heart and lung diseases as other police officers.

We support S.B. 208 and believe the tiered structure should be eliminated.

Senator Hutchison:

Why was POST training changed? Was the change due to a change in job duties or expectations for category II peace officers? What was the rationale?

Mr. Cuzze:

Originally, category II peace officers received fewer hours of training. Many State agencies took advantage of the tiered structure because it presented a cost savings. Nearly every agency receives category I training through POST.

Since 9/11, the need for interagency coordination has increased, and having all peace officers receive category I training helps accomplish this. As Mr. Vogel stated, bailiffs and court marshals regularly interact with other law enforcement agencies. Interagency coordination would be very difficult if each agency's officers received different training.

Senator Hutchison:

Are you saying the change in training is the result of a public safety issue rather than a change in job duties?

Mr. Cuzze:

Yes.

Thomas Lemke (Marshal, Eighth Judicial District):

I support S.B. 208, and I will read my written testimony ([Exhibit C](#)).

Andres Moses (Staff Attorney, Eighth Judicial District; Justices of the Peace, Clark County; Second Judicial District):

The courts support S.B. 208 as it relates to the NODA, but they are neutral with regard to the exemptions from jury service.

Senator Hutchison:

Would the courts oppose an amendment to exempt marshals from jury service?

Mr. Moses:

The courts would be neutral.

Rory Planeta (Chief, Department of Alternative Sentencing, Carson City):

The Carson City courthouse is a consolidated courthouse. In addition to the officers under the Department of Alternative Sentencing, I oversee marshals, bailiffs and security guards.

All but one of my employees are category I peace officers, and they can be in the courtroom one day and in the field the next day. They respond to traffic accidents, perform urine testing and administer preliminary breath tests. My officers also support the Carson City Sheriff's Office when it is short-handed. My officers also responded to a recent threat on a judge and provided protection for several weeks.

Parole officers are specifically given the powers of peace officers under NRS 289.180 and are given the conclusive presumption for diseases of the lungs and heart. However, alternative sentencing officers are excluded from the presumption.

Michael Beam (Chief Probation Officer, Department of Alternative Sentencing, Douglas County):

I support S.B. 208 because our officers work in the field and respond the same as peace officers and deputy sheriffs.

Joe Ingraham (Chief, Department of Alternative Sentencing, Washoe County):

Alternative sentencing officers perform the same tasks as patrol officers. Although we are a category II department, Washoe County chose to provide us with category I peace officer training. All of my officers are category I peace officers.

Yolanda King (Director, Budget and Financial Planning, Department of Finance, Clark County):

Clark County opposes S.B. 208. The County is concerned benefits under NRS 617 would be extended to marshals and bailiffs. Specifically, we are concerned with the presumptive eligibility for benefits related to diseases of the lungs and heart, as well as survivor benefits. We are unable to estimate the cost because it will depend on the number and type of claims that will result from the proposed changes.

Senator Hutchison:

Why is Clark County unable to calculate the cost now? Are you unable to review past claims and extrapolate based on the number of claims from other Clark County employees? Could you not project how many claims would be filed by 125 employees who would become eligible?

Ms. King:

That would require making assumptions based on the number of claims the County has received to date. There are about 150 employees in Clark County who would now be eligible for these benefits. It would be difficult to determine the cost.

Sandra Swickard (Workers' Compensation Coordinator, Clark County):

The cost of the annual physicals for each employee would increase from \$42 to \$700, not adjusting for inflation. The cost of a heart and lung claim can reach \$1 million. Ultimately, most heart and lung claimants die, and survivors receive full benefits until death. An actuarial study is being conducted, but we do not have the results yet. We currently have approximately 15 claims, for which we have reserves of \$1 million per claim.

I would also note marshals and bailiffs currently receive coverage for body-fluid and blood-borne occupational diseases under NRS 616A and 617.481.

Senator Hutchison:

If marshals and bailiffs are added to NRS 617, will they receive any additional workers' compensation benefits compared to their current coverage?

