

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

**Eighty-First Session
March 31, 2021**

The Committee on Commerce and Labor was called to order by Chair Sandra Jauregui at 6:06 p.m. on Wednesday, March 31, 2021, Online. 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.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Senior Policy Analyst
Marjorie Paslov-Thomas, Committee Policy Analyst
Sam Quast, Committee Counsel
Terri McBride, Committee Manager
Julie Axelson, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Kelli May Douglas, Pacific Southwest Regional Liaison, Defense-State Liaison Office, United States Department of Defense
Tony Yarbrough, State Legislative Deputy, Veterans of Foreign Wars, Department of Nevada; and Secretary, United Veterans Legislative Council
Andrew LePeilbet, representing Military Order of the Purple Heart; Disabled American Veterans; and Chairman, United Veterans Legislative Council
Marlene Lockard, representing Nevada Women's Lobby; and Service Employees International Union Local 1107
Susan Fisher, representing State Board of Osteopathic Medicine
Katherine Miller, U.S. Army Colonel (Ret.), Director, Department of Veterans Services
Alfredo Alonso, representing Board of Dental Examiners of Nevada
Casey Stiteler, representing Board of Dental Examiners of Nevada
Sandy Connor, Private Citizen, Las Vegas, Nevada
Edward Ableser, representing Nevada Dental Association
Sheronda Strider-Barraza, Private Citizen, Las Vegas, Nevada
Kellie McGinley, Private Citizen, Reno, Nevada
Gregory Hunter, Private Citizen, Las Vegas, Nevada
David White, Private Citizen, Reno, Nevada
Khalid Jilani, Private Citizen, Las Vegas, Nevada
Richard Dragon, Private Citizen, Gardnerville, Nevada
Adrian Ruiz, Private Citizen, Las Vegas, Nevada

Chair Jauregui:

[Roll was called.] We have a short agenda this evening. We have two bills on our agenda, and we will be taking the items out of order and starting with Assembly Bill 439. I will open the hearing on Assembly Bill 439. We have Assemblywoman Bilbray-Axelrod with us.

Assembly Bill 439: Revises provisions relating to occupational licensing. (BDR 54-383)

Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34:

During the interim, I was honored to serve as Vice Chair of the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. Today, I am here to present Assembly Bill 439, which seeks to revise provisions relating to occupations and professional licensing for active members and veterans of the United States Armed Forces, as well as their spouses or surviving spouses. Joining me are Kelli May Douglas and Cesar Melgarejo.

This past summer, the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs heard testimony from two military spouses serving in Nevada. These spouses are professionals in their own industry and shared their stories, experiences, and employment challenges of spouses of those who serve. The committee learned that more than one-third of military spouses require some sort of licensure for their careers, and an estimated 62 percent of military spouses report experiencing licensure challenges.

One of the main reasons a member of the U.S. Armed Forces leaves military service is their spouse's inability to work. In addition, as a result of frequent moves associated with military life, military spouses earn significantly less when they work than their civilian counterparts. However, they are often more formally educated than their civilian colleagues. According to a survey by Blue Star Families, 30 percent of military spouses are unemployed, and 56 percent are underemployed. Unfortunately, our military spouses face two choices: (1) face family separation if they choose to remain in the current state of unemployment; or (2) keep the family intact by moving and possibly incurring a job loss. I personally have known spouses who have made both of these tough decisions. Neither were easy.

At this time, I would like to turn over the presentation to Ms. Douglas, who will further discuss the barriers to occupational licensing for military spouses. Then Mr. Melgarejo will provide a quick summary of the bill.

**Kelli May Douglas, Pacific Southwest Regional Liaison, Defense-State Liaison Office,
United States Department of Defense:**

[Read from written testimony [Exhibit C](#).] Our office's mission is solely to assist states in improving the quality of life for military service members and their families through state policy changes, like this bill. My region encompasses Nevada, California, Arizona, Utah, and Hawaii. I am based in San Diego, but I am actively campaigning my husband to relocate our headquarters to Nevada.

Addressing the licensures used for the spouses of our military service members has been a priority for the U.S. Department of Defense (DOD) for several years and has been reconfirmed by First Lady, Dr. Jill Biden, through her renewed Joining Forces effort. Military spouses are disproportionately affected by state-specific licensure requirements that can cause delays and gaps in employment, with over 34 percent of the working population requiring state licensure to practice in their professions and an annual cross-state relocation rate ten times higher than their civilian counterparts. Subsequently, military spouses experience unemployment and underemployment at significantly higher rates than their civilian peers, which we can all imagine has likely been compounded by the COVID-19 pandemic.

State policies that enhance existing licensure provisions for military spouses, such as the proposed change within [A.B. 439](#), relieve one of the many stressors of frequent military moves by enabling spouses to more quickly transfer their licenses in order to obtain employment in a new state. These policies facilitate greater career sustainability for military spouses, improving their families' financial security and overall resilience. To date, 20 states have enacted provisions to meet our criteria for "enhanced military spouse licensure portability," and 21 states, including Nevada, currently have active legislation.

If approved, A.B. 439, as introduced, would benefit military spouses by requiring that all boards under Title 54 of the *Nevada Revised Statutes* (NRS) provide an improved pathway for streamlined endorsement, expanding the current provision for temporary licenses to encompass all boards under Title 54, providing those temporary licenses immediately, and ensuring that all relevant licensure policies are easily accessible on agency websites. Additionally, this bill would provide the Legislature and the public with valuable data on licensed professionals who are spouses of active duty military members.

As reported by the Office of the Under Secretary of Defense for Personnel and Readiness to Governor Sisolak in February 2020, Nevada has made some progress in the area of licensure portability for the military community. However, current Nevada statute on the matter is somewhat vague, permissive, and does not include enough licensing boards to fully meet our criteria for licensure portability for our military spouses. In addition, we have found that military spouses lack access to existing provisions due to the absence of easily available information on many of the boards' websites and applications. Additionally, in August 2020, the Secretary of the Air Force released its first annual report on state licensure, rating Nevada as partially meeting their criteria for licensure, matching the DOD assessment.

This issue continues to be of critical focus for the Department moving forward. In fact, the 2021 National Defense Authorization Act requires that all military services develop criteria for assessing states' status of licensure portability or reciprocity, and to incorporate their findings into their future mission basing decision-making processes. In addition to influencing basing decisions, some federal grants have begun to require applicants to address the extent to which they, or their state or local government, have provided support to military spouses to ease military spouse unemployment and licensure for consideration. An example is the 2020 Defense Community Infrastructure Pilot Program grants that were just awarded in September.

The policy changes contained within A.B. 439 would meet most of the DOD and Air Force criteria for licensure portability minus the interstate compacts, and it would bring Nevada to the forefront in terms of ensuring that our military families are not financially disadvantaged due to their service to our country.

As far as return on investment, the burden on boards to implement these policies is low. This policy would only affect slightly over 1,000 active duty military spouses at any given time, while the resulting positive impact would be exponentially greater for individual military families, the defense community, local communities, and the state. According to the U.S. Department of Defense, Office of Local Defense Community Cooperation, defense spending in Nevada for fiscal year 2019 was \$3 billion. I stand by to answer any questions you might have.

Assemblywoman Bilbray-Axelrod:

At this time, I would like to turn it over to Cesar Melgarejo to go over the sections of the bill.

Cesar Melgarejo, Senior Policy Analyst:

As an employee of the Legislative Counsel Bureau, I will neither advocate nor oppose the provisions of this bill. I will review the substantive highlights of the bill as captured by the intent of the recommendation approved by the Committee. As Assemblywoman Bilbray-Axelrod and Kelli May Douglas addressed, A.B. 439 aims to require occupational and professional licensing boards under Title 54 of NRS and the Board of Applied Behavior Analysis to issue a license by endorsement to military affiliated persons.

Sections 2 and 83 of the bill require a regulatory body to issue a license by endorsement to engage in an occupation or profession in this state to an applicant who holds a corresponding valid and unrestricted license to practice a profession in the District of Columbia, or any state or territory of the United States, and is an active member or the spouse of an active member of the U.S. Armed Forces, a veteran, or the surviving spouse of a veteran.

