

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

**Seventy-Ninth Session  
April 7, 2017**

The Committee on Commerce and Labor was called to order by Chair Irene Bustamante Adams at 12:35 p.m. on Friday, April 7, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Irene Bustamante Adams, Chair  
Assemblywoman Maggie Carlton, Vice Chair  
Assemblyman Paul Anderson  
Assemblyman Nelson Araujo  
Assemblyman Chris Brooks  
Assemblyman Skip Daly  
Assemblyman Ira Hansen  
Assemblywoman Sandra Jauregui  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblywoman Dina Neal  
Assemblyman James Ohrenschall  
Assemblywoman Jill Tolles

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Jason Frierson (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Tyrone Thompson, Assembly District No. 17  
Assemblyman Michael C. Sprinkle, Assembly District No. 30  
Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34



**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Wil Keane, Committee Counsel  
Pamela Carter, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Steven Burt, Vice Chair, Board of Examiners for Alcohol, Drug and Gambling Counselors  
Colleen Platt, Board Counsel, Board of Examiners for Alcohol, Drug and Gambling Counselors  
Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors  
Benjamin Lurie, President, Chiropractic Physicians' Board of Nevada  
Louis Ling, Board Counsel, Chiropractic Physicians' Board of Nevada  
Lisa O. Cooper, Executive Director, State Board of Physical Therapy Examiners  
LuAnn Tucker, Private Citizen, Carson City, Nevada  
Susan W. Priestman, Chair, Political Action Committee, Nevada Physical Therapy Association  
Jenelle Lauchman, Legislative Chair, Nevada Physical Therapy Association  
Mike Rantissi, Private Citizen, Las Vegas, Nevada  
Meredith Goforth, Private Citizen, Las Vegas, Nevada  
Garreth Ames, Private Citizen, Las Vegas, Nevada  
Marlene Lockard, representing Nevada Chiropractic Association  
Michele Kane, Media Specialist, Nevada Chiropractic Council, Las Vegas, Nevada  
James Overland, Sr., President, Nevada Chiropractic Association  
Glen W. Fewkes, Senior Legislative Representative, State Advocacy and Strategy Integration, AARP, Washington, D.C.  
Barry Gold, Director, Government Relations, AARP Nevada  
Gil Yanuck, Ambassador/Volunteer, AARP Nevada  
Jane Gruner, Private Citizen, Carson City, Nevada  
Sam Lieberman, Government and Community Relations Coordinator, Easterseals Nevada  
Barbara Paulsen, representing Nevadans for the Common Good  
Monica Brett, Private Citizen, Las Vegas, Nevada  
Jeffrey Klein, Chair, Nevada Commission on Aging Subcommittee Concerning Legislative Issues; and President and Chief Executive Officer, Nevada Senior Services, Inc.  
Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise; Retail Association of Nevada

Chris Ferrari, representing Nevada Dental Association  
Jesse Wadhams, representing the Las Vegas Metro Chamber of Commerce;  
and The Chamber, Reno-Sparks-Northern Nevada  
Steve Trollope, Chief Financial Officer, Kimmie Candy Company, Reno, Nevada

**Chair Bustamante Adams:**

[Roll was called and protocol was explained.] We are going to start with our work session today, and then we have three bills. We will postpone the hearing on Assembly Bill 468.

**Assembly Bill 468: Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-1028)**

We are going to take the work session bills out of order. We will discuss Assembly Bill 387 first, and I will turn it over to our policy analyst at this time.

**Assembly Bill 387: Revises provisions relating to social workers. (BDR 54-540)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 387 is sponsored by Assemblywoman Benitez-Thompson and was heard in this Committee on March 24, 2017 ([Exhibit C](#)). The bill clarifies a licensed social worker must complete two hours of instruction in evidence-based suicide prevention training and awareness every two years. There were no proposed amendments to the bill.

**Chair Bustamante Adams:**

I will entertain a motion to do pass A.B. 387.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS  
ASSEMBLY BILL 387.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN FRIERSON, NEAL, AND  
TOLLES WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Ohrenschall. The second bill we will consider today is Assembly Bill 179.

**Assembly Bill 179: Revises provisions governing massage therapy. (BDR 54-766)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 179 was sponsored by Assemblywoman Carlton and was heard in this Committee on March 3, 2017 ([Exhibit D](#)).

The bill makes various changes to the Nevada State Board of Massage Therapists and their licensees. It authorizes the Board to issue licenses in two new practice areas: structural integration and reflexology. It changes the name of the board to the Board of Massage Therapy and modifies the composition of the Board. It also allows local governments to regulate a massage, reflexology, and structural integration establishment in a manner that is more stringent than the regulations adopted by the Board. Finally, the bill provides that licenses issued by the Board are valid for two years and allows the Board to charge up to \$350 for a license renewal. The actual fees are determined by the Board through regulation.

There are several amendments that have been proposed to the bill. Some of these were discussed in Committee and some of them have come about since the original hearing.

Section 5 is proposed to be amended by removing references to improving the structural alignment and enhancing the ease of movement of the human body. Also, it was requested to insert language clarifying that structural integration does not include the practice of physical therapy or chiropractic adjustment or manipulation. That language was proposed by the Physical Therapy Board and the Chiropractic Board.

The second amendment is to amend section 11, subsections 2 and 3, to clarify that these provisions and any regulations adopted by the Board do not prohibit a local government from issuing a license.

The third amendment would delete sections 24 and 37 from the bill. Those provisions were related to the sharing of information between the Board of Massage Therapists and the Nevada State Board of Cosmetology. Both boards agreed that these are not being used, so not only would these be deleted from the bill, they would also be repealed in their entirety.

The next amendment adds a subsection which provides that the Board may establish different fees for different types of licenses and that the Board, in establishing those fees, would consider the income and employment opportunities available to the different types of licensees that the Board will now be overseeing.

Finally, there is a fifth amendment that would revise the bill's effective date to July 1, 2018, and that would give the Board time to adopt the regulations and allow people to meet the requirements and actually apply for licensure prior to the effective date. It would still be effective upon passage and approval for the purposes of adopting regulations.

**Chair Bustamante Adams:**

With that, I will entertain a motion to amend and do pass A.B. 179.

ASSEMBLYMAN ARAUJO MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 179.

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

Is there any discussion on A.B. 179?

**Assemblywoman Carlton:**

I just want to thank everyone that came together and worked on this. I stepped out of the way so that I would not be a barrier to my own bill, and I am very happy that everyone took it up and worked very hard to make this work. Hopefully, it will address some of the issues that were presented to the Committee. I just wanted to thank everyone for all of their hard work.

THE MOTION PASSED. (ASSEMBLYMEN FRIERSON, NEAL, AND  
TOLLES WERE ABSENT FOR THE VOTE.)

**Chair Bustamante Adams:**

I will assign the floor statement to Assemblywoman Carlton. The next bill on our work session is Assembly Bill 282.

**Assembly Bill 282: Revises provisions governing benefits and protections for service members. (BDR 52-625)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 282 is sponsored by Assemblyman Elliot T. Anderson. It was heard in Committee on March 22, 2017 and allows a service member to terminate or suspend certain contracts if he or she receives orders ([Exhibit E](#)). It prohibits a service provider from charging penalties and provides for the reinstatement of these contracts under certain circumstances. It also authorizes a right of action by a service member or the Office of the Attorney General.

Assemblyman Elliot T. Anderson has proposed to amend the bill by specifying that for a permanent change of station, the provisions of the bill also apply to the spouse of the service member.

**Chair Bustamante Adams:**

I will entertain a motion to amend and do pass A.B. 282.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 282.

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN FRIERSON AND TOLLES  
WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Brooks. Our last bill on work session will be Assembly Bill 105.

**Assembly Bill 105: Revises continuing education requirements relating to suicide prevention and awareness for certain providers of health care. (BDR 54-32)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 105 was sponsored by Assemblyman Thompson. It was heard in this Committee on February 24, 2017 ([Exhibit F](#)).

The bill makes changes to continuing education required or encouraged to be taken by certain providers of health care related to suicide prevention and awareness. It requires these providers to obtain at least three hours of continuing education concerning suicide assessment, treatment, and management every two years, and removes a provision that allows certain providers to substitute courses in ethics to meet that requirement.

There is a mock-up attached to the work session documents submitted by Assemblyman Thompson. The amendment requires a physician, advanced practice registered nurse (APRN), osteopathic physician, or behavioral health care professional licensed under *Nevada Revised Statutes* (NRS) Chapter 641 to obtain two hours of evidence-based suicide prevention and awareness instruction every four years. The amendment reinstates the existing instruction requirements for the other behavioral health care professionals who are under NRS Chapter 641A, NRS Chapter 641B, and NRS Chapter 641C.

For APRNs and behavioral health care professionals, the amendment includes promising practice suicide prevention and awareness as an option and includes a definition.

Additionally, the amendment requires a physician, APRN, or osteopathic physician to obtain two hours of instruction on evidence-based suicide prevention and awareness training following their initial licensure. A physician or APRN must obtain that within two years; an osteopathic physician must complete the instruction within one year. For APRNs, this initial instruction may also include promising practice suicide prevention and awareness.

Finally, the amendment retains the July 1, 2026 sunset of the provisions related to behavioral health care professionals who are licensed under NRS Chapters 641A, 641B, and 641C.

**Chair Bustamante Adams:**

I will entertain a motion to amend and do pass A.B. 105.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 105.

ASSEMBLYMAN DALY SECONDED THE MOTION.

**Assemblywoman Carlton:**

I want to make sure that I understand what "promising practice suicide prevention and awareness" means. Is that a specific name of a program or is it what the Board decides?

**Chair Bustamante Adams:**

Assemblyman Thompson, can you come to the table?

**Assemblyman Tyrone Thompson, Assembly District No. 17:**

"Promising practice" is a level below evidence-based practice. Evidence-based practice is the ultimate: it is all data-driven, data-proven, et cetera. There are many situations in which there are great trainings that may not be at the evidence-based level, but they are on the horizon. That is why we called it a "promising practice." I do not want to discredit those organizations or that training, but it is just not at the same standard as evidence-based training. It is still valuable, however.

**Assemblywoman Carlton:**

Are you saying the Board would decide if the training is substantially equivalent to what they are looking for, and that this would open up the arena for more people to get training? Do I understand that correctly?

**Assemblyman Thompson:**

That is correct. I just want to thank the stakeholders for coming together. Our meeting was a great example of compromise and consensus building. I really wanted to thank them, and I wanted to thank the Committee's legal counsel, Wil Keane, because he was just amazing.

**Chair Bustamante Adams:**

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

THE MOTION PASSED. (ASSEMBLYMAN FRIERSON WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Araujo, and with that, I will end our work session. As I said earlier, we have three bills to hear today. At this time, I will call Assemblyman Sprinkle to the table, and I will open up the hearing on Assembly Bill 425.

