

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

**Eightieth Session  
March 18, 2019**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 1:30 p.m. on Monday, March 18, 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 James Ohrenschall  
Senator Chris Brooks  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Heidi Seevers Gansert

**GUEST LEGISLATORS PRESENT:**

Senator Keith F. Pickard, Senatorial District No. 20  
Assemblywoman Robin L. Titus, Assembly District No. 38

**STAFF MEMBERS PRESENT:**

Cesar Melgarejo, Committee Policy Analyst  
Bryan Fernley, Committee Counsel  
Kim Cadra-Nixon, Committee Secretary

**OTHERS PRESENT:**

Joan Hall, President, Nevada Rural Hospital Partners  
Tom Clark, Board of Medical Examiners  
Jasmine Mehta, J.D., Deputy Executive Director, Board of Medical Examiners  
Susan Fisher, State Board of Osteopathic Medicine

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Rocky Prabhu, M.D., President, Board of Medical Examiners  
Charles Lawton, M.D.

CHAIR SPEARMAN:

I will open the hearing on Senate Bill (S.B.) 259 with Senator Pickard.

**SENATE BILL 259**: Revises provisions relating to physicians. (BDR 54-628)

SENATOR KEITH F. PICKARD (Senatorial District No. 20):

I am here to present S.B. 259 which establishes a process to provide a provisional license by endorsement to an allopathic or osteopathic physician.

I began my work to expand our existing list of qualified physicians in Nevada during the last Legislative Session. We discussed expanding the number of residencies at the new University of Nevada, Las Vegas, Medical School because new doctors tend to remain where they do their residency program. However, this long-range goal does not resolve the immediate problem of a shortage of physicians in Nevada.

We should be recruiting competent, experienced practitioners in order to have a material improvement in the number of qualified practitioners in Nevada.

Our research indicated that Nevada has a reputation as one of the most difficult states to acquire physician credentials. Hospitals and medical offices have a difficult time finding practitioners willing to relocate to Nevada. Endorsement was discussed as a solution to the shortage of physicians in our State.

Endorsement is a system that allows an individual to engage in a profession in Nevada. The licensee must hold a corresponding, valid and unrestricted license to engage in that profession in the District of Columbia or any state or territory of the United States. The individual must possess qualifications that are substantially similar to the qualifications required in this State. The individual must also satisfy certain other requirements and regulations. Endorsement does not mean that we are attracting substandard practitioners. The endorsement process for approval of a medical license does not change the requirements.

Sections 1 and 7 of the bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine, as applicable, to issue a provisional license by endorsement to practice medicine or osteopathic medicine to an

applicant. The applicant is required to hold a license to practice medicine or osteopathic medicine in another state or U. S. territory.

The applicant must present a current license in good standing to the applicable medical board. The applicant must also show proof of sponsorship by a Nevada physician. A complete set of fingerprints for the purpose of a criminal background check and the fee for an initial license are also required.

The Board of Medical Examiners or State Board of Osteopathic Medicine may deny a provisional license under specified circumstances.

The sponsoring physician must provide advice and guidance to the holder of a provisional license during the term of the license. The sponsoring physician is not required to directly supervise the holder of the provisional license. The sponsoring physician is not held liable for civil or criminal liability, professional discipline or otherwise deemed responsible for the actions of the holder of the provisional license. The licensee is not deemed to be an agent of his or her sponsoring physician. The purpose of the sponsoring physician is to assist the provisional licensee in operating within the State.

A provisional license by endorsement is valid for six months. At the expiration of the provisional license, the applicable board is required to issue a license by endorsement to practice medicine.

To be endorsed for the license, the applicant must meet an extensive list of criteria. They must not have committed any act that constitutes grounds for disciplinary action. The applicant must submit proof of practicing medicine for at least 60 hours under specific conditions.

These conditions include practicing medicine in a medically underserved area or providing medical services to a medically underserved population. They may also qualify if the applicant practices in a primary care specialty, such as pediatrics, geriatrics, internal medicine, obstetrics, gynecology or orthopedics in an area of the State in which a specialty is in high demand. The medical board may also determine a shortage of a primary care specialty to qualify an applicant's medical practice work.

