

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

**Eightieth Session
March 4, 2019**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 1:38 p.m. on Monday, March 4, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Nicole J. Cannizzaro
Senator Chris Brooks
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi Seevers Gansert

COMMITTEE MEMBERS ABSENT:

Senator Kelvin Atkinson, Vice Chair (Excused)
Senator James Ohrenschall (Excused)

GUEST LEGISLATORS PRESENT:

Senator Julia Ratti, Senatorial District No. 13

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Neena Laxalt, State Board of Physical Therapy Examiners; Nevada State Board of Veterinary Medical Examiners; Board of Dispensing Opticians; Board of Psychological Examiners

Sherise Smith, Chair, State Board of Physical Therapy Examiners

Nicole Lang, Nevada Physical Therapy Association

R.J. Williams, President, Nevada Physical Therapy Association

Susan Fisher, State Board of Oriental Medicine; State Board of Osteopathic Medicine; State Board of Professional Engineers and Land Surveyors

Keith Lee, Board of Medical Examiners

Travis Lee, Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services

Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry

Devin Brooks, Brooks Behavioral Health Center

Michael Hackett, Nevada Primary Care Association; Nevada Public Health Association

Heidi Parker, Executive Director, Immunize Nevada

CHAIR SPEARMAN:

I will open the hearing on Senate Bill (S.B.) 186.

SENATE BILL 186: Enacts provisions governing the interstate practice of physical therapy. (BDR 54-514)

SENATOR HEIDI SEEVERS GANSERT (Senatorial District No. 15):

This bill creates a Physical Therapy Licensure Compact in Nevada. The Compact is an interstate agreement that allows a person who is licensed as a physical therapist (PT) or physical therapist assistant (PTA) in one state to practice in any other state that is a member of the Compact.

NEENA LAXALT (State Board of Physical Therapy Examiners):

I will walk you through the provisions of the bill. We also have a proposed amendment ([Exhibit C](#)), and I will describe its changes as I go through the bill. We have worked with the sponsor and the Legal Division on these proposed amendments.

Section 2 of S.B. 186 contains the Compact itself, which has 12 articles. Article I of the Compact describes its purpose. Article II defines the terms used in the Compact. Article III is what the states need to do to participate in the Compact. Article IV lists the privileges states get from being part of the Compact. Article V describes how the Compact deals with active duty military personnel and their spouses. Article VI lays out policies regarding adverse actions taken against PTs or PTAs. Article VII establishes a joint agency known as the Physical Therapy Compact Commission. Article VIII describes how licensure and other data is collected and shared. Article IX covers the rulemaking process carried out by the Compact. Article X covers oversight, dispute resolution and enforcement of the rules of the Compact. Article XI is the date of implementation of the Commission and associated rules. Article XII covers construction and severability.

Section 3 of S.B. 186 states that the Board will administer the Compact. [Exhibit C](#) asks to amend this to, "The Board shall carry out the State's compliance with the Physical Therapy Licensure Compact enacted in section 2 of this act." We are asking for this change because it is our intent that the Compact be administered by the Commission rather than the Board, which carries out the provisions of the Compact.

Section 4, subsection 1 of the bill refers to the Board implementing the Compact, and [Exhibit C](#) asks to amend the bill to change this to "... carry out the State's compliance with the Compact."

Section 4, subsection 2 of S.B. 186 states that fees will be deposited in the General Fund. This is not generally the case with licensing boards in Nevada. [Exhibit C](#) seeks to amend this to ensure fees will be used to fund the Board.

Section 9 of the bill is essentially clean-up. Subsection 1, paragraph (c) gives the Board authority to verify an applicant's license in another state. However, this is the responsibility of the Commission, so [Exhibit C](#) seeks to remove this provision.

Section 22 of the bill covers the Board of Athletic Trainers. [Exhibit C](#) asks to change subsection 2, paragraph (b) to make it consistent with other parts of the language in the bill and the statutes. Our change is to ensure that only in-state licensed PTs are eligible to sit on the Board of Athletic Trainers rather than Compact privilege people.

