

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Eighty-First Session  
May 5, 2021**

The Committee on Commerce and Labor was called to order by Chair Sandra Jauregui at 1:04 p.m. on Wednesday, May 5, 2021, Online and in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/81st2021](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Sandra Jauregui, Chair  
Assemblywoman Maggie Carlton, Vice Chair  
Assemblywoman Venicia Considine  
Assemblywoman Jill Dickman  
Assemblywoman Bea Duran  
Assemblyman Edgar Flores  
Assemblywoman Melissa Hardy  
Assemblywoman Heidi Kasama  
Assemblywoman Susie Martinez  
Assemblywoman Elaine Marzola  
Assemblyman P.K. O'Neill  
Assemblywoman Jill Tolles

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Jason Frierson (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Chris Brooks, Senate District No. 3  
Senator Pete Goicoechea, Senate District No. 19  
Senator Heidi Seevers Gansert, Senate District No. 15

**STAFF MEMBERS PRESENT:**

Marjorie Paslov-Thomas, Committee Policy Analyst  
Sam Quast, Committee Counsel  
Terri McBride, Committee Manager



Julie Axelson, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Timothy Geswein, Board Counsel, State Contractors' Board  
Margi A. Grein, Executive Officer, State Contractors' Board  
Sara Birmingham, Senior Director, State Policy, West, Solar Energy Industries Association  
Stephen Lassiter, Senior Manager, Public Policy, Sunrun  
Valerie Cauhape Haskin, Coordinator, Rural Regional Behavioral Health Policy Board  
Helen Foley, representing FirstMed Health and Wellness Center, Las Vegas, Nevada  
Sarah Adler, representing Vitality Unlimited, Elko, Nevada; and New Frontier Treatment Center, Fallon, Nevada  
Lana Robards, Executive Director, New Frontier Treatment Center, Fallon, Nevada  
Ester Quilici, Chief Executive Officer and Chief Operations Officer, Vitality Unlimited, Elko, Nevada  
Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors  
Molly Halligan, Chair, Public Policy Committee, Nevada Association for Behavior Analysis  
Brigid Fronapfel, Ph.D., Chair, Board of Applied Behavior Analysis  
Steven Cohen, Private Citizen, Las Vegas, Nevada  
Kerri Milyko, Ph.D., Private Citizen, Reno, Nevada

**Chair Jauregui:**

[Roll was called.] We have four bills on our agenda today. I will be taking them in order, with the exception of Senate Bill 303 (1st Reprint). With that, I will invite Senator Brooks to join us, and I will open the hearing on Senate Bill 303 (1st Reprint).

**Senate Bill 303 (1st Reprint): Revises provisions relating to professions. (BDR 54-669)**

**Senator Chris Brooks, Senate District No. 3:**

Today, I will be presenting Senate Bill 303 (1st Reprint). Over 20 years ago, I started one of the first solar electric companies in the country, and the first one here in Nevada. I installed the first net-metered system in Nevada and have owned a solar net-metered home for nearly that entire time. Restoring the rooftop solar industry and providing Nevadans with ways to create their own energy was one of the reasons I wanted to become a legislator.

Since we and this Committee fully restored residential rooftop solar through Assembly Bill 405 of the 79th Session, the demand has skyrocketed. With that increased demand has come the increase of bad actors in that industry. In 2017, the Legislature also put in place many consumer protections that have become a model for the rest of the nation, but more needs to be done to protect consumers.

I am sure most of this Committee have been approached by salespeople, been called or received text messages, have been bombarded with online ads, and have had their mailbox full of advertising for solar. Many of these people and companies are unlicensed and are misrepresenting themselves to Nevada's consumers. Some have posed as government agencies or even the electric utility. Some have even referenced the law that we passed in this Committee to say that Nevada law requires you to get their product. Many even claim free energy in nonexistent state rebates. I had two young men come to my door right after the 2017 Legislative Session to tell me all about this law that required me to get solar. I invited them in for a cup of coffee to hear all about it. I quickly got on the phone with the Bureau of Consumer Protection, Office of the Attorney General.

In addition to deceptive advertising, some of these companies are taking Nevadans' money in the form of huge deposits and never performing the work. Senate Bill 303 (1st Reprint) aims to stop these practices and protect consumers. The majority of residential rooftop solar companies in Nevada are ethical companies that provide a high-quality product. I appreciate all the help they have provided in crafting this language. I worked very closely with the State Contractors' Board (NSCB), the Public Utilities Commission of Nevada (PUCN), and the Bureau of Consumer Protection while drafting this bill. This bill is based on a consensus with the NSCB, those other agencies, and the residential rooftop solar industry.

If it pleases the Chair, I would like to turn it over to Mr. Tim Geswein, the general counsel for the NSCB, to walk through some of the provisions of the bill. We also have the Executive Officer of the NSCB, Margi Grein.

**Timothy Geswein, Board Counsel, State Contractors' Board:**

I think it might be wiser if Executive Officer Grein spoke first. She has some overall comments that might help illuminate these matters.

**Margi A. Grein, Executive Officer, State Contractors' Board:**

I am here today to testify in support of S.B. 303 (R1), which aims to enhance protection for consumers engaged in the installation of residential solar systems. The NSCB has worked with Senator Brooks on the language of this bill and agrees this is an industry where additional safeguards are necessary.

Legislation passed in 2017 and 2019 has helped encourage the residential solar market with the highest number of solar installations being realized in 2019. According to the Solar Energy Industry Association (SEIA), there are currently more than 84 solar companies employing over 7,000 workers across Nevada. The increase in solar activity has led to consumer protection concerns regarding misleading sales practices, unrealized energy savings, financing and down payment practices, and related workmanship issues.

Since 2016, approximately 4 percent, or 331, of the licensed complaints received were against solar contractors. Of the 226 licenses revoked during this period, 21, or 9.2 percent, were solar contractors. The damage validated through the recovery fund process best illustrates the Board's concern for the public's welfare and safety. Since 2016, 275 residential

recovery fund claims have been awarded to homeowners, totaling over \$3.1 million. Of this amount, 174 of the claims were against solar contractors, totaling over \$767,000. This represents 63 percent of the total claims awarded and approximately 25 percent of the total awards paid. It is important to note that the total amount of awards would have been greater if not for the monetary limitations in place for the recovery fund. At issue in several cases is acceptance of large down payments, some even requesting full payment up front, as high as \$50,000, followed by project abandonment or substandard workmanship.

The language before you today closely aligns with the statutes and regulations adopted back in the 1990s and early 2000s when similar issues were noticed within the pool industry. It is our belief that by enhancing the requirements and expectations of contractors engaging in residential photovoltaic projects we will begin to see a noticeable decrease in the number of complaints being filed with our Board. Consumers will be afforded greater access to information before making their decisions. There will be more adequate protection with regard to financial options and down payment limitations, and they will proactively be made aware of their right to file a complaint with the NSCB in the event issues arise with their project.

Additionally, it will help to provide a more standardized contracting practice within the solar industry, allowing to hold the Board more accountable and ensuring consumers are treated fairly throughout the residential solar process. At this time, unless there are any questions, I would like to turn it over to Tim Geswein, to walk through the bill.

**Timothy Geswein:**

I want to address six areas to highlight regarding S.B. 303 (R1). Section 5 of the bill, in shorthand, defines what type of work is being addressed by the bill. Essentially, anyone who builds a residential solar photovoltaic system, or supervises such construction, will be subject to this statute. Accordingly, the definition was developed to allow Nevada homeowners to continue to seek information regarding solar photovoltaics without mandating that their education source be a Nevada contractor.

Section 7 of the bill requires anyone who builds a residential solar photovoltaic system to obtain the required building permits, to comply with the Board's statutes and regulations, and to meet the requirements imposed by the PUCN or by any electrical distribution system to which the residential solar photovoltaic system will interconnect. These requirements are important for compliance with Nevada's public policy goals as well as electrical system safety.

Section 9, subsection 2, of the bill outlines the requirements for construction contracts for residential solar photovoltaic systems. It is expected that this listing of information will reduce confusion by Nevada homeowners as a contract for residential solar photovoltaic systems.

Section 10 of the bill requires all advertisements and solicitations for work regarding residential solar photovoltaic systems to be truthful and not materially misleading. This section also requires the NSCB to create regulations regarding the solicitation or sale of contracts to perform this type of work.

Section 12 of S.B. 303 (R1) prohibits enforcement of a contract to construct a residential solar photovoltaic system if the homeowner does not agree to the financing, or if the homeowner rescinds the financing as allowed under the Truth in Lending Act.

Lastly, section 14 of S.B. 303 (R1) establishes that a violation of the Act will make the contractor subject to discipline, may be reported to the Office of the Attorney General's Bureau of Consumer Affairs, and provides ramifications from the unlawful construction of residential solar photovoltaic systems. That concludes my review of the highlights, and I would be happy to answer any questions.

**Chair Jauregui:**

Senator Brooks, do you have other copresenters?

**Senator Brooks:**

Just to make some brief statements from the solar industry, I have Sara Birmingham from the Solar Energy Industries Association (SEIA) and Mr. Stephen Lassiter from Sunrun, which is the largest solar company here in the state of Nevada.

**Sara Birmingham, Senior Director, State Policy, West, Solar Energy Industries Association:**

We are the national solar trade association, and I am here today testifying in support of S.B. 303 (R1). We have seen a lot of growth in the solar industry in Nevada, especially after the 2017 legislation that Senator Brooks referenced. That legislation really restored the market, and we want to ensure that growth in the solar industry happens in a responsible and ethical manner.

Residential solar relies on word of mouth for success, and consumers who understand what they are receiving are likely to have a positive experience. However, misleading claims and bad actors are going to poison those consumers' experiences with solar, and then the consumers are going to tell their family, friends, and neighbors. We really want to ensure that these bad actors do not dampen our industry. We appreciate Senator Brooks bringing this issue to the Legislature, and I think other states will be looking at this legislation as we move forward.

We at SEIA are strongly committed to consumer protection, and we are continually developing resources designed to safeguard customer rights and providing stakeholders access to a lot of relevant materials, such as an SEIA solar business code. We have also developed residential guides for consumers to look at so when they receive a bid, they will understand what they are looking at and can look at issues from an apples-to-apples comparison.