Another option is serving as a mentor to residents in a program approved by the Board, the Bureau of Professional Education of the American Osteopathic Association or the Accreditation Counsel for Graduate Medical Education.

The entity administering the residency program will also administer mentor applications. A physician who serves as a mentor is required to provide advice and guidance to the resident. The physician is not required to supervise the resident. The physician is not subject to civil or criminal liability or professional discipline. The mentor is not responsible for the actions of the resident. Under this bill, the resident is not deemed to be the agent of his or her mentor.

An applicant would also qualify if they performed a combination of the activities listed.

Sections 2 and 8 of this bill require a person appointed as Executive Director of the Board of Medical Examiners or the State Board of Osteopathic Medicine be licensed as a physician in this State.

With your permission, I would like to turn next to Senator and Dr. Joseph Hardy and Assemblywoman and Dr. Robin Titus. They will address specific issues related to the bill.

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

I am testifying today as a sponsor of S.B. 259. We have made improvements in recruiting doctors to Nevada; however, the number of physicians has not grown commensurate with the population growth. Nevada is interested in recruiting physicians to our State and S.B. 259 will send this message to other states.

The endorsement concept is one of the measures to increase the number of medical providers in our State. We also have other medical issues facing Nevada. Two of these issues are a slowness in licensing preventative medicine providers and the restrictive guidelines required to treat opioid use disorder with buprenorphine. At this time, we do not have the ability to combat this disorder.

In this Legislative Session, we are trying to accomplish many things to improve medical care in our State. I support the endorsement program because it will help acquire medical care for our citizens.

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

I am a family practice physician and a previous member of the Board of Medical Examiners.

The core of this bill concerns the time required to license a physician in Nevada. The licensing process can be lengthy and the goal of this bill is to increase access to medical care in a timely manner. The cornerstone requirement of this bill ensures applicants must be licensed in another state to apply for a provisional license. Our goal is to get qualified physicians to our State.

This bill will help Nevada improve the ratio of physicians to the population. Over the last decade, the number of licensed physicians in Nevada increased from 4,358 in 2008 to 5,036 in 2018. While this is an increase of 24 percent, the actual ratio of physicians to population declined from 76 per 100,000 to 72 per 100,000 physicians per population. This bill is an important step in increasing the ratio of physicians to our population.

SENATOR PICKARD:

Acquiring a supporting document, such as an original certificate, causes most of the delays in the application process. The delays are neither typically substantive of competence of the medical practitioner nor their ability to provide adequate care to their patients.

We are seeking a means to a provisional Nevada medical license while applicants undergo the application process. To obtain this provisional license applicants must be capable, in good standing and free of disciplinary action or substandard practices.

SENATOR SEEVERS GANSERT:

Since the application is not complete, what is the verification process with other states to ensure the applicant's license is in good standing?

SENATOR PICKARD:

There are 20 states in a compact that share information. Outside of this compact, the states may not be able to directly verify another licensure in another state.

If the candidate has the ability to demonstrate they are licensed in another state, we can usually compare those qualifications with Nevada to see if they are substantially similar.

SENATOR HARDY:

Original documents are sometimes difficult to acquire.

SENATOR SEEVERS GANSERT:

I understand acquiring an original document may be difficult. My concern is actually confirming the good standing of the applicant. Are we a member of the compact for physicians mentioned by Senator Pickard?

ASSEMBLYWOMAN TITUS:

I do not believe we are a member of a legal compact. I am aware credentials of physicians nationwide can be researched online.

We can document through our boards that we are a licensed provider. We must be able to document an applicant's active, unrestricted license in another state before the applicant may be issued a provisional license in our State. If we are unable to document the active license, the boards will not be able to issue a provisional license.

SENATOR SEEVERS GANSERT:

The boards must be able to verify the applicant is in good standing. If there is a compact out there, it may be a good idea for us to consider becoming a member.