Section 2 prohibits a regulatory body from requiring such an applicant to undergo a fingerprint-based criminal background check unless required by interstate compact. Section 2 also requires a regulatory body to issue a provisional license immediately after submission of the application. The provisional license is valid until the license by endorsement is approved or denied. Additionally, unless the applicant fails to meet the general licensing requirements concerning education, training, experience, certification, or registration from a professional organization, or achieving a passing score on an examination required for a specific occupation, section 2 provides that the provisions of this section supersede any other provision of law prescribing specific requirements for the issuance of a license.

Sections 2 and 80 prohibit a regulatory body from collecting not more than one-half of the fees set forth for an application and for additional issuance of a license. Section 3 prescribes the conditions of which the regulatory body has good cause to deny a license issued pursuant to sections 2 and 83 of the bill.

Sections 4 and 79 supplement existing provisions requiring a regulatory body to collect and submit a report containing certain information on the number of veteran applicants to include collecting data regarding the number of military and veteran spouses who apply for, are issued, or are denied a license. Section 4 also requires a regulatory body to post on their website information concerning the available options for obtaining a license as a service member, spouse of a service member, a veteran, or a surviving spouse of a veteran. In addition, the bill replaces the term "may" with "shall" in various sections concerning issuing a license by endorsement to clarify that a regulatory body is required to issue an expedited license by endorsement to practice in certain health-related professions when the applicant meets the statutory requirement for the issuance of such a license. I would note that these sections would apply to all applicants for expedited license by endorsement, not just military affiliated applicants.

Finally, section 87 repeals existing provisions allowing regulatory bodies to issue an expedited license by endorsement to an applicant who is an active member or the spouse of an active member of the U.S. Armed Forces, a veteran, or a surviving spouse of a veteran.

Those are the substantive provisions that were adopted by the interim committee, and I am available to answer any questions.

Chair Jauregui:

At this time, I will turn it over to Committee members for questions.

Assemblywoman Considine:

I am not clear what one of the sections means, and I was hoping maybe you could clarify it. It is written in the Legislative Counsel's Digest. It says, "Sections 84, 85 and 88 of this bill remove from section 2 certain requirements necessary to comply with federal law concerning the collection of child support obligations from applicants for the issuance or renewal of occupational licenses if that federal law is repealed." What does this actually mean, and why is it in here?

Cesar Melgarejo:

These provisions are replicated throughout NRS for most of the sections related to occupational licensing because there is a federal law that would allow to deny or repeal a license based on if the applicant had old back pay for child support purposes. This is consistent throughout NRS. I do not know the specifics of the federal law itself, but I do know that this language is consistent throughout NRS regarding professional and occupational licensing.

Assemblywoman Dickman:

I do not have a question. I would like to say that I think our occupational licensing has needed overhauling for a long time, and this is a fabulous place to start. I want to thank Assemblywoman Bilbray-Axelrod for your work on the committee during the interim.

Assemblyman O'Neill:

I want to say ditto to Assemblywoman Dickman's comment. You did great work on this, and I greatly appreciate it. I am a strong supporter of our veterans and particularly the spouses who sometimes suffer in service more than the active DOD member does, having personal experience with it. I have one question. Is there any way we could get a report before next session on the numbers that this bill affected or the people who were able to come in and utilize this bill? Would that be inappropriate to ask of you? Like I said, building upon Assemblywoman Dickman who helped us look at what more we can do in overhauling some of our occupational licenses, but additionally give more support to our veterans and spouses when they come into Nevada.

Assemblywoman Bilbray-Axelrod:

Mr. Melgarejo, I think that information would be good. I do not know if that is something we can amend in.

Cesar Melgarejo:

To answer your question, there is the report that is already required to be submitted to the Legislature on a biennial basis. I believe it is required to be submitted on even-numbered years. This bill would also incorporate that information. If this bill were to pass this session, then depending on the boards being able to collect this information and it being available by the next reporting period, you should have this report by February 2022.

Assemblyman O'Neill:

That is excellent. I did not want to ask for an amendment because I did not want anything to damage the movement of this bill going forward.

Assemblywoman Tolles:

I remember the first presentation I heard about the need for this in Nevada. I was a part of an occupational licensing panel at an event in Las Vegas. I am a huge supporter and so grateful we have this before us. My question specifically is regarding section 4, subsection 3, which reads, "A regulatory body shall post on an Internet website . . . options for obtaining any license" What other ways can we promote this to the veterans, spouses of service members, and surviving spouses? Are there other avenues by which we are going to be promoting this? I think this is a good and necessary change.

Assemblywoman Bilbray-Axelrod:

I would totally agree with you, and the important thing is the folks who are moving into the state. I think we will work with Kelli May Douglas to make sure we get that information out to the folks who can really use this. Ms. Douglas, would you like to expand on that?

Kelli May Douglas:

Part of the department that my department falls under is Military Community and Family Policy, and under that department, we have spouse employment programs. They wait for us to tell them when they can pass policies that benefit military spouses, and they immediately put it out. We also work with Hiring our Heroes, so there are definitely a lot of different avenues to get this out, and I will be optimistic and say once this bill has passed.

Chair Jauregui:

I do have a couple of questions for you. I might have missed it during the presentation, but how many other states have implemented this sort of policy?

Kelli May Douglas:

There are 20 states right now that have implemented the policies that we are seeking, and 21 states have legislation going through right now.

Chair Jauregui:

I know we have repealed some sections of NRS, and one of the sections of NRS we are repealing is NRS 622.510, which requires a "Regulatory body to develop opportunities for reciprocity for qualified active member of Armed Forces, member's spouse, veteran or

veteran's surviving spouse." We already have this in statute, and we are repealing that. What was wrong with our current policy?

Cesar Melgarejo:

During the presentations in the interim, it was reported that the current policies were not effective, and that was the major reason for replacing the "mays" with "shalls." During the hearing, we also heard testimony that the boards had not licensed anybody through those provisions in NRS 622.510. I am not sure if it was a specific deletion because of the drafting process, but what we heard during testimony in the interim was that some of the policies were not as effective as the Legislature had intended them to be.

Chair Jauregui:

Obviously, we owe a great debt to our service members and their spouses for all of the work they do. My concern is coming from protecting Nevadans. I know in Nevada, a lot of our boards have really strict licensing criteria. Most of the time our licensing criteria are a lot stricter than what other states have. That is where a little of my concern comes in.

One of my other areas of concern is that immediate upon application issuance of a provisional license before they have even had time to do any investigatory work. If someone is denied a license for reasons found during that investigation, we have allowed them to practice in our state while possibly having violations in their home state for not following laws. What was the thought process for granting that immediate provisional license? If they have to grant a license within 15 days of receiving the application, why are we giving them that 15-day period to practice without having done any investigatory background work?

Assemblywoman Bilbray-Axelrod:

I believe it is in other states as well. I recognize your question. Ms. Douglas, do you want to speak to that?

Kelli May Douglas:

As far as DOD, we are asking for states to waive any sort of security background checks or investigative efforts to make sure that military spouses that might have some sort of disciplinary action on their record to work. As far as we are concerned, we do not mind if that requirement is in there.

Chair Jauregui:

I wanted to make sure. With concerns such as with 15 days, somebody can be a licensed dentist while they have tons of complaints against them in their home state, and we would not know that for two weeks. It is just little things that I think might make the bill better for our state. Why are we not requiring the fingerprints?

Cesar Melgarejo:

From the testimony received during the interim committee, it was reported that the time frame for the fingerprint process to return and be approved or denied was taking too long for

spouses to be able to immediately start working. With the 15 business days, it requires the board to review the application and report to the applicant if there is any additional information that must be submitted, but the application must be approved or denied within 45 days.

Chair Jauregui:

Sometimes it takes longer than 45 days for the fingerprints to come back?

Cesar Melgarejo:

That is what was reported in testimony. That is one of the hiccups that takes a long time to be able to provide that license to the military spouse.