**Assembly Bill 425: Revises provisions governing alcohol, drug and problem gambling counselors. (BDR 54-1031)**

**Assemblyman Michael C. Sprinkle, Assembly District No. 30:**

Thank you so much for having me here; it is always a pleasure to see you. I represent Assembly District No. 30, and I am here today to present Assembly Bill 425.

Conceptually, I see this bill as something that is going to assist with a much broader issue we have been facing in this state when it comes to being able to provide services to people that need them. Oftentimes, we hear there is a real difficulty in attracting service providers—people who can actually help in counseling-related services, as this bill addresses, as well as many other health care-related industries.

One of the difficulties that was brought to my attention involves individuals who are initially going through their four-year bachelor's program and what they have to do to achieve their degree. Many of us, in our occupations away from the Legislature, probably had to go through internships, and we had to have somebody oversee us to make sure we were doing things correctly. That is very difficult today with some of the requirements in existence. That, in essence, is really what this bill is trying to bring forward.

This bill is going to help with workforce development because we are going to have more people accomplish their four-year degree objectives, and we will license more people to help in counseling-related services much sooner and quicker. In addition, the bill gives people experienced in the profession, who already have experience and knowledge, oversight over interns, and can make sure they are learning the right things without some of the cumbersome requirements of a higher-level graduate degree.

I will do a quick bill break down, and then I am going to turn it over to the people who brought this issue to me, who truly are the experts in this area. Because A.B. 425 is such a short bill, the bill breakdown is also very short. Section 2 allows the Board of Examiners for Alcohol, Drug and Gambling Counselors to place a counselor's license in inactive status. It also prescribes what a counselor with an inactive license can and cannot do, and the procedures and terms for reactivating that license. Section 3 describes penalties for violating conditions of section 2. Section 4 allows for a licensed counselor with three years of experience to oversee interns who are in the process of obtaining their bachelor's degree in counseling.

That being said, the Board proposed an amendment that will make some slight variations to the bill (Exhibit G). It should be on the Nevada Electronic Legislative Information System (NELIS). With that, I will turn it over to the experts and let them speak further about what we are trying to do with this bill. Thank you for your attention.



**Steven Burt, Vice Chair, Board of Examiners for Alcohol, Drug and Gambling Counselors:**

I am here to answer questions that might be presented, but at this moment, I am going to turn it over to our Board counsel, Colleen Platt, who helped craft the language in the bill. She can go through the bill with you.

**Colleen Platt, Board Counsel, Board of Examiners for Alcohol, Drug and Gambling Counselors:**

I am here to present A.B. 425. We had many discussions during the interim with our licensing community, and what we heard from them is that they would like to be able to put their licenses on inactive status. What developed was the statutory framework for how we are going to be able to put licenses on inactive status; what fee will be associated with that; what the parameters of having inactive status will be during the time of inactive status; how long a person can put their license on inactive status; and what the requirements will be to come back to active status. That is section 2 of the bill.

In section 3 of the bill, we have requested the authority to discipline unlicensed activity. We had a situation arise where we discovered unlicensed activity, and in a review of our statutory provisions, the only available option to me as the Board's attorney was to seek an injunction through a court proceeding. It is expensive and time-consuming, not only for the Board, but also for the person against whom we are seeking the injunction. Many other boards have the ability to issue cease-and-desist letters, issue administrative fines, and also to issue citations. We are seeking that authority so we are able to go after unlicensed activity in a very efficient and inexpensive manner.

As Assemblyman Sprinkle mentioned, section 4 addresses intern supervision. In order to obtain a license as an alcohol, drug, or gambling counselor, students have to go through an internship. We found there are not enough supervisors for our interns. In addition to licenses, we also issue certificates for alcohol and drug abuse counselors. Current statute does not allow those types of licensees to be supervisors. This bill asks for the authority to allow certain certificate holders to supervise interns and to allow us to adopt those regulations to set forth parameters.

Specifically, supervisors will be certified alcohol and drug abuse counselors who have had their license for not less than three years. We feel it is important for supervisors to have some real-world experience before they are able to supervise interns. We really do not want an intern who just received his or her license to supervise someone else. We had a long discussion during a Board meeting, and we came to the resolution that three years was an appropriate period of time for licensees to gain enough experience, understand the profession, and be able to supervise interns in the best way possible. The remaining sections of the bill make some corresponding changes that we have just spoken about.

Our amendment ([Exhibit G](#)) addresses section 5. As we reviewed the statutes, we found that there is a requirement in section 5 that interns who are seeking their degrees have to complete not less than 30 hours of training specific to alcohol and drug abuse. Within those 30 hours, 6 hours are reserved for instruction on confidentiality and 6 hours of instruction are related to ethics. We want to make sure interns adhere to Health Insurance Portability and Accountability Act (HIPAA) rules and other confidentiality statutes, and interns comply with the ethical standards that the Board has adopted.

We have found, however, that interns have to meet continuing education requirements within those 30 hours. We had a discussion and determined that within the 60 hours required for the bachelor's degree, that instruction covers 18 of the 30 hours. We are still going to require interns to take the 6 hours of instruction relating to confidentiality and 6 hours relating to ethics. We are just trying to remove the barrier that forces interns to obtain more education than what is required for their bachelor's degree. That is the main thrust of the bill, and I am happy to answer any questions you may have.

**Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors:**

I am Agata Gawronski, and I am the Executive Director for the Board of Examiners for Alcohol, Drug and Gambling Counselors. I am here to answer any questions the Committee may have.

**Chair Bustamante Adams:**

I will now open the hearing up to questions from Committee members.

**Assemblywoman Carlton:**

Reading from your amendment, I notice you are striking out the "not less than 30 hours of training specific. . . ." Are you saying that the hours that are encapsulated in the 60 hours of credit towards completion will cover those 30 hours? You are not eliminating another avenue to licensure, are you? I am always wary of people pulling the ladder up behind them. I just want to make sure that is not happening.

**Colleen Platt:**

The 30 hours are encapsulated in the 60 hours. As written, the statute forces us to require interns to seek continuing education unit (CEU) hours. What we are trying to do is to make sure that they are getting their 60 hours in their bachelor's education and—if it is not covered within the 60 hours—they are going to have those 12 additional hours. Ms. Gawronski can explain that a little further.

**Agata Gawronski:**

Two years ago, we changed the internship requirements. Before then, individuals could apply for an internship with just a high school diploma. We wanted to raise the requirements. We now ask that candidates have either a bachelor's degree or 60 credits towards their bachelor's degree, and that includes what we call a minor in addiction,

which are 18 college credits in substance abuse studies, specifically. The 30 hours was just kind of there. We decided that is overkill, and we do not want to create barriers to licensure. We feel confident that people coming out of the minor program or with a bachelor's degree—or close to a bachelor's degree—have enough education to start their internship and work towards their certification or licensure.

**Assemblywoman Carlton:**

Could you share the entry-level position requirements with me? I know that some of the best counselors are people who are in recovery, but a lot of times people who are in recovery do not have bachelor's degrees. When we instituted this Board in 1999, the whole idea was that we would make sure that the people who have real-life experience and can really help people succeed have an avenue to be able to use that skill for their livelihood. I just want to make sure there is still an avenue for them to be able to be certified, licensed, and to be able to do this.

**Steven Burt:**

Thank you for that question, Assemblywoman Carlton. I run an agency in Reno called The Ridge House, and we are a peer-driven organization. One of my favorite things to do is to recruit people in recovery and get them through, not recovery programs, but the training through peer support services that leads to licensure. As the Board was gaining professional credibility itself over the last eight years or so, I have always been concerned that those entry-level people had bigger and bigger barriers to entry into the field. The license requires a master's degree, and certification requires a bachelor's degree.

Last session, we increased the requirements for education to be halfway towards the bachelor's degree, and now we are talking about adding peer certification to give those people an avenue to enter the field of substance abuse treatment in order to begin that path. That way, they are working in the field as a peer recovery specialist while they are in school, and then once they have acquired the equivalent of an associate's degree, they can acquire their clinical alcohol and drug counselor internship process. They do those 4,000 hours, and then as soon as they achieve their bachelor's degree, they can test for their certificate as an alcohol and drug counselor.

I feel like we have done a decent job—I hope—of maintaining the pathway for somebody in recovery. To answer your question specifically, we require two years of active recovery from a substance abuse disorder. We require two years off paper, which means they have not been listed in a parole or probation agreement or supervision from a court system for two or more years, plus the educational requirements that I have previously spoken about.

**Assemblywoman Carlton:**

Thank you. I just want to make sure that the last thing we do is eliminate an opportunity for those people, because it is very hard to come out of recovery and find a place to go. This is a place where they could possibly do very well and help other people too.

**Assemblyman Sprinkle:**

Some of the information I just heard was new to me. I am glad to hear that process is in place. I do not see this bill impacting that at all. This is strictly about the people who are already working towards their bachelor's degree. This is actually going to make it easier for them to get those 4,000 hours of internship done, so they can achieve their degree. That would not affect the program to which you are referring.

**Assemblyman Kramer:**

I notice under fiscal note it says, "Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility." I think that has to do with the hammer you now have to go after people who do not play by the rules. You obviously ran across this at some point in the past, and that is what brought this bill forward. Do you really anticipate there will be an effect on local government, even though that is what the bill says?

**Colleen Platt:**

We have run into the unlicensed activity issue more than once. It just recently came to fruition. In past times—prior to my sitting as Board counsel—the Board did send cease-and-desist letters. We do not have that authority right now, so in reviewing the statutes we wanted to make sure that these boards are complying with the authority they have given to them. The only way to really deal with unlicensed activity is to send it over to the district attorney's office because I believe it is a misdemeanor. That is how it is currently worded in statute. This bill will allow us to issue a fine, serve a cease-and-desist letter, or issue a citation. That is why you see that in the fiscal note. The cease-and-desist letter is usually a very useful tool, and we anticipate that that is going to be the main way that we address unlicensed activity, as a first step. If they continue, then we will also have those two other options.

**Assemblyman Kramer:**

When you said you think a cease-and-desist letter will solve it, that was enough. I did not need to hear the rest.

**Chair Bustamante Adams:**

How many counselors are licensed under this?

**Agata Gawronksi:**

We have a total of close to 1,300 right now, but that number includes interns.

**Assemblyman Ohrenschall:**

My question has to do with section 2, subsection 3(c), and the length of time that a license or certificate may remain on inactive status. Is there any upper limit now, and what do you envision this being? With the State Bar of Nevada, for example, I do not think there is a length of time; if someone wants to be inactive until their last days, they can.