SENATOR OHRENSCHALL:

Are the provisions new requiring the Executive Directors of the boards to be licensed physicians or licensed osteopathic physicians? Is this a requirement with similar boards like dentistry? Do other boards require similar credentials rather than a lay person?

SENATOR HARDY:

I am not aware of the requirements for other similar boards.

Physicians in the Executive Director positions will have initiatives to secure additional practitioners to the State and will be able to operate as coaches. We also want to send a message that Nevada is creating a different reputation.

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SENATOR OHRENSCHALL:

Do you think the boards will be able to find physicians willing to give up their practice to serve as Executive Directors?

SENATOR HARDY:

Yes, we believe we will be able to find physicians to serve as the Executive Directors of both boards.

SENATOR OHRENSCHALL:

This bill includes language stating the mentor physician will not be subject to civil or criminal liability or professional discipline or otherwise deemed responsible for the actions of the provisional licensee.

Is this language also in statute? Is it standard to have this type of immunity for a mentor physician?

SENATOR PICKARD:

I am not aware of other statutory provisions.

The intention of this clause is to clarify the physician under the provisional license is not an agent or employee of the mentor. The mentor's role is to provide guidance to the applicant regarding the rules of the *Nevada Revised Statutes* (NRS 630) and the medical practice acts therein. We want to avoid a presumed legal relationship with the applicant. If not included in legal considerations, the mentor physicians will be encouraged to work with the new applicants.

SENATOR OHRENSCHALL:

In most cases this should be fine. However, if a patient was harmed and the mentor physician was aware of problems relating to the new prospective physician, would the person harmed only be able to recover against the provisional licensee? Would the provisional licensee have their own malpractice insurance?

SENATOR PICKARD:

I am not positive if physicians are required to have malpractice insurance by the State; however, most physicians carry this type of insurance.

We are not exposing any patient to an unusual level of risk in the provisions of this bill. All rules regarding physicians code of conduct apply in Nevada. Our goal is to allow physicians, in good standing to practice medicine during the application process. We wish to attract physicians with stellar records to come to Nevada and serve our residents.

SENATOR OHRENSCHALL:

Would the Nevada medical boards know if a physician in another state received disciplinary action but did not lose his or her license? If so, would that preclude them from this program?

SENATOR PICKARD:

I am not sure and will allow Assemblywoman Titus to speak to this question. We are happy to add provisions to this bill to address this issue.

CHAIR SPEARMAN:

In 2015, the Legislature passed the interstate compact. It is codified in NRS 244 and S.B. No. 251 of the 78th Session. Under those provisions, disciplinary action would be under the international medical licensing compact. An amendment that refers back to this may cover some of the issues we are working through today.

ASSEMBLYWOMAN TITUS:

In answer to Senator Ohrenschall's question, during my tenure on the Board of Medical Examiners we were notified of complaints filed. We want to ensure the citizens of Nevada are protected. If there was a disciplinary case against a physician in another state, the Board of Medical Examiners would be aware and could take appropriate action.

SENATOR HARDY:

In answer to Senator Ohrenschall's question, please refer to S.B. 259, section 1, subsection 5. The language refers to one of the options of the provisional licensee to act as a mentor to a resident during their required 60 hours of work. The omission of criminal liability refers to the mentor of a resident. The resident has liability coverage under the program they are enrolled in.



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CHAIR SPEARMAN:

Senator Pickard, please refer to NRS 629A.100, which is the Interstate Medical Licensure Compact. Article 4 references the Designation of State of Principal License, Article 7 references Renewal and Continued Participation and Article 8 references the Coordinated Information System. Adding this as an amendment will clarify your work.

Have you made provisions for military spouses? I do not see any language in the bill that would prohibit physician spouses of military personnel from applying for provisional licenses. However, I am concerned spouses with medical backgrounds may not be aware of employment opportunities. Will you add military personnel and track outreach?

SENATOR PICKARD:

We are happy to add this language and outreach to the military.

SENATOR HARDY:

Active duty physicians often have second jobs in addition to their military employment. Nellis Air Force Base is trying to open a trauma center and we would like those physicians to be able to practice in downtown Las Vegas.

