

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

**Eightieth Session  
April 29, 2019**

The Senate Committee on Commerce and Labor was called to order by Vice Chair Marilyn Dondero Loop at 1:39 p.m. on Monday, April 29, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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 Marilyn Dondero Loop, Vice Chair  
Senator Nicole J. Cannizzaro  
Senator Chris Brooks  
Senator Joseph P. Hardy  
Senator James A. Settlemeyer  
Senator Heidi Seevers Gansert

**COMMITTEE MEMBERS ABSENT:**

Senator Pat Spearman, Chair (Excused)

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Margi A. Grein, Executive Officer, Nevada State Contractors Board  
Kerrie Kramer, National Association of Industrial and Office Properties, Northern Nevada and Southern Nevada Chapters  
Gary Milliken, Nevada Contractors Association  
Bill Stanley, Southern Nevada Building Trades Unions  
Jim Werbeckes, President, Kids' Chance of Nevada  
Liz MacMenamin, Retail Association of Nevada

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Valerie Padovani, American Property Casualty Insurance Association  
Jason Jaeger, President, Chiropractic Physicians' Board of Nevada  
Louis Ling, Board Counsel, Chiropractic Physicians' Board of Nevada  
Dan Musgrove, Chiropractic Physicians' Board of Nevada  
Marlene Lockard, Nevada Chiropractic Association

VICE CHAIR DONDERO LOOP:

I will open the hearing on Assembly Bill (A.B.) 25.

**ASSEMBLY BILL 25 (1st Reprint)**: Makes various changes to provisions governing contractors. (BDR 54-234)

MARGI A. GREIN (Executive Officer, Nevada State Contractors Board):

I have had the pleasure of serving on Nevada's Occupational Licensing Consortium Team for the past two years. Through this involvement, I have had the opportunity to learn about several initiatives and recommendations from across the Nation relative to licensing by endorsement and reducing barriers to licensure. The Nevada State Contractors Board makes a continuous effort each year to identify areas that could be made more efficient and implement changes that improve services for our customers. Assembly Bill 25 is an extension of these efforts and seeks to reduce barriers to licensure, improve portability of licensure and address other housekeeping matters.

We worked with members of the Legislature to amend the Board's original language to address concerns that were raised during the hearing of the bill before the Assembly Committee on Commerce and Labor. I believe the language before you today reflects a positive outcome of these discussions.

I will walk you through the amended bill.

Section 1 of A.B. 25 will provide authority for the Board to delegate application denial hearings to a hearing officer, administrative law judge or panel. This provision will increase the frequency and effectiveness of the hearing process and give applicants a more timely appeal process.

Discussion from the Assembly Committee on Commerce and Labor led to the amended language requiring the Board to adopt regulations concerning the qualifications of our hearing officers. Although these qualifications are not

formalized into regulation, the Board has relied upon guidelines established by the National Judicial College, which include but are not limited to:

- Being licensed and authorized to practice law under the laws of the State of Nevada.
- Having at least five years' experience as a licensed attorney preparing for, participating in or reviewing formal hearings or trials involving litigation and/or administrative law at the federal, State or local level.
- Having at least five years' experience as a licensed attorney with experience in construction law, contractor licensing law and bankruptcy law.
- Requiring compliance with the rules of professional conduct established by the State Bar of Nevada.

Compensation is determined by the terms of the contract. Hearing officers are required to comply with laws governing attorneys, ethics laws and all applicable Nevada laws.

Section 2 of the bill seeks to allow consideration of work experience beyond the 10-year timeframe to 15 years immediately preceding the date of the filing of the license application.

Section 3 of the bill removes the provisions of *Nevada Revised Statutes* (NRS) 624.264, subsections 3 and 4, that require a licensee to undergo a financial review each year for the first two years of licensure. This provision was added as a measure to monitor residential contractors during their first two years of licensure. While this requirement was well-intended, we have found it has not led to increased public protection or meaningful outcomes as expected. Instead, it has served as a costly and time-consuming burden for both licensees and the Board.

To help illustrate this point, I will note that during the past 5 years, just over 4,000 licensees have been subject to the financial review provision, which requires submittal of a financial statement prepared by a CPA. Over 98 percent of these reviews are routinely approved. Only about 1.6 percent of the cases resulted in some type of action against the licensee, primarily based on a failure to timely respond. None of these cases involved a harmed party. Furthermore,

the Board already has the statutory authority under NRS 624.263, subsection 5, and NRS 624.283, subsection 3, to require a licensee to establish financial responsibility at any time.