Chair Jauregui:

Many of us did not get the opportunity to serve on the interim committee, and I think there were a lot of the same questions that came out of the interim committee; so I think it is good to get them on the record. Would there be a possibility for granting a provisional license until the fingerprints came back? That is what allows you to do a full background investigation, correct?

Cesar Melgarejo:

You are correct. The provisional license would be immediately approved, but the license will be expired until the board approves or denies the full licensure by endorsement application.

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 A.B. 439?

Tony Yarbrough, State Legislative Deputy, Veterans of Foreign Wars, Department of Nevada; and Secretary, United Veterans Legislative Council:

I represent nearly 9,000 members of the Veterans of Foreign Wars, Department of Nevada, and I also represent close to 500,000 members of the United Veterans Legislative Council (UVLC) as an officer and past chairman. The UVLC is an organization of all the veterans' organizations throughout the state. That includes all veterans, active duty military, National Guard, families, and advocates statewide; some of you may have even taken advantage of some of our services and not even known it. I am sure because you may have some history of veterans in your family, or maybe you have had direct experience as active duty military service. That is why we exist.

As we move forward, please remember the family sacrifices and commitment that it takes to serve our country and how proudly you support them. All we want is to do the best for them. I will say, in support of A.B. 439, that the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs has consistently come up with some outstanding legislative adjustments that need to be made to make our world a much better place in transitional situations such as this. As a matter of fact, there is another bill out there that we

also support, Assembly Bill 206, which is related. One of the things that comes out in all of our legislative symposiums, that we deal with from veterans directly, is about transitioning situations that involve potential reciprocity or something along those lines where we can make it easier for a spouse to work when the other spouse is changing orders.

In this case, I will tell you that I think this is a very good bill. There is a lot in here that is well overdue, and this is one of our top priorities that we would like to see take place. With that, I would like to say a great thank you to Assemblywoman Bilbray-Axelrod and also to Cesar Melgarejo because I know he is deeply involved in this as well. I know some others who sit on this Committee are very supportive of veterans and veterans' issues. For that, I thank you very much.

Andrew LePeilbet, representing Military Order of the Purple Heart; Disabled American Veterans; and Chairman, United Veterans Legislative Council:

I represent the combat-wounded veterans with the Military Order of the Purple Heart in the state of Nevada, and Disabled American Veterans of Nevada, and I am the current chair of the UVLC. Tony Yarbrough has already pretty much stated our entire case, so I will say ditto. This is an outstanding bill that is doing the right thing for our veterans, spouses of veterans, active military, and their spouses. The UVLC supports this bill fully.

Chair Jauregui:

Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition. Is there anyone wishing to testify in opposition?

Marlene Lockard, representing Nevada Women's Lobby:

It pains me very much to be testifying in opposition to this bill. However, under Committee rules, I do not feel I have any other alternative. We have major concerns with the section that would remove the provision requiring child support requirements are met before receiving a license under the occupational licensing authority. We think we could be helping a family solve one problem while creating a new, often disastrous problem for another family. We would request that portion of the bill be amended out. We also are concerned with the provision that does away with fingerprinting.

Chair Jauregui:

Is there anyone else wishing to testify in opposition? [There was no one.] We will move to neutral. Is there anyone wishing to testify in the neutral position?

Susan Fisher, representing State Board of Osteopathic Medicine:

[Submitted testimony [Exhibit D](#).] The chair of our board has not had the opportunity to discuss this under the Open Meeting Law. We are neutral on the bill at this time. We certainly support the intent of the bill and have already put into practice some of the suggestions or requirements in this bill. I would like to point out section 2, subsection 3, removing the fingerprints from the requirement on the endorsement application, is a significant lowering of the bar for applicants and is not accorded to any other class of applicant. Section 2, subsection 5, which requires the immediate provisional license, does

not give the State Board of Osteopathic Medicine the opportunity to verify the contents of the application. In practice though, this is what we would likely do, but the bill could more clearly state that the provisional license does not issue until the Board receives the application and verifies that it complies with other terms of the bill. With the provisional license being issued, the person could go ahead and practice even if the Board identifies good cause to deny the application pursuant to section 3 before we could complete the denial process that is set out in section 2.

Section 2, subsection 6, authorizes the Board's executive director and president to issue the license between meetings. That is already our current practice. We sign off on endorsements between monthly meetings all the time. Section 2, subsection 9, paragraph (a), reduces the fee for endorsed license by half. There is a fiscal impact, but historically and realistically, there have only been five to ten endorsements per year, so that is not a big deal.

Section 4 requires a half discount for military veterans, and we already do that as well, and we do not charge any fee for active military. We do discount by half for veterans and military spouses. Because of all of the exceptions made in our practice act in sections 23 through 29, it might be possible for a nonmilitary or nonveteran applicant to make an equal protection challenge under the *Nevada Constitution* because we are treating two otherwise equal applicants differently simply because one joined the military at some point in his or her life. We just want to put that on the record that it could be an issue at some point.

One thing we identified that I think we will need to change in the bill, and I can submit some language to you in a proposed amendment, is in section 27, where it opens NRS 633.4335. This is an impediment to endorsement for physician assistants (PAs) that is present in section 27, subsection 1, paragraph (b), in current statute. If you want to strike that section, which is in current statute, then we would be able to license PAs by endorsement, but it currently states that they must be certified in a specialty recognized by the American Board of Medical Specialties or the American Osteopathic Association. That would need to come out.

Katherine Miller, U.S. Army Colonel (Ret.), Director, Department of Veterans Services: I am testifying in neutral today to share information regarding the issue of military spouse employment addressed in A.B. 439. Every two years, Nevada veterans service and support organizations meet to identify issues that they believe should be addressed through legislation, executive action, or other channels. During the 2020 Nevada Veterans Legislative Symposium, these organizations listed as priority 8 of 48 the need to create and support the military spouse employment and reciprocity programs. For the last four years, the issue of military spouse employment, license portability, and other issues associated with employment has come up and has been listed as a priority action.

Marlene Lockard, representing Service Employees International Union Local 1107: We are calling in neutral on this bill. We have concerns with respect to the nursing provisions, and we would appreciate an opportunity to work with the bill sponsor to receive more clarification.

Chair Jauregui:

Is there anyone else wishing to testify in neutral? [There was no one.] I will invite the bill sponsor back to give any closing remarks.

Assemblywoman Bilbray-Axelrod:

I am happy to work with Ms. Lockard and Ms. Fisher to get this bill to where there is a level of comfort. I think we can all agree that this is a good policy, but obviously we do not want any unintended consequences to get in the way of the safety of Nevadans. Once we get there, I know we do not have a lot of time, but we will work really hard the next few days to get something I think everyone will be able to vote for.

Chair Jauregui:

With that, I will close the hearing on A.B. 439. Next, I will open the hearing on Assembly Bill 438. This is the last bill for our bill hearings today. I believe we have Mr. Alfredo Alonso here to present the bill.

Assembly Bill 438: Revises provisions relating to dentistry. (BDR 54-1137)

Alfredo Alonso, representing Board of Dental Examiners of Nevada:

What you have before you today I think started out as confusing for folks, but as they delve into it, they will understand where we are coming from. We look at this very simply as four aspects: reform, access, transparency, and accountability. What you will see as we go through this bill is it is obviously very hard when you are making a change. I think the Board of Dental Examiners of Nevada, as many others, have done the same thing over and over again for decades. The hope here is that we have a new system that will allow for more fairness in the disciplinary process. Frivolous and other such complaints will be vetted first before they are actually brought to the Board. The fact that the receptionist was rude to you may not fall under this category because it would not be considered standard of care. I think that by adding to the standards, reforming the Board, the Board's position on this ultimately is that you are going to end up having a much more streamlined process and a fair one for everyone involved.