SENATOR BROOKS:

In section 2 of S.B. 259 the Board of Medical Examiners or the State Board of Osteopathic Medicine is directed to employ a physician as the Executive Director. Are there any current statutes prohibiting a physician from being the Executive Director?

SENATOR PICKARD:

*Nevada Revised Statute* 622.220 addresses this issue. An executive director may not be a licensee of the regulatory body.

CHAIR SPEARMAN:

Will those come forward who are in support of S.B. 259?

JOAN HALL (President, Nevada Rural Hospital Partners):

Our members are in support of S.B. 259 as it would increase access to care for our residents in rural Nevada.

We often have physicians tell us it is difficult to acquire a medical license in Nevada. The licensing boards tell us the delays often concern original documentation, as well as some of the same reasons discussed earlier in this hearing. This bill would provide the State with additional practicing physicians.

CHAIR SPEARMAN:

Will those come forward who are in opposition of S.B. 259?

TOM CLARK (Board of Medical Examiners):

I am presenting on behalf of the Board of Medical Examiners and we are in opposition to S.B. 259. I am joined by Jasmine Mehta, Deputy Executive Director of the Board of Medical Examiners. Ms. Mehta will review sections 1 and 2 of the bill.

JASMINE MEHTA, J.D. (Deputy Executive Director, Board of Medical Examiners)

The Legislature has determined it is public policy of this State to protect the public by ensuring only competent physicians are licensed to practice in Nevada. This bill would have the unintended consequence of creating an exception to the usual licensing process. This process is designed to vet the applicants and ensure they are legitimate and competent to practice medicine in this State.

The provisional license does not address pending disciplinary or malpractice actions. Pending actions are discovered in our current application process. We are also concerned the sponsoring physician has no responsibility for the conduct of the sponsored physician.

The provisional license should have an expiration date and on expiration the provisional license lapses. This provision would be similar to an incomplete application for licensure.

The provisional license should not become a property right, subject to due process requirements of notice. As proposed, the Board is required to issue a license once the applicant has a provisional license for six months.

To meet the requirement for the license, the applicant must complete the required 60 hours of service and be free of any acts that constitute grounds for disciplinary action. If a complaint was filed against a physician with a provisional license, the Board of Medical Examiners would be required to investigate the complaint and hold a hearing.

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MR. CLARK:

Please refer to my written testimony ([Exhibit C](#)). For these reasons, we stand in opposition to S.B. 259.

SUSAN FISHER (State Board of Osteopathic Medicine):

The State Board of Osteopathic Medicine is governed under NRS 633. Our Board is addressed in sections 7 and 8 of S.B. 259; we object to section 8 of this bill.

Licensing happens very quickly because we are an important member of the interstate compact. Currently, 27 states are in the compact and another 6 states are considering legislation at this time.

We do not see a need for this bill because we are able to issue licenses in a prompt time frame. Along with the Board of Medical Examiners, we are in opposition to S.B. 259.

ROCKY PRABHU, M.D. (President, Board of Medical Examiners):

I am the President of the Board of Medical Examiners and have practiced medicine in Nevada since 1979. Along with the State Board of Medical Examiners, I am in opposition to S.B. 259. Thank you for allowing me to share critical thinking today on this important public health issue. I have presented written testimony ([Exhibit D](#)) and Licensee Data ([Exhibit E](#)).

CHARLES LAWTON, M.D.:

I am an example of a qualified physician who has been unable to get licensed in Nevada. I am board certified in critical care and anesthesia and I have seven years of training.

I served as the Co-Director of the Intensive Care Unit (ICU) and Director of Anesthesia for Critical Care and Liver Transplantation for the University of Colorado. I went on to become a Director of ICU in a private practice setting in Colorado.

I relocated to Utah where I practiced medicine for 19 years. I have done research in acute respiratory distress syndrome (ARDS) and was principal investigator of the ARDS network.

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I have been asked by Summerlin Hospital to participate in their anesthesia training program. I am unable to participate as I am not able to secure a medical license in this State.