I would like to emphasize that removing the financial review requirement does not impact public safety. Financial reviews are still conducted any time disciplinary action is to be taken, or if information is provided to the Board that warrants a request of financial status of the applicant, such as filing for bankruptcy.

Section 4 of the bill expands the timeframe for a licensee to remain on inactive status from 5 years to 8 years. The change to an even-numbered year more appropriately aligns with the Board's biennial renewal period.

Section 5 of the bill provides for the waiver of any late penalties for a licensee whose license expires while the licensee is on active duty as a member of the armed forces or National Guard.

Section 6 of the bill removes references to outdated technology such as beepers and paging devices.

KERRIE KRAMER (National Association of Industrial and Office Properties, Northern Nevada and Southern Nevada Chapters):  
We are here in support of A.B. 25. We appreciate the Board for bringing the bill.

GARY MILLIKEN (Nevada Contractors Association):  
We worked with the sponsor of the bill and other interested parties in getting this bill into the form it is today. We support A.B. 25 as written.

BILL STANLEY (Southern Nevada Building Trades Unions):  
We thank the sponsor for bringing this bill and working with all the interested parties to get it right. We support A.B. 25.

VICE CHAIR DONDERO LOOP:  
I will close the hearing on A.B. 25 and open the hearing on A.B. 27.

**ASSEMBLY BILL 27 (1st Reprint)**: Revises provisions governing cease and desist orders issued by the State Contractors' Board. (BDR 54-240)

Ms. GREIN:

Assembly Bill 27 was introduced to conform the issuance of a cease and desist order to the Board's process for issuing an administrative citation. This change sought to provide greater due process rights to individuals being served a cease and desist order by affording them a procedure to appeal the order.

Following testimony at a hearing of the Assembly Committee on Commerce and Labor, the Board worked extensively with Assemblyman Skip Daly and interested parties to amend the Board's language to address concerns raised in the hearing. The language in the bill's current form includes best practices being used in California and Arizona, and it has been drafted in a way that is administratively possible for the Board to implement.

Section 1, subsection 2 of the bill outlines a process for the Board to follow when issuing a cease and desist order, including a requirement to return to the job site after the order has been issued to confirm that it is being obeyed.

Section 1, subsection 3 of the bill provides the Board with options for handling noncompliance with a cease and desist order, including pursuing criminal prosecution.

Section 1, subsection 4 directs the Board to issue an administrative citation when a person complies with a cease and desist order. It also permits the Board, at its discretion, to require the person to submit an application for licensure within a reasonable period.

Section 1, subsections 5 and 6 provide criteria for assessing the minimum and maximum fines allowed when issuing an administrative citation pursuant to section 1.

Section 1, subsections 7 and 8 provide a process for the person served a cease and desist order to appeal the decision within 15 business days of receiving the order.

Section 1, subsection 9 authorizes the Board, when evaluating an application for licensure, to take into consideration an applicant's compliance with a cease and desist order, any criminal conviction for failure to comply with a cease and desist order and payment of any fines or costs imposed as a result of a cease and desist order.

Assembly Bill 27 in its current form supports the Board's intent to encourage those acting unlawfully to become licensed under NRS 624, while also giving the Board more authority in seeking prosecution for repetitive unlicensed activities that pose a threat to the public's safety and welfare.

SENATOR BROOKS:

How many instances of this do you have on a yearly basis?

Ms. GREIN:

We receive approximately 3,000 complaints per year, and 1,500 of those are against unlicensed people. If we find a violation, we issue a cease and desist order on the majority of those.

SENATOR SEEVERS GANSERT:

Section 1, subsection 6 lists reasons requiring the Board to impose the maximum fine. What is the maximum amount?

Ms. GREIN:

I believe the maximum is \$50,000 per violation under current law.

VICE CHAIR DONDERO LOOP:

How do you recover fines? Do you recover most of them?

Ms. GREIN:

Our goal is to try to get unlicensed contractors licensed, especially if they are first-time offenders and want to comply. We have a good recovery rate. If they do not comply with the citation, they would be prohibited from becoming licensed, and we turn those over to the State for collection after a certain amount of time.

