

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-ninth Session
March 1, 2017**

The Senate Committee on Health and Human Services was called to order by Chair Pat Spearman at 3:34 p.m. on Wednesday, March 1, 2017, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Julia Ratti, Vice Chair
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator Scott Hammond

GUEST LEGISLATORS PRESENT:

Assemblywoman Robin L. Titus, Assembly District No. 38

STAFF MEMBERS PRESENT:

Megan Comlossy, Policy Analyst
Eric Robbins, Counsel
Debbie Carmichael, Committee Secretary

OTHERS PRESENT:

Edward Ableser, Ph.D., Administrator, Aging and Disability Services Division,
Department of Health and Human Services
Helen Foley, Nevada Assisted Living Association
Greg Martin, Dementia Friendly Southern Nevada
Robert Eglet, Nevada Justice Association
Catherine O'Mara, Executive Director, Nevada State Medical Association
Goesel Anson, MD, FACS
Joanna Jacob, Nevada Dental Association

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Robert Talley, DDS, CAE, Executive Director, Nevada Dental Association
Patti Jesinoski
Bradley Mayer, Southern Nevada Health District
Lancette VanGuilder, Nevada Dental Hygienist Association
Caryn Solie, Nevada Dental Hygienist Association
Sydney McKenzie, Nevada Dental Hygienist Association

CHAIR SPEARMAN:

I will open the hearing on Senate Bill (S.B.) 97.

SENATE BILL 97: Expands the authority of the Office of the State Long-Term Care Ombudsman. (BDR 38-371)

ASSEMBLYWOMAN ROBIN L. TITUS (Assembly District No. 38):

I have provided my written testimony ([Exhibit C](#)).

EDWARD ABLESER, PH.D. (Administrator, Aging and Disability Services Division, Department of Health and Human Services):

The Aging and Disability Services Division (ADSD) worked closely with Assemblywoman Titus on language that specifies the intent of S.B. 97. The ADSD believes the proposed bill language aligns with the direction it is moving toward, which is a lifespan-scope of delivering services to all consumers across the board rather than limiting services to a specific population. To provide the totality of services to this group would be beneficial to consumers across the State. Senate Bill 97 aligns with the ADSD bill, which is being worked on, and the many bills already seen and heard. The proposed conceptual amendment ([Exhibit D](#)) specifies where to use the Long-Term Care Ombudsman to investigate and advocate for consumers. For example, intermittent services staff goes into homes to work with families to provide services in the home. If the language is not adopted, the Long-Term Care Ombudsman program would be required to go into homes to investigate the home, parents and children if applicable.

SENATOR RATTI:

How much does that reduce the fiscal note?

MR. ABLESER:

The fiscal note was submitted with the intent of meeting the confines of the Subcommittee to Conduct a Study of Postacute Care goals for this specific

population. The fiscal note is for staffing all the facilities in the proposed conceptual amendment. There is a cost savings with Medicaid. Many individuals would be subjected to institutionalization in a higher level of care. For example, the ADSD intermediate care facility is extremely expensive, upward of four times the amount it costs to maintain an individual in the community. The cost saving is tremendous by having the Ombudsman go into the community and provide appropriate care or transfer the individual to another setting in the community.

SENATOR RATTI:

Does the fiscal note match the proposed conceptual amendment?

MR. ABLESER:

Yes, that is correct.

CHAIR SPEARMAN:

Do the words "24 hours" apply to supported living arrangement services as well as the community-based living arrangement?

MR. ABLESER:

Yes, it does.

CHAIR SPEARMAN:

Is the fiscal note still \$4.6 million?

MR. ABLESER:

Yes, it is.

HELEN FOLEY (Nevada Assisted Living Association):

The Nevada Assisted Living Association (NALA) is pleased the Interim Subcommittee brought forward S.B. 97. It does not seem conceivable that the Long-Term Care Ombudsman would be locked out of certain facilities where there are the most vulnerable people. The NALA supports S.B. 97 and the proposed conceptual amendment. The State, through the federal government, provides \$100 million worth of Medicaid for the vulnerable population, so \$4 million is worth making sure there is oversight and an advocate available.