**Colleen Platt:**

Currently, the Board has a regulation where a licensee may put their license on inactive status for 12 months. Current wording says that the licensee, before the 12 months ends, is required to put their license back to active status in order to comply with the CEU requirements. If the licensee does not do that, then the license expires. If they go past the expiration date—there is a statutory provision regarding expiration—then their license is basically cancelled, and they would have to go back and file for an initial license after that point. What we heard from the licensing community is that they wanted something in statute that would give the Board a little bit more framework. We looked at other boards, and we borrowed this language from one of the other boards. This will allow us to identify if it is more than a year, or three years, and then we will be able to say if you want to come to active status, what does that look like?

**Assemblyman Ohrenschall:**

Are you saying that this might change if the bill passes? You might not keep the 12-month upper limit, and you will not cancel their license?

**Colleen Platt:**

Yes. We are anticipating a longer time frame than a year because that is what we hear the licensing community wants. It is a regulatory process. We will be able to work with them to find out what works for the Board and what works for them and then come to some sort of compromise. We will bring it back before the Legislative Commission, obviously, for approval.

**Chair Bustamante Adams:**

I see no other questions, so I would like to thank the presenters and Assemblyman Sprinkle.

**Assemblyman Sprinkle:**

With your indulgence, may I leave now, so I can start my Assembly Committee on Health and Human Services? These individuals will be here in case any other questions come up.

**Chair Bustamante Adams:**

Thank you so much, I appreciate that. For the sake of time and because we are approaching a deadline—I am going to start with testimony from those in opposition to A.B. 425. Is there anyone who would like to testify in opposition in Las Vegas or Carson City? [There was no one.] Is there anyone who would like to testify in support? [There was no one.] Is there anyone who is neutral on the measure? [There was no one.] At this time, I will close the hearing on A.B. 425 and invite the presenters of Assembly Bill 456 to come to the table.

**Assembly Bill 456: Revises provisions governing the practice of chiropractic.  
(BDR 54-91)**

**Benjamin Lurie, President, Chiropractic Physicians' Board of Nevada:**

We are here to present our Chiropractic Physicians' Board of Nevada bill, Assembly Bill 456, to the Assembly Committee on Commerce and Labor. On behalf of the Board, we would like to thank the Chair for agreeing to sponsor A.B. 456.

This bill represents a technical cleanup language that has been approved by the Chiropractic Physicians' Board of Nevada. I will ask you to refer to the Nevada Electronic Legislative Information System (NELIS), as the Board submitted an amendment to A.B. 456 (Exhibit H), section 1, which I will be discussing in just a few moments. I will now walk you through to the bill.

Section 1 of the bill recognizes and acknowledges that chiropractic physicians in the state of Nevada are primary care practitioners for patients in our state. Section 2 removes the prohibition disallowing chiropractors that have graduated from the same chiropractic college or university from serving on the state Board simultaneously. In our opinion, this has restricted the Governor's pool of qualified candidates who may sit on a state board. Currently, qualified applicants have had to wait up to 60 days in order to be approved to sit for the Nevada Medical Jurisprudence Examination, which is the final step in licensure. Section 3 will now remove the restriction and allow applicants to apply for the exam as soon as they graduate. Previously, the Board administered the exam once every six months; last session we had that changed and now administer the jurisprudence exam once a month. Section 4 also strikes the 60-day requirement, and section 5 does the same.

Section 6 addresses an issue where the Board has been unable to investigate or prosecute some cases because the chiropractor committed a crime that was pled down from a felony charge to a gross or regular misdemeanor. The Board has been unable to investigate or prosecute some of the cases where allegations involved professional incompetence or negligence because it was not gross or repeated. This new language in section 6 allows the Board to intervene in these types of criminal activities and adds incompetence and negligence into the practice of chiropractic, under disciplinary action or unprofessional conduct.

Section of 7 of the bill removes the words "guilty as charged" because the Board does not feel that the finding of guilt should be a Board issue, and the finding of guilt should be left up to a court of law. It is the Board's responsibility, by statute, to remediate unprofessional conduct. For example, in 2010 the Board adjudicated a case for fraud and found the chiropractor in violation of the Nevada Chiropractic Practice Act. The court upheld the Board's ruling except for the portion of the ruling, which prohibited the chiropractor from owning and operating a chiropractic clinic. Therefore, this new language aligns the Board's statutes with the court's ruling. Section 8 of the bill repeals the definition of "gross malpractice" that should have been changed in 2015 in Assembly Bill 231 of the 78th Session but was inadvertently missed at that time.

I will now ask that you refer to the amendment ([Exhibit H](#)) which is available on NELIS. The submitted language codifies into *Nevada Revised Statutes* what has already been approved by the Board and the Legislative Commission through the regulatory process in 2016. We have also provided to you a copy of the minutes from the regulatory hearing and public workshop ([Exhibit I](#)). There were no objections to the process.

I want to thank the Committee for your service to the state of Nevada, and your kind consideration for A.B. 456. I am available for any questions, along with Mr. Louis Ling, the Board's attorney.

**Chair Bustamante Adams:**

Thank you so much. I did not see the amendment on NELIS, so I am having our policy analyst distribute them. Dr. Lurie, were you reading off the mock-up, the bill, or another document? I am trying to figure out from what you were reading.

**Benjamin Lurie:**

I was reading off the bill and walking you through it. The amendment to the bill should be up on NELIS, and I believe Mendy Elliot with Capitol Partners uploaded the Minutes from the Legislative Counsel Bureau (LCB) on the regulations on the workshop ([Exhibit I](#)).

**Chair Bustamante Adams:**

The amendment is not up on NELIS, but each of the members on the Committee has the amendment that was just distributed. I will ask the committee secretary to upload the minutes from the workshop on NELIS.

I will now open the hearing up to questions from members of the Committee.

**Assemblyman Kramer:**

I know we have Doctors of Medicine (M.D.) and Doctors of Osteopathic Medicine (D.O.), and yet, they both look at patients, and they both rely upon some of the same techniques to try to diagnose what is wrong and prescribe some sort of remedy. There are chiropractors, physical therapists, and vocational therapists who work on muscles and bones, et cetera, so patients can be free from pain. Therefore, I have a question about the definition of "chiropractic adjustment" in section 1. Does putting that definition in the bill—the way you have it—mean that chiropractors own those procedures and no one else can use them and call them part of what they do for their profession? I am trying to see if this is exclusionary, or if it is a "we do this, too, and this is part of what we do." Can you expand on that for me?

**Benjamin Lurie:**

I appreciate your question. There are similarities between chiropractic and physical therapy. As far as chiropractic technique and chiropractic adjustment, practitioners utilize a thrust, and that thrust manipulation is what chiropractors spend 4,000 hours of training, go through four years of school, four national boards, and take practical exams to allow them to perform, with proficiency, that actual thrust. Chiropractors also have the ability, and have had the ability, to diagnose patients in the state of Nevada since the inception.

Physical therapists cannot diagnose patients; therefore, their treatment is based upon an evaluation and an assessment of a patient, or through a prescription of an M.D., a D.O., or a chiropractor. They are simply either following recommendations or assessing the patient. That is what separates us.

In the field of physical therapy, there are five grades of mobilization. We brought an issue to light last session—and we will probably have to bring the issue to light in this session as well. As chiropractors in the state of Nevada, we have no issue with Grades I through IV. Physical therapists are fantastic; I said in the Senate on Wednesday that I use and refer patients to physical therapists for the best interests of my patients, to rehabilitate. Where we have an issue is with the thrust manipulation in Grade V.

We had an issue in 2012. We approached their board on several occasions to try to rectify a situation and to get them to understand the legislative process—this legislative body has said that if you want to do X, Y, and Z, you must come before this body and ask for approval for these things to be done. In their statute, under NRS Chapter 640, it specifically states that physical therapists cannot perform a chiropractic adjustment. *Nevada Revised Statutes* (NRS) 640.190 states that physical therapists are not to practice chiropractic along with a whole list of other forms of healing that this legislative body enacted into law and said they cannot do. We brought that issue to light with their board. Their board has turned us down on multiple occasions when we sought to work with them to clarify public safety and public protection in the state of Nevada. We were simply told, at that time, that the law does not state that they can and the law does not state that they cannot. Therefore, it is certainly a gray area.

It caused our Board, back in 2013, to go the Office of the Attorney General and get an opinion on whether or not a thrust manipulation belonged to the chiropractic profession or belonged to the physical therapist. We received the opinion on February 7, 2013, and the conclusion stated:

The law is clear that a licensed physical therapist is not authorized to practice medicine, osteopathic medicine, homeopathic medicine, chiropractic, or any other form . . . of healing. In addition, the practice of physical therapy specifically prohibits chiropractic adjustment. Finally, because manipulation and adjustment of the human body requires licensure of a Chiropractic Physician's board in the state of Nevada, a physical therapist may not lawfully perform any manipulation or adjustment of the spine, or any other articulation of the human body that involves chiropractic thrust manipulations, and adjustments. Thrust manipulations and/or adjustments are recognized chiropractic techniques and beyond the scope of authorized activity for physical therapy.



We took this letter to the Nevada State Board of Physical Therapy, presented them with it, and they threw it in the trash can. They said they did not believe in the Attorney General's opinion on thrust manipulation. They then solicited for a second opinion from the Attorney General on March 12, 2013, in which the conclusion stated, "In conclusion, we stand by our opinion as originally written."

We took this second opinion back to their board; they still did not want to do anything. We brought up the fact that they were performing these manipulations. We have gone through the training; we have appeared at their board meetings. We submitted on their bill, Senate Bill 437, all the minutes that we complied and tried to work with this board. Even as of this morning, they had asked me why we had not reached out to them.

We have reached out to them since 2012 in an effort to simply put an issue of public safety and public protection in place to protect the public. In doing so, our Board has been inundated with complaints of patients that have been to a physical therapist, have been manipulated with a thrust adjustment, and simply have alleged that they were injured. They are not under our jurisdiction, and we have turned that back over to the physical therapy board to investigate. The State Board of Physical Therapy never investigated the complaints; they alleged, and have stated—up until this point—that for the past 30 years they have continued to perform thrust manipulations and dry needling without this body's approval of doing so. For whatever reason—I do not know if they do not understand the process of how it works—but we have certainly tried to protect the public by bringing this issue up to them.

I realize that was a little bit of information for your question, but the thrust manipulation, according to the Attorney General and NRS Chapter 634, has been in place since 1923. In addition, and according to the Nevada Physical Therapy Practice Act [NRS Chapter 640], physical therapists cannot perform a chiropractic adjustment because that belongs to the chiropractic physicians. The practice of physical therapy is completely different from the osteopaths; they are under a completely different section of NRS than we are, and that is a core of what they learn in school.

As a Board, we could not get anywhere with the physical therapists at that time. We then held a meeting to further codify our language and further define a precisely controlled force, which includes a thrust manipulation of a high velocity or low amplitude, or any combination thereof. That went through the process of a board meeting, public hearing, public workshop, through LCB, and was codified into the Nevada Administrative Code (NAC) Chapter 634. The definition that you see in front of you in the amendment is simply that language that has already been approved by LCB; we had zero objections to the language when we held these workshops.