I think it is very important to understand why. Obviously, we have had many problems with this Board over the years, but what you have before you are members who are practically brand new. In fact, there are a few who were just recently placed on the Board, and each one of them is dedicated to doing the right thing. The first thing they asked us to do was look at Governor Sisolak's audit. What are we doing wrong? What have the previous boards been doing wrong? I think they have taken those criticisms to heart, and this bill takes in some of those recommendations. They also listened to all of you during many of the Board-related hearings during the interim. They have heard some of those remarks echoed over and over again. Some of the things that need to be done with respect to staff being too powerful, the accountability should be on the Board. They are the ones who are ultimately making those decisions. It should not be a situation where a staff person, no matter how well meaning, is making decisions on what the Board will ultimately see on a disciplinary action.

Obviously, there is the access issue. How do we make sure that Nevadans have access to care in every way possible? Are there creative ways in which we can provide additional access to the underserved? The Board had a couple of pretty good ideas on this that are also in this bill.

I would like to introduce Casey Stiteler. He is one of the attorneys in our office who helped draft this measure. I want to preface his testimony with the fact that this is nothing new. I keep hearing that some of this language is groundbreaking. If groundbreaking is taking existing Nevada law in other boards and looking at other boards within the region and taking some of the best ideas they have, then I guess we are groundbreaking. I would like to think that we are just simply looking at what works, and that is what is in this bill. I would like to turn it over to Mr. Stiteler.

Casey Stiteler, representing Board of Dental Examiners of Nevada:

As Mr. Alonso was saying, the bill really addresses three primary issues. First, the bill will clarify and strengthen the Board's oversight in enforcing authority, specifically on disciplinary matters. The bill also takes additional steps in clarifying that employees of the Board and the executive director serve as at-will employees at the pleasure of the Board. The bill also clarifies, and in some ways, modifies some of the requirements that are in place for the Board to grant licensure by endorsement with the primary goal being to streamline that process and provide additional access to care.

Specifically, regarding the Board's oversight authority, as Mr. Alonso mentioned, the language in the bill is specifically in response to the Office of the Governor's Division of Internal Audits' report from June 2019 [DIA Report No. 19-04]. That report specifically advised the Board to take action and strengthen its oversight in investigative authority. One example of something that was brought up in the report, it specifically identified the previous practice of having what was referred to as a "disciplinary screening officer" or DSO who had the authority to review and dismiss complaints without any review or action by the Board itself. It was effectively giving a single employee of the Board full influence over decisions regarding public health and safety and the livelihoods of licensees in the state of Nevada. In short, the bill is really focused on trying to ensure those requirements from the audit are met and increasing access.

With that I will provide a summary of the bill. Section 2 of the bill amends *Nevada Revised Statutes* (NRS) Chapter 631 to include language that clarifies that the Board made certain employees necessary in the discharge of its duties, and those employees are at-will and serve at the pleasure of the Board. It also provides the executive direction of the Board to appoint and remove employees. Section 2 of the bill also adds language which would prohibit a hearing officer hired by the Board from serving in any other capacity for the Board, and sets forth that a hearing officer who is terminated or resigns may not be rehired for a period of two years. This is in order to avoid potential conflicts of interest.

Section 3 of the bill sets out requirements for the Board to grant a license by endorsement to practice dental hygiene in an effort to increase access by providing a method for those practitioners who are licensed in other jurisdictions to practice in the state.

Section 4 of the bill clarifies that the executive director is an at-will employee of the Board as well and serves at the pleasure of the Board. Section 5 of the bill clarifies that a practitioner is not considered in the practice of dentistry for licensing purposes where the practitioner is treating a patient during a course of continuing education that is conducted at a permanent facility registered with the Board that provides postgraduate continuing education, and the care is done under the supervision of a Nevada-licensed practitioner. Currently, the only real method available for an out-of-state licensee to come into the state and participate in one of these continuing education courses that involves treating a patient would be to actually physically bring a patient who the licensee had treated in their home jurisdiction previously. We believe this will be a good opportunity to have practitioners from other states come in and participate in these courses, especially because these courses generally tend to offer services at a discounted or much lower rate, which will help to increase access as well.

Section 6 of the bill removes language requiring that a practitioner who was issued a specialist license needs to be certified as a diplomate of the certifying board within six years of their licensure as a specialist. The certificate is essentially an additional requirement above and beyond the general requirements in order to practice a specialty. We see this as an impediment to having additional specialists who come to Nevada and are able to provide access to care. We have removed that requirement to make it easier for specialists to practice here in Nevada.

Section 7 of the bill revises the process by which the Board will grant a licensure by endorsement for the practice of dentistry. Notably, the language in this section is slightly more permissive than existing language in *Nevada Administrative Code* 361.030 because it provides additional avenues where an applicant can meet the requirement that they have been in practice for the five years preceding their application by serving as a faculty member at an accredited dentistry program or completing an accredited dentistry program. Again, we are trying to make it a little bit easier to get additional practitioners here in the state of Nevada.

Section 8 of the bill amends NRS 631.350 by limiting the amount of any fine that may be assessed by the Board. Currently, the language is ambiguous, so we set a specific limit on the amount of any fine being assessed by the Board. We have also given the Board the ability to issue written warnings and other correspondence that may be considered a lesser course of disciplinary action, if the Board deems that disciplinary action is necessary. Section 8 also seeks to further define the scope of the Board's authority to take disciplinary action for certain matters. Specifically, we have carved out fee disputes, insurance claims, and misconduct that has occurred more than five years prior to the date of the complaint in order to ensure that the complaints the Board is hearing are within their jurisdiction, are associated with standard of care that practitioners are providing, and trying to limit the total number of unnecessary complaints or complaints that are handled in other avenues.

Section 9 of the bill contains language that requires that before any disciplinary action is taken, the findings and conclusions of the investigator or review panel that conducted the initial investigation be considered. We included that requirement to ensure that throughout the disciplinary process there is a record of findings and recommendations that the Board can consider in making a decision of whether or not to proceed with any disciplinary action. We are again trying to focus on accountability and transparency.

Section 10 of the bill removes the requirement that complaints to the Board be verified. We think requiring the verification of the complaints is an additional obstacle for members of the public to file these complaints. In truth, there are many members of the public who many not fully understand what it means to have their complaint verified. We saw that as an additional obstacle or burden for members of the public to have to overcome in order to bring valid complaints to the Board for review.

Section 10 also requires that the Board designate a committee consisting of four members of the Board to review and investigate each complaint and determine whether each complaint is within the Board's purview and jurisdiction and whether there is a reasonable basis for the complaint. If the committee does determine the complaint is within the Board's purview and has a reasonable basis, then the committee must refer the complaint to the Board, a hearing officer, or panel that has been delegated authority by the Board to hear an investigative complaint. This is in direct response to some of the recommendations in the audit where we had a single employee making the decision as to whether or not a complaint had merit without any action, oversight, or review by the Board. Section 10 also requires that the Board publish a summary of its meetings, and that all complaints that are reviewed by this committee have all identifying information redacted from the complaint prior to being reviewed by the committee. The redacted information will not be revealed unless, and until, the committee refers the complaint to the Board, hearing officer, or panel. Again, we are trying to ensure that when these complaints are being reviewed by the committee, they are done so in a manner that avoids, as much as possible, any potential favoritism or bias. We have essentially required that these complaints be redacted in order to avoid that possibility.

Section 11 of the bill clarifies that an investigator who has been delegated authority by the Board can conduct informal hearings. Some of this language in section 11 is a cleanup to clarify that when the authority has been delegated, there will be an investigation and an informal hearing. Section 11 also clarifies and specifically states that an investigator appointed by the Board may not dismiss a complaint. Again, this is in direct response to the audit. This section also requires the Board to hold its own hearing where the Board will consider the investigator and/or the review panel's report and recommendation on any investigation. Again, this is creating a record and ensuring that there is accountability and also trying to avoid the potential multiplication of effort in terms of the investigation.

Section 12 of the bill clarifies that a panel may be appointed by the Board to review, investigate, and hold an informal hearing for disciplinary matters. Section 12 also adds language stating that before the Board takes any disciplinary action, the review panel

appointed for that complaint must submit their findings and recommendations to the Board for investigation. Thereafter, it must be considered by the Board.

