

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

**Seventy-Seventh Session  
April 26, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 12:20 p.m. on Friday, April 26, 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 Joyce Woodhouse  
Senator Joseph P. Hardy  
Senator James A. Settlemeyer  
Senator Mark Hutchison

**COMMITTEE MEMBERS ABSENT:**

Senator Justin C. Jones (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Randy Kirner, Assembly District No. 26  
Assemblywoman Ellen B. Spiegel, Assembly District No. 20  
Assemblyman Lynn D. Stewart, Assembly District No. 22

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Dan Yu, Counsel  
Wynona Majied-Martinez, Committee Secretary

**OTHERS PRESENT:**

Terry Care, State Board of Professional Engineers and Land Surveyors

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Bruce Arkell, Nevada Association of Land Surveyors  
Marlene Lockard, Nevada Chiropractic Association  
Joan Hall, Nevada Rural Hospital Partners  
Patrick K. Sanderson, Nevada Alliance for Retired Americans  
Steven Aldinger, Deputy Administrator, Real Estate Division, Department of  
Business and Industry  
Alfredo Alonso, TAL Studio  
James Wadhams, State Board of Architecture, Interior Design and Residential  
Design  
Daniel Chenin, American Institute of Architects, Las Vegas Chapter  
Peter D. Krueger, Chiropractic Physicians' Board of Nevada

**Chair Atkinson:**

We are going to start with Assemblywoman Ellen B. Spiegel, Assembly District No. 20 who will present Assembly Bill (A.B.) 94.

**ASSEMBLY BILL 94**: Revises provisions relating to the examinations for licensure as a professional engineer or professional land surveyor. (BDR 54-618)

**Assemblywoman Ellen Spiegel (Assembly District No. 20):**

I am here to discuss A.B. 94, which relates to the examinations professional engineers and surveyors must take. *Nevada Revised Statutes* (NRS) 625.193 and 625.280 specify that these professionals must take an 8-hour certification examination administered by the National Council for Examiners for Engineering and Surveying (NCEES). There is a move to make the exams available online. As a result, they have restructured the exams, and several are 6 hours long. This bill removes the 8-hour requirement so students can take the exam in 6 hours and meet the intent of the accreditation organization and not have to sit for the next 2 hours doing nothing.

**Terry Care (State Board of Professional Engineers and Land Surveyors):**

The State Board of Professional Engineers and Land Surveyors is authorized under NRS 625. To the best of my knowledge, it is the only board in the State that does not design its own tests. Nevadans take the examinations that are designed and administered by NCEES. Test takers do not need 8 hours for completion. In fact, it may be possible to be finished as quickly as 4 to 6 hours. Therein lies the purpose of A.B. 94.

Beginning in 2014, one of the two examinations, the one on fundamentals for both the engineers and the land surveyors, will be available online. As I understand it, the test is designed so that once a person has correctly answered the number of questions for passage, 180 questions, the computer issues a prompt that says he or she has reached the goal and does not have to go any further. The person has passed.

The other examination, on principles and practices, also is on its way to becoming computer-based. Late last year, the Legislative Commission amended the regulations for the national test so the 8-hour time limit was removed. In a sense, we are at the mercy of NCEES. The same test is given nationwide with four 2-month access windows, and we do whatever NCEES does.

**Senator Hutchison:**

This bill makes all the sense in the world. Since we are at the mercy of that organization, should we be thinking about measures that keep us from having to amend our legislation every time national standards are changed?

**Mr. Care:**

That is the reason for deleting the 8-hour time limit. We do not know what the accreditation group is going to do in the future. The exam is recommended to take 6 hours now, but who knows what it will be in the future?

**Senator Hutchison:**

Does this legislation, eliminating the 8-hour testing, take care of the problem? Is the Board required to follow whatever the national organization says is appropriate?

**Mr. Care:**

Yes, Senator Hutchison. We take the national exam. The issue is the time limitation.

**Bruce Arkell (Nevada Association of Land Surveyors):**

The Nevada Association of Land Surveyors is in complete support of A.B. 94 and this procedural change in the law.