As I attest today—according to the Attorney General and according to our acts—we have the right to perform these manipulations, and physical therapists do not. Until they come forward and define Grades I through V, it is up to them. I am on their record as saying, if physical therapists have the training and education, and show this legislative body that they

have the ability to do it, we have no problem with them doing it. As I sit here today and tell you the same thing, we have no issue if they have the equivalent training that we go through. I hope that answers your question.

**Assemblywoman Neal:**

I have a question about section 8, where you struck out "gross malpractice and repeated malpractice." I would like an explanation about that. You also struck out the word "felony," and I do not know where we are going with the language. You seem to have struck out a lot of the criminal language. Can you explain why?

**Louis Ling, Board Counsel, Chiropractic Physicians' Board of Nevada:**

I am board counsel to the Chiropractic Physicians' Board of Nevada. To address section 8, what is now in your bill as section 6 used to contain language that constrained the Board from disciplining licensees unless they found gross malpractice or repeated malpractice. Last session we asked to have that language removed because the Board found that with that language, even in a case where there was clear malpractice, we could not take action because it was not repeated. We had to let licensees, in other words, have one mistake and then we could only intervene if there was a second act of malpractice. The Board did not feel that was good public policy.

We asked the Legislature to change that, and it did. That was removed, but apparently, in the course of that bill, this language was overlooked. In section 8, all we are doing is harmonizing the immunities that are provided in section 8 by taking out language that does not exist any longer in what is now section 6.

The reason that we are removing the word "felony" and instead saying that the Board wants to be able to look at a crime relating to the practice of chiropractic, is based on real-world experience. This is how we learn and why we come to this body to fine-tune our language. Recently, we have seen cases where a chiropractor is engaged in illegal behavior—things that you, the Legislature, would not want our chiropractors to be engaged in. Their attorneys realized that if they pled the felony down to a misdemeanor, the Board cannot investigate it because right now our language requires that we only look at felonies related to chiropractic. This Board felt that that is not good public policy. We wanted to be able to look at any crime that is related to a chiropractor's practice, and no longer allow defense counsel to find a way to get around our law and get around our ability to look into a particular case. That is why we are changing the language in section 6.

**Assemblywoman Neal:**

You struck out the "repeated" part, but you struck out the other part of the word as well. Are you saying that unprofessional conduct, incompetence, negligence, or a conviction of a crime will now become actionable, and the "gross malpractice" will no longer even be a factor at all?

**Louis Ling:**

Gross malpractice already is not. In section 6—which is NRS 634.140—that language used to reference, as one of the causes we could take disciplinary action on, gross malpractice or repeated malpractice. That language was removed in the 78th Session, so it is no longer—and has not been since last session—a cause for disciplinary action. Instead, we can look at simple acts of negligence or incompetence. In fact, in the language in section 6, we are going to be able to look at acts of incompetence or negligence, and it no longer needs to be gross or repeated. We feel that is better public policy than having to wait until some real harm has been done. We need to be able to get involved when we see a single act of negligence or a single act of incompetence.

**Assemblyman Paul Anderson:**

Obviously, other states have both of these industries and practices. I am wondering how they handle some of these measures. Is similar language used in other states as well?

**Benjamin Lurie:**

Are you talking specifically about the language of adjustment, manipulation, or thrust?

**Assemblyman Paul Anderson:**

I am talking about the division point or the dividing point. You mentioned Grades I through V as being measurements, and you said that you are good with I through IV but not V. Do other states define it the same way? Do they have similar language, and if so, how do they handle it?

**Benjamin Lurie:**

That is correct; there are other states. You will also hear from the opposition today, and they will tell you that according to the American Physical Therapy Association there is a movement in which physical therapists who have shown proficiency in these types of adjustments have gone through the legislative process to get this grade V mobilization included. They recognize Grades I through V mobilization; they have taken the process. We have simply pointed out that they need to come in front of this legislative body, do the same thing as defining—as we are further defining chiropractic adjustment—and they need to open up their language to define Grades I through V. There are states that accept Grade V mobilizations and allow physical therapists, who have had the training, to manipulate patients with a thrust manipulation.

**Assemblywoman Carlton:**

I was talking with some people, and I shared my concerns about how broad the language is in section 7, subsection 2(f). It would allow the Board ". . . to remedy or address facts and circumstances . . . ." Can you give me an example of what they might be? I would just like an example of what you are trying to accomplish there.

**Louis Ling:**

As I said earlier, what we are trying to accomplish with that language is related to a real-world case. This case went all the way to the Nevada Supreme Court. We were successful in upholding the Board's order in that case, with the exception of one thing, as Dr. Lurie described earlier. In that case, we had a doctor who misused his license to commit billing fraud. He sent patients from his practice out to magnetic resonance imaging (MRI) and X-Ray facilities that he also owned an interest in—he used his wife's maiden name and various other ways to hide that ownership—and then he made money at both ends of that transaction. There are very clear statutes that say you are not supposed to do that in Nevada. When we were done proving the case, we ended up with a question from the Board. Since you do not have to be a chiropractor to own a chiropractic practice, can one just go out, open another practice, hire another chiropractor, and do it all over again? Could they just start sending patients from that new practice to his other businesses? We went round and round and round on that, and ultimately the Board decided that they did want to try, as best they could, to prohibit the ownership of a practice by this chiropractor.

The only language we had to hinge our case on was the catchall language we are looking at now in section 7. The court looked at that language and said that that language is not specifically focused enough to support what the Board did. The court said that the existing language—which just referred to action that is not inconsistent with law—was not enough to support what the Board was trying to do, so the court struck that down. We otherwise won the case, but that chiropractor could—and I do not know whether he does—own chiropractic practices. That was taken away from the Board's order.

This language is actually more specific than that. We can only invoke this language to remedy something that is particular to that case. The Board has heard the case, and if the language we are proposing in the amendment had been in place, I suspect the court would have said, yes, you very narrowly tailored what you were trying to do in that case to remedy what was in front of the Board, which was that this man owned multiple practices and was misusing his license.

**Assemblywoman Carlton:**

Along that line—again there is the broadness in the language—I remember a long time ago, a time when one of the boards wanted to mandate public service and physical health as part of recompense for the misdeeds that individuals had done. I had real concerns about that. I just want to make sure that we are not just going to say, okay, if it is going to be just to a particular case that is one thing, but I do not want someone to pull something in and say, you shall give 100 hours of free service to a clinic. I do not want it to go that far because we had that debate a number of years ago, and it was very disconcerting. As long as we are not going to go there, as long as it is to the actual case, that is good. By using the terms "to remedy or address," I just want to make sure we are good on that and that we are not going to go there. There is a lot of head nodding going on so that is good.

On the crime language, I know it is a conviction. The amendment takes away the language about "felony," includes a conviction on anything, and is not necessarily tied to the license. Am I correct? Could it be trespassing, public urination, could it be a number of different misdemeanor crimes? That is the way I read it.

**Louis Ling:**

Believe me, Assemblywoman Carlton, I have appeared in front of you enough to know what you do and do not want to see in these bills. Assembly Bill 456 is very narrowly related to crimes relating to a chiropractor's practice only. This will not capture a DUI or something that is not related to the practice of chiropractic. The crime will have to relate to the practice of chiropractic, which is actually what you want. It is what I believe all of us want. A DUI that someone got when they were just driving around town and is not related to their practice of chiropractic is something we boards struggle with all the time. This language is going to be easier to implement because we are going to be able to look at the nexus between the crime and their practice. If it relates we can take action on it; if it does not, we cannot.

**Assemblywoman Carlton:**

That is exactly what we needed to have on the record. Thank you very much, Mr. Ling. We have been doing this for a very long time, and I appreciate you recognizing that.

**Chair Bustamante Adams:**

Are there any other questions? Seeing none, we will open up for testimony in opposition. I know that the physical therapists board has some opposition, but I would appreciate those to consolidate and have some group representation.

**Benjamin Lurie:**

I apologize for interrupting, but I want to say that the Nevada Physical Therapy Association had given us an unfriendly amendment, which we did not accept. They simply wanted to change a word from "any" to "and" under the definition of chiropractic. We do not see that as necessary since they cannot perform the chiropractic adjustment.

**Chair Bustamante Adams:**

Thank you so much. For those who are in opposition to A.B. 456, it would be helpful to have some group representatives to speak. Please be specific about what section you oppose, or let us know if you oppose the entire bill. We have a time limit of three minutes, and I will also take written remarks from anybody up to 48 hours after the hearing if we do not get to hear your entire testimony. We will begin here in Carson City.

**Lisa O. Cooper, Executive Director, State Board of Physical Therapy Examiners:**

I am the Executive Director with the Nevada State Board of Physical Therapy. We are opposed to A.B. 456 and the amendment submitted. We had meetings with the Chiropractic Board's lobbyist on Wednesday afternoon. We came to an agreement, but I did not receive the amendment until last night at 4:43 p.m. The amendment is contrary to the agreement that we had. We will continue to work for a compromise or to look for a compromise.

I have been with this Board for one year next month, and I have only been contacted by Dr. Rovetti. I have discussed some things with him. Nobody from the current administration has contacted me on any of this information. I do know some of you, and I know that you know how I work. I do try to compromise, and I do try to work for the better of both agencies, for the protection of the public. Thank you very much.

**Chair Bustamante Adams:**

Thank you, and congratulations on your one-year anniversary. I would appreciate your leadership here in getting with the sponsors of the bill to see if there is room for building a consensus.

**Assemblywoman Carlton:**

Ms. Cooper, I know that you and I worked very well together on another board. My biggest concern is when I hear about an Attorney General's opinion being presented twice, and the same results continue. Apparently, it was requested once by the chiropractor's board, presented to the physical therapy board, not recognized, then the physical therapy board asked for the same thing. They received it, got the same results, and the board still is not addressing the issue. I know that occurred before your time, but still, we should honor the Attorney General's opinion. I would like you to put something on the record concerning that, please.

**Lisa Cooper:**

Yes, this was before my time. I was made aware of the situation today—this morning, actually—and I expressed my disappointment that somebody had not contacted me sooner to begin these discussions. I know that prior to my being here, there were a lot of things that were done that were not necessarily done with the best legal advice, and we have corrected that. I will move forward and look for what we need to move forward with. I have not seen the Attorney General's opinion yet, so that is something that I will do by the end of the day.

**Assemblywoman Carlton:**

Does your Board currently have a deputy attorney general (DAG) or private counsel?

**Lisa Cooper:**

We have a DAG: Sarah Bradley.

**Assemblywoman Carlton:**

Your DAG should know about this. Is this the same DAG that was present when this occurred? I know we go through DAGs pretty quickly.