SENATOR HARDY:

Last Session, we passed a bill to allow sports teams competing in Nevada to bring doctors with them and also allow those doctors to treat team members while in Nevada. Would this bill do the same for PTs brought to Nevada by sports teams?

SHERISE SMITH (Chair, State Board of Physical Therapy Examiners):

Yes. Physical therapists are covered by the statute enacted last Session.

NICOLE LANG (Nevada Physical Therapy Association):

We stand in support of S.B. 186. It will bring high-quality PTs and PTAs to Nevada, which will do good things for patients and healthcare providers and improve access to high-quality care.

R.J. WILLIAMS (President, Nevada Physical Therapy Association):

We are in support of this bill and thank Senator Seevers Gansert for bringing it forward.

CHAIR SPEARMAN:

I will close the hearing on S.B. 186 and open the hearing on S.B. 219.

SENATE BILL 219: Revises provisions relating to certain regulatory bodies.
(BDR 54-646)

SENATOR JAMES A. SETTELMAYER (Senatorial District No. 17):

Senate Bill 219 comes out of the Interim serving on the Legislative Commission's Sunset Subcommittee. We heard a bill earlier this Session that touched on the inability of the State Board of Landscape Architecture to take credit cards in payment of fees. It occurred to us that other licensing boards may have this same problem. In this day and age, that seems a bit strange. We have also run across boards that take checks only for the initial licensing fee, but that can take credit cards for renewals. That also seems strange, and it is in statute.

Rather than fix one board at a time, the Sunset Subcommittee felt it was wiser to come forth with a bill to do two things. First, S.B. 219 establishes that every board can take credit cards in payment of fees. Second, the bill adds provisions to make it harder for someone to illegally take those funds. We were originally looking at a two-signature process.

Once the bill came out in draft, we worked with representatives from various agencies to come up with a proposed amendment ([Exhibit D](#)) to answer their concerns. With regard to credit cards, we allowed boards to pass on the cost of using a credit card to licensees, but we did not want to see them make a profit from it. We would hate to see a situation where a board charged \$5 for the use of a credit card when it actually only costs 40 cents.

The second part of the amendment has to do with the review process. We do not want to see a repeat of the situation that happened in a conservation district, in which someone embezzled \$140,000 the board did not know it had. We want to make sure smaller boards without an audit procedure in place looked at ways to make transactions more secure, such as having two people sign checks.

SENATOR SEEVERS GANSERT:

[Exhibit D](#) suggests changing section 3, subsection 2 of the bill to refer to review of financial statements. I would like more information on that, specifically with regard to the meaning of the word "review" in this context. Do you intend to require an audit or review by a certified public accountant (CPA)?

SENATOR SETTELMAYER:

The intent was to have each regulatory board establish its own review process. We want to force them to take a look at their books on a regular basis, rather than letting them go for four or five years and only then discovering a problem. Several sessions ago, we discovered a board that was administered by one person who had all the books, including the checkbook, in California. That made us feel a little uncomfortable.

We are not specifying within the *Nevada Revised Statutes* (NRS) exactly how such reviews should be carried out. We are just saying that each board should have a policy. If you want to make it more specific, I am sure the Legal Division could do that, if that is the direction of the Committee. I was trying to leave it vague enough so each board could work out a process that suits it. I usually deal with smaller boards, which was why I initially looked at a two-party signature process. That does not make much sense for the larger boards that currently have annual CPA audits. We are trying to find a balance.

Senate Committee on Commerce and Labor
March 4, 2019
Page 6

SENATOR SEEVERS GANSERT:

The wording here is wide open, and I think that was your intent. You might change the language to say that the books should be reviewed by someone other than the person who put them together. You were right that we need a check on the system.

I would like to be sure that we are using the right words. A review is not the same as an audit by a CPA, and we need to be careful what words we use.

SENATOR SETTELMAYER:

We could change the language in [Exhibit D](#) to have section 3, subsection 1 of the bill refer to "Review of expenditures and supporting documentation by at least two members of the regulatory body."

SUSAN FISHER (State Board of Oriental Medicine; State Board of Osteopathic Medicine; State Board of Professional Engineers and Land Surveyors):

I am testifying in opposition to S.B. 219. However, our position is neutral if the proposed amendments in [Exhibit D](#) are adopted.