With all of the work we do at the National Solar Trade Association, it is really important that our efforts complement the hard work of legislators and regulators. We really appreciate the partnership we had with the NSCB and the Bureau of Consumer Protection on this bill. They have been very helpful in smoothing out any issues we did have. We really feel the bill is in a very good place. I am here today testifying in full support of the bill, and I am open for any questions.

**Stephen Lassiter, Senior Manager, Public Policy, Sunrun:**

Thank you for the opportunity to comment today on this important legislation, which Sunrun supports. As Senator Brooks mentioned, Sunrun is the largest residential solar company in the state of Nevada and also nationally. Our mission is to create a planet run by the sun. Our office warehouse and national training center is in Henderson, where we employ several hundred Nevadans. We have 1,500 customers across the state and more than half a million nationwide.

Because we have long-term relationships with our customers, their satisfaction and having a positive customer experience are critical to our success as a business. We definitely want the industry to have a positive reputation in this state and in every state and to be free of bad actors. Consumer protection is a key priority for our company, and for that reason we are pleased to support S.B. 303 (R1) and greatly appreciate the opportunity to have partnered with different state policy makers in its creation. That concludes my remarks, and thank you for allowing us to comment today.

**Senator Brooks:**

That is all I have for testimony, and I will answer any questions.

**Chair Jauregui:**

Are there any questions?

**Assemblywoman Considine:**

I think this is a great bill. I just want to make sure that the wording in section 5, subsection 1, paragraph (a), that all of the work that is done solar wise "on the customer's side of an electric meter" means it has to be attached to the meter. If I buy solar lights that I put in next to my driveway that are not attached to the meter, or something solar on my doghouse for a fan, that does not fall under this. These are for anything that is hooked up to the electric meter to the house?

**Senator Brooks:**

That is correct. If you look at section 4.7, the work applies to a "residential photovoltaic system," which is "a distributed generation system as that term is defined in *Nevada Revised Statutes* (NRS) 598.9804," which references back to the earlier piece of legislation that we were talking about. It is a solar electric system that creates electricity that is then tied into your electric distribution system. No, it would not be any standalone lighting, fans, or anything that was not creating electricity to go into the distribution system.

**Assemblywoman Considine:**

I just wanted to make sure they were still projects we could do.

**Assemblywoman Dickman:**

In section 8, subsection 2, is this something that is happening a lot, where a contractor has to be told to complete the work diligently and not refuse to perform it? It seems like common sense, but we have to say this in statute?

**Senator Brooks:**

Unfortunately, it is something that we have to say, not just in this industry, but in a lot of different industries. It has come to this industry where there are a lot of folks who come and take consumers' money and, generally, it is the consumers who are the most vulnerable, whether there is a language barrier or some sort of inability to read or discern the contracts. They take their money and do not do the work. Unfortunately, we do have to make it very explicit that they have to complete the work, and this is the manner by which they can contract it.

**Assemblywoman Dickman:**

I agree. It is sad that we have to do this. With this bill, will it be easier to prosecute those people?

**Senator Brooks:**

Absolutely. What this does is tie together the deceptive trade practices issues around the trade and the contracting license issues. It ties those together in statute, so if a contractor is working with a third party who is using deceptive trade practices to get a customer, that contractor then is responsible as well as that third party. Before, they were kind of seen in silos, so you could not go after one if one did the bad thing to the consumer or vice versa. This really kind of ties it together, so if somebody is representing themselves to you and can provide you with a solar product, at the end of the day all those involved in that party need to be part of that contract.

**Chair Jauregui:**

Assemblywoman Dickman, section 14 covers some of the violations of the provisions of this bill. I am going to jump in really quick because I have a question on the same section. I want to make sure I am reading it correctly. In section 8, subsection 2, it says they must "complete the work diligently and shall not refuse to perform any work agreed to in the contract for any 30-day period." That last part where it says, "shall not refuse to perform any work agreed to in the contract for any 30-day period" basically means they cannot go more than 30 days without performing any work, right? They have to perform work within 30-day periods.

**Senator Brooks:**

Yes, that is exactly what it means. What we saw were people signing contracts, taking deposits, and then be gone for unlimited amounts of time. "Work" does not mean it has to be completed. "Work" could be for the purposes of delivery of materials. There are stages to

every construction project. We want to make sure these folks are not disappearing on you and not coming back for months at a time. Unfortunately, that is another thing that is happening out there.

**Assemblywoman Tolles:**

I appreciate this legislation and the need for it. We have seen these practices abused by bad actors in the past. This is a little bit out of the scope, but in the past, you sponsored a solar bill, A.B. 405 of the 79th Session. I am curious to know how these two work together in conjunction.

**Senator Brooks:**

Thank you for helping me pass that bill in 2017. That bill tied the deceptive trade practices of the company and created a private right of action if those companies were having deceptive trade practices. This bill references back what exists in NRS Chapter 624 that governs contractors, and it ties it together with NRS Chapter 598 that governs deceptive trade practices. It marries those two together, so you cannot have one party come to your door saying, Hey, I can get you a solar system. Then the contractor shows up and says, I did not know anything about this. If they are representing to you that they represent a contractor, then the contractor, under NRS Chapters 624 and 598, should be held liable for any dishonest, unworkmanlike, or unethical behavior. This absolutely marries the contracting statutes to the deceptive trade practices when it comes to residential photovoltaic solar systems.

**Assemblywoman Tolles:**

I believe I saw that in section 14, subsection 1, paragraph (b), where it references NRS Chapter 598. I have a note here that it is also in section 8, subsection 5, as well. I thought this looked familiar, and I appreciate how it completed the puzzle. Thank you for explaining that for the benefit of the Committee.

**Senator Brooks:**

Thank you for the question, Assemblywoman Tolles. If we knew then what we know now.

**Assemblywoman Kasama:**

Section 9, subsection 2, paragraph (k), talks about the retroactive provisions. Could you explain how that might work since it is going back retroactively? There is a section that talks about the font size in the contract and if someone has already signed one. How do you see that working?

**Senator Brooks:**

I think I might have to refer to Mr. Geswein on that one. This is section 9, subsection 2, paragraph (k). Is that what we are looking at?

**Timothy Geswein:**

In section 9, subsection 2, paragraph (k), there is a provision regarding a reference back to contracts executed before October 1, 2021. That is regarding the schedule of payments.



If there was a payment established in a contract before that October 1, 2021 date, there is a way to morph those around. It gives the Board instruction on how to do that and for participants to the contract on how to do that as well.

**Assemblywoman Kasama:**

It only has to do with the payment schedule going back retroactively to make it in compliance with this bill?

**Timothy Geswein:**

Yes, as I read it. It is in regard to the schedule of payments, which in many of these situations is one of the most difficult aspects of the misunderstandings between the participants to the solar photovoltaic system contract and what is due when, when the benefits are going to be achieved, and those types of things.

**Chair Jauregui:**

I do want to say thank you for adding in section 9, subsection 4, paragraph (b), subparagraph (4). We heard a bill like this brought by Assemblywoman Considine about contracts and languages, so I just wanted to say thank you so much for adding that in if the contract is presented in a language other than what it is written in, they can request it to be written in the language it is presented in.

My question is on section 7, subsection 2. I need to make sure I am understanding this correctly where it says, "If a contractor performs work concerning a residential photovoltaic system . . . under the direction of a builder who is also the owner of the single-family residence . . . ." Is this referring to a builder, such as a development builder who is building a subdivision because they own the homes, or is this referring to an individual homeowner who also happens to be a builder? I know at the end of that, it kind of transfers all of the burden to the owner of the residence, saying that they must report the "names, licenses and information concerning any required bonds and insurance with respect to the contractors working on the work." Can you clarify whether it is the owner of a subdivision or the developer or is it an individual owner?

**Senator Brooks:**

I believe it refers to an owner/builder scenario where it is an individual owner who is acting as the prime contractor on his or her own project. I would defer to Mr. Geswein to make sure I am not wrong.

**Timothy Geswein:**

Senator Brooks is absolutely correct. Section 7, subsection 2, refers to what is colloquially known as the owner/builder exception, which is an exception in NRS 624.031, subsection 5. That allows the owner of a single-family residence to perform some work on the owner's own property. A residential solar photovoltaic system would be beyond the grasp of most ordinary homeowners as compared to a landscaping project or something like that where a permit would be required. Nonetheless, it is wise to include in the bill a provision that says, should the owner of the single-family residence undertake the project as an

owner/builder, he or she still has to meet these obligations regarding building permits, requirements of the Board, as well as the interconnect and PUCN requirements. That cannot be avoided by hiring a consultant or something like that. These obligations must be obeyed.

**Chair Jauregui:**

That fully answered my question. It is similar to when an owner/builder does a pool project. That brought everything back. Are there any other questions?

**Assemblywoman Kasama:**

I forgot I had another question. On page 7, which would be section 9, subsection 2, paragraph (l), where it says, "produce electricity provides for payment of a commission to a salesperson out of the contract price . . . the payment must be made on a pro rata basis . . . ." Why do we have that in here? I do not think there is any similar type of language for a salesperson for a car sale. When that car is sold and that person goes on a payment schedule for the car, the salesperson is paid the commission up front for putting the contract together. Here, this seems to be adding a lot of accounting paperwork for the salesperson's commission now for bringing the contract together and being paid based on the payments from the owner. I do not think any other industry is doing that. That seems a bit concerning to me.

**Senator Brooks:**

What we are seeing happening is similar to what happened to the pool industry in the 1990s, and that is why you will see a lot of this mirrors statutes in place for the pool industry. But you would have a salesperson say, For \$50,000 we can do a solar system for your house. Or they would say, For \$200 a month, you can have a solar system for your house. They would then require deposits from you, the consumer, and in the case of the \$50,000, they could require a contract from you and a deposit. We want to make sure the work was being delivered and work was being done. In the case of the \$200 a month, they are not getting any cash from you. They are getting you to sign on the dotted line for sometimes a high-interest, long-term financing deal or sometimes a power purchase agreement, lease, or any of these things. They are then going to take that and sell it to a financing company and a contractor. They are going to negotiate with this financing company and contractor. They will then get their money up front and be gone.