VICE CHAIR DONDERO LOOP:

I find some humor in the fact that the penalty for not paying a fine for being unlicensed is they are not going to get a license. They did not have one before, so they probably do not care. How do we make them care about getting licensed?

Ms. GREIN:

The fine ranges from \$1,000 to \$50,000. We impose the maximum fine under certain circumstances: if the project costs more than \$50,000, the contractor

causes harm to a senior citizen or a vulnerable person or contractors are repeat offenders with severe violations. Some of these companies come from out of the State and perform work on major projects without having a license. In some of those cases, it was just an oversight; they may have been from a state that does not require licensed contractors. But when they work in Nevada, they have to comply with Nevada laws.

VICE CHAIR DONDERO LOOP:

Is the general contractor responsible to make sure their workers are licensed?

Ms. GREIN:

Yes. However, sometimes it is the general contractor who is unlicensed.

SENATOR SEEVERS GANSERT:

To return to my earlier questions, section 1, subsection 6 of the bill says the Board "shall" impose the maximum fine under some circumstances. It seems that the Board should be given some discretion so it could give higher fines for some violations than others, or if the violator both caused an elderly person to be injured and was a repeat offender. How often are you in this situation? How frequently does it happen that someone commits all of the offenses listed in subsection 6? Is it typical that only one of those things happens, or is it usually more than one?

Ms. GREIN:

Most of the unlicensed contractor activity we see is in small homeowner projects. However, with the large projects, I can think of more than six or seven in the past year that have been large commercial construction projects with unlicensed contractors. As the law stands now, we would issue the maximum penalty. We also have the ability to seek criminal charges through the district attorney's office. This bill will allow us to handle these situations administratively until they meet a certain level of violation.

MR. MILLIKEN:

We are in favor of A.B. 27 as written. We spent a long time working with the sponsor and other parties to get the bill where it is today.

MR. STANLEY:

We too have worked long hours with the bill's sponsor and support the bill as currently drafted.

I draw your attention to section 1, subsection 5 of the bill. We worked hard on this language. For those who found themselves having difficulty passing the test, we inserted language that the Board would assist these individuals in becoming licensed. We are interested in compliance rather than in fines. The language indicates that if people who are cited for not being licensed meet this criteria, the contractor who hired them would not be fined. At the same time, we will still hold contractors responsible for becoming licensed. If they do not, then fines would be imposed for the first offense. If folks continue to break the law, we believe the penalty should be increased, and the stakeholders agreed.

VICE CHAIR DONDERO LOOP:

I will close the hearing on A.B. 27 and open the hearing on A.B. 29.

**ASSEMBLY BILL 29 (1st Reprint)**: Revises provisions relating to contractors and construction projects. (BDR 54-241)

MS. GREIN:

Currently, Nevada law limits the work of a general building contractor to projects in which they are acting as the prime contractor. It also prohibits one general building contractor from hiring another. Assembly Bill 29 seeks to amend NRS 624.215 to permit more than one general building contractor on a project, under certain conditions.

After hearing the testimony during the hearing on this bill in the Assembly Committee on Commerce and Labor, we worked extensively with the interested parties to address concerns related to the proper role of general building contractors and specialty contractors. The amended bill before you today is the result of those cooperative efforts.

Section 1 of the bill adds subsection 5, which allows a general engineering contractor who is acting as a prime contractor to hire not more than one general building contractor to provide any work, materials or equipment on a single construction project.

Section 1, subsection 6 was added to allow a general building contractor to provide management and counseling services on a construction project for a professional fee. In this capacity, a general building contractor may not hire more than one general building contractor to provide work, materials or equipment on a single construction project.



Section 1, subsections 7 and 8 were added to provide clarifying language regarding certain limitations and requirements under these circumstances. Specifically, subsection 7 notes that not more than one general building contractor can provide management and consulting services and not more than one general building contractor can provide work, materials or equipment on a single construction project.

Subsection 8 requires that "each construction project must have one, but not more than one, prime contractor" who is licensed and responsible for the work, materials and equipment, unless the work for the construction project or the person providing the work for the construction project is exempt under NRS 624.031.

Subsection 10 was added to define "prime contractor."

Collectively, these changes will address the needs of large complex projects that require more than one general building contractor for proper oversight and management, while at the same time ensuring we do not take away opportunities from specialty contractors.