**Chair Atkinson:**

We will close the hearing on A.B. 94 and open the hearing on A.B. 331

**ASSEMBLY BILL 331 (1st Reprint)**: Revises provisions governing the billing practices of certain providers of health care. (BDR 54-731)

**Assemblywoman Ellen B. Spiegel (Assembly District No. 20):**

I am here to speak with you about medical billing practices and A.B. 331. I am going to walk you through a scenario to which everyone will be able to relate and which provides the reasoning behind this bill.

When a patient sees a practitioner of medicine, he or she is asked to go through the process to sign in and provide insurance information. The patient also is asked whether the information is new.

Most people who have insurance show their insurance card and the information typically is verified. The person pays his or her co-payment and sees the practitioner.

When there is a new insurance provider, information given in the front office does not always make its way to the back office appropriately. Occasionally, the wrong insurance company is billed, and some offices are so in disarray the carrier gets the bill after the contracted time for paying the carrier.

Sometimes, the medical provider will go back to the patient to say there is no evidence of insurance, or the insurance company has denied the claim. This is what he or she now owes.

Assembly Bill 331 says if the patient does everything right, if he or she has an insurance card and actually has coverage, the patient is only liable for the payment that would have been owed had the insurer been billed appropriately. For the record, I anticipated this bill being controversial, so I put together a work group that included doctors, dentists and insurance company representatives. We worked together on the language, so when I presented it in the Assembly, there was no opposition. This is consensus language, and everybody is comfortable with it.

**Marlene Lockard (Nevada Women's Lobby; Retired Public Employees of Nevada):**

We strongly support A.B. 331.

**Joan Hall (Nevada Rural Hospital Partners):**

The Nevada Rural Hospital Partners are in favor of A.B. 331.

**Patrick K. Sanderson (Nevada Alliance for Retired Americans):**

The Nevada Alliance for Retired Americans thinks A.B. 331 is a great bill.

**Chair Atkinson:**

We are going to close the hearing now on A.B. 331. We will open the hearing on A.B. 225 presented by Assemblyman Stewart.

**ASSEMBLY BILL 225:** Revises provisions relating to business brokers. (BDR 54-1017)

**Assemblyman Lynn D. Stewart (Assembly District No. 22):**

I am here to present A.B. 225. It was brought to me by a group of realtors, headed by Jack Novak. It addresses individuals who come to Nevada without a license and sell businesses. Their rationale for thinking they could make such sales legally was driven by the fact that the definition of "business broker" was not clear. Section 1 has a simple change to achieve that clarity. Striking out a person who acts "as a real estate broker, real estate broker-salesperson or real estate salesperson," it substitutes "as part of a transaction, proposed transaction or prospective transaction involving an interest or estate in real property ..."

You have before you a letter from the Real Estate Division expressing concern about the definition of business broker ([Exhibit C](#)). Officials there have described their conceptions of what qualifications should be followed for real estate licensing. I am fine with what they have brought forward. It makes things clearer. I am glad to accept their clarifications.

**Senator Hutchison:**

Is the purpose of this bill to bring business brokers under the purview of real estate professionals?

**Mr. Stewart:**

Yes, that is my interpretation.

**Senator Hutchison:**

A business broker is defined as somebody who represents someone else and who is involved in the transaction of real property. I suppose there are business brokers who would not be involved in the transaction of real estate, right? He or she could just sell the assets of the business. What happens then? Do you know how it would work if a business broker were selling a business that did not involve real estate? Is there a different provision by which the broker would be regulated?

**Mr. Stewart:**

I am not sure. I think the written testimony you have in [Exhibit C](#) clarifies all the categories governed by the license.

**Steven Aldinger (Deputy Administrator, Real Estate Division, Department of Business and Industry):**

The written testimony of the Real Estate Division on [A.B. 225](#) is in [Exhibit C](#). The Division is concerned about what the bill considers clear intent to set qualifications for the real estate license and the business broker permit. Officials there also are eager to avoid a change in definition as that might create a loophole for licensure. The language struck from lines 4 and 5 of the bill might lead some to conclude that according to NRS 645.863, subsection 1, an individual must apply for and hold a business broker permit to conduct a business broker activity, and the individual must first be licensed as a real estate broker, broker salesperson or salesperson. Both the required license and permit are necessary to perform the defined activity outlined in NRS 645.0075. Since Assemblyman Stewart is willing to accept the clarifications, our concerns would be alleviated.