Ms. Swickard:

It would cover injuries resulting from accidents and altercations and diseases from blood-borne pathogens. There is a provision for occupational diseases outside of the lung and heart diseases. There is even a provision for stress and psychiatric conditions. The only rebuttable presumptions are cancer and diseases of the heart and lungs.

Mary Walker (Lyon County):

We oppose S.B. 208. Lyon County is one of the most economically depressed counties in the Country. Lyon County has high rates of unemployment, bankruptcies and foreclosures. The County began budget reductions in fiscal year (FY) 2008 and these reductions will continue into FY 2014. Lyon County is laying off police officers. The County cannot afford the additional costs S.B. 208 will impose upon county governments. Our main concern is the conclusive presumption.

Chuck Callaway (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

There is a difference between certification as a category I peace officer and receiving category I peace officer training

Under NRS 289.450, category I peace officers have unrestricted duties. Category I peace officers investigate homicides and sexual assaults, and they conduct vice investigations. Category II officers have specific duties related to the function of their jobs, and the duties of a category I peace officer are not within the jurisdiction of a courtroom marshal or bailiff.

If bailiffs and court marshals are classified as category I peace officers, they will have to handle cases from beginning to end. They will have to refer cases to district attorneys.

Rusty McAllister (Professional Firefighters of Nevada):

With regard to the difference between benefits afforded to general county employees and those of police and firefighters, I would note police officers do

not receive conclusive presumption for cancer. The proposed changes would not extend this benefit to police officers.

Another difference between the coverage for general county employees and first responders is baseline testing. For example, police officers and firefighters are required to submit to a baseline screening for hepatitis C when they are hired. Any individual with a negative baseline test who tests positive upon leaving employment would be covered under the conclusive presumption. While individuals with positive baseline tests for hepatitis C would not receive coverage for hepatitis C, they would continue to be covered for other diseases.

Finally, when police officers and firefighters are exposed to airborne diseases, a court can compel the carrier to provide a sample to determine treatment options for others exposed to the disease. No such right exists for other county employees.

Mr. Vogel:

Ms. Swickard testified stress and psychiatric benefits are included in coverage for Clark County marshals and bailiffs. I have a letter from Sierra Health Care Options/Prime Health denying insurance coverage to a marshal for treatment for stress because he or she is not a police officer as defined in NRS 617.135.

Senator Denis:

We will close the hearing on S.B. 208 and open the hearing on S.B. 219.

SENATE BILL 219: Makes various changes relating to certain professional licensing boards. (BDR 54-503)

Marsheilah D. Lyons (Supervising Principal Research Analyst):

Nevada has seen a sharp rise in unlicensed health care. During the interim, the Legislative Committee on Health Care (LCHC) considered numerous documented examples of injuries and deaths resulting from unlicensed health care.

In conjunction with the U.S. Department of Health and Human Services and the Office of the Attorney General (OAG), the Health Division, Department of Health and Human Services, established a special task force to increase the awareness and enforcement of unlicensed health care. The task force initially focused its

outreach on the Hispanic community, which is a particularly vulnerable target. The task force report is available from the OAG.

Each health care professional licensing board has statutes addressing unlawful acts. However, the penalties for unlicensed practices vary, ranging from a misdemeanor to a Category D felony. In addition, nothing in the NRS specifically addresses injuries resulting from unlicensed health care. Authority to pursue unlicensed providers varies among the licensing boards. The LCHC was encouraged to impose criminal penalties and provide licensing boards with consistent investigative and prosecutorial authority. Although each professional licensing board has authority to bring actions against unlicensed providers, the penalties vary significantly. More importantly, there is no consistent criminal statute addressing the problem. Creation of a new criminal statute would provide the various health care licensing boards with consistent authority to investigate and prosecute unlicensed health care providers.

Senator Hardy:

I do not see anything in S.B. 219 addressing health care provided by students regulated by the various licensing boards. For instance, a situation where a chiropractic student who adjusts a friend should be addressed. I do not want the State to accuse people of felonies that should not be included in this bill. That is not our intent.