What this does is tie the salesperson to the performance of the contract. And with a salesperson—even if there is no money that changes hands immediately because it is going to be a zero money down, 4.99 percent forever deal—we want to make sure that until you get your product completed, nobody is getting all of their money. We also want to make sure that we are marrying those two business activities together because that is where we are seeing the most fraud.

**Assemblywoman Kasama:**

You said this mirrors the pool industry?

**Senator Brooks:**

I do not know if this provision exactly mirrors the pool industry, and Mr. Geswein or Ms. Grein could answer that. This is where that came from, and it is very similar to what had to be put in place in the 1990s because the same exact behavior was taking place.

**Assemblywoman Kasama:**

What section is that?

**Chair Jauregui:**

Ms. Grein and Mr. Geswein, if you do not have that handy, could you provide it to the committee manager to distribute it to the Committee? Assemblywoman Kasama, it looks like our committee counsel was able to find that. You can find it in NRS 624.290. Thank you, Mr. Quast.

At this time, I will move to testimony in support of S.B. 303 (R1). Is there anyone wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition to S.B. 303 (R1)? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.]

I do want to clarify something. I quickly spoke without reading correctly, and the chapter is actually NRS 624.940. I apologize for that. With that, seeing no closing remarks are necessary, I will close the hearing on S.B. 303 (R1). I will now open the hearing on Senate Bill 44.

**Senate Bill 44: Revises provisions governing behavioral health professionals. (BDR 54-428)**

**Senator Pete Goicoechea, Senate District No. 19:**

I am going to introduce Senate Bill 44. On the Senate side, we were up against the deadline. We attempted to adopt an amendment to it, but it did not get us where we needed to be. Working with Senator Spearman from the Senate Committee on Commerce and Labor, we agreed to pass the bill out of committee and send it to the Assembly.

I believe you should have a mock-up of an amendment [[Exhibit C](#)]. It should be on NELIS [Nevada Electronic Legislative Information System]. I will say one thing, and that is S.B. 44 is a phone book, and I am not going to attempt to walk through it. I do sit on the Rural Regional Behavioral Health Policy Board, and that is why I am involved in this. The bill will be presented by Valerie Cauhape Haskin, who is the coordinator of the Rural Regional Behavioral Health Policy Board. All I can say to this bill is that it is necessary and facilitates licensure for a broad gamut of drug counselors and therapists. We are trying to clean this up so we can shorten it, know what is required in the transcripts, and know how you can get a provisional license. We definitely know that across Nevada there is a need, especially dealing with behavioral health. With that, in the interest of time I would prefer for Ms. Cauhape Haskin to present S.B. 44.

**Valerie Cauhape Haskin, Coordinator, Rural Regional Behavioral Health Policy Board:**

I am going to share my PowerPoint presentation [[Exhibit D](#)].

**Chair Jauregui:**

With the PowerPoint [[Exhibit D](#)], can you stick to the highlights? We do have a heavy agenda today, and some members will need to leave to go to another committee. Can you do a high-level overview and maybe walk us through the amendment [[Exhibit C](#)]?

**Valerie Cauhape Haskin:**

I will try my best. I am presenting S.B. 44 today on behalf of the Rural Regional Behavioral Health Policy Board, which represents six rural counties, including Elko, Eureka, Humboldt, Lander, Pershing, and White Pine Counties. My board chair was unable to connect today, but he is on the line listening in.

For our goals for today, I would like to run through some of the behavioral health provider shortage issues that we experience here in Nevada; talk about the purpose of this bill and what the Board would like to accomplish with S.B. 44; run through the current language that is posted to NELIS; run through the amendment mock-up [[Exhibit C](#)]; and open it up for questions.

As you are aware, and you probably heard in previous committee meetings, there are too few licensed behavioral health professionals in Nevada. When we say behavioral health, what we want to clarify here is that we, for the purpose of this bill, are talking about mental health separately, substance use separately, and those two co-occurring. It has come to the attention of the Rural Regional Behavioral Health Policy Board, as well as being voiced by local stakeholders, that when experienced behavioral health providers move to Nevada, the process of their achieving licensure here in Nevada—which is called licensure by endorsement based on their previous education and experience—can sometimes take months and in some cases even years [page 3, [Exhibit D](#)]. Throughout 2020, we maintained contact with local stakeholders who indicated that the need for behavioral health providers really escalated during the COVID-19 pandemic.

While telehealth and other means of connecting consumers to providers has improved access to those existing providers, there are still simply not enough providers in Nevada to meet the current need. Also, there are some community members who may be experiencing behavioral health challenges for the first time ever, rather than those who are just falling out of stabilization from existing illness. It is likely that the needs for an increase in providers may last well after the pandemic is over.

This map [page 4] and the data presented over the next four slides are from the Tenth Edition of the *Nevada Rural Frontier Health Data Book* published by the Office of Statewide Initiatives at the University of Nevada, Reno's School of Medicine. This first map shows

areas within the state that have been designated by the U.S. Health Resources and Services Administration as shortage areas for mental health providers specifically. There are several different factors that go into this score, but as you can see from this map, almost the entire state falls as a high-need shortage area. While this bill is being put forward by the Rural Regional Behavioral Health Policy Board, it really does benefit the entire state.

The data in this graph [page 5] represents four different types of providers together as a whole: alcohol and drug counselors, licensed clinical alcohol and drug counselors, certified problem gambling counselors, and licensed alcohol and drug counselors. The data here and on the following slides is presented as the number of providers per 100,000 persons in the population, since that is the easiest way to compare the adequacy of local providers across counties of different sizes. As you can see, while most of our rural frontier counties have low numbers of providers, so does Clark County. A word of caution, however, with this type of data. In the counties with the smallest populations, you are going to see the greatest variety in the number of providers when using this per 100,000 population. Esmeralda County is a great example here. That 100 providers per 100,000 population is literally one person. If that person decided to move, retire, or otherwise no longer serve that county, that number would go to zero. You want to keep this in mind as we move forward into these next slides as well.

In this graph [page 6, [Exhibit D](#)], the number of marriage and family therapists is represented in blue, while the number of clinical professional counselors is presented in orange. Again, we see many counties without adequate coverage and some with no providers at all.

These deficits are further exacerbated when we look at the number of psychologists available [page 7]. Please note that the scale and y axis here is much different than the two previous graphs [pages 5 and 6, [Exhibit D](#)]. While Carson City and Washoe County appear to have comparably good access to psychologists, those higher numbers are actually the same as the lower numbers in previous graphs. We just have a much greater deficit of psychologists available in the state.

While the number of licensed clinical social workers available is somewhat better than other types of providers in Nevada, the disparities in Nevada are really continuous throughout [page 8].

As a means to fill gaps in all forms of health care during the COVID-19 pandemic, Governor Sisolak's Declaration of Emergency Directive 011 allows licensed medical and behavioral health providers from out of state to skip the majority of the licensing processes in order to begin serving Nevadans [page 9, [Exhibit D](#)]. With this directive, the process is undertaken by the behavioral health licensing boards to get these professionals to Nevada. Licensure by endorsement has gone from sometimes months to a matter of a few days. It can be done. Furthermore, I reached out to the four behavioral health licensing boards in January and asked them how many consumer complaints they have received against providers licensed

under them since April 1, 2020, and of those, how many providers were practicing here under the Governor's Directive 011. At that time, while they had received more complaints than normal, none of those complaints were regarding providers practicing under the emergency directive.

As 2020 marched on, and the time arose for the Rural Regional Behavioral Health Policy Board to build its bill draft request for the session, it was decided to address the behavioral health licensing boards by effecting *Nevada Revised Statutes* (NRS) to streamline processes for licensure by endorsement [page 10]. In other words, what could we do to keep the positive effects of Directive 011 in place long term? More specifically, how could we do that by increasing the number of behavioral health providers available to Nevadans in need of care?

Just as we have defined what we mean by behavioral health in this presentation, we also want to define which licensing boards would be affected by the bill. The boards affected by S.B. 44 include the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for Social Workers, and the Board of Examiners for Alcohol, Drug and Gambling Counselors [page 11, [Exhibit D](#)]. This is a big part of the reason why the bill is so large. It changes language in similar places for all four pieces in NRS. That is a lot of what creates the length.

Let us briefly walk through the process that was used to develop the bill [page 12]. My Board, my Board chair, and I worked throughout 2020 and into 2021 to build out the original concepts of the bill as well as to seek necessary revisions [page 13]. We did this by utilizing feedback from a large group of stakeholders to identify what parts of the original bill language needed to be amended to have the greatest benefit and impact, which is essentially the amendment [[Exhibit C](#)] that you will see today.

When all was said and done, we had a list of approximately 45 stakeholders, 25 to 35 who consistently showed up to meetings [page 14]. These stakeholders were from a broad variety of aspects of our behavioral health system in kind of a larger means. Each meeting was recorded and posted to YouTube so anyone who was not able to participate would have the opportunity to review its contents.

Now that we have gone through the background of the bill purpose and its development, let us go ahead and review the components [page 15]. As the bill language stands without any amendments, there are three main concepts included in the bill [page 16]. The first is the addition of a Licensed Master of Social Work (LMSW) licensure type to those offered by the Board of Examiners for Social Workers. Nevada is currently one of only five or so states that do not offer this type of licensure, and that makes it very difficult for the Board of Examiners for Social Workers to enter into interstate compacts for licensure reciprocity without having this licensure type.

While licensure by endorsement is great, licensure reciprocity through interstate compacts really expedites this process and helps improve communication as to the quality of providers. Furthermore, without offering an LMSW licensure, there are no professional designation differences for licensure between social workers who hold a bachelor's degree and those who hold a master's degree. Thus, the addition of the LMSW provides the opportunity for social workers who have taken that extra step to complete an improved advanced degree in social work to have that professional distinction. This language was developed by the Board of Examiners for Social Workers itself and also allows for current LSWs [Licensed Social Workers] licensed in Nevada who hold a master's degree to very quickly streamline over to the LMSW licensure type without submitting any further documentation if this bill is passed.

Second, the current language allows for a provisional license to be granted to new licensees and those who seek licensure by endorsement upon submission of their unofficial transcripts instead of the official transcripts [page 16, [Exhibit D](#)] while waiting for institutions to take care of this paperwork. Initial conversations led us to believe that this was one of the big holdups in the licensure processes. However, as you will see shortly, we are going to be amending [[Exhibit C](#)] this piece to have a greater impact.