Alfredo Alonso:

I would like to jump in really quickly on one other matter. Again, this section, like all of the sections in this bill, was vetted internally by reviewing the audit and reviewing what other boards do. We did not seek counsel from others. I know that is counterintuitive in this process, but again, you are trying to reform a regulatory board. This is what they do. They are supposed to take care of the bad actors and complaints when they come to their desks. I thought it was very important to do this in a vacuum of sorts and try to rely on the audit and other information we had. That is what is before you here. Again, we can answer any questions you may have.

Chair Jauregui:

Are there any questions?

Assemblywoman Duran:

You said you will not issue a fine or discipline if the event occurred or the complaint occurred five years prior. Is there a limitation of time that you investigate a complaint? Even filing a lawsuit has a statute of limitations. Why does it take so long? Why are we not investigating or have a time limit on the complaints being filed? Or am I missing something here?

Casey Stiteler:

The primary goal in creating what in effect is a statute of limitations is to try to limit the types of complaints the Board can hear. When we start talking about complaints that are based on events that occurred five or more years prior to the day of the complaint, it becomes very difficult for the Board to investigate those types of complaints due to the fact that so much time has passed. With that said, it is more an effort of trying to cull down those complaints to the ones the Board has authority and jurisdiction to hear but also has the ability to really investigate. Once something has occurred more than five years prior to that, it becomes a big burden for the Board to be able to thoroughly investigate those types of complaints.

Assemblywoman Duran:

Discipline should be corrective but not punitive. I am wondering why it is even allowed to hear or take a complaint after a certain amount of time because things happen, you do not remember, or things get lost. Is it taking that long for the Board to get to that complaint? Or is it I can file a complaint on somebody for something that happened five years ago?

Casey Stiteler:

If I understand your question correctly, as far as the Board's ability to investigate something that occurred more than five years ago, that really becomes a practical challenge more than anything. Yes, the selection of five years was based primarily on practical concerns in terms of the ability to investigate. There are circumstances where complaints may be filed in bad

faith, and someone may look to an event that occurred three, four, five, or seven years ago for a basis for that type of complaint. That is why we put in place the committee system where all of those complaints would still be vetted by a committee of the Board to determine whether or not there is a reasonable basis for those complaints. In terms of the five-year limitation, that was selected out of practical concerns.

Alfredo Alonso:

Practitioners are required to keep records up to five years. That is another practical matter here. If you go past that five-year period and someone files a complaint, we simply would not have records in some cases in order to investigate properly. That is one of the reasons that number was chosen.

Assemblywoman Duran:

I am wondering why we are allowing somebody to file a complaint after such a long period of time. Working as a grievance specialist we tell the companies, you have to file your complaint or discipline in a timely matter; or you are not able to continue to let it all go because it is just not good practice.

Alfredo Alonso:

We do not disagree with you. I think that is a number that has been used in other boards. That is an awfully long time, but it is also the time period they require to keep records, so at least we are setting a boundary, which is something we do not have right now.

Assemblywoman Considine:

I have some clarifying questions. In section 2, subsection 5, "The Executive Director may, with the approval of the Board . . . discharge employees" It is not clear if the Executive Director needs to obtain prior approval or can discharge someone and then obtain Board approval. Is it supposed to go one way or the other, or is it supposed to be wide open?

Casey Stiteler:

I think the intent is to ensure the Board has adequate oversight over staff. Here, the approval would be a preapproval. There may be instances where the Executive Director would be in a position where they needed a quick decision, and there may be internal policies and procedures in place in order to gain that approval. Per the direction received in the audit, the idea here is to ensure that the Board is being consulted and is giving an acknowledgment or approval in order for the Executive Director to carry out those responsibilities. It would be something they would need to get approval for prior to.

Assemblywoman Considine:

In section 7, subsection 1, paragraph (g), which deals with getting a license by endorsement to practice dentistry, it says that the applicant would pay "the application, examination and renewal fees." After hearing the last bill, if they do not have to take the examination, is it normal practice to charge them for the examination?

Casey Stiteler:

I think the intent is not to charge applicants for licensure by endorsement for an examination they have not taken. That is something we may need to clarify based on the current practices of the Board for some of their other licensing procedures. I think the intent is not to charge them unnecessarily for an examination they did not take.

Assemblywoman Considine:

My last question concerns the area that Assemblywoman Duran was talking about earlier. In section 8, subsection 3, it reads, "The Board shall not impose disciplinary action for" In paragraph (a), it lists a few things, but the last one caught my eye. It says, "the length of time a licensee took to perform a procedure." I do not know if this is an issue, but I know one of the forms of discipline that the Board can give out is a letter of concern. I am wondering why something like the length of time for a procedure to take place is specifically called out as an area to not obtain discipline over. Can you explain that?

Casey Stiteler:

The intent there is to try to vet out or limit potential complaints that are based on the length of time that it takes a practitioner to conduct a procedure, specifically if it is not necessarily something that really falls within the standard of care if for some reason the practitioner does not have the ability to carry out a procedure. Again, that is something where we are trying to limit the overall jurisdiction of the Board to make sure that complaints that fall within that area of standard of care are the ones the Board hears.

Assemblywoman Considine:

I was not familiar with seeing that as a length of time. I do not know if that "something" can take three years to have the specific work done. It jumped out at me.

Alfredo Alonso:

One of the issues that came out was that was one of the ways that other boards would seek out complaints on dentists. It was unfortunately a way to get a complaint. Frankly, we do not want frivolous complaints. If it is that someone genuinely has not done their job, and the standard of care comes into effect such as it takes a year for a filling, obviously the Board is going to take that into account. If it is simply it took two weeks or too long to get the impressions, that is what we are trying to avoid in frivolous complaints.

Assemblywoman Considine:

It does make sense, but in your two examples, even though one of them seems to be egregious, in the way this is written, neither of them would be subject to discipline. That is what I am seeing.

Alfredo Alonso:

We can look at that. In certain egregious cases, we want to make sure the Board is looking at that. We will take it back and look at it to see if there is some kind of standard we can create. We will look at other boards to see how they handle that.

Assemblywoman Tolles:

A few of my questions have been touched on. Looking at section 8, subsection 3, which reads, "The Board shall not impose disciplinary action for: (a) Any grounds . . . including, without limitation, matters relating solely to the amount of a fee charged by a licensee, the amount of an insurance claim or the length of time a licensee took to perform a procedure." I know we just touched on that, but I have that same concern. What action do we take if somebody is not paying their fees?

Alfredo Alonso:

Again, it is about standard of care. I think what we are seeing, or what we have seen historically, is a huge backlog of complaints that go something like this: the receptionist was mean to me; or I did not hear the dentist the first time he told me what the estimate was, so I was unhappy with the ultimate cost. Again, these are all things that can be dealt with in other ways. The Board should only be about the standard of care. Unfortunately, you can only imagine how many complaints come in, and the hope is that we are making it easier to have those complaints come in, and that will be an increase because we are trying to make it easier for the public to be part of this process. At the same time, we want to make sure it is about the standard of care.

Assemblywoman Tolles:

Just to be clear, if I am a dentist, and I am a licensee, and I do not pay my fees, there are no repercussions?

Casey Stiteler:

I think it is important to note the language immediately preceding that in section 8, subsection 2, specifically cites that "The following activities may be punished as provided in subsection 1: (a) Engaging in the illegal practice of dentistry, dental hygiene or dental therapy; (b) Engaging in unprofessional conduct; or (c) Violating any regulations adopted by the Board or the provisions of this chapter." Outside of the new language that we have, which specifically states in section 8, subsection 3, "The Board shall not impose disciplinary action for: (a) Any grounds not described in this chapter" The Board still has the authority to [audio was lost] disciplinary action for any violation of the regulations or any other requirements or standards within the chapter. The carve out we have added here is essentially just limiting the Board's jurisdiction to those matters that are explicitly within the Board's regulations and within the chapter itself.

Assemblywoman Tolles:

I do not know if it is just late, but I am not getting it. I am still not getting an answer. If I was a dentist, I could go 20 years and never pay a fee. I may be totally wrong. It may be late, and I did not eat enough of my sandwich.