GREG MARTIN (Dementia Friendly Southern Nevada):

Dementia Friendly Southern Nevada (DFSN) supports S.B. 97 and the proposed conceptual amendment but questions whether it goes far enough. There are people who are living in private homes within senior communities who are being evicted, thrown out of homes or bullied. These people do not have a voice, resources or the ability to stand up for themselves. Everyday DFSN talks to people to provide support or help. Senate Bill 97 would be great if it included the senior communities and helped the people who have no voice. Ignoring what is possible and what we can do is not going to make it better. I would like the Committee to think about those people who have no voice, cannot do anything else and are bullied.

SENATOR WOODHOUSE:

I realize the \$4.6 million is the cost of the proposed conceptual amendment. If S.B. 97 was passed without the amendment, what would the fiscal note be?

MR. ABLESER:

The original language in S.B. 97 encompassing all facilities, whether 24 hours or 2 hours in homes where there is care given by family members is above \$10 million. The ADSD decision to move forward based on the belief of the intent of what the Subcommittee to Conduct a Study of Postacute Care wanted is around \$4 million. The ADSD will provide projections on cost savings as we move forward.

ASSEMBLYWOMAN TITUS:

I hope the Committee can see S.B. 97 is good sound health policy and I hope to improve the argument from the fiscal note at the appropriate time and offer cost savings. This bill is good for the State of Nevada and its citizens.

CHAIR SPEARMAN:

Unfortunately, people in the western world do not do well by their seniors. I wish we did better.

SENATOR RATTI:

The facility that became the focus of the *Reno Gazette Journal* was only a few blocks from my home. Sometime these things hit a little closer than you expect. There are so many instances where it is happening right next door and you have no idea it is happening. We do have some vulnerable populations, and they need to have someone on their side.

CHAIR SPEARMAN:

I will close the hearing on S.B. 97. I will now open the hearing on S.B. 101.

SENATE BILL 101: Restricts the authority to administer botulinum toxin to certain medical professionals. (BDR 40-677)

SENATOR JOSEPH P. HARDY (Senatorial District No. 12):

In a recent issue of a national magazine, there was an article about onabotulinumtoxinA, known as Botox, which said it is good for depression, heart trouble, migraines, erectile dysfunction, back pain, sweaty palms, drooling and 793 other problems. Knowing that it can help people, there are individuals who want to use it. One concern is its use in spas where a person can go to look better, feel better, lose weight, gain weight in the right places and many other things. It became obvious that there are many people who are administering and using Botox. Senate Bill 101 is about keeping people safe by limiting Botox injections to appropriately licensed individuals. The Proposed Amendment 3086 to S.B. 101 ([Exhibit E](#)) is a result of multiple health professionals coming together to find a reasonable approach to injecting one of the most toxic materials known to man. Senate Bill 101 will preclude the use of Botox injections as well as dermal or soft tissue fillers by estheticians, medical assistants, medication aides and dental hygienists. People no longer put honey on pacifiers for babies because of botulism. Doctors know that small amounts of clostridium botulinum bacteria can grow the toxin, which causes lack of muscle use because of the influence on the nerve that supplies the muscles. There is not a single medical specialty that uses Botox.

When I became aware that dental hygienists are administering Botox, I took exception to the practice. I was met with the odd justification that dental hygienists should be able to inject it because the medical assistants can. I do not want them to do it, either. That led to expanding the bill to include medical assistants, who sometimes work in spas without licenses. Then it was recognized that estheticians were injecting Botox. I spoke to a representative of the State Board of Cosmetology who said estheticians are not allowed to penetrate the skin. So, there are estheticians, medical assistants and dental hygienists administering Botox, and this is creeping over the edge of what they should be doing.

Dermal and soft tissue fillers are also a challenge. I look at this bill as something that decreases the practice of corrective procedures for plastic surgeons. The

estheticians may not have any background in infection control. We do not want this State or anywhere in the world to have a repeat of the 2008 Hepatitis C outbreak.

Botox comes in a single use vial and is very expensive. There may be a temptation to use the vial of medicine for multiple people. The price temptation may get to an individual. I do not want to blame the company or anyone else for misusing the vial of medicine in a multiple-use way.

The Proposed Amendment 3086 to S.B. 101, [Exhibit E](#), will affect *Nevada Revised Statutes* (NRS) 454 on the authority to possess and administer dangerous drugs; NRS 630 on physicians, physician assistants, medical assistants, perfusionists and practitioners of respiratory care; NRS 631 on dentistry and dental hygiene; NRS 632 on nursing; NRS 633 on osteopathic medicine; and NRS 644 on cosmetology, and a few others.

SENATOR RATTI:

Who is allowed to administer Botox?