Since the licensing boards only have authority over licensees, the LCHC was frustrated as to how the Legislature could give the licensing boards the ability to regulate individuals who are not licensed. This was particularly important since the boards do not have the investigative authority or the power to enter premises where unlawful acts take place. The LCHC wants to give the licensing boards the authority to investigate and prosecute unlicensed practitioners.

Keith Lee (State Board of Medical Examiners):

The State Board of Medical Examiners (SBME) supports S.B. 219 and S.B. 220. Unlicensed health care is a problem that needs to be dealt with in an interdisciplinary manner. By definition, the premises where unlicensed health care occurs is a crime scene. As a law enforcement entity, we investigate these crimes, and we want to be a resource. Only law enforcement officers have the authority to enter a premises and preserve a crime scene, but they do not always understand how to properly evaluate the evidence.

SENATE BILL 220: Makes various changes relating to certain professional licensing boards. (BDR 54-502)

We would support a working group to improve S.B. 219 and S.B. 220. The ability to send a cease and desist order will not solve the problem. These criminals need to be hauled off to jail.

Senator Jones:

Do you have any opinion as to which boards should be included? I do not view the Board of Examiners for Audiology and Speech Pathology or the Board of Dispensing Opticians (BDO) in the same light as the SBME.

Mr. Lee:

I do not view them in the same light either. I do not know if there is widespread abuse in other occupations.

Senator Hutchison:

Was there empirical evidence of abuse in the occupations included in S.B. 219 and S.B. 220? Do we have problems with dispensing opticians?

Mr. Lee:

I cannot answer your question.

Ms. Lyons:

The LCHC reviewed abuses under the jurisdiction of boards the task force identified. The LCHC also wanted to give the boards consistent authority to deal with the issues.

Senator Hutchison:

Are you saying the boards included in S.B. 219 and S.B. 220 had a prior history of complaints?

Ms. Lyons:

I cannot say there is prior history for each of the boards.

Neena Laxalt (Board of Dispensing Opticians):

Although the BDO has been included, the dispensing of glasses has not been a problem. Our primary concern has been the dispensing of Halloween contact lenses. I am not confident those are actually covered under S.B. 219 or

S.B. 220. Perhaps there is someone from the association who can speak to that issue.

Senator Jones:

Understanding there may be issues in other areas, will S.B. 219 or S.B. 220 make the distribution of cat eye contact lenses a felony?

Ms. Laxalt:

The BDO regularly files reports on illegal dispensaries. Those are illegal sales now, but I am not sure we agree the sale of Halloween contacts should be a felony.

Fred Olmstead (General Counsel, State Board of Nursing):

The State Board of Nursing supports S.B. 219 and S.B. 220. The provisions of NRS 632.340 do not prohibit gratuitous nursing of friends or family members.

S. Paul Edwards (General Counsel, State Board of Pharmacy):

The State Board of Pharmacy (SBP) supports S.B. 219 and S.B. 220. The SBP has greater investigative authority and more resources than other professional licensing boards, which allows it to conduct regular inspections. As a result of the greater authority, the SBP is often asked to assist other boards with investigations. While the SBP is happy to provide this service, doing so can become onerous. The other boards would not have to rely on the SBP if they had similar authority and resources.

Even with this authority, we are not always able to enter premises when violations are observed. At such point, the SBP hands cases over to law enforcement agencies which often do not have the resources to pursue cases. At this point, a cease and desist order is ineffective. The professional licensing boards need the authority to cite and fine unlicensed medical practitioners.

J. David Wuest (Deputy Secretary/Inspector, State Board of Pharmacy):

I support S.B. 219. It is unclear how much it will cost to implement S.B. 219, but the ability to cite and fine unlicensed medical practitioners is essential.

Lawrence Matheis (Nevada State Medical Association):

The Nevada State Medical Association supports S.B. 219 and S.B. 220. Please note these bills catch only a part of the problem under discussion. There is growing concern in the immigrant community regarding the injuries and deaths resulting from underground medical activities. The State needs to develop a strategy that uses all of the various elements in a coordinated way to prevent and discourage unlicensed health care. We need to have all the pieces fit together, particularly for the more egregious cases.