Lastly, because specific mechanisms that were causing the delays in licensure by endorsements could not be pinpointed in larger work group meetings, the current bill language includes an interim study from the Interim Committee on Health Care to evaluate the processes of a licensing board to identify unnecessary barriers to licensure [page 16, [Exhibit D](#)]. This is also something that is being amended out [[Exhibit C](#)].

We brought back issues with the current language to our community group, and what we found was the result of the interim study would not have any effect of licensure processes until the next legislative session in 2023. There were a lot of people who voiced their concerns that this was simply too little, too late, and more immediate change was needed [page 17, [Exhibit D](#)]. Also, it came to light that with lags in issuance of official transcripts, it was only a major issue during COVID-19 and, ultimately, getting the results of fingerprints through background checks submitted back to the boards was something that was more of a long-term problem.

Additionally, the opportunity for new graduates wanting to complete their practice hours for licensure is something that affects all rural and frontier communities, essentially by the number of supervisors who are available to take them on [page 17]. I have personally tried to help connect some interns with supervisors, but this is a reoccurring issue that is experienced by my board members, other partner organizations, and many local residents. While this does not necessarily affect licensure by endorsement, it does affect the number of providers available to practice in rural communities, as interns often have to move to more urban parts of the state or out of the state entirely to complete their work to become fully licensed. It was requested that we look into what we could do to include this piece in our bill.



In early April, the Senate Committee on Commerce and Labor voted to amend and do pass S.B. 44 with the concepts as proposed during that work session [page 18, [Exhibit D](#)]. Unfortunately, the amendment itself had not been released on NELIS prior to the vote on the Senate floor. There had been some concerns previously, and it was even retracted, as Senator Goicoechea mentioned, and the bill was voted off the Senate floor. You should have the mock-up [[Exhibit C](#)] in front of you, and we will be going over that.

Let us run through these amendment concepts [[Exhibit C](#)]. First, my Board would like to remove the interim study on the licensing boards processes and on efficiency because there are no immediate changes from there [page 19, [Exhibit D](#)]. Instead, the Board wishes to revise the language in NRS for all four of the licensing boards regarding licensure by endorsement specifically. Effecting licensure by endorsement in this bill also achieves the goal of creating more immediate change rather than waiting until next session to effect licensure processes.

Next, the Board is proposing that the language regarding unofficial transcript submission be removed and replaced with language that provides for provisional licensure of providers pending the results of their fingerprint background check if still pending after 45 days [page 20, [Exhibit D](#)]. The reason for this is that it expedites the process and furthermore, the proposed language for licensure by endorsement already requires applicants to submit signed affidavits stating they have not been convicted of malpractice nor are they under current criminal investigation. Also, there is at least one licensing board affected here that does not currently have fingerprinting as a requirement in NRS, and this would help them codify this into their processes. It was also requested by members of the Senate Committee on Commerce and Labor that provisions be made to give alternative means for official transcript submission for providers whose schools have since closed or have been absorbed by other institutions. It is our understanding that this is something that is also allowed by other states.

At the beginning of each section of NRS regarding licensure by endorsement for each board, the current language states that each licensure board "may" grant licensure by endorsement to applicants given their qualifications rather than "shall." The Rural Regional Behavioral Health Policy Board would like to strengthen that language by amending "may" to "shall" [page 21, [Exhibit D](#)]. This creates licensure as the default choice if there are any questions.

Currently, at least three of the four licensing boards have explored remote supervision possibilities for interns. It is our understanding that the Board of Examiners for Social Workers has implemented this strategy on a part-time basis, and the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors was implementing remote supervision full-time when COVID-19 restrictions were put in place. The Board of Examiners for Alcohol, Drug and Gambling Counselors has also explored this option. However, at best, the provision of remote supervision options is only included in *Nevada Administrative Code* (NAC), not NRS. The Rural Regional Behavioral Health Policy Board would like to amend [[Exhibit C](#)] the bill to ensure that licensing boards must provide remote supervision options for interns [page 22, [Exhibit D](#)].



The Board would also like to amend the current bill language to provide a lower application fee for members of the Armed Forces, veterans, their spouses, and surviving spouses as a means to honor those who have served our country [page 23]. We believe it is unlikely that the licensing boards' income through collection of fees would be severely affected by the volume of applications submitted by qualified persons under this provision.

With proposed changes to licensure by endorsement, the Legislative Counsel Bureau staff noted that NRS could be streamlined by combining language regarding licensure by endorsement for both general population applicants as well as those who are members of the Armed Forces, veterans, spouses, and surviving spouses [page 24]. This change does not remove any benefits to licensure processes for applicants of a lot of groups but removes redundancy in the language as it would stand under this amendment [[Exhibit C](#)].

It was also asked in the Senate Commerce and Labor Committee that the affected licensing boards would be required to list crimes which would disqualify a potential applicant for licensure [page 25, [Exhibit D](#)]. It was decided that requiring licensing boards to list these crimes in regulation would allow the list to be updated as criminal law is updated and reformed.

Looking at this kind of 40,000-foot view of the original language versus what we would like to see in the amendment [[Exhibit C](#)], the bill would go from having three main components—the interim study, provisional licensure pending official transcripts, and the addition of the LMSW licensure type—to including seven components [page 26, [Exhibit D](#)]. These include revised licensure by endorsement processes; provisional licensure pending fingerprint results; alternative means of official transcript submission under certain circumstances; remote supervision options; reduced licensure by endorsement fees for service members, veterans, spouses, and surviving spouses; improving communication regarding disqualifying crimes; as well as the previous addition of the LMSW licensure type.

I tried to make that as brief as I could. I really appreciate your time, and please feel free to contact my Board chair, Fergus Laughridge, or me. With that, I will open it up for questions.

**Chair Jauregui:**

Senator Goicoechea, is there anyone else you would like to have give remarks?

**Senator Goicoechea:**

No, thank you. I think we need to push through this. We all have a tight schedule.

**Chair Jauregui:**

Are there any questions?

**Assemblywoman Carlton:**

I have a number of questions, but I think the most pressing question I have is, boards are there for public safety and to make sure appropriate people are licensed and we know who is practicing in this state. When you change the term from "may" to "shall," you are actually

cutting the knees off on the boards because then they do not have discretion to figure out if that is the right person who should be coming into the state. Yes, we all want to get more people into the state, but we do not want to make them have to license someone if there are background concerns or other concerns. By changing that "may" to "shall," you are limiting the authority of the boards to take the 360-degree view of that licensee to make sure there are not any issues. Their transcript may be great, and they may interview well, but you could find out there may have been a Medicaid fraud issue in the past. That would not fit within the scope of practice, but if they have committed Medicaid fraud, and this says you "shall" give them a license, then we might possibly have someone here in the state doing something we do not condone.

I have serious concerns whenever we put in the word "shall" because we are limiting the boards' discretion in making sure the appropriate people are licensed in the state. I would need more conversation about that because we have had problems in the past. If they are having problems in their home state, they will run to a state where they are sure that state will give them a license. If they read "shall" in here, they know you will have to give them a license. I have concerns that we are going to limit the boards' discretion if there is an issue with that particular provider. Did that topic come up?

**Senator Goicoechea:**

I know there was some dialogue between the "may" and "shall." I do not think that is a deal breaker either way if this Committee feels strongly about changing that. The applicant has to meet the requirements set forth in this section, which is that you do not have any violations. It is an alternative way of providing the transcript, and I realize that. Again, it should be acceptable. We thought we wrote enough protections in there to make sure they were comfortable at that point with issuing a license. Clearly, the intent of the bill is to expedite the licensure. Again, if that is a deal breaker, I do not think it is critical for our side whether it is "may" or "shall." I am sure the boards will do the best they can.

**Assemblywoman Carlton:**

Not everything that can impact public safety is actually within the scope of practice. There are other outlying things that could send up a red flag on a professional wanting to come into the state. I want to make sure we have that on the record, and the boards have the opportunity to take a look at that. Yes, we do want to get more professionals into this state, but the last thing we want to do is have the state put its faith and trust behind a professional who comes in and does harm to a senior, someone who is disabled, or someone in one of our more vulnerable populations. The whole idea behind licensing boards is to protect the public and not to help the profession become more profitable or have more clients. That is what an association is for. I want to make sure these boards have the opportunity that if there is a red flag, there is a way for them to say, We do not think this person should be in our state.

**Senator Goicoechea:**

We are more than willing to work with you on whatever is required.

**Assemblywoman Tolles:**

I do know it is a great, broad effort across the board to increase access to these types of individuals, as well as to reduce barriers to entry. I commend you for bringing this bill forward. I want to specifically touch on section 2.5, subsection 1, paragraph (d), in the amended version [[Exhibit C](#)], regarding "Prescribing lists of each crime for which a conviction disqualifies or may disqualify a person from obtaining a license from the Board . . . ."

This body passed Assembly Bill 319 of the 80th Session, which created a pathway for individuals who have some sort of criminal history to be able to petition a board ahead of time before pursuing their licensure to see if their particular crime might have a bearing on their ability to get a license. The reason we went that route versus putting a list of crimes on a website was because there are certain crimes that would be obvious to all, but it might open a door into issues, such as how long do you make that list; do you make that list arbitrarily longer than it needs to be; is it something that prohibits somebody on a case-by-case basis. For example, and this specifically came up in the process of that legislation last session, you have somebody who is an alcohol or gambling counselor who is 20 or 30 years sober, or something was in their past 20 or 30 years ago, and that actually helps to inform their practice and makes them an even more effective counselor in that space. If you put that on a list on a website, and that applicant pulls up that list and says, Oh, I am out, we might arbitrarily lose somebody who could be a very effective professional in that space. Could you talk a little bit more about the reasoning behind adding that in this amendment [[Exhibit C](#)]?

**Senator Goicoechea:**

Again, I am not the sponsor of this bill, but I am just trying to help it get across the finish line.

**Chair Jauregui:**

We can go to Ms. Cauhape Haskin if you would like.

**Valerie Cauhape Haskin:**

The reason why we put this in was to piggyback on A.B. 319 of the 80th Session. Again, this was at the request of the Senate Commerce and Labor Committee. That specific question did come up. The reason why they requested to see this piece in the amendment [[Exhibit C](#)] was to ensure that before someone went to all the effort of completing the application process and submitting the licensure fees, they would have an idea as to whether or not they would even qualify or if they had disqualifying crimes. That is why we also decided to go with the listing in NAC rather than NRS, so there would be flexibility there. Again, we are definitely open to working on this piece as well.