SENATOR HARDY:

Licensed credentialed professionals such as medical doctors, doctors of osteopathy, advanced nurse practitioners, podiatrists and dentists are allowed to administer Botox.

SENATOR RATTI:

Would the people you just mentioned be able to delegate administering Botox to others with supervision within their practices?

SENATOR HARDY:

Yes, if the person is a nurse. No, if the person is a medical assistant or dental hygienist.

SENATOR HAMMOND:

Does S.B. 101 change the way Botox is packaged?

SENATOR HARDY:

No, it does not.

SENATOR HAMMOND:

Does S.B. 101 address who would be allowed to administer Botox, and is the person licensed and administering it properly ?

SENATOR HARDY:

Yes, that is correct.

ROBERT EGLET (Nevada Justice Association):

I was lead counsel on the Hepatitis C outbreak that occurred in 2008 in Las Vegas. That was the largest medically caused Hepatitis C outbreak in U.S. history. It was estimated that over 150 southern Nevada citizens were infected with Hepatitis C virus as a result of what occurred in a clinic. What occurred was a perfect storm. My concern is what is happening with Botox and other fillers is the brew for another perfect storm like the Hepatitis C outbreak.

The Hepatitis C outbreak involved a couple of outpatient medical centers who were performing endoscopy procedures. Dr. Dipak Desai was the owner and supposedly the medical professional who was supervising anesthesiologists who were administering propofol. The propofol vials were larger vials than necessary for the endoscopy procedures. Propofol, like Botox, is sold by the milliliter and is expensive. There is nothing wrong with the drug, but the fact is it is sold in larger vials to outpatient medical centers. Dr. Desai was pushing too many people through the procedures in one day for economic reasons. Dr. Desai had anesthesiologists who were not properly trained and did not understand safe injection practices.

As a result of this, anesthesiologists, because of time and pressure, would reuse the vials of propofol. Dr. Desai also would instruct them to reuse the vials for economic reasons. They did not use the same needle, but once the needle penetrates the vial and then is injected into the patient, and if the patient has a blood born disease, the syringe is infected. In one particular case the patient had a longer procedure than the dose of propofol given. The anesthesiologist changed the needle, but used the same syringe and vial. The patient had Hepatitis C and the vial became infected. The same vial of propofol was used on subsequent patients. A new needle and syringe were used, but the vial was contaminated.

The situation today with Botox and dermal and soft tissue fillers is there are some professions that are not trained properly and do not fully understand safe

injection practices. In many cases, those professionals are not supervised properly by anyone who does understand safe injection practices. So there is a setting for a perfect storm just like the 2008 Hepatitis C outbreak. I encourage the Committee to pass S.B. 101.

On a personal note, it is rather ironic and coincidental that Dr. Anson is going to testify from Las Vegas. Dr. Anson is treating someone right now whom I am very close to and who is a victim of someone who did not understand safe injection practices, was not properly trained or simply did not know what he or she was doing. Senate Bill 101 goes a long way to help solve the problem.

CATHERINE O'MARA (Executive Director, Nevada State Medical Association):
The Nevada State Medical Association supports S.B. 101.

GOESEL ANSON, MD, FACS:

I am board-certified plastic surgeon in Las Vegas and have been practicing there since 1996. I specialize in facial esthetics, which includes surgery as well a variety of injectables. Please do not dismiss my interest as part of some turf battle. I take this very seriously. This is what I do. I have presented at national education conferences and presented filler injection techniques at national plastic surgery meetings. I know how good the results can be with Botox and fillers. I know how easy injecting Botox or fillers can look, but I also know the complications that can result. This is about patient safety. It is our responsibility to minimize patient risks and to make sure the providers have appropriate background and training. I honestly do not think the public has any idea about the difference in training between a medical assistant or dental hygienist versus a registered nurse. A minimum of care has to be established. Senate Bill 101 is a basic baseline minimum.

There are some basic categories that should be thought about in terms of risks, and not just with Botox. A bigger risk is with fillers. Two important categories are infection and tissue necrosis. The pictures shown in my presentation ([Exhibit F](#)) are published photographs of complications. Tissue necrosis means damage to the skin or soft tissue due to blockage of blood supply, just like a heart muscle is damaged in a heart attack or brain damage with a stroke. If blood and oxygen are not restored quickly to the tissue, it will die. If a small amount of filler gets into an artery, it can cause necrosis. A blockage can also become retrograde and result in blindness. This has been reported across the world.

Any time a needle pierces the skin there is a risk of infection. Care must be taken when injecting a foreign substance. Anytime there is an injection around the mouth, herpes can be stimulated. Page 8 of [Exhibit F](#) shows a man that appears to have bruising on his lower lip and chin. It is not bruising, it is the first sign of necrosis. If the person who administered the injection does not know that, he or she will be in trouble. Infection control and the importance of sterile techniques is really important.

If a filler is contaminated with bacteria, two things can happen. One is an acute infection with typical features of redness and tenderness. If that is recognized, it can be treated with antibiotics. The other thing that may happen is the area may need to be drained and the filler removed. Research has begun on the new concept of biofilm, which is a different type of infection that is more chronic, more difficult to diagnose and more difficult to treat. Who is on the other side of the syringe is so important. Someone who administers the injections has to understand anatomy, has to know where the blood vessels are, where the risk is higher, where the risks are too high and what techniques can decrease the risk. A problem must also be recognized and at what stage it can still be reversed.

Do the people injecting these substances have the medications needed to treat the complications, do they know how to use them and at what point do they call for help? In my office, I have seen people with complications after injections by estheticians and medical assistants. These are not theoretical issues. I have treated acute infections, biofilm and skin necrosis. The complicating factor in all of these has been a delay in diagnosis, which is either a delay in recognizing the problem or a reluctance to seek help. I am not sure which. I have seen significant inappropriate choice of treatments. I do not think it is appropriate for medical anesthetists, dental hygienists or estheticians to administer injections. I support S.B. 101 because it is a minimum basic standard.

SENATOR RATTI:

Is there data that shows when Botox and fillers are administered by the people who should not administer them and by the people who should administer them and the difference in outcome?

DR. ANSON:

No, there is no data. The Institutional Review Board would never approve that kind of study. Most of the people who take care of the complications are not

the people who administered the injections. It is the referral centers that see the complications. A medical anesthetist has an entirely different field of training than does a nurse. They are not trained in anatomy or physiology. I am not talking about nurses, I am talking about people who are hired in medical offices to take blood pressures and chart. It makes no sense for those who are appropriately injecting to delegate that kind of responsibility to any of those fields. They are not qualified.

SENATOR RATTI:

I do not argue that point. I am asking if there is any data?

DR. ANSON:

No, there is no data because a study like that could never be done.

MS. O'MARA:

In discussions with the Board of Dental Examiners (BDE) of Nevada during the Interim, I was not aware of any states that allow dental hygienists to inject Botox or fillers. The Nevada State Medical Association does not have the data because it is not known if it has been permitted. I would be happy to provide that information.

SENATOR RATTI:

Yes, I would like to know what other states allow dental hygienists to inject as well as people in the fields that would be deleted in S.B. 101.

DR. ANSON:

I am not aware of any state that allows those fields to inject Botox.

CHAIR SPEARMAN:

Why would a dental hygienist inject Botox?

MS. O'MARA:

The Nevada State Medical Association has been informed that sometimes Botox is indicated as the protocol for temporomandibular joint (TMJ) or lock jaw. I believe it is administered intraorally. I do not know of any scenario where a dental hygienist instead of a dentist would inject Botox.

CHAIR SPEARMAN:

What other medical reasons would Botox be used?

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JOANNA JACOB (Nevada Dental Association):

I am not a dental professional, but I know anecdotally that Botox is used for TMJ, excessive clenching or grinding of the teeth.

ROBERT TALLEY, DDS (Executive Director, Nevada Dental Association):

Most often Botox is used for TMJ and lockjaw by oral surgeons. There are some cosmetic uses that dentists will use it for.

SENATOR RATTI:

Are some dental practices getting into the business of fillers, not just for TMJ but also for the esthetics?

DR. TALLEY:

Yes, there are a fair number of cosmetic dentists in the Las Vegas and Reno areas that use this product as part of a complete comprehensive treatment plan. Not only to enhance the smile but the areas around the smile. Not every dentist uses Botox. The Nevada Dental Association (NDA) wants those who want to use it be allowed to use it.

SENATOR WOODHOUSE:

You have indicated that the dentist can administer it, but the dental hygienist cannot administer it. Is that correct?

DR. TALLEY:

That is the way S.B. 101 is written, and the NDA agrees with it.

CHAIR SPEARMAN:

Is there any scenario where a dentist might delegate the injection to his or her assistant?

DR. TALLEY:

No, not as the law is written. The NDA wants the dentist administering it. The dentist is the person who is most qualified and trained to do the procedure.

PATTI JESINOSKI:

I support S.B. 101 and have provided my written testimony ([Exhibit G](#)).

CHAIR SPEARMAN:

Is there any additional training required for a doctor or dentist to administer Botox?

SENATOR HARDY:

Yes, there is.

DR. TALLEY:

The Board of Dental Examiners is proactive on developing regulations and training required for dentists. The regulations are ready, and dentists will have to prove that they have the correct training to administer Botox.

CHAIR SPEARMAN:

Will there be a certificate that the dentist displays to let the patient know that the he or she has taken the additional training?

DR. TALLEY:

Yes. I heard someone talk about Botox parties. I cannot speak on behalf of the BDE as I represent the members, not the Board, but I go to the BDE meetings and the members are being proactive. When BDE members learned about Botox parties, they did not like it. This is not happening in a dental office. Yes, there is a need for training and certification on administering Botox. It is not happening yet, but it is on its way.

CHAIR SPEARMAN:

Senator Hardy, if administering Botox is running rampant, would you entertain a friendly amendment to say the designated specialty should be displayed somewhere? There should be a way for patients to know the doctor or dentist who is administering Botox has had the additional training and is qualified to do so.

SENATOR HARDY:

Yes, I would.

BRADLEY MAYER (Southern Nevada Health District):

The Southern Nevada Health District (SNHD) supports S.B. 101. While the administration of Botox is not directly under the preview of SNHD, ensuring that needles and drugs are used properly and safe injection practices are followed promotes public health as a whole.

LANCETTE VANGUILDER (Nevada Dental Hygienist Association):

I oppose including dental hygienists in S.B. 101. I am a registered dental hygienist, and the one thing we can agree on is that health care professionals who administer Botox and fillers should be licensed, educated and safe practitioners. I have provided my written testimony ([Exhibit H](#)). Dental hygienists are mandated to take infection control education within every licensure period. Dental hygiene education and practice is similar to that of nurses. It is not similar to medical assistants or estheticians. In addition, the dental hygiene scope of practice is rapidly changing across the U.S. as policy makers are becoming more aware of the education and services that dental hygienists have. It is my opinion the board that regulates dental hygienists determines the scope of practice. The fact that another board or entity is trying to restrict the trade of the dental hygiene profession is unlawful. In fact, the Federal Trade Commission (FTC) has warned boards of such behavior.

CHAIR SPEARMAN:

Do you have any information about the FTC's warning the boards about restricting the trade of the dental hygienist profession?

MS. VANGUILDER:

I can get the information to you. I work for a practice where the dentists have taken the course and routinely administer Botox and fillers. I have seen the benefits and how we can enhance smiles and function. All the things Dr. Talley stated earlier are absolutely true. The practice I work for is a general practice, not a cosmetic practice.

SENATOR HAMMOND:

In your testimony you said the educational standards of a dental hygienist is similar to that of a nurse, and to me that means close but not the same. Dr. Anson testified earlier about the different courses of study that dive into the anatomy and physiology of the human body for those who would be licensed through S.B. 101. That does not sound like the background you gave in your testimony, so there are some differences. Ms. O'Mara testified earlier there are no other states that are licensing dental hygienists to administer Botox and fillers. The data is limited, but it also points out that other states are limiting the practice. The argument you are making that we cannot limit dental hygienists here may not be true. Please give me your thoughts.

MS. VANGUILDER:

Sydney McKenzie works in education, and she can answer the education requirements. I taught at Truckee Meadows Community College in the Dental Hygiene Department. Dental hygienists go through extensive education on head and neck anatomy as well as the general requirements in the human anatomy. I will provide the comparison on the credit hours. The number of years it takes to go through nursing school is very similar to those of dental hygienist school. Both entail a lot of anatomy, but dental hygienists have extensive head and neck anatomy education, more so than nurses do. Other states do not allow dental hygienists to administer Botox, but it is on the radar and being talked about across the Country. People across the Country are looking at Nevada to see what comes out of this discussion. Just because it is not legal in other states does not mean they are not interested. If dental hygienists were allowed to administer Botox, I do anticipate other states would pass legislation.

CARYN SOLIE (Nevada Dental Hygienist Association):

I oppose including dental hygienists in S.B. 101. I am a registered dental hygienist. I have provided my written testimony ([Exhibit I](#)).

SENATOR RATTI:

Has your licensing board taken a position on S.B. 101?

MS. SOLIE:

To the best of my knowledge, the Board has not taken a position on S.B. 101. When I was on the Board, the position was to legislate and regulate the professions based upon what the Legislature guides the Board to do. The Board does not make policies.

SYDNEY MCKENZIE (Nevada Dental Hygienist Association):

I oppose S.B. 101. I have provided my written testimony ([Exhibit J](#)). I teach the dental hygiene program at the Truckee Meadows Community College. The handout ([Exhibit K](#)) is an example of an injection card for first-year dental hygiene students. These students are already skilled and qualified to give each other injections of this complexity. That says a lot for our focus on head and neck anatomy and our ability to provide excellent care and infection control. The photos ([Exhibit L](#)) depicts an interior alveolar nerve block, which is taught to first-year dental hygiene students. I am certain a medical assistant cannot do this.

I have provided written testimony opposing S.B. 101 from Linda Keltner ([Exhibit M](#)) and from Mary Carreon ([Exhibit N](#)) to the Committee.

SENATOR RATTI:

It is a high bar if no other states allow dental hygienists to administer Botox and fillers. The Committee members are sitting here as nonprofessionals. I have no medical training whatsoever, and we need to make a decision about the public's safety. That is a high bar to overcome. I would like a side-by-side comparison of the education and training of a dental hygienist versus education and training of the lowest level nursing professional who is allowed to administer Botox.

MS. VANGUILDER:

I can provide the information to the Committee.

SENATOR RATTI:

I would like to see the information before I make a decision.

MS. SOLIE:

The American Dental Hygienists' Association has the information, and we would be happy to get it for you. The State Board of Dental Examiners was proposing 24 hours of additional education which would consist of didactic and hands-on education. There has to be competency in the three main areas.

SENATOR RATTI:

I believe some testified today that they do administer Botox, and others testified they do not. Can you please clarify?

MS. VANGUILDER:

Dental hygienists are not allowed to administer it. I personally do not administer Botox, but I work in a practice where the doctors do administer it.

SENATOR HAMMOND:

Ms. VanGuilder previously stated that the number of years it takes to go through nursing school is very similar to dental hygienist school. Both entail a lot of anatomy, but dental hygienists have extensive head and neck anatomy, more so than nurses do. At some point, both professions diverged in their training. What was the same and what was different? Can our policy analyst provide a comparison of the training each one had and where the two diverged?

Ms. COMLOSSY:

I can provide that to the Committee.

CHAIR SPEARMAN:

Is there a difference between administering anesthesia and Botox? If so, what might that be?

Ms. SOLIE:

Dental hygienists do not administer general anesthesia but do administer local anesthesia. Dental hygienists are allowed to give an injection to numb a portion of the mouth when a filling is performed under the supervision of a dentist. The dentist must be physically present on the premises while the dental hygienist administers the local anesthesia. The Board of Dental Examiners is looking at the same parameters for injecting Botox. The dentist would be there to authorize and supervise the dental hygienist injecting Botox. In order to do that, the dentist must have also taken the same education criteria of 24 hours as the hygienist. The dentist must have equal education in order to designate the dental hygienist to administer Botox.

Since dental hygienists are not allowed to administer Botox, I cannot tell you the difference in difficulty between administering anesthesia and Botox. Administering dental anesthesia is a fine art. I am sure most of us has had some dental work done in our lifetimes, and some may have had good experiences and some have had bad experiences. A great deal of it depends on the clinician, how he or she is trained and how he or she treats the patient.

CHAIR SPEARMAN:

For me it does not matter if the training is extensive or rigorous. It is a matter of knowing what happens if the wrong thing happens. I am curious as to the side-by-side comparison of the training. Based upon your answer, there is more than a slight difference between administering local anesthesia and administering Botox.

Ms. SOLIE:

There is the potential for misuse of anything being injected into the human body. Even an oral anesthesia injection can go wrong. Part of our training is we know what to do if something goes wrong.

SENATOR HARDY:

I polled approximately 20 dentists, and only one administers Botox. He is an oral surgeon. The Institutional Review Board says in order to do research to show something, you have to have a placebo. You have to do a lot of criteria, and it is not justified to show my training is better than your training. The Dental Board is the actual board that supervises the registered dental hygienist. Registered dental hygienists do not have an examining board of their own, but they do have an association. That is not a board. As far as I know the association has not come together to vote. No other states have done this. Assemblyman James Oscarson and I knew this was coming in the regulatory process and wrote a letter ([Exhibit O](#)) to the Legislative Commission Chair asking to put a hold on the regulation. As you heard, the Board does not do policy as much as it does regulation. This is a policy that needed to come before the Legislature. I can make the letter available to the Committee.

SENATOR RATTI:

Why would a licensing board start writing regulations for something that is not allowed?

SENATOR HARDY:

Technically speaking, regulations are written to regulate as opposed to just doing things. I suspect the motivation was to make sure there were fences around the processes instead of letting people in the absence of anything just do something. That is why Assemblyman Oscarson and I wrote a letter saying this needs to be addressed in the NRS as opposed to coming up with a new regulation.

SENATOR RATTI:

Would it be fair to say this was relatively unusual for a licensing board to get ahead of the policy makers on writing regulations?

SENATOR HARDY:

Section 2 of S.B. 101 amends NRS 630.138 by striking "shall adopt regulations governing the possession and administration of botulinum toxin, commonly known as Botox, by a medical assistant or any other person, including, without limitation: the qualifications and training required for administration and the manner and place of administration." That regulation never happened. In other words, the Board of Medical Examiners never made the regulation. There was a void. It opened up the question of who is going to administer Botox and what

are they going to do. The Dental Board members felt they should regulate the administering of Botox before it gets out of hand. If the Board of Medical Examiners had made regulations, in statutes the medical doctors would be the only ones who had the right to administer it. Would the Board of Medical Examiners have jurisdiction over the Dental Board? It was not in the Dental Board's purview to make regulations according to NRS.

SENATOR RATTI:

The law allowed medical assistants to administer. The Medical Board has been told to create regulations to monitor that but did not. The law today does not allow dental hygienists to administer Botox. The Dental Board had not been told to create regulations but had started to. Is that accurate?

SENATOR HARDY:

The Dental Board started the process of meetings but did not finish them because the finishing touch would have been the Legislative Commission. The Legislative Commission postponed that for the Session. The Dental Board does not have regulations.

There is no national endorsement from registered dental hygienists to say yes, go for it. I was surprised to get a letter from a registered dental hygienist who said she was opposed to administering Botox. She said, "There is no reason for a registered dental hygienist to use it nor do I believe we are qualified to inject it."

Not everyone who came here is necessarily indicative of everyone's opinions. There is no unanimity among the dental hygienists.

SENATOR RATTI:

You stated dental hygienists do not have a licensing board of their own. Are they licensed by the Dental Board?

SENATOR HARDY:

Yes, that is correct. The dental hygienists only work under the auspices of a dentist.

CHAIR SPEARMAN:

For clarification, does the Dental Board determine what is within the licensee scope of practice?

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SENATOR HARDY:
Yes, that is correct.

CHAIR SPEARMAN:
How does administering Botox impact the dentist and dental hygienists' malpractice insurance?

SENATOR HARDY:
I do not believe the medical doctors or nurse practitioners fully realize the liability risk they are taking under their licenses when they are administering Botox, let alone when someone else is administering it.

CHAIR SPEARMAN:
I close the hearing on S.B. 101 and adjourn the meeting at 5:24 p.m.

RESPECTFULLY SUBMITTED:

Debbie Carmichael,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 97	C	4	Assemblywoman Robin Titus	Written Testimony
S.B. 97	D	1	Edward Ableser	Proposed Conceptual Amendment
S.B. 101	E	14	Senator Hardy	Proposed Amendment 3086
S.B. 101	F	15	Goesel Anson	Complication of Botulinum Toxin and Dermal and Soft Tissue Filler Use
S.B. 101	G	1	Patti Jesinoski	Written Testimony
S.B. 101	H	2	Lancette VanGuilder	Written Testimony
S.B. 101	I	4	Caryn Solie	Written Testimony
S.B. 101	J	5	Sydney McKenzie	Written Testimony
S.B. 101	K	1	Sydney McKenzie	Inferior Alveolar Nerve Block Injection Chart
S.B. 101	L	1	Sydney McKenzie	Inferior Alveolar Nerve Block Injection Photos
S.B. 101	M	1	Sydney McKenzie	Written Testimony by Linda Keltner
S.B. 101	N	1	Sydney McKenzie	Written Testimony by Mary Carreon
S.B. 101	O	1	Senator Hardy	Letter