**Lisa Cooper:**

No. At the time this happened the Board had inside counsel, and that inside counsel is no longer employed with our Board. Now we are going through the Attorney General's Office, and Sarah Bradley is our attorney.

**Assemblywoman Carlton:**

I think it is very important that this Board recognize the Attorney General's opinion and take it very seriously. We cite those opinions in NRS, and we use them as guidance. Let us figure out how we do this, and if there is something we need to address with this Board, then let us be productive and move forward and not play the he-said-she-said game.

**Lisa Cooper:**

I completely agree. Thank you for your time.

**Chair Bustamante Adams:**

That was very well said, Assemblywoman Carlton.

**LuAnn Tucker, Private Citizen, Carson City, Nevada:**

I am a physical therapist here in Carson City and have been for 30 years. I am speaking in opposition to this bill. I am not sure—and I am not going to belabor it—but I am not sure if the people from the south are going to address the amendment. If they do not, I would like to be able to come back on record and do that. I just do not want to step on their toes if they are going to do that. I just saw the amendment 15 minutes ago, and I am very much in opposition to it.

**Chair Bustamante Adams:**

Thank you, Ms. Tucker. We will now go to Las Vegas for opposition testimony.

**Susan W. Priestman, Chair, Political Action Committee, Nevada Physical Therapy Association:**

I have been a physical therapist since 1985. I have had eight years of post-high school education, and the majority of my peers and I are trained at the doctorate level. All emerging physical therapists carry doctorate degrees. Included in that education is extensive training in both theory and the practice of joint mobilization and manipulation. Joint mobilization and manipulation is a safe and effective tool when practiced by a physical therapist. Several other professions are also licensed and trained to practice joint mobilization within their scope of practice: occupational therapists, athletic trainers, doctors of osteopathy, to name a few.

I am very concerned with the broadening of the definition of the chiropractic language as it relates to "chiropractic adjustment" in A.B. 456. If the purpose of this broad definition of chiropractic adjustment is to preclude other professions from using joint mobilization, then I stand firmly opposed. In the Physical Therapy Practice Act [NRS Chapter 640], we have defined that the practice of physical therapy includes the mobilization of joints, but prohibits the use of chiropractic adjustment.

This pending, new definition in the chiropractic bill is a not-so-subtle attempt to prevent physical therapists from offering this valuable service to our patients in Nevada. Moreover, this language would preclude a physical therapist from simply doing range of motion because simple range of motion does create accessory motion at the skeletal articulation through the

use of the application of a precisely controlled force applied by hand or mechanical device to a specified focal point of the anatomy for the sole purpose of creating a specific angular movement of skeletal articulation. It really does take the legs out of what we do, inherently.

The purpose of state boards is to protect the public from harm, and I submit to you that by allowing this over-broad definition of "chiropractic adjustment," the chiropractors are attempting the wholesale co-opting of this valuable tool for the sole purview of the chiropractic profession only. You will be creating harm to the public by not allowing access to this valuable and effective service by approving this language.

Members of our profession did work with the developers of this bill—as I think you have already heard—just this week and had agreed to compromise language. However, instead of using this compromise language, the bill-writers instead broadened the language in an attempt to limit physical therapy's scope. I ask that you strike the new language for chiropractic adjustment that is clearly an attempt to infringe on other professions' scopes of practice and by doing so, will harm the public by limiting access to this valuable tool.

**Assemblyman Marchant:**

In going along with what you just said, do you have the authority under NRS Chapter 640 to do adjustments such as Grade V mobilizations, using a high velocity, low amplitude thrust? If you cannot, maybe we ought to add it there.

**Susan Priestman:**

Yes.

**Jenelle Lauchman, Legislative Chair, Nevada Physical Therapy Association:**

Under our current NRS statutes, we have the purview to do joint mobilization, which in essence is Grades I through V that Dr. Lurie talked about. Yes, we currently do. We are working with the state on revising our language to further clarify it as well.

**Assemblyman Marchant:**

How about dry needling? Can you do that?

**Jenelle Lauchman:**

Dry needling is not specifically named in our NRS.

**Assemblywoman Carlton:**

I hate to keep going back to the Attorney General's opinion, but apparently, somebody else thought differently in the past. There is more than a clarification that is going to be needed here. That sets it off a little bit for me because years ago this was opined on and apparently the problem is still going on. I am not sure where the train has jumped the tracks here, but it bothers me that that opinion is just being set aside and not valued. I think we need to go back to that again.



**Chair Bustamante Adams:**

Thank you for that comment. I thought you were just answering a question, but do you have some additional comments?

**Jenelle Lauchman:**

I am here today to oppose section 1 of A.B. 456. No profession can own movement of the spine, articulation, or joints of the body. The revised definition does not clarify or better define specific parameters for what chiropractic manipulation is and it does not change anything about how a chiropractor practices his or her profession. In addition, I would venture to say that there is not a problem with the public—or anyone else in Nevada—raising issues about what is or is not chiropractic manipulation. Therefore, making these changes adds nothing constructive to the Nevada law and, in fact, creates a great deal of confusion about what is and what is not "chiropractic manipulation."

Under this new language, the 2,331 licensed physical therapists in Nevada who use the application of a precise, controlled force applied by the hand might be construed as engaging in chiropractic adjustment, which is prohibited under physical therapy practice. Mobilization has been a part of the physical therapy practices since the 1920s. This could set up a situation where these physical therapists could potentially face complaints for providing manipulation. For this reason, I think you should oppose the changes to this definition unless the prohibition on chiropractic adjustment is removed or a licensed exemption for physical therapists is added to this chiropractic act. This would lead to larger access issues for Nevada residents. Clearly, the word "any" is too broad of a word that encompasses any activity that is performed by a variety of professions who do not perform chiropractic manipulation. By this definition, spinal surgery would be considered a chiropractic manipulation.

Currently, physical therapy programs state that joint mobilization and manipulation—including both thrust and non-thrust—are included in our current curriculum and are included in the curriculum in both physical therapy schools here in Nevada, at the University of Las Vegas, Nevada, and Touro University Nevada. Thank you, and I am here to take your questions.

**Chair Bustamante Adams:**

Thank you so much. Did they address your amendment in Las Vegas, Ms. Tucker?

**LuAnn Tucker:**

Yes. I just wanted to clarify something in addition to what they said. When they said "any application of a resistive movement by applying a specific force," that is basically what we do every day in physical therapy—resistive, therapeutic exercise. If I were to take a patient and just do range of motion or resisted exercise, that would be considered a chiropractic adjustment by the definition in this bill. We are totally opposed to the definition being so broad.

**Chair Bustamante Adams:**

Thank you very much. Is there anybody else in opposition to A.B. 456? Is there anybody else in Las Vegas?

**Mike Rantissi, Private Citizen, Las Vegas, Nevada:**

I have been a physical therapist in Las Vegas since 2001. I am also dual-certified as an occupational therapist and in manual therapy. This is something that I wanted to bring up; there is a specialty group within physical therapy called manual therapists, who have extensive training in manipulation and mobilization of all joints of the spine and the body. Again, I am against just the definition that they are trying to broaden because it does encapsulate everything that we do as manual therapists in the physical therapy profession, as well as all the other professions that we have discussed.

Yes, we have extensive training. Manual therapists have as much, if not more, training as chiropractors. I think a lot of the confusion we are getting is from the definition of "manipulation" versus "chiropractic adjustment." We are clumping the two together in this conversation. In our practices, they are two totally different things. Adjustments by a chiropractor are not what we do. We have never done that; we are not taught to do it. We have never been educated on it, and we are totally against that procedure. Manipulations and mobilizations are what we do, which are different from a chiropractic adjustment. We are not doing any justice by clumping the two phrases, "manipulation" and "chiropractic adjustments," together.

"Chiropractic adjustment" has been defined, specifically, for many years. Now chiropractors are trying to change the definition because they have had many problems fighting the physical therapy boards about whether we are able to do it or not. I do not know why this fight is only between chiropractors and physical therapists. As we have talked about, many professions do manipulations, but for some reason, chiropractors feel threatened by the physical therapy body. We do not just do manipulations; we also do other things. Only allowing chiropractors to do manipulations seems like they are just protecting the only tool that they have to work with. I understand their concern, but for them to try to eliminate all other professions from performing this maneuver is ridiculous. We are medical professionals, not alternative medicine, so that is why we cannot prescribe medicine. That is why we cannot send people for MRIs. That is why we cannot do a lot of the things that chiropractors do. They are alternative medicine in their own sense, not in the medical world and not working into the medical model as we do—specifically under a doctor's prescription.

I just want to bring up that, in the mind of the Attorney General, clumping the words "manipulation" and "chiropractic adjustment" is probably the main concern that we are trying to separate here. Yes, chiropractors are allowed to do adjustments and that is what they are professionally trained to do. But that is not what we do; we do mobilizations and manipulations, Grades I through V, and we have done so for many years. It is in our practice

act nationally—not just in this state. It has been there for a long time, so I am just here to promote that to deny the extension of the definition, to protect not just the physical therapy field, but also all other fields such as occupational therapy and the manual therapy-certified groups.

**Chair Bustamante Adams:**

How many other people are there in Las Vegas who are in opposition?

**Meredith Goforth, Private Citizen, Las Vegas, Nevada:**

We are the last two.

**Chair Bustamante Adams:**

Okay, good. After you two, I will switch to testimony in support.

**Meredith Goforth:**

I will be brief. I am a physical therapist here in Las Vegas, and I oppose the language in section 1 of the bill for previously stated reasons.

**Chair Bustamante Adams:**

Thank you for being concise.

**Garreth Ames, Private Citizen, Las Vegas, Nevada:**

I also oppose the bill for the reasons previously stated.

**Chair Bustamante Adams:**

Thank you so much. I appreciate your participation in the process. With that, we will move to testimony in support of A.B. 456. [There was no one.] Is there anyone who is neutral and would like to testify?

**Marlene Lockard, representing Nevada Chiropractic Association:**

I came up because I thought Dr. Overland in Las Vegas had to leave, but I see he is at the table now. I will defer to the president of our association.

**Michele Kane, Media Specialist, Nevada Chiropractic Council, Las Vegas, Nevada:**

Thank you very much for hearing this bill. We stand with the Nevada Chiropractic Physicians' Board in support of this bill, section 1 in particular. We have no issue with physical therapists doing manipulations, Grades I through IV; it is Grade V with which we take issue. We fully support the past opinions of the state Attorney General's Office, issued not once, but twice.

**James Overland, Sr., President, Nevada Chiropractic Association:**

During the course of this particular bill, we worked with the Nevada Chiropractic Physicians' Board on the language, and we felt it was justified for cleanup language to replace the word "the" with "any." It does not change our scope of practice. It does not change what is already in regulation in NRS 634.014. It has been there for many years.