KEITH LEE (Board of Medical Examiners):

Our position mirrors that of Ms. Fisher. We are opposed to the bill as written, but our position changes to neutral with the addition of the proposed amendments in [Exhibit D](#). We had some concerns and discussed them with Senator Settelmeyer, and his amendments satisfy our concerns.

NEENA LAXALT (Nevada State Board of Veterinary Medical Examiners; Board of Dispensing Opticians; Board of Psychological Examiners):

With the proposed amendments in [Exhibit D](#), we are neutral on S.B. 219.

TRAVIS LEE (Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services):

Based on our review of [Exhibit D](#), we are neutral on this bill. We originally had a fiscal note on S.B. 219, but these amendments will allow us to reduce that down to zero.

CHAIR SPEARMAN:

I will close the hearing on S.B. 219 and open the hearing on S.B. 234.

SENATE BILL 234: Makes various changes relating to collection of data concerning providers of healthcare. (BDR 54-527)

SENATOR JULIA RATTI (Senatorial District No. 13):

I am here to present a bill that came out of the Legislative Committee on Healthcare (LCHC) in the 2017-2018 Interim Session. We heard testimony from a number of stakeholders regarding access to healthcare and the availability of providers. The shortage of providers leads to long wait times for appointments and people having to go out of network because they could not get in to see a provider in network. We also heard from providers who were frustrated because they wanted to help alleviate these shortages but were not accepted onto a panel for a given insurance provider. They could not understand the dichotomy of having a shortage of providers but refusing to allow willing providers to serve our citizens.

In trying to tackle the complex issue of network adequacy, the LCHC realized that we need better data. We need to better understand the playing field: how many providers are out there, who those providers might be, where they are practicing and what they are practicing. We need geographic data as well as demographic data. It was important to the LCHC that patients have the ability to choose providers who meet their needs, particularly when we are talking about behavioral health. We also want to be sure we have diversity in our provider base, whether that be diversity of race, ethnicity or sexual orientation. As a patient, you may want to see a provider who has had some of the life experiences you have had. The bulk of this bill addresses that need.

I should note that there are multiple other bills on this same topic, and one of them is S.B. 171, which is sponsored by Senator Hardy.

SENATE BILL 171: Provides for the collection of information from certain providers of healthcare. (BDR 54-73)

We have been working closely with Senator Hardy and hope that most of the provisions in S.B. 234 dealing with data collection will be included in the final version of S.B. 171. I will be perfectly happy if those pieces of S.B. 234 get picked up and moved to S.B. 171.

Senate Committee on Commerce and Labor
March 4, 2019
Page 8

The one piece of S.B. 234 we want to draw your attention to is section 26. This requires insurers to give the reason for denial to providers who applied to be paneled and were denied.

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

I have written testimony ([Exhibit E](#)) giving the history of the bill and explaining its provisions.

SENATOR SETTELMAYER:

Does this bill affect the statutes regarding workers' compensation? Does this affect NRS 616 as well?

Ms. RICHARDSON:

It does not affect NRS 616.

SENATOR SEEVERS GANSERT:

Is there a reason you are not getting this information from the licensing boards?

SENATOR RATTI:

First, a caveat: Senator Hardy is working the process for data collection through S.B. 171, and he has had more stakeholder meetings than I have, so you will probably get better answers to process questions when you hear that bill.

The concept we were going for here was decoupling the data. In an employment situation, you decouple the demographic data from the application itself so there is no opportunity for discrimination in the hiring decision. Similarly, you do not want a licensing board in the position of collecting demographic data and knowing that data while it makes licensing decisions. The process is set up to decouple that information so it cannot be seen by the board when it is in the process of making a licensing decision.

SENATOR SEEVERS GANSERT:

I understand that. Some of the different diversity terms you used are not actually on this list. Do those fall under the discretionary piece?

SENATOR RATTI:

It is unfortunate that this bill was heard before S.B. 171. We have had the conversation to pull from all of the four different bills that came forward on this

topic and make sure all of the demographic information will be collected in S.B. 171. It may not be in S.B. 234, but it will show up in another bill.