**Assemblywoman Tolles:**

Perhaps we can follow up on that. I do think it might open up another can of worms that you are trying to avoid. We do have that process in place for them to petition privately versus putting an arbitrary list on a website.

**Chair Jauregui:**

I remember that bill from last session, and I agree. I think this might actually prevent someone from applying who might be eligible, and we are trying to expand the number of people who enter the field.

I do have a couple of questions. These might be better for Ms. Cauhape Haskin to answer. I noticed in here that we are adding new language to every single section about granting provisional licenses within 45 days if the background check does not come back within 45 days. Right now, how long is it taking to get a background check? What is the normal time frame? Does 45 days align with what other licensing boards have? How did you come up with that 45-day period?

**Valerie Cauhape Haskin:**

The 45-day period was already something that was in statute regarding when the boards would need to make a decision, so we just kept the 45 days. What is currently happening with fingerprints is that it is sometimes taking a couple of months, so not much further past that 45 days, but if it is two to three months, then we are looking at 90 days or 120 days. Again, with that language, also remember that the provisional licensure expires after the boards receive the background check results and are then able to make a decision whether or not to grant full licensure to the applicant or to revoke the licensure application.

**Chair Jauregui:**

I see you deleted the section where it is requiring the board to submit a report to the Legislative Committee on Health Care regarding the number of applicants you receive by endorsement and the number of people who are denied. Why are you choosing to no longer submit those reports?

**Valerie Cauhape Haskin:**

The purpose there was not to remove the reports that are already being submitted but to remove the interim study that was going to be done between the end of this session and 2023, and to close that out. If we need to refine that language further, we are open to that.

**Chair Jauregui:**

I have one more question. I know you created language for applicants to submit alternatives to transcripts if the school they went to is no longer there and they are unable to obtain them. How often does that actually happen? Have you even had an applicant who was unable to secure his or her transcript because the school the applicant went to no longer exists?

**Valerie Cauhape Haskin:**

That is an excellent question. That was something that was brought up in Senate Commerce and Labor as something that had occurred. It sounded like more in a broad medical community and was a concern of some of the members in that committee. At this time, it is unknown if that is really something that is a major issue. Again, I think my Board is willing to work with the Committee on that.

**Assemblywoman Carlton:**

I think I would like to get into the fingerprints a little bit more. This has been an issue for a very long time. It is something we have tried to fix. I think we have really made strides in the state with the Central Repository [Central Repository for Nevada Records of Criminal History] moving forward and giving them the resources in being able to get that turnaround addressed. I believe the biggest stumbling block, and correct me if I am wrong, is the FBI [Federal Bureau of Investigation] background check. That is the one that takes the longest. Do you know, and maybe one of the boards can answer this, about where we are with the Central Repository turnaround time versus the turnaround time on the FBI background check?

**Valerie Cauhape Haskin:**

At this time, I do not have that specific information. However, I can look for that and get back to you.

**Assemblywoman Carlton:**

I believe the Central Repository does a quick turnaround. With the drop-dead date of 45 days—and keeping in mind Central Repository is only within the borders of our state and does not tell us that person's actions in another state—if the Central Repository report comes back absolutely clean and the person has not moved to the state yet, that may not necessarily be the guiding light you need. That FBI background check may be really where you need to be.

I am also curious about the Armed Forces provision. If they are an active member of the Armed Forces, they would not need to submit their fingerprints for verification of who they are. Is it because they have already been fingerprinted, and we would not need to? If there had been something that happened from the time they were fingerprinted, such as a DUI [driving under the influence] charge, a drug charge, or a sexual assault charge in that time frame, then we would not know that because we would be taking a set of fingerprints that may be out of date, and we may not have been able to run a true record on that person. What was the thought process behind that?

**Valerie Cauhape Haskin:**

As we worked with Senator Spearman on this piece, as she is a veteran herself, she was able to provide some clarity as to some of the processes related to fingerprinting of active duty military. Active duty military are actually not fingerprinted just once, from what she mentioned, but it happens on a fairly regular basis and is associated with their security

clearance. If someone were to commit a crime, that would show up on their record. It is something that would be related to their discharge paperwork or be on their military record. I believe that documentation is also a requirement to be licensed with that lower rate if they are going to apply as a service member or veteran. They need to include their record.

**Assemblywoman Carlton:**

I guess I am just a little confused. If they do not have to submit their fingerprints, how do we do the background check and know what has happened in their recent past? There may be more to this the way the military does it than I understand. I look forward to getting clarification on that. I just want the boards to be able to make sure they know who this person is and what his or her actual history is.

In the presentation, Senator Goicoechea, this mock-up [\[Exhibit C\]](#) we are working on was not part of what passed in the Senate. This is being proposed as an amendment here in this Committee right now, correct?

**Senator Goicoechea:**

Yes. We were up against a deadline, and we went ahead and moved S.B. 44 out without any amendment to it. It was agreed we would try to bring an amendment on this side. This is the conception.

**Assemblywoman Carlton:**

I just wanted to make sure I understood the process. We all know what those deadline days were like.

**Chair Jauregui:**

Are there any other questions? [There were none.] I will now move to testimony in support of S.B. 44. Is there anyone wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in neutral?

**Helen Foley, representing FirstMed Health and Wellness Center, Las Vegas, Nevada:**

FirstMed is an FQHC [federally qualified health center] in southern Nevada. As I was listening to this testimony, I really think we need many more mental health therapists in Nevada. However, the most important thing is that background check. In listening to Assemblywoman Carlton raise the concern about individuals who had not been adequately screened for that, we do not believe they should receive provisional licensure until that is done. We want them to go to an accredited university, and we want them to have the supervised hours, but we must have that background check. We would love to work with the sponsor and the Committee as you continue to deliberate on this issue.

**Chair Jauregui:**

Is there anyone else wishing to testify in neutral? [There was no one.] Senator Goicoechea, would you like to give any closing remarks?

**Senator Goicoechea:**

It has been a heavy lift getting here, and I do not know why it is as thick as it is, trying to accomplish something that seems somewhat simple, but it needs to be right. I appreciate it, and I look forward to working with you and the Committee to see if we can get it right before another deadline date.

**Chair Jauregui:**

With that, I will close the hearing on S.B. 44. The next item on our agenda is Senate Bill 181 (1st Reprint). I will open the hearing on Senate Bill 181 (1st Reprint).

**Senate Bill 181 (1st Reprint): Revises provisions relating to alcohol and drug counselors. (BDR 54-558)**

**Senator Pete Goicoechea, Senate District No. 19:**

This is a bill I brought forward on behalf of a number of constituents and providers. The one who will present the bill will be Ms. Sarah Adler. She has done the work on getting to this point. It is a very simple bill compared to what we just dealt with. Again, it is pretty much the same arena. We are looking for providers, and this does shorten up the academic hours. With that, I will turn it over to Ms. Adler and look forward to any questions.

**Sarah Adler, representing Vitality Unlimited, Elko, Nevada; and New Frontier Treatment Center, Fallon, Nevada:**

These are two long-serving rural behavioral health and substance abuse disorder treatment organizations. Vitality Unlimited is based in Elko and New Frontier Treatment Center is based in Fallon. Here is the front page of our presentation [[Exhibit E](#)], which I will move quickly through since you have a strong background in this work. We present to you in Senate Bill 181 (1st Reprint) a very important and large step toward a very necessary solution, which is increasing the treatment workforce that is licensed to treat Nevadans suffering from substance use disorder (SUD) and co-occurring disorders.

As you will learn here, we have an inequity in terms of the hours of supervision required for behavioral health licenses versus substance use disorder licenses, and we are asking for your assistance. You all are very familiar with the broad classification of substance use disorder. You are very familiar, and sadly we all are, with the incidence of opioid abuse in Nevada. Opioids have garnered our attention these last ten years. While it appears that opioid deaths peaked in 2016, preliminary data from 2020 is not good [page 3, [Exhibit E](#)].

These two charts [page 4, [Exhibit E](#)] show us a 2.9 percent increase in all drug-related emergency department visits from 2019 to 2020, and a 26 percent increase in opioid-related emergency visits. As you know, opioids are not the only substances Nevadans are struggling with. On this chart [page 5], which I appreciate the Office of Analytics [Department of Health and Human Services] providing to me, we see opioids, heroin, marijuana and hallucinogens, cocaine, and methamphetamine (meth). I myself have a long history of working in rural Nevada and tribal Nevada, and when you talk with our tribal communities, they say, Absolutely, opioids are a very significant problem, but have you forgotten about

meth? Meth is a very significant problem still in Nevada. Drugs are not the only addiction that we must be able to treat in Nevada. Alcohol addiction is also a very significant problem to a debilitating extent. This chart [page 6] shows you inpatient admissions, and the blue line is alcohol admissions, so it is a very large number that we need to be able to treat here in Nevada.

You are well aware of mental health disorders. The three classifications of mental health disorders are presented to you here [page 7]. Fortunately, in Nevada we have done a lot of work in mental health in the past several years. You are also familiar with the term co-occurring disorders [page 8], which means that an individual has both a mental illness and a substance use addiction. For some, the mental illness is primary, and for others, the substance use disorder is primary.

As you have just heard from my friend, Ms. Cauhape Haskin, we have four behavioral health licensed professions that I am going to touch on today. Here are our four *Nevada Revised Statutes* (NRS) chapters [page 9, [Exhibit E](#)]. I want to speak specifically to those who are licensed by the Board of Examiners for Alcohol, Drug and Gambling Counselors. The shorthand for licensed alcohol and drug counselor is LADC. This is someone who is required in statute to have a master's level of education and right now, 4,000 hours of supervised internship [page 10]. This LADC treats individuals with substance use disorders or the SUD component of an individual with co-occurring disorder. Their partner is a licensed clinical alcohol and drug counselor (LCADC). This, to me, is the gold standard that we need a gazillion more of throughout Nevada, and very much so in rural Nevada. This, too, is a person with a master's level of education, and that master's must have required coursework in clinical mental health. This person is qualified to treat individuals with substance use disorder and individuals with co-occurring disorder. With one licensed professional, we are able to support an individual who has both of those disorders, which is a large percentage of our Nevadans in need.