In the second part of that section, we added "to improve health or to" in addition to what is already in that section. I do not think it is any argument from anybody, whether you are a chiropractor, a medical professional, a physical therapist, or anyone else, that we try to improve health for all our patients and all our clients. I do not believe that any of the changes in this particular bill challenge anyone else's scope of practice; it is in here to improve our scope of practice as chiropractors and not to deny anyone else. On that basis, the Nevada Chiropractic Association and the Board of Directors urge you to pass A.B. 456.

Thank you for your time, and if you have any questions, I would be happy to answer them.

**Chair Bustamante Adams:**

I think I am going to put you two into the support position, not in neutral. Madame Secretary, if you could put them in support I would appreciate that. Thank you very much for your testimony.

**James Overland:**

Thank you very much for the time.

**Chair Bustamante Adams:**

Is there anybody else in the neutral position? [There was no one.] With that, I will close the hearing on A.B. 456. I think there is still some work here that needs to be done. We only have a few days left, so urgency is very important. I would love to hear from Ms. Cooper as well, and I have noted that, so that we can follow up. With that, I will open the hearing on Assembly Bill 394 and I will invite Assemblywoman Bilbray-Axelrod to the table.

**Assembly Bill 394: Revises provisions governing the use of sick leave by employees in certain private employment. (BDR 53-637)**

**Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34:**

Thank you, Chair Bustamante Adams and the rest of the Committee, and I wish you a happy Friday. I represent Assembly District No. 34 in Clark County. I thank you for your kind consideration of Assembly Bill 394.

The purpose of A.B. 394 is to allow our fellow Nevadans who need to take time off to care for their loved ones to use their leave they have already accumulated. To be clear, this bill does not require employers to provide paid time off; it simply states that if an employee has accrued sick time, he or she can use half of that leave from work to care for a family member. I know, on a personal level, I have had to take time off to care for a sick child, and my husband has used his sick leave to care for his aging father. While this bill is only asking that half of the employee's sick time be used for caregiving, we are leaving this up to the employer, so they do not feel any burden regarding recordkeeping. They can do the full amount if they choose.

You might be familiar with the Family Medical Leave Act (FMLA). While it is an important act, it does not help caregivers who need to take time off to care for loved ones for medical appointments, to rush them to the hospital or other facilities in the event of a health care crisis, or provide care for a brief illness. Passage of A.B. 394 would help employees who need to take this kind of short-term leave without fear of losing their job or being in a position where they feel that they cannot be truthful with their employer.

With me today is Glenn Fewkes, who has flown in from Washington, D.C. He is a senior legislative representative for State Advocacy and Strategy Integration for AARP. Madam Chair, with your indulgence I will turn the microphone over to him to go through the specific sections of the bill very briefly, and then we will both be available to answer any questions the Committee may have.

**Glen W. Fewkes, Senior Legislative Representative, State Advocacy and Strategy Integration, AARP, Washington, D.C.:**

I am a senior legislative representative with AARP's Government Affairs Department in Washington, D.C. I focus on family caregiving issues. First, as a general statement, A.B. 394 is part of a larger trend that we are seeing in states across the country supporting family caregivers and recognizing the work that they do. Just in the last three years, over 100 family caregiver-focused bills have been passed in nearly every state in the country, including Nevada—which, in 2015, unanimously passed the Caregiver Advise, Record, Enable (CARE) Act [Senate Bill 177 of the 78th Session] to help family caregivers as their loved ones transition home from the hospital. With respect to this particular type of bill, just in 2017, Illinois has enacted a very similar law. New Mexico and Georgia have passed very similar laws; both of those are awaiting signatures from their governors. Nearly a dozen states have similar laws already on the books.

Assemblywoman Bilbray-Axelrod has asked that I go quickly through the bill, section by section. Thankfully, A.B. 394 is a pretty straightforward bill. Section 1 has eight parts or subsections. The first part is really the basic requirement of the bill. It requires that if an employer provides employees with either paid or unpaid sick leave benefits, that the employees be allowed to use those sick leave benefits to care for the illness or medical needs of an immediate family member, in addition to their own medical needs.

Part two allows an employer to limit the amount of an employee's sick leave that can be used for these purposes to assist a family member to at least half of their yearly sick-leave amount. Part three requires the Labor Commissioner to prepare a bulletin about these requirements to be posted online and in a conspicuous place in each workplace.

Part four provides that employees will still have access to other benefits—other rights and remedies—that they may be provided either through their employer or under law. Essentially, this bill is meant to be a floor and not a ceiling on employee sick-leave rights. Part five prohibits an employer from retaliating against an employee for using existing leave as allowed by this bill. Section 1, subsection 6 states that this bill does not apply to groups of workers who are exempt from this type of law, either under state or federal law.

Part seven states that this bill will not interfere with collective bargaining, so if employees collectively bargain for different terms, then this law will not alter that. Part eight defines the immediate family for whom an employee's sick leave may be taken. This part also defines existing paid and unpaid sick leave to which this bill applies, specifically excluding things like an employer's short- and long-term disability plans.

Finally, sections 2 and 3 of the bill outline the enforcement mechanisms for this bill, including setting forth penalties for violation.

As a final emphasis, caregivers—and especially working caregivers—carry a huge burden. This will help them to continue participating in the workforce and to better take care of their loved ones.

**Chair Bustamante Adams:**

Thank you. Assemblywoman Bilbray-Axelrod. Should we go to questions from the Committee now?

**Assemblywoman Bilbray-Axelrod:**

Absolutely.

**Assemblyman Daly:**

Section 1, subsection 6 talks about "Any other employee or employer expressly exempted under regulations adopted by the Labor Commissioner . . . ." I have no idea who that would be. I cannot think of anybody who is exempted from that other than the people you have listed above. In conjunction with that, if your intent is to exclude people who are not normally covered by these types of things, how come we skipped over Title VII of the Civil Rights Act of 1964, which is where a lot of these things like family medical leave are? All of that would kick in in Title VII, and it exempts people with 15 or less employees. I was curious why this bill is not following federal law in that regard.

**Glen Fewkes:**

With regard to the first part of your question, part 6 as you mentioned, excludes certain categories of employees. Specifically mentioned are a few federal laws that exempt certain employees from these types of state laws. The specific subsection that you referred to, I believe, is more of a catchall in case there are other state or federal laws—either now or potentially in the future—that would exempt individuals from this type of law, to make sure that those were covered.

If I understand the second part of your question correctly, I believe this bill is narrowly tailored to focus just on those employers that currently offer some kind of paid or unpaid sick leave. This bill specifically does not alter FMLA in any way. It does not alter how employers treat FMLA. As you know, about 40 percent of the nation's workforce does not receive the benefits of FMLA, so this is really a narrowly tailored bill to focus just on those existing paid and unpaid sick benefits.

**Assemblyman Daly:**

I was not suggesting that it interfered with FMLA at all. What I am saying is that Title VII sets the limitations and exemptions for FMLA and some of the other provisions that apply to larger employers. I was just curious why we were not following the Title VII exemptions, because you list several others. Do not get me wrong; I am for this. We have similar language already in our employment policy where I work—we have less than 15 employees, but we would not have any trouble following this. Normally, if they are even offered, if there are less than 15 employees, FMLA and several other federal protections are not there. I was just wondering why you did not look at Title VII if you are looking to mirror what typically happens in these types of situations in federal law.

**Glen Fewkes:**

Just to reiterate, this bill is not about requiring anything new. We did not feel the need to tailor this down to certain sizes of employers. This can be a small employer that provides these types of leave, and they would be required to allow their employees to take sick leave for family purposes.

**Assemblywoman Neal:**

I had a question about section 1, subsection 2. It says, "An employer may limit the amount of sick leave an employee may use pursuant to subsection 1 . . . ." I am trying to figure out if employers can already do that. I think they can. Has there been a situation where an employer knew that an employee had sick leave but told them that they could not use it?

**Assemblywoman Bilbray-Axelrod:**

That is precisely what we are trying to avoid. Not that employees cannot use their sick leave, but employees cannot use their sick leave unless they are the ones who are sick. That is what we are trying to address with this bill. If my daughter is at home sick from school and has a cold and I use one of my sick days, I sometimes might feel like I am in a position where I have to tell my employer that I am really the sick one because there might be a problem. They might say, no, unless you are sick, you come to work. We then get into a situation where people are lying to their employers out of fear of retaliation or fear of losing their jobs. That is what this bill was really addressing. We went so far as to try to give those employers an ability to just make even half the time applicable for family care, so if an employee has six sick days a year, only three of those days could be used to care for a family member. Perhaps the employee could pull out specific hours to take his or her aging mother to the doctor and be able to be open and honest with what he or she is doing as a caregiver.

**Assemblywoman Neal:**

Thank you for that clarification. I assume this is a proactive bill, but do you have any specific examples where an employer has abused the current leave status of an employee?

**Assemblywoman Bilbray-Axelrod:**

I have put some anecdotal stories up on my Facebook page. I have heard stories where people said that this was a real and absolute concern for them. Not that they necessarily lost their jobs, but that they were concerned and had to make the decision of whether they were going to be truthful or not.

**Assemblyman Paul Anderson:**

I recognize that some employers have pretty strict rules about sick time and that wraps around how difficult it is for scheduling. Some employers need people there all the time, and when someone calls in sick, they want to make sure that sick time is used "properly," as they define it. Some businesses see it as the employee's time and they can use it as they need to. That was certainly the case in my business. We offered three weeks of paid time off and allowed our employees to use it however they saw fit. Our scheduling needs were not the same as a restaurant or a similar business where they really needed people there and also needed backup support. I guess I am wondering how we would address their needs and their ability to run their business smoothly and have people on backup when this Committee is expanding, by statute, the definition of how those times can be used, as well as the competitive nature of benefits.

I offered really good benefits in my business because I needed employees to stay. We were in a competitive environment, and my employees would have gone to work somewhere else if they could have received better benefits there. I am taking a competitive piece of the market out of the free market for some businesses to be able to define benefits for their own employees, and I am putting that into statute—which, again, is really tough to change over time. I am sensitive to the issue—the competitive nature of those benefits as well as mandating how those benefits can be used. I have had the same need in my own life—having to take time off to take care of family members. I am sensitive to the issue, but I want to address those aspects of it.

**Glen Fewkes:**

With respect to your first question, the bill provides that this leave used on behalf of family members be taken under the same terms and conditions as the employer's current sick leave policy. For example, things like the type of notice that needs to be given—when and how—whether a doctor's note is required, that type of a thing will remain the same. All of those same standards would apply if an employee were taking leave for a family member. That would help as far as scheduling and those standards that a restaurant business has to deal with.

With respect to your second question, this bill is really meant to be a narrowly-crafted bill. There are no new sick hours required here. I will also add that working caregivers are not a small group of people; they are essentially a quarter of the working population. When caregivers are under stress, they have to take work accommodations. When they have to leave the workforce, that is also costly to employers. This is turnover that they have to deal with.