I would suggest the Committee appoint a working group to determine how to increase coordination between the professional licensing boards and law enforcement.

Erin McMullen (Luxottica Retail North America, Inc.):

Having attended the LCHC meetings, I understand the legislative intent of S.B. 219 and S.B. 220. However, I oppose S.B. 219, section 19, which relates to the BDO. The provisions of section 19 are overbroad and may have unintended consequences.

The practice of ophthalmic dispensing, which is regulated by the BDO, is not equivalent to the practice of medicine or any of the enumerated health care professions addressed in S.B. 219. Instead, ophthalmic dispensing involves the measuring, fitting and adjusting of prescription eye glasses and, to a significantly lesser extent, the fitting of contact lenses. Opticians do not diagnose or treat medical conditions. Opticians cannot prescribe drugs and do not perform procedures. Ophthalmic dispensing is more appropriately considered a trade rather than the practice of medicine or a health profession.

Ophthalmic dispensing is only licensed in 20 states, and Nevada is 1 of 4 states west of the Mississippi requiring a license to dispense optical products. In the other states, any person with the requisite training can competently and effectively perform all the tasks related to ophthalmic dispensing.

With 300 dispensing opticians serving the needs of the entire State, there is a critical shortage of dispensing opticians in Nevada. Section 19 of S.B. 219 severely confuses the issue of what ophthalmic dispensing is and what it is not. It could drive these professionals out of the State.

Even the BDO has struggled with what is and is not dispensing, as evidenced by the document "Frequently Asked Questions" (FAQ), issued by the BDO. According to an FAQ on ophthalmic dispensing, placing finished glasses on the counter and having the customer pick them up was considered ophthalmic dispensing. Senate Bill 219 confuses the issue even further. We are here to request an exemption for the practice of ophthalmic dispensing because the provisions related to penalties and inspections are quite severe. I understand the biggest issue is the unlicensed sale of prescription and cosmetic contact lenses, and I will work with the Committee to address this issue.

Senator Hutchison:

Can you give the Committee an example of the unintended consequences of S.B. 219?

Ms. McMullen:

As I mentioned, the FAQ from the BDO advises that delivery to the intended wearer is considered dispensing. Under such a scenario, anyone who touches glasses placed on a counter would be guilty of engaging in unlicensed ophthalmic dispensing, which is a Category D felony.

Senator Hutchison:

Are you aware of any injuries resulting from ophthalmic dispensing?

Ms. McMullen:

I would defer to Ms. Laxalt for specific examples. The BDO does receive complaints, but that does not necessarily mean an injury occurred. A complaint only indicates an individual did something he or she was not supposed to do, such as touching glasses or fitting glasses.

Senator Hutchison:

My point is that these dispensing activities do not affect the health and safety of the public.

Ms. McMullen:

Correct. No one wants individuals performing liposuction in a basement or things of that nature. We do not want to derail the intent of S.B. 219 and S.B. 220, but we do want to draw the Committee's attention to these concerns.

**Brett Kandt (Executive Director, Advisory Council for Prosecuting Attorneys;
Special Deputy Attorney General Office of the Attorney General):**

I represented the OAG on the task force. The task force looked at a broad variety of issues, including public awareness, prevention, reporting issues and law enforcement. The intent of S.B. 219 is to give each board a uniform set of tools.

With regard to S.B. 219, I want to limit my comments to the mandate that boards shall report injuries to law enforcement. I want to stress to you the importance that we have a collective understanding of what the mandate means in practice. Effective communication and collaboration between licensing boards and local law enforcement will be crucial. Police officers are not health care experts, and licensing boards are not police officers. They will have to work together to successfully prosecute a criminal case, especially in cases involving serious injury or death.

Senator Hutchison

How do you feel about the public health dangers related to ophthalmology?

Mr. Kandt:

That issue is beyond my purview. It is the Legislature's decision as to which boards should be included. The task force sought to ensure all the boards had a uniform set of tools to protect the public.