Chair Jauregui:

If I could, if you are referring to section 8, subsection 3, paragraph (a), and Mr. Alonso and Mr. Stiteler, please correct me if I am wrong, but that section applies to fees charged to

a patient and not fees paid by the dentist. I think you may be reading it a little wrong. That section means they cannot take disciplinary action by a fee charged by a dentist to a patient, not the fees the dentist pays.

Alfredo Alonso:

That is exactly right. In other states, the boards have had so many complaints about money such as, "I do not like the fact that my dentist charges me this much." That is not a standard of care question or issue. Many states have simply said they do not take them because they are not pertinent here. If you do not want to pay the fee, then do not go to the dentist. At the end of the day, this is really about making sure it is about standard of care.

Assemblywoman Tolles:

Thank you, Chair, I was misreading that. I appreciate the correction on the record. I do still share some of the concerns Assemblywoman Considine raised.

Assemblywoman Dickman:

My question is quick, and I am not sure who it is for, possibly for Legislative Counsel Bureau (LCB) or for Mr. Alonso. Where it says "not to exceed \$5,000 for each violation" in section 8, subsection 1, paragraph (c), is that causing us to require a two-thirds majority vote? I thought in the explanation you said the fees before were unclear, so you were putting a cap on them.

Alfredo Alonso:

No, we are not raising fees. All we are saying is that if there is a fine, we want a cap on it. I think the Board's position is not to break a dentist. If they made a mistake, the whole point of this is correction and how you correct. I think the purpose of the cap is so that not just this board, but future boards cannot have an unfettered ability to fine at will. There has to be a paper trail and method to it. You must have caps on how much you can fine.

Assemblywoman Dickman:

I appreciate that, and that is what I was reading. I am just wondering why LCB put a two-thirds requirement on this bill. Does anyone know?

Chair Jauregui:

We can ask our legal counsel.

Sam Quast, Committee Counsel:

Can I have a minute to look into that question a bit more? I do not think it will take long, but I do want to verify something before I answer that.

Chair Jauregui:

Is your question why it requires a two-thirds vote, or if it does?

Assemblywoman Dickman:

Why it does. It says it requires a two-thirds vote, and I cannot see why.

Chair Jauregui:

We will give our legal counsel time to look that up. Do you have any other questions, Assemblywoman Dickman?

Assemblywoman Dickman:

That was my only question.

Assemblyman O'Neill:

I want to stand with Assemblywoman Duran. I do think a five-year time limit seems a little lengthy to use as the term statute of limitations. If you have not figured out you had bad dental work in five years, the question is how bad was it really? Here is my question: How many complaints in the average year does the Board get?

Alfredo Alonso:

I do not have an answer for you right now, but I will find out and get that information to you.

Assemblyman O'Neill:

Who do they currently use for their investigators? Is it another dentist, or someone professionally in the program?

Alfredo Alonso:

I think they hire licensed investigators. You have folks both on the private and public side. I will confirm exactly where we find those folks and get you a little more detail on that. I would be glad to do that and get back to you.

Assemblyman O'Neill:

No, I was just curious who they used. I remember years ago, the Nevada State Board of Veterinary Medical Examiners used to assign it to various veterinarians to do investigations. That way they could get through quicker, they knew the standard of care, et cetera. I was just asking if you dole them out or go out and get a private investigator who is not necessarily a dentist or expert in the medical or dental field.

Alfredo Alonso:

I have no doubt that these individuals have at least some extensive knowledge of the world of dentistry. How much or if they are former dentists, I do not know; but I will find out for you.

Assemblyman O'Neill:

I gather they want to change some of the practices by not allowing this investigator to discharge frivolous cases initially without going to the Board. Have there been issues already that require this new change in procedure where the investigator discharged or declared a complaint as frivolous, but it was later found not to be?

Casey Stiteler:

Yes. The basis for a lot of what we are proposing in this bill is from that previous audit report. The audit report does not go into too many specific details for specific cases, but there were situations identified in the audit where the investigator had a close professional relationship with someone who the complaint had been filed against. Under the previous method, that investigator would technically have the ability without oversight from the Board. The Board would not have the opportunity or ability to determine whether or not that claim was frivolous, but the investigator had the ability to dismiss that claim without any oversight or other opinions. The structure, in and of itself, really lent itself to the possibility of an investigator having some type of relationship or association with someone a complaint was filed against and potentially having that serve as a basis for favoritism or bias.

Chair Jauregui:

I am going to go back to our legal counsel. Mr. Quast, I apologize as I should have directed that question to fiscal and not legal.

Sam Quast:

This is perfectly in line with a legal question. Sections 3 and 7 authorize new types of licenses by endorsement, and there is a fee associated with those. That then generates an increase in public revenue; two-thirds would be the vote.

Assemblywoman Tolles:

Is that audit available anywhere online? I think part of the challenge here is trying to understand what all is in this bill and the references to fall in line with the audit. That might help clarify some things if we can have that as a comparison.

Casey Stiteler:

We have a copy of the audit. I am sure it is available, and we will make sure the members of the Committee get a copy of it.

Chair Jauregui:

If you give it to our committee manager, she will make sure to share it with the members of the Committee.

Assemblywoman Hardy:

What I am gathering from the questions mentioning the audit and the conversation is that there have been issues with the previous boards, and thus the need for this bill. When you were working on the language for the bill, did you seek input from dentists or the Nevada Dental Association for their ideas of how some of those changes could best be addressed?

Casey Stiteler:

As Mr. Alonso mentioned at the beginning, the call to action in the audit was to ensure that the Board itself was taking appropriate action and has in place appropriate procedures to ensure that the disciplinary process, including any investigation, is conducted in a manner that avoids, as much as possible, the possibility of favoritism or bias. There are specific

instances identified in that audit where it specifically outlined the procedural steps that led to the possibility, and in some cases, the strong suggestion that some favoritism or bias had worked its way into the system.

With that said, given that the accountability for this process is really going beyond the Board, it is the Board's charge to ensure that public and health and safety needs are met and protected through this process. Our approach to this bill was to focus on those procedural questions with the Board and how we could put in place measures that, regardless of who the members are at any given time, would prevent as much as possible the possibility of bias or favoritism. Given that it is the Board's charge, the Board will be held responsible if this procedure does not work. We took the approach of focusing on the Board's internal interpretation of the audit as best as we could to meet those requirements and recommendations.

Assemblywoman Hardy:

I appreciate that in-depth explanation of how this came to be. Boards and functions of boards are something that I am learning. I know more than I did in 2019. This is just for my own information. In general, are people who sit on boards not practicing the occupation?

Alfredo Alonso:

In the case of the State Board of Dental Examiners, they are all practicing dentists. It is a tough job. They are put into a position where they are practicing, but they are also there to basically judge their peers to some degree and follow the law. It is a tough job no matter what. The way they did it, it may not be intuitive in this case because the legislative process is always one where you work with everybody to find a solution. With regulatory boards, it is different. The reason it is different is because they are enforcing and potentially investigating complaints on the dentist down the street. We thought the best way to start that was to look at the audit, try to interpret the audit as best as we can, and then understand some of the questions and issues that came up during the past two interim sessions. Afterwards, obviously, we leave it in your hands to determine whether we are right or not. That was our attempt to do this as fairly and unbiased as we possibly could.

Assemblywoman Carlton:

I have a brief statement to make. I want to thank the Board for their work. They have reached out to me numerous times over the interim to have conversations about the history of the Board and of things that have happened in the past because they wanted to get a full feeling for where we have been. When you look through a lot of the minutes, I have been involved in these dental issues since around 2001.

I understand what they are trying to do, and I am glad they brought up the audit. I really think that if folks take a look at that audit and look especially in the key findings and towards the end of the audit, there is a list of recommendations that the auditors made towards the Board. Very rarely when you sit on the audit subcommittee do you see where

recommendations have been rejected by a board. If you read the minutes of that particular audit meeting, I think you will find it very enlightening as to the problems we are trying to solve.