If anything, I think what we are seeing nationwide is a trend of small businesses and others towards allowing this kind of flexibility because it enhances productivity and helps in recruitment and retention. As you mentioned, many employers already provide this type of flexibility, and that is a great thing, but for those who do not, the implications are very big. As I mentioned, some of these family caregivers may need to leave the workforce, and that is not a good thing for the state or for those individuals. This bill levels the playing field a little bit and gives them this support.

**Assemblyman Paul Anderson:**

I guess you brought up a good point, in that, if it is already trending in this direction, why do we have to mandate it in statute? I and other employers are seeing that a happy employee—whether it is pay, benefits, or whatever—is going to be a more productive employee. When they have issues at home, they need to take care of family. Our mantra was always "family first." That has not changed; it still is "family first." With that said, why do we have to mandate this if the trend is already getting there and people are already starting to see their own employers shifting in that direction?

**Assemblywoman Bilbray-Axelrod:**

Thank you, and it is trending, but it is not happening fast enough. As Mr. Fewkes pointed out, caregivers are working. We have about 60 caregivers who are in support of this bill down in Las Vegas, but a lot of them are not here because they are still working. This is a \$450 million issue. It is trending that way; you are absolutely right. I know that at my last job we had paid time off (PTO), but not everybody does. Businesses are often the last to change their human resources policies. I think this is a quick fix and an easy fix—a small pill to swallow and the right thing to do.

**Assemblywoman Carlton:**

Coming from the other side of the table, I worked in an industry where I had no sick leave for a very long time. If you did not go to work, you were not paid. If you did it a couple times in a row, you could actually get written up for it and/or suspended for not showing up. Luckily, that industry has evolved a bit, and some people now have sick time. It is not paid, however. I am very thankful that you included "unpaid," so that people can use that.

One of the other things that happens with sick leave is if it is not for you, and it is for someone else, there are times where an employer will ask for a doctor's note, or require a doctor's visit. That is a cost that everyone ends up having to bear. Then they ask you to bring that note in. Your medical note becomes part of your employee file. There are a lot of issues that surround this, and being able to take care of a child, a spouse, a grandparent, and being able to use that time—even if it is not paid—is very valuable. Sometimes it is at the last minute—nobody ever wants to do that—but sometimes things happen. I am grateful that the bill does not only include paid time but that you have included unpaid time as well. It is going to be a hit to their wallet because they are not being reimbursed. They just want to be able to take care of a family member without losing their job.

**Assemblywoman Tolles:**

Forgive me if this was in the presentation and I missed it. First, I want to say that we had the Alzheimer's Advocacy Day, and I know that one of the advocates asked about these types of policies, so I want to make sure I am reading this correctly. Currently, there is a \$5,000 penalty for the violation of this section of the law; would we also be applying this penalty to this new addition to the law? Did I read that correctly? It is not in the blue text; it is in the existing language in section 3, subsection 2. It says, "In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation." I just want to make sure I am reading that correctly. If someone did not get this paid time off to take care of a family member, then the employer would be fined \$5,000 for each violation? Could you expand on that?

**Assemblywoman Bilbray-Axelrod:**

First, let me make a clarification there. That is already in statute, and it is also a "may." As I perceive it, and from what I understand from it being in statute, is really at the Labor Commission's discretion. If this is something that happens over and over—you would still have to go through the process and you would still have to put in the violation with the Labor Commission—and then it is at the Labor Commission's discretion to impose a fine.

**Glen Fewkes:**

This bill would go under *Nevada Revised Statutes* (NRS) Chapter 608, which contains a lot of Nevada's wage and hours laws. This would simply put this bill on the same footing, as far as enforcement goes, as the rest of those wage and hours laws. Essentially this would be treated the same.

**Chair Bustamante Adams:**

Our last question will come from Assemblyman Kramer.

**Assemblyman Kramer:**

I should probably just keep my mouth shut. To me, employers have different benefits that they offer to attract and keep employees, whether it is good pay, a good working environment, sick leave, vacations, bonuses, et cetera. I see more that it sounds like the trend, instead of letting employers choose what benefits they will offer, is having those benefits—whatever they are—mandated. Somehow, it seems like employers should be able to offer better benefits than the next person and maybe attract those employees without the other person thinking it is the government ganging up on him. He ought to be able to realize that he is not keeping those employees because he is not offering good benefits, not being forced, kicking and screaming, into doing it, and then blaming the government for not being able to keep people because they move for some other reason. I do not know. I just have a hard time with forcing someone to come up to a standard where everyone is the same. It limits your ability to excel in one area to attract people and keep them.

**Assemblywoman Bilbray-Axelrod:**

Thank you for the question. I think you make a valid point. That is how people attract new people, young people, and millennials to their businesses. This bill is designed to be a floor. This is the bare minimum, and anything else that employers want to offer is at their discretion. I mean, you just turn on the television at any time, and commentators talk about how employers are now making their employees not look at their email for their two-week vacation because they want people coming back fresh. You are constantly going to see businesses come up with new ideas to keep their people. This bill is merely a floor, so people are not losing their jobs because they have to take care of their loved ones.

**Chair Bustamante Adams:**

Thank you so much. With that, I know we have a lot of individuals in Las Vegas. I can only see one person, but I know there are some there.

**Assemblywoman Bilbray-Axelrod:**

Madam Chair, if I may, we have Barry Gold from AARP, who has been so instrumental and helpful to me with this bill. If he could come up in support first, I would appreciate it.

**Chair Bustamante Adams:**

Yes, and Assemblywoman Bilbray-Axelrod, for the sake of time, do you have any group representatives in Las Vegas?

**Assemblywoman Bilbray-Axelrod:**

Absolutely, and I think Mr. Gold will get them riled up.

**Barry Gold, Director, Government Relations, AARP Nevada:**

Roslyn Carter said that there are four kinds of people: there are people that are caregivers, people that have been caregivers, people that will be caregivers, and people that need a caregiver. It is the universal thing that defines humanity. I will not ask in this room, but I would say most people either are a caregiver, have someone in their family who is a caregiver, or have been a caregiver or needed care. It is something that we need to know about. I have a fact sheet that I will not go over that talks about 350,000 caregivers, 60 percent of whom are still employed ([Exhibit J](#)).

I know that in the room in Las Vegas, I have several volunteers wearing red shirts who came today. There would be a whole lot more that would be there except guess what? They are working. I know a lot of working caregivers sent in letters that have stories on how valuable this is to them because they already are allowed to use their sick time, or how they have had problems. They could not be here, however, to testify because they are still working, and they have to make sure they are still working.

I would be remiss if I did not thank the Legislature for passing the CARE Act unanimously. It is making a difference in Nevada for caregivers and their loved ones when they are in the hospital. I just wanted to mention again that this bill allows caregivers to take some time off from their work. What that does is reduce their stress, which makes them better employees.

When they are better employees, they can do a better job. They can provide for their families, whether it is by getting paid or by having the time off and reducing their stress if it is unpaid. Most importantly to AARP is that they can provide better care to their loved ones.

This bill does not provide for any additional time off beyond what employees are already earning. That is important. That fact sheet ([Exhibit J](#)) talks a little bit about lost incomes and has some other facts and figures, such as how many people have problems with their jobs. I am not going to go into that.

I think this is a simple bill. On behalf of the 330,000 AARP members across the state—many of them are either caregivers or receiving care—we urge you to pass this bill. It is very simple; you should not worry about losing your job because you have to take your mom to the doctor.

Thank you, and there are a number of people who would like to speak in support of the bill down in Las Vegas.

**Chair Bustamante Adams:**

Is there anybody else here in Carson City? Please come up to the table. We will begin with testimony in support in Carson City.

**Gil Yanuck, Ambassador/Volunteer, AARP Nevada:**

I have personal experience with this issue: I am a caregiver trying to take time off work. One of my wife's friends had an accident at home. Nobody knew she fell down and was lying on the floor for three days. To make a long story short, when they finally discovered that she needed help and the police opened the door and took her to the hospital, she had incurred an embolism in her leg and had to have it removed. She woke up in the hospital missing one leg. She had a daughter living in California. California has a law similar to what we are trying to pass here in Nevada, and the daughter was able to get time off to come and stay with her mother, using her sick time and her vacation time. It is sad that we live right next door to so many states that have similar legislation that Nevada truly needs when you look at the number of seniors that we have that are so vulnerable. A survey we recently conducted here in Carson City showed that the senior population, 45 and up, is going to grow by 25 percent over the next 20 years. That means we are going to become a much larger senior community, and it is going to take a lot of people to take care of those seniors. I am sure a large percentage of them will be working. I think this is a very important bill, and I hope you decide to support it.

**Jane Gruner, Private Citizen, Carson City, Nevada:**

Thank you for having us here today. I am in support of this bill. Family caregivers provide millions of dollars of unpaid services, and this bill will improve the health outcomes of our seniors and the family members that are supporting them, as well as prevent out-of-home placements. I think it is a wise move for taxpayers in Nevada.

**Chair Bustamante Adams:**

Thank you, and I appreciate your being concise so we can get everybody else in. We will now go to Las Vegas for testimony in support of A.B. 394.

**Sam Lieberman, Government and Community Relations Coordinator, Easterseals Nevada:**

Today I am here representing Easterseals Nevada. This is a bill that, for obvious reasons, has universal support. When I was sitting in the galley waiting to speak, my phone was blowing up with support from the Alzheimer's Association—whom many of you visited with this week—and other people in support of the great initiative work done by AARP on this issue.

I am very lucky. I have not been in a situation like this with my personal, physical condition for over 30 years. However, in the 1960s and 1970s when I needed something like this, there was nothing like it. We have come a long way in the discussion, and Assemblywoman Bilbray-Axelrod is correct, we have come a long way but not far enough. People should not have to make the choice between advancing their professional career and caring for their loved ones. This bill is the way to solve that problem and to move us forward into where we should be for the benefit of multiple generations.

**Chair Bustamante Adams:**

Thank you, Mr. Lieberman, and I know there are others there.

**Assemblywoman Bilbray-Axelrod:**

Madam Chair, we instructed people to come and wear their shirts in solidarity, but there might only be a few more people who are going to speak.

**Chair Bustamante Adams:**

That is fine. I would like to ask our Broadcast and Production Services to get a wide-angle shot of the people in Las Vegas. Thank you. For those of you who are in support, but you may not speak, could you please stand up? I would like to see all those who are in support of this bill. Thank you so much. I appreciate all of you being there. I know that not everybody is going to come to the table, but I just wanted to get a visual shot for our Committee members.

**Barbara Paulsen, representing Nevadans for the Common Good:**

We are strongly in support of A.B. 394. It provides valuable health and financial benefits to both the caregiver and the care recipient and is another situation that enables people to stay home rather than being institutionalized. Please vote in favor of it.