Here is the good news, thanks in large part to many of you who have served a long time. The stigma around mental illness is lessening [page 11, [Exhibit E](#)]. This is fantastic. My sister has lived heroically with bipolar disorder for 40 years, and she is a person who brought me into NAMI [National Alliance on Mental Illness] and into this work. Here is the bad news. It is great that we have many more licensed clinical social workers, for example. The bad news is we are losing ground in alcohol and drug counselors and LCADCs [page 11]. It is relative to the other three behavioral health professionals. We have a shortage of professionals to deal with the very large amount of substance use disorders and co-occurring disorders we are experiencing in Nevada.

Here is my chart [page 12, [Exhibit E](#)] that you look across the licenses. This shows 2014 on the bottom of the chart and 2020 on the top of the chart. In 2014, LADCs were 19 percent of our behavior health workforce, and now they are 10 percent. The good news is our gold standard, the LCADCs, have increased, but we are talking about a single-digit increase, which is still not enough.



What is a barrier we can do something about here with S.B. 181 (R1)? Where does this barrier come from? In my work with my clients, their estimation is—and other looks show this to be the case—it is a part of historical origins. We are Nevada, and we realized we needed to treat problem gambling a long time ago. We created a Board of Examiners for Alcohol, Drug and Gambling Counselors. People who are able to enter this field were able to enter with a relatively little amount of education, some supervision, and an internship, and were able to get licensure. That was in—let us call it—our "olden days." These other three behavioral health professions developed in more recent times, so they require a master's and 3,000 hours of supervised internship [page 13]. We have in historical statute, if you will, where LADCs and LCADCs now require the master's level of education but still require 4,000 hours of supervised internship. That is an equity issue with a lot of impact. One thousand hours more of supervised internship means six months more of forgone pay and pay that you earn at an intern level rather than at a licensed professional level [page 14]. That is at least \$9,000. It is 1,000 more hours and forgone pay.

The good news again, with the greater recognition of mental illness and 1,000 hours faster to licensure, it has brought more attention to our behavioral health licenses and attracting more folks who are growing up in Nevada or in other states and are this kind of caring individual willing to do this work they are being attracted to for behavioral health licensers [page 14, [Exhibit E](#)]. When we attract fewer interns and we have fewer supervisors available to support this work, it results in more folks who have SUDs and co-occurring disorders who are untreated or waiting for treatment. Of course, this results in very large, individual, family, governmental, and societal costs to not be able to treat our Nevadans who need this specific kind of trained professional.

Very quickly, S.B. 181 (R1) makes just a few changes [page 15]. Looking first at LCADCs, it takes the 4,000 hours of supervised internship down to 3,000 hours, and it requires that 1,500 of those hours be with individuals with mental illness and SUD. The Nevada Psychiatric Association stepped forward and said they really wanted the majority of these hours to be working with individuals with mental illness because that is very complex. That is 1,500 hours with individuals who have mental illness and SUD and at least 1,000 hours with individuals with alcohol and other SUDs. The remaining 500 hours could be with either type of individuals depending on where you are doing your internship and what kinds of clients they are primarily treating. Those are our changes in section 1 of the bill.

In section 2, we take the 4,000 hours for LADC interns and put that at 3,000 hours with individuals with diagnoses of SUD [page 15]. Because so many folks do have co-occurring disorder, an LADC intern can earn supervision hours working with someone with co-occurring disorder, but they are only allowed to treat the SUD portion of that person's illness. That is a safeguard there.

We also increased the flexibility of who the supervisor of the LCADC intern is because they are working with individuals on all pieces of the spectrum. We allow one of these other behavioral health professionals with one of the other behavioral health licenses to supervise the mental illness portion of the LCADC's internship. There is one other fix. Fortunately in

statute, talking about licensure by endorsement and how do we move people forward expeditiously, there is an alternative track to licensure for LADC and LCADC. If you are already a licensed clinical social worker, marriage and family therapist (MFT), or clinical professional counselor (CPC), with just six months of appropriate supervision you may add the LCADC or LADC to your license [page 16, [Exhibit E](#)]. When someone did this positive change to statute, they left clinical professional counselor off that alternative track. We are adding CPC. If you are already a CPC, with six months more supervision you can become an LCADC. We think that was an oversight.

In summary, S.B. 181 (R1) updates an historical statute to resolve an equity issue between SUD treatment and behavioral health treatment, and helps us develop these critically needed professions [page 17, [Exhibit E](#)]. I am joined today by Ester Quilici of Vitality Unlimited, Lana Robards of New Frontier, and Agata Gawronski, who is the Executive Director of the Board of Examiners for Alcohol, Drug and Gambling Counselors, to assist me in answering your questions.

[[Exhibit F](#) was submitted but not discussed and will become part of the record.]

**Chair Jauregui:**

Are there any questions?

**Assemblywoman Carlton:**

I am a little confused when I am looking at the mock-up because it is showing under section 1, subsection 1, paragraph (c), changing 2,000 to 3,000 hours. You were talking about 4,000 coming back down to 3,000. I am not quite sure exactly how that all fits together. We will just need to clarify that, since the 2,000 is out.

One of the concerns I have is mandating the hours in mental health because not all substance abuse is tied to mental health, and not all mental health has substance abuse. Yet we are going to mandate that someone do 1,500 hours in something that they may not really be focusing on. They are focusing strictly on substance abuse, yet in order to have that title, we are mandating the mental health side. All good mental health training is great and wonderful, but that does not necessarily cross over every single time. I am curious how you came to that number of hours. I think it is good to be familiar with it in case you encounter it with a patient, but not necessarily have it be dominant if you are focused on being a substance abuse counselor and not a mental health counselor.

**Sarah Adler:**

I very much appreciate the question. When we originally drafted the bill, we had 1,000 hours for mental illness and SUD, 1,000 hours in SUD, and 1,000 in either category so it could be responsive to the clients where you are doing your internship. Then the Nevada Psychiatric Association came to us and requested the change to 1,500 hours working with those individuals who are co-occurring because so many individuals do have co-occurring

disorders—and I know this from my own personal family history. What people will acknowledge is addiction. Alcohol is common in our society, and they will acknowledge addiction. There really is an underlying mental illness. Very many of the people we are treating really do have co-occurring disorders. That is where the shift from 1,000 hours to 1,500 hours came from. It was a request by the Nevada Psychiatric Association.

**Assemblywoman Carlton:**

It was not the Board that was asking for, it was the Association that asked?

**Sarah Adler:**

Yes.

**Assemblywoman Carlton:**

That seems to be raising the bar a little bit on that one. On the second-to-last slide [page 16, [Exhibit E](#)], can you go back through the conversation about licensed clinical counselors? I helped write some of these statutes, and you said it might have been an oversight, but I do not believe it was an oversight. I believe there was an evaluation of education levels, and the line was drawn, and that particular profession ended up at a different level as far as education went. If that educational level has changed, that would be something we would want to discuss. Which one did you say? I want to make sure because we went through them.

**Sarah Adler:**

I appreciate your raising this point. Senate Bill 37 of the 80th Session did quite a bit of work. As you know, CPCs and MFTs are licensed by the same board, and it did quite a bit of work on various qualifications of those two licenses and bringing them more in tandem. I would be glad to look back at S.B. 37 of the 80th Session and consult with you or the Committee on where we are with the licensure requirements for CPCs to see whether, in fact . . .

**Assemblywoman Carlton:**

And for the public's edification, what is CPC?

**Sarah Adler:**

It is clinical professional counselor.

**Assemblywoman Carlton:**

So, there is a CPC and the licensed professional counselor. There is a difference between the two. Is that correct?

**Sarah Adler:**

A CPC is the term for a licensed clinical professional counselor. That is a licensed behavioral health professional.

**Assemblywoman Carlton:**

If I remember correctly, and I am going back to Assemblywoman Sheila Leslie being in the building when we worked on marriage and family therapists years and years ago, that is where a number of the cutoff lines were. If those standards have changed, then I would like to be aware of that. There was a reason behind where the cutoff lines happened because we looked at education and a number of different components. As in the medical field, you have PA [physician assistant], LPN [licensed practical nurse], RN [registered nurse], and APRN [advanced practice registered nurse]. It is a medical team, so we want everyone to practice at the top of their license, but we also know that everyone has a license for a different set of criteria.

**Chair Jauregui:**

Are there any other questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 181 (R1)?

**Helen Foley, representing FirstMed Health and Wellness Center, Las Vegas, Nevada:**

I have to say that when Assemblywoman Carlton was in the Senate, I represented marriage and family therapists for about 25 years. As each new profession came on that dealt with any kind of mental health issue, and I hate to say this, but Senator Carlton was the "Queen of Boards." She helped create the boards and combine the boards. When problem gambling counselors came in line, they ended up going over with the alcohol and drug abuse counselors.

There was a woman by the name of Dorothy North, and I am sure Senator Goicoechea knew her well. She was quite a powerhouse around here. She ran some clinics in Elko, and they were drug and alcohol abuse clinics. She needed to legitimize that profession and raise those people up who had master's level degrees to that comparable level as other mental health professionals. Just because you have been working with alcoholics and were one in the past, that does not mean you have that level of experience or education to become a mental health professional.

We did our best in those days to try to create these laws. Some have changed, and many of them are deeply involved in mental health, and we need that. We have about 30 mental health professionals at FirstMed, and we see 1,200 patients every month, and it has only gotten stronger. It started with 1 October, and after this pandemic started, the need is tremendous.

It is a skewed system when the clinical alcohol and drug abuse counselors are required 4,000 hours when everyone else in the mental health field only needs 3,000. This needs to be corrected so we can incentivize people to have that dual type of licensure that the clinical alcohol and drug abuse counselors receive because they can deal with mental health issues, co-occurring disorders, as well as the substance and alcohol abuse. There may be some issues to tweak and fine tune here, but we strongly support this legislation so we can grow the industry of mental health professionals.

**Lana Robards, Executive Director, New Frontier Treatment Center, Fallon, Nevada:**

Thank you, Madam Chair, and members of the Committee for this opportunity to support S.B. 181 (R1). New Frontier has been providing services to Nevada, particularly rural Nevada, for 50 years this July. There are more Nevadans needing treatment, numbers far greater than we have seen before. Providers are getting harder to find and yet we need more to provide the services that families need. Recruitment in rural Nevada has always been difficult but getting harder with the lack of providers available.