Senator Hutchison:

Uniformity requires communication between and among the professional licensing boards. Do you have any opinion as to how the communication relates specifically to ophthalmology.

Mr. Kandt:

No.

Senator Hardy:

Does the Health Insurance Portability and Accountability Act (HIPAA) prevent licensing boards from sharing patient information with law enforcement agencies?

Mr. Kandt:

I would refer you to your counsel for an answer, but I do not believe that was an issue discussed by the task force. The OAG can follow up with your counsel to provide more information.

Jeanette K. Belz (Nevada Academy of Ophthalmology):

The Nevada Academy of Ophthalmology is neutral to S.B. 219, but it is concerned about the dispensing of contact lenses through costume stores.

Senator Denis:

I will close the hearing on S.B. 219 and open the hearing on S.B. 220.

Ms. Lyons:

Senate Bill 220 is another recommendation from the LCHC, and it is nearly identical to S.B. 219. Senate Bill 220 authorizes an agent of the licensing boards described in S.B. 219 to enter premises where it suspects illegal activity is taking place. Senate Bill 220 would allow anonymous complaints to be filed with all of the professional licensing boards.

Senate Bill 220 makes practicing in a licensed profession without a license a Category D felony and provides for the forfeiture of all property used in such cases. Senate Bill 220 permits licensing boards to impose administrative fines, issue citations and serve cease and desist orders to individuals practicing unlicensed medicine.

Senator Hardy:

Is there a companion bill in the Assembly?

Ms. Lyons:

Senate Bill 199 addresses penalties for unlicensed medical practices, but I do not know of a bill dealing with these specific issues.

Senator Jones:

Why were S.B. 219 and S.B. 220 separate bills if they overlap?

Ms. Lyons:

That was the decision of the chair of the LCHC.

Mr. Lee:

The BME supports S.B. 220. Enforcement and prosecution of these crimes is interdisciplinary. The BME wants to assist any way it can. The BME has already begun an outreach program to the Hispanic communities in Reno and Las Vegas. As Mr. Kandt testified, our investigators may not enter premises and preserve the crime scene. Law enforcement officers do not always know how to evaluate the evidence.

Senator Hardy:

How do you feel about the provisions related to confiscation of personal property?

Mr. Lee:

I suppose there is some aspect of due process to be considered.

Ms. Laxalt:

The BDO supports S.B. 220. The BDO has a technical concern relating to cases involving documentation problems. In cases where unlicensed health care stems from a documentation problem, the BDO should be able to discipline individuals without referring the cases to law enforcement.

Mr. Edwards:

The SBP supports S.B. 220 because it will solve some minor issues. While the SBP may enter and inspect premises, the SBP does not have the authority to cite and fine. The SBP can only send cease and desist orders.

Senator Hardy:

Would this preclude the injections of Botox at medical spas?

Mr. Edwards:

It would prohibit injections performed at medical spas by individuals without the proper licensing.

Ms. McMullen:

My testimony for S.B. 220 is identical to my comments on S.B. 219.

Mr. Kandt:

My testimony for S.B. 220 is identical to my testimony on S.B. 219.

Senator Hardy:

How will the forfeited funds be appropriated?

Mr. Kandt:

The Legislature may appropriate forfeited funds at its pleasure.

Pat J. Conmay (Division Chief, Records and Technology Division, Department of Public Safety):

Senate Bill 220 would require Repository Staff, Records and Technology Division, DPS, to create several new Nevada Offense Codes (NOC). The creation of these codes can be time-and-labor intensive. The cumulative impact to the Repository of new NOCs and revisions must be considered. The Repository will need to return to the Interim Finance Committee during the 2014-2015 biennium should the increased caseload necessitate additional staffing.

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Senator Denis:

I appoint Senator Jones and Senator Hardy to a working group for S.B. 219 and S.B. 220. I now close the hearing on S.B. 220.

The meeting is adjourned at 3:16 p.m.

RESPECTFULLY SUBMITTED:

Wayne Archer,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	7		Attendance Roster
S.B. 208	C	2	Thomas Lemke	Written Testimony