MR. MILLIKEN:

We are in support of A.B. 29. We worked long hours with the sponsor and other interested parties to reach this point.

MS. KRAMER:

We too support the bill.

MR. STANLEY:

We are in support of this bill and worked hard on it. We want to thank the bill's sponsor for working with us to clarify this language, specifically the language regarding the prime contractors, so those of us who work in the industry know who is responsible for the activities on that job site. We believe this language will go a long way to help folks understand and resolve grievances when they occur on the job site.

VICE CHAIR DONDERO LOOP:

I will close the hearing on A.B. 29 and open the hearing on A.B. 455.

**ASSEMBLY BILL 455 (1st Reprint)**: Makes various changes relating to families of injured workers. (BDR 53-1102)

JIM WERBECKES (President, Kids' Chance of Nevada):

Kids' Chance of Nevada is an affiliate of Kids' Chance of America. We are a nonprofit organization that provides college and technical scholarships to children who have had a parent either killed or severely injured in a workplace accident.

The first thing I learned when I joined this group is that raising money for this cause is very easy. Finding kids to give the scholarships to is very difficult. In the past two years, we have had three outstanding, bright women provide scholarships of \$5,000 a year, one at the University of Nevada, Reno, one at the University of Nevada, Las Vegas, and one at the College of Southern Nevada. We have reached out to every major insurance company, the self-insured associations, the Nevada Justice Association, the defense bar, construction associations and trucking associations to help us try to find kids. However, we have had little success and only have three kids on scholarships at the moment.

The Division of Industrial Relations (DIR), Department of Business and Industry, has all the information about children who qualify for these scholarships in Nevada. I reached out to them late last year to see if they could send information about Kids' Chance of Nevada to those who would qualify for a scholarship. The DIR was very receptive but indicated it does not have the authority to send this information out. That is what brings us here today.

Section 1, subsection 9, paragraph (b), subparagraphs (1) and (2) were added by Assemblywoman Maggie Carlton. She wanted to make sure this bill was not used for anything but providing information to and from a nonprofit organization and telling kids and families about these scholarships.

The guiding principle of Kids' Chance is, "More money for more kids!" I am hoping this bill will provide the opportunity to give more kids a chance at a scholarship.

SENATOR BROOKS:

How many qualified kids do you think there are out there in Nevada?

MR. WERBECKES:

I would say there are probably hundreds. We have quite a few workplace fatalities every year. We are looking for kids who may be in grade school today. We put them in our database, and when they become eligible for college, we will reach back out to parents or guardians to offer the scholarship. It is \$5,000 a year for either technical school or college. Nationally, Kids' Chance has given over 8,500 scholarships, about \$30 million worth.

VICE CHAIR DONDERO LOOP:

How do the kids find out about your scholarships?

MR. WERBECKES:

We are going out to the insurance carriers. I work for Employers Insurance, and we have a lot of old claims. We have gone through our database and sent out information to all of those folks. I sent out letters to 37 kids, and out of that I got one response.

VICE CHAIR DONDERO LOOP:

Have you tried reaching out to high school counselors?

MR. WERBECKES:

That came up at our last board meeting.

SENATOR SEEVERS GANSERT:

Section 1, subsection 9, paragraph (b), subparagraph (2) refers to "nonprofit entities." Are you aware of any other nonprofits in your situation, where they want to provide benefits or services to this group of people?

MR. WERBECKES:

No. I am not aware of any others.

LIZ MACMENAMIN (Retail Association of Nevada):

The Retail Association of Nevada supports A.B. 455. I also sit on the board of Kids' Chance of Nevada. My free time is limited, but I looked at this group and decided it was something I wanted to give my time to.

The Retail Association of Nevada has a workers' compensation program in place, and we have seen that when a workplace accident happens, it is devastating to the family. It especially impacts the children. This organization is

able to fulfill dreams for children who cannot reach their educational potential without financial help.

Assembly Bill 455 allows the DIR to notify families of benefits they may not have been aware of. We strongly urge your support for this bill and invite you to visit the Kids' Chance website to see examples of what this program is doing for students across the Nation.

VALERIE PADOVANI (American Property Casualty Insurance Association):  
We are in support of this bill. I have a letter of support ([Exhibit C](#)) from the organization I represent. I echo Ms. MacMenamin's comments. We appreciate the work Kids' Chance is doing and urge you to support A.B. 455.