I think it is always really important for us to remember that boards are there for public safety. They are the regulators. Associations are there to advocate for the profession. They have their job, and they do it very well, but the board is there to protect the public. This was a difficult issue for them. I know they have done their homework. No bill is perfect. I know there will be some issues. I want to thank those who are involved, especially the new members of the Board whom Governor Sisolak appointed last year, so they can actually deal with these issues. I appreciate their hard work. They are doing everything they can to address the issues the state brought up with the Board.

Assemblywoman Kasama:

When we were talking about boards, one thing came to mind. It is a long day, and there was another bill today or yesterday regarding some boards. On those, it actually specified the board members and those who were actively practicing and those who were appointed by Governor Sisolak. On this one, it did not specify the makeup of the Board. Is that something that should be done? Why was that not put in there?

Casey Stiteler:

Correct me if I am wrong, but it sounds like what you are describing is the makeup of the entire Board itself. I do not believe any of the sections of the bill specifically address or modify the makeup of the Board itself. I believe that is in another portion of the chapter, but I can get that information for you so you can see exactly how the Board is appointed and how those members are selected.

Chair Jauregui:

Are there any other questions? [There were none.] At this time, I will move to testimony in support. Is there anyone wishing to testify in support of Assembly Bill 438?

Sandy Connor, Private Citizen, Las Vegas, Nevada:

I am calling in support of A.B. 438. I have been following this listing going on at the Dental Board for years and was part of the public members lobbying to make changes to the Dental Board for the past several years. We have met with various legislators over the years, and I wanted to say that one of the things Assemblywoman Carlton pointed out was that the Nevada Dental Association represents the trade and dentists but not the public. Prior to Governor Sisolak replacing this entire Board, it was composed of mainly members of the Nevada Dental Association, including the president. As a result of the audit and replacing the Dental Board, you have mainly members who are not part of any association. When you have dentists who are competing in the marketplace, it is important to have neutral members.

Assembly Bill 438 was drafted as a result of the state audit and a lot of the alleged bad acts by the old board. It seeks to fix the problem that we, as the public, have lobbied against. One of the main things was the complaint process. I see that the Nevada Dental Association

is opposing this bill, and we believe they are trying to go back to the old ways. They are talking about a peer review process. There was never a peer review process with the Dental Board. The peer review process was with the Nevada Dental Association. They are there to help and protect the dentists, not the public. The audit will show, as you read it, that there were complaints that went uninvestigated because if you belonged to the Nevada Dental Association, the complaint would get sent out of the Dental Board and to the Dental Association. That stopped with the audit, and we do not want to go back to that.

There needs to be anonymity so that if a member of the public complains, and the dentist is looking at it, it could be a complaint about him- or herself, his or her best friend, or about the person he or she hates the most. As the public who have been lobbying for years, we really support this bill because there is anonymity and because there is more oversight. To have a complaint committee review it to make sure there is jurisdiction and then have the review panel review that, that was not happening before. Before, there was one investigator who was not a Board member who would review the complaints and decide to move forward or not move forward. It was in the hands of one person, and that is not right. It needs to be anonymous, by the whole Board, and it needs to be checked and double-checked.

In section 12 they are talking about avoiding favoritism or abuse by one of the investigators who may dismiss it. That is in the audit. The last thing is opening up access to care. It is almost impossible to get into a dentist. I have tried getting into a dentist, and sometimes it takes two to three months to get in, and I believe opening up access to care is good.

Chair Jauregui:

Is there anyone else in support? [There was no one.] We will move to opposition. Is there anyone wishing to testify in opposition?

Edward Ableser, representing Nevada Dental Association:

We are in opposition to A.B. 438. Let me be clear, the first time a member of the Nevada Dental Association, any member of the team, any associates in the community, or our sister organizations in the community saw this bill was last Friday when it was released and introduced into committee. Moreover, we are aware that even the members of the current Board were not aware that this bill was being brought forward by the Board.

The claims of excluding dentists from participating in this bill because of bias certainly makes no sense. Dentists and dental hygienists are Board members, and they are participating in the subcommittee's drafted regulation. Practitioners within the state are participating at high levels, drafting important pieces of regulations and statute in many different areas, and to exclude them seems foolish. All the regulatory boards in other professions have open and transparent processes in which they actually include members of their profession for feedback and consensus building. In most committees and boards in Nevada, the board would host public comment and engagement in open and transparent settings. The irony that this Board is attempting to create transparency provisions yet created language in a vacuum to amend statute is completely not transparent at all.

The history of this Board is riddled with controversy and abuse. The last thing our industry needs is to provide even more concentrated power to the Board and their staff. This Board is going to increase fees in order to pay for the growing staff that the Board is wanting to bring on in section 2. More concerning is the swift action that Governor Sisolak recently took in replacing board members from this Board and their staff because of abuse of authority afforded to them. With this bill, sections 2, 10, 11, and 12 were introduced perhaps from staff members of the current Board is sponsoring language that is giving themselves even more authority and power without that oversight. While prior commentators mentioned that the intent is to strengthen oversight, this bill actually does the opposite. It creates a circular path of accountability, where according to section 10, members of the Board can meet without open meeting laws to refer themselves action to take disciplinary action to the broader Board. Where is the accountability in that circular logic?

Moreover, in section 11, it removes the ability for an investigator to dismiss a frivolous complaint and again consolidates all the authority to the Board for those decisions. Members, I would like to call your attention to the fact that as this hearing commenced, there was not one dentist, not one dental hygienist, not one dental therapist, or an "in the trenches" practitioner who understands the practice of dentistry who has been asked to participate in this hearing; who might provide better insight than the legal analysis provided this evening.

Chair Jauregui:

If you have written remarks, please provide them to our committee manager. We will include them in the record and make sure every Committee member gets them.

Sheronda Strider-Barraza, Private Citizen, Las Vegas, Nevada:

I am a dentist in Las Vegas, and I have practiced for three years. I am opposing this bill. One of the main reasons is because of what Mr. Ableser has mentioned. This bill was rushed and proposed without any input from any dentist who this bill impacts the most. For that reason, I oppose this bill.

Kellie McGinley, Private Citizen, Reno, Nevada:

I am a Board-certified pediatric dentist, and I practice in Reno, Nevada. I say ditto to what has been stated in opposition. This bill was rushed and written without input from dentists, and in particular specialists like me. Specialists are held to a high standard of care, and diplomat status is imperative to specialty service, for example pediatric dentistry that cares for our children in the state of Nevada. I am opposed to A.B. 438, as Nevada dentists are the ones who will be impacted the most by this bill.

[Letters in opposition, [Exhibit E](#), [Exhibit F](#), [Exhibit G](#), [Exhibit H](#), [Exhibit I](#), and [Exhibit J](#) were submitted but not discussed and will become part of the record.]

Chair Jauregui:

Is there anyone else wishing to testify in opposition? [There was no one.] We will move to neutral. Is there anyone wishing to testify in neutral to A.B. 438?

Gregory Hunter, Private Citizen, Las Vegas, Nevada:

I tried to log in under opposition to this bill. I am an oral and maxillofacial surgeon practicing in Las Vegas, Nevada. I would also point out that I am an anesthesia examiner for the Board. As previously noted, no input was sought other than from the legal counsel of the Board. I absolutely believe the reform is necessary, and that is what has been mentioned several times. The previous makeup of the Board had committed some grievous errors, but the fact of the matter is this bill was rushed. It did not allow for any input from dentists or dental hygienists, even as noted. They are the ones most likely to be impacted by this bill. The lack of transparency for discipline and due process is missing from this bill. Even though, as pointed out, the language was supposed to increase transparency. I would also like to point out, as previously mentioned, it relieves board certification from specialists. If the idea is to protect the citizenry of Nevada, that actually lowers the standard. I would again like to point out that A.B. 438 is a poor bill that was rushed, and I would like to voice my opposition to such.

Chair Jauregui:

We will go back to neutral testimony. Is there anyone wishing to testify in neutral?