**Monica Brett, Private Citizen, Las Vegas, Nevada:**

I am going to convey my personal story to the Committee. On the morning of March 6, 2014, my world changed when I witnessed my 82-year-old mom fall and have a life-threatening injury. I was very lucky. I had my own business, and this is one of the situations where I had to immediately take care of her. Unbeknownst to us at the time, my father was suffering from leukemia.

By August, I was a full-time caregiver. That meant not only monitoring treatment plans and medication, but I had to take over my mom's business. I am lucky in one respect—I had my own business and could take the time to give my parents my full attention. As challenging as this has been, it has been an honor and a privilege to have helped my father through his transition and to be there now for my mom. I really encourage you to support this very proactive measure, A.B. 394.

**Chair Bustamante Adams:**

Sir, are you the last person who is going to testify in support?

**Jeffrey Klein, Chair, Nevada Commission on Aging Subcommittee Concerning Legislative Issues; and President and Chief Executive Officer, Nevada Senior Services, Inc.:**

I believe I am. I have the privilege of chairing the Commission on Aging Subcommittee Concerning Legislative Issues, and I am also President of Nevada Senior Services, which this year was honored by Mrs. Carter with the 2016 Leadership in Caregiver Award in America. This issue is fundamental to who we are as a state—fundamental to not only our economic life but also our humanity.

In Nevada, the majority of caregiving is done by family. Family caregivers provide an estimated savings to our taxpayers of over \$4 billion each year. This is made possible by their ability to beg, borrow, and steal time to take care of their loved ones, young and old. Nevada Senior Services and the Commission on Aging strongly urge your support of this bill. It is critical to who we are, and it is critical to our evolution as a state. We are the fastest aging state in America, and we need to embrace the humanity of family caregiving as an alternative to institutionalization and the expensive alternative of having to provide paid caregiving to the hundreds of thousands of Nevadans who require it. Once again, we urge your support.

**Assemblyman Ohrenschall:**

Thank you for your testimony. It seems like I have heard in the media that seniors who have health challenges usually do better when they stay in their own home environment versus having to be in a home or an institution. Is that what you found in your work, that seniors and their health—physical, mental, emotional—are better when they are able to stay in their homes?

**Jeffrey Klein:**

Thank you for your question. Absolutely. There is no question that aging in place enhances both the longitude of life as well as the quality of life. It results in fewer emergency room visits and fewer hospitalizations when we have strong family caregiving. We provide home-based care at a savings of over 4-1 versus institutional care, so for every dollar spent on supporting Nevadans in their homes, to remain in place, we save \$4 in the need of alternative or institutional care. It is a very effective model, and family caregiving—and support of family caregiving—is at the core of that.

**Chair Bustamante Adams:**

We are going to move to those in opposition to A.B. 394. Please be very specific on the sections so we can help the bill's sponsor with any changes that may need to be made. Is there anybody in Las Vegas who is in opposition to A.B. 394?

**Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise; Retail Association of Nevada:**

I am speaking in opposition to A.B. 394. From the retail industry perspective, our members offer competitive pay and benefits to attract and retain the best possible workforce. We have found that most retailers already offer some form of flexible scheduling or paid time off for illness or to care for family members. We are not insensitive to these issues, but we are concerned with the mandate in this bill because it will remove the flexibility for business owners to make personnel decisions that accommodate their unique workforce, culture, and circumstances. Having to account for what percentage of an employee's leave is being used for caregiving rather than for themselves creates a difficult situation for employers to have to pry into the employee's personal life to maintain accurate human resources records. Furthermore, we worry that there may be unintended consequences of tying this provision to the penalty. We believe that this may serve as a disincentive for employers to offer leave benefits because they may be fined if they do not allocate the right percentage of sick leave as caregiver leave.

**Chris Ferrari, representing Nevada Dental Association:**

I am here on behalf of a number of different employers, contractors, and dentists whom we represent. I want to thank the sponsor. We have already met and spoken with her, along with Mr. Gold, briefly. There are just a couple of sections that we have some questions on, the first of which is section 1, subsection 2. There is some confusion about how that would pertain to recordkeeping and what the employer might have to do, as Ms. Tauchen pointed out. Lastly, these are people that are providing these benefits. I know as a small employer I do not, so I probably would not be subject to that, but adding the fine provisions at the end of the bill to those employers who are trying to provide those benefits seems a little punitive. Again, I have spoken with both parties and will continue to do so.

**Jesse Wadhams, representing the Las Vegas Metro Chamber of Commerce; and The Chamber, Reno-Sparks-Northern Nevada:**

I will just echo some of the comments of the previous speakers. We are opposed to the bill as written. It creates a one-size-fits-all for all types of businesses—large, small, and every type of industry. In addition, as mentioned, we are concerned with the addition of these provisions to the general penalty provisions of NRS Chapter 608. I would note that while the administrative fine of \$5,000 is a "may," a violation is considered a misdemeanor, and that is in the current language. That is of some concern. As currently drafted, we are opposed.

**Steve Trollope, Chief Executive Officer, Kimmie Candy Company, Reno, Nevada:**

We are a small candy manufacturer in Reno, Nevada. I appreciate the opportunity to speak to you today about this bill. This bill appears to penalize many employers like us, who presently offer sick leave and attempt to do everything we can on our part to meet the key needs of our employees. It potentially subjects us to significant fines and misdemeanors, especially in the event that we unintentionally violate this proposed law.

We are very proud of what we do for our employees and the extent to which we accommodate their needs. I would like to give you an example. Last year, we had one of our production employees lose his wife. Our production team is very close; we have about 35 hourly workers in the back producing the candy. We like to refer to them as our "Oompa Loompas." For her funeral, we gave the entire factory the day off to be able to accommodate their needs and allow them to mourn. We go beyond what is provided with all the laws—be it federal or state—in order to do the right thing for our people.

This bill does force us to expand our reporting and our record tracking, and also mandates benefits that we already provide or exceed. Our payroll system, like many other companies, does not have the ability to track or report this, so this places an additional regulatory burden on us to come up with a tracking and reporting mechanism to handle this particular law. We appreciate the good intent of this bill and would be happy to work with the bill's sponsor to evaluate possible alternatives that would potentially represent a compromise. Thank you for your consideration, and if I could put a plug in for Kimmie Candy, I would like to invite you up to our factory to take a tour and taste some of our fabulous candy. Thank you very much.

**Chair Bustamante Adams:**

Thank you so much. I appreciate your business being here in Nevada. With that, we will open up for testimony in neutral. [There was no one.] I would now like to invite Assemblywoman Bilbray-Axelrod to come up and make closing comments.

**Assemblywoman Bilbray-Axelrod:**

Thank you, Madam Chair, for having us. I think this is a great bill. I guess the opposition said that one of the issues is that they will have to do additional recordkeeping to show if half the time was given towards caregiving. I guess I would be happy to strike the word "half," and it could be all of it, if that would please them. I am happy to work with the stakeholders, but we are really just trying to help people out. Thank you for hearing me.



[Additional exhibits include written testimony in support from Lynne E. Keller ([Exhibit K](#)), Paula Gibson ([Exhibit L](#)), Amanda Shipp ([Exhibit M](#)), Tina Jeeves ([Exhibit N](#)), Laura Kaprelian ([Exhibit O](#)), Jeanine Swygman ([Exhibit P](#)), Kimberly JOI McDonald ([Exhibit Q](#)), Stewart Ferry ([Exhibit R](#)), Kris Kingery ([Exhibit S](#)), and Elisa Cafferata ([Exhibit T](#)); and a letter in opposition from Avivia Gordon ([Exhibit U](#)).]

**Chair Bustamante Adams:**

Thank you so much. With that, I am going to close the hearing on A.B. 394. That ends all of the bills for today. Is there anyone who would like to make public comment, here in Carson City or in Las Vegas? [There was no one.] We are adjourned [at 2:46 p.m.].

RESPECTFULLY SUBMITTED:

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Pamela Carter  
Committee Secretary

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Devon Isbell  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Irene Bustamante Adams, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a Work Session Document for [Assembly Bill 387](#), dated April 6, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is a Work Session Document for [Assembly Bill 179](#), dated April 6, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is a Work Session Document for [Assembly Bill 282](#), dated April 6, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is a Work Session Document for [Assembly Bill 105](#), dated April 6, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is a proposed amendment to [Assembly Bill 425](#), submitted by the Board of Examiners for Alcohol, Drug and Gambling Counselors, presented by Assemblyman Michael C. Sprinkle, Assembly District No. 30.

[Exhibit H](#) is a proposed amendment to [Assembly Bill 456](#), submitted by Chiropractic Physicians' Board of Nevada, presented by Benjamin Lurie, President, Chiropractic Physicians' Board of Nevada.

[Exhibit I](#) is a document titled "Adopted Regulation of the Chiropractic Physicians' Board of Nevada," dated April 4, 2016, submitted by Mendy Elliott, representing Capitol Partners, and presented by Benjamin Lurie, President, Chiropractic Physicians' Board of Nevada.

[Exhibit J](#) is a document titled, "Support AB 394 to Help Nevada's 350K Caregivers" in support of [Assembly Bill 394](#), dated April 7, 2017, presented by Barry Gold, Director, Government Relations, AARP Nevada.

[Exhibit K](#) is a letter dated March 31, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Lynne E. Keller, Executive Director, Opportunity Alliance Nevada.

[Exhibit L](#) is a letter dated April 3, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Paula Gibson, representing Easterseals Nevada.

[Exhibit M](#) is a letter dated April 3, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Amanda Shipp, representing Easterseals Nevada.

[Exhibit N](#) is a letter dated April 3, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Tina Jeeves, Senior Vice President of Programs, Easterseals Nevada.

[Exhibit O](#) is a letter dated April 5, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Laura Kaprelian, Private Citizen, Las Vegas, Nevada.

[Exhibit P](#) is a letter dated April 5, 2017, in support of [Assembly Bill 394](#), to members of the Assembly Committee on Commerce and Labor, authored by Jeanine Swygman, President, and Cindy Pitlock, Legislative Liaison, Nevada Advanced Practice Nurses Association.

[Exhibit Q](#) is a letter in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Kimberly JOI McDonald, Owner & Chief Executive Officer, Designing JOI, LLC.

[Exhibit R](#) is a letter in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Stewart Ferry, Public Policy Director, National Multiple Sclerosis Society, Southern California and Nevada Chapter.

[Exhibit S](#) is a letter dated April 7, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Kris Kingery, Private Citizen, Reno, Nevada.

[Exhibit T](#) is a letter dated April 6, 2017, in support of [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Elisa Cafferata, Director of Government Relations, Nevada Advocates for Planned Parenthood Affiliates.

[Exhibit U](#) is a letter dated April 5, 2017, in opposition to [Assembly Bill 394](#), to Chair Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Avivia Gordon, Legislative Committee Chairwoman, and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce.