

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

**Eightieth Session
February 20, 2019**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 1:34 p.m. on Wednesday, February 20, 2019, in Room 2135 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 Kelvin Atkinson, Vice Chair
Senator Nicole J. Cannizzaro
Senator James Ohrenschall
Senator Chris Brooks
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi Seevers Gansert

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Marjorie Paslov Thomas, Policy Analyst
Bryan Fernley, Committee Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Jake Wiskerchen, Chair, Board of Examiners for Marriage and Family Therapists
and Clinical Professional Counselors
Sarah Adler, Vitality Unlimited; New Frontier Treatment Center
Miranda Hoover, Board of Examiners for Social Workers
Joelle Gutman, Washoe County Health District
Joan Hall, Nevada Rural Hospital Partners
Devin Brooks
Eddie Ableser

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Mackenzie Baysinger, Human Services Network
Michael Hackett, Nevada Primary Care Association; Nevada Public Health Association
Amy Reha
Taylor Tremayne
Danica Pierce
Adrienne Sutherland
Erik Schoen
Helen Foley, Nevada Marriage and Family Therapists Team
Jared Busker, Children's Advocacy Alliance
Suzanne Bierman, Division of Health Care Financing and Policy, Department of Health and Human Services
Eric Wilcox, Nevada Hands & Voices
Marlene Lockard, Nevada Women's Lobby
Pamela Roberts, Nevada Women's Lobby
Natha Anderson, Washoe Education Association; Nevada State Education Association
Shane Piccinini, Food Bank of Northern Nevada
Kim Amato, Chair, Diapering Resources Committee
Kathleen Lauckner, Nevada Institute for Children's Research and Policy
Benjamin Schmauss, American Heart Association
Candace Emerson, Nevada Hands & Voices
Beth Jones, Nevada Hands & Voices
Michael Hillerby, Aflac, Inc.
Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Annette James, Actuary, Division of Insurance, Department of Business and Industry

CHAIR SPEARMAN:

Because we have a lot of bills to process this Session, I am asking people who have problems with a bill to talk to the sponsor of the bill about those problems more than 15 minutes before the hearing. It does sponsors an injustice when they are surprised by your objections, and most of us are amenable to amendments. If you come up in opposition to a bill, I will ask you if you have brought your objections to the sponsor first.

I will open the hearing on Senate Bill (S.B.) 37.

SENATE BILL 37: Revises provisions relating to the regulation of marriage and family therapists and clinical professional counselors. (BDR 54-250)

JAKE WISKERCHEN (Chair, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors):

I have written testimony ([Exhibit C](#)) explaining the many problems S.B. 37 is intended to fix and going through each section of the bill.

SENATOR HARDY:

Section 3 of S.B. 37 changes the makeup of the Board, replacing one marriage and family therapist (MFT) with a third member of the public. Are you concerned that the process may be diluted by well-meaning, willing people who may not understand the intricacies of delivering care?

MR. WISKERCHEN:

Our aim is balance. The Board of Examiners for MFTs and Clinical Professional Counselors (CPCs) is unique in that it licenses two separate, identifiable professions. Changing Board membership to three MFTs, three CPCs and three members of the public distributes the voting a little more evenly. As I said in [Exhibit C](#), section 3 of the bill was written in response to the U.S. Supreme Court decision of *North Carolina State Board of Dental Examiners v. Federal Trade Commission* in 2015. In that decision, the North Carolina Dental Board used its majority on the dental board to control the profession and run roughshod over the members of the public who were dental board members. In my opinion, no one would have any great heartburn over leaving our Board membership the way it is. We were trying to be proactive because we felt this might be a mandate in the future.

SENATOR HARDY:

Are people being run over roughshod with the current arrangement of four MFTs, three CPCs and two members of the public on the Board?

MR. WISKERCHEN:

No. My experience on the Board has been that the members of the public add a valuable perspective. We do sometimes get lost in our own clinical thinking. We tend to self-promote, as do most professionals, and it is refreshing to have an external perspective. Adding one more member of the public enhances that effect. The members of the public would still be only one-third of the whole, so while their voices will be heard, they could still be voted down. That would then

open itself up for appeal to the Commission on Behavioral Health. I do not know that this shift actually changes anything.

SENATOR HARDY:

With regard to the fee increases in section 14 of S.B. 37, I am not sure I understand why the fees are laid out as ranges—not less than \$125 and not more than \$250, for example.

MR. WISKERCHEN:

We borrowed that from other areas of statute with ranges for licensing or professional fees. Right now, we have just one number. Having a range in statute allows us to raise fees if needed by using the regulatory process, rather than having to change the statute again.

SENATOR HARDY:

The lower end of your range is the current fee. Is that correct?

MR. WISKERCHEN:

Yes.

CHAIR SPEARMAN:

[Exhibit C](#) mentions an amendment, but we do not have that.

MR. WISKERCHEN:

Did that not come through? My apologies. I will make sure you get it.

SENATOR SETTELMAYER:

Are you saying that the only fee you have in the *Nevada Administrative Code* (NAC) is \$150 a year? If that is not the case, please let me know what your current NAC is as it pertains to licensure fees.

MR. WISKERCHEN:

I believe there are five fees we can charge: license renewal at \$150, license application at \$50, license issuance at \$75, late fees of \$100 and an examination fee, though we do not administer an exam. Those are all the fees we can charge, and it is not enough to run the Board. Section 14 of S.B. 37 adds fees for services like applying for continuing education units, which has a labor cost not accounted for in any other way.

SENATOR SETTELMAYER:

What is the citation in NAC for your Board's fees?

MR. WISKERCHEN:

That is NAC 641A.105.

SENATOR OHRENSCHALL:

How many MFTs and CPCs does the Board supervise in all?

MR. WISKERCHEN:

I cannot give you an accurate number. Our database is not accurate due to the technological issues I alluded to in [Exhibit C](#). The rough estimate is about 700 licensed MFTs and about 400 licensed CPCs. That does not include interns. In recent years, we have seen a relative rise in CPCs, which incidentally are called licensed professional counselors (LPCs) in other states. The Board used to be tilted toward MFTs because it was the MFT Board from 1973 to 2007, when the CPC was introduced. Since then, the number of CPCs has gradually increased.

SENATOR OHRENSCHALL:

Do you think the proposed fee increases will allow your Board to have a full-time executive director and meet your other needs?

MR. WISKERCHEN:

Yes, completely. When I first joined the Board in August 2016, I became the secretary treasurer and created a budget, which the Board did not have before. I am therefore familiar with our numbers. The fee increases will allow us to employ a full-time executive director at compensation commensurate with other executive directors. For comparison, our half-time executive director currently receives about \$30,000 a year. Even doubled, that is not close to the \$70,000 to \$80,000 other executive directors receive annually. The fee increases would also allow us to hire two full-time support staff, which we definitely need. If we get that, we may not need to hire an investigator, depending on how the workload shakes out. We will also be able to finally make technological improvements in our web portal, among other things.

SENATOR OHRENSCHALL:

Section 1, subsection 2, paragraph (b) of S.B. 37 deletes language from *Nevada Revised Statutes* (NRS) 641A.065 regarding course work or supervised training

to demonstrate competency. Has that language been a problem? Have people been unable to become CPCs because they did not have that mentorship or tutoring? What is the goal of deleting that language?

MR. WISKERCHEN:

There are multiple factors involved. One is that we have a severe shortage of supervisors as a whole. Making licensed people go back and get more training under a supervisor is a logistical problem in and of itself. Secondly, there is a philosophy that suggests CPCs who complete a mental health track in their graduate program are just as knowledgeable about systems theory as MFTs. The difference is that on a transcript, MFTs have delineated course work in family systems theory and couples. By contrast, the transcript of CPCs will have systems theory interwoven throughout the course work. Systems theory is integrated into their other work; there are no standalone courses titled "systems theory." Some people look at that and suggest CPCs are not adequately trained. In fact, 48 other states do not see it that way.

In short, that language has caused problems. We repealed a regulation last August, R091-14, that attempted to delineate what those benchmarks would be. It consisted of 6 extra courses in systems, couples treatment or family treatment, 500 hours of supervision and passing the national MFT exam. We had several people attempt to jump those hurdles, and they could not. The MFT exam is a knowledge test, not a competency test. The further you get from your college experience, the less you retain that knowledge. To force a practitioner of 12, 15 or 20 years who comes to Nevada from out of state to take a test is disingenuous, and I do not know that it accomplishes anything. We had zero people qualify through that regulation, and so we repealed it.

There is an argument that we can leave that language in NRS 641A.065 and make the restrictions easier in regulation. California, for example, requires 2 courses and 500 hours of supervised experience. However, Nevada lacks a mechanism to put an asterisk on a license. We cannot legitimately restrict a practice scope because the public would have no way of knowing who could do what. Unless we go to NAC 641A.040 and NRS 641A and add restricted licenses to say who can and cannot treat couples and families, we have no mechanism to announce it to the public. We can force CPCs to jump through hoops to demonstrate their competence, but I do not know how we would advertise to the public that this CPC is qualified and this one is not because we only have one license.

Adding to that is the reciprocity clause in NRS 641A.242, section 3, which states, in part, "Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement ... " That is "shall," not "may." That is full practice scope. How do you look at practice scope as being full, valid and nonrestrictive, and then slap a restriction on it? We do not know how to do that, and code cannot trump statute. The Board has decided that we need to strike that language, make the language clean and pull Nevada into alignment with all the other states.

SENATOR OHRENSCHALL:

In light of that, how many of those 400 CPCs are practicing through reciprocity?

MR. WISKERCHEN:

We do not know. Our database is messed up. We hope to resolve that through improved technology in the next licensing renewal period.

I would like to add that I do not know how many of those CPCs would want to treat couples and families. I know anecdotally that many people from other states have struggled to practice in Nevada after moving here. Others do not want to move to a state where there is even a hint that treating couples or families could result in license revocation or sanctions by the Board. Adding to that, nowhere in NRS is "treat" defined. We do not know if it means just being in the same room with a person, conceptualizing a treatment plan in your head or carrying out a treatment plan. It is all up in the air, which makes it tough to regulate.

SENATOR OHRENSCHALL:

Do you feel this deletion will solve that problem?

MR. WISKERCHEN:

Yes.

CHAIR SPEARMAN:

You said the language causes a problem when people come from another state. In 2015, we changed the law to allow military spouses, after completing certain requirements, to practice as MFTs or CPCs in Nevada. Do you know of any instances in which the ambiguity that now exists interfered with a military spouse practicing this profession in Nevada?

MR. WISKERCHEN:

I am embarrassed to say that I do not know because we do not ask the question. We will start asking the question on our new website. I do know that there are some people who wanted to come to Nevada to practice and did not, and some who did not get a license and started serving in another field.

I will also say that the reciprocity section was not actually enforced until 2017. Before then, the Board was inappropriately applying the entire application process to applicants from out of state, requiring course work examinations, hours review and, in some cases, supervision. This was in violation of statute. We cleaned that up and have been processing reciprocity applications since then, though we are not currently tracking them well because of the problems with our database.

SARAH ADLER (Vitality Unlimited; New Frontier Treatment Center):

We support S.B. 37. I have written testimony ([Exhibit D](#)) explaining the need for this bill, especially in Nevada's rural counties.

In regard to Senator Ohrenschall's question about numbers, I have seen data that in 2018, Nevada had 928 MFTs and 252 licensed CPCs. I would also like to add that only 8.9 percent of Nevada MFTs and 9.5 percent of Nevada CPCs are in the rural counties.

My clients are certified community behavioral health centers and in-patient treatment centers. Vitality Unlimited is in Elko, and New Frontier is in Fallon. They asked me to specifically stress their support for sections 1 and 2 of S.B. 37, which enable both MFTs and CPCs, given appropriate training, to serve individuals, couples and families in need of therapy.

MIRANDA HOOVER (Board of Examiners for Social Workers):

The Board of Examiners for Social Workers is in full support of S.B. 37.

JOELLE GUTMAN (Washoe County Health District):

We are in support of S.B. 37. I have a letter of support from Kevin Dick at the Washoe County Health District ([Exhibit E](#)) describing the need for this legislation.

I would like to point out two important elements of the bill. We support the entire bill, but we especially applaud the removal of the language restricting

MFTs and CPCs from diagnosing and treating psychotic disorders, as well as the removal of the language requiring the Board to determine competency for CPCs in working with couples and families. These two changes will greatly improve our ability to hire both MFTs and CPCs, who are currently arbitrarily ineligible to apply for a lot of vacancies in Nevada, and increase access to care for the people we serve.

JOAN HALL (Nevada Rural Hospital Partners):

We are in support of S.B. 37. We need all professionals to work at the top of their scope of practice in rural Nevada. Nevada is at the bottom for behavioral health providers. We need anyone who can help us meet the needs of rural Nevadans.

DEVIN BROOKS:

I am here in support of S.B. 37. I have been a provider with the State for almost ten years. I work in both rural and inner city areas. We are struggling to find clinicians who can provide those services. I hope the bill can move forward to give access to care for those who live in rural and inner city areas.

EDDIE ABLESER:

I support S.B. 37. I am a CPC. I moved to Nevada in 2015 and took the position of Director of the Office for a Safe and Respectful Learning Environment, Department of Education. In that office, I was charged with administering a grant for social workers in schools. I had the task of finding 168 professionals to place in schools around Nevada. We found that there was a lack of professionals in every school district in Nevada. We had to lower our standards to fill those positions, bringing in lower scope of work individuals who were not able to provide the care our children needed. I remember five specific examples of the Clark County School District trying to recruit therapists from California and Utah to come to Nevada to provide those services. However, because the Board was not able to license them through reciprocity, they withdrew their applications.

This also happened to me. I moved to Nevada in 2015 as an LPC with 12 years experience in Arizona. I worked as a school counselor in the Roosevelt School District in south Phoenix, working in four schools as a therapist. When I moved to Nevada, I submitted my application to the Board and was unable to get a license in Nevada. It was not until 2017, almost two years later, that I was actually licensed and able to practice in Nevada.

I appreciate the work the current Board has done. In Arizona, I paid \$350 for my license. In Nevada, I pay \$75. There is simply not enough support for the Board to do the work it needs to do to catch up with the rest of the states.

MACKENZIE BAYSINGER (Human Services Network):

I am a Human Services Network social work intern here to express my support for S.B. 37. Expanding the practice scope and increasing fees for MFTs and CPCs will give northern Nevadans the opportunity to be seen by licensed health care professionals. I urge your support for this bill.

MICHAEL HACKETT (Nevada Primary Care Association):

For all the reasons that have been stated, all the challenges the State faces, we are in support of this bill.

AMY REHA:

I am an LPC intern here in support of S.B. 37.

I work for Community Chest, Inc., in Storey County and Lyon County. We have a long waiting list and many, many clients to see. It is scary that we might have to turn clients away. I grew up in Nevada, lived in Texas for 20 years and got my terminal master's degree from a doctoral program. I got my LPC internship and decided to come back to Nevada to be near my family. When I moved back, I was quite surprised at the length of time it took for them to figure out what to do with me, since I had been through two full years of practicum at two different sites working with couples, families and individuals. I have had training in psychometric testing, so it was shocking to go on interviews and have people tell me they were not sure what to do with me and my current licensure. Eventually I found a job, but the process was disheartening.

I have been in this process for the last two years and have seen much growth. Correcting this language will be wonderful for Nevada. My CPC program was 72 hours, and we had systems theory woven in and out of every theory we were taught. It was an integrational program in which we learned many theories, so that when we met clients we could match them up with the best theory for them. Theories are ideas, and no idea is perfectly right.

With regard to working with psychotic clients, in my work we see many homeless people with psychotic disorders. We do not want to turn them away.

TAYLOR TREMAYNE:

I am here today to voice my support and acknowledge the importance of S.B. 37. I am currently a practicing drug and alcohol counselor in Nevada and an applicant for the CPC program at the University of Nevada, Reno. I have been working in counseling for two years. Allowing this bill to go through and equaling the scope of practice across all mental health professionals, MFTs, CPCs and licensed clinical social workers, will be beneficial to the State.

DANICA PIERCE:

I support S.B. 37. I am a licensed clinical social worker in Nevada. I have been working in social work since 2007 and in mental health since 2013. I work primarily at Northern Nevada HOPES in Reno, where we serve some of the most vulnerable people in northern Nevada. I have also been working at the Washoe County Detention Center for the last six months. I have seen more people in active psychosis in jail than all of my time in mental health. A lot of the folks who are in jail are in first episode psychosis, early in their psychosis, and it is awful to see them there. They are terrified.

In terms of getting better access to people who struggle with psychosis, I am very much in support of the entire bill, particularly that piece.

ADRIENNE SUTHERLAND:

I support S.B. 37. I am a clinical director for Community Chest, Inc., a nonprofit agency in rural Nevada. I also sit on the Northern Regional Behavioral Health Policy Board. As a clinical director who is responsible for staffing, I can say that it is incredibly difficult to attract and retain professionals to the rural areas. It is impossible to split licensure up when we are already in an area that does not have enough clinical social workers to treat psychotic disorders.

The Northern Nevada Behavioral Health Policy Board supports S.B. 37 in its entirety because we believe it will increase access to mental health care for all Nevadans.

ERIK SCHOEN:

I support S.B. 37 for all the reasons previously mentioned.

HELEN FOLEY (Nevada Marriage and Family Therapists Team):

We strongly support S.B. 37, but we do have a few proposed amendments ([Exhibit F](#)), so I am here neutral to the bill.

With regard to the issue of psychometric tests and assessments, one of the proposed amendments in [Exhibit F](#) changes section 1, subsection 3 of the bill. We have discussed this with the Board, the Nevada Psychology Association and the Board of Psychological Examiners, and I am pleased to say we are all in agreement on this amendment, which excludes the use of various tests from the definition of the practice of clinical professional counseling. Since MFTs do not do any of those things, we are happy to refer any of our patients who need those kinds of tests or services to psychologists or psychiatrists.

We are most pleased with section 1, subsection 3, paragraph (d) of the bill, which removes the prohibition against MFTs and CPCs diagnosing and treating psychotic disorders. Within marriage and family therapy, when we treat a family, we may determine through testing that a child has a number of personality disorders. Immediately, we say, "We need to refer you to a psychiatrist for evaluation and treatment." That treatment plan may be medication or further therapy. The psychiatrist or psychologist gives the treatment plan after extensive testing, and the person then comes back to the MFT or CPC for a year's worth of therapy. We need to have that flexibility. You have heard strong support for removing the prohibition against treating psychotic disorders. Psychologists have told me they do not have a problem with us removing that language.

CHAIR SPEARMAN:

Have you talked to the sponsor of the bill about this amendment? Did he agree to it?

MS. FOLEY:

Yes, on that amendment.

With regard to section 3 of S.B. 37, we do not think it is necessary to change the membership of the Board. You have heard that there are far more MFTs than CPCs in Nevada, so the Board is currently comprised of four MFTs, three CPCs and two members of the public. No other licensing board in Nevada has more than two members of the public. While the members of the public are there to protect the interest of the State and its citizens, we need people who know the profession to be there to license and set up supervision, and when discipline is required, to know exactly why and how. We think the Board makeup should stay as it is.

CHAIR SPEARMAN:
Did the sponsor agree to that amendment?

MS. FOLEY:
No. The sponsor would like to have the change in the Board, but it sounded like it was not a hill to die for.

We are in strong support of the fee increases in section 14 of the bill. The Board was run poorly for many years. One of the major contributors to that was the lack of funds to hire investigators, which meant the Board did not have the manpower to quickly process applications. I congratulate the Board's efforts in the last year under the leadership of Mr. Wiskerchen. He has pushed the Board to clean up the mess, and it has.

The other issue we had was with section 1, subsection 2, paragraph (b) of the bill, which allows CPCs to do MFT work. We felt this change should not occur and the current language of NRS 641A.065 should stay as it is. The law was developed with the understanding that MFTs deal with families and understand the relationships between family members. That is different from individual counseling. We wanted to make it easy for CPCs who have dealt with families in other states to be able to come in and do that. This is the one real philosophical difference we have with this bill. We feel this was a problem with the old Board's overreaction to State law rather than a bad law.

CHAIR SPEARMAN:
I would like you to get together with the sponsor of the bill to work out your problems with the bill.

MS. FOLEY:
We are happy to do that.

CHAIR SPEARMAN:
I will close the hearing on S.B. 37.

VICE CHAIR ATKINSON:
I will open the hearing on S.B. 90.

SENATE BILL 90: Making various changes relating to the health of children.
(BDR 57-448)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

I am here as the Chair of the Legislative Committee on Health Care for the 2017-2018 Interim to present S.B. 90 for your consideration. The measure spans a variety of topics and is in response to pressing issues brought to the attention of the Legislative Committee on Health Care during the Interim.

As background, the Legislative Committee on Health Care heard from representatives of the Children's Advocacy Alliance (CAA) and the Nevada Institute for Children's Research and Policy at the University of Nevada, Las Vegas, regarding children in Nevada and the results of the 2018 Nevada Children's Report Card, in which Nevada received an overall grade of D. The Report Card is divided into four categories, and the State received a C in children's safety, a D in children's health and economic well-being and an F in school readiness. Based on this, the CAA presented several priorities for the 2019 Legislative Session. The Legislative Committee on Health Care supported the vast majority of their recommendations, and they are before you in S.B. 90.

This bill accomplishes several objectives. First, it requires health insurance, including Medicaid, the Children's Health Insurance Program and State and local government employee-based plans, to cover hearing instruments for insured individuals who are younger than 18 years old. This portion builds on A.B. No. 250 of the 71st Legislative Session, which required hearing screenings or referrals for screenings for newborns. It is codified in NRS 442.500 and created the Nevada Early Hearing Detection and Intervention (NV EHDI) Program. The purpose of the NV EHDI Program, according to the 2018 annual report, is to ensure all children born in Nevada are screened for hearing loss at birth, and those identified with hearing loss receive timely and appropriate audiological, educational and medical intervention.

Hearing loss is the most common birth defect, affecting approximately 2 out of every 1,000 infants. In 2016, the most current full year of confirmed data, Nevada observed documented confirmed hearing loss at a rate of 1.36 infants per 1,000. In 2016, more than 34,000 infants were documented as receiving hearing screening. Left undetected and unattended, hearing loss can negatively impact speech, language acquisition, academic achievement and social and emotional development. In addition to assuring screening and intervention for children with hearing loss, the NV EHDI Program works with community programs to create awareness and ensure access to services.

The second objective of S.B. 90 was to establish a process by which schools would stock asthma medication for children. We have a proposed amendment ([Exhibit G](#)) to remove that provision from the bill.

The third objective of S.B. 90 is to expand the conditions under which tests are considered to indicate an elevated amount of lead in the blood of children and require providers who perform the test to report the results to the health authorities.

Finally, the bill makes three appropriations to fund this effort. We are asking for \$50,000 in each fiscal year for the upcoming biennium, \$100,000 total, to the Department of Health and Human Services to award vouchers for the purchase of diapers to parents of children under 4 years of age who also participate in the supplemental nutritional program for women, infants and children. We are asking for \$50,000 in each fiscal year, \$100,000 total, to the Division of Public and Behavioral Health to award grants to nonprofit organizations to fund training and technical assistance concerning proper nutrition and physical activity for providers of child care. We are asking for \$200,000 in each fiscal year, \$400,000 total, to the Nevada Silver State Quality Rating and Improvement System established by the Department of Education to award grants to providers of child care who participate in the system to improve the provision of high-quality nutritious food and ample physical activity for children.

This measure spans a variety of topics. It was a direct result of the requests we heard during the Legislative Committee on Health Care meetings, and we tried to comply with all of them.

JARED BUSKER (Children's Advocacy Alliance):

I am the Associate Director of the CAA. I have a presentation ([Exhibit H](#)) illustrating the different topics covered by S.B. 90 and the proposed amendment in [Exhibit G](#).

Page 2 of [Exhibit H](#) covers sections 1, 3, 4, 6 through 9, 11, 13, 14, 21 and 22 of the bill, which relate to hearing devices for children. Currently, Nevada Medicaid, which serves 61 percent of Nevada's children in Nevada Check-Up, covers hearing tests, hearing devices, batteries for hearing devices and speech therapy. However, many commercial insurance plans in Nevada do not fully cover hearing devices. This causes families to struggle to pay bills amounting to several thousand dollars for hearing devices in addition to the cost of ear molds,

batteries, hearing assisted devices, related supplies and additional necessary maintenance. To date, over 20 states have passed legislation similar to S.B. 90 requiring insurers to cover hearing devices for children. [Exhibit G](#) proposes an amendment for these sections changing the term "hearing aid" to "hearing device" in order to include coverage for all medically necessary expenses.

Page 3 of [Exhibit H](#) covers sections 15 through 19 and 24 through 29 of S.B. 90, which require schools to stock asthma medication. [Exhibit G](#) amends the bill to delete these sections of the bill. While we support the idea of schools maintaining a stock of medication to treat asthma, we recognize that it may not be feasible at this time. We also recognize that the State has passed legislation to require schools to stock EpiPens, which can be used to treat children having severe asthma attacks. We are also committed to finding other resources available non-legislatively to help serve children with asthma.

Page 4 of [Exhibit H](#) covers section 23 of the bill, which has to do with childhood lead poisoning. Mounting evidence suggests that even low levels of lead exposure can have long-lasting impacts on children. In 2012, the Centers for Disease Control and Prevention's Advisory Committee on Childhood Lead Poisoning Prevention lowered the level of concern of lead in the blood from 10 micrograms per deciliter ($\mu\text{g}/\text{dL}$) to 5 $\mu\text{g}/\text{dL}$. Currently, medical lab results only report that the blood lead level is below 10 $\mu\text{g}/\text{dL}$ and does not give an exact level. This does not allow us to identify children whose results are between 5 $\mu\text{g}/\text{dL}$ and 9.9 $\mu\text{g}/\text{dL}$. In addition, current efforts to verify risk factors in Nevada and inform and prioritize outreach efforts are challenged by the lack of available demographic data. Of the more than 6,000 children tested in Nevada, only 40 percent of the records included a zip code. In addition, there are currently no race or ethnicity data available for these data. Section 23 of S.B. 90 would allow Nevada to stay in compliance with national standards.

Page 5 of [Exhibit H](#) covers section 30 of the bill, which has to do with diapers. The high cost of diapers creates a huge financial burden for Nevada's most at-risk families. Disposable diapers can cost upwards of \$78 a month, and we have seen studies reporting that some families either reuse disposable diapers or leave them on longer than they should. This bill would help families receive assistance to purchase diapers. Because diapers have been labeled a luxury item, they are not currently covered by any type of public assistance program.

To address this issue, A.B. No. 340 of the 79th Legislative Session was passed in 2017 to establish the Diapering Resource Committee (DRC). The DRC conducted a study during the Interim that found very few resources available for families in this area. [Exhibit G](#) proposes an amendment to section 30 of S.B. 90 to establish a Diapering Resources Account to be overseen by the DRC, moving it away from the Department of Health and Human Services and the Women, Infants, and Children program.

Pages 6 and 7 of [Exhibit H](#) cover sections 31 and 32 of S.B. 90, which have to do with preventing early childhood obesity. In Nevada, over 30 percent of students are either overweight or obese when they enter kindergarten. Data from the Nevada Institute for Children's Research and Policy have shown there is a steady increase in the number of children who are obese. In response to this, the Nevada Early Childhood Obesity Prevention Plan workgroup was established, and they recently released a State plan that included these recommendations. This includes the appropriation of funding to help train child care providers in proper nutrition and physical activity.

SUZANNE BIERMAN (Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services):

I am happy to be here today to provide information regarding Medicaid coverage for these services.

Nevada Medicaid and Nevada Check Up already cover complete hearing aid benefits when medical necessity criteria are met. In addition, cochlear implants are also covered under Nevada Medicaid and Nevada Check Up when medical necessity criteria are met. Audiologists perform the evaluations, and physicians, audiologists and certified hearing aid dispensers may all be reimbursed for ordering hearing aids after an audiology evaluation.

Nevada Medicaid and Nevada Check Up already cover blood lead screening for children.

I would also like to provide some information on eligibility for children under these programs. Nevada Medicaid covers low-income families. For a family of 2, income levels of \$23,000 to just under \$28,000 per year would qualify for coverage, depending on the age of the child. For a family of 4, the required income level is \$35,000 to \$42,000 per year. Nevada Check Up covers children with slightly higher incomes. Under that program, a family of 2 with an income

under \$35,000 would be covered, as would a family of 4 with an income up to \$53,000.

ERIC WILCOX (Nevada Hands & Voices):

I am here today to voice my support for the provision in S.B. 90 mandating health insurance plans include coverage for hearing aids for children under 18 years of age. I have written testimony ([Exhibit I](#)) explaining my support for the bill and encouraging the Committee to consider the proposed amendment in [Exhibit G](#) to change "hearing aid" to "hearing device." Hearing aids are only one tool of many used by families throughout Nevada to aid their children in hearing.

MARLENE LOCKARD (Nevada Women's Lobby):

One of the core missions of the Nevada Women's Lobby is to speak out on behalf of women, children and families in this State, and we are in support of S.B. 90.

PAMELA ROBERTS (Nevada Women's Lobby):

We are in support of this bill. I am testifying because of my recent four to five years as a volunteer at the Women and Children's Center of the Sierra (WACCS) in Reno. One of the main things the WACCS does is distribute diapers. We use the distribution of diapers as a way to provide other services and resources to women who are short of money and unable to afford diapers. It costs between \$10 and \$12 a week to keep one baby in diapers. If you have more than one child in diapers, the costs add up quickly. Last year, the Nevada Women's Lobby had a LunaFest fundraiser in which we showed movies made by women about women. In one of the movies that touched me deeply, a woman worked during the day as a domestic worker and took care of her adult daughter and granddaughter at night. The movie showed her rinsing out and reusing disposable diapers.

Hubert Humphrey said:

... [T]he moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.

Senate Bill 90 is a bill that will address the needs of children, some of whom are sick, needy and handicapped. We urge you to pass this bill.

NATHA ANDERSON (Washoe Education Association; Nevada State Education Association):

We are in support of S.B. 90 with the proposed amendments in [Exhibit G](#). I would like to mention that the Nevada State Education Association represents teachers and other education licensed personnel, including school nurses. We want to thank Senator Spearman for the proposed amendment removing the requirement that schools must stock asthma medication. The original provision is important; however, until we get a dedicated nurse at every school, it is not realistic.

MR. HACKETT (Nevada Public Health Association):

We want to be on record in support of S.B. 90 with the proposed amendments in [Exhibit G](#).

SHANE PICCININI (Food Bank of Northern Nevada):

We support S.B. 90, specifically the diaper provision. Diapers are one of the most sought-after resources our clients come to us for, and we do not get enough donations to meet the demand.

MS. BAYSINGER:

The Human Services Network would like to be on record in support of S.B. 90.

KIM AMATO (Chair, Diapering Resources Committee):

We are in support of S.B. 90. I have written testimony ([Exhibit J](#)) describing the desperate need for diapers in the community.

KATHLEEN LAUCKNER (Nevada Institute for Children's Research and Policy):

I am here today as a member of the Advisory Board for the Nevada Institute for Children's Research and Policy. I am also a retired instructor for the Environmental Protection Agency program for the prevention of lead poisoning and have been so for the past 25 years.

We are in support of S.B. 90. I have written testimony ([Exhibit K](#)) speaking to the need for the provisions of the bill regarding lead poisoning.

BENJAMIN SCHMAUSS (American Heart Association):

We support S.B. 90 and the proposed amendments in [Exhibit G](#).

I was born with a hearing defect. Because I did not have language stimulus at an early age, I still have difficulty saying the letter S. I am passionate about making sure young people have the ability to articulate their words. You can imagine some of the difficulties faced by children with speech challenges when they do not receive the services they need. This bill could truly change the lives of those young people.

We worked with the sponsors of the bill on the childhood obesity piece in sections 31 and 32 of the bill. We want to make sure providers of early child care have the necessary training and assistance to implement these standards regarding physical activity, nutrition and screen time so we can raise a healthy generation of Nevadans. We do not want them to be just some standards on the books that nobody looks at.

CANDACE EMERSON (Nevada Hands & Voices):

I fully support this bill and the proposed amendments in [Exhibit G](#). I have written testimony ([Exhibit L](#)) describing my experiences with the exorbitant cost of giving our children access to sound.

BETH JONES (Nevada Hands & Voices):

I support S.B. 90. I am a mom of three amazing children. In 2007, my daughter Alexis failed her newborn hearing screening. After 3 months and 22 failed hearing tests, including a sedated hearing test at 2 months old, we were given a diagnosis of normal hearing. Over the next four years, we tried repeatedly to get an accurate diagnosis because we knew something was wrong with Alexis's hearing. My third child Harrison was born in 2011, and we were shocked when he also failed his newborn hearing screening. We took both kids back to the doctor to get hearing tests. At that point, we were told that they were both hard of hearing. We have no family history of hearing loss, so we were not prepared for this news. When presented with the hearing aid options, we were told there were three levels of hearing aids. The hearing aid dispenser only provided me with the top level of hearing aids because I am a mom who "obviously wants what's best for her kids." The cost was \$3,000 for each ear, a total of \$12,000 for my one-income family of five. We were told the hearing aids would need to be replaced every 2 years and that the cost did not include the cost of ear molds, \$60 each, which for a newborn have to be done every 8 weeks or so. My husband is a teacher in Clark County. His health insurance only reimburses us \$1,000 per ear every 5 years.

At that point, we had to sit down and make some hard choices about how to give our children access to sound. We considered selling our house, moving in with family and even moving out of state so that our children would be able to hear our voices.

If you have children, imagine giving them a computer the size of a dime that is worth thousands of dollars. You can imagine what they might do to such a device in a given day. We have had to pay out of pocket for lost and destroyed hearing aids because warranties have expired. I have had to pay to upgrade to better technology because both of my children have progressive hearing losses. We have to make sacrifices for our family.

After almost eight years of my journey, I sit here as a program coordinator for Nevada Hands & Voices. I support families who are new to the journey of supporting their deaf and hard-of-hearing children. As Candace said, one of the things we hear the most from parents is the fear that they do not know how they are going to be able to afford giving their children access to sound. Ear molds cost a lot of money, and so do batteries. We were told by our audiologist that ear molds were a back-to-school necessity. I have to budget \$240 into my back-to-school costs to give my children ear molds that fit their ears so they and their peers do not have to listen to a whistling sound.

This bill will enable families to give their children the right to hear. I and Nevada Hands & Voices are in support of S.B. 90.

MICHAEL HILLERBY (Aflac, Inc.):

We are neutral on S.B. 90. We have a proposed technical amendment ([Exhibit M](#)). I spoke with Senator Spearman about this matter yesterday.

I spoke with Bryan Fernley, Committee Counsel, before the meeting, and our concerns may be able to be addressed in a different way. Just to be clear, Aflac does not sell health insurance; rather, it provides supplemental insurance that can be used to pay copays and deductibles. The intention of the proposed amendments in [Exhibit M](#) is to be sure these provisions that apply to a policy of health insurance cannot be construed to apply to supplemental insurance. Supplemental insurance does not pay providers; the cash goes directly to the policyholder.

The proposed amendment would change the reference in section 1 of S.B. 90 from "policy of health insurance" to "health benefit plan." I have included in [Exhibit M](#) the definition of "health benefit plan" from NRS 689A.540 for the Committee's information. Mr. Fernley pointed out that the language in NRS 689A.020 may address our concerns. With your permission, I will work with him to make sure it covers our concerns. If the Committee and the Commissioner of Insurance are convinced my concerns are unwarranted, we will happily stand down.

SENATOR HARDY:

How does this affect the Employee Retirement Income Security Act of 1974 (ERISA) plans?

MR. HILLERBY:

My expertise is limited to how it would affect supplemental insurance. The ERISA plans, I understand, are federally exempt from Nevada laws and regulations.

BARBARA RICHARDSON (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):

Unfortunately, the ERISA plans would not normally be covered by State law.

SENATOR SETTELMAYER:

What percentage of insurance plans in Nevada would be affected by this bill? Every year I have asked this question, and every year the number goes down.

MS. RICHARDSON:

I believe it is 7 percent, but I will refer the question to our actuary.

ANNETTE JAMES (Actuary, Division of Insurance, Department of Business and Industry):

The percentage of non-ERISA plans in Nevada depends on how you count them. I would say it is probably under 20 percent.

SENATOR BROOKS:

Would the Public Employees Benefit Plan be affected by this bill?

MS. RICHARDSON:

We would have to look at the language. We will do that and get back to you.

VICE CHAIR ATKINSON:

If anyone else has questions for the Division of Insurance, we will have them reach out to you.

SENATOR SPEARMAN:

Last Session, S.B. No. 481 of the 79th Session created the Commission for Persons who are Deaf, Hard of Hearing or Speech Impaired. As a result of working with that community, I learned a lot of things about children who have hearing loss and who are hard of hearing. The difficulties they face are exacerbated by the fact that we do not have a school for the deaf in Nevada. I have heard from individuals who expressed the panic they feel when they go to the emergency room. One young lady in her early 20s said most people her age can go to parties or gatherings with their friends, and she cannot because she cannot hear.

What this bill is trying to do is bring parity to families with children with a hearing loss. Medicaid covers such devices, and those who are concerned about cost can mirror the way Medicaid has handled those expenses. No child who needs an accoutrement to be successful should go lacking. Zip code or family name should not make a difference. What should matter is how we get this done for the sake of the children. There, but for the grace of God, go I.

VICE CHAIR ATKINSON:

I will close the hearing on S.B. 90.

CHAIR SPEARMAN:

I will open the work session on S.B. 86.

SENATE BILL 86: Makes various changes relating to the regulation of insurers by the Division of Insurance of the Department of Business and Industry. (BDR 57-238)

CESAR MELGAREJO (Policy Analyst):

I have a work session document ([Exhibit N](#)) summarizing the bill and listing the proposed amendments.

SENATOR ATKINSON:

Can we assume that all these amendments were accepted by the Division of Insurance?

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CHAIR SPEARMAN:
Yes.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 86.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:
I will now open the work session on S.B. 87.

SENATE BILL 87: Revises provisions governing the Nevada Life and Health Insurance Guaranty Association. (BDR 57-219)

MR. MELGAREJO:
I have a work session document ([Exhibit O](#)) summarizing the bill and listing the proposed amendments.

SENATOR ATKINSON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 87.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:
I will open the work session on S.B. 125.

SENATE BILL 125: Revises provisions relating to landscape architecture.
(BDR 54-612)

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MR. MELGAREJO:

I have a work session document ([Exhibit P](#)) summarizing the bill. No amendments were submitted.

SENATOR HARDY MOVED TO DO PASS S.B. 125.

SENATOR SEEVERS GANSERT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR SPEARMAN:

We have a bill draft request (BDR) to introduce.

BILL DRAFT REQUEST 54-527: Requires the collection of certain data concerning providers of health care. (Later introduced as S.B. 234.)

SENATOR SETTELMAYER MOVED TO INTRODUCE BDR 54-527.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

Is there any public comment? Hearing none, I will adjourn this meeting at 3:29 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	7		Attendance Roster
S.B. 37	C	5	Jake Wiskerchen / Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors	Written testimony
S.B. 37	D	2	Sarah Adler / Vitality Unlimited; New Frontier Treatment Center	Written testimony
S.B. 37	E	1	Joelle Gutman / Washoe County Health District	Letter of Support from Kevin Dick
S.B. 37	F	1	Helen Foley / Nevada Marriage and Family Therapists Team	Proposed amendment
S.B. 90	G	1	Senator Pat Spearman	Proposed amendment
S.B. 90	H	7	Jared Busker / Children's Advocacy Alliance	Presentation
S.B. 90	I	2	Eric Wilcox	Written testimony
S.B. 90	J	1	Kim Amato / Diapering Resources Committee	Written testimony
S.B. 90	K	1	Kathleen Lauckner / Nevada Institute for Children's Research and Policy	Written testimony
S.B. 90	L	1	Candace Emerson / Nevada Hands & Voices	Written testimony
S.B. 90	M	2	Michael Hillerby / Aflac, Inc.	Proposed amendment
S.B. 86	N	7	Cesar Melgarejo	Work session document
S.B. 87	O	10	Cesar Melgarejo	Work session document
S.B. 125	P	1	Cesar Melgarejo	Work session document