**Senator Hutchison:**

I hear your concern. That was my issue initially. According to just this definition, a business broker includes someone who must, as part of the business broker experience, sell real estate. Is there any language you want to change? You are saying someone could say he or she does not have to be a business broker. The individual could say he or she does not have to be licensed since no real estate is being sold. Is that the loophole that concerns you?

**Mr. Aldinger:**

For the record: "Partially." There is current law for someone in a transaction that does not have a real estate interest. That would fall under securities regulation, rather than NRS 645, the real estate law. So, both are covered, whether real estate is involved or not but in different chapters of NRS. Our concern with A.B. 225 is that it strikes out the language, "while acting as a real estate broker, real estate broker-salesperson or salesperson." We think that needs to remain.

**Senator Hutchison:**

In summary, you want to put that stricken language back in the bill. But since Assemblyman Stewart is okay with the new language, do you think that does the job?

**Mr. Aldinger:**

That is right.

**Senator Hutchison:**

We do not have to worry about people who are acting as business brokers who are not involved in real estate transactions because that is covered in the securities regulation and statutes.

**Chair Atkinson:**

Assemblyman Stewart, do you know about the agency's questions and concerns?

**Assemblyman Stewart:**

As long as we keep the stricken language and insert the additional language, I am okay with that.

**Chair Atkinson:**

We are going to close the hearing on A.B. 225. We now have A.B. 434.

**ASSEMBLY BILL 434 (1st Reprint):** Revises certain requirements for an application for a certificate of registration to practice as a registered interior designer. (BDR 54-1172)

**Alfredo Alonso (TAL Studio):**

This issue arose over the interim. My client is a consultant to architects. He is an architect by education and the State Board of Architecture, Interior Design and Residential Design decided he needed to be licensed. Unfortunately, the Board could not license him. He could be tested, but he could not officially be licensed due to an error in the statute. We have worked with the Board and we believe A.B. 434 fixes the problem so he can continue to work in Las Vegas.

**James Wadhams (State Board of Architecture, Interior Design and Residential Design):**

The Board of Architecture, Interior Design and Residential Design submitted a bill draft request to accomplish what Mr. Alonso is asking. The amendment brings Mr. Alonso's issue and the Board's original draft into conformity. The Board was advised by its attorneys that it could not recognize his work because of peculiarities in the registered interior design section. It could not recognize an architecture degree as an equivalent to the degrees we normally sanction. We needed to make this change because that qualification clearly should be available. It is a technical correction. We agree with Mr. Alonso and his client and would request support for A.B. 434.

**Senator Denis:**

This individual is an architect but he wants to be licensed as an interior design person?

**Mr. Alonso:**

Yes, in part. What my client does is conceptual. We did not believe that kind of work was part of the licensing, but most of his work is done across the world. It is art, in many cases. The client asks him to come up with a concept for a building or interior, and he does. It is unique but unfortunately, under Nevada law, he would fall under the licensing of the Board. It is similar to his being a lawyer and wanting to be licensed as a paralegal. There is not that understanding in the statute, and that is why we want to clarify it.

**Mr. Wadhams:**

Over the course of history, this Board has been an amalgamation of three professions. The concept of "registered interior designer" evolved in deliberations of this Committee's predecessor. It was a long and hotly contested issue. Unfortunately, when the language was drafted, the substantial equivalency was not written as clearly as it should have been. We think this



correction makes sense. Whoever “over-lawyered” it, Mr. Alonso’s client and the Board agree this is the way to solve the problem. The Board appreciates it because it avoids “over-lawyering” in the future. We would appreciate your support.

**Daniel Chenin (American Institute of Architects, Las Vegas Chapter):**

We support A.B. 434.

**Chair Atkinson:**

We will close the hearing on A.B. 434 and hear A.B. 73 from Assemblyman Kirner.