VICE CHAIR DONDERO LOOP:

I will close the hearing on A.B. 455 and open the hearing on A.B. 457.

**ASSEMBLY BILL 457 (1st Reprint)**: Revises provisions governing chiropractic physicians and chiropractor's assistants. (BDR 54-933)

JASON JAEGER (President, Chiropractic Physicians' Board of Nevada):  
I have written testimony ([Exhibit D](#)) describing the goal of A.B. 457 and walking through each provision. It also gives a quick summary of the need for the proposed amendment we are requesting ([Exhibit E](#)).

SENATOR HARDY:

Section 10 of the bill seems to offer immunity to those accused of unprofessional conduct. How do you define that? It seems to me to be a broad immunity.

LOUIS LING (Board Counsel, Chiropractic Physicians' Board of Nevada):  
"Unprofessional conduct" is defined in NRS 634.018. We are looking at the things you have told us to hold these licensees responsible for.

This section provides that those who initiate or testify in an investigation are immune from civil action for the testimony they might provide in a hearing. That is part of existing statute. This part of the bill is here to remove the terms "gross malpractice" and "repeated malpractice" because we no longer use those terms in the definition of unprofessional conduct. We are harmonizing language and taking out terms we no longer use.

VICE CHAIR DONDERO LOOP:

Would you give me some background on the phrase "properly trained" in [Exhibit E](#)? What does it mean?

DR. JAEGER:

This is language we have discussed with the State Board of Oriental Medicine and other boards. "Properly trained" refers to coursework followed by competencies or examinations done. The coursework must be vetted by the Chiropractic Physicians' Board and reach a certain number of hours.

SENATOR SETTELMAYER:

I appreciate the amendment. The requirement that practitioners have 100 hours of training is phenomenal. We had another bill on this topic in this Committee, [Senate Bill \(S.B.\) 355](#), that only required them to feel good about their level of competency.

[SENATE BILL 355](#): Revises provisions relating to certain regulatory bodies which administer occupational licensing. (BDR 54-856)

DAN MUSGROVE (Chiropractic Physicians' Board of Nevada):

I appreciate Senator Settelmeyer's comments. We took to heart the discussions we had with him and other senators. We have been working with the State Board of Oriental Medicine since the interim to talk about what direction we wanted to go with this modality. It is very important to us that those who are using this modality are trained and have the proper skill set, and that they move forward in the best interests of the patient. We did not want to enter the fray on [S.B. 355](#) and thought it was important to bring it in our own bill so we could discuss it separately, as well as dealing specifically with chiropractors.

SENATOR SETTELMAYER:

I also appreciate the fact that you followed the process and came to us with questions rather than just taking a stab at it.

VICE CHAIR DONDERO LOOP:

In earlier testimony, Dr. Jaeger stated that chiropractors were asked by patients to perform dry needling. Is this something that has been requested a lot? Do the chiropractors want to do it because patients ask for it or because they think it will be better for patients? Give me some background on that.

DR. JAEGER:

There is a growing trend in health care for providers to work together across disciplines in what is being called a multi-modal approach. Research is coming out now that this combination of multiple treatments tends to help the patients best. The evidence supports it, and the general public in Nevada is requesting it.

VICE CHAIR DONDERO LOOP:

Where does one go to acquire the 100 hours of training mentioned in A.B. 457? Is it offered here in Nevada or elsewhere?

DR. JAEGER:

Chiropractic doctors who wish to do this continuing education can attend seminars either in Nevada or around the Nation. These seminars must be approved by the Nevada Board for them to be considered accredited.

MARLENE LOCKARD (Nevada Chiropractic Association):  
We strongly support A.B. 457 and the amendment.

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VICE CHAIR DONDERO LOOP:

I will close the hearing on A.B. 457. Is there any public comment? Hearing none, I will adjourn at 2:29 p.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Marilyn Dondero Loop, Vice Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
A.B. 455	C	1	Valerie Padovani / American Property Casualty Insurance Association	Letter of Support
A.B. 457	D	4	Jason Jaeger / Chiropractic Physicians' Board of Nevada	Written testimony
A.B. 457	E	1	Jason Jaeger / Chiropractic Physicians' Board of Nevada	Proposed amendment