Alcohol and drug counseling has a long history in Nevada, beginning when there were people in the field without a high level of education. As these clinicians and their licensing evolved, so did the educational requirements for each level of certification or licensure. Behavioral health licensing such as licensed clinical social workers are more recent, so clinical supervision hours required were developed commensurate with their education and require 3,000 hours of clinical supervision.

licensed alcohol and drug counselors (LADCs) and licensed clinical alcohol and drug counselors (LCADCs) also require a master's level of education, and that, I believe, should be taken into consideration when this Committee considers this bill.

New Frontier also operates a 28-bed residential detox and treatment facility. These individuals generally present with a debilitating addiction to alcohol and a wide range of drugs. Most suffer from co-occurring mental health and substance use disorders. Our focus at New Frontier has always been on the safety net of clients—men and women, young and old, and those clients on Medicaid without income. They are in residential with us for 30 to 45 days, during which time they work with our alcohol and drug counselors and our mental health therapists. Aftercare treatment is essential, and since the majority of our clients come from all over the state of Nevada and eventually return home, they will need licensed counselors to work with in all of rural Nevada.

New Frontier joins Vitality Unlimited as one of the first three providers in Nevada to become Certified Community Behavioral Health Clinics. As such, we provide a complete compendium of wraparound services to our co-occurring clients and their families. We need LADCs and LCADCs to carry out our mission of providing behavioral health services to all rural Nevadans. I am in support of this bill. We would respectfully appreciate the Committee's consideration.

**Ester Quilici, Chief Executive Officer and Chief Operations Officer, Vitality Unlimited, Elko, Nevada:**

I want to thank Ms. Foley for mentioning Dorothy North. I remember sitting down with Ms. North and helping her write the law that increased the backgrounds of the LADCs and LCADCs. It was really interesting that Ms. Foley brought Ms. North up again. She passed away about six years ago.

I have been with Vitality Unlimited since 1984. I have been an LADC for over 30 years. I also serve as a clinical supervisor for interns. Vitality's treatment centers are no longer just in Elko. We are located in various rural areas of Nevada and also in Las Vegas. Vitality Unlimited is a nonprofit, federally recognized 501(c)(3) corporation with a long, successful history of providing community services, including affordable housing, high-quality substance use disorder treatment, and access to behavioral health services. We, too, were founded in 1971 and are celebrating our fiftieth year of operation.

I would like to pause very briefly to say that the nonprofits in the state of Nevada had a birth from the public-private partnership that still exists today. The fed reached out and said, We would like to establish local bases to support alcohol and drug treatment. I remember seeing the original committee that signed the proclamation that they were part of the original group that did so. Ms. North came in, but without state financing and assistance, we would not be where we are today. That public-private partnership still exists. Thank goodness.

I urge passage of S.B. 181 (R1) because the state needs this bill. We are finding it difficult to add to our workforce. We have an aging workforce, and we have a workforce that has slowly become disinterested in one of the most extreme issues facing Nevada, and that is the SUD problems. We have a workforce I think we need to combine and make sure they have a background in substance use disorder treatment. We need to support this mental health specialty in conjunction with the mental health specialists. This specialty has receded nationally as we are moving toward more mental health specialists who sometimes, and many times, do not want to treat people with addictions. They say, refer to the specialists, to the LADCs and LCADCs.

Vitality Unlimited has tried to attract more clinicians by paying higher wages and improving the work environment. We have locations in Carson City, Elko, Dayton, Reno, Sun Valley, and an outreach office in Las Vegas. We think provisions of this bill will be good for business with the state of Nevada. If we can help Nevada improve our state's record in behavioral health, we will raise the state's national profile. Vitality Unlimited and New Frontier provide integrated services and complete behavioral health. This is important because we address the whole person. We are both in the behavioral health clinic model providers, and Vitality Center has three: Elko, Carson City, and Dayton. We want to remove barriers to mental health professionals coming into the state. We also want equity across the professions, and this bill moves us towards this goal.

I am also concerned about pay equity for substance abuse counselors in relation to colleagues in the mental health treatment. I welcome any questions.

[[Exhibit G](#) and [Exhibit H](#) are letters in support that were submitted but not discussed and will become part of the record.]

**Chair Jauregui:**

Is there anyone else wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in neutral on S.B. 181 (R1)?

**Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors:**

I am here to testify in neutral. I cannot support this officially because it was not discussed with my Board. However, I think it is very important that we are going to limit the hours for alcohol, drug, and gambling counselors and LCADCs to level the standards with other mental health providers. I definitely think that 4,000 hours is overkill at this point, especially if we have master's level professionals providing those services.

**Chair Jauregui:**

Since we have someone from the Board on the line, are there any questions? [There were none.] Is there anyone else wishing to testify in neutral? [There was no one.] Senator Goicoechea, would you like to give any closing remarks?

**Senator Goicoechea:**

I appreciate your consideration of the bill. I want to thank Ms. Quilici and Ms. Robards for the work they do in rural Nevada with their services. We will work with you, and hopefully we can get this bill passed.

**Chair Jauregui:**

With that, I will close the hearing in S.B. 181 (R1). I see that Senator Seevers Gansert has joined us, so I will open the hearing on Senate Bill 217 (1st Reprint), which is our last bill on the agenda.

**Senate Bill 217 (1st Reprint): Revises provisions related to applied behavior analysis. (BDR 54-533)**

**Senator Heidi Seevers Gansert, Senate District No. 15:**

Today, I am here to present Senate Bill 217 (1st Reprint). I am joined by Molly Halligan, who is the chair of the public policy committee for the Nevada Association for Behavior Analysis, and Dr. Brigid Fronapfel, who is the assistant research professor at the Nevada Center for Excellence in Disabilities and the current president of the Board of Applied Behavior Analysis.

In 2009, Nevada passed Assembly Bill 162 of the 75th Session that established health insurance funding for the treatment of autism spectrum disorders using applied behavior analysis. The licensure for these professionals was placed under the Board of Psychological Examiners at the time. If you fast-forward to 2017, I was asked by the applied behavior analysis community to bring forward legislation to create a board specifically for behavior



analysis. That was Senate Bill 286 of the 79th Session. The Board of Psychological Examiners already had a heavy workload, so the processing of licensure for behavior analysts was slow. At that time in 2017, we only had 40 registered behavior technicians (RBTs) licensed in the state, and RBTs are the individuals who work hand in hand with the children who are affected by autism.

With this new board, we were hoping to significantly increase the numbers of RBTs and also other providers who provide behavior analysis. When it was created, this new board needed some time to get up and running, so it was initially staffed by the Aging and Disability Services Division under the Department of Health and Human Services. Aging and Disability Services has provided the staffing to this new board since 2017.

Today, we have over 1,200 RBTs, and again, we were at 40 in 2017, we have 326 licensed behavior analysts, and 26 licensed assistant behavior analysts in the state. Creating this board and moving it out of the Board of Psychological Examiners really worked well.

The bill before you today, S.B. 217 (R1), transfers the responsibilities concerning the licensure and regulation of the practice of behavior analysis from Aging and Disability Services to the Board of Applied Behavior Analysis. As mentioned earlier, Aging and Disability Services has been providing support and staffing since it was formed, and now the board is ready to operate independently.

Because of the life of the bill, I asked the Legislative Counsel Bureau (LCB) to create a summary table [[Exhibit I](#)] that tells you what the different components are. You have this in your exhibits if you are able to look at those. What I thought I would do, instead of going through the bill page by page, is just highlight some of the major components and open it up for questions.

If you were to look at sections 12 through 18 [S.B. 217 (R1)], what that does is add assistant behavior analysts and RBTs to the definition of "provider of health care" in *Nevada Revised Statutes* (NRS). It subjects them to the same requirements as those professionals regulated by the boards. That is a big piece when you move them over to providers of health care.

Section 53 modifies the Board's membership to allow a behavior analyst to join the Board. There are different levels of analysts, so it opens up a slot for that professional. Section 58, subsection 3, is about background checks. I know you were talking about those earlier. In 2017 we, of course, required background checks for the various providers, but in 2019, we tried to streamline it. What was happening was that a national board licensed them and also the state licensed them. We tried to allow them to have one background check, but when that information went to the FBI [Federal Bureau of Investigation], they rejected it. They like a background check for each entity and for each licensure. This language reverts back to the original language we had, so they are required to get the background checks. Again, it was not the background checks, but it was how they were getting them and whether they were going to need to get two: one for the professional national board and one for the state board. That is what that does.



Sections 97 through 101 include the dates of transfer of funds and the substantive provisions. Earlier today, we also submitted a conceptual amendment [[Exhibit J](#)]. Originally, we were looking at October 1, 2021, to transfer all responsibilities to the Board, but the Board feels they are ready now to be able to take over those responsibilities. We do have two representatives from the Board with us. We have a conceptual amendment that changes the date to July 1, 2021, that we would appreciate your consideration. I would like to open it up for questions, either to me or to our representatives whom I introduced you to at the beginning.

**Chair Jauregui:**

Are there any questions? [There were none.] I am going to go ahead and ask a couple of questions. As I was reading through the bill, in several sections we are deleting the definition that is in this bill of a licensed assistant behavior analyst and referencing NRS 437.005. I noticed that the definitions are slightly different. Does that mean there were two different versions of this definition in statute, and we are now just going to reference NRS 437.005?

**Senator Seevers Gansert:**

I have to look up those specific examples. At the very beginning when we created the new board, we were also creating a separate licensure, a Nevada licensure. At the end, we did not need that because the national organization was able to register folks. Again, we were trying to increase the number, so I am not sure if Ms. Halligan or Ms. Fronapfel can answer that particular question. But there was a time where we had a Nevada-based licensure which did not really pan out, so we went to the national certifications.

**Chair Jauregui:**

The definitions are different. The one we are deleting is a licensed assistant behavior analyst, and now we are referencing assistant behavior analyst.

**Molly Halligan, Chair, Public Policy Committee, Nevada Association for Behavior Analysis:**

In NRS 437.050, it actually refers to the registered behavior technician.