SENATOR SEEVERS GANSERT:

My experience is that sometimes individuals who are providing data do not want to provide all that data. I want to make sure there is not a penalty if someone does not want to self identify their ethnicity or sexual orientation.

SENATOR RATTI:

I do not believe there is a penalty in this bill.

CHAIR SPEARMAN:

We have had several meetings with people from different ethnicities and backgrounds who were having a difficult time getting paneled. We do not have demographic data about those being denied. I had a mother say to me that her son needed some behavioral health support, but, she said, "He's not going to anybody white." It is a matter of making sure when we talk about network adequacy, not only do we have the full complement of services, but we also make sure people who need help get it.

This bill is not intended to be punitive. It is intended to make sure we have the services the citizens of Nevada really need, make sure we have the full complement.

SENATOR RATTI:

Just to make sure I am being 100 percent clear, let me say that my intent with S.B. 234 is to amend out all of the sections that deal with data collection. We would be left only with section 26, which deals with collection of the form notifying providers when applications to serve on a panel are denied. That form would be created by the Division of Insurance.

SENATOR HARDY:

There is a community effort to bring this all together in S.B. 171. What Senator Ratti says is accurate.

DEVIN BROOKS (Brooks Behavioral Health Center):

As a member of the Division of Insurance's Network Adequacy Advisory Council, I am in support of S.B. 234. We are having issues with shortages of providers. Providers come to Nevada from California, Arizona and Colorado and

have difficulty getting credentialed with managed care organizations. Collecting the data needs to be the first step. That is why I am here today in support of S.B. 234, and I hope ultimately it helps both recipients and providers in Nevada.

MICHAEL HACKETT (Nevada Primary Care Association; Nevada Public Health Association):

We are in support of S.B. 234. This issue is something both organizations I represent have been involved with during the past interim. We continue to be involved as stakeholders.

Accurate data on the State's healthcare workforce is needed to ensure an effective, efficient and equitable healthcare system in Nevada. However, Nevada lacks a consistent and easily accessible source of information about its healthcare workforce, including reliable data on current and projected health workforce supply and demand. The federal Health Resources and Services Administration recommends states routinely collect health workforce data at the time of licensing and renewal, using standard minimum data sets to more accurately capture clinical capacity and the ability to meet health needs, as well as the demand for workers across geographic regions of the State and across industries within the healthcare sector.

The approach to health workforce data collection has gained support across different disciplines and over 30 states across the U.S. The State licensing board renewal process provides a unique opportunity for collecting and updating workforce information on 100 percent of licensed professionals in a given discipline, particularly information on current employment status, location of employment or practice, type of employment or practice setting, number of hours worked and so on.

HEIDI PARKER (Executive Director, Immunize Nevada):

As a coalition that works with public health, healthcare providers, health plans and the general public, we are in support of S.B. 234 and the other bills on this topic as well.

Having access to health coverage has a direct effect on access to vaccines and prevention of disease. In Nevada, we see lower immunization rates among children who are uninsured, living below the poverty level, living in our rural counties and/or receiving Medicaid. An estimated 50 to 60 percent of Nevada's children are eligible for the Vaccines for Children (VFC) program, which provides

no-cost vaccines, yet many VFC-enrolled offices see substantially fewer than that due to a number of factors, including the issues stated by Senator Ratti. Having access to the practice and settings data will help Nevada work toward adequacy of provider networks for both public and private insurance plans, positively impacting families needing to access vaccines and increasing Nevada's immunization rates overall.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Commerce and Labor
March 4, 2019
Page 12

CHAIR SPEARMAN:

I will close the hearing on S.B. 234. Is there any public comment? Hearing none,
I will adjourn the meeting at 2:22 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	1		Agenda
	B	4		Attendance Roster
S.B. 186	C	3	Neena Laxalt / Nevada Board of Physical Therapy	Proposed Amendment
S.B. 219	D	1	Senator James Settelmeyer	Proposed Amendment
S.B. 234	E	2	Barbara Richardson / Division of Insurance	Written Testimony