I have spent two years trying to acquire a medical license in Nevada. Even though I was board certified in anesthesia, Nevada requires direct communication from the training program. The hospital where I received my training was destroyed; therefore, direct communication was not possible.

I have been refused a seating with the Board of Medical Examiners and I am no longer licensed nor trying to obtain a medical license in Nevada.

In summary, Nevada is one of the most difficult states to acquire a medical license. The board puts up barriers in spite of adequate substantiating information.

CHAIR SPEARMAN:  
Senator Pickard, do you have closing remarks?

SENATOR PICKARD:  
The provisional license in S.B. 259 only applies to physicians currently licensed in another state. This bill allows for highly qualified physicians to practice in Nevada while they are undergoing the application process.

CHAIR SPEARMAN:  
We will close the hearing on S.B. 259 and open the work session on S. B. 90.

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

CESAR MELGAREJO (Committee Policy Analyst):  
I have a work session document ([Exhibit F](#)) that explains S. B. 90 and 3 proposed amendments. A conceptual amendment was submitted by Chair Spearman which deletes all sections relating to requiring health insurance plans to include coverage of hearing aids for children. Jared Busker, Associate Director, Children's Advocacy Alliance, proposed two conceptual amendments.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 90.

SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR SETTELMAYER:

I appreciated the original bill regarding hearing aids for children. I will support the bill at Committee, but do have concerns regarding the financial impact.

SENATOR SEEVERS GANSERT:

I also supported the hearing aid devices for children in the original bill. I will vote yes for the amended bill and assume this part will be re-referred to the Finance Committee.

CHAIR SPEARMAN:

Yes, this part will be re-referred to the Finance Committee.

SENATOR HARDY:

I agree with the comments from Senator Settelmeyer and Senator Seevers Gansert.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will open the work session on S.B.170.

**SENATE BILL 170**: Revises provisions relating to health care. (BDR 54-523)

MR. MELGAREJO:

I have a work session document ([Exhibit G](#)) which explains S. B. 170 sponsored by Senator Hardy. Two proposed amendments sponsored by Catherine O'Mara of the Nevada State Medical Association are included in this document.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 170.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will open the work session on S.B. 219.

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

MR. MELGAREJO:

I have a work session document ([Exhibit H](#)) which explains S. B. 219 sponsored by Senator Settlemeyer. Two proposed amendments, also sponsored by Senator Settlemeyer, are included in this document.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 219.

SENATOR SEEVERS GANSERT SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:

We will open the work session on S.B. 234.

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

MR. MELGAREJO:

I have a work session document ([Exhibit I](#)) which explains S. B. 234 sponsored by this Committee. Three conceptual amendments are proposed by Senator Ratti and included in this document.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 234.

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SENATOR SETTELMAYER:

I will second the motion on this bill, but do want to put on the record that the amendment proposed by Senator Ratti is significant and I would like to reserve my vote until I can fully review the bill and amendment.

CHAIR SPEARMAN:

I believe Senator Ratti proposed the amendments because Senator Hardy has sponsored a very similar bill. It did not make sense to have redundancy in bills.

SENATOR SEEVERS GANSERT:

I would also like to review the final amendment.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:  
We adjourn the meeting at 2:34 p.m.

RESPECTFULLY SUBMITTED:

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Kim Cadra-Nixon,  
Committee Secretary

APPROVED BY:

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Senator Pat Spearman, Chair

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



<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	4		Attendance Roster
S.B. 259	C	1	Tom Clark / Board of Medical Examiners	Written Testimony
S.B. 259	D	10	Rocky Prabhu / Board of Medical Examiners	Written Testimony
S.B. 259	E	1	Rocky Prabhu / Board of Medical Examiners	Licensee Data
S.B. 90	F	2	Cesar Melgarejo	Work Session Document
S.B. 170	G	2	Cesar Melgarejo	Work Session Document
S.B. 219	H	2	Cesar Melgarejo	Work Session Document
S.B. 234	I	1	Cesar Melgarejo	Work Session Document