**Chair Jauregui:**

I believe the reference is NRS 434.005.

**Molly Halligan:**

There should not be any change to the assistant behavior analyst. We had wanted to include the language "licensed" at one point, but for various reasons, we chose to leave the word "licensed" out.

**Chair Jauregui:**

I have another question. I know we are now requiring the Board to create an orientation program for any board members who are going to be joining the Board, and it must be completed within 60 days. I do not see it in here, and I am assuming it is, but I want to make

the record clear, will it be the responsibility of the Board to create that orientation? It is in section 44, page 48. Will it be the responsibility of the Board to create that training and what that training looks like?

**Senator Seevers Gansert:**

I will let Ms. Halligan or Dr. Fronapfel answer that question.

**Molly Halligan:**

Yes, the intention is that the Board will create that training just to ensure that all valid manuals, logs, and regulations have been adhered to by the new incoming members.

**Chair Jauregui:**

I think that just answered my second question to that. Ms. Halligan, you will not require it for the existing members. Will it just be the new members who would be required to go through the orientation?

**Molly Halligan:**

That is the intent, yes.

**Assemblywoman Carlton:**

As you are looking to transfer this out of Aging and Disability Services, and because they were providing the support staff, that would probably have made it more affordable for them. I do remember the conversation in 2017 because there were very few of them, and we did not think they could substantiate their own board, and they might end up biting off more than they could handle. Having it in Aging and Disability Services worked very well just to get them up and running. Now, as you are moving this from there to a fully-fledged board, how are the fees going to be dealt with as far as their budget goes? Will they be able to capture enough licensing fees that they should be able to stay self-supporting as we move forward? We have a couple of boards that are barely making it now, and we want to make sure we give them all the tools they need to succeed.

**Senator Seevers Gansert:**

The behavior analysts have been very thoughtful about this, so I am going to let them answer. They have been waiting four years to look towards this transfer. I mentioned some of the numbers earlier. We have gone from 40 RBTs to over 1,200, and we have 230-plus analysts, and so forth. I will go ahead and let them answer the fiscal questions, but the numbers have increased significantly. That is such a valid question because sometimes there are not enough folks in an industry to support a board.

**Brigid Fronapfel, Ph.D., Chair, Board of Applied Behavior Analysis:**

Thank you for the question, Assemblywoman Carlton. In answer, we have spent four years analyzing the data and numbers in relation to our fees and budget and comparing ourselves not only statewide but also nationally to other boards with similar makeup, numbers, and fee schedules. The data indicate that we will be able to sustain independently from this point on.

**Assemblywoman Carlton:**

Is your fee schedule in statute?

**Brigid Fronapfel:**

It is in our corresponding *Nevada Administrative Code*, not in NRS.

**Assemblywoman Carlton:**

When I was reading the opening statements on this, to have this board operate as other boards do, we typically put the fees in statutes. That way we know what the guidance is. We typically list the top end so if you need to work up, you can work up to it. That just gives a level of comfort to licensees to know that any fee changes that would have to happen would have to come back to the Legislature and could not be changed—and I do not want to say arbitrarily—but changed without review because we would not be reviewing those regulations. They would be in your administrative code. Is there an intent to put the fees in statute?

**Senator Seevers Gansert:**

I believe the original bill had the license fees in it. We can do a little research there because I know it was not an open door. As you know, we rarely, if ever, leave it totally uncapped. I think we probably had a structure. I just do not remember because it has been a couple of years. Because they are not changing anything, it is not in this legislation. We are not proposing a change for whatever the fee scheme is right now.

**Assemblywoman Carlton:**

Are the fees in the statute somewhere? If they are and are not changing, that is one thing. But if they are not in statute and you are going to a fully-fledged board, if we are going to operate like all the other boards in the state, those fees should be in statute. It would not be changing the fees; it would be making sure that they are noticed inside the statute. We can research that further.

**Senator Seevers Gansert:**

I think we just need to research it because I do not think it is completely open. I think they set them through code, but I am pretty sure we have maximums. Right now, the intent is not to raise the fees, but I understand because they are going on their own. We have had such a vast multiple of how they started or where they started as far as the numbers. I think that is part of the reason they feel comfortable going out on their own. They have been very thoughtful about analyzing the data to make sure they can afford to do it.

**Chair Jauregui:**

I have one more question before we go to testimony. In section 48, page 49, where it gives the definition of "practice of applied behavior analysis" and what it means, under subsection 2, it says, "The term does not include diagnosis, psychological testing, psychotherapy, cognitive therapy, psychoanalysis or counseling." Can you explain that section to me? I am a little bit confused why these would not be included, especially the counseling.

**Senator Seevers Gansert:**

I am going to let them answer. They are not counselors. This a lot of hands-on work with children.

**Molly Halligan:**

We do not fall under the category of counselors. We fall exclusively under the category of behavior analyst. As Senator Seevers Gansert has said, we primarily work with children with autism. We do work with other populations, but we do not provide counseling services.

**Chair Jauregui:**

You do not diagnose patients either?

**Molly Halligan:**

No, we do not. That is not within our scope.

**Chair Jauregui:**

Are there any other questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 217 (R1)?

**Steven Cohen, Private Citizen, Las Vegas, Nevada:**

I will keep this short and sweet. I want to say ditto.

**Kerri Milyko, Ph.D., Private Citizen, Reno, Nevada:**

I am a board-certified behavior analyst at the doctorate level. I am a licensed behavior analyst, and I am the former chair of the Board of Applied Behavior Analysis. I am the co-owner of The Learning Consultants, which is a behavioral health agency in Reno, Nevada. I would like to testify in support of this, as it brings protection from consumers and allows provisions for the advancement of the Board.

**Chair Jauregui:**

Is there anyone else wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition to S.B. 217 (R1)? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Senator Seevers Gansert, we do have another question for you before we go to your closing remarks.

**Assemblywoman Considine:**

I do not know if this is typical practice or not, but on the memo [[Exhibit I](#)], it refers to section 25 which says, "Allows the Board to grant a license to a limited-liability company." Is that typical of boards to grant licenses to LLCs [limited-liability companies], and how does that work in this situation?

**Senator Seevers Gansert:**

I am going to let one of our representatives answer that question because there may be individuals who are set up as an LLC. I am not quite sure.

**Chair Jauregui:**

We can always ask our committee counsel to chime in, too, if he knows with respect to other boards.

**Molly Halligan:**

I believe that is related to the definition of "health care provider." That was part of that language. I think we would have to defer to LCB on that.

**Chair Jauregui:**

I am going to go to our committee counsel, Mr. Quast.

**Sam Quast, Committee Counsel:**

Since this bill is moving NRS Chapter 437, the Board created another chapter through NRS Chapter 437, to an independent board regulated by NRS Title 54. What section 25 is

doing is aligning these provisions that allow for the licensure for a limited-liability company, just like any other board under NRS Titles 54, 55, or 56. That just makes it consistent with all the other boards.

**Chair Jauregui:**

Senator Seevers Gansert, would you like to give any closing remarks?

**Senator Seevers Gansert:**

I took a moment to look up the fees, and the fees are prescribed by regulation in NRS 437.140. "The Board shall prescribe, by regulation, fees for the issuance, renewal and reinstatement of a license or registration and any other services provided by the Division . . . ." It was a Division. "The Board shall ensure, to the extent practicable, that the amount of such fees is sufficient to pay the costs incurred by the Board and the Division under the provisions of this chapter, including, without limitation, the compensation of the Board . . . and does not exceed the amount necessary to pay those costs." They are supposed to align with the costs of the Board. Because the membership or licensure has increased greatly, they are confident they can cover the cost. We have not proposed to increase those fees, but you are right, they are in code and not in statute.

I would appreciate your support on this bill. Again, this Board has been in place for four years now, and we are extremely grateful to Aging and Disability Services for helping them start out. They are extremely well organized and brought this to me this time. They did wait not two years but four years to be able to go out on their own. I appreciate your consideration.

**Chair Jauregui:**

With that, I will close the hearing on S.B. 217 (R1). We have reached the last item on our agenda, which is public comment. Is there anyone wishing to give public comment? [There was no one.] Before we adjourn, are there any comments from the Committee members? [There were none.] We will be meeting this Friday, May 7, 2021. You should have received the agenda. Remember to please note the start time.

We are adjourned [at 3:22 p.m.].

RESPECTFULLY SUBMITTED:

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Julie Axelson  
Committee Secretary

APPROVED BY:

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Assemblywoman Sandra Jauregui, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is proposed amendment No. 3325 to Senate Bill 44, dated April 29, 2021, presented by Senator Pete Goicoechea, Senate District No. 19.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Overview of SB 44," dated May 5, 2021, submitted and presented by Valerie Cauhape Haskin, Coordinator, Rural Regional Behavioral Health Policy Board, regarding Senate Bill 44.

[Exhibit E](#) is a copy of a PowerPoint presentation titled "SB 181: A BIG step toward a necessary solution – Increasing the SUD Treatment Workforce," submitted and presented by Sarah Adler, representing Vitality Unlimited, Elko, Nevada; and New Frontier Treatment Center, Fallon, Nevada, regarding Senate Bill 181 (1st Reprint).

[Exhibit F](#) is a document titled "Drug and Alcohol-Related ER Visits 2010-2020," submitted by Sarah Adler, representing Vitality Unlimited, Elko, Nevada; and New Frontier Treatment Center, Fallon, Nevada, regarding Senate Bill 181 (1st Reprint).

[Exhibit G](#) is a letter dated May 3, 2021, submitted by Dani Tillman, Executive Director, Ridge House, Inc., Reno, Nevada, in support of Senate Bill 181 (1st Reprint).

[Exhibit H](#) is a letter dated May 4, 2021, submitted by Erik Schoen, Executive Director, Community Chest, Inc., Virginia City, Nevada, in support of Senate Bill 181 (1st Reprint).

[Exhibit I](#) is a memo titled "Summary of Senate Bill 217 (Relates to Applied Behavior Analysis)," dated March 29, 2021, submitted and presented by Senator Heidi Seevers Gansert, Senate District No. 15, regarding Senate Bill 217 (1st Reprint).

[Exhibit J](#) is a conceptual amendment to Senate Bill 217 (1st Reprint), submitted and presented by Senator Heidi Seevers Gansert, Senate District No. 15.