**ASSEMBLY BILL 73 (1st Reprint):** Revises provisions governing the practice of chiropractic. (BDR 54-538)

**Assemblyman Randy Kirner (Assembly District No. 26):**

We are looking at A.B. 73, which is a bill that was heard in the Assembly Committee on Commerce and Labor and was passed. It went to the Assembly Floor and received unanimous approval. This bill is different from the original version, with its scope-of-practice issues. A number of individuals worked intensively on it. We cleaned it up quite a bit, and it resulted in a unanimous vote.

**Peter D. Krueger (Chiropractic Physicians’ Board of Nevada):**

I will walk you through the bill. Sections 1 and 10 were deleted in efforts to bring complete support for A.B. 73. Section 2 deals with unprofessional conduct. I call your attention to section 2, subsection 4, regarding advertising. All members of the Chiropractic Physicians’ Board of Nevada agree to the positions outlined in the bill. Section 2, subsection 4, brings into language a policy regarding a professional approach to advertising. Advertising in print, radio and TV is not what it used to be. The subsection deals with unprofessional conduct and drives paragraphs (a) and (b), which contemplate the use of “grossly improbable statements.” More specifically, it refers to language “that will tend to deceive, defraud or mislead the public.”

There are small changes in section 3, subsection 3, paragraph (f). They address what an applicant must provide to certify his or her good standing in the profession and delete the outdated language of “Secretary” as a job title. Section 3, subsection 4, specifies items the Board needs attached to the

application to ensure that people seeking licensure as chiropractors adhere to specific requirements and a specific form. Section 4, subsection 2 tightens some of the language about how exams would be administered. Also, the language works to allow the Board some flexibility. Section 5, subsection 4 proposes to deal with more flexibility regarding what the Board can do with temporary licenses.

Some changes in form appear in section 6, subsection 6 which proposes new language about educational requirements. There is an effort in this subsection and in subsection 9 to allow active duty military and their spouses to be able to enter the workforce, in this case, chiropractic. These lines reflect the Board's intent to make sure those individuals meet the same requirements as any other candidate for a chiropractic license. Section 6, subsection 9, is about the chiropractor's assistant license fees where the same language applies.

Section 7 involves some cleanup, and in section 8, subsection 1, there is a fee change, from \$25 to \$50. The increase in workload and time necessary to process more applicants justifies the fee increase. There is no substantial change in section 9. Although it is not stated, this bill is effective Oct. 1, 2013.

**Senator Hardy:**

Is there a length of time the candidate is given to complete the open-book examination? Is it 6 months or 6 hours? Theoretically, if you are a chiropractor, you already have taken your course work, and you are just proving you know where to find it in the book.

**Mr. Wadhams:**

I do not know the answer to that. We were to have Dr. Nolle, a member of the Board here, but when the time was changed, he was unable to attend.

**Senator Denis:**

How does the bill on chiropractic assistants tie into what is being proposed in this bill?

**Senator Hardy:**

I do not see any conflict. They are compatible.

**Senator Hutchison:**

It is always interesting when boards try to regulate advertising. That is a challenge. It looks as if you are trying to do that with the language in section 2. I also see that you eliminated the self-laudatory statements. Were they problematic for the Board? Does this language spring from anything in the Board's experience? Was there a problem with regulation? Also, what is a grossly improbable statement? Does not advertising by definition include grossly improbable statements?

**Mr. Wadhams:**

I do not know. I will find the answers. I would agree that for people who watch ADman Media, that is what advertisement is all about.

**Marlene Lockard (Nevada Chiropractic Association):**

I represent the Nevada Chiropractic Association. Our Association fully supports A.B. 73.

**Senator Hutchison:**

Is your Association happy with a law that says you cannot advertise using grossly improbable statements?

**Ms. Lockard:**

I think it arises out of some doctors' exaggerating their services and products. It is the Board's and the Association's feeling they want to keep ethics firmly in place. We support any insistence that they monitor any exaggeration regarding cures.

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**Chair Atkinson:**

We will close the hearing on A.B. 73. We are adjourned at 1:05 p.m.

RESPECTFULLY SUBMITTED:

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Wynona Majied-Martinez,  
Committee Secretary

APPROVED BY:

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Senator Kelvin Atkinson, Chair

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

**EXHIBITS**

<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
A.B. 225	C	1	Steve Aldinger	Testimony Submitted by Gail Anderson