David White, Private Citizen, Reno, Nevada:

My testimony is also in opposition.

Chair Jauregui:

Let us finish testimony in neutral, and we can come back to opposition. I understand this is a new setting, and we are getting used to calling in for the virtual setting.

Khalid Jilani, Private Citizen, Las Vegas, Nevada:

I am also calling in for opposition.

Chair Jauregui:

We will come back to opposition. We are currently taking testimony in neutral. Is there anyone else wishing to testify in neutral? [There was no one.] At this time, we will go back to opposition. I do understand that there are technical difficulties, so I want to make sure that everyone who has been patiently waiting to testify gets the opportunity. Is there anyone wishing to testify in opposition?

Khalid Jilani:

I am a Nevada general dentist and have been practicing since 2015 after graduating from the University of Nevada, Las Vegas. I am also a member of the American Dental Association, the Nevada Dental Association, and the Southern Nevada Dental Society. Assembly Bill 438 establishes investigation committees that can be held in secret prohibiting a dentist from due process. The process is incredibly dangerous, if you have a board member with a personal vendetta, which has happened in the past. With that being said, I oppose this bill.

Richard Dragon, Private Citizen, Gardnerville, Nevada:

[Read from written testimony [Exhibit K](#).] I have practiced dentistry as a licensed Nevada dentist in Douglas County since 1985. I am the immediate past president of the Nevada Dental Association as well as a nonpaid lobbyist for the current legislative session. I was also a disciplinary screening officer for the board in 2017 and 2018. Please, do not confuse me with the current Nevada Dental Association president, who is also on the Board. I resigned my position prior to my presidency because I sensed conflict of interest.

I am in complete opposition to A.B. 438. This bill would be an excessive overreach of influence and power by the existing Board, ignoring intent established by Governor Sisolak when he replaced prior staff and members of the Board in 2019. Following an audit in 2019 of the prior existing Board, Governor Sisolak stated, "I have never seen an audit this egregious, ever, in 20 years." Similar contentious issues and violations are still occurring. The only difference being the names of those on the Board and their staff.

Overreach, Open Meeting Law violations, and reckless punitive investigations are still occurring, not to mention an inability to develop regulatory language from law passed during the 2019 Session. During recent years, peer review conducted by northern and southern components of the Nevada Dental Association has been by all intent and purpose, eliminated. Peer reviews reduce the costs through mediation with significant positive outcomes. This bill potentially creates more punitive regulatory control over the public and licensees. Again, it has always been my understanding that the current and previous governors were seeking remedial, not punitive actions when complaints were filed.

Assembly Bill 438 will significantly raise licensing fees, which is the reason I believe there is a two-thirds majority associated with it. This is at a time when young graduates are facing hundreds of thousands of dollars of debt. Nevada needs more access to care, not less. Why would we discourage any out-of-state dentists who would normally have the desire to practice in Nevada? This bill would definitely have such a negative effect.

David White:

I am currently the chair for the American Dental Association Council on Government Affairs, and I am also the cochair for the Nevada Dental Association Council on Government Affairs. I really do appreciate Mr. Alonso's acknowledgement of the difficulties and challenges of the Board for the last several years and the continued discussion over the audit. The most important thing to understand is that there are two documents that are imperative to this particular process.

The first document is a performance audit conducted in 2016 from which the 14 recommendations were made, at that particular juncture. As Assemblywoman Carlton mentioned, there were three that were not accepted. Then, in 2019, there was another audit conducted. At that point, what they stated was that the State Board of Dental Examiners can enhance operations by strengthening oversight of the investigation enforcement activities, consulting with commissions on ethics to avoid conflicts of interest, comply with state

contracting requirements, and complying with the Nevada Administrative Procedure Act. I rise in opposition to this because I do not feel once you have dissected both of those documents that this particular bill accomplishes that goal.

In addition, we know that public safety is paramount through this particular process. As you get further into this, you realize that the inexperience of the Board allowed them to be very influenced by staff, which led them down this course. Again, we would want to go ahead and make sure our standard of care is very high. I am a general dentist who operates in Reno and Elko, and I work with my tribe in Ely. When we are attempting to access care, we need to continue to keep the standard of care as high as possible to keep patient safety as the highest standard we possibly can.

Adrian Ruiz, Private Citizen, Las Vegas, Nevada:

I am the past president of the Las Vegas Dental Association. I am the one who was responsible for the audit that took place. I think that a lot of people who spoke have this wrong. The reason for these audits was because there was favoritism. These peer review systems were set up to favor certain members that belonged to certain groups. Again, I am from the Las Vegas Dental Association, and a lot of the problems stemmed from the Nevada Dental Association. These audits were very clear. There was zero discipline for people who were Nevada Dental Association members. They did not get any serious discipline at all. The reason for this bill is we have to make the process anonymous, so the Board members show no favoritism. That is what this bill is about. The other point is that one of the biggest problems was the Board's past attorney who was let go because of all the problems that occurred. [Unintelligible.] He would threaten the dentists and say, "Hey, that is going to be \$40,000 if you want to fight this, or sign here." It is so important that we put a limit on these investigations because you should not have to pay for the right to say your side of the story. This bill is so important. Committee, please pass this bill. This is going to make a huge difference for anonymous complaints, so the patients can be heard, and it will be a fair system for everybody.

Chair Jauregui:

This is actually the opposition portion of the bill hearing.

Adrian Ruiz:

I had a hard time connecting.

Chair Jauregui:

I understand. It is late in the evening. Is there anyone else wishing to testify in opposition? [There was no one.] We have taken testimony in support, opposition, and neutral. At this time, I would like to call our bill sponsors back for any closing remarks.

Alfredo Alonso:

I would like to keep this as short as possible. I think it is very important that everybody understands what the bill does. I would be glad to sit down with anybody who has concerns over what the bill actually does and go through it with them. I offer that up. Again, this is

about flexibility, reform, and transparency. Talking to the industry of anyone you regulate is never a good idea beforehand. That is why we are here today. I think it is important that between the years of 2016 and 2018, we had around 200 complaints a year, and 44 percent of those were dismissed. I think that is a very high mark, and it should be concerning to everybody. This is what this is about. It is about protecting the public, and ultimately finding a fair method in which the Board can operate. I think we have done that with this bill.

Chair Jauregui:

With that, I will close the hearing on A.B. 438. The last item on our agenda for this evening is public comment. Is there anyone wishing to give any public comment? [There was no one.]

We are adjourned [at 8:18 p.m.].

RESPECTFULLY SUBMITTED:

Julie Axelson
Committee Secretary

APPROVED BY:

Assemblywoman Sandra Jauregui, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a written testimony dated March 30, 2021, submitted and presented by Kelli May Douglas, Pacific Southwest Regional Liaison, Defense-State Liaison Office, United States Department of Defense, in support of Assembly Bill 439.

[Exhibit D](#) is written testimony dated March 31, 2021, submitted by Susan Fisher, representing State Board of Osteopathic Medicine, regarding Assembly Bill 439.

[Exhibit E](#) is a letter dated March 31, 2021, submitted by Mark Funke, President, Nevada Dental Association, opposed to Assembly Bill 438.

[Exhibit F](#) is an email dated March 31, 2021, submitted by Robin Lobato, Private Citizen, Las Vegas, Nevada, opposed to Assembly Bill 438.

[Exhibit G](#) is a letter submitted by Erin Anderson, Private Citizen, Reno, Nevada, opposed to Assembly Bill 438.

[Exhibit H](#) is a letter submitted by Deepa Assandas, Private Citizen, Las Vegas, Nevada, opposed to Assembly Bill 438.

[Exhibit I](#) is a letter dated March 31, 2021, submitted by Ah Young Kim, Private Citizen, Reno, Nevada, opposed to Assembly Bill 438.

[Exhibit J](#) is a letter submitted by Evelyn Herrera, Private Citizen, Las Vegas, Nevada, opposed to Assembly Bill 438.

[Exhibit K](#) is written testimony submitted and presented by Richard Dragon, Private Citizen, Gardnerville, Nevada, opposed to Assembly Bill 438.